



Te Runanga O Arowhenua Society Inc.



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Tēnā koe Alex,

FEEDBACK ON THE OPTIONS REPORT ON SITES AND AREAS OF SIGNIFICANCE TO MAORI

Te Rūnanga o Arowhenua (Arowhenua) and Aoraki Environmental Consultancy Limited (AEC) thank you for the opportunity to review the Issues and Options Report for the Sites and Areas of Significance to Maori (the Report) that has recently been prepared as part of the Timaru District Council's (TDC) District Plan Review process.

AEC has reviewed the Issues and Options Report and provided a comprehensive summary of the document to the Cultural Consultants for their comment. In terms of structure of the report each of the main sections have been addressed in turn.

Extent of SASMs that have been identified.

It appears from the Issues and Options Report, TDC received a number of submissions from the general public and landowners questioning the level of information obtained and the methodology followed when ascertaining the size and location of the Sites and Areas of Significance to Māori (SASM) within the Timaru District.

The report correctly states that the methodology for identifying the sites adopted by TDC is the one in the report *Timaru District Plan Review: Report in Sites and Areas of Significant to Māori (Aoraki Environmental Consultancy Limited, March 2020) (AECL Report)*. This report was agreed to by Rūnanga. In addition, TDC worked closely with AEC who has been mandated by Arowhenua Rūnanga to undertake the assessment. AEC having consultants within its team that are deeply entrenched in Tikanga Māori and the history and knowledge of Arowhenua and Ngāi Tahu to determine where SASM are.

TDC were engaged in and aware of the process being undertaken when identifying the location and nature of the SASM. This included discussions on the reasoning why Arowhenua has identified SASM locations broadly rather than having an exact grid reference identified on a planning map. To this extent Arowhenua would be greatly concerned if the methodology and identification process for the SASM was to be revisited at this late stage in the process given the significant amount of work undertaken to identify the SASM.

The AECL report provides a schedule of identified sites with a description of the location and values of each of the identified areas. Arowhenua hold valid concerns that if detailed information as to the specific location of site is provided in a public forum that sites could be destroyed and/or vandalised. In addition, it is considered that it is not appropriate for the cultural heritage associated with the site to be questioned by those who do not have the expertise or authority to comment. The historical events associated with a location, a specific treasured item, or a resource used may not be known by Manan Whenua. The role of

passing on historical and spiritual information falls on specific individuals that inherit the responsibility from their tupuna. This tradition is strictly adhered to and respected; so, it may not be appropriate for additional information to be provided on an SASM within the context of the District Plan Review.

Determining what activities are “inappropriate use and development” and therefore require management in the District Plan

The submissions received by TDC have identified a number of concerns with the insertion of SASM within the District Plan.

Urban Areas:

It appears from the Report that there are concerns as to where the SASM overlap within urban zones. Concern was also raised about the controls that will restrict development potential in line with what is anticipated by the zoning of those properties.

AEC Comment and Recommendation:

it is acknowledged that some of the SASM areas fall within the urban environment and may impact existing buildings. The purpose of a SASM area is to enable Arowhenua to ensure that the SASM is appropriately considered when areas are being rezoned, redeveloped, and/or developed. An example of this would be the recent development of the showgrounds site for commercial use where discussion was held on the SASM values of the site and appropriate measures to manage these determined. Whilst Arowhenua do not wish to unnecessarily restrict the location and use of existing buildings, they do seek to be included in decisions on managing the SASM areas.

AEC and Arowhenua would also like to have it noted that the restriction in building height and building envelope area within SASM areas are not provisions they sought to have included in the District Plan. These provisions were sought by TDC; therefore, the reference to the building restrictions in the Issues and Options Report is not accurate.

It is recommended that AEC work with TDC to develop a suitable matter of discretion relevant urban zones. An additional matter of discretion would allow the decision maker to consider the cultural values associated with the area.

While less preferred, controlled activity status could be applied for where these overlays are within an urban zone with a matter of control being around the SASM. Outside of the urban area.

Earthworks:

AEC is somewhat confused by the statements made in the Report whereby a permitted activity status is introduced for earthworks that are limited to remedial works and will be the subject of conditions including the use of the ADP form. However, permitted activities do not require a resource consent, therefore, there is limited ability to impose conditions or require monitoring to be undertaken. Therefore, do the conditions referred to in the report relate to the objectives, policies and rules proposed for the earthworks and SASM chapters?

