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CULTURAL ADVICE REPORT

J5188 – Harmans Road & Leeston Dunsandel Road – CRC212191, CRC212192, CRC212193 and CRC212194

To: Environment Canterbury

Contact: Jessica Weston

1.0 Manawhenua Statement

Ngāi Tahu are tangata whenua of the Canterbury region and hold ancestral and contemporary relationships with Canterbury. The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act) and, through this structure and this Act, sets the requirements for recognition of tangata whenua in Canterbury.

The following Rūnanga hold mana whenua over the project's location, as it is within their takiwā:

- Ngāi Tūāhuriri Rūnanga
- Te Taumutu Rūnanga

2.0 Summary of Proposal

Selwyn District Council (the Applicant or SDC) has applied for multiple Environment Canterbury resource consents in relation to the establishment, operation, and maintenance of the Leeston Stormwater Flood Bypass scheme. This scheme has been split into six main construction stages. This consent application relates to stages four and five as follows:

- Stage 4: establish new stormwater bypass channel which connects to previously completed stages and a new diversion structure from Leeston Creek.
- Stage 5: upgrade capacity of Leeston Creek upstream of the bypass channel.

The consents that are sought in relation to stages four and five are as follows:

- A land use permit to undertake earthworks and vegetation removal,
- A land use permit to disturb the bed and to install structures,
- A water permit to dam and take surface water,
- A discharge permit to discharge water and sediments to water and to discharge construction phase stormwater.

For all these consents, a duration of five years is sought.

The application site falls within the Te Waihora Co-Governance Area and is located over a semi-confined/unconfined aquifer. There is no indigenous vegetation within the area of proposed works. Additionally, there are no wetlands, inanga, trout, or salmon habitats or spawning sites within the Project area.

A Detailed Site Investigation (DSI) has been undertaken at 60 Leeston Dunsandel Road. This investigation found elevated levels of soil contaminants in which intersect with the proposed bypass channel. As a result, earthworks in this area will be managed in accordance with a Contaminated Site Management Plan and Environmental Management Plan. In addition, a Site Validation Report will be provided to Council on the completion of works.

Stage 4 - stormwater bypass channel

The proposed stormwater bypass channel will be approximately 1,100m long, 1.8m wide, and 1.39m deep running through the property at 2 Leeston Dunsandel Road. The channel will connect from Leeston Creek to Dunsandel Drain and swales located at the corner of Pound Road and Cunningham Street. The southern end of the bypass channel will be narrower and have steeper banks to allow for a future wetland. The channel will have approximately 1m high bunding on either side of the channel.

The upstream section of the diversion channel connects to Leeston Creek and will be the diversion point of the stream. A concrete transition weir will be installed at this diversion point which will connect to a new flood control gate. The gate will be set to maintain a small opening to allow water to flow through. If a flood event occurs, the gate will close slightly causing the water to build up and flow into the stormwater bypass channel. The diversion channel will cross Martins' Spring drain, and as such, a new concrete culvert will be installed to connect Martin's Spring drain to the diversion channel and disconnect the direct link to the Dunsandel drain.

Stage 5 – upgrade capacity of Leeston Creek

Stage 5 involves the widening and re-forming the batters of the banks of Leeston Creek resulting in a final channel depth of approximately 1.1m and a base width of 2.5m.

Earthworks

Earthworks will be required for both stage 4 and stage 5. For Stage 4, earthworks will be required for the construction of the channel and for the connections to the Leeston Creek, Dunsandel Drain, and Martin's Spring Drain. The channel will require excavations approximately 0.9m below ground level through the wide section of the channel and about 1.4m below ground level through the narrow section of the channel. The excavated soil from the channel will be used to form the bunds on each side of the channel. For stage 5, earthworks will be required to upgrade part of Leeston Creek. This will require an excavation depth of 1.1m below ground level and excavations 2.5m wide.

An Erosion and Sediment Control Plan (ESCP) will be in place during all earthworks. Earthworks will be done in a staged approach as to ensure the amount of disturbed soil is less than 1000m^2 at any one time. In addition, an Accidental Discovery Protocol (ADP) will be in place in accordance with Appendix 3 of the Mahaanui Iwi Management Plan.

