

Proposed Selwyn District Plan



Section 42A Report

Report on submissions and further submissions

Sites and Areas of Significance to Māori

Craig Friedel

March 2022

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List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0032	Christchurch City Council	CCC
DPR-0072	Alastair Kermode	-
DPR-0078	Ian Laurenson	-
DPR-0142	New Zealand Pork Industry Board (NZ Pork)	NZ Pork
DPR-0154	Ev Moorhead	-
DPR-0157	Kevin & Bonnie Williams	-
DPR-0196	Murray A Winn	-
DPR-0207	Selwyn District Council	SDC
DPR-0209	Manmeet Singh	-
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	Ellesmere SAI
DPR-0236	Trevor Cundall	-
DPR-0254	Sue Dillon	-
DPR-0260	Canterbury Regional Council (Environment Canterbury)	ECan
DPR-0269	Heritage New Zealand Pouhere Taonga	Heritage NZ
DPR-0292	Paul Christian	-
DPR-0293	Patrick & Lisa Cooper	-
DPR-0298	Trices Road Re-zoning Group	TRRG
DPR-0299	Steve & Jane West	-
DPR-0301	Upper Waimakariri/Rakaia Group	UWRG
DPR-0306	Roy Ewart	-
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0358	Rolleston West Residential Limited	RWRL
DPR-0363	Iport Rolleston Holdings Limited	IRHL
DPR-0367	Orion New Zealand Limited	Orion
DPR-0368	Beef + Lamb New Zealand Ltd & Deer Industry New Zealand	Beef + Lamb
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0372	Dairy Holdings Limited	Dairy Holdings
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0375	Waka Kotahi NZ Transport Agency	Waka Kotahi
DPR-0379	Jill Thomson	-
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0388	Craigmore Farming Services Limited	Craigmore Farming
DPR-0390	Rakaia Irrigation Limited	RIL
DPR-0407	Royal Forest & Bird Protection Society of New Zealand Inc.	Forest & Bird
DPR-0414	Kāinga Ora - Homes & Communities	Kāinga Ora
DPR-0422	Federated Farmers of New Zealand - North Canterbury	NCFF
DPR-0427	Lou Sanson, Director-General of Conservation	DoC
DPR-0439	Rayonier Matariki Forests	Rayonier
DPR-0441	Trustpower Limited	Trustpower
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0453	Midland Port, Lyttelton Port Company Limited	LPC
DPR-0456	Four Stars Development & Gould Developments Ltd	Four Stars
DPR-0461	Dunweavin 2020 Ltd	Dunweavin
DPR-0474	Heather & Trevor Taege	-
DPR-0492	Kevler Development Ltd	Kevler
DPR-0493	Gallina Nominees Ltd & Heinz-Wattie Ltd Pension Plan	Gallina & Heinz-Wattie

Please refer to **Appendix 1** to see where each submission point is addressed within this report.

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
CRPS	Canterbury Regional Policy Statement 2013
CDP	Operative Christchurch District Plan
DPR	District Plan Review
IMP	Mahaanui Iwi Management Plan 2013
Planning Standards	National Planning Standards
MKT	Mahaanui Kurataiao Limited
NES-PF	National Environmental Standard on Plantation Forestry 2018
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 2020
NPS-UDC	National Policy Statement on Urban Development Capacity
NZCPS	New Zealand Coastal Policy Statement 2010
SDP	Operative Selwyn District Plan
PDP	Proposed Selwyn District Plan
PWDP	Proposed Waimakariri District Plan
RMA or Act	Resource Management Act 1991
SASM	Sites and Areas of Significance to Māori

1. Purpose of report

- 1.1 This report is prepared under section 42A of the RMA in relation to the SASM Chapter in the PDP. The purpose of this report is to provide the Hearings Panel with a summary and analysis of the submissions received on this topic and to make recommendations on either retaining the PDP provisions without amendment or making amendments to the PDP in response to those submissions.
- 1.2 The recommendations are informed by both the technical information provided by MKT (see **Appendix 3**) and the evaluation undertaken by myself as the planning author. In preparing this report I have had regard to the section 42A report on Strategic Directions prepared by Mr Robert Love, the Overview section 42A report that addresses the higher order statutory planning and legal context, also prepared by Mr Love, and the Part 1 section 42A report prepared by Ms Jessica Tuilaepa.
- 1.3 The conclusions reached and recommendations made in this report are not binding on the Hearings Panel. It should not be assumed that the Hearings Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

2. Qualifications and experience

- 2.1 My full name is Craig Robert Friedel. I work for Harrison Grierson as a Technical Lead – Planning, Associate. I am engaged by the Council as a consultant planner and have been assisting on the SASM topic since December 2021. My qualifications include a Bachelor of Geography from the University of Canterbury and a Postgraduate Diploma in Environmental Policy and Planning and Master's in Environmental Policy and Management (Distinction) from Lincoln University. I have been a full member of the New Zealand Planning Institute since 2009.
- 2.2 I have 16 years' experience as a resource management planner, working for local authorities and a multidisciplinary consultancy. I was initially employed as a Senior Consents Planner at Taupō District Council where I worked on a range of complex resource consents, some of which related to SASM and involved regular contact with Papatipu Rūnanga and Heritage NZ. I was also previously employed by SDC as a Senior Strategy and Policy Planner between 2008 to 2018. During this time, I prepared structure plans, growth strategies, residential and commercial zone changes to the SDP, processed private plan change requests and was involved in the initial phases of the DPR.
- 2.3 In my current role, I have assisted SDC with the initial preparation of the Urban Growth, Monitoring and Transport Chapters of the PDP, processed resource consent applications and private plan change requests and prepared technical reports on urban growth-related issues. I am currently assisting with the Council's spatial planning works programme and preparing evidence for the Signage Chapter of the PDP.
- 2.4 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that impede me from providing independent advice to the Hearings Panel.

3. Scope of report and topic overview

- 3.1 This report considers the submissions and further submissions that were received in relation to the SASM Chapter. In addition, the provisions in the following chapters relating to definitions and the subdivision of land located in in the SASM Overlays are also addressed:
- Part 1: Interpretation – Definitions.
 - Part 2: Subdivision. Rule SUB-R20 Subdivision and Sites and Areas of Significance to Māori.
- 3.2 Recommendations are made to either retain provisions without amendment, or delete, add to, or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where it is considered that an amendment may be appropriate, but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. Where no amendments are recommended to a provision, submissions that sought the retention of the provision without amendment are not footnoted.
- 3.3 Clause 16(2) of the RMA allows a local authority to amend a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. A number of alterations have already been made to the PDP using clause 16(2) and these are documented in reports available on the Council's website. Where a submitter has requested the same or similar changes to the PDP that fall within the ambit of clause 16(2), then such amendments will continue to be made and documented as clause 16(2) amendments and identified by way of a footnote in this section 42A report.

4. Statutory requirements and planning framework

Resource Management Act 1991

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand coastal policy statement, national planning standards; and any regulations¹. Regard is also to be given to the CRPS, any regional plan, district plans of adjacent territorial authorities, and the IMP.
- 4.2 As set out in the [‘Overview’ Section 32 Report](#), and [‘Overview’ s42a Report](#), there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in more detail within this report where relevant to the assessment of submission points. This report also addresses any definitions that are specific to this topic, but otherwise relies on the section 42A report that addresses definitions more broadly.

¹ Section 74 RMA

4.3 The assessment of submission points is made in the context of the SASM section 32 reports already undertaken with respect to this topic, being:

- [Strategic Directions](#)
- [Sites and Areas of Significance to Māori](#)

4.4 All recommended amendments to provisions since the initial section 32 evaluation was undertaken must be documented in a subsequent section 32AA evaluation and this has been undertaken for each sub-topic addressed in this report.

National Planning Standards

4.5 As set out in the [PDP Overview s42A Report](#), the Planning Standards were introduced to improve the consistency of council plans and policy statements. The Planning Standards were gazetted and came into effect on 5 April 2019. The PDP must be prepared in accordance with the Planning Standards.

4.6 The Planning Standards require that if a chapter on SASM is included in a district plan it must sit within the Historical and Cultural Values section. If the following matters are addressed, they must be in a SASM Chapter:

- a. Descriptions of the sites and areas (for example, wāhi tapu, wāhi tupuna, statutory acknowledgement, customary rights, historic site, cultural landscapes, taonga and other culturally important sites and areas) where there is agreement by Māori to include this information;
- b. Provisions to manage sites and areas of significance to Māori;
- c. A description of the agreed process of identifying sites and areas of significance to Māori including an explanation of how tangata whenua or mana whenua are engaged;
- d. A schedule(s) that lists the specific or general location of sites and areas of significance to Māori when this information is provided. This may cross-reference an appendix; and
- e. A description of any regulatory process for identification.

National Policy Statements and National Environmental Standards

4.7 The following national instruments are relevant to this topic:

- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement for Freshwater Management 2020 (NPS-FM)
- National Environmental Standard on Plantation Forestry (NES-PF)

NZCPS

4.8 The NZCPS sets out policies that achieve the purpose of the RMA in relation to the coastal environment. The NZCPS provisions that are of particular relevance to this chapter of the PDP are Objective 3 and Policies 2 and 17.

- 4.9 Objective 3 requires the principles of Te Tiriti o Waitangi to be taken account of, the role of tangata whenua as kaitiaki to be recognised, and tangata whenua involvement in the management of the coastal environment to be provided for.
- 4.10 Policy 2 outlines specific requirements when 'taking into account' Te Tiriti o Waitangi principles, and kaitiakitanga, including recognition of tangata whenua's connection and relationship with the coastal environment, involvement in coastal decision-making, opportunities to exercise kaitiakitanga, and recognising the importance of Māori cultural and heritage values.
- 4.11 Policy 17 requires the protection of historic heritage, including archaeological sites, in the coastal environment from inappropriate subdivision, use and development.

NPS-FM

- 4.12 The NPS-FM includes an objective and policies that focus on managing freshwater in a way that gives effect to the concept of Te Mana o te Wai. This establishes a hierarchy that prioritises the health and wellbeing of water bodies and freshwater ecosystems, followed by the health needs of people, then the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- 4.13 The NPS-FM seeks to improve and maximise the efficient allocation and use of water and ensure over allocation is avoided. It establishes a national framework, monitoring processes and accounting for freshwater takes and contaminants.
- 4.14 The active involvement of tangata whenua in freshwater management is provided for and Māori freshwater values are required to be identified and provided for. As a territorial authority, SDC is responsible for ensuring the PDP provisions relating to the management of the use and development of land give effect to the NPS-FM. This requires close co-ordination with ECan in order to avoid overlap and duplication between the respective councils' roles and functions under section 30 and section 31 of the Act.

NES-PF

- 4.15 The NES-PF came into force on 1 May 2018 and puts in place standards for forestry activities. Under section 43A(5)(b) of the Act these standards sit alongside the PDP provisions that manage the effects of forestry activities on cultural and historic heritage in SASM where the effect are not covered by the NES-PF.

5. Procedural matters

- 5.1 At the time of writing this section 42A report there has not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic. No other procedural matters have arisen.

6. Consideration of submissions

Overview of submissions

- 6.1 A total of 102 submission points and 92 further submission points were received to the SASM Chapter. The issues raised by submitters are summarised below.

6.2 Most submitters support the provisions contained in the SASM Chapter. The following common themes arise in the submissions received that either request the chapter is deleted or amended:

- The interrelationship of the SASM provisions with the functional need to locate Important Infrastructure in certain locations;
- The implications of the SASM provisions for day-to-day farming activities within the overlay areas, including in respect to earthworks, intensive primary production, primary industry, mineral extraction, and plantation forestry;
- The requirement to consult with Papatipu Rūnanga as part of the consent process; and
- The location and extent of the SASM Overlays.

Structure of this report

6.3 This report considers submissions in the order of the PDP provisions to which they relate. Submissions are grouped by topic starting with those relating to definitions in the Interpretation Chapter, submissions on the whole SASM Chapter and then submissions on the objective and policies, rules, matters of control and discretion and the schedules/overlay maps. Wherever submissions address similar matters or request the same relief they are considered together. To avoid repetition and overlap, wherever an issue raised in submissions traverse multiple topic areas the issue is discussed in full at the first instance it arises in the report and cross-referenced thereafter.

6.4 The assessment of submissions generally follows the following format: Submission Information; Analysis; and Recommendation and Amendments. Where an amendment is recommended the applicable section 32AA assessment will follow on from the Recommendations section for that issue.

7. Sites and Areas of Significance to Māori - Definitions

Introduction

7.1 This section responds to the submission points to the Definitions Chapter that are relevant to the SASM provisions.

Submissions

7.2 One submission point and six further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0353	HortNZ	060	New	Support	Insert as follows: <u>Ancillary rural earthworks means any earthworks associated with the maintenance and construction of facilities typically associated with farming activities, including, but not limited to, farm tracks/roads (up to 6m wide), landings, stock races, silage pits, farm drains, farm effluent ponds, feeding pads, fencing and erosion and sediment control measures, and burying of material infected by unwanted organisms (as declared by Ministry</u>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993).
DPR-0142	NZ Pork	FS024	New	Support	Allow in full
DPR-0212	Ellesmere SAI	FS013	New	Support In Part	Allow in part with "irrigation infrastructure works" added.
DPR-0372	Dairy Holdings	FS033	New	Support	Accept the submission.
DPR-0388	Craigmore Farming	FS005	New	Support	Accept the submission.
DPR-0407	Forest & Bird	FS475	New	Oppose In Part	Reject the submission
DPR-0407	Forest & Bird	FS485	New	Oppose	Reject the submission

Analysis

7.3 HortNZ² seeks to include a new definition of "ancillary rural earthworks". This definition encompasses earthworks associated with the maintenance and construction of facilities that are typically associated with farming activities. The requested new definition outlines a non-exhaustive list of examples that include farm tracks/roads up to 6m wide, farm effluent ponds and sediment control measures. A further submission from Ellesmere SAI³ seeks the inclusion of "irrigation infrastructure works" to this list.

7.4 I recommend HortNZ's submission is rejected for the reasons set out below:

7.4.1 In isolation, the requested definition ensures the identification of earthworks required for everyday farming activities. However, the definition is not exhaustive and provides little indication of the scale and effect of the earthworks in locations with identified cultural or heritage value. For example, while the burial of livestock is a day-to-day feature of farming activities, the creation of a new farm track/road may have irreversible effects in, for example, a location within the Wāhi Taonga or Wāhi Tapu overlay. Its application as a permitted activity may, in certain instances and locations, generate unacceptable adverse effects on SASM.

