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# PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

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**DATE:** 19 June 2018

**TOPIC NAME:** Papakāinga (Kāinga Nohoanga)

**SCOPE DESCRIPTION:** Preferred Options Report for Papakāinga (Kāinga Nohoanga)

**TOPIC LEAD:** Andrew Mactier

**PREPARED BY:** Lizzie Thomson & Paul Horgan – Mahaanui Kurataiao Ltd

## EXECUTIVE SUMMARY

<i>Issue(s)</i>	<p>How to provide for a Papakāinga/Kāinga Nohoanga zone in the Selwyn District Plan:</p> <ul style="list-style-type: none"><li>• The zoning provisions which enable Ngai Tahu whanui to use and occupy their ancestral land is named in a way that accurately reflects the association and purpose of the zoning as understood by mana whnua;</li><li>• The location or sites where the Kāinga Nohoanga zone applies;</li><li>• Activities to be provided for within a Kāinga Nohoanga zone;</li><li>• Management of activities within the Kāinga Nohoanga zone, including the level of control that Council retains within, or at the boundary of the zone.</li></ul>
<i>Preferred Options</i>	<ol style="list-style-type: none"><li>1. To name the proposed zone 'Kāinga Nohoanga' zone;</li><li>2. To 'roll over' the existing requirement in the Operative District Plan requiring Kāinga Nohoanga zones to be applied to Maori Land as defined within the meaning of section 129 of the Te Ture Whenua Māori Act 1993;</li><li>3. Option 3 – Provide opportunities within the Kāinga Nohoanga zone for housing, community facilities and economic opportunities;</li><li>4. That the District Plan provides for a stand alone Kāinga Nohoanga zone, with resource consents not requiring third party approval or notification unless non compliance of zone standards relates to effects which may be experienced beyond the zone boundary.</li></ol>
<i>DPC Decision</i>	<p><i>"That the Committee notes the report"</i></p> <p><i>" That the Committee endorses the Preferred Options/Recommendations for Kāinga Nohoanga for further development and enngagement"</i></p>



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14 May 2018

## **Selwyn District Council District Plan Review Kāinga Nohoanga Zone Issues and Options**

Report to Selwyn District Council

### **Introduction**

Selwyn District is within the rohe of two papatipu rūnanga with manawhenua over the area. These are Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga.

The Selwyn District Council has statutory obligations to Ngāi Tahu whānau under the Resource Management Act 1991. These obligations include:

- Consulting with mana whenua through their representatives in preparing the district plan.
- Recognising and providing for the relationship of Ngāi Tahu and their customs and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga;
- Having particular regard to kaitiakitanga;
- Taking into account the principles of the Treaty of Waitangi; and
- Taking into account any relevant iwi planning document.

The Council is currently undertaking its 10-yearly review of the Selwyn District Plan. Accordingly, there is an opportunity to include provisions in the 2<sup>nd</sup> Generation District Plan that will enable whānau to exercise their relationship with ancestral land. This includes the provision of Papakāinga / Kāinga Nohoanga in the Selwyn District, and which is the subject of this report.

This report was prepared by Mahaanui Kurataiao Ltd on behalf of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga to communicate their preferences for Papakāinga / Kāinga Nohoanga in the District Plan. This report will provide commentary on:

- A definition of Papakāinga/Kāinga Nohoanga;
- The history of Papakāinga/Kāinga Nohoanga in the Canterbury region;
- Background information on the relevant planning documents;
- Identification of key issues and options in respect of papakāinga/kāinga nohoanga zoning; including:
  - Naming of the zone
  - Range of activities and buildings provided for
  - Options for where Papakāinga/Kāinga nohoanga are located
  - Right to use the zone

- Management of activities within the zone
- The preferred options of Ngā Rūnanga as discussed with representatives from Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga.

## Defining Papakāinga/Kāinga Nohoanga

Papakāinga is a concept that is concerned with whānau community living in accordance with tikanga<sup>1</sup>.

The term ‘Papakāinga’ is commonly used as part of Resource Management language throughout New Zealand. This is however a North Island term and the Ngāi Tahu preference is to use the term Kāinga Nohoanga. In the Christchurch Replacement District Plan the term Papakāinga/Kāinga Nohoanga Zone was adopted to connect the two terms and ensure administrators or readers of the District Plan understood that Papakāinga and Kāinga Nohoanga were interchangeable terms. In the Waimakariri District Plan reference is made to “Māori Reserve 873”, rather than Papakāinga or Kāinga Nohoanga.

For the balance of this report, the term Kāinga Nohoanga may be used alongside or interchangeably with Papakāinga. The term Kāinga Nohoanga is however the preferred terminology for Ngāi Tahu whenua. The key residential components or features of a Kāinga Nohoanga include<sup>2</sup>:

- Provision for whānau: where extended families can live in close proximity to one another and build strong networks and relationships.
- Allowance for the construction of a mixture of housing types and densities.
- Provision for dwellings to be located in close proximity to traditional structures such as marae, and the enablement of customary activities.

Kāinga nohoanga is not however only about creating housing opportunities on tribal land. It is also about providing the commercial, social and community facilities and opportunities that allow Ngāi Tahu whānui to fully occupy and use ancestral land; recognising and enabling the principles for which the land was originally set aside. These principles are described in the section on the History of Kāinga Nohoanga below.

<sup>1</sup> Tikanga means customs and traditions that have been handed down over the generations.

<sup>2</sup> Addendum to MR873 Information Package, Te Rūnanga o Ngāi Tahu. (2014).

## History of Kāinga Nohoanga

In 1848, the Crown purchased 20,000,000 acres of land within the South Island for £2000 from Ngāi Tahu through a series of deeds. This included Kemp's Deed under which the largest land sale, the 1848 Canterbury Purchase, took place. As part of the Deed of Sale, the Crown undertook to set aside adequate reserves for the "present and future wants" of Ngāi Tahu whānui. These were to include places of residence and provide for associated communal activities including schools, churches, hospitals and cemeteries. These Reserves were referred to as Kāinga Nohoanga.

It is understood from evidence provided to the Waitangi Tribunal, that the predominant view at the time of the Canterbury Purchase was that Kāinga Nohoanga would in time become settlements similar to a rural English village. The statements in Kemp's Deed indicate that the intention was to allow for mana whenua to live on their ancestral lands, and that this intention would extend to future generations and was not restricted to an allotted time period.

The Deed of Sale also intended to provide on-going access to natural resources where Ngāi Tahu had hunted and gathered for generations. Accordingly, areas used for mahinga kai, the customary production and taking of food were to be set aside. The Waitangi Tribunal used the term "mahinga kai" as a South Island wide reference point for discussion of Ngāi Tahu resources. The Tribunal wrote:

"As we see the position, it was not only necessary for the Crown to protect the principal food resource areas, it was also the duty of the Crown to provide the tribe with extensive land so that it could adapt itself to the new pastoral and agricultural economy. This new economy brought with it the new resources that were in time to replace some of the traditional mahinga kai. To take part in this process Ngāi Tahu had to have reserve to them substantial areas of land which could be developed and farmed."<sup>3</sup>

Nohoanga were seasonal occupation sites and a vital part of the mobile lifestyle of Ngāi Tahu as they travelled around the South Island in search of food and natural resources. Many of the Crown's guarantees for land and access to resources were not however upheld, and as a result Ngāi Tahu whānui have become alienated from the land that should have been set aside for their occupation and use.

