



**Mahaanui
Kurataiao Ltd**
Manawhenua Environmental Services

Waimakariri District Council District Plan Review

Kāinga Nohoanga

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INTRODUCTION

The Waimakariri District is within the takiwā of Te Ngāi Tūāhuriri Rūnanga, who hold mana whenua status over the area.

The Waimakariri District Council has statutory obligations to Ngāi Tahu whānau under the Resource Management Act 1991. These obligations include:

- Consulting with mana whenua through their representatives in preparing the district plan.
- Recognising and providing for the relationship of Ngāi Tahu and their customs and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga;
- Having particular regard to kaitiakitanga;
- Taking into account the principles of the Treaty of Waitangi; and
- Taking into account any relevant iwi planning document.

Waimakariri District Council is currently reviewing its operative District Plan. As part of its review, the Council has contracted Mahaanui Kurataiao to facilitate engagement with Te Ngāi Tūāhuriri and to prepare a report concerned with district plan provisions for Papakainga/Kāinga Nohoanga.

This report was prepared by Mahaanui Kurataiao Ltd on behalf of Te Ngāi Tūāhuriri Rūnanga to communicate their preferences for Kāinga Nohoanga in the District Plan.

REPORT STRUCTURE

This report is structured as follows:

- A definition of Papakāinga/Kāinga Nohoanga;
- The history of Papakāinga/Kāinga Nohoanga in the Canterbury region;
- Background information on the relevant planning documents;
- Identification of key issues and options in respect of papakāinga/kāinga nohoanga zoning; including:
 - Naming of the zone
 - Range of activities and buildings provided for
 - Options for where Papakāinga/Kāinga nohoanga are located
 - Right to use the zone
 - Management of activities within the zone
- The preferred options of Ngā Rūnanga as discussed with representatives from Te Ngāi Tūāhuriri Rūnanga.

DEFINING PAKĀINGA/KĀINGA NOHOANGA

Papakāinga is a concept that is concerned with whānau community living in accordance with tikanga¹.

The term 'Papakāinga' is commonly used as part of Resource Management language throughout New Zealand. This is however a North Island term and the Ngāi Tahu preference is to use the term Kāinga Nohoanga. In the Christchurch Replacement District Plan the term Papakāinga/Kāinga Nohoanga Zone was adopted to connect the two terms and ensure administrators or readers of the District Plan understood that Papakāinga and Kāinga Nohoanga were interchangeable terms. In the Waimakariri District Plan reference is made to "Māori Reserve 873", rather than Papakāinga or Kāinga Nohoanga.

For the balance of this report, the term Kāinga Nohoanga may be used alongside or interchangeably with Papakāinga. The term Kāinga Nohoanga is however the preferred terminology for Ngāi Tahu whenua. The key residential components or features of a Kāinga Nohoanga include²:

- Provision for whānau: where extended families can live in close proximity to one another and build strong networks and relationships.
- Allowance for the construction of a mixture of housing types and densities.
- Provision for dwellings to be located in close proximity to traditional structures such as marae, and the enablement of customary activities.

Kāinga nohoanga is not however only about creating housing opportunities on tribal land. It is also about providing the commercial, social and community facilities and opportunities that allow Ngāi Tahu whānui to fully occupy and use ancestral land; recognising and enabling the principles for which the land was originally set aside. These principles are described in the section on the History of Kāinga Nohoanga below.

¹ Tikanga means customs and traditions that have been handed down over the generations.

² Addendum to MR873 Information Package, Te Rūnanga o Ngāi Tahu. (2014).

HISTORY OF KĀINGA NOHOANGA

In 1848, the Crown purchased 20,000,000 acres of land within the South Island for £2000 from Ngāi Tahu through a series of deeds. This included Kemp's Deed under which the largest land sale, the 1848 Canterbury Purchase, took place. As part of the Deed of Sale, the Crown undertook to set aside adequate reserves for the "present and future wants" of Ngāi Tahu whānui. These were to include places of residence and provide for associated communal activities including schools, churches, hospitals and cemeteries. These Reserves were referred to as Kāinga Nohoanga.

It is understood from evidence provided to the Waitangi Tribunal, that the predominant view at the time of the Canterbury Purchase was that Kāinga Nohoanga would in time become settlements similar to a rural English village. The statements in Kemp's Deed indicate that the intention was to allow for mana whenua to live on their ancestral lands, and that this intention would extend to future generations and was not restricted to an allotted time period.

The Deed of Sale also intended to provide on-going access to natural resources where Ngāi Tahu had hunted and gathered for generations. Accordingly, areas used for mahinga kai, the customary production and taking of food were to be set aside. The Waitangi Tribunal used the term "mahinga kai" as a South Island wide reference point for discussion of Ngāi Tahu resources. The Tribunal wrote:

"As we see the position, it was not only necessary for the Crown to protect the principal food resource areas, it was also the duty of the Crown to provide the tribe with extensive land so that it could adapt itself to the new pastoral and agricultural economy. This new economy brought with it the new resources that were in time to replace some of the traditional mahinga kai. To take part in this process Ngāi Tahu had to have reserve to them substantial areas of land which could be developed and farmed."³

Nohoanga were seasonal occupation sites and a vital part of the mobile lifestyle of Ngāi Tahu as they travelled around the South Island in search of food and natural resources. Many of the Crown's guarantees for land and access to resources were not however upheld, and as a result Ngāi Tahu whānui have become alienated from the land that should have been set aside for their occupation and use.

The Waitangi Tribunal agreed that only a fraction of the land that should have been provided for as Māori Reserve in Kemp's Deed was ever set aside by the Crown for Kāinga Nohoanga. What was intended by the Reserves, and what whānau understood would be provided has been described in evidence to the Waitangi Tribunal³ as follows:

- The right to dwell on land, and that right to remain in place in perpetuity to descendants.
- The right to mahinga kai, including the right to hunt, harvest and to develop mahinga kai resources.

³ Waitangi Tribunal, Ngāi Tahu Land Report, 1991, para 17.5.2

- The right to develop land to achieve the above, including subdivision, and setting aside land for communal facilities or other activities to support the community.
- The right to develop a sustainable and growing economic base within the community that would sustain future generations.

Accordingly, the concept of Kāinga Nohoanga is not limited to residential occupation, but also includes the ability to provide for broader economic enterprise. Ngāi Tahu believe that Kāinga Nohoanga was provided for in Kemps Deed and is guaranteed by Article II of the Treaty of Waitangi.

