Cultural Review and Analysis

An analysis of the proposed Draft Nelson Plan Whakamahere Whakatū

Part B: Full Report

Second Report

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Executive Summary

This report is a cultural review and analysis of the draft Nelson Plan Whakamahere Whakatū which was performed for the Nelson City Council and on behalf of the iwi working party representing the eight iwi of Te Tau Ihu as it relates to the desired outcomes for tangata whenua in the region.

All parts/sections of the draft Nelson Plan Whakamahere Whakatū were reviewed except for parts of Section F – Appendices, where some were taken as read and not fully reviewed.

The overall findings of the review and analysis are:

- Overall, the RPS policies in B1 Tangata Whenua Iwi are primarily given effect to in C1 Residential, C6 Rural, C7 Coastal Marine Area, D1 Freshwater, D3 Riparian and Coastal Margins, and D7 Historic and Cultural Heritage.
- The RPS policies in B1 Tangata Whenua Iwi do not transfer well into the other policies of the RPS, eg recognition of Treaty settlement (B.1.P.Tahi) or partnerships with Whakatū tangata whenua (B.1.P.Iwa), but are well considered in the form of objectives and policies in relevant parts of Section C Zones and Section D City-Wide.
- There are missed opportunities to integrate B1 Tangata Whenua Iwi policies (and complementing objectives and policies in relevant parts of Section C Zones and Section D City-Wide Provisions) into the rule framework via Permitted Activity standards, and/or as control measures for Controlled Activity rules, and/or as matters of discretion under Restricted Discretionary Activity rules.
- It is considered that clarity is necessary to determine whether any land and resources owned/held by Whakatū tangata whenua (whether via Treaty settlement processes or otherwise) in the Inner City, Suburban Commercial, and Industrial Zones.
- There is a disconnect, or not clear visible linkage, between provisions in C5 Open Space and Recreation and C8 Conservation with the relevant provisions in Section D – City-Wide Provisions. For example, D3 Riparian and Coastal Margins provisions do not have rules so refer/rely on rules in the zone or other city-wide provisions.
- The provisions for freshwater management and sites of significance in areas located within Historic and Cultural Heritage overlays/areas provide substantial recognition to the values and sites of significance to Whakatū tangata whenua. However, this is within a management regime of values being balanced alongside other values and attributes.

- Co-governance and co-management (or other forms of Treaty partnership) will likely be achieved via internal policy and practices of the Nelson City Council rather than hardwired into the draft Plan. These other methods are identified in B13 Methods.
- Papakāinga is provided for in the draft Plan, however there are some limitations.
- The draft Nelson Plan Whakamahere Whakatū is required to achieve the purpose of the RMA (sustainable management) and provide for the RMA principles (eight matters of national importance, 11 other matters, and the principles of Te Tiriti o Waitangi/Treaty of Waitangi), it is hard to clearly identify specific areas in the draft Plan that would satisfy Whakatū tangata whenua.

The following suggestions are offered to the iwi working party:

1. To improve effectiveness of RPS policy B.1.P.Tahi, consider advancing discussions with Nelson City Council to amend the definition for Māori land in the draft Plan. The view is that the policy seeks to support Whakatū tangata whenua in improving their social and economic well-being, however there are limitations associated with location of existing land/resources, as well as the pace of decision-making of any Trusts could prolong tangible outcomes.

So long as the intent of development and use is to improve the collective social and economic well-being of Whakatū tangata whenua, then the current mechanism for that to happen, eg to have a Māori freehold or customary land tenure status, should be avoided and enabled by qualification of intent.

The concept of Iwi Property Plans that is noted in the Te Reo Terms section of the draft Plan but not referred to anyway in the draft Plan, should be advanced also.

2. It may be helpful to list the principles of Te Tiriti o Waitangi and to provide an expression of what those principles mean/are to Whakatū tangata whenua. This will be helpful in clearly identifying and monitoring the effectivenesss and efficiency of the provisions in the draft Plan.

3. Method B.13.1 Nelson Plan states that the RPS policies in B1 Tangata Whenua Iwi are integrated into the relevant sections/chapters of the draft Plan. It is considered that there are other sections/chapters that are equally relevant but have no provisions. These are: All the chapters in the RPS; C5 Open Space and Recreation and C8 Conservation, D6 Natural Hazards, D9 Landscapes, D10 Natural Character, and D11 Indigenous Biodiversity.

4. It is considered that more work is necessary in D2 Air Quality to give effect to RPS policies in B1 Tangata Whenua iwi.

A matter to pursue is the use and integration of mātauranga Māori in the monitoring of the policy/activities.

5. Iwi Management Plans are identified in B13 Methods of the draft Plan as a key/core contributor to the management of the natural and physical resources and protect/preserve the values and sites that contribute to the ecological, cultural and natural landscape that makes Whakatū.

Whakatū tangata whenua will need to strategize timing on when their Iwi Management Plans will be reviewed, updated or prepared.

6. It is unsure whether there are sites/places located in the Inner-City Zone, the Suburban Commercial Zone, or the Industrial Zone.

7. Method B.13.1 Future Plan Changes will need to be clarified between the iwi working party (Whakatū tangata whenua) and Nelson City Council to identify what areas in the draft Plan are intended for change/variation.

8. There are methods outlined in B.13.1 which will require continuing discussions, negotiations and information sharing to enable and give effect to most of the RPS policies in B1 Tangata Whenua iwi. It is suggested that clarity is sought on timing of delivering these other methods.

Table of Contents

Exec	utive	ve Summary	3
1.		roduction	
1.	mure	i oudetion	0
1.	1	Purpose of Report	8
2	Cult		0
2.	Culti	Itural Review - Methodology	9
2.	1	Methodology	9
2.	2	Framework for Cultural Review and Analysis	
	2.2.1	2.1 Review and Analysis of Regional Policy Statement	10
	2.2.2		
	2.2.3		
	2.2.4		
3.	Anal	alysis of the draft Nelson Plan Whakamahere Whakatū	13
2	1	Castian D. Decianal Deliny Statement	10
3.		Section B – Regional Policy Statement	13
	3.1.1	L.1 Methods to Implement Section B1 Tangata Whenua Iwi	15
3.	2	Section C – Zones	16
3.	3	Section D – City-Wide Provisions	17
3.	4	Section E – Terminology	19
3.	5	Section F – Appendices	19
4.	Furt	rther Analysis and Conclusion	21
	Turt		
4.	1	National Planning Standards	21
4.	2	Categorisation of Findings	21
	4.2.1	2.1 Tier 1: Priority Focus	21
	4.2.2		
	4.2.3		
4.	3	Overall Findings	25
4. 4.		Recommendations to Iwi Working Group	
	•		
Арре	endix	lix A: Iwi Documents	

Appendix B: Section B - Tangata Whenua Iwi Policies and Explanations	50
Appendix C: Detailed Review of Section B – Regional Policy Statement	54
Appendix D: Detailed Review of Section C – Zones	82
Appendix E: Detailed Review of Section D – City-Wide Provisions	94
Appendix F: List of Definitions identified in Section E – Terminology	112

1. Introduction

1.1 Purpose of Report

Whetū Consultancy Group has been commissioned by the Nelson City Council to undertake a cultural review and analysis of the draft Nelson Plan Whakamahere Whakatū on behalf of the eight iwi in Te Tau Ihu. The requirement is to conduct a full review of draft Nelson Plan Whakamahere Whakatū content as it relates to the desired outcomes for tangata whenua in the region.

There are two parts in the delivery of the review and its analysis. The two reports (Part A and Part B) will inform the subsequent wānanga/workshop for the iwi working party (internally and between themselves) and the iwi working party with the Nelson City Council.

Part A – Summary Report

The primary focus of the Part A – Summary Report is intended to be a short concise report that provides a brief statement on the methodology the of review and analysis, the core findings of the cultural review, and suggested solutions for the iwi working party (and individual iwi of Te Tau Ihu) to consider. A summary report is intended for ease and convenience in delivering information of the analysis to the iwi working party (and widely each Iwi Authority) and Nelson City Council staff

Part A – Summary Report was delivered 28 June 2019.

Part B – Full Assessment

This is the full report that provides a wider statement on:

- methodology,
- context of the review and analysis,
- investigation of, and reference to, iwi documents,
- analysis commentary of the provisions in the draft Nelson Plan Whakamahere Whakatū
- findings and suggested solutions

This report is Part B – Full Assessment.

2. Cultural Review - Methodology

2.1 Methodology

There are three parts to the review which are aimed to accommodate the views of both the iwi working party and the Nelson City Council.

In recognition of the role and responsibility of the Nelson City Council, the main element of the approach is to retain relevance within the statutory directions of the Resource Management Act 1991. These statutory directions are:

- Regional Policy Statements are to achieve the purpose of the RMA and provide an overview of resource management issues, with policies and methods to achieve integrated management, must be in accordance with higher level RMA documents¹, and must consider (in different capacities) a number of management plans and strategies of various agencies/organisations, which includes iwi planning documents.
- Regional Plans and District Plans must give effect to higher level RMA documents, which includes Regional Policy Statements.

Accordingly, the focus was on the policies and methods of the Regional Policy Statement (hereon RPS) and the integration of those provisions down through the lower level provisions contained in the Zone and City-Wide sections, and whether the outcomes sought by the RPS policies are being implemented and/or considered. This is considered to be a review of the effectiveness of regulatory method – The Nelson plan in B.13.1 Tangata Whenua Iwi of the draft Nelson Plan Whakamahere Whakatū.

In reciprocation, the methodology also sought to understand the resource management concerns and aspirations of the eight Te Tau Ihu iwi for the resources (and values) contained within the boundaries/jurisdiction of the Nelson City Council. This information is outlined in <u>Appendix A</u> of this report.

In addition, a direction from the iwi working party was for the review and analysis to categorise the matters into the three tiers (priority, significant importance, and necessary actions), and to suggest measures to enhance the policies contained within the RPS and its implementation in Section C – Zones and Section D – City-Wide Provisions of the draft Plan, and what may need to be captured in future plan changes.

¹ National Policy Statements, New Zealand Coastal Policy Statement, and National Planning Standards

Lastly, the third part is to consider this review and analysis alongside how it could fit within a National Planning Standards format/framework. This was a request by both the iwi working party and the Nelson City Council.

2.2 Framework for Cultural Review and Analysis

The approach to the impact assessment is to align the review and assessment within the context of the Resource Management Act 1991 (RMA), hence the use of the term "cultural" review. The purpose for stating this is that it is an acknowledgement that there is preference by many Māori as tangata whenua/mana whenua, as iwi, and as kaitiaki, not to use that the term 'cultural' as it limits and/or constrains the role and scope of Māori in their participation within RMA processes, assessments and decision-making. The perspective is that Māori values traverse and encompass social, economic, environmental and cultural well-being.

2.2.1 Review and Analysis of Regional Policy Statement

In the first instance, the policies described in Section B1 Tangata Whenua Iwi were reviewed alongside their respective explanations, to understand the intent, the intended outcome and the issue and objective(s) it sought to address. A review the draft section 32 report that support Section B1 Tangata Whenua iwi was also performed. This approach was aimed for the review and analysis to be informed. A description of the B1 Tangata Whenua Iwi policies (and a summary of their explanations) are outlined in <u>Appendix B</u>. Below is an illustration of the framework described above.

Cultural Review of Regional Policy Statement							
Section B1 Tangata Whenua Iwi		Section B – Regional Policy Statement					
 Policies B.1.P.Tahi – B.1.P.Iwa 	is to identify what policies are complementary/supportive	 B2 Growth, Development and Urban Form B3 Character and Amenity 					
Review B1 Tangata Whenua policies, with their respective explanations, and connection to the issues and objectives		 B3 Character and Amenity B4 Infrastructure and Energy B5 Natural Hazards B6 Historic and Cultural 					
described in Section B1 Tangata Whenua Iwi.		HeritageB7 Landscape					

Review the draft section 32	intended, of policies	B8 Indigenous Biodiversity
report that supports Section B1 Tangata Whenua Iwi.	B.1.P.Tahi to B.1.P.Iwa.	• B9 Land
5		B10 Coastal Environment

- B11 Freshwater
- B12 Air
- B13 Methods

2.2.2 Review and Analysis of Zones and City-Wide Provisions

To review the provisions (objectives, policies, rules) in Section C – Zones, Section D – City-Wide Provisions, Section E – Terminology, and Section F – Appendices, the policies described in Section B1 Tangata Whenua Iwi (as outlined in <u>Appendix B</u>) were applied but within the framing of regulatory method B.13.1 Tangata Whenua Iwi – The Nelson Plan. The aim was to determine the effectiveness of method B.13.1 Tangata Whenua Iwi – The Nelson Plan So as to identify for the iwi working party measures to enhance the policies contained within the RPS and its implementation in Section C – Zones and Section D – City-Wide of the draft Nelson Plan Whakamahere Whakatū, and what may need to be captured in future plan changes.

2.2.3 Out of Scope

It is important to outline that the review and analysis did not perform a full investigation into the following methods described in B.13.1 Tangata Whenua Iwi:

- Future Plan Changes to the Nelson Plan
- Resource Consent Process
- Other Legislation, Statutory Policies, Standards and Plans
- Non-Statutory Plans and Strategies (Non-Regulatory Methods)
- Monitoring and Information Gathering (Non-Regulatory Methods)
- Advocacy and Education (Non-Regulatory Methods)
- Funding and Assistance (Non-Regulatory Methods)
- Partnerships (Non-Regulatory Methods)

Additionally, the review and analysis did not explore the methods described and committed to deliver the policies in B2 – Growth, Development and Urban Form to B12 – Air.

2.2.4 Categorisation of Analysis for Iwi Working Party

The direction from the iwi working party was for the review to categorize the matters in an order of priority, significant importance, and necessary actions to help inform their participation and decision-making in both their position on the draft Nelson Plan Whakamahere Whakatū, as well as the ongoing resource management activities when the draft Plan is a notified, and as an approved, RMA planning document. The categorise are:

- **Tier 1: Priority Focus** Treaty partnership in the form co-governance and comanagement, the protection/preservation of sites of significance to Whakatū tangata whenua, and freshwater management.
- Tier 2: Matters of Significant Importance The ability for papakāinga, the use of Māori land and resources, and provisions for social housing.
- Tier 3: Necessary/Needed Actions Whakatū tangata whenua in resource consent process and decision-making, and Iwi Management Plans.

3. Analysis of the draft Nelson Plan Whakamahere Whakatū

3.1 Section B – Regional Policy Statement

There are 14 parts/chapters to Section B of the draft Nelson Plan Whakamahere Whakatū. With section 62(1)(b) of the RMA, it prescribes that the Regional Policy Statement (hereon RPS) <u>must</u> state the resource management issues of significance to iwi authorities in the region. There are four issues of significance to iwi authorities stated in draft Nelson Plan Whakamahere Whakatū. The section 32 report for B1 Tangata Whenua Iwi outlines that the issues were identified and introduced to the iwi working party in 2015 as part of a series of workshops.

There are nine policies outlined in the B1 Tangata Whenua Iwi section of the RPS. It is considered that the policies do address the four issues in B1 Tangata Whenua Iwi. In section B13 Methods, there are 23 methods identified to implement the policies, 12 are regulatory methods and 11 are non-regulatory methods.

The review of the RPS was to apply the nine policies in B1 Tangata Whenua Iwi across the other RPS provision (B2-B12) to identify what policies were complementary and what policies were contrasting/preventative.

Overall, nine of the RPS sections generally interact well with the policies of B1 Tangata Whenua Iwi. The values and interests of Whakatū tangata whenua are well considered in B6 Historic and Cultural Heritage, B8 Indigenous Biodiversity, B10 Coastal Environment, B11 Freshwater, and B12 Air.

Key Findings

There are seven key concerns identified from the review:

- 1. There is potential that some of the policies are duplications. Examples of duplications are B.1.P.Tahi and B.1.P.Waru as both seek to provide for development and use of land and resources owned, and in the holding of, Whakatū tangata whenua. The basis of this view is that the policies only see papakāinga as the suitable/definitive form of development to be performed by Whakatū tangata whenua, and is silent on other forms of development and use available/allowed to Whakatū tangata whenua.
- 2. Complementary to the above, there are some RPS policies in other sections that contrast with policies in B1 Tangata Whenua Iwi. For enabling Whakatū tangata whenua development, the policies in Section 2 Growth, Development and Urban Form only identify papakāinga as the development to be performed by Whakatū tangata whenua. It is considered that there is potential for other forms of development (multi-unit, commercial complex, duplex or storied apartment) to be provided scope for Whakatū

tangata whenua. Additionally, the policy is only focusing on the land and resources returned via Treaty of Waitangi settlement and other forms of Māori land tenure. Also the policies prescribe the zones for development which limits opportunities for lands returned and owned by Whakatū tangata whenua located outside of these zones.

For protection/preserving the values and sites of significance to Whakatū tangata whenua, with Section 4 Infrastructure and Energy, there is little consideration given to the values of tangata whenua.

Conversely, the values of tangata whenua are well considered in B6 Historic and Cultural Heritage, B8 Indigenous Biodiversity, B10 Coastal Environment, B11 Freshwater, and B12 Air.

- 3. It is considered that B5 Natural Hazards need visible provisions to protect sites of significance to Whakatū tangata whenua which are already at risk.
- 4. Some of the policies of B1 Tangata Whenua Iwi may lack effectiveness to have a provision or two in Section C Zones and Section D City-Wide due to the wording of the policy. An example of lacking effectiveness is B.1.P.Rima "encourage applicants for resource consent or a plan change to consult early and throughout the development of a proposal so that the necessary cultural values of Whakatū tangata whenua can be taken into account in the design of proposals". The other example is B.1.P.Whitu.

In a similar vein, there is reference to "Ahi Kaa" in B12 Air as an issue (with explanation) to address, however there is no visible policy in B12 Air to implement.

- 5. The methods to deliver the policies in B1 Tangata Whenua Iwi are a mixture of regulatory and non-regulatory. It is important to note that it is unknown by this cultural review what will be identified for future plan changes, or timeline for enhanced resource consent processing practices within the Nelson City Council. This will need to be front of mind of the iwi working party so that these methods are applied and performed, for example, Māori commissioners on hearing panels.
- 6. There is a mixture of references to iwi in Te Tau Ihu. It may be helpful to be consistent with the reference. The examples are: iwi of Te Tau Ihu, mana whenua, tangata whenua, tangata whenua, local Māori.
- 7. It is considered that there should be additional policy, or an amendment to B.1.P.Rua, that recognises potential new arrangements that may be obtained by Whakatū tangata whenua, such as Customary Marine Titles/Customary Marine plans, or Water Conservation Orders, and that the Nelson City Council will support these arrangements.

A full and detailed impact assessment of Section B – Regional Policy Statement of the draft Nelson Plan Whakamahere Whakatū is outlined in <u>Appendix C</u> of this report.

3.1.1 Methods to Implement Section B1 Tangata Whenua Iwi

In section B13 Methods, there are 23 methods identified to implement the policies, 12 are regulatory methods and 11 are non-regulatory methods.

B.13.1 Nelson Plan outlines that it will integrate policies in B1 Tangata Whenua Iwi across eight areas of the Draft Plan, these are: C1 Residential, C6 Rural, C7 Coastal Marine Area, D1 Freshwater, D2 Air Quality, D3 Riparian and Coastal Margins, D4 Earthworks, Soil Disturbance and Vegetation Clearance, and D7 Historic and Cultural Heritage. Included within this method is the identifying all statutory acknowledgments and settlement instruments.

In addition to B.13.1 Nelson Plan is also the commitment in B6 Historic and Cultural Heritage to include provisions to protect historic and cultural heritage from inappropriate development. There is a commitment in B8 Indigenous Biodiversity to include provisions that maintain and enhance the natural and cultural values in the Conservation Zone and protect from adverse effects. Also, there are commitments in B10 Coastal Environment to provide for cultural needs and in B12 Air for tangata whenua to perform customary practices.

The other regulatory methods are:

 B.13.1 Future Plan Changes² – This method will seek to take into account Iwi Management Plans and Te Aotūroa Framework, meet the requirements of any Mana Whakahono ā Rohe arrangements and be informed by Cultural Values Reports and Cultural Impact Assessments in future plan changes. In addition is advice from the Freshwater and Rivers Advisory Committee, and inclusion of Māori Commissioners on Hearing Panels, which is assumed to refer to that Māori will be sitting on hearings for the future plan changes.

In B6 Historic and Cultural Heritage, the commitment is to jointly work with Whakatū tangata whenua to develop framework for identifying and assessing Māori cultural landscape

• B.13.1 Resource Consent Process – Seeks to provide opportunities for Whakatū tangata whenua to participate/input into resource consent process (includes the use of Cultural Impacts Assessments), as well as assess applications against Te Aotūroa

 $^{^2}$ It is assumed that future plan changes are also inclusion of future variations to the draft Nelson Plan Whakamahere Whakatū.

framework, be informed by the Freshwater and Rivers Advisory Committee and use of Māori Commissioners on Hearing Panels.

• B.13.1 Other Legislation, Statutory Policies, Standards and Plans – Those under the administration of the Nelson City Council will have regard to Iwi Management Plans and Cultural Impact Assessments.

3.2 Section C – Zones

There are nine Chapters to Section C of the draft Nelson Plan Whakamahere Whakatū. The requirement is that these provisions <u>must</u> give effect to the higher level RMA documents, one of which is the RPS policies. This section outlines provisions for defined areas in Nelson City to manage activities in common environmental characteristics and where similar environmental outcomes are sought.

The nine policies of B1 Tangata Whenua Iwi were the basis of review across Section C – Zones, however it was stated in B13 Methods that all nine policies will be integrated primarily in C1 Residential, C6 Rural, and C7 Coastal Marine Area. Although this is stated in the draft Nelson Plan Whakamahere Whakatū, all of the provisions in Section C – Zones were reviewed.

Key Findings

It was identified that C1 Residential and C6 Rural have provisions that provide for papakāinga but do not have provisions that enable/encourage consultation nor the consideration of potential effects to Whakatū tangata whenua. With C7 Coastal Marine Area, there are objectives and policies that support Whakatū tangata whenua to participate and provide their perspective in large complex proposals/activities. Similarly with C5 Open Space and Recreation and C8 Conservation, there are objectives and policies that provide for the values of Whakatū tangata whenua, but it is within a context of being balanced alongside other values and attributes.

It is important to note that there are no visible consideration to values of Whakatū tangata whenua, nor opportunities to develop land and resources, in the C2 Inner City, C3 Suburban Commercial and C4 Industrial.

A key concern that needs to be discussed is that there are not enough triggers in the rules of C1 Residential – C9 Special Purpose Nelson Hospital Zone to enable/encourage consultation with Whakatū tangata whenua and address cultural needs, or the effects on the cultural condition of the environment. An example of triggers in rules are standards for Permitted Activities, matters reserved over for Controlled Activities, or matters of discretion for Restricted Discretionary Activities. This is considered a substantial missed opportunity to give effect to the RPS policies in B1 Tangata Whenua Iwi.

A full and detailed impact assessment of Section C – Zone in the draft Nelson Plan Whakamahere Whakat \overline{u} is outlined in <u>Appendix D</u> of this report.

3.3 Section D – City-Wide Provisions

There are 16 Chapters to Section D – City-Wide, and like Section C – Zones, the requirement is that these provisions <u>must</u> give effect to the nine policies of the B1 Tangata Whenua Iwi in the RPS. The provisions within this section are applicable to all areas in Nelson City and refer to a combination of activities (earthworks, temporary events), values (natural character), or resources (freshwater, air).

All the provisions in Section D – City-Wide were reviewed even though it was stated in B13 Methods that policies were primarily be integrated in D1 Freshwater, D2 Air Quality, D3 Riparian and Coastal Margins, D4 Earthworks, Soil Disturbance and Vegetation Clearance, and D7 Cultural and Historic Heritage.

