



Proposed Timaru District Plan

Section 42A Report: Sites and Areas of Significance to Māori and Māori Purpose Zone

Report on submissions and further submissions

Author: Liz White

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List of Submitters and Further Submitters Addressed in this Report:**Original Submitters**

Submitter Ref	Submitter Name	Abbreviation
2	Clayton Wallwork	Wallwork, C
3	Joanne Hanifan	Hanifan, J
4	EJAPS Limited	EJAPS
6	Peter Wallace	Wallace, P
17	Lisa Zwarts	Zwarts, L
21	Logan King	King, L
23	Just Cows Limited	Just Cows
25	Leon Hillegers	Hillegers, L
27	Holly Renee Singline and RSM Trust	Singline and RSM Trust
29	Tom Hargreaves	Hargreaves, T
35	Pye Group Limited, Dialan Dairy Limited, Grantlea Dairy Limited, South Park Farm Limited, South Stream Dairy Limited	Pye Group
36	Peter Bonafacio	Bonifacio, P
37	Bruce Eggleton	Eggleton, B
42	Timaru District Council	TDC
43	King, Hillegers and McMillan	King et al
44	Rangitata Dairies Limited Partnership	Rangitata Dairies
48	Jet Boating New Zealand	Jet Boating
50	Daniel Stack	Stack, D
51	OSA Properties Limited	OSA
58	James Hart	Hart, J
59	Louise Aubrey	Aubrey, L
60	Milward Finlay Lobb	MFL
62	Graeme and Margaret King	King, G and M
63	Wendy and James Smith	Smith, W and J
66	Bruce William Speirs	Speirs, B
73	Waterton Farm Limited	Waterton Farm
76	Rodney and Tania Coles	Coles, R and T
82	Robert James Weavers	Weavers, R J
83	Noel Edward Glass	Glass, N E
84	Izaak Charles Brosnan	Brosnan, I C
89	Dairy Holdings Limited	Dairy Holdings
91	Smillie Family	Smillie Family
92	Bruce Wain Rogers	Rogers, B W
94	Port Blakely Limited	Port Blakely
97	Warren John Bloxham	Bloxham, W J
99	Glenwillow Land Co Limited	Glenwillow
100	David and Judith Moore	Moore, D and J
105	Peel Forest Estate	Peel Forest
113	Kerry and James McArthur	McArthur, K and J
114	Heritage New Zealand Pouhere Taonga	Heritage NZ
115	Te Kotare Trust	Te Kotare
116	Z Energy Ltd	Z Energy
122	Margaret Elizabeth Digby	Digby, M E
129	Cassandra Roa and Hamish Allan Jamieson	Jamieson, C R and H A
130	Janice Anne Hutchinson	Hutchinson, J A
136	Simon Connolly	Connolly, S
137	Peter and Stephanie McCullough	McCullough, S and P

140	Southern Proteins Limited	Southern Proteins
143	Waka Kotahi NZ Transport Agency	Waka Kotahi
149	James Reese Hart	Hart, J R
151	New Zealand Defence Force	NZDF
153	Kenneth James Weavers	Weavers, K J
156	Royal Forest & Bird Protection Society of New Zealand Inc. (Forest & Bird)	Forest and Bird
158	Kenneth James and Rose Esther Tarrant	Tarrant, K and R
159	Transpower New Zealand Limited	Transpower
164	Zolve Environment	Zolve
165	Fonterra Limited	Fonterra
166	Penny Nelson, Director-General of Conservation Tumuaki Ahurei	Dir. General Conservation
167	Broughs Gully Development Limited	Broughs Gully
168	Hilton Haulage Limited Partnership	Hilton Haulage
169	Road Metals Company Limited	Road Metals
170	Fulton Hogan Limited	Fulton Hogan
171	Fenlea Farms Limited	Fenlea Farms
172	Silver Fern Farms Limited	Silver Fern Farms
173	Alliance Group Limited	Alliance Group
174	Rooney Holdings Limited	Rooney Holdings
177	Alastair Joseph Rooney	Rooney, A J
179	Barkers Fruit Processors Limited	Barkers
181	Opuha Water Limited	OWL
182	Federated Farmers	Federated Farmers
183	Canterbury Regional Council (Environment Canterbury)	ECan
185	Te Rūnanga o Ngāi Tahu	TRoNT
187	KiwiRail Holdings Limited	KiwiRail
189	Waipopo Huts Trust	Waipopo Huts
190	North Meadows 2021 Limited and Thompson Engineering (2002) Limited	North Meadows
191	Gary James Herbert Rooney	Rooney, GJH
197	K J Rooney Limited	K J Rooney
200	Westgarth, Chapman, Blackler, et al.	Westgarth et al
221	Rangitata Island Dairy Limited	Rangitata Island Dairy
222	Matthew Batty	Batty, M
234	Rangitata Diversion Race Management Limited	RDRML
237	Aitken, Johnston, and RSM Trust Limited	Aitken et al
238	Deborah Merle Beattie	Beattie, D M
240	Te Tumu Paeroa, Office of the Māori Trustee	Te Tumu Pareora
244	David and Annemeike Jeaffreson	Jeaffreson, D and A
249	Rooney Group Limited	Rooney Group
250	Rooney Farms Limited	Rooney Farms
251	Rooney Earthmoving Limited	Rooney Earthmoving
252	Timaru Developments Limited	TDL
253	Roselyne Yeandle	Yeandle, R

Further Submitters

Submitter Ref	Further Submitter Name	Abbreviation
12	Steve Fraser	Fraser, S
20	Terrence John O'Neill, Aileen Kathryn O'Neill, C and F Trustees 2006 Limited	O'Neill et al
30	Chris and Sharon Mcknight	McKnight, C and S
32	Bruce Selbie	Selbie, B
41	Maze Pastures Limited	Maze Pastures
51	OSA Properties Limited	OSA
60	Milward Finlay Lobb	MFL
89	Dairy Holdings Limited	Dairy Holdings
94	Port Blakely Limited	Port Blakely
145	Tristram Johnson	Johnson, T
152	Radio New Zealand Limited	Radio NZ
156	Royal Forest & Bird Protection Society fo New Zealand Inc. (Forest & Bird)	Forest and Bird
159	Transpower New Zealand Limited	Transpower
166	Penny Nelson, Director-General of Conservation Tumuaki Ahurei	Dir. General Conservation
169	Road Metals Company Limited	Road Metals
170	Fulton Hogan Limited	Fulton Hogan
175	PrimePort Limited	PrimePort
182	Federated Farmers	Federated Farmers
183	Canterbury Regional Council (Environment Canterbury)	ECan
185	Te Rūnanga o Ngāi Tahu	TRoNT
189	Waipopo Huts Trust	Waipopo Huts
229	Kāinga Ora - Homes and Communities	Kāinga Ora
252	Timaru Developments Limited	TDL
259	Gavin Ladbrook	Ladbrook, G
261	Davis Ogilvie (Aoraki) Limited	Davis Ogilvie
268	McCutcheon, Tarrant, Sullivan, Sullivan and Ellery	McCutcheon et al
269	Westgarth, Chapman, Blackler, et al.	Westgarth, Chapman et al
271	BG Property Limited	BG Property
274	South Pacific Sera Limited	South Pacific Sera
275	John Chapman	Chapman, J
278	Rooney Group Limited, Rooney Holdings Limited, Rooney Earthmoving Limited and Rooney Farms Limited	Rooney Group et al

Abbreviations Used in this Report:

Abbreviation	Full Text
ADP	Accidental Discovery Protocol
Council	Timaru District Council
CRPS	Canterbury Regional Policy Statement
ECO Chapter	Ecosystems and Indigenous Biodiversity Chapter
GRUZ	General Rural Zone
IMP	Iwi Management Plan of Kāti Huirapa for the Area Rakaia to Waitaki July 1992
MPZ	Māori Purpose Zone
NESCF / NESPF	Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017
NPSIB	National Policy Statement on Indigenous Biodiversity 2023
NP Standards	National Planning Standards
ODP	Operative Timaru District Plan
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
PDP	Proposed Timaru District Plan
RLZ	Rural Lifestyle Zone
RMA	Resource Management Act 1991
SASM	Sites and Areas of Significance to Māori
SNA	Significant Natural Area
TWK	Te Whakatau Kaupapa Resource Management Strategy

1. Introduction

1.1 Experience and Qualifications

1.1.1 My full name is Elizabeth (Liz) Jane White. I am an independent planning consultant, having been self-employed (Liz White Planning) for the last three years. I hold a Master of Resource and Environmental Planning with First Class Honours from Massey University and a Bachelor of Arts with Honours from Canterbury University. I am a full member of the New Zealand Planning Institute.

1.1.2 I have over 18 years' planning experience working in both local government and the private sector. My experience includes both regional and district plan development, including the preparation of plan provisions and accompanying s32 evaluation reports, and preparing and presenting s42A reports, as well as providing planning input in Environment Court processes. I also have experience undertaking policy analysis and preparing submissions for clients on various RMA documents.

1.1.3 I have been assisting Timaru District Council with their District Plan Review process since 2019. In relation to this topic, I did not prepare the draft plan change provisions and s32 report for any of the chapters covered in this topic; but I was engaged to prepare changes to the draft provisions and s32 report for the chapters (SASM and MPZ) following consultation on the draft version of the PDP.

1.1.4 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I have complied with it when preparing this report. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

1.2 Purpose and Scope of this Report

1.2.1 The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations in response to those submissions, to assist the Hearing Panel in evaluating and deciding on the submissions.

1.2.2 This report is prepared under s42A of the RMA in relation to the identification and management of Sites and Areas of Significance to Māori (SASM), and the Māori Purpose Zone (MPZ) in the PDP. It covers the following matters:

- The Sites and Areas of Significance to Māori Chapter (SASM)
- SCHED6 - Schedule of Sites and Areas of Significance to Kāti Huirapa and related mapping of the areas identified within the Schedule

- APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol
- The Māori Purpose Zone (MPZ) Chapter
- Definitions relating to the above provisions, including: *Intensively Farmed Stock* and *Papakāika*.

1.2.3 This report considers the submissions and further submissions that were received in relation to the above provisions. It includes recommendations to either retain provisions without amendment, delete, add to or amend the provisions, in response to these submissions. All recommended amendments are shown by way of ~~strikeout~~ and underlining in **Appendix 1** to this Report, or, in relation to mapping, through recommended spatial amendments to the mapping. Footnoted references to the relevant submitter(s) identify the scope for each recommended change.

1.2.4 The analysis and recommendations have been informed by the cultural evidence of John Henry, which is attached at Appendix 3, along with discussions that I have had with the planners at Aoraki Environmental Consultancy Limited (AECL)¹ (see further discussion of this below).

1.2.5 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

1.3 Procedural Matters

1.3.1 The Council has taken a partnership approach with Te Rūnanga o Arowhenua (Arowhenua) in the development of the PDP. In terms of the SASM and MPZ Chapters, this has included input from a Tāngata Whenua Steering Group which included members from Arowhenua, and joint development of provisions with planners at AECL. As part of preparing this report, I have had several meetings with the AECL planners.² The purpose of these discussions has been to assist me in understanding the relevance of the cultural information - including Mr Henry's evidence as well as other technical reports - in a planning context. This is particularly in relation to the way in which the rule framework in the SASM Chapter responds to potential threats to cultural values.

1.3.2 There have been no pre-hearing meetings or expert witness conferencing in relation to submissions on this topic.

¹ AECL was established in 2017 to support the environmental aspirations of Te Rūnanga o Arowhenua and enable it to undertake rangatiratanga and kaitiakitanga within its rohe. AECL provides a mechanism for Te Rūnanga o Arowhenua to respond to and work with, other parties that need to or wish to, work with Te Rūnanga o Arowhenua on environmental issues.

² Kylie Hall and Treena Davidson.

- 1.3.3 In order to better understand matters raised in their submissions, I have had informal discussions with the RDRML [234] as part of Hearing D topic, but these discussions are also relevant to the SASM provisions.

2. Topic Overview

2.1 Summary of Relevant Plan Provisions

- 2.1.1 This report relates to provisions associated with SASM and the MPZ. This section of the report provides a brief summary of the provisions relevant to this topic.

Operative Plan

- 2.1.2 The ODP does not identify any sites or areas of significance to Māori or include any provisions to manage such sites/areas. There is no Māori Purpose Zone (or equivalent) in the ODP. The zoning and framework applying to those areas proposed to be zoned MPZ is Rural. The only provision that specifically addresses and provides for the establishment of papakāinga activities is Rule 1.19 in the Rural 2 Zone, which permits marae, schools, kohanga reo or pre-school facilities, places of assembly and papakainga, on MR 881, MR 882 and MR 4074 where the land is under the control of the Māori Land Court.
- 2.1.3 At a policy and objective level, there are some policies which refer to “cultural values”.³ Other objectives seek that the Takata Whenua have access to those areas of the district to which they attach traditional or cultural value, and increased opportunities to gain access to mahika kai. The related policy direction seeks to create, maintain and improve opportunities for the Takata Whenua to gain access to mahika kai and other resources and to have input into matters that may adversely affect mahika kai.⁴ Policies relating to heritage also include direction relating to archaeological sites, including that adverse effects on archaeological sites within the district which contain evidence of early Māori or European settlement are taken into account, and where practicable avoided (Policy 4); and that development and building proposals in close proximity to recorded wāhi tapu and archaeological sites are notified to the Historic Places Trust and Takata Whenua (where the site is associated with Māori history and culture) (Policy 5). However, there are no rules requiring protection of those archaeological sites that are referenced by the Plan.
- 2.1.4 In the Rural Zones chapter, policy direction also includes recognition and provision for the relationship of Takata Whenua with their culture and traditions; having regard to their role as kaitiaki; and taking into account the principles of the Tiriti of Waitangi.⁵ However, the methods applied to these provisions focus on consultation and are not directive in terms of process or through rules requiring any action. As such there is no particular policy and objective framework to support Rule 1.19.

³ Natural Environment, Issue 1, Policies 2, 13 and 14; Natural Environment, Issue 4, Objective 1 and Policies 1 and 4; Rural Zones 1.3.3 Policy 1

⁴ Natural Environment, Issue 2, Objective 1 and Policy 1; Rural Zones 1.7 Takata Whenua Objective.

⁵ Rural Zones 1.7 Takata Whenua, Policies 1-3.

PDP - Schedule 6

2.1.5 Schedule 6 contains those sites and areas which have been identified as being significant to Kāti Huirapa. The schedule contains five different types of areas – being:

- SCHED6A – Wāhi Tūpuna Areas
- SCHED6B – Wāhi Taoka Areas
- SCHED6C – Wāhi Tapu Areas
- SCHED6D – Wai Taoka Areas
- SCHED6A – Wai Tapu Areas

2.1.6 The schedule includes the identifier number of each listed SASM ('Unique Identifier' column), a brief description of where the site/area is ('Site Identifier' column) and a description of the type of site and its values ('Site Type and Values' column).

2.1.7 The sites included in Schedule 6 are then reflected in the Planning Maps, most of which are identified as areas, but some of which are identified with lines (e.g. tributaries of water bodies).

PDP - SASM Chapter

2.1.8 The SASM Chapter sets out the provisions for managing sites identified in SCHED6.

2.1.9 Broadly, the provisions relate to:

- The involvement of Kāti Huirapa in decision-making which affects the values of identified SASMs (SASM-O1, SASM-P1, SASM-P2);
- Access to and use of sites of cultural value by Kāti Huirapa (SASM-O2, SASM-P3, SASM-P4);
- Recognising and protecting the values of identified SASM from inappropriate subdivision, use and development (SASM-O3, SASM-P5, SASM-P6, SASM-P7 and SASM-P8); and
- Rules which apply in SASM and manage earthworks (SASM-R1), buildings and structures (SASM-R2), indigenous vegetation clearance (SASM-R3), temporary events (SASM-R4), mining and quarrying (SASM-R5), intensively farmed stock (SASM-R6), subdivision (SASM-R7) and shelterbelts or woodlots or plantation forestry (SASM-R8).

PDP - MPZ Chapter

2.1.10 The MPZ Chapter applies to two areas proposed to be zoned MPZ (at Arowhenua and Waipopo), which are areas of land originally granted as Native Reserves for Māori occupation or use. The zone is intended to recognise and provide for the occupation of this ancestral land by mana whenua (MPZ-O1). A key aspect of the approach taken in the PDP is that the MPZ provisions only apply to land within the zone which is defined as "Māori land"; for other land within the Zone, the General Rural Zone (GRUZ) provisions apply instead.

- 2.1.11 Broadly, the MPZ chapter provisions seek to create an enabling planning regime to encourage the development and use of these areas, in order to provide for the social, cultural, environmental and economic wellbeing of mana whenua and achieve a thriving, sustainable and self-sufficient Māori community and create a place for mana whenua to return to (Introduction and MPZ-O2). A key aspect to achieving this is to enable the use and development of the zone for papakāika, in a manner that minimises significant adverse effects on adjoining landowners beyond the zone and on the wider environment, and provided activities are adequately serviced (MPZ-P2). This is implemented through a permitted activity status for papakāika – a defined term – subject to meeting standards which relate to the effects of built form on the wider environment and appropriate servicing (MPZ-R1).
- 2.1.12 Activities which are compatible with papakāika are also enabled, subject to these meeting specified criteria (MPZ-P4), including rural activities (MPZ-P7). This is implemented through a range of permitted activity rules, which are subject to standards (MPZ-R2 to MPZ-R12) and a restricted discretionary activity rule (MPZ-R13). Activities which are likely to be incompatible with the purpose of the Zone are to be avoided, unless effects on cultural values are demonstrated as being acceptable or able to be minimised (MPZ-P5). This is implemented through a non-complying or prohibited activity status being applied to specified activities (MPZ-R17 to MPZ-R22). More broadly, the policy settings direct:
- that incorporation of whānaukataka, mātauraka and tikaka in relation to the use, design and layout of development within the zone is enabled (MPZ-P1);
 - alternative approaches to infrastructure provision are considered where development is constrained by availability of reticulated infrastructure (MPZ-P3); and
 - that future application of the Zone is supported in other locations where it will enable the use and development of land in accordance with tikaka Māori and to meet mana whenua needs (MPZ-P6).

