



REPORT TO: Selwyn District Council

SUBJECT: Proposed Selwyn District Plan

Hearing for Sites and Areas of Significance to Māori

DATE: 25 February 2022

1.0 Introduction

1.1 Mahaanui Kurataiao Limited (Mahaanui) has been engaged by the Selwyn District Council (the Council) to provide advice on particular matters raised in submissions relating to the Chapter for Sites and Areas of Significance to Māori (SASM). In addition, the Council has requested that Mahaanui provide an overview of:

- The cultural overlays, their values and purpose;
- The importance of the sites and areas to mana whenua;
- The research and analysis undertaken to identify the sites and areas of significance;
- The process followed when a consent is triggered and how engagement with mana whenua is facilitated;

1.2 We set out our advice on the general matters first, followed by comments on particular matters raised in submissions. These include:

- Requests to delete the Ngā Tūranga Tūpuna overlay
- Applicable rules in the Ngā Tūranga Tūpuna overlay
- Exemptions for earthworks
- Identification of ephemeral streams as Ngā Wai
- Buildings sited on maunga
- The up-grading of Trustpower assets
- Matters of discretion

2.0 How Did We Identify the Sites and Areas of Significance?

- 2.1 In this section we describe the process that was followed in the identification of the sites and areas under each of the cultural landscape categories below.
- 2.2 Mahaanui firstly reviewed existing documented information to identify areas and sites of significance. This included the Operative district plan along with Cultural Impact Assessments undertaken for particular projects within the District (signaling locations of higher interest), information from the New Zealand Archaeological Association database, the Mahaanui Iwi Management Plan, the Taumutu Natural Resources Management Plan and Te Whakatau Kaupapa. This was further supplemented by research of historical narratives and discussions with members of the Papatipu Rūnanga.
- 2.3 A long list of sites and areas was then compiled and considered by a representative appointed by Taumutu and Te Ngāi Tūāhuriri Rūnanga in collaboration with Mahaanui. We note that the sites and areas in the Proposed District Plan do not represent all known sites and areas of significance within the Selwyn District, but are representative of those considered to be of higher significance.

3.0 The Cultural Overlays

- 3.1 The Cultural Overlays in the Proposed Selwyn District Plan (the Proposed Plan) follow the categorisation of cultural landscapes that were developed for the Operative Christchurch District Plan and are now also adopted in the Proposed Waimakariri District Plan. This consistency in approach assists understanding of the cultural landscapes in this part of Canterbury and administration of planning provisions.
- 3.2 It is also important to acknowledge that takiwā are not confined within the boundaries of territorial authorities, which are in themselves an artificial construct. A consistent approach to cultural landscapes across territorial boundaries better reflects a mana whenua understanding of the historic occupation of Te Tai o Mahaanui and the movement of people across this landscape. The overlays reflect understanding of the location of important settlements, areas important for mahinga kai and the movement of people between these places. It also reflects knowledge of sites which are wāhi tapu and features and places which are wāhi taonga.
- 3.3 The Cultural Overlays in the Proposed Plan reflect the approach to cultural landscapes described in the Mahaanui Iwi Management Plan and a contemporary understanding that cultural landscapes

relate to broad areas of historical occupation rather than specific, individual sites of known archaeological finds.

Wāhi Tapu and Wāhi Taonga

- 3.4 Wāhi tapu are sites and places that are culturally and spiritually significant to mana whenua history and identity. They may include sites such as urupā, pā, maunga tapu, kāinga, Tūranga waka and places where taonga have been found. The term is generally applied to places of particular significance due to an element of sacredness or some type of restriction as a result of a specific event or action. Wāhi tapu sites are to be protected according to tikanga and kawa to ensure that the sacred nature of those sites is respected.
- 3.5 Wāhi taonga are 'treasured places' with high intrinsic values and valued for their capacity to shape and sustain the quality of life and provide for the needs of present and future generations. Access to these areas is important to Ngāi Tahu identity.
- 3.6 Wāhi tapu and wāhi taonga are not confined to the physical boundaries of a site, but are to be viewed in the context of their surroundings and community. They include Silent Files, Maunga Tapu (mountains), Ngā Puna (springs), important Pā and Kāinga as well as mahinga kai sites.