For each section of Stage 5, a temporary dam will be installed upstream of the proposed works if baseflow is present in Leeston Creek and Martins Spring Drain. In addition, over-pumping may be required. If so, the part of the channel to be dewatered will be checked for fish.

It is proposed works will be undertaken during the dry season to reduce the risk of encountering groundwater. However, if groundwater is encountered, dewatering will be required and managed by the ECSP.

Vegetation

Six eucalyptus trees will be protected during construction as well as the gum trees on 160 and 178 Harmans Road. However, the trees on the border of 178 Harmans road and 60 Leeston Dunsandel

Road will be removed. Notably, the proposed bypass channel will be grassed, and the Applicant is willing to plant indigenous riparian planting along the full length of Stage 4 bypass channel and the upgraded section of Leeston Creek above the 100-year storm event high water level.

Technical advice

Technical advice was sought in regard to groundwater. The following points were raised:

- Water quality may be at risk during construction phase.
- The location of the groundwater take has not been determined. As such, there must be a consent condition around ensuring the location and rate complies with the permitted activity rules.
- Regarding the take of water, the specialist did not think the stream would be depleted.

3.0 Mahaanui Iwi Management Plan 2013 (MIMP)

The natural resources – water (waterways, waipuna (springs), groundwater, wetlands); mahinga kai; indigenous flora and fauna; cultural landscapes and land - are taonga to mana whenua and they have concerns for activities potentially adversely affecting these taonga. These taonga are integral to the cultural identity of ngā rūnanga mana whenua and they have a kaitiaki responsibility to protect them. The policies for protection of taonga that are of high cultural significance to ngā rūnanga mana whenua are articulated in the Mahaanui Iwi Management Plan (MIMP).

The relevant Policies of the MIMP to this proposal have been identified as:

5.3 WAI MĀOARI

WM6.1 To require that the improvement of water quality in the takiwā is recognised as a matter of regional and immediate importance.

WATER QUALITY

Discharges

WM6.8 To continue to oppose the discharge of contaminants to water, and to land where contaminants may enter water.

ACTIVITIES IN THE BEDS AND MARGINS OF RIVERS AND LAKES

Riparian area

WM12.2 To require the protection and restoration of native riparian vegetation along waterways and lakes in the takiwā as a matter of priority, and to ensure that this can occur as a permitted activity.

Riverworks

WM12.12 To require that any plantings associated with flood protection works is undertaken using indigenous species.

Comment: *Water is an important cultural resource that connects Ngāi Tahu to the landscape and the culture and traditions of the tupuna. Indigenous planting, particularly along riparian margins of waterways, is one important way to protect and enhance the cultural and ecological health of a waterway.*

Structures in the beds and margins of waterways

WM12.13 To require that any structure, essential or otherwise, in the bed or margin of a waterway (e.g. floodgate) supports and enables passage for migratory indigenous fish species and does not compromise any associated kōhanga.

DRAIN MANAGEMENT

WM14.1 To require that drains are managed as natural waterways and are subject to the same policies, objectives, rules and methods that protect Ngāi Tahu values associated with freshwater, including:

(a) Inclusion of drains within catchment management plans and farm management plans;

(b) Riparian margins are protected and planted;

(c) Stock access is prohibited;

(d) Maintenance methods are appropriate to maintaining riparian edges and fish passage; and

(e) Drain cleaning requires a resource consent.

5.4 PAPATŪĀNUKU

EARTHWORKS

P11.1 To assess proposals for earthworks with particular regard to:

(a) Potential effects on wāhi tapu and wāhi taonga, known and unknown;

(b) Potential effects on waterways, wetlands and waipuna;

(c) Potential effects on indigenous biodiversity;

(d) Potential effects on natural landforms and features, including ridge lines;

(e) Proposed erosion and sediment control measures; and

(f) Rehabilitation and remediation plans following earthworks

Indigenous Vegetation

P11.8 To require the planting of indigenous vegetation as an appropriate mitigation measure for adverse impacts that may be associated earthworks activity.