The Waitangi Tribunal agreed that only a fraction of the land that should have been provided for as Māori Reserve in Kemp's Deed was ever set aside by the Crown for Kāinga Nohoanga. What was intended by the Reserves, and what whānau understood would be provided has been described in evidence to the Waitangi Tribunal<sup>3</sup> as follows:

- The right to dwell on land, and that right to remain in place in perpetuity to descendants.
- The right to mahinga kai, including the right to hunt, harvest and to develop mahinga kai resources.
- The right to develop land to achieve the above, including subdivision, and setting aside land for communal facilities or other activities to support the community.

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<sup>3</sup> Waitangi Tribunal, Ngāi Tahu Land Report, 1991, para 17.5.2

- The right to develop a sustainable and growing economic base within the community that would sustain future generations.

Accordingly, the concept of Kāinga Nohoanga is not limited to residential occupation, but also includes the ability to provide for broader economic enterprise. Ngāi Tahu believe that Kāinga Nohoanga was provided for in Kemps Deed and is guaranteed by Article II of the Treaty of Waitangi.

With the introduction of planning law in the 1950s, being the Town and Country Planning Act 1953, many of the areas that were set aside as Māori Reserve were zoned rural in the subsequent planning provisions and could not be used for housing or other settlement purposes. As a result of the introduction of zoning, many Māori sold their Māori Reserve land past World War II.<sup>4</sup>

In plans prepared under the Town and Country Planning Act 1977 and the Resource Management Act 1991, some councils have made provisions for Papakāinga housing on Maori Reserve land. However, until recently those plans still followed a European development pattern of one house per title. This method does not work for Māori land which is held in tribal ownership and where a more connected pattern of housing is envisaged.

In addition to the limitations of the planning provisions, Papakāinga zones are often located in areas with no reticulated services (water, sewerage etc), inadequate roading and lack of other facilities required to enable land development and the types of activities anticipated within a Kāinga Nohoanga. There is often no commitment from the relevant council to provide these facilities as the area is not recognised as a settlement in the relevant district plans.

## Relevant Planning Documents

### Canterbury Regional Policy Statement

Under Section 75(3)(c) of the RMA, the new Selwyn District Plan must give effect to the Canterbury Regional Policy Statement (CRPS). The relevant provisions of the CRPS are set out as follows:

#### **Chapter 5 Land Use and Infrastructure**

Section 5.1 sets out the Issues for Land Use and Infrastructure within the Wider Region. The Statement identifies a list of adverse effects on the environment that are of particular concern<sup>5</sup>. This list includes “the loss of the relationship of Ngāi Tahu and their culture and traditions with ancestral lands, water, sites, wāhi tapu and other taonga”.

Of particular relevance to this report, clause 5.1.5 identifies that *‘Ngāi Tahu, as tāngata whenua, have difficulty establishing papakāinga housing and marae, and ancillary activities associated with these, on ancestral land identified for such purposes.’*

<sup>4</sup> Brief of Evidence of Rawiri Te Maire Tau, Christchurch Replacement District Plan

<sup>5</sup> Section 5.1.1, Explanation, pages 5-2 to 5-3

The Explanation to 5.1.5 describes Papakāinga as a form of housing development on ancestral land. It describes how this is of importance to enable Ngāi Tahu to maintain culture, traditions and relationships, including a culturally-based lifestyle.

The Explanation goes on to identify multiple barriers to the development of Papakāinga housing and marae, including financial, land ownership, development and compliance costs, lack of services and advice from courts, central and local government. The CRPS focuses on the development of appropriate provisions in regional and district plans, as a component of overcoming some of the barriers identified.

Objective 5.2.1 2.(h) seeks that:

“Development is located and designed so that it functions in a way that enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety; and which facilitates the establishment of papakāinga and marae.

The Principal Reasons and Explanation to this Objective offers some limited further advice, stating that “development, including papakāinga and marae, offer significant social, economic and cultural benefits”.

Policy 5.3.4 is intended to implement Objective 5.2.1 2 (h) and states:

#### *5.3.4 Papakāinga housing and marae (Entire Region)*

*To recognise that the following activities, when undertaken by tāngata whenua with mana whenua, are appropriate when they occur on their ancestral land in a manner that enhances their on-going relationship and culture and traditions with that land:*

- 1. papakāinga housing;*
- 2. marae; and*
- 3. ancillary activities associated with the above;*

*And provide for these activities if:*

- 4. adverse effects on the health and safety of people are avoided or mitigated; and*
- 5. as a result of the location, design, landscaping and management of the papakāinga housing and marae:*
  - (a) adverse effects on the following are avoided, and if avoidance is not practicable, mitigated:*
    - (i) the important natural character values of coastal environment, wetlands, lakes, rivers and their margins;*
    - (ii) the values of the outstanding natural features and landscapes;*
    - (iii) the values of the historic heritage; and*
    - (iv) the values of areas of significant indigenous vegetation and habitats of indigenous fauna.*
  - (b) regard has been given to amenity values of the surrounding environment.*

The CRPS directs that Territorial Authorities will set out objectives, policies and may include methods in district plans to implement Policy 5.3.4. This includes providing for papakāinga housing, and marae, and activities ancillary to these on ancestral land.

Papakāinga housing is described within the CRPS as housing for the occupation of one or more beneficial owners who are members of the same hapū as a result of the implementation of a partition or occupation order of the Māori Land Court. The establishment of marae is to be enabled through a direction of the Māori Land Court in accordance with tikanga Māori; or for the use of beneficial owners.

The CRPS suggests that local authorities should consult directly with the beneficial owners of ancestral land (or their representatives). The identification of ancestral land should be undertaken with mana whenua and may include reference to the Māori Land Court's data-base recording land tenure under the Te Ture Whenua Māori Act 1993/Māori Land Act 1993 or relevant appropriate data bases managed by Te Rūnanga o Ngāi Tahu.

The Principal Reasons and Explanation identifies that a range of activities are expected to occur in conjunction with papakāinga housing and marae. These may include food gathering, storage, the manufacturing and trade of goods and receiving and hosting of visitors. It is acknowledged that often it is these ancillary activities which determine the location of marae and housing.

The CRPS is also clear that ancestral land is not limited to land remaining in Māori ownership (either freehold or in customary ownership). The CRPS does however suggest that where land is to be used for a Papakāinga purpose, a connection is required to be made between culture, traditions and the land. It is noted that the ownership rights, occupation, partitioning, alienation and use and development of some forms of ancestral land is subject to Māori Land Court processes in accordance with Te Ture Whenua Māori Act 1993/Māori Land Act 1993. Papakāinga should be adequately serviced for sewage, stormwater disposal and potable water, as well as being safe from natural hazards. Development should be sensitive to, and manage effects on, the surrounding environment.

In summary, the CRPS clearly directs and anticipates that District Plans will provide for Kāinga Nohoanga on ancestral land where adverse effects are appropriately managed.

### **Mahaanui Iwi Management Plan (IMP)**

The Mahaanui Iwi Management Plan must be taken into account under Section 74(2A) of the RMA. Issues and policies in regards to Kāinga Nohoanga are articulated in the Papatūānuku chapter of the Mahaanui IMP.

The IMP describes how Kāinga Nohoanga developments often require smaller lot sizes or higher density developments than are allowed for in particular zones or density rules in district plans. This occurs for two reasons:

- (a) Ancestral Māori land is often located in areas zoned Rural where farm sized allotments are anticipated; and

- (b) The nature of Māori land ownership means land is often held by multiple parties of the same whānau or hāpu and cannot be easily subdivided. Therefore building on that land and complying with the typical New Zealand town planning/RMA rules of having one dwelling per Certificate of Title is difficult.