Ngā Tūranga Tūpuna

- 3.7 These are generally broad landscapes within which there is a concentration and wider range of culturally significant sites e.g., archaeological sites of Māori origin, silent files, the remnants of ancestral Pā, kāinga, urupā and all of the interconnection spaces. Of cultural significance which

Ngā Wai

- 3.8 Ngā wai represents the essence of all life and is a source of mahinga kai. It has the highest of cultural values and is associated with significant events, access and travel routes and creation traditions. In relation to the Proposed Plan, Ngā wai encompasses selected water bodies and their margins which have been significant areas of mahinga kai or other customary activities for mana whenua. These include Ngā awa/rivers, Ngā roto/lakes, Ngā hāpua/coastal lagoons, Ngā repo/wetlands and Ngā puna/springs. These all have ancestral and customary associations, including being former trails, places of mahinga kai and nohoanga. Some are retained within cultural memory via ancestral place names.

Purpose

- 3.9 The purpose of the cultural overlays in the Proposed Plan is to acknowledge the history, cultural association and values of these places and features. This is a matter of importance to mana whenua, and to the history of Aotearoa/New Zealand and is a statutory requirement of the Resource Management Act 1991.
- 3.10 Overlays are also a well understood and effective planning tool to identify areas where particular management of resources is required. In the case of cultural overlays this is both the management of the quality and health of the environment, as well as the management of particular activities that may adversely impact on cultural sites and values, both tangible and intangible. Management may include moderating or modifying particular activities, as well as providing for the protection of sites from irreversible change or damage.
- 3.11 Activities with the potential to adversely impact on sites and areas of cultural significance include earthworks, which may damage or destroy physical sites or result in erosion and sedimentation of waterways where large bare areas of land are left exposed. Intensive farming and industrial activities may additionally require large-scaled buildings which are inappropriate in a cultural setting (acknowledging that discharges to land and air are managed by Environment Canterbury). A more comprehensive description of potential or perceived threats to cultural sites and areas of significance has been provided in the baseline report, Sites and Areas of Significance prepared by Mahaanui Kurataiao in June 2018.

4.0 Importance to Mana Whenua

- 4.1 The recognition and protection of sites and areas of significance to mana whenua remains integral to provide for the ancestral and enduring cultural relationships between mana whenua and their significant places.
- 4.2 These relationships manifest in various contexts and reflect significant histories of association. Ancestral/traditional names of Tūpuna and taonga relate to particular areas and sites that are retained within cultural memory, and along with the appropriate customary regard these provide indicators of specific significance accorded by mana whenua.
- 4.3 Mana whenua of the district comprise whānau with long-standing associations with the sites and areas within the Cultural Overlays. As such their rangatiratanga is acknowledged via the recognition

and protection of the sites along with their involvement in decision-making with regards to land use proposals.

5.0 Engagement with Mana Whenua

- 5.1 To assist the Hearings Panel, we provide the further explanation of how engagement with mana whenua is typically managed when a resource consent is triggered for cultural reasons.
- 5.2 Some projects are of such scale and impact, that an applicant will have either identified in advance that it will have potential cultural effects; or the Council will have advised the applicant at a pre-application meeting that the proposal may have effects on cultural values. In those circumstances, Mahaanui Kurataiao is often approached in advance of an application being submitted to Council to initiate engagement. Typically, Mahaanui will meet with the proponent of the development and provide some preliminary advice on the likely interest or concerns of the Papatipu Rūnanga. If the proposal is likely to be of potential concern or interest, then Mahaanui will provide a scope of work to facilitate engagement with Papatipu Rūnanga and to provide feedback to the proponent.
- 5.3 Mahaanui has regular scheduled hui with kaitiaki, who are delegated members of the Papatipu Rūnanga mandated to review and provide feedback on environmental matters, such as resource consents. Accordingly, a relatively streamlined and efficient process is already in place to expedite advice. Mahaanui is acutely aware of the need to provide feedback in a timely manner to meet statutory deadlines.
- 5.4 Within the past year Mahaanui gave advice on approximately 500 resource consents to territorial authorities within Canterbury. Mahaanui has systems and agreed protocols for consent processing with Christchurch City and Environment Canterbury. For these two Councils, development proposals which trigger resource consents in a cultural landscape and have not been subject to any engagement prior to lodging, are shared with Mahaanui via an online portal for feedback and recommendations in respect of further engagement or conditions. Christchurch City also has an agreed list of 'triggers' with Papatipu Rūnanga which further guides matters that must go to kaitiaki for consideration and matters that can be processed by the Council without engagement. This has proved to be an efficient and cost-effective system for managing consents.
- 5.5 The number of consents directed to Mahaanui by Waimakariri, Hurunui and Selwyn District Council's is much smaller and there is no online system with those Councils. With respect to Selwyn District approximately 20 resource consents have been directed to Mahaanui Kurataiao in the past 5 years.