2.2 Background to Relevant Provisions

- 2.2.1 Section 6(e) of the RMA requires the Council, in managing the use, development and protection of natural and physical resources through its District Plan, to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka as a matter of national importance. However, the ODP does not identify any sites or areas of significance to Māori or include any provisions to manage such sites/areas. The provisions in the SASM Chapter and identification of sites in SCHED6 therefore seeks to identify sites of significance and manage activities within these areas to appropriately recognise and provide for the relationship of Māori and their culture and traditions with these areas.
- 2.2.2 Similarly, there is limited provision for the establishment of papakāinga housing for Māori communities in the ODP, and the planning framework has not facilitated the ability for whānau to live on their ancestral lands and provide for communal activities and for food

production from the land, despite this being the purpose of the native reserves granted to Kāti Huirapa at Arowhenua and Waipopo. The zoning of these areas as MPZ, and the provisions in the MPZ Chapter are intended to recognise and provide for the relationship of Māori with these ancestral lands.

- 2.2.3 Section 8 of the RMA requires that the principles of the Treaty of Waitangi are taken into account. A partnership approach with Te Rūnanga o Arowhenua (Arowhenua) was undertaken in the development of the PDP, including the establishment of a Tāngata Whenua Steering Group. The relevant Treaty principles - including partnership, participation, protection and the duty to act reasonably and in good faith - have been considered through the review process, including through the joint development of provisions and the input from the Steering Group. This Steering Group was particularly focused on the development of the Mana Whenua chapter, the SASM and MPZ chapters. Wider community feedback was also received on these provisions through the draft Plan, and incorporation of updates responding to these comments reflected in the PDP as notified.
- 2.2.4 The key issue that the PDP provisions seek to address is how the relationship of Kāti Huirapa with their significant places is provided for.

3. Overview of Submission and Further Submissions

- 3.1.1 The full list of submission points addressed in this report are set out in **Appendix 2**. The following table provides a brief summary of the key issues raised in submissions, which are discussed in more detail in the 'Analysis and Evaluation of Submissions' section of this report.

ISSUE NAME	SUMMARY OF ISSUE	POSITION OF SUBMITTERS
SASM Provisions		
Identification of SASMs	Justification required for the extent of SASMs	A range of positions, including: <ul style="list-style-type: none"> - Not clear why areas are so large - Mapped areas extend beyond sites of significance, particularly where they extend into farmland - mapping does not resemble natural features on the ground - areas have not been visited / ground truthed
	Changes to mapping	Requests include: <ul style="list-style-type: none"> - SASM boundaries should be amended to: reflect the spatial extent reasonably required to protect the identified cultural values for each SASM from the activities that pose a threat to those values; or to be more specific rather than broad in nature

		<ul style="list-style-type: none"> - Removal or reduction in size of specific SASMs - Undertake resurveying of properties with landowner and Rūnanga - Align with the mapping of areas of significance used in regional planning documents
Consultation	Adequacy of PDP consultation process with property owners affected by SASMs	General concern with the consultation process and lack of engagement with property owners affected by SASMs
Values of SASMs	Clarity required on values and threats to these	There is a lack of specificity about what the values are / what is being protected, and what activities would pose threat to identified cultural values in each SASM
Engagement with Rūnanga	The relationship and engagement between landowners/ submitters and Rūnanga around SASMs	Requests include: <ul style="list-style-type: none"> - Landowners should be provided with more specific details about the location of sites and what they were used for - Concern about the need to obtain permission from a third party - Council facilitating the creation of a relationship and effective engagement between landowners/ submitters and Rūnanga
Rule framework generally	Rules have unreasonable impact on landowners and duplicate ECan's consenting	Concerns include: <ul style="list-style-type: none"> - The rules applying within the SASM overlays are very restrictive and it is not appropriate to apply these equally across expansive areas - Some provisions applying in these areas duplicate ECan's consenting - SASM rules should be deleted and instead matters of discretion relating to them applied where resource consent is triggered under other District-Wide or Area-Specific rules in the PDP
Access	Provision of access across private land	The provisions do not recognise that access to private land is restricted, nor take into account where access should be restricted due to health and safety reasons.
Accidental Discovery Protocol	Requirement to submit form prior to commencement or earthworks	Concerns include: <ul style="list-style-type: none"> - Providing notice is impractical - Requirement conflicts with Archaeological Authority process

Earthworks rules	Extent of rules applying	Rules are too restrictive on ongoing farming operations
Intensively farmed stock rules	Restrictions imposed on intensively farmed stock through SASM rules	General opposition to restrictions imposed on intensively farmed stock
MPZ Provisions		
Extent of MPZ	Where MPZ applies	<ul style="list-style-type: none"> - Two submitters seek the application of MPZ to Waipopo Huts - One submitter seeks removal of MPZ from properties on Waipopo Road and application of another zone along with provisions allowing for papakāinga housing on the land
MPZ provisions	Where provisions apply	MPZ provisions should be expanded to apply to all Māori landowners, not just mana whenua

4. Relevant Statutory Provisions

4.1.1 The assessment for the PDP includes the matters identified in sections 74-76 of the RMA. This includes whether:

- it is in accordance with the Council's functions (s74(1)(a));
- it is in accordance with Part 2 of the RMA (s74(1)(b));
- it will give effect to any national policy statement or operative regional policy statement (s75(3)(a) and (c));
- the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (s32(1)(a)); and
- the provisions within the plan change are the most appropriate way to achieve the objectives of the District Plan (s32(1)(b)).

4.1.2 In addition, assessment of the PDP must also have regard to:

- any proposed regional policy statement, and management plans and strategies prepared under any other Acts (s74(2));
- the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74 (2)(c)); and
- in terms of any proposed rules, the actual or potential effect on the environment of activities including, in particular, any adverse effect.

5. Statutory Instruments

5.1.1 The s32 reports for the SASM and MPZ set out the statutory requirements and relevant planning context for this topic in more detail. The section below sets out, in summary, the provisions in planning documents that are considered to be particularly relevant.

5.2 Purpose and Principles of the RMA

5.2.1 Sections 6 of the RMA sets out matters of national importance, which persons exercising functions and powers under the RMA in relation to managing the use, development and protection of natural and physical resources, must recognise and provide for. Of relevance to this topic, this includes the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (s6(e)).

5.2.2 Section 7(a) requires that particular regard is had to kaitiakitanga. This involves an active responsibility for looking after resources in a way that protects their mauri and ensures they are passed on to future generations in a state which is as good as, or better than, the current state.⁶

5.2.3 Section 8 requires that the principles of the Tiriti o Waitangi are taken into account. These includes active protection, rangatiratanga and partnership.

5.3 National Policy Statements

5.3.1 The National Policy Statement for Indigenous Biodiversity (NPSIB) was not promulgated when the PDP was notified. The Council is required to give effect to the NPSIB, but within the timeframes specified therein. However, where changes are sought to the PDP through submissions which relate to the direction in the NPSIB, there is an opportunity to align the PDP provisions with the NPSIB. Of relevance to the SASM Chapter, the overall outcome of the NPSIB is to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date. This is to be achieved in a number of ways, including, through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity. Policies 1 and 2 direct that indigenous biodiversity is managed in a way that gives effect to the principles of the Treaty of Waitangi, and how tangata whenua are able to exercise kaitiakitanga for indigenous biodiversity in their rohe. Clause 3.2 directs that local authorities must engage with tangata whenua, people and communities (including landowners) to ensure that the decision-making principles inform, and are given effect to, when implementing the NPSIB in their regions and districts. Clause 3.3 directs that every local authority must involve tangata whenua (to the extent they wish to be involved) as partners in the management of indigenous biodiversity and includes further details on what this is to involve or consider.

⁶ Aoraki Environmental Consultancy Ltd (2020). Timaru District Plan Review: Report on Sites and Areas of Significance to Māori, p. 11.

5.3.2 The New Zealand Coastal Policy Statement (NZCPS) states policies in order to achieve the purpose of the RMA in relation to the coastal environment. Of particular relevance to this topic is Policy 2 “*Te Tiriti o Waitangi, Tāngata whenua and Māori*” which contains the expectations and directions on how the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga are to be taken into account in relation to the coastal environment.

5.3.3 The National Policy Statement for Freshwater Management contains provisions mostly of relevance to regional councils. However, Clause 3.4 applies to all local authorities and directs that such authorities must actively involve tangata whenua (to the extent they wish to be involved) in freshwater management.

5.4 Canterbury Regional Policy Statement (CRPS)

5.4.1 Chapter 2 of the CRPS sets out the Issues of Resource Management Significance to Te Rūnanga o Ngāi Tahu (Kāi Tahu) and Chapter 4 contains Provision for Kāi Tahu and their Relationship with Resources. The latter outlines tools, methods and processes, including that territorial authorities include provisions for the relationship between Kāi Tahu, their culture and traditions, and their ancestral lands, water, sites, wāhi tapu and other taonga; and methods for the protection of these, within district plans.

5.4.2 Chapter 5, which relate to land use and infrastructure, seeks that development is located and designed so that it functions in a way that, among other matters, facilitates the establishment of papakāinga and marae (Objective 5.2.1). Policy 5.3.4 directs that papakāinga housing, marae and ancillary activities associated with these are provided for, where the matters set out in the policy are met, recognising that these activities are appropriate where they are undertaken by tāngata whenua with mana whenua when they occur on ancestral land.

5.5 Iwi Management Plans

5.5.1 Te Whakatau Kaupapa (TWK) is a resource management strategy for the Canterbury region published by Ngāi Tahu in 1990, which sets out a statement of Kāi Tahu beliefs and values which should be taken into account in preparation and change of resource management plans. Policies relating to management of significant sites and areas include:

- That there is a responsibility in the Treaty of Waitangi to protect Kāi Tahu interests, which include values attached to ancestral land, regardless of its present ownership (page 2-5, Policy 3).
- Mining should not be permitted in areas which are important to Kāi Tahu, including urupā, wāhi tapu and mahinga kai areas (page 4-4, Policy 1).
- Consultation should be undertaken with Rūnanga on management practices that will impact on waterways in which they have beneficial rights (page 4-21, Policy 12).

- Recognition of the importance of wetlands and other areas as mahika kai, maintenance and enhancement of remaining productive mahika kai areas, and consultation with Rūnanga on the management of mahika kai resources (page 4-24, Policies 3, 4 and 6).
- Full statutory protection of urupā and guarantee of access for Kāi Tahu to these sites (TWK p. 4-27, Policy 1), and the ability to subdivide urupā from larger lots (pages 4-27 to 4-28, Policy 3).
- Protection of all Kāi Tahu archaeological sites, with authority reserved to mana whenua as to whether and how a site may be excavated, and recognition that an archaeological site may be affected by work nearby as well as on the site itself (pages 4-31 to 4-32, Policies 1-10).
- Protection from disturbance of rock art sites that are of exceptional traditional, spiritual or scientific interest (page 4-32, Policy 1).
- A requirement for approval of mana whenua for any development that physically impacts significant mauka (mountains and ranges) (page 4-37, Policy 2).

5.5.2 TWK also includes the following key policies relating to the development of land intended for settlement of Kāi Tahu whānui:

- That district plans should provide recognition of the originally intended purposes of Māori Reserve lands, in consultation with the owners (page 4-7, Policy 4).
- That proposals to build, or to establish business, on such land should be considered in light of the original intent for this land as community resources and an economic base for communities associated with the land (page 4-7, Policies 1 and 2).
- That proposals to initiate community-owned businesses should be actively encouraged and not subject to unnecessary constraints (page 4-7, Policy 5).
- That proposals to construct community buildings for communal use should be actively assisted (page 4-7, Policy 6).
- That minimum area requirements should not apply to Kāi Tahu individuals and Rūnanga wishing to build dwellings or establish businesses near their marae (page 4-7, Policy 7).
- That the local Rūnanga should be consulted on all matters affecting Māori Reserve land in their area (page 4-7, Policy 10).

5.5.3 The *Iwi Management Plan of Kāti Huirapa for the Area Rakaia to Waitaki July 1992* (IMP) is primarily directed at matters within the jurisdiction of the regional council. However, it also includes the following direction which is relevant to the SASM provisions:

- Breeding areas for fish, birds and other species in waterways should not be disturbed.

- Corridors of undisturbed vegetation should be maintained along all rivers, and between rivers and any areas of indigenous vegetation or habitats of indigenous species, to maintain seasonal migration and movement of birds and other species.
- Existing wetlands should be restored.
- Protection and restoration of natural habitats should be encouraged.
- There should be no burning or clearance of indigenous vegetation.
- High altitude slopes and peaks should be kept free of grazing animals and should not be scarred by tracks and roads.
- Access to mahika kai adjacent to Māori Reserves should be maintained to enable exercise of traditional rights and customary uses.
- Any proposal to disturb ground where there was or is traditional and customary use of ancestral lands should be referred to mana whenua first, and if any bones or artefacts are disturbed, the Rūnanga should be contacted and tikanga Māori observed.

5.5.4 With respect to the MPZ, the IMP includes a statement seeking *“that all things which affect Māori land will be dealt with by Māori first and foremost”*.

5.6 Te Ture Whenua Māori Act

5.6.1 The Te Ture Whenua Māori Act 1993 governs administration of Māori land.⁷ This Act is intended to promote Māori land being used, developed and controlled by Māori owners and their whānau, hapū and descendants. To achieve those goals, the Act requires that almost all dealings with Māori land must be examined and approved by the Māori Land Court, including partitions of land between multiple owners and land transfers.

6. Analysis and Evaluation of Submissions

6.1 Approach to Analysis

6.1.1 The approach taken in this report is to assess submissions that relate broadly to how cultural values are managed across the PDP; followed by submissions relating to SASMs, then those relating to the MPZ. The assessment has largely been undertaken on a provision-by-provision basis for SASMs. However, submissions that relate to the SASM topic as a whole, and to the mapping/scheduling of SASMs are addressed first. For the MPZ, submissions relating to mapping are addressed first, then submissions on the proposed zone framework.

⁷ As it defined within the Te Ture Whenua Māori Act itself, noting this differs from the proposed definition of Māori Land within the PDP which has a wider application.

Submissions relating to definitions are addressed in the assessment of the provisions to which they relate.

- 6.1.2 The assessment of submissions generally follows the following format:
- A brief summary of the relevant submission points.
 - An analysis of those submission points.
 - Recommendations, including any amendments to plan provisions and the related assessment under s32AA.
- 6.1.3 Clause 10(2)(b), Schedule 1 of the RMA provides for consequential changes arising from the submissions to be made where necessary, as well as any other matter relevant to the PDP arising from submissions. Consequential changes recommended under clause 10(2)(b) are footnoted as such.
- 6.1.4 Clause 16(2), Schedule 1 of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Any changes recommended under clause 16(2) are footnoted as such.
- 6.1.5 Further submissions have been considered in the preparation of this report, but in general, they are not specifically mentioned because they are limited to the matters raised in original submissions and therefore the subject matter is canvassed in the analysis of the original submission. Further submissions may however be mentioned where they raise a valid matter not addressed in an original submission. Further submissions are not listed within Appendix 2. Instead, recommendations on the primary submissions indicate whether a further submission is accepted or rejected as follows:
- Where a further submission supports a primary submission and the primary submission is recommended to be accepted, or where a further submission opposes a primary submission and the primary submission is recommended to be rejected, the further submission is recommended to be accepted.
 - Where a further submission supports a primary submission and the primary submission is recommended to be rejected, or where a further submission opposes a primary submission and the primary submission recommended to be accepted, the further submission is recommended to be rejected.
 - Where a further submission supports or opposes a primary submission and the primary submission is recommended to be accepted in part, then the further submission is recommended to be accepted in part.
- 6.1.6 Waterton Farm [73.2], Rogers, B W [92.1], Moore, D and J [100.2], Peel Forest [105.1] and McArthur, K and J [113.1], in a primary submission, support the submission of Federated Farmers and seek the same relief as sought in that submission. Discussion of the Federated Farmers submission points and recommendations made in relation to these therefore

applies to that of Waterton Farm [73.2], Rogers, B W [92.1], Moore, D and J [100.2], Peel Forest [105.1] and McArthur, K and J [113.1].

- 6.1.7 Zolve [164.1], in a primary submission, supports the submission of Port Blakely and seeks the same relief as sought in that submission. Discussion of the Port Blakely submission points and recommendations made in relation to these therefore applies to that of Zolve [164.1].

6.2 Provisions where no Change Sought

- 6.2.1 The following provisions included within MPZ Chapter were either not submitted on, or any submissions received sought their retention. As such, they are not assessed further in this report, and I recommend that the provisions are retained as notified (unless a cl 16(2) change is recommended):

- MPZ-P1, MPZ-P2, MPZ-P3, MPZ-P4, MPZ-P5 and MPZ-P7
- MPZ-R2 – MPZ-R21
- MPZ-S2 and MPZ-S5

6.3 Matters to be Considered in Other Hearings

- 6.3.1 ECan [183.5] seek changes across the PDP in relation to how hazard mitigation works are managed. More specifically, the submitter seeks that a permitted activity is provided for all earthworks and vegetation clearance associated with existing public flood and erosion protection works operation, maintenance, repair, replacement and upgrading. Aligning with this change, consequential changes to vegetation clearance and earthworks provisions (including those contained in the SASM Chapter) are sought⁸ so that the rules in these chapters do not apply to existing public flood and erosion protection works.

- 6.3.2 I note that the request predominately relates to the Natural Hazards topic. As such, I have not considered the consequential changes sought by ECan, as I consider that these are best considered in combination with the main submission points. The summary of submissions and analysis set out in this report therefore does not consider ECan's requested changes to the SASM Chapter with respect to how hazard mitigation works are managed. These will instead be considered as part of the Natural Hazards topic (scheduled for Hearing F).

