

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE
TIMARU DISTRICT COUNCIL**

IN THE MATTER OF

The Resource Management Act 1991 (**RMA** or
the Act)

AND

IN THE MATTER OF

Hearing of Submissions and Further
Submissions on the Proposed Timaru District
Plan (**PTDP** or **the Proposed Plan**)

AND

IN THE MATTER OF

Submissions and Further Submissions on the
Proposed Timaru District Plan by **Waipopo
Huts Trust**

**EVIDENCE OF ELIZABETH STEVENSON
ON BEHALF OF WAIPOPO HUTS TRUST AND TE KOTARE TRUST REGARDING
HEARING (E) CULTURAL VALUES**

Dated: 23 January 2025

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INTRODUCTION

1 My name is Elizabeth Anne Stevenson. I live at 87 Hopkinson Road, Temuka and I have lived there since 1992, so I have lived there 33 years.

2 Ko tarahaoa toku mauka

Ko Opihi toku awa

Ko takitimu toku waka

Ko Kai Tahu Ngati Mamoe oku iwi

Ko Ngati Rongomai me Huirapa oku hapu

Ko Arowhenua taku marae te hapu o nui tireni

Ko Jack Stevenson toku papa

Ko Remu Grey Rehu toku mama

Ko Erihapeti Ani Stevenson ahau

No reira tena koutou, tena koutou, tena koutou katoa

3 I am the Chairperson for the Waipopo Huts Trust and Te Kotare Trust, and I have been in the role since 2019. I am also a current Trustee and owner on both blocks.

4 My role in relation to the Timaru Proposed District Plan (**Proposed Plan**) is as a Trustee on behalf of Waipopo Huts Trust (**Waipopo Trust**) and Te Kotare Trust (**Te Kotare Trust**). This is based my role as a Trustee to uphold the mana of the land at Waipopo and Te Kotare and the obligations of the Trustees to the landowners.

SCOPE OF EVIDENCE

5 In my evidence I address both Waipopo and Te Kotare and my evidence is organised as follows:

5.1 Context and site details.

5.2 History of Waipopo and Te Kotare.

5.3 Vision for Waipopo and Te Kotare.

5.4 Waipopo:

- (a) Consultation before notification of the Proposed Plan.
- (b) Provisions affecting Waipopo under the Proposed Plan.
- (c) Environmental constraints affecting Waipopo.
- (d) Replacement of derelict homes
- (e) Section 42A Report.

5.5 Te Kotare

- (a) Environmental constraints affecting Te Kotare.
- (b) Zoning of Te Kotare Land under the Proposed Plan
- (c) Section 42A Report.

5.6 Conclusion

6 In preparing this statement of evidence I have considered the statement of evidence provided by Robert Kerr (Kerr & Partners) in respect of flood hazard matters.

SUMMARY OF MY EVIDENCE

7 The settlements at Waipopo and Te Kotare are located close to the Opihi River. Waipopo and Te Kotare are part of the Arowhenua reserves set aside after the signing of Kemp's Deed in 1848 between Te Wai Pounamu iwi and the Crown.

8 The tupuna of whānau members first settled in Waipopo and Te Kotare in approximately 1300, and whānau members have remained in Waipopo and Te Kotare since that time.

9 The Crown has acknowledged it failed to fairly negotiate Kemp's Deed, failed to meet its obligation to provide ample reserves for the existing and future needs of Ngāi Tahu and that the Crown breached its duty to act with the utmost good faith towards Ngāi Tahu.

- 10 On Waipopo Land and Te Kotare Land, the Operative District Plan prohibits the rebuilding of the derelict homes. These rules further alienated Kāti Huirapa, who is the hapu with mana whenua, from the use of their land.
- 11 The overall vision for the Waipopo Land and the Te Kotare Land is to re-establish the village that once occupied the Arowhenua reserves by upgrade and redevelopment of the area for safe residential use, including for Māori social housing.
- 12 In the future, the Waipopo Trust would like to build small, modern, healthy eco homes. The vision for Te Kotare is to rebuild a small house on a site where a derelict house was removed. In the event that any of the homes on Waipopo Land and Te Kotare Land are destroyed, Waipopo and Te Kotare would like to be able to rebuild those homes. Waipopo Trust and Te Kotare Trust would like a safe and secure drinking water supply system and an appropriate effluent and stormwater disposal system.
- 13 The Proposed Plan frustrates the Waipopo Trust's ability to carry out our vision for the land. The Waipopo Land is zoned Open Space Zone under the Proposed Plan. This is contrary to assurances from the Council that the Waipopo Land would be zoned Māori Purpose Zone (**MPZ**). The Proposed Plan places a High Hazard overlay over the Waipopo Land and rules under the Natural Hazard's Chapter make it a non-complying activity to rebuild homes under this overlay. The servicing requirements in the MPZ Chapter for new builds also do not account for the special circumstances of the Waipopo Land.
- 14 When I became Trustee of Waipopo Huts Trust, the settlement had not been well maintained for many years. A large portion of the Trust's time has been devoted to clearing up derelict homes, removing hazardous waste, restoring ecological areas and establishing a community garden.
- 15 There are 28 lots on the Waipopo Land. There are four lots where we wish to rebuild. There is one lot that contains a squatter, so has not been assessed but it is likely to be rebuilt. Three lots are vacant. There are 20 lots where the homes are habitable, or with some renovations, will be habitable.
- 16 Waipopo does not have access to a reticulated wastewater system. The status quo is a mixture of septic tanks and sewage holding tanks, which are emptied at the

Trust's expense. None of the homes have adequate stormwater infrastructure (e.g. soakage or retention) and consequentially stormwater flows are discharged directly to ground.