With the introduction of planning law in the 1950s, being the Town and Country Planning Act 1953, many of the areas that were set aside as Māori Reserve were zoned rural in the subsequent planning provisions and could not be used for housing or other settlement purposes. As a result of the introduction of zoning, many Māori sold their Māori Reserve land past World War II.⁴

In plans prepared under the Town and Country Planning Act 1977 and the Resource Management Act 1991, some councils have made provisions for Papakāinga housing on Maori Reserve land. However, until recently those plans still followed a European development pattern of one house per title. This method does not work for Māori land which is held in tribal ownership and where a more connected pattern of housing is envisaged.

In addition to the limitations of the planning provisions, Papakāinga zones are often located in areas with no reticulated services (water, sewerage etc), inadequate roading and lack of other facilities required to enable land development and the types of activities anticipated within a Kāinga Nohoanga. There is often no commitment from the relevant council to provide these facilities as the area is not recognised as a settlement in the relevant district plans.

RELEVANT PLANNING DOCUMENTS

Canterbury Regional Policy Statement

Under Section 75(3)(c) of the RMA, the new Waimakariri District Plan must give effect to the Canterbury Regional Policy Statement (CRPS). The relevant provisions of the CRPS are set out as follows:

Chapter 5 Land Use and Infrastructure

Section 5.1 sets out the Issues for Land Use and Infrastructure within the Wider Region. The Statement identifies a list of adverse effects on the environment that are of particular concern⁵. This list includes “the loss of the relationship of Ngāi Tahu and their culture and traditions with ancestral lands, water, sites, wāhi tapu and other taonga”.

⁴ Brief of Evidence of Rawiri Te Maire Tau, Christchurch Replacement District Plan

⁵ Section 5.1.1, Explanation, pages 5-2 to 5-3

Of particular relevance to this report, clause 5.1.5 identifies that '*Ngāi Tahu, as tāngata whenua, have difficulty establishing papakāinga housing and marae, and ancillary activities associated with these, on ancestral land identified for such purposes.*'

The Explanation to 5.1.5 describes Papakāinga as a form of housing development on ancestral land. It describes how this is of importance to enable Ngāi Tahu to maintain culture, traditions and relationships, including a culturally-based lifestyle.

The Explanation goes on to identify multiple barriers to the development of Papakāinga housing and marae, including financial, land ownership, development and compliance costs, lack of services and advice from courts, central and local government. The CRPS focuses on the development of appropriate provisions in regional and district plans, as a component of overcoming some of the barriers identified.

Objective 5.2.1.2(h) seeks that:

"Development is located and designed so that it functions in a way that enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety; and which facilitates the establishment of papakāinga and marae.

The Principal Reasons and Explanation to this Objective offers some limited further advice, stating that "development, including papakāinga and marae, offer significant social, economic and cultural benefits".

Policy 5.3.4 is intended to implement Objective 5.2.1 2 (h) and states:

5.3.4 Papakāinga housing and marae (Entire Region)

To recognise that the following activities, when undertaken by tāngata whenua with mana whenua, are appropriate when they occur on their ancestral land in a manner that enhances their on-going relationship and culture and traditions with that land:

- 1. papakāinga housing;*
- 2. marae; and*
- 3. ancillary activities associated with the above;*

And provide for these activities if:

- 4. adverse effects on the health and safety of people are avoided or mitigated; and*
- 5. as a result of the location, design, landscaping and management of the papakāinga housing and marae:*
 - (a) adverse effects on the following are avoided, and if avoidance is not practicable, mitigated:*
 - (i) the important natural character values of coastal environment, wetlands, lakes, rivers and their margins;*

- (ii) the values of the outstanding natural features and landscapes;*
- (iii) the values of the historic heritage; and*
- (iv) the values of areas of significant indigenous vegetation and habitats of indigenous fauna.*

(b) regard has been given to amenity values of the surrounding environment.

The CRPS directs that Territorial Authorities will set out objectives, policies and may include methods in district plans to implement Policy 5.3.4. This includes providing for papakāinga housing, and marae, and activities ancillary to these on ancestral land.

Papakāinga housing is described within the CRPS as housing for the occupation of one or more beneficial owners who are members of the same hapū as a result of the implementation of a partition or occupation order of the Māori Land Court. The establishment of marae is to be enabled through a direction of the Māori Land Court in accordance with tikanga Māori; or for the use of beneficial owners.

The CRPS suggests that local authorities should consult directly with the beneficial owners of ancestral land (or their representatives). The identification of ancestral land should be undertaken with mana whenua and may include reference to the Māori Land Court's data-base recording land tenure under the Te Ture Whenua Māori Act 1993/Māori Land Act 1993 or relevant appropriate data bases managed by Te Rūnanga o Ngāi Tahu.

The Principal Reasons and Explanation identifies that a range of activities are expected to occur in conjunction with papakāinga housing and marae. These may include food gathering, storage, the manufacturing and trade of goods and receiving and hosting of visitors. It is acknowledged that often it is these ancillary activities which determine the location of marae and housing.

The CRPS is also clear that ancestral land is not limited to land remaining in Māori ownership (either freehold or in customary ownership). The CRPS does however suggest that where land is to be used for a Papakāinga purpose, a connection is required to be made between culture, traditions and the land. It is noted that the ownership rights, occupation, partitioning, alienation and use and development of some forms of ancestral land is subject to Māori Land Court processes in accordance with Te Ture Whenua Māori Act 1993/Māori Land Act 1993. Papakāinga should be adequately serviced for sewage, stormwater disposal and potable water, as well as being safe from natural hazards. Development should be sensitive to, and manage effects on, the surrounding environment.

In summary, the CRPS clearly directs and anticipates that District Plans will provide for Kāinga Nohoanga on ancestral land where adverse effects are appropriately managed.

Mahaanui Iwi Management Plan (IMP)

The Mahaanui Iwi Management Plan must be taken into account under Section 74(2A) of the RMA. Issues and policies in regards to Kāinga Nohoanga are articulated in the Papatūānuku chapter of the Mahaanui IMP.

The IMP describes how Kāinga Nohoanga developments often require smaller lot sizes or higher density developments than are allowed for in particular zones or density rules in district plans. This occurs for two reasons:

- (a) Ancestral Māori land is often located in areas zoned Rural where farm sized allotments are anticipated; and
- (b) The nature of Māori land ownership means land is often held by multiple parties of the same whānau or hāpu and cannot be easily subdivided. Therefore building on that land and complying with the typical New Zealand town planning/RMA rules of having one dwelling per Certificate of Title is difficult.

Issue P5 in the IMP describes the barriers to papakāinga development, including zone and house density rules, multiple ownership, standards for access and provision of infrastructure.

Key Mahaanui IMP policies in place to enable the use of ancestral land for Papakāinga developments are;

P5.1. To recognise that there are a number of issues and barriers associated with the use and development of ancestral and Māori reserve land for the purposes for which it was set aside, and that these may vary between different hapū/Papatipu Rūnanga.