7. Broad Submissions Relating to Cultural Values

- 7.1.1 This section considers submissions that relate broadly to how cultural values are managed across the PDP.
- 7.1.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

⁸ ECan [183.5, 183.65]

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TRoNT	185.1, 185.3, 185.7, 185.8

Submissions

- 7.1.3 TRoNT [185.1, 185.3] broadly support the intent of the PDP, except where specific amendments or additions are sought to better incorporate the broader interests and aspirations of Kāi Tahu within the Timaru District. The specific relief sought is detailed in its submission but encompasses matters such as: the use of Te Reo (particularly macrons); integration of Ngāi Tahu values throughout the PDP; the carving up of issues and spaces with little ability to consider the whole (in particular the Rangitata River); and the inclusion of Kāti Huirapa values as a matter of discretion throughout the PDP.
- 7.1.4 TRoNT [185.7] also considers that the cross referencing throughout the PDP is minimal and confusing, noting that outside the SASM chapter there is little reference to cultural values or the need to consider the SASM chapter when assessing activities under the zones or District Wide chapter matters, such as Earthworks and Temporary Activities.
- 7.1.5 TRoNT [185.8] considers that Kāi Tahu values should not be limited to the SASM Chapter, noting that these values include not only physical but also meta-physical values, associations and practices. The submitter considered that as currently structured, many rules within the zone and other overlay chapters would not enable the effects on Kāi Tahu values to be considered as a matter of control or discretion and consider that this could have unintended consequences to Kāi Tahu and their relationship with their land, traditions, wai etc. The submitter seeks that a matter of control or discretion is added relating to effects on Kāti Huirapa values within all controlled or restricted discretionary rules within all zone chapters, such as:

the extent of any adverse social, cultural and environmental effects, including on any sensitive environments.

the potential of any adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa, including measures to avoid, remedy or mitigate adverse effects.

Analysis

- 7.1.6 In terms of TRoNT's broad submission [185.1, 185.3], the more specific relief sought in relation to these matters is considered in the assessment of submission points made against specific provisions.
- 7.1.7 In terms of cross-referencing, I do not consider there to be a need to cross-reference the SASM Chapter throughout the PDP. The SASM Chapter is a district-wide chapter which applies to specific overlay areas (which in turn are mapped). The 'Relationship between Spatial Layers' Chapter in Part 1 of the PDP sets out how these apply, including noting that when there is a conflict between overlays, or between an overlay and an area-specific spatial layer, the most stringent provision applies. It would be highly inefficient to include a cross-

reference in every rule in every other chapter of the PDP where an activity is also subject to a control in the SASM Chapter; and it would be inconsistent to do this in relation to the SASM overlays only. As such a cross-reference would not change the effect of the rules, there would also be no real benefit to including a cross-reference.

- 7.1.8 In terms of including matters of control or discretion relating to Kāi Tahu values in all zone chapters, I consider this to be highly inefficient and extends beyond what is necessary to achieve the outcomes sought in SD-O5. It would create an administrative burden on AECL, who would likely have to assess and comment on every controlled or restricted discretionary application made to the Council under a zone rule, regardless of such consents being triggered for different reasons. By way of example, a breach of built form standards in most zones is a restricted discretionary activity, so a building breaching a height limit, recession plane, site coverage limit, boundary setback, outdoor living space, or any other built form standard would be subject to consideration of effects on Kai Tahu values, despite these built form standards not being related to Kāi Tahu's historic and contemporary relationship with the District's land water bodies and wetlands, coastal environment, and indigenous species. Similarly, activities such as additional residential units (e.g. GRZ-R2 and MRZ-R2), retirement villages (e.g. GRZ-R11, MRZ-R12) and emergency services facilities (e.g. GRZ-R12, MRZ-R14) in residential areas would also be subject to consideration of effects on Kai Tahu values, despite these rules being related to the intended purpose of residential zones. Examples in the GRUZ include primary production activities breaching setbacks from specified zones (GRUZ-R1 PER-4); shelterbelts which exceed shading requirements (GRUZ-R15); and artificial crop protection structures that are not open, do not meet colour specifications, or breach setback requirements (GRUZ-R18).
- 7.1.9 I accept that there may be some specific activities requiring consent under the zone chapter rules, which may have effects on cultural values that justify the ability to explicitly consider such effects (for example, expansions to existing consented quarries under GRUZ-R23). However, the specific rules would need to be identified by the submitter, and the need for consideration of cultural effects justified (in terms of achievement of SD-O5).
- 7.1.10 With respect to the need to consider the SASM chapter when assessing activities under District Wide chapter matters, the above assessment also applies. Namely, that it is inefficient to apply a matter of discretion or control or discretion in all instances, but for some rules, such an assessment may be appropriate. I have considered this further below when assessing submissions on the rule framework.
- 7.1.11 In considering the submission points from TRoNT, I do however see benefit in alerting plan users that where an activity is within an SASM and is fully discretionary or non-complying under another rule (i.e. outside the SASM Chapter), the objectives and policies of the SASM Chapter may also be relevant. I consider that the most efficient mechanism for this is to add a statement to the Introduction to the SASM Chapter (rather than using multiple cross-references in rules in other chapters, or changes to the Introduction sections of other chapters). This is also relevant to recommendations I make later on in this report to remove

rules from the SASM chapter where they overlap with those in other chapters, but introduce matters of discretion relating to SASMs within those other chapters; the objectives and policies of the SASM Chapter will equally apply in such instances and I consider that a note in the Introduction to the SASM Chapter will help clarify this.

Conclusions and Recommendations

7.1.12 I recommend that the following text is added to the Introduction to the SASM Chapter:

Where an activity is proposed within a SASM which requires resource consent under another chapter in the District Plan, the objectives and policies in this chapter may also be relevant to consideration of that activity. There are also rules in other chapters, including the Natural Character, Natural Features and Landscapes and Earthworks chapters which manage activities that occur in SASMs. The SASM chapter should therefore be read alongside other sections of the District Plan which also consider the effects on SASMs.

8. Sites and Areas of Significance to Māori

8.1 Broad Submissions

8.1.1 This section of the report addresses submission points that are relevant to the SASM Chapter as a whole.

8.1.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Wallace, P	6.1
Eggleton, B	37.1
Stack, D	50.2
Dir. General Conservation	166.28
TRoNT	185.90
Yeandle, R	253.1

Submissions

8.1.3 Three submitters⁹ oppose the SASM chapter in its entirety and seek that it is removed, or oppose the general approach to SASMs. Reasons include concerns that all land use will be governed by Māori; it will create uncertainty over future development of land and impact on land values; and it affects property rights, including providing for Māori to access private property.

⁹ Wallace, P [6.1], Eggleton, B [37.1], Yeandle, R [253.1]

- 8.1.4 Stack, D [50.2] has concerns about the approach underpinning the SASM Chapter conflicting with the need to produce food; and raises potential conflicts between the wider approach of iwi and that of Rūnanga. The submitter seeks that better information on cultural values and mapping is provided, and requests that while the Council respect the input of AECL, it needs to make the right decisions for all people it represents.
- 8.1.5 Conversely, Dir. General Conservation [166.28] supports the SASM chapter provisions to recognise and protect sites and areas of significance to Māori as well as ensure the sustainability of ecosystems that support taoka and mahika kai. Similarly, TRoNT [185.90] also broadly support the provisions in the chapter (except where changes have been sought to specific provisions), as in its view it is important to protect sites of significance, recognising their importance is not only related to historical connection to the whenua, moana and wai, but also to contemporary and ongoing connections and relationship.

Analysis

- 8.1.6 It is my view that removal of the SASM Chapter would not align with the requirement in s6(e) of the RMA 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. I accept that there are other chapters in the PDP which contain provisions which contribute to this, but in absence of this chapter and the related identification of sites, which more directly addresses the relationship with the identified area, I do not consider the wider approach in the PDP to be sufficient.
- 8.1.7 The SASM Chapter does not result in all land use being governed by Māori. The Chapter seeks that Kāti Huirapa are actively involved in decision making that affects the values of the identified Sites and Areas of Significance to them (SASM-O1). In my view, this provides for *involvement* in decision-making, and is limited to activities that may affect the values of SASMs, rather than to all land uses. This allows for the Council to make decisions which appropriately take into account the values of the identified areas.
- 8.1.8 While I accept that the rule framework will impact development of land, I consider that these costs have been taken into account in the s32 analysis, and that broadly speaking, the benefits of the approach outweigh these costs. I also consider that this is not different from other provisions which place restrictions on land use and development, such as those relating to Outstanding Natural Landscapes (ONLs), heritage items and removal of indigenous biodiversity. While noting the further analysis set out below in relation to specific rules, I do not agree that these generally conflict with the need to produce food.
- 8.1.9 With respect to access, this is more specifically considered in relation to SASM-O2 and SASM-P4 below.
- 8.1.10 I am unsure what is referred to by Stack, D [50.2] with respect to “*potential conflicts between the wider approach of iwi and that of Rūnanga*”. I note that the local Rūnanga - Arowhenua

was involved in the development of the PDP, and Ngāi Tahu are broadly supportive of the chapter.

Conclusions and Recommendations

8.1.11 No changes are recommended in response to these submissions.

8.2 Mapping / Scheduling of Sites and Areas

8.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Wallwork, C	2.1
Hanifan, J	3.1, 3.2
EJAPS	4.1, 4.3, 4.5
Zwarts, L	17.1, 17.2
King, L	21.1
Just Cows	23.1
Hillegers, L	25.1
Bonifacio, P	36.25
Stack, D	50.6, 50.9
Hart, J	58.2
Aubrey, L	59.2
King, G and M	62.1
Smith, W and J	63.1, 63.2
Waterton Farm	73.1
Coles, R and T	76.1, 76.2
Weavers, R J	82.1
Glass, N E	83.1
Brosnan, I C	84.1
Smillie Family	91.1, 91.2
Rogers, B W	92.2
Bloxham, W J	97.1
Glenwillow	99.1
Peel Forest	105.2
McArthur, K and J	113.2, 113.3
Jamieson, C R and H A	129.1
Hutchison, J A	130.1
McCullough, S and P	137.1

Weavers, K J	153.2
Tarrant, K and R	158.1
Road Metals	169.7
Fulton Hogan	170.8
Fenlea Farms	171.27, 171.28
Rooney, A J	177.10
Barkers	179.1
Federated Farmers	182.3, 182.78, 182.79
ECan	183.168
TRoNT	185.37
K J Rooney	197.3
Westgarth et al	200.1, 200.8, 200.9
Rangitata Island Dairy	221.2
Batty, M	222.1
RDRML	234.1
Beattie, D M	238.1, 238.1A, 238.1B
Te Tumu Pareora	240.6
Jeaffreson, D and A	244.2
Yeandle, R	253.1

Submissions

- 8.2.2 A large number of submissions have been received on the mapping of SASMs. Because of the volume of submissions, where similar matters have been raised across submissions, these are discussed collectively.
- 8.2.3 The first issue raised by submitters, is the need for justification to be provided for the extent of SASMs, both broadly in terms of all SASMs,¹⁰ as well as in relation to specific SASMs affecting submitters' properties.¹¹
- 8.2.4 The concerns regarding the extent of SASMs include:
- it is not clear why areas are so large / they apply to large areas of farmland;

¹⁰ Hanifan, J [3.1], King, L [21.1], Hillegers, L [25.1], Hart, J [58.2], Aubrey, L [59.2], King, G and M [62.1], Waterton Farm [73.1], Smillie Family [91.1, 91.2], Tarrant, K and R [158.1], Federated Farmers [182.78], Westgarth et al [200.1, 200.8, 200.9], Yeandle, R [253.1]

¹¹ Hanifan, J [3.2], EJAPS [4.1, 4.3], Zwarts [17.1, 17.2], Smith, W and J [63.1, 63.2], Coles, R and T [76.2], Weavers, R J [82.1], Brosnan, I C [84.1], Glenwillow [99.1], McArthur, K and J [113.2], Hutchison, J A [130.1], Weavers, K J [153.2], Fenlea Farms [171.27, 171.28], Rooney, A J [177.10], K J Rooney [197.3], Beattie, D M [238.1, 238.1A, 238.1B]

- they are considered to extend beyond sites of significance, including that they extend beyond rivers/riparian area and into existing farmland;
- the methodology used to define the spatial extent;
- the mapping does not resemble natural features on the ground;
- they have not been visited / ground truthed;
- there is a lack of specificity about what the values are / what is being protected, and what activities would pose threat to identified cultural values in each SASM;
- landowners should be provided with more specific details about the sites;
- the rules applying within the overlays are very restrictive and it is not appropriate to apply these equally across expansive areas;
- the proposed rule framework applying to these areas will have economic impacts on private land owners;
- some provisions applying in these areas duplicate ECan's consenting;
- concern about the need to obtain permission from a third party; and
- lack of understanding of the effects of the identification.

8.2.5 In addition to seeking justification for the identification of these areas is provided, some of the submitters seek that:

- The overall extent of SASM areas is reconsidered, for example to amend their boundaries to reflect the spatial extent reasonably required to protect the identified cultural values for each SASM in SCHED6 from the activities that pose a threat to those value,¹² or to amend them to be more specific rather than broad in nature.¹³
- Specific SASMs are removed or reduced (which is set out further below).
- The Chapter and overlays are deleted until further information is provided and consultation has been undertaken with landowners.¹⁴
- Properties affected by SASMs are resurveyed by the landowner and Rūnanga.¹⁵
- In mapping and identifying sites of significance, Council ensures that landowners are involved, educated, and knowledgeable of the area of significance to them.¹⁶
- SCHED6 is amended to include a clear description of the site or area of each SASM, and a clear statement of the activities that pose a threat to the cultural values identified in the schedule.¹⁷

¹² For example, EJAPS [43.], King, L [21.1], Smillie Family [91.1, 91.2], Westgarth et al [200.9]

¹³ Stack, D [50.6]

¹⁴ Aubrey, L [59.2]

¹⁵ McArthur, K and J [113.2]

¹⁶ Federated Farmers [182.3]

¹⁷ Westgarth et al [200.8]

- The Council facilitates the creation of a relationship and effective engagement between landowners/submitters and Rūnanga¹⁸ to identify and protect sites of significance, based on respect and outside the regulatory environment.¹⁹
- The chapter is amended to recognise the role that landowners of private property have to play in the identification and protection of sites and areas of significance to Māori.²⁰
- The Council seeks “*legal precedent for classification and limitations of private landowners’ rights*”.²¹
- That the SASM overlays should align with the mapping of areas of significance used in regional planning documents.²²

8.2.6 The second consistent issue raised by submitters is concern regarding the consultation process and lack of engagement with property owners affected by SASMs.²³ In addition to concerns, some submitters request that consultation is undertaken with any party affected by an SASM, and Rūnanga holding a public meeting to talk to how tikanga will impact the RMA process.

8.2.7 A number of submitters seek the removal of particular SASMs. (Maps showing the location of each of these is also set out in **Appendix 4**):

- Brosnan, I C [84.1] – removal of SASM3 from 24 Dampier Street, Timaru
- Smith, W and J [63.1] – removal of SASM12 from 167 Rocky Hundreds Road
- Glenwillow [99.1] – removal of SASM12 from 132 Rockdale Road
- Rogers, B W [92.2] – removal of 360 Arundel Rangitata Road from the SASM overlay
- Jamieson, C R and H A [129.1] – removal of SASM-8 from 278 Pareora Ford Road
- Hutchison, J A [130.1] - removal of SASM4 from 122 Beach Road
- McCullough, S and P [137.1] – removal of SASM from 94 John Talbot Road
- Fenlea Farms [171.28] - removal of SASM from 158 Prattley Road, Timaru; and 94 Milford-Clandeboyne Road (or reduction in their extent)
- Rooney, A J [177.10] – removal of SASM from 0 Domain Ave, Temuka; 48 Milford-Clandeboyne Road, Temuka; and 32 Milford-Clandeboyne Road, Temuka (or reduction in their extent)

¹⁸ McArthur, K and J [113.2], Federated Farmers [182.79]

¹⁹ McArthur, K and J [113.2]

²⁰ Federated Farmers [182.79]

²¹ Hillegers [25.1], King, G and M [62.1], Tarrant, K and R [158.1]

²² Road Metals [169.7], Fulton Hogan [170.8]

²³ Zwarts, L [17.1, 17.2], Hillegers [25.1], King, G and M [62.1], Smith, W and J [63.2], McCullough, S and P [137.1], Tarrant, K and R [158.1], Rangitata Island Dairy [221.2], Yeandle, R [253.1]

- K J Rooney [197.3] – removal of SASM-4B from Lot 11 DP 4679 and Lots 1-5 on DP 7413 (or reduction in their extent)
- Beattie, D M [238.1, 238.1A, 238.1B] – removal of wāhi tūpuna; wāhi taoka and wāhi tapu overlays from submitters property (presumed to be 249 Kereta Road)
- Jeaffreson, D and A [244.2] – removal of SASM6 from 211 Blandswood Road

8.2.8 The following submitters seek the reduction of particular SASMs. (Maps showing the location of each of these is also set out in **Appendix 4**):

- Wallwork, C [2.1] – reduction of SASM20 (at 1986 Te Moana Road) so it is located within the ‘V’, as the topography of the land is steep and relatively inaccessible, with the reserve having been set aside already for public and mana whenua access.
- Zwarts, L [17.1] – reduction of SASM9 to align with surveyed boundaries of the QEII covenanted area, which was put in place to protect and define where rock art is located on the property.
- Just Cows [23.1] – reduction in SASM20 to align with the stopbank.
- Bonifacio, P [36.25] – amendment to SASM4c to take into account the landscape / be more realistic with the landscape it sits within.
- Reduction of SASM23 to:
 - Stack, D [50.9] - cover the river and its bed only
 - Peel Forest [105.2] - take a more farm-based approach to mapping of SASM23
- Reduction in SASM17 (Awarua Stream) so that it:
 - Coles, R and T [76.1] – only applies to specific areas of significance and not the entire stream, as the portion on the submitter’s property is dry for the majority of the area; or
 - EJAPS [4.1] does not apply to the entire river and instead applies only the springs and swamp land immediately around the marae.
- Coles, R and T [76.2] – For the Wāhi taoka Area overlay - SASM7, identify and map only specific areas of significance, rather than mapping the entire properties.
- Bloxham, W J [97.1] – reduction of SASM12 (at 747 Hadlow Road) to exclude land from the wai taoka line overlay where water does not normally exist or flow.
- Barkers [179.1] – amendment to SASM20 (the wāhi taoka and wai taoka lines) to follow the site boundary with 72 Shaw Road, Geraldine, as this is considered more practicable for plan implementation.
- Batty, M [222.1] – reduction in SASM22 to remove it from being along the boundary with 312 Ōrāri Back Road, so that it is on the boundary of the “farming area” rather than where the stopbank has been placed, as this still leaves a significant margin area between the edge of the farming area and the waterway.