Key Findings

 D1 Freshwater and D7 Historic and Cultural Heritage provides substantial recognition to the values and sites of significance to Whakatū tangata whenua, bearing in mind that these provisions are within a context of being balanced alongside other values and attributes. Therefore it will be important for Whakatū tangata whenua to have accessible information to refer to so as to participate in resource consent processes.

With D1 Freshwater there are a number of Permitted Activities, however should there be any non-compliance with any standards, most activities are Discretionary or higher. Similarly with D7 Historic and Cultural Heritage, most proposed activities that are not associated with a heritage building are a Discretionary Activity. The only other comment, if it wasn't already known, the term "historic heritage" is not inclusive of cultural heritage. Both are exclusive of each other.

2. D2 Air Quality have provisions that focus strongly on biophysical measurement yet it has no policies that provides for other measurements that could be mātauranga based or can accommodate methods that measure the perspectives of Whakatū tangata whenua. This is pointed out because the RPS policy B.12.P.2 seeks to recognise and provide for (enable) customary practices and tikanga in a manner that protects the mauri of air, as well as the ability to practice customary/traditional activities that are captured within the expression of Ahi Kaa. The RPS B12 Air Quality refers to Ahi Kaa, and the definition in the draft Plan as the cultural practice of literally 'keeping the home fires burning' involving the use of a fire either indoors or outdoors during times of cultural celebration, but there are no visible provisions to enable this expression.

- 3. D3 Riparian and Coastal Margin provisions consider and protect customary access, the recognise the importance in the quality of coastal waters, freshwater and areas for conservation, and the values and sites of significance to Whakatū tangata whenua.
- 4. D4 Earthworks, Soil Disturbance and Vegetation Clearance has no visible reference in its objectives and policies to the values of Whakatū tangata whenua, however the overall intent of the objectives and policies are to manage impacts on the quality of , and effects on, natural resources as parameters for subdivision, use and development. Additionally, there are three rules in D4 that identify effects on tangata whenua values, and customary access as matters of discretion should proposals for these three activities do not comply with standards of a Permitted Activity. The three activities are D.4.P.1 Soil Disturbance; D.4.P.2 Earthworks, D.4.P.3 Vegetation Clearance.
- 5. D5 Infrastructure and Energy does not have any objectives or rules that provide for cultural/Whakatū tangata whenua values, which could be of concern to Whakatū tangata whenua as most of the activities identified in D5 Infrastructure and Energy are Permitted or Restricted Discretionary Activities.
- 6. D6 Natural Hazards provisions focus on addressing the risks of natural hazards and the protection of people's property. There are considerations to cultural effects in the objective D.6.O.1 and policy D.6.P.2, with effects on cultural values (and ecological values) identified in rules D.6.R.5 and D.6.R.9 as matters of discretion.

Similar to comments on RPS provisions in B5 Natural Hazards, what is considered absent from D6 Natural Hazards are visible provisions to protect sites of significance to Whakatū tangata whenua which are already at risk. In addition is whether the Nelson City Council would look to establish a committee to address Climate Change and if it does would it invite Whakatu5 tangata whenua as partners. This may need to be explored.

7. With D9 Landscapes, D10 Natural Character and D11 Indigenous Biodiversity provisions provides for cultural values, and to a lesser extent, sites of significance to Whakatū tangata whenua. However it is noted that there is a strong emphasis to protect and preserve natural character and indigenous biodiversity, and this is reflected in the activities being Discretionary or Non-Complying in D10 Natural Character and that there are only three activities in D11 Indigenous Biodiversity.

There are no provisions in D8 Notable Trees D12 Noise, D13 Temporary Events, D14 Contaminated Lands, D15 Hazardous Substances, and D16 Signs that consider cultural/Whakatū tangata whenua values.

A full and detailed impact assessment of Section D – City-Wide in the draft Nelson Plan Whakamahere Whakatū is outlined in <u>Appendix E</u> of this report.

3.4 Section E – Terminology

The focus was understanding the definition of Te Reo Māori terms and key terms/activities described in Section C – Zones and Section D – City-Wide Provisions. A list of definitions key terminology were identified and are outlined in Appendix F of this report.

Key Finding

In E2 - Te Reo Terms, there is definition for Iwi Property Plan, however there is no reference in Section B, Section C and Section D – City-Wide to Iwi Property Plan. It is assumed that this was a legacy term/measure that will no longer be pursued, however if there is intention to continue to use this term/measure, them it is missing from the provisions within the draft Plan.

Iwi Property Plan - A property plan identifies the development (use and protection) aspirations of a property spatially. The implementation of the property plan can be staged over time. The plan needs to demonstrate spatially the relationship between development of an appropriate scale, character, intensity and range of activities relative to the physical constraints of a site, sustainable servicing and potential adverse effects on adjoining properties.

The other matter to highlight is that the Te Reo term "Maatauranga Māori" is defined/referred to as *traditional knowledge*. The view is that the definition therefore limits the contemporary nature of Māori knowledge and the evolution of knowledge and its system. This will need to be clarified by the iwi working party. Similarly with the definition for "Mauri", which is explained as "*life principle, vital essence, special nature, a material symbol of a life principle, source of emotions - the essential quality and vitality of a being or entity. Also used for a physical object, individual, ecosystem or social group in which this essence is located."*

Lastly, there is another definition for papakāinga. In this section it is explained as "the use and occupancy of multiple owned Māori land (as register under the Māori Land Act 1993), including using the land for customary purposes." It is considered that only one definition is necessary, and it is suggested that the definition in E1 – Definitions is used.

3.5 Section F – Appendices

Section F – Appendices in the draft Nelson Plan Whakamahere Whakatū outlines a mixture of lists for specific sites and features (including designated sites), as well as the technical requirements and guidelines for development in Whakatū Nelson. The information contained in Section F – Appendices are to complement/support provisions that traverse the Regional Coastal Plan, Regional Plan and District Plan. In total, there are 52 appendices.

The appendices that were reviewed are:

- Appendix F3 City Backdrop
- Appendix F4 Special Landscape Values Associated with the Maitahi Mahitahi Maitai River Valley
- Appendix F5 Special Landscape Values Associated with the Nelson haven
- Appendix F6 Special Landscape Values Associated with Tahunanui Beach
- Appendix F7 Outstanding Natural Landscape and Features
- Appendix F8 Areas of Outstanding Natural Character
- Appendix F9 Description of Freshwater Management Units
- Appendix F10 Description of Whakatū Nelson-wide Freshwater Wariu/Values
- Appendix F11 Freshwater Wariu/Values by Freshwater Management Units
- Appendix F12 Water Quality Attributes, Units and Targets for Rivers and Streams in Whakatū Nelson
- Appendix F22 Esplanade Reserves
- Appendix F27 Coastal Indigenous Biodiversity Habitats and Indicative Vulnerable Species
- Appendix F42 Heritage Items
- Appendix F43 Sites of Significance to Tangata Whenua

4. Further Analysis and Conclusion

4.1 National Planning Standards

The draft Nelson Plan Whakamahere Whakatū would be deemed a combined plan under the National Planning Standards framework. The following relevant directions are:

- 1. Every policy statement or plan must comply with the 1. Foundation standard
- An appropriate term must be used wherever tangata whenua/mana whenua is shown. The appropriate term must be determined through engagement. If no agreement is reached, the local authority must use tangata whenua.
- 3. Tangata Whenua/Mana Whenua content must be integrated throughout the policy statement or plan where the local authority determines it appropriate
- 4. As a combined plan, the <u>Chapters</u> standards are; Introduction and general provisions, district-wide matters; zone framework, designations. The <u>Form</u> standards are; format, regional spatial layers, district spatial players, mapping, electronic accessibility and function. The <u>Other</u> standards are; definitions, noise and vibrations metrics, and implementation.

In response to points 2 and 3 above, the Nelson City Council will need to confirm with Whakatū tangata whenua which term is preferable and appropriate to be adopted in draft Plan.

With point 3, it is considered that there are some opportunities for Whakatū tangata whenua content as prescribed and outlined in B1 Tangata Whenua Iwi, to be further integrated throughout the draft Nelson Plan Whakamahere Whakatū.

4.2 Categorisation of Findings

4.2.1 Tier 1: Priority Focus

1. Co-Governance and Co-Management

There is reference and commitment outlined in the provisions (issues, objectives and policies) of B1 Tangata Whenua Iwi to enable and enhance relationship with Whakatū tangata whenua, such as B.1.P.Iwa, and to lesser extent B.1.P.Rua and B.1.P.Rima as these are on a case-by-case basis as there are caveats in both those policies; for example B.1.P.Rua has "<u>Where</u> a proposal affects Whakatū tangata whenua..", and B.1.P.Rima has "<u>Where</u> an application for resource consent or plane change is likely to affect the relationship of Whakatū tangata

whenua..". Other than the wording of those policies, there are no visible policies or methods that enable Whakatū tangata whenua to sit at the decision-making table.

Identified in B13 Methods of the draft Plan are methods to include Māori Commissioners on Hearing Panels for future plan changes³ and resource consent process, this can be a measure of co-governance/co-management, however the methods do not necessarily mean that it would be Whakatū tangata whenua sitting on hearing panels as commissioners.

Also the draft Plan is not well prepared to respond to (and support) any future Customary Marine Titles/Customary Marine Plans, or Water Conservation Orders, or Heritage Protection Orders that may be pursued by Whakatū tangata whenua.

2. Protection/Preservation of Sites of Significance to Whakatū tangata whenua

The draft Plan is very active in protecting and preserving the sites of value, with provisions visible in the relevant parts of Section B – RPS, Section C - Zones and Section D – City-Wide.

However there are contrasting policies in B4 Infrastructure and Energy and D5 Infrastructure and Energy, which provides for the establishment, use and maintenance of Regionally Significant Infrastructure (including critical lifeline infrastructure) which may potentially have adverse effects on values and sites of significance to Whakatū tangata whenua.

3. Freshwater Management

In the context of the draft Plan having to give effect to the National Policy Statement for Freshwater Management, and the efforts to date on working in a collaborative manner to develop a list of values stated in Appendices F10 Description of Whakatū Nelson-wide freshwater Wariu Values and F11 Freshwater Wariu Values by Freshwater Management Units, it is viewed that the values of Whakatū tangata whenua are provided for, noting that it is within a context of being balanced alongside other values and attributes.

Additionally there is reference to the Freshwater and Rivers Advisory Committee.

4.2.2 Tier 2: Matters of Significant Importance

1. Papakāinga and Use of Māori Land and Resources

The draft Plan recognises and provides for papakāinga in the Residential Zone and Rural Zone of Whakatū Nelson. There are some limitations though with these provisions, as well as through the definition itself in the draft Plan. For example the Residential Zone do not permit (some with restricted measures) provisions commercial and/or industrial type activities

³ It is assumed that future plan changes are also inclusion of future variations to the draft Plan

within papakāinga. Any inclusion of commercial/industrial activities in a papakāinga proposal will be deemed Non-Complying. Additionally, it is unknown how much Māori land is available in the Residential Zone to be effective as a provision.

Similarly with Rural Zone, Whakatū tangata whenua will not be able to subdivide within papakāinga as it's a Prohibited Activity. There is no provision for orders from the Māori Land Court for hapū and full partition should they be obtained by iwi, hapū or whanau.

Also, the draft Plan's definition of papakāinga states that it can only be undertaken on Māori land, which also has a definition. Māori land is ultimately land that has the status of "Māori customary land", "Māori freehold land", and "lands identified in, and returned as part of, Treaty settlement". Although this is considered an understandable parameter, the view is that RPS policy B.1.P.Tahi, specifically in its explanation, recognises that existing Māori land is constrained for development due to ecological, cultural and landscape values that make up the amenity and character of Whakatū. Therefore the scope to give effect to policy B.1.P.1 could look to expand to include land owned by Whakatū tangata whenua that will be used and developed for the purpose of a papakāinga, and/or as an alternative forms of housing in Whakatū.

With the use of resources, there are provisions that provide for access and use of pakohe, and also recognition of activities such as cultural harvesting and customary access. However, information supporting these latter activities will need to be available so that both the applicant and Nelson City Council are aware of the areas that these are performed in.

2. Provisions for Social Housing

There are no visible provisions in Section B - RPS, Section C - Zones, nor in Section D - City-Wide to provide for social housing.

4.2.3 Tier 3: Necessary/Needed Actions

1. Resource Consent Process and Decision-Making (all forms)

B13 Methods outlines five regulatory methods and two non-regulatory methods to enable and enhance Whakatū tangata whenua participation in resource consent process and decision-making and support Nelson City Council in identifying and considering cultural values.

It would seem that the regulatory methods will require an agreed practice to be developed between Whakatū tangata whenua and the Nelson City Council. There is no timeline on when this would start or be completed. Additionally, there is a commitment that the Nelson City Council will support the Whakatū tangata whenua to become accredited hearing commissioner. What is of concern though is that there are not enough triggers in the rules in Section C – Zones and Section D – City-Wide, to enable/encourage consultation with Whakatū tangata whenua and address cultural needs, or the effects on the cultural condition of the environment.

2. Iwi Management Plans

Iwi Management Plans will have a substantial role in the management of Whakatu natural and physical resources. Depending on the level of information contained within existing Iwi Management plans, there will be necessary efforts of Whakatū tangata whenua to either amend or prepare new, Iwi Management Plans. The relevant RPS policies in B1 Tangata Whenua Iwi are:

B.1.P.Rua "Where a proposal affects Whakatū tangata whenua land or resources, including places and values of significance to Whakatū tangata whenua, recognise and provide for the following matters in all resource management processes:

- (a) the historical association of the tangata whenua of the area, and any historical, cultural or spiritual values associated with the site or area;
- (b) any Mana Whakahono a Rohe agreement;
- (c) any relevant memorandum of understanding between Nelson City Council and the iwi;
- (d) any joint management and co-governance arrangements established;
- (e) access to areas of natural resources used for customary purposes including mahinga kai;
- (f) any relevant iwi management plan; and
- (g) Te Aotūroa Framework."

B.1.P.Ono "Support and encourage iwi to develop iwi management plans that contain:

- (a) specific requirements to address the management of coastal waters, land and air resources, including mauri and taonga;
- (b) protocols to give effect to their role of kaitiaki of water and land resources;
- (c) sites of cultural significance;
- (d) descriptions of how the document is to be used, monitored and reviewed;
- (e) the outcomes expected from implementing the management plan; and
- (f) the use and development of natural and physical resources by iwi."

B.1.P.Whitu "Ensure iwi management plans are taken into account in resource management decision making processes."

There are also a number of provisions in the draft Plan that will require a level of detail to protect and preserve the ecological, cultural and natural landscapes of Whakatū. The use, and

access to, Iwi Management Plans will be imperative to do this, and to ensure that the cultural values and values of significance to Whakatū tangata whenua are equally considered alongside other values and attributes. It may be prudent for the older Iwi Management Plans, specifically Ngāti Koata Trust Iwi Management Plan 2002 and Ngā Taonga Tuku Iho ki Whakatū Management Plan 2004, are reviewed and updated. Similarly, those Whakatū tangata whenua that have yet to develop an Iwi Management Plan, consider preparing one.

It is identified in B.13.2 Funding and Assistance that the Nelson City Council will provide resources (funds, staff time, training etc) and capacity building to assist Whakatū tangata whenua to prepare, implement and monitor Iwi Management Plans. This is a considerably effective method and commitment by the Nelson City Council.

4.3 Overall Findings

After completing a review of the draft Nelson Plan Whakamahere Whakatū, and information/understanding from reviewing key iwi planning documents (outlined in <u>Appendix</u> <u>A</u>), the overall key findings are:

- Overall, the RPS policies in B1 Tangata Whenua Iwi are primarily given effect to in C1 Residential, C6 Rural, C7 Coastal Marine Area, D1 Freshwater, D3 Riparian and Coastal Margins, and D7 Historic and Cultural Heritage.
- The RPS policies in B1 Tangata Whenua Iwi do not transfer well into the other policies of the RPS, eg recognition of Treaty settlement (B.1.P.Tahi) or partnerships with Whakatū tangata whenua (B.1.P.Iwa), but are well considered in the form of objectives and policies in relevant parts of Section C – Zones and Section D – City-Wide.
- There are missed opportunities to integrate B1 Tangata Whenua Iwi policies (and complementing objectives and policies in relevant parts of Section C Zones and Section D City-Wide Provisions) into the rule framework via Permitted Activity standards, and/or as control measures for Controlled Activity rules, and/or as matters of discretion under Restricted Discretionary Activity rules.
- It is considered that clarity is necessary to determine whether any land and resources owned/held by Whakatū tangata whenua (whether via Treaty settlement processes or otherwise) in the Inner City, Suburban Commercial, and Industrial Zones.
- There is a disconnect, or not clear visible linkage, between provisions in C5 Open Space and Recreation and C8 Conservation with the relevant provisions in Section D – City-Wide Provisions. For example, D3 Riparian and Coastal Margins provisions do not have rules so refer/rely on rules in the zone or other city-wide provisions.

- The provisions for freshwater management and sites of significance in areas located within Historic and Cultural Heritage overlays/areas provide substantial recognition to the values and sites of significance to Whakatū tangata whenua. However, this is within a management regime of values being balanced alongside other values and attributes.
- Co-governance and co-management (or other forms of Treaty partnership) will likely be achieved via internal policy and practices of the Nelson City Council rather than hardwired into the draft Plan. These other methods are identified in B13 Methods.
- Papakāinga is provided for in the draft Plan, however there are some limitations.
- The draft Nelson Plan Whakamahere Whakatū is required to achieve the purpose of the RMA (sustainable management) and provide for the RMA principles (eight matters of national importance, 11 other matters, and the principles of Te Tiriti o Waitangi/Treaty of Waitangi), it is hard to clearly identify specific areas in the draft Plan that would satisfy Whakatū tangata whenua.

4.4 Recommendations to Iwi Working Group

Although there are a number of matters to action and progress identified in the review and analysis, the report is proposing eight areas for primary focus by the members/representatives on the iwi working party. These are:

1. To improve effectiveness of RPS policy B.1.P.Tahi, consider advancing discussions with Nelson City Council to amend the definition for Māori land in the draft Plan. The view is that the policy seeks to support Whakatū tangata whenua in improving their social and economic well-being, however there are limitations associated with location of existing land/resources, as well as the pace of decision-making of any Trusts could prolong tangible outcomes.

So long as the intent of development and use is to improve the collective social and economic well-being of Whakatū tangata whenua, then the current mechanism for that to happen, eg to have a Māori freehold or customary land tenure status, should be avoided and enabled by qualification of intent.

The concept of Iwi Property Plans that is noted in the Te Reo Terms section of the draft Plan but not referred to anyway in the draft Plan, should be advanced also.

2. It may be helpful to list the principles of Te Tiriti o Waitangi and to provide an expression of what those principles mean/are to Whakatū tangata whenua. This will be helpful in

clearly identifying and monitoring the effectivenesss and efficiency of the provisions in the draft Plan.

3. Method B.13.1 Nelson Plan states that the RPS policies in B1 Tangata Whenua Iwi are integrated into the relevant sections/chapters of the draft Plan. It is considered that there are other sections/chapters that are equally relevant but have no provisions. These are: All the chapters in the RPS; C5 Open Space and Recreation and C8 Conservation, D6 Natural Hazards, D9 Landscapes, D10 Natural Character, and D11 Indigenous Biodiversity.

4. It is considered that more work is necessary in D2 Air Quality to give effect to RPS policies in B1 Tangata Whenua iwi.

A matter to pursue is the use and integration of mātauranga Māori in the monitoring of the policy/activities.

5. Iwi Management Plans are identified in B13 Methods of the draft Plan as a key/core contributor to the management of the natural and physical resources and protect/preserve the values and sites that contribute to the ecological, cultural and natural landscape that makes Whakatū.

Whakatū tangata whenua will need to strategize timing on when their Iwi Management Plans will be reviewed, updated or prepared.

6. It is unsure whether there are sites/places located in the Inner-City Zone, the Suburban Commercial Zone, or the Industrial Zone.

7. Method B.13.1 Future Plan Changes will need to be clarified between the iwi working party (Whakatū tangata whenua) and Nelson City Council to identify what areas in the draft Plan are intended for change/variation.

8. There are methods outlined in B.13.1 which will require continuing discussions, negotiations and information sharing to enable and give effect to most of the RPS policies in B1 Tangata Whenua iwi. It is suggested that clarity is sought on timing of delivering these other methods.

Appendix A: Iwi Documents

A review of some Iwi Management Plans was undertaken for this cultural impact assessment to understand the Whakatū tangata whenua perspective regarding the management of the resources.

Ngāti Toa Rangatira

Ngati Toa Rangatira Claims Settlement Act 2014⁴

Statutory requirements on local authorities

- Each consent authority must attach information recording the statutory acknowledgement in statutory plans (part 2 subpart 1 (30)).
- They must also provide the Toa Rangatira Trust with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 1 (31)).
- Relevant consent authorities must have regard to statutory acknowledgement when deciding if a trustee is an affected person in relation to a proposed activity (part 2 Subpart 1 (27)).
- A river and freshwater advisory committee is established in the Act which has one member from each of the eight settlement trusts in the area (part 2 subpart 11 (162)). Councils, including Nelson City Council, must give regard to the advice from the committee on the management of rivers and freshwater (part 2 subpart 11 (165)) and must supply information requested by the board (part 2 subpart 11 (167).

Statutory acknowledgements

- The Crown acknowledges its failure in dealing with the long-standing grievances in an appropriate way and that the recognition of grievances is overdue. The Crown breached Te Tiriti o Waitangi/the Treaty of Waitangi by failing to protect Ngāti Toa Rangatira's interests. The Crown unfairly imprisoned leaders of Ngāti Toa Rangatira alienated land (part 1 subpart 1 (9).
- The Crown also acknowledges the statements of association and the statements of coastal values in respect of each statutory area (part 2 subpart 1 (25)).

Significant sites or values

• There are no significant sites acknowledged which are inside Nelson.

⁴ <u>http://www.legislation.govt.nz/act/public/2014/0017/latest/DLM5953603.html</u>

Narrative of statutory acknowledgement

 In 1840 Ngāti Toa Rangatira were established in the Cook Straight region and had settlements on the lower North Island and upper South Island. Several Ngāti Toa Rangatira signed the Treaty of Waitangi (part 1 subpart 1 (8)).

Ngati Toa Rangatira and Trustee of the Toa Rangatira Trust and The Crown Deed of Settlement of Historical Claims⁵

Significant sites or values

- The following places are acknowledged as being of particular cultural, spiritual, historical and traditional association with Ngāti Toa Rangatira. Only the sites in Nelson have been included (5.35).
 - Lake Rotoiti, Nelson Lakes National Park (as shown on deed plan OTS- 068-33)
 - Lake Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-068-34)
 - Maitai River and its tributaries (as shown on deed plan OTS-068-46)
 - Wairau River, Omaka River, Opaoa River, and Kaituna River and their tributaries (as shown on deed plan OTS-068-47)
 - Te Hoiere / Pelorus River and its tributaries (as shown on deed plan OTS-069-48)
 - Waimea River and its tributaries (as shown on deed plan OTS-068-58)
 - Te Tau Ihu coastal marine area (as shown on deed plan OTS-068-70)
 - Cook Strait (as shown on deed plan OTS-068-38)
 - Pelorus Bridge
 - o Te Mana a Kupe

Narratives

- Ngāti Toa Rangatira settled in Te Tau Ihu following four generations of warfare in the Tainui region and Hingakaka (the largest battle ever fought) (1.4). Ngāti Toa Rangatira settled in the bottom of the North Island and top of the South Island to move away from conflict, to benefit from trade with Europeans and ultimately to revitalise their iwi (1.6; 1.7).
- The maunga Tapuae o Uenuku was a significant visual link between iwi on either side of Te Moana o Raukawa and served as a reminder of the extent of the Ngāti Toa Rangatira rohe (1.26).