P5.2. To require that local and central government recognise that the following activities, when undertaken by tāngata whenua, are appropriate when they occur on their ancestral land in a manner that supports and enhances their on-going relationship and culture and traditions with that land:

- a) Papakāinga;
- b) Marae; and
- c) Ancillary activities associated with the above.

P5.3. To require that the city and district plans recognise and provide for Papakāinga and marae, and activities associated with these through establishing explicit objectives, policies and implementation methods, including:

- a) Objectives that specifically identify the importance of Papakāinga development to the relationship of Ngāi Tahu and their culture and traditions to ancestral land; and
- b) Zoning and housing density policies and rules that are specific to enabling Papakāinga and mixed use development; and that avoid unduly limiting the establishment of Papakāinga developments through obligations to avoid, remedy or mitigate adverse effects on the environment.

P5.4. To require that the district plans and land titles clearly recognise the original paper roads that provided access to Māori land.

The policies are intended to enable the development of ancestral land consistent with the purposes for which it was originally identified, including an economic base.

In summary, the Iwi Management Plan has very clear policy directives to explicitly provide for Kāinga Nohoanga. Having regard to s74(2A) of the RMA, these policies should be reflected in the Reviewed District Plan.

OPERATIVE DISTRICT PLAN PROVISIONS

Provisions relating to Kāinga Nohoanga in the operative Waimakariri District Plan were developed in response to directives contained in the Land Use Recovery Plan 2013 (“the LURP”).

The LURP specified pre-written objectives and policies for development on Māori Reserve 873 (MR 873) that were to be inserted into the District Plan and further directed Waimakariri District Council to develop and include methods to give effect to the objectives and policies.

MR 873 is a legally defined area of 1068 hectares situated at Tuahiwi. It is land that was set aside in 1848 as part of Kemp’s Deed for Te Ngāi Tūāhuriri Rūnanga for the purpose of occupation, community and business activities. These development rights are held by descendants of the original grantees of Kemp’s Deed.

The Waimakariri District Plan does not use the terms Kāinga Nohoanga or Papakāinga. Instead the Plan uses the term Cluster Housing which is defined to mean “kāinga nohoanga dwellinghouse development that has been design as a group and is contiguous on a site or sites in the Rural Zone of Māori Reserve 873, as identified on District Plan Map 176A”.

In this case the district plan is adopting a term which is attempting to retro-fit Kāinga Nohoanga into a European view of urban development. The translation fails to convey the full and actual meaning of Kāinga Nohoanga and as a consequence fails to provide for the occupation and use anticipated and intended by Kemp’s Deed.

The objectives and policies relevant to kāinga nohoanga are located in Chapter 2: Māori of the Operative District Plan.

Objective 2.1.3 seeks:

Recognition and protection of wāhi taonga that is culturally, spiritually and/or physically important to Ngāi Tūāhuriri.

The relevant policy under this Objective is Policy 2.1.3.4 which specifically seeks to:

Recognise the relationship of Ngāi Tūāhuriri with the land and associated resources in Māori Reserve 873 so as to enable the land to be used as intended by Kemps Deed of 1848 and the Crown Grants Act (No. 2) of 8162, for places of residence and living activities for the original grantees and their descendants.

The Explanation for Policy 2.1.3.4 states that the Policy is to recognise the historical and cultural associations of Māori to land in MR 873 and to facilitate the continued occupation and use of Māori land in the zone by descendants of the original grantees. The policy intends to provide for development in a way which meets the needs of Māori and other residents, and protects natural and physical resources.

The Explanation and Method 2.1.3.4.1 anticipate development of a Management Plan to give direction for future development. The Method states that this would be prepared jointly by the Council, Ngai Tūāhuriri, and other stakeholders, including non-Māori landowners and service and utility providers.

Method 2.1.3.4.2 states that the Council's non-statutory District Development Strategy provides the basis for servicing any extension to the Tuahiwi Village urban area. The Waimakariri 2048 District Development Strategy was published in July 2018. This strategy identifies that the Council will “continue to explore infrastructure provision options in smaller settlements, including within Māori Reserve 873”, but does not include any specific plans to service the area. (However we note that the 2018-2028 Long Term Plan identifies that an upgrade of the Tuahiwi pump station is programmed for 2019 to 2023 to cater for growth.)

Policy 2.1.3.5 identifies the type of developments to be provided for in MR 873 and the matters that must be addressed by such developments. The policy anticipates a range of activities within a contained village area, including community facilities, convenience retail, recreational and business opportunities as well as residential housing. It also provides for cluster housing in the rural area of MR 873. A range of housing options is anticipated, with connection to reticulated water supply and sewerage. Historic landscape and land use patterns are recognised, with specific emphasis given to protection and enhancement of the Cam River, stream environments and views to Maungatere and Ngā Tiritiri o te Moana, and retention of rural outlooks from cluster housing. Development of land subject to high hazard is to be avoided.

Unusually, Māori Reserve 873 is not specifically recognised or named as a Kāinga Nohoanga Zone in the Operative District Plan. Instead the Waimakariri District Plan applies its general Rural and Residential 3 zoning to the land concerned. This approach not only fails to provide appropriate cultural recognition of the locality, it also results in cultural considerations relating to land development being subsumed by generic rules.

Chapter 13: Resource Management Framework, Policy 13.1.1.1 sets out the matters that underlie the establishment of the different planning zones in the Plan. These matters include (in 13.1.1.1(h)): “historical and cultural associations with Māori Reserve 873”. This policy recognition is not however manifested or described in either the Rural or Residential 3 Zone policies – the importance or presence of Māori Reserve 873 is simply omitted from the text. The Rural Zone is described in the explanation as “the principal zone for the majority of the rural environment of the District” while the Residential 3 Zone is described as “areas of special character in the beach settlements and small rural towns”.

Rural Zone

Rules for the Rural Zone generally permit one dwellinghouse on a site with a minimum area of 4 ha⁶, subject to requirements relating to site coverage and setback from roads and other boundaries. Dwellings at a greater density are generally treated as non-complying. However Objective 14.1.2 and Policy 14.1.2.1 require recognition of the historic and cultural significance of Māori Reserve 873 to Ngai Tūāhuriri and seek to enable land in the Rural Zone within Māori

⁶ Rule 31.1.1.1

Reserve 873 to be used as intended by Kemp's Deed by providing for a greater density of development on this land (subject to the same matters set out in Policy 2.1.3.5). This direction is implemented by Rules 31.33 and 31.34.

Rule 31.33 permits a dwelling to be erected on a site of less than 5000m², provided that site is held in a separate Certificate of Title that was already in existence at 29 October 2015 and one or more of the owners of the site is a descendant of an original grantee of land in MR 873. The site coverage requirement is waived in these circumstances.

