

# Section 32 Report

## SASM – Ngā whenua tapu o ngā iwi / Sites and areas of significance to Māori

prepared for the

### Proposed

## Waimakariri District Plan

18 September 2021



**WAIMAKARIRI**  
DISTRICT COUNCIL

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# 1. EXECUTIVE SUMMARY

Sites and areas of significance to Māori represent important natural and physical resources that demand protection as part of their contribution to the overall well-being of the District, and in particular, for mana whenua.

The Waimakariri District is at the heart of Ngāi Tūāhuriri takiwā, with its principal pā originally sited near Kaiapoi and another important pā site at Rakahuri. The area connecting these two pā sites is particularly significant, as is the central settlement area at Tuahiwi, for Ngāi Tūāhuriri. Accordingly, due to historical and current occupation of land within Waimakariri, there are a number of sites and areas of significance to Ngāi Tūāhuriri.

For Ngāi Tūāhuriri, these sites and areas of significance, are not just entities in their own right, but are part of defining who they are. In addition, through the protection of some of the sites and areas of significance (such as ngā wai) other environmental benefits arise, thereby representing an expression of kaitiakitanga.

The contribution that the sites and areas of significance to Māori make to the District, is not adequately recognised in the Operative District Plan. Although wahi taonga and wahi tapu are shown on the planning maps and included in an appendix (which does not contain all culturally sensitive or important sites), the rules and methods are not sufficiently robust to ensure their protection.

The key resource management issues that need to be addressed in relation to sites and areas of significance to Māori are:

Ensuring the protection of those sites and areas from damage or destruction from inappropriate land use, subdivision and development; and

Loss of access to and cultural use of the sites and areas.

There are other allied issues relating to achieving other environmental objectives contained within the proposed Waimakariri District Plan relating to such matters as:

- enhancing water quality;
- conserving the soil resource; and
- protecting the coastal environment from inappropriate subdivision, use and development.

To address these issues, the following key changes are proposed:

- (a) Confirming sites and areas using a contemporary landscape classification approach using three broad types – wāhi tapu/wāhi taonga, ngā tūrangā tupuna and ngā wai;
- (b) Include descriptions and definitions that will assist in the understanding of what the three broad classification types and specific terms are;
- (c) Ensuring all sites and areas are clearly listed in the schedule and their boundaries shown on the planning maps;
- (d) Include rules that provide permitted activities that will not have an adverse effect on the values of sites and areas; and
- (e) Include restricted discretionary resource consent process for activities not meeting permitted activity status, with clear matters of discretion to ensure the relevant matters are considered.

The proposed provisions recognise the mana and wairua of these sites and areas of significance to Māori and provide landowners and developers with greater certainty as to what the values are and how they might be managed. The provisions also assist Ngāi Tūāhuriri Rūnanga to exercise kaitiakitanga and the relationship of their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.

## 2. OVERVIEW AND PURPOSE

### 2.1 Purpose of Section 32 RMA

The overarching purpose of Section 32 of the Resource Management Act 1991 (RMA) is to ensure that plans are developed using sound evidence and rigorous policy analysis, leading to more robust and enduring provisions.

Section 32 reports are intended to clearly and transparently communicate the reasoning behind plan provisions to the public. The report should provide a record of the evaluation process, including the consultation, technical work, methods, assumptions, and risks that informed that process. A robust report can prove useful to decision makers, particularly where it clearly communicates the analysis undertaken to identify the most appropriate way to achieve the purpose of the RMA.

The District Council is required to undertake an evaluation of any proposed District Plan provisions before notifying those provisions. The Section 32 evaluation report provides the reasoning and rationale for the proposed provisions and should be read in conjunction with those provisions.

### 2.2 Topic Description

This topic relates to 'Ngā whenua tapu o ngā iwi / Sites and Areas of Significance to Māori' ('SASM') including how they are identified and categorised, and the way they are to be managed in the Proposed Waimakariri District Plan.

For Ngāi Tūāhuriri the sites and areas of significance to them relate to the following features:

- Ngā Tūtohu Whenua - are the cultural landscapes which encompass entire catchments, including both the Rakahuri and Waimakariri River catchments, thereby encompassing the whole of the District;
- Wāhi Tapu and Wāhi Taonga – are treasured places that include wāhi tapu, which are sites and places that are held in reverence due to their significance according to whakapapa (including urupā, pā, maunga tapu, kāinga, and tūranga waka). In addition to wāhi tapu, other places are treasured due to their high intrinsic values or their capacity to sustain the quality of life and provide for the needs of present and future generations (including areas important to support ecosystems and sites related to food gathering and cultural resources);
- Ngā Tūranga Tūpuna – larger extents of land within which there is a concentration of wāhi tapu or taonga values, or which are of particular importance in relation to Ngāi Tūāhuriri cultural traditions, history or identity; and
- Ngā Wai – is water and represents the essence of all life, is integral to tribal identity, and source of mahinga kai.

There have been no key changes relating to this topic since the Waimakariri District Plan was made operative in 2005. Since 2005, the Canterbury Regional Policy Statement has been made operative (2013) and the Mahaanui Iwi Management Plan (2013) has been prepared and has been lodged with the Waimakariri District Council. Both these documents provide direction as to the way sites and areas of significance to Māori are to be identified and protected through the provisions of a district plan. In

summary, these two documents (when compared with the approach in the current Operative Waimakariri District Plan) place a greater emphasis on the process to identify sites and areas of significance to Māori through engagement with Ngāi Tahu and Papatipu Rūnanga and the need to actively protect the identified sites and areas.

Accordingly, the purpose and scope of this chapter relates specifically to sites and areas of significance to Māori, which is complementary and in addition to the Section 32 Report on 'Historical heritage'. In many instances, sites of significance to Māori will have historic heritage values as well.

