1.0 Executive summary

Maori Reserve 873 (MR 873) is a reserve set aside in 1848 under Kemp’s Deed for Ngāi Tahu grantees and their descendants to live upon as a ‘kainga nohoanga’ or ‘settlement’. MR 873 is 1068 hectares, with Woodend along its northeast boundary and the Cam (Ruataniwha) River as its western boundary. It comprises varied rural farmland with the small Tuahiwi Village at its centre.

Since its establishment MR 873 has been subject to various laws and regulations. Since the 1960’s these regulations have largely restricted the ability of descendants of the original grantees to build dwellings on land originally set aside for them under Kemp’s Deed. The Waimakariri District Council has recognised that the current planning provisions do not provide for the descendants of the original grantees to use the land for the purpose it was intended and have therefore sought to review the provisions to better enable this. This review is also required under Action 21 of the Land Use Recovery Plan.

The Council has undertaken three public rounds of consultation on proposed planning provisions for the Rural-zoned areas and Tuahiwi Village. The number of comments received at each of the three formal consultation exercises is considered to be relatively low. There have been recurring mixed views on:

- The restriction of rights to descendants;
- The requirement to connect to reticulated services;
- The protection of rural outlook and amenity;
- The appropriateness of cluster housing in rural areas; and
- The location and extent of any village extension.

There have been a number of supporting reports prepared to guide decision making and inform the local community. These reports cover such things as servicing, cluster housing developments, landscape matters, archaeological and geotechnical matters, site contamination, an assessment of the proposal against the relevant Iwi Management Plan, tenure options and unit title information.

The planning provisions proposed as part of the proposed Plan change must variously give effect to and not be inconsistent with higher order planning documents and provisions. These comprise the Canterbury Regional Policy Statement, the Land Use Recovery Plan and the existing relevant objectives and policies within the Waimakariri District Plan. As such, the scope and outcomes of what the provisions must cover and deliver is already largely established and comprises the following:

- Enable Kemps Deed and provide for the descendants of original grantees
- Provide a range of housing options, densities and allotment sizes
- Ensure a compact contained village defined by natural / built features and landscape and implementing an Outline Development Plan
- Enable a mixed-use centre
- Connect to reticulated services
- Avoid natural hazards
- Maintain rural outlook and setting in the Village, and in the Rural-zoned area, maintain the rural environment and amenity, recognising different rural character
- Enhance / protect The Cam River and historic streams
- Protect the views to Maungatere and Ngā Tiritiri o te Moana
- In the rural areas, require a comprehensive design for the whole site
- Enable cluster housing with a rural outlook, at densities greater or less than 1 dwelling per 5000m² – 10,000m²

The Plan provisions proposed by the Waimakariri District Council generally cover and achieve the above outcomes.

Guidance on the application of the rural zone cluster rules through a resource consent is provided. Information required to be submitted with an application must include a development plan, proof of descendancy and a statement on how the proposal will address the Plan’s reticulated servicing requirements. The Council will assess the application, including considering a number of matters as set out in the relevant rule. Approved developments have ten years to complete the development. Further resource consents can be sought to extend the timeframe. If subdivision is being proposed, the required unit tile documentation must be prepared.

2.0 Introduction

This report seeks to outline: the background to the Maori Reserve 873 (MR 873) plan review project; the existing planning framework; the supporting documentation; the consultation undertaken and responses; and proposed plan provisions for the proposed Plan Change to the Waimakariri District Plan. The intention is that this report will support engagement with and inform the community and Waimakariri District Council decision making.

3.0 Maori Reserve 873 - Background

3.1 Maori Reserve 873 and Kemps Deed

In 1848 Governor Grey sent land commissioner Henry Kemp to the South Island to buy land for the new settlement. Sixteen Ngāi Tahu chiefs signed the Deed of Purchase between Ngai Tahu and the Crown in Akaroa on 12 June 1848. This purchase is known as ‘The Canterbury Purchase‘ or more commonly ‘Kemp’s Deed’.

A common feature of this Deed was for the Crown to set aside lands for Ngai Tahu to reside upon. In the Canterbury Deed of Purchase it was stated:

Ko o matou kainga nohoanga ko a matou mahinga kai, me waiho marie mo matou, mo a matou tamariki, mo muri iho i a matou;
Our places of residence and our cultivations are to be reserved for us and our children after us.

As a consequence MR 873 was set aside in 1848 for Ngāi Tahu to live upon as a ‘kainga nohoanga’ or ‘settlement’. MR 873 measures 1068 hectares, with Woodend along its northeast boundary and the Cam (Ruataniwha) River as its western boundary. It comprises varied farmland with Tuahiwi Village at its centre. The extent of MR 873 is shown in Figure 1.

*Figure 1 – MR 873 site location*

By 1860 the Ngai Tū-āhu-riri Runanga petitioned Governor Gore-Browne for the right of the people to subdivide and individualise title:
"The voice of all the people is that our land Reserves be subdivided, so that each may have their own portion. We ask you to give to each man a title in writing to his own allotment"

The expectation from the Kaiapoi Ngai Tahu was that land upon the Reserve was to be alienable only to Maori. From 1848 to the 1960s, tribal members of the local hapu, Ngāi Tū-āhu-riki were free to sub-divide and build upon their land. From 1968 through to the present MR 873 has been subjected to various zoning regulations from the local councils. Further detail on the plan provisions is contained in Section 3 of this report.

The significance of Kemp’s Deed has been formally recognised by the Waimakariri District Council. The Council accepted the advice provided in a legal opinion from Ian Hall in a Council meeting held 1 November, 2012:

“...that the rights of the owners of Kaiapoi Māori Reserve 873 as stemming from Kemps Deed 1848 and recognised by the Crown Grants Act (No 2) 1862 as a “ceding in good faith” still exists and should have been affirmed by the Council, and that the ongoing rights should have been recognised and accepted by the Council in the zoning of Kaiapoi Māori Reserve 873, and in its administration of other legislation.” (Accent added)

It has been established that any development rights within MR 873 to give effect to Kemps Deed are held by the descendants of the original grantees of Kemps Deed. As such, they are not available to non-descendants.

3.2 Giving Effect to Kemps Deed: The Need for a Plan Change

Since its establishment MR 873 has been subject to various laws and regulations. Since the 1960’s these regulations have restricted the ability of descendants of the original grantees to build dwellings on land originally set aside for them under Kemp’s Deed. It has been argued that these restrictions have forced tribal members to relocate to urban areas, contributed to the alienation of the land and resulted in the breakdown of the Tuahiwi community in both its social and cultural makeup.

Of note, under the Rangiora District Scheme, the precursor to the current operative District Plan, the reserve was zoned “Rural D” (from 1980 to 2005). The Rural D Zone enabled people who could demonstrate that they were descendants of original grantees to build houses and/or subdivide land in circumstances not available to other applicant. This was however subject to limiting conditions around the provision and disposal of water, flooding and access. Importantly, the Rural D provisions only allowed one permit to be issued to any person and any proposed partition (by the Maori land Court) was not be less than 1.0 ha.

1 Established by legal advice and set out in the LURP and Waimakariri District Plan. This was also affirmed at the Waimakariri District Council meeting held 1 November 2011 and the Hearings Panel decisions in July 2013
The Rural D provisions were not carried through into the operative District Plan. The Plan recognises the historical significance of the reserve in its Objectives and Policies, but does not make provision for the special circumstances of the descendants. In particular, the area zoned Rural in MR 873 within the District Plan requires a minimum size lot to be four hectares before a dwelling can be established. This rule applies to both descendants and non-descendants.

As such, it is arguable that the current relevant planning provisions (and to a lesser extent the previous planning provisions) do not provide for the use of MR 873 as originally intended by Kemps Deed. Various consultation exercises on the topic have demonstrated that these restrictions have been a significant frustration for Māori land owners within the reserve.

The District Council recognised that the current planning provisions do not provide for the descendants of the original grantees to use the land for the purpose it was intended and have therefore sought to review the provisions to better enable this. This is set out in the decision by the Waimakariri District Council Resource Management and Regulation Committee (on 20th November 2012), where the Committee agreed:

“to undertake consultation on issues and options for development, and related District Plan Changes, to enable the land in the Kaiapoi Maori Reserve 873 to be used as intended by Kemps Deed of 1848 and the Crown Grants Act (No 2) of 1862.”