On sites which have an individual or combined contiguous area of more than 5000m², and where one or more of the owners of the site is a descendant of an original grantee, Rule 31.34 provides for cluster housing developments of three to seven dwellings as a discretionary activity. A cluster housing development must be designed as a group (with a single accessway) and contained in a contiguous area of not more than 20% of the total net area of the site or sites, and structures must not cover more than 15% of the total net area. A development plan is required, and must address design, staging, access, open space, infrastructure, planting and ecological enhancement of waterways. Cluster housing is subject to reduced requirements as to setbacks⁷. An extended lapsing period of ten years is allowed for any consent under Rule 31.34.

Subdivision of any allotment in the Rural Zone is subject to a requirement for connection to a reticulated water supply⁸, and within Māori Reserve 873 there is an additional requirement to connect to reticulated sewerage⁹. Subdivision of cluster housing is limited to unit title subdivision¹⁰. Unit title subdivision for the purpose of cluster housing is exempt from any minimum allotment area requirement for the Rural Zone.¹¹

Policy 14.1.2.1 states that development in the Rural Zone in Māori Reserve 873 is required to implement an outline development plan. The Operative District Plan includes two outline development plans for Māori Reserve 873. Map 176A delineates the extent of Māori Reserve 873, watercourses within the area, land subject to high flood hazard and the area of Residential 3 zoning. Subdivision of any new allotment in this area is required to be connected to a reticulated sewage disposal utility. Otherwise the effect of this outline development plan appears to be limited to consideration of policy matters associated with ecological protection and enhancement of watercourses and avoidance of high hazard areas. Map 176B is limited to the Residential 3 zoned area. Any subdivision within the Residential 3 zoned area is required to comply with this Plan. It has no effect on development in the Rural Zone.

Residential 3 Zone

The basis for rules in the residential zones is provided in Objective 17.1.1, Policy 17.1.1.1 and Policy 17.1.1.2, which recognise a range of living environments with distinctive characters that should be maintained. The Explanation to Policy 17.1.1.2 describes the various zones and Table 17.1 sets out the characteristics to be retained in each zone. The description

⁷ Rule 31.1.1.15, Table 31.1

⁸ Rule 32.1.1.52

⁹ Rule 32.1.1.56

¹⁰ Rules 32.2.5 and 32.4.10

¹¹ Rule 32.1.2.14

characterises the Residential 3 Zone as beach settlements and small rural towns that are different in character from the four main towns. These differences are described as largely stemming from the origins as holiday settlements, small size and low density. No mention is made of Māori Reserve 873, its character or origins in the narrative. However Table 17.1 highlights as specific to Tuahiwi:

- *range of housing options, including comprehensive housing development focused around village areas at Tuahiwi; ...*
- *reduced size and nature of individual lots within Tuahiwi; ...*
- *provision of a mixed use centre at Tuahiwi focusing on community facilities, convenience retail, recreational and business opportunities; ...*

Policy 17.1.1.5 is specific to Māori Reserve 873 and provides for subdivision, business and residential development to enable Residential 3 zoned land to be used as intended by Kemp's Deed, including a variety of housing options and allotment sizes, and a centrally located mixed use centre as described in Table 17.1. It identifies a number of matters to be addressed by development. These generally mirror the matters set out in Policy 2.1.3.5 but also include walking and cycling linkages and active interaction with street frontages.

Despite the specific references in these policies, in most respects the rules do not treat development in the Tuahiwi Residential 3 Zone differently from other Residential 3 areas. Residential development is permitted in the zone at a density of one dwelling per 600m², with controls on site coverage, road and boundary setback, height and recession planes. There are no additional provisions to implement the policy direction to enable the intent of Kemp's Deed. Conversely, additional restrictions are imposed on developments in the Residential 3 Zone within Māori Reserve 873 through requirements to implement the outline development plan shown on Map 176B (Tuahiwi East). These requirements include more stringent height restrictions in an area protecting views to Maungatere and development and maintenance of landscape plantings along the outer boundary of the zone.

Provision for non-residential activities

As discussed elsewhere in this report, Ngāi Tūāhuriri believe that, to appropriately implement Kemp's Deed, kāinga nohoanga should not only enable residential occupation (papakāinga), but should also include the ability to provide for broader economic enterprise. CRPS Policy 5.3.4, in the explanatory text, specifically identifies activities including food gathering, storage, the manufacturing and trade of goods and receiving and hosting of visitors as appropriate ancillary activities to be provided for in conjunction with papakāinga housing and marae.

The complex structure of the Waimakariri District Plan makes it difficult to form a clear understanding of how the Plan provides for the range of community and commercial activities that are identified in the CRPS and the LURP. Limited specific provision is made in both the Residential 3 and Rural zones for retail activity; this is permitted for goods produced and/or processed on the site, provided it does not occupy more than 20% of the total floor area of buildings on the site¹². There is no specific provision for any other commercial activities (aside from farming activities in the Rural Zone), or community activities despite Table 17.1 and

¹² Rules 31.21.1.8 and 31.21.1.9

Policy 17.1.1.5 indicating that commercial and business activity is anticipated. There is no clear provision in the rules for the type of mixed use centre signalled in the policy framework for the Residential 3 zoned area at Tuahiwi. The Council's information report prepared when the rules were introduced states:

... the existing Residential 3 zoning anticipates a degree of business development in the form of convenience retail or neighbourhood shops. Although this is provided for through a discretionary or non-complying pathway, in the case of MR 873, there is policy support in the objective and policy framework.¹³

It is noted that non-complying activity status is not a "pathway" that achieves Policy 5.3.4 Papakāinga housing in the CRPS. Non-complying activity status is generally applied where activities are anticipated to have significant adverse effects.

ASSESSMENT OF DISTRICT PLAN PROVISIONS

This section of the report considers the effectiveness of the existing Plan provisions having regard to the need to give effect to the policies of the Regional Policy Statement and to achieve the objectives and policies of the Mahaanui Iwi Management Plan. To assist in considering this, we contrast the approach of the Waimakariri District Plan with the Christchurch District Plan, and also comment on recent experience of Ngāi Tūāhuriri in pursuing establishment of kāinga nohoanga in MR 873. This assessment focuses particularly on the following matters:

- the extent to which the Plan addresses the requirements of the CRPS, and considers the Mahaanui Iwi Management Plan;
- the extent to which the approach in the Plan facilitates or enables development of kāinga nohoanga; and
- whether the Plan provides for the range of activities that would be anticipated as part of kāinga nohoanga.