⁵ <u>http://www.ngatitoa.iwi.nz/sitecontent/images/Folders/General/Ngati-Toa-Rangatira-and-Toa-Rangatira-Trust-and-The-Crow.pdf</u>

- The main areas of occupation of Ngāti Toa Rangatira in Te Tau Ihu were the Wairau, Port Underwood and Te Hoiere (the Pelorus Sounds). Ngāti Toa Rangatira had pā in Te Hoiere at Canon point, Te Akaroa and Point Ligar as well as in Totaranui and on Arapaoa Island (1.27). There were also pā and kainga in the Wairau and at Tuamarina which were used seasonally when Ngāti Toa Rangatira made visits to Kaparatehau (Lake Grassmere) for hunting and to use the resources (1.28).
- The whole of Te Tau Ihu was and is of great significance to Ngāti Toa Rangatira due to the efforts of tupuna in reaching the area, and the lives that were lost securing the rohe (1.29).

Ngāti Kōata

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014⁶

Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party of a consent application (part 2 subpart 2 (43)).
- Consenting authorities must also provide affected trustees with summaries of resource consent applications (part 2 subpart 2 (42)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (47)).

Statutory acknowledgements

 The Crown acknowledges several failures of the Crown to Ngāti Kōata in part 1 subpart 1 (9). This includes the failure to deal with the grievances of Ngāti Kōata in an appropriate way and the failure to become informed of the needs of Ngāti Kōata. The section also lists several specific instances where the Crown has unfairly acquired land from Ngāti Kōata, failed to meet requirements of the Treaty of Waitangi and failed to protect Ngāti Kōata interests. The Crown also acknowledges the failure of the Tenths reserves as Ngāti Kōata had negligible involvement in the administration of the reserves and did not benefit from them (part 1 subpart 1 (9)).

Significant sites or values

• Only sites within Nelson are included.

⁶ http://www.legislation.govt.nz/act/public/2014/0020/latest/DLM5954601.html

- Whangarae Bay (Okiwi Bay) (part 2 subpart 4 (77))
- Whangarae Estuary (part 2 subpart 4 (91))
- Mātangi Āwhio (Nelson) (part 2 subpart 4 (114))

Narrative of statutory acknowledgement

 Ngāti Kōata settled in Te Tau Ihu in the mid-1820s following tuku of land from Tūtepourangi as well as invasion. The primary settlements were in the Rangitoto Islands, Croisilles, Whakapuaka and Whakatū and the iwi practiced their culture and relied on resources in the area. By the end of the 20th century had become virtually landless which has caused lost connection and access to traditional resources and sites, and the demise of a strong cultural base (part 1 subpart 1 (8)).

Ngāti Kōata and Te Pātaka a Ngāti Kōata and The Crown Deed of Settlement of Historical Claims⁷

Significant sites or values

- The following places are acknowledged as being of particular cultural, spiritual, historical and traditional association with Ngāti Kōata in Nelson (5.3).
 - Maungatapu (as shown on deed plan OTS-202-44)
 - Maitai River and its tributaries (as shown on deed plan OTS-202-64)
 - Waimea River, Wairoa River, and Wai-iti River and their tributaries (as shown on deed plan OTS-202-66)
 - Te Hoiere / Pelorus River and its tributaries (as shown on deed plan OTS- 202-70)
 - Whangamoa River and its tributaries (as shown on deed plan OTS-202-102)

<u>Narratives</u>

Ngāti Kōata settled in Te Tau Ihu following a tuku of land from Tūtepourangi. The tuku of land extended from Anatoto at the mouth of the Pelorus Estuary, including the Sounds and around the coast from Kaiaua (Croisilles Harbour) to Cape Soucis, Whangamoa, Whakapuaka, Whakatū, Waimea, Motueka and on to Te Matau (Separation Point). Ngāti Kōata oral tradition also states that the tuku started at Anatoto at the mouth of the Pelorus Sound and included Kurupongi, Nga Kiore, Takapourewa and extended to Te Matau (Farewell Spit). Many areas of Ngāti Kōata rohe overlapped and intersected with other iwi (2.3).

⁷ <u>https://www.govt.nz/dmsdocument/5017-ngati-koata-deed-of-settlement-21-dec-2012</u>

Ngati Koata No Rangitoto Ki Te Tonga Trust Iwi Management Plan⁸

Iwi aspirations

- The Ngāti Kōata vision statement is to ensure that the environment and human activities are culturally managed in harmony with the appreciation that the natural world is dynamic, fragile and finite.
- The purpose of the plan describes the benefits to Ngāti Kōata of the IMP as being:
 - Providing legal means of ensuring interests are taken into account
 - Determining policy to guide their management of resources
 - Increasing awareness and involvement of Ngāti Kōata members in resource management issues
 - Setting down guidelines for consultation in an attempt to avoid inadequate consultation leading to negative outcomes
 - Declaring openly exercise of tino rangatiratanga and kaitiakitanga
 - Implementing a cost recovery regime in terms of resource management issues
 - Moving towards proactive, rather than reactive involvement in decision making
 - Proving more efficient input by Ngāti Kōata in decision making process
 - Achieving resource management outcomes sought by Ngāti Kōata
- The benefits to the reader are described as being:
 - Improving understanding of iwi environmental perspectives
 - Gaining an understanding of who Ngāti Kōata are and where they come from
 - Gaining certainty of the processes and procedures necessary in order to conduct proper consultation
 - Understanding that when an applicant or agency initiates resource consent management issues with Ngāti Kōata the must meet the associated costs
 - Avoiding delays and confusion
- Each chapter relating to an aspect of the environment has several objectives, policies and methods or how to improve and protect the quality of the aspect.

Sections/chapters outline

• There are individual chapters for: tikanga, Treaty of Waitangi, methodology, cultural heritage, costal water, freshwater, flora/fauna, land, air quality, the consultation process, research and monitoring, interpretation and statutory acknowledgements.

⁸ <u>http://www.nelson.govt.nz/assets/Our-council/Downloads/Iwi-Management-Plans/Ngati-Koata-Trust-IMP-Iwi-Management-Plan-24May2002-A1133068.pdf</u>

• There are also separate appendices for offlying islands record form, mutton birds, South Island customary fishing boundary and MDC timeframes.

Strong statements

"Ngāti Kōata must stress that if true partnership is to flourish then Iwi need to be involved at the decision making level." (page 6)

Ngāti Rārua

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014⁹

Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party (part 2 subpart 2 (43)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (47)).

Statutory acknowledgements

The Crown acknowledges it has failed to deal with Ngāti Rārua grievances in an appropriate way and that recognition of these grievances is overdue. The acknowledgements relate to serval land purchases which breached Ti Tiriti o Waitangi/the Treaty of Waitangi. The Crown also acknowledges its contribution to the landlessness of Ngāti Rārua (part 1 subpart 1 (12)).

Significant sites or values

- Only significant sites in Nelson are included.
 - Te Tai Tapu (Snake Creek) (part 2 subpart 4 (93)) (unsure where this is)
 - Mātangi Āwhio (Nelson) (part 2 subpart 4 (114))

Narrative of statutory acknowledgement

 Ngāti Rārua settled in Te Tau Ihu in the late 1820s, they established pā and kainga at Te Tai Tapu, Golden Bay, Tasman Bay and Wairau. Following land loss Ngāti Rārua have become characterised by marginal economic status, poor health and low educational attainment (part 1 subpart 1 (11)).

⁹ http://www.legislation.govt.nz/act/public/2014/0020/latest/DLM5954601.html

Ngāti Rārua and Ngāti Rārua Settlement Trust and the Crown Deed of Settlement of Historical Claims¹⁰

Significant sites or values

- Significant sites in Nelson are included (5.9).
 - Lake Rotoiti, Nelson Lakes National Park (as shown on deed plan OTS-202-46)
 - Lake Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-202-47)
 - Pukeone / Mount Campbell (as shown on deed plan OTS-202-50)
 - Maitai River and its tributaries (as shown on deed plan OTS-202-64)
 - Wairau River, Omaka River, and Opaoa River and their tributaries (as shown on deed plan OTS-202-65)
 - Waimea River, Wairoa River, and Wai-iti River and their tributaries (as shown on deed plan OTS-202-66)
 - o Wairau Pā
 - Te Tai Tapu (Snake Creek) (the covenant applies to only that part of the site shown "A" on deed plan OTS-202-07) (unsure where this is)
 - o Mātangi Āwhio

<u>Narratives</u>

- Ngāti Rārua settled in Te Tau Ihu from the Waikato, alongside other iwi who descend from the Tainui waka (2.2).
- Ngāti Rārua established pā and cultivations in Te Tau Ihu at Takaka, Motupipi and Separations Points (2.9).
- The Waimea and Whakatū districts were important to Ngāti Rārua for seasonal fishing, birding and the collection of harakeke (2.11).
- Ngāti Rārua chief Te Tana Pukekohatu signed Ti Tiriti o Waitangi at Port Underwood in 1840 and the rocky outcrop known as Horohora Kakahu where the Crown boat was anchored remains a site of significance (2.19).
- Te Maatu was an important area for cultivations and resource gathering for Ngāti Rārau and other iwi and a portion of it was promised to be retained in Māori ownership, however a highly prized area was made available for settlement by colonisers (2.35).

¹⁰ <u>https://www.govt.nz/dmsdocument/5601-ngati-rarua-deed-of-settlement-13-apr-2013</u>

Ngāti Tama ki Te Tau Ihu

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014¹¹

Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party (part 2 subpart 2 (43)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (47)).

Statutory acknowledgements

The Crown acknowledges it has failed to deal with Ngāti Tama grievances in an appropriate way and that recognition of these grievances is overdue. The Crown failed to inform itself of the needs of Ngāti Tama and failed to uphold principles of the Treaty of Waitangi. The Crown failed to provide for the iwi's control of the Tenths reserves and failed to ensure the areas were sufficient for the use and benefit by the iwi. The Crown also acknowledges its failure to include Ngāti Tama in negotiations and provisions relating to land sales and gold mining.

Significant sites or values

- Only significant sites in Nelson are included.
 - Hori Bay (part 2 subpart 2 (95))
 - Mātangi Āwhio (Nelson) (part 2 subpart 4 (114))

Narrative of statutory acknowledgement

 Ngāti Tama settled in Te Tau Ihu in the later 1820s and established pā and kainga in Te Tai Tapu, Golden Bay and Wakapuaka. Ngāti Tama became virtually landless by the end of the 20th century and many Ngāti Tama left Te Tau Ihu and lost their connection with their iwi and tūrangawaewae (part 1 subpart 1 (14)).

Ngāti Tama ki Te Tau Ihu and the Crown Deed of Settlement of Historical Claims¹²

Significant sites or values

- Only significant sites in Nelson are included (5.9).
 - Rotokura / Cable Bay (as shown on deed plan OTS-202-43)
 - Lake Rotoiti, Nelson Lakes National Park (as shown on deed plan OTS-202-46)

¹¹ <u>http://www.legislation.govt.nz/act/public/2014/0020/latest/DLM5954601.html</u>

¹² <u>https://www.govt.nz/dmsdocument/5652-ngati-tama-ki-te-tau-ihu-deed-of-settlement-20-apr-2013</u>

- Lake Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-202-47)
- Maungatapu (as shown on deed plan OTS-202-44)
- Maitai River and its tributaries (as shown on deed plan OTS-202-64)
- Waimea River, Wairoa River, and Wai-iti River and their tributaries (as shown on deed plan OTS-202-66)
- Motueka River and its tributaries (as shown on deed plan OTS-202- 67)
- Te Hoiere / Pelorus River and its tributaries (as shown on deed plan OTS-202-70)
- Whangamoa River and its tributaries (as shown on deed plan OTS- 202-102)
- o Hori Bay
- o Mātangi Āwhio

<u>Narratives</u>

- Ngāti Tama established customary rights in Te Tau Ihu following their migration from Waikato and the southern North Island. Land was acquired and retained in Te Tau Ihu through raupatu and continued occupation (2.4).
- Ngāti Tama's main pā and kainga in Te Tau Ihu were established in Wakapuaka, Wainui, Takaka, Tukurua and Parapara (2.5).
- Te Maatu was important to Ngāti Tama for cultivations and while the iwi was promised they would retain their cultivations, some were included in the land surveyed for settlers (2.19).

Ngāti Tama ki Te Waipounamu Trust Environmental Management Plan 2018¹³

Iwi aspirations

- The iwi management plan is a tool for Ngāti Tama to express kaitiakitanga and their values in the natural environment, as well as to enhance the mauri and wairua of these natural environments and Ngāti Tama's relationship with them. It also seeks to ensure meaningful cultural and environmental outcomes are achieved.
- The chapters detailing valued aspects of the environment are accompanied by aspirations for each aspect, as follows:
 - Cultural heritage Ngāti Tama cultural heritage is valued, protected and enhanced for future generations.
 - Whenua Ngāti Tama cultural values associated with maunga landscapes and hill country are protected

¹³ <u>https://www.epa.govt.nz/assets/FileAPI/proposal/NSP000042/Evidence-Supplementary-evidence/Environmental-Management-Plan-2018-Ngati-Tama-ki-Te-Waipounamu-Trust.pdf</u>

- o Energy generation
- o Cultural landscapes and landforms are protected for future generations
- Ngāti Tama whanau have access to and use of ancestral land, waters, wāhi tapu and mahinga kai
- Ngāti Tama right to develop energy is recognised and provided for in the management of areas suitable for energy generation
- Research and development is focused on alternative energy generation to support sustainable energy use
- Forestry Ngāti Tama mahinga kai habitats, wāhi tapu and wāhi taonga are protected and enhanced for future generations
- National parks Ngāti Tama associations with land water, wāhi tapu and other taonga are recognised and provided for in the management of National Parks
- Farming Ngāti Tama relationship with their ancestral lands, waters and other taonga are protected
- Mining and exploration Ngāti Tama valleys and plains and associated cultural heritage sites/areas are protected from commercial mining and exploration activities
- Wastewater management Ngāti Tama sit at the decision making table to ensure cultural values are protected in the management of waste water across the rohe
- Solid waste management The mauri and wairua of Ngāti Tama wāhi tapu are protected from the effects of solid waste operations
- Industrial activity The mauri and wairua of Ngāti Tama wāhi taonga and wāhi tapu are protected from the effects of industrial activity
- Subdivision and development Ngāti Tama cultural values are protected from adverse effects associated with subdivision and residential development
- Earthworks Cultural heritage are protected from the effects of earthworks
- Stock transport Stock is transported in a way that avoids contaminants entering waterways and impacting on all Ngāti Tama cultural values
- Water quality The mauri and wairua of freshwater is enhances and protected
- Hydro development Wāhi tapu and wāhi taonga are protected from potential adverse effects resulting from hydro developments
- Repo (wetlands) Wetlands are recognised and protected for their cultural significance and biodiversity values
- Freshwater fisheries Ngāti Tama whanau maintain their traditional associations with taonga species associated with freshwater
- Hau ora The mauri of hau is maintained to a level which safeguards the spiritual nature of hau, the health of wāha taonga and ngā taonga, the ability

of Ngāti Tama to maintain customary practices, and Ngāti Tama cultural heritage is protected from the adverse effects of air pollution and noise contamination.

- Coastal water quality The interconnected nature of water environments is recognised in the management of catchments
- Coastal environment The coastal marine environment is managed in an integrated way, recognising the interconnected nature of inland areas with the coastal environments
- Structures in the coastal marine area The significance of the coastal marine environment to Ngāti Tama is recognised and cultural heritage sites are protected
- Coastal access Ngāti Tama whanau maintain their traditional relationships with coastal sites and resources
- Coastal mining Mining operations within or adjacent to the coastal environment do not compromise the mauri of coastal waters and ecosystems
- Commercial surface water activities Ngāti Tama are able to access healthy kai moana from costal marine environments. Coastally sensitive marine environments are protected from the adverse effects of commercial surface water activities.
- Offshore petroleum exploration Areas of cultural significance are protected from adverse effects associated with prospecting, exploration, drilling and mining operations
- Marine and coastal birds Ngāti Tama cultural associations with marine and coastal birds are protected. Maine and coastal bird nesting and feeding sites are protected from developments in marine coastal areas
- Species recovery Ngāti Tama cultural and spiritual associations with indigenous species and their natural habitats re protected and enhanced for future generations
- Plant and animal pest control The mauri or life supporting capacity of indigenous habitats which support indigenous species is protected. Pest control operations in the rohe are monitored by Ngāti Tama to ensure adverse effects on cultural values are avoided, minimised or mitigated
- Hazardous substances and new organisms The health of wāhi tapu and wāhi taonga is paramount in relation to the use of hazardous substance use or introduction of new organisms

Sections/chapters outline

• The iwi management plan has four sections; introduction to the plan, engaging with Ngāti Tama, natural resource management, and appendices.

• The sections include a history of Ngāti Tama and their cultural values, best practice for engaging with Ngāti Tama, a description of the valued aspects of the environment, and a legislative context for the plan.

Te Ātiawa o Te Waka-a-Māui

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014¹⁴

Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party (part 2 subpart 2 (43)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (47)).

Statutory acknowledgements

The Crown acknowledges it has failed to deal with Te Ātiawa grievances in an appropriate way and that recognition of these grievances is overdue. The Crown failed to inform itself of the needs of Te Ātiawa and failed to uphold principles of the Treaty of Waitangi. The Crown acknowledges the grievance that arose from the unfair relocation of the iwi from Waitohi to Waikawa which continues to today. The Crown also acknowledges its failure in the Tenths reserves by failing to provide Te Ātiawa with the ability to benefit from and control that land.

Significant sites or values

- Only sites in Nelson are included (5.16).
 - Katoa Point (part 2 subpart 4 (111)) (unsure where this is)
 - Mātangi Āwhio (Nelson) (part 2 subpart 4 (114))

Narrative of statutory acknowledgement

 Te Ātiawa arrived in Te Tau Ihu in the late 1820s, the established pā and kainga at Totaranui (Queen Charlotte Sound), Tasman Bay, Golden Bay and Te Tai Tapu. Over 20 Te Ātiawa signed the Treaty of Waitangi. By the end of the 19th century Te Ātiawa were virtually landless which has contributed to socio-economic hardship. Crown assimilation and integration policies as well as urbanisation have exacerbated cultural dislocation and Te Ātiawa have lots connections with many significant sites and

¹⁴ <u>http://www.legislation.govt.nz/act/public/2014/0020/latest/DLM5954601.html</u>

resources which has had a negative effect on their spiritual, economic and cultural well-being (part 1 subpart 1 (17)).

Te Ātiawa o Te Waka-a-Māui and Te Ātiawa o Te Waka-a-Māui Trust and the Crown Deed of Settlement of Historical Claims¹⁵

Significant sites or values

- Only sites in Nelson have been included (5.16).
 - East Head (as shown on deed plan OTS-202-37) (unsure where this is)
 - Queen Charlotte Sound / Totaranui and Islands (as shown on deed plan OTS-202-59)
 - Maungatapu (as shown on deed plan OTS-202-44)
 - Lake Rotoiti, Nelson Lakes National Park (as shown on deed plan OTS202-46)
 - Lake Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-202-47)
 - Maitai River and its tributaries (as shown on deed plan OTS-202-64)
 - Waimea River, Wairoa River, and Wai-iti River and their tributaries (as shown on deed plan OTS-202-66)
 - Motueka River and its tributaries (as shown on deed plan OTS-202-67)
 - Te Hoiere / Pelorus River and its tributaries (as shown on deed plan OTS-202-70)
 - o Mātangi Āwhio

Narratives

- Te Ātiawa settled in Te Tau Ihu in the late 1820s following inter-tribal warring in the Taranaki region. Te Ātiawa established their mana and customary rights at Totaranui (Queen Charlotte Sound), Waitohi, Anamahanga (Port Gore), Te Tai o Aorere (Tasman Bay), Whakatu, Motueka, Mohua (Golden Bay) and Te Tai Tapu (2.2; 2.3).
- Te Ātiawa were mostly established in Tōtaranui and Arapaoa Island but retained fluid relationships with other iwi who migrated from the North Island and lived in different areas (2.4).
- There were other settlements established at Whakatū, Motueke, Marahau, Mohua, Turimawiwi, Aorere, Pariwhakaoho, Pakawau and Whanganui (2.9; 2.10).
- Te Ātiawa place high value on The Tasman Sea, Pacific Ocean and the Cook Straight and their foreshore, seabed and coastal and maritime waterways (2.6).
- Golden Bay and the Queen Charlotte Sounds were important sites for gathering mutton-birds but Te Ātiawa had restricted access to these areas through land

¹⁵ <u>https://www.govt.nz/dmsdocument/5854-te-atiawa-o-te-waka-a-maui-deed-of-settlement-21-dec-2012</u>

alienation (2.78). Other food gathering sites such as Waikawa Bay and Waikawa Stream were destroyed or altered through development (2.78).

Ngāti Apa ki te Rā Tō

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014¹⁶ Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party (part 2 subpart 2 (41)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (44)).

Statutory acknowledgements

- The Crown acknowledges it has failed to deal with Ngāti Apa grievances in an appropriate way and that recognition of these grievances is overdue. The Crown has also failed to carry out an inquiry into the nature and extend of Ngāti Apa customary rights and interests and this has led to the Crown being unable to provide for those interests, and to prejudice towards the iwi, breaching the principles of the Treaty of Waitangi.
- The Crown also acknowledges the fact that Ngāti Apa did not sign a purchase deed for the purchase of their land. The Crown acknowledges that Ngāti Apa was not provided with full consideration for the purchase of their lands, including a share of Tenths reserves.
- The Crown also acknowledges that Ngāti Apa have been unable to access many of their traditional resources and significant sites hand this has had an ongoing impact on their physical and spiritual relationship with the land (part 1 subpart 1 (9)).

Significant sites or values

• Mātangi Āwhio (Nelson) (part 2 subpart 4 (95))

Narrative of statutory acknowledgement

 Ngāti Apa have resided in the northern South Island for several generations and by 1820 occupied and used resources in the Marlborough Sounds at Anamahanga, Waimea, Whakatū (Nelson), Te Tai Aorere, Te Tai Tapu and the Kawatiri region. This rohe was invaded and settled by North Island iwi in the 1820s and 1830s. Ancestral

¹⁶ <u>http://www.legislation.govt.nz/act/public/2014/0019/latest/DLM5214278.html</u>

connections to the land, whakapapa and tribal structures were retained although Ngāti Apa no longer had exclusive use of the land.

• By the late 19th century Ngāti Apa were landless through a series of sales and confiscations which the iwi were not consulted about and did not receive compensation for (part 1 subpart 1 (7)).

Ngāti Apa ki Te Rā Tō and Ngāti Apa ki Te Rā Tō Trust and the Crown Deed of Settlement of Historical Claims¹⁷

Significant sites or values

- Only sites in Nelson are included (5.9).
 - Alpine Tarns, Nelson Lakes National Park (as shown on deed plan OTS099-28)
 - Lakes Rotoiti and Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-099-31)
 - Kohi te Wai (Boulder Bank Scenic Reserve) (as shown on deed plan OTS-099-39)
 - Waimea, Wai-iti, and Wairoa Rivers and their tributaries (as shown on deed plan OTS-099-54)
 - o Mātangi Āwhio

Narratives

 Ngāti Apa have been established in the northern South Island for several generations and have occupied and used resources at Anamahanga (Port Gore), Waimea, Whakatū, Te Tai Aorere (Golden Bay), Te Tai Tapu and the Kawatiri region (2.3). Customary areas (land between Te Matau (Separation Point) and Anatoto) were acquired by North Island iwi through tuku to another iwi and invasion, however Ngāti Apa could still access and use these areas (2.5).

Ngāti Kuia

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014¹⁸ Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party (part 2 subpart 2 (41)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20

¹⁷ https://www.govt.nz/dmsdocument/5110-ngati-apa-ki-te-ra-to-deed-of-settlement-29-oct-2010

¹⁸ <u>http://www.legislation.govt.nz/act/public/2014/0019/latest/DLM5214278.html</u>

years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (44)).