- 17 The Waipopo Land is located adjacent to the Opihi River and the Opihi River stopbanks, which were constructed in 1972 on the Waipopo Land without consultation with the Waipopo Trust. It is within a wider area identified by both the Timaru District Council (**TDC**) and Environment Canterbury (**ECan**) as being at high risk of flooding in a 1 in 500 year storm event.
- 18 The key environmental constraint affecting Waipopo Land is flood hazard risk. While we are aware of the floods of the past, as far as the Trust is concerned, none of these events have impacted on the Waipopo Land. Apart from surface flooding there has never been any threat to the dwellings or the people at Waipopo.
- 19 Waipopo Trust commissioned an infrastructure report (**Davis Ogilvie Report**), which concluded that flooding from the Opihi River is the most significant natural hazard for the area and has significant implications for 3-Waters infrastructure.
- 20 Waipopo Trust commissioned a planning report (**Perspective Report**). The Perspective Report concluded the Canterbury Regional Policy Statement (**CRPS**), at Policy 5.3.4, indicates that papakāinga is to be provided for on ancestral land if adverse effects on the safety of people can be avoided or mitigated. This suggests that mitigating the risk is acceptable and the risk does not have to be avoided altogether.
- 21 The Perspective Report goes on to state Policy 5.3.4 must be read together with Policy 11.3.1 of the CRPS which relates to high hazard areas and the obligation to avoid inappropriate development in high hazard areas. Policy 11.3.1 would likely be used to block any resource consent for the replacement of housing on Waipopo Land.
- 22 Waipopo Trust also engaged Robert Kerr, flood hazard expert, to assess the predicted flood risk to Waipopo, major issues arising due to that risk and options addressing that flood risk. Mr Kerr discusses the main findings of that report in his statement of evidence.
- 23 Waipopo Land contains 5 derelict homes and 3 vacant sites where derelict home have been removed. The condition of the derelict homes is so poor that it does not

make sense for the Trust to attempt to repair them. I understand from the Perspective Report that flood hazard planning controls will make it very difficult for the Waipopo Trust to secure resource consent to replace dwellings located in the high hazard area. This creates a significant issue for Waipopo Trust because it's vision for the Waipopo Land is that all the dwellings will be occupied to help re-establish the village that once occupied this land.

- 24 The s42A Report broadly agrees with Waipopo Trust's submission to rezone our land to MPZ. However, the s42A Report continues to support the requirement in the Proposed Plan to install a 45,000 litre tank for new builds in the MPZ. I disagree with this. Waipopo Trust operates on a very limited budget and does not have the resources to install a 45,000 litre tank. A 30,000 litre tank is sufficient to ensure a reliable water supply.
- 25 Under the Proposed Plan the Te Kotare Land is zoned as MPZ, which the Te Kotare Trust supports. The servicing requirements in the MPZ Chapter are the main constraint to the Te Kotare Trust realising our vision for the land.
- 26 At Te Kotare, there are two empty sites, with one of those sites granted an existing use certificate to rebuild the house the Trust removed. There is no reticulated drinking water, sewer or stormwater infrastructure that serves the Te Kotare Land. All homes on the Te Kotare Land discharge effluent to holding tanks. Stormwater is collected for watering gardens. Drinking water is sourced via groundwater wells. The houses on Te Kotare Land do not flood, as Te Kotare Stream overflows west onto the adjoining low-lying farmland.
- 27 The flood depths across Te Kotare vary on the location and size of breakouts from upstream. However, investigations into flooding in this area show even in worst-case scenarios, the depth of flooding on the land, while significant, does not reach high hazard criteria.
- 28 The Proposed Plan shows Te Kotare Land as within the MPZ. This zoning is supported by the Section 42A Report. Te Kotare Trust is pleased with this zoning, however the servicing requirement in the MPZ Chapter to install a 45,000 litre tank for new builds will frustrate the rebuilding of homes on Te Kotare Land. The Section 42A Report supports the 45,000 litre requirement, which I disagree with.

- 29 I consider that to this day, breaches to te Tiriti continue for Kāti Huirapa in relation to Waipopo and Te Kotare.
- 30 Without any change to the zoning of the Waipopo Land to MPZ and Natural Hazard provisions and the servicing provisions in the MPZ Chapter to recognise the special situation at Waipopo and Te Kotare, this will result in the various Crown apologies and well-meant statements from local authorities falling short of the much needed regulatory change to enable Waipopo Trust and Te Kotare Trust to realise the vision for their land.

CONTEXT AND SITE DETAILS

- 31 The settlements at Waipopo and Te Kotare are located close to the Opihi River. The map attached at **Appendix A** shows the location of Waipopo (**Waipopo** or **Waipopo Land**) and Te Kotare (**Te Kotare** or **Te Kotare Land**) in relation to Temuka and the coast. Waipopo and Te Kotare are part of the Arowhenua reserves set aside after the signing of Kemp's Deed in 1848 between Te Wai Pounamu iwi and the Crown.
- 32 The Waipopo Huts Trust and Te Kotare Trust were created in 1992 through a Trust Order by the Māori Land Court under the Māori Affairs Act 1953 (**Trust Order**), see the Trust Order attached **Appendix B**.

Waipopo Land

- 33 The location of the Waipopo Land is shown in **Appendix C, Figure 1**. The legal description is Lot 15 DP 30624 Part MR 4074 Waipopo Blk VII Arowhenua SD, see attached in **Appendix B**. Waipopo is located between the coast and State Highway 1, approximately 120m south of the Opihi River. Access is via the sealed Waipopo Road from the State Highway and the street address for the dwellings are from number 550 – 582 Waipopo Road.
- 34 Waipopo is part of a larger area known as the Waipopo Hut Settlement (the Waipopo Settlement or Settlement) and contains a number of small dwellings or huts (see **Appendix C, Figure 2**).
- 35 The Waipopo Huts Settlement consists of some 26 properties of varying sizes. See **Appendix C, Figure 3** for google street images of the Hut Settlement.

- 36 There are approximately 25 people living on the Waipopo Land, and all of these people live at Waipopo on a permanent basis.

Te Kotare Land

- 37 The location of the Te Kotare Land is shown in **Appendix D**, with the legal description of Sections 1-18 Pt MR 882 Waipopo Blk shown in **Appendix B**. Te Kotare is located from Number 447-475 Waipopo Road. It is on the top of a narrow (approx. 10m²) terrace above Te Kotare Stream. The topography is flat next to the road, then drops by about 2m down to Te Kotare Stream. The land is contained in one title that has an area of 6,247m².
- 38 Te Kotare settlement consists of some 15 properties of varying sizes. The houses on the Te Kotare Land are all small with a floor area between 50-100m². There are two empty sections on Te Kotare, one of these sections has been granted an existing use certificate. The other empty section has been vacant since 1993.
- 39 All of Te Kotare's land has legal and physical access to Waipopo Road.

