

## MANA WHENUA ADVICE

J7201 – Carter Group - Ohoka Fast Track Application

To: Carter Group Limited

Contact: Clare Dale / Bruce Van Duyn

### 1.0 Mana Whenua Statement

Ngāi Tahu holds and exercises rangatiratanga within the Ngāi Tahu Takiwā and has done so since before the arrival of the Crown. The rangatiratanga of Ngāi Tahu resides within the Papatipu Rūnanga. The Crown and Parliament have recognised the enduring nature of that rangatiratanga through:

- Article II of Te Tiriti o Waitangi (Te Tiriti);
- the 1997 Deed of Settlement (Deed of Settlement) between Ngāi Tahu and the Crown; and
- the 1998 Ngāi Tahu Claims Settlement Act (NTCSA) in which Parliament endorsed and implemented the Deed of Settlement.

The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act). Article II of Te Tiriti o Waitangi (Te Tiriti), the TRoNT Act, Ngāi Tahu Claims Settlement Act (NTCSA) 1998, and the 1997 Deed of Settlement (Deed of Settlement) between Ngāi Tahu and the Crown sets the requirements for recognition of tangata whenua in Canterbury.

As recorded in the Crown Apology to Ngāi Tahu in the NTCSA, the Ngāi Tahu Settlement marked a turning point, and the beginning of a “new age of co-operation”. The Crown apologised for its “past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries” and confirmed that it “recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui”. This Mana Whenua Advice Report is provided without prejudice to the High Court freshwater claim<sup>1</sup>.

Each Papatipu Rūnanga has their own respective takiwā, and each is responsible for protecting the tribal interests in their respective takiwā, not only on their own behalf of their own hapū, but again, on behalf of the entire tribe.

The following Rūnanga hold mana whenua over the project’s location, as it is within their takiwā:

- Te Ngāi Tūāhuriri Rūnanga

## 2.0 Summary of Proposal

The Carter Group Ltd have applied for authorities through the Fast Track Application process to facilitate the development of a 126-lot subdivision at 104 Ryans Road.

The fast-track application will include a complete set of consents covering District, Regional and National Environmental Standard requirements as well as Wildlife Act approvals. These consents will enable the construction, subdivision, land use, and operation of infrastructure services for the site.

The following response has been made based on the preliminary information provided to Mahaanui Kurataiao by Clare Dale on the 23<sup>rd</sup> of January 2025, however, at the time the Assessment of Environmental Effects was unavailable. Mahaanui Kurataiao were asked to progress the proposal through a preliminary round of consultation with the understanding that the response provided here is **not full and final Mana Whenua Advice**.

Once the Assessment of Environmental Effects, Ecology Reports and all other relative information is available and provided to Mahaanui Kurataiao, the full impact on mana whenua values can be assessed and the final Mana Whenua Advice can be provided.

## 3.0 Consultation Methodology

Mahaanui Kurataiao Limited review the available application documents and undertake a preliminary assessment of the application against the Mahaanui Iwi Management Plan.

A briefing report is prepared for Kaitiaki representatives who have been mandated by the Papatipu Rūnanga they represent to speak on behalf of hapū on environmental issues.

A Mahaanui Kurataiao Limited staff member meets with Kaitiaki representatives to discuss the application and Kaitiaki provide feedback based on Mātauranga Māori.

Mana Whenua Advice is provided to outline the relevant policies in the Mahaanui Iwi Management Plan and the feedback provided by Kaitiaki representatives.

The relevant policies and Kaitiaki feedback for this application are provided in the following sections of this report.

## 4.0 Mahaanui Iwi Management Plan 2013

The Mahaanui Iwi Management Plan (IMP) is a written expression of kaitiakitanga, setting out how to achieve the protection of natural and physical resources according to Ngāi Tahu values, knowledge, and practices. The plan has the mandate of the six Papatipu Rūnanga, and is endorsed by Te Rūnanga o Ngāi Tahu, as the iwi authority.