- 5.6 Mahaanui notes that the Christchurch District Plan and the Proposed Waimakariri District Plans both contain policies relating to engagement as follows:

Christchurch City

9.5.2.2.5 Policy – Engagement with Rūnanga

Ngāi Tahu and Council to encourage and facilitate the engagement of landowners and resource consent applicants with the relevant rūnanga prior to undertaking activities and/or applying for resource consent, within or adjacent to identified sites of Ngāi Tahu significance (including silent file areas). Where prior applicant engagement has not been undertaken Council will consult with the relevant rūnanga.

Waimakariri District

SASM-P8

Te Ngāi Tūāhuriri Rūnanga and the District Council to encourage engagement with the Rūnanga prior to persons undertaking activities and/or applying for resource consent where the activity has the potential to adversely affect identified sites or areas of Ngāi Tūāhuriri cultural significance. Where prior engagement with Te Ngāi Tūāhuriri Rūnanga has not been undertaken by an applicant for an activity that has the potential to adversely affect an identified site, the District Council will consult with the Rūnanga.

- 5.7 There is no equivalent policy in the Proposed Selwyn District Plan, which Mahaanui considers may be a gap in the policy framework for the SASM chapter. If there was scope to introduce such a policy, Mahaanui considers this may be beneficial for administration of the district plan.
- 5.8 In terms of engagement, Mahaanui understands that many applicants find the process of engagement with Papatipu Rūnanga unknown and challenging. Experience from the many hundreds of applications processed with Christchurch City has demonstrated that an agreed trigger list is extremely helpful to assist the Council to identify where applications are likely to be of greater interest or concern to Kaitiaki. In the Christchurch City example, the list sits outside of the district plan, can (and has) been reviewed and is mandated by the relevant Rūnanga.
- 5.9 It is also important to acknowledge that it is the Papatipu Rūnanga who should determine the nature and significance of cultural effects arising from resource consents, and not the Council. There are two difficult scenarios that can arise in the consideration of effects on cultural values. One is where Papatipu Rūnanga are not identified as an affected party by a Council (a decision often based on technical reports or assessments which are not specific to cultural values) but the Papatipu Rūnanga considers it is. The other scenario is where Papatipu Rūnanga determine an application does not result in any cultural effects of significance, but Council, as a matter of due process, insists they must give an affected party approval. Both scenarios can result in protracted processes and

frustration. Mahaanui suggests, if there is scope, that it may be beneficial to amend those clauses in the SASM chapter relating to public notification¹ to clarify that it is the advice from the Papatipu Rūnanga that informs when notification occurs as well as potentially informing recommendations for conditions of consent. Possible wording for an amended clause is:

“Any application arising from SASM-RXXX shall not be subject to public notification.

Where advice from the relevant Rūnanga is received in respect of an application following engagement undertaken by either the applicant or the Council, that advice shall inform whether notification of the application is to be served on the relevant Rūnanga and/or any conditions of consent recommended to be imposed on the consent.

Absent their written approval, notice shall be served on Heritage New Zealand Pouhere Taonga.”

6.0 Submissions

- 6.1 We have reviewed a schedule of submissions provided by the Council which concern the Sites and Aras of Significance to Māori. We will firstly comment on those submissions which can be grouped under general themes.