HISTORY OF WAIPOPO LAND AND TE KOTARE LAND

Pre- European Settlement of Aotearoa

- 40 The relevant tangata whenua are Ngāi Tahu and Kāti Huirapa. Kati Huirapa is one of the five primary hapu of Ngai Tahu and is the hapu that holds mana whenua in the Timaru District.
- 41 The tupuna of whānau members first settled in Waipopo and Te Kotare in approximately 1300, and whānau members have remained in Waipopo and Te Kotare since that time. Throughout this ropu, Kāti Huirapa have maintained kaitakitanga and mana whenua over the Waipopo Land and Te Kotare Land.

Post-European Settlement of Aotearoa

- 42 The original native reserves at Waipopo and Te Kotare were reserved in 1848 by Mr Mantell, pursuant to Kemp's Deed and are collectively referred to as the Arowhenua reserves.¹ The Arowhenua reserves were some of the few reserves ultimately set aside for Kāti Huirapa and their descendants to live upon as a "kainga

¹ Waitangi Tribunal, Ngai Tahu Report 1991 Wai 27, Volume Two, paragraph 8.8.21.

nohoanga” or “settlement”.² Traditionally the area was used by locals and visiting hapu to fish and gather mahinga kai.

- 43 I quote a key passage from the Waitangi Tribunal’s Ngai Tahu Report on the actions of Mr Mantell at the time (my emphasis added in **bold**):³

*...On the contrary **he (Mr Mantell) had allocated the absolute minimum quantity of land he could get away with.** He fended off complaints from Ngai Tahu with promises of further provision of land and of schools and hospitals by the governor. It was simply not true, as he led Lieutenant-Governor Eyre to believe, that he had provided for their “present and prospective necessities”. Had Mantell been frank, he would have informed Eyre that **he had not in fact made any provision for additional land, but confined the reserves to less than 10 acres per person in most case.***

- 44 The Arowhenua reserves set aside 600 acres for whānau members to live on, which amounted to 6 acres per person at the time.⁴

- 45 Afterwards, people, mostly Pakeha, came to live in the Waipopo area and built batches/huts for a small lease, determined by the Māori Land Court and by Māori. The objective was for these people to live and build there and pay a peppercorn rent, with the land always residing/staying with Māori.

- 46 In the 1940’s a 100-year peppercorn lease was arranged by the Māori Land Court for the landowners, to lease the land to fisherman and others to enable them to fish. They then established houses on the blocks. The terms of the leases varied between the lessee and the Māori Land Court. Some lessees were granted longer leases than others and some were granted a Licence to Occupy.

1970s

- 47 In 1972 major stopbanks were constructed by the Canterbury Regional Council on the Opihi River system. These stopbanks were designed to handle a 50 year flood event.⁵ The location of the stopbank can be seen in the attached image of

² [Kemp’s Deed, 1848 | Te Rūnanga o Ngāi Tahu](#), last accessed 9 December 2024.

³ Waitangi Tribunal, Ngai Tahu Report 1991 Wai 27, Volume Two, paragraph 8.8.25.

⁴ *Ibid.*, paragraph 8.8.21.

⁵ *A Geomorphic Interpretation of the Orari-Waihi-Temuka- And Opihi River Floodplains*, Landcare Research Report No. U97/36, August 1997, p.13.

Waipopo, see **Appendix E**. The stopbank runs in a in a west-east direction approximately 20m within the northern boundary of the Waipopo Land. It effectively splits the Waipopo Land, with other Māori land located on the northern side of the stop bank. The top of the stopbank is approximately 2m metres higher than the ground level of the huts. The remainder of the topography of the Waipopo Land is relatively flat.

- 48 Discussions with Kati Huirapa about the location of the stopbank was limited or non-existent. Nor was there any compensation paid for the loss of land taken for the completion of the construction of the flood banks. Back in those days, local authorities did not discuss things with rūnanga.
- 49 In 1975 Parliament passed the Treaty of Waitangi Act, which established the Waitangi Tribunal (the **Tribunal**) and provided a legal process by which Māori Treaty claims could be investigated, but these claims were limited to current government actions.⁶

1980s

- 50 In 1985, Parliament amended section 6 the Treaty of Waitangi Act to allow the Tribunal to investigate government actions dating back to 1840.

1990's

- 51 In 1991, the Waitangi Tribunal released the Ngai Tahu Report, which discusses the actions of the Crown's agent leading up to and after the signing of Kemp's Deed and the setting aside of the Arowhenua reserves.
- 52 The Resource Management Act (**RMA**) was also passed in 1991 and included provisions relevant to the protection of Māori interests. These are section 8, section 6 (e) and section 7(a) of the RMA. The relevance of these provisions to the issues being considered at this hearing have been addressed in the legal submissions by our legal counsel.
- 53 On 21 November 1997 the Crown apologised to Ngāi Tahu for breaches of the Treaty and failure to preserve and protect Ngāi Tahu's use and ownership of their lands. This apology was recorded in a deed of settlement and in 1998 the Ngai

⁶ www.waitangitribunal.govt.nz, last accessed 13 January 2025.

Tahu Claims Settlement Act (the **Ngai Tahu Act**) was enacted to give effect to certain provisions in that deed of settlement.

- 54 The Preamble to the Ngai Tahu Act summarises the main findings of the Ngai Tahu Report.⁷ A passage related to Canterbury is set out below (emphasis added):⁸

... Canterbury

*The Tribunal found that **the Crown, in acquiring the Canterbury Block, failed to negotiate fairly, failed to meet its undertaking to reserve sufficient food resources for Ngāi Tahu, and failed to meet its obligation to provide ample reserves for the existing and future needs of Ngāi Tahu.** The Crown did not set aside the area defined by the Waimakariri and Kāwari Rivers, as requested by Ngāi Tahu. The Tribunal found that, in so acting, and in its subsequent failure to remedy these faults, **the Crown breached its duty to act with the utmost good faith towards Ngāi Tahu.** ...*

- 55 Section 6 of the Ngai Tahu Act contains the Crown apology in English. Key passages from that apology are set out below (emphasis added):⁹

*... The Crown acknowledges that such **suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase** whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food...*

...

*Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, **to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu.***

2000 to 2019

- 56 The Timaru Operative District Plan (**ODP**) was deemed operative on 8 March 2005. In the ODP Waipopo is zoned Recreation 1 and is not subject to any additional hazard planning layers.

⁷ Wai 27 Ngai Tahu Report, 1 February 1991.

⁸ Ngai Tahu Claims Settlement Act 1998, Preamble.

⁹ Ngai Tahu Claims Settlement Act 1998, Section 6.

57 Even so, the ODP rules provide, in relation to the Recreation 1 zone, that:

- (a) the modification of a household unit or holiday hut for the purpose of reducing likely flood damage is discretionary (Rule 5.3.3.1); and
- (b) new household units (including holiday huts) are prohibited (Rule 5.3.1.5.1).

58 In 2012 a Trust Order from the Māori Land Court vested the ownership of the homes on the Waipopo Land back into the ownership of the Waipopo Huts Trust. From this moment, some of the tenants removed items from the homes and ceased to maintain them. Many homes on the Waipopo Land were left uninhabitable and entered into a state of disrepair.

59 Under the ODP the Waipopo Trust was prohibited from rebuilding any of the derelict homes, which further alienated Kati Huirapa from the use of their land.

2019 to present day

60 I became a Trustee of the Waipopo and Te Kotare 2019 pursuant to the abovementioned Trust Order.

VISION FOR WAIPOPO LAND AND TE KOTARE LAND

61 The overall vision for the Waipopo Land and the Te Kotare Land is to re-establish the village that once occupied this Māori reserve land by upgrade and redevelopment of the area for safe residential use including for Māori social housing.

62 The Waipopo Land and the Te Kotare Land are subject to several environmental constraints (discussed below), which need to be understood and appropriately addressed in order for the Waipopo and Te Kotare Trust's vision for the land to be fully realised.

RECENT DEVELOPMENT OF WAIPOPO LAND AND TE KOTARE LAND

Waipopo Land

63 When I became Trustee of Waipopo Huts Trust, the Waipopo Land was in an awful condition. Basic maintenance had been done to some of the houses, but that was

about it. The settlement in general had not been well maintained for many years. Some derelict homes were inhabited by squatters.

- 64 One of the first tasks as Trustee was to survey the state of the homes and determine if they were habitable. Some of the houses were derelict and unable to be rebuilt, with a lot of rubbish left on the sites.
- 65 For the homes that were in a better condition, we had healthy home inspections done and carried out maintenance to bring them up to the required standard for the current tenants. There are currently 11 homes being rented out, mostly to Māori and some Pakeha. These tenants pay rent to the Waipopo Trust and it was the choice of the Trust to offer below market rent for our tenants. In 2012 Property managers were engaged to manage the properties. The Trust took over management themselves late 2024.
- 66 A large portion of the Trust's time has been devoted to clearing up these derelict homes, removing hazardous waste, restoring ecological areas and establishing a community garden.
- 67 The derelict homes scattered throughout Waipopo are indicated with orange on the map attached at **Appendix F**. On these sites we have removed over 1000 tonnes of rubbish, engaged asbestos contractors and completed asbestos removal from the sites. We have removed fittings from within the dwellings and the dwellings are ready to be knocked over. However, we are not willing to remove the dwellings until we are positive we have existing use rights or a clear consenting pathway to rebuild on the sites. The houses shown with yellow are sites where the houses have been cleared, but we have no plans to rebuild on these sites.
- 68 To help in the presentation of my evidence, I have attached at **Appendix G** various photographs illustrating a recent project on the Waipopo land, to remove a derelict house, remove hazardous waste and convert the area into an orchard.
- 69 Photo 1 of **Appendix G** shows a derelict home and piles of rubbish found on the site. Photo 2 shows further rubbish found on a different site. Photo 3 shows the site being cleared of the derelict home and rubbish. Photo 4 shows the state of the derelict house on the site. Photo 5 shows the site once it was cleared of the house, rubbish and vegetation. Photo 6 shows the site being planted with a variety of fruit trees and will one day be a community orchard.

- 70 In summary, there are 28 lots on the Waipopo Land. There are four lots with derelict homes we wish to rebuild. There is one lot that contains a squatter, so has not been assessed but there is a good chance it will need to be demolished and a dwelling rebuilt. Three of the lots are vacant. There are 4 lots where the renovation of the homes is possible, but has not been confirmed at this stage. 14 lots are currently occupied by tenants, and two lots have a licence to occupy. These lots and their status are indicated on the Map at **Appendix F**.
- 71 There is no potable community drinking water supply available to service the Waipopo settlement. The drinking water supply comes from private bores, which are not treated, but are tested for contamination by the Trust on an ongoing basis.
- 72 Waipopo does not have access to a reticulated wastewater system. The status quo is a mixture of septic tanks and sewage holding tanks, which are emptied at the Trust's expense.
- 73 None of the homes have adequate stormwater infrastructure (e.g. soakage or retention) and consequentially stormwater flows are discharged directly to ground.
- 74 In the future, the Waipopo Trust would like to build small, modern, healthy eco homes and if possible provide social housing to Māori. In the event that any of the homes are destroyed, the Trust would like to be able to rebuild those homes.
- 75 Waipopo Trust would like a safe and secure drinking water supply system and an appropriate effluent and stormwater disposal system. The Trust would like to ensure any future development by Timaru District Council will include such areas as Waipopo in their plans.
- 76 I will provide more evidence about the history of the use of the site and housing stock on Waipopo, which will be filed for Hearing F in relation to the Natural Hazards Chapter provisions.

Te Kotare Land

- 77 When I took over as Trustee for Te Kotare Trust the state of housing was of no concern. The Te Kotare Block was put under a Vested Order by the Māori Land Court in 1991. The land was put into the hands of the Te Kotare Trust and the homes remained in the hands of the owners. A licence to occupy was granted to the homeowners paying an ahu whenua (land lease) to the Trust for the occupation

of the site. The management of the Te Kotare Land has been done to a high level for many years and managed by another Trustee.

