

**The Resource Management Act 1991**

**Selwyn District Council**

**Selwyn District Plan**

**(Volume 1: Township & Volume 2: Rural)**

**Proposed Plan Change 26**

**Rakaia Huts Wāhi Taonga Management Areas and Sites**

A Proposed Plan Change to amend District Plan Provisions relating to the management of the Rakaia Huts Moa Hunter Site and Wāhi Taonga Management Areas at Rakaia Huts Township and the surrounding rural area

**Date of Notification:** 28<sup>th</sup> June 2011

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## **Introduction**

The area in and around the Rakaia Huts settlement at the Rakaia River mouth is of considerable cultural significance to Te Taumutu Runanga, and is recognised as one of the most important complexes of archaeological sites in the South Island, containing significant early moa hunting and processing activity.

The operative District Plan contains a number of provisions within both the Rural and Township Volumes which deal with the protection of historic heritage values, including those in and around the Rakaia Huts Township. The purpose of these provisions is to ensure the protection of, among other matters, archaeological sites and sites of significance to Tangata Whenua from inappropriate use, development or destruction.

## **Reasons for the Plan Change**

A Conservation Management Plan (CMP) of the Rakaia Huts Moa Hunter Site (“the Site”) was completed in 2009 to ensure that the meaning and importance of the Site is conserved and able to be appreciated and interpreted for present and future generations.

The CMP identified issues and threats to the area and proposed a range of regulatory and non-regulatory tools to manage those threats. Management recommendations made in the CMP (as they relate to amendments to the District Plan) include:

- Review Part B3.3 of the District Plan (Culture and Heritage section), to reflect protection of historic heritage as a matter of national importance;
- Give consideration to a Plan Change to ensure that resource consent for ground disturbance greater than 20cm depth is required in areas at Rakaia Huts identified as having high archaeological significance
- Cross reference the District Plan’s “Accidental Discovery Protocol in rules relating to Heritage and Sites Of Significance To Tangata Whenua;
- Provide advice notes in appropriate parts of the District Plan advising that any works within high risk areas will require an archaeological authority from the Historic Places Trust;
- Amend the boundary of the existing “Archaeological Site” identified on Planning Map 133 so that it reflects the extent of the archaeological site identified in the CMP;
- Areas identified in the CMP as “Sites of Significance to Tangata Whenua” to be included in Appendix 5 of the District Plan;

- Provide certainty to people by making activities Controlled Activities;

The CMP was adopted by Selwyn District Council at the Council meeting on the 28<sup>th</sup> of October 2009. The intent of Plan Change 26 (PC26) is to give effect to those regulatory tools identified in the CMP. A plan change is required to make the necessary amendments to the relevant provisions in the District Plan.

### **Consultation**

Consultation in accordance with the 1<sup>st</sup> Schedule of the Resource Management Act 1991 (“the Act”) has been undertaken prior to public notification of the proposed Plan Change. This has included discussions with Te Taumutu Runanga, the New Zealand Historic Places Trust Pouhere Taonga, the local Rakaia Huts Community Committee and affected members of the wider Rakaia Huts community.

### **What is a Plan Change?**

A plan change is an amendment to a district plan, which is made by the Council in accordance with the provisions of the First Schedule of the Resource Management Act 1991 (“the Act”).

### **Amendments to the District Plan**

Amendments to the District Plan are contained in ***Attachment 1*** to this document, and associated annexures. Amendments are shown with additions double underlined and deletions ~~struck out~~.

### **Section 32 of the Act**

The Council’s Section 32 Evaluation and Summary of this evaluation in respect of these matters accompany this plan change document, in ***Attachment 2***. A challenge to any objective, policy, rule or other method contained in the plan change on the ground that the Section 32 has not been complied with, can only be made through a submission on the plan change.

### **Making a Submission**

Any person may make a submission on the plan change. The submission must follow the format of form 5 of the Resource Management Act Regulations (Forms) 1991 – copies are available from the Council Service Centres at Leeston, Darfield, Rolleston and Lincoln or on the Council’s website at [www.selwyn.govt.nz](http://www.selwyn.govt.nz).

A submission needs to include:

- Your name and contact details;
- The provisions which are being submitted on;
- Whether the person supports or opposes the variation;
- The reasons for the submission;
- The decision the person wants the Council to make; and
- Whether the submitter wishes to be heard in support of their submission.

The submission form needs to be signed and lodged with the Council by **5.00pm on Friday the 22<sup>nd</sup> of July 2011**.

### **Process from Here**

After submissions are closed they will be summarised and advertised for further submissions. The Council will then hold a hearing for all submitters who requested to be heard in support of their submissions. The Council will make a decision on each submission. Each submitter will receive a copy of the Council's written decision on their submission and has 30 working days from that date to appeal any decision to the Environment Court.

### **Conclusion**

Based on the Section 32 evaluation in ***Attachment 2*** it is considered that the proposed Plan Change represents a more effective and efficient method of achieving the District Plan's objectives and policies than the current Plan provisions and thereby better achieves the purpose of Part II of the Act.

**ATTACHMENT 1**

Amendments to the District Plan (Township Volume)

Amendments to the District Plan are shown with additions double underlined and deletions ~~struck out~~.

### **B3.3 CULTURE AND HISTORIC HERITAGE – ISSUE**

- **Damage to, destruction of or inappropriate alteration of sites, places, trees and vegetation, buildings or other structures which have ~~cultural~~ or historic heritage values.**

#### **Historic Heritage in Selwyn District**

Selwyn District is an area which has been affected by several waves of colonisation by Māori and Europeans. As a result there are sites, places and buildings which are of cultural or heritage value to individuals, families, iwi, runanga and communities in the District.

Some of these sites, places and buildings have been identified and protected in past planning schemes. Many significant trees have been protected for many years and it is the intention of the council to continue to provide recognition and protection for trees that display important values for the community or the environment.

Sites, areas or buildings may have heritage values if they are places or objects which people associate with their identity, history, events, customs or practices. Usually these values are shared by more than one person. Most often, people associate heritage values with old buildings, ruins or significant trees and vegetation. Many other things have heritage values. For example, plants used in customary practices, landforms, modern buildings that are part of a community's identity, routes and trails, and traditional activities and trees planted to commemorate special events.

Part of promoting the sustainable management of natural and physical resources is enabling:

*“people and communities to provide for their economic, cultural and social well-being and for their health and safety...” (section 5(2)).*

Section 6(e) of the Act requires the relationship of Maori, their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga to be recognised and provided for. In addition, section 6(f) of the Act requires Selwyn District Council to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development.

The Act defines historic heritage as meaning those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

(i) archaeological:

(ii) architectural:

(iii) cultural:

(iv) historic;

(v) scientific;

(vi) technological;

and includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with the natural and physical resources

Historic heritage is not only part of our inheritance from the past; it is also a part of our contemporary identity and sense of place. Historic heritage, including cultural connections and associations with places, makes an important contribution to the physical environment. In particular, historic heritage is a vital part of what makes a place unique or important for the people who live there.

Historic heritage is important because it provides a tangible insight into our past and can be an important source of knowledge. Heritage features can act as a reminder or social link to the past that is important to the community, but they can also provide valuable information that contributes to the knowledge of our history and environment. For example historic buildings provide information about the tools, technology and materials available at the time as well as contributing to a sense of place. Another example is examining an archaeological site to find information about how people lived in the past, and what their environment was like at that time. The accidental or inadvertent destruction or damage of heritage features can cause the loss of this knowledge as well as a social/cultural link to the past

### **Sites of Wāhi Taonga and Wāhi Tapu**

Areas in Selwyn District have been traversed, occupied or settled by Māori, in particular by the iwi of Waitaha, Ngāti Mamoe and Ngāi Tahu. Part A, Section 4.2 explains the tāngata whenua of Selwyn District and the role of Māori in resource management under the Act.

Wāhi taonga and wāhi tapu are sacred places, which are held in reverence according to tribal custom. They provide a link to tribal custom. Protecting them helps protect and remember the mana of ancestors and provides protection for future generations.

Wāhi tapu and wāhi taonga include but are not limited to:

- tauranga waka (canoe landing sites)
- waiwhakaheketupapaku or urupa (burial sites)
- tuhituhi o nehera (rock drawing sites)
- tuahu (altars)



- pa/kainga (habitations)
- mahinga kai (food/material gathering sites)
- ruakoiwi (burial site)

These areas may have a temporary tapu placed on them or contain resources that are slightly depleted.

Sites of wāhi taonga and wāhi tapu may be damaged or destroyed by earthworks or building, associated with a variety of activities. Wāhi taonga and wāhi tapu sites may also be disturbed by people or animals. Any sort of disturbance may be inappropriate, whether physical damage is done to the site or not.

In addition to wāhi taonga and wāhi tapu sites, there are sites of mahinga kai (food gathering) which are important to local runanga.

Indigenous trees and plants can also have cultural values to Māori. For example, tikouka, the cabbage tree (*Cordyline Australis*) was a food source for Ngāi Tahu and used to mark Mahinga kai trails.

All natural resources including land, air and water are taonga (treasured) to Māori. Effects of activities on these values are addressed in Part B, Sections 1.1 to 1.4 of the Plan.

## **European Heritage Sites and Buildings**

Selwyn District has been colonised and farmed by European settlers since the 1850s. Coal, lime and clay was mined in the Malvern foothills. Rural towns developed in association with farming and mining activities and the railway to the West Coast that began in the 1870s.

Many of the existing townships in Selwyn were settled very early in European colonisation. These towns typically had accommodation houses, trading stores, simple dwellings, community buildings and services such as drainage systems.

There are many sites and buildings with historic heritage values, including:

- Various styles of houses.
- Community buildings such as schools, churches and halls are often the last remains of a once thriving town.
- Early farming or transport infrastructure such as water races, bridges, roads and shelter belts, much of which is still used.
- A variety of exotic plants grown for shelter, amenity or to commemorate events.
- Industrial sites.

Historic heritage sites or buildings do not have to be 'old' to have heritage values. Modern examples with heritage values may include: plantings or structures created by communities to celebrate the new millennium; or sites of more recent yet important events for a community.

## **Damage To Sites With Historic Heritage**

Sites and buildings with historic heritage values may be lost or damaged by natural forces such as fire, earthquake, weather or diseases in plants. Human and animal activities can also affect sites and buildings. Examples include: earthworks, additions, alterations or modification to buildings or parts of buildings which are not 'in keeping' with the original style, removing buildings, ruins or trees or disturbing wāhi taonga and wāhi tapu sites.

Old buildings and structures can also become derelict, particularly when they are no longer used or maintained. Many of the heritage buildings in the rural area are lost because they become derelict rather than being intentionally destroyed.

## **Protecting Historic Heritage Values**

As well as the specific duties under section 6 of the Act, maintaining sites and buildings with historic heritage values in Selwyn District can:

- Help teach people about their past;
- Foster people's sense of identity and community;
- Provide economic opportunities in heritage, tourism, recreation, restoration and marketing; and
- Recognise and provide for the protection of heritage and cultural sites.

Protecting sites and structures with historic heritage values involves costs:

- Many sites and structures are privately owned or on private land. Protecting them may sometimes prevent the landholder from using the site or structure for other purposes, although adapting heritage buildings for new uses is common.
- Historic heritage buildings and structures need to be maintained to ensure their retention.
- Using historic heritage buildings can be costly as when the use of any building changes, the building must be upgraded as is reasonably practicable to the same level as for a new building to comply with the New Zealand Building Code.

Any measures in the District Plan to protect the historic heritage values of sites must:

- Recognise the costs to landholders if they cannot reasonably use buildings or sites.
- Be practical, easy and inexpensive for landholders to comply with.
- Encourage the ongoing use and maintenance of buildings and structures.

In addition, section 32 of the Act requires a council to assess the costs and benefits of any rule in a District Plan.

## **Archaeological Sites**

An archaeological site is defined in section 2 of the Historic Places Act 1993 as:

"Archaeological site" means any place in New Zealand that –

(a) Either–

(i) Was associated with human activity that occurred before 1900; or

(ii) Is the site of the wreck of any vessel where that wreck occurred before 1900; and

(b) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand"

Archaeological sites may be Maori or European in origin and may also be recognised as having spiritual or cultural values, such as wāhi tapu sites. There are various types of archaeological sites some of which include midden and pa sites, terraces, garden areas, kumara pits, battle grounds, areas of early settlement by Maori and Europeans, early industrial areas, rock art sites and shipwrecks.

Section 10 of the Historic Places Act 1993 directs that an archaeological authority is required from the New Zealand Historic Places Trust Pouhere Taonga if there is "reasonable cause" to suspect an archaeological site (recorded or unrecorded) may be modified, damaged or destroyed in the course of an activity.

Under the RMA 1991, a District Council shall recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development (section 6(f)). This requirement in the Act requires a council to identify known archaeological sites through the Plan and protect them from subdivision use and development through various methods. For this purpose, Appendices 3 and 5 include some archaeological sites recorded in the New Zealand Archaeological Association (NZAA) site recording scheme.

## **Role of District Councils**

Managing effects of activities on sites or buildings with heritage or cultural values is largely a function of District Councils under section 31 of the Act. District Councils are also Heritage Protection Authorities under section 187 of the Act. This power enables the District Council to use Heritage Orders to halt the alteration or demolition of a site or building with heritage values, whether it is protected in the District Plan or not. If a Heritage Order is used, the Heritage Protection Authority has 12 months to buy the building or site, or to negotiate an appropriate outcome with the owner.

## **Heritage Orders**

The Council has decided to identify sites and buildings with heritage or cultural values in the District Plan, rather than relying on Heritage Orders. The reasons are:

- Certainty for landowners that a site or building is protected under the Plan, rather than having a "surprise" at the time they come to make alterations.
- Certainty for the community that a site or building is protected.

- Preservation of the heritage values of sites and buildings can be successfully undertaken while allowing the landowner to continue or modify their use of the site or building.

### **Historic Places Act 1993**

The New Zealand Historic Places Trust Pouhere Taonga is required to be notified of any proposed works affecting a listed heritage item that requires a building consent or any activities which may impact on a site of cultural significance. In addition the Trust is an affected party for resource consents involving places with heritage values.

### **What Are Heritage Values?**

~~The term “heritage values” is not defined in the Act. Sites, areas or buildings may have heritage values if they are places or objects which people associate with their identity, history, events, customs or practices. Usually these values are shared by more than one person. Most often, people associate heritage values with old buildings, ruins or significant trees and vegetation. Many other things have heritage values. For example, plants used in customary practices, landforms, modern buildings that are part of a community’s identity, routes and trails, and traditional activities.~~

### **Heritage and Cultural Values in Selwyn District**

~~Selwyn District is an area which has been affected by several waves of colonisation by Māori and Europeans. As a result there are sites, places and buildings which have cultural or heritage values to individuals, families, iwi, runanga and communities in the District.~~

~~Some of these sites, places and buildings have been identified and protected in past planning schemes. Many significant trees have been protected for many years and it is the intention of the council to continue to provide recognition and protection for trees that display important values for the community or the environment.~~

### **Sites of Waahi Taonga and Tapu**

~~Areas in Selwyn District have been traversed, occupied or settled by Māori, in particular by the iwi of Waitaha, Ngāti Mamoe and Ngāi Tahu. Part A, Section 4.1 explains the tāngata whenua of Selwyn District and the role of Māori in resource management under the Act.~~

~~Waahi Taonga and Waahi Tapu are sacred places, which are held in reverence according to tribal custom. They provide a link to tribal custom. Protecting them helps protect and remember the mana of ancestors and the protection for future generations.~~

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These areas may have a temporary tapu placed on them or contain resources that are slightly depleted.

Sites of waahi taonga and waahi tapu may be damaged or destroyed by earthworks or building, associated with a variety of activities. Waahi taonga and waahi tapu sites may also be disturbed by people or animals. Any sort of disturbance may be inappropriate, whether physical damage is done to the site or not.

In addition to waahi taonga and waahi tapu sites, there are sites of mahinga kai (food gathering) which are important to local runanga.

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All natural resources including land, air and water are taonga (treasured) to Māori. Effects of activities on these values are addressed in Part B, Sections 1.1 to 1.4 of the Plan.

## **European Heritage Sites and Buildings**

Selwyn District has been colonised and farmed by European settlers since the 1850's. Coal, lime and clay was mined in the Malvern foothills. Rural towns developed in association with farming and mining activities and the railway to the West Coast that began in the 1870's.

Many of the existing townships in Selwyn were settled very early in European colonisation. These towns typically had accommodation houses, trading stores, simple dwellings, community buildings and services such as drainage systems.

There are many sites and buildings with heritage values, including:

- Various styles of houses.
- Community buildings such as schools, churches and halls are often the last remains of a once thriving town.
- Early farming or transport infrastructure such as water races, bridges, roads and shelter belts, much of which is still used.
- A variety of exotic plants grown for shelter, amenity or to commemorate events.
- Industrial sites.

Heritage sites or buildings do not have to be 'old' to have heritage values. Modern examples with heritage values may include: plantings or structures created by communities to celebrate the new millennium; or sites of more recent yet important events for a community.

## **~~Damage To Sites With Heritage Or Cultural Values~~**

~~Sites and buildings with heritage or cultural values may be lost or damaged by natural forces such as fire, earthquake, weather or diseases in plants. Human and animal activities can also affect sites and buildings. Examples include: earthworks, additions, alterations or modification to buildings or parts of buildings which are not 'in keeping' with the original style, removing buildings, ruins or trees or disturbing waahi taonga and waahi tapu sites.~~

~~Part of promoting sustainable management of natural and physical resources is:~~

- ~~—— Recognising and protecting the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and waahi taonga (section 6(e)).~~
- ~~—— Having particular regard to recognising and protecting the heritage values of sites, buildings, places or areas (section 7(e)).~~

~~As well as the specific duties under section 6 and 7 of the Act, maintaining sites and buildings with heritage values in Selwyn District can:~~

- ~~—— Help teach people about their past;~~
- ~~—— Foster people's sense of identity and community; and~~
- ~~—— Provide economic opportunities in heritage, tourism, recreation, restoration and marketing.~~

~~Many of the sites and buildings with heritage or cultural values are privately owned. Some waahi taonga and waahi tapu sites are on land not owned by tāngata whenua for whom they have value. These sites and buildings often have other uses and values. Any measures in the District Plan to protect the heritage and cultural values of sites must:~~

- ~~—— Recognise the costs to landowners if they cannot reasonably use buildings or sites.~~
- ~~—— Be practical, easy and inexpensive for landowners to comply with, to be successful.~~

~~Part of promoting sustainable management of natural and physical resources is enabling:~~

~~"people and communities to provide for their economic, cultural and social well-being and for their health and safety..."~~

~~In addition, section 32 (4)(a) of the Act requires a council to assess the costs and benefits of any rule in a district plan.~~

## **Archaeological Sites**

~~An archaeological site is defined in section 2 of the Historic Places Act 1993 as:~~

~~"Archaeological site" means any place in New Zealand that—~~

~~(a) — Either—~~

- (i) Was associated with human activity that occurred before 1900; or
- (ii) Is the site of the wreck of any vessel where that wreck occurred before 1900; and
- (b) ~~Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand"~~

Archaeological sites may be Maori or European in origin and may also be recognised as having spiritual or cultural values, such as waahi tapu sites. There are various types of archaeological sites some of which include midden and pa sites, terraces, garden areas, kumara pits, battle grounds, areas of early settlement by Maori and Europeans, early industrial areas, rock art sites and shipwrecks.

~~Section 10 of the Historic Places Act 1993 directs that an authority is required from the New Zealand Historic Places Trust Pouhere Taonga if there is "reasonable cause" to suspect an archaeological site (recorded or unrecorded) may be modified, damaged or destroyed in the course of an activity. Under the RMA 1991, a District Council shall recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development (section 6(f)). This requirement in the Act requires a council to identify known sites through the Plan and protect them from subdivision use and development through various methods. For this purpose, Appendices 3 and 5 include some archaeological sites recorded in the NZAA site — recording scheme.~~

## **~~Role of District Councils~~**

~~Managing effects of activities on sites or buildings with heritage or cultural values is largely a function of District Councils under section 31 of the Act. District Councils are also Heritage Protection Authorities under section 187 of the Act. This power enables the District Council to use Heritage Orders to halt the alteration or demolition of a site or building with heritage values, whether it is protected in the District Plan or not. If a Heritage Order is used, the Heritage Protection Authority has 12 months to buy the building or site, or to negotiate an appropriate outcome with the owner.~~

## **~~Heritage Orders~~**

~~The Council has decided to identify sites and buildings with heritage or cultural values in the District Plan, rather than relying on Heritage Orders. The reasons are:~~

- ~~—— Certainty for landowners that a site or building is protected under the Plan, rather than having a "surprise" at the time they come to make alterations.~~
- ~~—— Certainty for the community that a site or building is protected.~~
- ~~—— Preservation of the heritage values of sites and buildings can be successfully undertaken while allowing the landowner to continue or modify their use of the site or building.~~

## **~~Historic Places Act 1993~~**

~~The New Zealand Historic Places Trust Pouhere Taonga is required to be notified of any proposed works affecting a listed heritage item that requires a building consent. In addition the Trust is an affected party for resource consents involving places of heritage values.~~

## **CULTURE AND HISTORIC HERITAGE – STRATEGY**

The Township Volume of the District Plan uses the following basic strategy to protect sites with cultural and heritage values:

### **General**

- Foster a partnership for protecting sites and buildings with historic ~~cultural~~ or heritage values between owners; local communities; local ~~runanga~~rūnanga and the Council.

