

CULTURAL ADVICE REPORT

J6738 – 50 Selwyn Road (RC245566)

To: Selwyn District Council

Contact: Andrew Henderson

1.0 Mana Whenua Statement

Ngāi Tahu holds and exercises rangatiratanga within the Ngāi Tahu Takiwā and has done so since before the arrival of the Crown. The rangatiratanga of Ngāi Tahu resides within the Papatipu Rūnanga. The Crown and Parliament have recognised the enduring nature of that rangatiratanga through:

- Article II of Te Tiriti o Waitangi (Te Tiriti);
- the 1997 Deed of Settlement (Deed of Settlement) between Ngāi Tahu and the Crown; and
- the 1998 Ngāi Tahu Claims Settlement Act (NTCSA) in which Parliament endorsed and implemented the Deed of Settlement.

The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act). Article II of Te Tiriti o Waitangi (Te Tiriti), the TRoNT Act, Ngāi Tahu Claims Settlement Act (NTCSA) 1998, and the 1997 Deed of Settlement (Deed of Settlement) between Ngāi Tahu and the Crown sets the requirements for recognition of tangata whenua in Canterbury.

As recorded in the Crown Apology to Ngāi Tahu in the NTCSA, the Ngāi Tahu Settlement marked a turning point, and the beginning of a “new age of co-operation”. The Crown apologised for its “past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries” and confirmed that it “recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui”. This Cultural Advice Report is provided without prejudice to the High Court freshwater claim [Footnote: *Tau & Ors v Attorney-General*, HC Christchurch CIV 2020-409-534].

Each Papatipu Rūnanga has their own respective takiwā, and each is responsible for protecting the tribal interests in their respective takiwā, not only on their own behalf of their own hapū, but again, on behalf of the entire tribe.

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

- Te Ngāi Tūāhuriri Rūnanga
- Te Taumutu Rūnanga

2.0 Summary of Proposal

Winstone Aggregates (the Applicant) has applied for land use consent from Selwyn District Council (RC245566) to expand the existing Winstone Wheatsheaf quarry onto an adjacent block known as the Sullivan block. The consent includes the associated extraction of aggregates and rehabilitation of the site. The following associated consents are also applied for: (a) Land use and discharge permit to deposit more than 50 m³ of material over an excavated area; (b) Change of consent conditions to facilitate the expansion of the quarry; (c) Discharge to air (dust); and (d) Partial transfer of water permit. The activity status is discretionary.

3.0 Consultation Methodology

Mahaanui Kurataiao Limited review the application documents and undertake an assessment of the application against the Mahaanui Iwi Management Plan.

A briefing report is prepared for Kaitiaki representatives who have been mandated by the Papatipu Rūnanga they represent to speak on behalf of hapū on environmental issues.

A Mahaanui Kurataiao Limited staff member meets with Kaitiaki representatives to discuss the application and Kaitiaki provide feedback based on Mātauranga Māori.

The Cultural Advice Report is provided to outline the relevant policies in the Mahaanui Iwi Management Plan and the feedback provided by Kaitiaki representatives.

The relevant policies and Kaitiaki feedback for this application are provided in the following sections of this report.

4.0 Mahaanui Iwi Management Plan 2013

The Mahaanui Iwi Management Plan (IMP) is a written expression of kaitiakitanga, setting out how to achieve the protection of natural and physical resources according to Ngāi Tahu values, knowledge, and practices. The plan has the mandate of the six Papatipu Rūnanga, and is endorsed by Te Rūnanga o Ngāi Tahu, as the iwi authority.

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 IMP.

The policies in this plan reflect what Papatipu Rūnanga support, require, encourage, or actions to be taken with regard to resolving issues of significance in a manner consistent with the protection and enhancement of Ngāi Tahu values, and achieving the objectives set out in the plan.

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

5.2 RANGINUI

DISCHARGE TO AIR

R1.1 To protect the mauri of air from adverse effects associated with discharge to air activities.