Erosion and sediment control

P11.9 To require stringent and enforceable controls on land use and earthworks activities as part of the resource consent process, to protect waterways and waterbodies from sedimentation, including but not limited to:

(a) The use of buffer zones;

(b) Minimising the extent of land cleared and left bare at any given time; and

(c) Capture of run-off, and sediment control.

Comment: *The protection of the mauri of Papatūānuku is of primary importance to tāngata whenua. Development activities, such as the establishment of the Leeston stormwater bypass channel, must be managed in a way that protects and maintains the land. This can be achieved through erosion and sediment controls, planting of indigenous vegetation, and an accidental discovery protocol.*

5.8 NGĀ TŪTOHU WHENUA

RECOGNISING CULTURAL LANDSCAPES

Recognising cultural landscapes

CL1.7 To use the following methods to protect and restore cultural landscapes of particular importance:

(d) Co-management arrangements or transfer of ownership

CL1.6 To require that known Māori archaeological sites and silent files are recognised and provided for as cultural landscape indicators.

Protecting and restoring cultural landscapes

CL1.8 To identify opportunities to enhance cultural landscapes, including but not limited to:

(a) Restoration/enhancement of indigenous biodiversity;

(b) Enhancing views and connections to landscape features;

(c) Appropriate and mandated historical interpretation;

(d) Setting aside appropriate areas of open space within developments; and

(e) Use of traditional materials, design elements and artwork.

WĀHI TAPU ME WĀHI TAONGA

CL3.1 All taonga within the takiwā of Ngāi Tahu, accidental discovery or otherwise, belong to the Papatipu Rūnanga/ Te Rūnanga o Ngāi Tahu.

Protecting wāhi tapu and wāhi taonga

CL3.8 To require, where a proposal is assessed by tāngata whenua as having the potential to affect wāhi tapu or wāhi taonga, one or more of the following:

(a) Low risk to sites:

(i) Accidental discovery protocol (ADP).

Comment: *Ngā tūtohu whenua are a planning tool to ensure the protection and management of sites and places of significance, such as wāhi tapu and wāhi taonga.*

6.11 TE WAIHORA

CULTURAL HEALTH OF TE WAIHORA

TW4.1 To require that the management of land and water in the Te Waihora catchment recognises and provides for the relationship between catchment land use, tributary flow, drain management, water quality, the coastal environment, and the cultural health of Te Waihora.

Comment: *Te Waihora is a taonga representing a major mahinga kai and an important source of mana. The integrity of the environment in the Te Waihora Co-Governance Zone is of upmost importance to Te Taumutu Rūnanga, particularly the cultural and ecological health of the waterbodies in this area.*

3.1 Recommendations to Avoid, Remedy, or Mitigate any Effects on Cultural Values

The above policies from the Mahaanui Iwi Management Plan provide a framework for assessing the potential adverse effects of the proposed activity on cultural values and provide guidance on how these effects can best be avoided, mitigated, and/or remedied.

Any activity that involves ground disturbance has the potential to uncover culturally significant material. Shallow archaeological features or deposits would be permanently damaged due to earthworks. Therefore, an Accidental Discovery Protocol (ADP) (see Appendix 1), must be followed during all earthworks and all contractors made familiar with this.

Earthworks can also cause contamination of ground and surface waters through sedimentation if appropriate protection measures are not in place. As such, the Applicant should ensure the proposed Erosion and Sediment Control Plan (ESCP) is implemented on-site during all earthwork activity and all contractors working on-site are aware of this plan and strictly adhere to it. This is especially important as earthworks are to occur near and within waterways. The ESCP must ensure appropriate measures are in place to avoid contaminants (including dust, sediment runoff or any hazardous substances) from entering the waterways. In addition, the ESCP must ensure that construction-phase stormwater is treated for heavy metals and that works are undertaken during the dry season.