This report sets out the statutory and policy context, key resource management issues, specific consultation, and approach to evaluation on this topic. The report also includes a review of the existing plan provisions and an evaluation of alternative methods to achieve the purpose of the RMA in relation to the topic.

### 2.3 Significance of this Topic

The Waimakariri District is at the heart of Ngāi Tūāhuriri takiwā, with its principal pā originally sited near Kaiapoi and another important pā site at Rakahuri. The area connecting these two pā sites is particularly significant, as is the central settlement area for Ngāi Tūāhuriri at Tuahiwi. Accordingly, due to historical and current occupation of land within Waimakariri, there are a large number of sites and areas of significance to Ngāi Tūāhuriri.

As set out in 'Section 3 – Statutory and Policy Context' of this report, there are imperatives in the RMA, the Canterbury Regional Policy Statement and the Mahaanui Iwi Management Plan 2013, that require the active protection of sites and areas of significance to Ngāi Tūāhuriri.

For Ngāi Tūāhuriri, these sites and areas of significance, are not just entities in their own right, but are part of defining who they are. In addition, through the protection of some of the sites and areas of significance (such as ngā wai) other environmental benefits may arise (such as improvement in water quality), thereby representing an expression of kaitiākanga.

Accordingly, the significance of this topic is not just in relation to the protection of sites and areas of significance to Māori, but also relates to achieving other environmental objectives contained within the Proposed Waimakariri District Plan in relation to such matters as enhancing water quality, conserving the soil resource, and protecting the coastal environment from inappropriate subdivision, use and development.

### 2.4 Current Objectives, Policies and Methods

The **MKT Report** (refer to section 2.5 following) contains a detailed analysis of the provisions of the Operative District Plan at the following sections:

- 'Section 5 – Operative Plan Provisions'; and
- 'Section 6 – Analysis of Operative Plan Provisions'.

In summary, the review finds the following:

- a. The definitions of 'wāhi tapu' and wāih toanga' reflect the age of the Operative District Plan and need to be replaced with updated definitions;
- b. There are a number of objectives and policies in a number of chapters of the Operative District Plan that have generic references to identification and protection of cultural features. However, these objectives and policies only come into consideration where subdivision, use and development of land triggers a resource consent for a restricted discretionary activity where that is a matter of discretion, and for discretionary or non-complying activity in relation

to a matter not specifically related to sites and areas of significance to Māori. In addition, the wording of the policies lack specificity as to the cultural values and considerations that are of importance and as such do not provide any guidance to applicants or Council;

- c. The list of wāhi taonga included in Appendix 2.1 of 'Chapter 2 Māori' does not include all culturally sensitive or important sites within the District;
- d. In addition, Appendix 2.1 list a number of other chapters in which wāhi taonga are purported to be addressed. However, as noted in 'b.' above, these chapters only contain generic policies and are dependent on a land use requiring a resource consent approval, to be enable them to be considered;
- e. There are rules in a number of chapters that provide a mixed approach to addressing sites of cultural significance to Māori, which are not particularly clear or effective. The rules range from 'non-recognition' (such as Chapter 24 – Outstanding Landscapes and Natural Features, which does not recognise or cross reference to species or habitats that may be wāhi taonga nor to the customary use of indigenous vegetation) through to 'detailed reference' (such as Chapter 32 - Subdivision which includes an extensive list of matters that Council may exercise control); and
- f. The provisions as a whole while achieving *recognition*, are considered to only 'weakly' provide for the *protection* of wāhi tapu, wāhi taonga and silent files.

The analysis above is concurred with.

At 'Section 7 – Recommended Approach' of the **MKT Report** it is recommended that the process and categories established through the development of the Christchurch District Plan be adopted. This is because using that methodology will ensure the Ngāi Tahu history is recognised over larger areas of the district (using a contemporary landscape classification rather than the traditional approach of recording individual sites) and that the provisions are clear and certain (the sites are physically defined by boundaries and described). The **MKT Report** also notes that the approach and provisions in the Christchurch District Plan were robustly assessed through that plan development process.

The recommended approach is concurred with and forms the basis of the provisions to be included in the proposed Waimakariri District Plan.

## 2.5 Information and Analysis

### 2.5.1 District Plan Effectiveness Review – Social and Cultural

The "District Plan Effectiveness Review – Social and Cultural" identified the following key findings with respect to sites and areas of significance to Māori, with key finding 6 being the most relevant:

1. *Historic cultural and historic heritage landscapes, as set out in the Regional Policy Statement, require further assessment and understanding.*
2. *The Heritage Resource and Notable Plants lists, and the provisions that relate to them, need to be updated.*
5. *The list of waterbodies that are subject to esplanade requirements is due for review. Assessment criteria for the inclusion of waterbodies need to be put in place.*
6. *The level of protection for sites and identification of areas of cultural significance to tangata whenua should be considered.*

### 2.5.2 Mahaanui Kurataiao Report

This Section 32 report references, concurs with and draws support from a review report prepared by Mahaanui Kurataiao Limited following their engagement with Te Ngāi Tūāhuriri Rūnanga. The report

is titled “*Waimakariri District Council District Plan Review, Sites and Areas of Cultural Significance (August 2018)*” (the ‘**MKT Report**’). Where this Section 32 report reaches a different position to that set out in the Mahaanui Kurataiao report, that is stated along with the reasons for the difference. This s32 report has taken into consideration the provisions of other relevant documents including:

- Canterbury Regional Policy Statement; and
- Mahaanui Iwi Management Plan.

## 2.6 Consultation Undertaken

Consultation has been undertaken as part of this District Plan Review process with key internal and external stakeholders and the wider community. The key result of wider community consultation undertaken through the ‘*District Plan Review Issues and Options*’ papers is set out in Section 2.5 previously.