In late 2013 the Land Use Recovery Plan changed the Waimakariri District Plan to include objectives and policies for MR 873, as set out in Appendix 3 (Amendment 2) of the LURP (see Section 4 of this report). The Plan also directed, under Action 21, that the Waimakariri District Council amend its district plan to the extent necessary to: (i) provide methods to give effect to objectives and policies for MR 873 as set out in Appendix 3 (of the LURP).

3.3 Project Partners

Under the Resource Management Act the Council is required to work with Ngai Tahu as the Iwi Authority for the District. Ngai Tahu has requested that the Council work with Ngai Tuahuriri Runanga directly on this matter as Ngai Tuahuriri is the Runanga with mana whenua over MR 873. The Runanga has in turn formally requested that the Council work with Te Mana-Waitaha Charitable Trust.

The Mana-Waitaha Charitable Trust is a Māori organisation that is committed to advancing whānau in the Waitaha/ Canterbury region. The Trust utilises the networks and skills of its Trustees and willing helpers to promote, empower and advance Māori whānau. It follows the mission of its ancestor and tōhunga Waruwarutu based on aroha ki te tangata - love towards others.

As this is a recovery project under the LURP, the Council has also been working with its recovery partners to progress this proposed plan change. The recovery partners are: the Canterbury Earthquake Recovery Authority; the Christchurch City Council; the Selwyn District Council; Environment Canterbury; the New Zealand Transport Authority; and Ngai Tahu.
3.4 Overview of the Project to Date

A significant amount of background work and consultation has been undertaken on this matter to date by the Council, in consultation with its project partners. These are set out below.

3.4.1 Consultation

The Council has undertaken a significant amount of consultation on this matter. This has been both informal, such as through meetings and discussions with its project partners, and formal, such as through receiving public comments on development issues and options and proposed plan provisions. The formal consultation undertaken is set out in more detail below and in the Consultation section (Section 5), where the consultation responses are assessed.

- Issues and Options Consultation - 28 March to 17 May 2013
From 28 March to 17 May 2013 formal consultation was undertaken on a Development Options Assessment report (see the reports cover in figure 2) which identified five potential options that represent different forms of development. These comprised: (1) development adjacent to Woodend; (2) Tuahiwi consolidation; (3) Extend Tuahiwi Residential 3 zone; (4) support Kainga-Nohoanga Cluster Housing; and (5) provide for individual houses on Rural zoned sites.

The consultation included three information sessions held at Tuahiwi Marae, Woodend Community Centre and Tuahiwi School.

Figure 2: The issues and options assessment report cover
• **Draft Outline Development Plan and Rule Framework Consultation - November and December 2013**

On the basis of the comments received from the Issues and Options consultation Council staff drafted an Outline Development Plan (ODP) and rule framework and sought further comment from stakeholders. Consultation was undertaken in November and December 2013.

*Figure 3: Draft ODP and rule framework consultation flyer*

• **Notification of Amended Proposals - 27th September to 17th October 2014**

On the basis of comments received, Council staff made a number of amendments including: amending the proposed village expansion area; amending the view shaft provisions; removing the proposed setback buffer along Rangiora Woodend Road; and commissioned reports to support the proposal (e.g. a desktop archaeological assessment, an assessment of the proposed plan change against the Iwi Management Plan; a landscape assessment). The consultation occurred from September to October 2014.

• **Ongoing consultation with stakeholders – October 2014 to February 2015**

Since the amended proposal consultation closed the Council has undertaken informal discussions with its recovery partners, Te Mana Waitaha Trust and Tuahiwi Village landowners. These discussions have further informed the proposed plan change provisions, the location of the proposed Village extension and the ODP.
2.4.2 Supporting reports

The Council has commissioned and prepared a number of reports to inform the topic and guide their decision making. Where appropriate these are included in the Appendices to this report. Where they are large or specialist in nature they are identified in Appendix 5 and are available on the Council’s website and can be requested from the Council. The reports cover such topics as: servicing; flooding; village and cluster development options; geotechnical matters, archaeological matters; cultural matters; tenure options and unit title background information.

3.5 Characteristics of MR 873

The supporting reports describe various characteristics of MR 873. Key general points of note from these reports are reproduced below.

3.5.1 Landscape

MR 873 is on the lower edge of the outwash fan to the Ashley River, involving a pair of gentle stony ridges formed by the Ashley flood paths, with broad boggy swales from the silts shed either side.² MR 873 is predominantly rural in character, encircling a small core of village development zoned Residential 3 (Tuahiwi Village).

Elsewhere houses are scattered and grouped in the Rural-zoned land, particularly alongside roads on the higher well drained ridges such as the central Tuahiwi Road. This grouping along ridge roads means much of MR 873 is open, pastoral land.³ The open areas have particular character and amenity that is enjoyed in over-view from roads and surrounding houses. The pasture, crop and horticultural activity evident on the more open rural lands contribute importantly to rural character and amenity⁴. Views out north beyond to Maungatere (Mt Grey) are variously visible from throughout MR 873.

Whilst MR 873 has been closely sub-divided for more than 130 years, with further subsequent subdivision many lots have not been built on and the fine-grained cadastral pattern is only partially evident in the landscape.⁵

² Lucas Associates Landscape Architects (March 2013): The Landscape of Tuahiwi and Kaiapoi Maori Reserve 873.
³ Ibid
⁴ Ibid
⁵ Ibid
3.5.2 Water supply

A new water supply was installed in Tuahiwi in 2013 (extended from Woodend) and now provides an on-demand supply to the Residential 3 village and a restricted supply (2,000 litres per day) to parts of the surrounding rural area where there was sufficient interest from the community to fund the extension. Approximately 50% of the properties in the Residential 3 zoned area have physically connected to the supply.

The water supply was principally funded by the existing Tuahiwi community, with the Council carrying approximately 50% of the cost to be recovered by way of Development Contributions from future property owners. Further approximate costings are set out in the servicing issues report contained in Appendix 3.

In terms of capacity to cater for growth, a large diameter trunk main has been installed through the village from Tuahiwi and has ample capacity for future growth to service both development within the village and expansion into the rural area. However, the exact capacity to accommodate a specific development in the rural area cannot be determined until the nature and location of that development is known. This is largely because the capacity of the rural pipelines is at its greatest when close to the main trunk pipeline in the Tuahiwi village.
The Council’s current policy on service extensions requires that extensions to the water and wastewater services are extended at the developer’s expense. In the case of MR 873, this would mean that when cluster housing is developed, water and sewer reticulated services will be extended to each cluster at the expense of the cluster developer. There are occasions where the Council would contribute a portion of the cost of extending services and recover those costs through Development Contributions. This would require that there was a clear benefit to the wider ratepayer and that a clear and realistic opportunity existed to recover those costs typically within a one to five year timeframe. It is possible but unlikely that this would occur with cluster housing in the rural area of MR 873.

3.5.3 Wastewater

Reticulated wastewater is currently provided to the Residential 3 zoned properties within the Tuahiwi village by way of a Septic Tank Effluent Pump (STEP) system. This type of system comprises a privately owned on-site septic tank and pump system that collects wastewater and provides primary treatment on-site. The treated effluent is then pumped into a Council owned pressure pipe system. A conventional gravity sewer system was not feasible for Tuahiwi due to the sparsely populated area and the high cost of installing the gravity mains.

The pressurised reticulated system in Tuahiwi extends along Tuahiwi Road from the corner of Bramleys Road to Turiwhai Road. A pump station at the corner of Turiwhai Road and Tuahiwi Road then pumps the effluent along Turiwhai Road to the reticulation in Woodend. A plan of the area currently serviced by the wastewater system is shown in the servicing issues report contained in Appendix 3.

Many of the privately owned septic tanks within Tuahiwi are not adequately sealed and as a result of this groundwater enters the sewer system during periods of high rainfall and high groundwater table. This has resulted in the wastewater system becoming overloaded at times of very high rainfall, resulting in some properties being unable to pump into the wastewater systems. Some comments from the submitters make reference to concerns over the capacity of the wastewater system to cater for growth.

In terms of capacity to cater for growth, upgrades to the sewer reticulation were undertaken at the same time as the water supply was installed for Tuahiwi. This upgrade was intended to increase the capacity of the Tuahiwi sewer system and make provision for an additional 160 lots between Bramleys Road and Turiwhai Road.