## **CULTURE AND HISTORIC HERITAGE – OBJECTIVES**

### **Objective B3.3.2**

**Sites of wāhi waahi tapu and other importance to tāngata whenua are protected.**

### **Explanation and Reasons**

Part of promoting sustainable management of natural ..... Part of promoting sustainable management also involves enabling people and communities to provide for their economic, social and cultural well-being.

Objective B3.3.1 develops a partnership approach to heritage protection as many sites and buildings that have ~~cultural~~ or historic heritage values in Selwyn District are privately owned and are still in use. The co-operation of owners ..... These efforts should be acknowledged and encouraged.

The role of the Council, local ~~runanga~~rūnanga and community interest groups is to recognise, encourage and assist the work of landowners, not to take control out of their hands.

Objective B3.3.2 reflects the duty under section 6(fe) of the Act to recognise and provide for the protection of ~~protect sites of waahi tapu and other cultural importance~~ wāhi tapu and other sites of cultural importance to Māori from inappropriate subdivision, use, and development to Māori. It is achieved through policies and methods which encourage local ~~runanga~~rūnanga and landowners to develop protocols for activities in areas with such sites. This is the preferred approach indicated by local ~~rūnanga~~rūnanga. The District Plan also contains rules to manage earthworks, buildings and other activities in Wāhi Taonga Sites, ~~waahi taonga sites~~ Wāhi Taonga Management Areas and ~~management areas~~ and in Silent File Areas ~~silent file areas~~.

Objective B3.3.3 reflects the duty under section 7(ef) of the Act to recognise and provide for the protection of historical heritage from inappropriate subdivision, use, and development, ~~have particular regard to the protection of the heritage values of sites, areas and buildings.~~ The objective recognises that not all sites or buildings with historic heritage values in the District will warrant formal protection under the Act. The objective .....



# **CULTURE AND HISTORIC HERITAGE – POLICIES AND METHODS**

## **MĀORI SITES**

### **Policy B3.3.2**

**Recognise and protect sites of cultural importance to local rūnanga through fostering a partnership between landholders and local rūnanga.**

#### **Explanation and Reasons**

Many sites of .....

#### **Methods**

Advocacy

- Joint protocols with landholders and land managers for Wāhi Taonga Management Areas ~~wāhi taonga Management Areas~~ and other sites, if appropriate

District Plan Rules

- see Policy B3.3.3 and B3.3.4

### **Policy B3.3.4**

**Protect areas identified in the Plan as Wāahi Taonga Sites, Wāahi Taonga Management Areas and Mahinga Kai Sites, from inappropriate damage or destruction, ~~whenever practical~~.**

#### **Explanation and Reasons**

Policies B3.3.3 and B3.3.4 recognise and provide for the protection of four types of sites in the Plan.

Silent File Areas may contain sites of immense cultural importance to local rūnanga. The silent file areas are listed in Appendix 5 and shown on the Planning Maps. The exact location and the type of site within the silent file area are not disclosed by local rūnanga, to try and reduce the likelihood of intentional damage to the site and in respect of the traditions of keeping this information among tribal elders.

Wāhi Taonga Sites are sites of traditional occupation or use by local rūnanga. Most have been uncovered by archaeologists and contain objects or remnants of their past use. The Wāhi

Taonga Sites are based on the grid reference of the original site and are extended for a 20m radius, in case there is other material around the site which has not been uncovered.

Wāhi Taonga Management Areas are large areas which contain many Wāhi Taonga Sites. There are six Wāhi Taonga Management Areas in the District; at Rakaia Island, along the Coast from the Rakaia River to Fisherman's Point, Taumutu, along the bed of the Waikirikiri/Selwyn River and the area surrounding and including the Rakaia Huts Township, which has two distinct Wāhi Taonga Management Areas, one of which is the culturally and archaeologically significant Rakaia River Mouth Moa Hunter Site. For the purposes of management under the District Plan, the Rakaia River Mouth Moa Hunter Site has been divided into 2 sub Wāhi Taonga Management Areas (C39(a) and C39(b)) with site C39(b) relating directly to the Living 1 Zone of the Rakaia Huts Township itself.

Mahinga kai sites are sites which were traditionally used to gather food or materials for medicine, crafts and other traditional activities. Many wetlands and waterbodies are sites of mahinga kai. In addition, there are two sites of identified land, where vegetation is traditionally gathered. The District Plan rules require a resource consent to damage or remove indigenous vegetation on these sites, other than for mahinga kai purposes.

Policy B3.3.3 relates to ~~Silent File Areas~~silent file areas. Any disturbance of the sites within Silent File Areas is usually inappropriate. However, much land within the silent file areas has been disturbed in the past as part of farming or building activities. Therefore, the District Plan rules allow any activity, which disturbs soil over an area or to a depth where it has already been disturbed, as a permitted activity (no resource consent needed). Any activity which disturbs soil in areas or to depths where it has not previously been disturbed, requires resource consent.

Silent file areas may contain sites of immense cultural importance to local runanga. The silent file areas are listed in Appendix 5 and shown on the Planning Maps. The exact location and the type of site within the silent file area are not disclosed by local runanga, to try and reduce the likelihood of intentional damage to the site and in respect of the traditions of keeping this information among tribal elders.

Any disturbance of the sites within silent file areas is usually inappropriate. However, much land within the silent file areas has been disturbed in the past as part of farming or building activities. Therefore, the District Plan rules allow any activity, which disturbs soil over an area or to a depth where it has already been disturbed, as a permitted activity (no resource consent needed). Any activity which disturbs soil in areas or to depths where it has not previously been disturbed, requires resource consent. In deciding whether any disturbance of land in a silent file area is appropriate, the Council shall refer to local runanga for advice about whether the proposed activity will disturb a culturally important site within the silent file area. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all.

Policy B3.3.4relates to Wāhi Taonga Sites, Wāhi Taonga Management Areas and Mahinga Kai Sites. ~~waahi taonga sites, waahi taonga management areas and mahinga kai sites~~. These sites are listed in Appendix 5 and shown on the Planning Maps. ~~Waahi taonga sites are sites of traditional occupation or use by local runanga. Most have been uncovered by archaeologists and contain objects or remnants of their past use.~~ The information about the location and content of these sites is publicly recorded and the aim of Policy B3.3.4 is to protect the artefacts and remnants contained in these sites from inappropriate damage or destruction. The Wāhi Taonga Sites ~~waahi taonga sites~~ are based on the grid reference of the original site and are extended for a 20m radius, in case there is other material around the site which has not been uncovered. The

rules in the Plan do not prevent the soil in this 20m radius from being disturbed. If an object is uncovered in that area, it cannot be further damaged, removed or destroyed without first obtaining a resource consent.

With regard to Wāhi Taonga Management Area C39(b) at Rakaia Huts; the site is still of significant cultural and archaeological value in spite of significant alterations and disturbance to the area since European settlement. The District Plan identifies a number of activities which are considered to have less than minor effects on the cultural and archaeological values of Wāhi Taonga Management Area C39(b). These activities do not require a resource consent for earthworks. Activities exempt from earthworks rules include;

- sowing tending or cultivating crops;
- digging post holes;
- maintenance or landscaping of gardens, lawns or public spaces;
- burying pets; and
- trenching compost.

The District Plan allows any other activity not exempt from the rules to disturb soil over areas which have been previously disturbed by cultivation, planting, building or earthworks (to a depth of 20cm) as a permitted activity (no resource consent needed). Any activity not exempt from the rules and which disturbs soil in those areas to depths of more than 20cm, or disturbs soil in areas not previously disturbed by those activities shall require a resource consent.

In deciding whether protecting any Silent File Area, Wāhi Taonga Site, Wāhi Taonga Management Area or Mahinga Kai Site is practical; the Council shall refer to local rūnanga for advice about the effects of the proposed activity on the site and the cultural significance of the site. In relation to Wāhi Taonga Management Area C39(b) at Rakaia Huts, Council shall refer to the New Zealand Historic Places Trust Pouhere Taonga for advice about the effects of the proposed activity on any archaeological values. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all.

~~Wāhi Taonga Management Areas are large areas which contain many wāhi taonga sites. There are four areas in the District at Rakaia Island, Taumutu, along the coast from the Rakaia River to Fisherman's Point, and along the bed of the Waikirikiri/Selwyn River. The Council wishes to foster a partnership between local runanga, landholders and Environment Canterbury (coast and Waikirikiri/ Selwyn Riverbed) for the appropriate management of these areas.~~

~~Mahinga kai sites are sites which were traditionally used to gather food or materials for medicine, crafts and other traditional activities. Many wetlands and waterbodies are sites of mahinga kai. In addition, there are two sites of identified land, where vegetation is traditionally gathered. The District Plan rules require a resource consent to damage or remove indigenous vegetation on these sites, other than for mahinga kai purposes~~

In addition, the provisions of the Historic Places Act 1993 apply to the Wāhi Taonga Management Areas in and around Rakaia Huts Township ((C39(a) and C39(b) ). Other Wāhi Taonga Sites and Wāhi Taonga Management Areas may also be subject to the Historic Places Act 1993, as they may be considered archaeological sites. In deciding whether protecting any wāhi taonga site,

~~waahi taonga management area or mahinga kai site is practical, the Council shall refer to local runanga for advice about the effects of the proposed activity on the site and the cultural significance of the site. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all.~~

Where a landholder requires a resource consent to undertake an activity in a Silent File Area, a Wāhi Taonga Site, a Wāhi Taonga Management Area or a Mahinga Kai Site~~silent file area, a waahi taonga site or management area or a mahinga kai site~~, the Council has a policy to consider reducing or waiving fees for processing the resource consent application (see Policy B3.3.911). This policy applies to heritage sites and in areas of outstanding landscapes, as well.

## Method

### District Plan Rules

- ~~Sites of Significance to Tangata Whenua~~Cultural Historic Heritage Sites

## **CULTURE AND HISTORIC HERITAGE – ANTICIPATED ENVIRONMENTAL RESULTS**

The following outcomes should result from implementing Section B3.3:

- A growing database of the history of the Selwyn District.
- Development of agreements between landowners and local runanga for conducting activities in 'silent file' areas.
- Wāhi ~~Waahi~~-tapu and wāhi~~waahi~~ taonga sites are protected.
- Sites and buildings with significant historic heritage values are used and maintained.
- Recognition of and protection for trees of significant value to the community and environment.

## **CULTURE AND HISTORIC HERITAGE – MONITORING**

Please refer to Part E, Appendix 1.

### PART C

## 2 LIVING ZONE RULES – EARTHWORKS

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### Notes

1. Rule 2 does not apply to any of the following activities:
  - Landscaping or maintenance of gardens, lawns or public spaces;
  - Sowing, tending or cultivating crops, grazing or planting trees;
  - Digging post holes;
  - Burying pets;
  - Trenching compost;
  - Digging soak holes, building foundations and related activities, except in Wāhi Taonga Management Area C39(b), ;
  - Maintaining and clearing rivers, water races or drains except in Wāhi Taonga Management Area C39(b);
  - Maintaining or repairing existing flood protection works except in Wāhi Taonga Management Area C39(b); or
  - Earthworks required to duct cables except in Wāhi Taonga Management Area C39(b).
2. Stockpiling of material disturbed by earthworks may be affected by Rule 10.11 – Activities and the Outdoor Storage of Materials and Goods.
3. Refer to Appendix 6 for Protocols on Accidental Discovery of Archaeological Sites.
4. Earthworks affecting any archaeological site including Wāhi Taonga Management Area C39(b) at Rakaia Huts, may require an archaeological authority from the New Zealand Historic Places Trust Pouhere Taonga.
5. Development contributions under the LTCCP Development Contribution Policy will be taken where network infrastructure, community infrastructure or reserves have to be constructed or expanded as a direct result of growth from development. Refer to Part B, 4.4 for further information on development contributions.
6. Earthworks in areas listed in Appendix 5 and shown on the planning maps as a Silent File Area, Wāhi Taonga Site or Wāhi Taonga Management Area may be subject to Rule 10.4 Activities and Cultural Historic Heritage Sites

## **2.1 EARTHWORKS**

### **Permitted Activities – Earthworks**

- 2.1.1 Any earthworks shall be a permitted activity if the following conditions are met:
  - 2.1.1.1 Any disturbed or stockpiled material is kept moist until it has consolidated, and
  - 2.1.1.2 Any stockpiled material is kept consolidated or covered to avoid sediment run-off from rainfall, and

2.1.1.3 Any site subject to earthworks is either:

- (a) built upon,
- (b) sealed,
- (c) landscaped, or
- (d) the land recontoured and replanted,

no more than 12 months after the earthworks commencing, except in the case of landscaping and planting which shall be undertaken during the first planting season following the completion of the earthworks.

2.1.1.4 Earthworks do not occur and material from earthworks is not deposited within:

- (a) 20m of any waterbody listed in Appendix 12.
- (b) 10m of any other waterbody (excluding aquifers).

2.1.1.5 On land located within the Living 1A or 2A Zones at Tai Tapu, earthworks are limited to the forming of any accessway to a site or the preparation of any site to erect a building, provided that these earthworks do not alter or impede the land drainage pattern.

2.1.1.6 Except where Rule 2.1.1.5 applies, any earthworks has:

- (a) a volume of not more than 2,000m<sup>3</sup> per project; and
- (b) a vertical cut face where no more than 5% of the total vertical cut is over 2 metres.

2.1.1.7 Any earthworks undertaken on any site to be used to erect a building complies with NZS 4431 Code of Practice for Earth Fill for Residential Development.

2.1.1.8 The earthworks are not part of mining or mineral exploration.

2.1.1.9 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(b) at Rakaia Huts, any earthworks are limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm;

2.1.1.10 For the part of Wāhi Taonga Management Area C48 zoned Living 1 at Rakaia Huts, any earthworks does not involve the disturbance, damage to, removal of or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site

## **Controlled Activities – Earthworks and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

2.1.2 Any earthworks which do not comply with Rule 2.1.1.9 or 2.1.1.10 shall be a controlled activity if the written consent of the local rūnanga, and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga, has been obtained.

2.1.3 In assessing any application made under Rule 2.1.2, Council shall restrict its control to consideration of the following matters:

2.1.3.1 For the part of Wāhi Taonga Management Area C48 zoned Living 1 at Rakaia Huts any damage to, destruction or removal of any object, remnant or artefact contained within Wāhi Taonga Management Area C48, as advised by local rūnanga; and

2.1.3.2 In Wāhi Taonga Management Area C39(b), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga; and

2.1.3.3 Any monitoring or review conditions.

## **Restricted Discretionary Activities – Earthworks**

2.1.4

## **Restricted Discretionary Activities – Earthworks and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

2.1.6 Any activity which does not comply with Rule 2.1.2 shall be a restricted discretionary activity.

2.1.7 Under Rule 2.1.6 the Council shall restrict the exercise of its discretion to all of the following matters:

2.1.7.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga;

2.1.7.2 Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area as advised by local rūnanga and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga;

2.1.7.3 Any potential costs to the landholder of not being able to undertake the proposed activity on that site;

- 2.1.7.4 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;
- 2.1.7.5 Any positive effects which may offset any adverse effects; and
- 2.1.7.6 Any monitoring or review of conditions.

#### Notes

1. ~~Rule 2 does not apply to any of the following activities:~~
  - ~~— Landscaping or maintenance of gardens, lawns or public spaces;~~
  - ~~— Sowing, tending or cultivating crops, grazing or planting trees;~~
  - ~~— Digging post holes, soak holes, building foundations and related activities;~~
  - ~~— Maintaining and clearing rivers, water races or drains;~~
  - ~~— Maintaining or repairing existing flood protection works; or~~
  - ~~— Earthworks required to duct cables.~~
2. ~~Stockpiling of material disturbed by earthworks may be affected by Rule 10.11 Activities and the Outdoor Storage of Materials and Goods.~~
3. ~~Refer to Appendix 6 for Protocols on Accidental Discovery of Archaeological Sites.~~
4. ~~Earthworks affecting any archaeological site require the consent of the New Zealand Historic Places Trust Pouhere Taonga (refer to Part B, Section 3.3, “Archaeological Sites”).~~
5. ~~Development contributions under the LTCCP Development Contribution Policy will be taken where network infrastructure, community infrastructure or reserves have to be constructed or expanded as a direct result of growth from development. Refer to Part B, 4.4 for further information on development contributions.~~

#### Reasons for Rules

Earthworks may create the following effects: dust nuisance; slope failure or erosion; siltation affecting neighbouring properties; waterbody ....

Mineral exploration and mining require resource consent in Living zones, irrespective of the scale of earthworks. The reason that mineral exploration .....

Rules 2.1.1.9 and 2.1.1.10 manage earthworks in areas which contain sites of special significance to tāngata whenua or protect archaeological sites. Protecting these sites is part of the duty under section 6(e) of the Act “to provide for the relationship of Māori and their customs and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga” and section 6(f) to recognise and provide for ‘the protection of historic heritage from inappropriate subdivision, use and development’

Wāhi Taonga Management Areas are of considerable cultural and archaeological significance. Earthworks in these areas are appropriate in certain circumstances and to a certain depth, after which resource consent is required (Controlled Activity). In assessing any application for resource consent made under Rule 2.1.2, the Council will consider whether the earthworks will disturb the special site within the Wāhi Taonga Management area C39(c) and whether that disturbance



is inappropriate, as advised by local rūnanga and in the case of Wāhi Taonga Management Area C39(b), the Historic Places Trust Pouhere Taonga).

Note 1 clarifies that earthworks associated with the activities listed are, in the view of the Council, de minimus activities (very minor/negligible). Rule 2 is not intended to affect or control those activities other than in Wāhi Taonga Management Area C39(b).

## PART C

# 4 LIVING ZONE RULES – BUILDINGS

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## **4.14 BUILDINGS AND SITES OF SIGNIFICANCE TO TANGATA WHENUA (WĀHI TAONGA MANAGEMENT AREAS)**

### **Permitted Activities – Buildings and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

4.14.1 Erecting any building or any additions or alterations to, or modification or demolition of, any building shall be a permitted activity if all of the following conditions are met:

4.14.1.1 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(b), any earthworks associated with the building are limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm

4.14.1.2 For the part of Wāhi Taonga Management Area C48 zoned Living 1 at Rakaia Huts, any earthworks does not involve the disturbance, damage to, removal of or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.

### **Controlled Activities – Buildings and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

4.14.2 Any activity which does not comply with Rules 4.14.1.1 and 4.14.1.2 shall be a controlled activity if the written consent of the local runanga, and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga, has been obtained.

4.14.3 In assessing any application made under Rule 4.14.2, Council shall restrict its control to consideration of the following matters:

4.14.3.1 For the part of Wāhi Taonga Management Area C48 zoned Living 1 at Rakaia Huts any damage to, destruction or removal of any object,

remnant or artefact contained within Wāhi Taonga Management Area C48, as advised by local rūnanga; and

4.14.3.2 In Wāhi Taonga Management Area C39(b), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga; and

4.14.3.2 Any monitoring or review conditions.

### **Restricted Discretionary Activities – Buildings and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

4.14.4 Any activity which does not comply with Rule 4.14.2 shall be a restricted discretionary activity.

4.14.3 Under Rule 2.1.6 the Council shall restrict the exercise of its discretion to all of the following matters:

4.14.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga;

4.14.3.2 Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area as advised by local rūnanga, and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga;

4.14.3.3 Any potential costs to the landholder of not being able to undertake the proposed activity on that site;

4.14.3.4 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;

4.14.3.5 Any positive effects which may offset any adverse effects; and

4.14.3.6 Any monitoring or review of conditions.

### **Reasons for Rules**

#### **Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

Rule 4.14 manages the effects of erecting buildings in Wāhi Taonga Management Areas at Rakaia Huts. Activities which may disturb this area and sites require a resource consent, so the Council can assess whether the activity will affect any culturally important site, as advised by local rūnanga and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga.

The Council has a policy to consider reducing or waiving resource consent processing fees for activities in such areas (see Part B, Section 3.3). For further information on these areas and sites, refer to the Reasons for the Earthworks Rules.

