

TAUPŌ DISTRICT COUNCIL

PROPOSED DISTRICT PLAN CHANGE:

PLAN CHANGE 38: STRATEGIC DIRECTIONS
PLAN CHANGE 42: GENERAL RURAL AND RURAL LIFESTYLE ENVIRONMENTS
PLAN CHANGE 43 – TAUPŌ INDUSTRIAL ENVIRONMENTS

MINUTE 15 OF THE INDEPENDENT HEARING PANEL

1. This Minute is being sent to you because you are either a submitter or a Council reporting officer to **Plan Change 38: Strategic Directions, Plan Change 42 General Rural and Rural Lifestyle Environments** and **Plan Change 43 Taupō Industrial Environment** to the District Plan.

Minute Purpose

2. This Minute is directed to Submitter 41; being a group of seven Trusts collectively referred to on the notice of submission as **Rangatira Block Trusts**. The submission notice, which is signed on behalf of all Trusts, states that:

The submitters are all significant Māori land holding trusts who own all the undeveloped land on the western side of the river, from Rangatira Park, part of Nukuhau, through Acacia Bay to Rangatira Point; an area of 1500 hectares. The Submitters represent the interest of over 8,000 individuals who are mana whenua of land in Taupo and are directly impacted by these plan changes.

3. This Minute particularly relates to an issue that was first brought to our attention at the conclusion of Day 1 into the Hearing of submissions for Plan Change 42; being the review of the provisions relating to the Rural Environment and Rural Lifestyle Environment.
4. This Minute sets out a description of the issues as we understand them and further sets out some directions for the Trusts to respond to.

Issue definition and discussion

5. At the hearing adjournment for the day yesterday (Monday 21 August), a representative of Paenoa Te Akau Trust (**Paenoa**), Ms Emerina Adams, addressed the Panel in relation to concerns held by recently appointed Trustees of that Trust. This was in relation to a proposed hearing presentation by Rangatira E Trust which was originally scheduled for day 1 of the Hearings. That presentation having been postponed at the request of the representatives of Rangatira E until Thursday.
6. As we understand the matter, the issues raised by Paenoa are that:
 - a. The Paenoa Te Akau Trustees are concerned they have no speaking opportunities at the hearings for Plan Changes 38, 42 and 43, and seek a speaking slot if possible; and

- b. The Trustees also assert that there had been no consultation by Rangatira E representatives with Paenoa regarding the development and presentation of evidence in support of the submission lodged by the joint Trusts.
7. We are not in a position at this point to comment on the validity of these assertions. We are, however, determined to run a process that is fair and just to all parties. In this respect we note that the submission notice was lodged on behalf of the following seven Trusts, which includes the two Trusts referred to above.
- Rangatira E Trust
 - The Proprietors of Hiruharama Ponui Block
 - Rangatira Point Incorporation
 - Paenoa te Akau Trust
 - Rangatira 8A14A (Paenoa Te Akau Block)
 - Rangatira 8A16 (61 Huka Falls Rd)
 - Rangatira 8A17 (Nukuhau)
8. We also understand from Ms Adams that as far as Paenoa is concerned there has been a change of Trustees for that Trust.
9. All of the above raises a concern as to two matters. Firstly, the mandate of Rangatira E and Paenoa to speak in support of the joint submission; and secondly whether the positions of Rangatira E and Paenoa (which by implication may well be contradictory) can be accommodated within the scope of the joint submission.
10. To this end we have sought some legal advice from Council's legal advisor as to how to proceed. This Minute briefly outlines the key aspects of that advice and forms the basis of our direction to the two Trusts, that is Rangatira E Trust and Paenoa Te Akau Trust, in advance of the hearing presentation on Thursday afternoon.
11. It seems to us that the issue fundamentally comes down to a question of mandate to represent the views of the Trust(s) and, if mandate is established, then the extent to which a refinement to the position stated in the written submission might create scope and fairness issues for the Panel in its deliberations.
12. The starting point is the written submission. It purports to be a submission on behalf of all identified Trusts and made with authority to do so. The Council and Panel will consider the submission on its face. However, given that it appears that one or more of the Trusts may now wish to advance a view different from other Trusts, the question for the Panel to consider is whether each Trust is likely still a 'legal person' and whether they are entitled to do so (subject to the Panel's powers to regulate its own hearing procedures).
13. From the Panel's point of view, in terms of agreeing to hear from a Trust, the Panel requires some relatively straightforward information so that it can be satisfied that the people who wish to speak have lawful authority or mandate to represent the views of the relevant Trust. This includes:
- a. Information which identifies the legal basis for the Trust, its constitution or rules, and the arrangements for appointment of trustees or office holders (e.g. is the Trust created by or pursuant to statute or, for example, a direction or order of the Māori Land Court)?

- b. Information identifying that the people who wish to speak on behalf of the Trust are authorised to do so (e.g. verified results of an election, instruments of appointment as trustees etc.)
 - c. Information identifying the extent to which any relevant Trust processes/requirements (if any) have been followed to give the relevant people authority to speak at the hearing on the Trust's behalf (e.g. meeting minutes etc., if required)
14. It might also be useful (but not essential) for each Trust to provide, in writing, details of its landholdings and interests in relevant resources that are the subject of the hearing, so that the Hearing Panel is able to orientate itself and better understand the perspective that may now be sought to be advanced.
15. This information is required to give the Hearing Panel a sufficient level of confidence/reassurance that each Trust's position is being represented by person(s) with the appropriate mandate/authority. Once that is established then the Panel will be able to hear from each Trust subject to the usual hearing protocols and legal considerations as would apply to any other submitter.
16. The mandate position doesn't need to be established to an unreasonably high standard of proof, but rather to a standard that satisfies the Panel that the person(s) appearing have the necessary authority to speak on behalf of the Trust.

Next Steps

17. Ideally the Panel would receive this information prior to the hearing presentation and in a joint signed statement from the two Trusts, and that is our preference. However, we recognise the lateness of this Minute and as such we are happy to have that information come in at the earliest possible time (which may be at the hearing) and we understand that we may receive individual responses for the two Trusts. To assist us therefore, we require a response as soon as possible as to:
- a. A timeframe from both the Rangatira E Trust and Paenoa Te Akau Trust for providing the information sought (noting our preference for a joint statement); and
 - b. Whether the representatives of Paenoa wish to speak to the Panel following the presentation of the submission by Rangatira E on Thursday.
18. Our preference would be a joint response from both Rangatira E and Paenoa on these two questions but understand if individual responses are received.
19. In any event, a response to the hearing administrator by no later than **3pm Wednesday 23 August** to the above two points in paragraph 17 is requested. The Panel will provide subsequent Minutes on any further updates in relation to the hearing's proceedings in due course.
20. Any submitter enquiries relating to the above content and the hearing should be directed to the Hearing Administrators in the first instance Hilary Samuel or Haydee Wood and can be contacted at districtplan@taupo.govt.nz.

DATED Tuesday 22 August 2023



DJ McMahon

Chair - Independent Hearings Panel

For and on behalf of:

Commissioner Elizabeth Burge

Councillor Kevin Taylor