Issue P5 in the IMP describes the barriers to papakāinga development, including zone and house density rules, multiple ownership, standards for access and provision of infrastructure.

Key Mahaanui IMP policies in place to enable the use of ancestral land for Papakāinga developments are;

**P5.1.** To recognise that there are a number of issues and barriers associated with the use and development of ancestral and Māori reserve land for the purposes for which it was set aside, and that these may vary between different hapū/Papatipu Rūnanga.

**P5.2.** To require that local and central government recognise that the following activities, when undertaken by tāngata whenua, are appropriate when they occur on their ancestral land in a manner that supports and enhances their on-going relationship and culture and traditions with that land:

- a) Papakāinga;
- b) Marae; and
- c) Ancillary activities associated with the above.

**P5.3.** To require that the city and district plans recognise and provide for Papakāinga and marae, and activities associated with these through establishing explicit objectives, policies and implementation methods, including:

- a) Objectives that specifically identify the importance of Papakāinga development to the relationship of Ngāi Tahu and their culture and traditions to ancestral land; and
- b) Zoning and housing density policies and rules that are specific to enabling Papakāinga and mixed use development; and that avoid unduly limiting the establishment of Papakāinga developments through obligations to avoid, remedy or mitigate adverse effects on the environment.

**P5.4.** To require that the district plans and land titles clearly recognise the original paper roads that provided access to Māori land.

The policies are intended to enable the development of ancestral land consistent with the purposes for which it was originally identified, including an economic base.

In summary, the Iwi Management Plan has very clear policy directives to explicitly provide for Kāinga Nohoanga. Having regard to s74(2A) of the RMA, these policies should be reflected in the Reviewed District Plan.



## Relevant Statutes

The following statutes provide the context for consideration of Kāinga Nohoanga within the Reviewed Selwyn District Plan.

### **Resource Management Act**

The Selwyn District Council is required 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 well the protection of protected customary rights, as a matter of national importance<sup>6</sup>. In addition the Council is required to have particular regard to kaitiakitanga<sup>7</sup> and take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)<sup>8</sup>.

Accordingly, the provision of Kāinga Nohoanga are a fundamental component of the approach and mechanisms by which Council can fulfil these statutory requirements.

In addition, it is noted that the location of Kāinga Nohoanga within the Selwyn District will also require consideration of the effects of climate change. Also a matter to which the Council must have particular regard to<sup>9</sup> and is of particular importance having regard to the location of Māori Reserve land at Taumutu.

### **Ngāi Tahu Claims Settlement Act 1998**

Under the Ngāi Tahu Claims Settlement Act 1998 nohoanga are specific areas of Crown owned land adjacent to lakes and riverbanks that can be used to the gathering of food and natural resources by Ngāi Tahu whānau. Nohoanga sites can be used for up to 210 days of the year and authorisation is administered by Te Rūnanga o Ngāi Tahu.

It is noted that there is one nohoanga site located in the Selwyn District, near the mouth of the Rakaia River.

### **Te Ture Whenua Māori Act 1993 or the Māori Land Act 1993**

Reference is made to this Act throughout this report. To assist the reader understand what the purpose of this Act is, the Preamble to the Act states:

*Whereas the [Treaty of Waitangi](#) established the special relationship between the Maori people and the Crown: And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed: And whereas it is desirable to recognise that land is a taonga tuku iho of special significance to Maori people and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu: and to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whanau, and their*

<sup>6</sup> Sections 6(e) and 6(g) of the Resource Management Act

<sup>7</sup> Section 7(a) of the Resource Management Act

<sup>8</sup> Section 8 of the Resource Management Act

<sup>9</sup> Section 7(i) of the Resource Management Act

*hapu: And whereas it is desirable to maintain a court and to establish mechanisms to assist the Maori people to achieve the implementation of these principles.*

The general objectives of the Māori Land Court as prescribed by s17 of the Te Ture Whenua Māori Act 1993 is to promote and assist in:

- The retention of Māori land and General land owned by Māori in the hands of the owners; and
- The effective use, management, and development, by or on behalf of the owners, of Māori land and General land owned by Māori.

The Māori Land Court seeks (s17(2)) to achieve the following objectives:

- (a) to ascertain and give effect to the wishes of the owners of any land to which the proceedings relate:
- (b) to provide a means whereby the owners may be kept informed of any proposals relating to any land, and a forum in which the owners might discuss any such proposal
- (c) to determine or facilitate the settlement of disputes and other matters among the owners of any land:
- (d) to protect minority interests in any land against an oppressive majority, and to protect majority interests in the land against an unreasonable minority:
- (e) to ensure fairness in dealings with the owners of any land in multiple ownership:
- (f) to promote practical solutions to problems arising in the use or management of any land

## **Operative Selwyn District Plan**

The Operative Selwyn District Plan makes provision for customary use of Māori land at Taumutu. The Plan states that this provision is primarily for Papakāinga housing.

The Rural Volume has a specific chapter concerned with the “Growth of Rural Areas”. Papakāinga housing is noted as one of the specific reasons why people wish to live in the Rural environment. The following text describes the basis for Papakāinga housing in Selwyn District:

*“Papakāinga is an area of traditional Māori settlement. If it is an ancestral home, it may be associated with Tūrangawaewae – a sense of belonging. Areas of papakāinga may include houses, a marae, church, and community facilities and buildings.*

*Te Ture Whenua Māori Act 1993 provides for papakāinga housing on Māori land. Taumutu is the ancestral home of the Hapū of Ngāi Te Ruahikihiki. Te Taumutu Rūnanga wishes to establish papakāinga on land at Taumutu subject to Te Ture Whenua Māori Act 1993.*

*Papakāinga is not easily accommodated in traditional European settlement patterns of one dwelling per allotment. Māori land tends to be owned by families or hapū, rather than individuals, and is not subdivided or sold outside of the family or hapū.”*

Policy 4.1.3 is concerned to “Recognise Taumutu as the ancestral home of Ngāi Te Ruahikihiki and provide for papakāinga housing in this area”. The policy aims to recognise the historical occupation and use of land and provides for housing development at densities much greater than elsewhere in

the rural environment. It is relevant to note that there is no Papakāinga Zone in the Operative District Plan, with reference to Taumutu in words only.

The development of Papakāinga housing is qualified as housing on Māori Land (within the meaning of s129 of Te Ture Whenua Māori Act 1993). The definition for Papakāinga Housing in the District Plan further defines this as *“any dwelling(s) which is/are erected to house members of the same family, iwi, or hapū, on land which is owned by that family, iwi or hapū, and which is Māori Land within the meaning of section 129 of Te Ture Whenua Māori Act 1993”*.

It is relevant to note that this definition makes a link between the development opportunities and the cultural relationship with the land.

The rules for Papakāinga housing are contained in Appendix E7 of the Rural Volume of the Plan. These require that each dwelling has access to sunlight, potable water and outdoor living space to ensure a pleasant living environment, but is exempt from compliance with building and site coverage rules, provided it is erected in accordance with Appendix 7.

Appendix 7 requires houses to have a “notional” site of at least 800m<sup>2</sup> with a site coverage of 25%.

Having regard to these existing provisions, the key question for the District Plan Review is the appropriateness of the operative provisions having regard to:

- current practice;
- giving effect to the policies of the Regional Policy Statement,
- fulfilling the objectives and policies of the Iwi Management Plan and
- meeting the statutory requirements of sections 6(e), 6(g), 7(a), 7(i) and 8 of the Resource Management Act.

