
POST ENGAGEMENT PREFERRED APPROACH UPDATE REPORT TO DISTRICT PLAN COMMITTEE

DATE: 24th October 2018

TOPIC NAME: Sites and Areas of Cultural Significance

SCOPE DESCRIPTION: Post Engagement Update on Consultation

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EXECUTIVE SUMMARY

<i>Summary of Preferred Approach Endorsed by DPC for Further Engagement:</i>	<i>The Sites and Areas of Significance Report, prepared by Mahaanui Kurataiao Ltd on behalf of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga communicated their preferences for the identification and categorisation of sites and areas of cultural significance in the Proposed District Plan.</i> <i>The Committee endorsed the report for engagement and further development.</i>
<i>Summary of Feedback Received:</i>	<i>The feedback received focused on five themes:</i> <ul style="list-style-type: none">• <i>The validity of specific sites.</i>• <i>The robustness of methodology</i>• <i>The range of activities controlled</i>• <i>The cost of compliance and compensatory options</i>• <i>Overlap with ECan and other processes</i>
<i>Recommended Approach Post Engagement:</i>	<i>That the preferred approach is refined through the drafting and Section 32 evaluation phase, including on-going engagement with Mahaanui Kurataiao Ltd (on behalf of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga), Environment Canterbury and key stakeholders</i>
<i>DPC Decision:</i>	<i>That the committee endorses the preferred approach that involves refining the drafting and Section 32 evaluation phase, including on-going engagement with Mahaanui Kurataiao Ltd (on behalf of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga), Environment Canterbury and key stakeholders</i>



1.0 Introduction

1.1 Overview of Preferred Approach Endorsed by DPC

As part of Selwyn District Plan Review, policies and rules for sites and areas of cultural significance (wahi tapu and wahi taonga) have been reviewed. Councils have specific statutory requirements to provide for the relationship with Maori and their customs and traditions with their ancestral land, water, sites, wahi tapu and other taonga. The Canterbury Region is within the rohe of Ngāi Tahu, who are the Tangata Whenua. Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga are the mana whenua of the Selwyn District. Te Taumutu Rūnanga are based at Ngāti Moki Marae which is located at Taumutu on the shores of Te Waihora/Lake Ellesmere at the southern end of the Kaitorete Spit, whilst Te Ngāi Tūāhuriri Rūnanga are based at Tuahiwi Marae in the eastern Waimakariri District

The key changes aim to better align with the Iwi Management Plan through a contemporary approach to classification and protection. The categories are: Nga Tutohu Whenua (encompass catchments covering the district), Wahi Tapu and Wahi Taonga (Silent Files, Maunga Tapu/Tupuna, Pa, Kainga, Mahinga Kai, and Springs), Nga Turanga Tupuna (broad cultural sites including Te Waihora), and Nga Wai (Major rivers, lakes, lagoons, wetlands).

2.0 Summary of Feedback Received

There was a lot of engagement on this topic with over 600 people visiting the topic webpage and over 300 documents downloaded. A letter was sent to all landowners who were identified as having a cultural site on their property or were within the buffer. Feedback was received from affected landowners and stakeholder groups. Generally, conversations with affected landowners were focused on explaining the information in more detail and was received positively. Though, a small minority of people do not want to see any controls put in place.

The following themes were identified and are used to categorise the feedback: the validity of specific sites; the robustness of methodology; the range of activities controlled; the cost of compliance and compensatory options; and, overlap with Environment Canterbury (ECan) and other processes.

2.1 Landowner Feedback

The validity of specific sites

Several landowners responded by noting that they are unaware of a spring being on their site nor seen any evidence of a spring in the location provided. Some questioned the appropriateness of the extent of area identified around Te Waihora.

The robustness of methodology

Landowners questioned whether new springs can be now considered culturally significant. Landowners suggested that each site be met through a personal consultation process and that the identification of each site be done through visits to sites for evidence. Further, information about why these sites are

important needs to be improved. This feedback also applies to the use of the buffer and the need for more evidence to support it.