***Comment:** Air is viewed as a taonga derived from Ranginui (the Sky Father). Ranginui is the sky, husband of Papatūānuku and father of her earthly progeny. Ranginui is adorned by celestial bodies such as the moon and stars, and is associated with life and light. From Ranginui's union with Papatūānuku came the offspring, who were responsible for creating the elements that constitute our world and environment today. As with other taonga, the mauri, or life supporting capacity, of air must be protected, and air must be used with respect and passed on to the next generation in a healthy state.*

5.3 WAI MĀORI

CHANGING THE WAY WATER IS VALUED

WM2.3 To require that decision making is based on intergenerational interests and outcomes, mō tātou, ā, mō kā uri ā muri ake nei.

WATER QUALITY

Discharges

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

Controls on land use activities to protect water quality

WM6.16 To require, in the first instance, that all potential contaminants that may enter water (e.g. nutrients, sediments and chemicals) are managed on site and at source rather than discharged off site. This applies to both rural and urban activities.

WATER QUANTITY

Aquifers

WM8.6 To require that aquifers are recognised and protected as wāhi taonga. This means:

- (a) The protection of groundwater quality and quantity, including shallow aquifers;
- (b) The protection of aquifer recharge;
- (c) Ensuring a higher rate of recharge than abstraction, over the long term;
- (d) Continuing to improve our understandings of the groundwater resource, and the relationship between groundwater and surface water.

***Comment:** Water is a significant cultural resource, connecting Ngāi Tahu to the landscape and culture and traditions of the tūpuna. Water is a taonga, and a life giver of all things. The protection and enhancement of water is, therefore, of utmost importance to tāngata whenua. To meet the requirement to uphold Te Mana o Te Wai, the mauri of water must be first order priority in all decisions*

associated with water. The health and wellbeing of waterbodies and freshwater ecosystems must come first.

5.4 PAPATŪĀNUKU

SOIL CONSERVATION

P9.1 To sustain and safeguard the life supporting capacity of soils, mō tātou, ā, mō kā uri ā muri ake nei.

P9.2 To require the appropriate valuation of soil resources as taonga and as natural capital, providing essential ecosystem services.

CONTAMINATED LAND

P10.1 The management of contaminated land must recognise and provide for specific cultural issues, including:

- (a) The location of contaminated sites;
- (b) The nature of the contamination;
- (c) The potential for leaching and run-off;
- (d) Proposed land use changes; and
- (e) Proposed remediation or mitigation work

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.

MINING AND QUARRYING

P13.2 To assess mining and quarrying proposals with reference to:

(a) Location of the activity

- *What is the general sensitivity of the site to the proposed activity?*
- *How well does the proposed activity 'fit' with the existing landscape?*
- *Is there significant indigenous biodiversity on the site, including remnant native bush?*
- *What waterways, wetlands or waipuna exist on the site?*
- *Are there sites of significance on or near the site?*
- *What is the risk of accidental discoveries?*
- *What is the wider cultural landscape context within which the site is located?*

(b) Type of mining/quarrying

- *What resource is being extracted, what will it be used for, and is it sustainable?*

(c) Avoiding and mitigating adverse effects

- *What provisions are in place to address sediment and erosion control?*
- *What provisions are in place for stormwater management?*
- *What provisions are in place for waterway protection?*
- *How will the site be restored once closed?*

P13.3 To require all applications for mining and quarrying activities to include:

- (a) Quarry management plans for earthworks, erosion and sediment control, waterway protection, on site stormwater treatment and disposal and provisions for visual screening/barriers that include indigenous vegetation; and
- (b) Site rehabilitation plans that include restoration of the site using indigenous species.

Comment: *Papatūānuku is profoundly important in the Ngāi Tahu worldview, as the birthplace of all things of the world, and the place to which they return. Papatūānuku is the wife of Ranginui, and their children are the ancestors of all parts of nature. The protection of the mauri of Papatūānuku, and the enhancement of mauri where it has been degraded, is of utmost importance to Ngāi Tahu. Land use and development activities in the takiwā must be managed in way that works with the land and not against it. Papatūānuku sustains the people, and the people must in turn ensure their actions do not compromise the life supporting capacity of the environment.*

5.5 TĀNE MAHUTA

RESTORATION OF INDIGENOUS BIODIVERSITY

TM3.1 To approach the restoration of indigenous biodiversity in the takiwā based on the following principles:

- (a) Restoration of indigenous biodiversity is about restoring original and natural landscapes, and therefore the mauri of the land; and
- (b) Restoration of indigenous biodiversity is about restoring the relationship of Ngāi Tahu to important places and resources; including planning for customary use.