Natural resources – water (waterways, waipuna (springs), groundwater, wetlands); mahinga kai; indigenous flora and fauna; ngā tūtohu whenua and land - are taonga to mana whenua and they have concerns for activities potentially adversely affecting these taonga. These taonga are integral to the identity of ngā rūnanga mana whenua and they have a kaitiaki responsibility to protect them. The policies for protection of taonga that are of high significance to ngā rūnanga mana whenua are articulated in the IMP.

The policies in this plan reflect what Papatipu Rūnanga support, require, encourage, or actions to be taken with regard to resolving issues of significance in a manner consistent with the protection and enhancement of Ngāi Tahu values, and achieving the objectives set out in the plan.

The relevant Policies of the IMP to this proposal have been identified as:

#### TE TIRITI O WAITANGI

**K2.2** The articles of Te Tiriti o Waitangi should be given effect to in accordance with the significance of the treaty to Māori as the founding document of the nation.

**Comment:** *Ngāi Tahu signed the Treaty document written in Māori, as did the majority of other Māori rangatira signatories. This granted 'te kawanatanga katoa' (governorship of their lands) to the Queen (Article One), guaranteed 'te tino rangatiratanga' (the unqualified exercise of chieftainship) of Māori over their lands, settlements and taonga (Article Two), and promised equity for Māori and European settlers (Article Three), and peace for all.*

### 5.3 WAI MĀORI

#### TĀNGATA WHENUA RIGHTS AND INTERESTS IN FRESHWATER

**WM1.1** Ngāi Tahu, as tāngata whenua, have specific rights and interests, in how freshwater resources should be managed and utilised in the takiwā.

#### CHANGING THE WAY WATER IS VALUED

**WM2.1** To consistently and effectively advocate for a change in perception and treatment of freshwater resources: from public utility and unlimited resource to wāhi taonga.

**WM2.2** To require that water is recognised as essential to all life and is respected for its taonga value ahead of all other values.

#### **Controls on land use activities to protect water quality**

**WM6.16** To require, in the first instance, that all potential contaminants that may enter the water (e.g. nutrients, sediments and chemicals) are managed on site and at source rather than discharged off site. This applies to both rural and urban activities.

#### ACTIVITIES IN THE BEDS AND MARGINS OF RIVERS AND LAKES

##### **Riparian areas**

**WM12.2** To require the protection and restoration of native riparian vegetation along waterways and lakes in the takiwā as a matter of priority, and to ensure that this can occur as a permitted activity.

##### **Use and enhancement of river margins in the built/ urban environment**

**WM12.4** All waterways in the urban and built environment must have indigenous vegetated healthy, functioning riparian margins.

**WM12.5** To require that all waterways in the urban and built environment have buffers or setback areas from residential, commercial, or other urban activity that are:

- (a) At least 10 metres, and up to 30 metres; and
- (b) Up to 50 metres where the space, such as towards river mouths and in greenfield areas.

**WM12.6** In the urban environment, it is accepted that waterways may have existing exotic vegetation along margins (e.g. exotic specimen trees in waterside reserves). However, the objective is still to promote native riparian vegetation, as taonga valued for flood control, the maintenance of water quality, mahinga kai and cultural wellbeing.

***Structures in the beds and margins of waterways***

**WM12.13** To require that any structure, essential or otherwise, in the bed or margin of a waterway (e.g. floodgate) supports and enables passage for migratory indigenous fish species and does not compromise any associated kōhanga.

**WETLANDS, WAIPUNA AND RIPARIAN MARGINS**

**WM13.1** To recognise and protect all wetlands, waipuna and riparian areas as wāhi taonga that provide important cultural and environmental benefits, including but not limited to:

- (a) Mahinga kai habitat;
- (b) The provision of resources for cultural use;
- (c) Cultural well-being;
- (d) The maintenance and improvement of water quality; and
- (e) Natural flood protection.

**WM13.2** To protect, restore, and enhance remaining wetlands, waipuna, and riparian areas by:

- (a) Maintaining accurate maps of existing wetlands, waipuna, and riparian margins;
- (b) Requiring that the drainage of existing wetlands or waipuna or the destruction or modification of existing native riparian areas be a prohibited activity;
- (c) Requiring the use of appropriate fencing, buffers, and setback area to protect wetlands, waipuna, and riparian areas from intensive land use, including stock access and irrigation;
- (d) Supporting initiatives to restore wetlands, waipuna, and riparian areas; and
- (e) Continuing to educate the wider community and landowners of the taonga value of these ecosystems.

