

## STATUTORY CONTEXT

### Relationship with Other Planning Documents

In preparing the District Plan, the Council is required to consider a range of other plans and policy documents of relevance to the District.

The District Plan must give effect to any NPS National Policy Statement, the NZCPS New Zealand Coastal Policy Statement, the National Planning Standards, and the CRPS Canterbury Regional Policy Statement. The Council is also required to enforce any relevant NES National Environmental Standard prepared under the RMA. Plan rules may not duplicate NES National Environmental Standard provisions or be more lenient than them, unless specifically provided for in the NES National Environmental Standard.

The District Plan must not be inconsistent with any Water Conservation Order or relevant Canterbury Regional Council Plan<sup>1</sup>. The Council will undertake Plan Changes, if necessary, where these plans or policy documents are proposed or altered during the life of this District Plan.

The Local Government Act 2002 allows the Council to set out broad objectives and policies in the Long-Term Plan which will provide a clear indication of or desired community outcomes and intended Council activities. The Council's Long-Term Plan controls funding for planning and heritage work which may be relevant to the District Plan.

### Treaty of Waitangi / Te Tiriti o Waitangi and Māori Issues of Significance

Under section 74 of the RMA, the Council is required to prepare its District Plan in accordance with the provisions of Part 2 (sections 5- to 8 of the RMA), which includes the following clauses:

Recognise and provide for:

- s6(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga;
- s6(f) the protection of historic heritage from inappropriate subdivision, use and development; and
- s6(g) the protection of protected customary rights.

Have particular regard to:

- s7(a) kaitiakitanga.

Section 8 of the RMA requires that the Council take into account the principles of the Te Tiriti o Waitangi/ Treaty of Waitangi when it exercises its functions to manage the use, development and protection of physical and natural resources.

The principles of the Treaty are obligations on the Crown, but are relevant to local authorities under section 8 of the RMA, in that they are to be taken into account when exercising their power and duties under that act.

The Court of Appeal<sup>1</sup> has outlined the following key Treaty principles:

- *The acquisition of sovereignty in exchange for the protection of rangatiratanga*: “The Crown sought legitimacy from the indigenous people for its acquisition of sovereignty and in return it gave certain guarantees” (Justice Richardson)<sub>;</sub>
- *Partnership*: Each party to the Treaty owes the other a duty to act reasonably and in good faith<sub>;</sub>
- *Freedom of the Crown to govern*: The Treaty does not restrict the right of a duly elected government to follow its chosen policy<sub>;</sub>

<sup>1</sup> [Schedule 1, cl16\(2\)](#)

- *Duty of active protection*: The Crown has a duty to actively protect Māori interests in the use of their lands and waters;
- *Duty to remedy past breaches*: The Crown has a duty to grant some form of redress where the Waitangi Tribunal finds merit in a claim;
- *Retention of rangatiratanga*: “The Māori Chiefs looked to the Crown for protection from other foreign powers, for peace and for law and order. They reposed their trust for these things in the Crown believing that they retained their own rangatiratanga and taonga.” (Justice Bisson); and
- *Duty to consult*: The responsibility to act in good faith and reasonably puts the onus on the Crown to make an informed decision, in many cases that will require consultation.<sup>2</sup>

These matters are addressed in the District Plan as follows:

- ~~The~~ the Mana Whenua ~~Chapter~~ Chapter recognises the status of Kāti Huirapa as the hapū holding customary authority in the ~~Timaru~~ District. It describes Kāti Huirapa values, interests and concerns that are relevant in respect to the matters in ~~Sections~~ Sections 6(e) and (f), ~~Section~~ Section 7(a) and ~~Section~~ Section 8 of the RMA<sup>3</sup>. Section MW3 also describes resource management-related requirements of the Ngāi Tahu Claims Settlement Act 1998. Section MW3.2 specifically identifies the Statutory Acknowledgement Areas present in the District.<sup>2</sup> and Section MW4 identifies relevant iwi planning documents to be taken into account in resource management decision-making in the ~~Timaru~~ District;
- ~~The~~ The Sites and Areas of Significance to Māori ~~Chapter~~ Chapter identifies areas that have particular significance to Kāti Huirapa in terms of section 6(e) of the RMA, and includes objectives, policies and rules to protect the values of these areas;
- ~~The~~ The Māori Purposes Zone chapter includes objectives, policies and rules to enable Kāti Huirapa to live and support themselves on ancestral land at Arowhenua and Waipopo; and
- ~~Provision~~ Provision for the relationship of Kāti Huirapa with the ~~District~~ District as a whole, and their kaitiakitaka role in regard to sustaining the environment, is integrated into objectives, policies and rules across the District Plan.