Generally, landowners supported the categorisation approach provided there are different controls for each category, though were concerned about the overlap with other topics, such as outstanding natural landscapes, indigenous vegetation, and water.

The range of activities controlled

Some landowners supported control of intensive activities though many were concerned about potential impacts of controlled activities. Many landowners raised concerns regarding the impact of these controls on their ability to subdivide in the future. Some rejected the idea of activities controlled for cultural reasons and were concerned about needing to provide access on their land.

The cost of compliance and compensatory options

Several landowners requested compensation for the perceived loss of ability to farm and loss of land value. Also, many landowners were concerned about the increasing compliance costs.

Overlap with ECan processes.

Most landowners raised the point of duplication with ECan's Farm Environment Plans, which include a cultural element. Further, additional regulatory requirements can potentially undermine the 'good will' and partnerships ECan have established with farmers.

2.2 Partner/Stakeholder Feedback

Stakeholder feedback was received from: Ellesmere Sustainable Agriculture Incorporated; Transpower; CDHB; Waihora Ellesmere Trust; Federated Farmers; Central Plains Water; and, Rakaia River Irrigators Association.

The validity of specific sites

Stakeholders questioned the validity of the springs data and stated the inarticulacy of the data, suggesting that these need to be robust and ground-truthed.

The robustness of methodology

Stakeholders were supportive of the identification and the protection of culturally significant sites, recognising the relationship between cultural heritage, the environment and Maori identity and wellbeing. They welcome the opportunity to work with runanga to progress understanding among landowners and develop an approach where everyone has responsibility and respect for these sites and that this may require a process outside of a regulatory structure. Consistency with the Christchurch District Plan process is recommended and it is noted that this would result in a limited set of rules.

Stakeholders raised the need for more consultation and involvement to provide the opportunity for better 'buy-in' from landowners.

The range of activities controlled

Stakeholders recommended that the standards need to be clearer about what is managed and where, including what is permitted (e.g. farming, utilities and irrigation ponds).

The cost of compliance; compensatory options

Many stakeholders also raised concerns about the effect of potentially increasing compliance costs.

Overlap with ECan processes.

Stakeholders raised concern about the overlap with ECan's Farm Environment Plans. They pointed out the extensive work already completed through this process and that this approach could undermine it.

Overlap with other legislations

Protection of the Rakaia River is covered by the National Water Conservation Order (Rakaia River) 1988.

3.0 Analysis of Feedback Received

The following analysis focusses on the identified themes within the summary of feedback.

3.1 Validity of Specific Sites

The feedback questioned the efficacy of the chosen data by highlighting certain sites that did not seem to contain a spring or whether farmland next to the lake should be included within the cultural area identified, as well as the boundaries of the rivers.

Analysis

The feedback suggests that the data needs to be ground-truthed in order for it to be relied on within the District Plan.

Conclusion

More work needs to be done with ECan and Mahaanui Kurataiao Limited (MKT) about the validity of the data, especially the reliability of ECan's springs data.

3.2 Robustness of Methodology

The feedback suggested more consultation and on site engagement around each identified site. The feedback was critical of the lack of evidence supporting the identification of the sites and the validity of new sites, as well as the extent of the buffers. Further, overlap with other District Plan topics, such as outstanding natural landscapes, indigenous vegetation, and water, needs to be recognised and integrated into this workstream.

Feedback was supportive of the new categorisation and the alignment with the Christchurch City Council approach. Also, stakeholders were supportive of the protection of culturally significant sites, recognising the relationship between cultural heritage, the environment and Maori identity and wellbeing. Suggestions were to consider approaches outside of a regulatory structure could be worth exploring.

Analysis

Through the development of the S32 and proposed objectives, policies, and rules, more work is required to explain the sites chosen and the evidence to support the extent of the buffer, along with the overlap with other topics. This will be done through engagement with specific stakeholders who represent landowners in the area and reflect the concerns of other landowners. The use of other approaches is worth exploring with ECan and MKT.