Statutory acknowledgements

- The Crown acknowledges it has failed to deal with Ngāti Kuia grievances in an appropriate way and that recognition of these grievances is overdue. The Crown has also failed to carry out an inquiry into the nature and extend of Ngāti Kuia customary rights and interests and this has led to the Crown being unable to provide for those interests, and to prejudice towards the iwi, breaching the principles of the Treaty of Waitangi.
- The Crown acknowledges that Ngāti Kuia was not provided with full consideration for the purchase of their lands, including a share of Tenths reserves. The Crown also acknowledges its role in alienating Ngāti Kuia from their sites of significance, particularly mahinga kai sources and wahi tapu (part 1 subpart 1 (12)).

Significant sites or values

- Sites identified in Nelson
 - Titiraukawa (Pelorus Bridge) (part 2 subpart 4 (76))
 - Ngā Tai Whakaū (Kawai, World's End) (part 2 subpart 4 (77))
 - Moaenui (part 2 subpart 4 (87)) (unsure where this is)
 - Mātangi Āwhio (Nelson) (part 2 subpart 4 (95))

Narrative of statutory acknowledgement

- Ngāti Kuia have resided in the northern South Island for several generations and by 1820 occupied and used resources in Kaituna, Te Hora, Te Hoiere, Rangitoto, Whangarae, Whakapuaka and Whakatū. This rohe was invaded and settled by North Island iwi in the 1820s and 1830s. Ancestral connections to the land, whakapapa and tribal structures were retained although Ngāti Kuia no longer had exclusive use of the land.
- By the late 19th century Ngāti Kuia were landless due to land sales which they had not always been consulted about or compensated for. The iwi was allocated marginal land which could not adequately support their needs (part 1 subpart 1 (11)).

Ngāti Kuia and Te Runanga o Ngāti Kuia Trust and the Crown Deed of Settlement of Historical Claims¹⁹

Significant sites or values

¹⁹ <u>https://www.govt.nz/dmsdocument/4981-ngati-kuia-deed-of-settlement-23-oct-2010</u>

- The following places are acknowledged as being of particular cultural, spiritual, historical and traditional association with Ngāti Kuia in Nelson (5.3).
 - o Lake Rotoiti
 - Nelson Lakes National Park
 - o Lake Rotoroa
 - Nelson Lakes National Park
 - Maungatapu (Parikarearea)
 - Maitai (Mahitahi) River and its tributaries
 - Waimea, Wai-iti, and Wairoa Rivers and their tributaries
 - Te Hoiere (Pelorus) River and its tributaries

Narratives

- Ngāti Kuia have been established in Te Tau Ihu for several generations and became tangata whenua through conquest, intermarriage, tuku and assimilation with other iwi (2.1). Ngāti Kuia were one of the three iwi in Te Tau Ihu at 1820, before North Island iwi arrived in the area (2.4).
- Ngāti Kuia were primarily established in the Kaituna, Te Hora, Te Hoiere, Rangitoto, Whanagarae, Whakapuaka and Whakatū districts (2.2).
- Whakatū and Te Hoiere were both important for food gathering and māra. Waimea was an important area for gathering tītī (mutton birds) (2.3).
- Ngāti Kuia also had interests in areas of Taonuiakupe, Te Hoiere, Maruia, Rai and Hutai which were all disputed to have been sold to the New Zealand Company (2.25).

Pakohe Management Plan²⁰

Iwi aspirations

- The outcomes desired by Ngāti Kuia are:
 - Ngāti Kuia, Te Iwi Pakohe Ngāti Kuia is recognised as the people of Pakohe
 - Wāhi tūpuna (Pakohe archaeological sites) are actively protected and those involved with the wāhi tupuna respect Ngāti Kuia and its taonga
 - Wāhi Pakohe (naturally occurring Pakohe) are sustainably managed
 - The nature and extent of wāhi Pakohe is known and the accessibility, quality and the limitations of wāhi Pakohe understood
 - Ngāti Kuja members are aware of and engage in cultural practices involving Pakohe

²⁰ <u>http://www.nelson.govt.nz/assets/Environment/Downloads/Nelson-Plan/Ngati-Kuia-Pakohe-Management-Plan-signed-27-November-2014.pdf</u>

- Ngāti Kuia whānau whānui are the principle commercial users of Pakohe
- Ngāti Kuia exercise kaitiakitanga over taonga Pakohe

• Pages 33-37 have priority actions to be carried out from 2014-2017.

Sections/chapters outline

- The plan relates to only the management of Pahoke (argillite) and has two sections;
- A The Ngāti Kuja world of Pakohe, which relates to Ngāti Kuja's worldview, the legislative background to the plan, protected objects, geology, whakapapa and the roles of councils and Ngāti Kuja
- B Managing Pakohe, which contains policy provisions and implementation, review and monitoring methods.

Rangitāne o Wairau

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014²¹ Statutory requirements on local authorities

- Consenting authorities must have regard to statutory acknowledgement when deciding whether trustees are an affected party (part 2 subpart 2 (41)).
- Consenting authorities must also provide the relevant trustees with a summary of resource consent applications directly affecting a statutory area, for a period of 20 years. This summary must be received as soon as practical and before the authority decides whether to notify the consent (part 2 subpart 2 (44)).

Statutory acknowledgements

 The Crown acknowledges that Rangitāne was not provided with full consideration for the purchase of their lands, including a share of Tenths reserves. The Crown also acknowledges that the land Rangitāne was provided with was poor quality and prone to flooding, meaning the iwi could not meet their needs from the land (part 1 subpart 1 (15)).

Significant sites or values

- In Nelson
 - Mātangi Āwhio (Nelson) (part 2 subpart 4 (95))

Narrative of statutory acknowledgement

 Rangitāne have resided in the northern South Island for several generations and by 1820 occupied and used resources in a territory spanning from the Waiau-toa River in the south to the Wairau (Marlborough) and north to Kaituna and the Marlborough Sounds and west to the Whakatū area. This rohe was invaded and settled by North

²¹ <u>http://www.legislation.govt.nz/act/public/2014/0019/latest/DLM5214278.html</u>

Island iwi in the 1820s and 1830s. Ancestral connections to the land, whakapapa and tribal structures were retained although Rangitāne no longer had exclusive use of the land.

• By the late 19th century Rangitāne were landless due to land sales which they had not always been consulted about or compensated for (part 1 subpart 1 (14)).

Rangitāne o Wairau and Rangitāne o Wairau Settlement Trust and the Crown Deed of Settlement of Historical Claims²²

Significant sites or values

- Significant sites in Nelson include (5.9):
 - Lake Rotoiti, Nelson Lakes National Park (as shown on deed plan OTS-099-34)
 - Lake Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-099-35)
 - Maitai (Mahitahi) River and its tributaries (as shown on deed plan OTS-099-52)
 - Waimea, Wai-iti, and Wairoa Rivers and their tributaries (as shown on deed plan OTS-099-54)
 - Motupiko River and its tributaries (as shown on deed plan OTS-099-57)
 - o Mātangi Āwhio

<u>Narratives</u>

- Rangitāne have resided in Te Tau Ihu for several generations, since the 16th century when their tupuna Te Huataki established in the area. The maunga and awa in the area are the source of stories and whakatauki and embody their tupuna in some cases (2.2.).
- Rangitāne occupied and used resources in a rohe from the Waiau-toa (Clarence) River in the south to the Wairau (Marlborough), including the Nelson Lakes, and north to Kaituna and the Marlborough Sounds and west into the Whakatu (Nelson) area. Customary rights often overlapped in these areas and this was managed through whakapapa and customary protocols between the iwi (2.3).
- Rangitāne communities were linked through trails across the rohe through the Nelson Lakes, linking Te Hoiere, Te Tai Aorere (Tasman Bay), Mohua (Golden Bay), Te Tai Tapu (the northern West Coast) and Kawatiri (Westport) (2.4).
- When North Island iwi invaded Te Tau Ihu in the 1820s, Rangitāne no longer had exclusive use of their territory. They were still able to live on their land, maintain ancestral links with whenua and maintain their tribal structures and chiefly lines (2.5).

²² https://www.govt.nz/dmsdocument/5712-rangitane-o-wairau-deed-of-settlement-4-dec-2010

Collective

Nga Taonga Tuku Iho Ki Whakatu Management Plan²³

Iwi aspirations

- This management plan has been prepared for Ngāti Rārua, Te Toa Rangatira, Te Ātiawa, Ngāti Kōata and Ngāti Tama jointly.
- The key desired outcomes in the iwi management plan are:
 - Rangatiratanga is recognised in the management of ngā taonga tuku iho
 - Take tupuna are recognised as being central to the management of ngā taonga tuku iho
 - Tangata whenua and Nelson City councillors and staff maintain a good working relationship
 - Tangata whenua customary practices are sustained and the ability to practice these customs is improved over time
 - The mauri and wairua of ngā taonga tuku ihu are maintained and enhanced by tangata whenua
 - Ngā tangata are healthy and able to maintain a good quality of life
 - Indigenous flora and fauna are maintained and enhanced for present and future generations
 - Wāhi tapu are protected and managed according to tikanga, for the benefit of present and future generations
 - This management plan provides guidance and encouragement for iwi members to participate in environmental management
- There are also key aspirations for each domain of key atua, including:
- Tawhirimatea
 - The mauri of air is maintained at a level which achieves the best air quality possible and safeguards the spiritual nature of air, health of flora and fauna, wellbeing of ngā tangata and their customary practices and tikanga.
 - Pages 38-39 have detailed desired actions to achieved this goal
- Tumatauenga
 - The status of tangata whenua as Rangatira and kaitiaki is recognised in the decision making and management of ngā taonga tuku iho ki Whakatū
 - Tangata whenua representation at the decision making level ensure that the adverse effects resulting from the use of ngā taonga tuku iho are minimised

²³ <u>http://www.nelson.govt.nz/assets/Our-council/Downloads/Iwi-Management-Plans/Iwi-Management-Plan-2004-A142958.PDF</u>

- Pages 47-52 have detailed desired actions to achieve these goals
- Tane Mahuta
 - Indigenous flora and fauna exist in healthy populations across a wide range of habitats
 - The wairua and mauri of the uri of Tane Mahuta are protected
 - Tangata whenua customs and traditions associated with indigenous floara and fauna are sustained for present and future generations
 - The mauri and wairua of the uri of Tana Mahuta is recognised in customary practice
 - Page 57 has detailed desired actions to achieve these goals
- Tangaroa
 - Water bodies are healthy and maintained to a level sufficient to:
 - Preserve the mauri of the water body
 - Provide for tangata whenua cultural and spiritual values and customs and traditions
 - Provide sustenance for present and future generations
 - Increase opportunities for tangata whenua to practice customs and traditions associated with the uri of Tangaroa
 - Pages 68-69 have detailed desired actions to achieve these goals
- Rongomatane and Haumie-tiketike
 - Mahinga kai populations and associated habitats are healthy and able to provide sustenance to tangata whenua
 - Tangata whenua have access to culturally important mahinga kai
 - Pages 74-75 have detailed desired actions to achieve these goals

Sections/chapters outline

- The iwi management plan begins with whakatauki and then has eight chapters: background, purpose, a tangata whenua ki Whakatū view of the world, plan structure, issues and outcomes, building relationships, monitoring and review, and appendices.
- The subchapters describe the tangata whenua values, perspectives of creation, atua and vision. They also include frameworks for tangata whenua resource management and guidelines for consultation.

Strong statements

"[T]he development of a good working relationship between the Nelson City Council and tangata whenua is vital, if tangata whenua views are to be recognised in the management of nga taonga tuku iho." (page one)

Te Tau Ihu Mahi Tuna Eel Management Plan²⁴

Iwi aspirations

- All eight iwi in Te Tau Ihu as well as Ngai Tahu were involved in the preparation of this plan.
- The iwi aim to ensure the sustainability of the eel fishery through good management which provides for a customary, recreational and commercial fishing harvest.

Sections/chapters outline

 The iwi management plan has 10 chapters relating to; introduction, area specific information, Te Tau Ihu and the eel fishery, recreational eel fishery, commercial eel fishery, structure of the Te Tau Ihu Eel Management Committee, sustainable management framework, habitat and environmental issues. Interactions with other agencies, and education.

Proprietors of Wakatū v Attorney-General

- This case is a claim to ensure the original Tenths Owners and their descendants have their property rights protected and restored. It is not a Treaty claim. This case is significant as it is the first time a New Zealand court has found that the Crown owes fiduciary duties to Māori landowners to protect their property rights. The case was brought jointly by the Proprietors of Wakatū Inc., Rore Stafford (kaumatua of Ngāti Rārua and Ngāti Tama decent) and Te Kāhui Ngahuru Trust.
- The Supreme Court decided that the Crown owed legally enforceable fiduciary duties regarding the reservation of one tenth of the land purchased by the New Zealand Company. A final decision had not been reached by the court in 2017, however Wakatū, Stafford and Te Kāhui Ngahuru Trust won the case. The court still needs to investigate the extent to which the Crown breached its duties and what remedies should be granted for the breach.

²⁴ <u>http://www.nelson.govt.nz/assets/Our-council/Downloads/Iwi-Management-Plans/Te-Tau-Ihu-Mahi-Tuna-Nelson-North-Marlborough-Eel-Management-Plan-A458985.PDF</u>

Appendix B: Section B - Tangata Whenua Iwi Policies and Explanations

The review across the Regional Policy Statement (RPS) policies of Section B3-B12 sought to identify policies that can provide for, as well as hinder or obstruct, the development and use of lands and resources of tangata whenua, whether returned as part of Treaty of Waitangi settlement or owned by Māori in Whakatū who whakapapa to iwi and hapū in Whakatū.

B.1.P.Tahi

Provide for development and use of treaty settlement land and resources, and other iwi, hapū and whanau land and resources, recognising that:

- (a) Cultural redress is intended to address the cultural needs of the tangata whenua; and
- (b) Commercial redress is intended to acknowledge the grievance for tangata whenua and contribute to the social and economic development of tangata whenua

The explanation for B.1.P.Tahi informs that the policy is intended to support Whakatū tangata whenua in a post-settlement era by enabling use and development of treaty land and resources to recognise the significance of the treaty settlement process. It is viewed that the policy is to address the implications of resource management provisions that hinder achievement of treaty settlement outcomes.

Additionally, the policy recognises the constraints in the use and development of Māori land (tenure and ownership) and the ecological, landscape, cultural and amenity values contained on Māori land that benefits Whakatū Nelson.

B.1.P.Rua

Where a proposal affects Whakatū tangata whenua land or resources, including places and values of significance to Whakatū tangata whenua, recognise and provide for the following matters in all resource management processes:

- (a) the historical association of the tangata whenua of the area, and any historical, cultural or spiritual values associated with the site or area;
- (b) any Mana Whakahono a Rohe agreement;
- (c) any relevant memorandum of understanding between Nelson City Council and the iwi;
- (d) any joint management and co-governance arrangements established;
- (e) access to areas of natural resources used for customary purposes including mahinga kai;
- (f) any relevant iwi management plan; and
- (g) Te Aotūroa Framework.

The explanation for B.1.P.Rua informs that the policy is for Nelson City Council in their capacity under the Resource Management Act 1991, to uphold the principles of the Treaty of Waitangi through partnership in the management of Whakatū Nelson's resources, especially those resources that are significant to Whakatū tangata whenua, and the use of mātauranga Māori in their function as resource managers.

B.1.P.Toru

Manage natural and physical resources in Whakatū in a manner that:

- (a) takes into account the principles of Te Tiriti, including kawanatanga, rangatiratanga, partnership, active protection of natural resources, the right to development, redress, and informed decision making;
- (b) recognises that the way that the principles of Te Tiriti are applied will continue to evolve;
- (c) promotes awareness and understanding of the Nelson City Council's obligations under the RMA regarding the principles of Te Tiriti among council decision makers, staff and the community; and
- (d) recognises that tangata whenua have rights protected by Te Tiriti and that consequently the RMA accords iwi a particular status distinct from that of interest groups and members of the public.

The explanation for B.1.P.Toru informs that the four points outlined in the policy were identified by Whakatū tangata whenua to support the Nelson City Council in exercising its resource management functions

B.1.P.Whā

Encourage applicants for resource consent or a plan change to consult early and throughout the development of a proposal so that the necessary cultural values of Whakatū's tangata whenua can be taken into account in the design of proposals.

The explanation for B.1.P.Whā is that the policy acknowledges Whakatū tangata whenua are best placed to identify their relation/association with ancestral lands, water, sites, waahi tau and other taonga (section 6(e) of the RMA) and therefore intends to encourage early consultation in the planning of a development to ensure impacts are identified and addressed.

B.1.P.Rima

Where an application for resource consent or plan change is likely to affect the relationship of Whakatū's tangata whenua and their culture and traditions, decision makers shall ensure:

- (a) the ability for tangata whenua to exercise kaitiakitanga is maintained;
- (b) Mauri is maintained, or improved where degraded, particularly in relation to fresh and coastal waters, land and air;
- (c) Mahinga kai and natural resources used for customary purposes are maintained or enhanced, and these resources are healthy and accessible to tangata whenua;
- (d) tangata whenua values and interests are identified and reflected in the management of the region's freshwater resources; and
- (e) Rangatiratanga and Manaakitanga are provided for

The explanation for B.1.P.Rima is to provide for key principles of Te Aotūroa Framework to be assessed by decision-makers on resource consents and/or plan changes.

B.1.P.Ono

Support and encourage iwi to develop iwi management plans that contain:

- (a) specific requirements to address the management of coastal waters, land and air resources, including mauri and taonga;
- (b) protocols to give effect to their role of kaitiaki of water and land resources;
- (c) sites of cultural significance;
- (d) descriptions of how the document is to be used, monitored and reviewed;
- (e) the outcomes expected from implementing the management plan; and
- (f) the use and development of natural and physical resources by iwi.

The explanation for B.1.P.Ono outlines that by supporting the development and implementation of iwi management plans, the Nelson City Council will be in a position to address two significant outcomes, 1. Meet its requirements relating to Māori in RMA processes, and 2. To identify and understand the expression of values and what to protect, maintain, enhance.

B.1.P.Whitu

Ensure iwi management plans are taken into account in resource management decision making processes

The explanation for B.1.P.Whitu is intended to support policy B.1.P.Ono by ensuring that iwi management plans are take into account in resource management decisions.

B.1.P.Waru

Enable opportunities for marae and papakāinga development on tangata whenua iwi, hapū and whanau land that provides for a range of functions including living, working, cultural activities and recreation where:

(a) development is of a scale, extent and intensity that is determined by the physical characteristics of the site, surrounding environment and tikanga Māori; and

(b) significant adverse effects on adjacent sites are avoided, remedied or mitigated. The explanation for B.1.P. Waru is to recognise that for Whakatū tangata whenua to pursue their traditional relationship with their land, papakāinga and marae settlements are essential in that pursuit. The policy is intended to enable development on land

- classified Māori land under Te Ture Whenua Māori Act 1993,
- multiple owned Māori land and customary land, and
- other land returned to iwi through settlement processes
- land held individually by Whakatū tangata whenua

B.1.P.Iwa

Maintain and enhance the essential partnership between Whakatū tangata whenua, the Council and statutory management agencies on an ongoing basis.

The explanation for B.1.P.Iwa is to enable/ensure partnerships with agencies in Whakatū that are imperative to achieving policies B.1.P.Tahi – B.1.P.Waru, as well as assist with iwi economy in Whakatū.

Appendix C: Detailed Review of Section B – Regional Policy Statement

B1 Policy – Tangata Whenua Iwi

B.1.P.Tahi

Provide for development and use of treaty settlement land and resources, and other iwi, hapū and whanau land and resources, recognising that:

- (c) Cultural redress is intended to address the cultural needs of the tangata whenua; and
- (d) Commercial redress is intended to acknowledge the grievance for tangata whenua and contribute to the social and economic development of tangata whenua

The explanation for B.1.P.Tahi informs that the policy is intended to support Whakatū tangata whenua in a post-settlement era by enabling use and development of treaty land and resources to recognise the significance of the treaty settlement process. It is viewed that the policy is to address the implications of resource management provisions that hinder achievement of treaty settlement outcomes.

Additionally, the policy recognises the constraints in the use and development of Māori land (tenure and ownership) and the ecological, landscape, cultural and amenity values contained on Māori land that benefits Whakatū Nelson.

Complementary/Enabling RPS Policies	Potential Contrasting/Preventative RPS Policies
B2 Growth, Development and Urban Form	B2 Growth, Development and Urban Form
B.2.P.17 Enable a range of housing types within the	B.2.P.2 When determining the location, capacity, timing and funding of future infrastructure services
Residential, City Centre, Mixed Use and Suburban	and transport connections to support urban development within the Nelson Urban Area, ensure that
Centre Zones that provide for choice in meeting the	planning and programming of projects is coordinated between Nelson City Council, Tasman District
Whakatū Nelson' community's housing needs.	Council, the New Zealand Transport Agency, Port Nelson, Nelson Airport and the Nelson Marlborough
B.2.P.18 Encourage the creation of higher density	District Health Board.
residential development on appropriate sites,	B.2.P.5 Ensure that land subdivision and development within the Services Overlay does not proceed
including the redevelopment and intensification of	unless transport connections, water supply, stormwater management and wastewater networks will
existing residential sites and buildings, to enable	be available to service all allotments (except network utility allotments and roads).
anticipated future demand for housing to be met	

within the compact urban form of the zoned Nelson	B.2.P.8 Discourage land subdivision and development for residential living in the Rural Zone, outside	
Urban Area.	the Small Holdings Areas, that is not ancillary to rural or marine production.	
	B4 Infrastructure and Energy	
B6 Historic and Cultural Heritage B.6.P.7 Protect the pākohe resource from inappropriate use and development while providing for cultural harvest of that resource, recognising the guidelines provided in iwi management plans in relation to the extraction and use of pākohe.	 B.4.P.1 Provide for the establishment, operation, maintenance and upgrade of regionally significant infrastructure. B.4.P.3 Restrict adverse effects of subdivision, use and development , including reverse sensitivity effects, to ensure the safe and efficient operation of regionally significant infrastructure. 	
 B8 Indigenous Biodiversity B.8.P.3 Provide for activities in significant natural areas that are compatible with restoring and enhancing the indigenous biodiversity values of these areas. B.8.P.4 Reduce the risk of pest animal and plant incursions on indigenous biodiversity values, particularly in significant natural areas, by: (a) ensuring Nelson City Council and other public authorities appropriately manage their land holdings and reserves; (b) supporting the kaitiaki role of Whakatū Nelson tangata whenua; 	 B6 Historic and Cultural Heritage B.6.P.1 Identify and evaluate historic heritage buildings, places or objects for their significance using the following criteria: (a) historic and social significance; (b) cultural and spiritual significance; (c) architectural and aesthetic significance; (d) technological and craftsmanship significance; (e) archaeological significance; (f) scientific significance; and (g) group, landmark and contextual significance. Classify the evaluated items using the following categories: Category A - Protection and retention essential (except in exceptional circumstances) Category B - Protection and retention important 	
(c) fostering an ethic of stewardship among private owners; and		

	v. Coherence: the extent to which patterns of land cover and land use are in harmony with the underlying landform of the area and the presence or absence of significant discordant elements.
	vi. Transient values: whether wildlife or other values are present at certain times of the day or year.
c	Associative values:
	i. Recognised values: whether the values are shared and recognised by the local and wider community for its contribution to local identity.
	ii. Tangata whenua values: whether there are cultural and spiritual values held by tangata whenua.
	iii. Historic and heritage associations: whether historic events have occurred in or around the natural feature or landscape and the extent to which this heritage influences and adds to the values held by the community.
В	7.P.2 Avoid all adverse effects of activities and subdivision on the characteristics, attributes and
va	alues of the outstanding natural features and landscapes described in Appendix F7 where they are
la	cated in the Coastal Environment. Discourage activities and subdivision that adversely affect the
ct	naracteristics, attributes and values of all other outstanding natural features and landscapes
	escribed in Appendix F7.
В	7.P.3 Maintain the predominantly undeveloped character of:
) the skylines and hill slopes that form the backdrop to the urban area of Nelson City as viewed from
	ne central business area, State Highway 6, Waimea Road and the coastline; and
) the Maitahi/ Mahitahi/Maitai River Valley.