- 78 During my time, one derelict house (which had been abandoned many years prior and was a health and safety risk) was removed by the Trust. An existing use certificate was issued by the Timaru District Council on 23 June 2023 to rebuild a cottage within the building footprint of the demolished building, see attached at **Appendix H** the existing use certificate. There is another empty section on Te Kotare, which has been vacant since 1993.
- 79 There is no reticulated water, sewer or stormwater infrastructure that serves the Te Kotare Land. All homes on the Te Kotare Land discharge effluent to holding tanks. These are emptied at the homeowner's cost. Stormwater is generally collected for watering gardens. Drinking water is sourced via groundwater wells. Many people do not drink the water year-round due to the impact of adjacent land being converted to a dairy farm. This has had a detrimental impact on the Te Kotare Land. Drinking water is now mostly purchased, or sourced from a clean supply when groundwater nitrate levels become elevated.
- 80 The Trust would like a safe and secure drinking water supply system and an appropriate effluent and stormwater disposal system.
- 81 The Te Kotare Land is subject to several environment constraints (discussed below), which need to be understood and appropriately addressed for both Te Kotare Trust (the landowner) and the current homeowners on the Te Kotare Land.

Flood hazard management

- 82 The Waipopo Land is located adjacent to the Opihi River, and the Opihi River stopbanks. It is within a wider area identified by both the Timaru District Council and ECan as being at high risk of flooding in a 1 in 500 year storm event. I address the potential flood hazard risk further below.
- 83 The Te Kotare Land is located next to Te Kotare stream, see a map of the area attached at **Appendix D**. The bottom part of Te Kotare Land is subject to flooding. Generally, Te Kotare Stream backs up when the water level rises in the Opihi River. This blocks the culvert under the stopbank. The stopbank is located 13m to the north of Te Kotare Trust land. The houses on Te Kotare Land do not flood, as Te Kotare Stream overflows west onto the adjoining low-lying farmland.

- 84 The flood depths across Te Kotare Land vary on the location and size of breakouts from upstream. However, investigations into flooding in this area show even in worst-case scenarios, the depth of flooding on the land, while significant, does not reach high hazard criteria.

CONSULTATION BEFORE NOTIFICATION OF THE PROPOSED PLAN

Māori Purpose Zone Hui – 29 May 2021

- 85 On 29 May 2021 I attended a hui about the Māori Purpose Zone, held by the Timaru District Council in Temuka. The minutes from that hui are attached at **Appendix I**. At the hui a representative from the Māori Land Court explained how regulation by government had clashed with the original intention for what the reserves, such as Waipopo, were set aside for and that the proposed MPZ will incorporate the original Māori Reserve land areas.
- 86 I expressed a desire to represent Waipopo Trust on the Steering Committee that was formed at the hui at the Marae. I also asked how will the Waipopo Land be serviced. The Council representative, Mark Geddes (former planning manager at the Council), acknowledged that servicing is an issue and the Council currently have no funding to provide services, and Waipopo will need to organise their own servicing. Rezoning the land to MPZ was the start of that journey.

Takata Whenua Steering Group Meeting Report September 2021

- 87 The Takata Whenua Steering Group (the **Group**) reaffirmed the intention to rezone Waipopo MPZ, with a map showing the area of Waipopo to be rezoned.¹⁰ The Minutes to this meeting are attached at **Appendix J**.
- 88 In relation to questions raised about the logic of rezoning land within the MPZ that is subject to flooding, the Minute records the following view of the Group (my emphasis in **bold**):¹¹

*So while it is true, **much of the Arowhenua and Waipopo areas are subject to some level of flood risk, the risk varies throughout the Zone and is not considered to be such, that no development could occur.** There are controls and provisions within the Natural Hazard Chapter of the Plan which cover the approach to flood risk. Depending on where and what is being proposed, consent may be required for development*

¹⁰ Takata Whenua Steering Group Meeting Report, Timaru District Council, September 2021, p.2.

¹¹ *Ibid.*, p.3.

and/or proposals may need to be supported by a flood risk assessment. This part of the plan is not overridden, so to speak by the MPZ.

- 89 There was also discussion about the part of Waipopo that is on the riverside of the ECan stopbank. The Steering Group were concerned about building on the river bed or on the river side of the stopbank. To stop this from happening, a new rule was inserted into the Draft Plan to made it clear no homes could be built in this area.¹²

PROVISIONS AFFECTING WAIPOPO UNDER THE PROPOSED PLAN

Notification

- 90 The Proposed Plan shows Waipopo as Open Space Zone on the planning maps. This is contrary to what was agreed prior to notification at both meetings discussed above.
- 91 In accordance with what the Steering Group agreed to at the September 2021 meeting, the Proposed Plan contains a rule to stop the building of homes inside of the ECan stopbank, see rule MPZ-R1 below in the MPZ Chapter:

MPZ-R1 *Māori Purpose Zone, Papakaika not otherwise listed in this chapter, Activity status: Permitted,*

where:

PER-1 *All the Standards of this chapter are complied with*

PER-2 *It does not involve any habitable buildings ion the riverside of a regional council stop bank*

Activity status when compliance not achieved with PER-2: Prohibited

- 92 The current zoning of Waipopo in the Proposed Plan is contrary to the Section 32 Māori Purpose Zone Report (the **Report**) prepared by the Council. The Report recognises reserves were granted to Waipopo, but planning laws did not always allow inhabitants to use their land as desired. To rectify this, the Proposed Plan intends to zone the historic reserves as MPZ.¹³

¹² Takata Whenua Steering Group Meeting Report, Timaru District Council, September 2021, p.3.

¹³ Section 32 Report District Plan Review Māori Purpose Zone, May 2022, p.1.

- 93 The Report explains why MPZ is the most appropriate zone for Waipopo.¹⁴ The Report discusses the lack of infrastructure to support the proposed zoning and how this needs to be balanced against the desire to allow this area to be able to be developed to provide for Māori needs. It goes on to state 'The zoning ... provides a basis for servicing to be further investigated.'¹⁵
- 94 In response to concerns about the appropriateness of enabling further development in a flood-prone area, the Report states that:¹⁶

Flooding is addressed in the district-wide provisions of the District Plan. This is considered an appropriate way to address the flood hazard within this zone and is no different to the way it is managed in other areas (such as the Temkua (sic.) township) where development is enabled in the underlying zone framework.