## PART C

# 10 LIVING ZONE RULES – ACTIVITIES

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### Notes:

1. Activities affecting any archaeological site including Wāhi Taonga Management Area C39(b) may require an Archaeological Authority from the New Zealand Historic Places Trust Pouhere Taonga (refer to Part B, Section 3.3 Archaeological Sites).
2. Refer to Appendix 6 “Protocols on Accidental Discovery of Archaeological Sites” when any activities occur in any Silent File, Wāhi Taonga Site or Wāhi Taonga Management Area.

## **10.4 ACTIVITIES AND SITES OF SIGNIFICANCE TO TANGATA WHENUA (WĀHI TAONGA MANAGEMENT AREAS)**

### **Permitted Activities – Activities and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

10.4.1 The following activities shall be permitted activities:

10.4.1.1 In any areas listed in Appendix 5 and shown on the Planning Maps as a Silent File Area, any disturbance of soil which is limited to disturbance of soil over areas and to depths where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), buildings or earthworks.

10.4.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(b), any earthworks associated with any proposed activity are limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm;~~In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or Wāhi Taonga Management Area, any proposed activity which does not involve the disturbance, damage to, removal of or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.~~

10.4.1.3 For the part of Wāhi Taonga Management Area C48 zoned Living 1 at Rakaia Huts, any earthworks does not involve the disturbance, damage

to, removal of or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site

10.4.1.4 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 10.4.1.2 or 10.4.1.3, any proposed activity which does not involve the disturbance, damage to, removal of or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.  
In any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to or removal of indigenous vegetation which is limited to that undertaken by tāngata whenua for mahinga kai purposes.

10.4.1.5 In any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to or removal of indigenous vegetation which is limited to that undertaken by tāngata whenua for mahinga kai purposes.

### **Controlled Activities – Activities and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

10.4.2 Any activity which does not comply with Rule 10.4.1.2 or 10.4.1.3 shall be a controlled activity if the written consent of the local rūnanga, and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga, has been obtained.

10.4.3 In assessing any application made under Rule 10.4.2 Council shall restrict its control to consideration of the following matters:

10.4.3.1 For the part of Wāhi Taonga Management Area C48 zoned Living 1 at Rakaia Huts any damage to, destruction or removal of any object, remnant or artefact contained within Wāhi Taonga Management Area C48, as advised by local rūnanga; and

10.4.3.2 In Wāhi Taonga Management Area C39(b), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga; and

10.4.3.3 Any monitoring or review conditions.

### **Restricted Discretionary Activities – Activities and Sites of Significance to Tangata Whenua (Wāhi Taonga Management Areas)**

10.4.24 Any activity which does not comply with Rules 10.4.1.1, 10.4.1.4, 10.4.1.5 or 10.4.2 to 10.4.1.3 shall be a restricted discretionary activity.

10.4.35 Under Rule 10.4.2 4 the Council shall restrict the exercise of its discretion to all of the following matters:

- 10.4.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga ~~runanga~~;
- 10.4.3.2 Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāahi Taonga Site or Wāahi Taonga Management Area as advised by local rūnanga and in the case of Wāhi Taonga Management Area C39(b), the New Zealand Historic Places Trust Pouhere Taonga runanga;
- 10.4.3.3 Any potential costs to the landholder of not being able to undertake the proposed activity on that site;
- 10.4.3.4 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;
- 10.4.3.5 Any positive effects which may offset any adverse effects; and
- 10.4.3.6 Any monitoring or review of conditions.

## Reasons for Rules

### Sites of Significance to Tāngata Whenua (Wāhi Taonga Management Areas)

Rule 10.4 manages activities in areas which contain sites of special significance to tāngata whenua. Protecting these sites is part of the duty under section 6(e) of the Act “to provide for the relationship of Maori and their customs and traditions with their ancestral lands, water, sites, wāahi tapu and other taonga and to “recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development” (Section 6(f).

Tāngata whenua have identified three types of sites in the plan. Silent File Areas may contain sites which are of immense cultural importance to tāngata whenua. The exact location of the site is not disclosed. Any disturbance of these sites may be inappropriate. The rule allows earthworks to occur on soil which has already been disturbed, but requires a resource consent for earthworks which will disturb soil in areas which had not been previously worked, or if the earthworks involve excavating soil to depths where it has not been disturbed by other activities. The Council restricts its discretion to whether the earthworks will disturb the special site within the Silent File area and whether that disturbance is inappropriate (as advised by local rūnanga ~~runanga~~).

Wāhi ~~Wāahi~~ Taonga Sites and Wāhi Taonga Management Areas contain sites of past settlement or occupation by tāngata whenua. Wāhi Taonga Sites are based on the grid reference of the original site and are extended for a 20m radius, in case there is other material around the site which has not been uncovered. The rules in the Plan do not prevent the soil in this 20m radius from being disturbed. If an object is uncovered in that area, it cannot be further damaged, removed or destroyed without obtaining a resource consent.

Wāhi Taonga Management Areas are areas which contain many Wāhi Taonga sites. The rules in the Plan for most Wāhi Taonga Management Areas in the District do not prevent the soil in the area from being disturbed. If an object is uncovered in that area, it cannot be further damaged, removed or destroyed without obtaining a resource consent. The rules for the Wāhi Taonga Management Area which make up the Rakaia River Moa Hunter Site (C39(a) and C39(b) at Rakaia Huts are more restrictive due to the significant cultural and archaeological values which have been identified in that area.

The rule allows earthworks to occur on soil which has already been disturbed (to a maximum depth of 20cm), but requires a resource consent for earthworks which will disturb soil in areas which had not been previously worked, or if the earthworks involve excavating soil to depths greater than 20cm where the soil has been previously disturbed. In assessing any application for resource consent made under Rule 10.4.2, the Council will consider whether the earthworks will disturb the special site within Wāhi Taonga Management area C39(b) and whether that disturbance is inappropriate, as advised by local rūnanga and the Historic Places Trust Pouhere Taonga.

Many Wāhi Taonga Sites and Wāhi Taonga Management Areas in the District Most of these sites have been uncovered by archaeologists and their location and what they contain is recorded. Earthworks in and around these sites are appropriate, provided that the artefacts and remnants which are contained within the sites are not removed, damaged or destroyed. Appendix 5 lists the artefacts, remnants or objects discovered so far within each site, though there may be more material located around the area. Wāhi Taonga Management Areas are areas which contain many Wāhi Taonga sites. The Council is encouraging land owners or managers and local rūnanga to develop joint protocols for activities within these areas.

Silent File Areas, Wāhi Taonga Sites and Wāhi Taonga Management Areas may also be considered as archaeological sites. Any activity affecting any archaeological site requires the consent of the New Zealand Historic Places Trust Pouhere Taonga (refer to Part B, Section 3.3, “Archaeological Sites”).

Mahinga Kai sites are sites used for traditional food gathering by tāngata whenua. The sites identified within this Plan are valued for their vegetation. A resource consent is required for this vegetation to be damaged or removed, except for mahinga kai purposes.

## PART C

# 12 LIVING ZONE RULES – SUBDIVISION

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### Notes:

1. The subdivision of any land is not a permitted activity. (This means that subdivision requires a resource consent).
2. If a subdivision is a controlled or restricted discretionary activity, the Council will restrict its discretion to the matters listed in the relevant rule under the heading “Matters over which the Council has restricted the exercise of its discretion”.
3. If subdivision is a discretionary or a non-complying activity, the Council is required to consider all relevant matters under Sections 104, 104B and 104D of the Act.

4. Rule 12 applies to the subdivision of land, within the meaning of Section 218 of the Act.
5. The design of any road, vehicular accessway, right of way or vehicle crossing must comply with Rule 5: Roading.
6. Any earthworks associated with subdivision of land must comply with Rule 2: Earthworks.
7. Erecting any dwelling or other building on any land must comply with Rule 4: Buildings or Rule 6: Utilities.
8. Underlined words are defined in Part D of the Plan.
9. The subdivision of any land adjoining a State Highway which is a Limited Access Road (LAR) firstly requires consent obtainable from Transit New Zealand. This is in addition to the subdivision application that is made with the Selwyn District Council. For any other LAR the consent is required from the Selwyn District Council in addition to the subdivision application.
10. Development contributions under the LTCCP Development Contribution Policy will be taken where network infrastructure, community infrastructure or reserves have to be constructed or expanded as a direct result of growth from development. Refer to Section B4.4 for further information on development contributions.
11. Earthworks in areas listed in Appendix 5 and shown on the planning maps as a Silent File Area, Wāhi Taonga Site or Wāhi Taonga Management Area may be subject to Rule 10.4 Activities and Cultural Sites. In addition, any Earthworks affecting any of these sites may require the consent of the New Zealand Historic Places Trust Pouhere Taonga (refer to Part B, Section 3.3 Archaeological Sites).
12. Earthworks affecting any archaeological site, including Wāhi Taonga Management Area C39(b) at Rakaia Huts, may require the consent of the New Zealand Historic Places Trust Pouhere Taonga.
13. Refer to Appendix 6 “Protocols on Accidental Discovery of Archaeological Sites” when any Earthworks occur in any Silent File, Wāhi Taonga Site or Wāhi Taonga Management Area.

## 12.1 SUBDIVISION – GENERAL

### Restricted Discretionary Activities – Subdivision – General

- 12.1.4 Matters over which the Council has restricted the exercise of its discretion:

#### Special Sites

- 12.1.4.15 For the subdivision of land which contains or adjoins any waterbody (excluding aquifers) any mitigation to protect the hydrological characteristics and any ecological values of the waterbody (excluding aquifers).

12.1.4.16 If the land to be subdivided contains any ecological site or any place or item which is listed in Appendix 2 as a Designation, Appendix 3 as a Heritage Item, Appendix 4 as a Protected Tree, Appendix 5 as a Site of Significance to Tangata Whenua:~~Appendix 3 as a Heritage, Cultural or Ecological site, or in Appendix 2 as a Designation, or in Appendix 4 as a Protected Tree:~~

- (a) Any effects (adverse or beneficial) which subdividing the land may have on the values of the site, which are identified in the District Plan; and
- (b) Any proposed mitigation measures to lessen any adverse effects on the site; and
- (c) Whether public access to the site is desirable and, if so, how this may be improved as part of the subdivision; and
- (d) Whether the size and shape of the allotment area is appropriate to maintain the values and features of the site and enable ready access to and maintenance of the site or features on the site.

## **12.2 SUBDIVISION – BOUNDARY ADJUSTMENTS**

### **Special Sites**

12.2.2.8 If any allotment subject to the boundary adjustment contains or adjoins:

- (a) Any waterbody excluding aquifers; or
- (b) Any site listed in Appendix 3 as a Heritage Item, Appendix 4 as a Protected Tree: or Appendix 5 as a Site of Significance to Tangata Whenua~~Appendix 3 or 4; or~~
- (c) A designation:

## **12.3 SUBDIVISION – ACCESS, RESERVE AND UTILITY ALLOTMENTS**

### **Controlled Activities – Subdivision – Access, Reserve and Utility Allotments**

12.3.2 Matters over which the Council has reserved control:

### **Special Sites**

12.3.2.5 If the land to be subdivided contains any ecological site or any place or item which is listed in ~~Appendix 2 or 3 or 4 as a Heritage site or~~



~~ecological site or protected tree, or designation: Appendix 2 as a Designation, Appendix 3 as a Heritage Item, Appendix 4 as a Protected Tree, Appendix 5 as a Site of Significance to Tangata Whenua;~~

.....

- (e) The results of any consultation with the New Zealand Historic Places Trust Pouhere Taonga and local rūnanga.

## PART C

# 24 BUSINESS ZONE RULES - SUBDIVISION

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24.1.4 Matters over which the Council has restricted the exercise of its discretion:

### **Special Sites**

- 24.1.4.16 If the land to be subdivided contains an ecological site or any place or item which is listed in Appendix 2 as a Designation, Appendix 3 as a Heritage Item, Appendix 4 as a Protected Tree, Appendix 5 as a Site of Significance to Tangata Whenua;~~Appendix 3 as a Heritage, Cultural or Ecological site, or in Appendix 2 as a Designation, or in Appendix 4 as a Protected Tree;~~

## **24.2 SUBDIVISION – BOUNDARY ADJUSTMENTS**

24.2.2 Matters over which the Council has restricted the exercise of its discretion:

### **Special Sites**

- 24.2.2.7 If any allotment subject to the boundary adjustment contains or adjoins:
- (a) Any waterbody (excluding aquifers); or
  - (b) Any ecological site, or any site listed in Appendix 2 as a Designation, Appendix 3 as a Heritage Item, Appendix 4 as a Protected Tree, Appendix 5 as a Site of Significance to Tangata Wheuna ~~Any site listed in Appendices 2 or 3 or 4; or~~
  - (c) ~~A designation:~~

## **24.3 SUBDIVISION – ACCESS, RESERVE AND UTILITY ALLOTMENTS**

24.3.2 Matters over which the Council has restricted the exercise of its discretion:

## Special Sites

- 24.3.2.5 If the land to be subdivided contains an ecological site or any place or item which is listed in Appendix 2 as a Designation, Appendix 3 as a Heritage Item, Appendix 4 as a Protected Tree, Appendix 5 as a Site of Significance to Tangata Whenua ~~2 or 3 or 4 as a Heritage site or ecological site or protected tree, or designation:~~
- (a) Any effects (adverse or beneficial) which subdividing the land may have on the values of the site identified in the District Plan; and
  - (b) Any proposed mitigation measures to lessen any adverse effects on these values; and
  - (c) Whether public access to the site is desirable and, if so, how this may be improved as part of the subdivision;
  - (d) Whether the size and shape of the allotment area is appropriate to maintain the values and features of the site and enable ready access to and maintenance of the site.
  - (e) The results of any consultation with the New Zealand Historic Places Trust Pouhere Taonga and the local rūnanga.

## PART D

# DEFINITIONS

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## H

**Historic Heritage:** means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

- (i) archaeological;
- (ii) architectural;
- (iii) cultural;
- (iv) historic;
- (v) scientific;
- (vi) technological; and

Includes-

- (i) historic sites, structures, places, and areas; and
- (ii) archaeological sites; and
- (iii) sites of significance to Maori, including wahi tapu; and
- (iv) surroundings associated with the natural and physical resources.

## L

**Landscaping:** means the visual improvement of an area through designed live planting of trees, shrubs and ground cover for amenity purposes and may include provision of physical features such as paving, walls, art and seating. For the purposes of this definition, landscaping does not include the re-contouring of land by removing or displacement of earth or soil.

## **M**

**Maintenance of gardens lawns or public spaces:** means carrying out any work to preserve existing gardens lawns or public spaces in such a way that the scale or nature of the gardens lawns or public spaces is not altered. Maintenance does not include upgrading.

## **S**

**Silent File Area:** includes any land which is listed in Appendix 5 and shown on the Planning Maps as a Silent File Area.

## **W**

**Wāhi Taonga Site:** includes any land, building or structure which is listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site.

**Wāhi Taonga Management Area:** includes any land, building or structure which is listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Management Area.

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PART E

## APPENDIX 5

### **Schedule of Sites of Significance to Tangata Whenua**

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### **~~SITES OF SIGNIFICANCE TO TANGATA WHENUA~~**

**Wāhi Taonga Management Areas**

<b><u>Site No.</u></b>	<b><u>Description</u></b>	<b><u>Location</u></b>	<b><u>Legal Description</u></b>	<b><u>Zone</u></b>	<b><u>Map No.</u></b>
C39(b)	Rakaia River Moa Hunter Site  Archaeological Site	Rakaia Huts	Lot 31, Lots 33-48, Lots 50-55 & Lot 57 DP355509, Lots 2 & 3 DP38661, Lots 1 & 2 DP 433364, Lots 1 - 3 DP 50684, Lots 1-9 and Lots 12 - 37 DP 54813, Lots 1 & 2 DP 57141, Lots 1 & 2 & Lots 5 - 11 DP 6253, Lots 13 - 20 DP 6253 and RES 4092	Living 1	133
<b><u>Site No.</u></b>	<b><u>Location</u></b>	<b><u>Legal Description</u></b>	<b><u>Zone</u></b>	<b><u>Map No.</u></b>	
C103	Rakaia Huts	Res 4092, Lots 1-2 DP 55293, Lots 19 and 20 DP 6283, Lots 2 and 3 DP 38661, Lots 1-9 DP 54813, Lots 12-37 DP 54813, Lots 1 and 2 DP 57141, Lot 1 DP 74178	Liv 1 / Outer Plains	133	

## **ATTACHMENT 2**

### **Amendments to the District Plan (Rural Volume)**

Amendments to the District Plan are shown with additions double underlined and deletions ~~struck out~~.

### **B3.3 CULTURE AND HISTORIC HERITAGE – ISSUE**

- **Damage to, destruction of or inappropriate alteration of sites, places, trees and vegetation, buildings or structures which have ~~cultural or~~ historic heritage values.**

#### **Historic Heritage in Selwyn District**

Selwyn District is an area which has been affected by several waves of colonisation by Māori and Europeans. As a result there are sites, places and buildings which are of cultural or heritage value to individuals, families, iwi, rūnanga and communities in the District.

Some of these sites, places and buildings have been identified and protected in past planning schemes. Many significant trees have been protected for many years and it is the intention of the council to continue to provide recognition and protection for trees that display important values for the community or the environment

Sites, areas or buildings may have heritage values if they are places or objects which people associate with their identity, history, events, customs or practices. Usually these values are shared by more than one person. Most often, people associate heritage values with old buildings, ruins or significant trees and vegetation. Many other things have heritage values. For example, plants used in customary practices, landforms, modern buildings that are part of a community's identity, routes and trails, and traditional activities and trees planted to commemorate special events.

Part of promoting the sustainable management of natural and physical resources is enabling:

*“people and communities to provide for their economic, cultural and social well-being and for their health and safety...” (section 5(2)).*

Section 6(e) of the Act requires the relationship of Maori, their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga to be recognised and provided for. In addition, section 6(f) of the Act requires Selwyn District Council to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development.

The Act defines historic heritage as meaning those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

- (i) archaeological:
- (ii) architectural:
- (iii) cultural:
- (iv) historic:
- (v) scientific:

(vi) technological;

and includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with the natural and physical resources

Historic heritage is not only part of our inheritance from the past; it is also a part of our contemporary identity and sense of place. Historic heritage, including cultural connections and associations with places, makes an important contribution to the physical environment. In particular, historic heritage is a vital part of what makes a place unique or important for the people who live there.

Historic heritage is important because it provides a tangible insight into our past and can be an important source of knowledge. Heritage features can act as a reminder or social link to the past that is important to the community, but they can also provide valuable information that contributes to the knowledge of our history and environment. For example historic buildings provide information about the tools, technology and materials available at the time as well as contributing to a sense of place. Another example is examining an archaeological site to find information about how people lived in the past, and what their environment was like at that time. The accidental or inadvertent destruction or damage of heritage features can cause the loss of this knowledge as well as a social/cultural link to the past

## **Statutory Acknowledgement and Nohoanga Sites**

The Ngāi Tahu Claims Settlement Act 1998 identifies Areas of Statutory Acknowledgement. These areas are culturally significant to Ngāi Tahu. In Selwyn District, there are four “Areas of Statutory Acknowledgement”:

1. Moana Rua/Lake Pearson
2. Kura Tawhiti/Castle Hill
3. Whakamatau/Lake Coleridge
4. Te Tai o Manaanui/Selwyn-Banks Peninsula Coastal Marine Area

The Act requires these areas to be identified on a map attached to the District Plan (see Planning Maps).

Ngāi Tahu is an affected party for any activity which affects Areas of Statutory Acknowledgement, for the purposes of sections 95 - 95F of the RMA. The consent authority has discretion to decide if an activity will affect the area. If it will, Ngāi Tahu is an affected party similar to any landholder or resident in the area.

Nohoanga sites are areas of customary settlement for mahinga kai (food gathering). One site is recognised in Selwyn District under the Ngāi Tahu Claims Settlement Act 1998. It is located at the mouth of the Rakaia River (see Planning Map 1). The Ngāi Tahu Claims Settlement Act 1998 gives Ngāi Tahu rights to occupy land at Nohoanga Sites for mahinga kai, including the right to erect temporary dwellings or shelters (section 259).

The Ngāi Tahu Claims Settlement Act 1998 recognises the significance of Te Waihora/Lake Ellesmere (see Part A Section 4.2 Maori Issues and Values). The Ngāi Tahu Claims Settlement Act provides for the bed of Te Waihora/Lake Ellesmere to be vested in fee simple estate to Te Rūnanga o Ngāi Tahu. The Act also has provisions for the preparation of a Joint Management plan for Te Waihora, to be developed between Ngāi Tahu and the Department of Conservation, with input from local authorities.

## **Sites of Wāhi Taonga and Wāhi Tapu**

Areas in Selwyn District have been traversed, occupied or settled by Māori. Part A, Section 4.2 explains the role of Māori in resource management under the Act, and describes the tāngata whenua of Selwyn District.

Wāhi Taonga and Wāhi Tapu are sacred places, which are held in reverence according to tribal custom. They provide a link to tribal custom. Protecting them helps protect and remember the mana of ancestors, and provides protection for future generations.