7.4.2 Understandably, HortNZ has not proposed a closed list in their requested definition of 'Ancillary Rural Earthworks' as this would be impractical. However, this results in a definition that is difficult to reconcile with objective SASM-O1 and the policies to recognise and provide for SASM.

² DPR-353.060 HortNZ

³ DPR-212.FS013 Ellesmere SAI

7.4.3 The section 42A report prepared for the Earthworks Chapter recommends that this relief is rejected on the grounds that the changes sought by HortNZ are not necessary and may create confusion in the administration of the District Plan⁴.

7.4.4 I consider that the submitter's relief is likely to be met through the recommended changes to rule SASM-R2 that extends the list of permitted activity earthworks, which is evaluated in Section 10 below.

Recommendation

7.5 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

7.6 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

8. Sites and Areas of Significance to Māori - Overall Chapter

Introduction

8.1 This section responds to the submission points received on the overall SASM Chapter.

Submissions

8.2 12 submissions points and 27 further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0078	Ian Laurenson	001	SASM	Oppose In Part	Request that all affected landowners must be informed of land change designations that have happened and that are desired in the future.
DPR-0078	Ian Laurenson	008	SASM	Oppose In Part	Request that proof of significance of the land be provided and that it be contestable.
DPR-0078	Ian Laurenson	013	SASM	Oppose In Part	Request that if land is of cultural significance, then the local Rūnanga has first right to buy the land (at independently agreed market rates) if offered for sale, otherwise the designation be removed. If the rights of the landowner(s) are impinged but the landowner(s) doesn't wish to sell the land, then covenants can be negotiated between the landowner(s) and Rūnanga possibly involving suitable financial restitution.
DPR-0212	Ellesmere SAI	026	SASM	Oppose In Part	Delete the SASM Chapter as notified until such time as all parties affected by the overlays and the associated provisions have worked together to promote an agreed and suitable outcome.
DPR-0254	Sue Dillon	001	SASM	Oppose	Delete SASM.

⁴ [Earthworks-42A-report.pdf \(selwyn.govt.nz\)](#)

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0358	RWRL	189	SASM	Support	Retain as notified
DPR-0358	RWRL	404	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS190	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected, and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	TRRG	FS921	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS042	Non-notification clauses	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS115	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS042	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars	FS011	Non-notification clauses	Support	Accept submission
DPR-0363	IRHL	429	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS224	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected, and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	TRRG	FS955	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS145	Non-notification clauses	Support In Part	Accept in part

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0414	Kāinga Ora	FS149	Non-notification clauses	Support	Not Specified
DPR-0422	NCFF	FS202	Non-notification clauses	Support In Part	Allow the submission on controlled activity. Disallow the submission point that notification is not required for all restricted discretionary applications.
DPR-0453	LPC	FS143	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars	FS045	Non-notification clauses	Support	Accept submission
DPR-0374	RIHL	475	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS262	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected, and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	TRRG	FS989	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS076	Non-notification clauses	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS183	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS076	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars	FS079	Non-notification clauses	Support	Accept submission
DPR-0384	RIDL	196	SASM	Support	Retain as notified.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0384	RIDL	508	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS297	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected, and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	TRRG	FS1016	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS109	Non-notification clauses	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS217	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS109	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Stars	FS113	Non-notification clauses	Support	Accept the submission
DPR-0427	DoC	042	SASM	Support	Retain all provisions in the Sites and Areas of Significance to Māori chapter as notified
DPR-0301	UWRG	FS184	SASM	Support	Allow in full
DPR-0407	Forest & Bird	FS208	SASM	Support	Accept the submission

Analysis

8.3 Submissions received from RWRL⁵, RIDL⁶, and DoC⁷ support the overall SASM Chapter as notified. I recommend these submissions are accepted in part.

8.4 Ellesmere SAI⁸ requests the SASM Chapter is deleted until such time as all affected parties have worked together to promote an agreed and suitable outcome.

8.5 I recommend the submission from Ellesmere SAI is rejected for the following reasons:

⁵ DPR-358.189 RWRL

⁶ DPR-384.196 RIDL

⁷ DPR-427.042 DoC

⁸ DPR-212.026 Ellesmere SAI

- 8.5.1 The section 32 report records that extensive consultation and engagement occurred prior to the PDP being notified. The report outlines a sequence of meetings and engagement sessions on the SASM topic commencing in October 2018 and running through to December 2019. This process included the circulation of draft SASM provisions to the parties, including Ellesmere SAI. Council circulated letters in October 2018 to property owners of land that was identified as a cultural site or were within a 200m buffer distance of an identified cultural site. The letter advised them of the PDP review process and its timeframes. The section 32 report states that in general the proposed provisions were received positively. It acknowledges that a small minority of affected landowners, along with several stakeholders, advised they did not want to see any controls in place.
- 8.5.2 Based on the information outlined in the section 32 report I am satisfied that Council has undertaken a comprehensive and inclusive engagement process with affected parties and stakeholders on the SASM Chapter that removes the need for further consultation to take place. In my view, the provisions are ready for determination by the Hearings Panel. Ellesmere SAI's position is well-understood and the SDC has sought their involvement and feedback throughout the pre-notification engagement process.
- 8.6 Sue Dillon⁹ requests the SASM Chapter is deleted on the basis that the proposed provisions violate and contradict common law property rights and represents local government working against ratepayers.
- 8.7 I recommend the submission from Sue Dillon is rejected for the reasons set out below:
- 8.7.1 The SASM Chapter will assist SDC to fulfill its statutory functions and responsibilities as required by the Act, principally sections 6(e), 6(f), (7(a), and 8. Section 6(e) requires SDC to 'recognise and provide' for as a matter of national importance the relationship of Māori and their culture and their traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. Section 6(f) places the same requirement on SDC to protect historic heritage from inappropriate subdivision, use and development. Section 7(a) requires Council to have 'particular regard' to Kaitiakitanga (the exercise of guardianship by tangata whenua of an area in accordance with tikanga Māori). Council is also required to 'take into account' the principles of Te Tiriti o Waitangi under section 8 of the Act. I consider that Council has satisfied its duties under the RMA in preparing the SASM Chapter.
- 8.7.2 Under New Zealand's legal system, private property rights are not absolutes and are subject to the exercise of statutes and regulations, including the implementation via the PDP of the sections of the Act outlined above.
- 8.8 Submissions by Ian Laurenson¹⁰ oppose the SASM Chapter and request that all affected landowners are informed of the changes, that proof of significance of the land is provided and is contestable, and for either land purchase or covenants to be agreed upon with the Rūnanga or the provisions removed. Mr Laurenson states that he considers the recognition and provision of sites of significance

⁹ DPR-254.001 Sue Dillon

¹⁰ DPR-078.001, DPR-078.008, DPR-078.013 Ian Laurenson

to Tangata Whenua is a system lacking accountability, transparency, and financial redress for private landowners.

8.9 I recommend the submissions from Ian Laurensen are rejected for the reasons set out below:

8.9.1 As noted above, prior to notification SDC undertook an extensive engagement and consultative process with affected landowners and stakeholders. SDC is implementing the sections of the Act it is mandated to do and which are required to be addressed in preparing the PDP.

8.9.2 The identification of land in the SASM Chapter and the SASM-SCHED does not in itself result in the land being deemed to be taken or injuriously affected to the extent that purchase or compensation is required. Under section 85 of the Act, the Environment Court would need to be satisfied that the provisions make the land incapable of reasonable use and places an unfair and unreasonable burden on any person who has an interest in the land. I do not consider that this threshold has been met in the statutory context that the SASM Chapter has been prepared within.

8.10 In their submissions RWRL¹¹, IRHL¹², RIHL¹³, and RIDL¹⁴ request the insertion of additional wording in the non-notification clauses in the SASM rules stating that restricted discretionary activity applications will not be limited or publicly notified.

8.11 Under the RMA, it is common for councils to identify specific parties it requires consent applicants to engage with to address resource management issues as part of their duties to effectively administer district plans. Part 8 and Schedule 4 of the Act outline the information requirements, timing, and key process steps for resource consent applications. Most councils add their own process steps within district plans to assist applicants and to ensure quality applications are received.

8.12 Part 1 - Introduction and General Provisions of the PDP provides some context on the consultation that is encouraged to occur with agencies and identified parties. Section HPW10 - Consultation outlines that pre-application consultation is encouraged to identify and address potential issues to ultimately save time and cost.

8.13 Specific reference is made to encouraging consultation to occur with tangata whenua where applications may impact on cultural sites and values. Section HPW11 – Notification then outlines the decision-making process SDC undertakes in accordance with the Act when determining the notification or non-notification of a consent application. Section MANA07 - Local Authority Relationships details the formal relationship agreements SDC have with local iwi. This includes a Service Level Agreement with MKT to facilitate mana whenua in resource consenting processes where cultural values may be affected.

8.14 Each rule in the SASM Chapter states that any applications arising from the rule shall not be subject to public notification. Unless written approvals are obtained, the rule states that notice shall only be served on the relevant Papatipu Rūnanga and Heritage NZ. The notification clauses were prepared

¹¹ DPR-358.404 RWRL

¹² DPR-363.429 IRHL

¹³ DPR-374.475 RIHL

¹⁴ DPR-384.508 RIDL

following initial engagement with MKT to meet Council's responsibilities under sections 6(e), 6(f), 7(a) and 8 of the Act.

- 8.15 The MKT report prepared in February 2022 documents the consenting processes they are involved in with territorial authorities. The report acknowledges that engagement with Papatipu Rūnanga can be an unknown and sometimes challenging step in the process. The report summarises the process that is applied for resource consents for activities within SASM within Christchurch City Council's jurisdiction. This includes MKT utilising a Rūnanga mandated trigger list that sits outside the CDP to identify what applications are circulated to Iwi representatives for advice. Under this process it is the Papatipu Rūnanga rather than the territorial authority who identify whether the effects of the application on SASM require conditions or other actions to be taken through a process that is facilitated by the Council rather than the applicant.
- 8.16 MKT recommend that the notification clauses within rules SASM-R1.5, SASM-R2.4, SASM-2.9, SASM-R3.3, SASM-R4.3, SASMR5.3 and SASM-R6.3 are amended to replace the mandatory requirements for notice to be served on relevant Rūnanga requiring applicants to obtain their affected party approvals. The amended clause identifies that advice received from engagement undertaken by either the applicant or SDC will inform whether notification will be served and/or recommended consent conditions are included on any decision.
- 8.17 I recommend the submissions from RWRL¹⁵, IRHL¹⁶, RIHL¹⁷, and RIDL¹⁸ are accepted in part for the reasons set out below:
- 8.17.1 While the amended notification clause relies on a commitment from SDC to ensure there is sufficient resourcing available to process applications within the statutory timeframes and to fulfill its duties under the RMA, it better recognises the partnership arrangements and territorial authority duties under sections 6(e), 6(f), 7(a), 8 and 95 of the Act. It also better achieves the outcomes expressed in Strategic Direction SD-MWV-O1 Partnership with Ngāi Tahu, objective SASM-O1 and the related policies.
- 8.17.2 The amended notification clause achieves stronger alignment between the PDP with the CDP and PWDP in effectively and efficiently managing the effects of activities on SASM across the Greater Christchurch sub-region.
- 8.17.3 The requirements for SDC or the applicant to actively engage with Papatipu Rūnanga to identify any issues or risks arising from proposed activities on SASM are appropriate as this process ensures that the effects of applications is determined by mana whenua and appropriate actions taken to avoid, remedy or mitigate potential adverse effects.
- 8.17.4 The engagement processes outlined in the MKT report should be codified in Part 1 - Introduction and General Provisions, including changes to HPW10 - Consultation and MANA7 Local Authority Relationships, to outline the roles and responsibilities of Papatipu Rūnanga, SDC and resource consent applicants in the consent process. These introductory

¹⁵ DPR-358.404 RWRL

¹⁶ DPR-363.429 IRHL

¹⁷ DPR-374.475 RIHL

¹⁸ DPR-384.508 RIDL

sections of the PDP should include clear directions of the anticipated engagement process to provide certainty for all parties and to ensure the recommended amendments to the notification clauses support an effective and efficient resource consent process.

8.18 I recommend the submissions from RWRL¹⁹, IRHL²⁰, RIHL²¹, and RIDL²² in respect to the removal of the notification clause are rejected in part for the reasons set out below:

8.18.1 The notified rules specifically exclude public notification, which is partially consistent with the relief sought by the submitters.

8.18.2 It is appropriate for the reasons stated in the previous sub-section that a limited notification clause is required within the SASM Chapter to enable SDC to carry out its duties and functions effectively and efficiently under the Act.

8.18.3 Heritage NZ is a statutory agency with functions and powers under section 13 of the Heritage New Zealand Pouhere Taonga Act 2014. This includes duties to identify, record, investigate, protect and conserve wāhi tūpuna, wāhi tapu, and wāhi tapu areas. Consequently, Heritage NZ have an elevated interest in the effects of consenting proposals on SASM as they often work in partnership with mana whenua, applicants, and territorial authorities to achieve the purpose and principles of the RMA.

8.19 The MKT report also recommends that an engagement policy is included in the SASM Chapter to ensure consistency with the approaches applied within the CDP and PWDP.

8.20 I support the inclusion of a notification policy in-principle as it highlights the need to prioritise engagement to inform the consenting process as an alternative to relying on affected party approvals alone. A policy would place the amended notification clause into context within the structure of the PSP. It would also support the outcomes expressed Strategic Direction SD-MWV-O1 Partnership with Ngāi Tahu and objective SASM-O1 and better enable the PDP to give effect to Part 2 of the Act. An engagement policy would also improve consistency across the district plans within the Greater Christchurch sub-region for managing potential adverse effects on SASM.

8.21 However, I do not consider there is scope in submissions to include the recommended engagement policy. The inclusion of statements outlining the engagement process to compliment the amended notification clauses in the SASM Chapter in Part 1 - Introduction and General Provisions (HPW10 - Consultation and MANA7 Local Authority Relationships) would provide some of the context that an engagement policy would provide in achieving the desired outcomes, albeit through guidance rather than a statutory direction.