However, it is important to note that the true additional capacity will be dependent on the location of the development. While the wastewater reticulation has been upgraded to cater for an additional 160 lots, the capacity would be less if all lots were located closer to Bramleys Road and would be more if all lots were located closer to Turiwhai Road.

It is expected that an upgrade to the Turiwhai Road pump station will be required at some time in the future, but this will be undertaken as required and need not represent a significant impediment to growth in the Tuahiwi area.

The Council’s current policy on service extensions, as described for potable water supply, also applies to wastewater.
3.5.4 Stormwater drainage

The existing stormwater drainage system in Tuahiwi is largely based on a network of open drains, which are managed and maintained by the Council or the riparian landowner. The principal drain in the area is Maori Drain, which discharges to the Cam River. There is evidence of some springs within MR 873 and soaking to ground is poor and limited by silty loam soils, which prevents discharge to ground as an effective stormwater disposal method.

In terms of managing stormwater in any new Residential 3 zoned areas, stormwater will be treated and attenuated in stormwater management areas prior to discharge to the downstream receiving environment. It is expected that stormwater from most development areas would be serviced by way of grassed swales to provide treatment and attenuation ponds prior to discharging into the existing drainage system. In terms of managing stormwater in any new rural cluster development, each development will need to manage stormwater onsite to achieve stormwater neutrality.

Further stormwater detail is contained in the Servicing Report in Appendix 3.

3.5.5 Flood hazards

Much of MR 873 is subject to various levels of flooding. This is both from breakout flooding from the Ashley River and also from localised flooding from the upstream catchment. The work undertaken by Environment Canterbury in 2008 shows that the southern and western part of MR 873 is prone to high hazard flooding in the 1 in 200 year event (see the Servicing Report in Appendix 3), which is not suitable for habitable dwellings. The village area is not prone to breakout flooding from the Ashley River.

3.5.6 Historic and anticipated development demand within Tuahiwi village

A Council report indicates that existing development and development pressure within Tuahiwi Village is low. The report notes that there are currently 14 vacant sites and that the majority of sites are over 1600m² in area. As such, very few have taken the opportunity provided by the relevant Plan provisions to subdivide into two lots. This could be attributed to:

a) preference to have a larger lot, with no desire to develop;
b) expense of subdividing, and lack of sewer and water reticulation to date;
c) some lots are in multiple ownership which makes it difficult get agreement; or
d) lack of demand generally.

While development demand appears to be low, with the availability of sewer and water reticulation, and the desire for Maori to return to MR 873 following the earthquakes this demand may change. It is noted that it is prudent to provide for some expansion opportunities as part of any plan changes for MR 873. This is anticipated in the planning policy framework (see Section 4.0 of this report) and was the subject of consultation with the community (see Section 5.0 of this report).

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6 Council Report (8th October 2013): Public consultation of draft Outline Development Plan and provisions to enable Maori Reserve 873 development
4.0 The Planning Framework for the Proposed MR 873 Plan Change

The Resource Management Act establishes a hierarchy of planning instruments and how these are to be considered by the Council when it prepares plan changes such as MR 873 and makes decisions on resource consents in the reserve. Notably, any plan change must:

- Not be inconsistent with any relevant Earthquake Recovery Plan
- Give effect to the Canterbury Regional Policy Statement 2013 (RPS)

In addition, the Act sets out an internal ‘hierarchy’ within plans. As such, any proposed rules within the Waimakariri District Plan must give effect to the Plan’s objectives and policies. The relevant policy statements and plans are considered below, along with a brief assessment of how Maori Reserves are provided for within other district plans.

4.1 Land Use Recovery Plan

The Land Use Recovery Plan (LURP) is a Plan that provides direction for residential and business land use development to support recovery and rebuilding across metropolitan greater Christchurch in the next 10-15 years. The Plan identifies critical actions required in the short and medium term to coordinate and advance decision making about land use.

Clause 4.2.3 (page 26) refers to new housing on Maori reserves. This clause states that:

“Enabling Ngai Tahu whanau impacted by the earthquakes to build new homes on Maori reserves in metropolitan greater Christchurch addresses a specific recovery need. It also helps realise the original intent of the Maori reserves to protect and provide for enduring tūrangawaewae.

Chapter 5 of the Canterbury Regional Policy Statement already provides for tangata whenua with mana whenua to undertake papakaianga, marae and ancillary activities on ancestral land. In addition, it requires city and district councils to set out objectives and policies in their district plans to implement this policy.

The Land Use Recovery Plan requires Christchurch City and Waimakariri District Councils to give effect to this policy within the metropolitan greater Christchurch area to enable appropriate subdivision and use of whanau land and provide affordable housing options for Ngai Tahu whanau. These actions will assist social, cultural and economic recovery and will enable the expression of mana whenua and tino rangatiratanga.”

The LURP also contains changes directed to be made within a fortnight of gazettal of the LURP to the RPS (a new Chapter 6 for Greater Christchurch) and the Waimakariri District Plan (provisions for Maori Reserves). These changes were contained in Appendices 1 and 3 of the LURP and directed in Actions 44 and 20 respectively. Chapter 5 and the changes made to the RPS by the LURP are considered at section 4.2 of this report. The changes made to the Waimakariri District Plan by the LURP are considered at section 4.3 of this report.
In addition to the above, and of critical significance to this project is LURP Action 21. Under this Action the Council is directed to amend its district plan to the extent necessary to provide methods to give effect to objectives and policies for MR 873, as set out in Appendix 3 (of the LURP). This proposed plan change for MR 873 is the Council’s response to this Action.

4.2 Canterbury Regional Policy Statement 2013

Chapter 5 and Chapter 6 contain provisions that directly reference development on Maori reserves. These are considered in turn below.

4.2.1 Chapter 5 Land-use and infrastructure

Chapter 5 of the RPS sets out planning provisions for land-use and infrastructure. Objective 5.2.1 (h) states that development is to be located and designed so that it functions in a way that facilitates the establishment of papakainga and marae. Policy 5.3.4 – Papakainga housing and marae is significant and is therefore reproduced in full below.

“Policy 5.3.4 – Papakainga housing and marae (Entire Region)

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

(1) papakainga 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 papakainga housing and marae:

(a) adverse effects on the following are avoided, and if 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 value of the historic heritage, and
(iv) the values of areas of significant indigenous vegetation and habitats of indigenous fauna and

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

These provisions clearly anticipate that district plans shall provide for papakainga housing and marae on ancestral land where identified adverse effects are appropriately managed.

4.2.2 Chapter 6 Recovery and Rebuilding of Greater Christchurch

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Papakainga is defined in the RPS as: “a form of housing development which occurs on multiply-owned Maori or ancestral land. Traditionally, the literal meaning of papakainga housing is, ‘a nurturing place to return to’.
Chapter 6 of the RPS sets out the planning framework for the recovery and rebuilding of Greater Christchurch. Any plan change to the Waimakariri District Plan must give effect to or implement these provisions. The relevant provisions are analysed in turn below.

4.2.2.1 Objective 6.2.1 Recovery framework

This objective carefully manages greenfield development through the recovery period by, among other things, setting out mapped greenfield priority areas where future residential development can occur. MR 873 is not mapped as a greenfield priority area and as such, the RPS does not anticipate that this area will be developed for residential purposes in the same way as the mapped priority areas. However, Clause 12 of Objective 6.2.1 requires that the land use and infrastructure framework for recovery rebuilding and development “provides for development opportunities on Maori Reserves in Greater Christchurch”.

Other clauses of relevance to MR 873 in Objective 12 include: Clause 5 which seeks the protection and enhancement of indigenous biodiversity and public spaces; Clause 6 which seeks the maintenance or improvement of surface and groundwater quality; Clause 7 which seeks the maintenance of the character and amenity of rural areas and settlements; and Clause 8 which seeks the protection of people from an unacceptable natural hazard risk.

Clearly therefore, while MR 873 is not a greenfield priority area, the RPS does anticipate that development opportunities will exist in MR 873, subject to meeting other relevant specified outcomes.

4.2.2.2 Objective 6.2.2 Urban form and settlement pattern

In addition to setting out greenfield priority areas, the RPS also provides for consolidation and intensification in Objective 6.2.2 to meet the anticipated growth needs of Greater Christchurch through the recovery period. Importantly this objective contains listed intensification targets to achieve and identifies locations where intensification should be directed. It also seeks to manage rural residential development outside of existing urban and priority areas.

