Speaking Points
Upper Hutt Intensification Plan Change
12 Friday 2023

Ka tito au! Ka tito au!

Ka tito au ki a Kupe

te tangata nāna

i hoehoea te moana,

i topetopea te whenua

Tū kē a Kapiti

Tū kē a Mana

Tū kē Arapaoa!

Ko ngā tohu ēnā a taku tūpuna a Kupe!

Nāna i whakatomene Tītapua!

i tōreke ia ahau te whenua e!

1. Tēnā koutou katoa,

2. Ko wai ahau?

3. Ko Karadeniz te Moana

4. Ko Kachkar te Maunga

5. Ko Laz tōku mama, he iwi Kolhis

6. Ko Cherkes tōku papa, he iwi meot

7. Ko Onur Oktem-Lewis tōku ingoa

8. No Pōrirua ahau

9. Ko kaiwhakamāherehere o Te Rūnanga o Toa Rangatira

10. Āku tohu ngāio:

11. Kua oti i ahai te tohu kairangi mo te kaupapa here me te whakahaere wai

12. Good afternoon Commissioners

13. My name is Onur Oktem-Lewis and I am Te Rūnanga o Toa Rangatira's Principal Planner. Today, I got with me, Jaida Howard, from my team, she is our up and coming planning

assistant. Jaida worked with me on the submission that we will be speaking to.

14. I am standing here on behalf of our Pou Toa Matarau Paula Collins and I will be speaking to the Rūnanga submission on the Upper Hutt City Council's Plan Change 46 for giving effect in Intensification Planning Instrument (IPI).

15. Today I will be making 9 points.

16. But first thing's first: Ngāti Toa Rangatira's Statement of Association. I would like to talk about Te Awa Kairangi / Hutt River and its tributaries and the statement of association.

17. *The Hutt River (Te Awa Kairangi)* is of historical and cultural importance to Ngāti Toa Rangatira. The iwi claim an association with the Hutt River from the time of their participation in the invasion of the Hutt Valley during 1819 and 1820. During that campaign, the taua marched around the western side of Te Whanganui-ā-Tara, defeating the local iwi as they went. When the war party reached the Hutt River, they

constructed rafts which they used to aid them in their invasion of the Hutt Valley.

18. Although Ngāti Toa Rangatira did not remain in the area after this invasion, the Hutt River continued to be important to the iwi following their permanent migration and settlement in the lower North Island in the late 1820s and early 1830s. The relationship of Ngāti Toa Rangatira to the Hutt Valley and River was not one defined by concentrated settlement and physical presence. Rather, the iwi felt their claim to the land was strong based on the powerful leadership of Te Rauparaha and Te Rangihaeata and the relationship they had with iwi residing in the Hutt Valley who had been placed there by Ngāti Toa in the 1830s.

19. For some years these iwi in the Hutt Valley paid tribute of goods such as canoes, eels and birds to Te Rauparaha and Te Rangihaeata.

20. Ngāti Toa Rangatira have a strong historical connection with the Hutt River and its tributaries, and the iwi consider that the river is included within their extended rohe and it is an important symbol of their interests in the Harataunga area.

21. Te Awa Kairangi was traditionally an area for gathering piharau, or the freshwater blind eel, as well as tuna (eel) from its tributaries. Harataunga also supported flax plantations, which were used by early Māori for trading with settlers. The River was also of great importance as it was the largest source of freshwater in the area. The river was also an important transport route, and small waka were used along the length of Te Awa Kairangi.

22. By 1840 Ngāti Toa Rangātira had established a powerful position in the Cook Strait region with settlements in the lower North Island and upper South Island (Te Tau Ihu).

23. Several Ngāti Toa Rangātira chiefs, including Te Rauparaha and Te Rangihaeata, signed the Treaty of Waitangi.

A Crown-appointed commissioner investigated the New Zealand Company's land claims covering Port Nicholson and Te Tau Ihu. In Port Nicholson the Crown established a process by which the Company could validate its purchases by paying additional money to Māori in return for the signing of deeds of release. In 1844, Te Rauparaha accepted £400 for the 'surrender' of Ngāti Toa Rangātira interests in Harataunga (the Hutt Valley). Te Rangihaeata only accepted a share of the money in 1845 but did not regard this payment as extinguishing the rights of allies from other iwi. The Crown treated the payment, which did not define the boundaries of Harataunga or provide any reserves, as extinguishing Ngāti Toa Rangātira interests across the Port Nicholson block.