The Applicant must also incorporate indigenous vegetation as mitigation for earthworks. Should a condition requiring the planting of indigenous vegetation be out of scope for this application, it should, at the very least, be provided for as an advice note to ensure the stance of the rūnanga, who hold tino rangatiratanga, is made clear to the Applicant. Along all drains, there must be riparain planting with a predominance of indigenous vegetation. Indigenous vegetation is an important mitigation measure as it helps with the uptake of nutrients, binding of soils, absorption of water, and increases biodiversity values. Furthermore, the Kaitiaki representatives of Te Taumutu Rūnanga request that the bypass

channel includes appropriate wetland planting to help filter contaminants and reduce the level of contaminants entering Te Waihora.

As per policy WM13.1 of the Mahaanui Iwi Management Plan 2013, Rūnanga oppose the removal of indigenous vegetation particularly within riparian margins as all wetlands, waipuna, and riparian areas are recognised as wāhi taonga that provide important cultural and environmental benefits including mahinga kai habitat. Additionally, appropriate indigenous plantings enable the maintenance and improvement of water. If this consent is granted, the removal of vegetation must be offset by the planting of additional indigenous vegetation.

4.0 Rūnanga – Affected Party or Not

If the recommendations are provided for, the Rūnanga will not consider themselves to be an adversely affected party. However, Te Taumutu Rūnanga would like to emphasise that they are dissatisfied with the general approach to stormwater management in this area. It is the expectation that the Applicant considers flood management in a more holistic way, taking into account all potential wider effects and opportunities to improve water quality in the Te Waihora catchment.

5.0 Consent Conditions

If a resource consent is granted, the following conditions are recommended to mitigate the effects of this proposed activity on mana whenua values:

1. An Accidental Discovery Protocol (ADP) (see Appendix 1), consistent with Appendix 3 in the Mahaanui Iwi Management Plan, must be followed during all earthworks and all contractors made familiar with this.

2. The proposed Erosion and Sediment Control Plan must be in accordance with Environment Canterbury's Erosion and Sediment Control Guidelines and be implemented on-site during all earthwork activity. All contractors working on-site should be made aware of this plan and strictly adhere to it.

3. The Applicant must incorporate indigenous vegetation as mitigation for earthworks and the removal of vegetation. Should a condition requiring the planting of indigenous vegetation be out of scope for this application, it should, at the very least be provided as an advice note to ensure the stance of the rūnanga, who hold tino rangatiratanga, is made clear to the Applicant. Along all drains, there must be riparain planting (low in height) with a predominance of indigenous vegetation.

4. Any earthworks near waterways must have appropriate measures in place to avoid contaminants (including dust, sediment run-off or any hazardous substance) from entering waterways that may cause contamination, discolouration, or siltation. This must be managed by the proposed ESCP.

5. As per policy WM13.1 of the Mahaanui Iwi Management Plan 2013, Rūnanga oppose the removal of indigenous vegetation particularly within riparian margins as all wetlands, waipuna, and riparian areas are recognised as wāhi taonga that provide important cultural and environmental benefits including mahinga kai habitat as well as provision of resources

for cultural use. Additionally, appropriate indigenous plantings enable the maintenance and improvement of water quality. If this consent is granted, the removal of vegetation must be offset by the planting of additional indigenous vegetation.

6. Works must be undertaken only during the dry season.
7. Culverts must provide for fish passage.
8. Construction-phase stormwater must be treated for heavy metals.
9. The proposed bypass channel must include appropriate wetland planting to help filter contaminants and increase the resilience of the waterway. This will ultimately improve water quality in the area and reduce the strain on Te Waihora - the receiving environment of many contaminants. Greater attention must be given to the cumulative effects of contaminants in waterways in the Te Waihora zone and how the level of contaminants entering Te Waihora can be reduced to improve the cultural and ecological health of this roto.

On behalf of Mahaanui Kurataiao Ltd (MKL), this report has been prepared by Rebecca Adolph | Mahaanui Kurataiao Ltd Environmental Advisor, and peer reviewed by Fraser Doake | Mahaanui Kurataiao Ltd Environmental Advisor.