Notably, Clause 7 specifically seeks to provide “for development opportunities on Maori Reserves”. The principal reasons and explanation states that:

“Following the earthquakes and the subsequent damage and red zoning of properties, a number of Maori have sought to return to and live on the Maori Reserves set aside by the Crown in the 19th century for the then present and future needs of local Ngai Tahu. Providing for development opportunities on those reserves will enable the descendants of the original grantees to return and realise the original intent of those reserves.”

Clearly this objective, like Objective 6.1.1, anticipates that development opportunities will exist in MR 873. However, this objective and its supporting explanation suggests these opportunities will be limited in number and will be limited to descendants of the original grantees.
4.2.2.3 **Objective 6.2.3 Sustainability**

This objective seeks recovery and rebuilding in Greater Christchurch that, among other things, provides a range of densities and uses, is healthy and environmentally sustainable and retains values of importance to Tangata Whenua.

4.2.2.4 **Objective 6.2.4 Integration of transport infrastructure and land use**

This objective seeks to maximise the integration of the priority areas and new settlement patterns with transport infrastructure. It seeks, among other things, to: reduce dependency on private motor vehicles; promote the use of active and public transport and optimise the use of the existing capacity within the network.

This objective does not specifically reference Maori Reserves, however, it is clear that ad hoc high density residential development that is outside of identified growth areas and which relies on private vehicles is not anticipated by this objective. Rather, development in MR 873 should be carefully considered, with lower densities provided for and/or further residential development located within or adjacent to the existing Tuahiwi village area. Unplanned growth without corresponding infrastructure upgrades is not supported.

4.2.2.5 **Policy 6.3.5 Infrastructure and Policy 6.3.7 Residential**

Of particular relevance to the managed purposeful approach to growth in Chapter 6 during the recovery period is Policy 6.3.5 – Integration of land use and infrastructure. This policy reinforces and implements Objective 6.2.4 by seeking to ensure that new development (e.g. residential) is coordinated with the development of infrastructure in order to: optimise the efficient and affordable provision of both the development and infrastructure, ensure new development does not occur until the provision for infrastructure is in place, and maintain or enhance the operational effectiveness of existing and planned infrastructure. This policy works in tandem with Policy 6.3.7 residential location, yield and intensification which sets out where residential development is to occur and sets density targets. Through Policy 6.3.7 infrastructure location, capacity, and timing can be planned.

It is considered that ad hoc wide scale high density development within MR 873 that is divorced from planned infrastructure development would not be consistent with these policies.

4.2.2.6 **Policy 6.3.9 - Rural residential development**

This policy sets out where and how rural residential development is to occur in greater Christchurch. Notably, in the Waimakariri district rural residential development can only be provided for by the Council in accordance with an adopted rural residential development strategy prepared in accordance with the Local Government Act 2002 (LGA).

Rural residential development is defined in the RPS as: “residential units outside the identified Greenfield Priority Areas at an average density of between 1 and 2 households per hectare.”
Given the policy and the definition of rural residential it is clear that development at this density, i.e. one dwelling per 5000m$^2$ to 10,000m$^2$ is not provided for in MR 873 unless set out in a rural residential development strategy adopted under the LGA. The LURP did not anticipate this process for Action 21 and this has not been proposed by the Council.

It is noted that a Rural Residential Development Plan was completed in June 2010 for the Waimakariri District. It is understood that community views canvassed in 2009 and 2010 on this matter indicated that rural residential development was not a preferred option for MR 873.

**4.2.2.7 Policy 6.3.10 – Maori reserves**

Of direct relevance to MR 873 is Policy 6.3.10. This policy is reproduced in full below.

**“Policy 6.3.10 – Maori Reserves**

Recognise and provide for the relationship of local Ngai Tahu with their ancestral lands, waters, wahi tapu and taonga by enabling Maori Reserves within the Greater Christchurch area to be developed and used for their intended purposes for which they were originally reserved, taking into account the following matters where relevant:

(a) flooding, inundation and other natural hazards;
(b) rural amenity and outlook;
(c) compact urban form;
(d) range of housing options
(e) provision of appropriately sized local / commercial centres;
(f) any outline development plans; and
(g) a range of lot sizes and densities.”

The principal explanation and reason to this policy is reproduced in full below.

**“Principal reasons and explanation**

The earthquakes and the subsequent damage and red zoning of properties in Waimakariri District and Christchurch City has led to a number of Maori seeking opportunities to return to ancestral lands, including land at Maori Reserve 873 (Tuahiwi) and Maori Reserve 875 (Rapaki). This policy recognises the original intent of the land purchase deeds of the 19th century to provide for the present and future needs of local Ngai Tahu landowners and their descendants.

It is important that any development of Maori Reserves is enabled in a way that meets the needs of Maori and other residents, whilst protecting natural and physical resources through maintaining and enhancing the environmental qualities and rural amenity of the area.

Maori Reserves in Greater Christchurch have not been identified as priority areas, nor as rural residential as development of this land is seen as something that will likely take a more dense form in certain areas and this could result in a more closely settled development pattern. However, it is considered important that any development is of a size and scale appropriate for the surroundings and that rural amenity and outlook is maintained. For these reasons it is considered important that
an Outline Development Plan is prepared in consultation with the landowners within those reserves to guide and manage development."

This policy clearly provides for development in MR 873 consistent with the purpose for which it was reserved. Matters to expressly consider in any plan change and subsequent development are set out in (a) to (g). This policy anticipates a different pattern of development than provided for in the residential priority areas and under the rural residential provisions.

4.2.3 Overall RPS conclusions

Clearly the RPS anticipates that development opportunities for descendants of the original grantees will exist in MR 873. However, what is less clear is the scale and character of the development anticipated by RPS. Given the RPS’s tightly managed approach to greenfield and intensification development and the statements in Policy 6.3.10 and its principal reasons and explanation, it is clear that normal density residential development is not anticipated for this area, and neither is rural residential. At the same time, natural hazards, rural amenity and outlook, a compact urban form and a range of housing and lot size options must be taken into account.

4.3 Waimakariri District Plan

The provisions of key relevance to MR 873 are those provisions inserted into the District Plan by the LURP under Action 20. As they are contained within a Recovery Plan, decisions by the Council must not be inconsistent with these provisions. In addition, rules and other methods in the District Plan must implement these provisions.

The main provisions or their key components are set out below.

4.3.1 Policy 2.1.3.4

“Recognise the relationship of Ngai Tuahuriri with the land and associated resources in Maori 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 1882, for places of residence and living activities for the original grantees and their descendants.”

This policy is in the Maori chapter of the Plan. It establishes that land within MR 873 is to be used as intended by Kemps Deed of 1848 and the Crown Grants Act (No. 2) of 1862. It aligns with Policy 6.3.10 in Chapter 6 of the RPS, which the District Plan must give effect to. The policy also recognises that the rights lie with the original grantees and their descendants.

4.3.2 Policy 2.1.3.5

This policy is in the Maori chapter of the Plan. This policy sets out those matters that must be achieved by developments occurring within MR 873. While providing more detail than RPS policy 6.3.10 it is considered to be consistent with it and gives effect to it. The policy is reproduced in full below.
“Provide for the use, development and protection of Māori Reserve 873 based on its unique character and cultural values by:

a. maintaining and enhancing contained village areas that provide community facilities, convenience retail, recreational and business opportunities, residential housing, and compact, walkable neighbourhoods;

b. providing for cluster housing whilst still maintaining and enhancing an extensive rural hinterland in immediate proximity to, and surrounding the clusters, within MR 873 so that each cluster retains a rural outlook;

c. connecting to Council reticulated water and sewer;

d. avoiding land considered a high hazard risk including flood-prone land to the south;

e. protecting and ecologically enhancing the Cam River corridor;

f. re-establishing, protecting and ecologically enhancing the historic streams draining the eastern basin;

g. protecting and enhancing views from settlement areas to Maungatere and Ngā Tiritiri o te Moana;

h. recognising historic landscape and land use patterns; and

i. recognising a range of housing options.”

4.3.3 Objective 14.1.2

This objective is in the Rural Zone chapter of the Plan. It seeks to recognise the historic and cultural significance of MR 873 to Ngāi Tūāhuriri and the different rural character arising from settlement by the original grantees and their descendants.