Post notification

- 95 The Council sent a letter to Waipopo dated 16 November 2022 (attached at **Appendix K**), explaining a data error resulted in Waipopo being shown as within with Open Space Zone in the notified Proposed Plan. The letter states the intention of the Council was to show Waipopo as MPZ, as agreed at the November 2021 hui and by elected members of the Council.¹⁷
- 96 The Council's submission on the Proposed Plan also seeks to amend the planning maps to show Waipopo's land as MPZ.¹⁸ The Council's submission contains a map showing the area of land the submission relates to, attached at **Appendix L**.
- 97 Due to the decisions reached at the hui before the Proposed Plan was notified, Waipopo was under the assumption that Waipopo's land would be rezoned MPZ. We did not anticipate being involved in a rezoning hearing. The result of the Council's error has put considerable financial strain on Waipopo. To prepare for this hearing we engaged several flood hazard experts, an infrastructure services expert and a planning expert to provide advice about the flood hazard risks to the site. This advice is discussed in more detail in the environmental constraints section (below).

¹⁴ *Ibid.*, p.2.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, p.3.

¹⁷ Letter from Timaru District Council to the Trustees of the Waipopo Trust, dated 16 November 2022.

¹⁸ Timaru District Council submission on the Timaru Proposed District Plan, p.14.

- 98 Waipopo also engaged lawyers to prepare for the hearings on our behalf. This again has all resulted in a huge financial burden on Waipopo, to the point where we are reliant on the Council to support our rezoning submission at this hearing.

ENVIRONMENTAL CONSTRAINTS AFFECTING WAIPOPO

- 99 Waipopo is subject to several environment constraints, which need to be understood and dealt with, so the Trust's vision can be fully realised. The key constraint is flood hazard risk.

Flood Hazard Issue

- 100 The effect of the High Hazard overlay is that both the replacement or modification of dwellings, and new buildings and structures, are a non-complying activity. This activity status creates a real hurdle for the Trust in achieving its vision for the Trust Land.

History of flooding on the site

- 101 While we are aware of the floods of the past, as far as the Trust is concerned, none of these events have impacted on the Waipopo Land. Apart from surface flooding there has never been any threat to the dwellings or the people at Waipopo.¹⁹

Canterbury Regional Council's Stopbanks

- 102 As mentioned above, a regional council stopbank runs in a west-east direction approximately 20m from the northern boundary of the Waipopo Trust lands. The top of the stopbank is approximately 2m metres higher than the ground level of the huts. The remainder of the topography of the Waipopo land is relatively flat.
- 103 The decision to locate the stopbank in its current position creates a potentially significant flood hazard risk to Waipopo. The circumstances are unusual because the increased hazard risk has been created by ECan. As matters currently stand, unless this problem is addressed, the location of the stopbanks are a significant impediment to the Trustees realising our vision for Waipopo.

¹⁹ *A Geomorphic Interpretation of the Orari-Waihi-Temuka- And Opihi River Floodplains*, Landcare Research Report No. U97/36, August 1997, pp.12-13.

Expert assessment

- 104 On 10 May 2022, the following assessment of the flood hazard risk to Waipopo's Land was provided by ECan:

The property is prone to some risk of flooding from upstream breakouts from the Opihi River flowing into the area, however apart from some isolated areas of deeper flooding this flooding tends to be moderate in depth and relatively manageable.

A large part of the property is within the area over which deep, high velocity and debris laden water (high hazard flooding) may extend should the stopbank immediately adjacent to the property be breached. The flood protection scheme is designed to contain a roughly 50-year ARI flow and in extreme flood like the 200-year or 500-year ARI events...it is impossible to rule out the stopbank being overtopped and/or breached in this area. This is a low probability but high consequence outcome. For this property the most significant limiting factor on future development is likely the rules relating to stopbank breach risk as opposed to the more manageable risk of flood overflows coming into the area from upstream.

- 105 In July 2022, the Trust engaged Davis Ogilvie to discuss 3-Waters servicing and to assess the risk of natural hazards to infrastructure at Waipopo (**Davis Ogilvie Report**). The Davis Ogilvie Report is attached at **Appendix M**.

- 106 The main conclusion made in the Davis Ogilvie Report in relation to flood hazard is as follows:

- 106.1 Flooding from the Opihi River is the most significant natural hazard for the area and has significant implications for 3-Waters infrastructure. In addition, inundation can damage 3-Water infrastructure through both direct inundation and erosion.²⁰

- 107 In August 2022, Waipopo engaged Mark Geddes, Director of Perspective Consulting, to provide a report (**Perspective Report**) on the feasibility of establishing replacement housing on the Trust land. This report is attached at **Appendix N**.

- 108 The main conclusions made by the Perspective Report:

²⁰ Davis Ogilvie Report, p.32.

- (a) Replacement housing could be legalised through existing use rights, but there are strong policy grounds under the Proposed Plan to refuse consent. This is mainly due to Waipopo being located within a High Hazard Overlay.
- (b) The Canterbury Regional Policy Statement, at Policy 5.3.4, indicates that papakāinga is to be provided for on ancestral land if adverse effects on the safety of people can be avoided or mitigated. This suggests that mitigating the risk is acceptable and the risk does not have to be avoided altogether.
- (c) The above Policy must be read together with Policy 11.3.1 which relates to high hazard areas and the obligation to avoid inappropriate development in high hazard areas. This policy would likely be used to block any resource consent for the replacement of housing on Waipopo Trust Land.
- (d) The land is also defined as high hazard under ECan's Flood Hazard Assessment.

109 In June 2023, the Trust engaged Robert Kerr, flood hazard expert, to assess the predicted flood risk to Waipopo, major issues arising due to that risk and options addressing that flood risk. Mr Kerr discusses the main findings of that report in his statement of evidence.

