
OFFICER'S RESPONSE TO QUESTIONS FROM THE HEARINGS PANEL

DATE: 8th of April 2022

HEARING: Site and Areas of Significance to Māori

HEARING DATE: 12th of April 2022

PREPARED BY: Craig Friedel

Introduction

The purpose of this report is to provide a written response to the questions posed by the Hearings Panel on the respective section 42A report for the Sites and Areas of Significance to Māori Chapter.

Questions and Answers

Paragraph	Question from the Hearings Panel
8.15 (last sentence)	<p>You appear to be saying here that the RMA confers this duty to the runanga. Is it not legally the case that SDC still has a duty to determine who the affected parties are, <u>after</u> iwi has seen and commented on the applications that have been sent to iwi?</p> <p>This seems to be confirmed in your next paragraph, please clarify.</p>
<i>Officer response:</i>	<p><i>The last sentence in paragraph 8.15 was intended to highlight that Papatipu Rūnunga hold appropriate information and knowledge of sites and areas of significance to Māori. Accordingly, engagement with Papatipu Rūnunga prior to making a decision on affected party status and notification is helpful to Council's decision-making on these matters. The Mahaanui Kurataiao Report discusses this in the context of its involvement in consenting processes across the Canterbury Region, which includes advice to neighbouring Councils during resource consent processes¹.</i></p> <p><i>For completeness, SDC has the mandatory duty to evaluate resource consent applications that are subject to the SASM rules against Sections 95A and 95B to determine whether notice is served on the relevant Rūnanga and/or Heritage New Zealand.</i></p>
8.17.4	<p>You have recommended amendments to Part 1 - Introduction and General Provisions, including changes to HPW10 - Consultation and MANA7 Local Authority Relationships, to outline the roles and responsibilities of Papatipu Rūnunga, SDC and resource consent applicants in the consent process.</p>

¹ Mahaanui Kurataiao Ltd Report, Appendix 3 to the Officer's Section 42A Report, paragraph 5.9, Pg.6.

Paragraph	Question from the Hearings Panel
	A hearing has already been held on Part 1 Introduction and General provisions – was this recommendation placed before that panel?
Officer response:	<p><i>Amendments to Part 1 HPW10 to include additional information about how to outline expected protocols and processes in Part 1 Tangata Whenua/Mana Whenua were sought by NCF² and HortNZ³. The Reporting Officer rejected this relief on the grounds that “...processes and respective contacts are continually evolving and that such documentation should live outside the PDP...”⁴. I support this position as consultation processes should be adaptable to the context of the application and responsive to the needs of all parties.</i></p> <p><i>The recommendation in the SASM Section 42A Report to provide additional content in HPW10 and MANA7 of Part 1 within the scope of the submissions received was due to there being a concern that there may not be scope in submissions to introduce a new engagement policy within the SASM Chapter⁵. The inclusion of an engagement policy is preferred as it would remove the need for amendments to Part 1, consistent with the evidence that was presented at Hearing 2: Part 1 - Introduction and General Provisions.</i></p> <p><i>To provide further context, The Operative Christchurch District Plan (CDP)⁶ and the Proposed Waimakariri District Plan (pWDP)⁷ both include engagement policies that encourage landowners and applicants to engage with papatipu Rūnunga, but that the councils will initiate consultation if this hasn’t been undertaken. SDC staff have indicated an in-principle commitment for council to implement such a policy. Conversely, neither of these district plans reference the details of the process specifically in the notes in the CDP 9.5 Ngāi Tahu values and the natural environment or 1.2.19 Consultation with Ngāi Tahu mana whenua, or the pWDP SASM - Ngā whenua tapu o ngā iwi - Sites and Areas of Significance to Māori Chapters or Part - Introduction and general provisions - Mana Whenua.</i></p> <p><i>The following engagement policy is provided for the consideration of the submitters and Panel, which generally reflects the wording used in CDP Policy 9.5.2.2.5:</i></p> <p>SASM-P4 <u>Taumutu and Te Ngāi Tūāhuriri Rūnanga 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 cultural significance (including the Sites and Areas of Significance to Māori). Where prior applicant engagement has not been undertaken Council will consult with the relevant rūnanga.</u></p> <p><i>A further response to these matters is able to be provided to the Panel for consideration following the presentation of submitter evidence and any instructions that may be issued as a consequence.</i></p>

² DPR-0422.010 NCF

³ DPR-0353.012 HortNZ

⁴ Section 42A Report - Part 1 - Introduction and General Provisions, paragraph 9.22.

⁵ Section 42A Report - Sites and Areas of Significance to Māori, paragraphs 8.19 to 8.21.

⁶ Operative Christchurch District Plan, 9.5.2.2.5 Policy - Engagement with Rūnanga - [CDP hyperlink](#).

⁷ Proposed Waimakariri District Plan, Policy SASM-P8 Engagement with Rūnanga - [pWDP hyperlink](#).