Recommendations and amendments

8.22 I recommend, for the reasons given above, that the Hearings Panel:

¹⁹ DPR-358.404 RWRL

²⁰ DPR-363.429 IRHL

²¹ DPR-374.475 RIHL

²² DPR-384.508 RIDL

- a) Amend the notification clause in rules SASM-R1.5, SASM-R2.4, SASM-2.9, SASM-R3.3, SASM-R4.3, SASM-R5.3 and SASM-R6.3 as shown in **Appendix 2**.

8.23 The amendments recommended to notification clauses rules SASM-R1.5, SASM-R2.4, SASM-2.9, SASM-R3.3, SASM-R4.3, SASMR-5.3 and SASM-R6.3 are set out in a consolidated manner in **Appendix 2**.

8.24 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

Section 32AA evaluation

8.25 The following points evaluate the recommended changes under section 32AA of the RMA.

Effectiveness and efficiency

8.26 I consider that the recommended amendments to the notification clauses contained in rules SASM-R1.5, SASM-R2.4, SASM-2.9, SASM-R3.3, SASM-R4.3, SASMR5.3 and SASM-R6.3 will improve the efficiency of the PDP by clarifying the engagement processes and circumstances where Papatipu Rūnanga are to be served notice of applications within the locations that are subject to the SASM Overlays. The proposed amendments aim to better recognise the partnership arrangements needed to efficiently and effectively manage the SASM in the district.

8.27 In doing so, the recommended changes seek to improve the effectiveness of the PDP and to better achieve the partnership arrangements and resource management priorities in sections 6(e), (6(f), 7(a), 8 and 95 of the Act. The alignment of the PDP with how other district plans and territorial authorities manage SASM in partnership with Papatipu Rūnanga, Heritage NZ and consent applicants will achieve efficiencies across the Greater Christchurch sub-region.

Costs and benefits

Benefits	Costs
<p>Environmental:</p> <ul style="list-style-type: none"> Sections 6(e), 6(f), 7(a) and 8 and 95 of the Act will be given effect to by ensuring processes and partnership arrangements are in place to recognise and protect SASM. The amended notification clause and stronger reliance on engagement rather than affected party approvals from Papatipu Rūnanga will better achieve the outcomes sought in Strategic Direction SD-MWV-O1, objective SASM-O1 and the associated SASM policies. 	<p>Environmental:</p> <ul style="list-style-type: none"> Uncertainty around engagement processes, timeframe lags and costs may increase the regularity of activities taking place within SASM without obtaining the necessary resource consents.

<p>Economic:</p> <ul style="list-style-type: none"> Engagement between SDC, applicant's, MKT and Papatipu Rūnanga where necessary may reduce costs through more efficient processes that target responses to specific applications rather than a generic requirement to seek affected party approvals from Rūnanga. 	<p>Economic:</p> <ul style="list-style-type: none"> Consenting delays, uncertainties and costs associated with the breakdown of engagement processes and disagreements between parties involved in the consenting process.
<p>Social:</p> <ul style="list-style-type: none"> Active engagement amongst parties involved in the resource consent process will more effectively identify issues and responses to resource management issues affecting SASM. Regular engagement between the various parties involved in resource consent processes is likely to build lasting relationships. 	<p>Social:</p> <ul style="list-style-type: none"> There may be differing opinions over the impacts of activities on SASM and responses to recognise and provide for the cultural values and relationships attributed to them.
<p>Cultural:</p> <ul style="list-style-type: none"> Landowners have a clear understanding of the cultural values associated with their land and the impact of activities through engagement and advice from Papatipu Rūnanga. It is more appropriate for the effects of proposed activities on SASM to be determined by Papatipu Rūnanga rather than a consenting authority. Papatipu Rūnanga advice assists in determining appropriate actions to recognise and protect culturally sensitive sites. Avoids the need for Papatipu Rūnanga to provide affected party approvals where signaling 'in-principle' support for applications may be contrary to their cultural beliefs and values. 	<p>Cultural:</p> <ul style="list-style-type: none"> None identified.

<ul style="list-style-type: none"> Positive impacts on cultural capital to iwi, Hapū, rūnanga, mana whenua and the wider community. 	
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- 8.28 When compared to the notified provisions, the benefits of the recommended amendments to the notification clauses outweigh the costs, particularly in respect to recognising and providing for cultural values. A process that encourages a partnership approach is considered to be more beneficial than requiring applicants to seek affected party approvals from Papatipu Rūnanga directly without prior engagement.

Risk of acting or not acting

- 8.29 There is sufficient information available about the engagement and process steps to establish that the amended notification clauses will achieve better outcomes than the notified provisions. There is a risk that the effectiveness of the amended notification clause relies on SDC processes being established and relationships with Iwi maintained. However, this risk would be reduced through service agreements between SDC and Papatipu Rūnanga to outline the roles and responsibilities of the various parties within the resource consent process. The costs and benefits of the provisions are well understood. Consequently, the risk of acting as proposed are not considered to be significant.

Conclusion as to the most appropriate option

- 8.30 The recommended changes to the notification clauses in rules SASM-R1.5, SASM-R2.4, SASM-2.9, SASM-R3.3, SASM-R4.3, SASMR5.3 and SASM-R6.3 are the most appropriate way to achieve the PDP's Strategic Direction SD-MWV-01 and objective SASM-O1. The changes improve the efficiency and effectiveness of the SASM Chapter by clarifying how Papatipu Rūnanga are engaged in the consenting process to improve the partnership arrangements for managing potential adverse effects on SASM. This includes better enabling SDC to meet its functions and duties under 6(e), 6(f), 7(a), 8 and 95 of the Act.

9. Sites and Areas of Significance to Māori - Objective and Policies

Introduction

- 9.1 This section responds to the submission points relating to the SASM - Objective and Policies.

Submissions

- 9.2 18 submissions points and six further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	ECan	059	SASM-O1	Support	Retain as notified.
DPR-0269	Heritage NZ	022	SASM-O1	Support	Retain as notified.
DPR-0372	Dairy Holdings	036	SASM-O1	Support	Retain as notified.
DPR-0390	RIL	026	SASM-O1	Support	Retain as notified.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0441	Trustpower	092	SASM-O1	Oppose	Amend as follows: The historic and contemporary relationship of Ngāi Tahu mana whenua with their ancestral lands, water, sites, wāhi tapu, and wāhi taonga within the Selwyn District is recognised and <u>provided for protected</u> .
DPR-0260	ECan	060	SASM-P1	Support	Retain as notified.
DPR-0353	HortNZ	120	SASM-P1	Support In Part	Amend as follows: ... d. limiting earthworks, <u>other than ancillary rural earthworks</u> , to those areas that have been previously disturbed by cultivation, building foundations or other earthworks, and controlling the depth of any excavation;
DPR-0372	Dairy Holdings	FS039	SASM-P1	Support	Accept the submission.
DPR-0407	Forest & Bird	FS487	SASM-P1	Oppose	Reject the submission
DPR-0422	NCCF	FS235	SASM-P1	Support	Allow the submission point
DPR-0372	Dairy Holdings	037	SASM-P1	Oppose In Part	Amend as follows: Recognise and protect Ngāi Tahu cultural values in identified Sites and Areas of Significance to Ngāi Tahu by: a. d. limiting earthworks to those areas that have been previously disturbed by cultivation, building foundations or other earthworks, and controlling the depth of any excavation <u>managing earthworks involving disturbance of soils below a depth not previously disturbed</u> ; e.
DPR-0388	Craigmore Farming	018	SASM-P1	Oppose In Part	Amend as follows: Recognise and protect Ngāi Tahu cultural values in identified Sites and Areas of Significance to Ngāi Tahu by: ... d. limiting earthworks to those areas that have been previously disturbed by cultivation, building foundations or other earthworks, and controlling the depth of any excavation <u>managing earthworks involving disturbance of soils below a depth not previously disturbed</u> ; ...
DPR-0390	RIL	027	SASM-P1	Oppose In Part	Amend as follows: Recognise and protect Ngāi Tahu cultural values in identified Sites and Areas of Significance to Ngāi Tahu by: a. avoiding any damage or disturbance to urupā except for activities associated with the

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					<p>identification or protection of such sites, or for interments in, such sites, which are undertaken by the relevant rūnanga;</p> <p>b. protecting identified wāhi tapu and wāhi taonga from disturbance, damage, or destruction, and ensure activities do not adversely affect them;</p> <p>c. avoiding buildings within wāhi tapu identified as a maunga;</p> <p>d. limiting earthworks to those areas that have been previously disturbed by cultivation, building foundations or other earthworks, and controlling the depth of any excavation <u>managing earthworks involving disturbance of soils below a depth not previously disturbed;</u></p> <p>e. enabling opportunities for enhancement of cultural and ecological values within identified Sites and Areas of Significance to Ngāi Tahu, particularly where associated with mahinga kai.</p>
DPR-0422	NCCF	124	SASM-P1	Oppose In Part	<p>Amend as follows:</p> <p>Recognise and protect Ngāi Tahu cultural values...</p> <p>(c) Avoiding <u>Limit buildings to small-scale, utility buildings associated with farming or outdoor recreation within wāhi tapu identified as a maunga...</u></p>
DPR-0260	ECan	061	SASM-P2	Support	Retain as notified.
DPR-0372	Dairy Holdings	038	SASM-P2	Support	Retain as notified
DPR-0372	Dairy Holdings	039	SASM-P3	Support	Retain as notified
DPR-0390	RIL	028	SASM-P2	Support	Retain as notified.
DPR-0422	NCCF	125	SASM-P2	Oppose	Delete as notified.
DPR-0269	Heritage NZ	029	MPZ	Support	Retain policies which recognise the significance and protect the values of sites and of significance to Māori.
DPR-0367	Orion	081	New	Neither Support Nor Oppose	<p>Insert as follows:</p> <p><u>Recognise that important infrastructure may have an operational and functional need to locate within sites and areas of significance to Māori where there are no other reasonable alternatives.</u></p>
<i>DPR-0375</i>	<i>Waka Kotahi</i>	<i>FS067</i>	<i>New</i>	<i>Support</i>	<i>Adopt recommended amendment</i>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS650</i>	<i>New</i>	<i>Oppose</i>	<i>Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.</i>
<i>DPR-0446</i>	<i>Transpower</i>	<i>FS033</i>	<i>New</i>	<i>Support</i>	<i>Allow the submission.</i>

Analysis

- 9.3 Trustpower²³ seeks to reword objective SASM-O1 by deleting the *“historic and contemporary”* qualifier regarding the relationship of Ngāi Tahu whānui with their ancestral lands, water, sites, wāhi tapu, and wāhi taonga, and amending the requirement from *“recognised and protected”* to *“recognised and provided for”*.
- 9.4 I recommend the Trustpower submission is rejected for the reasons set out below.
- 9.4.1 Objective SASM-O1 closely paraphrases section 6(e) of the Act, which requires SDC to recognise and provide for as a matter of national importance the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. However, this does not preclude SDC from taking a more active role by stating it will protect rather than provide for the relationship of Māori with the sites and areas of significance having been identified through the DPR process outlined in the section 32 evaluation²⁴. In any case, SDC must protect historic heritage from inappropriate subdivision, use, and development under section 6(f) of the Act.
- 9.4.2 Likewise, I consider it appropriate for objective SASM-O1 and the SASM policies to refer to both the historic and contemporary relationships. This ensures the reader is made aware that for Ngāi Tahu whānui the relationship is an enduring one that is not solely limited to identified heritage items or sites that address something that happened in the past. The context of these relationships is further outlined in the attached report from MKT (refer **Appendix 3**).
- 9.5 HortNZ²⁵ request the inclusion of a qualifier in policy SASM-P1.d regarding ancillary rural farm works. I recommend this submission is rejected for the reasons outlined above in the analysis of requested changes to the SASM definitions in Section 7 of this report.
- 9.6 Dairy Holdings²⁶, Craigmore²⁷, and RIL²⁸ seek amendments to policy SASM-P1.d to recognise and protect SASM by *“managing”* rather than *“limiting”* the undertaking of earthworks *“...involving the disturbance of soil below a depth not previously disturbed”*.
- 9.7 I recommend the submissions from HortNZ, Dairy Holdings, Craigmore and RIL are rejected for the reasons set out below:
- 9.7.1 Limiting earthworks to previously disturbed areas where the pre-requisites listed in the rules and requirements have been met ensures consistency within the bottom-line requirement of objective SASM-O1 to recognise and protect SASM.
- 9.7.2 The suggested changes to policy SASM-P1.d would undermine the effectiveness of the policy to achieve the outcomes of objective SASM-O1 as it is unlikely the actual depth and location of prior soil disturbance on SASM locations will always be known.

²³ DPR-441.092 Trustpower

²⁴ [Sites and Areas of Significance to Māori Section 32 \(selwyn.govt.nz\)](https://www.seln.govt.nz/sites/default/files/2021-03/SASMs%20and%20Areas%20of%20Significance%20to%20Māori%20Section%2032%20(selwyn.govt.nz).pdf)

²⁵ DPR-353.120 HortNZ

²⁶ DPR-372.037 Dairy Holdings

²⁷ DPR-388.018 Craigmore

²⁸ DPR-390.027 RIL

- 9.7.3 The changes to rule SASM-R2 assessed in Section 10 below also assist to clarify the pre-requisites for permitted activity earthworks, further reducing the need to amend policy SASM-P1.d to the extent being sought by the submitters.
- 9.8 NCFF²⁹ request policy SASM-P1.c is amended to “*limit*” rather than “*avoid*” buildings within wāhi tapu identified in SASM-SCHED1 as a maunga where they are small-scale, utility buildings associated with farming or outdoor recreation.
- 9.9 I recommend this submission from NCFF is rejected for the reasons set out below:
- 9.9.1 Wāhi tapu are sites and places that are culturally and spiritually important to mana whenua history and identity have been detailed in the section 32 evaluation³⁰ and the MKT report prepared in 2018³¹. Wāhi tapu sites are protected according to tikanga and kawa which seek to ensure the sacred nature of these sites is respected. Selwyn’s maunga are the most sacred part of a landscape, representing spiritual and cultural beliefs for mana whenua. In this context, I consider it is appropriate for SDC to avoid the establishment of small-scale buildings on the identified maunga to ensure consistency with objective SASM-O1.
- 9.9.2 SASM-SCHED1 includes a small, targeted list of maunga that have been identified by mana whenua as wāhi tapu. The granting of the submitter’s relief would potentially undermine the effectiveness of the SASM Chapter and the PDP, including in respect to recognising and providing for the relevant matters of national importance under section 6(e).
- 9.10 Orion³² seeks the inclusion of a new policy to ensure the operational and functional need for infrastructure to locate within the SASM Overlays is recognised where there are no other reasonable alternatives available.
- 9.11 I recommend this submission from Orion is rejected for the reasons set out below:
- 9.11.1 The functional and operational requirements for Important Infrastructure to locate in the SASM Overlays is already addressed in objective EI-O2 and policies EI-P1 and EI-P2.
- 9.11.2 Policy EI-P1.4 recognises the benefits and importance of Important Infrastructure by acknowledging the functional and operational need for it to establish and operate in locations with cultural values attributed to them by mana whenua. Policy EI-P2.3.a-d. seeks to ensure the adverse effects of Important Infrastructure is minimised in the SASM Overlays by establishing a functional need test. This requires the provider to demonstrate the infrastructure is required to locate in the SASM Overlays, that alternatives were considered, and that design measures and management methods to mitigate adverse effects are developed.
- 9.11.3 For structures associated with Important Infrastructure, Policy EI-P2 is implemented by rule EI-REQ12.1 that requires all activities establishing outside a land transport corridor to comply with the building and structures rule SASM-R1.