These provisions were developed with the involvement of Kāti Huirapa. Involvement included:

- drafting of the Mana Whenua ~~Chapter~~ Chapter;
- preparation of research reports to inform drafting of the Sites and Areas of Significance to Māori Chapter and Māori Purposes Zone ~~Chapters~~ Chapters; and
- representation on the Environmental Services Committee, Heritage, Biodiversity, mana whenua, Steering Groups and the Council’s Technical Working Group.

The Iwi Management Plans that apply to the ~~Timaru~~ District at the time of notification are the:

- Iwi Management Plan of Kāti Huirapa;
- Te Rūnanga o Ngāi Tahu Freshwater Policy;
- Hazardous Substances New Organisms Policy; and
- Te Whakatau Kaupapa Ngāi Tahu Resource Management Strategy for the Canterbury Region.<sup>3</sup>

The Council is committed to a process of ongoing liaison and consultation with the ~~Mana Whenua~~ Mana Whenua, the registered iwi authority,<sup>4</sup> to discuss issues of relevance to them. Council undertakes to enter this relationship exercising utmost good faith, to make informed decisions and actively protect Māori interests through its obligations under the RMA.

## Other Planning Documents and Legislation Considered

<sup>2</sup> Te Rūnanga o Ngāi Tahu [185.10]

<sup>3</sup> Te Rūnanga o Ngāi Tahu [185.10]

<sup>4</sup> Te Rūnanga o Ngāi Tahu [185.10]

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The Council is required by sections 74(2) and 74(2A) of the RMA to have regard to other relevant planning documents or management plans. In preparing the District Plan, the Council have had regard to the following:

- New Zealand Heritage List Rarangi Korero;
- Building Act 2004;
- Local Government Act 2002;
- Heritage New Zealand Pouhere Taonga Act 2014;
- Hazardous Substances and New Organisms (HSNO) Act 1996;
- Health and Safety in ~~Employment at Work Act 1992~~ 2015<sup>5</sup>;
- Reserves Act 1997<sup>6</sup>;
- Conservation Act 1987;
- National Parks Act 1980;
- Land Transport Management Act 2003;
- Land Transport Act 1998;
- Fire Service Act 1975;
- Health Act 1956;
- Civil Defence Emergency Management Act 2002;
- Local Government and Official Information and Meetings Act 1987;
- Timaru District Long Term Plan;
- Timaru Growth Management Strategy;
- Timaru District Stormwater Strategy 2018-2048;
- Infrastructure Strategy 2018-2068;
- Timaru District Council Consolidated Bylaw 2018;
- Timaru District Parks Strategy;
- Timaru District Off-road Walking and Biking Strategy;
- Ashburton District Plan;
- Mackenzie District Plan;
- Waimate District Plan;
- Fisheries (Declaration of Waitarakao Mātaitai Reserve) Notice 2014 and Fisheries (Declaration of Opihi Mātaitai Reserve) Notice 2014-; and
- Water Services Act 2021.<sup>7</sup>

Freedom camping, as defined in Section 5 of the Freedom Camping Act 2011, is not managed by the District Plan and is managed by the Freedom Camping Act 2011.<sup>8</sup>

## Consultation

Consultation for the District Plan was undertaken in a number of different ways. If you would like more information, please click here ([www.timaru.govt.nz/dpr](http://www.timaru.govt.nz/dpr)).

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<sup>5</sup> OWL [181.7]

<sup>6</sup> OWL [181.7]

<sup>7</sup> TDC [42.12]

<sup>8</sup> NZMCA [134.1, 134.2 and 134.6] – Hearing F