

He tono nā



Te Rūnanga o NGĀI TAHU

Ki te

**PRODUCTIVITY COMMISSION**

e pā ana ki te

**INQUIRY INTO LAND SUPPLY FOR HOUSING ISSUES**

22 Waru 2014

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**contact person**

Donna Flavell | General Manager – Strategy & Influence | Te Rūnanga o Ngāi Tahu  
Donna.flavell@ngaitahu.iwi.nz | Phone 03 371 2673 | PO Box 13-046 | Christchurch

**request to be heard**

Te Rūnanga o Ngāi Tahu does NOT wish to appear to speak to this response.

## **1. EXECUTIVE SUMMARY**

- 1.1. Te Rūnanga o Ngāi Tahu (Te Rūnanga) supports in principle that the inquiry into land supply for housing issues proceeds. However, Te Rūnanga recognises that the Issues Paper is the first step in an iterative process and we trust that Te Rūnanga will be provided an opportunity to be engaged on the pending draft report on this matter.
- 1.2. Te Rūnanga notes that this response intends to provide high-level comments while acknowledging that there is still much work to be done. Te Rūnanga are available to meet and discuss any of the matters raised.
- 1.3. Te Rūnanga are also available to assist in identifying venues and locations in Te Waipounamu for any future consultation following the release of the draft report.

## **2. OVERALL RECOMMENDATIONS**

- 2.1. The following overall recommendations are made by Te Rūnanga:
  - The Productivity Commission must ensure iwi and mana whenua engagement is a determinant of successful planning and consenting processes;
  - Iwi and mana whenua rights and interests should inform councils' engagement, planning and consenting processes. Therefore, councils must have a comprehensive understanding of those iwi who have rights and interests in their area;
  - Māori Land offers unique opportunities for owners to develop housing if planning regulations adequately account for the unique situations of those owners and the history of their land; and
  - Te Rūnanga would not support any loss of property rights or regulatory takings to utilise land for housing.

## **3. TE RŪNANGA O NGĀI TAHU**

- 3.1. This response is made on behalf of Te Rūnanga o Ngāi Tahu (Te Rūnanga). Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu Whānui and was established as a body corporate on 24th April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (the Act).
- 3.2. We note the following relevant provisions of our constitutional documents:
  - a. Section 3 of the Act States:

This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act.
  - b. Section 15(1) of the Act states:

Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.
  - c. The Charter of Te Rūnanga o Ngāi Tahu (1993, as amended) constitutes Te Rūnanga as the kaitiaki of the tribal interest.

- 3.3. Te Rūnanga respectfully requests that the Productivity Commission accord this response the status and weight due to the tribal collective, Ngāi Tahu Whānui, currently comprising over 50,000 members registered in accordance with section 8 of the Act.
- 3.4. Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui “for all purposes”, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

#### 4. TE RŪNANGA INTERESTS IN LAND SUPPLY FOR HOUSING

- 4.1. Te Rūnanga has interests across a number of the issues raised in the Productivity Commission’s paper.
- 4.2. With regards to the Ngāi Tahu takiwā, Section 5 of the Te Rūnanga o Ngāi Tahu Act 1996 statutorily defines the Ngāi Tahu takiwā as those areas “south of the northern most boundaries described in the decision of the Māori Appellate Court ...” which in effect is south of Te Parinui o Whiti on the East Coast and Kahurangi Point on the West Coast of the South Island.
- 4.3. Section 2 of the Ngāi Tahu Claims Settlement Act 1998 statutorily defines the Ngāi Tahu claim area as being:

*“the area shown on allocation plan NT 504 (SO 19900), being—*

- (a) the takiwā of Ngāi Tahu Whānui; and*
- (b) the coastal marine area adjacent to the coastal boundary of the takiwā of Ngāi Tahu Whānui; and*
- (c) the New Zealand fisheries waters within the coastal marine area and exclusive economic zone adjacent to the seaward boundary of that coastal marine area;—*

*and, for the purposes of this definition, the northern sea boundaries of the coastal marine area have been determined using the equidistance principle, and the northern sea boundaries of the exclusive economic zone have been determined using the perpendicular to the meridian principle from the seaward boundary of the coastal marine area (with provision to exclude part of the New Zealand fisheries waters around the Chatham Islands).”*

(See the map attached as Appendix One)

- 4.4. Te Rūnanga is the representative body for Ngāi Tahu Whānui who hold mana whenua over the tribal takiwā and notes further the following:

##### ***Kaitiakitanga***

- In keeping with the kaitiaki responsibilities of Ngāi Tahu whānui, Te Rūnanga has an interest in ensuring sustainable management of natural resources, protecting taonga species and mahinga kai resources for future generations.

- Ngāi Tahu whānui are both users of natural resources, and stewards of those resources. At all times, Te Rūnanga is guided by the tribal whakataukī: “mō tātou, ā, mō kā uri ā muri ake nei” (for us and our descendants after us).

#### ***Whanaungatanga***

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu whānui and ensure that the management of Ngāi Tahu assets and the wider management of natural resources supports the development of iwi members.