TM3.5 To require that seeds and plants for restoration projects are appropriate to the area, and as much as possible locally sourced.

Comment: *Ngāi Tahu has a particular interest in indigenous biodiversity, both for its inherent value on the landscape and the ecosystem services it provides, and with regard to mahinga kai. Indigenous flora and fauna have sustained tāngata whenua for hundreds of years, providing food, fibre, building materials, fuel, medicine and other necessities. The relationship between tāngata whenua and indigenous biodiversity has evolved over centuries of close interaction and is an important part of Ngāi Tahu culture and identity.*

5.8 NGĀ TŪTOHU WHENUA

RECOGNISING CULTURAL LANDSCAPES

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

CL3.8 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, or cultural landscapes, is a concept used in the Mahaanui IMP to recognise areas and places of particular importance. As a planning tool, cultural landscapes are a culturally meaningful and effective framework for the identification, protection and management of sites and places of significance, the multiple values associated with those sites and places, and the relationship of tāngata whenua to them. Wāhi tapu and wāhi taonga are sites and places that are culturally and spiritually significant to tāngata whenua history and identity.*

4.1 Guidance to Moderate Impacts on Cultural Values

The above policies from the Mahaanui Iwi Management Plan provide a framework for assessing the potential negative impacts of the proposed activity on cultural values and provide guidance on how these effects can be moderated.

Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga have a unique and abiding interest in the sustainable management of te taiao – the environment. Wai māori (freshwater) is a taonga of Ngāi Tahu, governed under the domain of rangatiratanga and defined by Ngāi Tahu tikanga and ritenga.

Section 6 of the Resource Management Act (RMA) identifies a number of matters of national importance, including two which relate specifically to Māori: (e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga; (f) The protection of historic heritage from inappropriate subdivision, use and development (this includes sites

of significance to Māori, including wāhi tapu). The RMA also gives statutory recognition to IMPs. Section 7 of the RMA requires decision makers to have particular regard to kaitiakitanga.

Consent durations are assessed by kaitiaki on a case-by-case basis. Shorter durations are requested by kaitiaki as long consent durations remove the ability for future generations of mana whenua to fulfil their kaitiakitanga obligations. There is the duty to pass the environment to future generations in a state that is as good as, or better than, the current state. Therefore, Consent Conditions 1 and 2 have been provided.

As per policy WM8.6 in the Mahaanui IMP, aquifers must be recognised and protected as wāhi taonga. This means that groundwater quality must be protected. Therefore, Consent Condition 3 has been provided.

Contaminated material is a significant concern to tāngata whenua as contaminated land can have adverse effects on the environment including the potential for contaminants to leach into groundwater. Further, contaminated material can have adverse effects on Ngāi Tahu cultural associations as contaminated sites or areas may be on, near or adjacent to land with mahinga kai, wāhi tapu or historical associations. Therefore, Consent Conditions 4 and 5 have been provided.

Indigenous biodiversity, and landscapes and ecosystems that support it, is a fundamental part of the culture, identity, and heritage of Ngāi Tahu, particularly with regard to mahinga kai and the connection between people and place through resource use. Restoring indigenous biodiversity is one of the most important challenges in the takiwā. Therefore, Consent Conditions 6 and 7 have been provided.

Ngāi Tahu cultural heritage includes sites, places, resources, traditions, knowledge, and landscapes of importance to Ngāi Tahu. This includes wāhi tapu, wāhi taonga, mahinga kai and other sites of significance, and the traditional and contemporary landscapes within which they occur. For Ngāi Tahu, cultural heritage isn't something that happened in the past, but rather a reflection of an ongoing and enduring relationship with the land. Any activity that involves land disturbance has the potential to uncover or damage previously unrecorded Māori artefacts or taonga. To ensure the protection of taonga and Māori archaeological sites, an Accidental Discovery Protocol (Appendix 1) must be in place during all earthwork and extraction activities. This protocol outlines the procedures to be followed if culturally sensitive material is uncovered.