The following sections provide advice on those matters that Te Taumutu Rūnanga and Te Ngāi Tūāhuriri consider could be further developed or amended as part of the District Plan Review process.

### **Title of the Zone**

It is important that the zoning/provisions in the Selwyn District Plan which enable Ngāi Tahu whānui to use and occupy their ancestral land, is/are named in a way that accurately reflects the association and purpose of the zoning as understood by mana whenua. Table 1 presents the advantages and disadvantages of naming options that were considered by Ngā Rūnanga.

### **Naming in other District Plans:**

The Christchurch District Plan uses the term Papakāinga/Kāinga Nohoanga and Waimakariri District Council refers to the Kaiapoi Māori Reserve 873, within which there is an area of land zoned Residential 3 and land zoned as Rural.

## Options for Title of the Zone

The following table sets out the options considered by Ngā Rūnanga for the Title of the Zone in the Reviewed District Plan.

**Table 1: Options for the Title of the Zone**

	Option	Advantages	Disadvantages
1	Name the chapter 'Papakāinga'	<ul style="list-style-type: none"> <li>Name will be consistent with terminology commonly used in planning practice nationwide.</li> <li>This term is currently used in the Selwyn District Plan.</li> </ul>	<ul style="list-style-type: none"> <li>Papakāinga is not the traditional name used by Ngāi Tahu to describe 'places of residence' and therefore holds less association in respect of Ngāi Tahu tikanga.</li> <li>Inconsistent with language used in Kamps Deed, considered by the Waitangi Tribunal and used in the Ngāi Tahu Claims Settlement Act. May over time, dilute or change the original intent of Kāinga Nohoanga to simply a zone for housing.</li> <li>Only partially addresses sections 6, 7 and 8 of the RMA.</li> </ul>
2	Name the chapter 'Kāinga Nohoanga'	<ul style="list-style-type: none"> <li>The name of the chapter will be consistent with the traditional term used by Ngāi Tahu.</li> <li>Use of this term would provide for tikanga.</li> <li>Achieves consistency with intention of Kamps Deed, the considerations of the Waitangi Tribunal and language in the Ngāi Tahu Claims Settlement Act.</li> <li>Better achieves sections 6, 7 and 8 of the RMA than other options.</li> </ul>	<ul style="list-style-type: none"> <li>The name will omit 'Papakāinga' that is used commonly in legislation and resource management practice. This inconsistency may present some interpretation questions, particularly if Papakāinga is included in any statutes or regulations in the future. A definition would be helpful to address interpretation issues in the future.</li> </ul>
3	Name the chapter 'Papakāinga/ Kāinga Nohoanga'	<ul style="list-style-type: none"> <li>A combination of both terms that accounts for the traditional Ngāi Tahu term, as well as the term used in resource</li> </ul>	<ul style="list-style-type: none"> <li>Name is quite long.</li> <li>Inconsistent with terminology used in Kamps Deed, findings of the Waitangi Tribunal and the Ngāi Tahu Claims Settlement</li> </ul>

		management practice. <ul style="list-style-type: none"> <li>• Name retains a link to traditional use of the term 'kāinga nohanga' by Ngāi Tahu.</li> <li>• Consistent with the Christchurch District Plan.</li> </ul>	Act. May over time, dilute or change the original intent of Kāinga Nohoanga to simply a zone for housing.
4	Name the chapter a Residential or Rural Zone	<ul style="list-style-type: none"> <li>• Convenience for Plan Administration</li> </ul>	<ul style="list-style-type: none"> <li>• Fails to provide any connection with the cultural history and intended purpose for use of the area.</li> <li>• Potentially inconsistent with the National Planning Standards.</li> <li>• Inconsistent with terminology used in Kamps Deed, findings of the Waitangi Tribunal and the Ngāi Tahu Claims Settlement Act. May over time, dilute or change the original intent of Kāinga Nohoanga.</li> <li>• Fails to achieve sections 6, 7 and 8 of the RMA.</li> </ul>

#### **Preferred Ngā Rūnanga option:**

Ngā Rūnanga preference is to name the chapter 'Kāinga Nohoanga'. Using this term is considered to be more appropriate as it is unique to Ngai Tahu Rūnanga and achieves consistency with the intent expressed in Kamps Deed as well as the terminology used in the Ngāi Tahu Claims Settlement Act.

Ngā rūnanga support including an explanation in the Reviewed District Plan that outlines why the term Kāinga Nohoanga is used instead of Papakāinga.

#### **Location of Kāinga Nohoanga**

In developing a preferred approach for Kāinga Nohoanga, a key consideration are the sites or locations where a zone should be applied .

Having regard to Policy 5.3.4 in the CRPS and the methods proposed for its implementation, some relationship or connection between culture, traditional use and ownership is required as a basis for zoning land for Kāinga Nohoanga purposes. Options for location of a zone therefore include:

- (i) Land that is currently legally identified as Māori Reserve land
- (ii) Land originally set aside as Māori Reserve land but is now alienated

- (iii) Land recognised as Māori land through the Māori Land Court in accordance with Te Ture Whenua Māori Act 1993/Māori Land Act 1993.

**Appendix 1** attached to this report provides a map showing land currently legally identified as Māori Reserve land (coloured orange) and land that was originally set aside as Māori Reserve land but is now alienated (coloured blue).

In addition to these areas, it is possible that in the future additional land may be recognised as Māori land and may be suitable for Kāinga Nohoanga purposes. The possible location of such land is unknown and would require legal processes under the Te Ture Whenua Māori Act 1993/Māori Land Act 1993 to be followed before it could be rezoned and/or used.

There may also be practical considerations relating to the ability to service the sites (water, sewerage, stormwater) and susceptibility to natural hazards which influence the suitability of rezoning Māori land as a Kāinga Nohoanga. Those factors may however be considered to be matters more related to the form or nature of a specific development; than establishing the criteria for determining that land is eligible for Kāinga Nohoanga per se<sup>10</sup>.

Within the Selwyn District, climate change and coastal erosion are particularly important considerations influencing the location of a Kāinga Nohoanga Zone, noting the location of Ngāti Moki marae close to the coast. Work undertaken by NIWA on climate change variability within the Ngāi Tahu Takiwā for Te Rūnanga o Ngāi Tahu provides some preliminary data on the extent of change that may be anticipated in the locality of Te Waihora and the Selwyn coast. The plan in Appendix 2 indicates that the impacts of climate change may be significant in this location.

In the future should Ngāti Moki need to be relocated or further new marae established, it will be important for the District Plan to have policy that supports and enables the creation of Kāinga Nohoanga on new sites. The policy could provide for new Kāinga Nohoanga in two scenarios. One scenario is the location of new Kāinga Nohoanga on “original” Māori Reserves set aside in Kemps Purchase but now alienated. These are limited within the Selwyn District to the blue areas shown on the plan in Appendix 1 and are generally located in areas close to Taumutu and subject to the same climate change issues. The second scenario concerns new areas of Māori land classified or gazetted through the Māori Land Court in accordance with Te Ture Whenua Māori Act 1993/Māori Land Act 1993.

