

CULTURAL ADVICE REPORT

J6061 – 87 Upper Sefton Road, Ashley (RC235259)

To: Waimakariri District Council

Contact: Wendy Harris

1.0 Mana Whenua Statement

Ngāi Tahu are tangata whenua of the Canterbury region and hold ancestral and contemporary relationships with Canterbury. The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act). The TRoNT Act and Ngāi Tahu Claims Settlement Act (NTCSA) 1998 sets the requirements for recognition of tangata whenua in Canterbury.

The Te Rūnanga o Ngāi Tahu Act 1996 and the NTCSA 1998 gives recognition to the status of Papatipu Rūnanga as kaitiaki and mana whenua of the natural resources within their takiwā boundaries. Each Papatipu Rūnanga has their own respective takiwā, and each is responsible for protecting the tribal interests in their respective takiwā, not only on their own behalf of their own hapū, but again on behalf of the entire tribe.

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

- Te Ngāi Tūāhuriri Rūnanga

2.0 Summary of Proposal

The Applicant (Energy Bay Ltd) has applied for a land use resource consent from Waimakariri District Council (resource consent number: RC235259) to construct, operate, and maintain a solar energy farm at 87 Upper Sefton Road, Ashley.

This proposal is assessed as a discretionary activity under the Waimakariri District Council Operative District Plan. The District Plan rules that trigger the need for resource consent are the limits on floor area and the structure coverage of the site.

3.0 Consultation Methodology

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

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

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

The Cultural Advice Report is provided to outline the relevant policies in the Mahaanui Iwi Management Plan and the feedback provided by Kaitiaki representatives.

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

4.0 Mahaanui Iwi Management Plan 2013

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

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

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

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

5.1 KAITIAKITANGA

TE TIRITI O WAITANGI

K2.3 In giving effect to Te Tiriti, government agencies and local authorities must recognise and provide for kaitiakitanga and rangatiratanga. As the tāngata whenua who hold manawhenua, Ngāi Tahu interests in resource management extend beyond stakeholder or community interests.

Comment: *Kaitiakitanga is fundamental to the relationship between Ngāi Tahu and the environment. It is the intergenerational responsibility and right of tāngata whenua to take care of the environment and resources upon which we depend.*

5.3 WAI MĀORI

CHANGING THE WAY WATER IS VALUED

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

WATER QUALITY

WM6.2 To require that water quality in the takiwā is of a standard that protects and provides for the relationship of Ngāi Tahu to freshwater. This means that:

- (a) The protection of the eco-cultural system is the priority, and land or resource use, or land use change, cannot impact on that system; and
- (c) Ngāi Tahu and the wider community can engage with waterways for cultural and social well-being; and
- (d) Ngāi Tahu and the wider community can participate in mahinga kai/food gathering activities without risks to human health.

Discharges

WM6.8 To continue to oppose the discharge of contaminants to water, and to land where contaminants may enter water.

WM6.11 Consented discharge to land activities must be subject to appropriate consent conditions to protect ground and surface water, including but not limited to:

- (a) Application rates that avoid over saturation and nutrient loading;
- (b) Set backs or buffers from waterways, wetlands and springs;
- (c) Use of native plant species to absorb and filter contaminants; including riparian and wetland establishment and the use of planted swales; and
- (d) Monitoring requirements to enable assessment of the effects of the activity.

ACTIVITIES IN THE BEDS AND MARGINS OF RIVERS AND LAKES

Riparian areas

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

Rural activities along and in the beds and margins of rivers

WM12.14 To protect the beds and margins of foothill, lowland, and coastal waterways from effects associated with rural land use by requiring a 20 metre buffer or set back area from the waterway, or whatever distance is appropriate to ensure:

- (a) Capture of run-off and protection of water quality;
- (b) Protection of eco-cultural attributes such as mahinga kai; and
- (c) Prevention of stock access to waterways.

WM12.15 Recognising that a 5 metre well-planted buffer along a healthy stream may be as effective as a 20 metre buffer along a degraded waterway, the appropriate size of buffers or set back areas along waterways as per Policy WM12.14 should be based on an assessment of:

- (a) The nature of the adjacent land use and therefore risk to waterway health;
- (b) The existing state of cultural health of the waterway; and
- (c) The existing pressures on the waterway.