There does not appear to be any objectives, policies or rules that accommodate earthworks in a SASM as a permitted activity. TDC has are required to prepare and change its District Plan in accordance with the provisions of Part 2 of the RMA which includes recognising and providing for the relationship of Maori and their cultural and traditions with their ancestral lands, wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. AEC acknowledges the work TDC has done to date to provide for this and seeks that it continues to be fully involved in the drafting of these provisions to ensure the cultural narration is captured accurately.

Arowhenua understand there may be a need for earthworks to occur within an SASM where there is a need to undertake remedial works. These earthworks would typically be carried out in areas that have already been disturbed when the original infrastructure was installed. The conditions would need to relate to the specific area of work.

Where earthworks are required as a part of urgent remedial works to protect the community these are typically undertaken under the direction of a Crown Agency, District Council and/or Regional Council. Like that of the recent Canterbury floods, there are appropriate mechanisms available to complete works under Sections 330, 330A and 330B (Emergency Works) of the Resource Management Act 1991 and the Civil Defence Emergency Management Amendment Act 2016 without the need to obtain a resource consent first. Works of this nature are typically short in duration and overseen at a national or regional level with regular input from the local rūnanga. In these situations, Arowhenua would still anticipate that discussion works within SASM would still take place.

Arowhenua is concerned that enabling remedial earthworks to proceed (beyond those emergency works carried out by Crown Agencies and Local Government), as a permitted activity within the SASM prevents Arowhenua from being involved in any discussions as to the scale, location and quantity of the works, and the potential effects the works on the SASM. It is considered that earthworks of the type TDC anticipates is captured such as the repair of domestic infrastructure such as tracks, roads, drains, water storage dams and ponds, effluent ponds, fence lines, pipelines, and irrigation systems can have a larger volume of works and can also be undertaken by local contractors or landowners. Without appropriate controls this poses a significant risk to the SASM. Arowhenua therefore do not support these earthworks being a permitted activity within an SASM. A permitted activity status for these activities implies that earthworks can be anticipated in these areas of great cultural significant, which is not the case. This does not align with the intent of the SASM chapter.

AEC Recommendation:

If Council are of the mind to create a permitted activity status for earthworks within an SASM, these are limited to those works associated with emergency management works and the repair of regionally or nationally significant infrastructure, stop banks, key road networks and bridges etc damaged as a result of a flood or natural disaster undertaken by a Crown Agency, District Council and/or Regional Council. Additionally, the works shall be for the purpose of:

- Maintaining, repairing and/or reinstating (not replacing) existing infrastructure – where within the footprint or ground previously modified by the existing infrastructure; and an ADP form is used.
- Reinstatement is limited to the reinstatement of the existing infrastructure item(s) on a like for like basis, within pre-event footprint and of the same or similar scale; and an ADP form is used.
- Replacement is not utilised in the wording of the rule. Replacement implies infrastructure can be reinstated either in the same location as the damaged infrastructure or it is located adjacent or nearby. Replacement also infers that the earthworks can be undertaken on the basis that it is associated with the installation of the infrastructure, and it does not have to be of the same or similar scale. As a permitted activity, the provisions to control the bulk, location and scale of earthworks will be difficult to control.

Arowhenua do not support the repairing of existing large-scale infrastructure following a natural event that damages domestic and farming related infrastructure (tracks, driveways, drains, water storage dams and ponds, effluent ponds, fence lines, pipelines, and irrigation) as a permitted activity if this requires extensive earthworks or infrastructure to be relocated or repositioned. An example of this would be relocating a water storage pond due to a flooded river cutting into and eroding the bank supporting a storage pond. Whilst Arowhenua and AEC accept there is a need to repair potholes, re-dig fence post holes and stabilise a very minor slip, a scale of works needs to be ascertained to prevent landowners undertaking the work on

their own without input from suitably qualified experts. A permitted activity status also prevents Arowhenua from having any input into an area that is of most importance to them.

If Council are of a mind to alter the activity status to make such works more permissive, Arowhenua would like to see the earthworks activity (associated with natural disasters only) have a minimum activity status of a controlled activity. Arowhenua would also expect to have a matter of control inserted into the rule stipulating that the applicant consults with Manawhenua to confirm the activity will not adversely affect the wāhi tapu and wai taonga sites within the SASM.