8.2.9 Other specific relief sought includes:

- Reducing the 300m radius about wāhi tapu sites to 10m (Hart, J [58.2])
- Deleting provisions for customary access (Hart, J [58.2])
- Amending SASM9 in SCHED6C, to provide more information on the location of rock drawings (EJAPS [4.5]).
- Amending wai taoka lines to areas that can be clearly defined - Burial Grounds - Māori Pa etc (Glass, N E [83.1])
- Clarifying and defining the width of area identified as wai taoka lines (Bloxham, W J [97.1]).

8.2.10 RDRML [234.1] seeks that all district plan layers are removed from the Rangitata River, including SASMs. The submitter is concerned that this overlay covers the bed of the Rangitata River near the Klondyke intake, where it undertakes authorised works to maintain the diversion of water into the Rangitata Diversion Race. The submitter expresses concerns about whether is lawful for the Council to create district plan provisions in respect of the bed of the Rangitata River, as it considers that this appears to be outside the functions of a territorial authority under s31 of the RMA. Even if lawful, the submitter questions whether it is appropriate, given its concerns about how the District Plan applies, confusion about whether the Plan provisions apply to its activities where within the Rangitata River, and the role of ECan, whose function and jurisdiction cover activities within the river. From informal discussions with the submitter, I understand that the principal concern is that the SASM overlay includes an area within the Rangitata River within which a rock weir is located, for which a land use consent has been obtained from Environment Canterbury to maintain the weir, which allows for disturbance of the riverbed up to 1km both up and down stream of the weir. The submitter considers that the maintenance, repair and replacement of the rock weir would also be captured in the definition of 'earthworks' in the PDP.

8.2.11 ECan [183.168] supports the recognition and protection of sites of significance to mana whenua, stating that it is consistent with objectives and policies in CRPS chapter 13 and in particular Policy 13.3.2.

8.2.12 TRoNT [185.37] support identification of the SASMs but request minor changes to SCHED6 to improve clarity and consistency with the information provided by AECL, such as updating descriptions to match the location, amend macrons and so on.

Analysis

8.2.13 As part of the District Plan review, a report was prepared by AECL in relation to the sites and areas of significance to Māori in the Timaru District²⁴ (the AECL Report). AECL are the mandated resource management agency of Te Rūnanga o Arowhenua (Arowhenua). Arowhenua are the Rūnanga that represents Kāti Huirapa, who are the hapū that hold mana

²⁴ Aoraki Environmental Consultancy Ltd (2020). *Timaru District Plan Review: Report on Sites and Areas of Significance to Māori*.

whenua status in the Timaru District. The AECL Report sets out the methodology for the identification of sites, which, in summary, included identification of areas using aerial photographs, undertaken by AECL's four cultural consultants, taking into account their own in-depth knowledge and understanding of whakapapa and cultural tradition as well as existing documented or mapped information.²⁵

- 8.2.14 The AECL Report also notes that identification of significant sites to Māori in district plans has often, in the past, focused on known archaeological sites. However, identification of these sites does not encompass the use of and relationship to the broader landscape. Such areas, with significant associations to cultural traditions, history or identity, have been identified in the PDP as "wāhi tūpuna". Wāhi tūpuna generally encompass multiple related sites with connections to cultural beliefs, values and uses (including trails, waterbodies, settlements, Mahika kai, mountains, landscape markers, areas of native vegetation, burial and battle sites and so on).²⁶
- 8.2.15 Identification of larger areas as wāhi tūpuna also reflects that identification of only discrete sites does not recognise any connection between the sites nor reflect the way in which tūpuna lived in, used and related to the wider area. This is particularly relevant to Kāti Huirapa, as their traditional way of life involved seasonal movements to gather food and resources, rather than being concentrated in and around permanent settlements.²⁷
- 8.2.16 Within wider wāhi tūpuna areas, smaller sites have been identified that have particular values of significance that Kāti Huirapa consider require special protection.²⁸ These encompass:
- Wāhi taoka – places that are treasured due to their high intrinsic values and their role in maintaining a balanced and robust ecosystem, sustaining quality of life and providing for the needs of present and future generations. Examples include repo raupō, wai puna and mahika kai; and/or
 - Wāhi tapu - sacred sites or areas held in reverence according to whakapapa. They may be associated with tāngata whenua creation stories, particular events or ceremonies, or valued resources, and include sites such as urupā, pā, tuhituhi o neherā and tauraka waka.

²⁵ Including the Kahurumanu Ngāi Tahu Cultural Mapping Project; Te Whakatau Kaupapa maps of recorded archaeological sites and silent files; areas and sites with statutory recognition in the Ngāi Tahu Claims Settlement Act 1998; rock art mapping developed by Te Rūnanga o Ngāi Tahu and the Rock Art Trust and included in Proposed Plan Change 7 to the CLWRP; Wai puna (springs) map layer developed by Kelly Ratana (NIWA) working with members of the Arowhenua Mātaitai Komiti; and Māori Reserves and fishing easements.

²⁶ Aoraki Environmental Consultancy Ltd (2020). *Timaru District Plan Review: Report on Sites and Areas of Significance to Māori*, pp. 17-24.

²⁷ Aoraki Environmental Consultancy Ltd (2020). *Timaru District Plan Review: Report on Sites and Areas of Significance to Māori*, p. 41.

²⁸ Aoraki Environmental Consultancy Ltd (2020). *Timaru District Plan Review: Report on Sites and Areas of Significance to Māori*, p. 25.

- 8.2.17 Rivers and streams of particular significance have also been identified as either wai taoka – treasured waters; or wai tapu – sacred waters. The latter reflects where a higher standard of protection is required. Most waterways in the PDP are identified as wai taoka, with the Pureora/ Pareora and Awarua Rivers identified as wai tapu. I note that in some cases the mapped extent is a line only, and in other cases includes the area alongside the waterbodies.
- 8.2.18 In addition to the identification of sites, the AECL Report also includes potential threats, relating to land use activities, to the values of the identified areas.
- 8.2.19 Mr Henry’s evidence also specifically addresses some of the matters raised in submissions. This includes:
- Confirmation of how sites were identified by Rūnanga, including the sources of information that were relied on.
 - Noting that the boundaries of SASMs are not related to property boundaries, roads, or topographical lines on a map.
 - Explanation of why some SASMs cover large areas, reflecting the association with broad landscapes, which in turn reflects that Kāti Huirapa moved around a lot, rather than being settled in discrete areas.
 - Confirmation that the significance of these areas does not change even if the way the land is used has considerably changed.
 - That Rūnanga’s association with waterbodies is not limited to the riverbed only, but the way the river was used, including margins of the land either side being used as a source of mahika kai, and their use as access routes and a means of travel. The lack of flowing water in smaller waterways is also reflective of recent changes to the waterbodies and does not diminish their importance to Kāti Huirapa.
 - Noting that the association with and significance of these sites are known to mana whenua, and do not need to be “groundtruthed” through site visits.
- 8.2.20 I note that Mr Henry has also responded to the specific changes sought to the mapped extent of some SASMs. Having considered these submissions, Mr Henry does not identify any changes to the mapping of SASMs that he considers to be appropriate.
- 8.2.21 In terms of those submissions querying the level of specificity contained in the PDP about what the values are / what is being protected, in addition to the further detail contained in the AECL Report, and the evidence of Mr Henry, I have also specifically considered the level of detail contained in the PDP itself. I note that the level of detailed contained in SCHED6 relating to each site is similar to that contained in other schedules, such as SCHED8 (Outstanding Natural Landscapes); SCHED9 (Outstanding Natural Features) and SCHED10 (Visual Amenity Landscapes). I note that the schedule (and approach followed in the rules) is broken into the five different areas set out above - wāhi tūpuna, wāhi taoka, wāhi tapu, wai taoka, wai tapu - each of which are defined, and which in turn are explained further in MW2.1.7 - 2.1.9. The level of detail provided in relation to each site in SCHED6 is also similar

to that contained in the Partially Operative Selwyn District Plan; the proposed Waimakariri District Plan; and the Proposed Queenstown Lanes District Plan.

- 8.2.22 I also note the comments from AECL²⁹ that detailed information (including specific locations) about some sites is intentionally not provided, to avoid the specific location of a site being made public and risking destruction or vandalism of such a site, and noting that in some cases, historical and spiritual information about a site falls on specific individuals that inherit the responsibility from their tūpuna and is not known to all mana whenua.
- 8.2.23 In terms of submitters seeking more detail about what activities would pose threat to identified cultural values in each SASM, I note that have essentially been identified in the original report and have then been reflected through the rules. This includes the targeted approach to what and how activities are controlled in different types of SASMs.
- 8.2.24 Taking into account the above, and Mr Henry's evidence, it is my view that:
- It is for Māori to identify what is significant to them. While it is important to consider the *impact* of identification on landowners, it is not for landowners to determine significance. I therefore disagree with submitters seeking that identification of significance is undertaken with landowners.
 - The boundaries, including their spatial extent reflects the values associated with each area – in this case, the areas in many instances are not related to small discrete areas, e.g. former pas, settlement areas or rock art sites, but include resources, cultural landscapes and wider areas which are valued by mana whenua. Therefore, they cannot simply be reduced to be “more specific”, and already reflect the spatial extent within which there are considered to be cultural values which require recognition and protection from inappropriate activities.
 - The level of detail contained in the schedule about each site/area is appropriate, and there is no need to include the threats to values identified in the schedules because this is done through the rule framework. The approach taken to the SASM Schedule is consistent in this regard with the ONL and VAL Schedules, which identify landscape values and characteristics, with risks/threats to those values then “identified” and managed through the rule framework within the NFL Chapter.
 - While the Council can facilitate the creation of a relationship and effective engagement between landowners/submitters and Rūnanga, I do not consider that relying on this, outside of any regulatory measures within the District Plan, is sufficient to meet the Council's obligations under s6(e) of the RMA. Instead, I consider that this is a matter for the Council to consider, alongside the PDP framework, and noting that such engagement can form part of how the framework is implemented.
 - I do not agree that the SASM overlays should be amended to align with the mapping of areas of significance used in regional planning documents. I note that regional

²⁹ Letter from John Herny, Chair of Te Rūnanga O Arowhenua Society Inc, to Timaru District Council, “*Feedback on the Options Report on Sites and Areas of Significance to Maori*”, dated 30 June 2021.

council planning documents are related to the regional council's functions under the RMA. Mapping of significant areas within any regional planning document is therefore specific to the management of activities which fall within the functions of the regional council. The proposed SASM overlays in the PDP are however related to areas of significance which have values that may be adversely affected by activities which are managed by the territorial authority.

- It is not appropriate to provide more detail about the specific location of rock art sites, as this is not needed with respect to implementation of the plan provisions, and would result in specific details about locations being made available to the public.

8.2.25 With respect to the extent of mapped area of wāhi tapu sites which relate to rock art (SASM8 and SASM9), my understanding is that the extent includes the specific rock art sites, as well as a 'buffer area' of approximately 300m around these sites. My understanding of the reason for this buffer is that it is intended to cover the area within which activities could adversely affect the integrity of a particular SASM. It therefore provides a trigger point for certain activities, to allow for further assessment of their effects, to ensure that the values of these sites are protected. The risk to their integrity largely relates to the impact that changes to the freshwater environment can have on rock art, due to rock art sites being fragile, and water use activities in their vicinity can adversely affect the surface condition of rock art pigments³⁰. The size of the buffer is based on recommendations made through the Ngā Kete o te Wānanga: Mātauranga, Science and Freshwater Management Project in partnership with the Ngāi Tahu Rock Art Trust,³¹ as to the area within which changes to the freshwater environment have the potential to impact on rock art sites.

8.2.26 However, I am aware that the use of a 300m buffer around rock art sites was also proposed in Plan Change 24 to the Mackenzie District Plan. The decision on that plan change, having considered the rationale for the use of 300m, concluded that a 250m buffer was more appropriate, in terms of matters regulated by the district plan, rather than the regional plan.³² I therefore consider that the same buffer should be used in the PDP, i.e. SASM8 and SASM9 should be reduced by 50m.

8.2.27 For other wāhi tapu sites, I do not consider it appropriate to reduce the area these cover. SCHED6C identifies the reason these sites have been identified and the values associated with them and the size of the mapped area reflects this. More specifically, what is mapped is not a single specific item, but the area surrounding this, which is part of the value

³⁰ *Guideline for implementing a land-based taonga risk and vulnerability assessment in the context of freshwater environments: Māori Rock Art.* (November 2018). Gyopari, M. & Tipa, G. With contributions from Symon, A. & Scott, J. Refer to Appendix 5.

³¹ *Māori rock art and associated freshwater taonga protection: A sensitivity-based knowledge convergence approach.* (2019). Gyopari, M., Symon, A. & Tipa, G; and Gyopari, M. & Tipa, G. (2018). Refer to Appendix 5.

³² Mackenzie District Plan Review, Plan Change 24, Sites and Areas of Significance to Māori, Decision Report, 31 July 2024, paras 31-35.

associated with the area as a whole. I also note Mr Henry's comments about risks to for wāhi tapu sites if the information on their specific location is made public.

- 8.2.28 For the reasons set out above, in Mr Henry's evidence, and in the AECL report, I do not recommend any changes to the mapping of the SASM overlays.
- 8.2.29 Consideration of the specific rules applying within the SASMs is set out further below in the assessment of the rule framework, including the consideration of economic impacts, and their relationship with regional council functions.
- 8.2.30 With respect to the need to obtain permission from a third party, I note that this is not the case. Where a consent is required, consultation with Te Rūnanga o Arowhenua is expected as part of the consent process. The outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation, is explicitly included as a matter that the Council can take into account when assessing a proposal, but this does not amount to "permission" being required. I also consider that this consultation reflects that Te Rūnanga o Arowhenua are best placed to provide advice on how a proposal may affect the values of a SASM. This is similar to the Council obtaining advice from a landscape architect on the effects of a proposal on landscape values, or from an ecologist on the effects of a proposal on indigenous biodiversity values, or from a geotechnical engineer on earthquake risk.
- 8.2.31 I note that legal submissions will more specifically address comments relating to the "*legal precedent for classification and limitations of private landowners' rights*" but note that other district plans identify SASMs, and include provisions restricting activities in such areas. The approach is also undertaken with respect to managing other values, for example, controls in NFL to protect landscape values.
- 8.2.32 In relation to those submissions concerned with the consultation process and lack of engagement with property owners affected by SASMs, I note that Mr Hakkaart has provided evidence to the Hearing Panel on the consultation that was undertaken with landowners.³³ I also note that the RMA includes mandatory consultation requirements, which include the notification of the PDP and the submission and hearing process, which allow for landowners to provide comments about the identification and management proposed for SASMs. While I accept that many submitters are frustrated in regard to consultation on the PDP provisions, my understanding is that the consultation requirements under the RMA have been complied with, and in my view, landowners' concerns about consultation do not invalidate the inclusion of these sites within the PDP.
- 8.2.33 In relation to RDRML's submission [234.1] regarding the lawfulness of mapping of SASMs in the Rangitata River, and creating district plan provisions in respect of the bed of the Rangitata River, I note that the lawfulness of this was traversed by counsel in Hearing D.

³³ Statement of evidence of Aaron Ross Hakkaart, 20 June 2024, prepared in response to prepared in response to paragraph 16 of Minute 7.

With respect to whether the approach taken to managing activities within the bed of the Rangitata River is appropriate, I agree with the submitter that earthworks associated with the maintenance, repair and replacement of the existing rock weirs should be treated the same way as other existing items located within an SASM, and therefore permitted under SASM-R1. The specific wording is set out below in relation to that rule.

Conclusions and Recommendations

- 8.2.34 I recommend that the boundaries of SASM8 and SASM9 are reduced by 50m.
- 8.2.35 In terms of s32AA, I consider that the use of a smaller buffer around rock art sites better reflects the area within which activities which are regulated by the district plan may affect the values of these sites, and will result in a consistent approach being taken between the Mackenzie and Timaru districts. The reduction will therefore still be effective at ensuring the values of these areas are recognised and protected from inappropriate subdivision, use and development; while being more inefficient.
- 8.2.36 I recommend that in all other respects, the SASM overlays are retained as notified.
- 8.2.37 I do not recommend any changes in response to these submission points, except where otherwise set out in the following assessment of specific provisions.

8.3 Introduction

- 8.3.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TRoNT	185.91

Submissions

- 8.3.2 TRoNT [185.91] support the Introduction to the SASM Chapter but seek that it is amended to acknowledge the Historic Heritage status of SASM.

Analysis

- 8.3.3 I note that the Introduction also includes reference to the chapter having been developed to fulfil the Council's obligations under sections 6(e), 6(f), 7(a) and 8 of the RMA. Section 6(f) relates to recognising and providing for the protection of historic heritage from inappropriate subdivision, use, and development. In absence of any other specific amendments being identified by the submitter, I do not consider any additional references to historic heritage to be necessary.

Conclusions and Recommendations

8.3.4 I do not recommend any changes in response to this submission (noting, for completeness, that earlier in this report I have recommended an addition to the Introduction).