### **Implementation in other Districts:**

#### **Christchurch City District Plan**

In the Christchurch City District Plan the Papakāinga / Kāinga Nohoanga Zone, is “provided within some of the areas of traditional settlement of the Papatipu Rūnanga who represent those who hold mana whenua over land in the Christchurch District. The zones incorporate a variety of land types, but only land which has the status of Māori customary or freehold land, or Māori land reserved for communal purposes, under Te Ture Whenua Māori Act 1993, is able to be used or developed as

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<sup>10</sup> Rebuttal evidence of Lynda Marion Weastell Murchison on behalf of Te Rūnanga o Ngāi Tahu and Ngā Rūnanga, Proposed Christchurch Replacement Plan.

Papakāinga / Kāinga Nohoanga. For other land in this zone, the Rural Banks Peninsula Zone provisions apply”.

Māori land has a specific definition which is

“Māori communal land gazetted as Māori reservation under s338 Te Ture Whenua Maori Act 1993; and  
Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Maori Act 1993.”

Accordingly, in the Christchurch City District Plan the options for the location of a Papakāinga / Kāinga Nohoanga Zone are fundamentally tied to Māori land ownership. The “right” to use the zone is inherent in its location and does not need to be “approved” through a further test or consideration.

This approach was supported by the Banks Peninsula rūnanga for the following reasons:

- (i) Kāinga Nohoanga zones should be reserved for Ngāi Tahu and not be a concept that any landholder can use to develop land.
- (ii) The adoption of Māori land as a mechanism to distinguish entitlement to Kāinga Nohoanga rather than trying to determine the whakapapa of individual landholders.
- (iii) The internal design and development of Kāinga Nohoanga should be in accordance with tikanga. The fact that development of Māori land is subject to approval under the Te Ture Whenua Māori Act made that concept much more acceptable to the Christchurch City Council and the Independent Hearings Panel in terms of relaxing the degree of Council control within the Zone and approvals required.

### **Waimakariri District Plan**

For Kāinga Nohoanga developments on the original Māori Reserve 873 at Tuahiwi, land is not required to be held as Māori Land. Instead development must be located on a site where it is demonstrated that one or more of the owners is a descendant of an original grantee of land within Māori Reserve 873 as set out in the Crown Grants Act (No2) 1862 and the Crown Grants Act 1873. While these Acts were repealed some 110 years ago, the Waimakariri District Council manages development and use of land within Māori Reserve 873 by requiring a statement from the Whakapapa Unit at Te Rūnanga o Ngāi Tahu to verify the ancestry submitted with an application.

Part of Māori Reserve 873 is within a flood hazard area, consequently Kainga Nohoanga development in this area is a non-complying activity.

### **Options for the Location of Kāinga Nohoanga**

The following table sets out the options that Ngā Rūnanga have considered for the location of a Kāinga Nohoanga Zone.

**Table 2. Options for the Location of Kāinga Nohoanga**

	Option	Advantages	Disadvantages
1	Only land identified as Māori Reserve land is able to be developed under Kāinga Nohoanga zone provisions.	<ul style="list-style-type: none"> <li>• There is a clear linkage between ownership, occupation and cultural use established by an independent agency.</li> <li>• Achieves s6(e) of the RMA, the policies of the CRPS and the Mahaanui Iwi Management Plan.</li> <li>• May provide confidence to the Council to reduce regulation for activities within the Zone, as happened in Christchurch City District Plan.</li> <li>• Avoids Council being directly involved in any dispute regarding eligibility as to use and occupation of the Kāinga Nohoanga Zone.</li> </ul>	<ul style="list-style-type: none"> <li>• Land not recognised as Māori Land is unable to be developed.</li> </ul>
2	Land that was originally set aside as Māori Reserve but has been alienated is eligible to be a Kāinga Nohoanga Zone.	<ul style="list-style-type: none"> <li>• Reinstates opportunity and ability for occupation, use and development of land that was originally intended for use by Ngāi Tahu.</li> <li>• Alignment with findings of the Waitangi Tribunal.</li> <li>• Contributes to achievement of s6(e) and s8 of the RMA, the policies of the CRPS and the Mahaanui Iwi Management Plan but only where there is a requirement for the land to be owned by a Ngāi Tahu descendent.</li> </ul>	<ul style="list-style-type: none"> <li>• Kāinga nohoanga zoned land may be available for use by people who are not Ngāi Tahu unless transferred into Māori ownership. In this circumstance the zone would reduce achievement of s6(e) and s8 of the RMA, the CRPS and the IMP.</li> <li>• If Council adopts settlement policies or strategies that are aligned with this approach, it may not be able to be implemented.</li> </ul>



	Option	Advantages	Disadvantages
3	To rezone new areas identified as Māori Land under the Te Ture Whenua Māori Act	<ul style="list-style-type: none"> <li>• Provides defensible and compelling basis for rezoning and/or using new areas of land as Kāinga Nohoanga.</li> <li>• Enables whānau to plan and adapt to climate change.</li> <li>• Allows the opportunity for whānau to develop and live in wider areas of the Selwyn District.</li> <li>• Provides for continuity in cultural traditions and lifestyles.</li> <li>• Alignment with findings of the Waitangi Tribunal.</li> <li>• This option gives effect to s6(e) and s8 of the RMA, on the basis that all land is ancestral land.</li> </ul>	<ul style="list-style-type: none"> <li>• It may be expensive to service houses and businesses in “greenfield” Kāinga Nohoanga.</li> <li>• If Council adopts settlement policies or strategies that are not aligned with this approach, it may not be able to be implemented.</li> </ul>
4	To rezone areas not identified as Māori land.	<ul style="list-style-type: none"> <li>• Rezoning may occur anywhere.</li> </ul>	<ul style="list-style-type: none"> <li>• The “planning” reasons in support of the rezoning are less compelling and defensible than if the land was Māori Land as there is no linkage between culture, ownership and use.</li> <li>• Kāinga Nohoanga zoned land becomes available for use by people who are not of Ngāi Tahu descent and inappropriate developments may damage or offend the concept of Kainga Nohoanga.</li> </ul>

### **Preferred Ngā Rūnanga option:**

The Ngā Rūnanga preference is to “roll-over” the existing requirement in the Operative District Plan requiring that Kāinga Nohoanga zones be applied to Māori Land as defined within the meaning of s129 of the Te Ture Whenua Māori Act 1993.

This provision will enable a Kāinga Nohoanga Zone to apply to both existing Māori Land and land that may be classified as Māori Land in the future. Of the existing Māori Reserve land within Selwyn District, Ngā Rūnanga wish to rezone all of that land as shown in the attached Appendix 1.

A specific policy framework will be required to guide and inform the rezoning of new Kāinga Nohoanga in the future. A key factor for Te Taumutu Rūnanga is the effect of climate change on Te Waihora and Ngāti Moki, which may require the Rūnanga to seek a new marae site elsewhere in the district.

In this context, Ngā Rūnanga’s preferred approach is to have objectives and policies in the District Plan which anticipate and enable new Kāinga Nohoanga zones on land that is identified as Māori Land under the Te Ture Whenua Māori Act. The planning mechanism for implementing the new Kāinga Nohoanga Zones could be achieved through either of two options. One would be, where the land met criteria set out in the District Plan e.g., minimum site area, requirements for servicing of water supply, wastewater disposal and treatment, management of stormwater, and compliance with the District Wide chapters of the Plan such as Transport in relation to the safe design of access. The other option is to require a plan change process for consideration of these matters, but noting that the District Plan would already have objectives anticipating and supporting new zones.

### **Types of buildings/activities to be provided for in the zone**

A key issue considered by Ngā Rūnanga concerns the types of activities and buildings that should be provided for in the zone.