Buildings and Structures:

Arowhenua and AEC hold a similar view to TDC that small-scale structures (less than 30 m²), that do not trigger a building consent, may be less likely to have significant adverse effects on wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. However, the location in which a building is to be constructed can have an impact and that needs to be considered. A permitted activity status for these small-scale structures does not allow adverse effects on the cultural values of Arowhenua to be considered or require an applicant to consult with Arowhenua about what effects the construction might have. A permitted activity status would also imply buildings are generally anticipated in these protected areas. This view does not align with the intent of the SASM provisions and mapped information in the District Plan.

Buildings that require a building consent are more likely to have a significant adverse effect on wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. Arowhenua therefore do not consider it is not appropriate to reduce the activity status of such buildings to that of a controlled activity. As outlined in the Issues and Options Report, a controlled activity status for all other buildings and structures would not allow the Council to decline a consent for these buildings, and the activity status implies that buildings are generally anticipated in SASM. Arowhenua considers a restricted discretionary status is more appropriate and align with the consenting regime under the Natural Character Chapter (NATC).

Altering the activity status to enable buildings and structures to be located in SASM implies:

- Council do not hold the same concerns about the protection of significant sites as Heritage New Zealand and Arowhenua,
- Council anticipates buildings and associated earthworks in protected areas,
- Council is not concerned about SASM provisions not aligning with similar provisions in other sections of the Plan.

AEC Recommendation:

Arowhenua do not support the change in activity status for buildings and structures within a SASM. It is recommended A permitted activity status for buildings not requiring a building consent and a controlled activity status for larger buildings that do require building consent will not allow Arowhenua to be involved in any discussions with TDC and a restricted discretionary activity status (as a minimum) retained for all buildings and structures within a SASM.

Quarrying:

It appears from the Issues and Options Report submitters are concerned the definition of quarrying will restrict gravel extractions from riverbed areas. The submitters considering that such abstraction may have benefits such as flood control. Some submitters also consider that gravel extractions that are otherwise consented or permitted in the Regional Plans do not require rules in the District Plan. There is also concern that the restriction on quarrying will prevent minor farm quarrying activities which are necessary for the operation and maintenance of a farm.

Arowhenua appreciate that some gravel extraction from the bed of a river is permitted activity under the Canterbury Land and Water Regional Plan (CLWRP). The activity of gravel extraction is heavily managed monitored by ECan's River Engineering group. The rules in the CLWRP manage effects on the bed of the river and the water by limiting the quantity of gravel extraction, the location in which the gravel is extracted and restricting the works to dry areas of the bed and they protect indigenous species by placing restrictions on the timing of the extraction to avoid spawning and bird nesting seasons. In addition to this, both the permitted and consented works are timebound with consents being granted generally. The Canterbury Air Regional Plan (CARP) regulates the discharge of dust and contaminants to air and the proximity of such discharges to sensitive activities.

The CLWRP and CARP do not however regulate and manage gravel extraction activities such as stockpiling of material beyond the bed of a river, or the location and volume and extent of material extracted. As part of providing for land use it is therefore appropriate the District Plan regulates the effects of quarrying including the location, volumes (of material), vehicle movements to and from the site, hours of operation, and the rehabilitation of the site once the quarry activity has ceased. The District Plan is also responsible for considering adverse effects of quarry activities on sites of cultural significance to Ngāi Tahu and Arowhenua.

As outlined in the AECL Report, there is a need to manage quarrying within SASM areas and for both the Regional and District Councils to appropriately protect wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. It is crucial for TDC to identify the SASM areas and have provisions in place within a District Plan to protect sites.

Arowhenua request that gravel extraction and quarry activities are not a permitted or controlled activity within SASM. Arowhenua consider land outside of SASM can be managed with appropriate provisions in the Plan and would like to work with TDC to look at appropriate conditions under which such activities could be permitted.

AEC Recommendation:

The provisions within the CLWRP provide for the management of gravel extraction within the bed of a river and therefore do not require regulation by the TDC. However, Arowhenua would not support the removal of provisions in the District Plan that regulate gravel extraction beyond the bed of a river as this activity is not provided for in the CLWRP.

Arowhenua agrees with TDC in terms of retaining a consenting requirement for all quarry activities within a SASM overlay as this is necessary to address effects on sites of significance.

Forestry:

The Issues and Options Report states TDC have received submissions that were concerned with the non-complying activity status for plantation forestry, particularly in areas where forestry has been part of the farms practice. The submissions also raised that this appears contradict government support for forestry as a tool in addressing climate change.