Understanding and recognition of kāinga nohoanga

As noted in the previous section of this report, the objectives, policies and rules do not refer to either kāinga nohoanga or papakāinga. The use of kāinga nohoanga in the definition of cluster housing is inappropriately narrow, and is limited to a particular pattern of residential development (cluster housing as provided for in the Rural Zone) and does not provide for any broader housing arrangements (as being developed by iwi in other locations) or the range of activities (such as those identified in Policy 2.1.3.5) to support occupation of the land.

In the absence of an appropriate definition of kāinga nohoanga, and its absence from the Plan provisions generally, the intent of the provisions must be deduced from interpretation of the various references to enabling the land to be used as intended by Kemp's Deed. Such

¹³ Waimakariri District Council, February 2015. *Maori Reserve 873 Further Information Report*.

interpretation is hindered by inconsistencies between the scope of provisions anticipated in Policy 2.1.3.5, policies and what is actually provided for in the rules. It also requires Plan users and administrators to have clear understanding of Kemp’s Deed.

The approach taken in the Plan is to accommodate culturally based land use and development by way of minor modifications to traditional planning zones and provisions. This approach contributes to low visibility and poor recognition of the intent of kāinga nohoanga, and does not acknowledge the status of Ngāi Tūāhuriri in regard to the land. It is a retro-fitting of what is intended to be a culturally based zone into traditional Eurocentric planning zoning.

The Waimakariri District Plan approach contrasts markedly with the Christchurch District Plan, which includes a bespoke Papakāinga Kāinga/Nohoanga Zone. The policies and rules in this zone are focused on the objective of facilitating and enabling:

... Ngāi Tahu whānau use and development of ancestral land to provide for kāinga nohoanga and their economic, social and cultural well-being and to exercise kaitiakitanga ...¹⁴

Range of activities provided for

Policy 2.1.3.5 supports establishment of a broad range of activities on land in MR 873 to appropriately implement the intent of Kemp’s Deed. Policy 17.1.1.5 also makes specific reference to the expectation of a range of housing options and densities and a mixed use centre incorporating community facilities, convenience retail, recreational and business opportunities. These policies are consistent with CRPS Policy 5.3.4 and Policies P5.2 and P5.3 in the Mahaanui Iwi Management Plan.

The rules however, do not effectively implement these policies. In particular, most non-residential activity in the Residential 3 Zone is likely to be discretionary or non-complying, and any housing development incorporating a density greater than one dwelling per 600m² would also be non-complying. Despite the policy support highlighted by the Council, the activity status imposes a barrier that acts to discourage or inappropriately limit development of activities that support kāinga nohoanga.

In contrast to this approach, the Christchurch District Plan permits a wide range of activities to support kāinga nohoanga. Residential activity is permitted without limitation on density, and other permitted activities include:

Marae complexes which include whareniui (meeting house), wharekai (dining room) and manuhiri noho and associated accessory buildings
Residential activities
Home occupations
Relocation of, or repairs, replacements and/or additions to residential units
Community activities and associated facilities, including whare hauora (health care facilities)
Kōhanga rō and kura kaupapa (pre-school, education activities and facilities)
Hakinakina (recreation activities and facilities)

¹⁴ Christchurch District Plan Objective 12.2.1

Ahuwhenua (farming) including hauwhenua (horticulture), rural produce manufacturing and existing forestry
Urupa
Whare hoko (convenience activities – which the District Plan defines as readily accessible retail activities and commercial services required on a day to day basis), rural produce retail, veterinary care facilities and rural tourism activity
Offices
Māketete (markets)
Farm buildings
Conservation activities, including new access tracks
Farm stay
Emergency service facilities
Heli-landing area
Flood protection activities including planting of exotic trees, earthworks, structures undertaken by Council or CRC
Public amenities – toilets, changing rooms, signs, shelters, security and amenity lighting, outdoor furniture, tracks, bridges, playgrounds, outdoor fitness equipment, public memorials.
Mahinga kai

These activities are more consistent with the scope of activities described in Policy 2.1.3.5 (and anticipated by CRPS Policy 5.3.4) than are the activities currently included in the Waimakariri District Plan, and would more appropriately reflect the intent of Kemp’s Deed.

Effectiveness in facilitating kāinga nohoanga development

The objectives and policies specific to MR 873 suggest an enabling approach to kāinga nohoanga which is consistent with CRPS Objective 5.2.1.2(h) and Policy 5.3.4. The policy is not however reflected in the rules. The structure of the rules makes it difficult to understand how most non-residential activities would be enabled and present significant consenting hurdles for housing. Uncertainty in interpretation of the rules due to their complexity poses a significant barrier to development as a kāinga nohoanga.

In effect, it appears that no kāinga nohoanga development (including a purely residential development) that departs from the general Residential 3 Zone or Rural Zone pattern of development can take place without significant time, cost and uncertainty involved in obtaining consent for a discretionary or non-complying activity. In particular, there is considerable uncertainty inherent in the exercise of the broad discretion associated with a discretionary or non-complying activity. The implied outcome that this particular Residential 3 Zone is a bespoke Maori development zone is not borne out by this assessment. For example, it is unclear what relative weight would be given to policies supporting kāinga nohoanga development relative to those seeking to maintain the existing residential or rural character of the neighbourhood.

Method 2.1.3.4.1 anticipates preparation of a management plan to guide development of Māori Reserve 873. No other Residential 3 Zones are required to have management plans. This requirement layers further bureaucracy and control on the Tuahiwi Village, making its

development as a Kāinga Nohoanga even more remote. It is also noted that the range of participants described in Method 2.1.3.4.1 who need to be involved in the plan preparation will make any such process lengthy.

Use of permitted, controlled and restricted discretionary activities would be more consistent with a facilitative or enabling approach. As noted above, the Christchurch District Plan takes this approach and permits a wide range of activities. Standards are imposed on building height, site coverage and setback from roads and the boundaries of land in different ownership, and on the scale of some non-residential activities.

Activities that breach these standards are assessed as restricted discretionary activities. The matters for discretion include consideration of effects on amenity of neighbouring properties, as well as cultural and functional requirements of the development and, for business activity, the extent of contribution to the economic base of Ngāi Tahu whanau and the needs of residents in the surrounding area. This approach provides more appropriate flexibility for development of kāinga nohoanga to meet the needs of whanau and hapū, while still having regard to the amenity the adjoining area.

Requirements for water supply and sewerage servicing present a further significant barrier to development of cluster housing in the Rural Zone. As identified above, connections to reticulated water supply and sewerage are required for any subdivision in the Rural Zone within MR 873. Whilst it is understood that the Council is planning to extend services it is unclear to what extent this extension is being planned to accommodate and integrate with the broader range of activities associated with a kainga nohoanga. If the planned extension provides only for a limited number of additional houses, it will not be enabling mana whenua to provide for their culture, traditions and relationship with the land.