Traditionally, Kāinga Nohoanga provided for a broad range of activities including ahi ka (occupation), housing, communal facilities and mahinga kai. As described above, Kāinga Nohoanga zones are also intended to enable Ngai Tahu whānau to develop and use ancestral land to provide for their economic, social and cultural well-being and to exercise kaitiakitanga<sup>11,12</sup>. Accordingly, any District Plan provisions should enable housing plus a broad range of social, community and business activities.

### **Selwyn District Plan**

Within the Operative Selwyn District Plan Papakāinga is limited to housing. Although there is text

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<sup>11</sup> Mahaanui Iwi Management Plan (2013), Te Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata, Wairewa Rūnanga, Ōnuku Rūnanga and Te Taumutu Rūnanga.

<sup>12</sup> Brief of evidence of Lynda Marion Weastell Murchison on behalf of Te Rūnanga o Ngāi Tahu and Ngā Rūnanga, Proposed Christchurch Replacement Plan.

at the start of Appendix E7, that states “The District Plan recognises Taumutu as the ancestral home and provides for Papakāinga housing and other facilities associated with Māori settlement” the definition of Papakāinga is limited to housing, and similarly the rules only relate to housing. The status of other marae buildings and opportunity for community and business activities is therefore unclear, and appears unprovided for.

### **Implementation in other District Plans:**

Research on the types of facilities located within Papakāinga in different parts of New Zealand was conducted by Te Rūnanga o Ngāi Tahu for the Replacement City Plan<sup>13</sup>.

This research considered the types of activities included as part of Papakāinga in Hastings, Tauranga, Auckland and Māngere. The research confirmed that Papakāinga typically include housing and community facilities (sports grounds, playgrounds, early childhood and health centres). Housing included options for kaumātua housing and the density of housing ranged between 5 and 60 houses per hectare. Kitchen and bathroom facilities are scaled to host marae events.

### **Christchurch City District Plan**

In the Christchurch City District Plan provision is made for the following activities as permitted activities. This approach is quite specific and is also more consistent with the general approach desired by the Selwyn District Council for an activity-based plan.

Marae complexes which include wharehui (meeting house), wharekai (dining room) and manuhiri noho and associated accessory buildings
Residential activities
Home occupations
Relocation of, or repairs, replacements and/or additions to residential units
Community activities and associated facilities, including whare hauora (health care facilities)
Kōhanga rō and kura kaupapa (pre-school, education activities and facilities)
Hakinakina (recreation activities and facilities)
Ahuwhenua (farming) including hauwhenua (horticulture), rural produce manufacturing and existing forestry
Urupa
Whare hoko (convenience activities – which the District Plan defines as readily accessible retail activities and commercial services required on a day to day basis), rural produce retail, veterinary care facilities and rural tourism activity
Offices
Māketete (markets)
Farm buildings

<sup>13</sup> Brief of Evidence of Courtney Louise Bennett on behalf of Te Rūnanga o Ngāi Tahu and Ngā Rūnanga, Proposed Christchurch Replacement Plan.

Conservation activities, including new access tracks
Farm stay
Emergency service facilities
Heli-landing area
Flood protection activities including planting of exotic trees, earthworks, structures undertaken by Council or CRC
Public amenities – toilets, changing rooms, signs, shelters, security and amenity lighting, outdoor furniture, tracks, bridges, playgrounds, outdoor fitness equipment, public memorials.
Mahinga kai

In summary, a broad range of activities are anticipated within the Papakāinga / Kāinga Nohoanga Zone within Christchurch City.

### **Waimakariri District Plan**

Policy<sup>14</sup> within the Waimakariri District Plan anticipates both business and residential development within Māori Reserve 873. Table 17.1 of the Plan identifies the range of activities anticipated in the Residential 3 Zone at Tuahiwi. This list states that the predominant activity is living, but also includes the “provision of a mixed use centre focusing on community facilities, convenience retail, recreational and business opportunities. “The rules provide for dwellings and “any other activities provided they meet the standards in the other chapters of the District Plan”. Cluster housing is specifically identified as a discretionary activity.

Working through the other chapters of the District Plan it is possible that business or other activities may achieve permitted status, but the Plan is difficult to interpret as it has not created a specific Kāinga Nohoanga Zone with a clear list of permitted activities as has been achieved more recently in Christchurch City. Nonetheless, it is clear that a wider range of activities than residential are anticipated within Māori Reserve 873.

### **Options for Activities to be Provided For Within a Kāinga Nohoanga**

The following table sets out the options considered by Ngā Rūnanga for the Reviewed Selwyn District Plan.

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<sup>14</sup> Policy 17.1.1.5, Waimakariri District Plan

**Table 3. Options for Activities to be Provided for Within a Kāinga Nohoanga**

	Option	Advantages	Disadvantages
1	Housing only	<p>Supports whānau to develop living areas close to Marae.</p> <p>Limited achievement of CRPS and Iwi Management Plan.</p>	<p>The ability to maintain or expand marae buildings and to provide a range of health, community and business activities is not provided for.</p> <p>Does not achieve the intent of Kāinga Nohoanga through Kamps Deed and recognised by the Waitangi Tribunal.</p> <p>Does not achieve sections 6(e) or 8 of the RMA.</p>
2	Housing and community facilities	<p>Allows for whānau to live close to Marae and to have a range of community facilities.</p> <p>Partial achievement of the CRPS and Iwi Management Plan.</p> <p>Contributes to achievement of section 6(e) of the RMA more effectively than option A as it allows for more than housing.</p>	<p>Facilities may be resisted by the Council as too urban in Rural areas.</p> <p>Potentially higher standards of infrastructure and servicing depending on the nature and scale of the activity may be required.</p> <p>Does not achieve the intent of Kāinga Nohoanga through Kamps Deed and recognised by the Waitangi Tribunal.</p> <p>Partially achieves sections 6(e) and 8 of the RMA.</p>
3	Housing, community facilities and economic opportunities	<p>Allowing for all of these activities will support whānau to 'live and work' on the land that they whakapapa to.</p> <p>Aligns with findings of the Waitangi Tribunal.</p> <p>Achieves the CRPS and Iwi Management Plan.</p> <p>Better achieves sections 6(e) and 8 of the RMA than option 2.</p>	<p>Facilities may be resisted by the Council in what they consider as Rural areas.</p> <p>Potentially higher standards of infrastructure and servicing depending on the nature and scale of the activity may be required.</p>

**Preferred Ngā Rūnanga option:**

Nga Rūnanga have selected option 3 which provides opportunities for both the occupation and use of ancestral land. The preference is also to adopt the range of permitted activities provided for within the Christchurch City Plan, along with the following activities

- retirement housing for kaumātua;
- boat slipways, ability to dig eel trenches and wharfs to enable access to mahinga kai (this may require cross-referencing with other chapters of the District Plan such as access to water)
- Observatory
- Art Gallery

Any definition of a Kāinga Nohoanga (whether within the Definitions section or the relevant chapter in the District Plan) needs to clearly articulate that a Kāinga Nohoanga provides for housing, community and economic opportunities.

**Management of Activities within the Zone**

The management of activities within the Kāinga Nohoanga zone, including the level of control that the Council retains within or at the boundary of the zone is an important consideration.

**Selwyn District Plan**

Appendix E7 sets out the rules that apply to Papakāinga housing. These rules provide only for housing, with “Other Activities” limited only to Papakāinga housing which don’t meet the conditions as a permitted activity.