²⁹ DPR-422.124 NCFF

³⁰ [Sites and Areas of Significance to Māori Section 32 \(selwyn.govt.nz\)](https://www.selwyn.govt.nz/sites/default/files/2019-04/Sites%20and%20Areas%20of%20Significance%20to%20M%C4%81ori%20Section%2032.pdf)

³¹ [Preferred Approach Report for Sites and Areas of Cultural Significance \(selwyn.govt.nz\)](https://www.selwyn.govt.nz/sites/default/files/2019-04/Preferred%20Approach%20Report%20for%20Sites%20and%20Areas%20of%20Cultural%20Significance.pdf)

³² DPR-367.081 Orion

- 9.11.4 Given the comprehensive response in the Energy and Infrastructure Chapter to manage the interrelationship of infrastructure with SASM, I do not consider additional caveats or clarifications are required in the SASM Chapter. Both chapters will need to be read together as part of the PDP's response to the identified resource management issues of the district.
- 9.12 The remainder of submissions support the SASM objective and policies but are not requesting changes to the provisions. Submissions by ECan³³, Heritage NZ³⁴, Dairy Holdings³⁵, and RIL³⁶ support objective SASM-O1 being retained as notified. A submission by ECan³⁷ supports policy SASM-P1 as notified. Submissions by ECan³⁸, Dairy Holdings³⁹, RIL⁴⁰ support the retention of policy SASM-P2 as notified and a submission by Dairy Holdings⁴¹ supports policy SASM-P3 as notified.
- 9.13 I recommend these submissions from ECan, Heritage NZ, Dairy Holdings and RIL are accepted.
- 9.14 A submission by Heritage NZ⁴² seeks to retain the policies that recognise the significance and protect the values of sites and areas of significance to Māori. I recommend this submission is accepted.
- 9.15 A submission by NCFE⁴³ seeks to delete policy SASM-P2 as notified as water bodies are already managed by the Canterbury Land and Water Plan.
- 9.16 I recommend this submission from NCFE is rejected for the reasons set out below:
- 9.16.1 The Canterbury Land and Water Regional Plan does not manage structures and buildings or contain the same SASM Overlays.
- 9.16.2 The removal of policy SASM-P2 would also compromise the effectiveness of the PDP, including in respect to recognising and providing for the relevant matters of national importance listed in section 6(e) and achieving the outcomes Strategic Direction SD-MWV- Mana whenua values and objective SASM-O1.

Recommendation

- 9.17 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.
- 9.18 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

10. Sites and Areas of Significance to Māori - Rules

Introduction

- 10.1 This section responds to the submission points relating to SASM – Rules.

³³ DPR-260.059 ECan

³⁴ DPR-269.022 Heritage NZ

³⁵ DPR-372.036 Dairy Holdings

³⁶ DPR-390.026 RIL

³⁷ DPR-260.060 ECan

³⁸ DPR-260.061 ECan

³⁹ DPR-0372.038 Dairy Holdings

⁴⁰ DPR-390.028 RIL

⁴¹ DPR-372.039 Dairy Holdings

⁴² DPR-269.029 Heritage NZ

⁴³ DPR-422.125 NCFE

Submissions

10.2 37 submissions points and 44 further submission points were received in relation to this subtopic.

SASM-R1 New Buildings and Structures

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0207	SDC	031	Oppose In Part	Amend to include the following exemption within the rule: <u>any vehicle, trailer, tent, caravan, or boat which is movable and is not used as a place of storage, permanent accommodation, or business (other than the business of hiring the item for its intended use).</u>
DPR-0212	Ellesmere SAI	031	Oppose	Amend as follows: Activity Status: PER 1. Any new, or addition to an existing, <u>principal building</u> , building or structure. Where: The building or structure: a. is non -habitable building or structure less than <u>250m²</u> 10m² in area and <u>5m</u> 2m in height; and
DPR-0422	NCCF	FS116	Support	Allow the submission point.
DPR-0367	Orion	082	Support	Retain as notified.
DPR-0407	Forest & Bird	FS651	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0422	NCCF	126	Oppose In Part	Amend as follows: ... c. is not a major hazard facility.
DPR-0446	Transpower	079	Oppose	Amend as follows: 1. Any new, or addition to an existing, building or structure. Where: The building or structure: <u>c. is for the operation, maintenance or upgrade of existing important infrastructure; and</u> de. is not a major hazard facility. Activity status when compliance not achieved: 2. When compliance with any of SASM-R1.a and SASM-R1.c is not achieved: RDIS 3. When compliance with any of SASM-R1.bld SASM-R1. <u>de</u> is not achieved: NC

Analysis

- 10.3 SDC⁴⁴ seeks to include an additional exemption for vehicles, trailer, tents, caravans, or boats which are movable, subject to their use being non-permanent in duration.
- 10.4 I recommend this submission from SDC is accepted for the reasons set out below:
- 10.4.1 The exemptions are consistent with the policy approach that these activities do not present a risk to the values attributed to the sites contained within the Wāhi Tapu or Wāhi Taonga Overlays.
 - 10.4.2 The amendments will improve the efficiency of the PDP by providing exemptions to activities that present no threat to the integrity of SASM or the values attributed to them.
- 10.5 Ellesmere SAI⁴⁵ requests that the scale of buildings and structures is increased from 10m² to 250m² in area, and from 2m to 5m in height. Ellesmere SAI also requests that the definition include “*principal buildings*”. In essence, the submitter is seeking to include single storey dwellings or buildings as a permitted activity on sites within the Wāhi Tapu and Wāhi Taonga Overlay.
- 10.6 I recommend this submission from Ellesmere SAI is rejected for the reasons set out below:
- 10.6.1 In the context of the Selwyn district, the SASM Overlays are not extensive in size and serve to meet Council’s responsibilities under Section 6(e) of the Act to recognise and provide for the relationship of Māori with their wāhi tapu and wāhi taonga.
 - 10.6.2 The limits on scale in the rule does not preclude development within the Wāhi Tapu or Wāhi Taonga Overlays, but rather ensures the effects of developments other than for very small-scale buildings and structures can be assessed and appropriately managed through the consent process.
 - 10.6.3 The amendments proposed by the submitter would reduce the effectiveness of rule SASM-R1 to achieve the outcomes sought in Strategic Direction SD-MWV-O1, objective SASM-O1 and the related policies.
- 10.7 NCFF⁴⁶ requests the reference to “*major hazard facilities*” is deleted. I recommend this submission from NCFF is accepted for the reasons set out below:
- 10.7.1 Under rule HAZS-R2 major hazard facilities are classified as a discretionary activity where they are located within the GIZ and as a non-complying activity elsewhere.
 - 10.7.2 A review of the Planning Maps indicates that the SASM Overlays do not extend over any of the proposed GIZ, meaning that all major hazard facilities that are in the SASM Overlays will require a non-complying activity resource consent. I therefore support the relief being sought by NCFF that the reference to this activity within rule SASM-R1.c can be removed to avoid duplication.

⁴⁴ DPR-207.031 SDC

⁴⁵ DPR-212.031 Ellesmere SAI

⁴⁶ DPR-422.126 NCFF

10.8 Transpower⁴⁷ requests an additional reference in SASM-R1 for “*buildings and structures used for the operation, maintenance, or upgrade of Important Infrastructure*”. I recommend the submission is rejected for the reasons set out below:

10.8.1 Aside from major hazard facilities, rule SASM-R1 only differentiates between habitable and non-habitable structures. This encompasses the uses anticipated by Trustpower and I consider further specificity in the rule is unnecessary.

10.9 The remaining submission by Orion⁴⁸ supports rule SASM-R1 as notified, with no changes requested. I recommend this submission is accepted in part.

Recommendations and amendments

10.10 I recommend, for the reasons given above, that the Hearings Panel:

- b) Amend rule SASM-R1 as shown in **Appendix 2** to provide an additional exemption for “*vehicles, trailer, tents, caravans, or boats which is movable, subject to their usage being non-permanent*”.
- c) Amend SASM-R1 as shown in **Appendix 2** to remove the reference to “*major hazard facilities*” in clause d.

10.11 The amendments recommended to rule SASM-R1 are set out in a consolidated manner in **Appendix 2**.

10.12 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

10.13 The scale of change does not require a section 32AA evaluation as the recommended amendments further strengthen the outcomes sought rather than change them. Exempting vehicles, trailer, tents, caravans, or boats which are movable, subject to their usage being non-permanent, is consistent with the policy approach that new buildings and structures that are permitted within the Wāhi Tapu or Wāhi Taonga Overlays are small in scale and non-habitable.

10.14 The removal of the reference to “*major hazard facilities*” avoids unnecessary duplication with HAZS-R2, making for a more efficient district plan. The amendment will not compromise the PDP’s ability to effectively manage this type of activity across the district, including within any identified SASM.

SASM-R2 Earthworks

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0072	Alastair Kermode	001	Oppose	Either delete the rule or amend so that there is a new permitted activity condition that enables day-day farming operations.
DPR-0154	Ev Moorhead	003	Neither Support Nor Oppose	Requests that Council maintain the focus of these networks on drainage and not be diverted into other considerations which then negatively impact drainage.

⁴⁷ DPR-446.079 Transpower

⁴⁸ DPR-367.082 Orion

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0196	Murray A Winn	001	Oppose In Part	Amend SASM-R2 to allow for livestock burials as a permitted activity, on smaller properties/where livestock numbers are so minimal as to represent an insignificant need for such access, in comparison to the otherwise disproportionate cost of commercial removal/disposal.
<i>DPR-0422</i>	<i>NCFF</i>	<i>FS133</i>	<i>Support</i>	<i>Allow the submission point.</i>
DPR-0212	Ellesmere SAI	032	Oppose In Part	Amend as follows: 1. Earthworks Where: The earthworks are: a. within land previously disturbed by previous earthworks, cultivation, plantings (trees, pasture or crops), <u>rural production infrastructure</u> , or buildings; and b. to a depth no greater than 1500mm 200mm; or c. for the purposes of excavating a well or bore within the Nga Turanga Tūpuna overlay ; or <u>e. for the purposes of riparian restoration planting and site clearing.</u>
DPR-0292	Paul Christian	001	Oppose In Part	Amend the depth limit to 1.2m which would be an acceptable solution.
DPR-0293	Patrick & Lisa Cooper	003	Oppose In Part	Delete as notified.
DPR-0299	Steve & Jane West	003	Oppose In Part	Delete SASM Ngā Tūranga Tūpuna Overlay from SASM-R2.
<i>DPR-0212</i>	<i>Ellesmere SAI</i>	<i>FS036</i>	<i>Support</i>	<i>Allow in full</i>
DPR-0353	HortNZ	121	Oppose In Part	Amend as follows: The earthworks are: <u>a. Ancillary rural earthworks; or</u> ab.
<i>DPR-0407</i>	<i>NCFF</i>	<i>FS488</i>	<i>Oppose</i>	<i>Reject the submission</i>
<i>DPR-0422</i>	<i>NCFF</i>	<i>FS039</i>	<i>Support</i>	<i>Allow the submission point</i>
DPR-0353	HortNZ	122	Support	Retain as notified
DPR-0353	HortNZ	123	Support In Part	Retain as notified
DPR-0367	Orion	083	Support	Retain as notified.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS652</i>	<i>Oppose</i>	<i>Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.</i>
DPR-0379	Jill Thomson	041	Oppose In Part	Amend SASM R2.1.b by increasing the permitted depth of the excavation to at least 25 cm.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				Amend SASM R2.1 by adding 'or e. where the soil is the remains of previously excavated piles of soil.
DPR-0422	NCCF	127	Oppose In Part	Amend as follows: ... <u>e. holes for fence posts or other structural support;</u> <u>f. laying of stock water or other utility pipes;</u> <u>g. removal of shingle or stone for use on the same property to maintain tracks.</u>
DPR-0372	Dairy Holdings	FS061	Support	Accept the submission.

Analysis

- 10.15 Most submissions to rule SASM-R2 request amendments to ensure earthworks associated with day-to-day farming operations can occur as a permitted activity under the SASM Chapter. Other submitters either seek the outright deletion of the rule or support it without change.
- 10.16 HortNZ⁴⁹ and Orion⁵⁰ both support rule SASM-R2 and request it is retained as notified. I recommend these submissions are accepted in part.
- 10.17 A submission from Ev Moorhead⁵¹ is recorded against SASM-R2. However, the purpose of this submission appears to be to highlight their belief that drainage networks have been managed well to date and that additional rules to manage earthworks within SASM are not necessary.
- 10.18 I recommend this submission from Ev Moorhead is rejected as rules to manage earthworks are necessary to achieve the outcomes of objective SASM-O1 and policy SASM-P1.
- 10.19 Steve and Jane West⁵² request the SASM Ngā Tūranga Tūpuna Overlay is deleted from rule SASM-R2. This is discussed further in section 12 of this report which addresses submissions to the SASM-SCHED2 Ngā Tūranga Tūpuna Overlay.
- 10.20 Patrick & Lisa Cooper⁵³ request rule SASM-R2 is deleted. Alastair Kermode⁵⁴ requests rule SASM-R2 is either deleted or amended to provide for daily farming operations. Likewise, Murray Winn⁵⁵ seeks a specific amendment to allow for livestock burials. Ellesmere SAI⁵⁶, Paul Christian⁵⁷, and Jill Thomson⁵⁸ request the 200mm earthworks depth threshold is amended, with a variety of excavation depths sought as alternatives. Ellesmere SAI⁵⁹, HortNZ⁶⁰ and NCCF⁶¹ also seek further amendments to reduce the need for consents to carry out a range of rural activities. Ellesmere SAI is requesting

⁴⁹ DPR-353.122, DPR-353.123 HortNZ

⁵⁰ DPR-367.083 Orion

⁵¹ DPR-154.003 Ev Moorhead

⁵² DPR-299.003 Steve & Jane West

⁵³ DPR-293.003 Patrick & Lisa Cooper

⁵⁴ DPR-072.001 Alastair Kermode

⁵⁵ DPR-196.001 Murray Winn

⁵⁶ DPR-212.032 Ellesmere SAI

⁵⁷ DPR-292.001 Paul Christian

⁵⁸ DPR-379.041 Jill Thomson

⁵⁹ DPR-212.032 Ellesmere SAI

⁶⁰ DPR-353.121 HortNZ

⁶¹ DPR-422.127 NCCF

earthworks relating to riparian restoration planting and site clearing is exempted. HortNZ⁶² requests the same for ancillary rural earthworks and NCCF⁶³ seeks specific wording changes to enable the earthworks required for fences, laying of stock water and other utility pipes and removal of shingle or stone for use on the same property to maintain tracks.