Sacred places include:

- Tauranga waka (canoe/landing sites)
- Waiwhakaheke Tūpāpaku (burial or habitation)
- Tuhituhi (rock drawing sites)
- Tuaha (sacred altars)
- Urupā (burial grounds)
- Pa sites
- Wai Taonga mahi o ringa (special sites where one finds material such as Harakeke-Flax and pingao-sand sedge).

These areas may have a rāhui (temporary tapu) placed on them.

Sites of wāhi taonga and wāhi tapu may be damaged or destroyed by earthworks or building, associated with a variety of activities. Wāhi taonga and wāhi tapu sites may also be disturbed by people or animals. Any sort of disturbance may be inappropriate, whether physical damage is done to the site or not.

In addition to wāhi taonga and wāhi tapu sites, there are sites of mahinga kai (food gathering) which are important to local rūnanga. Indigenous trees and plants can also have cultural values to Māori. For example, tikaka, the cabbage tree (*Cordyline Australis*) was a food source for Ngāi Tahu and used to mark Mahinga Kai trails.

All natural resources, including land, air and water are taonga (treasured) to Māori. Effects of activities on these values are addressed in Part B, Sections 1.1 to 1.4 of the Plan.

## **European Historic Heritage Sites and Buildings**

Selwyn District has been colonised and farmed by European settlers since the 1850s. Coal, lime and clay were mined in the Malvern foothills. Rural towns developed associated with farming and



mining activities, and the railway to the West Coast which began in the 1870s. Many of the existing townships in Selwyn were settled very early in European colonisation. These towns typically had accommodation houses, trading stores, simple dwellings, community buildings and services such as drainage systems.

There are many sites and buildings with heritage values in the rural area. For example:

- Various styles of houses.
- Community buildings – schools, churches and halls which are often the last links or symbols of a once thriving town or settlement.
- Early farming or transport infrastructure: water races, bridges, roads, shelter belts; much of which is still used.
- A variety of exotic plants grown for shelter, amenity or to commemorate events.
- Industrial sites.

Heritage sites or buildings do not have to be old to have heritage values. Modern examples with heritage values may include: plantings or structures created by communities to celebrate the new millennium.

Many of the District's heritage sites and buildings are located in the rural area. Land uses in the rural area, particularly beyond the Inner Plains (see Planning Maps) have not changed as quickly as in townships. When new buildings and structures are needed in rural areas, there is often sufficient space to put them alongside old ones, rather than demolishing and replacing old ones.

## **Damage to Sites with Historic Heritage Values**

Sites and buildings with historic heritage values may be lost or damaged by natural forces such as fire, earthquake, weather or diseases in plants. Human and animal activities can also affect sites and buildings. Examples include earthworks, additions, alterations or modification to buildings or parts of buildings which are not in keeping with the original style, removing buildings, ruins or trees or disturbing wāhi taonga and wāhi tapu sites.

Old buildings and structures can also become derelict, particularly when they are no longer used or maintained. Many of the heritage buildings in the rural area are lost because they become derelict rather than being intentionally destroyed.

## **Protecting Historic Heritage Values**

As well as the specific duties under section 6 of the Act, maintaining sites and buildings with historic heritage values in Selwyn District can:

- Help teach people about their past;
- Foster people's sense of identity and community;
- Provide economic opportunities in heritage, tourism, recreation, restoration and marketing;  
and
- Recognise and provide for the protection of heritage and cultural sites.

Protecting sites and structures with historic heritage values involves costs:

- Many sites and structures are privately owned or on private land. Protecting them may sometimes prevent the landholder from using the site or structure for other purposes, although adapting heritage buildings for new uses is common.
- Heritage buildings and structures need to be maintained to ensure their retention.
- Using heritage buildings can be costly as when the use of any building changes, the building must be upgraded as is reasonably practicable to the same level as for a new building to comply with the New Zealand Building Code.

Any measures in the District Plan to protect the historic heritage values of sites must:

- Recognise the costs to landholders if they cannot reasonably use buildings or sites.
- Be practical, easy and inexpensive for landholders to comply with.
- Encourage the ongoing use and maintenance of buildings and structures.

In addition, section 32 of the Act requires a council to assess the costs and benefits of any rule in a District Plan.

## **Archaeological Sites**

An archaeological site is defined in section 2 of the Historic Places Act 1993 as:

"Archaeological site" means any place in New Zealand that–

(a) Either –

(i) Was associated with human activity that occurred before 1900; or

(ii) Is the site of the wreck of any vessel where that wreck occurred before 1900;  
and

(b) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand".

Archaeological sites may be Maori or European in origin and may also be recognised as having spiritual or cultural values such as wāhi tapu sites. There are various types of archaeological sites, some of which include midden and pa sites, terraces, garden areas, kumara pits, battle grounds, areas of early settlement by Maori and Europeans, early industrial areas, rock art sites and shipwrecks.

Section 10 of the Historic Places Act 1993 directs that an archaeological authority is required from the New Zealand Historic Places Trust Pouhere Taonga if there is "reasonable cause" to suspect an archaeological site (recorded or unrecorded) may be modified, damaged or destroyed in the course of an activity.

Under the RMA 1991, a District Council shall recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development (section 6(f)). This requirement in the Act compels a council to identify known sites through the Plan and protect them from use

and development through various methods. For this purpose, Appendices 3 and 5 include archaeological sites recorded in the New Zealand Archaeological Association (NZAA) site recording scheme.

## **Role of District Councils**

Managing effects of activities on sites or buildings with heritage or cultural values is largely a function of district councils under section 31 of the Act. District councils are also Heritage Protection Authorities under section 193 of the Act. This power enables the District Council to use Heritage Orders to halt the alteration or demolition of a site or building with heritage values, whether it is protected in the District Plan or not. If a Heritage Order is used, the Heritage Protection Authority has 12 months to buy the building or site, or to negotiate an appropriate outcome with the owner.

## **Heritage Orders**

The Council has decided to identify sites and buildings with heritage or cultural values in the District Plan, rather than relying on Heritage Orders. The reasons are:

- Certainty for landholders that a site or building is protected under the Plan, rather than having a “surprise” at the time they come to make alterations.
- Certainty for the community that a site or building is protected.
- Preserving the heritage values of sites and buildings can be successfully undertaken while allowing the landowner to continue or modify their use of the site or building.

## **Historic Places Act 1993**

The New Zealand Historic Places Trust Pouhere Taonga is required to be notified of any proposed works affecting a listed heritage item that requires a building consent or any activities which may impact on a site of cultural significance. In addition the Trust is an affected party for resource consents involving places with heritage values.

## **What are Heritage Values?**

The term heritage values is not defined in the Act. However, sites, areas or buildings may have heritage values if they are places or objects which people associate with their identity, history, events, customs or practices. Usually these values are shared by more than one person. Often people think of heritage sites as old buildings, or ruins. Many other things have heritage values including significant trees and vegetation. For example, plants used in customary practices, landforms, modern buildings that are part of a community's identity, routes and trails, traditional activities, and trees planted to commemorate special events.<sup>PC18</sup>

## **Heritage and Cultural Values in Selwyn District**

~~Selwyn District has been settled by Māori and Europeans. There are sites, places and buildings which have cultural or heritage values to individuals, families, iwi, rūnanga and communities in the District.~~

~~Some of these sites, places and buildings have been identified and protected in past planning schemes.~~

~~Part of promoting sustainable management is recognising and protecting:~~

~~—— The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. (section 6(e)).~~

~~—— The protection of historic heritage from inappropriate subdivision, use and development (section 6(f)).~~

~~Many significant trees have been protected for many years and it is the intention of the Council to continue to provide recognition and protection for trees that display important values for the community or the environment.~~

## **~~Statutory Acknowledgement and Nohoanga Sites~~**

~~The Ngāi Tahu Claims Settlement Act 1998 identifies Areas of Statutory Acknowledgement. These areas are culturally significant to Ngāi Tahu. In Selwyn District, there are four “Areas of Statutory Acknowledgement”:~~

- ~~1. — Moana Rua/Lake Pearson~~
- ~~2. — Kura Tawhiti/Castle Hill~~
- ~~3. — Whakamatau/Lake Coleridge~~
- ~~4. — Te Tai o Manaanui/Selwyn Banks Peninsula Coastal Marine Area~~

~~The Act requires these areas to be identified on a map attached to the District Plan (see Planning Maps).~~

~~Ngāi Tahu is an affected party for any activity which affects Areas of Statutory Acknowledgement, for the purposes of section 93 and 94 of the RMA. The consent authority has discretion to decide if an activity will affect the area. If it will, Ngāi Tahu is an affected party similar to any landholder or resident in the area.~~

~~Nohoanga sites are areas of customary settlement for mahinga kai (food gathering). One site is recognised in Selwyn District under the Ngāi Tahu Claims Settlement Act 1998. It is located at the mouth of the Rakaia River (see Planning Map 1). The Ngāi Tahu Claims Settlement Act 1998 gives Ngāi Tahu rights to occupy land at Nohoanga Sites for mahinga kai, including the right to erect temporary dwellings or shelters (section 259).~~

~~The Ngāi Tahu Claims Settlement Act 1998 recognises the significance of Te Waihora/Lake Ellesmere (see Part A Section 4.2 Maori Issues and Values). The Ngāi Tahu Claims Settlement Act provides for the bed of Te Waihora/Lake Ellesmere to be vested in fee simples to Te Rūnanga o Ngāi Tahu. The Act also has provisions for the preparation of a Joint Management plan for Te Waihora, to be developed between Ngāi Tahu and the Department of Conservation, with input from local authorities.~~

## **Sites of Wāhi Taonga and Tapu**

Areas in Selwyn District have been traversed, occupied or settled by Māori. Part A, Section 4.2 explains the role of Māori in resource management under the Act, and describes the tāngata whenua of Selwyn District.

Wāhi Taonga and Wāhi Tapu are sacred places, which are held in reverence according to tribal custom. They provide a link to tribal custom. Protecting them helps protect and remember the mana of ancestors, and provides protection for future generations.

Sacred places include:

- Tauranga waka (canoe/landing sites)
- Waiwhakaheke Tūpāpaku (burial or habitation)
- Tuhituhi (rock drawing sites)
- Tuaha (sacred altars)
- Urupā (burial grounds)
- Pa sites
- Wai Taonga mahi o ringa (special sites where one finds material such as Harakeke Flax and pingao sand sedge).

These areas may have a rāhui (temporary tapu) placed on them.

Sites of wāhi taonga and wāhi tapu may be damaged or destroyed by earthworks or building, associated with a variety of activities. Wāhi taonga and wāhi tapu sites may also be disturbed by people or animals. Any sort of disturbance may be inappropriate, whether physical damage is done to the site or not.

In addition to wāhi taonga and wāhi tapu sites, there are sites of mahinga kai (food gathering) which are important to local rūnanga. Indigenous trees and plants can also have cultural values to Māori. For example, tikaka, the cabbage tree (*Cordyline Australis*) was a food source for Ngāi Tahu and used to mark Mahinga Kai trails.

All natural resources, including land, air and water are taonga (treasured) to Māori. Effects of activities on these values are addressed in Part B, Sections 1.1 to 1.4 of the Plan.

## **Heritage Sites and Buildings**

Selwyn District has been colonised and farmed by European settlers since the 1850's. Coal, lime and clay were mined in the Malvern foothills. Rural towns developed associated with farming and mining activities, and the railway to the West Coast which began in the 1870's. Many of the existing townships in Selwyn were settled very early in European colonisation. These towns typically had accommodation houses, trading stores, simple dwellings, community buildings and services such as drainage systems.

There are many sites and buildings with heritage values in the rural area. For example:

- Various styles of houses.

- Community buildings — schools, churches and halls which are often the last links or symbols of a once thriving town or settlement.
- Early farming or transport infrastructure: water races, bridges, roads, shelter belts; much of which is still used.
- A variety of exotic plants grown for shelter, amenity or to commemorate events.
- Industrial sites.

Heritage sites or buildings do not have to be old to have heritage values. Modern examples with heritage values may include: plantings or structures created by communities to celebrate the new millennium.

Many of the District's heritage sites and buildings are located in the rural area. Land uses in the rural area, particularly beyond the Inner Plains (see Planning Maps) have not changed as quickly as in townships. When new buildings and structures are needed in rural areas, there is often sufficient space to put them alongside old ones, rather than demolishing and replacing old ones.

## **Damage to Sites with Heritage or Cultural Values**

Sites and buildings with heritage or cultural values may be lost or damaged by natural forces such as fire, earthquake, weather or diseases in plants. Human and animal activities can also affect sites and buildings. Examples include earthworks, additions, alterations or modification to buildings or parts of buildings which are not in keeping with the original style, removing buildings, ruins or trees or disturbing wāhi taonga and wāhi tapu sites.

Old buildings and structures can also become derelict, particularly when they are no longer used or maintained. Many of the heritage buildings in the rural area are lost because they become derelict rather than being intentionally destroyed.

## **Protecting Heritage and Cultural Values**

As well as the specific duties under section 6 of the Act, maintaining sites and buildings with heritage values in Selwyn District can:

- Help teach people about their past;
- Foster people's sense of identity and community;
- Provide economic opportunities in heritage, tourism, recreation, restoration and marketing; and
- Recognise and provide for the protection of heritage and cultural sites.

Protecting sites and structures with heritage and cultural values involves costs:

- Many sites and structures are privately owned or on private land. Protecting them may sometimes prevent the landholder from using the site or structure for other purposes, although adapting heritage buildings for new uses is common.
- Heritage buildings and structures need to be maintained to ensure their retention.

~~—— Using heritage buildings can be costly as when the use of any building changes, the building must be upgraded as is reasonably practicable to the same level as for a new building to comply with the New Zealand Building Code.~~

Any measures in the District Plan to protect the heritage and cultural values of sites must:

- ~~—— Recognise the costs to landholders if they cannot reasonably use buildings or sites.~~
- ~~—— Be practical, easy and inexpensive for landholders to comply with.~~
- ~~—— Encourage the ongoing use and maintenance of buildings and structures.~~

Part of promoting sustainable management of natural and physical resources is enabling:

~~“people and communities to provide for their economic, cultural and social well-being and for their health and safety...” (section 5(2)).~~

~~In addition, sections 6 (e) and (f) of the Act relate to the recognition of the relationship between Maori and their culture, and the protection of historic heritage from inappropriate subdivision use and development. In addition, section 32 of the Act requires a council to assess the costs and benefits of any rule in a District Plan.~~

## Archaeological Sites

An archaeological site is defined in section 2 of the Historic Places Act 1993 as:

~~"Archaeological site" means any place in New Zealand that—~~

~~(a) — Either—~~

~~(i) — Was associated with human activity that occurred before 1900; or~~

~~(ii) — Is the site of the wreck of any vessel where that wreck occurred before 1900; and~~

~~(iii) — Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand". Check whether this is (b) or (iii)~~

~~Archaeological sites may be Maori or European in origin and may also be recognised as having spiritual or cultural values such as wāhi tapu sites. There are various types of archaeological sites, some of which include midden and pa sites, terraces, garden areas, kumara pits, battle grounds, areas of early settlement by Maori and Europeans, early industrial areas, rock art sites and shipwrecks.~~

~~Section 10 of the Historic Places Act 1993 directs that an authority is required from the New Zealand Historic Places Trust Pouhere Taonga if there is “reasonable cause” to suspect an archaeological site (recorded or unrecorded) may be modified, damaged or destroyed in the course of an activity. Under the RMA 1991, a District Council shall have particular regard to the recognition and protection of heritage values of sites, buildings, places and areas (section 6(f)). This requirement in the Act compels a council to identify known sites through the Plan and protect them from use and development through various methods. For this purpose, Appendices 3 and 5 include archaeological sites recorded in the NZAA (New Zealand Archaeological Association) site recording scheme.~~

## **~~Role of District Councils~~**

~~Managing effects of activities on sites or buildings with heritage or cultural values is largely a function of district councils under section 31 of the Act. District councils are also Heritage Protection Authorities under section 193 of the Act. This power enables the District Council to use Heritage Orders to halt the alteration or demolition of a site or building with heritage values, whether it is protected in the District Plan or not. If a Heritage Order is used, the Heritage Protection Authority has 12 months to buy the building or site, or to negotiate an appropriate outcome with the owner.~~

## **~~Heritage Orders~~**

~~The Council has decided to identify sites and buildings with heritage or cultural values in the District Plan, rather than relying on Heritage Orders. The reasons are:~~

- ~~—— Certainty for landholders that a site or building is protected under the Plan, rather than having a “surprise” at the time they come to make alterations.~~
- ~~—— Certainty for the community that a site or building is protected.~~
- ~~—— Preserving the heritage values of sites and buildings can be successfully undertaken while allowing the landowner to continue or modify their use of the site or building.~~

## **~~Historic Places Act 1993~~**

~~New Zealand Historic Places Trust Pouhere Taonga is required to be notified of any proposed works affecting a listed heritage item that requires a building consent. In addition the Trust is an affected party for resource consents involving places of heritage values.~~

## **HISTORIC HERITAGE CULTURE AND HERITAGE — STRATEGY**

The Rural Volume of the District Plan uses the following basic strategy to protect sites with cultural and heritage values:

.....

## **HISTORIC CULTURE AND HERITAGE — OBJECTIVES**

### **Objective B3.3.3**

To recognise and protect trees that contribute to character, ecological, or amenity values and/or are of significance to tāngata ~~tāngata~~ whenua, and the quality of the rural and urban environments identified in the District Plan.



## Explanation and Reasons

Objective B3.3.1 reflects the duty under section 6(f) of the Act to recognise and provide for the protection of wāhi tapu and other sites of cultural importance to Māori from inappropriate subdivision, use, and development. The policies encourage local rūnanga and landholders to develop protocols for activities in Silent File areas. The co-operation of landholders is important for on-going protection of these sites and access to them. The District Plan also contains a policy and rules to manage earthworks, buildings and other activities in Silent File areas. Silent File areas are areas which contain sites of immense cultural or spiritual importance to tāngata whenua. The exact location of the site is not indicated, to protect it from intentional disturbance. Any Silent File areas protected by the District Plan are shown on the Planning Maps and listed in Appendix 5. The Appendix should be regularly reviewed and sites may be added or removed by a plan change as required.

Objective B3.3.2 also reflects the duty under section 6(f) of the Act to recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development. The objective recognises that not all sites or buildings with heritage values in the District will warrant formal protection under the Act. The objective is achieved by policies and methods to: record the heritage values of any site or building and to protect those with significant heritage values. The places identified to have significant heritage values are listed in Appendix 3. Wherever possible, the Council works with landholders to protect heritage sites in partnership. A partnership is:

- Necessary to ensure sites and buildings in private ownership, are maintained; and
- Desirable to encourage people to protect the District's heritage, in the future.

Objective B3.3.2 fosters partnerships to protect heritage sites. The process of assessing the heritage values of sites was carried out in consultation with landholders. The provisions to protect heritage sites and buildings recognise the "costs" and "benefits" of owning heritage sites.

The policies and rules for protecting heritage sites and buildings:

- Allow modifications and alterations, maintain or enhance the heritage values of the site or building.
- Discourage demolition of sites or buildings, but recognise that in some cases there may be no practical alternative.

~~Objective B3.3.1 reflects the duty under section 6(e) of the Act to recognise and protect sites of wāhi tapu and other cultural importance to Māori. The policies encourage local rūnanga and landholders to develop protocols for activities in Silent File areas. The co-operation of landholders is important for on-going protection of these sites and access to them. The District Plan also contains a policy and rules to manage earthworks, buildings and other activities in Silent File areas. Silent File areas, are areas which contain sites of immense cultural or spiritual importance to tāngata whenua. The exact location of the site is not indicated, to protect it from intentional disturbance. Any Silent File areas protected by the District Plan are shown on the Planning Maps and listed in Appendix 5. The Appendix should be regularly reviewed and sites may be added or removed by a plan change as required.~~

~~Objective B3.3.2 reflects the duty under section 6(f) of the Act to have particular regard to the protection of the heritage values of sites, areas and buildings. The objective recognises that not all sites or buildings with heritage values in the District will warrant formal protection under the Act. The objective is achieved by policies and methods to: record the heritage values of any site~~

~~or building and to protect those with significant heritage values. The places identified to have significant heritage values are listed in Appendix 3. Wherever possible, the Council works with landholders to protect heritage sites in partnership. A partnership is:~~

- ~~—— Necessary to ensure sites and buildings in private ownership, are maintained; and~~
- ~~—— Desirable to encourage people to protect the District's heritage, in the future.~~

~~Objective B3.3.2 fosters partnerships to protect heritage sites. The process of assessing the heritage values of sites was carried out in consultation with landholders. The provisions to protect heritage sites and buildings recognise the “costs” and “benefits” of owning heritage sites.~~

~~The policies and rules for protecting heritage sites and buildings:~~

- ~~—— Allow modifications and alterations, maintain or enhance the heritage values of the site or building.~~
- ~~—— Discourage demolition of sites or buildings, but recognise that in some cases there may be no practical alternative.~~

Objective B3.3.3 seeks to provide for the recognition and protection of trees that display values of significance to the community or environment. These trees contribute to character, ecological or amenity values and/or are of significance to tāngata ~~tāngata~~ whenua, along with contributing to the quality of the rural and urban environments in the District. Significant trees are generally appreciated by the community and require protection from development and activities that may lead to damage or their destruction.