**WM13.3** To support the establishment, enhancement, and restoration of wetlands, riparian areas and waipuna as a measure to avoid, remedy or mitigate any actual or potential adverse effects of land use and development activities on cultural and environmental values.

**WM14.1** To require that drains are managed as natural waterways and are subject to the same policies, objectives, rules and methods that protect Ngāi Tahu values associated with freshwater, including:

- (a) Inclusion of drains within catchment management plans and farm management plans;
- (b) Riparian margins are protected and planted;
- (c) Stock access is prohibited;
- (d) Maintenance methods are appropriate to maintaining riparian edges and fish passage; and
- (e) Drain cleaning requires a resource consent.

***Comment: Te Tiriti o Waitangi and the sale and purchase agreements for Canterbury and Te Pātaka o Rākahautū guarantee the protection of tāngata whenua interests in water. Surface and groundwater***

*quality is degraded as a result of urban and rural land use. This has significant effects on the relationship of Ngāi Tahu to water, particularly with regard to mauri, mahinga kai, cultural well-being and indigenous biodiversity.*

## **5.4 PAPATŪĀNUKU**

### **SUBDIVISION AND DEVELOPMENT**

#### ***Basic principles and guidelines***

**P4.3** To base tāngata whenua assessments and advice for subdivision and residential land development proposals on a series of principles and guidelines associated with key issues of importance concerning such activities, as per Ngāi Tahu subdivision and development guidelines.

### **STORMWATER**

**P6.1** To require **on-site** solutions to stormwater management in all new urban, commercial, industrial, and rural developments (zero stormwater discharge off site) based on a multi-tiered approach to stormwater management:

- (a) Education- engaging greater general public awareness of stormwater and its interaction with the natural environment, encouraging them to take the steps to protect their local environment and perhaps re-use stormwater where appropriate;
- (b) Reduce volume entering system - implementing measures that reduce the volume of stormwater requiring treatment (e.g. rainwater collection tanks);
- (c) Reduce contaminants and sediments entering system – maximising opportunities to reduce contaminants entering stormwater e.g. oil collection pits in carparks, education of residents, treat the water, methods to improve quality; and
- (d) Discharge to land-based methods, including swales, stormwater basins, retention basins, and constructed wet ponds and wetlands (environmental infrastructure), using appropriate native plant species, recognising the ability of particular species to absorb water and filter waste.

**P6.2** To oppose the use of existing natural waterways and wetlands, and drains, for the treatment and discharge of stormwater in both urban and rural environments.

### **SOIL CONSERVATION**

**P9.1** To sustain and safeguard the life supporting capacity of soils, mō tātou, ā, mō kā uri ā muri ake nei.

### **EARTHWORKS**

**P11.1** To assess proposals for earthworks with particular regard to:

- (a) Potential effects on wāhi tapu and wāhi taonga, known and unknown;
- (b) Potential effects on waterways, wetlands and waipuna;
- (c) Potential effects on indigenous biodiversity;
- (d) Potential effects on natural landforms and features, including ridge lines;
- (e) Proposed erosion and sediment control measures; and
- (f) Rehabilitation and remediation plans following earthworks.

## **Indigenous vegetation**

- P11.7** To require that indigenous vegetation that is removed or damaged as a result of earthworks is replaced.
- P11.8** To require the planting of indigenous vegetation as an appropriate mitigation measure for adverse impacts that may be associated with earthworks activity.