10.21 I recommend the submissions from Alastair Kermode, Murray Winn, Ellesmere SAI, Paul Christian, Jill Thomson, HortNZ and NCCF are accepted in part for the reasons set out below:

10.21.1 Several of the submitter's concerns may have arisen by not realising that earthworks generated by cultivation or fencing works are already excluded from rule SASM-R2 and other related definitions contained in the PDP. The definition of 'earthworks' in the PDP excludes *"...gardening, cultivation, and disturbance of land for the installation of fence posts..."*. 'Cultivation' is further defined in the PDP as the *"...alteration or disturbance of land (or any matter constituting the land including soil, clay and rock) for the purpose of sowing, growing or harvesting of pasture or crops..."*. I have no issue with repeating them again in the rule if this assists the plan reader. I also note that hyperlinks to the definitions section of the PDP are included in rule SASM-R2.

10.21.2 The submissions received to rule SASM-R2 have been reviewed by MKT and their report is attached in **Appendix 3**. MKT states the Ngā Tūranga Tūpuna Overlay is primarily concerned with maintaining the 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.

10.21.3 MKT agrees that it is reasonable for an agreed list of 'everyday' farm practices to be applied to the Ngā Tūranga Tūpuna Overlay and they support an increase in the range of earthworks that are exempt from rule SASM-R2. Additionally, MKT supports amending the earthworks trigger to be reset as a volume. They note a similar approach has been taken in the PWDP where the Ngā Tūranga Tūpuna Overlay covers urban zoned land. Where large extents of earthworks are proposed however, such as land preparation for subdivision, MKT considers it is still appropriate to require a consent to ensure that cultural values are considered in the design and implementation of the proposed works.

10.22 The recommended amendments cover a narrower range of activities than those sought by submitters. In my opinion several of the activity's submitters have requested to be excluded from rule SASM-R2 relate to land development activities that have the potential to generate more than minor adverse effects on the values identified for the SASM Overlays.

10.23 SDC cannot waive its duties to recognise and provide for the relations of Māori and their culture and traditions with their ancestral lands, waters, sites, wāhi tapu and taonga under section 6(e) of the Act. A wider list of permitted activities within rule SASM-R1 and extending these outside the Ngā Tūranga Tūpuna Overlay may reduce the effectiveness of the methods to achieve the outcomes sought in Strategic Direction SD-MWV-O1 and objectives SASM-O1. To address this, I consider that activities that do not fall within the exemptions contained in rule SASM-R1 should continue to be managed through the consenting process.

⁶² DPR-353.121 HortNZ

⁶³ DPR-422.127 NCCF

10.24 I recommend the submission from Patrick & Lisa Cooper⁶⁴ is rejected based on the above evaluation.

Recommendations and amendments

10.25 I recommend, for the reasons given above, that the Hearings Panel:

- d) Amend rule SASM-R2 as shown in **Appendix 2** to enable a wider range of ‘everyday’ farming activities as listed above to occur by providing for additional categories of earthworks able to be undertaken as a permitted activity within the Ngā Tūranga Tūpuna Overlay.

10.26 The amendments recommended to rule SASM-R2 are set out in a consolidated manner in **Appendix 2**.

10.27 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

Section 32AA evaluation

10.28 The following points evaluate the recommended changes under section 32AA of the RMA.

Effectiveness and efficiency

10.29 The recommended amendments to rule SASM-R2 improve the efficiency of the PDP by clarifying the circumstances where resource consent is required on land that is subject to the Ngā Tūranga Tūpuna Overlay.

10.30 The proposed amendments to the rule are intended to be enabling of earthworks associated with ‘everyday’ farming practices to be undertaken as a permitted activity, without the potential for significant adverse effects on SASM. In doing so, the recommended changes seek to improve the efficiency of the PDP, whilst maintaining the rules effectiveness to recognise and provide for SASM.

Costs and benefits

Benefits	Costs
Environmental: <ul style="list-style-type: none"> Section 6(e) of the RMA will be given effect to by ensuring earthworks in the Ngā Tūranga Tūpuna Overlay are managed in a way that recognises and provides for these sites and areas and the values attributed to them. The amendments are needed to ensure that earthworks within the Ngā Tūranga Tūpuna Overlay align with policy SASM-P1 and assist to deliver the outcomes identified in objective SASM-O1. 	Environmental: <ul style="list-style-type: none"> Rules/standards may potentially limit some activities and development which may otherwise have been of environmental benefit.

⁶⁴ DPR-293.003 Patrick & Lisa Cooper

<ul style="list-style-type: none"> Improves landowner certainty of what activities need to be managed to protect cultural values. 	
<p>Economic:</p> <ul style="list-style-type: none"> Provides for the continued operation of existing farming activities that require earthworks for 'everyday' farming activities. Provides for earthwork activities of a scale and intensity that have a low risk of undermining or compromising the integrity or value of the identified SASM. Reduced compliance costs when compared to the notified version of the PDP, to both landowners in obtaining resource consents including associated costs of obtaining cultural impact assessments, and to the wider community through Council administration costs. 	<p>Economic:</p> <ul style="list-style-type: none"> Residual compliance costs for landowners and the Council when undertaking other activities in the Ngā Tūranga Tūpuna Overlay.
<p>Social:</p> <ul style="list-style-type: none"> Effective recognition and provision of SASM that are valued by the community. 	<p>Social:</p> <ul style="list-style-type: none"> There may be continuing disagreement between parts of the community with differing opinions over the values of the values, sites and areas identified.
<p>Cultural:</p> <ul style="list-style-type: none"> Landowners have a clear understanding of identified values on their land and the impact or value of these qualities. Recognition and provision of SASM. Positive impacts on cultural capital to iwi, hapū, rūnanga, mana whenua and the wider community. 	<p>Cultural:</p> <ul style="list-style-type: none"> None identified.

10.31 When compared to the notified provisions, the benefits of the recommended amendments to rule SASM-R2 outweigh the costs through the enablement of 'everyday' farming practices involving specified earthworks to occur in the Ngā Tūranga Tūpuna Overlay as a permitted activity.

Risk of acting or not acting

- 10.32 There is sufficient information available about the benefits of the management of effects on SASM to provide a strong foundation for evaluating the amendments proposed. The Council has sufficient information to determine the provisions. The costs and benefits of the provisions are well understood. Consequently, the risk of acting as proposed are not considered to be significant.

Conclusion as to the most appropriate option

- 10.33 The recommended changes to rule SASM-R2 are the most appropriate way to achieve the PDP's objectives. The changes improve the efficiency and effectiveness of the SASM Chapter by enabling a broader list of 'everyday' farm practices involving earthworks to occur on land in the Ngā Tūranga Tūpuna Overlay, while still meeting the purpose of the Act. This includes the requirement under section 6(e) 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.

SASM-R3 Primary Industry Activity

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	Ellesmere SAI	033	Oppose In Part	Amend as follows: Activity status: RDIS 1. Any Primary Industry activity <u>(excluding Rural Industry activity)</u>
DPR-0422	NCFF	128	Oppose	Delete as notified.
DPR-0372	Dairy Holdings	FS062	Neither Support Nor Oppose	Neutral unless the rule applies to the Ngā Wai overlay, in which case accept the submission.

Analysis

- 10.34 'Primary Industry' is defined in the PDP as "...an industrial activity undertaken in a rural environment that is dependent on primary production...". Ellesmere SAI⁶⁵ seeks to exclude rural industry activity from SASM-R3, while NCFF⁶⁶ requests rule SASM-R3 (as notified) is deleted.

- 10.35 I recommend these submissions from Ellesmere SAI and NCFF are rejected for the reasons set out below:

10.35.1 'Rural Industry' is a defined term in the PDP and means "an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production". I consider the wording changes sought by Ellesmere SAI are unnecessary as rule SASM-R3 is solely focused on managing 'primary industry activities' which are a subset of 'rural industry'. In my view, there is no need to restate this in the rule.

10.35.2 The section 32 report and 2018 MKT report note that the Wāhi Tapu and Wāhi Taonga Overlay which SASM-R3 relates to, are required to protect culturally significant sites such as

⁶⁵ 212-033 Ellesmere SAI

⁶⁶ 422-128 NCFF

urupā, waiwhakaheke tupapaku or other wāhi tapu, including maunga and ancestral Pā/Kāinga sites. Granting NCCF's requested relief to delete SASM-R3 will not fulfill SDC's statutory duties under sections 6(e), 6(f), 7(a), and 8 of the Act or the outcomes identified in Strategic Direction SD-MWV-O1 and objective SASM-O1.

Recommendation

10.36 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

10.37 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

SASM-R4 Intensive Primary Production

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0368	Beef + Lamb	004	Support In Part	Include a definition of 'new' and 'expanded' intensive outdoor primary production or delete SASM-R4 in its entirety.
DPR-0407	Forest & Bird	FS427	Oppose	Reject the submission
DPR-0422	NCCF	129	Support In Part	Retain as notified provided the definition for 'intensive outdoor primary production' is amended as sought.

Analysis

10.38 'Intensive Primary Production' is defined in the PDP as *"...intensive indoor primary production or intensive outdoor primary production"*. The 'Intensive Indoor Primary Production' definition includes *"...growing fungi, or keeping or rearing livestock (excluding calf rearing for a specified time period) or poultry"*. 'Intensive Outdoor Primary Production' involves *"...the keeping or rearing of livestock (excluding calf rearing for a specified time period), that principally occurs outdoors, which by the nature of the activity, precludes the maintenance of pasture or ground cover"*. The definition specifically *"...excludes pig production for domestic use, up to 25 weaned pigs or six sows"*.

10.39 Beef + Lamb⁶⁷ requests that rule SASM-R4 is either deleted or the 'Intensive Outdoor Primary Production' definition is amended to include *"new"* or *"expanded"* production activities. Beef + Lamb is concerned the rule will capture in situ grazing of fodder crops.

10.40 I recommend this submission from Beef + Lamb is rejected for the reasons set out below:

10.40.1 The removal of rule SASM-R4 or granting the proposed amendments would undermine the effectiveness and efficiency of the PDP, both in respect to rule SASM-R4 recognising and providing for Wāhi Tapu and Wāhi Taonga and potentially the management of 'Intensive Primary Production' activities under the GRUZ Chapter.

10.41 NCCF⁶⁸ support the retention of rule SASM-R4 provided the 'Intensive Outdoor Primary Production' definition is amended so that normal pastoral farming is not captured by the definition. NCCF has

⁶⁷ DPR-368.004 Beef + Lamb

⁶⁸ DPR-422.129 NCCF

proposed a new definition that seeks to ensure intensive outdoor grazing is distinguished from winter grazing.

10.42 I recommend this submission from NCFF is accepted for the reasons set out below:

10.42.1 The definition of 'Intensive Primary Production' has been evaluated in response to submissions on the GRUZ Chapter. I understand that the reporting officer is recommending that the definition is amended to exclude "*intensive winter grazing*" as defined in the National Environmental Standard for Freshwater from the definition of 'Intensive Outdoor Primary Production'. I consider that this amendment supports the relief being sought by NCFF on rule SASM-R4.

Recommendations and amendments

10.43 I recommend, for the reasons given above, that the Hearings Panel:

- e) Amend the definition of 'Intensive Outdoor Primary Production' to exclude "*intensive winter grazing*" as defined in the National Environmental Standard for Freshwater and as identified in the GRUZ Chapter.

10.44 The amendments recommended to rule SASM-R2 are set out in a consolidated manner in **Appendix 2**.

10.45 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

10.46 The suggested amendment relates to a change that has been promulgated and assessed through evidence prepared on the GRUZ Chapter, which I adopt for the purposes of the section 32AA evaluation.

SASM-R5 Mineral Extraction

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0299	Steve & Jane West	004	Oppose In Part	Delete SASM Ngā Tūranga Tūpuna Overlay from SASM-R5. If considered necessary, an assessment matter could be added to the appropriate zone rules to ensure that any actual or potential effect on Ngāi Tahu values is assessed when a resource consent application is made for mineral extraction.
DPR-0212	Ellesmere SAI	FS037	Support	Allow in full
DPR-0422	NCFF	130	Oppose In Part	Amend as follows: 1. The establishment of a new, or the expansion of an existing mine, quarrying activity, or farm quarry.

Analysis

10.47 Steve and Jane West⁶⁹ request the reference to the SASM Ngā Tūranga Tūpuna Overlay is deleted from SASM-R5, or if retained, that any actual or potential effects on Ngāi Tahu values are assessed

⁶⁹ DPR-299.004 Steve & Jane West

through the resource consent process. NCCF⁷⁰ request the reference to “*farm quarries*” is deleted from rule SASM-R5.