B.7.P.4 Discourage significant adverse visual effects of subdivision and development on the predominantly undeveloped significant landscape character areas identified in Appendix F3 and F4.

B8 Indigenous Biodiversity

B.8.P.1 Identify significant natural areas in Whakatū Nelson using the following criteria:

(a) How representative they are of the original vegetation or habitat and of what remains.

(b) Whether there are rare species, communities or habitats present or other features that make them distinctive in local, regional or national terms.

(c) Whether there is a notable range of species, communities or habitats and to what extent this represents complex patterns or gradients.

(d) How large and compact they are.

(e) How well connected they are to other natural areas, to what extent they buffer or are buffered by adjoining areas, and what critical resources they provide to mobile species.

B.8.P.2 Avoid a net loss of Whakatū Nelson's significant natural areas by restricting use and development, and subdivision and associated activities that may adversely affect those areas.

B10 Coastal Environment

P.10.P.4 Avoid all adverse effects, including cumulative effects, of coastal marine activities and subdivision, use and development on the values and characteristics of the areas of outstanding natural character within Whakatū Nelson's Coastal Environment listed in Appendix F8

P.10.P.5 Avoid significant adverse effects, including cumulative effects, of coastal marine activities and subdivision, use and development on the values and characteristics that contribute to the natural character of areas that are not listed in Appendix F8.

B11 Freshwater

B.11.P.1 Where ecosystem health, water quantity and water quality already support the values in Appendices F10 and F11, ensure that ecosystem health, water quality and quantity are maintained.

B.11.P.2 Where ecosystem health, water quantity and quality do not support the values in Appendices
F10 and F11, improve ecosystem health, water quality and manage water use to achieve the
freshwater attribute states necessary to support those values.
B.11.P.4 Manage surface water and groundwater resources in an integrated manner, recognising that
the hydrogeological conditions of Whakatū Nelson mean that groundwater resources are typically
strongly connected with surface water resources.
B.11.P.6 Adopt the following kaupapa and principles in managing Whakatū Nelson's freshwater
resources, to maintain the values specified in Appendices F10 and F11:
• Kaitiakitanga • Rere-ki-tanga; • Kōrerorero; • Utu; • Tika; • Tikanga;
 Pono; Aroha; Ki uta ki tai; Rangatiratanga
B.11.P.7 Protect the values of rivers identified in Appendices F10 and F11 from subdivision, use and
development that could compromise those values.
B.11.P.8 Identify and restore the characteristics and features of rivers that need improvement to
support the values identified in Appendices F10 and F11.
B.11.P.10 Preserve and, where degraded, restore the natural character of water bodies within the
freshwater management units that are identified in Appendix F11 as having natural state values.
B.11.P.11 Protect threatened species habitats in freshwater bodies and in the margins of freshwater
bodies identified in Appendix F22 from subdivision, use and development that may degrade the life-
supporting capacity and ecosystem health of those habitats, and prevent permanent loss of
threatened species habitat within the beds of rivers.
B.11.P.13 Avoid activities and structures within river beds that have the potential to impede flood
flows.
B.11.P.14 Avoid activities and structures within the beds and riparian margins of rivers that have the
potential to impede fish migration.
B.11.P.15 Preserve and, where degraded, restore the natural character of natural wetlands.

Analysis of RPS Provisions

The review across the Regional Policy Statement (RPS) policies of Section B3-B12 sought to identify policies that can provide for, as well as hinder or obstruct, the development and use of lands and resources of tangata whenua, whether returned as part of Treaty of Waitangi settlement or owned by Māori in Whakatū who whakapapa to iwi and hapū in Whakatū.

Acknowledging that it can come down to individual interpretation of the policy, it is visible in the table above that there are many competing, hindering, and obstructing RPS policies to successfully achieve B.2.P.Tahi. The view is that much of the lands and resources returned via Treaty of Waitangi settlements are located in sensitive environments where there are policies that seek to protect these environments, whilst also providing for other values/attributes in the management and use of the resources within those environs.

There is clear guidance in B.6.P.7 that whilst there is protection of the pākohe resource from inappropriate use and development, it provides an exception for cultural harvest of that resource, so long as it is identified in iwi management plans and aligned with guidelines in that plan.

With B.11.P.6, the view is that there is no certainty provided to tangata whenua that their association with freshwater in Whakatū can extend beyond the freshwater management regime required under the National Policy Statement for Freshwater Management. An example of extending association and expression of the values identified in B.11.P.6 is preferential status to receive water allocation.

Lastly, it is considered that there is ambiguity in the policy. The ambiguity stems from the policy referring to "and other iwi, hapū and whanau land and resources" and whether the policy implies that it is inclusive of any lands and resources that are owned by Māori/whanau in Whakatū who whakapapa to iwi and hapū in Whakatū without it being acquired via Treaty of Waitangi settlement. In reading the policy, I am of the view that it is distinguishing between settlement land and resources, and land and resources owned by whanau, and therefore providing for both.

Suggestions:

There needs to be consideration towards being specific in the other RPS policies towards the development and use of land and resources returned to iwi via Treaty of Waitangi settlement, especially in B3 Growth, Development and Urban Form.

An important matter to note is that B.1.P.Waru seeks to unlock the use of Māori land that was not returned via treaty settlement process, so there may need to be consideration of ensuring that the two policies (B.1.P.Tahi and B.1.P.Waru) are not contradictory in interpretation and implementation.

B1 Policy – Tangata Whenua Iwi

B.1.P.Rua

Where a proposal affects Whakatū tangata whenua land or resources, including places and values of significance to Whakatū tangata whenua, recognise and provide for the following matters in all resource management processes:

- (a) the historical association of the tangata whenua of the area, and any historical, cultural or spiritual values associated with the site or area;
- (b) any Mana Whakahono a Rohe agreement;
- (c) any relevant memorandum of understanding between Nelson City Council and the iwi;
- (d) any joint management and co-governance arrangements established;
- (e) access to areas of natural resources used for customary purposes including mahinga kai;
- (f) any relevant iwi management plan; and
- (g) Te Aotūroa Framework.

The explanation for B.1.P.Rua informs that the policy is for Nelson City Council in their capacity under the Resource Management Act 1991, to uphold the principles of the Treaty of Waitangi through partnership in the management of Whakatū Nelson's resources, especially those resources that are significant to Whakatū tangata whenua, and the use of mātauranga Māori in their function as resource managers.

Complementary/Enabling RPS Policies	Potential Contrasting/Preventative RPS Policies
B2 Growth, Development and Urban Form	B2 Growth, Development and Urban Form
B.2.P.2 When determining the location, capacity, timing and funding of future infrastructure services	B.2.P.7 Enable a range of low density and higher
and transport connections to support urban development within the Nelson Urban Area, ensure	density subdivision and development for rural
that planning and programming of projects is coordinated between Nelson City Council, Tasman	lifestyle living in the Small Holdings Areas shown on
District Council, the New Zealand Transport Agency, Port Nelson, Nelson Airport and the Nelson	the plan maps.
Marlborough District Health Board.	B.2.P.10 Enable a range of production activities in the
B.2.P.5 Ensure that land subdivision and development within the Services Overlay does not proceed	Rural Zone and Industrial Zones and enable
unless transport connections, water supply, stormwater management and wastewater networks will	aquaculture activities in the Coastal Marine Area
be available to service all allotments (except network utility allotments and roads).	while managing potential adverse effects, within the
B3 Character and Amenity	

B.3.P.1 Identify and describe the character and amenity values of the different geographic areas of Whakatū Nelson.

B.3.P.4 Minimise the potential for sensitive activities to be adversely affected by nuisances by:

- (a) limiting the discharge of dust, smoke, odour, noise, light spill and agrichemicals to the sites occupied by activities that generate these potential nuisances; and
- (b) separating nuisance generating activities from sensitive activities.

B6 Historic and Cultural Heritage

B.6.P.5 Protect regionally significant archaeological sites and areas from inappropriate use, development and subdivision that may compromise the heritage and cultural values of the site or area.

B.6.P.6 In partnership with Whakatū Nelson tangata whenua, develop an appropriate means of identifying and assessing sites and values of significance to tangata whenua, including through the development of associative Māori Cultural Landscapes.

B.6.P.7 Protect the pākohe resource from inappropriate use and development while providing for cultural harvest of that resource, recognising the guidelines provided in iwi management plans in relation to the extraction and use of pākohe.

B7 Landscape

B.7.P.1 Identify and assess outstanding natural features and landscapes in Whakatū Nelson by considering the following characteristics, attributes and values of:

a) Biophysical values:

- i. Landform component: the extent to which topography and/or geology displays particular representativeness or rarity within Whakatū Nelson.
- ii. Land cover component: the extent to which native vegetation communities, wildlife or ecosystems display particular representativeness or rarity in Whakatū Nelson.

limits specified in Chapters C6, C7 and D1 of this Plan, to maintain and enhance environmental quality. **B4 Infrastructure and Energy**

B.4.P.1 Provide for the establishment, operation, maintenance and upgrade of regionally significant infrastructure.

B8 Indigenous Biodiversity

B.8.P.1 Identify significant natural areas in Whakatū Nelson using the following criteria:

(a) How representative they are of the original vegetation or habitat and of what remains.

(b) Whether there are rare species, communities or habitats present or other features that make them distinctive in local, regional or national terms.

(c) Whether there is a notable range of species, communities or habitats and to what extent this represents complex patterns or gradients.

(d) How large and compact they are.

(e) How well connected they are to other natural areas, to what extent they buffer or are buffered by adjoining areas, and what critical resources they provide to mobile species.

B11 Freshwater

b)	Sensor	/ and	aesthetic	values:
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- i. Legibility or expressiveness: how obviously the natural feature or landscape demonstrates its formative processes.
- ii. Naturalness: the perception of the predominance of nature in the landscape.
- iii. Vividness: how striking the natural feature or landscape is, including its potential to be symbolic of an area due to recognisable scenic associations and memorable qualities.
- iv. Coherence: the extent to which patterns of land cover and land use are in harmony with the underlying landform of the area and the presence or absence of significant discordant elements.
- v. Transient values: whether wildlife or other values are present at certain times of the day or year.
- c) Associative values:
 - i. Recognised values: whether the values are shared and recognised by the local and wider community for its contribution to local identity.
 - ii. Tangata whenua values: whether there are cultural and spiritual values held by tangata whenua.
 - iii. Historic and heritage associations: whether historic events have occurred in or around the natural feature or landscape and the extent to which this heritage influences and adds to the values held by the community.

B8 Indigenous Biodiversity

B.8.P.2 Avoid a net loss of Whakatū Nelson's significant natural areas by restricting use and development, and subdivision and associated activities that may adversely affect those areas. B.8.P.3 Provide for activities in significant natural areas that are compatible with restoring and enhancing the indigenous biodiversity values of these areas.

B.8.P.4 Reduce the risk of pest animal and plant incursions on indigenous biodiversity values, particularly in significant natural areas, by:

B.11.P.3 Provide for the abstraction of surface and ground water to meet the reasonably foreseeable needs of people and communities and for animal drinking water, taking into account the likely impact of climate change.

(a) ensuring Nelson City Council and other public authorities appropriately manage their land holdings and reserves;

- (b) supporting the kaitiaki role of Whakatū Nelson tangata whenua;
- (c) fostering an ethic of stewardship among private owners; and
- (d) supporting and collaborating with community groups and other public agencies.

B9 Land

B.9.P.2 Manage land use, including the use of potentially contaminated sites, to avoid adverse effects of soil contamination on human health, environmental quality, and sites and values of significance to tangata whenua.

B10 Coastal Environment

B.10.P.1 Adopt an integrated management approach to activities in the Coastal Environment by ensuring that:

- a) Consideration is given to the potential effects on the Coastal Marine Area of land-based activities, discharges to freshwater and activities in freshwater bodies; and
- b) Opportunities for the Nelson City Council to work jointly with Whakatū Nelson tangata whenua, regulatory agencies, and marine-based industries and operators are supported.

B.10.P.2 In conjunction with Whakatū Nelson tangata whenua, where practicable restore the health of the Coastal Marine Area as a food basket, and protect sites of significance and value to Iwi from inappropriate subdivision, use and development.

B.10.P.3 Identify and assess the natural character of Whakatū Nelson's Coastal Environment by considering the following characteristics and values: The presence and extent of:(a) natural elements, processes and patterns;

(b) biophysical, ecological, geological and geomorphological aspects;

(c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;

(d) the natural movement of water and sediment;

(e) the natural darkness of the night sky;

(f) places or areas that are wild or scenic;

(g) a range of natural character from pristine to modified; and

(h) experiential attributes, including the sounds and smell of the sea, and their context or setting.

B11 Freshwater

B.11.P.1 Where ecosystem health, water quantity and water quality already support the values in Appendices F10 and F11, ensure that ecosystem health, water quality and quantity are maintained. B.11.P.2 Where ecosystem health, water quantity and quality do not support the values in Appendices F10 and F11, improve ecosystem health, water quality and manage water use to achieve the freshwater attribute states necessary to support those values.

B.11.P.4 Manage surface water and groundwater resources in an integrated manner, recognising that the hydrogeological conditions of Whakatū Nelson mean that groundwater resources are typically strongly connected with surface water resources.

B.11.P.6 Adopt the following kaupapa and principles in managing Whakatū Nelson's freshwater resources, to maintain the values specified in Appendices F10 and F11:

• Kaitiakitanga • Rere-ki-tanga; • Kōrerorero; • Utu; • Tika; • Tikanga;

• Pono; • Aroha; • Ki uta ki tai; • Rangatiratanga

B.11.P.7 Protect the values of rivers identified in Appendices F10 and F11 from subdivision, use and development that could compromise those values.

B.11.P.8 Identify and restore the characteristics and features of rivers that need improvement to support the values identified in Appendices F10 and F11.

B.11.P.10 Preserve and, where degraded, restore the natural character of water bodies within the freshwater management units that are identified in Appendix F11 as having natural state values. B.11.P.11 Protect threatened species habitats in freshwater bodies and in the margins of freshwater bodies identified in Appendix F22 from subdivision, use and development that may degrade the life-supporting capacity and ecosystem health of those habitats, and prevent permanent loss of threatened species habitat within the beds of rivers.

B.11.P.13 Avoid activities and structures within river beds that have the potential to impede flood flows.

B.11.P.14 Avoid activities and structures within the beds and riparian margins of rivers that have the potential to impede fish migration.

B.11.P.15 Preserve and, where degraded, restore the natural character of natural wetlands.

B12 Air

B.12.P.2 Enable customary practices and tikanga in a manner that protects the mauri of air.

Analysis of RPS Provisions

Important to note, the focus of the review was identifying across the RPS policies what will trigger an assessment to identify and address the effects to Whakatū tangata whenua. The part of policy B.1.P.Rua that states "where a proposal affects Whakatū tangata whenua" was considered as part of the review of Section C – Zone and Section D - City-Wide Provisions.

The ambiguity in the policy is that reads specifically about land and resources under the ownership of Whakatū tangata whenua, whether resulting prior and/or to post treaty settlement process. It is considered that it might be viewed by tangata whenua that all lands and resources within Whakatū Nelson, is of interest to tangata whenua. This will need to be clarified as to whether the intent of the policy is about tangata whenua owned/occupied land and resources only or not.

It is visible in the table above that there are more complementary/enabling RPS policies than there are contrasting/preventative RPS policies to implement B.1.P.Rua of the Draft Nelson Plan. Section B11 – Freshwater comprehensively recognises Whakatū tangata whenua but within a freshwater management regime required under the National Policy Statement for Freshwater Management. The other noted sections in the above table have strong directive language such as "protect", "partnership", "avoid" and "reduce", which aligns with the Tier 1 perspective of the iwi working group to protect sites of significance to tangata whenua.

The RPS policies prescribed in Section B4 – Infrastructure and Energy will and may have an contrasting/preventative outcome sought by tangata whenua. <u>Suggestions</u>:

For consideration:

- 1. Clarify whether the intent of the policy is about tangata whenua owned/occupied land and resources only or all lands and resources in Whakatū Nelson.
- 2. B.1.P.Rua(a) should be inclusive of traditional, spiritual, and cultural association, not just historical association (as outlined).
- 3. There is little reference to mātauranga Māori in the other policies across Section B RPS. There should be some form of acknowledgement/reference in the appropriate sections and their policies.
- 4. Also there needs to be methods for policies in B4 Infrastructure and Energy that improve information sharing and the understanding of Regional Infrastructure requirements between iwi and Nelson City Council.

B1 Policy – Tangata Whenua Iwi

B.1.P.Toru

Manage natural and physical resources in Whakatū in a manner that:

- (a) takes into account the principles of Te Tiriti, including kawanatanga, rangatiratanga, partnership, active protection of natural resources, the right to development, redress, and informed decision making;
- (b) recognises that the way that the principles of Te Tiriti are applied will continue to evolve;
- (c) promotes awareness and understanding of the Nelson City Council's obligations under the RMA regarding the principles of Te Tiriti among council decision makers, staff and the community; and
- (d) recognises that tangata whenua have rights protected by Te Tiriti and that consequently the RMA accords iwi a particular status distinct from that of interest groups and members of the public.

The explanation for B.1.P.Toru informs that the four points outlined in the policy were identified by Whakatū tangata whenua to support the Nelson City Council in exercising its resource management functions

Complementary/Enabling RPS Policies	Potential Contrasting/Preventative RPS Policies
B6 Historic and Cultural Heritage	B6 Historic and Cultural Heritage
B.6.P.5 Protect regionally significant archaeological sites and areas from	
inappropriate use, development and subdivision that may compromise the	B.6.P.1 Identify and evaluate historic heritage buildings, places or objects for
heritage and cultural values of the site or area.	their significance using the following criteria:
B.6.P.6 In partnership with Whakatū Nelson tangata whenua, develop an	(a) historic and social significance;
appropriate means of identifying and assessing sites and values of significance	(b) cultural and spiritual significance;
to tangata whenua, including through the development of associative Māori	(c) architectural and aesthetic significance;
Cultural Landscapes.	(d) technological and craftsmanship significance;
B.6.P.7 Protect the pākohe resource from inappropriate use and development	(e) archaeological significance;
while providing for cultural harvest of that resource, recognising the	(f) scientific significance; and
guidelines provided in iwi management plans in relation to the extraction and	(g) group, landmark and contextual significance.
use of pākohe.	Classify the evaluated items using the following categories:

B11 Freshwater

B.11.P.6 Adopt the following kaupapa and principles in managing Whakatū Nelson's freshwater resources, to maintain the values specified in Appendices F10 and F11:

- Kaitiakitanga Rere-ki-tanga; Kōrerorero; Utu; Tika; Tikanga;
- Pono; Aroha; Ki uta ki tai; Rangatiratanga

- Category A Protection and retention essential (except in exceptional circumstances)
- Category B Protection and retention important

B.6.P.2 Protect Whakatū Nelson's significant heritage resources from inappropriate subdivision, use and development by minimising the loss of heritage values associated with modification of those resources.

Analysis of RPS Provisions

The review of this policy across the RPS policies prescribed in B2-B11 has identified that B.1.P.Toru is almost a duplicated policy that is being addressed/accommodated by the other policies in B1.

B.1.P.3(a) Manage natural and physical resources in Whakatū in a manner that takes into account the principles of Te Tiriti, including kawanatanga, rangatiratanga, partnership, active protection of natural resources, the right to development, redress, and informed decision making, is visible in all the policies prescribed in B1.

B.1.P.3(b) Manage natural and physical resources in Whakatū in a manner that recognises that the way that the principles of Te Tiriti are applied will continue to evolve can be provided for in B.1.P.4 and B.1.P.5.

B.1.P.3(c) Manage natural and physical resources in Whakatū in a manner that promotes awareness and understanding of the Nelson City Council's obligations under the RMA regarding the principles of Te Tiriti among council decision makers, staff and the community is anticipated to be primarily delivered via a non-regulatory method.

B.1.P.3(d) Manage natural and physical resources in Whakatū in a manner that recognises that tangata whenua have rights protected by Te Tiriti and that consequently the RMA accords iwi a particular status distinct from that of interest groups and members of the public is viewed to have had an influence across the process and development of the Nelson Plan Whakamahere Whakatū with some policies in the RPS recognising the distinction of tangata whenua from that of interests groups and members of the public. With that said, the policies of the RPS in B2 – B11 could be strengthened or amended to clearly distinguish how the Nelson Plan Whakamahere Whakatū enables the rights of Whakatū tangata whenua afforded under Te Tiriti o Waitangi/treaty of Waitangi.

Suggestion:

Policy B.1.P.Toru should be removed as it is a duplicated policy.

B1 Policy – Tangata Whenua Iwi

B.1.P.Whā

Encourage applicants for resource consent or a plan change to consult early and throughout the development of a proposal so that the necessary cultural values of Whakatū's tangata whenua can be taken into account in the design of proposals.

The explanation for B.1.P.Whā is that the policy acknowledges Whakatū tangata whenua are best placed to identify their relation/association with ancestral lands, water, sites, waahi tau and other taonga (section 6(e) of the RMA) and therefore intends to encourage early consultation in the planning of a development to ensure impacts are identified and addressed.

Analysis of RPS Provisions

The approach for the review was to identify in the RPS policies whether there is consideration in the policies that will active/trigger early consultation in resource consents and/or plan changes measures (objectives, policies, rules, matters of control and discretion, and assessment criteria) within Section 3: Zone and Section 4: City-Wide provisions of the Nelson Plan. In summary, at an RPS level, it is not easily identifiable.

The review of Section 3: Zone and Section 4: City-Wide provisions of the Nelson Plan Whakamahere Whakatū may provide for B.1.P.Whā so that it encourages consideration of cultural values.

Suggestion:

No suggestions offered.

B1 Policy – Tangata Whenua Iwi

B.1.P.Rima

Where an application for resource consent or plan change is likely to affect the relationship of Whakatū's tangata whenua and their culture and traditions, decision makers shall ensure:

- (a) the ability for tangata whenua to exercise kaitiakitanga is maintained;
- (b) Mauri is maintained, or improved where degraded, particularly in relation to fresh and coastal waters, land and air;
- (c) Mahinga kai and natural resources used for customary purposes are maintained or enhanced, and these resources are healthy and accessible to tangata whenua;
- (d) tangata whenua values and interests are identified and reflected in the management of the region's freshwater resources; and
- (e) Rangatiratanga and Manaakitanga are provided for

The explanation for B.1.P.Rima is to provide for key principles of Te Aotūroa Framework to be assessed by decision-makers on resource consents and/or plan changes.