The primary engagement has been with key stakeholder Te Ngāi Tūāhuriri Rūnanga through Mahaanui Kurataiao Limited. The result of that engagement has been incorporated within the **MKT Report** and is summarised in Section 2.4 of this s32 report.

Drafts of the proposed provisions have been provided to and commented on by Mahaanui Kurataiao Limited. In addition, Council have continued engagement with Mahaanui Kurataiao Limited with respect to the mapping the boundaries of the sites and areas of significance.

Detailed initial advice on the draft chapter was provided to Council through Mahaanui Kurataiao Limited. Council has essentially adopted the advice provided in that review, which in summary is provided in the table on the following page.

Following that initial advice, Council has continued to work with Mahaanui Kurataiao Limited with respect to:

- a. confirming the location and boundaries of the sites and areas of significance to Māori;
- b. removing ngā reporepo (wetlands) from any specific rules, due to the uncertainty of the boundaries of these features, but relying on other rules in the proposed plan to trigger a resource consent to enable an assessment of the effects of the activity on these features. This approach also recognises that the mapping of wetlands may be a requirement of the upcoming National Policy Statement for Indigenous Biodiversity, as this has been signalled in the draft of that document (November 2019) and it is better to undertake the consideration of wetlands as part of any directions contained in that document;
- c. refining the rules to ensure that unnecessary resource consent application requirements are avoided in order that appropriate land use, development and subdivision can be carried out (such as enabling households to connect to infrastructure); and
- d. specifically identifying rule SASM-R5 ‘*Construction of new community scale natural hazard mitigation works*’ as a restricted discretionary activity, as this activity may not be subject to the trigger standards (such as earthworks) but could have adverse effects on the site or area values.

No consultation has been undertaken with landowners whose properties would be subject to the proposed provisions.

Date	Iwi Authority	Subject Matter	Advice Received	Consideration of, and response to, Advice
28 February 2020	Ngāi Tūāhuriri Rūnanga	Introduction	Wording changes in the 'Introduction' to provide clarity of wording and to better reflect the explanations of matters as set out in the Mahaanui Iwi Management Plan (such as the explanation of 'cultural landscapes')	Most of the detailed advice was accepted as the proposed wording was considered to provide greater clarity and alignment with the Mahaanui Iwi Management Plan.
		Objectives and Policies	Changes to the wording of policies to be consistent with the complementary and relevant policies in the Mahaanui Iwi Management Plan	Most of the detailed advice was accepted as the proposed wording was considered to provide greater clarity and alignment with the Mahaanui Iwi Management Plan
		How to interpret and apply the rules	Wording changes to the rules to provide clarity as to structure, meaning and activity status	Most of the advice was accepted by Council. However, advice such as the activity status for the removal of buildings could be a 'controlled activity', was not accepted by Council as it was considered that the 'restricted discretionary activity' status provides for an application to be declined if it is considered that conditions may not be suitable to avoid, remedy or mitigate adverse effects
		Matters of discretion	Minor wording clarification to the 'Matters of discretion'	All minor wording changes were accepted



## 2.7 Iwi Authority Advice

Clause 3(1)(d) of Schedule 1 of the RMA sets out the requirements for local authorities to consult with iwi authorities during the preparation of a proposed plan.

Detailed advice on various drafts of the chapter was provided to Council through Mahaanui Kurataiao Limited and the Mahi Tahī Joint Management Committee. Council has to a large extent adopted the advice provided as set out in the summary in Section 2.6 of this report, and it is understood that there are no outstanding matters needing to be resolved.

Clause 4A requires the Waimakariri District Council to provide a copy of a draft proposed plan to iwi authorities and have particular regard to any advice received. The draft has been provided and no specific advice relevant to the SASM chapter was received from the iwi authority. Accordingly, there is no need for the District Council's consideration of, and response to that advice (as required by Section 32(4A)(b) of the RMA).

## 2.8 Reference to Other Relevant Evaluations

This Section 32 topic report should be read in conjunction with the following evaluations:

- (a) Tangata whenua – provides an overview of the Ngāi Tūāhuriri Rūnanga history in the Waimakariri District;
- (b) Heritage sites and areas – assists in showing the relationship and differences between historic heritage and sites and areas of significance to Māori;
- (c) Earthworks – the rules for earthworks are complementary to the rules within sites and areas of significance to Māori;
- (d) Subdivision – contains policies and rules relating to subdivision within sites and areas of significance to Māori;
- (e) Natural features and landscapes – some of the sites and areas of significance to Māori are in the same or nearby location to natural features and landscapes, and the provisions in each chapter can have complementary outcomes; and
- (f) Ecosystems and indigenous biodiversity - some of the sites and areas of significance to Māori are in the same or nearby location to significant natural areas, and the provisions in each chapter can have complementary outcomes.

# 3. STATUTORY AND POLICY CONTEXT

## 3.1 Resource Management Act 1991

Section 5 of the RMA sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. In achieving this purpose, authorities need to recognise and provide for matters of national importance identified in Section 6, have particular regard to other matters listed in Section 7, and take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) under Section 8.

The following sections of Part 2 RMA are relevant to this topic as they are specific matters that need to be recognised, provided for or be given particular regard to in achieving the purpose of the RMA. Taken in combination, they support the protection of sites and areas of significance to Māori from subdivision, use and development that would be contrary to those outcomes

### Section 6

The Section 6 matters relevant to this topic / chapter are primarily:

- (e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;*

and also relevant:

- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*

## **Section 7**

The Section 7 matters generally relevant to this topic / chapter are:

- (a) *kaitiakitanga;*  
(b) *the ethic of stewardship*  
(c) *the maintenance and enhancement of amenity values;*  
(f) *maintenance and enhancement of the quality of the environment; and*  
(g) *any finite characteristics of natural and physical resources.*

## **Section 8**

Section 8 requires the Council to take into account the principles of the Te Tiriti o Waitangi (Treaty of Waitangi) in relation to managing the use, development and protection of natural and physical resources. With respect to sites and areas of significance to Māori, consultation undertaken through Mahaanui Kurataiao Limited has met the obligation of Council to make informed decisions based on the outcome of that consultation.