#### ***Tohutanga***

- Te Rūnanga constantly pursues knowledge and ideas that will strengthen and grow Ngāi Tahu and our community
  - Te Rūnanga is also involved in the commercial development of residential property through its subsidiary company Ngāi Tahu Property Limited.
- 4.5. Ngāi Tahu Property has a portfolio value of \$700m. It is currently involved in a number of large-scale residential developments in Christchurch. In total, Ngāi Tahu Property Limited holds approximately 20% market share for residential developments in Christchurch.
- 4.6. Te Rūnanga also has a large number of Māori Land owners as registered members, and has a proximate interest in the development of Māori Land.
- 4.7. Te Rūnanga interests therefore fall into two broad categories:
- a. Engagement with local authorities and property developers as Mana Whenua.
  - b. Engagement with local authorities and industry partners as consents applicants and developers.
- 4.8. This response refers only to Te Rūnanga’s interests under A and focuses on general principles that can be applied to land supply policy.

### **5. CONSENTS AND PLANNING PROCESS**

- 5.1. The takiwā of Ngāi Tahu Whānui covers large area and overlaps every Regional Council and Territorial Authority (‘Councils’) in the South Island / Te Waipounamu (except Nelson City Council).
- 5.2. Our experience is that some councils do a better job than others at engaging with iwi and mana whenua.
- 5.3. The key factor is early proactive engagement. This will lead to better outcomes for all parties. Councils who give advanced notice and undertake preliminary work about how mana whenua values might be incorporated in plans and plan changes achieve better outcomes with less resource than those who do not.
- 5.4. There are a number of pending changes to the RMA Bill will mean councils are obligated to engage with iwi throughout the various stages of the planning process. Under the new planning regime councils will have the option of the planning route they will employ. However, before councils choose the planning path they will take they must engage with iwi to decide which process they will adopt, and if the

collaborative process is adopted the council must provide a place for iwi within the collaborative group (alongside other interested parties and the wider community). The planning route under the RMA available to councils include the Standard (modified Schedule 1 process). In relation to accessing water for development, the changes to the RMA will provide also for the collaborative model for freshwater planning.

- 5.5. Familiarity with the mandating and decision-making processes of iwi is essential for effective engagement by councils. Formal agreements between iwi (including Papatipu Rūnanga) and councils can ensure that responsibilities to engage with iwi are fulfilled and provide a platform for successful engagement in a timely manner
- 5.6. Many councils have proactively sought to collaborate with Te Rūnanga over planning on a range of issues and this has led to mutually beneficial outcomes.
- 5.7. Planning should be a positive-sum game that creates certainty for all parties. The process must be flexible enough to allow for innovations that may facilitate agreement from iwi and stakeholders. This can be helped by early engagement.
- 5.8. Although preliminary work about incorporating mana whenua values is recommended, councils must be flexible about revising this where the Iwi might hold a different view about the application of those values. The benefit of early engagement is that these issues can be addressed with adequate time to innovate better approaches.

## **6. MĀORI LAND**

- 6.1. Ngāi Tahu whānau have Māori Land interests in Te Waipounamu. Some of these are close to urban centers. In Christchurch, where housing supply is currently in shortage, they have the potential to be developed for housing purposes.
- 6.2. In the case of the MR 873 reserve at Tuahiwi, papakāinga development has long been intended as a use. However, historically planning by the Waimakariri District Council (and its predecessors) has proved to be discriminatory against owners with district plan provisions not recognising the purpose for which the land was set aside.
- 6.3. In more recent times, the Council and Iwi have been working closely to facilitate the development of the land. However the location and extent of the land area is not conducive to the installation of infrastructure that will be cost effective or even affordable to owners. This potentially limits the ability of those owners who can afford to develop their own sections for housing. Compliance costs are such that they become prohibitive even for those owners who might otherwise be able to build a house on Māori Land. These costs will ultimately be reflected in reduced economic growth, not to mention reduced housing affordability and with associated poverty implications.
- 6.4. The establishment of the Canterbury Earthquake Recovery Authority in 2011 has resulted in some very positive outcomes for Ngāi Tahu. The Rūnanga has found that it now a respected partner in the recovery of Greater Christchurch. The need to address planning issues through the development of the Land Use Recovery Plan (LURP) has resulted in a great deal of progress being made in terms of iwi

aspirations for the use of their land.

- 6.5. The provisions for MRR 873 have been able to be advanced at a faster pace than under the usual RMA framework. Similarly the Christchurch City Council District Plans were well over due reviewing. We have been working with the Council to incorporate provisions that will facilitate Iwi desires to live on their land. Again this is being advanced at pace.
- 6.6. The LURP and relationship between Te Rūnanga and CERA has been useful in addressing this problem. Through Te Rūnanga's relationship with CERA, there has been greater opportunity for discussions to allow development of Māori Land at Tuahiwi. Whilst there was some level of central government intervention, it is now referred to as a good example of local authorities engaging with Iwi and upon becoming familiar with the historical purpose of a block of Māori Land, allowing for plans to acknowledge and provide for development.

## **7. PROPERTY RIGHTS**

- 7.1. Te Rūnanga is also of the view that we would oppose any loss of property rights or regulatory takings in the tribal takiwā.
- 7.2. Te Rūnanga also urges local and central government to fully consider the implications of unnecessarily restricting the use of property and as such, should consider any compensation provisions for doing so.

APPENDIX ONE: NGĀI TAHU TAKIWĀ