10.48 I recommend these submissions from Jane and Steve West and NCCF are rejected for the reasons set out below:

10.48.1 The section 32 report and supporting 2018 MKT report notes that Council has a statutory responsibility under section 6(e) of the Act to recognise and provide for the relationship of Māori with their culture and traditions with their ancestral lands, water, sites, wāhi tapu and wāhi taonga. Classifying the establishment of new mines, quarrying activities or farm quarries as permitted activities, or enabling the expansion to these activities, will not recognise and provide for SASM contained in the Wāhi Tapu, Wāhi Taonga and Ngā Tūranga Tūpuna Overlays from inappropriate damage and destruction. I consider it is appropriate for these activities to require a resource consent where they are in the SASM Overlays to ensure consistency with the outcomes contained in Strategic Direction SD-MWV-Mana whenua values, objective SASM-O1 and the related policies.

10.48.2 I also note that mineral extraction requires a resource consent under the GRUZ, including through rules GRUZ-R20 and GRUZ-R21. The amendments may therefore result in an internal conflict that may undermine the effectiveness and efficiency of the PDP to manage potential adverse effects that could arise from the undertaking of mineral extraction activities.

Recommendation

10.49 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

10.50 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

SASM-R6 Plantation Forestry

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0293	Patrick & Lisa Cooper	002	Oppose In Part	Amend SASM-R6 to ensure the plan is not detrimental to farming operations.
DPR-0299	Steve & Jane West	005	Oppose In Part	Delete the SASM Ngā Tūranga Tūpuna Overlay from SASM-R6.
DPR-0212	Ellesmere SAI	FS038	Support	Allow in full
DPR-0439	Rayonier	009	Oppose In Part	Amend to refer to Plantation Forestry Activity as defined in the NESPF.

Analysis

10.51 ‘Plantation forest’ in the context of rule SASM-R6 has the same meaning as in section 3 of the NPS-PF. It means forest deliberately established for commercial purposes of at least 1 ha in size and

⁷⁰ DPR-422.130 NCCF

includes all associated forestry infrastructure. The definition does not include shelter belts, orchards, fruit trees, ecological restoration planting or willows and poplars planted for conservation purposes.

10.52 Patrick and Lisa Cooper⁷¹ request rule SASM-R6 is amended to ensure the PDP is not detrimental to farming operations. Steve and Jane West⁷² request the SASM Ngā Tūranga Tūpuna Overlay is deleted from SASM-R6. Rayonier⁷³ requests rule SASM-R6 is amended to refer to plantation forestry as described in the NES-PF. These submissions seek to avoid duplication between the NES-PF and rule SAMS-R6.

10.53 I recommend these submissions Patrick and Lisa Cooper, Steve and Jane West and Rayonier are rejected for the reasons set out below:

10.53.1 The IMP identifies that commercial forestry has the potential to generate significant effects on SASM. The 2018 MKT report states this may be through significant change to the cultural landscape, through for example earthworks associated with plantation forestry, the spread of wilding trees, or physical modification and damage to waterways. The report notes that the establishment and operation of large-scale commercial forestry can involve earthworks that contaminate and cause sedimentation, resulting in damage or destruction of significant sites, or the loss of indigenous biodiversity including mahinga kai.

10.53.2 The type of forestry activities identified in the submissions are unlikely to fall within the definition of 'plantation forest' in the NES-PF, which reduces the risk of conflict between the two statutory instruments.

Recommendation

10.54 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

10.55 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

Rule SUB-R20 Subdivision and Sites and Areas of Significance to Māori

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0212	Ellesmere SAI	075	SUB-R20	Oppose	Delete as notified.
DPR-0212	Ellesmere SAI	076	New	Oppose	Add an assessment matter under SUB-Matters for Control or Discretion that addresses the need to assess any impact the proposed subdivision of land may have on any cultural values within sites and areas of significance to Māori and heritage.
DPR-0260	ECan	124	SUB-R20	Support	Retain as notified.
DPR-0157	Kevin & Bonnie Williams	FS919	SUB-R20	Oppose In Part	Reject in part the amendments sought.

⁷¹ DPR-293.002 Patrick & Lisa Cooper

⁷² DPR-299.005 Steve & Jane West

⁷³ DPR-439.009 Rayonier

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0209	Manmeet Singh	FS1067	SUB-R20	Oppose	Reject the submission in part.
DPR-0298	TRRG	FS029	SUB-R20	Oppose In Part	Reject submission
DPR-0461	Dunweavin	FS412	SUB-R20	Oppose	Reject submission
DPR-0492	Kevler	FS747	SUB-R20	Oppose	Reject Submission
DPR-0493	Gallina & Heinz-Wattie	FS045	SUB-R20	Oppose	Reject submission in part being the amendments sought and the notified provisions sought to be retained.
DPR-0299	Steve & Jane West	002	SUB-R20	Oppose In Part	Delete SUB-R20.4, SUB-R20.5 and SUB-R20.6 as notified. See original submission for full decision requested.
DPR-0212	Ellesmere SAI	FS077	SUB-R20	Support	Allow in full
DPR-0306	Roy Ewart	002	SUB-R20	Oppose In Part	Not specified.
DPR-0358	RWRL	222	SUB-R20	Support	Retain as notified
DPR-0157	Kevin & Bonnie Williams	FS424	SUB-R20	Support In Part	Accept the submission in part
DPR-0209	Manmeet Singh	FS511	SUB-R20	Support In Part	Accept the submission in part
DPR-0298	TRRG	FS468	SUB-R20	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS515	SUB-R20	Support In Part	Accept submission in part
DPR-0492	Kevler	FS826	SUB-R20	Support	Accept submission in part
DPR-0493	Gallina & Heinz-Wattie	FS491	SUB-R20	Support In Part	Accept the submission in part.
DPR-0363	IRHL	211	SUB-R20	Support	Retain as notified
DPR-0157	Kevin & Bonnie Williams	FS756	SUB-R20	Support In Part	Accept the submission in part
DPR-0209	Manmeet Singh	FS682	SUB-R20	Support In Part	Accept the submission in part
DPR-0298	TRRG	FS635	SUB-R20	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS675	SUB-R20	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO
DPR-0492	Kevler	FS290	SUB-R20	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0374	RIHL	217	SUB-R20	Support	Retain as notified

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0157	Kevin & Bonnie Williams	FS571	SUB-R20	Support In Part	Accept the submission in part
DPR-0209	Manmeet Singh	FS938	SUB-R20	Support In Part	Accept the submission in part
DPR-0298	TRRG	FS786	SUB-R20	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS818	SUB-R20	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0492	Kevler	FS134	SUB-R20	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0493	Gallina & Heinz-Wattie	FS695	SUB-R20	Support In Part	Accept the submission in part.
DPR-0384	RIDL	229	SUB-R20	Support	Retain as notified
DPR-0414	Kāinga Ora	114	SUB-R20	Support	Retain as notified
DPR-0157	Kevin & Bonnie Williams	FS180	SUB-R20	Oppose In Part	Reject the submission in part
DPR-0209	Manmeet Singh	FS370	SUB-R20	Oppose In Part	Reject the submission in part
DPR-0298	TRRG	FS140	SUB-R20	Oppose In Part	Reject submission
DPR-0461	Dunweavin	FS167	SUB-R20	Oppose In Part	Reject submission
DPR-0492	Kevler	FS536	SUB-R20	Oppose In Part	Reject submission points in part
DPR-0493	Gallina & Heinz-Wattie	FS160	SUB-R20	Oppose In Part	Reject the submission points in part.
DPR-0565	Shelley Street	FS051	SUB-R20	Support In Part	Support the submission subject to amendments to the MDRZ boundary at Rolleston to include properties on the east side of George Street including no. 30 George Street & any other amendments/changes to the relevant provisions as are consistent with enabling our MDH proposal.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0422	NCFF	209	SUB-R20	Support In Part	Amend as follows: 1. Boundaries of every proposed lot must not divide a subdivision of a site containing any Site of Significance to Ngāi Tahu listed in SASM-SCHED1 – Wāhi Taonga and Wāhi Tapu Sites and Areas. This rule does not apply to any subdivision under <u>SUB-R12 or SUB-R15</u> 4. Boundaries of every proposed lot must not divide a subdivision of a site containing any Site of Significance to Ngāi Tahu listed in SASM-SCHED2 – Ngā Tūranga Tūpuna. This rule does not apply to any subdivision under <u>SUB-R12 or SUB-R15</u> . 7. Boundaries of every proposed lot must not divide a subdivision of a site containing any Site of Significance to Ngāi Tahu listed in SASM-SCHED3 – Ngā Wai. This rule does not apply to any subdivision under <u>SUB-R12 or SUB-R15</u> .

Analysis

10.56 Under rule SUB-R20 the subdivision of land that is within a SASM listed in the Wāhi Taonga, Wāhi Tapu (SASM-SCHED1), Ngā Tūranga Tūpuna (SASM-SCHED2), or Ngā Wai (SASM-SCHED3) Overlays would require a restricted discretionary activity consent.

10.57 Most submissions support the retention of SUB-R20, including the submissions from ECan⁷⁴, RWRL⁷⁵, IRHL⁷⁶, RIHL⁷⁷, RIDL⁷⁸, and Kāinga Ora⁷⁹. I recommend these submissions are accepted.

10.58 A submission from Ellesmere SAI⁸⁰ requests rule SUB-R20 is deleted, with a separate submission point⁸¹ requesting the inclusion of an additional assessment matter that addresses any impact the subdivision of land that is subject to the SASM Overlays may have on cultural values. In their submission Steve and Jane West⁸² also request the deletion of the subdivision requirements in rule SUB-R20 that relate to the Ngā Tūranga Tūpuna Overlay. A submission from Roy Ewart⁸³ states he opposes in part rule SUB-R20 but does not record a requested relief.

10.59 I recommend these submissions from Ellesmere SAI, Jane and Steve West and Roy Ewart are rejected for the reasons set out below:

10.59.1 The purpose of rule SUB-R20 is to ensure a process is in place that is inclusive of the relevant Papatipu Rūnanga and Heritage NZ, and that the effects on SASM can be assessed.

⁷⁴ DPR-260.124 ECan

⁷⁵ DPR-358.222 RWRL

⁷⁶ DPR-363.211 IRHL

⁷⁷ DPR-374.217 RIHL

⁷⁸ DPR-384.229 RIDL

⁷⁹ DPR-414.114 Kāinga Ora

⁸⁰ DPR-212.075 Ellesmere SAI

⁸¹ DPR-212.076 Ellesmere SAI

⁸² DPR-299.002 Steve & Jane West

⁸³ DPR-306.002 Roy Ewart

- 10.59.2 The 2018 MKT report notes that subdivision and the associated land use change can increase the potential for effects on sites of significance and related cultural values. These effects may include land disturbance, the introduction of activities which are inappropriate near sites of significance or result in the displacement or loss of wāhi tapu or wāhi taonga values.
- 10.59.3 The involvement of Heritage NZ and Papatipu Rūnanga as part of the consent process will assist in determining whether a proposal runs the risk of damaging or destroying cultural sites, and for effectively managing the accidental discovery of items that are significant to tangata whenua.
- 10.60 NCFF⁸⁴ support in part rule SUB-R20 and request wording changes. The first wording change seeks to amend the entry point for each activity by changing “*Subdivision of a site*” to “*Boundaries of every proposed lot must not divide*”. The second wording change seeks to exempt boundary adjustments under rule SUB-R12 from the application of rule SUB-R20.
- 10.61 I recommend this submission from NCFF is rejected for the following reasons:
- 10.61.1 In respect to the first wording change, I prefer the wording in the notified version of SUB-R20 as it is clearer and more concise when read in combination within the definition of ‘subdivision’.
- 10.61.2 In respect to the second wording change, although by itself the boundary adjustment under rule SUB-12 may result in minimal adverse effects, it may enable land development to occur in a location that adversely effects SASM. If the relief were granted there would be no ability for the relevant Papatipu Rūnanga or Heritage NZ to provide input into the consent process and to ensure cultural values are recognised and provided for on an ongoing basis, which in my opinion would undermine the effectiveness of the PDP.

Recommendation

- 10.62 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.
- 10.63 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

11. Sites and Areas of Significance to Māori – Matters for Control and Discretion

Introduction

- 11.1 This section responds to the submission points relating to SASM Chapter – Matters for Control and Discretion.

⁸⁴ DPR-422.209 NCFF

Submissions

- 11.2 11 submissions points and three further submission points were received in relation to this subtopic. The submissions are evaluated against each respective Overlay in the order they appear in the PDP.

SASM MAT1 Wāh Tapu & Wāh Taonga Sites & Areas

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	Ellesmere SAI	034	Oppose In Part	Delete as notified. Alternatively, amend SASM-MAT1.1 and SASM-MAT1.2 to contain specific wording as to what matters are to be assessed.
DPR-0269	Heritage NZ	023	Support	Retain as notified.
DPR-0367	Orion	084	Support	Retain SASM-MAT1.4 as notified.
DPR-0407	Forest & Bird	FS653	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0422	NCFE	131	Support In Part	Amend to contain specific wording as to what matters are to be assessed in each particular location and make any necessary consequential amendments.

Analysis

- 11.3 The matters for discretion in SASM-MAT1 seeks to identify and manage the potential adverse effects of activities on Ngāi Tahu whānui values as they relate to the identified SASM. The SASM Chapter requires that potential adverse effects are identified through engagement with Papatipu Rūnanga and Heritage NZ, the applicant's response to that engagement to address any identified effects on sites of archaeological or cultural value, for utility providers to establish the functional need to locate within the SASM Overlays and the extent to which any of these sites and the cultural values attributed to them are protected.
- 11.4 Heritage NZ⁸⁵ and Orion⁸⁶ support SASM MAT1 and request it is retained as notified. I recommend these submissions are accepted.
- 11.5 Ellesmere SAI⁸⁷ and NCFE⁸⁸ oppose in part and support in part SASM MAT1 respectively. Both request the matter of control is amended to include specific wording to detail what matters are to be assessed. Ellesmere SAI is concerned that the assessment matters in SASM-MAT1 are subject to engagement with a third party and the outcomes of that consultation. NCFE states it understands the need to protect these sites and areas of significance to Māori but request amendments as the considerations listed are non-specific and uncertain for landowners who must engage with Papatipu Rūnanga without clear direction on what is required to be assessed. NCFE request the SASM-MAT provisions are amended to list specific considerations relating to cultural values so that landowners understand why consent is needed and what will be assessed. NCFE also request a clear timeframe

⁸⁵ DPR-269.023 Heritage NZ

⁸⁶ DPR-367.084 Orion

⁸⁷ DPR-212.034 Ellesmere SAI

⁸⁸ DPR-422.131 NCFE

for assessments by the relevant Papatipu Rūnanga, especially if these are undertaken within a formal consent application process.