### **3.2 National Instruments**

The **National Planning Standards** and the **New Zealand Coastal Policy Statement (2010)** are the only national instruments relevant to this topic.

#### **3.2.1 National Planning Standards**

Of particular relevance to this topic is the application of the planning template with respect to “Historical and Cultural Values”. The planning standards specify the creation of an Historical and Cultural Values district wide matter with three chapters, being:

- Historical heritage (including archaeological sites);
- Notable trees; and
- Sites and areas of significance to Māori.

The provisions of the proposed Waimakariri District Plan are in accordance with the planning standards by including wāhi tapu, wāhi taonga, ngā tūranga tupuna and ngā wai within the Sites and areas of significance to Māori chapter.

The definitions relevant to this chapter that are contained in the National Planning Standards is set out in section 5.4.4 of this section 32 report.

#### **3.2.2 New Zealand Coastal Policy Statement (2010)**

There are a number of objectives and policies that relate to the recognition and protection of characteristics of special value to tangata whenua (including historic heritage) that are within the

coastal environment. Some of the sites and areas of significance to Māori lie within the coastal environment of Waimakariri District.

Set out below are the more relevant provisions of the New Zealand Coastal Policy Statement (2010) with respect to this topic that have guided the provisions within the proposed Waimakariri District Plan (recognising that there are other less relevant provisions):

### **Objective 3**

*To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:*

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources: ...*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

### **Policy 2      The Treaty of Waitangi, tangata whenua and Māori heritage**

*In taking account of the principles of the Treaty of Waitangi (Te Tiriti of Waitangi), and kaitiakitanga, in relation to the coastal environment:*

- (a) *recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations: ...*
- (e) *take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district: and...*

### **Policy 17      Historic heritage identification and protection**

*Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development by: ...*

- (b) *initiating assessment and management of historic heritage in the context of historic landscapes*

The objectives and policies of the New Zealand Coastal Policy Statement are given effect to through the Canterbury Regional Policy Statement and resource management plans. The approach adopted in the proposed Waimakariri District Plan of recognising and protecting both sites and areas (landscapes) of significance to Māori within the coastal environment is consistent with both statutory documents.

## **3.3 Regional policy statement and plans**

### **3.3.1 Canterbury Regional Policy Statement**

The Canterbury Regional Policy Statement includes the following chapters that are of specific relevance to this topic:

- resource management issues of significance to Ngāi Tahu (Chapter 2);
- provision for Ngāi Tahu and their relationship with resources (Chapter 4); and
- historic heritage (Chapter 13).

Section 2.3 of Chapter 2 sets out issues of significance to and the outcomes desired by Ngāi Tahu. Of particular relevance to this topic are the outcomes in relation to “Historic Heritage” and “Landscape”, and the specific outcomes are respectively as follows:

#### Historic Heritage

*Avoid adverse effects on wāhi tapu and other sites of cultural heritage value as a result of inappropriate land-use, subdivision and development.*

*Wāhi tapu and wāhi taonga are given appropriate value in decision-making processes.*

*Protection of all sites of significance, including those not registered as New Zealand Historic Places Trust or New Zealand Archaeological Association sites.*

*Provide for Ngāi Tahu access to sites of significance.*

#### Landscape

*Recognise cultural landscapes as an important component of landscape management and protection.*

*Protect, enhance and restore Ngāi Tahu cultural landscapes.*

*Establish processes to facilitate the identification of Ngāi Tahu cultural landscapes.*

In summary, the outcomes sought by Ngāi Tahu (as expressed through the Canterbury Regional Policy Statement) support the approach in the proposed Waimakariri District Plan of recognising and protecting both individual sites and areas (cultural landscapes) of significance to Māori.

The majority of Chapter 4 sets out the how the relationship between Ngāi Tahu and the Canterbury Regional Council could develop, including involvement of Ngāi Tahu in decision-making processes, joint management agreements and transfer of powers. Most of this chapter is not specifically relevant to this topic. However, the part of the chapter that is relevant to this topic is the direction at sections 4.15 and 4.16 to territorial authorities to include:

- *provisions for the relationship between Ngāi Tahu, their culture and traditions, and their ancestral lands, water, sites, wāhi tapu and other taonga within district plans; and*
- *methods for the protection of Ngāi Tahu ancestral lands, water, sites, wāhi tapu and other taonga within district plans.*

The proposed chapter in the Waimakariri District Plan which includes provisions for the identification and protection of sites and areas of significance to Māori, in part, satisfies those directions.

Chapter 13 contains the objectives and policies of direct relevance to the identification and protection of significant historic heritage. Objectives 13.2.1 and 13.2.2 and Policies 13.3.2 and 13.3.3 (in particular) recognise that significant historic heritage relates to items, places, areas and landscapes. Their identification and protection is one way in which it enables Ngāi Tahu to establish and maintain their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga (s6(e) of the RMA).

Section 4.2 of the **MKT Report** also discusses the provisions of Chapter 13 of the Canterbury Regional Policy Statement, concluding that it directs local authorities to engage with Ngāi Tahu and Papatipu Rūnanga to identify and protect historic heritage.

For the reasons set out above, the approach to the development of the provisions of the proposed Waimakariri District Plan for this topic give effect to the relevant objectives and policies of the Canterbury Regional Policy Statement.