Mahaanui Kurataiao is aware of one cluster housing kāinga nohoanga proposal being processed by the Council. This application seeks to establish a maximum of seven dwellings on 3.6068 hectares of land. The development is modelled on traditional kāinga nohoanga housing within the Kaiapoi Māori Reserve, whereby houses are situated side by side. A resource consent application has been lodged but processing has been delayed due to lack of service connections. It is assumed that through the District Plan process there will be a greater emphasis placed on integrating land use and servicing at Māori Reserve 873.

The Plan currently allows a ten year lapse period for consents for cluster housing, in order to provide flexibility for implementation of developments. It would be desirable to apply a similar flexibility in regard to servicing provisions. For example the rules could include mechanisms to enable consideration of the ability to stage development to integrate its timing with programmed service extensions, and consideration of alternative solutions where this cannot be done.

In summary, the Operative District Plan provides policy support for a Kāinga Nohoanga, but the rules are not effective in achieving the prescribed outcomes. For this reason the Operative Plan fails to recognise the policies of the Mahaanui Iwi Management Plan, and in particular P5.3 to establish explicit objectives, policies and methods including specific zoning and rules that enable higher density housing and mixed use development. The adoption of standard

residential and rural zones in the Operative Waimakariri District Plan is a fundamentally inappropriate basis for a Kāinga Nohoanga and has been overlaid by numerous compliance requirements for a Management Plan, an Outline Development Plan and in combination with an onerous activity status these provisions work in combination to make culturally based development more difficult for mana whenua. For these reasons the Operative District Plan does not provide for the culture and traditions of Te Ngāi Tūāhuriri with their ancestral lands, and fails to give effect to the policies of the CRPS.

OPTIONS FOR FUTURE KĀINGA NOHOANGA

The following section sets out options and considerations for Kāinga Nohoanga in the Proposed Waimakariri District Plan. These options relate to the name of the Zone, its location, the types of buildings and activities provided for within the Zone and options (at a high level) for management of those activities and buildings.

Name of the Zone

Table 1 sets out the options considered by Ngā Rūnanga for the Title of the Zone in the Reviewed District Plan.

Table 1: Options for the Title of the Zone

	Option	Advantages	Disadvantages
1	Name the chapter 'Papakāinga'	<ul style="list-style-type: none"> Name will be consistent with terminology commonly used in planning practice nationwide. 	<ul style="list-style-type: none"> Papakāinga is not the traditional name used by Ngāi Tahu to describe 'places of residence' and therefore holds less association in respect of Ngāi Tahu tikanga. Inconsistent with language used in Kemps Deed, considered by the Waitangi Tribunal and used in the Ngāi Tahu Claims Settlement Act. May over time, dilute or change the original intent of Kāinga Nohoanga to simply a zone for housing. Only partially addresses sections 6, 7 and 8 of the RMA.
2	Name the chapter 'Kāinga Nohoanga'	<ul style="list-style-type: none"> The name of the chapter will be consistent with the traditional term used by Ngāi Tahu. Use of this term would provide for tikanga. Achieves consistency with intention of Kemps Deed, the considerations of the 	<ul style="list-style-type: none"> The name will omit 'Papakāinga' that is used commonly in legislation and resource management practice. This inconsistency may present some interpretation questions, particularly if Papakāinga is included in any statutes or regulations in the future. A definition would be helpful to

		<p>Waitangi Tribunal and language in the Ngāi Tahu Claims Settlement Act.</p> <ul style="list-style-type: none"> • Better achieves sections 6, 7 and 8 of the RMA than other options. 	<p>address interpretation issues in the future.</p>
3	Name the chapter 'Papakāinga/ Kāinga Nohoanga'	<ul style="list-style-type: none"> • A combination of both terms that accounts for the traditional Ngāi Tahu term, as well as the term used in resource management practice. • Name retains a link to traditional use of the term 'kāinga nohoanga' by Ngāi Tahu. • Consistent with the Christchurch District Plan. 	<ul style="list-style-type: none"> • Name is quite long. • Inconsistent with terminology used in Kemps Deed, findings of the Waitangi Tribunal and the Ngāi Tahu Claims Settlement Act. May over time, dilute or change the original intent of Kāinga Nohoanga to simply a zone for housing.
4	Name the chapter a Residential or Rural Zone	<ul style="list-style-type: none"> • Convenience for Plan Administration 	<ul style="list-style-type: none"> • Fails to provide any connection with the cultural history and intended purpose for use of the area. • Potentially inconsistent with the proposed National Planning Standards. • Inconsistent with terminology used in Kemps Deed, findings of the Waitangi Tribunal and the Ngāi Tahu Claims Settlement Act. May over time, dilute or change the original intent of Kāinga Nohoanga. • Fails to achieve sections 6, 7 and 8 of the RMA.

Preferred option of Te Ngāi Tūāhuriri Rūnanga:

Rūnanga preference is to name the chapter 'Kāinga Nohoanga'. Using this term is considered to be more appropriate as it is unique to Ngai Tahu Rūnanga and achieves consistency with the intent expressed in Kemps Deed as well as the terminology used in the Ngāi Tahu Claims Settlement Act.

Te Ngāi Tūāhuriri Rūnanga support including an explanation in the Reviewed District Plan that outlines why the term Kāinga Nohoanga is used instead of Papakāinga.

Location of the Zone

In developing a preferred approach for Kāinga Nohoanga, a key consideration is the sites or locations where a zone should be applied.

Having regard to Policy 5.3.4 in the CRPS and the methods proposed for its implementation, some relationship or connection between culture, traditional use and ownership is required as a basis for zoning land for Kāinga Nohoanga purposes. Options for location of a zone therefore include:

- (i) Land that is currently legally identified as Māori Reserve land
- (ii) Land originally set aside as Māori Reserve land but is now alienated
- (iii) Land recognised as Māori land through the Māori Land Court in accordance with Te Ture Whenua Māori Act 1993/Māori Land Act 1993.

In Waimakariri District the concept of a Kāinga Nohoanga has been limited to Māori Reserve 893 where developments the opportunity for development is instead based on demonstrating that one or more of the owners is a descendant of an original grantee of land within Māori Reserve 873 as set out in the Crown Grants Act (No2) 1862 and the Crown Grants Act 1873. It is understood that the Waimakariri District Council manages development and use of land by requiring a statement from the Whakapapa Unit at Te Rūnanga o Ngāi Tahu to verify ancestry.

Part of Māori Reserve 873 is within a flood hazard area and it is possible that in the future, the impacts of climate change may limit its use and necessitate consideration of new areas for Kāinga Nohoanga.