Paragraph	Question from the Hearings Panel
8.21	Are you recommending another change to Part 1 – Introduction and General chapter here to refer to an engagement process? If so, where does the scope come from to do that?
<i>Officer response:</i>	<i>The second sentence in paragraph 8.21 is a direct cross-reference to the possible need for the engagement process to be referenced in Part 1 outlined in paragraph 8.17.4.</i>
9.16.2	The submitters seek to remove Policy 2, and your response is that to remove it would compromise the effectiveness of the PDP. Can you advise in which rules the SASM Chapter actually implements Policy 2 (is it implemented just in the assessment matters)?
<i>Officer response:</i>	<i>Policy SASM-P2 forms a component part of the framework for acknowledging the cultural values associated with the identified Ngā Wai. The SASM Ngā Wai Overlay is not specifically referenced within the SASM rules because it is implemented through the Natural Character (NATC) Chapter. The NATC Chapter requires an RDIS activity consent under requirements NATC-REQ1 through to NAT-REQ4 where activities are proposed within the Ngā Wai Overlay and the minimum setbacks from Surface Water Bodies are not satisfied. These applications would require an assessment under policy SASM-P2 and SASM-MAT3 Ngā Wai. Policy SASM-P2 would also guide the consideration of resource consents for activities relating to any Ngā Wai within the SASM-Wāhi Tapu, Wāhi Taonga and Ngā Tūranga Tūpuna Overlays and listed in SASM-SCHED1 Wāhi Taonga and Wāhi Tapu and SASM-SCHED2 Ngā Tūranga Tūpuna.</i>
10.40.1	The report states that the removal of rule SASM-R4 or granting the proposed amendments would undermine the effectiveness and efficiency of the PDP. Please clarify how defining ‘new’ or ‘expanded’ intensive outdoor primary production undermine the effectiveness and efficiency of the PDP.
<i>Officer response:</i>	<i>The adoption of the Beef + Lamb request to include ‘new’ and ‘expanded’ in the definition of ‘Intensive outdoor production’ in SASM-R4 in preference to the NCCF amendments that are supported in the GRUZ Section 42A Report may result in an inconsistency between the two chapters.⁸ This may reduce the effectiveness and efficiency of the PDP. The outright deletion of rule SASM-R4 would fail to recognise and provide for Wāhi Tapu and Wāhi Taonga and the potentially adverse effects of Intensive Primary Production activities. This may in turn reduce the effectiveness and efficiency of the PDP.</i>
11.6.1/11.6.2	Is the advice contained in the MKT report (as to consultation/engagement/advice processes) in any way binding on MKT/Council, and if not - what assurances can the submitters have that these processes will always be followed (as that report sits outside the Plan)?

⁸ Section 42A Report - General Rural Zone, paragraphs 7.32 and 7.35.

Paragraph	Question from the Hearings Panel
<i>Officer response:</i>	<i>I do not consider that the advice on MKT's experiences with consenting processes contained in the report is binding on any party. The preference is for this consultation process to be encouraged through an engagement policy if that is determined to be within the scope of submissions (refer to the response to question 8.17.4 above).</i>
11.17.1/11.17.2	Does your recommendation here regarding 'important infrastructure' align with advice given at the EI hearing?
<i>Officer response:</i>	<i>The recommended amendments and the submissions relating to Important Infrastructure were generally discussed with Council staff who were familiar with the EI Topic and the SASM evidence was reviewed by Council Officers prior to it being finalised and circulated. Any identified inconsistencies can be addressed through the Officer Right of Reply if that would assist the Panel.</i>
12.5.3	Can you please clarify your advice with respect to the process for ground truthing and how this affects any decisions on submissions (i.e. should the ground-truthing exercise occur first, the Panel review the results, and then it issues decisions on these submissions)?
<i>Officer response:</i>	<i>It is anticipated that the ground truthing would be limited to a desktop exercise and review of the DPR materials and information that informed the mapping of the Coastal Marine Area. I support this exercise occurring first and the findings shared with the Panel for review so that any instructions or processes can be determined and issued. It would also enable SDC to consider whether the changes can be undertaken via a Clause 16(2) amendment.</i>
12.26	As above, please advise on the process for ground truthing and how this is staged in relation to the issuing of decisions on submissions.
12.14	<p>Given that Mana Whenua identified the ephemeral stream there is a sense of importance placed on them. By seeking to remove the stream does it also remove the cultural importance of that site.</p> <p>If the streams don't sit comfortably within schedule 3 where should they be identified if at all.</p> <p>Bring into question 12.26 above.</p>
<i>Officer response:</i>	<p><i>The ground truthing exercise is described in paragraphs 12.17.1 through to 12.17.3 of the Section 42A Report. The Clause 16(2) desktop exercise referenced in paragraph 12.17.1 of the Section 42A Report is underway to ensure the location of the identified water bodies align with the SASM-SCHED3 and SASM Ngā Wai Overlay. The ground truthing exercise described in paragraphs 12.17.2 and 12.17.3 was envisaged to be a predominantly desktop exercise that would involve reviewing the Ngā Wai sites in consultation with Mahaanui. As with the CMA review process, I recommend the Clause 16(2) amendments and ground truthing findings are completed and circulated to the Panel so that any instructions or processes can be determined and issued.</i></p> <p><i>Any sites that are not determined to be appropriate for retention would be removed from the PDP as there are no other overlays historic water bodies sit comfortably within.</i></p>

Paragraph	Question from the Hearings Panel
Appendix 2 – SASM-R2	The Ngā Tūranga Tūpuna Overlay has been removed in the location column and “within a Wāhi Tapu or Wāhi Taonga overlay” has been added as text. Are both changes needed?
Officer response:	<i>In reviewing the recommended amendments, I agree that the references to “...within a Wāhi Tapu or Wāhi Taonga overlay and are: ...” in SASM-R2.1 and “...within a Ngā Tūranga Tūpuna Overlay and are: ...” in SASM-R2.6 are not required as these are detailed in the location column.</i>