### 3.4 Iwi Management Plan

The Mahaanui Iwi Management Plan (2013) is the relevant iwi management plan.

A range of objectives and policies in the Mahaanui Iwi Management Plan are relevant to this topic, with those that are of specific relevance being identified and commented on as follows:

#### Section 5.3 Wai Māori (Mahaanui Iwi Management Plan)

Ngā Paetae Objective (6) identifies that wetlands and waipuna need to be recognised and protected as wāhi taonga.

Ngā Kaupapa Policies 12.1 and 12.3 seek recognition of the cultural use and need to provide access (respectively) to beds and margins of rivers and lakes for those purposes.

Ngā Kaupapa Policies 13.1 and 13.8 seek the recognition of waipuna as wāhi taonga in district plans along with effective policies, rules and methods to protect them.

#### *Comment*

It is considered that the following specific provisions of the proposed Waimakariri District Plan (particularly with respect to ngā wai,) takes into account and effectively addresses the following objectives and policies:

- Policy P4 iv, v and vi – Ngā Tūranga Tūpuna;
- Policy P5 – Ngā Wai; and
- Policy P7 – Access for customary activities.

#### 5.4 Papatūānuku (Mahaanui Iwi Management Plan)

Ngā Paetae Objective (8) seeks the protection of Ngāi Tahu cultural values, including wāhi tapu and other sites of significance.

Ngā Kaupapa Policies 11.1, 11.2 and 11.6 seek that the assessment of earthworks effects on wāhi tapu and wāhi taonga be provided for in district plans.

#### *Comment*

Proposed rules SASM-R1, SASM-R3 and SASM-R4 of the proposed Waimakariri District Plan all relate to requiring assessment of earthworks and as such are considered to take into account and effectively address this matter. These rules relate to the following policies:

- Policy P2 – Urupa;
- Policy P3 – Wāhi tapu and wāhi taonga; and
- Policy P4 iii. – Ngā Tūranga Tūpuna.

#### 5.8 Ngā Tūtohu Whenua (Mahaanui Iwi Management Plan)

Ngā Paetae Objectives (1), (3) and (4) respectively seek the recognition of cultural landscapes, protection of wāhi tapu and wāhi taonga and access by Ngāi Tahu whānui to sites of cultural significance.

These objectives are supported by the following policies:

- Ngā Kaupapa Policy CL1.1, CL1.2 and CL1.6 – recognising cultural landscapes and give effect in policy, planning and decision making; and
- Ngā Kaupapa Policy CL3.7 – policies and rules in district plans.

#### *Comment*

Proposed rules SASM-R1, SASM-R3 and SASM-R4 of the proposed Waimakariri District Plan all relate to requiring assessment of earthworks and as such are considered to take into account and effectively address this matter.

Section 4.3 of the **MKT Report** sets out and discusses in detail the relevant provisions of the Mahaanui Iwi Management Plan. The report concludes that the Mahaanui Iwi Management Plan contains very clear policies relating to the identification and management of both larger cultural landscapes as well as specific sites and places of cultural significance to mana whenua. That conclusion is concurred with and has guided the approach to and the actual provisions of the proposed provisions.

### 3.5 Any relevant management plans and strategies

There are no known management plans and strategies that are relevant to this matter.

### 3.6 Any other relevant legislation or regulations

The following legislation / regulations are relevant to this matter.

#### 3.6.1 **Heritage New Zealand Pouhere Taonga Act 2014**

The Heritage New Zealand Pouhere Taonga Act 2014 sets out the statutory responsibilities for Heritage New Zealand for the protection of archaeological sites (Sections 42 and 43) and the purpose of the Heritage List/Rārangi Korero in assisting with the protection of historic places (Section 65). The provisions of this act are complementary to the proposed provisions of the proposed Waimakariri District Plan that address sites and areas of significance to Māori that are not archaeological sites.

### 3.7 Any plans of adjacent territorial authorities

The Waimakariri District Council is required to have regard to the extent to which the proposed district plan needs to be consistent with the plans and proposed plans of adjacent territorial authorities under Section 74(2)(c) of the RMA.

#### 3.7.1 *Christchurch District Plan*

The Christchurch District Plan (2016) is noted in the **MKT Report** (refer to Section 7) as an example of a contemporary classification system that recognises that there are a variety of culturally significant sites and areas, which have differing values. The report notes that the provisions as promoted by Ngāi Tahu and endorsed by the Christchurch City Council were robustly assessed through the replacement district plan process. The **MKT Report** recommends that the Christchurch process and categories be used for the development of the proposed Waimakariri District Plan provisions, and this recommended approach has been undertaken.

### 3.7.2 *Selwyn District Plan*

Selwyn District Council notified its proposed district plan on 5 October 2020. The approach to the issue and the proposed provisions align with that taken in the development of the Christchurch District Plan and the proposed Waimakariri District Plan.

### 3.7.3 *Hurunui District Plan*

The Operative Hurunui District Plan (although recently made operative) has adopted the traditional approach of recording archaeological sites. This approach has not been followed.

### 3.7.4 *Proposed New Plymouth, Porirua and Waikato District Plans*

Although not adjacent to Waimakariri, the New Plymouth, Porirua and Waikato proposed district plans have been notified, with the Proposed New Plymouth District Plan the first to be notified under the provisions of the National Planning Standards. All plans have incorporated the approach of identifying, describing, mapping and providing specific provisions with respect to sites and areas of significance to Māori. While there are differences in the specific rules within each of the proposed district plans, the approach adopted in all these plans has been followed in the proposed Waimakariri District Plan.