In addition there are other sites legally recognised as Māori Reserve land where a Kāinga Nohoanga Zone could be put in place. It would be appropriate for the District Plan to have a policy that supports and enables the creation of Kāinga Nohoanga on these sites.

Preferred option of Te Ngāi Tūāhuriri Rūnanga:

The preferred option of Te Ngāi Tūāhuriri Rūnanga is to include a policy in the Proposed District Plan that supports the creation of Kāinga Nohoanga on new sites where a relationship or connection between culture, traditional use and ownership is able to be formally recognised. The mechanism for including a new Kāinga Nohoanga Zone would need to be achieved through a plan change or district plan review process.

Activities and Buildings within the Zone

A key issue considered by Te Ngāi Tūāhuriri Rūnanga concerns the types of activities and buildings that should be provided for in the zone.

Traditionally, Kāinga Nohoanga provided for a broad range of activities including ahi ka (occupation), housing, communal facilities and mahinga kai. As described above, Kāinga Nohoanga zones are also intended to enable Ngāi Tahu whānau to develop and use ancestral land to provide for their economic, social and cultural well-being and to exercise kaitiakitanga^{15,16}. Accordingly, any District Plan provisions should enable housing plus a broad range of social, community and business activities.

As noted above a broad range of activities are anticipated within the Papakāinga / Kāinga Nohoanga Zone within Christchurch City and Policy 17.1.1.5¹⁷ within the Waimakariri District Plan anticipates both business and residential development within Māori Reserve 873. Table 17.1 of the Plan identifies the range of activities anticipated in the Residential 3 Zone at Tuahiwi.

The following table sets out the options considered by Te Ngāi Tūāhuriri Rūnanga for the Proposed District Plan.

Table 2. Options for Activities to be Provided for Within a Kāinga Nohoanga

	Option	Advantages	Disadvantages
1	Housing only	Supports whānau to develop living areas close to Marae. Limited achievement of CRPS and Iwi Management Plan.	The ability to maintain or expand marae buildings and to provide a range of health, community and business activities is not provided for. Does not achieve the intent of Kāinga Nohoanga through Kamps Deed and recognised by the Waitangi Tribunal. Does not achieve sections 6(e) or 8 of the RMA.
2	Housing and community facilities	Allows for whānau to live close to Marae and to have a range of community facilities. Partial achievement of the CRPS and Iwi Management Plan. Contributes to achievement of section 6(e) of the RMA more effectively than option A as it	Facilities may be resisted by the Council as too urban in Rural areas. Potentially higher standards of infrastructure and servicing depending on the nature and scale of the activity may be required.

¹⁵ Mahaanui Iwi Management Plan (2013), Te Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata, Wairewa Rūnanga, Ōnuku Rūnanga and Te Taumutu Rūnanga.

¹⁶ Brief of evidence of Lynda Marion Weastell Murchison on behalf of Te Rūnanga o Ngāi Tahu and Ngā Rūnanga, Proposed Christchurch Replacement Plan.

¹⁷ Policy 17.1.1.5, Waimakariri District Plan

		allows for more than housing.	Does not achieve the intent of Kāinga Nohoanga through Kemps Deed and recognised by the Waitangi Tribunal. Partially achieves sections 6(e) and 8 of the RMA.
3	Housing, community facilities and economic opportunities	Allowing for all of these activities will support whānau to 'live and work' on the land that they whakapapa to. Aligns with findings of the Waitangi Tribunal. Achieves the CRPS and Iwi Management Plan. Better achieves sections 6(e) and 8 of the RMA than option 2.	Facilities may be resisted by the Council in what they consider as Rural areas. Potentially higher standards of infrastructure and servicing depending on the nature and scale of the activity may be required.

Preferred option of Te Ngāi Tūāhuriri Rūnanga:

The preferred option is Option 3 which provides opportunities for both the occupation and use of ancestral land. The preference is also to adopt a range of permitted activities which is consistent with the Christchurch District Plan.

Any definition of a Kāinga Nohoanga (whether within the Definitions section or the relevant chapter in the District Plan) needs to clearly articulate that a Kāinga Nohoanga provides for housing, community and economic opportunities.

Management of Activities within the Zone

The management of activities within the Kāinga Nohoanga zone, including the level of control that the Council retains within or at the boundary of the zone is an important consideration.

On the basis that the Christchurch District Plan provides a more developed and preferred direction for Kāinga Nohoanga, consideration has been given to the activities and buildings provided for within its Papakāinga / Kāinga Nohoanga Zone as a guide.

Within the City Papakāinga/Kāinga Nohoanga Zone buildings are required to meet zone specific "Built Form Standards" and the general rules of the Plan. In addition, some activities have additional requirements, which are noted below.

The "Built Form Standards" address:

- Internal boundary setbacks
- Road boundary setbacks

- Building height
- Maximum coverage (35%)
- Water supply for firefighting

Additional rules apply to the following activities:

Whare hoko (convenience activities – which the District Plan defines as readily accessible retail activities and commercial services required on a day to day basis), rural produce retail, veterinary care facilities and rural tourism activity	Limited to maximum of 100m ² GLFA per business
Offices	Limited to maximum of 100m ² GLFA per business
Māketete (markets)	Not exceeding one event per week
Heli-landing area	Located on a minimum, nominated land area of 3,000m ²

Those general rules of the Plan which apply to Papakāinga Kāinga/Nohoanga include noise, lighting, water body setbacks and signs. Some, but not all of the rules from the Transport, Subdivision, Earthworks and Utilities and Energy chapters of the Plan apply.

Where Papakāinga / Kāinga Nohoanga activities also fall within an overlay for an Outstanding Natural Landscape (ONL) or an Area of At Least High Natural Character, the Kāinga Nohoanga activity is a Controlled Activity. It is relevant to note that this is a less onerous activity status than would otherwise apply to other activities within the ONL ie cultural activities are enabled to ensure that the relationship between mana whenua and their ancestral lands, water, sites, wāhi tapu and other taonga are maintained.

Where an activity within the Papakāinga / Kāinga Nohoanga Zone fails to meet a performance standard it becomes a Restricted Discretionary Activity. The District Plan specifies that these applications do not require written approvals and shall not be limited or publicly notified. Discretionary activities are limited to quarrying, or any other activity not provided for as permitted, controlled or restricted discretionary. There are no non-complying activities.

Within Māori Reserve 873 dwellings must comply with the specified rules either for the Residential 3 Zone or the special rules created for Māori Reserve 873 in the Rural Zone. The rules cover:

- Siting on an existing title existing at 29 October 2015
- Site coverage (35%)
- Setbacks (varying depending on the type of housing proposed and the adjoining road classification)
- Height (noting there is a height protection area)
- Recession planes
- Connection to reticulated services
- Location outside flood event areas

In addition, permitted activities must also comply with “all conditions and provisions ...in all other chapters”. These would include rules for noise, lighting, transport etc.