DRAIN MANAGEMENT

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

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

Comment: *Water is a significant cultural resource that connects Ngāi Tahu to the landscape and the culture and traditions of the tūpuna. A significant kaupapa that emerges from this policy section is the need to rethink the way water is valued and used, including the kind of land use that water is supporting, and the use of water as a receiving environment for contaminants such as sediment and nutrients. Fundamental to tāngata whenua perspectives on freshwater is that water is a taonga, and water management and land use should reflect this importance.*

5.4 PAPATŪĀNUKU

STORMWATER

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

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

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

DISCHARGE TO LAND

P8.1 To require that discharge to land activities in the takiwā:

- (a) Are appropriate to the soil type and slope, and the assimilative capacity of the land on which the discharge activity occurs;
- (b) Avoid over-saturation and therefore the contamination of soil, and/or run off and leaching; and

- (c) Are accompanied by regular testing and monitoring of one or all of the following: soil, foliage, groundwater and surface water in the area.

SOIL CONSERVATION

P9.3 To protect the land from induced soil erosion as a result of unsustainable land use and development.

EARTHWORKS

Indigenous vegetation

P11.8 To require the planting of indigenous vegetation as an appropriate mitigation measure for adverse impacts that may be associated earthworks activity.

Erosion and sediment control

P11.9 To require stringent and enforceable controls on land use and earthworks activities as part of the resource consent process, to protect waterways and waterbodies from sedimentation, including but not limited to:

- (a) The use of buffer zones;
- (b) Minimising the extent of land cleared and left bare at any given time; and
- (c) Capture of run-off, and sediment control.

VEGETATION BURNING AND CLEARANCE

P12.5 To require the use of appropriately sized and generous buffers to protect waterways from the vegetation clearance activities.

ENERGY

P17.5 To support in principle the use of wind and solar energy generation in the region.

Comment: *Papatūānuku is profoundly important in the Ngāi Tahu worldview, as the birthplace of all things of the world, and the place to which they return. Land use and development activities in the takiwā must be managed in way that works with the land and not against it. Papatūānuku sustains the people, and the people must in turn ensure their actions do not compromise the life supporting capacity of the environment. The cultural, social and economic wellbeing of people and communities is dependent on a healthy and resilient environment.*

5.5 TĀNE MAHUTA

INDIGENOUS BIODIVERSITY

Integrating indigenous biodiversity into the landscape

TM2.8 To require the integration of robust biodiversity objectives in urban, rural land use and planning, including but not limited to:

- (a) Indigenous species in shelter belts on farms;
- (b) Use of indigenous plantings as buffers around activities such as silage pits, effluent ponds, oxidation ponds, and industrial sites; and
- (d) Establishment of planted indigenous riparian margins along waterways.

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

5.8 NGĀ TŪTOHU WHENUA

WĀHI TAPU ME WĀHI TAONGA

CL3.1 All taonga within the takiwā of Ngāi Tahu, accidental discovery or otherwise, belong to the Papatipu Rūnanga/ Te Rūnanga o Ngāi Tahu.

Protecting wāhi tapu and wāhi taonga

CL3.8 To require, where a proposal is assessed by tāngata whenua as having the potential to affect wāhi tapu or wāhi taonga, one or more of the following:

(a) Low risk to sites:

(i) Accidental discovery protocol (ADP)

Comment: *This section addresses issues associated with Ngāi Tahu cultural heritage: sites, places, resources, traditions, knowledge, and landscapes of importance to Ngāi Tahu. This includes wāhi tapu, wāhi taonga, mahinga kai and other sites of significance, and the traditional and contemporary landscapes within which they occur.*

4.1 Guidance to Avoid, Remedy, or Mitigate any Effects on Cultural Values

The above policies from the Mahaanui IMP provide a framework for assessing the potential negative effects of the proposed activity on cultural values and provide guidance on how these effects can best be avoided, mitigated, and/or remedied.