## 4. KEY RESOURCE MANAGEMENT ISSUES

The key resource management issues identified through the **MKT Report** with respect to Sites and Areas of Significance to Māori relate to:

1. the damage or loss of sites if they are not identified and protected from inappropriate land use, subdivision and development;
2. loss of access to cultural resources for cultural purposes; and
3. sensitivity of information in relation to some sites (silent files).

Failing to address this issue, would lead to a direct adverse effect on the relationship of Ngāi Tahu with their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other tāonga. This would impact on Ngāi Tahu being able to exercise rangatiratanga and kaitiakitaka. It could also impact the District's sense of identity, amenity values and the quality of the environment.

It could also adversely affect the development of an ongoing relationship between Te Ngāi Tūāhuriri Rūnanga and the Waimakariri District Council.

## 5. OVERVIEW OF PROPOSED OBJECTIVES, POLICIES AND METHODS

### 5.1 Strategic Direction

The applicability of all the proposed Strategic Objectives will need to be considered for all development proposal requiring resource consent. Of relevance to the topic of Sites and Areas of Significance to Māori is Strategic Objective SD-O5: Ngai Tahu mana whenua/Te Ngāi Tūāhuriri Rūnanga, particularly parts 1, 2, 3, 5 and 6 of that objective.

### 5.2 Zone / District-wide Subject

The district-wide chapter contains objectives, policies and rules that provide for and enable the recognition, protection and maintenance of sites and areas of significance to Māori.

### 5.3 Proposed Objectives and Policies

There is one objective and eight policies proposed, which in summary seek to provide for:

- a. the relationship between land use, ecosystems, natural processes and water (ki uta ki tai – from the mountains to the sea);
- b. the recognition, protection and maintenance of sites of significance to Māori including urupā, wāhi tapu and wāhi taonga, ngā tūranga tupuna, ngā wai and archaeological sites;
- c. access to cultural sites in order to undertake customary activities; and
- d. engagement with Ngāi Tūāhuriri Rūnanga by council and applicants for resource consent.

The objective and policies are examined in further detail in Sections 7 and 8 of this Section 32 Report.

### 5.4 Proposed Methods

#### 5.4.1 Rules

There are five rules (Rules SASM-R1 to SASM-R5) that provide for permitted activities and restricted discretionary activities (subject to compliance with standards) within some or all of the of the categories of sites and areas of significance to Māori to provide for the following:

- a. installation of fence posts(SASM-R1);
- b. structures ancillary to mahinga kai and customary harvesting activities (SASM-R2);
- c. earthworks (SASM-R3 and SASM-R4); and
- d. new community scale natural hazard mitigation works (SASM-R5).

Rule SASM-R4 provides generally for earthworks and land disturbance associated with other activities not provided for in the other proposed rules. Through the inclusion of a number of activities (particularly subparts ‘c’ and ‘h’) reasonable uses are provided for and for those not provided, a resource consent (restricted discretionary activity) is required.

#### 5.4.2 Matters of Discretion

There are matters of discretion relating to each of the three categories in order, that specific effects are considered.

#### 5.4.3 Schedule and Planning Map

A schedule listing all the identified sites and areas of significance to Māori is provided and these are shown on the planning maps.

#### 5.4.4 Descriptions

To help clarify the intent of the provisions, the following are described within the “Introduction” to the SASM chapter:

- wāhi tapu and wāhi taonga;
- ngā tūranga tupuna; and
- ngā wai.

In addition, the following definitions in Chapter 1 are either directly or generally relevant:

- customary harvesting;
- earthworks (RMA/National Planning Standard definition);



- land disturbance (RMA/National Planning Standard definition);
- mahinga kai; and
- structure (RMA/National Planning Standard definition).

## 6. SCALE AND SIGNIFICANCE EVALUATION

Section 32 (1)(c) of the RMA requires that a Section 32 report contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposed objectives, policies and methods.

The level of detail undertaken for the subsequent evaluation of the proposed objectives, policies and methods has been determined by this scale and significance assessment.

In particular, Section 32 (1)(c) of the RMA requires that:

- Any new proposals need to be examined for their appropriateness in achieving the purpose of the RMA;
- The benefits and costs, and risks of new policies and methods on the community, the economy and the environment need to be clearly identified and assessed; and
- All advice received from iwi authorities, and the response to the advice, needs to be summarised.

Further, the analysis has to be documented to assist stakeholders and decision-makers understand the rationale for the proposed objectives, policies and methods under consideration.

In making this assessment regard has been had to a range of scale and significance factors, including whether the provisions:

- Are of regional or district wide significance;
- Involve a matter of national importance in terms of Section 6 of the RMA;
- Involve another matter under Section 7 of the RMA;
- Raise any principles of the Treaty of Waitangi (Te Tiriti o Waitangi) under Section 8 of the RMA;
- Address an existing or new resource management issue;
- Adversely affect people's health and safety;
- Adversely affect those with particular interests including Maori;
- Adversely affect a large number of people;
- Result in a significant change to the character and amenity of local communities;
- Result in a significance change to development opportunities or land use options;
- Limit options for future generations to remedy effects;
- Whether the effects have been considered implicitly or explicitly by higher order documents; and
- Include regulations or other interventions that will impose significant costs on individuals or communities.

Policies and methods have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective.