There is particular provision made for cluster housing as a discretionary activity with some conditions. Applicants for Kāinga Nohoanga at MR873 must submit a Cluster Housing Development Plan for Council’s assessment. Other controls over cluster housing developments include minimum lot area, site coverage and limits on the number of houses per lot to a maximum of seven. The District Plan extends the lapsing period for a consent to 10 years, double that provided under the Resource Management Act. Otherwise any residential proposal which does not comply with the standards becomes a non-complying activity.

The following table sets out the options considered by Te Ngāi Tūāhuriri Rūnanga when considering provisions for the Proposed District Plan.

Table 3. Options for Management of Activities

	Option	Advantages	Disadvantages
1	A Kāinga Nohoanga Zone (not an overlay)	<ul style="list-style-type: none"> • All of the relevant rules are in one place so the provisions are easy to find and administer 	<ul style="list-style-type: none"> • Perception that a Kāinga Nohoanga represents an “unplanned” settlement or node of activities inconsistent with the adjoining zone (which is rural in character)
2	Conditions for permitted activities relating to built form for example, site coverage, building height, setbacks and recession planes, infrastructure & natural hazards.	<ul style="list-style-type: none"> • Conditions will ensure that there is adequate provision for on-site servicing (eg wastewater and stormwater disposal) • Ensures the management of effects on privacy of adjoining property owners. • Where rules address the management of effects on environmental values at the boundary of the Kāinga Nohoanga this will achieve the policies of the CRPS (which require provision for Papakāinga to be subject to management of effects on adjoining values). 	<ul style="list-style-type: none"> • Where controls are imposed internal to a Kāinga Nohoanga they can potentially undermine the ability for the rūnanga to determine the layout of facilities, activities and housing in accordance with tikanga. This undermines a true expression of enabling kaitiakitanga.

		<ul style="list-style-type: none"> Where rules are specific to <u>boundary effects</u> only, this will provide greater flexibility for development to be undertaken in accordance with tikanga Māori. This better achieves s6(e) of the RMA. 	
3	Use of an Outline Development Plan (ODP) directing how the land is developed.	<ul style="list-style-type: none"> May provide a more holistic overview of how development within a Kāinga Nohoanga will proceed over time. The ODP could be submitted for approval so that there is only one restricted discretionary resource consent rather than multiple consents over time. Provides for integrated development of the zone and provides Council with greater clarity on servicing requirements. 	<ul style="list-style-type: none"> Does not enable kaitiakitanga or achieve s6(e) of the RMA. Less flexibility to take account of multiple land ownership and the variable aspirations of those owners over time. Assumes a Euro-centric view of land use and activity being in accordance with an approved plan, rather than in accordance with the principles of tikanga. Potentially lacks flexibility for future land owners. Difficult to administer if there is no subdivision of land.
4	Whether applications for development or activities within Kāinga Nohoanga should be required to be publically notified.	<ul style="list-style-type: none"> Limited public notification could be to directly adjoining landowners for applications that do not comply with boundary provisions, for example built form standards or setback rules applying at the boundary of the Kāinga Nohoanga. 	<ul style="list-style-type: none"> Full public notification of kāinga nohoanga developments does not provide for the relationship of Māori, their customary traditions and their ancestral lands therefore does not achieve s6 (e) in the

			RMA.
5	Whether other District Plan provisions, such as Outstanding Natural Landscapes should over-ride provisions within a Kāinga Nohoanga.	<ul style="list-style-type: none"> Where overlays, such as an Outstanding Natural Landscape, “trump” the Kāinga Nohoanga there is greater certainty of the outcomes i.e., limited or no land use development. 	<ul style="list-style-type: none"> The ability to use land in accordance with tikanga undermined. Assumes s6(a), (b) or (c) is more important than s6(e) or (g) Fails to recognise Kemps Deed, the findings of the Waitangi Tribunal and s8 of the RMA. Accordingly, fails to achieve s6(e) and (g).

Preferred option of Te Ngāi Tūāhuriri Rūnanga:

The Rūnanga prefer that there is a “stand-alone” Kāinga Nohoanga Zone with the majority of the relevant provisions in one place.

The Rūnanga is supportive of conditions for permitted activities to manage potential effects on adjoining land owners, the surrounding environment and amenity values.

The Rūnanga do not support the necessity for an ODP or Management Plan for Kāinga Nohoanga development which impose additional layers of approval and do not accord with an approach based on tikanga.

It may be appropriate to require developments to be limited notified to immediate landowners if there is a non-compliance related to a boundary matter, e.g., developments that may exceed height and recession plane limits. Otherwise the Rūnanga support the approach taken in the Christchurch City District Plan where resource consents do not require third party approval or notification and to have this written into the Proposed District Plan.

RECOMMENDATIONS

In summary, Te Ngāi Tūāhuriri Rūnanga recommend the following approach to Kāinga Nohoanga be provided for in the Proposed Waimakariri District Plan:

- Development of a Kāinga Nohoanga Zone to be applied to existing Māori Reserve land.
- Support the adoption of the name Kāinga Nohoanga for the zone.
- Draft an objective that states manawhenua are enabled to provide for their culture and traditions through a Kāinga Nohoanga Zone on Māori land.
- Draft a policy which enables residential, community and economic activity within a Kāinga Nohoanga Zone.
- Draft a policy which to confine rules and conditions on buildings and activities within a Kāinga Nohoanga Zone to those which manage the effects at the boundary of the Zone or between property boundaries.
- Draft a policy which supports new Kāinga Nohoanga zones on Māori Reserve land and deemed to be Māori Land in accordance with s338, or s4 and s129 of the Te Ture Whenua Māori Act 1993.
- Draft a definition for Kāinga Nohoanga which describes its relationship to the concept of Papakāinga.
- Develop a list of permitted activities similar in approach to that in the Christchurch District Plan. A list of permitted activities will provide certainty, clarity and reflect the aspirations of Ngā Rūnanga.
- Develop appropriate performance standards for buildings and activities, with the intention of those standards or rules on management of effects at zone or property boundary interfaces.
- Include provisions which clarify notification and the obtaining of written approvals is limited only to those circumstances where rules have been breached at the zone interface or at property boundaries.

The information in this report should assist the Waimakariri District Council in the drafting of a Kāinga Nohoanga chapter in the District Plan that will achieve the Council's statutory obligations. This report does not represent the final views of Ngā Rūnanga and the District Council should continue to engage with Rūnanga and Mahaanui Kurataiao Ltd to develop the Kāinga Nohoanga provisions.