Farm Activities in the Ngā Tūranga Tūpuna

- 6.2 A number of submitters have raised consistent concerns with the limitations on earthworks in the Ngā Tūranga Tūpuna overlay. We note the following activities which have been identified in submissions:
- The restriction on earthworks in the Ngā Tūranga Tūpuna prevents burial of dead livestock
 - The depth for excavation is insufficient for restoration planting projects
 - The depth for excavation does not allow for establishing important farm infrastructure such as a water line or fence
- 6.3 As described above, the Ngā Tūranga Tūpuna Overlay represents areas of historical occupation and use where mana whenua have a heightened level of interest and concern for environmental values and the quality of environmental outcomes. In particular, mana whenua are concerned with the effects of land use and that management of the environment is achieved in an integrated manner. In this context, the Ngā Tūranga Tūpuna Overlay is primarily concerned with integrity of the environment, but does not represent a requirement equivalent to protection that would be associated with sites and areas which are wāhi tapu.

¹ SASM-R1.5; SASM-R2.4; SASM-R3.3; SASM-R4.3; SASM-R5.3; SASM-R6.3

- 6.4 Accordingly, Mahaanui agrees that it is reasonable for an agreed list of 'everyday' farm practices to be enabled and would support an increase in the range of earthworks exempt from the earthworks rules. Additionally, Mahaanui supports amending the earthworks trigger to be reset as a volume. A similar approach was taken in the Proposed Waimakariri District Plan where the Ngā Tūranga Tūpuna overlay covers urban zoned land. In this location, it was agreed that it would be unreasonable to require resource consents for building homes and installing services. Where large extents of earthworks are proposed however, such as land preparation for subdivision, it is still appropriate to require a consent to ensure that cultural values are considered in the design and implementation of the proposed works.
- 6.5 Applying this approach to the Proposed Selwyn District Plan, Mahaanui supports SASM-R2 being amended to provide for:
- earthworks for planting trees, ecological restoration or riparian protection in any area (this excludes the planting of trees for plantation forestry);
 - installation of fences and farm tracks;
 - installation of septic tanks and underground customer services (fibre, electricity);
 - installation of farm infrastructure (pipelines and related utility buildings) not exceeding a combined volume of 350m³ per project;
 - installation of building foundations for dwellings, residential accessory buildings and farm accessory buildings where the volume of earthworks is 350m³ per building site.
 - installation of signs;
 - cultivation, stopbanks and roadworks, drain and track maintenance within land previously disturbed;
 - the drilling of a well or bore;
 - the burial of a deceased animal;
 - cultivation in previously undisturbed areas to be maximum depth of 200mm;
 - replacement of utility structures and buildings in the same location.
- 6.6 Mahaanui considers any larger or more extensive earthworks should remain subject to assessment through a resource consent process. This is to ensure that cultural considerations such as monitoring, the adoption of accidental discovery protocols and measures for management of

potential adverse environmental effects, which also represent cultural effects, are able to be applied.

Structure of the Plan

- 6.7 We note that some submitters have requested that the Ngā Tūranga Tūpuna and the Ngā Wai Overlays are deleted in their entirety as they duplicate the Cultural Landscapes/Values Management Area in the Canterbury Regional Land and Water Plan, and because the activities are already controlled by other provisions of the District Plan.
- 6.8 Mahaanui refers to s6(e) of the RMA which requires the District Council to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. We refer to paragraph 3.7 above which describes the purpose of the Ngā Tūranga Overlay to recognise areas and landscapes within which Māori historically settled and travelled. These locations retain cultural importance for contemporary Māori through cultural memories and where there is the ability to continue customary practices. In this context, mana whenua have a relationship with this locality which is not confined to 'pin point' sites such as a site of archaeological find. Similarly, the Ngā Wai Overlay recognises the presence and role of waterbodies in sustaining life, providing for mahinga kai as well as an association with settlement and travel. Water is considered to represent the life blood of the environment and its condition and treatment is a reflection of the health and regard for Papatūānuku. For these reasons, Mahaanui supports the Council in its proposal to identify both of these Overlays on the planning maps and to provide related objectives and policies.
- 6.9 Mahaanui does acknowledge that whilst the objectives, policies and rules for the Ngā Tūranga Tūpuna Overlay are located within the SASM chapter, there is no limitation per se on where the relevant rule sits in the district plan. The rules could be located in the zone chapter so long as there is a hyperlink or cross-reference to the Matters of Discretion in the SASM chapter and the cultural basis or contribution as a reason for the rules is explicit in the objectives and policies e.g., a waterway setback needs to identify and provide for the cultural outcomes to be achieved within the setback. The cultural outcomes are not just a consequence of a setback for other purposes.
- 6.10 The hyper-linking of rules and assessment matters has been adopted in the Christchurch District Plan i.e., rules for earthworks sit in the earthworks chapter, but the objectives, policies and assessment matters sit in the SASM chapter. Mahaanui considers this is a matter for Council's preference, noting that the more restrictive earthworks rules for SASM would need to be retained, regardless of their location in the Proposed Plan.