8.4 Decision-Making, Involvement and Engagement with Kāti Huirapa (SASM-O1, SASM-P1 and SASM-P2)

8.4.1 This section of the report discusses submission points relating to those provisions in the SASM chapter that are specific to the role of Kāti Huirapa, being SASM-O1, SASM-P1 and SASM-P2.

8.4.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bonifacio, P	36.18
Rangitata Dairies	44.11
Stack, D	50.3, 50.5
Z Energy	116.10, 116.11, 116.13
Federated Farmers	182.81, 182.84, 182.85
ECan	183.57, 183.60, 183.61
TRoNT	185.92
Westgarth et al	200.5

Submissions

8.4.3 Environment Canterbury [183.57] supports SASM-O1 as notified and seeks its retention, or the preservation of its intent. TRoNT [185.92] also supports SASM-O1 and seeks that it is retained as notified. For completeness I note that the submission states that changes are recommended to provide for rakatirataka and kaitiakitaka but none are specified in the submission, with the decision sought being the retention of SASM-O1.

8.4.4 Stack, D [50.3] while supporting Kati Huirapa involvement in identifying SASMs, believes that TDC are still best placed to make decisions on activities. The submitter therefore seeks that SASM-O1 is amended to ensure that all assessments relating to SASMs are undertaken by TDC staff. Federated Farmers [182.81] considers that decision making in/around the sites of significance can be far overreaching and invasive to farm operations, noting that many farms are intergenerational and that farmers have a role in protecting the land for future generations. It seeks that the objective is amended to add *“not extending to existing use rights, the value of landowners’ land, and only when required at no cost to the landowner.”*

- 8.4.5 Environment Canterbury [183.60, 183.61] support SASM-P1 and SASM-P2 and seeks their retention, or the preservation of their intent.
- 8.4.6 Federated Farmers [182.84] states that it recognises Māori as first people of the land and the significance of the sites, but “*urge caution to allowing Chieftdom to be exercised on private property without consultation or consent from landowners.*” It seeks that SASM-P1 is amended as follows:
- Work with Kāti Huirapa to identify and list Sites and Areas of Significance to Kāti Huirapa in SCHED6- Schedule of Sites and Areas of Significance to Kāti Huirapa, and recognise ~~and~~ provide for the with landowners in consultation with the identified sites and areas, managing the resources inside that site in relationship building exercise of rangitirataka by Kāti Huirapa in decisions made in relation to these sites and areas.*
- 8.4.7 Bonifacio, P [36.18] considers that there is no need to control functional activities outside of SASMs, and states the requirement for consultation and engagement with Kati Huirapa prior to undertaking activities adjacent to identified sites is “*ambiguous and out of scope*”. As such, the submitter seeks that consultation and engagement prior to undertaking activities adjacent to identified sites be explained or removed from SASM-P2.
- 8.4.8 Rangitata Dairies [44.11] seeks amendments to SASM-P2 to enable other consultation and engagement methods with Kati Huirapa, such as Farm Environment Plans (FEPs), to obtain an understanding of the potential impact of activities, as the submitter considers that other methods may be more effective and practical than a consent process.
- 8.4.9 Stack, D [50.5] raises concerns that a conflict arises with the groups assessing the impact charging for consultation and seeks that the consultation required by SASM-P2 comes without a cost to landowners.
- 8.4.10 Federated Farmers [182.85] supports SASM-P2 and considers that developing protocols and key contact people will provide some confidence to landowners. However, they consider that consultation should be outside a council setting and be between hapu and a landowner. They seek that the following words are added to the policy:
- To establish a schedule of key hapū / tangata whenua representatives who will be notified of, or consulted on, applications received for subdivision consents or resource consents relating to proposals affecting or potentially affecting wāhi tapu, wāhi taonga, or site(s) of significance.*
- 8.4.11 Westgarth et al [200.5] considers that SASM-P2 is confusing as it envisages consultation with Kāti Huirapa as the primary mechanism for determining cultural values, but notes that the values have already been identified in SCHED6 without consultation being undertaken, and questions whether this is consistent with SASM-O1, or meets the efficiency requirements under s32 of the RMA. The submitter is also concerned about the burden consultation would add to landowners. They seek that the policy is amended to direct engagement/consultation

with Kāti Huirapa in relation to the activities identified in SCHED6 as posing a threat to the cultural values of the SASM within which the proposed activity will occur that are also identified in SCHED6.

- 8.4.12 Z Energy [116.10, 116.11] consider that the chapter framework, including objectives, policies and associated rules, should be amended to appropriately tie into the values of the site or area that has been recognised. This is sought so that it is clear what values are to be maintained, enhanced or protected, to help inform the extent to which consultation, and the outcome of any consultation is necessary and appropriate.
- 8.4.13 Z Energy [116.13] also considers that there is a disconnect between how SASM4 in SCHED-6A is described, and the general encouragement in SASM-P2 for consultation being the most appropriate way to obtain understanding of the potential impact of any activity on the site or area. The submitter seeks that the description for SASM4 in Schedule 6A is amended to provide more clarity regarding the specific values of the area, including definitions for all values.

Analysis

- 8.4.14 I note that the purpose of an objective is to outline the outcome that is sought through the implementation of the PDP. Therefore, I do not consider it appropriate for an objective to state that assessments relating to SASMs are undertaken by TDC staff, as sought by Stack, D [50.3]. As noted earlier, where resource consent is required under the provisions, I consider it entirely appropriate that the Council's assessment of such an application be informed by relevant technical inputs – in this case, potential adverse effects on cultural values being identified through input provided by Te Rūnanga o Arowhenua.
- 8.4.15 I note that the objective (and other provisions in the PDP) does not override existing use rights provided under s10 of the RMA, and I do not consider that there is a need to include reference to these in SASM-O1. While accepting that the provisions will have costs associated with them, I do not consider it appropriate, nor aligned with the obligations under s6(e), to limit the involvement of Kāti Huirapa to only where it does not affect land values. I also do not consider that it is the place of an objective to state that there should be no cost to landowners from this involvement. In any case, it is my view that decisions relating to who funds assessment is a matter which sits outside the District Plan. Should the Council consider that it is appropriate for input from Kāti Huirapa to be funded by the Council, rather than by an applicant, this is a funding matter to be determined by the Council through its long-term and annual planning processes.
- 8.4.16 I do not consider that the direction in SASM-P1 results in “*Chieftdom*” being exercised on private property without consultation or consent from landowners. The policy seeks to provide for the input of Kāti Huirapa into the sites identified in SCHED6, and then recognise and provide for the exercise of rakatirataka in decisions made in relation to these sites. This policy is then implemented through the rule framework, whereby provision is made for input by Te Rūnanga o Arowhenua, where a resource consent requirement is triggered, as to how

an activity will affect the values of an SASM. The rules also indicate the preference of the Council for requiring that the applicant consults with Te Rūnanga o Arowhenua when seeking a consent.

- 8.4.17 With respect to the reference to areas adjacent to the identified sites and areas listed in SCHED6, I agree with Bonifacio, P [36.18] that this should be removed from SASM-P2. I have taken into account that the policy direction is about encouraging or facilitating consultation and engagement, prior to activities taking place or consent being sought, rather than requiring this. However, I note that the rule framework only applies to activities within SASMs. I therefore consider reference to adjacent sites may reduce clarity as to how the objectives are to be achieved. With respect to FEPs, I do not consider that there is a need to specifically mention these in SASM-P2, noting that they in any case relate to regional council functions. However, I do not consider that the policy precludes consultation and engagement being undertaken through FEPs, which could assist in understanding of the potential impact of any activity on a SASM which may require consent under the PDP.
- 8.4.18 I similarly consider that as a schedule of key hapū / tangata whenua representatives would sit outside the District Plan, it is not necessary for the PDP to include policy direction relating to this. I note that the Timaru District sits within the takiwa of Te Rūnanga o Arowhenua, who are the Rūnanga to consult with. I have been advised by Ms Davidson from AECL that in some cases, e.g. in matters involving a tribally significant matter such as a statutory acknowledgement area, there might additionally be a need to consult with TRoNT. This differs to other districts where the takiwa is shared and there are multiple parties to consult with.
- 8.4.19 With respect to Westgarth et al [200.5] I do not consider SASM-P2 to be confusing and am unclear on how it is inefficient in terms of s32 of the RMA. I note that SASM-P2 relates to consultation and engagement being undertaken between landowners/applicants and Kāti Huirapa prior to applying for consent and/or undertaking activities. The purpose of SASM-P2 is to assist in understanding the potential impact of any activity on the site or area. It is not related to the identification of cultural values which has informed the identification of sites, and which, in accordance with SASM-P1, has been undertaken through the Council working with Kāti Huirapa.
- 8.4.20 With respect to Z Energy, I note that SCHED6 sets out the 'Site Types and Values' for each SASM. These are split into 5 categories – wāhi tūpuna; wāhi taoka; wāhi tapu, wai taoka and wai tapu – each of which is defined, with further detail on each category set out in the Mana Whenua Chapter. I note that the level of detail provided for each site listed in the Schedule is similar to that provided in SCHED8 – Schedule of Outstanding Natural Landscapes; SCHED9 – Schedule of Outstanding Natural Features; and SCHED10 – Schedule of Visual Amenity Landscapes. The level of detail is also similar to that provided in other plans for SASMs, such as the Mackenzie District Plan, the Partially Operative Selwyn District Plan and the proposed Waimakariri District Plan. It is common for objectives and policies to generally refer to 'values' of scheduled areas, with further detail on the values of a specific site contained in a

schedule. Therefore, I consider that the PDP already contains an appropriate level of detail around the values Kāti Huirapa have for each listed site or area. I also note that the policy direction in SASM-P2 is clear that the most appropriate way to obtain understanding of the potential impact of any activity on the site or area is via engagement with Kāti Huirapa. I consider the details in the PDP are therefore appropriate to provide general guidance on values are to be maintained, enhanced or protected, with consultation then providing more specific input in relation to the effects of any specific proposal on the values of any affected site. I do not consider that there is a disconnect between the values described in relation to SASM4 in SASM6A and the policy direction in SASM-P2.

- 8.4.21 For completeness, I note that in response to submissions on SASM-P8, I have recommended that two additional clauses be included in SASM-P2. This is set out below but is explained later on in this report.

Conclusions and Recommendations

- 8.4.22 I recommend that SASM-O1 is retained as notified.
- 8.4.23 I recommend that SASM-P1 is retained as notified (subject to a clause 16(2) change to correct spelling).
- 8.4.24 I recommend that SASM-P2 is amended as follows:

Encourage ~~and facilitate~~ consultation and engagement between landowners/applicants and applicants with Kāti Huirapa to:

1. *facilitate a better understanding of the cultural values of the sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa and the potential impact of activities on the site or area; and*
2. *recognise that consultation prior to applying for consent and/or undertaking activities within ~~or adjacent to~~ the identified sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa, ~~as being is~~ the most appropriate way to obtain understanding of the potential impact of any activity on the site or area; and*
3. *ensure that where an activity requiring resource consent is proposed within any sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa, there is engagement with Te Rūnanga o Arowhenua to understand the effects of the activity on the identified values of the site or area.*

- 8.4.25 In terms of s32AA, I consider that the changes to the stem and clause 2 of the policy are generally minor, and improve the drafting of the policy, without changing its intent. With respect to removing reference to adjacent sites in clause 2, I consider that this ensures alignment between the policy and rule framework as to how the objectives are to be achieved through the subsequent rule framework and is therefore more efficient.

8.4.26 With respect to the addition of clauses 1 and 3, I note that the s32AA evaluation for this is set out below.

8.5 Use of Sites for Cultural Practises and Access to these (SASM-O2, SASM-P3 and SASM-P4)

8.5.1 This section of the report discusses submission points relating to those provisions in the SASM chapter relate to the access to, and use of sites by Kāti Huirapa, being SASM-O2, SASM-P3 and SASM-P4.

8.5.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Stack, D	50.4
Moore, D and J	100.3
Peel Forest	105.3
Digby, M E	122.1
Fenlea Farms	171.29
Rooney, A J	177.11
OWL	181.58
Federated Farmers	182.82, 182.86, 182.87
ECan	183.58, 183.62, 183.63
TRoNT	185.93, 185.95
K J Rooney	197.4
Westgarth et al	200.2, 200.3, 200.4
Te Tumu Paeroa	240.6, 240.7
Jeaffreson, D and A	244.2

Submissions

8.5.3 ECan [183.58] supports SASM-O2 and seeks its retention, or the preservation of its intent.

8.5.4 Several submitters raise concerns with SASM-O2, in terms of the provision of access across private land. Stack, D [50.4] seeks that the objective is amended to reflect that there is no legal right to access private land, due to concerns that the current drafting of the objective implies that there is. Digby, M E [122.1] seeks that the objective is amended to limit the provision of access to publicly accessible land and considers that access should not have to be provided to private land without permission. Te Tumu Pareora [240.6] similarly considers that a qualifier to provision of access is required to recognise that SASMs affect private land, seeking that "*in agreement with affected landowners*" is added to the objective. OWL

[181.58] and Westgarth et al [200.2] note that health and safety requirements may mean that access is not always possible or appropriate. Westgarth et al [200.2] seeks amendments to the objective to recognise this, and OWL [181.58] seek that “*where appropriate*” is added to the start of SASM-O2. Jeaffreson, D and A [244.2]³⁴ seek that SASM-O2 is amended so that it does not apply to SASM6, as they are opposed to the provisions allowing Kāti Huirapa to be able to access, maintain, and use resources from the submitter’s land. Federated Farmers [182.82] considers that property rights need to be recognised and respected, and that access should be via consultation with, and permission from the landowners, outside the regulatory process. As such, the submitter seeks that the objective is amended as follows:

Kāti Huirapa are able to access if appropriate agreed to by private landowner, the ability to maintain and use resources and areas of cultural values within the identified Sites and Areas of Significance, access to sites that need to be identified in detail to landowners. Kāti Huirapa, following health and safety of the landowner, whilst not disturbing the welfare of animals and farm operations.

- 8.5.5 TRoNT [185.93] seeks that SASM-O2 is increased in scope so it can be considered when addressing potential cultural effects identified in other parts of the Plan, such as ONLs. It therefore seeks that reference is added to “cultural landscapes” in the objective.
- 8.5.6 ECan [183.62, 183.63] and Federated Farmers [182.86, 182.87] both support SASM-P3 and SASM-P4 and seek their retention, or the preservation of their intent.
- 8.5.7 Te Tumu Paeroa [240.7] seeks an amendment to SASM-P3 to expressly include all Māori landowners, not just Kāti Huirapa.
- 8.5.8 Fenlea Farms [171.29], Rooney, A J [177.11] and K J Rooney [197.4] are not opposed to the policies focusing on the protection of sites and characteristics that have value to Kāti Huirapa but considers that policies should “contemplate” health and safety, and the existing use of land affected by SASMs, including protection of those uses. The submitter seeks that SASM-P4 is amended to focus on the grant of safe access and to recognise the impact of access on existing rural activities.
- 8.5.9 Westgarth et al [200.3, 200.4] seeks that SASM-P3 and SASM-P4 are amended to recognise that access to and within SASMs on private land may not always be possible and/or appropriate for health and safety reasons.
- 8.5.10 Both Moore, D and J [100.3] and Westgarth et al [200.4] are concerned that SASM-P4 does not recognise that access onto private land might have health and safety effects or restrictions. Moore, D and J [100.3] and Peel Forest [105.3] also raise concerns about the effects of access on stock welfare. Moore, D and J [100.3] seeks that access to land is only gained from a relationship and not forced on a landowner by a regulatory authority. Peel Forest [105.3] seek that the policy is deleted or amended with respect to logistics and stock welfare.

³⁴ In the alternate to their property being removed from SASM6.

- 8.5.11 TRoNT [185.95] support SASM-P4 but seek changes to clarify the purpose and goal of enhancing access for specific cultural reasons and tikaka. The specific changes sought are:

Maintain or enhance existing access and ~~encourage landowners and applicants to explore opportunities and methods to enhance access~~, for Kāti Huirapa to the identified sites and areas listed in SCHED6 - Schedule of Sites and Areas of Significance to Kāti Huirapa for mahika kai, karakia, monitoring, cultural activities and ahi kā roa.

Analysis

- 8.5.12 With respect to access to private land, I note that the provisions in the District Plan do not override other legal requirements, including the legal rights of landowners in relation to access, and in relation to health and safety matters. The provisions in the PDP therefore do not of themselves require any landowner to provide access to any SASM. Mr Henry, in his evidence, also notes that Kāti Huirapa are not seeking to access private property without the permission of landowners, nor to use the SASM provisions to acquire land. I do however, tend to agree with submitters that the way SASM-O2 is worded seeks an outcome of access being provided to all resources and areas. Because of other legal requirements, I do not consider this outcome to be realistically achievable. I therefore recommend that the objective is reworded so that rather than being “able to” access SASMs, the outcome sought is more focused on access (along with the maintenance and use of resources and areas of cultural value) being maintained and where appropriate, enhanced. This provides for improvements to access, but in my view better recognises that for various reasons, access will not be possible or practicable.
- 8.5.13 With respect to including reference to “cultural landscapes” in the objective, as sought by TRoNT [185.93], I note that the SASM Schedule includes ‘wāhi tūpuna’ sites, which are defined as “*Broader geographical areas/ cultural landscapes that hold significant value to Kāi Tahu due to the concentration of wāhi tapu or taoka values, or the importance of the area to cultural traditions, history or identity...*” I therefore do not consider that additional and further reference to cultural landscapes is needed, given these are already included within the areas identified in SCHED6A.
- 8.5.14 I do not consider it appropriate to extend SASM-P3 to enable any Māori landowner to undertake customary harvest and other cultural practices within a SASM site, as sought by Te Tumu Paeroa [240.7]. I note that SD-O5 seeks that the mana whenua status of Kāti Huirapa is recognised and their historic and contemporary relationship with the district’s land is recognised and provided for. This includes (in iv. and vi.) that Kāti Huirapa retain, and where appropriate are able to enhance, access to their sites and areas of significance, and are able to carry out customary activities in accordance with tikanga. I consider that expanding the application of SASM-P3 is not related to achievement of this outcome, as it would apply to provisions to any Māori landowners, and not relate to those who hold mana whenua status (Kāti Huirapa). Although s6(e) of the RMA does not explicitly refer to mana whenua, I note that the matter to be recognised and provided for, is the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga. The extension sought by Te Tumu Paeroa, in my view, extends beyond this,

because it would apply the provisions in a way that extends beyond mana whenua, being those Māori who have a relationship with the ancestral lands, water, sites, wāhi tapu, and other taonga of the Timaru District. I therefore do not consider the changes to be appropriate to achieve the objectives of the PDP, nor to align with s6(e) of the RMA.