11.6 I recommend these submissions from Ellesmere SAI⁸⁹ and NCF⁹⁰ are rejected in part for the reasons outlined below:

11.6.1 The attached MKT report outlines the consultation process they facilitate on behalf of Papatipu Rūnanga (refer **Appendix 3**). This advice details the regularity and nature of the engagement that is likely to be required to implement the SASM rules. It also recommends changes to the notification clauses in recognition of the need to provide more certainty to applicants by encouraging engagement with Papatipu Rūnanga (through MKT). While this process relies on a commitment from Council to facilitate the engagement, it enables MKT to identify the relative risks associated with activities proposed within culturally sensitive sites and to recommend what actions are taken to ensure the integrity and values attributed to SASM are maintained. This advice and the recommended changes to the notification clauses detailed in Section 8 of this report and **Appendix 2** may alleviate some of the concerns expressed by the submitters relating to the consent process generally and the application of matters of discretion specifically.

11.6.2 The MKT report also confirms that similar processes are applied in those parts of North Canterbury where it represents the interests of the shareholding Papatipu Rūnanga with consenting authorities. In my view, the SASM-MAT and associated consent processes detailed in the recommended changes to the notification clauses will ensure that the PDP aligns with other district plans in the region, while also enabling Council to better meet its statutory duties under the Act.

Recommendation

11.7 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

11.8 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

SASM MAT2 Ngā Tūranga Tūpuna

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	Ellesmere SAI	035	Oppose In Part	Delete as notified. Alternatively, amend SASM-MAT2.1 and SASM-MAT2.2 to contain specific wording as to what matters are to be assessed.
DPR-0367	Orion	085	Support	Retain SASM-MAT2.4 as notified.
DPR-0407	Forest & Bird	FS654	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.

⁸⁹ DPR-212.034 Ellesmere SAI

⁹⁰ DPR-422.131 NCF

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0422	NCFF	132	Support In Part	Amend to contain specific wording as to what matters are to be assessed in each particular location and make any necessary consequential amendments.

Analysis

11.9 The matters of discretion under SASM MAT2 for applications within a Ngā Tūranga Tūpuna Overlay largely mirror those that apply to the Wāhi Tapu and Wāhi Taonga Overlay under SASM MAT1. Ngā Tūranga Tūpuna are described as places of settlement or occupation in the past, which do not usually contain known physical features, but do provide an opportunity to incorporate Ngāi Tahu whānui history and values into the development or redevelopment of these areas. As a result, the matters of control and discretion include a consideration of whether the proposal maintains or restores natural features with cultural values in these areas, whether any site of historic Ngāi Tahu occupation will be disturbed, and the effect removing indigenous vegetation will have on mahinga kai and other customary uses.

11.10 The submissions received to SASM MAT2 address the same issues that have been evaluated above in the analysis of submissions to SASM MAT1. On this basis, I recommend the submission in support by Orion⁹¹ is accepted in part. I also consider that the submissions by Ellesmere SAI⁹² and NCFF⁹³ are rejected in part for the same reasons outlined in my discussion regarding the SASM MAT1 submissions.

Recommendation

11.11 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

11.12 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

SASM MAT3 Ngā Wai

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	Ellesmere SAI	036	Oppose	Delete as notified. Alternatively, amend SASM-MAT3.1 and SASM-MAT3.2 to contain specific wording as to what matters are to be assessed.
DPR-0367	Orion	088	Support	Retain SASM-MAT3.4 as notified.
DPR-0407	Forest & Bird	FS657	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0422	NCFF	133	Support In Part	Amend to contain specific wording as to what matters are to be assessed in each particular location and make any necessary consequential amendments.

⁹¹ DPR-367.085 Orion

⁹² DPR-212.035 Ellesmere SAI

⁹³ DPR-422.132 NCFF

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0441	Trustpower	093	Support In Part	Amend as follows: ... 4. In respect of utilities, <u>or regionally significant infrastructure</u> , the extent to which the proposed <u>utility activity</u> has <u>technical/functional</u> or operational needs for its location. ...

Analysis

11.13 The Ngā Wai Overlay encompasses selected water bodies and their margins that have been determined to be significant areas of mahinga kai or other customary uses for mana whenua. These include ngā awa/rivers, ngā roto/lakes, ngā hāpua/coastal lagoons, ngā repo/wetlands and where identified, ngā puna/springs.

11.14 The matters of control or discretion under SASM MAT3 mirror those for SASM MAT1 and MAT2 with additional matters included to recognise the values specific to Ngā Wai areas. These include the extent to which the proposed activity will affect the natural character of the waterbody and its margins, or Te Tai o Mahaanui/the coastal environment, the provision of information on Ngāi Tahu whānui history and association with the area, and whether wastewater and stormwater systems recognise the cultural significance of Ngā Wai and do not create additional demand to discharge directly.

11.15 The submissions received to SASM MAT3 mostly address the same issues as discussed above in the analysis of submissions to SASM MAT1. On this basis, I recommend the submission in support by Orion⁹⁴ is accepted in part and the submissions by Ellesmere SAI⁹⁵ and NCFE⁹⁶ are rejected in part for the same reasons outlined in my discussion regarding the SASM MAT1 submissions.

11.16 Trustpower⁹⁷ supports in part SASM MAT3 and requests minor wording changes to SASM MAT3.4. Trustpower seeks recognition of the technical and operational constraints associated with hydro-electricity generation related activities and the need to locate this infrastructure where the resource is available through changes to SASM MAT3.

11.17 I recommend the Trustpower submission is accepted in part for the reasons set out below.

11.17.1 In my view, the intent of the PDP is better met by using the term *“Important Infrastructure”* rather than *“regionally significant infrastructure”* as infrastructure is a defined term in the PDP and it will achieve alignment with the EI Chapter.

11.17.2 I also agree with Trustpower’s request to amend the remainder of SASM MAT3.4 and that it is accepted. Replacing the term *“technical”* with *“functional”* ensures the assessment criteria terms are consistent with those used elsewhere in the SASM Chapter and across the PDP. In particular, it aligns with the wording used in policy EI-P2 which states that

⁹⁴ DPR-367.088 Orion

⁹⁵ DPR-212.036 Ellesmere SAI

⁹⁶ DPR-422.133 NCFE

⁹⁷ DPR-422.093 Trustpower

‘Important Infrastructure’ in SASM areas is limited to those activities that can demonstrate an operational or functional requirement for the location.

11.18 I note that SASM-MAT1.4 and SASM-MAT2.4 also refer to “utilities” and “infrastructure” respectively and also use the phrase “technical” rather than “functional”. I consider that it would be appropriate to amend these matters of discretion to align with the recommended changes to SASM-MAT3.4. However, I do not consider there is scope provided under the submissions received to make these changes.

Recommendations and amendments

11.19 I recommend, for the reasons given above, that the Hearings Panel:

- f) SASM MAT3.4 is amended by including a reference to ‘Important Infrastructure’ and deleting the term “technical”, replacing it with “functional” and consequential changes as shown in **Appendix 2** to improve the effectiveness and efficiency of the rule by achieving alignment with the EI objectives and policies in the PDP.

11.20 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

11.21 The scale of the changes does not require a section 32AA evaluation as the recommended amendments further strengthen the outcomes sought rather than change them. In my view, the literal meaning of the phrases is similar, which reduces the risk that the recommended changes could create a scope issue by inadvertently capturing a wider range of activities. The amendment also improves the integration of the SASM-MAT3.4 with policy EI-P2 and the related rules and requirements of the Energy and Infrastructure Chapter, thereby increasing the effectiveness and efficiency of the PDP.

12. Sites and Areas of Significance to Ngāi Tahu - Schedules

Introduction

12.1 This section responds to the submission points relating to SASM – Schedules. This section includes an analysis and recommendations relating to submissions regarding the mapping of the SASM Overlays.

Submissions

12.2 22 submissions points and seven further submission points were received in relation to this subtopic.

SASM-SCHED1 Wāhi Taonga & Wāhi Tapu

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0212	Ellesmere SAI	037	SASM Wāhi Tapu Overlay	Oppose In Part	Retain SASM 1 but reduce the extent to the same that is specified for the same area (C66) in the SDP.

Analysis

- 12.3 SASM-SCHED1-SASM 1 is a Wāhi Tapu site and includes Te Tai o Mahaanui / Selwyn-Banks Peninsula Coastal Marine Area. It is described in the Schedule as the area from the Rakaia River to Fisherman's Point including SASM 57 and Statutory Acknowledgement Area SASM 60.
- 12.4 One submission has been received from Ellesmere SAI⁹⁸ in relation to site SASM 1, who request it is retained but reduced in area to the size of the Wāhi Taonga Management Area C66 identified in the SDP (Rural Volume, Appendix 5 Schedule of Sites of Significance to Tangata Whenua - Wāhi Taonga Management Areas - C66 - Beach from Rakaia River to Fisherman's Point – Seaward of the Coastal Hazard 1 Line).
- 12.5 I recommend the submission from Ellesmere SAI is accepted for the reasons set out below:
- 12.5.1 The report prepared by MKT (refer **Appendix 3**) reiterates the cultural significance the coastline and coastal environs have for mana whenua and the need for it to be protected within the PDP. It supports the relief sought by Ellesmere SAI to the extent that the spatial area of SASM 1 in SASM-SCHED1 should be determined by SDC having regard to the legal definition of the Coastal Marine Area, the Statutory Acknowledgement for Te Tai o Mahaanui described in the Te Rūnanga o Ngāi Tahu Claims Settlement Act 1998. MKT further recommend that best practice mapping is used and that this is supported by appropriate descriptions of significant geographic and ecological features in appropriate sections of the PDP.
- 12.5.2 The PDP mapping exercise has been informed by engagement with Papatipu Rūnanga and changes evaluated by the Council through the DPR process, which has included baseline analysis and assessments under section 32. However, in reviewing the spatial extent of C66 in the SDP and SASM1 in the PDP, it appears that there are variations in the length of the two overlays. The eastern end of C66 starts further to the east than SASM1 and encompasses a portion of Kaitōrete Spit, while SASM1 starts on the western edge of Te Waihora further to the west. The western end of C66 only partially extends into the Rakaia River, while SASM1 extends across the river as far west as the territorial authority boundary.
- 12.5.3 This analysis confirms that there is a variation between the extent of the Coastal Marine Area across the planning maps of the SDP and PDP. I recommend that Council initiate an exercise to ground truth the spatial extent of SASM-1 within schedule SASM-SCHED1 Wāhi Taonga and Wāhi Tapu to confirm the spatial extent of the Coastal Marine Area. This exercise should commence following confirmation from the panel on the timing for when this mapping exercise should occur.

Recommendations and amendments

- 12.6 I recommend, for the reasons given above, that the Hearings Panel:

⁹⁸ DPR-212.037 Ellesmere SAI

- g) Directs Council to ground truth the spatial extent of the Coastal Marine Area detailed in SASM-SCHED1-SASM1 to ensure it is an accurate representation of the area that is to be subject to the rules and requirements contained in the SASM Chapter of the PDP.

12.7 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

12.8 The ground truthing exercise does not require a section 32AA evaluation as the recommended direction seeks to ground truth the spatial extent of the Coastal Marine Area as defined in Part 1 section 2 of the RMA, which will determine the extent to which this may require a further evaluation.

SASM-SCHED2 Ngā Tūranga Tūpuna

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0212	Ellesmere SAI	030	SASM Ngā Tūranga Tūpuna Overlay	Oppose	Delete the Ngā Tūranga Tūpuna Overlay as notified. As an alternative, and through consultation with all relevant parties' appropriate matters of discretion could be included in general earthworks, plantation forestry and mineral extraction provisions throughout the relevant sections of the Plan.
DPR-0212	Ellesmere SAI	038	SASM-SCHED2	Oppose	Delete SASM-SCHED2 Ngā Tūranga Tūpuna as notified. As an alternative, and through consultation with all relevant parties' appropriate matters of discretion could be included in general earthworks, plantation forestry and mineral extraction provisions throughout the relevant sections of the Plan.
DPR-0422	NCCF	FS117	SASM-SCHED2	Support	Allow the submission point.
DPR-0236	Trevor Cundall	001	SASM Ngā Tūranga Tūpuna Overlay	Oppose	Delete as notified.
DPR-0292	Paul Christian	002	SASM Ngā Tūranga Tūpuna Overlay	Oppose	Request that Council accept that the ECan process covers cultural concerns and delete the Ngā Tūranga Tūpuna Overlay, or at least delete on private properties of 10ha and larger.
DPR-0293	Patrick & Lisa Cooper	001	SASM Ngā Tūranga Tūpuna Overlay	Oppose	Delete the Ngā Tūranga Tūpuna Overlay from the district plan.
DPR-0299	Steve & Jane West	001	SASM Ngā Tūranga Tūpuna Overlay	Oppose	Delete the SASM Ngā Tūranga Tūpuna Overlay in its entirety. Refer to original submission for full decision requested

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0212	Ellesmere SAI	FS035	SASM Ngā Tūranga Tūpuna Overlay	Support	Allow in full
DPR-0422	NCFF	FS113	SASM Ngā Tūranga Tūpuna Overlay	Support	Allow the submission point.
DPR-0306	Roy Ewart	001	SASM Ngā Tūranga Tūpuna Overlay	Oppose	Delete the Nga Turanga Tupuna Overlay from the Plan.

Analysis

12.9 The Ngā Tūranga Tūpuna Overlay relates to Te Waihora/Lake Ellesmere, its margins, and associated wetlands. Ngā Tūranga Tūpuna represents areas where mana whenua has an elevated concern regarding the integration and effects of a wide range of land-use activities and as a result require applicants to engage with mana whenua as part of a resource consent process.

12.10 Submissions to SASM-SCHED2 were lodged by Ellesmere SAI⁹⁹, Trevor Cundall¹⁰⁰, Roy Ewart¹⁰¹, Paul Christian¹⁰², Patrick & Lisa Cooper¹⁰³, and Steve & Jane West¹⁰⁴. All the submissions received to SASM-SCHED 2 request its deletion. As an alternative relief, Ellesmere SAI¹⁰⁵ requests the matters of discretion and permitted activities within the Ngā Tūranga Tūpuna Overlay are consulted on with the parties, with changes undertaken throughout the SDP. Paul Christian's submission¹⁰⁶ identifies that ECan processes already address cultural values and requests as an alternative relief the deletion of the SASM-SCHED2 Overlay from sites 10ha in size or larger.