Complementary/Enabling RPS Policies	Potential Contrasting/Preventative RPS Policies
B6 Historic and Cultural Heritage B.6.P.5 Protect regionally significant archaeological sites and areas from inappropriate use, development and subdivision that may compromise the heritage and cultural values of the site or area. B.6.P.6 In partnership with Whakatū Nelson tangata whenua, develop an appropriate means of identifying and assessing sites and values of significance to tangata whenua, including through the development of associative Māori Cultural Landscapes. B.6.P.7 Protect the pākohe resource from inappropriate use and development while providing for cultural harvest of that resource,	B.2.P.2 When determining the location, capacity, timing and funding of future infrastructure services and transport connections to support urban development within the Nelson Urban Area, ensure that planning and programming of projects is coordinated between Nelson City Council, Tasman District Council, the New Zealand Transport Agency, Port Nelson, Nelson Airport and the Nelson Marlborough District Health Board. B.2.P.5 Ensure that land subdivision and development within the Services Overlay

 recognising the guidelines provided in iwi management plans in relation to the extraction and use of påkohe. B3.P.2 Enable a range of low density and higher density subdivision and development for rural lifestyle living in the Small Holdings Areas shown on the plan maps. B3.P.2 Avoid a net loss of Whaktū Nelson's significant natural areas that areas by restricting use and development, and subdivision and aevaculture activities in the Coastal Marine Area while managing potential adverse effects, within the limits specified in Chapters C6, C7 and D1 of this Plan, to maintain and enhance environmental quality. B3.P.3 Provide for activities in significant natural areas that are compatible with restoring and enhancing the indigenous biodiversity values of these areas. B9 Land B4.P.1 Provide for the establishment, operation, maintenance and upgrade of regionally significance to tangata whenua. B1.D.P.1 Adopt an integrated management approach to activities in freshwater bodies; and enable activities, and subdivision and enable a range of low density and higher density subdivision and maps. B.1.D.P.2 In conjunction with Whakatū Nelson tangata whenua, B.1.D.P.2 In conjunction with Whakatū Nelson tangata whenua,	
 B3 Indigenous Biodiversity B3.P.2 Avoid a net loss of Whakatū Nelson's significant natural areas by restricting use and development, and subdivision and associated activities in significant natural areas that are compatible with restoring and enhancing the indigenous biodiversity values of these areas. B9.P.2 Manage land use, including the use of potentially contaminated sites, to avoid adverse effects of soil contamination on human health, environmental quality, and sites and values of significant infrastructure. B4.P.1 Provide for the establishment, operation, maintenance and upgrade of regionally significant infrastructure. B4.P.1 Provide for the establishment, operation, maintenance and upgrade of regionally significant infrastructure. B4.P.1 Provide for the establishment, operation, maintenance and upgrade of regionally significant infrastructure. B4.P.1 Indictify and assess outstanding natural features and landscapes in Whakatū Nelson tangata whenua, regulatory agencies, and marine-based industries and operators are supported. B.10.P.2 In conjunction with Whakatū Nelson tangata whenua, B.10.P.2 In conjunction with	B.2.P.7 Enable a range of low density and higher density subdivision and development
BB Indigenous Biodiversity and enable aquaculture activities in the Coastal Marine Area while managing potential adverse effects, within the limits specified in Chapters C6, C7 and D1 of this Plan, to maintain and enhance environmental quality. B S.P.3 Provide for activities in significant natural areas that are compatible with restoring and enhancing the indigenous biodiversity values of these areas. B3 Character and Amenity B.P.3 Provide for activities in significant natural areas that are compatible with restoring and enhancing the indigenous biodiversity values of these areas. B3 Character and Amenity B.P.2 Manage land use, including the use of potentially contaminated sites, to avoid adverse effects of soil contamination on human health, environment quality, and sites and values of significant to tangata whenua. B4 Infrastructure and Energy B.D.P.1 Adopt an integrated management approach to activities in the Coastal Environment by ensuring that: B7 Landscape (a) Consideration is given to the potential effects on the Coastal Marine Area of land-based activities, discharges to freshwater and activities, in freshwater bodies; and (b) Opportunities for the Nelson City Council to work jointily with Whakatū Nelson tangata whenua, regulatory agencies, and marine-based industries and operators are supported. B. D.P.2 In conjunction with Whakatū Nelson tangata whenua, B.10.P.2 In conjunction with Whakatū Nelson tangata whenua, Nelson tangata whenua, b) Sensory and aesthetic values: I. Legibility or expressiveness: how obviously the natural feature or landscape demonstrates its formative processes. b) Naturalness: the p	for rural lifestyle living in the Small Holdings Areas shown on the plan maps.
 regionally significant infrastructure. B7 Landscape <	 and enable aquaculture activities in the Coastal Marine Area while managing potential adverse effects, within the limits specified in Chapters C6, C7 and D1 of this Plan, to maintain and enhance environmental quality. B3 Character and Amenity B.3.P.3 Maintain and enhance (where degraded) the distinctive characteristics, quality and amenity values of urban and rural environments B4 Infrastructure and Energy B.4.P.1 Provide for the establishment, operation, maintenance and upgrade of
 B.7.P.1 Identify and assess outstanding natural features and landscapes in Whakatū Nelson by considering the following characteristics, attributes and values of: B.7.P.1 Identify and assess outstanding natural features and landscapes in Whakatū Nelson by considering the following characteristics, attributes and values of: B.10.P.1 Adopt an integrated management approach to activities in the Coastal Environment by ensuring that: B.10.P.1 Adopt an integrated management approach to activities in the Coastal Environment by ensuring that: Cansideration is given to the potential effects on the Coastal Marine Area of land-based activities, discharges to freshwater and activities in freshwater bodies; and Candform component: the extent to which topography and/or geology displays particular representativeness or rarity within Whakatū Nelson. Land cover component: the extent to which native vegetation communities, wildlife or ecosystems display particular representativeness or rarity in Whakatū Nelson. Sensory and aesthetic values: Legibility or expressiveness: how obviously the natural feature or landscape demonstrates its formative processes. Naturalness: the percention of the predominance of nature in the 	regionally significant infrastructure.
 Bio Coastal Environment B.10.P.1 Adopt an integrated management approach to activities in the Coastal Environment by ensuring that: (a) Consideration is given to the potential effects on the Coastal Marine Area of land-based activities, discharges to freshwater and activities in freshwater bodies; and (b) Opportunities for the Nelson City Council to work jointly with Whakatū Nelson tangata whenua, regulatory agencies, and marine-based industries and operators are supported. B.10.P.2 In conjunction with Whakatū Nelson tangata whenua, B.10.P.2 In conjunction with Whakatū Nelson tangata whenua, Marine Area of Industries and operators are supported. Nelson by considering the following characteristics, attributes and values of: a) Biophysical values: Landform component: the extent to which topography and/or geology displays particular representativeness or rarity within Whakatū Nelson. b) Sensory and aesthetic values: Legibility or expressiveness: how obviously the natural feature or landscape demonstrates its formative processes. Naturalness: the perception of the predominance of nature in the 	B7 Landscape
where practicable restore the health of the Coastal Marine Area as landscape.	 Nelson by considering the following characteristics, attributes and values of: a) Biophysical values: Landform component: the extent to which topography and/or geology displays particular representativeness or rarity within Whakatū Nelson. Land cover component: the extent to which native vegetation communities, wildlife or ecosystems display particular representativeness or rarity in Whakatū Nelson. Sensory and aesthetic values: Legibility or expressiveness: how obviously the natural feature or landscape demonstrates its formative processes.
vhere practicable restore the health of the Coastal Marine Area as	

 a food basket, and protect sites of significance and value to lwi from inappropriate subdivision, use and development. B.10.P.3 Identify and assess the natural character of Whakatū Nelson's Coastal Environment by considering the following characteristics and values: The presence and extent of: (a) natural elements, processes and patterns; (b) biophysical, ecological, geological and geomorphological aspects; (c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks; (d) the natural movement of water and sediment; (e) the natural darkness of the night sky; (f) places or areas that are wild or scenic; (g) a range of natural character from pristine to modified; and (h) experiential attributes, including the sounds and smell of the 	 III. Vividness: how striking the natural feature or landscape is, including its potential to be symbolic of an area due to recognisable scenic associations and memorable qualities. IV. Coherence: the extent to which patterns of land cover and land use are in harmony with the underlying landform of the area and the presence or absence of significant discordant elements. V. Transient values: whether wildlife or other values are present at certain times of the day or year. c) Associative values: I. Recognised values: whether the values are shared and recognised by the local and wider community for its contribution to local identity. II. Tangata whenua values: whether there are cultural and spiritual values held by tangata whenua. III. Historic and heritage associations: whether historic events have occurred in or around the natural feature or landscape and the extent to which this heritage influences and adds to the values held by the community. B8 Indigenous Biodiversity
 (ii) experiential attributes, including the sounds and smell of the sea, and their context or setting. B11 Freshwater B.11.P.6 Adopt the following kaupapa and principles in managing Whakatū Nelson's freshwater resources, to maintain the values specified in Appendices F10 and F11: Kaitiakitanga Rere-ki-tanga; Korerorero; Utu; Tika; Tikanga; Pono; Aroha; Ki uta ki tai; Rangatiratanga B.11.P.13 Avoid activities and structures within river beds that have the potential to impede flood flows. 	 B.8.P.1 Identify significant natural areas in Whakatū Nelson using the following criteria: (a) How representative they are of the original vegetation or habitat and of what remains. (b) Whether there are rare species, communities or habitats present or other features that make them distinctive in local, regional or national terms. (c) Whether there is a notable range of species, communities or habitats and to what extent this represents complex patterns or gradients. (d) How large and compact they are.

B.11.P.14 Avoid activities and structures within the beds	and	(e) How well connected they are to other natural areas, to what extent they buffer
riparian margins of rivers that have the potential to impede	e fish	or are buffered by adjoining areas, and what critical resources they provide to mobile
migration.		species.
B.11.P.15 Preserve and, where degraded, restore the na	itural	B.8.P.4 Reduce the risk of pest animal and plant incursions on indigenous biodiversity
character of natural wetlands.		values, particularly in significant natural areas, by:
B12 Air		(a) ensuring Nelson City Council and other public authorities appropriately manage
B.12.P.2 Enable customary practices and tikanga in a manner	that	their land holdings and reserves;
protects the mauri of air.		(b) supporting the kaitiaki role of Whakatū Nelson tangata whenua;
		(c) fostering an ethic of stewardship among private owners; and
		(d) supporting and collaborating with community groups and other public agencies.
		B11 Freshwater
		B.11.P.1 Where ecosystem health, water quantity and water quality already support
		the values in Appendices F10 and F11, ensure that ecosystem health, water quality
		and quantity are maintained.
		B.11.P.2 Where ecosystem health, water quantity and quality do not support the
		values in Appendices F10 and F11, improve ecosystem health, water quality and
		manage water use to achieve the freshwater attribute states necessary to support
		those values.
		B.11.P.3 Provide for the abstraction of surface and ground water to meet the
		reasonably foreseeable needs of people and communities and for animal drinking
		water, taking into account the likely impact of climate change.
		B.11.P.4 Manage surface water and groundwater resources in an integrated manner,
		recognising that the hydrogeological conditions of Whakatū Nelson mean that
		groundwater resources are typically strongly connected with surface water resources.

B.11.P.7 Protect the values of rivers identified in Appendices F10 and F11 from subdivision, use and development that could compromise those values.
B.11.P.8 Identify and restore the characteristics and features of rivers that need improvement to support the values identified in Appendices F10 and F11.
B.11.P.10 Preserve and, where degraded, restore the natural character of water bodies within the freshwater management units that are identified in Appendix F11 as having natural state values.
B.11.P.11 Protect threatened species habitats in freshwater bodies and in the margins of freshwater bodies identified in Appendix F22 from subdivision, use and development that may degrade the life-supporting capacity and ecosystem health of those habitats, and prevent permanent loss of threatened species habitat within the beds of rivers.

Analysis of RPS Provisions

Similar to the comments for B.1.P.Rua with respect that the focus of the review was identifying across the RPS policies what will trigger an assessment to identify and address the effects to Whakatū tangata whenua. The part of policy B.1.P.Rima that states "where an application for resource consent or plan change is likely to affect the relationship Whakatū tangata whenua.." was considered as part of the review of Section C – Zone and Section D – City-Wide Provisions.

The focus of this review was to identify whether the policies of the Regional Policy Statement provided for the principles of Te Aotūroa, specifically mauri, kaitiakitanga, rangatiratanga and manaakitanga.

In its capacity as a Regional Policy Statement in a draft RMA Planning document, the policies B2-B12 considers the principles of mauri, kaitiakitanga, rangatiratanga and manaakitanga. Section 3: Zone and Section 4: City-Wide provisions of the Nelson Plan may contain further measures that supports the decision-making processes. With that said, as identified in the table above, there are RPS policies that may usurp the principles of Te Aotūroa framework. Most of the policies identified as preventive or contrasting is because the focus is on achieving a particular outcome (which may compromise efforts to

address/achieve mauri), and/or weighing together other values (which may compromise rangatiratanga of iwi) and/or there is no policy consideration towards Whakatū tangata whenua perspectives (the ability to participate or have values identified).

Of all the RPS policies, B4 Infrastructure and Energy is identified as having the potential to lack the policy to support or consider B.1.P.Rima. Noting the resource management issues outlined in B4 Infrastructure and Energy, and the importance of managing (including preparing for future provision of) key and significant infrastructure, there is a gap in its RPS policies where there is little focus to provide for five prescribed directions in B.1.P.Rima.

Suggestions:

There needs to be methods for policies in B4 Infrastructure and Energy that improve information sharing and the understanding of Regional Infrastructure requirements between iwi and Nelson City Council.

B.1.P.Ono

Support and encourage iwi to develop iwi management plans that contain:

(a) specific requirements to address the management of coastal waters, land and air resources, including mauri and taonga;

(b) protocols to give effect to their role of kaitiaki of water and land resources;

(c) sites of cultural significance;

(d) descriptions of how the document is to be used, monitored and reviewed;

(e) the outcomes expected from implementing the management plan; and

(f) the use and development of natural and physical resources by iwi.

The explanation for B.1.P.Ono outlines that by supporting the development and implementation of iwi management plans, the Nelson City Council will be in a position to address two significant outcomes, 1. Meet its requirements relating to Māori in RMA processes, and 2. To identify and understand the expression of values and what to protect, maintain, enhance.

Analysis of RPS Provisions

It is considered that this policy is a non-regulatory policy and therefore will not be a provision in Section 3 – Zones or in Section 4 – City-Wide of the Nelson Plan Whakamahere Whakatū.

What is important to outline as part of the review of the RPS policies is that any preparation of new, and/or review of existing, Iwi Management Plans, there will need to be a level of specificity prescribed in those plans. There were approximately 10 RPS policies identified in the draft Nelson Plan Whakamahere Whakatū which will require a level of detail to support the other policies of B1. These are:

- B.3.P.1
- •

B.6.P.5B.8.P.3

• B.6.P.6

B.10.P.3

• B.7.P.1

• B.8.P.1

• B.3.P.3

•

B.11.P.8 • B.12.P.2

Suggestion:

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Clear and agreed lines of communication between iwi and Council will be necessary to identify and understand expectations and commitment to implement this policy.

B.1.P.Whitu

Ensure iwi management plans are taken into account in resource management decision making processes

The explanation for B.1.P.Whitu is intended to support policy B.1.P.Ono by ensuring that iwi management plans are take into account in resource management decisions.

Analysis of RPS Provisions

It is considered that this policy is repeating the statutory requirement in the Resource Management Act 1991 for resource consent processes and decisionmaking, but when combined with B.1.P.Ono it enhances the information gathered and available to the Nelson City Council to achieves the outcomes of policies of B1 Tangata Whenua Iwi in the draft Nelson Plan Whakamahere Whakatū, as well a the consideration of section 6(e) of the RMA.

Suggestion:

No suggestions

B.1.P.Waru

Enable opportunities for marae and papakāinga development on tangata whenua iwi, hapū and whanau land that provides for a range of functions including living, working, cultural activities and recreation where:

- (a) development is of a scale, extent and intensity that is determined by the physical characteristics of the site, surrounding environment and tikanga Māori; and
- (b) significant adverse effects on adjacent sites are avoided, remedied or mitigated.

The explanation for B.1.P.Waru is to recognise that for Whakatū tangata whenua to pursue their traditional relationship with their land, papakāinga and marae settlements are essential in that pursuit. The policy is intended to enable development on land:

- classified Māori land under Te Ture Whenua Māori Act 1993,
- multiple owned Māori land and customary land, and
- other land returned to iwi through settlement processes
- land held individually by Whakatū tangata whenua

Analysis of RPS Provisions

The review of this policy across the RPS policies prescribed in B2-B11 has identified that B.1.P.Waru is almost a duplicated policy that is being addressed/accommodated by policy B.1.P.Tahi, however the key distinction is land returned via treaty settlement (B.1.P.Tahi) and land held/owned by Whakatū tangata whenua that was not returned via treaty settlement (B.1.P.Waru).

The RPS policies identified in the table for B.1.P.Tahi are alike and have not been repeated.

Suggestions:

There needs to be consideration towards being specific in the other RPS policies regarding the development and use of land and resources returned to iwi via Treaty of Waitangi settlement, especially in B3 Growth, Development and Urban Form. Also, there may need to be consideration of ensuring that the two policies (B.1.P.Tahi and B.1.P.Waru) are not contradictory in interpretation and implementation.

B.1.P.Iwa

Maintain and enhance the essential partnership between Whakatū tangata whenua, the Council and statutory management agencies on an ongoing basis. The explanation for B.1.P.Iwa is to enable/ensure partnerships with agencies in Whakatū that are imperative to achieving policies B.1.P.Tahi – B.1.P.Waru, as well as assist with iwi economy in Whakatū.

Complementary/Enabling RPS Policies		Potential Contrasting/Preventative RPS Policies
B6 Historic and Cultural Heritage		B2 Growth, Development and Urban Form
B.6.P.6 In partnership with Whakat $\ensuremath{\bar{u}}$ Nelson tangata	whenua, develop an appropriate means of	B.2.P.2 When determining the location, capacity,
identifying and assessing sites and values of significant	ce to tangata whenua, including through the	timing and funding of future infrastructure
development of associative Māori Cultural Landscapes.		services and transport connections to support
B10 Coastal Environment		urban development within the Nelson Urban Area,
B.10.P.1 Adopt an integrated management approach	to activities in the Coastal Environment by	ensure that planning and programming of projects
ensuring that:		is coordinated between Nelson City Council,
(c) Consideration is given to the potential effects on the	Coastal Marine Area of land-based activities,	Tasman District Council, the New Zealand
discharges to freshwater and activities in freshwater	bodies; and	Transport Agency, Port Nelson, Nelson Airport and
(d) Opportunities for the Nelson City Council to work join	ntly with Whakatū Nelson tangata whenua,	the Nelson Marlborough District Health Board.
regulatory agencies, and marine-based industries an	d operators are supported.	
B.10.P.2 In conjunction with Whakatū Nelson tangata w	henua, where practicable restore the health of	
the Coastal Marine Area as a food basket, and prote	ct sites of significance and value to Iwi from	
inappropriate subdivision, use and development.		
B11 Freshwater		
B.11.P.9 Promote community-wide understanding of	the mana and mauri of rivers and support	
initiatives that restore the man and mauri		
Analysis of RPS Provisions		

There are not many RPS policies that actively provides for B.1.P.Iwa. There is a method in B13.1 Partnerships which primarily focuses on formalising partnership between iwi and Nelson City Council. There is no reference to other statutory agencies (which is understandable) in that specific method. In B13 Methods there are a number of methods that require (and identify as non-regulatory) measures to have partnerships to management the natural and physical resources (and issues of significance in Whakatū). There is no reference to Whakatū tangata whenua in these described methods in Section B13 Methods (noted below).

• B.13.6 Historic and Cultural Heritage

Partnership (in the form of MOUs) with government agencies with property portfolios to support identification, protection and/or maintenance of heritage resources. These agencies Department of Conservation, Heritage New Zealand, and other Ministries such as NZTA and education.

- B.13.8 Indigenous Biodiversity Implementation of Pest Management Strategy and Marine Biosecurity partnership
- B.13.10 Coastal Environment

Partnership with agencies that have statutory responsibilities in the Coastal Marine Area; eg Ministry for Primary Industries (fisheries) and Maritime New Zealand (shipping issues) etc.

Also, there are some policies that will require partnerships to implement but do not (visibly) provide for Whakatū tangata whenua). Two examples are:

B.4.P.4 Encourage and provide for the development of renewable energy and improved efficiency in the use of energy in Whakatū Nelson by:

- (a) providing for renewable electricity generation capacity while avoiding, remedying or mitigating adverse effects on the environment;
- (b) enhancing the security of electricity supply within the region by providing for diversification in the type and/or location of renewable electricity generation;
- (c) recognising the reversibility of the adverse effects on the environment of some renewable electricity generation technologies;
- (d) promoting land subdivision and building design that optimise solar heating efficiency; and
- (e) encouraging effective insulation of residential dwellings.

B.8.P.2 Avoid a net loss of Whakatū Nelson's significant natural areas by restricting use and development, and subdivision and associated activities that may adversely affect those areas.

Suggestion:

Consider directly referring to Whakatū tangata whenua (Te Tau Ihu iwi) in the identified methods.

Appendix D: Detailed Review of Section C – Zones

B13.1 Tangata Whenua Iwi

Regulatory Method – The Nelson Plan

Integrate the policy direction within Chapter B1 across the regional, regional, coastal and district level components of the Nelson Plan, within the topicbased chapters to which they relate, ensuring that tangata whenua values and the cultural and commercial interest of iwi are taken into account in resource management decisions. Relevant chapters compromise:

- C1 Residential Zone
- C6 Rural Zone
- C7 Coastal Marine Area

Directly referred to Provisions

C1 Residential Zone

C.1.O.5 Papakāinga are developed, in a manner that gives effect to tangata whenua values and reflects the communal nature of living, and accommodate cultural and community activities that support Māori ora in accordance with tikanga Maori.

C.1.P.5 Enable a mix of residential development densities and housing types that maintain and enhance the character and quality of residential neighbourhoods, including:

- (a) infill subdivision and development that creates additional sites and dwellings from existing residential sites;
- (b) the construction of minor residential units adjacent to existing dwellings;
- (c) conversion of existing residential buildings to create additional residential units;
- (d) multi-unit apartments;
- (e) retirement homes and residential care facilities;
- (f) papakāinga;
- (g) single detached dwellings on individual allotments;

(h) buildings that are able to be adapted to meet differing housing needs over time.

C.1.P.11 Provide for papakāinga and associated community and cultural activities on Māori land in a manner that is consistent with tangata whenua values and maintains the residential amenity values of adjoining sites.

C.1.R.4.1 Papakāinga development (excluding commercial and industrial activities) <u>Permitted Activity</u> subject to following conditions:

- by itself or in addition to existing buildings on the site, the gross floor area of all buildings associated with residential activities is not greater than 10% of the net site area; and
- by itself or in addition to existing buildings on the site, the papakāinga development would not lead to a total gross floor area of all buildings associated with non-residential activities (excluding commercial and industrial activities) on the site that exceeds 20% of the net site area.
- the activity and any buildings comply with all of the standards specified under C.1.S, except: C.1.S.1 (net site area), and C.1.S.6 (outdoor living court).

If not able to comply with above conditions it is a <u>Restricted Discretionary Activity</u> (provided that any building complies with C.1.S.18). Discretion is restricted to:

- the matters listed in Table C.1.S for the standard(s) not met; and
- the location, floor area and height of any building; and
- actual and potential effects on the character and amenity of the Residential Zone, any adjoining residential site, or streetscape; and
- the provision of infrastructure services; and
- potential traffic, access and parking effects; and
- social, economic and cultural benefits to tangata whenua.

There are two <u>Non-Complying Activity</u> status, C.1.R.4.4 and C.1.R.4.5. C.1.R.4 outlines that any papakāinga development that contravenes matters outlined for Restricted Discretionary Activity is a Non-Complying Activity. C.1.R.5 outlines that any papakāinga development that includes commercial and/or industrial activities is a Non-Complying Activity.

Analysis

The provisions described in C1 Residential Zone primarily accommodates policies B.1.P.Tahi and B.1.P.Waru and provides for papakāinga as the form of development for Whakatū tangata whenua in the residential zone. The objective and policies in the Residential Zone are generally enabling, whilst acknowledging that papakāinga activities in the Residential Zone need to be consistent and not detracting from residential amenity. The rule itself, although provides for papakāinga, seeks to avoid commercial and industrial activities within papakāinga. The papakāinga definition recognises that activities within papakāinga may contain commercial and industrial activities. It is noted that the C.1.R.3 Non-residential activity provisions provides for some level of commercial and industrial activities.