**Comment:** *Soil is a fundamental resource, and together with air and water, is the basis on which life depends. As the natural capital upon which much of the region's economy depends, it is critical that the true (and non-replaceable) value of our soils is recognised and provided for in policy and planning processes.*

## **5.5 TĀNE MAHUTA**

### **INDIGENOUS BIODIVERSITY**

#### ***Integrating indigenous biodiversity into the landscape***

- TM2.8** To require the integration of robust biodiversity objectives in urban, rural land use and planning, including but not limited to:
- (a) Indigenous species in shelter belts on farms;
  - (b) Use of indigenous plantings as buffers around activities such as silage pits, effluent ponds, oxidation ponds, and industrial sites;
  - (c) Use of indigenous species as street trees in residential developments, and in parks and reserves and other open space; and
  - (d) Establishment of planted indigenous riparian margins along waterways.

**Comment:** *Ngāi Tahu has a particular interest in indigenous biodiversity, both for its inherent value on the landscape and the ecosystem services it provides, and with regard to mahinga kai. Indigenous flora and fauna has sustained tāngata whenua for hundreds of years, providing food, fibre, building materials, fuel, medicine and other necessities.*

## **5.8 NGĀ TŪTOHU WHENUA**

### **WĀHI TAPU ME WĀHI TAONGA**

#### ***Protecting wāhi tapu and wāhi taonga***

- CL3.8** To require, where a proposal is assessed by tāngata whenua as having the potential to affect wāhi tapu or wāhi taonga, one or more of the following:
- (a) Low risk to sites:
    - (i) Accidental discovery protocol (ADP).

**Comment:** *Ngā tūtohu whenua, or cultural landscapes, is a concept used in the Mahaanui IMP to recognise areas and places of particular importance. As a planning tool, cultural landscapes are a culturally meaningful and effective framework for the identification, protection and management of sites and places of significance, the multiple values associated with those sites and places, and the relationship of tāngata whenua to them.*

## **4.1 Guidance to Moderate Impacts on Mana Whenua Values**

The above policies from the Mahaanui Iwi Management Plan provide a framework for assessing the potential negative impacts of the proposed activity on Mana Whenua values and provide guidance on how these effects can be moderated.

Kaitiakitanga is fundamental to the relationship between Ngāi Tahu and the environment. Ensuring the care and protection of the environment and features within it is vital to tāngata whenua cultural values. Te Tiriti o Waitangi guarantees tāngata whenua the right to fulfil their kaitiaki obligations to protect and care for taonga in the environment, including land, waterways, natural features, wāhi tapu and flora and fauna.

Te Ngāi Tūāhuriri have a unique and abiding interest in the sustainable management of te taiao – the environment. Wai māori (freshwater) is a taonga of Ngāi Tahu, governed under the domain of rangatiratanga and defined by Ngāi Tahu tikanga and ritenga. Water races and drains are often defined as artificial watercourses; however, they also provide habitat and critical passage routes for native fish and other biodiversity, contributing to the wider network of mahinga kai habitat and water flow in the takiwā. Ngāi Tahu values and policies in the Mahaanui Iwi Management plan (such as WM14.1 and RH4.2) require that drains are recognised as waterways for the purposes of water management. Kaitiaki for Te Ngāi Tūāhuriri Rūnanga are opposed to any further loss of waterways or wetlands. Their ecological value of the waterway needs to be protected and enhanced.

Kaitiaki for Te Ngāi Tūāhuriri Rūnanga have requested more information on the ecology of the site and water race. Restoring indigenous biodiversity values is one of the most important challenges for the future management in the takiwā. A healthy economy relies on a healthy environment. Indigenous biodiversity, along with air, water and soil, are all taonga; they are the regions natural capital, providing a suite of ecosystem services. A key priority of tāngata whenua is the protection and restoration of native flora and fauna as expressed throughout the Mahaanui IMP. Land use activities that are detrimental to the extent, health, and wellbeing of indigenous species in not culturally acceptable.

Without sufficient management, earthworks can have negative effects on surrounding environments by increasing the potential for erosion, sediment runoff, and creating pathways for sediment to enter waterways. Therefore, where earthworks occur as part of a development, erosion and sediment control measures are recommended by kaitiaki to ensure the protection of water, soil and air. These erosion and sediment control plans should focus establishing provisions for managing exposed soil, dust, erosion, and should be active until any exposed soils have been re-vegetated. Earthworks are also a significant concern for tāngata whenua with regard to Section 5.4 of the Mahaanui IMP. Any disturbance to land has the potential to uncover or damage previously unrecorded wāhi taonga or Māori artefacts. To ensure appropriate protocols are in place, an Accidental Discovery Protocol (ADP) is required to deal with archaeological finds (Appendix 1).