Any activity that involves ground disturbance has the potential to uncover cultural material or wāhi tapu. How this potential is managed is dependent on the level of risk identified by tāngata whenua. As a general rule, an accidental discovery protocol (ADP) is used to manage the potential for unearthing cultural materials in low-risk areas. An ADP establishes a relationship between Papatipu Rūnanga and consent applicants with regards to the processes and procedures associated with accidental discoveries. For the construction of the solar farm as part of this proposal, an ADP (Appendix 1) must be implemented for all earthworks to deal with archaeological finds and protect the interests of mana whenua. It should be noted that this condition does not constitute a response under the Heritage New Zealand Pouhere Taonga Act (HNZPT 2014). Erosion and sediment control is also a key issue of concern with regards to earthworks. Any activity that involves soil disturbance can potentially increase the risk of erosion and sediment discharge into nearby waterways or groundwater. An appropriate erosion and sediment control plan must be constructed, inspected, and maintained for all earthworks required for the construction and installation of the proposed solar farm. This plan must align with Environment Canterbury's *Erosion and Sediment Control Toolbox* for Canterbury.

Clear limits are required for reducing and managing contaminants at source and for controlling those land use activities which pose any risk to water quality. Kaitiaki have particular concerns about waste generated from solar panels at the end of their life cycle. Toxic chemicals from within solar panels

can potentially be introduced into the environment during either production stages or during disposal if not managed correctly. As a condition of this consent the solar panels must be encapsulated with Glass Laminate Encapsulation to avoid any chemical leakage over time. The consent holder must undertake six monthly inspections of the solar panels for any signs of damage that could allow leakage of internal chemicals into the land. The Applicant should also give consideration to how solar panels can be re-used and recycled once they reach the end of their useful lifespan, particularly given to scale of this operation.

Indigenous biodiversity, and the landscapes and ecosystems that support it, is a fundamental part of the culture, identity and heritage of Ngāi Tahu, particularly with regard to mahinga kai and the connection between people and place through resource use. Restoring indigenous biodiversity values is one of the most important challenges for the future management in the takiwā. A healthy economy relies on a healthy environment. Indigenous biodiversity, along with air, water and soil, are taonga; they are the region's natural capital, providing a suite of essential ecosystem services. Although these services are often taken for granted, they have immense value to cultural, social and economic wellbeing. Some examples of these services, which can be provided directly or indirectly include nutrient filtering by riparian vegetation, waste decomposition and nutrient recycling. The protection and enhancement of indigenous biodiversity and mahinga kai underpins many of the issues and policies in the Mahaanui Iwi Management Plan. An appropriate plan should be implemented to manage biodiversity alongside a Wildlife Management Plan to ensure the protection of indigenous wildlife during the construction and operation of the solar farm.

5.0 Rūnanga – Affected Party or Not

The Kaitiaki representatives of Te Ngāi Tūāhuriri Rūnanga have reviewed this application and provided the consent conditions and advice notes outlined in Section 6.0 to align this proposal more closely with the provisions in the Mahaanui IMP. If the consent conditions are provided for, the Rūnanga will not consider themselves to be an adversely affected party.

6.0 Consent Conditions


If a resource consent is granted, the following conditions are recommended to mitigate the effects of this proposed activity on mana whenua values:

1. An appropriate erosion and sediment control plan must be constructed, inspected and maintained for all earthworks required for the construction and installation of the proposed solar farm. This plan must align with Environment Canterbury's *Erosion and Sediment Control Toolbox* for Canterbury.
2. An accidental discovery protocol (ADP) must be in place during all earthworks to deal with archaeological finds and protect the interests of mana whenua. This condition does not constitute a response under the Heritage New Zealand Pouhere Taonga Act (HNZPT) 2014.

3. The solar panels must be encapsulated with Glass Laminate Encapsulation to avoid chemical leakage. The consent holder must undertake six monthly inspections of the solar panels for any signs of damage that could allow leakage of internal chemicals into the land.

The following advice notes must be included in final decision:

4. An appropriate plan should be put in place to manage biodiversity alongside a Wildlife Management Plan to protect indigenous species including birds and animals.
5. The Applicant should give consideration to how solar panes can be re-used and recycled once they reach the end of their useful lifespan, particularly given the scale of this operation.



On behalf of Mahaanui Kurataiao Ltd, this report has been prepared by Matt Walcott | Mahaanui Kurataiao Ltd Environmental Advisor, and peer reviewed by Megan Hickey | Mahaanui Kurataiao Ltd Senior Environmental Advisor.