For B.1.P.Tahi, is there willingness to consider standard forms of development (eg subdivision, multi-unit developments etc) afforded to Whakatū tangata whenua if it addresses matters of importance expressed in iwi documents (Deed of Settlement, legislation, and iwi management plans or strategies etc)? This is part of the redress that policy B.1.P.Tahi seeks to give effect to.

The second matter is that the provisions C1 Residential Zone do not trigger the intent described in the other policies B1 Tangata Whenua Iwi, but more specifically B.1.P.Toru, B.1.P.Whā, and B.1.P.Rima. These policies seek to enhance the role of Whakatū tangata whenua in the resource management processes and decision-making of the Nelson City Council.

The provisions in Section D – City-Wide Provisions may provide the supporting measures that are necessary to enhance Whakatū tangata whenua participation.

Suggestions:

- 1. Provide a level of acceptable commercial and industrial activities contained within papakāinga, much like the rules for non-residential activity.
- 2. There opportunities to include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

C6 Rural Zone

C.6.O.9 Aspirations of tangata whenua to develop rural Māori land for papakāinga are realised in a manner that is consistent with tikanga and kaitiakitanga.

C.6.P.7 Enable a range of integrated activities within papakāinga development on Māori land while avoiding, remedying or mitigating adverse effects on natural and physical resources of the surrounding area and remedying or mitigating significant adverse effects on rural character and amenity values.

C.6.P.13 Where papakāinga developments are proposed ensure that:

- (a) non-residential activities are integrated with residential activities and provide for the employment and cultural needs of anticipated residents; and
- (b) servicing methods, including communal infrastructure:
- (i) are suited to the local site conditions;
- (ii) are consistent with values of significance to tangata whenua; and
- (c) any adverse effects of servicing methods on the surrounding environment are avoided, remedied or mitigated.

C.6.R.11 Papakāinga development

<u>Permitted Activity</u> subject to following conditions:

- including any existing residential units, there are no more than 20 residential units on the site; and
- including existing buildings on the site, the total gross floor area of all buildings does not exceed 4000m² or 5% of the net site area, whichever is the lesser; and
- including existing commercial activities on the site, the total gross floor area occupied by commercial activities on the site, including any outside storage areas, does not exceed 800m²; and
- it complies with any standards in C.6.S, except C.6.S.1.

If not able to comply with above conditions it is a <u>Restricted Discretionary Activity</u> (provided that it complies with C.6.S.11 and C.6.S.12). Discretion is restricted to:

- effects on the character and amenity values of the Rural Zone or the Small Holdings Areas; and
- traffic, access and parking effects; and
- social, economic and cultural benefits to tangata whenua;

If the papakāinga proposal does not comply with the above criteria, it will be processed as either a <u>Discretionary Activity</u> or a <u>Non-Complying Activity</u>. Of note is that there are two <u>Prohibited Activity</u> status papakāinga activities, these are for:

- 1. Any papakainga development established after the operative date of the Nelson Plan where the site is located within the Airport Effects Control Overlay, and
- 2. Any new or relocated noise sensitive activity within a papakāinga development where the site is located inside the Air Noise Boundary

It is also noted that within C6 Rural Zone provisions that rule C.6.R.23 Subdivision states that subdivision of land that is part of or within a papkāinga is a <u>Prohibited Activity</u>.

Analysis

The provisions described in C6 Rural Zone accommodates policies B.1.P.Tahi, B.1.P.Rua and B.1.P.Waru. The Rural Zone understandably focuses on rural amenity and character and rural based activities, however there is an enabling objective and policies for Māori land development but primarily focuses on papakāinga as the prescribed form of development acceptable. The rule itself, although provides for papakāinga, has some substantial restrictions especially when there are other activities such as visitor accommodation, recreation activity, and rural tourism are provided for in the Rural Zone. Also, it is noted that within C.6.R.23 Subdivision provisions, subdivision of land that is part of or within a papkāinga is also a Prohibited Activity. This is considered a strong stance and does not necessarily take into consideration the opportunity for Māori (Whakatū whanau) to obtain partition orders from the Māori Land Court.

The second matter is that the C6 Rural Zone provisions do not trigger the commitment in policies B.1.P.Toru, B.1.P.Whā, and B.1.P.Rima, the exception is effects on customary access. These policies seek to enhance the role of Whakatū tangata whenua in the resource management processes and decision-making of the Nelson City Council.

The provisions in Section D – City-Wide Provisions may provide the supporting measures that are necessary to enhance Whakatū tangata whenua participation.

Suggestions:

1. Opportunities for tangata whenua values to be considered within the objectives and policies in C6 Rural Zone provisions for "Rural character and amenity".

- 2. Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council
- 3. With rule C.6.R.23.6 Subdivision Prohibited Activity, there may need to be a clause/condition that if there is an order from the Māori Court for hapū or full partition of land/papakāinga, then the proposal is not prohibited.

C7 Coastal Marine Area Zone

C.7.O.1 Whakatū Nelson tangata whenua are able to exercise kaitiakitanga over coastal resources to ensure the health of coastal ecosystems.

C.7.P.2 When considering any activity that affects coastal marine resources or values of significance to tangata whenua in the Coastal Marine Area, recognise and provide for the following matters:

- (a) the historical association of the tangata whenua of the area, and any historical, cultural or spiritual values associated with the coastal resources, sites or areas including those specified in any Statutory Acknowledgement and those recognised as Protected Customary Rights;
- (b) any relevant Mana Whakahono a Rohe or memorandum of understanding between Nelson City Council and relevant iwi authorities;
- (c) any joint management and co-governance arrangements established between Nelson City Council and relevant iwi authorities; and
- (d) continued customary access

C.7.P.3 When considering an application for resource consent or plan change that is likely to affect the relationship of Whakatū's tangata whenua and their culture and traditions with the Coastal Marine Area, ensure that:

- (a) the ability for tangata whenua to exercise kaitiakitanga is maintained or improved;
- (b) mauri is maintained or improved where degraded;

(c) cultural harvesting resources are maintained or enhanced and these resources are healthy and accessible to tangata whenua; and
 (d) the relevant provisions of any applicable lwi Management Plan, and the values of significance to tangata whenua specified in A.2.5 of the Nelson Plan
 or in any Statutory Acknowledgement and those recognised as Protected Customary Rights are taken into account.

There are a number of rules that require the Nelson City Council (and applicants) to consider, alongside other matters, the management of effects on values of significance to tangata whenua and their cultural and commercial interests for activities that require resource consent for Controlled, Restricted Discretionary and Discretionary Activities. These are:

- C.7.R.3 Removal or demolition of a structure (including hard protection structures)
- C.7.R.4 Temporary structure (including whitebait stands)
- C.7.R.5 Science research structure
- C.7.R.9 Boat ramp and permanent haul out structure
- C.7.R.12 Intake or outfall structures (including culverts)
- C.7.R.14 Hard protection structures in the Coastal Marine Area
- C.7.R.25 Take, use, damming, diversion of water

C.7.R.16 Damage to or removal of vegetation

As a permitted activity is the damage to, removal of vegetation for the purposes of cultural purposes undertaken in accordance with tikanga Māori.

Analysis

The C7 Coastal Marine Area provisions have a total of 10 objectives and 31 policies, with a number of the policies including a set of considerations. As identified in the table above, there is one objective and two policies referring to, and consideration of, the rights and interests of Whakatū tangata whenua, however there is substantial recognition in the rules framework for Whakatū tangata whenua to participate in the process and decision-making of activities that will require resource consent in the Coastal Marine Area.

<u>Suggestions:</u> No suggestions offered

Not Directly referred to in B13.1

C5 Open Space and Recreation Zone

C.5.O.1 – Whakatū Nelson's network of open spaces and recreation facilities:

- (a) provide a diverse range of open space and recreation facilities that meet the current and future recreation, health and well- being needs of the community;
- (b) contribute to a high quality urban environment;
- (c) are accessible and distributed in locations that meet demand from new development and population growth;
- (d) provide users with a pleasant and safe environment;
- (e) enable temporary, commercial and multifunctional uses;
- (f) maintain and enhance amenity values and connectivity;
- (g) maintain and enhance public access to and along the coast;
- (h) limit residential activities to those that are necessary for the efficient operation of open space and recreation facilities on the site;
- (i) do not adversely impact on the use and amenity values of adjoining sites; and
- (j) assist in protecting and enhancing the values associated with cultural and historic heritage resources, notable trees, significant natural areas, significant landscapes and features, outstanding natural features and landscapes and the city backdrop.
- C.5.P.5(f) Ensure that where use and development is proposed:
 - (a) it is consistent with CPTED principles or mitigates the effects of any inconsistency;
 - (b) it is compatible with the existing development, and any adverse effects on the character and amenity of the site, adjacent sites and the surrounding environment are avoided, remedied or mitigated;
 - (c) it is consistent with any relevant Reserve Management Plan;
 - (d) any proposed landscaping, or other mitigation measures are consistent with the character of the site and surrounding area;
 - (e) it avoids, remedies or mitigates any adverse effects on biodiversity values in the Esplanade and Foreshore Reserve and Landscape Areas;
 - (f) the proposal will not adversely impact on, or will enable the maintenance or enhancement of values or sites of significance to tangata whenua;
 - (g) any increase in site coverage or building footprint:
 - (i) is consistent with the role, character and amenity of the Area; and

- (ii) is consistent with building scale on the site; or
- (iii) is mitigated by the topography, location, scale, design and appearance of the building, landscaping or natural features, visual screening or alternative siting of the building or structure.
- (h) temporary adverse effects such as increased levels of noise and traffic generated by regional, national and international events are managed;
- (i) Any proposed residential activities are necessary to support the efficient function of open space and recreation facilities on the site and there is no practical alternative to their location.

There are two rules that require information and assessment as matters of discretion should any proposal not comply with the Permitted Activity conditions. The two rules are:

- 1. C.5.R.11 Structures and network utilities within the coastal margin
- 2. C.5.R.12 Structures and network utilities within the riparian margin

Analysis

The objective seeks to identify a list of 10 matters that are important for the use of open spaces and recreation facilities. One of those 10 matters is the protection and enhancement of values associated with cultural and historic heritage resources, significant natural areas, and outstanding natural features and landscapes. With the policy, it outlines that where there is any proposed use and development in the Open Space and Recreation Zone, the proposal will need to demonstrate that there will not be any adverse effects on values or sites of significance to Whakatū tangata whenua, however the focus of the conditions and measures of discretion for the restricted discretionary activities for C.5.R.11 and C.5.R.12 are on the effects to customary access, not values or sites of significance to Whakatū tangata whenua. It is acknowledged that the objectives and policies will be addressed as part of assessment of any proposal that is a discretionary or non-complying activities.

The provisions in Section D – City-Wide Provisions may provide the supporting measures that are necessary to enhance Whakatū tangata whenua participation.

Suggestions:

Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

C8 Conservation Zone

C.8.O.1 – Use and development complements, maintains and enhances the natural and cultural values and qualities of the Conservation Zone, including:

(a) ecological values;

(b) original or regenerating indigenous vegetation and habitats;

(c) water bodies and water supply reserves;

(d) landscapes and landforms in their predominantly natural and unmodified state;

(e) values of significance to tangata whenua;

(f) historic heritage values;

- (g) public access to and enjoyment of these values and qualities; and
- (h) values of significance to tangata whenua.

C.8.P.1 – Restrict use and development to that which complements, maintains and enhances the use, and natural and cultural values and qualities of the Conservation Zone.

C.8.P.2 – Only allow for use or development in the Conservation Zone where it can be demonstrated that it is compatible with the role, function and character of the zone, having regard to the following:

- (a) the functional or operational need of the activity to be located in the Conservation Zone;
- (b) measures to avoid adverse effects on significant indigenous vegetation and habitats, wetlands, lakes and rivers and their margins, outstanding natural character and outstanding natural landscapes and features;

(c) measures to avoid, remedy or mitigate adverse effects on all other natural and cultural values and qualities of the Conservation Zone, including:

- (i) locating structures away from positions where they would otherwise intrude above the skyline or impede long distance views when viewed from areas accessible to the public, including the Coastal Marine Area;
- (ii) moderating the scale, height, modulation, roof pitch, colour, reflectivity and other aspects of any structure's external appearance;
- (iii) locating parking areas in proximity to public roads and/or internal roads, and using unformed and unsealed areas for parking;
- (iv) minimising visual scarring associated with tracks by following the contour of the land;

- (v) minimising the period over which bare soil will remain exposed and revegetating any exposed surfaces, using plant species for the purposes of revegetation that are common to the surrounding area and that are ecologically appropriate;
- (vi) placing network utility structures partially or entirely below the ground;
- (vii) minimising changes in hydrology that could adversely affect biodiversity values;
- (viii) minimising increases in sediment entering waterways; and
- (ix) minimising the effects on public access and recreation values.

There are two rules that recognise cultural harvesting, these are:

- 1. C.8.R.5 Formation and construction of parking areas
- 2. C.8.R.7 Structures and network utilities within the coastal margin
- 3. C.8.R.6 Vegetation clearance, and
- 4. C.8.R.11 Cultural harvesting

Analysis

Objective 1 of C8 Conservation identifies eight (8) matters that are important in how resources in the Conservation Zone are used and developed. One of those matters is the maintaining and enhancement of values of significance to tangata whenua. These are also two (2) policies that seek to minimise and/or avoid effects on the resources in the Conservation Zone. Cultural values are the primary terms used in these policies even though the rules C.8.R.5 Formation and construction of parking areas, C.8.R.7 Structures and network utilities within the coastal margin and C.8.R.6 Vegetation clearance refer to effects on customary access.

The rules focus on evaluating the effects on customary access when it seeks information from tangata whenua, rather than cultural association. The provisions in Section D – City-Wide Provisions may provide the supporting measures that are necessary to enhance Whakatū tangata whenua participation.

Suggestions:

Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

No Provisions

C2 Inner City Zone, C3 Suburban Zone, C4 Industrial Zone and C9 Special Purpose Nelson Hospital Zone

Analysis

There are no provisions in these sections of the Nelson Plan Whakamahere Whakatū.

Suggestions

It needs to be clearly identified and confirmed is whether there are any lands and resources owned by Whakatū tangata whenua (iwi, hapū and whanau) in these zones.

Appendix E: Detailed Review of Section D – City-Wide Provisions

B13.1 Tangata Whenua Iwi

Regulatory Method – The Nelson Plan

Integrate the policy direction within Chapter B1 across the regional, regional, coastal and district level components of the Nelson Plan, within the topicbased chapters to which they relate, ensuring that tangata whenua values and the cultural and commercial interest of iwi are taken into account in resource management decisions. Relevant chapters compromise:

- D1 Freshwater
- D2 Air Quality
- D3 Riparian and Coastal Margins
- D4 Earthworks, Soil Disturbance and Vegetation Clearance
- D7 Cultural and Historic Heritage

Directly referred to Provisions

D1 Freshwater

D.1.O.1 The integrated management of land and water resources within Whakatū Nelson's freshwater management units supports the freshwater management values specified in Appendices F10 and F11.

D.1.O.7 The physical extent, significant values and natural character of natural wetlands are maintained and, where degraded, are restored.

D.1.P.1 When considering a proposal that affects freshwater resources or freshwater values of significance to tangata whenua specified in Appendices F10 or F11, recognise and provide for the following matters:

(a) the historical association of the tangata whenua of the area, and any historical, cultural or spiritual values associated with the freshwater resource, site or area including those specified in any Statutory Acknowledgement;

(b) any relevant Mana Whakahono a Rohe or memorandum of understanding between Nelson City Council and relevant iwi authorities or hapū groups;

(c) any joint management and co-governance arrangements established between Nelson City Council and relevant iwi authorities; and

(d) continued customary access.

D.1.P.2 When considering an application for resource consent or plan change that is likely to affect the relationship of Whakatū's tangata whenua and their culture and traditions with freshwater, ensure that:

- (a) the ability for tangata whenua to exercise kaitiakitanga is maintained or improved;
- (b) mauri is maintained or improved where degraded;
- (c) cultural harvesting resources are maintained or enhanced, and these resources are healthy and accessible to tangata whenua; and
- (d) the relevant provisions of any applicable lwi Management Plan and the tangata whenua values specified in Appendices F10 or F11, or in any Statutory Acknowledgement, are taken into account.

D.1.P.28 Where overflow discharge to surface water of treated or untreated wastewater from a community wastewater network is unavoidable during the period ending 1 April 2030, require the network to be managed in accordance with an overflow mitigation plan that addresses:

- (a) the measures taken to ensure that the network is sized to cater for the maximum probable intensity of development within the network catchment accounting for climate change predictions, including consideration of wet weather inflows and infiltration;
- (b) the measures taken to store or otherwise contain wet weather flows so as to avoid discharge to surface water;
- (c) the measures to be taken to reduce the frequency and duration of overflow discharges from all parts of the network (including from manholes and pump stations);
- (d) the location of potential points of discharge to surface water, and the measures taken to minimise the points of discharge to surface water and to avoid sites that have significant ecological, recreational, amenity or tangata whenua values;
- (e) the design of discharge points to minimise the potential for adverse effects on any of the values identified in Appendix F11; and
- (f) the measures to be implemented to ensure that the overflow discharge does not after reasonable mixing, either individually or in combination with background receiving environment contaminant concentrations, cause the limits in Appendix F12 or Appendix F28 to be exceeded.

D.1.P.32 For all point source discharges to surface water, provide for a zone of reasonable mixing within which the water quality limits specified in Appendix F12 may be exceeded in order to allow contaminants in the discharge to become reasonably mixed with the receiving water, having regard to:

- (a) the values for the freshwater management sub-catchments identified in Appendix F11;
- (b) the sensitivity of the receiving environment;
- (c) the likelihood of the discharge containing faecal contamination and any potential effects on downstream recreational or customary values, mahinga kai harvesting or human health;
- (d) the potential effects of the discharge contaminants on water quality;
- (e) other sources of contamination within the sub-catchment; and
- (f) the characteristics of the receiving environment and their influence on the ability for mixing to occur; and
- (g) the location and design of the proposed discharge point or area, with the preference of keeping the mixing zone as small as possible; and

in all cases, the zone of reasonable mixing may be less extensive than the zone of full mixing.

D.1.P.44 Provide for the discharge to land of treated wastewater and biosolids from wastewater treatment facilities where:

- (a) the discharge does not exceed the natural absorptive capacity of the soil;
- (b) the discharge does not cause overland flow of treated wastewater or result in a discharge of treated wastewater direct to surface water;
- (c) significant adverse effects on soil health are avoided;
- (d) there are no adverse effects on public health; and
- (e) the discharge does not adversely affect any Site of Significance to Tangata Whenua or any Archaeological Site or Heritage Site.

D.1.R.11 Discharge to land of wastewater

There are 18 permitted activity standards, and if it is not able to comply with permitted activity standards it is <u>Controlled Activity</u> or a <u>Restricted</u> <u>Discretionary Activity</u>. Discretion is restricted to proximity to any site of significance to Tangata Whenua.

Analysis

There are seven (7) objectives and 67 policies, with a number of the policies including a set of considerations. There is reference in majority of the objectives and policies to freshwater specific lists of values and technical requirements for use and development of freshwater in Whakatū Nelson.

With respect to policies B.1.P Rua, B.1.P.Toru and to lesser extent B.1.P.Iwa, although there is limited reference to the values of tangata whenua and triggers (permitted activity standards, controlled and restricted discretionary measures) in the rules within D1 Freshwater, the linkage between F10 and F11 can ensure that the values of tangata whenua are appropriately considered, however this is alongside other values (and biophysical metric monitoring) in the management of freshwater.

Suggestions

No suggestions offered

D2 Air Quality

D.2.O.1 Whakatū Nelson's ambient air quality is maintained and, where degraded, is enhanced and the adverse effects on the environment of localised discharges to air are avoided, mitigated or remedied

D.2.P.1 Manage the air resource in a way that recognises and provides for the relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

D.2.P.2 Manage the air resource by taking into account the principles of Te Tiriti o Waitangi (Treaty of Waitangi) and having particular regard to kaitiakitanga.

Analysis

D2 Air Quality focuses strongly on biophysical measurement. It is considered that there is limited consideration/representation of the policies in B1 Tangata Whenua Iwi in D2 Air Quality.

Suggestions

- 1. Consider providing for other measurements that could be mātauranga based or can accommodate methods that measure the perspectives of Whakatū tangata whenua.
- 2. Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

D3 Riparian and Coastal Margins

D.3.O.1 The riparian and coastal margins of Whakatū Nelson contribute to and provide for conservation, freshwater and marine water quality, the habitat of indigenous fauna, ecosystem health values, public and customary access, recreation, and the management of natural hazards, including the effects of climate change.

D.3.O.4 Public and customary access to Whakatū Nelson's water bodies and the Coastal Marine Area that people use and enjoy is maintained and enhanced.

D.3.P.1 For land adjacent to the Coastal Marine Area and each river identified in Appendix F22:

(a) identify its:

- (i) coastal and freshwater biological values;
- (ii) recreational values;
- (iii) amenity values;
- (iv) values of significance to tangata whenua;
- (v) public access values; and
- (vi) level of potential hazard risk;

(b) from those values, set out requirements for the creation of esplanade reserves or strips, and the width of the reserves or strips to be created; and

(c) require the creation of esplanade strips or reserves when subdividing any land adjoining the Coastal Marine Area or a river in accordance with a. and b. above, except where the subdivision does not create any additional lots or is for a network utility service.

D.3.P.2 Only allow a reduction in the required width of an esplanade reserve or strip, or the waiving of the requirement of an esplanade reserve or strip as set out in Appendix F22, where it can be demonstrated that:

- (a) safe public access and recreational use is already possible and can be maintained for the future, while having regard to the potential effects of climate change, including sea level rise;
- (b) the maintenance and enhancement of the natural functioning, ecosystem health and water quality of the Coastal Marine Area and any water body will not be adversely affected;

- (c) the land and water-based habitats within, and adjoining, the margin will not be adversely affected;
- (d) no site of significance to tangata whenua will be adversely affected;
- (e) the creation of an esplanade reserve or strip would adversely affect sensitive sites or sites of significance to tangata whenua by, for instance, the potential for disturbance through increased public access;
- (f) the reduced width of the esplanade or strip is sufficient to manage the significant risks of adverse effects resulting from natural hazards, taking into account the likely long term effects of climate change, including sea level rise;
- (g) a full width esplanade reserve or strip is not required to maintain the natural character and amenity of the coastal environment;
- (h) restrictions on public access are necessary to ensure public health and safety; and
- (i) direct access to the sea or other water body is required for a lawfully established business activity in limited circumstances.

D.3.P.6 Maintain and enhance public and customary access to and along rivers, streams, wetlands and the Coastal Marine Area:

- (a) through the creation of esplanade reserves and strips in accordance with the requirements set out in Appendix F22;
- (b) through the creation of access strips easements or other mechanisms to provide access when a land use application provides an opportunity for access to be provided; and
- (c) by seeking agreements with private landowners and land purchase, where appropriate.

D.3.P.7 Restrict activities that prevent or interfere with lawfully established public access to and along the Coastal Marine Area, streams and rivers, except where necessary to protect public health and safety, customary activities and sites of significance to tangata whenua and to provide for network utility services, and activities at the Nelson Port.

Analysis

It is outlined in D3 Riparian and Coastal Margins that the rules are located in C1 Residential Zone to C8 Conservation, and D1 Freshwater, D4 Earthworks, and D6 Natural Hazards. With that said, the provisions in D3 Riparian and Coastal Margins consider and protect customary access, the recognise the importance in the quality of coastal waters, freshwater and areas for conservation, and the values and sites of significance to Whakatū tangata whenua, however it is unsure how these provisions will interact with the provisions of C1 Residential Zone to C8 Conservation, and D1 Freshwater, D4 Earthworks, and D6 Natural Hazards as it will be dependent on the scale and size of the any proposal, and what zone it is located in.