## 6.1 Evaluation of Scale and Significance

	Low	Medium	High
<b>Degree of change from the Operative Plan.</b>		✓	
The change in approach from a traditional archaeological site approach to a contemporary landscape classification approach is a significant change from the Operative District Plan			
<b>Effects on matters of national importance.</b>		✓	
The proposal addresses two s6, three s7 matters and s8 of the RMA.			
<b>Scale of effects geographically (local, district wide, regional, national).</b>			✓
The sites and areas are located throughout the District.			
<b>Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).</b>		✓	
A number of the sites and areas affected by the provisions are on private land and have the potential to restrict the type and intensity of activity on the site			
<b>Scale of effects on those with specific interests, e.g., Mana Whenua, industry groups.</b>		✓	
The more sites and areas of significance to Māori that are identified and protected from inappropriate uses, the greater the potential for tangata whenua to maintain their relationship with their ancestral lands, water, sites, wāhi tapu and other taonga, which in turn assists with supporting their social, cultural and economic aspirations			
<i>Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice? Is it consistent, inconsistent or contrary to those?</i>	✓		
Gives effect to higher order documents, best practice and other relevant policy documents.			
<b>Likelihood of increased costs or restrictions on individuals, communities or businesses.</b>			✓
A number of the sites and areas affected by the provisions are on private land and have the potential to restrict the type and intensity of activity on the site .			

## 6.2 Summary - Scale and Significance

Overall, it is considered that the scale and significance of the proposal is **medium - high**.

## 7. EVALUATION OF PROPOSED OBJECTIVES

Section 32(1)(a) of the RMA requires the District Council to evaluate the extent to which the objectives are the most appropriate way to achieve the purpose of the RMA. The level of detail undertaken for the evaluation of the proposed objectives has been determined by the preceding scale and significance assessment. Below is a summary of the proposed objectives that have been identified as the most appropriate to address the resource management issue(s) and achieve the purpose of the RMA, against those objectives in the operative plan.

### 7.1 Evaluation of Proposed Objectives

Existing Objective/s – status quo	Appropriateness to achieve the purpose of the RMA
Objective 2.1.3 Recognition and protection of wahi taonga that is culturally, spiritually and/or physically important to Ngai Tuahuriri.	<p><b>Relevance:</b> The objective is generally consistent with the Council, Ngāi Tahu and Te Ngāi Tūāhuriri Rūnanga positions with respect to the issue, but does not include wāhi tapu, ngā tūranga tupuna or ngā wai. Accordingly, it does not assist Council to undertake its ss30/31 functions or give effect to the provisions of the Canterbury Regional Policy Statement.</p> <p><b>Reasonableness:</b> The objective was reasonable at the time it was written. However, as the objective and supporting Policy 2.1.3.1 only refers to the identification of wāhi taonga, its reasonableness and usefulness in guiding decision making is limited (cf the extent of matters referenced in the proposed objective).</p> <p><b>Achievability:</b> The outcomes identified by Ngāi Tahu and Te Ngāi Tūāhuriri Rūnanga would not be achieved due to the limited scope of the objective.</p>

Proposed Objective/s	Appropriateness to achieve the purpose of the RMA
SASM-O1 Ngā Tūtohu Whenua The historic and contemporary cultural significance for Ngāi Tūāhuriri mana whenua of, and their relationship with, ancestral lands, water, sites, wāhi tapu, wāhi taonga and coastal environment is recognised and provided for.	<p><b>Relevance:</b> The objective is in accordance with Council, Ngāi Tahu and Te Ngāi Tūāhuriri Rūnanga positions with respect to the issue as it now stands, as directed by the relevant provisions of the Canterbury Regional Policy Statement.</p> <p><b>Reasonableness:</b> The importance of sites of significance to Māori is recognised in the provisions of Part 5 of the RMA and have been incorporated in subservient documents. Each of those documents recognise that there may be additional costs imposed to land developers and sub-dividers (particularly with respect to earthworks), but the restrictions through improving the recognition and protection of sites and areas, in many instances achieve in part other objectives (such as the protection of riparian margins and improvement in water quality).</p>

Proposed Objective/s	Appropriateness to achieve the purpose of the RMA
	<p>The objective is useful as it clearly sets out the matters of cultural significance to Ngāi Tūāhuriri, which enables specific policies to be developed. Thereby guiding decision making.</p> <p><b>Achievability:</b> The provisions are realistic in that the need for resource consent are clear and the matters of discretion adequately described to ensure that they link to the related policies.</p>

## 7.2 Summary - Evaluation of Proposed Objectives

In summary, the proposed objective is the most appropriate means of achieving the sustainable management purpose of the RMA as it in part provides for people and communities to manage natural and physical resources in a manner that recognises the outcomes sought in s6(e), s6(f), 7(a) and 8 of the RMA. The objective is a clear statement of the outcome sought and is aligned with best practice being adopted with recently prepared district plans around New Zealand.

## 8. EVALUATION OF PROPOSED POLICIES AND METHODS

Section 32 (1)(b) of the RMA requires an evaluation of whether the proposed policies and methods are the most appropriate way to achieve the proposed objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the proposed policies and methods in achieving the objectives, and summarising the reasons for deciding on the proposed policies and methods.

**The level of detail undertaken for the evaluation of the proposed policies and methods has been determined by the preceding scale and significance assessment.**

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the proposed policies and methods, including opportunities for economic growth and employment.

The assessment must, if practicable, quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