4.3.4 Policy 14.1.2.1

This policy is in the Rural Zone chapter of the Plan. It will apply to any development in the rural zoned areas within MR 873. Given it is a key policy it is reproduced in full below.

“Provide for subdivision and/or dwellinghouse development that enables Rural Zone land within Māori Reserve 873 to be used as intended by Kemps Deed of 1848 and the Crown Grants Act (No.2) of 1862 for places of residence for the original grantees and their descendants whilst:

a. recognising, within the intensive development opportunities, a range of housing options, provided housing density more than one dwellinghouse per 4ha is designed and constructed as part of an integrated comprehensive design for the whole site;

b. connecting to Council reticulated water and sewer for residential development at a density more than one dwellinghouse per 4ha;

c. avoiding residential development on land subject to hazards, including flooding from either breakouts or localised ponding;

d. recognising the movement linkages, open space, outlook, rural character and physical separation between contained village areas and more intensive residential development in the Rural Zone;
e. protecting and ecologically enhancing the Cam River corridor;
f. re-establishing, protecting and ecologically enhancing the historic streams draining the eastern basin;
g. maintaining the rural environment, including between any intensive development opportunities; and
h. implementing an Outline Development Plan."

This policy is a key policy that provides for subdivision and dwellings subject to meeting specified matters. Any proposed plan rules will need to implement this policy, clearly managing development to maintain the rural environment, avoid hazard areas, connect to Council reticulated services, be part of a comprehensive design and be limited to descendants of the original grantees. If the rules do not achieve this then they are not implementing the policy.

4.3.5 Policy 17.1.1.5

This policy is in the Residential chapter of the Plan. It will apply to any residential zoned areas within MR 873, such as around the current Tuahiwi village. Given it is a key policy it is reproduced in full below.

“Provide for subdivision and/or business and residential development that enables Residential 3 zoned land within Māori Reserve 873 to be used as intended by Kemps Deed of 1848 and the Crown Grants Act (No.2) of 1862 for places of residence and living activities for the original grantees and their descendants whilst:

a. recognising a range of housing options and dwellinghouse densities providing for a variety of allotment sizes;
b. creating compact contained village areas;
c. providing for a centrally located, mixed use centre that recognises the need for community facilities, convenience retail, recreational and business opportunities at a size and scale appropriate to the development of Tuahiwi;
d. defining any increase in the Residential 3 Zone by natural features, landscape character areas and built features;
e. implementing an Outline Development Plan;
f. connecting to Council reticulated water and sewer;
g. avoiding residential development on land subject to hazards, including flooding from either breakouts or localised ponding;
h. maintaining a rural outlook and setting;
i. providing good connectivity via walking and cycling linkages;
j. providing active interaction with the street frontages;
k. re-establishing, protecting and ecologically enhancing the historic streams draining the eastern basin; and
l. protecting and enhancing views from village areas to Maungatere and Ngā Tiritiri o te Moana.”
As for Policy 14.1.2.1, this policy is a key policy that provides for subdivision, residential and business development subject to meeting specified matters. Any proposed plan rules will need to implement this policy, clearly managing development to deliver the matters specified in (a) to (l).

4.4 Conclusions on the scope of any proposed Plan changes

As set out at the beginning of this section, the Resource Management Act creates a hierarchy of plans and provisions within plans and sets out how these are to relate to each other. Any new methods proposed as part of Action 21 must give effect to or implement higher order documents and the objectives and policies within the Waimakariri District Plan. They cannot seek outcomes that are inconsistent with these higher order provisions.

The existing provisions analysed above therefore provide a strong statement on the scope of the methods (e.g. rules) that can be proposed as part of any plan change. As an example, changes that would permit residential density development throughout the rural zoned areas of MR 873 would not be appropriate. Likewise, changes that permitted developments without connection to reticulated services would not be appropriate.

It is also important to note that the District Plan provisions were included in the LURP for recovery purposes. As such, it would be difficult to argue that wholesale unrestrained development or development that was intended to provide capacity beyond 2028 (the recovery period specified in the LURP) was appropriate.

Table 1 below sets out derived key outcomes from the higher order planning documents and the Waimakariri District Plan objectives and policies that must be achieved through any plan change under Action 21 of the LURP.

<table>
<thead>
<tr>
<th>Area</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Zone</td>
<td>Enable Kemps Deed and provide for the descendants of original grantees</td>
</tr>
<tr>
<td></td>
<td>Range of housing options, densities and allotment sizes</td>
</tr>
<tr>
<td></td>
<td>Compact contained village</td>
</tr>
<tr>
<td></td>
<td>Mixed-use centre</td>
</tr>
<tr>
<td></td>
<td>Residential 3 area defined by natural / built features and landscape</td>
</tr>
<tr>
<td></td>
<td>Implementation of an ODP</td>
</tr>
<tr>
<td></td>
<td>Connection to reticulated services</td>
</tr>
<tr>
<td></td>
<td>Avoidance of natural hazards</td>
</tr>
<tr>
<td></td>
<td>Maintenance of rural outlook and setting</td>
</tr>
<tr>
<td></td>
<td>Enhancement / protection of the Cam River and historic streams</td>
</tr>
<tr>
<td></td>
<td>Protection of views to Maungatere and Nga Tiritiri o te Moana</td>
</tr>
<tr>
<td>Rural Zone</td>
<td>Enable Kemps Deed and provide for the descendants of original grantees</td>
</tr>
<tr>
<td></td>
<td>Range of housing options</td>
</tr>
<tr>
<td></td>
<td>Comprehensive design for the whole site</td>
</tr>
<tr>
<td></td>
<td>Maintain rural a environment and amenity, recognising different rural character</td>
</tr>
<tr>
<td></td>
<td>Cluster housing with rural outlook, at densities greater or less than 1 dwelling per 5000m$^2$ – 10,000m$^2$</td>
</tr>
<tr>
<td></td>
<td>Implementation of an ODP</td>
</tr>
<tr>
<td></td>
<td>Avoidance of natural hazards</td>
</tr>
<tr>
<td></td>
<td>Connection to reticulated services</td>
</tr>
<tr>
<td></td>
<td>Enhancement / protection of the Cam River and historic streams</td>
</tr>
</tbody>
</table>
4.5 Comparison with other district plans

A number of other Councils provide for a form of cluster housing, commonly referred to as Papakainga. The Council undertook a brief review of 14 other District Plans with provisions relating to Papakainga. The review indicated that this form of housing was generally exclusive to multiple owned Maori land, as opposed to general title land. In addition, only two Councils make provision for the subdivision of Papakainga housing, being Thames-Coromandel District Council and Waipa District Council. In the case of the Thames-Coromandel District Plan, it is understood that subdivision is a discretionary activity and a concept plan is required to be submitted.

5.0 Consultation

5.1 Issues and options consultation - 28 March to 17 May 2013

At the Resource Management and Regulation Committee meeting on 20th November 2012, the Waimakariri District Council’s Resource Management and Regulation Committee agreed:

“to undertake consultation on issues and options for development, and related District Plan Changes, to enable the land in the Kaiapoi Maori Reserve 873 to be used as intended by Kemps Deed of 1848 and the Crown Grants Act (No 2) of 1862.”

A Development Options Assessment report was prepared which identified five potential options that represent different forms of development. A brief overview of these options is provided below (a more comprehensive description of the five options is provided within the consultation document, Kaiapoi Māori Reserve 873 Development Options Assessment).

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Development Adjacent to Woodend</td>
<td>An area of land approximately 94 hectares in area that bounds the Woodend Township has been identified for possible residential development, similar to the density of Woodend Township (Residential 2), known as WW6 within Proposed Change 1 (PC1) to the RPS.</td>
</tr>
</tbody>
</table>
This option involves the consolidation of the existing Residential 3 zone to enable further residential style development.

There are 17 empty sections within Tuahiwi Village that could be built on. In addition there are 57 1200m² or larger sections which could be subdivided to the 600m². Water and sewerage infrastructure is commented on in the servicing report in Appendix 3.

It would be possible to provide limited further opportunities for residential subdivision in Tuahiwi Village by extending the zone boundary.

This option would support the concept for whānau based housing clusters to support
Māori community living and cultural values, as a different form of residential development to that currently provided for. This concept would be built around whānau living in both village and rural clusters, better community facilities, and better connections in a sustainable environmental framework.