Suggestions

Consider identifying and/or referencing the rules located in the other sections/chapters of the draft Nelson Plan Whakamahere Whakatū in D3 Riparian and Coastal Margins

D4 Earthworks, Soil Disturbance and Vegetation Clearance

D.4.O.1 Soil disturbance, earthworks and vegetation clearance are undertaken in a manner that facilitates anticipated subdivision, use and development, while:

(a) conserving soil;

- (b) assisting in the achievement of objectives for the water quality, life- supporting capacity and natural character of freshwater bodies and their riparian margins and the Coastal Marine Area and coastal margins in Whakatū Nelson;
- (c) not exacerbating significant risks from natural hazards, including the effects of climate change; and
- (d) ensuring the stability, safety and amenity of surrounding land, buildings and structures.

D.4.P.1 Enable soil disturbance, earthworks and vegetation clearance that provide for the social, economic and cultural well-being of Whakatū Nelson's residents, while avoiding and otherwise mitigating or remedying adverse effects on:

- (a) soil retention;
- (b) the erosive potential of land;
- (c) the mobilisation of sediment in water to freshwater and coastal water;
- (d) the life supporting capacity and ecosystem health of freshwater bodies and the Coastal Marine Area;
- (e) flooding and coastal erosion hazards,;
- (f) the stability and safety of surrounding land, buildings and structures; and

(g) the character and amenity values of neighbouring properties and of the environment within which the proposed activity would be situated.

There are a number of rules that require the Nelson City Council (and applicants) to consider, alongside other matters, the management of effects on values of significance to tangata whenua and customary for activities that require resource consent for Restricted Discretionary Activities. These are:

- D.4.R.1 Soil Disturbance
- D.4.R.2 Earthworks

• D.4.R.3 Vegetation Clearance

Analysis

There are no visible references to tangata whenua values in the objectives and policies, but it is noted that the parameters for subdivision, use and development within these provisions seek to manage impacts on the quality of, and effects on, natural resources.

Also, as identified in the table above, there are three rules in D4 that identify effects on tangata whenua values, and customary access as matters of discretion should proposals for these three activities do not comply with standards of a Permitted Activity.

Suggestions

No suggestions offered

D7 Cultural and Historic Heritage

D.7.O.1 Cultural and historic heritage resources, and the cultural and heritage values associated with them, are protected from inappropriate subdivision, use and development, including inappropriate modification, relocation, demolition or destruction.

D.7.O.2 Cultural heritage resources are identified in partnership with the relevant iwi and protected from inappropriate subdivision, use and development.

D.7.O.6 The risk of damage to historic and cultural heritage from natural hazards is reduced while retaining heritage and cultural values.

D.7.P.3 Consider all of the following as part of the assessment of a proposal for alteration, demolition, destruction or removal (including relocation) of a Historic Heritage Item:

(a) the category of protection afforded to the item;

- (b) the heritage values of the item;
- (c) the extent to which the item or feature has particular value due to the scarcity of that particular heritage resource;
- (d) the effects of any replacement activity or building proposed for the site, including the standard of design and appearance;
- (e) the effect of any addition or alteration on the integrity of the original item, including the compatibility with the building;
- (f) effects on values of significance to tangata whenua; and

(g) the purpose and principles of the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value 2010.

D.7.P.9 Only allow subdivision of sites containing Historic Heritage Items and Sites of Significance to Tangata Whenua where the subdivision is designed to:

(a) avoid, remedy or mitigate adverse effects on the heritage values of the item;

(b) provide sufficient curtilage around the item to protect heritage values;

(c) minimise obstruction of views of historic heritage items from adjoining public spaces that may result from any future land use or development; and

(d) be compatible with the precinct design guide, where relevant.

D.7.P.10 Provide for offsets for subdivision of a site containing a Historic Heritage Item or Site of Significance to Tangata Whenua where the heritage values are protected, through:

(a) flexibility in minimum lot sizes, subject to ensuring sufficient land is retained around the heritage item; and

(b) flexibility in the shape factor requirements to ensure the item is not compromised, while allowing reasonable use of the land.

D.7.P.11 Allow for flexibility in the development of sites containing a Historic Heritage Item, Site of Significance to Tangata Whenua or within a Cultural or Historic Heritage Overlay, where:

(a) the heritage values of the item are not adversely affected by the development;

(b) any adverse effects on adjoining sites are avoided, remedied or mitigated; and

(c) there is a resulting environmental benefit from protection of the item, site or overlay.

D.7.P.17 Protect Sites of Significance to Tangata Whenua by restricting subdivision, use and development that have the potential for adverse effects on those sites and their associated values.

D.7.P.18 Avoid, remedy or mitigate adverse effects on the cultural, spiritual, historical or archaeological values of Sites of Significance to Tangata Whenua and Cultural Heritage Overlays.

D.7.P.19 Proposals to damage, modify or destroy a known Site of Significance to Tangata Whenua, or which involve significant soil disturbance or earthworks within a Cultural Heritage Overlay must consider the following:

(a) whether there are alternative methods, locations or designs that would avoid or reduce the impact on the values associated with the site or overlay;

(b) outcomes articulated by tangata whenua through an assessment of environmental effects, cultural impact assessment or iwi planning documents;

- (c) the potential to enhance the values of the site or overlay and the relationship of tangata whenua with their taonga and whakapapa, commensurate with the scale and nature of the proposal;
- (d) how values of significance to tangata whenua, including tikanga, kaitiakitanga and mātauranga may be incorporated into the outcome;
- (e) practical mechanisms to maintain or enhance customary access and access for monitoring;
- (f) where the site contains archaeological material, the significance of the archaeological site, as assessed on the uniqueness and representative nature of the site; and
- (g) the findings and recommendations of any archaeological assessment carried out by a qualified archaeologist, where relevant.

D.7.P.20 Recognise that where values associated with Sites of Significance to Tangata Whenua relate to kāinga, pā, wāhi taonga or ūrupa, the significance may be so great that damage, modification or destruction of the site is culturally inappropriate, to be determined in partnership with relevant iwi.

There are two rules that recognise cultural value, these are:

- D.7.R.11 Sites of Significance to Tangata Whenua: Structures, earthworks and soil disturbance
- D.7.R.12 Cultural Heritage Overlays: Foundations, soil disturbance or earthworks

Analysis

As outlined in the table above, D7 Historic and Cultural Heritage provides substantial recognition to the values and sites of significance to Whakatū tangata whenua, bearing in mind that these provisions are within a context of being balanced alongside other values and attributes. In the implementation of this rules by the Nelson City Council, it will be important for Whakatū tangata whenua to have accessible information to refer to and use to participate in resource consent processes.

The rules within D7 Historic and Cultural Heritage most activities that are not associated with a heritage building will be assessed as a Discretionary Activity.

The only other comment, if it wasn't already known, the term "historic heritage" is not inclusive of cultural heritage. Both are exclusive of each other.

Suggestions:

No suggestions offered.

Not Directly referred to in B13.1

D5 Infrastructure and Energy

D.5.P.3 Avoid, remedy or mitigate adverse effects of new infrastructure or upgrades to existing infrastructure on:

- (a) character and amenity values of the surrounding environment;
- (b) human health;
- (c) existing sensitive activities;
- (d) water and air quality; and
- (e) identified sites, areas or features of significant ecological, landscape, natural character values, or cultural or historic heritage values.

D.5.P.24 Ensure wastewater and stormwater management services are designed, constructed, and maintained to service the scale and type of proposed use, and to avoid, remedy or mitigate any adverse effects on:

- (a) water quality, water quantity, ecosystem health and associated ecological habitat;
- (b) identified values of significance to tangata whenua;
- (c) public health and safety;
- (d) amenity values; and
- (e) potential for flooding and erosion.

Analysis

D5 Infrastructure and Energy does not have any objectives or rules that provide for cultural/Whakatū tangata whenua values, which could be of concern to Whakatū tangata whenua as most of the activities identified in D5 Infrastructure and Energy are Permitted or Restricted Discretionary Activities.

Suggestions:

The linkage between the provisions in Section 3 – Zones and Section 4 – City-Wide Provisions may need to be clearer to clearly indicate whether cultural/Whaktū tangata whenua values are affected by any proposal

D6 Natural Hazards

D.6.O.1 There is no increase in significant risks of adverse effects to people, property, infrastructure and the natural environment, including social and cultural effects resulting from flood hazard events, taking into account the projected impacts of climate change, and resilience to flood hazards is increased.

D.6.P.2 Ensure that subdivision, use, and development within the Flood Hazard Overlay, High Flood Hazard Overlay, and the North Nelson Flood Hazard Overlay consider:

- (a) the building and land use or activity being proposed and the vulnerability to significant risk from the flood hazard;
- (b) the type, frequency and scale of projected flooding and likely damage and effects, both temporary and permanent;
- (c) the significant risk of adverse effects to people, property, infrastructure and the natural environment, including social and cultural effects, from the flood hazard;
- (d) the design, location and construction of buildings and structures to mitigate the projected effects of the flood hazard including the opportunity to utilise an adaptive management approach that allows for the adaptation and/or relocation of buildings;
- (e) the ground and/or floor levels required to mitigate adverse effects associated with a 1% AEP flood event (including the likely effects of climate change)
- (f) the site layout, including placement of any buildings and structures, infrastructure and access in relation to the flood risk;
- (g) any proposed storage and use of hazardous substances and the management of these substances in relation to the flood hazard;
- (h) the ability to maintain access (ingress and egress) in a flood event;
- (i) any identified evacuation routes or refuges above flood levels;
- (j) the effects on and the potential to enhance the function of the floodplain, including flood storage capacity and conveyance; and

(k) any effects beyond the subject site, including:

- (i) effects on character and amenity values of neighbouring sites and the surrounding environment in particular adjoining residential land use; and
- (ii) any likelihood of flooding or erosion being aggravated; and
- (iii) any additional water being directed onto adjacent sites; and
- (iv) drainage of other sites.

There are two rules that recognise cultural values as a matter for discretion, these are:

- D.6.R.5 High Flood Hazard Overlay: Activities
- D.6.R.9 North Nelson Flood Hazard Overlay: Activities

Analysis

The provisions described in D6 Natural Hazards focus on addressing the risks of natural hazards and the protection of people's property. There are considerations to cultural effects as identified in the table above, with effects on cultural values (and ecological values) identified in rules D.6.R.5 and D.6.R.9 as matters of discretion.

Of concern is that the provisions in D6 Natural Hazards do not have visible provisions to protect sites of significance to Whakatū tangata whenua which are already at risk.

Suggestions:

- 1. Consider provisions that seek to identify and protect sites of significance to Whakatū tangata whenua that are already at risk.
- 2. Should the Nelson City Council look to establish a committee to address Climate Change and if it does would it invite Whakatū tangata whenua as partners.

D9 Landscape

D.9.O.1 The characteristics, attributes and values that define Whakatū Nelson's outstanding natural features and landscapes are protected from

inappropriate subdivision, use and development.

D.9.O.2 The significant characteristics and values that define the Maitahi/Mahitahi/Maitai River Valley are maintained.

Analysis

Although there is limited reference to tangata whenua values, there is an intent of D9 Landscape to protect and preserve landscapes and high visual amenity.

Suggestions:

- 1. Opportunities for tangata whenua values to be considered within the objectives and policies in D9 Landscapes for tangata whenua values to be considered
- 2. Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

D10 Natural Character

D.10.O.1 Natural features and landscapes within Whakatū Nelson's Coastal Environment are protected from inappropriate subdivision, use and development.

D.10.O.2 The natural character of Whakatū Nelson's Coastal Environment is preserved, and protected from inappropriate subdivision, use and development.

D.10.O.3 The special landscape values that define the Nelson Haven and Tahunanui Beach are maintained.

D.10.P.2 Protect Whakatū Nelson's natural features and landscapes in the Coastal Environment that are not within the Outstanding Natural Features and Landscapes Overlay from inappropriate subdivision, use and development by:

(a) avoiding significant adverse effects of coastal activities and land subdivision, use and development, including adverse effects on:

(i) the topography or geology of the landform, particularly where it is representative within Whakatū Nelson;

(ii) land cover, particularly any indigenous vegetation communities, wildlife or ecosystems which are representative or rare within Whakatū Nelson;

(iii) the extent to which the natural feature or landscape demonstrates its formative processes;

- (iv) the predominance of nature in the landscape;
- (v) how striking the natural feature or landscape is, including its potential to be symbolic of an area due to recognisable scenic associations and memorable qualities;
- (vi) the extent to which patterns of land cover and land use are in harmony with the underlying landform of the area and the presence or absence of significant discordant elements;
- (vii) whether wildlife or other values are present at certain times of the day or year;
- (viii) the degree to which the landscape or feature is valued by the local or wider community for its cultural and spiritual values, historic and heritage associations or its contribution to local identity; and
- (ix) the degree to which the landscape or feature is valued by tangata whenua for its cultural and spiritual values; and

(b) avoiding, remedying or mitigating all other adverse effects of coastal marine activities and subdivision, land use and development.

D.10.P.5 Recognise that certain activities have a functional or operational need to locate in the Coastal Environment, including:

- (a) activities ancillary to or associated with existing farming, tourism, recreation and forestry operations;
- (b) cultural harvesting and traditional rites;
- (c) environmental restoration;
- (d) the operation, maintenance and minor upgrading of regionally significant infrastructure;
- (e) defences against natural hazards, including the effects of climate change; and
- (f) navigational aids.

D.10.R.7 Outstanding Natural Features and Landscapes Overlay (where it applies in terrestrial areas outside Coastal Marine Area): Vegetation clearance Vegetation clearance is a permitted activity, provided that it complies with D.4.R.3.1, and is associated with:

(a) cultivation

(b) the replanting, maintenance and harvesting of woodlots; or

(c) cultural harvesting; or

(d) conservation planting; or

(e) sand dune restoration; or

(f) the removal of exotic vegetation.

Analysis

D10 Natural Character provides for cultural values, the ability to harvest (practice tikanga), and to a lesser extent, protect sites of significance to Whakatū tangata whenua (through the use of the term "avoid"). Although there are no measures in the rule framework of D10 Natural Character, it is noted that most activities are Discretionary or Non-Complying.

Suggestions:

- 1. Opportunities for tangata whenua values to be considered within the objectives and policies in D9 Landscapes for tangata whenua values to be considered
- 2. Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

D11 Indigenous Biodiversity

D.11.P.2 Avoid, or where they cannot be avoided, remedy or mitigate any adverse effects on the biodiversity values of Significant Natural Areas that would result in:

- (a) fragmentation or a reduction in the size and extent of indigenous ecosystems and the habitats of indigenous species;
- (b) fragmentation or disruption of connections between ecosystems and habitats;
- (c) changes which result in increased threats to indigenous biodiversity or ecosystems, or pressures on indigenous fauna from pest plants and animals;
- (d) a reduction in buffering of indigenous ecosystems, including edge effects from light and wind exposure;

(e) absolute loss of threatened or at risk species, or their habitats;

(f) a reduction in the abundance of individuals within a population, or natural diversity of indigenous vegetation and habitats of indigenous fauna;

(g) effects which contribute to a cumulative loss or degradation of habitats, species populations and ecosystems;

(h) downstream effects on wetlands, rivers, streams and lakes from hydrological changes in the catchment;

(i) a reduction in the historical, cultural and/or spiritual associations held by tangata whenua;

(j) a reduction in the historical or cultural associations held by the wider community;

(k) a destruction of, or significant reduction in, educational or scientific values; and

(I) increases in the extinction probability of an indigenous species.

D.11.R.1 Significant Natural Areas Overlay: Vegetation clearance is permitted for cultural harvesting purposes

Analysis

The provisions in D11 Indigenous Biodiversity provisions provides for cultural values, and to a lesser extent, sites of significance to Whakatū tangata whenua, also there is a strong emphasis to protect and preserve indigenous biodiversity, which is reflected in the term "avoid" used in the above policy, as well as there are only three activities.

Suggestions:

Include as conditions/standards for permitted activities, and measures for controlled and restricted discretionary activities to trigger the role of Whakatū tangata whenua in the processes and decision-making of Nelson City Council

No Provisions

D8 Notable Trees, D12 Noise, D13 Temporary Events, D14 Contaminated Land, D15 Hazardous Substances and D16 Signs

Analysis

There are no provisions in these sections of the Nelson Plan Whakamahere Whakatū.

Suggestions:

What needs to be clearly identified and confirmed is whether there are any lands and resources owned by Whakatū tangata whenua (iwi, hapū and whanau) in these zones.

Appendix F: List of Definitions identified in Section E – Terminology

Term	Definition Comments
Core allocation	The maximum amount of water that can be abstracted from surface water (including groundwater that is strongly connected to surface water) within a freshwater management unit, excluding supplementary allocation.
Critical lifeline infrastructure	Infrastructure, including associated structures and activities, that are essential to Whakatu Nelson's resilience to hazard and emergency events, and which if interrupted, damaged or destroyed would require immediate reinstatement to support the community's essential needs. Critical lifeline infrastructure includes: (a) Nelson Airport; and (b) Port Nelson; and (c) fuel storage and distribution facilities; and (d) electricity substations, networks and distribution installations; and (e) public water supply and treatment facilities; and (f) public stormwater and wastewater disposal networks and facilities; and (g) telecommunications networks and facilities; and (h) classified roads; and (i) public healthcare institutions, including hospitals and medical centres; and (j) fire stations, police stations, ambulance stations, civil defence and other emergency coordination facilities.
Cultural harvesting	 When undertaken by tāngata whenua of Whakatū for cultural and non-commercial purposes, in accordance with tikanga Māori, includes: (a) the removal of selected rocks from such areas as the Boulder Bank as quarry stones for the traditional practice of pakohe (argillite) mining; and (b) the extraction of pakohe (argillite) from the Mineral Belt; and (c) the gathering of indigenous species for mahinga kai, medicines, weaving materials or carving materials.
Cultural heritage	Any site of significance to tangata whenua or as identified on the cultural heritage overlay.
Customary access	Access onto or over public land for the purposes of cultural harvesting or conducting of traditional rites.

Ecosystem	A dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.
Heritage	An overlay or icon identifying a cultural or historic heritage item, precinct or
overlay	overlay, including: (a) Historic heritage item; and (b) Heritage Precinct Overlay; and (c) Regionally significant archaeology; and (d) Archaeological Overlay; and (e) Sites of significance to tangata whenua; and (f) Cultural Heritage Overlay.
Historic heritage	For the purpose of the Nelson Plan, are the natural and physical resources that are captured by the following:
	 (a) Historic heritage item; and (b) Heritage Precinct Overlay; and (c) Regionally significant archaeology; and (d) Archaeological Overlay.
Indigenous vegetation	Any local indigenous plant community in Whakatū Nelson through the course of its growth or succession consisting primarily of native species and habitats normally associated with that vegetation type, soil or ecosystem or having the potential to develop these characteristics. It includes vegetation with these characteristics that has been regenerated with human assistance following disturbance or as mitigation for another activity, but excludes plantations and vegetation that have been established for commercial harvesting.
Māori land	Has the same meaning as Māori land in section 4 of Te Ture Whenua Māori Act 1993. Māori land also includes land vested or transferred under Te Tau Ihu Iwi Deeds of Settlement (refer to Appendix F1) or settlement legislation, or identified as deferred land in the Property Redress schedules to Te Tau Ihu Iwi Deeds of Settlement (refer to Appendix F1) (where the deferred land has been purchased on the terms and conditions of the relevant Deed of Settlement).
Non-residential activity	Any use of land or buildings that is not a residential activity, home occupation or papakāinga development.
Papakāinga development	The use and occupancy of Māori land in accordance with the principles of tikanga and kaitiakitanga. It involves the development of the land for living and working.

	 In the Residential Zone, in addition to residential activities, papakāinga development may also include: (a) community activities; and (b) commercial activities; and (c) education activities; and
	 (d) healthcare activities; and (e) office activities; and (f) industrial activities.
	In the Rural Zone, in addition to residential activities, papakāinga development may include: (a) community activities; and (b) commercial activities; and (c) education activities; and (d) healthcare activities; and (e) office activities; and (f) rural industry.
	Papakāinga development can only occur on Māori land that is vested in a Trust whose authority is defined in a Trust Order or other empowering instrument which will ensure that:
	 (a) the land remains vested in the trustees or the incorporation without power of sale; and (b) the possession and/or beneficial interest on the land is restricted to the beneficiaries of the Trust; and (c) the land is unable to be subdivided or otherwise removed from the effect of the Trust.
	A copy of the Certificate of Title, and the Trust Order or empowering instrument, must be provided to the Nelson City Council when resource consents (if required) or building consents are lodged.
Reasonable domestic needs	The water usage of an individual home or household including the needs of domesticated animals and of a household garden. Once trigger flow is reached (as shown in Appendix 28.2), reasonable domestic use includes water for watering a household vegetable garden where the production of the garden is for that household's domestic consumption but does not include water for flower gardens or lawns.
Reasonable drinking water	Water required to maintain livestock health and, approximates the following volumes per head per day: (a) for milking dairy cows, up to 70 litres; and
	·

moods of	(b) for dry dainy stack up to 45 litrasy and
needs of	(b) for dry dairy stock, up to 45 litres; and
livestock	(c) for beef cattle, up to 55 litres; and
	(d) for sheep; up to 5 litres; and
	(e) for deer, up to 12 litres; and
	(f) for horses, up to 70 litres; and
	(g) for goats, up to 7 litres; and
	(h) for non-breeding pigs, up to 18 litres; and
	(i) for brood sow, up to 35 litres.
Regionally	Includes:
significant	(a) reticulated community wastewater systems (including the pipe network,
infrastructure	treatment plants and associated infrastructure); and
	(b) public drainage systems and reticulated community stormwater networks;
	and
	(c) reticulated community water supply intakes, networks and water
	treatment plants;and
	(d) the regional landfill, transfer stations and the resource recovery centre;
	and
	(e) the national electricity grid; and
	(f) the local electricity distribution network; and
	(g) facilities for the generation of large scale electricity where the electricity
	generated is supplied to the national electricity grid or the local electricity
	distribution network (including infrastructure for the transmission of the
	electricity into the national electricity grid or local electricity distribution
	network);
	(h) telecommunications and radiocommunication networks and facilities; and
	(i) Nelson Airport; and
	(j) the State Highway Network and arterial roads; and
	k) The Port of Nelson; and
	(b) Emergency services facilities.
Restoration	In relation to:
	(b) the Freshwater Chapter D1, is returning a river or lake to a more natural
	state, for example restoring a piped section of a water body to natural river
	bed; and
Restoration	 k) The Port of Nelson; and (l) Nelson Marina; and (m) York and Marsden Quarries; and (n) Nelson Hospital and associated healthcare facilities; and (o) Emergency services facilities. In relation to: (a) a heritage item, is returning a place as nearly as possible to a known earlier state by reassembly, reinstatement and/or the removal of additions unsympathetic to the style of the building; and (b) the Freshwater Chapter D1, is returning a river or lake to a more natural state, for example restoring a piped section of a water body to natural river

	(c) beaches and dunes, is returning a coastal environment into as natural state	
	as possible, with the aim of allowing the coastal environment to function as a	
	natural system, operating by natural processes with minimal interference from	
	human activities. This includes activities such as removal of exotic flora and	
	fauna, removal of hard protection structures, rock, rubble or other introduced	
	materials, beach renourishment, dune or beach recountouring, and re-	
	introduction or improvement of native plant species.	
River	For the purpose of the Nelson Plan, a continually or intermittently flowing	
	body of freshwater; and includes a stream and modified water course; but	
	does not include any artificial watercourse (including an irrigation canal, water	
	supply race, canal for the supply of water for electricity power generation, and	
	farm drainage canal).	
	For the purpose of rules in Chapter D4, a river means a river whose bed has an	
	average width of 3m or more where the river flows through or adjoins an	
	allotment.	