24. So that sets the historical context that the land interests Rūnanga has and is activated through the Deed of Settlement Act (2014). There are vast amount of properties in the Upper Hutt and whenua that are listed in the Ngāti Toa Deed of

Settlement and returned as part of our statement of association and cultural redress including Te Awa Kairangi and its tributaries. I will pick up on this point later on but I will proceed to **my 2nd point now.**

25. My second point is about the process of the Council's implementation of the National Policy Statement Urban Development (NPS-UD). Ngāti Toa spans through a large rohe as the Mana Whenua and as the Rūnanga kaimahi, we have been involved in a number of Intensification Planing instrument implementation process with Councils and this could easily be up there in the top 10 list of for being one of the most dubious, and the shonkiest of processes, in protecting and maintaining Māori's rights and interests, be it from a papakāinga perspective, and their land development and environmental protection aspirations and protection of their Sites and Areas of Significance. The processes that were undertaken by the Councils must comply with the NPS UD

mandatory clauses but breaching the Treaty and upholding the Treaty obligations as well as Breaching Section 4A, Section 6, Section 7 and 8 of the Act in many ways. This is somewhat an appalling practice of Mana Whenua engagement practice, whilst, by all means, this may not have been the intention but, unfortunately a process that Mana Whenua is punished for Council's not following through their Section 6, 7 and 8. It is puzzling to understand this legislative contrast and how one mandatory document can ask for one thing and the other, District Plans, are expected to overhaul Mana Whenua rights and interests to be able to implement the hierarchical document. There is also always the hypocrisy of implementing one hierarchical document (NPS UD) immediately, development and growth and another hierarchical document (NPS FM), protection of taiao and our taonga, later down in the line because it is not the 'mandate' or the 'role' of the local government. But Commissioners, that

is not the topic of this Hearing so I will leave you to think about that hypocracy which I will come into it later on about my specific point on the hydraulic neutrality provisions.

26. The Rūnanga appreciates the effort made by the Council to send an early draft of the Plan Change documents to the Rūnanga.

27. On the 14th July 2022, the Rūnanga sent the Upper Hutt City Council a letter of statement in response to the Intensification Plan Change. This letter covered the topics of:

a. Section 4A of the Resource Management Act (the RMA) 'Further pre-notification requirements concerning iwi authorities

b. Papakāinga chapter and provisions addition to the Plan Change,

c. Sites and Areas of Significance to Māori (SASM) schedule and the current Upper Hutt Operative Plan,

d. Significant Natural Areas (SNAs) and the inclusion of Mana Whenua taonga in the SNA schedule,

e. The provisions around the water sensitive urban design and hydraulic neutrality,

28. The Rūnanga then made a submission on the 18 October 2022 and elaborated more on the technical details of the Plan Change Intensification.

29. With this letter, Rūnanga asked officers these matters to be addressed and that we have more information about IPI's impact on cultural matters. Rūnanga was able to ask such information under the Section 4A of the Act: Further notification requirements concerning iwi authorities requires iwi and Mana Whenua are given reasonable, adequate time, and opportunity to comment, consider the draft proposals and are able to give advice on the Plan Change.

30. In a nutshell, Rūnanga has not been provided with such reasonable and adequate time required by the legislation. The

response Rūnanga received, was ‘Council will do a Plan Change’. When Rūnanga then submit to the Plan Change on the same points, it was understood and implied that Officer Reports would follow this songsheet. Now Commissioners.

31. I would like to say this is not culturally appropriate; it does not meet what the Act asks, but more importantly, expects Mana Whenua to wait for another plan change while their sites and taonga are not protected and left vulnerable to inappropriate land development and use. Intensification should be culturally responsive and appropriate and what we are having here Commissioners, is not that. The Rūnanga is aware that the Council team has started working on the matters raised but because the process imposes immediate implementation with no appeal rights, unfortunately although the intention is good, it won’t be good enough for Mana Whenua and the fact that Mana Whenua is punished through the process is far from what we could call a good planning

practice. I will move on to ***my third point*** which is related to the point I just made.