Conclusion

To update the post-engagement Summary Communication and Engagement Plan with more stakeholders for the development of the S32 and associated objectives, policies, and rules. Explore whether there are other non-regulatory approaches to the management of cultural sites as well as, investigate a joint approach to identifying and protecting sites and areas of cultural significance with ECan.

3.3 Range of Activities Controlled

The concerns regarding the range of activities is generally from the lack of clear distinction of what activities are permitted and what is controlled. Concerns were raised around subdivision, access, farming and utilities. Other concerns were using cultural reasons to manage environmental impacts.

Analysis

Identifying sites of cultural significance is identified as a matter of national importance (section 6) in the Resource Management Act 1991 and must be recognised and provided for. While the lack of clear categorisation of activities is expected as this was an initial informal consultation to highlight issues and ask whether the plan is on the right track, a clearer approach to the management of activities could have allayed initial concerns. For instance, farming may not be an activity specifically controlled but rather it provides additional matters for consideration when there is a consent required for a farming-related activity (e.g. earthworks, buildings or intensive farming that otherwise breach the general Rural Zone provisions).

It is also noted that the identification of sites on private land does not then provide physical access to the sites. Any access to identified sites and areas of cultural significance is subject to either formal or informal arrangements with the relevant landowner.

Conclusion

Working with stakeholders and MKT will help confirm which activities need to be managed through specific land use rules or whether these aspects can be covered by additional assessment matters where resource consent is triggered by the underlying zone provisions.

3.4 Cost of Compliance and Compensatory options

Concern was raised about the impact of additional compliance costs, especially when regional Farm Environment Plans are required to address similar matters. Others raised the idea of compensation for the potential loss of value from the identification of cultural sites.

Analysis

The potential of additional compliance costs is due to the duplication of regional processes and uncertainty around what activities are controlled. As more work is done to remove duplication and clarify activities controlled, the impact of additional costs can be minimised. An analysis of benefits and costs in an RMA context is also required as part of the Section 32 evaluation. Compensation can only be considered in the RMA (under S85) if provisions in a district plan render land incapable of reasonable use, which is a high threshold.

Conclusion

The potential increase in compliance costs will be addressed through clearer activity status and removal of duplication with ECan processes. The cost of regulation also needs to be justified as part of the s32 reporting. Compensation arising from the introduction of cultural sites is not possible under the RMA as there is still a range of permitted activities (including farming) possible.

3.5 Overlap with ECan and other Provisions

ECan have been working extensively with landowners around Te Waihora to provide for cultural significance within their Farm Environment Plans. Additionally, Farm Environment Plans look at improving water quality across the district. It was noted that the introduction of another cultural overlay has the potential to undermine the partnership with ECan and landowners. Further, additional regulation, such as the National Water Conservation Order (Rakaia River) 1988 and National Water Conservation (Lake Ellesmere) Order 1990 needs to be taken into account.

Analysis

Overlapping and creating duplicate consent processes is to be avoided.

Conclusion

Work with ECan and MKT to ensure there is no overlap with the Farm Environment Plans. Also, work with ECan and MKT to coordinate engagement with landowners.

4.0 Recommended Approach Post Engagement

The Project Team recommends that:

- The preferred approach is refined through the drafting and Section 32 evaluation phase, including on-going engagement with MKT (on behalf of Te Taumutu Rūnanga and Te Ngāi Tūāhuriri Rūnanga), ECan and key stakeholders;
- In particular, it is recommended that on-going collaboration with MKT and ECan occurs in relation to:
 - Assessing the validity of the data relating to cultural sites and the associated buffer, especially the springs data;
 - The potential for joint and/or non-regulatory approaches to recognising and protecting cultural sites and areas; and
 - Refining the types of activities and effects that are to be managed by the District Plan and avoiding duplication with Farm Environment Plans.

- The updated Preferred Approach described above progresses to the 'Drafting and Section 32 Evaluation Phase'.