5- Individual Houses on Rural Sites

This option would allow for a dwelling on existing rural lots and/or enabling rural residential lots below the current 4 hectare minimum site size.

It is similar to the former Rural D zone provisions that were part of the District Scheme from 1980 to 2005.

The consultation period (from 28 March to 17 May 2013) included three information sessions held at Tuahiwi Marae, Woodend Community Centre and Tuahiwi School. A total of 21 comments were received. A hearing was held on 26 June 2013.

Comments Received

The Council report to the 20th June 2013 Hearing Panel listed the following consultation responses:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restriction to Descendants</td>
<td>Overall, it was noted from comments received there is some support for Option 5, by those who are not likely to have descendancy rights who have requested that it not be restricted to descendants.</td>
</tr>
<tr>
<td>Individual Land Rights</td>
<td>As of right, a person should be able to live and make a living from their property.</td>
</tr>
<tr>
<td>WW6 (Option 1) strong support and opposition</td>
<td>Comments have been received from those landowners within WW6 that are in favour of Option 1. Those that are in opposition to this Option consider that WW6 will become an extension of Woodend, and development is confined to a small part of the reserve, and therefore does meet the obligations of Kemps Deed and the Crown</td>
</tr>
</tbody>
</table>
Effects on special/rural character of the Reserve

Concerns have been raised on the potential detrimental impact of development on the whole character and landscape of MR 873.

Constraints

Areas in MR 873 will be constrained from development because there is no provision for services to some areas in the reserve, and the cost of getting services to these locations, and other issues such as flood risk, geotechnical issues and multiple ownership issues to overcome.

Standard of future housing

Some comments referred to substandard housing that already exists within the reserve. The comment was made that it does not bode well for any future development standards.

Feasibility of Option 4

The feasibility of such development(s) being implemented was questioned, given the expense in building and the ongoing maintenance and management of these areas within multiple ownership in the long term.

Commercial/Business Development

Comments propose a level of commercial and/or business development, based on local employment needs and convenience requirements.

Hearings Panel Decision

The Hearings Panel recommended that Council staff draft an ODP and rule framework to align with the objectives and policies contained within the draft LURP to be tested with Council staff and key stakeholders before seeking approval from the full Council meeting. At the Resource Management and Regulation Committee meeting 30 July 2013 the Committee resolved to support the Hearings Panel recommendations. This was recommended to the full Council in a report dated 8 October 2013.

5.2 Draft Outline Development Plan and rule framework consultation – November and December 2013

Consultation on the draft ODP and draft rules package was undertaken in November and December 2013. 11 submissions were received with six persons/groups speaking to the Panel at the hearing held 25 March, 2014. The report to the 20th May 2014 Resource Management and Regulation Committee noted that from a review of the previous hearing the key issue areas have remained consistent throughout the consultation processes. There were listed as:

1. The appropriateness of restriction of development rights (in the rural zone) to descendants of the original grantees under Kemps Deed
2. The constraints on development due to lack of availability of reticulated services throughout the reserve
3. Support for increased density along Rangiora Woodend Road (WW6) (Option 1 under first Consultation round)
4. Support for Rural D zoning provisions (Option 5 under original consultation round)
5. Uncertainty around the Kainga Nohoanga (Rural Cluster Housing) provisions.
6. Support for greater development rights, but not to a level where amenity and character values are compromised.
7. Have the ability to subdivide to less than 4 ha in the Rural Zone.
The Hearings Panel endorsed the development of an ODP subject to a number of amendments including:

- Deleting proposed village extension area B to the west of the village and replacing it with Residential 3 zoning that includes the Marae and north up to greens road, following existing boundary lines where practicable.
- Reducing the view shaft to a point where it is only necessary to control the height of buildings and structures to maintain the view from the Marae to Mount Grey and the Southern Alps.
- Removing the proposed setback buffer along Rangiora Woodend Road.
- That all necessary reports be commissioned to support the proposal (e.g. a desktop archaeological assessment, an assessment of the proposed plan change against the Iwi Management Plan; a landscape assessment).

5.3 Notification of amended proposals - 27th September to 17th October 2014

Consultation on the amended draft ODP and draft rules package was undertaken in September to October 2014. 26 submissions were received. The key issue areas noted from this round of consultation were:

- Mixed views on the restriction of development rights to descendants
- Mixed views on the requirement to connect to reticulated services
- Mixed views on the location and extent of the proposed village extension. Key matters noted were: the location of any proposed roading; the exacerbation of existing stormwater flooding; and possible adverse effects on rural outlook
- Mixed views on cluster housing
- Mixed views on unit titling vs fee simple subdivisions with covenants
- Desire for the maintenance of amenity in the rural areas
- Lack of consultation

As a result of the short consultation period and the nature of some of the comments received the Council resolved to provide a further consultation opportunity in early 2015. This consultation will include an amended proposed Tuahiwi village expansion area and technical reports on flooding and servicing being made available to those who made submissions on the plan change. The hearing will be held in March to consider the proposal and any comments or further comments from those who provided comments in the September – October consultation round.

5.4 Ongoing consultation with stakeholders – October 2014 to February 2015

Since the amended proposal consultation closed the Council has undertaken informal discussions with its recovery partners, Te Mana Waitaha Trust and Tuhiwi village landowners. The following key matters were raised:

- Flooding / drainage issues in the north west part of the proposed Residential 3 village extension;
- Adverse affects on rural amenity from the Residential 3 village extension;
• The need for a setback and landscape buffer area between the new residential zoned areas and the existing rural zoned areas;
• The appropriateness of height restrictions in the viewshaft protection area;
• The appropriateness of re-zoning non-descendants land to Residential 3;
• Building consents appear to also be restricted to descendants of the original grantees;
• The extent of the north-west part of the proposed Residential 3 village extension.

These discussions have further informed the proposed plan change provisions, the location of the proposed Residential 3 village extension and the proposed ODP. The key changes proposed relative to the last provisions consulted on are: a reduction in the proposed extent of the Tuahiwi village Residential 3 area; and increased setbacks and a landscape requirement between the new Residential 3 zoned areas and existing rural zoned areas. These are shown in the ODP in Appendix 2.

Regarding building consents, the restrictions on non-descendants only apply to resource consents. Regarding flooding / drainage matters, these are addressed in the servicing report contained in Appendix 3. Stormwater from any new residential development will be assessed by the council as part of the consent process. The height restrictions in the viewshaft matter and the appropriateness of re-zoning non-descendants land to Residential 3 are covered later in this report in Section 6.

5.5 Consultation conclusions

The number of comments received at each of the three formal consultation exercises is considered to be relatively low. This could either because there is little interest in the topic, because the consultation was not well publicised, because the Council has got the proposed provisions about right, a combination of these, or other unknown reasons.

In terms of the comments received, there are recurring mixed views on:

• The restriction of rights to descendants;
• The requirement to connect to reticulated services;
• The protection of rural outlook and amenity;
• The appropriateness of cluster housing in rural areas; and
• The location and extent of any village extension.

6.0 Proposed Plan Provisions

6.1 Introduction

As indicated earlier in this report, the proposed plan provisions need to give effect to, not be inconsistent with or implement the higher order policies. The key outcomes of the higher order objectives and policies are set out in Table 1 in clause 4.4 of this report. The proposed plan provisions must also be cognisant of the comments received during the various consultation exercises and the conclusions from the various supporting reports.
Commentary on how the proposed plan provisions met the key outcomes identified in Table 1 in clause 4.4 are set out in the next two sections, split into the Tuahiwi village provisions and the rural area provisions. The proposed plan provisions themselves are contained in Appendices 1 and 2.

6.2 Tuahiwi Village – issues and considerations

6.2.1 Enabling Kemps Deed and providing for the descendants of original grantees

The proposed extension to the Residential 3 zone provides residential development opportunities for descendants. As such, the proposed changes enable Kemp’s Deed. However, the proposed changes also provide residential development opportunities for non-descendants and as such go beyond that required by Kemp’s Deed. Non-descendent land is interspersed amongst Maori owned land. If this land was not included this would significantly restrict the provision of infrastructure, such as roads and services, required to service the new Residential 3 area. In addition, extending residential development opportunities to non-descendants is considered appropriate in this instance as a key outcome is the creation of a cohesive village, rather than pockets of descendent development.