32. Sites and Areas of Significance to Māori (SASM) – the Rūnanga team had read the officers' report and reply regarding the Rūnanga's request that these sites are not protected. The wording that the Officer used:

33. "I consider this represents a significant amount of work that cannot be accommodated within the IPI timeframes. I note this task would be best achieved by the Council working in partnership with mana whenua on the preparation of a non-IPI future plan change. I have been advised that this work is currently underway."

34. There are serious risks of not having essential overlays such as the Sites and Areas of Significance (SASM) and yes while we were reached out for participating at this mahi, the *holistic approach* that the officer report suggested is a long way away from completing this mahi. We do not have an up to

date – recent work programme and that the completion of such mahi is not certain and be bound by Schedule 1 process of the Act. There is a situation where substantial amount of whenua that are significant to Mana Whenua will be left unprotected and we do not know, how long for. Another appalling part of this story is that Operative Plan became operative in 2004. So fast forward, the plan had no proper implementation of Section 6 for years and the time limitaton argument is comical, if I may use that word.

35. This is culturally inappropriate. One has every right to query why on earth a Section 6 Matter, have not been given effect for all these years and the fact that because there is a not a proper schedule of the sites Mana Whenua cannot even have the chance to argue them as ‘qualifying matters’. This is not only culturally inappropriate but also punishing iwi and Māori and members of Mana Whenua for not having to give effect to the requirements of Section 6. When something is

not incorporated into the Plan as they should be it is hard to ask for them to be considered, protected and maintained within the scope. As the Rūnanga planner, this is not good planning practice nor is it responsible planning. All we can do is to watch from the sidelines how these sites are going to be potentially destroyed and altered offensively.

36. It is difficult to comprehend to have any iwi engagement being triggered since we do not know what we do not know because these are not listed in the relevant schedule. It is disturbing that these sites would be subject to development proposals and that there is not any way to know what the impact would be. My suggestion for this is to make sure that the Council is working with Mana Whenua especially for the sites that are in the Deed of Settlement as soon as possible and look into implementing a rapid plan change for the information we already know from Deeds of Settlement.

37. The **fourth point I would like to** make is:

38. Te Rūnanga is concerned about the number of incorrectly mandatory wording that is required to be incorporated into the Plan Change. They all are culturally inconsiderate because the way they are worded either dismisses ‘Te Ao Māori’ such as in the clauses that dismisses to include “environmental wellbeing” but also in HRZ-02 that potentially can discriminate against the Papakāinga developments, as the neighbourhood’s urban built character may not fit into what papakāinga is proposing.

39. These amendment requests that the Rūnanga made were rejected on the basis that they cannot be altered because they are mandatory policy requirements. However if you go back to the 77G (1) that the Officer refers to there is nothing in there that suggests you cannot add or make your provisions better than what it currently is and that is that. Plus the intent in the 77G (1) is the fact that the MDRS must be incorporated into the relevant zones, which clearly the plan

change is doing that, I am asking back to the officers' assesment of the what part of the 77 G actually dictates what wording can happen and what cannot. One can argue the wording that the Mana Whenua is asking for is within the scope of 77I (a) as the matter is how we interpret 'Te Ao Māori'. For instance in the case of HRZ-P3 Clause 6 Schedule 3A are the mandatory clauses.

40. Regarding the mandatory clauses, Rūnanga wants to understand and ask Council to write to the Ministry to ask whether they can add more wording with the direction of Mana Whenua without necessarily doing any damage to the intention of the policy wording. This would make sure that mandatory wording as well as the wording that Mana Whenua desires to are given effect in the policy intent. It is disappointing to see that something that has to be cut and pasted and passes the tests of definition of wellbeing in the District Plan, the most primary and infleuntial tool that governs

how whenua is managed. I will now proceed to our point regarding the design guides, **which is my 5th point.**

41. Rūnanga submission was rejected on the basis of , and I quote:

"whilst I appreciate the reasons behind the request, I do not consider such a review could be carried out within the IPI process as I consider it would not provide an avenue for other persons interested in the design guide to consider any proposed amendments and make a further submission on them."