## **HISTORIC CULTURE AND HERITAGE — POLICIES AND METHODS**

### **MĀORI SITES**

#### **Policy B3.3.3(a)**

**Protect sites within areas recognised in the Plan as Silent File areas, .....**

#### **Policy B3.3.4 ~~3~~(b)**

**Protect areas identified in the Plan as Wāhi Taonga Sites, Wāhi Taonga Management Areas and Mahinga Kai sites, from inappropriate damage or destruction, ~~whenever practical.~~**

#### **Explanation and Reasons**

Policies B3.3.3 and B3.3.4-recognise and provide for the protection of four types of sites, in the Plan.

Silent File Areas may contain sites of immense cultural importance to local rūnanga. The Silent File Areas are listed in Appendix 5 and shown on the Planning Maps. The exact location and the type of site within the silent file area are not disclosed by local rūnanga, to try and reduce the likelihood of intentional damage to the site and in respect of the traditions of keeping this information among tribal elders.

Wāhi Taonga Sites are sites of traditional occupation or use by local rūnanga. Most have been uncovered by archaeologists and contain objects or remnants of their past use. The Wāhi Taonga Sites are based on the grid reference of the original site and are extended for a 20m radius, in case there is other material around the site which has not been uncovered.

Wāhi Taonga Management Areas are large areas which contain many Wāhi Taonga Sites. There are six Wāhi Taonga Management Areas in the District; at Rakaia Island, along the Coast from the Rakaia River to Fisherman's Point, Taumutu, along the bed of the Waikirikiri/Selwyn River and the area surrounding and including the Rakaia Huts Township, which has two distinct Wāhi Taonga Management Areas, one of which is the culturally and archaeologically significant Rakaia River Moa Hunter Site. For the purposes of management under the District Plan, the Rakaia River Mouth Moa Hunter Site has been divided into 2 sub Wāhi Taonga Management Areas (C39(a) and C39(b) with site C39(a) relating directly to the land zoned Rural (Outer Plains) to the east of Rakaia Huts Township itself.

Mahinga Kai sites are sites which were traditionally used to gather food or materials for medicine, crafts and other traditional activities. Many wetlands and waterbodies are sites of mahinga kai. In addition, there are two sites of identified land, where vegetation is traditionally gathered. The District Plan rules require a resource consent to damage or remove indigenous vegetation on these sites, other than for mahinga kai purposes.

Policy B3.3.3 relates to Silent File Areas. Any disturbance of the sites within Silent File Areas is usually inappropriate. However, much land within the Silent File Areas has been disturbed in the past as part of farming or building activities. Therefore, the District Plan rules allow any activity which disturbs soil over an area or to a depth where it has already been disturbed, as a permitted activity (no resource consent needed). Any activity which disturbs soil in areas or to depths where it has not previously been disturbed requires a resource consent.

In deciding whether any disturbance of land in a Silent File Area is appropriate, the Council shall refer to local rūnanga for advice about whether the proposed activity will disturb a culturally important site within the Silent File Area. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all.

Policy B3.3.4 relates to Wāhi Taonga Sites, Wāhi Taonga Management Areas, and Mahinga Kai Sites. These sites are listed in Appendix 5 and shown on the Planning Maps. The information about the location and content of these sites is publicly recorded and the aim of Policy B3.3.4 is to protect the artefacts and remnants contained in these sites from damage or destruction.

The Wāhi Taonga Sites are based on the grid reference of the original site and are extended for a 20m radius, in case there is other material around the site which has not been uncovered. The rules in the Plan do not prevent the soil in this 20m radius from being disturbed. If an object is

uncovered in that area, it cannot be further damaged, removed or destroyed without first obtaining a resource consent.

With regard to Wāhi Taonga Management Area C39(a) at Rakaia Huts; the area is still of significant cultural and archaeological value in spite of significant alteration and disturbance to the area since European settlement. The District Plan identifies a number of activities which are considered to have less than minor effects on the cultural and archaeological values of Wāhi Taonga Management Area C39(b). These activities do not require a resource consent for earthworks. Activities exempt from the earthworks rules include:

- sowing tending or cultivating crops;
- digging post holes;
- Maintenance or landscaping of gardens, lawns or public spaces;
- burying pets; and
- trenching compost

The District Plan allows any activity not exempt from the earthworks rules to disturb soil over areas which have been previously disturbed by cultivation, planting or earthworks (to a depth of no more than 20cm) as a permitted activity (no resource consent needed). Any activity not exempt from the rules and which does disturb soil in areas previously disturbed by cultivation, planting or earthworks to depths more than 20cm, or disturbs soil in areas not previously disturbed shall require a resource consent.

In deciding whether protecting any Wāhi Taonga Site, Wāhi Taonga Management Area or Mahinga Kai site is practical, the Council shall refer to local rūnanga for advice about the effects of the proposed activity on the site and the cultural significance of the site. In relation to Wāhi Taonga Management Area C39(a) at Rakaia Huts, Council shall refer to the New Zealand Historic Places Trust Pouhere Taonga for advice about the effects of the proposed activity on any archaeological values. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all.

In addition, the provisions of the Historic Places Act 1993 apply to the Wāhi Taonga Management Areas in and around Rakaia Huts Township ((C39(a) and C39(b) ). Other Wāhi Taonga sites and management areas may also be subject to the Historic Places Act 1993, as they may be considered archaeological sites.

Where a landholder requires a resource consent to undertake an activity .....

~~Policies B3.3.3 (a) and (b) recognise and provide for the protection of four types of sites, in the Plan.~~

~~Policy B3.3.3(a) relates to Silent File Areas. Silent File Areas may contain sites of immense cultural importance to local rūnanga. The Silent File Areas are listed in Appendix 5 and shown on the Planning Maps. The exact location and the type of site within the Silent File Area, are not disclosed by local rūnanga, to try and reduce the likelihood of intentional damage to the site and in respect of the traditions of keeping this information among tribal elders.~~

~~Any disturbance of the sites within Silent File Areas is usually inappropriate. However, much land within the Silent File Areas has been disturbed in the past as part of farming or building activities.~~

~~Therefore, the District Plan rules allow any activity which disturbs soil over an area or to a depth where it has already been disturbed, as a permitted activity (no resource consent needed). Any activity which disturbs soil in areas or to depths where it has not previously been disturbed, requires a resource consent. In deciding whether any disturbance of land in a Silent File area is appropriate, the Council shall refer to local rūnanga for advice about whether the proposed activity will disturb a culturally important site within the Silent File Area. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all.~~

~~Policy B3.3.3(b) relates to Wāhi Taonga Sites, Wāhi Taonga Management Areas, and Mahinga Kai Sites. These sites are listed in Appendix 5 and shown on the Planning Maps. Wāhi Taonga Sites are sites of traditional occupation or use by local rūnanga. Most have been uncovered by archaeologists and contain objects or remnants of their past use. The information about the location and content of these sites is publicly recorded and the aim of Policy B3.3.3(b) is to protect the artefacts and remnants contained in these sites from damage or destruction. The Wāhi Taonga Sites are based on the grid reference of the original site and are extended for a 20m radius, in case there is other material around the site which has not been uncovered. The rules in the Plan do not prevent the soil in this 20m radius from being disturbed. If an object is uncovered in that area, it cannot be further damaged, removed or destroyed without obtaining a resource consent.~~

~~Wāhi Taonga Management Areas are large areas which contain many Wāhi Taonga Sites. There are four areas in the District at, Rakaia Island, Taumutu, along the Coast from the Rakaia River to Fisherman's Point, and along the bed of the Waikirikiri/Selwyn River. The Council wishes to foster a partnership between local rūnanga, landholders and Environment Canterbury (coast and Waikirikiri/Selwyn River bed) for the appropriate management of these areas.~~

~~Mahinga Kai Sites are sites which were traditionally used to gather food or materials for medicine, crafts and other traditional activities. Many wetlands and waterbodies are sites of mahinga kai. In addition, there are two sites identified on land, where vegetation is traditionally gathered. The District Plan rules require a resource consent to damage or remove indigenous vegetation on these sites, other than for mahinga kai purposes.~~

~~In deciding whether protecting any Wāhi Taonga Site, Wāhi Taonga Management Area or Mahinga Kai site is practical, the Council shall refer to local rūnanga for advice about the effects of the proposed activity on the site and the cultural significance of the site. The Council will also consider whether there are alternative sites or methods to undertake the activity, and the costs to the landholder of these alternative options; and of not being able to undertake the activity at all. The provisions of the Historic Places Act 1993 may apply to Wāhi Taonga sites and management areas, as they may be considered archaeological sites.~~

## **Policy B3.3.109**

**Assist owners where funds are available with the costs associated with the maintenance or restoration of heritage resources; and the additional resource consent costs imposed by the provisions to protect heritage sites or buildings, Silent File Areas, Wāhi Taonga Management Areas and Wāhi Taonga Management Sites and Mahinga Kai Sites and silent file areas listed in the District Plan.**

### **Explanation and Reasons**

The provisions in the District Plan for protecting sites of wāhi tapu or other cultural values or heritage values, impose costs on the owners of those sites for the benefit of the wider community.

## **HISTORIC CULTURE AND HERITAGE — ANTICIPATED ENVIRONMENTAL RESULTS**

The following results should occur from implementing Section B3.3:

- A growing database of the history of .....

## **HISTORIC CULTURE AND HERITAGE — MONITORING**

Please refer to Part E, Appendix 1.

### PART C

## **1 RURAL RULES — EARTHWORKS**

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### **Notes**

1. Rule 1 –Earthworks, does not apply to any of the following activities, except where the provisions of Rule 1.5 (Earthworks and Protected Trees) apply:
  - Landscaping or maintenance of gardens, lawns or public spaces;
  - Sowing, tending or cultivating crops, grazing or planting trees;
  - Digging post holes;
  - Burying Pets;
  - Trenching compost;
  - Digging soak holes, building foundations and related activities, except in Wāhi Taonga Management Area C39(a), ;
  - Maintaining and clearing rivers, water races or drains except in Wāhi Taonga Management Area C39(a);
  - Maintaining or repairing existing flood protection works except in Wāhi Taonga Management Area C39(a); or
  - Earthworks required to duct cables except in Wāhi Taonga Management Area C39(b).

~~Any earthworks associated with digging post holes, cultivation, tending or landscaping gardens, planting trees or removing dead or diseased trees, providing ducting for fibre optic cables, or drilling bores, except where the provisions of Rule 1.5 (Earthworks and Protected Trees) apply.~~

2. Rule 1 – Earthworks does apply to earthworks associated with harvesting forests or tracks into areas to harvest forests.
3. Rules 9.16. and 9.17 apply to blasting and vibration. Rule 8 Waste Generation, Storage and Disposal applies to offal pits and landfills.
4. Earthworks affecting any archaeological site, Silent File Area, Wāhi Taonga Management Area or Wāhi Taonga Management Site may require the consent of an archaeological authority from the New Zealand Historic Places Trust Pouhere Taonga (refer to Part B, Section 3.3 Archaeological Sites).
- ~~5.. Refer to Appendix 6 “Protocols on Accidental Discovery of Archaeological Sites” when any Earthworks occur in any Silent File, Wāhi Taonga Site or Wāhi Taonga Management Area.~~
- ~~56.~~ PERMITTED ACTIVITIES do not require a resource consent. OTHER ACTIVITIES do require a resource consent.
- ~~67.~~ Where a listed protected tree has been removed (with the approval of the Council) or is in a dangerous or diseased condition such that its continued protection cannot be justified, it shall be deleted from the list without further formality.
- ~~78.~~ The description of the location of each protected tree in Appendix 4 is as at date of this part of the Plan becoming operative. Any subsequent change to a street address or legal description shall not affect the application of the specific rules to that protected tree. Street addresses and legal descriptions will, from time to time, be updated without further formality. <sup>PC18</sup>

## **1.2 EARTHWORKS AND SITES OF SIGNIFICANCE TO TANGATA WHENUA CULTURAL SITES (SILENT FILE AREAS, WĀHI TAONGA SITES, WĀHI TAONGA MANAGEMENT AREAS, MAHINGA KAI SITES)**

### **Permitted Activities – Earthworks and Sites of Significance to Tangata Whenua Cultural Sites (Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas, Mahinga Kai Sites)**

- 1.2.1 Any earthworks which meet the following conditions shall be a permitted activity:
  - 1.2.1.1 In any area listed in Appendix 5 and shown on the Planning Maps as a Silent File Area, the earthworks are limited to the disturbance of soil over areas and to depths where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks;

- 1.2.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), the earthworks are limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm;
- 1.2.1.3 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 1.2.1.2, the earthworks do not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site;
- ~~1.2.1.2~~ In any area listed in Appendix 5 and shown on the Planning Maps as a ~~Wāhi Taonga Site~~ or a Wāhi Taonga Management Area, the ~~earthworks~~ do not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site;
- 1.2.1.34 In any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to, or removal of, indigenous vegetation is limited to that undertaken by tāngata whenua for mahinga kai purposes.

**Restricted Discretionary Activities – Earthworks and Sites of Significance to Tangata Whenua Cultural Sites (Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas, Mahinga Kai Sites)**

- 1.2.2 Any activity which does not comply with Rule 1.2.1 shall be a restricted discretionary activity .
- 1.2.3 Under Rule 1.2.2 the Council shall restrict its discretion to consideration of:
- 1.2.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local runanga;
- 1.2.3.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga;~~Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga;~~
- 1.2.3.3 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 1.2.1.2, any damage to, destruction or removal of any object, remnant or artefact, as advised by local rūnanga;~~Any adverse effects of the proposed activity on any Mahinga Kai Site, as advised by local runanga;~~



- 1.2.3.4 Any adverse effects of the proposed activity on any Mahinga Kai Site, as advised by local rūnanga; Any potential costs to the landholder/occupier of not being able to undertake the proposed activity on that site;
- 1.2.3.5 Any potential costs to the landholder/occupier of not being able to undertake the proposed activity on that site;Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;
- 1.2.3.6 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;Any positive effects which may offset any adverse effects; and
- 1.2.3.7 Any positive effects which may offset any adverse effects; andAny monitoring or review conditions.
- 1.2.3.8 Any monitoring or review conditions.

## Reasons for Rules

Rule 1 Earthworks, manages potential effects from earthworks on the environment. Rules are needed to manage .....

Rule 1.2 manages earthworks in areas which contain sites of special significance to tāngata whenua. Protecting these sites .....

Wāhi Taonga Sites and Wāhi Taonga Management Areas contain sites of past settlement or occupation by tāngata whenua. Most of these sites have been uncovered by archaeologists and their location and what they contain is recorded. Earthworks in and around these sites are appropriate, provided that the artefacts and remnants which are contained within the sites are not removed, damaged or destroyed. The exception are the Wāhi Taonga Management Areas which make up the Rakaia River Moa Hunter Site (C39(a) and C39(b)). These sites are of considerable cultural and archaeological significance. Earthworks in these areas are appropriate in certain circumstances and to a certain depth, after which resource consent is required.

Appendix 5 lists the artefacts, remnants or objects discovered so far within each site, though there may be more material located around the area. Wāhi Taonga Management Areas are areas which contain many Wāhi Taonga sites. The Council is encouraging land owners or managers and local rūnanga to develop joint protocols for activities within these areas (see Part B, Section 3.3).

Mahinga Kai Sites are sites used for traditional food gathering by tāngata whenua. The sites identified within this plan are valued for their vegetation. Rule 1.2 requires a resource consent for this vegetation to be damaged or removed, except for mahinga kai purposes.

The trees listed in Appendix 4 ....

## PART C

## 2 RURAL RULES — TREE PLANTING AND REMOVAL OF PROTECTED TREES

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### 2.1 SHELTERBELTS AND AMENITY PLANTING

#### Permitted Activities — Shelterbelts & Amenity Planting

2.1.1 The planting of any trees for amenity planting, shelterbelts shall be a permitted activity if all of the following conditions are met:

2.1.1.9 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any disturbance of soil or earth by the tree planting(s) is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm; In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or a Wāhi Taonga Management Area, the tree planting(s) do not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site;

2.1.1.10 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 2.1.1.9, the tree planting(s) do not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site; In the area shown on the Planning Maps as the Port Hills Zone, the tree(s) are not located within the Summit Road Protection Area as defined in Appendix 24.

2.1.1.11 In the area shown on the Planning Maps as the Port Hills Zone, the tree(s) are not located within the Summit Road Protection Area as defined in Appendix 24.

#### Restricted Discretionary Activities — Shelterbelts & Amenity Planting

....                      .....

2.1.8 Any activity which does not comply with Rule 2.1.1.8, 2.1.1.9, or 2.1.1.10 ~~or 2.1.1.9~~ shall be a restricted discretionary activity.

2.1.9 Under Rule 2.1.8 the Council shall restrict its discretion to all of the following matters:

- 2.1.9.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga ~~runanga~~;
- 2.1.9.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga;~~Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga;~~
- 2.1.9.3 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 2.1.9.2, any damage to, destruction or removal of, any object, remnant or artefact, as advised by local rūnanga;~~Any potential costs to the landholder of not being able to undertake the proposed activity on that site;~~
- 2.1.9.4 Any potential costs to the landholder of not being able to undertake the proposed activity on that site;~~Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;~~
- 2.1.9.5 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;~~Any positive effects which may offset any adverse effects; and~~
- 2.1.9.6 Any positive effects which may offset any adverse effects; and~~Any monitoring or review conditions.~~
- 2.1.9.7 Any monitoring or review conditions.

## Non-Complying Activities – Shelterbelts & Amenity Planting

- 2.1.12 Any activity which does not comply with Rule 2.1.1.6, 2.1.1.7, 2.1.1.10 ~~11~~ or 2.1.10 shall be a non-complying activity.

## 2.2 PLANTATIONS

### Permitted Activities – Plantations

- 2.2.1 The planting or harvesting of any plantation shall be a permitted activity if all of the following conditions are met:

- 2.2.1.3 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any disturbance of soil or earth by the plantation is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm;
- 2.2.1.4 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 2.2.1.3, a Wāhi Taonga Management Area, the plantation does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site;
- 2.2.1.45 Any tree is planted at least:
- (a) 20m from the edge of any waterbody listed in Appendix 17; and
  - (b) 10m from the edge of any other waterbody (excluding aquifers)]
- Provided that Rules 2.2.1.45(a) and 2.2.1.45(b) do not apply to any trees planted for the purpose of bank stabilisation or prevention of soil erosion.
- 2.2.1.56 No tree shades .....
- 2.2.1.67 No tree of the plantation .....
- 2.2.1.78 Any plantation is planted and maintained .....

## **Restricted Discretionary Activities – Plantations**

- 2.2.6 Any activity which does not comply with Rules 2.2.1.2 , 2.2.1.3, or 2.2.1.4 ~~or 2.2.1.3~~ shall be a restricted discretionary activity.
- 2.2.7 Under Rule 2.2.6, the Council shall restrict its discretion to the consideration of:
- 2.2.7.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga ~~runanga~~;
  - 2.2.7.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga;~~Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga;~~

2.2.7.3 Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 2.2.7.2, as advised by local rūnanga;

2.2.8 Any plantation which does not comply with Rule 2.2.1.56 shall be a restricted discretionary activity.

### Discretionary Activities – Plantations

2.2.11 Any plantation which does not comply with Rule 2.2.1.4 5 shall be a discretionary activity.

### Non-Complying Activities – Plantations

2.2.12 Any plantation which does not comply with Rule 2.2.1.6 7 shall be a non-complying activity.

2.2.13 Any plantation which does not comply with Rule 2.2.1.7 8 shall be a non-complying activity.

### Reasons for Rules

Rule 2 manages potential effects from amenity tree planting, shelterbelts, plantations and removal of protected trees. The District Plan has rules to manage these effects because they have effects which occur on other property or on .....

With respect to the Summit Road Protection Area of the Port Hills, .....

Resource consent is also required for new plantations on Wāhi Tapu and Mahinga Kai sites, and in Wāhi Taonga Management Areas and Silent File areas. The local runanga will be considered an affected party to allow for their input on how the runanga may be affected. For the Wāhi Taonga Management Areas which make up the Rakaia River Moa Hunter Site (C39a and C39(b) the New Zealand Historic Places Trust Pouhere Taonga will also be considered an affected party as the site is an archaeological site.