The rules that do apply to housing require:

- Location within the area identified as Taumutu and meeting the meaning of Māori land as identified in s129 of Te Ture Whenua Māori Act 1993
- Housing to be occupied by members of the same iwi or hapū who own the land
- A notional site area of at least 800m<sup>2</sup>
- Compliance with recession planes
- Compliance with light spill rules
- Site coverage to be limited to 25%
- Meeting car parking standards
- Installation of a reticulated water supply where density is 1 dwelling per 4ha or greater

**Implementation in other District Plans:****Christchurch City District Plan**

Within the Christchurch City District Plan activities and buildings within the Papakāinga / Kāinga Nohoanga Zone are required to meet zone specific “Built Form Standards” and the general rules of the Plan. In addition, some activities have additional requirements, which are noted below.

The “Built Form Standards” address:

- Internal boundary setbacks
- Road boundary setbacks
- Building height
- Maximum coverage (35%)
- Water supply for firefighting

Additional rules apply to the following activities:

Whare hoko (convenience activities – which the District Plan defines as readily accessible retail activities and commercial services required on a day to day basis), rural produce retail, veterinary care facilities and rural tourism activity	Limited to maximum of 100m <sup>2</sup> GLFA per business
Offices	Limited to maximum of 100m <sup>2</sup> GLFA per business
Māketē (markets)	Not exceeding one event per week
Heli-landing area	Located on a minimum, nominated land area of 3,000m <sup>2</sup>

Those general rules of the Plan which apply to Papakāinga Kāinga/Nohoanga include noise, lighting, water body setbacks and signs. Some, but not all of the rules from the Transport, Subdivision, Earthworks and Utilities and Energy chapters of the Plan apply.

Where Papakāinga Kāinga / Nohoanga activities also fall within an overlay for an Outstanding Natural Landscape or an Area of At Least High Natural Character, the activity is a Controlled Activity. It is relevant to note that this is a less onerous activity status than would otherwise apply to activities situated outside of a Papakāinga / Kāinga Nohoanga Zone.

Where an activity fails to meet a performance standard it becomes a Restricted Discretionary Activity. The District Plan specifies that these applications do not require written approvals and shall not be limited or publicly notified. Discretionary activities are limited to quarrying, or any other activity not provided for as permitted, controlled or restricted discretionary. There are no non-complying activities.

### **Waimakariri District Plan**

Within Māori Reserve 873 dwellings must comply with the specified rules either for the Residential 3 Zone or the special rules created for Māori Reserve 873 in the Rural Zone, depending on where the site is located. The rules cover:

- Siting on an existing title existing at 29 October 2015
- Site coverage (35%)
- Setbacks (varying depending on the type of housing proposed and the adjoining road classification)

- Height (noting there is a height protection area)
- Recession planes
- Connection to reticulated services
- Location outside flood event areas

In addition, permitted activities must also comply with “all conditions and provisions ...in all other chapters”. These would include rules for noise, lighting, transport etc.

There is particular provision made for cluster housing as a discretionary activity with some conditions. Applicants for Kāinga Nohoanga at MR873 must submit a Cluster Housing Development Plan for Council’s assessment. Other controls over cluster housing developments include, minimum lot area, site coverage and limits the number of houses per lot to a maximum of seven. The District Plan extends the lapsing period for a consent to 10 years, double that provided under the Resource Management Act.

Otherwise any residential proposal which does not comply with the standards for a permitted activity, becomes a non-complying activity.

With respect to “other activities”, these would need to comply with the other general rules of the District Plan.

By comparison with the Christchurch City District Plan, the provisions within the Waimakariri District appear complicated. This complexity may be created partly by the format of the District Plan where the provisions have been split across various chapters. It is further complicated by having different underlying zones. For example, it is difficult to find the provisions and understand when and why compliance with an Outline Development Plan is required. The provisions are also limited to one Māori Reserve when there are other Māori Reserves which exist within the District which have not been recognised.

A specific Kāinga Nohoanga Zone with all the provisions in one place is easier to interpret.

### **Options for Management of Activities**

The following table sets out the options considered by Ngā Rūnanga when considering provisions for the Reviewed District Plan.

**Table 4. Options for Management of Activities**

	<b>Option</b>	<b>Advantages</b>	<b>Disadvantages</b>
1	A Kāinga Nohoanga Zone (not an overlay)	<ul style="list-style-type: none"> <li>• All of the relevant rules are in one place so the provisions are easy to find and administer</li> </ul>	<ul style="list-style-type: none"> <li>• Perception that a Kāinga Nohoanga represents an “unplanned” settlement or node of activities inconsistent with the adjoining zone (which in Selwyn District is rural</li> </ul>



			in character)
2	Conditions for permitted activities relating to built form standards for example, site coverage, building height, setbacks and recession planes, infrastructure & natural hazards.	<ul style="list-style-type: none"> <li>• Conditions will ensure that there is adequate provision for on-site servicing (eg wastewater and stormwater disposal)</li> <li>• Ensures the management of effects on privacy of adjoining property owners.</li> <li>• Where rules address the management of effects on environmental values at the boundary of the Kāinga Nohoanga this will achieve the policies of the CRPS (which require provision for Papakāinga to be subject to management of effects on adjoining values).</li> <li>• Where rules are specific to zone boundary effects, this will provide greater flexibility for development to be undertaken in accordance with tikanga Māori This better achieves s6(e) of the RMA.</li> </ul>	<ul style="list-style-type: none"> <li>• Where controls are imposed internal to a Kāinga Nohoanga they can potentially undermine the ability for the rūnanga to determine the layout of facilities, activities and housing in accordance with tikanga. This undermines a true expression of enabling kaitiakitanga.</li> </ul>
3	Use of an Outline Development Plan (ODP) directing how the land is developed.	<ul style="list-style-type: none"> <li>• May provide a more holistic overview of how development within a Kāinga Nohoanga will proceed over time. The ODP could be submitted for approval so that there is only one restricted discretionary resource consent rather than multiple consents over time.</li> <li>• Provides for integrated development of the zone and provides Council with greater clarity on servicing requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not enable kaitiakitanga or achieve s6(e) of the RMA.</li> <li>• Less flexibility to take account of multiple land ownership and the variable aspirations of those owners over time.</li> <li>• Assumes a Euro-centric view of land use and activity being in accordance with an approved plan, rather than in accordance with the principles of tikanga.</li> <li>• Potentially lacks</li> </ul>

			flexibility for future land owners. <ul style="list-style-type: none"> <li>• Difficult to administer if there is no subdivision of land.</li> </ul>
4	Whether applications for development or activities within Kāinga Nohoanga should be required to be publically notified.	<ul style="list-style-type: none"> <li>• Limited public notification could be to directly adjoining landowners for applications that do not comply with certain provisions, for example built form standards or setback rules applying at the boundary of the Kāinga Nohoanga.</li> </ul>	<ul style="list-style-type: none"> <li>• Full public notification of kāinga nohoanga developments does not provide for the relationship of Māori, their customary traditions and their ancestral lands therefore does not achieve s6 (e) in the RMA.</li> </ul>
5	Whether other District Plan provisions, such as Outstanding Natural Landscapes should over-ride provisions within a Kāinga Nohoanga.	<ul style="list-style-type: none"> <li>• Where overlays, such as an Outstanding Natural Landscape, “trump” the Kāinga Nohoanga there is greater certainty of the outcomes i.e., limited or no land use development.</li> </ul>	<ul style="list-style-type: none"> <li>• The ability to use land in accordance with tikanga undermined.</li> <li>• Assumes s6(a), (b) or (c) is more important than s6(e) or (g)</li> <li>• Fails to recognise Kemps Deed, the findings of the Waitangi Tribunal and s8 of the RMA. Accordingly, fails to achieve s6(e) and (g).</li> </ul>

#### **Preferred Ngā Rūnanga option:**

Ngā Rūnanga prefer that there is a “stand-alone” Kāinga Nohoanga Zone with the majority of the relevant provisions in one place.