So the new plan change introduces new design guides Medium and High Density: it is quite confusing and also frustrating that some of the points in the National Policy Statement Urban Development implementation seems to be interpreted in the way that is way exceeding what they can do and in the process, by way of defining and assuming what they can include can almost discriminate against what Mana Whenua asks for. How Mana

Whenua see kaupapa Māori in medium and high density residential zone includes : Tino Rangatiratanga, Hauora Māori, Whakarauora reo me ōna tikanga, kaitiakitanga, whanaungatanga, kotahitanga, te oranga.

42. Urban development for Mana Whenua also carries the principles of whenua ora (land wellbeing), wai ora (water wellbeing), ngāi tipu and ngāi Kīrehe Ora (flora and fauna well being). Introducing a design guide that does not necessarily caters for our needs is pure ignorance or asking Mana Whenua to fit themselves to the social and cultural construct that the residential design guides are imposing. There is tikanga how tomokanga / entrances should be, movement and access and how a well-functioning site is depicted and places of buildings as well as the what high quality building is from a Mana Whenua perspective, external appearances and internal spaces these all have a Mana Whenua perspective, and Te Rūnanga is not in the intention of letting these to the statutory

design guides that they had no input on. I would welcome a work being undertaken by Council officers immediately, where we can ensure these mandatory guides have Mana Whenua principles and components.

43. My 6th point is about the Rūnanga submission on the *Neighbourhood Centre Zone.*

44. Now I quote again the officer comments regarding our submission of the NCZ-R3 Demolition rule.

45. *The management of sites and areas of significance to Māori will be managed via the Historic Heritage chapter, once sites and areas have been identified and included in the District Plan via a future plan change process. Notwithstanding this lack of identified SASMs in the District Plan, I consider that demolition under NCZ-R3 should not negatively impact on any historic heritage sites or features that are included in the District Plan. Although historic heritage sites and features are protected via provisions within the*

Historic Heritage chapter of the District Plan, I consider there to be a minor risk that a protected site of feature could be modified destroyed due to the permitted activity status of demolition under rule NCZ-R3.

46. NCZ-R3 the introduction of this rule is problematic and Rūnanga will continue to oppose it until there is some work done on the SASMs- Rūnanga wants to understand at what part of this is posing a risk to allow such unrestricted rule to be applied. **< I note that officers have accepted Rūnanga submission in part>**

47. My 7th point is :

48. **Our submission on the Matters for consideration.** This actually goes by in the submission with a typo of matters of discretion. We are unable to see a good rationale of the list here being deleted, I would like to know where these matters of consideration have gone because some of them are very much relevant.

49. **Our next point 8th is about the :**

50. Height in relation to boundary: *The Height in Relation to Boundary Rules aim to avoid buildings on one site physically dominating another site. The Rules also seek to address the effects that the positioning of new buildings or additions to existing buildings may have in reducing neighbouring buildings access to daylight and sunlight. The effect of the Rule is that the taller the proposed building is, the further away from the boundary it must be. This is to ensure that sunlight and daylight access is not reduced.* NCZ-S2 explains the matters of discretion: I'd like to ask commissioners what about the adjoining Sites and Areas of Significance? These are not mentioned at all. There is certain tikanga and how sites should be located and erected, not only this clause dismisses the tikanga and principles around how we see height in relation to boundary, but also how do these relate to Maunga and Awa. My last point is on the hydraulic positivity point.

51. It is disappointing to see Rūnanga requests on the objectives HRZ-O3 and NCZO4 have been rejected. This was done on the basis of and I quote: *In my opinion, there is currently insufficient justification for including the requested rewording to include hydraulic positivity. I note there is no higher-level statutory planning direction that the district plan must give effect to that provides for the requested amendments.*

52. As I mentioned right at the beginning of my speech, picking and choosing what higher documents you should be giving effect is not responsible planning. We have all seen what National Policy Statement Freshwater Management looks like, what it asks for and how and the way in which it gives priority to Te Mana o Te Wai. Doing the bare minimum developments will only get us behind. With that, commissioners I am concluding my speaking points. Happy to receive any pātai.

END