6.2.2 Compact contained village defined by natural / built features and landscape

There are no clear geographical boundaries that can be used to define the extent of any residential zone expansion. As such, it is only the roads and parcel boundaries that serve as a possible zone demarcation. On the basis of consultation responses, the higher order planning framework and the supporting reports, the final proposed boundaries are as per the proposed District Plan maps attached at Appendix 2.

This area is considered sufficient to provide housing choice, maintain a compact walkable village area, and is unrestricted by view shaft protection areas which would impact upon the form and function of the village.

6.2.3 Range of housing options, densities and allotment sizes

The Residential 3 zone provisions contain a minimum subdivision size of 600m$^2$ but no maximums. As such a range of densities and allotment sizes can be provided under this zoning. In terms of housing options, the Residential 3 zone provisions contain standard bulk and location provisions. There are no unusual prescriptive requirements relating to housing types.

6.2.4 Mixed–use centre

In terms of providing for business development in the Tuahiwi village, 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.
6.2.5 View shaft protection area

Of major importance to Maori are the views to Maungatere and Nga Tiritiri o te Moana. Originally a view shaft protection area was identified on the MR 873 ODP where development should not exceed a height of 5 metres. However, it is noted that the advice from Lucas Associates (page 5 of the Development Opportunities report referred to in Appendix 5), indicates that no structures should be allowed in this location in order to protect views to Maungatere and Nga Tiritiri o te Moana. As such, the original view shaft protection area method was questionable as to whether the proposal appropriately protects a view shaft as required under Policies 2.1.3.5(g) and 17.1.1.5(l). If dwellings are restricted completely in the protection area this would undermine the proposed re-zoning on the western side of Tuahiwi Road to Residential 3 as there would effectively be a large vacant gap between the existing village and the proposed development area.

Given the policy direction, staff consider that this view shaft protection area should remain and as such this makes the proposed north west extension of the village difficult in terms of residential character and form and function. In addition, given the lack of support for residential development in the area from Maori and the majority of affected landowners this Residential 3 expansion area is now proposed to be deleted.

6.2.6 Avoidance of natural hazards

As indicated in the servicing report, the proposed extension of the Residential 3 area in Tuahiwi village is outside the high flood hazard area where development must be avoided. The servicing report comments on stormwater management for the extension, noting that stormwater will be treated and attenuated in stormwater management areas prior to discharge to the downstream receiving environment. Proposed stormwater management areas are identified on the ODP.

6.2.7 Connection to reticulated services

As indicated in the servicing report, reticulated services are available for the proposed extended Residential 3 zone area.

6.2.8 Implementation of an Outline Development Plan

The proposed village expansion is set out in an ODP prepared by the Council. This village expansion is consistent with that ODP.

6.2.9 Maintaining rural outlook and setting

A rural outlook and setting has been maintained through his village expansion proposal as:

- The expansion is relatively modest;
- The expansion area adjoins the current village extent;
• The densities enabled provide sufficient development opportunity to meet demand, thereby safeguarding the wider surrounding area for rural activities (except where a rural cluster is developed).
• As set out on the ODP, the provisions require a generous setback and landscaping along boundaries with the Rural Zone in order to mitigate against amenity impacts.

6.2.10 Enhancing / protecting the Cam River and historic streams

The location of the proposed Residential 3 zone expansion is not located in the Cam River area and will not impact on historic streams. It is noted that the District Plan already contains a waterway setback requirement of 10m (Rule 27.1.1.2) from waterbodies, including those that have been modified such as natural farm drainage channels.

6.2.11 Other matters – environmental site assessment

The Coffey environmental report indicates that the proposed eastern village expansion area is suitable for rezoning to Residential 3 provided that identified elevated arsenic levels in soil and waste material are appropriately managed. The Coffey geotech assessment report confirmed that the village area proposed for rezoning is considered suitable for rezoning to Residential 3.

6.2.12 Other matters – archaeological assessment

The Council notes that an archaeological site is defined in the Heritage New Zealand Pouhere Taonga Act 2014 as any place in New Zealand (including buildings, structures or shipwrecks) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods. As such, it is likely that any activity such as earthworks for residential developments, including building platforms, topsoil stripping, access way / road construction, trenching for telephone, power, and waste disposal within MR 873 will require an authority from Heritage New Zealand.

The archaeological assessment noted that parts of the area proposed for rezoning, namely Maori Reserve 873 92B Block and Lot 1 DP 69740, cover much of archaeological site M35/370 which contains borrow pits. The report stated that an authority will need to be obtained from Heritage New Zealand before any earthworks on or in the vicinity of the archaeological site M35/370 are undertaken. The report recommends that as a condition of the Authority the pits should be mapped with ground penetrating radar or other subsurface investigational methods before they are further disturbed.

The report also suggests that periodic checks for archaeological evidence should occur of any major excavations made for the provision of roading, services, or in large scale ground levelling that takes place as a result of the proposed plan change being implemented.

6.3 Rural Provisions – Issues and Considerations

6.3.1 Enabling Kemp’s Deed and providing for descendants of the original grantees
In the proposed rules cluster housing is enabled for descendants of the original grantees, thereby enabling Kemp’s Deed. Cluster housing is not enabled for non-descendants however. This descendancy limitation has been a consistent matter commented on in written comments and raised at various hearings - a number of commenters supported this limitation and a number opposed it.

The intent of the relevant objectives and policies is for development rights to be provided for descendants of the original grantees. There is no policy direction to provide these rights to non-descendants. If development rights were also granted to non-descendants throughout the large rural zoned areas it is considered that this may compromise many of the other plan outcomes stated in the policy framework (see Section 4 in this report). As such, subdivision and the establishment of a dwellinghouse for non-descendants in the reserve will be required to continue to comply with existing rural zone provisions (i.e. a minimum site size of 4 hectares).

6.3.2 Providing a range of housing options

The proposed provisions provide for one dwelling to be built any site less than 5000m² that is owned by a descendant. The proposed provisions also provide for three to seven dwellings being developed on sites of 5000m² or greater on 20% of the site. While a cluster must indicate the position of a minimum of three dwellings, only one needs to actually be built. Through this approach there is significant flexibility to build one or more dwellings with different densities and spatial arrangements. In addition, apart from boundary setbacks external to the cluster and height limits the proposed plan provisions are largely silent on bulk and location standards and other amenity provisions. This approach therefore enables significant flexibility for achieving a range of housing options.

The cluster housing diagrams in Appendix 4 illustrate examples of houses that could be built as part of a cluster.

6.3.3 Maintain rural environment, providing cluster housing with a rural outlook, recognising different rural character

The cluster housing provisions have been crafted to provide flexibility to descendants in terms of housing location, density and design whilst seeking to maintain the unique rural environment and character which defines MR 873. The key provisions which maintain rural amenity are those controlling cluster dwelling numbers and area, boundary setbacks, structure coverage and cluster design.

Descendants can choose to design anywhere from three to seven dwellings depending on demand, site constraints, and the other key rules. The maximum cluster area able to be built on is a maximum of 20% of a site. This results in a minimum of 80% of the site being retained for rural activities and to retain rural outlook and amenity. Boundary setbacks of 15m are required to manage amenity at the boundary external to the cluster. Structure coverage is limited to 13%, thereby allowing more smaller dwellings or fewer bigger dwellings as required. Finally any cluster
development proposal must include a development plan for the whole site that addresses these and other matters identified in the provisions.

Appendix 4 contains a number of cluster housing examples that demonstrate how a complying cluster can be arranged for various lot sizes and dimensions.

6.3.4 Comprehensive design for the whole site

As indicated under 5.3.3, cluster development proposals must include a development plan for the whole site.

6.3.5 Implementation of an Outline Development Plan

An ODP has been prepared by the Council. The proposed provisions implement this plan.

6.3.6 Avoidance of natural hazards

The draft ODP includes areas of MR 873 that are subject to flooding by localised ponding or river break outs, that are determined to be ‘high hazard’. The proposed rules make cluster development a non-complying activity in these identified high hazard areas.

6.3.7 Connection to reticulated services

The proposed rules make cluster housing developments that do not connect to reticulated services a non-complying activity, consistent with the higher order planning documents.