Other environmental and planning constraints

110 The David Ogilvie Report provides advice on the following additional environmental constraints:

- (a) Infrastructure servicing, including drinking water, wastewater and stormwater;
- (b) Traffic, no increase in number of housing is required, so no increase in traffic is anticipated;
- (c) Geotechnical assessment discussing the various potential natural hazards to the site;
- (d) Contaminated land, ECan's LLUR does not identify any potential contamination issues.

111 The Perspective Report provides advice on other planning constraints affecting Waipopo's Land:

(a) MPZ provisions – the requirement for a connection to a reticulated sewerage system is problematic as it does not provide for holding tanks.

(b) SASM provisions - Waipopo Trust lands are located in SASM 4 (wahi tupuna), SAMS 4-b (Wahi taoka) and SASM 16 (Wai taoka). There are several Rules within the Chapter which could pose an impediment to obtaining resource consent for the construction of a new dwelling.

112 The Trust's submission on the Proposed Plan identified further overlays and planning constraints which would impede new dwellings and dwelling upgrades carried out on Waipopo.

REPLACEMENT OF DERELICT HOMES

113 As mentioned, the Waipopo Land contains up to 5 derelict homes. The condition of these homes is so poor that it does not make sense for the Trust to attempt to repair them. Instead, the Waipopo Trust intends to demolish these buildings and replace them with new dwellings. I understand from the Perspective Report that flood hazard planning controls will make it very difficult for the Waipopo Trust to secure resource consent to replace dwellings located in the high hazard area. This creates a significant issue for the Waipopo Trust because it's vision for the Trust Land is that all the dwellings will be occupied to help re-establish the village that once occupied this land. I will discuss this matter further in evidence to be presented for Hearing F in relation to the Natural Hazards Chapter provisions.

SECTION 42A REPORT – WAIPOPO LAND

114 The Section 42A Officer's report broadly agrees with the Waipopo Trust's submission to rezone their land to Māori Purpose Zone. The approach I have taken is to only address matters relevant to my area of expertise and provide comment on those matters.

115 In section 9.1.6, Ms White notes that:

I consider that it is appropriate to zone the 36 properties at Waipopo Huts MPZ, as well as the wider area identified in TDC's submission, as based on TDC's submissions, this was the intended zoning, and its inclusion would be consistent with how the zoning has

otherwise been applied in this area (i.e. to correlate with the former Māori Reserve.) This is consistent with the Introduction to the MPZ chapter which states that “The Māori Purpose Zone is applied to areas of land originally granted as Native Reserve for Māori occupation or use.” As a consequence of this, I also recommend that PREC4 is removed from these properties (noting that this is a precinct that only applies within the OSZ). For completeness I note that the submitter (Waipopo Huts) has also sought changes to the MPZ framework which are considered further below.

116 I do agree with this as it consistent with the changes sought by Waipopo in our submission.

117 In sections 9.1.8 - 9.1.9, Ms White notes that:

I recommend that 550-582 Waipopo Road, as well as the other land to the north of Waipopo (sic) Road identified in TDC’s submission [42.73] are zoned MPZ; and that these properties are removed from PREC4.

Under s32AA, I consider that applying MPZ will better achieve MPZ-O1, by recognising and providing for the occupation of ancestral land by mana whenua. Similarly, it assists in achieving SD-O5.v. as it betters facilitates the use of Māori reserve lands by Kāti Huirapa for their intended purpose. Conversely, I consider that application of OSZ and PREC4 would not assist in achieving these outcomes and is therefore less appropriate.

118 I agree with this, as it aligns with Waipopo’s submission.

119 In section 9.2.17, Ms White notes that:

With respect to Te Kotare [115.1] and Waipopo Huts [189.48] broad submissions, I note, with respect to the MPZ chapter itself, that dwellings are permitted, as these (“whare (household unit)”) fall within the definition of papakāika, which is permitted under MPZ-R1, subject to standards being met, and the building not being on the riverside of a regional council stopbank. I note that consideration of how the natural hazard rules might affect this will be considered as part of the Natural Hazards topic, but consider that no changes are required to the MPZ provisions in relation to these submission points. With respect to servicing, servicing requirements are discussed further below, but I note that the requirements (in MPZ-S4) provide alternate (permitted) options to reticulated servicing.

120 I agree with this, as mentioned at paragraph 54 above, I will provide evidence about the existing use of Waipopo Land in relation to the Natural Hazard hearing.

121 In section 9.2.19, Ms White notes that:

With respect to the specific servicing requirements in MPZ-S4, I note that the requirements for the MPZ, in terms of the alternative provision of 45,000 litres of potable

water, is consistent with the requirements applied to the Settlement Zone (in SETZ-S5). This also reflects the requirement currently applying. This is intended to ensure that an appropriate supply of potable water is provided, where this is not otherwise achieved through connection to a community water scheme or private bore. I do not consider that the circumstances of the submitter's property or its occupants negates the need to ensure an appropriate water supply is provided. However, if a smaller supply is proposed, this is still able to be considered through a restricted discretionary consent pathway, with narrow matters of discretion which allow for consideration of the adequacy of the storage volume.

122 I disagree with this. The Waipopo Trust operates on a very limited budget, as it does not charge a market rent and does not have the resources to install a 45,000 litre tank. I also do not consider it necessary to install a 45,000 litre tank for new builds. The Davis Ogilvie Report when discussing the installation of rainwater tanks for new dwellings indicates that 30,000 litres is sufficient to ensure a reliable water supply.²¹ When looking at several retail sites for water tanks, the largest standard water tank is 30,000 litres.²² The 45,000 litre requirement seems arbitrary and is impractical as it would require people to purchase two 30,000 litre tanks.

123 I do not agree that it is sufficient for the plan to allow for a smaller supply through a restricted discretionary pathway. Forcing the Trust to go down a consenting pathway will result in further costs and delays for the Trust. We have already suffered unnecessary cost due to the Council's error in zoning Waipopo as OSZ in the Proposed Plan, instead of MPZ. An important part of the Trust engaging in the Plan Review process is to ensure the Proposed Plan removes unnecessary planning rules that frustrate the Trust's objectives and the 45,000 litre requirement is another example of the Council acting like they know best, without real knowledge of the inefficient nature of their requirements.