- 8.5.15 As per above, I note that the chapter is concerned with managing the effects of activities on the values of SASMs. I do not consider that it is the role of this chapter to protect existing land uses within SASMs (and again noting that such activities have existing use rights under s10 of the RMA).
- 8.5.16 With respect to the submissions which raise concerns in relation to health and safety matters, I note that health and safety obligations are not overridden by the provisions in the PDP. I therefore do not consider it necessary amend these policies to refer to “safe” access, given this is a matter that sits outside the PDP, nor to note that access may not always be possible and/or appropriate for health and safety reasons. I also note that SASM-P3 refers to customary harvest and other cultural practices being undertaken in accordance with tikaka, which I understand implicitly include health and safety consideration in any case. I also note that SASM-P3 is implemented, in the PDP, through a permitted activity status for indigenous vegetation clearance carried out by Ngāi Tahu whānui for the purposes of mahika kai or other customary uses (SASM-R3 PER-2) and for temporary cultural events undertaken in accordance with tikanga (SASM-R4 PER-1). These activities, while permitted through the PDP framework, do not negate the need for lawful access to be obtained (where required), nor for health and safety requirements to be met.
- 8.5.17 Having considered the wording of SASM-P3 and SASM-P4 I do not consider it necessary to amend them to “recognise the impact of access on existing rural activities”(as sought by Fenlea Farms [171.29], Rooney, A J [177.11] and K J Rooney [197.4]) – what is directed in these policies is that the Plan itself enables customary harvest and other cultural practices in SASMs; that existing access to SASMs is maintained; and opportunities to enhance access are encouraged. I do not consider that this direction results in a conflict with existing rural activities, such that additional direction in relation to this is required. I also do not consider that the wording of the policies amounts to “forcing” landowners to provide access.
- 8.5.18 With respect to the wording changes sought by TRoNT [185.95], I do have some concerns that amending it to direct enhancement of access (rather than encouraging opportunities) could be interpreted as meaning that access should be enhanced in all circumstances. This might then be implemented, for example, through imposition of a consent condition where a resource consent requirement is triggered for an activity within a SASM. While I consider that this would be an effective way to achieve SASM-O2, I consider that it would impose unreasonable costs to landowners.
- 8.5.19 With respect to clarifying the purpose and goal of enhancing access, I note that this change would limit the circumstances in which access is to be encouraged. The overarching objective (SASM-O2) does not however include such limitations. I consider that providing greater

clarity about the purpose of maintaining and enhancing access is appropriate and would better assist in outlining the aspect of the relationship of Māori within these areas that is sought to be recognised and provided for. However, I consider that it would be most appropriate to amend SASM-O2 to be more explicit in this regard as well. I therefore recommend that both SASM-O2 and SASM-P4 are amended to include the purpose for access being maintained or enhanced. In the recommended drafting, I have referred to “*customary use and cultural purposes*” in both the objective and policy, consistent with the wording used in SASM-P5. I consider that this still encapsulates those activities referred to by the submitter (TRoNT [185.95]), being “*mahika kai, karakia, monitoring, cultural activities and ahi kā roa*”, without being overly specific. I consider that this change will also partially address some of the submitters’ concerns outlined above in relation to SASM-O2, by providing greater clarity on the purpose for which access is sought to be maintained or enhanced.

Conclusions and Recommendations

8.5.20 I recommend that SASM-O2 is amended as follows:

Kāti Huirapa’s ~~are able to access to, maintain and use of,~~ resources and areas of cultural value within identified Sites and Areas of Significance to Kāti Huirapa, for customary use and cultural purposes, is maintained and, where appropriate, enhanced.

8.5.21 In terms of s32AA, I consider that the changes are a more appropriate way to achieve the sustainable management purpose of the RMA than the notified version. In particular, I consider that the notified version did not seek a realistically achievable outcome. In my view the changes still appropriately recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga in accordance with s6(e) of the RMA, but in a manner that is more realistically achievable through the District Plan. I consider that including greater clarity about the purpose for which the maintenance and enhancement of access is sought is appropriate, as it better assists in outlining the aspect of the relationship of Māori within these areas that is sought to be recognised and provided for in terms of s6(e) of the RMA.

8.5.22 I recommend that SASM-P3 is retained as notified.

8.5.23 I recommend that SASM-P4 is amended as follows:

Maintain existing access, and encourage landowners and applicants to explore opportunities and methods to enhance access, for Kāti Huirapa to the identified sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa for customary use and cultural purposes.

8.5.24 Under s32AA, I consider that this amendment will be more effective and efficient at achieving SASM-O2, in terms of the change recommended to that objective.

8.5.25 Collectively, I consider that the change to the objective and policy will better assist in outlining the aspect of the relationship of Māori within these areas that is sought to be recognised and provided for in terms of s6(e) of the RMA.

8.6 Protection of Values (SASM-O3, SASM-P5, SASM-P6, SASM-P7 and SASM-P8)

8.6.1 This section of the report discusses submission points relating to those provisions in the SASM chapter relate to the protection of the values of SASMs, being SASM-O3, SASM-P5, SASM-P6, SASM-P7 and SASM-P8.

8.6.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bonifacio, P	36.19, 36.20
TDC	42.34
Rangitata Dairies	44.12, 44.13
Heritage NZ	114.31, 114.32, 114.33
Transpower	159.67
Fenlea Farms	171.30
Rooney, A J	177.12
OWL	181.59
Federated Farmers	182.83, 182.88, 182.89, 182.90, 182.91
ECan	183.59, 183.64
TRoNT	185.94, 185.96
KiwiRail	187.53
K J Rooney	197.5
Westgarth et al	200.6

Submissions

8.6.3 ECan [183.59] and Heritage NZ [114.31] support SASM-O3 and seek its retention, or the preservation of its intent.

8.6.4 TRoNT [185.94] seeks that SASM-O3 is increased in scope so it can be considered when addressing potential cultural effects identified in other parts of the Plan, such as ONLs. It therefore seeks that reference is added to “*cultural landscapes*” in the objective. In addition, it seeks that reference is added to “*including inappropriate modification, demolition or destruction*” to SASM-O3.

- 8.6.5 Bonifacio, P [36.19] seeks that the objective is amended to clarify what “*inappropriate*” subdivision, use and development means, and who determines this.
- 8.6.6 Federated Farmers [182.83] states that SASMs should not affect the existing use rights of landowners and farming operations, and considers that recognition of the issue of climate change will give landowners an option to better mitigate the effects of this under the proposed plan. It therefore seeks addition of the following to the objective: “*unless it fits within the existing rights of the landowner, or as a mitigation to the effects of climate change.*”
- 8.6.7 ECan [183.64] and Heritage NZ [114.32] both support SASM-P5 and seeks its retention, or the preservation of its intent.
- 8.6.8 Rangitata Dairies [44.12, 44.13] notes that landowners and occupiers may also be able to aid in the protection of the identified values through awareness of cultural values where appropriate, while acknowledging the concerns rūnanga may have around the detailed information as to the specific location of sites. It seeks that SASM-P5 and SASM-P8 are amended by adding landowner/occupier awareness of the cultural values, including FEPs as methods to achieve the policies.
- 8.6.9 Federated Farmers [182.88] states that landowners need to be included in conversations and decisions regarding the SASM on their land, rather than the Council. It seeks that clause 3 of SASM-P5 is amended to add “*if on private land in agreement with the landowner.*”
- 8.6.10 TRoNT [185.96] support SASM-P5 but seek that it is increased in scope so that it can be considered when addressing potential cultural effects identified in other parts of the Plan. It also seeks clarification that the protection of values includes the restriction of some activities. It therefore seeks that protection of the values is extended to refer to the “*landscape*”, and for this to apply to “*other sensitive environments* (as well as to sites and areas listed in SCHED 6). The following additional clause is also sought to be added to the policy:
- requiring activities on or adjoining sites and areas of significance to Māori to minimise adverse effects on the cultural, spiritual and/or heritage values, interests and associations of importance.*
- 8.6.11 Federated Farmers [182.89] seeks that rules are linked to SASM-SCHED6 to provide certainty and focus limited resources. The submitter states that protections of these sites for their cultural values should not be funded by private landowners and asks the Council to recognise that farms still need to be able to operate economically around SASMs. It seeks that the following is added to SASM-P6:
- unless there is already a pre-existing use of the land which has minimal or no effect on the site. Existing use is always taken into consideration when protecting the sites.*

- 8.6.12 Federated Farmers [182.90] supports SASM-P7 and seeks its retention, or wording with similar effect.
- 8.6.13 Bonifacio, P [36.20] is concerned that SASM-P8 will require additional time and costs, despite the effects of farming activities being mitigated by existing practises and controlled through ECan's FEPs. The submitter seeks that the policy is amended to recognise that resource consents and FEPs exist for some of the activities specified, where all adverse effects are already mitigated as far as possible.
- 8.6.14 Heritage NZ [114.33] seeks that SASM-P8 is amended so that an ADP is only adopted where an Archaeological Authority has not already been issued by Heritage NZ, as such an authority is stated as superseding an ADP.
- 8.6.15 Transpower [159.67] seeks minor amendments to SASM-P8 to refer to "*as far as practicable possible*" and considers that reference should also be made to operational needs in addition to functional needs, in clause 3.
- 8.6.16 Fenlea Farms [171.30] Rooney, A J [177.12] and K J Rooney [197.5] oppose SASM-P8 as they consider that it does not recognise existing uses of land, and considers that reference to functional needs may not enable an existing activity to be efficiently carried out. These submitters state that activities within these overlays can be effectively managed with matters of control or discretion. The change sought to the policy is to amend clause 3(a) to read "*due to the are for the functional needs of the activity, it is not possible to avoid all adverse effects...*"
- 8.6.17 Federated Farmers [182.91] considers that non-regulatory methods should be preferred over the regulatory consenting framework, and states that accidental discovery of unrecorded heritage or cultural sites can be worrying for landowners including unknown costs and time delays. It seeks that the following is added to clause 2 of SASM-P8:
an accidental discovery protocol is prepared and adopted for any earthworks and assist resource users conducting activities near recorded sites and in the event of a discovery of unrecorded sites.
- 8.6.18 Westgarth et al [200.6] considers that SASM-P8 is confusing as it envisages consultation with Kāti Huirapa as the primary mechanism for determining cultural values, but notes that the values have already been identified in SCHED6 without consultation being undertaken, and questions whether this is consistent with SASM-O1, or meets the efficiency requirements under s32 of the RMA. The submitter is also concerned about the burden consultation would add to landowners. They seek that clause 1 of the policy is amended to direct engagement/consultation with Kāti Huirapa in relation to the activities identified in SCHED6 as posing a threat to the cultural values of the SASM within which the proposed activity will occur that are also identified in SCHED6.
- 8.6.19 TDC [42.34] and OWL [181.59] considers that to aid plan interpretation and for consistency, the policies in the SASM chapter should include similar provisions to that in NFL-P4.7.d, in

relation to regionally significant infrastructure/network utility provisions. KiwiRail [187.53] note that there are areas where regionally significant infrastructure is located within SASMs and seek amendments are made to the SASM chapter to provide a linkage to EI-O2 and EI-P2 to ensure regionally significant infrastructure can be located in SASM where there is a functional or operational need to be in that location.

Analysis

- 8.6.20 With respect to including reference to “*cultural landscapes*” in SASM-O3, I note that the SASM Schedule includes ‘wāhi tūpuna’ sites, which are defined as “*Broader geographical areas/ cultural landscapes that hold significant value to Kāi Tahu due to the concentration of wāhi tapu or taoka values, or the importance of the area to cultural traditions, history or identity...*” I therefore do not consider that additional and further reference to cultural landscapes is needed, given these are already included within the areas identified in SCHED6A. I do not consider it appropriate to add “*including inappropriate modification, demolition or destruction*” to SASM-O3 as this results in unnecessary repetition, given the objective already seeks to protect identified areas from any type of inappropriate use or development.
- 8.6.21 I note that reference to “*inappropriate*” activities is used in SASM-O3, at the objective level, to set out the outcome that is sought. What is then inappropriate, is expanded on in more detail at the policy level (in SASM-P5 to SASM-P8) and implemented through the rules. In particular, what is considered inappropriate differs depending on the values of different SASMs, and the particular adverse effects of an activity on those values. I do not consider there is a need to try and further define this at the objective level.
- 8.6.22 In terms of Federated Farmers’ submission [182.83], I note that the objective (and other provisions in the PDP) do not override existing use rights provided under s10 of the RMA and do not consider there to be a need to include reference to these in SASM-O3. With respect to adding reference to mitigation to the effects of climate change in SASM-O3, I do not consider it appropriate to amend the objective in this way, as in my view it would essentially result in any measures related to mitigating the effects of climate change trumping the values of SASMs. In my view, this does not appropriately balance the need to have regard to the effects of climate change under s7(i) of the RMA, with the direction 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 under s6(e).
- 8.6.23 I agree with Rangitata Dairies [44.12, 44.13] that landowners and occupiers may also be able to aid in the protection of the identified values. However, I consider that this is different to the direction in SASM-P5, which seeks protection through the retention/ protection/ maintenance of identified matters. In essence, I consider that protection is achieved through these being retained/ protected/ maintained, rather than through landowners being aware of the values. With respect to SASM-P8, I consider that clause 1 already encompasses broadly the matter raised by the submitter, by directing engagement with Rūnanga to understand the identified values of the site or area.

- 8.6.24 However, in response to this, (and other submissions discussed earlier in relation to engagement matters),³⁵ I consider that there is merit in, at a policy level, broadly seeking to facilitate a better understanding of the values of listed sites and areas to Kāti Huirapa, and the potential impact of activities on the site or area. Such policy direction would therefore act to more broadly encourage engagement with Kāti Huirapa to take place to understand values, not solely before a party applies for a resource consent. As this relates to consultation and engagement, I consider that this fits best as an additional clause within SASM-P2.
- 8.6.25 As noted earlier, I do not consider it necessary to include reference to agreement for access to be stated in the policies (as sought by Federated Farmers [182.88] in relation to SASM-P5.3) because the PDP provisions do not override other legal requirements to obtaining access. However, I do have some reservations about clause 3 being included in SASM-P5, as SASM-P5 relates to the ways in which the identified values of SASMs are to be protected. I consider that the maintenance and enhancement of access is more about the ongoing connection with the values of these areas, than it is a method for protecting the values of these areas. Given that SASM-P4 also already provides direction in relation to access, I consider it more appropriate to delete clause 3 from SASM-P5. I consider that this will address the concerns of the submitter and rationalise the framework in terms of how SASM-O2 is achieved.
- 8.6.26 With respect to TRoNT [185.96] I do not agree with adding reference to the landscape more broadly in SASM-P5, nor to other sensitive environments, as it is my view that it is unclear what these include and therefore when consideration of this policy would be required. As noted earlier, wāhi tūpuna already includes cultural landscapes that hold significant value to Kāi Tahu in any case. I also consider that the additional clause would necessitate additional restrictions and requirements being included in the rules for sites adjoining SASMs. I consider that requiring all activities to in all cases minimise adverse effects on cultural, spiritual and/or heritage values, interests and associations of importance is an extremely inefficient approach. It is my view that this would introduce additional costs, and that such restrictions may not be necessary to protect the values of SASMs as sought in SASM-O3. As such, I do not support the addition.
- 8.6.27 I do not support the additions to SASM-P6 sought by Federated Farmers [182.89] because this would duplicate the existing use rights provisions in s10 of the RMA and I do not consider this to be appropriate, nor necessary to achieve the outcomes sought in the SASM Chapter.
- 8.6.28 With respect to recognising that resource consents and FEPs exist for some of the activities specified (as raised by Bonifacio, P [36.20]), I note that other consents and FEPs manage the effects of activities for a different purpose than that of the provisions included in the SASM Chapter. In my experience, FEPs, in particular, relate to managing effects of land use activities on water quality rather than in relation to the effects of values on sites and areas of significance to Māori. I therefore do not consider that relying on these is sufficiently

³⁵ Including Bonifacio, P [36.18], Rangitata Dairies [44.11], Federated Farmers [182.84], Westgarth et al [200.5]

effective to achieve SASM-O3. I do note, however, that where the management of effects through other processes aligns with the policy direction and outcomes sought in the SASM Chapter, this will in any case be able to be taken into account in any resource consent process where consent is required under the SASM Chapter.