12.11 I recommend the above submissions from Ellesmere SAI, Trevor Cundall, Paul Christian, Roy Ewart, Patrick & Lisa Cooper, and Steve & Jane West are rejected for the reasons set out below:

12.11.1 The recommended changes to rule SASM-R2 should enable 'everyday' farming practices involving earthworks to occur in the Ngā Tūranga Tūpuna Overlay without the need to apply for a resource consent.

12.11.2 MKT has reviewed the submissions received to SASM-SCHED2 and their report describes that the purpose of the Ngā Turanga Tūpuna Overlay is to recognise areas and landscapes within which Māori historically settled and travelled (refer to **Appendix 3**). These locations retain cultural importance for contemporary Māori through cultural memories and links to the past and opportunities to continue customary practices. In this context, mana whenua

⁹⁹ DPR-212.030 & 212.038 Ellesmere SAI

¹⁰⁰ DPR-236.-001 Trevor Cundall

¹⁰¹ DPR-306-001 Roy Ewart

¹⁰² DPR-292.002 Paul Christian

¹⁰³ DPR-293.001 Patrick & Lisa Cooper

¹⁰⁴ DPR-299.001 Steve & Jane West

¹⁰⁵ DPR-212.030 & 212.038 Ellesmere SAI

¹⁰⁶ DPR-292.002 Paul Christian

has a relationship with these locations that is not confined to ‘pinpoint’ sites such as a site of archaeological find. The significance of the sites contained in the Ngā Turanga Tūpuna Overlay to mana whenua has been reiterated by MKT. The approach being applied to establish and administer Ngā Turanga Tūpuna under the PDP is also consistent with best practice examples in place under the CDP and PWDP. The implementation of a similar approach in the PDP will ensure consistency across the sub-region and better enable the Council to meet its duties under the Act.

12.11.3 The application of Overlays is a well understood and effective planning tool to manage SASM under the RMA and the approach for developing the Ngā Turanga Tūpuna Overlay will assist in ensuring the PDP is consistent with best practice district plans in the sub-region.

12.11.4 Deleting the Ngā Turanga Tūpuna Overlay would undermine Council’s ability to meet its responsibilities and duties under section 6(e) of the Act 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 (as summarised in paragraph 12.14 above). The removal of this overlay would also reduce the effectiveness of the Plan to achieve the outcomes contained in Strategic Direction SD-MWV-O1 and objective SASM-O1.

Recommendation

12.12 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

12.13 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

SASM-SCHED3 Ngā Wai

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0154	Ev Moorhead	004	SASM-SCHED3	Neither Support Nor Oppose	Requests that Council maintain the focus of these networks on drainage and not be diverted into other considerations which then negatively impact drainage.
DPR-0212	Ellesmere SAI	039	SASM-SCHED3	Oppose	Delete SASM-SCHED3 Ngā Wai as notified.
DPR-0422	NCFE	FS118	SASM-SCHED3	Support	Allow the submission point.
DPR-0212	Ellesmere SAI	040	SASM-SCHED3	Oppose	Delete SASM-SCHED3 Ngā Wai as notified. In the alternative, determine areas that may require recognition through consultation between the relevant parties.
DPR-0212	Ellesmere SAI	041	SASM-SCHED3	Oppose in part	Delete SASM-SCHED3 Ngā Wai as notified. In the alternative, for those areas that may require recognition as determined through consultation between the relevant parties, provide dual naming on the overlay title. Alternatively, review the SASM-SCHED3 Ngā Wai as notified to remove any

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					water bodies that have not contained flowing water for an extended period of time.
DPR-0372	Dairy Holdings	040	SASM-SCHED3	Support In Part	Retain, provided the recognition of the Rakaia River as a Ngā Wai site introduces no further restrictions relating to irrigation and existing farming activities on the Rakaia River.
<i>DPR-0422</i>	<i>NCCF</i>	<i>FS100</i>	<i>SASM-SCHED3</i>	<i>Support</i>	<i>Allow the submission point</i>
DPR-0388	Craigmore Farming	019	SASM-SCHED3	Support In Part	Retain as notified, provided the recognition of the Rakaia River as a Ngā Wai site introduces no further restrictions relating to irrigation and existing farming activities on the Rakaia River.
DPR-0390	RIL	029	SASM-SCHED3	Support In Part	Retain SASM SCHED3, SASM33 as notified, provided the recognition of the Rakaia River as a Ngā Wai site introduces no further restrictions relating to irrigation related activities on the Rakaia River.
DPR-0441	Trustpower	094	SASM-SCHED3	Support	Retain as notified
DPR-0441	Trustpower	095	SASM-SCHED3	Oppose	Amend the SASM 48 overlay boundaries in accordance with the proposed changes in Appendix Two of the original submission.
DPR-0474	Heather & Trevor Taege	002	SASM Ngā Wai Overlay	Oppose	Not specified
DPR-0212	Ellesmere SAI	027	SASM Ngā Wai Overlay	Oppose	Delete the Ngā Wai Overlay
DPR-0212	Ellesmere SAI	028	SASM Ngā Wai Overlay	Oppose	Delete the Ngā Wai Overlay. In the alternative, for those areas that may require recognition as determined through consultation between the relevant parties, provide dual naming on the overlay title.
<i>DPR-0422</i>	<i>NCCF</i>	<i>FS114</i>	<i>SASM Ngā Wai Overlay</i>	<i>Support</i>	<i>Allow the submission point.</i>
DPR-0212	Ellesmere SAI	029	SASM Ngā Wai Overlay	Oppose	Delete the Ngā Wai Overlay. In the alternative, determine areas that may require recognition through consultation between the relevant parties.
<i>DPR-0422</i>	<i>NCCF</i>	<i>FS115</i>	<i>SASM Ngā Wai Overlay</i>	<i>Support</i>	<i>Allow the submission point.</i>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0372	Dairy Holdings	133	SASM Ngā Wai Overlay	Support In Part	Retain, provided the recognition of the Rakaia River as a Ngā Wai site introduces no further restrictions relating to irrigation and existing farming activities on the Rakaia River.

Analysis

12.14 Submissions from Ellesmere SAI¹⁰⁷ request SASM-SCHED3 Ngā Wai is deleted, or alternatively that areas that may require recognition are determined through consultation between the relevant parties. A component part of this submission is that some of the water bodies listed in SASM-SCHED3 are stream beds that have not had contained flowing water for approximately 100 years and should be removed. Ellesmere SIA also requests as part of their relief the dual naming of sites and areas on the name column within SASM-SCHED3.

12.15 I recommend the submissions from Ellesmere SAI to delete SASM-SCHED3 Ngā Wai or undergo further consultation are rejected for the following reasons:

12.15.1 Extensive engagement and consultation have already occurred, including with Ellesmere SAI and other stakeholders.

12.15.2 In the Selwyn context, all of the district is regarded as ancestral land by Te Ngāi Tūāhuriri and Te Taumutu Rūnanga and mana whenua traditionally occupied and used all the resources of all the district. To meet the council's responsibilities under sections 6(e) and 6(f) of the Act the identification of sites and areas of significance to Māori must be led by mana whenua. The identification process is not able to be defined by other parties.

12.15.3 The section 32 report and 2018 MKT report (and subsequent technical report attached in **Appendix 3**) outline a change of direction away from the traditional planning approach of pinpointing sites on maps in the same way as European archaeological or heritage sites. This traditional approach does not accord with a cultural perspective of resource management and does not therefore meet the requirements of section 6(e) of the Act.

12.16 I recommend the submission from Ellesmere SAI's¹⁰⁸ request to provide for dual naming is accepted for the reasons set out below:

12.16.1 The refencing of dual names with SASM-SCHED-3 will enable plan users to clearly identify the Ngā Wai across the district, which will improve the efficiency and effectiveness of the PDP and the SASM Chapter.

12.16.2 I consider that this is a clause 16(2) matter as it relates to inconsequential changes to the names listed in SASM-SCHED3 Ngā Wai.

¹⁰⁷ DPR-212.039, DPR-212.040, DPR-212.041, DPR-212.027, DPR-212.028, & DPR-212.029 Ellesmere SAI

¹⁰⁸ DPR-212.028 Ellesmere SAI

12.17 I recommend the submission from Ellesmere SAI¹⁰⁹ to remove ephemeral water bodies from SASM-SCHED3 where they have not contained flowing water for extended periods of time is accepted for the reasons set out below:

12.17.1 I understand that Council has initiated an exercise to ground truth and amend the SASM-SCHED3 and the associated overlay where necessary to “...*better reflect the actual location of the water body*” pursuant to clause 16(2)¹¹⁰. These amendments are detailed in the report dated 16 December 2020.

12.17.2 I recommend this exercise is extended to further ground truth the spatial extent of the Ngā Wai to establish what water bodies may be able to be identified as no longer containing flowing water. The MKT Report indicates support for this review to take place and working with Council to ensure the Ngā Wai Overlay is applied to relevant water bodies.

12.17.3 The ground truthing and removal of ephemeral water bodies that have not contained water flows for extended periods of time will improve the efficiency of the PDP by removing sites where the risks of activities damaging Ngā Wai will be significantly reduced.

12.18 Dairy Holdings¹¹¹, Craigmore¹¹², and RIL¹¹³ request SASM-SCHED3 is retained as notified, provided that the inclusion of the Rakaia River as a Ngā Wai does not introduce further restrictions relating to irrigation and existing farming activities.

12.19 I recommend the submissions from Dairy Holdings, Craigmore and RIL are opposed in part for the reasons set out below:

12.19.1 The request to introduce a qualifier regarding potential restrictions on existing farming or irrigation activities is rejected on the grounds that it could unduly limit the effectiveness of the PDP.

12.19.2 The SASM Chapter does not contain any rules that are directly triggered by activities occurring within the Ngā Wai Overlay, but rather has a list of matters for control or discretion should consent be required for other reasons. This means consent applications will be determined on their merits, ‘taking into account’ the matters (as relevant to the proposal) outlined in SASM-MAT3 Ngā Wai.

12.20 Submissions from Trustpower¹¹⁴ support SASM-SCHED3 Ngā Wai 33 overlay as notified which I recommend is accepted.

12.21 Trustpower¹¹⁵ request the SASM-SCHED3 Ngā Wai 48 overlay boundary is amended in respect to Whakamatau/Lake Coleridge. Trustpower identify that the weir and intake structures act as a barrier between the natural and built environments and will not have a significant impact on taonga species

¹⁰⁹ DPR-212.041 Ellesmere SAI

¹¹⁰ [Selwyn District Council - Clause 16\(2\) amendments](#)

¹¹¹ DPR-372.040, DPR-372.133 Dairy Holdings

¹¹² DPR-388.019 Craigmore

¹¹³ DPR-390.029 RIL

¹¹⁴ DPR-441.094 Trustpower

¹¹⁵ DPR0441-095 Trustpower

so should be removed. Trustpower states that maintenance of its hydroelectric generation infrastructure is necessary, and that associated works need to be unhindered.

12.22 I recommend the submission from Trustpower is rejected for the reasons set out below:

12.22.1 MKT has reviewed this request (refer **Appendix 3**) and advise that the values associated with Whakamatau/Lake Coleridge are not solely limited to taonga species.

12.22.2 Whakamatau/Lake Coleridge is one of four Statutory Acknowledgement Areas identified in SASM-SCHED4. The Statutory Acknowledgement Areas were created as part of the Deed of Settlement signed by the Crown and Te Rūnanga o Ngāi Tahu on 21 November 1997 to create a final settlement of Te Rūnanga o Ngāi Tahu's historical claims against the Crown. The purpose of the Statutory Acknowledgement is stated in Schedule 76 of the Te Rūnanga o Ngāi Tahu Claims Settlement Act 1998 which includes the following statement:

“Whakamatau was a notable mahinga kai where tuna (eel) and waterfowl were taken. The kiore (polynesian rat) was also taken in this region. The tūpuna had considerable knowledge of whakapapa, traditional trails and tauranga waka, places for gathering kai and other taonga, ways in which to use the resources of the lake, the relationship of people with the lake and their dependence on it, and tikanga for the proper and sustainable utilisation of resources. All of these values remain important to Ngāi Tahu today”.

12.22.3 MKT clarify that the phrase “contemporary” in the context of its use in objective SASM-O1 demonstrates the relationship between mana whenua and the location and that failing to recognise this has the potential for the significant cultural values that are attributed to Whakamatau/Lake Coleridge being treated as if it were a heritage item.

12.23 A submission from Ev Moorhead¹¹⁶ is recorded as neither supporting or opposing SASM-SCHED3 and requests that council focuses on network drainage and not other considerations. The submitter may wish to clarify at the hearing the rationale for their submission as it appears to relate to cost, and efficiency matters unrelated to the Ngā Wai overlay areas. At this stage I recommend the submission is rejected.

12.24 In their submission, Heather & Trevor Taege¹¹⁷ record their opposition to any restrictions on their land resulting from the SASM Ngā Wai 34 (Waimakariri River) Overlay and any restrictions to the restoration of their land caused by river flooding.

12.25 I recommend this submission from Heather & Trevor Taege is rejected for the reasons set out below:

12.25.1 As noted above, the SASM Ngā Wai Overlay does not in itself contain rules to manage activities, but rather a set of matters for control or discretion when consent is required for other reasons.

¹¹⁶ DPR-154.004 Ev Moorhead

¹¹⁷ DPR-474.002 Heather & Trevor Taege

Recommendations and amendments

12.26 I recommend, for the reasons given above, that the Hearings Panel:

- h) Directs Council to ground truth the spatial extent of the Ngā Wai Overlay to establish what water bodies may be able to be identified as no longer containing flowing water in SASM-SCHED1 Ngā Wai and related overlay.

12.27 It is recommended that submissions and further submissions are either accepted, accepted in part, or rejected as shown in **Appendix 1**.

12.28 The ground truthing exercise does not require a section 32AA evaluation as the recommended direction seeks to ground truth the spatial extent of SASM-SCHED1 Ngā Wai and related overlay, which will determine the degree to which this may require a further evaluation.

SASM-SCHED5 Nohoanga and remainder of SASM Chapter

12.29 No submissions were received to SASM-SCHED5 or to the remainder of the SASM Chapter. Submissions addressing the mapping of the SASM Overlays have been addressed above in the analysis regarding the SASM Schedules.

13. Conclusion

13.1 For the reasons set out in the Section 32AA evaluations and included throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.