TDC have an obligation to protect areas of wāhi tapu and wāhi taonga and this includes rock art under Part 1, Clause 12 of the NES for Plantation Forestry 2017, which states TDC are required to impose rules in their District Plan that prevent forestry from taking place within a significant natural area of an outstanding natural feature or landscape. The definition of an 'outstanding natural feature and landscape' (under the NES for Plantation Forestry 2017) refers to areas identified in a policy statement or plan by their location, including a map, schedule or a description of an area.

Wāhi taonga, wāhi tapu, wai taoka and wai tapu sites can be destroyed by plantation forestry. For example, forestry is known to damage rock art. Rock art is typically found on limestone outcrops that are heavily

influenced by water. Plantation forestry is heavily reliant on groundwater resources for growth and maturity and have been known to drain significant volumes groundwater. If groundwater around rock art is drained, the limestone dries out too much and the rock art disappears.

Arowhenua acknowledge Government's drive to plant a greater number of trees in response to climate change. However, forestry plantations are known to reduce soil quality and negatively impact the future productive capacity of farmland; therefore, it is important to manage where forestry is planted and the size of the plantation.

District Plans zone land and manages the land uses that take place with these zones. The regional plan does not control where plantation forestry can occur, nor does it manage shelterbelts and woodlots. Ngāi Tahu has also experienced pushback from Regional Councils as to their responsibility in protecting SASM considering it a District Council matter to map these sites. Arowhenua and Ngāi Tahu do not agree with this conclusion and are seeking that the plans appropriately manage for the effects that an activity may have on wāhi taonga, wāhi tapu, wai taoka and wai tapu sites.

AEC Recommendation:

Arowhenua and AEC do not support TDC in removing the restrictions on plantation forestry in SASM areas. Arowhenua do not expect TDC to impose strict forestry provisions across the entire district, instead, Arowhenua seek greater control within policy overlay areas such as the SASM to ensure any adverse effects on cultural values can be considered through a consenting process.

Arowhenua and AEC would also like to see provisions relating to shelterbelts and woodlots retained in the District Plan, particularly in relation to SASM areas because they are not regulated in regional plans.

Intensive Farming:

It is noted in the Issues and Options Report that TDC are aware there are concerns regarding the non-complying activity status for intensively farmed stock, particularly where this applies in areas where this type of activity is already taking place.

In addition, the Issues and Options Report states TDC have received submissions concerned with having to comply with two sets of planning instruments that contain rules that appear to overlap. There appears to be confusion as to why they have applied for farming related resource consents from ECan for wetland construction, irrigation, effluent discharge, buildings, and bridge construction etc and rūnanga have not objected nor have any sites of cultural significance been identified on properties. Because of this confusion, the local farmers and farming groups are puzzled as to why their farming activities are being restricted yet again by a new policy overlay in a District Plan requiring protection of culturally significant sites.

Arowhenua are seeking that both the regional and District Councils appropriately protect wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. It is crucial for TDC to identify the SASM areas and have provisions in place within a District Plan to protect sites.

An important step in removing this confusion as to why an apparent duplication of consents is education. It is suggested TDC needs to explain to landowners and farmers that the provisions only relate to land use outside of the beds of river within the SASM areas, not the entire district.

In terms of the second matter raised in the submissions, it is correct that a significant number of landowners have obtained farming land use consents from ECan and rūnanga have not objected to certain activities or identified culturally significant sites on their properties. The reasoning for this is because ECan do not currently adequately manage the full extent of culturally significant sites as they do not manage those values that fall outside of the bed of a waterbody. Because of this, regional consents have not been an adequate forum for Arowhenua to raise matters of protecting wāhi taonga, wāhi tapu, wai taoka and

wai tapu sites. in addition, farmers and landowners not being aware of rūnanga having concerns with specific farming practices because of:

- (a) The resource consent having a controlled activity status with no assessment matters requiring cultural values to be considered. Consequently, there is very little scope for rūnanga to be party to any discussions associated with specific activities and any consent conditions.
- (b) The lack of consultation undertaken with rūnanga by farmers and landowners. This requires AEC and Arowhenua to work directly with the ECan consents planner to work through planning related issues.

AEC Recommendation:

AEC agree in principle that where matters are managed under the regional plan, or relate to Regional Council functions, that these should not be managed in the District Plan; however, TDC may need to refine the wording of their rules to make sure they manage the matters under the District Council's control and do not step over the line by controlling matters that ECan control.

AEC do not wish to see the activity status of resource consents being more permissive for SASM areas. Arowhenua support a non-complying activity status for intensively farmed stock and in particular within a SASM.

Please contact the writer if you have any questions.

Ngā mihi,



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