Date: 28th of November 2022

Appendix 1: Accidental Discover Protocol (ADP)

PRIOR TO COMMENCEMENT OF ANY WORKS, A COPY OF THIS ADP SHOULD BE MADE AVAILABLE TO ALL CONTRACTORS WORKING ON SITE.

Purpose

This Accidental Discovery Protocol (ADP) sets out the procedures that must be followed in the event that taonga (Māori artefacts), burial sites/kōiwi (human remains), or Māori archaeological sites are accidentally discovered. The Protocol is provided by Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga. Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga are the representative body of the tangata whenua who hold manawhenua in the proposed area.

Background

Land use activities involving earthworks have the potential to disturb material of cultural significance to tangata whenua. In all cases such material will be a taonga, and in some cases such material will also be tapu. Accidental discoveries may be indicators of additional sites in the area. They require appropriate care and protection, including being retrieved and handled with the correct Māori tikanga (protocol).

Under the *Heritage New Zealand Pouhere Taonga Act 2014*, an archaeological site is defined as any place associated with pre-1900 human activity, where there is material evidence relating to the history of New Zealand. It is unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site (known or unknown) without the prior authority of the Heritage New Zealand Pouhere Taonga (HNZPT). This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The HNZPT is the statutory authority for archaeology in New Zealand.

Note that this ADP does not fulfil legal obligations under the Heritage New Zealand Pouhere Taonga Act 2014 regarding non-Māori archaeology. Please contact the HNZPT for further advice.

Immediately following the discovery of material suspected to be a taonga, kōiwi or Māori archaeological site, the following steps shall be taken:

1. All work on the site will cease immediately.

2. Immediate steps will be taken to secure the site to ensure the archaeological material is not further disturbed.

3. The contractor/works supervisor/owner will notify the Kaitiaki Rūnanga and the Area Archaeologist of the HNZPT. In the case of kōiwi (human remains), the New Zealand Police must be notified.

4. The Kaitiaki Rūnanga and HNZPT will jointly appoint/advise a qualified archaeologist who will confirm the nature of the accidentally discovered material.

5. If the material is confirmed as being archaeological, the contractor/works supervisor/owner will ensure that an archaeological assessment is carried out by a qualified archaeologist, and if appropriate, an archaeological authority is obtained from HNZPT before work resumes (as per the *Heritage New Zealand Pouhere Taonga Act 2014*).

6. The contractor/works supervisor/owner will also consult the Kaitiaki Rūnanga on any matters of tikanga (protocol) that are required in relation to the discovery and prior to the commencement of any investigation.

7. If kōiwi (human remains) are uncovered, in addition to the steps above, the area must be treated with utmost discretion and respect, and the kōiwi dealt with according to both law and tikanga, as guided by the Kaitiaki Rūnanga.

8. Works in the site area shall not recommence until authorised by the Kaitiaki Rūnanga, the HNZPT (and the NZ Police in the case of kōiwi) and any other authority with statutory responsibility, to ensure that all statutory and cultural requirements have been met.

9. All parties will work towards work recommencing in the shortest possible time frame while ensuring that any archaeological sites discovered are protected until as much information as practicable is gained and a decision regarding their appropriate management is made, including obtaining an archaeological authority under the *Heritage New Zealand Pouhere Taonga Act 2014* if necessary. Appropriate management may include recording or removal of archaeological material.

10. Although bound to uphold the requirements of the *Protected Objects Act 1975*, the contractor/works supervisor/owner recognises the relationship between Ngāi Tahu whānui, including its Kaitiaki Rūnanga, and any taonga (Māori artefacts) that may be discovered.

IN DOUBT, STOP AND ASK; TAKE A PHOTO AND SEND IT TO THE HNZPT ARCHAEOLOGIST

Contact Details
HNZPT Archaeologist: (03) 363 1893, archaeologistcw@heritage.org.nz
HNZPT Southern Regional Office: (03) 363 1880, infosouthern@heritage.org.nz
HNZPT Pouarahi South / Māori Heritage Advisor, PouarahiSouth@heritage.org.nz
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