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## PART C

# 3 RURAL RULES - BUILDINGS

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## **3.6 BUILDINGS AND SITES OF SIGNIFICANCE TO TANGATA** **WHENUA SILENT FILE AREAS, WĀHI TAONGA SITES, WĀHI** **TAONGA MANAGEMENT AREAS AND MAHINGA KAI SITES**

**Permitted Activities – Buildings and Sites of Significance to Tangata Whenua  
Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas and  
Mahinga Kai Sites**

3.6.1 Erecting any building or any additions or alterations to, or modification or demolition of, any building shall be a permitted activity if all of the following conditions are met:

3.6.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any earthworks associated with the building is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm.~~In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or a Wāhi Taonga Management Area, the building does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.~~

3.6.1. ~~23~~ In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 3.6.1.2, the building does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.~~In any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai Site, any damage to or removal of indigenous vegetation is limited to that undertaken by tāngata whenua for mahinga kai purposes.~~

3.6.1.4 In any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai Site, any damage to or removal of indigenous vegetation is limited to that undertaken by tāngata whenua for mahinga kai purposes.

**Restricted Discretionary Activities – Buildings and Sites of Significance to  
Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga  
Management Areas and Mahinga Kai Sites**

3.6.2 Any activity which does not comply with Rule 3.6.1 shall be a restricted discretionary activity.

3.6.3 Under Rule 3.6.2, the Council shall restrict its discretion to all of the following matters:

3.6.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga ~~runanga~~;

3.6.3.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga;~~Any damage to, destruction or removal of any~~

~~object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga;~~

- 3.6.3.3 ~~Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 3.6.3.2., as advised by local rūnanga; Any adverse effects of the proposed activity on any Mahinga Kai Site, as advised by local runanga;~~
- 3.6.3.4 ~~Any adverse effects of the proposed activity on any Mahinga Kai Site, as advised by local rūnanga; Any potential costs to the landholder of not being able to undertake the proposed activity on that site;~~
- 3.6.3.5 ~~Any potential costs to the landholder of not being able to undertake the proposed activity on that site; Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;~~
- 3.6.3.6 ~~Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options; Any positive effects which may offset any adverse effects; and~~
- 3.6.3.7 ~~Any positive effects which may offset any adverse effects; and Any monitoring or review conditions.~~
- 3.6.3.8 Any monitoring or review conditions.

## Reasons for Rules

Rule 3.6 manages the effects of erecting buildings in Silent File and Wāhi Taonga Management Areas, and on Wāhi Taonga and Mahinga Kai Sites. Activities which may disturb these areas and sites require a resource consent, so the Council can assess whether the activity will affect any culturally important site, as advised by local rūnanga ~~runanga~~. The Council has a policy .....

In the Wāhi Taonga Management Area which comprises the Rakaia River Moa Hunter Site (C39(a) and C39(b)), the New Zealand Historic Places Trust Pouhere Taonga is also considered to be an affected party as the area is an archaeological site.

Rule 3.7 manages .....

## PART C

# 4 RURAL RULES — ROADING

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## **4.3 ROADING AND SITES OF SIGNIFICANCE TO TANGATA** **WHENUA SILENT FILE AREAS, WĀHI TAONGA SITES, WĀHI** **TAONGA MANAGEMENT AREAS AND MAHINGA KAI SITES**

### **Permitted Activities – Roading and Sites of Significance to Tangata** **Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga** **Management Areas and Mahinga Kai Sites**

- 4.3.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any earthworks associated with any road is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm; Within any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or a Wāhi Taonga Management Area, any road does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site; and.
- 4.3.1.3 Within any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 4.3.1.2, any road does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site; and Within any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to, or removal of, indigenous vegetation is limited to that undertaken by tāngata whenua for mahinga kai purposes.
- 4.3.1.4 Within any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to, or removal of, indigenous vegetation is limited to that undertaken by tāngata whenua for mahinga kai purposes.

### **Restricted Discretionary Activities – Roading and Sites of** **Significance to Tangata Whenua Silent File Areas, Wāhi Taonga** **Sites, Wāhi Taonga Management Areas and Mahinga Kai Sites**

- 4.3.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga runanga;
- 4.3.3.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga; Any damage to, destruction or



~~removal of, any object, remnant or artefact contained within a Wāhi Taonga Site to Wāhi Taonga Management Area, as advised by local runanga; or~~

- 4.3.3.3 ~~Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 4.3.3.2, as advised by local runanga; Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local runanga;~~
- 4.3.3.4 ~~Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local runanga; Any potential costs to the landholder of not being able to undertake the proposed activity on that site;~~
- 4.3.3.5 ~~Any potential costs to the landholder of not being able to undertake the proposed activity on that site; Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;~~
- 4.3.3.6 ~~Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options; Any positive effects which may offset any adverse effects; and~~
- 4.3.3.7 ~~Any positive effects which may offset any adverse effects; and Any monitoring or review conditions.~~

4.3.3.8 Any monitoring or review conditions.

## PART C

# 5 RURAL RULES – UTILITIES

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## **5.10 UTILITY STRUCTURES AND SITES OF SIGNIFICANCE TO TANGATA WHENUA SILENT FILE AREAS, WĀHI TAONGA SITES, WĀHI TAONGA MANAGEMENT AREAS, MAHINGA KAI SITES – UTILITY STRUCTURES**

**Permitted Activities – Utility Structures and Sites of Significance to Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas, Mahinga Kai Sites – Utility Structures**

- 5.10.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any earthworks associated with any utility structure is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees,

~~pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm; Within any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or a Wāhi Taonga Management Area, the construction, maintenance, etc of any utility structure does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site; and.~~

5.10.1.3 ~~Within any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 5.10.1.2, the construction, maintenance, upgrading or replacement etc of any utility structure does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site; Within any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to, or removal of, indigenous vegetation associated with the construction, maintenance, etc of any utility structure is limited to that undertaken by tāngata whenua for mahinga kai purposes.~~

5.10.1.4 Within any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to, or removal of, indigenous vegetation associated with the construction, maintenance, upgrading or replacement of etc of any utility structure is limited to that undertaken by tāngata whenua for mahinga kai purposes.

**Restricted Discretionary Activities – Utility Structures And Sites of Significance to Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas, Mahinga Kai Sites – Utility Structures**

5.10.2 Any activity which does not comply with Rules 5.10.1.1 to 5.10.1.3 ~~4~~ shall be a restricted discretionary activity.

5.10.3 Under Rule 5.10.2, the Council shall restrict its discretion to the following matters:

5.10.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File Area, as advised by local rūnanga ~~runanga~~;

5.10.3.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga; Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga; or

5.10.3.3 Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 5.10.3.2, as advised by local rūnanga;

~~Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local runanga;~~

5.10.3.4 Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local rūnanga; Any potential costs to the landholder of not being able to undertake the proposed activity on that site;

5.10.3.5 Any potential costs to the landholder of not being able to undertake the proposed activity on that site; Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;

5.10.3.6 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options; Any positive effects which may offset any adverse effects; and

5.10.3.7 Any positive effects which may offset any adverse effects; and Any monitoring or review conditions.

5.10.3.8 Any monitoring or review conditions.

## **5.11 UTILITY BUILDINGS AND SITES OF SIGNIFICANCE TO TANGATA WHENUA SILENT FILE AREAS, WĀHI TAONGA SITES, WĀHI TAONGA MANAGEMENT AREAS, MAHINGA KAI SITES – UTILITY BUILDINGS**

### **Permitted Activities – Utility Buildings and Sites of Significance to Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas, Mahinga Kai Sites – Utility Buildings**

5.11.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any earthworks associated with the building is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm;In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or a Wāhi Taonga Management Area, the construction, maintenance etc of the building does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.

5.11.1.3 In any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 5.11.1.2, the construction, maintenance, upgrading or replacement of etc of the building does not involve the disturbance, damage to, removal or destruction of any object, artefact or other symbol of pre-European settlement, occupation or use of that site.In any area listed in Appendix

~~5 and shown on the Planning Maps as a Mahinga Kai site, any damage to or removal of indigenous vegetation associated with the construction, maintenance, etc of any utility building is limited to that undertaken by tāngata whenua for mahinga kai purposes.~~

5.11.1.4 In any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to or removal of indigenous vegetation associated with the construction, maintenance, upgrading or replacement of etc of any utility building is limited to that undertaken by tāngata whenua for mahinga kai purposes.

**Restricted Discretionary Activities – Utility Buildings and Sites of Significance to Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas, Mahinga Kai Sites – Utility Buildings**

5.11.2 Any activity which does not comply with Rules 5.11.1.1 to 5.11.1.34 shall be a restricted discretionary activity

5.11.3 Under Rule 5.11.2, the Council shall restrict its discretion to all of the following matters:

5.11.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File Area, as advised by local rūnanga runanga;

5.11.3.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga; Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga;

5.11.3.3 Any damage to, destruction or removal of any object, remnant or artefact contained within a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 5.11.3.2, as advised by local rūnanga; Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local runanga;

5.11.3.4 Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local rūnanga; Any potential costs to the landholder of not being able to undertake the proposed activity on that site;

5.11.3.5 Any potential costs to the landholder of not being able to undertake the proposed activity on that site; Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options;

- 5.11.3.6 Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options; Any positive effects which may offset any adverse effects; and
- 5.11.3.7 Any positive effects which may offset any adverse effects; and Any monitoring or review conditions.
- 5.11.3.8 Any monitoring or review conditions.

## Reasons for Rules

Rules 5.10 and 5.11 manage the effects of erecting buildings in Silent File Areas and Wāhi Taonga Management Areas, and on Wāhi Taonga sites and Mahinga Kai sites. Activities which may disturb these areas and sites require a resource consent, so the Council can assess whether the activity will affect any culturally or archaeologically important site, as advised by local rūnanga ~~runanga~~ and, in the case of the Wāhi Taonga Management Area which comprises the Rakaia River Mouth Moa Hunter Site (C39(a) and C39(b)), the New Zealand Historic Places Trust Pouhere Taonga.

## PART C

# 6 RURAL RULES - OUTDOOR SIGNS AND NOTICEBOARDS

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## **6.6 OUTDOOR SIGNS AND SITES OF SIGNIFICANCE TO TANGATA WHENUA SILENT FILE AREAS, WĀHI TAONGA SITES, WĀHI TAONGA MANAGEMENT AREAS AND MAHINGA KAI SITES**

### **Permitted Activities – Outdoor Signs and Sites of Significance to Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas and Mahinga Kai Sites**

- 6.6.1 Erecting any outdoor sign shall be a permitted activity if all of the following conditions are met:
- 6.6.1.2 In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any earthworks associated with any sign is limited to the disturbance of soil over areas where that soil has been previously disturbed by cultivation, planting (trees, pasture or crops), building or earthworks. Any disturbance within those areas shall be limited to a maximum depth of 20cm; Within any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or a Wāhi Taonga Management Area, any earthworks associated with any

~~sign does not involve the disturbance, damage to, removal or destruction of, any object, artefact or other symbol of pre-European settlement, occupation or use of that site; and~~

- 6.6.1.3 ~~Within any area listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 6.6.1.2, any earthworks associated with any sign does not involve the disturbance, damage to, removal or destruction of, any object, artefact or other symbol of pre-European settlement, occupation or use of that site; and~~  
~~Within any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to or removal of indigenous vegetation associated with a sign is limited to that undertaken by tāngata whenua for mahinga kai purposes.~~

- 6.6.1.4 ~~Within any area listed in Appendix 5 and shown on the Planning Maps as a Mahinga Kai site, any damage to or removal of indigenous vegetation associated with a sign is limited to that undertaken by tāngata whenua for mahinga kai purposes.~~

### **Restricted Discretionary Activities – Outdoor Signs and Sites of Significance to Tangata Whenua Silent File Areas, Wāhi Taonga Sites, Wāhi Taonga Management Areas and Mahinga Kai Sites**

- 6.6.3 Under Rule 6.6.2, the Council shall restrict its discretion to consideration of:

- 6.6.3.1 Any inappropriate disturbance or other potential adverse effects on any site of significance within a Silent File area, as advised by local rūnanga runanga;
- 6.6.3.2 ~~In the area listed in Appendix 5 and shown on the Planning Maps as Wāhi Taonga Management Area C39(a), any inappropriate disturbance or other potential adverse effects on any site of significance, object, remnant or artefact, as advised by local rūnanga and the New Zealand Historic Places Trust Pouhere Taonga;~~  
~~Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or Wāhi Taonga Management Area, as advised by local runanga;~~
- 6.6.3.3 ~~Any damage to, destruction or removal of, any object, remnant or artefact contained within a Wāhi Taonga Site or any Wāhi Taonga Management Area not listed in 6.6.3.2, as advised by local rūnanga; Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local runanga;~~
- 6.6.3.4 ~~Any adverse effects of the proposed activity on any Mahinga Kai site, as advised by local rūnanga; Any potential costs to the landholder of not being able to undertake the proposed activity on that site;~~
- 6.6.3.5 ~~Any potential costs to the landholder of not being able to undertake the proposed activity on that site; Any alternative options available to~~

~~undertake the activity in another form or on another site and the costs and practicality of these options;~~

6.6.3.6 ~~Any alternative options available to undertake the activity in another form or on another site and the costs and practicality of these options; Any positive effects which may offset any adverse effects; and~~

6.6.3.7 ~~Any positive effects which may offset any adverse effects; and Any monitoring or review conditions.~~

6.6.3.8 ~~Any monitoring or review conditions.~~

## PART C

# 10 RURAL RULES - SUBDIVISION

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## **10.4 SUBDIVISION ON SPECIAL SITES (ECOLOGICAL, HISTORIC HERITAGE AND SITES OF SIGNIFICANCE TO TANGATA WHENUA HERITAGE AND CULTURAL).**

### **Restricted Discretionary Activities – Subdivision on Special Sites (Ecological, Historic Heritage and Sites of Significance to Tangata Whenua Heritage and Cultural)**

10.4.2 Under Rule 10.4.1, the Council shall restrict its discretion to consideration of:

10.4.2.1 All of the matters listed in Rule 10.1.2.

10.4.2.2 Any adverse effects of the proposed subdivision on:

(a) Any historic heritage or archaeological site; or

(b) Any protected tree; or

(c) Any Silent File area, Wāhi Taonga site, Wāhi Taonga Management Area or Mahinga Kai site, as advised by local rūnanga Runanga, and in the case of Wāhi Taonga Management Area C39(a), the New Zealand Historic Places Trust Pouhere Taonga; or

(d) Any significant ecological site;

10.4.2.3 The effects considered under Rule 10.4.2.2 include (but are not limited to):

- (a) Any effects of the subdivision of land on the site, including separating the site between allotments which may result in separate ownership or management of the site;
- (b) Effects on access to the site and whether any restrictions on access to the site may detract from or help maintain its values;
- (c) Alternative boundaries for the new allotments created which may better maintain the site in one allotment or access to the site, if access is desirable;
- (d) Any condition on the subdivision consent requiring a consent notice or other mechanism to be placed on the Certificate of Title for any allotment created, to alert prospective purchasers that activities involving historic heritage or archaeological sites, trees or buildings, or cultural sites Sites of Significance to Tangata Whenua listed in Appendix 5, may require a resource consent application under the Plan, or in the case of an archaeological site, ~~consent of an archaeological authority from~~ the New Zealand Historic Places Trust Pouhere Taonga; and
- (e) Any positive effects which may offset any adverse effects.

## PART D

# DEFINITIONS

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## H

**Historic Heritage:** means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

- (i) archaeological:
- (ii) architectural:
- (iii) cultural:
- (iv) historic:
- (v) scientific:
- (vi) technological; and

**Includes-**

- (i) historic sites, structures, places, and areas; and
- (ii) archaeological sites; and
- (iii) sites of significance to Maori, including wahi tapu; and
- (IV) SURROUNDINGS ASSOCIATED WITH THE NATURAL AND PHYSICAL RESOURCES.



## L

**Landscaping:** means the visual improvement of an area through designed live planting of trees, shrubs and ground cover for amenity purposes and may include provision of physical features such as paving, walls, art and seating. For the purposes of this definition, landscaping does not include the re-contouring of land by removing or displacement of earth or soil.

## M

**Maintenance of gardens lawns or public spaces:** means carrying out any work to preserve existing gardens lawns or public spaces in such a way that the scale or nature of the gardens lawns or public spaces is not altered. Maintenance does not include upgrading.

## W

**Wāhi Taonga Management Area:** includes any land, building or structure which is listed in Appendix 5 and shown on the Planning Maps as a Wāhi Taonga Management Area.

### PART E

## APPENDIX 5

### **SCHEDULE OF SITES OF SIGNIFICANCE TO TANGATA WHENUA CULTURAL SITES**

#### **Wāhi Taonga Sites and Management Areas, Silent File Areas and Mahinga Kai Sites**

<b>WĀHI TAONGA SITES</b>					
<b>Site No.</b>	<b>Description</b>	<b>Location</b>	<b>Legal Description</b>	<b>Zone</b>	<b>Map No.</b>
C2	Rock Shelter	Near West Coast Road— Castle Hill	Lot 2 DP 43207	High Country	29
C3	Rock Shelter	Near West Coast Road— Castle Hill	Lot 2 DP 43207	High Country	29
C38	Occupation	Rakaia Island	RS 19028	Outer Plains	1
C39	Moa Hunter Site	Near North Rakaia Road	Lot 2 DP 74178	Outer Plains	113

WĀHI TAONGA SITES					
Site No.	Description	Location	Legal Description	Zone	Map No.
C40	Oven	Rakaia Island	Res 2040	Outer Plains	1
C...					
WĀHI TAONGA MANAGEMENT AREAS					
Site No.	Location	Legal Description	Zone	Map No.	
C17	Rakaia Island	Res 2040, RS 19033, RS 19032, Res 2039, RS 19031, RS 19030, RS 19029, RS 19028	Outer Plains	1	
C66	Beach from Rakaia River to Fishermans Point — Seaward of the Coastal Hazard 1 Line		Outer Plains	1,2,4	
C90	Selwyn River/Waikirikiri and 20m setback for those properties adjoining the Selwyn River/Waikirikiri		Outer Plains and Malvern Hills	7,8,11, 12,13, 15,16, 17,20, 21,22	
C91	Taumutu Road	Pt Lot 2 DP 6299, Pt Lot 2 DP 4745, Pt Lot 3 DP 4745, Lot 1 DP 71251, Lot 4 DP 25359, Res 879, and RS 11117, Lot 4 DP 14196, Lots 1 and 2 DP 75905, Pt RS 9459, Res 806, 878, 889, and 901 and RS 10480	Outer Plains	2,4	
C93	Waikewai Creek and 20 metres either side of Waikeke Creek	RS 4145, Pt RS 5106; Pt RS 3344, 4041, Sec 1 and 4e Homebrook Settlement; Lots 2 and 3 DP 72203; Pt Lot 1 DP 6240; Pt Lot 4 DP 72203; Lot 1 DP 5088; Pt Lot 1 DP 3826; Lot 1 DP 10731; Pt Lot 2 DP 3826; Pt Lots 2 and 3 DP 987; Pt Lot 1 DP 56275; Pt RS 4049; Lots 1, 2, 4, and 5 DP 23044, Pt Lot 3 DP 4745; Lot 2 DP 4745; RS 35465; RS 7889, Pt RS 5866; RS 7889; Pt RS 6148; Lots 1,2 and 3 DP 68909; RS 35465; Lot 1 DP 71251	Outer Plains	4	
WĀHI TAONGA SITES					
Site No.	Description	Location	Legal Description	Zone	Map No.
C38	Occupation	Rakaia Island	RS 19028	Outer Plains	1
C39	Moa Hunter Site	Near North Rakaia Road	Lot 2 DP 74178	Outer Plains	113
C40	Oven	Rakaia Island	Res 2040	Outer Plains	1

#### WĀHI TAONGA MANAGEMENT AREAS

Site No.	Description	Location	Legal Description	Zone	Map No.
C39 (a)	<u>Rakaia River Moa Hunter Site</u> <u>Archaeological Site</u>	<u>Selwyn District Council</u> <u>Camping Ground and land immediately east of Rakaia Huts Township</u>	<u>Lot 1 DP 55293, Lot 2 DP 55293 and the 8.56417 hectares of Lot 1 DP 74178 as indicated on Planning Map 133</u>	<u>Outer Plains</u>	<u>133</u>
C48		<u>Rural Outer Plains Surrounding Rakaia Huts Township</u>	<u>LOT 2 DP 74178, PT LOT 1 DP 75540, LOT 1 DP 4439, PT Reserve 3047, PT Rural Section 18213, PT Reserve 4363, and the 4.37045 hectares of LOT 1 DP 74178 as indicated on Planning Map 133</u>	<u>Outer Plains and Living 1</u>	<u>133</u>

#### SILENT FILE AREAS

Site No.	Location	Legal Description	Zone	Map No.
C48	<u>Near Pacific Drive</u>	<u>Lot 1 DP 4439, Lots 1 and 2 DP 74178, RS 18213, Res 4363, Lot 1 DP 75540, Res 3047</u>	<u>Outer Plains</u>	<u>133</u>

## **ATTACHMENT 3**

### **Section 32 Evaluation**

## Proposed Plan Change 26 – Section 32 Evaluation

### 1. Introduction

- 1.1 The area in and around the Rakaia Huts settlement at the Rakaia River mouth is of considerable cultural significance to Te Taumutu Runanga, and is recognised as one of the most important complexes of archaeological sites in the South Island, containing significant early moa hunting and processing activity.
- 1.2 The Rakaia Huts Moa Hunter Site (“the Site”) was first identified in the late 1860s, and was investigated by Julius von Haast between 1869 and 1871. His findings from the site were later used to identify and define a Moa Hunter culture in New Zealand. Subsequent work by other archaeologists has further identified the extent of the archaeological material located on the middle and upper terraces at the Rakaia River mouth.
- 1.3 Work carried out in the 20<sup>th</sup> century appears to correlate with the plan of the extent of the archaeological site compiled by von Haast during his original work. The site appears to contain clearly differentiated use areas, with evidence of habitation focussed on the middle terrace and the upper terrace used for the butchering and cooking of moa as well as some possible tool manufacture.
- 1.4 Although the evidence of archaeological material at the Rakaia Huts is extensive, there remains only one recorded archaeological site, New Zealand Archaeological Association (NZAA) site L37/4 (Figure 7 & Table 7, page 21 of *Attachment 3*). Site L37/4 correlates with Wāhi Taonga Site C39 in the Appendix 5 of the Selwyn District Plan (Rural Volume). All archaeological work that has been carried out at Rakaia Huts over the last thirty years has related all information to this one site.
- 1.5 A Conservation Management Plan (CMP) of the Rakaia Huts Moa Hunter Site was completed in 2009 to ensure that the meaning and importance of the site is conserved and able to be appreciated and interpreted for present and future generations.
- 1.6 The CMP identified a range of issues and threats to the archaeological and cultural values of the area, and proposed a range of regulatory and non-regulatory tools to manage those threats.
- 1.7 Management recommendations made in the CMP, as they relate to regulatory methods requiring amendments to the District Plan include:

- (a1) Areas identified in the CMP as “Sites of Significance to Tangata Whenua” to be included in Appendix 5 of the District Plan;
- (a2) Amend the boundary of the existing “Archaeological Site” identified on Planning Map 133 so that it reflects the extent of the archaeological site identified in the CMP;
- (b) Provide certainty to people by making activities Controlled Activities;
- (c) Archaeological Authority (from the New Zealand Historic Places Trust Pouhere Taonga (HPT)) to be required for works on the middle and upper terraces;
- (e) Cross reference the District Plan’s “Accidental Discovery Protocol in rules relating to Heritage and Sites Of Significance To Tangata Whenua;
- (h) Review Part B3.3 of the District Plan (Culture and Heritage section), to reflect protection of historic heritage as a matter of national importance under Section 6 of the Act;
- (i) Give consideration to a Plan Change to ensure that resource consent for ground disturbance greater than 20cm depth is required in areas at Rakaia Huts identified as having high archaeological significance.