Stormwater runoff from urban environments can have significant effects on water quality and waterway health as it has the potential to introduce contaminants and sediments to the receiving environment. The cumulative effect stormwater discharge from urban land use residential developments is a significant issue for tāngata whenua. The methods of stormwater discharge should be designed to protect the land/soil used as a receiving environment, surface waters and groundwater. These include, but are not limited to, ensuring that stormwater is treated before discharge (including for heavy metals), that treatment methods are not installed on contaminated land and that the use of materials that generate contaminants are avoided.

## 5.0 Preliminary Rūnanga Feedback

This consultation request has been reviewed by Kaitiaki representatives for Te Ngāi Tūāhuriri Rūnanga on a preliminary basis as the Assessment of Environmental Effects and Ecology reports have not been provided. Full impacts on mana whenua values have not been assessed.

The fact that Mahaanui Kurataiao has not commented on any particular matter should not be taken as support thereof and Te Ngāi Tūāhuriri Rūnanga reserves the right to comment on additional matters in the future.

## 6.0 Recommendations

Kaitiaki have identified a number of areas in the proposal that may have resulting cultural implications. The following recommendations have been provided as preliminary feedback to moderate the effects of this proposed activity on mana whenua values:

1. An Accidental Discovery Protocol (ADP) must be in place during all earthworks required to exercise this consent to deal with archaeological finds and protect the interests of mana whenua. This condition does not constitute a response under the Heritage New Zealand Pouhere Taonga Act (HNZPT 2014).
2. An Erosion and Sediment Control Plan for any earthworks required to give effect to these consents must be prepared, inspected, and maintained in accordance with Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury until such time the exposed soils have been stabilised.
3. Indigenous planting is required to enhance the cultural landscape, increase indigenous habitat, filter sediment and sequester carbon.
4. Every indigenous vegetation removed must be replaced with two equivalent species (like-for-like) at or near the site through transplantation or other methods, as an offset measure.

Ecology:

5. The applicant must retain and naturalise waterways including any water race on or bordering the property.
6. The consent holder must employ a qualified and experienced herpetologist to survey/scout for native lizards.
  - a. This must be undertaken during suitable weather conditions (lizard monitoring is undertaken in Canterbury during the months of Sept/Oct – April to coincide with the warm weather).
  - b. The outcomes of this survey must be provided to Mahaanui Kurataiao for assessment before final Mana Whenua advice is provided.

Stormwater:

7. The design of stormwater infrastructure must have sufficient capacity to prevent ponding at the site.
8. Stormwater from hardstand areas must be treated before discharge, including a minimum of first flush treatment and heavy metal treatment.
9. Soakpits must not be installed on soil with contamination level above accepted values.



The following advice notes are recommended:

10. The development and/or subdivision of land should not result in a decrease in stormwater capacity and should not result in negative cumulative effects on water quantity or quality.
11. Swales should be planted with appropriate native species (not left as grass), recognising the ability of particular species to absorb water and filter contaminants.
12. The consent holder should plant and maintain a riparian buffer of indigenous vegetation on-site.
13. The consent holder should implement the *Ngāi Tahu Subdivision and Development Guidelines* to the greatest practical extent. In particular, each lot should incorporate sustainable urban design features with respect to stormwater and greywater management including:
  - a. Greywater capture and reuse.
  - b. Rainwater capture and reuse (i.e., rainwater collection tanks).
  - c. Minimising impervious cover (e.g., using permeable paving and maintaining grass cover).
  - d. The use of rain gardens and swales (or other land-based methods) rather than standard curb and channel.

On behalf of Mahaanui Kurataiao Ltd, this report has been prepared by Grace King | Mahaanui Kurataiao Ltd Environmental Advisor, and peer reviewed by Kelly Sunnex | Mahaanui Kurataiao Ltd Environmental Advisor.

Date: 4<sup>th</sup> February 2025