124 At section 9.2.20, Ms White notes that:

In terms of wastewater disposal, I note that connection to a sewerage network is required, where such a network exists. Where it does not, the requirement (for a permitted activity) is for an on-site treatment and sewage disposal system to be provided that has been consented or approved by the Canterbury Regional Council. I firstly recommend a minor change to this, to align with the wording Mr MacLennan has recommended for the SETZ chapter - to refer to a system that is permitted or has been consented, rather than referring to "approved". In considering the use of holding tanks, I understand that this

²¹ Davis Ogilvie Report, p.15.

²² [Water Tanks | Promax](#), [Big Water Tanks - 300 to 30000 litre Plastic Water Tanks](#), [Above Ground Water Collection Tanks | We Deliver Across NZ](#)

would allow for wastewater to be collected and held on site, with tanks cleared out when required, and waste ultimately disposed of off-site, with the latter disposal regulated under the CLWRP. I also understand that there are limitations on servicing within the MPZ, where there is currently no reticulated option. On-site treatment and disposal systems are also likely to be problematic due to proximity to on-site water supplies and other disposal systems. These servicing constraints could frustrate the ability to further develop and utilise the zone to achieve a thriving, sustainable and self-sufficient Māori community. In the specific circumstances of the MPZ, I therefore consider that it is appropriate to allow for the use of holding tanks.

- 125 I agree with this. It would definitely frustrate the Waipopo Trust's objectives to use our land if new homes were required to connect to a sewerage network and welcome the change suggested by Ms White to allow for the use of holding tanks. This is the system in use now on Waipopo and works well. The Trust is responsible for managing the collection and disposal of the waste off-site. We have a good relationship with the local contractor who services the holding tanks and we consider this is the most efficient option for the Waipopo Trust going forward.

ENVIRONMENTAL CONSTRAINTS AFFECTING TE KOTARE LAND

- 126 The bottom section part of Te Kotare is subject to flooding. In general, the Te Kotare Stream backs up when the water level rises in the Opihi River blocking the culvert under the stopbank. However, the houses at Te Kotare do not flood as the stream overflows west onto the adjoining low-lying farmland.²³
- 127 There is no reticulated water, sewer or stormwater infrastructure that serves Te Kotare.²⁴

ZONING OF TE KOTARE LAND UNDER THE PROPOSED PLAN

- 128 The Proposed Plan shows Te Kotare as within the MPZ. Te Kotare is pleased with this zoning, however there are still planning constraints in the Proposed Plan restricting the ability of the Trustees, or homeowners to rebuild homes on the site.
- 129 Provisions in the Māori Purpose Zone Chapter, which requires new homes to be connected to a reticulated sewerage system and for 45,000 litre supply of potable water is a constraint for the rebuilding of the new home on Te Kotare.

²³ Development Feasibility Report – Waipopo Trust and Te Kotare Trust, Perspective, Mark Geddes, August 2022, p.7.

²⁴ *Ibid.*, p.8.

SECTION 42A REPORT – TE KOTARE LAND

Supply of Potable Water

130 I refer to Ms Whites' comments set out above about staying with the current wording of the Proposed Plan, which requires new homes in the MPZ to connect to a 45,000 litre tank. I disagree with this requirement and adopt the same comments I make at paragraphs 100 to 101 above that a 30,000 litre tank is a suitable supply of potable water for new homes.

Reticulated sewerage system

131 Referring to Ms White's comments set out at paragraph 102 above about amending the Proposed Plan to allow for connection to holding tanks as well as a reticulated sewerage system. I adopt the same comments I make at paragraph 103 and support the change to allow the use of holding tanks.

CONCLUSION

132 I consider that to this day, breaches to te Tiriti continue for Kati Huirapa in relation to Waipopo and Te Kotare.

133 Since establishment, the Arowhenua Reserve and later Waipopo Huts Trust, has been subject to various laws and regulations. These regulations have largely restricted the ability of descendants of the original grantees to build dwellings on land originally set aside for them under Kemp's Deed. Further, the current planning provisions in the ODP do not provide for the descendants of the original grantees to use the land for the purpose it was intended.

134 It is frustrating for Waipopo Trust to realise that this land is now considered by the Council to be unfit for residential purposes, as demonstrated by the High Hazard Area Overlay applying to Waipopo and the corresponding Objectives, Policies and Rules in the Natural Hazards Chapter which make the replacement of derelict homes a non-complying activity.²⁵

135 The imposition of zoning and the effects of local government decisions have prevented Waipopo and Te Kotare from maintaining a connection to their whenua

²⁵ See in particular NH-R4 PER-4 which requires that new homes be not located on land identified as a High Hazard Area. Non-compliance with PER-4 makes the activity non-complying.

and carrying out their cultural practices in these areas, which is contrary to the intent of sections 8 and 6(e) of the RMA and the purpose of the RMA.

- 136 The Council takes some responsibility, as shown by the following statement in the Mana Whenua Chapter of the Proposed Plan (my emphasis):²⁶

... Successive restrictions on use over time, including imposition of rural zoning and the effects of local government decisions about flood protection and management of flood hazard, have prevented Kāti Huirapa from fully implementing their aspirations to establish and sustain a settlement on their ancestral land. Practical provision to enable Kāti Huirapa to live and sustain themselves on their land is important to enable them to maintain their relationship with this land and to provide for rakatirataka.

Matters of concern include:

The effects of past zoning restrictions on the ability to establish residential settlements at Arowhenua and Waipopo;

Failure of flood hazard management decisions to take into account historical knowledge of flooding in these areas and to work with the environment rather than against it; and

Protection of wāhi tapu and mahika kai values on other Māori Reserve land.

- 137 Without any change to the Natural Hazard provisions and the servicing provisions in the Māori Purpose Zone Chapter to recognise the special situation at Waipopo and Te Kotare, this will result in the various Crown apologies and well-meant statements from local authorities falling short of the much needed regulatory change to enable Waipopo and Te Kotare to realise the vision for their land.

- 138 Thank you for the opportunity to present my evidence.

Elizabeth Stevenson

23 January 2025

²⁶

Timaru Proposed District Plan, Mana Whenua Chapter, MW2.2.4