Ephemeral Streams Identified as Ngā Wai

- 6.11 A submission from Ellesmere Sustainable Agriculture Limited is concerned that the Ngā Wai Overlay has been applied to waterways that have not contained flowing water for up to 100 years.
- 6.12 Mahaanui is supportive of addressing this submission point and working with the Council to ensure that the Ngā Wai overlay is applied to relevant waterbodies.

Dual Naming of Ngā Wai

- 6.13 A submission from Ellesmere Sustainable Agriculture Limited seeks the dual naming of waterbodies in the Ngā Wai Overlay. Mahaanui has no concerns in relation to the dual naming of waterbodies.

Buildings on Maunga

- 6.14 Federated Farmers has made a submission to amend Policy 1 of the SASM Chapter so that rather than avoiding buildings within wāhi tapu identified as maunga, the policy instead limits buildings to those that are small-scale utility buildings associated with farming or outdoor recreation.
- 6.15 In recent times more New Zealanders have become aware of the importance of mountainous prominent peaks and ranges, in Māori culture. Within the context of Canterbury Ngāi Tahu culture, mana whenua informants quoted in the Mahaanui Iwi Management Plan (2013) state that:
- “...Maunga play an important role in the spiritual and cultural beliefs of Ngāi Tahu Whānui. As the gateways to the Atua, they are considered the most sacred part of the landscape. Maunga carry the names of tūpuna and significant historical events and stories. The tūpuna are etched into the landscape through oral traditions and history, as a permanent reminder for the generations that follow them...”
- 6.16 Additionally, the Mahaanui Iwi Management Plan contains policies for “recognising and providing for the relationship of Ngāi Tahu to maunga”². Of relevance to the submission from Federated Farmers is Policy CL8.2 which seeks to “to prohibit the erection of buildings or structures on our ancestral maunga”³.
- 6.17 Aspects such as the nature and scale of a building or structure, along with proposed location and any potential environmental impact, are likely to also be of concern. Buildings or structures on the crest or crown, or above the snowline, of a maunga are very highly likely to be deemed culturally

² Page 173, Mahaanui Iwi Management Plan

³ Page 173, Mahaanui Iwi Management Plan

impactful by mana whenua, as this portion of the maunga could be seen to be the 'Upoko/head of an ancestor'.

- 6.18 For the reasons set out above, Mahaanui does not support allowing any structures above the snowline on any maunga and considers that although proposals in other parts of the alpine environment or below the snowline, may potentially be more acceptable (dependent on scale and design), the environment is still culturally sensitive. Mahaanui therefore supports retention of the policy for avoiding buildings within wāhi tapu identified as maunga and requiring a resource consent process for these buildings. Mahaanui notes the relatively small area of maunga identified as wāhi tapu, increasing the significance of protecting these particular cultural landscapes.

Trustpower

- 6.19 Trustpower has submitted seeking that the Cultural Overlay imposed on Lake Coleridge is amended to exclude the weir which sits between the Oakden Canal and Lake Coleridge and the intake structures at the southern end of the lake. The submission comments that the structures act as a barrier between the natural and built environments and will not have a significant impact on taonga species. Trustpower expresses the view that maintenance of these structures is necessary and works need to be unhindered.