1.8 In addition, a range of regulatory and non regulatory methods were identified which do not require formal amendment to the District Plan and which will not be considered as part of PC26. These methods include:

- Updated LIM and PIM notes which have a standard clause alerting to the fact that the area is of high archaeological and cultural value and an Accidental Discovery Protocol should be followed;
- Standardised resource consent conditions for work within identified areas of “Sites of Significance to Tangata Whenua” at Rakaia Huts;
- Archaeological Authority to be required for works on the middle and upper terraces (New HPT responsibility);
- Streamlining of HPT archaeological authority process;
- Identify areas of heritage and archaeological items on all property files for land within the conservation plan.

- 1.9 The CMP was adopted by Selwyn District Council at the Council meeting on the 28<sup>th</sup> of October 2009. A copy of the CMP, along with an archaeology report prepared in conjunction with the CMP is attached as ***Attachment 3***.

## **2. Statutory Context**

- 2.1 The Resource Management Act 1991 (“the Act”) provides the legislative framework that defines the responsibilities of territorial/local authorities for managing natural and physical resources.

### ***Framework for Plan Change Proposals***

- 2.2 Section 73(1A) identifies that Schedule 1 of the RMA provides the manner in which the District Plan may be changed by a territorial authority:

*“73 Preparation and change of district plans*

*...*

*(1A) A district plan may be changed by a territorial authority in the manner set out in Schedule 1.”*

- 2.3 The First Schedule, Part 2, clause 21(4) of the RMA provides that:

*Where a local authority proposes to prepare or change its policy statement or plan, the provisions of this Part shall not apply and the procedure set out in Part 1 shall apply.”*

- 2.4 The First Schedule, Part 1 sets out the framework within which a territorial authority may undertake a change to the District Plan. This specifies (among other matters) the consultation to be undertaken and procedures regarding notification of the Plan Change. Refer to Section 6 of this report for the discussion of consultation undertaken to date. Regard must also be given to the matters set out in sections 74 and 75 of the RMA in relation to decision making by territorial authorities. Matters raised in these sections that are relevant to the present proposal are as follows:

### *Section 74 - Matters to be considered by territorial authority*

*(1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.*

*(2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*

*(a) Any—*

*(i) Proposed regional policy statement; or*

*(ii) Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*

*(b) Any—*

*(i) Management plans and strategies prepared under other Acts; and*

*...*

*(iia) Relevant entry in the Historic Places Register; ...*

*...*

*(c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*

*(2A) A territorial authority, when preparing or changing a district plan, must—*

*(a) take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district...*

#### *Section 75 - Contents of district plans*

*(3) A district plan must give effect to—*

*...*

*(c) any regional policy statement.*

- 2.5 The relevant regional planning documents are the Regional Policy Statement and the recently notified Proposed Regional Policy Statement, which was notified on the 18<sup>th</sup> of June 2011. The Te Taumutu Rūnanga Natural Resource Management Plan and Rakaia Huts Conservation Management Plan have also been considered. There are no entries in the Historic Places Register which are impacted on by the current proposal. Furthermore, the proposal does not impact on any resource management issue identified in the Ngāi Tahu Resource Management Strategy for the Canterbury Region (Te Whakatau Kaupapa).



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

- 2.6 The Canterbury Regional Policy Statement (“RPS”) has been operative since 26 June 1998. The RPS provides an overview of the resource management issues of the region and is a general guide as to how natural and physical resources are to be managed in an integrated way to promote sustainable management.
- 2.7 Chapter 8 of the RPS sets out the relevant objectives and policies relating to managing the effects on historical heritage sites, including wāhi taonga management areas and sites. Objective 4 seeks “the protection or enhancement of the historical and cultural heritage sites, buildings, places and areas, including their cultural, recreational and amenity values that contribute to Canterbury’s distinctive character and sense of identity”.
- 2.8 Objective 4 is to be implemented through Policy 5 which seeks that Historic sites, buildings, places or areas that meet relevant criteria (for Regional significance) should be protected from adverse effects of the use, development, or protection of natural and physical resources, and their conservation should be promoted.
- 2.9 In summary, the proposed plan change is considered to be consistent with and gives effect to the relevant objectives and policies of the RPS.

### ***Proposed Canterbury Regional Policy Statement***

- 2.10 The Proposed Regional Policy Statement (PRPS) was publicly notified on Saturday the 18<sup>th</sup> of June 2011.
- 2.11 The Canterbury PRPS gives an overview of the significant resource management issues facing the region, including issues of resource management significance to Ngāi Tahu. The purpose of the PRPS is to set out objectives, policies and methods to resolve those resource management issues and to achieve the integrated management of the natural and physical resources of Canterbury. Chapter 13 of the PRPS sets out the relevant objectives and policies relating to managing the effects on historical heritage sites, including wāhi taonga management areas and sites.
- 2.12 Objective 13.2.1 seeks the “Identification and protection of significant historic heritage items, places and areas, and their particular values that contribute to Canterbury’s distinctive character and sense of identity”. Objective 13.2.1 is to be implemented through Policy 13.3.2 which states “Recognise and provide for the protection of significant historic heritage items, places and areas”.

- 2.13 Objective 13.2.2 seeks to protect historic heritage landscapes from inappropriate subdivision, use and development. Objective 13.2.2 is to be implemented through Policy 13.3.3 and Policy 12.3.3. Policy 13.3.3 states that historic heritage landscapes are to be protected from inappropriate subdivision, use and development. Determination of the significance of historic cultural or historic heritage landscapes is subject to a number of matters. In addition, the management and determination of appropriate scale form and location of development is subject to a number of matters.
- 2.14 Policy 12.3.3 provides for the protection and management of other important landscapes, including for historic cultural and historic heritage purposes.
- 2.15 In summary, the proposed plan change is considered to be consistent with and gives effect to the relevant objectives and policies of the PRPS.

### ***Te Taumutu Rūnanga Natural Resource Management Plan***

- 2.16 Part 3 Section 5 (Nō Takaroa (Coastal and marine environments)) of Te Taumutu Rūnanga Natural Resource Management Plan, the Rakaia Huts area is described and the issues and policies for the area are outlined. Policies of relevance to PC26 include:

#### ***KAUPAPA – POLICY***

1. *Any earthworks, including building, in the area of Rakaia Huts requires consent from Te Taumutu Rūnanga.*
  2. *Accidental find protocols will be attached to any consent application.*
  3. *An archaeologist is to be on site when any excavations occur, as recommended by the Rūnanga.*
  4. *If any artefacts of significance are found during any excavation activities, these will be returned to Te Taumutu Rūnanga.*
  5. *If any Kōiwi tangata (human remains) are uncovered, Te Taumutu Rūnanga is to be notified immediately. The Rūnanga will give urgent priority to any such notification so that the resulting disruption to the excavation activity is kept to a minimum.*
  6. *Consistent with the wider Ngāi Tahu Policy, Te Taumutu Rūnanga will take full responsibility for seeing that any remains are reinterred appropriately and in full consultation with the police.*
- 2.17 Part 4 of Te Taumutu Natural Resource Management Plan outlines the procedures and protocols associated with the implementation of the Plan. Part 4 Section 4.4 deals the protocols

and procedures territorial authorities shall follow when undertaking consultation with the Rūnanga. Matters including whom to consult with, the extent of consultation, early consultation and sufficient time for consultation processes are addressed. In addition, Policy 4.4.12 sets out that Te Taumutu Runanga is to be an approved party (affected party) to all notified and non notified resource consent applications.

2.18 Part 4 Section 4.9 Ngā Wāhi Taonga, Ngā Wāhi Tapu outlines guidelines for the management of sites and places of significance. Guidelines of relevance to PC26 include:

*4.9.1 Management guidelines:*

- *Any activity that has the potential to affect a wāhi tapu, wāhi taonga or other site of significance shall involve consultation with Te Taumutu Rūnanga.*
- *Te Taumutu Rūnanga is the only one to assess the degree of cultural significance of any given site in the Taumutu takiwā.*
- *That the process for identifying and protecting significant sites recognises and respects that current lists (e.g. silent files) of significant sites are non-comprehensive. These lists are a guide only.*
- *Any archaeological finds remain the cultural property of Ngāi Te Ruahikihiki ki Taumutu and Te Taumutu Rūnanga (The Rūnanga is licensed to hold artefacts). This information is not to be made public, unless provided for by the hapū or Rūnanga.*
- *Tikanga Māori shall be observed on wāhi tapu/ wāhi taonga sites as these sites shall be protected from inappropriate activities that may denigrate the wāhi tapu status.*
- *Any persons proposing activities, in which earth moving or similar work will occur in an area of known or possible culturally significant sites, are required to enter into an Accidental Find Protocol. In some areas, such as Rakaia Huts, Te Taumutu Rūnanga requires that an archaeologist be on site when any excavations are undertaken. Te Taumutu Rūnanga has a Cultural site/Accidental Discovery Protocol, based on Te Rūnanga o Ngāi Tahu policy. The protocol is between the Rūnanga and the applicant, and will be implemented as a condition on the consent.*

2.19 In summary, the proposed plan change is considered to take into account the relevant provisions of the Te Taumutu Natural Resource Management Plan.

### ***Rakaia Huts Conservation Management Plan***

- 2.20 As noted previously, a Conservation Management Plan (CMP) of the Rakaia Huts Moa Hunter Site was completed in 2009 to ensure that the meaning and importance of the site is conserved and able to be appreciated and interpreted for present and future generations.
- 2.21 The CMP identified a range of issues and threats to the archaeological and cultural values of the area, and proposed a range of regulatory and non-regulatory tools to manage those threats. Management recommendations made in the CMP, as they relate to regulatory methods requiring amendments to the District Plan include:
- (a1) Areas identified in the CMP as “Sites of Significance to Tangata Whenua” to be included in Appendix 5 of the District Plan;
  - (a2) Amend the boundary of the existing “Archaeological Site” identified on Planning Map 133 so that it reflects the extent of the archaeological site identified in the CMP;
  - (b) Provide certainty to people by making activities Controlled Activities;
  - (c) Archaeological Authority (from the New Zealand Historic Places Trust Pouhere Taonga (HPT)) to be required for works on the middle and upper terraces;
  - (e) Cross reference the District Plan’s “Accidental Discovery Protocol in rules relating to Heritage and Sites Of Significance To Tangata Whenua;
  - (h) Review Part B3.3 of the District Plan (Culture and Heritage section), to reflect protection of historic heritage as a matter of national importance under Section 6 of the Act;
  - (i) Give consideration to a Plan Change to ensure that resource consent for ground disturbance greater than 20cm depth is required in areas at Rakaia Huts identified as having high archaeological significance.
- 2.22 In addition, a range of regulatory and non regulatory methods were identified which do not require formal amendment to the District Plan and which will not be considered as part of PC26. Proposed Plan Change 26 is intended to give effect to regulatory methods to manage threats identified in the CMP.

### ***Section 31 RMA***

- 2.23 The relevant clauses from Section 31 of the RMA are as follows:

*“(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*

*(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*

*(b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*

*(i) the avoidance or mitigation of natural hazards;...”*

### ***Selwyn District Plan***

2.24 Part B3.3 CULTURE AND HERITAGE in both the Townships and Rural Volumes of the District Plan contains several objectives and policies of relevance to the identification and protection of historic heritage. Current provisions of the District Plan of relevance to PC26 include:

- Objectives and policies which set out to recognise and protect sites of significance to the local runanga from disturbance (see below);
- Rules which manage activities (primarily soil disturbance) which may result in damage, destruction or loss of artefacts in identified sites of significance to Tāngata Whenua
- Schedules of “Sites Of Significance To Tangata Whenua”<sup>1</sup>, in each volume of the District Plan
- Definitions relating to wāhi taonga management areas, silent file areas and mahinga kai sites
- Planning Maps showing the location of ‘Sites of Significance’ to Tāngata Whenua

### **Townships Volume:**

#### ***Objective B3.3.1***

A partnership for heritage protection is fostered between landowners, tāngata whenua, community groups and the Council.

#### ***Objective B3.3.2***

Sites of waahi tapu and other importance to tāngata whenua are protected.

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<sup>1</sup> This includes schedules for wāhi taonga management areas, wāhi taonga management sites, silent file areas and mahinga kai sites.

***Objective B3.3.3***

Sites and buildings with heritage values are recognised, and if appropriate, their values protected.

***Policy B3.3.1***

Encourage local rūnanga to record information about sites of cultural importance to them, where appropriate.

***Policy B3.3.2***

Recognise and protect sites of cultural importance to local rūnanga through fostering a partnership between landholders and local rūnanga.

***Policy B3.3.3***

Protect sites within areas recognised in the Plan as Silent File areas, from inappropriate disturbance.

***Policy B3.3.4***

Protect areas identified in the Plan as Wahi Taonga Sites, Wahi Taonga Management Areas and Mahinga Kai sites, from damage or destruction, wherever practical.

***Rural Volume:***

***Objective B3.3.1***

Sites of wāhi tapu, wahi taonga, mahinga kai and other importance to tāngata whenua are protected in partnership with local rūnanga and landholders.

***Objective B3.3.2***

Sites and buildings with heritage values are recognised and protected, where appropriate, in partnership with landholders.

***Policy B3.3.1***

Encourage local rūnanga to record information about sites of cultural importance to them, where appropriate.

***Policy B3.3.2***

Recognise and protect sites of cultural importance to local rūnanga through fostering a partnership between landholders and local rūnanga.

***Policy B3.3.3(a)***

Protect sites within areas recognised in the Plan as Silent File areas, from inappropriate disturbance.

***Policy B3.3.3(b)***

Protect areas identified in the Plan as Wahi Taonga Sites, Wahi Taonga Management Areas and Mahinga Kai sites, from damage or destruction, wherever practical.

- 2.25 The District Plan has been prepared to give effect to these functions, and the proposed plan change makes changes that are consistent with the functions of the Council as identified in this section.

***Section 32 RMA***

- 2.26 Under Section 32 of the Act, before the Council publicly notifies the changes promoted in this Plan Change, it must carry out an evaluation to examine:

- the extent to which each objective is the most appropriate way to achieve the purpose of the RMA;
- and
- whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

2.27 The evaluation must take into account:

- The benefits and costs of policies, rules, or other methods; and
- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

2.28 A Section 32 report is part of an on-going process of understanding the costs and benefits associated with a proposed plan change. The Council is required to undertake a further evaluation of costs and benefits prior to making a decision on a Plan Change, taking into account further matters raised in submissions and any hearing.

## ***Part II RMA***

2.29 Part II of the RMA includes the purpose of the Act, which is to promote the sustainable management of natural and physical resources. Sustainable management is defined in section 5(2) as:

*...managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems;*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

2.30 Sections 6 through 8 of the Act provide further guidance as to what sustainable management is concerned with. Section 6 of the Act contains seven matters that a territorial authority must recognise and provide for as “Matters of National Importance”. Of these, the following are considered to be of relevance to this plan change:

- *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (6(e));*

- *The protection of historic heritage from inappropriate subdivision, use and development (6(f)).*

- 2.31 Section 7 outlines a number of "Other Matters" to which a territorial authority shall have particular regard to. None of these matters are affected by the present proposal.
- 2.32 Section 8 requires that a territorial authority shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) when exercising its functions under the RMA. The principles of the Treaty of Waitangi have been taken into account where appropriate in the proposed plan change.
- 2.33 In summary, it is considered that the proposal is consistent with Part II of the RMA.

### ***Section 86B***

- 2.34 Recent amendments to the Act as a result of the 2009 Resource Management (Simplifying and Streamlining) Amendment Act resulted in a new section (S.86B) being inserted into the Act.
- 2.35 Section 86B addresses when rules in proposed plan and changes have legal effect. Section 86B(1) sets out that a rule in a proposed plan have legal effect only once a decision on submissions relating to the rule is made and publicly notified, except if subsection 3 applies (S.86B(1)(a)), or the local authority concerned resolves that the rule has legal effect only once the proposed plan becomes operative in accordance with Clause 20 of Schedule 1 of the Act (S.86B(1)(c)).
- 2.36 Section 86B(3) states that a rule in a proposed plan has immediate effect if the rule protects historic heritage (S.86B(3)(d)). At its meeting to adopt PC26 on the 22<sup>nd</sup> of June 2011, Council resolved that in accordance with s.86B(1)(a), s.86B(3)(d) and s.86B(5), rules included as part of PC26 shall have immediate effect from the date plan change 26 is publicly notified.

## **3. Reasons for Proposed Plan Change 26**

### ***Objective and Scope of Plan Change 26***

- 3.1 Proposed Plan Change 26 is intended to give effect to regulatory methods to manage threats identified in the Rakaia Huts Conservation Management Plan (CMP). The Plan Change is specifically concerned with the culture and heritage provisions of the District Plan which relate specifically to wāhi taonga management areas and sites in and around Rakaia Huts Township, specifically Wāhi Taonga Management Site C39, Wāhi Taonga Management Area C103 and Silent File Area C48.



- 3.2 Proposed changes identified in the Plan Change are not focused on preservation (do not touch the land), but rather on conservation (so that the land can continue to be used), while the history of the area is recorded.
- 3.3 The Plan Change does not intend to make any substantive amendments to any objectives or policies which relate to cultural sites across the remainder of the District. Some minor amendments to correct spelling errors will occur, along with amendments to the explanation and reasons for various Objectives and Policies and reasons for rules.
- 3.4 The majority of the changes resulting from the Plan Change will be to District Plan Planning map133 and the rules which manage activities in the wāhi taonga management areas in and around the Rakaia Huts Township.
- 3.5 Both volumes of the operative District Plan contain a number of provisions which deal with the protection of historic heritage values, including those in and around the Rakaia Huts Township. The purpose of these provisions is to ensure the protection of, among other matters, archaeological sites and sites of significance to Tangata Whenua from inappropriate use, development or destruction.