6.3.8 Enhancing / protecting the Cam River and historic streams

The Cam River and other water courses within the reserve are identified on the proposed planning maps and draft ODP. As part of the proposed cluster housing provisions a cluster housing development plan must be submitted that demonstrates, among other things, any proposed planting and ecological enhancement of watercourses. It is also noted that structures must be setback 10m from any waterbodies.

6.3.9 Other matters – localised stormwater flooding

Locating a cluster in areas affected by a 1:200 year flooding event is non-complying, consistent with the higher order planning documents.

6.3.10 Other matters - subdivision and providing for multiple generations

A key restricting factor for land development in MR 873 is the difficulty of obtaining finance. Banks and other lenders are reluctant to lend money for mortgages on Maori land. Although they can

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8 Controller and Auditor General (March 2011): Government Planning and support for housing on Maori land
take Maori land as security for a loan, if the bank needs to take the land because of a default on the loan, it is difficult to sell the land to recover the money lent. If the land is able to be subdivided and held as a sellable parcel this finance hurdle can be overcome.

While the ability to subdivide is therefore important, adverse effects could potentially arise if cluster developments are able to be subdivided. This is because the proposed reduction in bulk and location, amenity standards between houses and increased density is based on the principle that generally, extended families will occupy individual cluster developments who have a desire to live communally, whilst maintaining some exclusive space; as opposed to separate, unrelated individual dwellinghouses. The ability for cluster housing to function effectively relies on the assumption those in the cluster want to live in close proximity to one another. If parts of a cluster are able to be subdivided, and on sold, then the management of the development as whole, and in particular the rural portion, becomes more difficult.

To best manage the above issues the proposed rules provide for subdivision through unit titling. Unit titles are the most widely used form of multi-unit property ownership. They allow owners to privately own an area of land and/or a building (known as a principal unit) and share common property with other unit owners (unit title background information is contained in Appendix 5). The Council is getting pro-forma unit title body corporate legal documentation prepared for use by those wishing to develop cluster housing.

It is considered that unit titling best provides for individual legal ownership whilst providing for ongoing management and maintenance of common property. It is the best tool to manage the unique pattern and character of development anticipated within the cluster. Subdivision through unit titling will allow the underlying lot to be held in multiple ownership with the ability for separate ownership of dwellinghouses and their exclusive areas. The valuation report by Colliers International (see Appendix 5) indicates that there is little difference in value between land and dwellings owned by unit titles as opposed to fee simple titles.

In terms of providing for multiple generations, the proposed rules require a cluster to be designed at the outset, but the cluster can be built in stages. This provides flexibility for later generations to add on additional dwellings as required, in accordance with the original cluster design. The proposed unit title subdivision supports this multi-generational approach.

6.3.11 Other matters - co-governance

The design of the cluster housing is extremely important if effects on the environment are to be avoided or mitigated. Because of this the Council is proposing that they can request advice on the design of a cluster from design experts and also a representative nominated by the Runanga or the Tuahiwi Marae Trustees. It is noted that Waipa District Council uses a form of co-governance in respect of Papakainga housing via an Iwi Consultative committee that reviews concept plans before applications are lodged with the Council for resource consent.
6.3.12 Other matters - Iwi Management Plan assessment

The Council report states that the proposed plan change to enable development within MR 873 is consistent with the Mahaanui Iwi Management Plan (IMP). Key aspects of the IMP that align with the proposed plan change are the improvement of water quality and quantity, the enhancement of waterways and provision for Mahinga Kai, recognition of mana whenua and undertaking meaningful collaboration with the Runanga and communities. It is considered that the plan change gives recognition to Ngāi Tahu cultural heritage values, including wāhi tapu and other sites of significance and cultural landscapes.

6.2.13 Other matters – resource consent lapsing period

In order to provide greater flexibility for descendants the Council is proposing to apply a ten year period for the lapsing of resource consents rather than the standard five year period.

7.0 Application of the Rural Zone Cluster Rules

The Council anticipates that a resource consent application for cluster housing will generally proceed as follows:

1. You will engage appropriate technical specialists to assist in designing and preparing plans for your cluster development, covering off the matters set out in the relevant rules. Attached at Appendix 4 are cluster housing examples as a guide. A cluster housing development plan must be submitted that will demonstrate:
   o the design and arrangement of any existing, proposed or consented dwellinghouses and clusters and the interrelationship between them;
   o if applicable, the staging of development, including that each sequential dwelling will be the next adjacent and contiguous dwelling in the cluster;
   o access, open space links and service areas;
   o proposed infrastructure, including that required for firefighting purposes;
   o areas to be exclusive and common and their dimensions;
   o existing topographical features including existing vegetation, streams and overland stormwater flowpaths;
   o proposed planting and ecological enhancement of waterbodies;
   o selected ground heights or contours

Note: It is your responsibility to prove descendancy. This can be done by seeking confirmation of descendancy from the whakapapa unit of Ngai Tahu. This proof will need to accompany any resource consent application.

2. It is your responsibility to address the District Plan’s reticulated servicing requirements. This information will need to be submitted with any resource consent application.
Note: In relation to these first two points, the Council understands that grant funding can be sought. Two such examples are Kainga Whenua loans for individuals seeking housing on multiple-owned Maori land and Kainga Whenua Infrastructure Grants (see Appendix 5).

3. You will need to submit a land use resource consent application with the necessary information to the Council. If a unit title subdivision is proposed, then a subdivision consent application will need to be submitted at the same time.

4. The Council will assess your application. This assessment will have regard to (but not be limited by) the following matters:

   • the proximity of any proposed dwellings or clusters to existing or consented dwellings and clusters on neighbouring sites;
   • the extent to which the rural character and amenity in the wider area is adversely affected by the cumulative impact of existing or proposed clusters;
   • the extent to which any additional ancillary private use buildings proposed are necessary for rural activities or customary use and mahinga kai;
   • whether landscaping is proposed along boundaries and the extent to which it maintains or enhances rural amenity and outlook;
   • the extent to which the proposed buildings compliment the rural environment;
   • the extent to which the cluster provides open space and maintains rural amenity when viewed from public roads and accessways;
   • the extent to which any watercourses are ecologically enhanced; and
   • any cumulative effects of the proposed activity.

Note: The Waimakariri District Council may seek advice from design professionals and the Runanga or Tuahiwi Marae Trustees, as well as consider any relevant design guide.

5. Depending on how domestic wastewater is managed a resource consent from the Canterbury Regional Council may also be required.

6. If your resource consent application is approved by the Council you have ten years to begin and complete the development. While a cluster design must show a minimum of three dwellings the dwellings can be built in stages over a ten year period. All the dwellings must be built in accordance with the cluster housing development plan and any conditions imposed by the Council on the resource consent, unless a further resource consent application is sought to vary the plan or conditions.

7. If you are also doing a unit title subdivision you will need to engage a surveyor to complete your legal subdivision plans. You will also need a valuer to determine the value of each title so the appropriate share of the balance land can be apportioned to each unit.

8. You will need to prepare the unit title documentation as required, following legal advice. Information on unit titling is referenced in this report in Appendix 5. Pro-forma unit title body corporate legal documentation prepared by the Council will be made freely available.
for use by applicants. This will cover the requirements of the Unit Titles Act 2010 and the District Plan but will also be able to have additional rules added to by the developer of the cluster if desired.

9. Your lawyer will then apply for your individual titles.

10. Where an approved cluster development has not been completed within ten years of the issue of the resource consent or additional houses are sought to be added to the existing cluster, you will need to apply for a new resource consent. Provided the total number of dwellings within the cluster does not exceed seven and the cluster meets the requirements of the original consent then the consent application should have some merit for approval.
Appendix 1 – Proposed MR 873 Plan Change
Appendix 2 – Proposed MR 873 Planning Maps (including Outline Development Plan)
Appendix 3 - Servicing Report
Appendix 4 - Cluster Housing Examples
Appendix 5 – List of Supporting Technical Reports

The following technical reports have informed this Further Information Report. Given the size and specialist nature of these documents they are not included with this report but are available on the Council’s website, with copies available on request.

1. Waimakariri District Council (October 2011): Kaiapoi Maori Reserve Kainga-Nohanga Pre-Consultation Concept and Scoping Report
4. Common Ground (September 2014): Maori Reserve 873: Cluster Development
8. Waimakariri District Council (September 2014): Iwi Management Plan Assessment
11. Waimakariri District Council (February 2015): Unit Title Background Information
12. Kainga Whenua Grant Information (December 2013)