- 6.20 Mahaanui comments that the values associated with Lake Coleridge are not limited to taonga species. Whakamatau/Lake Coleridge catchment remains a highly significant cultural landscape and Ngā Tūranga Tūpuna. According to the Ngāi Tahu Claims Settlement Act 1998 (Schedule 76):

"Whakamatau is one of the lakes referred to in the tradition of "Ngā Puna Wai Karikari o Rakaihautu" which tells how the principal lakes of Te Wai Pounamu were dug by the rangatira (chief) Rakaihautu... For Ngāi Tahu, traditions such as this represent the links between the cosmological world of the gods and present generations, these histories reinforce tribal identity and solidarity, and continuity between generations, and document the events which shaped the environment of Te Wai Pounamu and Ngāi Tahu as an iwi...

- 6.21 The mauri of Whakamatau represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu Whānui with the lake".
- 6.22 Whakamatau was also a highly notable mahinga kai (particularly for waterfowl and tuna/eels), and was an integral part of an ancestral trail system that linked Canterbury and Te Tai Poutini (the West Coast). Knowledge of these trails and mahinga kai, continues to be held by whānau.

- 6.23 Trustpower asks for clarification of the phrase ‘contemporary’ relationship. We advise that the word ‘contemporary’ is used to demonstrate that the relationship between mana whenua and the particular locality is not a matter of past or historical account. The locality is still a cultural landscape conveying values that are of importance to mana whenua in the current context. Failing to acknowledge this contemporary relationship has the potential for the cultural association to be treated as if it were a heritage item.
- 6.24 For these reasons, Mahaanui does not support any amendment to the Cultural Overlay imposed on Lake Coleridge and recommends that it remains as shown in the notified version of the Proposed District Plan.

Extent of SASM 1 Selwyn Coastal Marine Area increased from previous Operative Plan

- 6.25 A submission has been received seeking that the extent of SASM-1 is reduced to reflect the same area in the Operative District Plan.
- 6.26 We advise that the coastal marine area within Selwyn District should be recognised as significant to mana whenua. The coastline and coastal environs were previously highly utilised for mahinga kai, including nohoanga and travel routes. In this context, the coastal marine environs should be protected from culturally impactful activities by the Proposed Plan.
- 6.27 Mahaanui recommends that the actual extent of the described or mapped coastal marine area in the Proposed Plan should be determined by the Council having regard to the legal definition of the Coastal Marine Area, the statutory acknowledgement for Te Tai o Mahaanui described in Ngāi Tahu Claims Settlement Act 1988, the best practice for mapping and be supported by an appropriate description of significant geographic and ecological features in the appropriate sections of the Proposed Plan e.g., Natural Features and Landscapes, Natural Character and Ecosystems and Indigenous Biodiversity.

More specificity in the Matters of Discretion

- 6.28 A number of submitters have expressed concern that the Matters of Discretion lack specificity and they are unclear what would be assessed.
- 6.29 Mahaanui has compared the proposed Matters of Discretion with those in the Christchurch District Plan and the Proposed Waimakariri District Plan. They are largely similar in approach and content relying on the engagement process to inform and guide the assessment of the resource consent. With respect to Ngā Tūranga Tūpuna the assessment matters are quite specific as to the matters of consideration e.g., removal of indigenous vegetation, restoration of natural features, effects on mahinga kai, access, an Accidental Discovery Protocol. These are not unclear and lacking in

specificity. Mahaanui supports the ability for mana whenua to inform decision-making on development proposals in the Cultural Overlays, being landscapes of high cultural significance. For these reasons Mahaanui supports the Matters of Discretion as notified.

- 6.30 Federated Farmers also seek a clear timeframe for assessments by the Papatipu Rūnanga. We have explained the engagement framework above. Selwyn District has no shared framework with Mahaanui for processing consents, and in our experience it recommends to potential applicants when it is necessary to consult with mana whenua. We note that both Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga have regular hui scheduled with Mahaanui for consideration of applications and this engagement is consistently achieved within consenting or reasonable timeframes, where a consent has not yet been lodged. Mahaanui provides a timeframe for this engagement. This can be dependent on the scale and nature of the activity.

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