Date: 11th December 2023

Appendix 1: Accidental Discovery Protocol (ADP)

PRIOR TO COMMENCEMENT OF ANY WORKS, A COPY OF THIS ADP SHOULD BE MADE AVAILABLE TO ALL CONTRACTORS WORKING ON SITE.

Purpose

This Accidental Discovery Protocol (ADP) sets out the procedures that must be followed in the event that taonga (Māori artefacts), burial sites/kōiwi (human remains), or Māori archaeological sites are accidentally discovered. The Protocol is provided by Te Ngāi Tūāhuriri Rūnanga. Te Ngāi Tūāhuriri Rūnanga are the representative body of the tangata whenua who hold mana whenua in the proposed area.

Background

Land use activities involving earthworks have the potential to disturb material of cultural significance to tangata whenua. In all cases such material will be a taonga, and in some cases such material will also be tapu. Accidental discoveries may be indicators of additional sites in the area. They require appropriate care and protection, including being retrieved and handled with the correct Māori tikanga (protocol).

Under the *Heritage New Zealand Pouhere Taonga Act 2014*, an archaeological site is defined as any place associated with pre-1900 human activity, where there is material evidence relating to the history of New Zealand. It is unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site (known or unknown) without the prior authority of the Heritage New Zealand Pouhere Taonga (HNZPT). This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The HNZPT is the statutory authority for archaeology in New Zealand.

Note that this ADP does not fulfil legal obligations under the Heritage New Zealand Pouhere Taonga Act 2014 regarding non-Māori archaeology. Please contact the HNZPT for further advice.

Immediately following the discovery of material suspected to be a taonga, kōiwi or Māori archaeological site, the following steps shall be taken:

1. **All work on the site will cease immediately.**
2. Immediate steps will be taken to secure the site to ensure the archaeological material is not further disturbed.
3. The contractor/works supervisor/owner will notify the Kaitiaki Rūnanga and the Area Archaeologist of the HNZPT. In the case of kōiwi (human remains), the New Zealand Police must be notified.

4. The Kaitiaki Rūnanga and HNZPT will jointly appoint/advise a qualified archaeologist who will confirm the nature of the accidentally discovered material.
5. If the material is confirmed as being archaeological, the contractor/works supervisor/owner will ensure that an archaeological assessment is carried out by a qualified archaeologist, and if appropriate, an archaeological authority is obtained from HNZPT before work resumes (as per the *Heritage New Zealand Pouhere Taonga Act 2014*).
6. The contractor/works supervisor/owner will also consult the Kaitiaki Rūnanga on any matters of tikanga (protocol) that are required in relation to the discovery and prior to the commencement of any investigation.
7. If kōiwi (human remains) are uncovered, in addition to the steps above, the area must be treated with utmost discretion and respect, and the kōiwi dealt with according to both law and tikanga, as guided by the Kaitiaki Rūnanga.
8. Works in the site area shall not recommence until authorised by the Kaitiaki Rūnanga, the HNZPT (and the NZ Police in the case of kōiwi) and any other authority with statutory responsibility, to ensure that all statutory and cultural requirements have been met.
9. All parties will work towards work recommencing in the shortest possible time frame while ensuring that any archaeological sites discovered are protected until as much information as practicable is gained and a decision regarding their appropriate management is made, including obtaining an archaeological authority under the *Heritage New Zealand Pouhere Taonga Act 2014* if necessary. Appropriate management may include recording or removal of archaeological material.
10. Although bound to uphold the requirements of the Protected Objects Act 1975, the contractor/works supervisor/owner recognises the relationship between Ngāi Tahu whānui, including its Kaitiaki Rūnanga, and any taonga (Māori artefacts) that may be discovered.

IN DOUBT, STOP AND ASK; TAKE A PHOTO AND SEND IT TO THE HNZPT ARCHAEOLOGIST

Contact Details

HNZPT Archaeologist: (03) 357 9615 archaeologistcw@historic.org.nz

HNZPT Southern Regional Office (03) 357 9629 infosouthern@historic.org.nz

HNZPT Māori Heritage Advisor (03) 357 9620 mhadvisorcw@historic.org.nz

Kaitiaki Rūnanga:

Te Ngāi Tūāhuriri Rūnanga: (03) 313 5543, Tuahiw.Marae@ngaitahu.iwi.nz