The discharge of contaminants to air can have adverse effects on sites or resources of significance to tāngata whenua, or the values associated with them. The deposition of air pollutants onto mahinga kai, wāhi tapu or marae will require specific consideration in regional policies on air. Air pollutants can affect the health and well-being of our people and communities. Therefore, Consent Condition 9 has been provided.

As per Section 5.4 in the Mahaanui IMP, earthwork activities are a significant issue as they can have adverse impacts on the environment through erosion and sedimentation and can damage or destroy Māori artefacts or wāhi taonga. Policy P11.9 states that stringent and enforceable controls must be in place for land use and earthwork activities to protect waterways and waterbodies from sedimentation. Therefore, Consent Condition 10 has been provided.

5.0 Rūnanga – Affected Party or Not

In terms of this response, Mahaanui Kurataiao has taken a targeted approach and only addresses matters of fundamental concern to Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga. The fact that Mahaanui Kurataiao has not commented on any particular matter should not be taken as support thereof. Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga reserve the right to comment on additional matters at a hearing or in the future.

The Kaitiaki representatives of Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga have reviewed this application and provided the consent conditions outlined in Section 6.0 to align this proposal more closely with the provisions in the Mahaanui IMP. **If the consent conditions are provided for, the Rūnanga will not consider themselves to be an adversely affected party.**

6.0 Consent Conditions

If a resource consent is granted, the following conditions must be included to moderate effects of this proposed activity on mana whenua values:

1. The quarrying land use consent must not exceed 15 years in duration as a temporary activity.
2. The water permit must expire on or before 31 January 2035.
3. A minimum separation of at least one metre between the highest groundwater level and the bottom of the quarry floor must be maintained.
4. All fill used on site must be class 5 cleanfill.
5. An accidental discovery protocol for contaminated soils must be implemented on site.
 - a. Contaminated materials must not be re-used on site.
 - b. Contaminated materials must be removed from site and disposed of at an appropriate facility.
6. Indigenous planting is required to mitigate the impacts of quarrying, enhance the cultural landscape, increase indigenous habitat, filter sediment and sequester carbon.
 - a. All permanent bunds on site must be vegetated with indigenous species.
7. The site must be rehabilitated and naturalised with indigenous species upon completion, and landscaping for the quarry rehabilitation must use exclusively indigenous species to establish a natural cultural landscape.

8. An Accidental Discovery Protocol (ADP) must be in place during all earthworks and extraction activities to deal with archaeological finds and protect the interests of mana whenua. This condition does not constitute a response under the Heritage New Zealand Pouhere Taonga Act (HNZPT 2014).
9. Dust produced from all quarrying activities must not cause nuisance outside of the property boundary. If anyone outside of the property boundary becomes adversely effected by dust produced, then all work must cease immediately until appropriate mitigation methods are implemented.
10. A stringent erosion and sediment control plan must be adhered to during all earthworks. This plan must be inspected and maintained in accordance with Environment Canterbury's *Erosion and Sediment Control Toolbox*.
 - a. All contractors working on site must be made aware of these measures and strictly adhere to them.
 - b. Where measures prove to be inadequate, works must cease until appropriate and effective measures are in place.



On behalf of Mahaanui Kurataiao Ltd, this report has been prepared by Dr Irene Setiawan | Mahaanui Kurataiao Ltd Environmental Advisor.

Date: 22 August 2024

Appendix 1: Accidental Discovery 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 Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga. Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga are the representative body of the tangata whenua who hold mana whenua 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) 357 9615 archaeologistcw@historic.org.nz

HNZPT Southern Regional Office (03) 357 9629 infosouthern@historic.org.nz

HNZPT Māori Heritage Advisor (03) 357 9620 mhadvisorcw@historic.org.nz

Kaitiaki Rūnanga:

Te Ngāi Tūāhuriri Rūnanga: (03) 313 5543, TuaHiwi.Marae@ngaitahu.iwi.nz

Te Taumutu Rūnanga: 03 371 2660, taumutu@ngaitahu.iwi.nz