Ngā Rūnanga are supportive of conditions for permitted activities to manage potential effects on adjoining land owners, the surrounding environment and amenity values. Ngā Rūnanga did not consider an ODP necessary for Kāinga Nohoanga development and it was unclear how this would be administered if there was no subdivision involved.

It was agreed that developments should be able to be limited notified to immediate landowners if the non-compliance related to a matter where effects may be experienced beyond the boundary, e.g., developments that may exceed height and recession plane limits. Otherwise Ngā Rūnanga supported the approach taken in Christchurch City where resource consents do not require third party approval or notification and that this was written into the District Plan.

## Recommendations

In summary, Ngā Rūnanga recommend the following approach to Kāinga Nohoanga be provided for in the Reviewed Selwyn District Plan:

- Development of a Kāinga Nohoanga Zone to be applied to existing Māori Reserve land within Selwyn District.
- Support the concept of Kāinga Nohoanga and replace references to Papakāinga with Kāinga Nohoanga.
- Draft an objective that states manawhenua are enabled to provide for their culture and traditions through a Kāinga Nohoanga Zone on Māori land.
- Draft a policy which enables residential, community and economic activity within a Kāinga Nohoanga Zone.
- Draft a policy which limits rules and conditions on buildings and activities within a Kāinga Nohoanga Zone to those which manage the effects at the boundary of the Zone or between property boundaries.
- Draft a policy which supports new Kāinga Nohoanga zones where that land is deemed to be Māori Land in accordance with s338, or s4 and s129 of the Te Ture Whenua Māori Act 1993.
- Develop criteria that will be included in the District Plan for enabling new Kāinga Nohoanga Zones to be developed on Māori land elsewhere in the District. For example, a minimum site area for a Kāinga Nohoanga Zone, achievement of servicing requirements and compliance with District-wide topics such as transport standards for access.
- Draft a definition for Kāinga Nohoanga which describes its relationship to the concept of Papakāinga.
- Develop a list of permitted activities similar in approach to that in the Christchurch City District Plan. A list of permitted activities will provide certainty, clarity and support achievement of an activities-based plan. The list of activities should reflect the aspirations of Ngā Rūnanga. Further engagement will be required to achieve this.
- Develop appropriate performance standards for buildings and activities, with the intention of those standards or rules on management of effects at zone or property boundary interfaces.
- Include provisions which clarify notification and the obtaining of written approvals is limited only to those circumstances where rules have been breached at the zone interface or at property boundaries.

This approach has been discussed with representatives of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga.

The information in this report should assist the Selwyn District Council in the drafting of a Kāinga Nohoanga chapter in the District Plan that will achieve the Council's statutory obligations. This report does not represent the final views of Ngā Rūnanga and the District Council should continue to engage with Rūnanga and Mahaanui Kurataiao Ltd to develop the Kāinga Nohoanga provisions.

Report Prepared by:

Lizzie Thomson

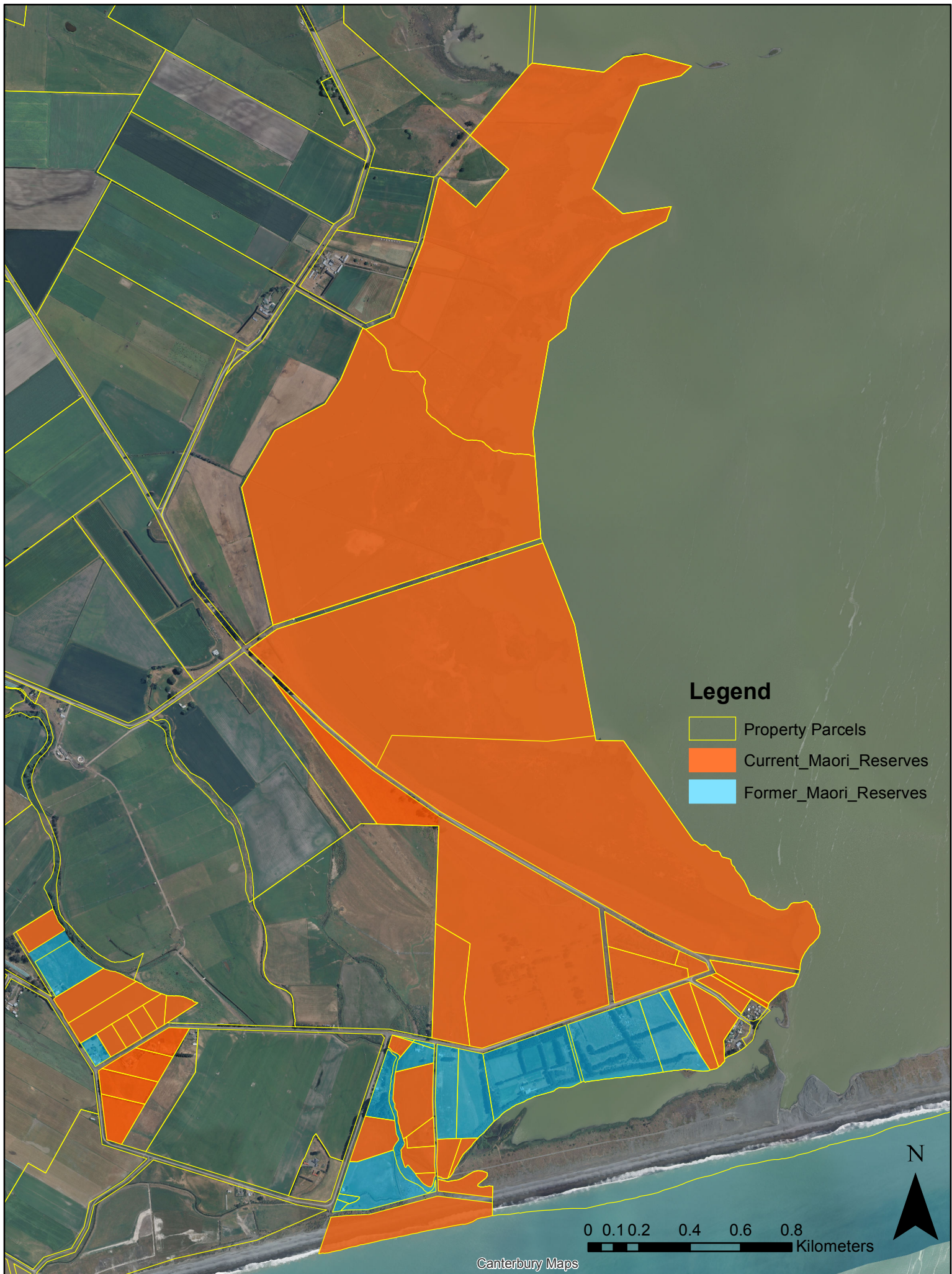
Environmental Planner

Approved for release by:

Tania Wati

Kaihautū

## Appendix 1.



**Current and Former Māori Reserves in Selwyn District - Taumutu**

## Appendix 2.





Waihora ki Taumutu - 2m Sealevel rise

**Legend**

Sealevel\_rise\_2m





Waihora ki Taumutu - 4m Sealevel rise

**Legend**

Sealevel\_rise\_4m