- 8.6.29 With respect to Heritage NZ's request [114.33] for SASM-P8 to be amended so that an ADP is only adopted where an Archaeological Authority has not been issued by Heritage NZ, I note that the submitter's underlying concern is discussed further below in relation to the rules relating to ADPs. At a policy level, I recommend that the policy is amended to refer to an ADP being adhered to (rather than prepared and adopted), to better align with the changes recommended to the rules.
- 8.6.30 I agree with amending SASM-P8 to replace "*possible*" with "*practicable*". This reflects that in some cases avoidance may strictly be "*possible*" but is not necessarily appropriate from a practical perspective. It is also consistent with the wording otherwise used in clause 3.b. I am also comfortable with adding reference to operational needs in addition to functional needs, in clause 3.a.
- 8.6.31 I do not consider that the specific changes sought to SASM-P8 by Fenlea Farms [171.30] Rooney, A J [177.12] and K J Rooney [197.5] make sense. I note that the policy will not apply to activities which have existing use rights. Further discussion is set out below in relation to rules that relate to earthworks associated with the maintenance of existing activities. I also note that matters of control or discretion set out what matters the Council will consider when processing a resource consent application. However, in considering those matters, the policy framework should provide further guidance on the appropriateness of the application, or the need to impose conditions, in relation to those matters. While I consider that SASM-P5 and SASM-P8 generally provide such direction, I do have concerns that the direction in SASM-P5 overlaps (and potentially conflicts) with clause 3 of SASM-P8. More specifically, I consider that SASM-P5 provides useful direction on the values of SASMs and how they are to be protected; whereas SASM-P8.3 more narrowly directs that all adverse effects on identified values are to be avoided. I have concerns that requiring all adverse effects on values to be avoided extends beyond what is required to protect the values from "*inappropriate subdivision, use and development*" (as sought in SASM-O3), as in effect it sets the threshold of what is appropriate as being a "*nil effect*". It is my view that this does not provide an appropriate balance between protecting resources which have important cultural values, and managing resources in a way that provides for the wellbeing of people and communities. I therefore recommend that SASM-P5 and SASM-P8 are, in effect, combined, with the direction being amended to avoid the adverse effects on identified values that would compromise those things set out in the notified version of SASM-P5. I consider this will assist in addressing the concerns of these submitters.
- 8.6.32 With respect to the additions sought to SASM-P8.2 by Federated Farmers [182.91], I accept that accidental discoveries can cause concern and have time and cost implications for landowners. However, I consider that the purpose of the policy is to set out how activities in

the identified SASMs are to be managed, and assisting resource users is not related to managing effects on SASMs. The addition is also not related to the achievement of any of the objectives in the SASM chapter.

- 8.6.33 With respect to Westgarth et al [200.6] I note that SASM-P8.1 is not related to the identification of cultural values which has informed the identification of sites, and which, in accordance with SASM-P1, has been undertaken through the Council working with Kāti Huirapa. The direction in SASM-P8.1 instead relates to engagement being undertaken with Kāti Huirapa to understand of the effects of any proposed activity on the identified values of the site or area. In considering the policy framework as a whole, I consider that it is somewhat inefficient, and potentially confusing, to have a policy (SASM-P2) specific to consultation and engagement, and then include additional direction about a particular aspect of this in a second policy. I therefore recommend that this clause 1 of SASM-P8 is essentially “shifted” into SASM-P2.
- 8.6.34 With respect to TDC [42.43], OWL [181.59] and KiwiRail [187.53], I note that NFL-P4 directs that subdivision, use and development within ONFs and ONLs is avoided, unless it meets the criteria set out in clauses 1-4 of that policy, and allows for other matters to be taken into account, including (at clause 7.d) the direction in EI-P2. EI-P2, in turn, directs that regionally significant infrastructure and other infrastructure is provided for, subject to adverse effects being appropriately managed in the manner set out in that policy’s sub-clauses. This includes (at EI-P2.1.a) “*seeking to avoid adverse effects on the identified values and qualities of ... Sites of Significance to Māori...*” I note that despite the reference to such sites in EI-P2, there is no cross-reference to EI-P2 in the SASM Chapter. I consider that in absence of a similar cross-reference to that used in NFL-P4.7.d, there will be a lack of clarity about how the policy direction in both the EI and SASM chapters works together. I therefore consider it appropriate for this to be included in SASM-P7 and SASM-P8 (recommended to become SASM-P5), which sets out how activities are to be managed within wāhi taoka sites; and wāhi tapu sites, wai taoka areas and wai tapu areas respectively.

Conclusions and Recommendations

- 8.6.35 I recommend that SASM-O3 is retained as notified.
- 8.6.36 I recommend that the following clause is added to SASM-P2:
1. facilitate a better understanding of the values of the sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa and the potential impact of activities on the site or area; and
- 8.6.37 In terms of s32AA, I consider that facilitating a better understanding of values of listed sites and areas will better assist in recognising these values in accordance with SASM-O3, and assist towards protecting them from inappropriate activities, through education and a greater shared understanding of the values.
- 8.6.38 I recommend that SASM-P6 is retained as notified.

- 8.6.39 I recommend that SASM-P8 is deleted, and SASM-P5 is amended as follows (including to incorporate aspects of SASM-P8):

Where an activity is proposed within any wāhi taoka, wāhi tapu, wai taoka or wai tapu overlay Protect the identified values of the sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa, protect the identified values of the site or area, through:

1. requiring adherence to an accidental discovery protocol for any earthworks; and
 2. avoiding adverse effects on identified values which would compromise the:
 - ~~1-a.~~ retention of connections to whakapapa, history and cultural tradition; and
 - ~~2-b.~~ protection of mauri and intangible values; and
 - ~~3.~~ maintenance or enhancement of access by whānau for customary use and cultural purposes; and
 - ~~4-c.~~ protection of site integrity; and
 - ~~5-d.~~ ensuring sustainability of ecosystems supporting taoka species and mahika kai resources;
- unless it can be demonstrated that:
- i. due to the functional needs or operational needs of the activity, it is not practicable to avoid all adverse effects; and
 - ii. any residual effects that cannot be practicably avoided are mitigated, as far as possible, in a way that protects, maintains or enhances the overall values of the site or area; or
 - iii. for infrastructure, adverse effects are managed in accordance with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure.

- 8.6.40 Under s32AA, I consider that combining SASM-P5 and SASM-P8 provides clearer policy direction to assess resource consents against. I consider that amending the direction to require that adverse effects which would compromise the matters listed in the policy, rather than the avoidance of all adverse effects on the values, is a more efficient way of achieving SASM-O3, recognising that what is “inappropriate” does not equate to nil adverse effects. For the reasons expanded on further below, I consider that it is effective to require adherence to an ADP, and more efficient to do so, than requiring preparation of an ADP on every occasion. I consider that the change to what is now clause 4 to allow consideration of “operational needs” and to replace “possible” with “practicable” is a more efficient approach that better recognises the balance being managing effects and the constraints to this from a practical or operational perspective. With respect to the deletion of SASM-P8.3.c, I consider that it is highly inefficient to require that where there are any adverse effects on identified values, that any historical loss of values must be remediated. In addition, I note that this direction is not related to avoiding, remedying or mitigating the adverse effects of any new proposal and therefore it does not relate to achievement of SASM-O3.

- 8.6.41 I recommend that SASM-P7 is amended as follows:

Within identified sites and areas listed in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa that support taoka species and mahika kai resources:

1. avoid adverse effects on taoka species and access for mahika kai except in relation to infrastructure that can demonstrate that adverse effects are managed in accordance

with EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure; and

2. *enable the maintenance and enhancement of these areas.*

8.6.42 In terms of s32AA, I consider that the changes to the policy provide greater clarity in relation to how it works alongside EI-P2 and avoids any potential conflicts between the policy direction across the two chapters. I consider that the changes are more efficient and effective at achieving EI-O2 while still achieving SASM-O3.

8.7 New Policies

8.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Federated Farmers	182.79, 182.80

Submissions

8.7.2 Federated Farmers [182.79, 182.80] are concerned that the SASM framework does not provide for existing activities to continue and considers that there should be recognition and provision for existing farming activities to continue, as long as the scale and intensity of effects do not/have not increased following the commencement date of the plan. They are also concerned in relation to access to private property to the sites of significance, stating that property rights need to be recognised and respected. As such, they seek a new policy: *“Provide recognition for grazing and farming activities that have not increased in their scale or intensity of effects from commencement date of the plan.”*

Analysis

8.7.3 With respect to providing recognition for existing activities to continue, I note that the chapter is concerned with managing the effects of activities on the values of SASMs. I do not consider the role of this chapter is to provide for particular activities more broadly. I note, in any case, that the policy wording sought by Federated Farmers [182.179, 182.80] essentially seeks to provide for ‘existing use rights’, which I do not consider to be necessary as these already apply.

Conclusions and Recommendations

8.7.4 No changes are recommended in response to this submission.

8.8 Rules – General

8.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Hargreaves, T	29.1
Stack, D	50.1, 50.7
Rangitata Dairies	44.11
MFL	60.23
Bloxham, W J	97.2
Peel Forest	105.5, 105.6, 105.7, 105.8, 105.10
McArthur, K and J	113.2
Te Kotare Trust	115.7
Hart, J R	149.3, 149.5
Federated Farmers	182.3
Westgarth et al	200.7
Rangitata Island Dairy	221.1, 221.3
Te Tumu Paeroa	240.8

Submissions

- 8.8.2 Te Tumu Paeroa [240.8] generally supports the rules in the SASM chapter.
- 8.8.3 Hargreaves, T [29.1] is opposed to regulations that require landowners to seek consent for undertaking their farming business and ignores the environmental enhancement role landowners already fulfil.
- 8.8.4 Rangitata Dairies [44.11] seeks that resource consents are only required where there is a particular need for them, such as for activities that pose threats to significant areas, recognising that the identified areas are broad.
- 8.8.5 Stack, D [50.1] is concerned with what he considers to be an overly consultative and restrictive approach with responsibilities held outside the Council. The submitter seeks that the approach is amended to reduce consultation requirements and to make Council staff responsible for the assessment. Stack, D [50.7] also seeks that activity status of the rules are amended to be less restrictive and focus on education of cultural values rather than assessment and restrictions; and that the need for consultation and conditions placed on consents are reduced.
- 8.8.6 MFL [60.23] seeks clarity on how rules relating to wai taoka overlay will be applied. The submitter questions whether there is a buffer either side of the overlay, or whether any rule that applies to the wai taoka overlay applies to a site in its entirety. The submitters considers that the latter would be unfair if the effect of the overlay applying to part of a site, particularly only a small part of the site, is that the rules apply to an entire farm.

- 8.8.7 Bloxham, W J [97.2] is concerned that the SASM chapter rules do not permit farming activities that have existing use rights. He seeks that the rules are amended to permit existing farming activities where water does not normally flow, including cultivation, pasture and crop planting, fertiliser application and livestock grazing and removal /maintenance of exotic vegetation.
- 8.8.8 Peel Forest [105.5, 105.6, 105.7, 105.8, 105.10] opposes a number of rules³⁶ on the basis that they do not agree with the mapping of SASM23.
- 8.8.9 Te Kotare Trust [115.7] considers that the rules associated with the SASM overlay are too restrictive, particularly in terms of making replacement or modification of dwellings, new buildings, regionally significant infrastructure and structures a non-complying activity. It considers a more permissive regime is appropriate for these activities because the Crown has made a historical commitment to enabling Māori to carry out their needs and wants on the land.
- 8.8.10 McArthur, K and J [113.2] seek that the rules are amended to ensure land can be developed in the future and does not constrain farming operations, with the Council recognising that farming continues to evolve and need to be provided for the ability to develop and create pathways of future sustainable development.
- 8.8.11 Hart, J R [149.3] acknowledges the importance of cultural values and the need to protect such values, but is concerned with the practical implications of the rules applying. The submitter states that their family has taken good care of their land and respected the values of wāhi taoka and wāhi tapu, including through weed control, fencing and limited earthworks and other modifications. The submitter seeks that the chapter is amended to *“avoid putting a ban on livestock grazing in restricted areas”*.
- 8.8.12 Federated Farmers [182.3], commenting broadly on sites of significance identified across the PDP, seeks that any restrictions that are placed across the private property is accurate and able to be backed by hard evidence.
- 8.8.13 Westgarth et al [200.7] seek that all rules are deleted and replaced with: a list of matters of discretion applied to restricted discretionary activities; and matters for assessing other types of resource consents, when resource consent is triggered under other District-Wide or Area-Specific rules in the PDP, for earthworks, buildings and structures, indigenous vegetation clearance, temporary events, mining and quarrying, shelterbelts, woodlots and forestry, subdivision and intensively farmed stock, and the proposed activity will occur within SASM, with such matters being focused on the effects of the activity on the values of the SASM identified in SCHED6. The submitter considers that the other rules in the PDP may provide sufficient protection of cultural values in SASMs from activities that pose a threat to such values, and considers that having specific matters of discretion may be a more efficient planning approach.

³⁶ SASM-R2, SASM-R3, SASM-R4, SASM-R5 and SASM-R7

- 8.8.14 Rangitata Island Dairy [221.1] has concerns that the rules restrict and overregulate farming, and while supporting the need to protect “*something physical or specific that has been identified*”, considers that the approach needs to give “*equitable weight to both iwi and private landowners*.” It seeks changes to the rule framework to balance environmental, cultural, social, and economic values while ensuring rules are equitable, cost-effective, pragmatic and effects based; to ensure it is easy to use and understand; acknowledge and reward the positive effects farming has on conservation; and recognise the importance of collaborating with rural communities to achieve desired environmental outcomes.
- 8.8.15 Rangitata Island Dairy [221.1] states that the Council’s advice that existing use rights prevail over the proposed rules is “flawed”, noting that regional council consents expire and, in their view, farming businesses will therefore be locked in to their current operations.

Analysis

- 8.8.16 With respect to Hargreaves, T [29.1], I note that there are other rules in the PDP, as well as in regional planning documents which regulate farming activities. Such provisions, including those in the SASM Chapter, relate to managing the effects of these activities to achieve the sustainable management purpose of the RMA, which includes the management of adverse effects of activities on the environment. I consider that environmental enhancement undertaken by landowners may form part of this, but does not negate the wider need to ensure sustainable management.
- 8.8.17 I agree with Rangitata Dairies [44.11] that resource consents should only be required where regulatory intervention is required to achieve the outcomes sought; and broadly with Federated Farmers [182.3] that any restrictions placed on private property through the rule framework should be based on evidence as to why the restriction is required to achieve the outcomes sought. I also agree broadly with Rangitata Island Dairy [221.1] that the rules should relate to activities which require management in order to protect the values which have been identified, and that consideration must be given to the range of costs and benefits associated with the approach. This is essentially the test required under s32 of the RMA, which requires consideration of whether rules are the most appropriate way to achieve the objectives of the PDP taking into account their costs and benefits, and their efficiency and effectiveness in achieving the objectives. This is considered further below with respect to each specific rule. In terms of amending the rules to ensure land can be developed in the future and does not constrain farming operations (McArthur, K and J [113.2]) I do not agree that the rules should be amended simply to remove constraints for farming operations, without consideration of any other matters, as this would not meet the requirements of s32, in terms of ensuring that rules are in place to achieve the objectives of the PDP.
- 8.8.18 The need to protect cultural values, in a way that appropriately considers this alongside the practical implications (or costs) of rules proposed is noted by Hart, J R [149.3]. I also acknowledge the works undertaken by landowners that have helped protect the cultural values, but do not consider that these can be solely relied on to protect these values into the

- future. Having considered the rules applying to SASMs, I note that none restrict livestock grazing.
- 8.8.19 With respect to Stack, D [50.1], as noted earlier, I consider it entirely appropriate for the Council's assessment of activities to be informed by input from experts. This is a common approach for other effects and in my view the same applies to effects on cultural values. With respect to the activity status of rules, I consider that this needs to be considered in the context of each rule, and in particular, in terms of how the activity status relates to the policy direction and ultimately the achievement of the objectives.
- 8.8.20 The rules relating to the wai taoka overlay apply to any area identified as such on the Planning Maps. Therefore, the rules in the SASM chapter only apply to that part of any site which is within the overlay. For example, earthworks controls under SASM-R1.2 only apply to the mapped areas. Activities undertaken outside the overlay are not subject to the rules. This is the same as applies to any other overlay which does not affect a whole site, for example ONLs, ONFs, heritage items and so on.
- 8.8.21 As noted earlier, existing use rights are provided for under s10 of the RMA. I do not consider it necessary, nor appropriate for the rules in the PDP to replicate these rights. With respect to the comments of Rangitata Island Dairy [221.1], I note that existing use rights do not apply to regional rules, but they do apply to activities managed under the PDP. Reviews of regional council consents are not managed under the PDP and the rules in the PDP have no bearing on such reviews.
- 8.8.22 With respect to SASM23, I note that the mapping of SASMs is addressed above. I consider broadly that rules are required in order to manage the effects that some activities may have on the values of the identified sites and areas. I therefore do not agree with deleting the rules on the basis of opposition to mapping of some areas.
- 8.8.23 With respect to Te Kotare Trust [115.7], I note that buildings and structures, including additions and alterations to existing buildings and structures and network utilities are managed under SASM-R2. I note that the activity status is permitted (subject to meeting controls on size and location) in the wāhi taoka overlay, and restricted discretionary in wāhi tapu and wai tapu overlays. There are no controls on these in the wāhi tūpuna or wai taoka overlays. No non-complying status is therefore proposed. Further consideration of SASM-R2 is also set out below.
- 8.8.24 I understand that the approach sought by Westgarth et al [200.7] is to remove any specific rules relating to SASMs from the SASM Chapter, but where resource consent is triggered by other rules in the PDP, and the activity is located within a SASM, matters of discretion would be included to allow consideration of the effects on the values of the SASM. This type of approach has been undertaken in Plan Change 24 to the Mackenzie District Plan, whereby the rules proposed for SASMs in that district plan are limited to those activities which are not otherwise considered to be adequately managed under other rules in that district plan. In addition to rules in the SASM Chapter, rules outside the SASM Chapter are therefore relied

on to manage effects on the values of the SASMs identified in the Mackenzie District. In the Christchurch District Plan, activities in wāhi tūpuna and ngā wai are not managed by specific rules, but cultural values require consideration where a consent is triggered for other reasons within these areas. However, specific rules apply to wāhi tapu and wāhi taoka areas.