**Policies and methods have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective.**

## 8.1 Evaluation of Proposed Policies and Methods

Options to achieve the District Plan objectives relating to Sites and Areas of Significance to Māori	Benefits	Costs	Efficiency and Effectiveness	Risk of acting / not acting
<b>Option A: Proposed Approach</b>				
<p>(a) Policy to recognise the interrelationship of land resources from the ‘mountains to the sea’; four policy to recognise the different types of sites and areas of significance; one policy in relation to access for customary activities associated with those sites and areas; and one policy for the importance of engagement with Ngāi Tūāhuriri Rūnanga;</p> <p>(b) Five rules (Rules SASM-R1 to SASM-R5) that provide for permitted activities for fence posts, earthworks, buildings and structures. Two</p>	<p><i>Environmental</i> The protection of sites and areas of significance to Māori is likely to have the consequential effect of protecting other values within the natural environment. This should result in better environmental outcomes. An example is the improvement in water quality and riparian margins through the rules seeking to protect ngā wai. In the coastal environment, there is also a benefit to coastal values through protection of wāhi tapu, wāhi taonga and ngā tūranga tupuna.</p> <p><i>Economic</i> Rules provide certainty for landowners and developers as to the location of sites and areas and the limit as to activities that can be undertaken.</p> <p><i>Social</i></p>	<p><i>Environmental</i> No direct or indirect costs have been identified.</p> <p><i>Economic</i> More landowners and developers will potentially be subject to rules and resource consent application costs and uncertainty as to outcome. There are potential restrictions on the area, location and/or the manner on subdivision, use and development.</p> <p><i>Social</i> No direct or indirect costs have been identified.</p> <p><i>Cultural</i> There is time and costs for Ngāi Tūāhuriri Rūnanga to be involved in engagement with Council and/or landowners</p>	<p>(a) The new provisions are all in one section of the proposed District Plan, which is an efficient approach for plan users.</p> <p>(b) The approach will achieve the proposed objective in an efficient and effective manner by providing a balance that reflects the statutory requirements of the RMA to protect sites and areas by focusing on the management of adverse effects, while enabling activities, facilities and structures that will not have adverse effects to be undertaken.</p> <p>(c) The activity status of restricted discretionary with associated clear matters of discretion, ensure that the least cost for resource consent applicants is achieved.</p>	<p>(a) The provisions proposed have been fully researched and carefully evaluated and there is sufficient information available to support the proposed provisions.</p> <p>(b) The risk of not acting is that further damage to sites and areas of significance to Māori will occur, thereby perpetuating loss of mana through not being able to exercise kaitiakitanga over resources of importance to Ngāi Tūāhuriri Rūnanga.</p> <p>(c) The risk of not acting is that Council would not be meeting its statutory obligations under the RMA and the supporting policy documents, including the Canterbury Regional Policy Statement, New Zealand Coastal Policy Statement and Mahaanui Iwi Management Plan.</p>

Options to achieve the District Plan objectives relating to Sites and Areas of Significance to Māori	Benefits	Costs	Efficiency and Effectiveness	Risk of acting / not acting
<p>rules that require restricted discretionary activity status (along with clear matters of discretion) for earthworks and natural hazard mitigation work activities in a wāhi tapu/wāhi taonga, ngā tūranga tupuna and ngā wai.</p> <p>(c) Schedule and mapping; and</p> <p>(d) Descriptions and definitions of words.</p>	<p>The wider community of Waimakariri has the opportunity to recognise and understand the history and other values associated with and of importance to Ngāi Tūāhuriri Rūnanga.</p> <p><i>Cultural</i></p> <p>The provisions are one way in which Ngāi Tūāhuriri Rūnanga can express kaitiakitanga, which in turn supports Ngāi Tūāhuriri Rūnanga to establish and maintain their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (s6(e) RMA). The resource consent application process enables discussions and opportunity for better understanding between landowners and Ngāi Tūāhuriri Rūnanga.</p>			
<b>Policy and method options less or not as appropriate to achieve the objectives and policies</b>				
<b>Option B: Status Quo</b>				
<p>This option is <b>not recommended</b>.</p>	<p>(a) The same number of landowners will be subject to the rules if the status quo remained.</p>	<p>(a) Potential continuing adverse effects on or loss of sites and areas of significance to Māori.</p> <p>(b) Due to lack of clarity in rules and policies, additional</p>	<p>(a) The existing rules and standards are largely ineffective in that they fail to adequately identify, classify and provide a resource consent process to enable the assessment of adverse effects</p>	<p>(a) Refer to (a) to (c) for Option A.</p>

Options to achieve the District Plan objectives relating to Sites and Areas of Significance to Māori	Benefits	Costs	Efficiency and Effectiveness	Risk of acting / not acting
		unnecessary costs may be incurred through the resource consent application process.	on sites and areas of significance to Māori. They fail to recognise the important contribution that such features provide to the District.	
<p><b>Quantification</b></p> <p>Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.</p> <p>Given the assessment of the scale and significance of the proposed changes above it is considered that quantifying costs and benefits would add significant time and cost to the s32 evaluation processes. The evaluation in this report identifies where there may be additional cost(s). However, given the strong statutory direction and the approach being adopted in adjoining district council areas that represents current practice, the exact quantification of the benefits and costs discussed was not considered necessary, beneficial or practicable.</p>				

## 8.2 Summary - Evaluation of Proposed Policies and Methods

The proposed policies and methods are the most appropriate option to achieve the objective relating to the protection of sites and areas of significance to Māori.

The existing regulatory approach to managing this topic under the operative District Plan used an outdated approach to the identification and classification of the sites and areas. It also did not contain rules that related to the activities, structures and buildings or effects with the potential to adversely affect the sites and areas of significance to Māori.

Overall, it is considered that the set of preferred provisions is the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions. The risk of acting as proposed are clearly able to be identified and are limited in their extent.

## 9. SUMMARY

This evaluation has been undertaken in accordance with s32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the proposed approach having regard to its effectiveness and efficiency, relative to other means to achieve the purpose of the RMA.

The evaluation demonstrates that the proposed approach is the most appropriate option as:

- (a) It gives effect to the relevant immediately dominant statutory documents, which in turn reflect the purpose of s5 of the RMA;
- (b) It aligns with the approach that was robustly tested as part of the recent development of the operative Christchurch District Plan; and
- (c) The objective, policies, rules, standards, definitions, matters of discretion and classification and schedule of sites and areas of significance to Māori, provide a framework to enable activities, structures and buildings to occur, but for those that could have an adverse effect on sites and areas, a clear resource consent assessment process