#### ***Why a Plan Change?***

- 3.6 The current District Plan provisions do not adequately identify and protect the archaeological and cultural values associated with the existing wāhi taonga management areas in and around Rakaia Huts Township.
- 3.7 The CMP adopted by Council has further clarified the spatial extent of the Site (NZAA site L37/4). As noted previously, the Site was first identified in the late 1860s, and was investigated by Julius von Haast between 1869 and 1871. Subsequent work by other archaeologists has further identified the extent of the archaeological material located on the middle and upper terraces at the Rakaia River mouth. Work carried out in the 20<sup>th</sup> century appears to correlate with the plan of the extent of the archaeological site compiled by von Haast during his original work. The result is an archaeological site boundary currently identified in the District Plan on Planning Map 133 (Map 2, ***Attachment 4***).
- 3.8 Archaeological work conducted by Witter in 2007 (reported by Witter in 2008, see ***Attachment 3***), as part of the development of the CMP has indicated that the extent of the moa hunter site is slightly greater than currently identified on planning Map 133. The CMP states that while the area subject to Witter's 2007 investigations has been ploughed regularly over the last 100 years,

there remains a degree of spatial integrity to the archaeological information in the soils, and that there is likely to be intact archaeological material remaining below the plough zone.

3.9 To assist in discussions and guide management decisions, the CMP divided land in the subject area into five management areas (Map 1, *Attachment 4*), with each area being attributed a “scale of significance” based on HPT guidelines (NZ HPT 1994 Section 4.2). Those scales of significance are:

- **Exceptional Significance**: the element or place is of exceptional or outstanding importance to the overall heritage significance of the place;
- **Considerable Significance**: the element or place is of considerable importance to the overall heritage significance of the place;
- **Some Significance**: the element or place is of some significance to the overall heritage significance of the place; and
- **No Significance**: the element or place is of little or no importance to the overall heritage significance of the place.

3.10 The five areas and their respective scale of significance are:

- Foreshore Bank/Cliff Edge - **Exceptional Significance**;
- Middle Terrace (SDC Campground) - **Exceptional Significance**;
- Upper Terrace (Cultivation Area) - **Exceptional Significance**;
- Middle Terrace ( Residential) – **Considerable Significance**; and
- Upper Terrace (Residential) – **Some Significance**

3.11 The CMP appears to recommend, although it is not altogether clear that this is the intent, that each of these five areas should be mapped and identified individually in the District Plan, with appropriate controls put in place for each area. Amendments to the District Plan proposed by PC26 do not intend to make the amendments as proposed in the CMP to that extent, rather it will identify two new areas (C39(a) and C39(b)).

3.12 The departure from what the CMP recommends has been made for several reasons:

- Both C39(a) and C39(b) comprise a single Wāhi Taonga Management Area/Archaeological site (C39/ NZAA site L37/4). Creating five management zones as promoted by the CMP may confuse matters;

- The sites that make up C39(a) (Foreshore Bank/Cliff Face, Middle Terrace (SDC Campground), and Upper Terrace (Cultivation Area)) all have exceptional heritage significance, while the sites that comprise C39(b) (Middle Terrace (Residential), and Upper Terrace (Residential)) are of a lower significance (Considerable and Some Significance respectively);
- Sites which comprise C39(a) are currently rural in nature (all are Zoned Rural “Outer Plains), while sites that make up C39(b) are urban/residential in nature (both are Zoned Living 1).
- The intensive nature of development in C39(b) (residential development) is likely to have had a greater impact on the archaeological and cultural values present. As such, less development control is more appropriate than in C39(a), where it can be expected the integrity of the archaeological and cultural information in the soils has not been compromised to the same extent. Introducing two “sub zones” (C39(a) and C39(b)) clarifies to District Plan users where the boundary between each “zone” is;
- There is little to be gained by creating five “new” sites, as promoted by the CMP, several of which would essentially duplicate each other in what activities they are controlling.

3.13 As noted previously, existing Wāhi Taonga Management Site C39 (which was derived from NZAA site L37/4) will be removed from Appendix 5 of the District Plan (and Planning Map 133) because the CMP has redefined the precise location of this site to the area subject to the CMP and PC26. It will be replaced with Wāhi Taonga Management Areas C39(a) and C39(b).

3.14 The CMP goes onto identify a range of threats to the archaeological and cultural values in the area subject to the CMP. Those threats can be broadly categorised as development pressure/changing land-use, and excavation/disturbance of soil. Current District Plan rules as they relate to management of archaeological and cultural values in the area subject to the CMP are what can be described as reactive to disturbance of these values, in that an activity requires resource consent only after it disturbs damages, removes or destroys any object, artefacts or other symbol of pre-European settlement. Given the archaeological and cultural significance of the site, allied to the status of the protection of historic heritage as a matter of national importance in accordance with Section 6(f) the Act, it is considered more appropriate to provide provisions which are more proactive and precautionary in the management of such a site.

3.15 Finally, PC26 provides the opportunity to rectify historical inaccuracies relating to Wāhi Taonga Management Area C48, which is erroneously listed in Appendix 5 of the Rural Volume of the Plan as Silent File Area C48.

3.16 Amending the District Plan to reflect that site C48 is a Wāhi Taonga Management Area rather than a Silent File Area is consistent with Recommendation 29.15 made on Variation 20 to the Proposed District Plan (PDP) (Amendment to the PDP – Point 12). The correct amendments were made to then Planning Map 53 (now Map 133), but the schedule of Sites Of Significance To Tāngata Whenua contained in Appendix 5 of the District Plan (Rural Volume) was not amended.

3.17 In summary, PC26 will amend the District Plan in the following ways:

- Section B3.3 – Culture and Heritage, minor amendments to the structure, layout and correction of a range of minor spelling errors, along with additional text to reflect the 2003 Resource Management Act Amendments that made the protection of historic heritage a matter of national importance under section 6(f);
- A additional policy identifying that the area subject to the CMP should be protected from inappropriate disturbance;
- An amended Rules framework, which will require applicants to obtain resource consent prior to conducting any activity in the area which may affect the archaeological or cultural values present;
- An amended advice ‘Note’ in the Earthworks section of both Volumes of the Plan regarding which activities are exempt from those rules
- Additional advice “Notes” in various sections of the Plan, advising that an Archaeological Authority is required from the HPT for any works in the area subject to the CMP, and any other archaeological site, regardless of if a resource consent is required for an activity;
- Amended schedule of ‘Sites of Significance to Tāngata Whenua’ in Appendix 5 of both the Rural and Township Volumes of the District Plan
- Definitions for Silent File Area, Wāhi Taonga Management Area and Wāhi Taonga Management Site in the Township Volume of the District Plan, along with the inclusion of a definition for Wāhi Taonga Management Area in the rural Volume of the Plan;
- Amended District Plan Map 133 which will show the extent of the archaeological site, as identified in the CMP, as well as differentiating between Wāhi Taonga Management Areas C39(a) and C39(b);
- Amend Appendix 5 of the Rural Volume of the District Plan to reflect that site C48 is a Wāhi Taonga Management Area rather than a Silent File Area

## **4. Options**

4.1 There are three options which could be pursued in relation to achieving the objective and purpose of PC26:

1. Status Quo – Retain the current District Plan provisions
2. Amend the District Plan as proposed by PC26.
3. Amend existing District Plan provisions relating to the residential areas of Rakaia Huts area and the protection of historic heritage. Resource consent is not required for earthworks which may disturb the Wāhi Taonga Management Area and archaeological site.

### ***1. Status Quo – Retain current District Plan provisions***

4.2 This would involve leaving the District Plan as it currently stands. The identified errors, inconsistencies and issues within the Plan would remain.

### ***2. Amend the District Plan as proposed by PC26***

4.3 The proposed plan change does not change any Plan objectives, rather it seeks to amend an additional policy so that it is consistent with the protection of historic heritage as a matter of national importance, amends the existing rules package and District Plan planning maps to reflect that the spatial extent of the Rakaia Huts Moa Hunter Site is known as a result of work undertaken in the development of the CMP, and makes some minor amendments to the structure and layout of Part B3.3 Culture & Heritage section in each Volume of the Plan.

### ***3. Amend existing District Plan Provisions relating to the protection of historic heritage in the residential area (Living 1 Zone) of Rakaia Huts***

4.4 The area subject to Plan Change 26 has undergone significant alteration and disturbance since European settlement, particularly the residential areas adjacent to Pacific Drive. It is the view of some residents that as no artefacts have ever been discovered while developing the area in the past, there is no need for provisions requiring resource consent for earthworks in the area.

4.5 This option would involve amending any provisions which currently protect historic heritage in the residential area subject to Plan Change 26, so that landowners are not subject to a resource consent process for any works which may disturb or remove soil or which may disturb.

## **5. Analysis of the Options**

5.1 Having identified the relevant objectives and policies that the District Plan must give effect to, S.32 now requires consideration of whether the existing mix of provisions, or the proposed new

provisions more effectively and efficiently achieves the objectives of the District Plan, the RPS, and thereby Part II of the Act.

***Efficiency***

- 5.2 An evaluation of ‘efficiency’ takes into account and balances the benefits and costs of the proposed policies, rules and other methods.

***Effectiveness***

- 5.3 ‘Effectiveness’ measures how successful a particular option is in addressing the issues and achieving the desired environmental outcomes described in the District Plan. Effectiveness is also relevant when considering how successful the proposed policies, rules and other methods would be in achieving district plan objectives. Only provisions that are effective in achieving objectives should be adopted.
- 5.4 The assessment of the efficiency and effectiveness of the proposed plan change needs to be informed by consideration of the benefits and costs of the proposal and the risk of acting or not acting if there is insufficient or uncertain information. The following table sets out this evaluation for the two options identified above:

Option	Benefits/Advantages	Costs/Disadvantages
<b>1. Status Quo – Retain Current District Plan Provisions</b>	<ul style="list-style-type: none"> <li>• No costs associated with a Plan Change process.</li> <li>• Low administrative costs to Council – Council officers familiar with current District Plan provisions.</li> <li>• Certain activities able to proceed in the area subject to PC26 without need for resource consent (until archaeological artefacts are disturbed, damaged or destroyed).</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of Policy Direction to manage activities/threats in the Rakaia Huts Moa Hunter Site.</li> <li>• Potential damage or destruction to and further loss of archaeological and cultural values/artefacts if management of activities over known extent of the Rakaia Huts Moa Hunter Site is not reviewed.</li> <li>• Continuing uncertainty, and attendant costs for activities which require consent where none may in fact be needed, regarding whether C48 is a Wahi Taonga Management Area or a Silent File Area.</li> <li>• Landowners in Living zone at Rakaia Huts required to apply for Resource Consent for a restricted discretionary activity, where effects on archaeological and cultural values have already been compromised by historical developments</li> <li>• Landowner uncertainty regarding their requirements in terms of the Historic Places act and activities which might impact on archaeological sites.</li> <li>• Inconsistent with recommendations made in the Rakaia Huts Conservation Management Plan</li> <li>• Current framework requires consent only after an activity damages, disturbs or destroys archaeological or cultural artefacts.</li> <li>• Consideration of effects of an activity on the archaeological and cultural values not provided for at the appropriate time</li> <li>• Extent of Rakaia Huts Moa Hunter Site not shown correctly on</li> </ul>

		<p>planning map 133.</p> <ul style="list-style-type: none"> <li>Does not adequately reflect amendments to the RMA regarding the consideration of historical heritage as a matter of National Importance (s.6(f)).</li> <li>Archaeological and cultural values in the area subject to PC26 not adequately identified or protected.</li> </ul>
Option	Benefits/Advantages	Costs/Disadvantages
<b>2. Amend the District Plan Provisions as proposed by PC26</b>	<ul style="list-style-type: none"> <li>Consistent with recommendations made in the Rakaia Huts Conservation Management Plan to amend</li> <li>Certainty regarding status of Wāhi Taonga Management Area C48, consistent with decisions made on Variation 20 to the Proposed District Plan</li> <li>Provides certainty to landowners in the Living Zone that requests for resource consent for certain activities will be approved, subject to appropriate consent conditions.</li> <li>Provides certainty to landowners – Activities which are exempt from Earthworks rules clarified.</li> <li>Consideration of effects of an activity on archaeological and cultural values is provided for at the appropriate time (prior to activity occurring).</li> <li>Reflects amendments to the RMA regarding the consideration of historical heritage as a matter of National Importance (S.6(f)).</li> </ul>	<ul style="list-style-type: none"> <li>Costs associated with developing, notifying and hearing the Plan Change.</li> <li>Administrative costs with Council staff needing to become familiar with new provision.</li> <li>Activities associated with soil disturbance/earthworks will require a resource consent prior to commencing.</li> <li>Cost for wider Selwyn District Community in funding resource consents fees on behalf of Rakaia Huts residents would not be needed to be covered (see policy 3.310 and policy 3.3.9 (Township and Rural Volumes respectively)).</li> <li>Landowner resentment and apathy towards matters relating to historic heritage protection. May result in conscious and calculated damage and destruction of cultural and archaeological values and artefacts.</li> </ul>



	<ul style="list-style-type: none"> <li>• Spatial extent of Rakaia Huts Moa Hunter site clarified.</li> <li>• Archaeological and cultural values in the area subject to PC26 identified or protected.</li> <li>• Archaeological and cultural values of the area subject to PC26 will be highlighted to landowners and others involved in PC 26 process.</li> </ul>	
Option	Benefits/Advantages	Costs/Disadvantages
<b>3. Amend existing District Plan Provisions relating to the protection of historic heritage in the residential area (Living 1 Zone) of Rakaia Huts</b>	<ul style="list-style-type: none"> <li>• Time savings to landowners/residents as there is no longer any requirement to apply for resource consents.</li> <li>• Savings to landowners/residents as no costs for archaeological/cultural monitoring of approved resource consents.</li> <li>• Cost savings to the wider Selwyn District community as resource consent fees paid by the Council on behalf of Rakaia Huts residents would not be needed to be covered (see policy 3.310 and policy 3.3.9 (Township and Rural Volumes respectively) .</li> </ul>	<ul style="list-style-type: none"> <li>• Does not adequately reflect that the protection of historic heritage is a matter of national importance (6(f) of the RMA). This option does not adequately protect the cultural and archaeological values of the Rakaia River Moa Hunter site.</li> <li>• Does not allow for Council to consider the adverse effects of a proposal on the cultural and archaeological values likely to still be present in the area.</li> <li>• Potential damage or destruction to and further loss of archaeological and cultural values/artefacts.</li> <li>• Does not allow for a more complete understanding or picture of the cultural and archaeological values present at the site to be developed.</li> <li>• Would not achieve the objectives of the District Plan, or result in anticipated environmental results which seek to protect waahi tapu sites or sites with heritage values.</li> <li>• Inconsistent with recommendations made in the Rakia Huts Conservation Management Plan</li> </ul>

### *Efficiency and Effectiveness*

- 5.5 Council considers that the proposed plan change provides an efficient and effective method of addressing the issues identified in this report. The area subject to Plan Change 26 is a recorded and recognised archaeological site, as defined in section 2 of the Historic Places Act 1993 and is also a recognised Wāhi Taonga Management Area. The protection of historic heritage is a matter of national importance as set out in section 6(f) of the Act.
- 5.6 While it is true there has been significant alteration and disturbance to the area (and the cultural and archaeological values) in the time since European settlement, there is sound reason to believe that archaeological material remains to be found in the area. At the time of writing this report, an artefact in the form of a “large chopping tool” had been found at an excavation on a site on the corner of Pacific Drive and Ocean View Place at Rakaia Huts (personal communication with Dan Witter – consultant archaeologist, Monday 13<sup>th</sup> June 2011).
- 5.6 Requiring resource consent as a controlled activity (consent cannot be declined, but conditions can be imposed) is neither too onerous and provides an opportunity for an assessment of effects on the cultural and archaeological values, with appropriate monitoring conditions put in place before earthworks for any proposed development proceeds.
- 5.7 It is considered that relying solely on non-regulatory approaches to the protection of historic heritage (accidental discovery protocols, advocacy and education and negotiation) is neither efficient nor effective. In the majority of cases (over 90% - personal communication Dan Witter – consultant archaeologist), the archaeological material likely to be found in this area is of a nature that it would not readily be recognised as being of archaeological significance.
- 5.8 Based on feedback from consultation on the draft of Plan Change 26, there is sufficient reason to believe that any artefact finds that do occur in the future are unlikely to be reported under a voluntary non-regulatory regime as there appears to be a belief that notifying authorities of such finds will only lead to further inconvenience, delays and costs for a project.
- 5.9 Additionally, expecting a development to be stopped in the middle of work due to an ‘accidental’ find is not considered to be practical or fair. Making it clear from the outset of a project that monitoring for archaeological and/or cultural reasons will occur gives fair warning and can be factored into a projects work programme.
- 5.10 In view of the above, it is considered that the proposed plan change will be effective in achieving the objectives of the District Plan and the objective of the Plan Change.

## ***Risk***

- 5.11 Whilst there is always some uncertainty over the level of impact that a new set of rules may have on attempting to resolve an issue, it is considered that in this case there is sufficient information available on the issues of concern and the methods available to address them.
- 5.12 As noted previously, the area subject to Plan Change 26 is both a Wāhi Taonga Management Area and a recorded archaeological site. There is sufficient reason to believe that there remains archaeological material in the area subject to Plan Change 26. A key risk of not acting is that any remaining archaeological material still in the area will be lost and unable to be recorded for the benefit of future generations.
- 5.13 This risk is considered to be strong and it is considered that relying on an Accidental Discovery Protocol and other non-regulatory mechanisms, such as negotiation, advocacy and education, would not generally be successful.

## **6. Consultation**

- 6.1 Te Taumutu Rūnanga, through Mahaanui Kurataiao (MKT) and the New Zealand Historic Places Trust Pouhere Taonga (HPT) have been consulted and involved in the development of Plan Change 26 from early in the process, and in the latter stages, at a statutory level in accordance with the 1<sup>st</sup> Schedule (clause 3) of the RMA. Te Rūnanga o Ngāi Tahu was also consulted in accordance with the 1<sup>st</sup> Schedule (clause 3) of the Act.
- 6.2 Council has also consulted with all other relevant statutory parties as set out in the 1<sup>st</sup> Schedule (clause 3) of the Act, including the Ministry for the Environment, the Department of Conservation and the Canterbury Regional Council.
- 6.3 Council officers met with the Rakaia Huts Community Committee on Monday the 18<sup>th</sup> of April. A draft of the plan change along with associated material was made available for public comment from the 20<sup>th</sup> of April 2011 until the 3<sup>rd</sup> of June 2011.
- 6.4 Council held two public open days for the residents of the Rakaia Huts Township, on Wednesday the 4<sup>th</sup> of May 2011, and Saturday 14<sup>th</sup> of May 2011. The open days were attended by 19 and 27 participants respectively. Council planning staff and Councillors, staff from the New Zealand Historic Places Trust Pouhere Taonga and the consultant archaeologist involved in the Rakaia Huts Conservation Management Plan were present to answer any question participants had regarding draft Plan Change 26 and any other matters related to historic heritage in the area. Participants were also made aware that Council staffs were available during normal office hours if there were any particular matters they would like to discuss.

6.5 Council received 12 “submissions” on the draft plan change from residents of the Rakaia Huts, who were generally opposed to the proposed plan change. Two submissions related to a Land Information Memorandum note for the Rakaia Huts area and are not subject to consideration as part of PC 26. In summary, opposition was focused on five distinct matters:

- There is no justification to include the area adjacent to Pacific Drive within the archaeological area as proposed. No artefacts have been uncovered in the course of past extensive development in the area adjacent to Pacific Drive. Due to extensive ground disturbance, it is improbable that further discoveries will be made;
- No justification for sites in Ocean View Place to be subject to conservation protection as each lot was obliged to apply for consent from Council in the past and have received approvals from the runanga and HPT;
- Plan change 26 will not simplify matters for residents of Rakaia Huts, rather the opposite will happen, specifically for those residents adjacent to Pacific Drive;
- Inclusion of properties in ‘new’ archaeological area will de-value properties. In addition, LIM notes attached to properties in the area will also have a negative effect on property values;
- Residents purchased their properties in good faith and with clear title. Council would have been aware that a plan change of this nature was impending and should have made residents aware at the time the properties in Rakaia Huts were sold. If residents had been aware (it is not clear what the residents were unaware of, that the area was an archaeological site or a Wāhi Taonga Management Area?) the negotiated market value would have been in the region of \$10,000.00 less.

One submission supporting the proposed plan change was received from the Department of Conservation.

6.5 Comments on the draft plan change from all parties have been assessed by planning staff, with subsequent changes made where considered appropriate.

## **7. Conclusions**

Based on the evaluation noted above, it is considered that the proposed plan change represents a more effective and efficient method of achieving the District Plan’s objectives and policies than the current Plan provisions and thereby better achieves the purpose of Part II of the Act.

## **ATTACHMENT 4**

### **Rakaia Huts Conservation Management Plan**

## **ATTACHMENT 5**

### **Maps and Figures**