8.8.25 At a broad level, I agree with removing or amending rules in the SASM Chapter which essentially duplicate other measures in the PDP, but only where those other measures will be equally effective at achieving the outcomes sought. I consider such an approach can be more efficient, but like the approach taken in Mackenzie or Christchurch this would need to include some SASM-specific rules; and consideration needs to be given to the rule package as a whole across the PDP, in terms of ensuring it achieves the Plan's objectives. Specifically, if effects on a SASM are to be managed under another rule in the PDP, such a rule must be sufficient to also achieve the SASM outcomes. For example, a key aspect of the Mackenzie District Plan is that there are tight controls on indigenous vegetation clearance outside the SASM chapters, and in most cases, wāhi tūpuna areas are aligned with the boundaries of ONLs, with rules relating to ONLs also managing effects on cultural values. I have therefore considered this submission in the assessment of each of the rules set out below.

8.8.26 I note that this approach is also acknowledged in the AECL Report, where it was accepted that controls for other reasons may be sufficient to manage effects on the cultural values of taonga – an example being that *“there may be a relatively close alignment between controls to manage the natural character of riparian areas and controls that would be appropriate to manage effects on the cultural values of wai taonga.”*³⁷ However, for other things – an example being control of large scale earthworks – it was stated as being likely to be ineffective to manage effects of disturbance of wāhi tapu. It was also accepted that direct consent requirements for activities that pose threats to significant areas would likely be very effective, but could only be justified *“in terms of benefits and costs, if it is appropriately targeted to activities that are highly likely to result in adverse effects.”*

Conclusions and Recommendations

8.8.27 I do not recommend any changes in response to these submissions, except where set out below in relation to consideration of specific rules.

8.9 Earthworks - SASM-R1

8.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rabidge, Singline and RSM Trust	27.4

³⁷ Aoraki Environmental Consultancy Ltd (2020). *Timaru District Plan Review: Report on Sites and Areas of Significance to Māori*, p. 40-43.

Pye Group	35.1
Bonifacio, P	36.21
King et al	43.1, 43.3
Rangitata Dairies	44.14
OSA	51.3
Hart, J	58.4
MFL	60.22
Dairy Holdings	89.9
Moore, D and J	100.4
Peel Forest	105.4
Heritage NZ	114.34
McArthur, K and J	113.4
Te Kotare	115.28
Z Energy	116.12
Connolly, S	136.1
Southern Proteins	140.13
Waka Kotahi	143.80
Fonterra	165.79
Broughs Gully	167.48
Hilton Haulage	168.3
Silver Fern Farms	172.46
Alliance Group	173.45, 173.46
Rooney Holdings	174.28
Federated Farmers	182.92
TRoNT	185.98
Waipopo Huts	189.40
North Meadows	190.9
Rooney, GJH	191.28
Rangitata Island Dairy	221.5
Aitken et al	237.14
Rooney Group	249.28
Rooney Farms	250.28
Rooney Earthmoving	251.28
TDL	252.28

Submissions

- 8.9.2 I firstly note that SASM-R1 includes requirements (in SASM-R1.1 PER-2 and SASM-R1.2 PER-4) in relation to adherence to an Accidental Discovery Protocol (ADP). Submissions relating to this aspect of the rule are discussed in the next section.
- 8.9.3 A number of submitters raise concerns that SASM-R1 is too restrictive on ongoing farming operations. For example:
- it does not allow for remedial/repair/reinstatement work on irrigation or domestic water pipes and cables,³⁸ earthworks to re-instate farm infrastructure after a flood event,³⁹ and as these activities need to occur with urgency, having to obtain consent is not practical.
 - it is likely to result in accidental non-compliance, require multiple consents and does not account for routine maintenance, which often needs to happen urgently without the time to sort out resource consent.⁴⁰
 - it is too restrictive on earthworks associated with ongoing farming activities.⁴¹
 - 750m² is too restrictive for earthworks associated with primary production, as is the requirement for all earthworks within SASM-R1.3 being restricted discretionary.⁴²
 - it does not allow for every-day-type maintenance farming activities required to maintain and improve properties, such *“shallow ripping of wet areas to break up pans to enable water to dissipate into the topsoil layer, contouring to enable water flow (to avoid ponding), backfilling to eliminate ‘low spots’, installing culverts to enable flow and eliminate ponding, filtering buffer areas to discharge points.”*⁴³
 - it will financially impact on the ability to maintain and operate farms.⁴⁴
 - in relation to SASM23, much of the land is farmland that has previously been disturbed.⁴⁵
 - it is excessive to require consent for small-scale low-impact earthworks.⁴⁶
 - it does not acknowledge that tracks are vital for the health and safety of workers and also for maintaining animal and soil health.⁴⁷

³⁸ Pye Group [35.1], Rangitata Dairies [44.14]

³⁹ Rangitata Dairies [44.14]

⁴⁰ Hart, J [58.4]

⁴¹ Moore, D and J [100.4], McArthur, K and J [113.4], Federated Farmers [182.92], Rangitata Island Dairy [221.5]

⁴² Rooney Holdings [174.28], GJH Rooney [191.28], Rooney Group [249.28], Rooney Farms [250.28], Rooney Earthmoving [251.28], TDL [252.28]

⁴³ Dairy Holdings [89.9]

⁴⁴ Connolly, S [136.1], Federated Farmers [182.92], Rangitata Island Dairy [221.5]

⁴⁵ Pye Group [35.1]

⁴⁶ Bonifacio, P [36.21]

⁴⁷ Bonifacio, P [36.21], Federated Farmers [182.92]

- the 750m² limit is not workable for earthworks around new/existing structures, such as woolsheds/farm sheds from the colonial era which are larger than this.⁴⁸

8.9.4 Changes sought include amending the rule to:

- delete the listed items in SASM-R1.2, PER-1 and instead apply it to the maintenance, repair or replacement of *“any existing infrastructure or development”* with an additional standard being added to the rule requiring that *“The earthworks will only disturb previously disturbed soils (i.e. top 30cm of cultivated farm land)”*.⁴⁹
- enable the repair and re-instatement of existing irrigation systems, and house water pipelines as a permitted activity, on the same basis as for stockwater systems; and to enable earthworks for remedial works to reinstate on a like for like basis farmland and infrastructure following a flood event as a permitted activity.⁵⁰
- exempt digging up ground that has already been excavated.⁵¹
- exempt emergency work for the repair of the irrigation mainline.⁵²
- acknowledge the breadth of small-scale low-impact earthworks undertaken on a farm.⁵³
- delete SASM-R1.3 and apply SASM-R1.1 to the wāhi tapu and wai tapu overlays⁵⁴ or otherwise permit earthworks within the wāhi tapu overlay.⁵⁵
- enable ancillary rural earthworks to be undertaken as a permitted activity.⁵⁶
- increase the permitted volume to 1000m²⁵⁷ or 2000m².⁵⁸
- include reference to animal welfare needs in PER-1.2.⁵⁹

8.9.5 Moore, D and J [100.4] seeks that earthworks on their land are able to be undertaken through *“a collaborative decision between us as the land owners and the local rūnanga advising us on how to protect the areas needed.”*

8.9.6 Peel Forest [105.4] opposes SASM-R1 in its entirety, except for the ADP requirement.

⁴⁸ Federated Farmers [182.92]

⁴⁹ Pye Group [35.1]

⁵⁰ Rangitata Dairies [44.14]

⁵¹ Connolly, S [136.1]

⁵² Connolly, S [136.1]

⁵³ Bonifacio, P [36.21]

⁵⁴ Rooney Holdings [174.28], GJH Rooney [191.28], Rooney Group [249.28], Rooney Farms [250.28], Rooney Earthmoving [251.28], TDL [252.28]

⁵⁵ Hart, J [58.4]

⁵⁶ Dairy Holdings [89.9]

⁵⁷ Federated Farmers [182.92]

⁵⁸ Rooney Holdings [174.28], GJH Rooney [191.28], Rooney Group [249.28], Rooney Farms [250.28], Rooney Earthmoving [251.28], TDL [252.28]

⁵⁹ Federated Farmers [182.92]

- 8.9.7 Southern Proteins [140.13], Brouchs Gully [167.48], Hilton Haulage [168.3] and North Meadows [190.9] consider that in the wāhi tūpuna overlay, PER-1 is not necessary, as PER-2 appropriately provides for accidental discoveries, and therefore these submitters seek that PER-1 is deleted in full. If PER-1 is retained, Brouchs Gully [167.48] seeks that the matter of discretion relating to utilities is amended to refer to a “*network utility*” to align with the definition in the PDP.
- 8.9.8 Silver Ferm Farms [172.46] and Alliance Group [173.45] seek that SASM-R1.1 is amended to align the permitted maximum earthworks area with the limits and timescales specified for the underlying zones in EW-S1, as, in their view, the rule will otherwise generate a requirement for repetitive, inefficient earthworks consent applications once the initial 750m² allowance is expended. These submitters consider that the ADP requirement is appropriate to manage accidental discoveries. Alliance Group [173.46] seeks that SASM-R1.2 is also amended to align the permitted maximum earthworks area with the limits and timescales specified for the underlying zones in EW-S1. Aitken et al [237.14] similarly seeks that SASM-R1 is amended to align with the volumes applied in the Zone activity standards, stating that the inclusion of activity standards for earthworks in both the SASM and the EW chapters is not efficient, particularly where there is the discrepancy between the standards and the existence of two separate rules results in a duplication of assessment for the same activity.
- 8.9.9 TRoNT [185.98] supports SASM-R1 but submits that clarification on the amount of earthworks permitted is made to include depth in the calculation and have it limited to 750m³ (cubic metres rather than square metres) and reference to “*per site*” added.
- 8.9.10 Te Kotare [115.28] and Waipopo Huts [189.40] seeks that the rule is amended to permit earthworks outside of the footprint of a building, if they are required to upgrade and/or replace an existing building of the same or similar footprint.
- 8.9.11 Fonterra [165.79] seek that the rule is amended to exclude earthworks undertaken at the Clandeboye site due to the heavily modified nature of the site.
- 8.9.12 Z Energy [116.12] seeks that the rule is amended to clarify the permitted quantum in SASM-R1 PER-1, for example, whether the 750m² limit is calculated on a staged basis or across the site, and over what time period.
- 8.9.13 Waka Kotahi [143.80] supports SASM-R1.1 and SASM-R1.2 as notified, as they provide for earthworks associated with the maintenance of roads within the wāhi tūpuna, wāhi taoka and wai taoka overlays, allowing for maintenance of the safe and efficient functioning of the State Highway networks.
- 8.9.14 In relation to SASM-R1, King et al [43.3] and OSA [51.3] seek that a full CIA, focusing on compliance with SASM-R1, within the boundaries of SASM-4 should be undertaken by the Council as soon as practicable, to avoid individual ad hoc reports being undertaken by

landowners, given the size of SASM-4, and because the submitter considers that individual reporting initiated and paid for by individual landowners is inappropriate.

Analysis

- 8.9.15 At a broad level, I do not agree that a “discrepancy” arises with having rules managing earthworks in both the earthworks chapter as well as the SASM chapter. There are other district-wide rules which similarly supersede the rules otherwise applying, for example, earthworks are also managed in ONLs through rules in the NFL Chapter which place additional controls over and above those in the earthworks chapter. The question instead is whether the additional controls are needed to achieve outcomes sought. I note that within the Earthworks chapter, earthworks in the GRUZ and Rural Lifestyle Zone (RLZ) are permitted, without limit, for any permitted primary production activity and for any ancillary rural earthworks, and for other activities, there is a volume limit of up to 2000m² (EW-S1) applying in any 12-month period, per site. (Lower volume limits apply in other zones.) Within the rural area, these district-wide rules would allow for any volume of earthworks for activities such as constructing new farm tracks and roads, stock races, farm drains, effluent ponds and so on.
- 8.9.16 The AECL Report identifies that earthworks are a threat to the values of SASMs, including through modification of the landscape or landforms and the impact this has on connections to whakapapa, history and cultural traditions; changes to land drainage (and therefore the values associated with waterways); and the disturbance caused by earthworks to site integrity. There is also acknowledgement however that the ability to manage the effects of earthworks needs to be balanced against the reasonable expectation of people to be able to undertake the activities provided for in the underlying zone.⁶⁰ Taking this into account, I do not agree with submitters⁶¹ seeking that SASM-R1.1 PER-1 is deleted and/or the volumes in SASM-R1.1 and SASM-R1.2 are simply aligned with the zone standards, as this essentially means the district-wide earthworks rules only would apply, and in my view, taking into account the AECL Report, these will not always be sufficient to ensure achievement of the SASM-O1 or SASM-O3.
- 8.9.17 However, I do agree with submitters that the rules could be expanded in a manner that still protects these areas from inappropriate use and development, while better aligning with the activities anticipated in the underlying zoning. In particular I consider that it is appropriate to expand the list of “existing” activities in SASM-R1.1 PER-1.2 (relating to the wāhi tūpuna overlay) to also include pipelines (which would encompass both domestic and irrigation supply pipes) and buildings, noting that the standard limits this to ground which has previously been modified in relation to these; and to also include repair and replacement (in addition to maintenance) of the listed items. I consider that the main potential adverse effects of earthworks activities associated with the listed activities will have occurred when

⁶⁰ Aoraki Environmental Consultancy Ltd (2020). *Timaru District Plan Review: Report on Sites and Areas of Significance to Māori*, p. 43.

⁶¹ Southern Proteins [140.13], Broughs Gully [167.48], Hilton Haulage [168.3], Silver Fern Farms [172.46], Alliance Group [173.45], North Meadows [190.9], Aitken et al [237.14]

the item was installed, and any additional earthworks will not have additional adverse effects of a level that warrant a resource consent being required.

- 8.9.18 In considering other earthworks, I note that the rule will not apply to cultivation, as this is exempted from the definition of earthworks. For other activities in the GRUZ and RLZ, I consider that a higher limit for earthworks in the wāhi tūpuna overlay is appropriate to balance the protection of the values within these areas from inappropriate use and development, with provision for activities anticipated in these rural zones. I therefore consider it appropriate to increase the permitted limit to 2000m², which aligns with the limit applying in the Earthworks Chapter for “other” activities in these zones. This is still more stringent than the rules otherwise applying in these zones, because within the wāhi tūpuna overlay, the 2000m² would also apply to ancillary rural earthworks and other earthworks associated with a primary production activity.
- 8.9.19 For earthworks in other zones, I note that the wāhi tūpuna overlay encompasses parts of Timaru and all of Temuka. I do not consider it necessary for the rule to apply to residential zones, because under EW-S1 the limit is lower – 250m² per site in any 12-month period. I also note that the limit applying in other zones⁶² is already 2000m². From an efficiency perspective I therefore do not consider that SASM-R1 need apply in addition to the zone limits, but consider that to be effective in achieving the SASM objectives, matters of discretion relating to effects on the values of SASMs should be added to EW-S1, which would apply when the earthworks exceed the specified volume, and are being undertaken in the wāhi tūpuna overlay.
- 8.9.20 I also note that the majority of SASM6 is located within either an ONL or a VAL. Within these areas, earthworks are already tightly controlled under NFL-R2, with earthworks which are beyond the maintenance and repair of existing items being discretionary. Because of this, I consider that it would be more efficient to exclude the application of SASM-R1.1 to those parts of SASM6 which are within these areas. As a fully discretionary activity, the effects of earthworks on the values of the SASM are already able to be taken into account. However, to alert Plan users to this, I recommend that a note is added to the NFL rule regarding consultation with Te Rūnanga o Arowhenua.
- 8.9.21 With respect to TRoNT’s request [185.98] to change the limit from square metres to cubic metres, I note that this change would not be consistent with the way earthworks are managed across the PDP. I do however recommend amending the rule to apply it “*in any 12-month period per site*”, as I consider that the current drafting is not clear as to where and when the limit applies and is therefore ambiguous. The additional wording aligns the approach taken in the earthworks standards.
- 8.9.22 With respect to excluding earthworks undertaken at the Clandeboye site, I note that the site is located within a wāhi tūpuna overlay (SASM5). The specified values of this area are stated

⁶² Settlement Zone, Commercial and mixed use zones, General Industrial Zone, Open Space and Recreation zones, Port Zone and Māori Purpose Zone.

as being related to it being part of a network of hapua and repo extending from the Ōpihi to the Rangitata that were important for mahika kai. Other values include kāika and urupā.⁶³ In my view, relying on the evidence of Mr Henry, the modification of a site does not remove these values. The recommended changes above will however modify the rule so that it does not apply within any area zoned General Industrial; however where the volume of earthworks exceeds 2000m² and consent is triggered under the Earthworks Chapter, the recommended changes will still allow consideration of effects of the earthworks on the identified values.

- 8.9.23 Within the wāhi taoka overlay, I consider that the rule as notified is too restrictive, given that it applies to large areas of land zoned GRUZ, and only allows for earthworks related to maintenance, repair, or replacement of existing items, thereby requiring consent for earthworks beyond this. From an efficiency point of view, I consider that it is more appropriate to combine the rule applying within the wāhi tūpuna and wāhi taoka overlays, which would in essence allow for a level of permitted earthworks (2000m²) in the latter.
- 8.9.24 Within the wai taoka overlays, I note that these areas relate to waterbodies. The NATC Chapter also manages activities, including earthworks, within defined margins of waterbodies. Of note, earthworks within these areas are permitted where they relate to the maintenance and repair of existing fences, tracks, roads or natural hazard mitigation works; and for the operation, maintenance or repair of the National Grid. In the s42A Report for the NATC Topic, it is recommended that this is extended to also include the maintenance and repair of existing railways, stock water systems and irrigation systems; the operation, maintenance or repair of regionally significant infrastructure; and earthworks associated with the replacement of, or expansion to, an existing building or structure, permitted under NATC-R5.⁶⁴ To avoid a large amount of duplication and overlap, I recommend that SASM-R1 is amended so that it only applies to areas within the wai taoka overlay which are outside a 'riparian margin', as that is defined. I then recommend that additional matters of discretion are added to NATC-R3 specific to SASM values (with the matters largely reflecting those contained in the SASM Chapter, with some refinement.)
- 8.9.25 Within the wāhi tapu overlay, I similarly consider that the rule as notified is too restrictive, as a resource consent would be required for any earthworks whatsoever. I consider it appropriate to permit earthworks associated with the maintenance, repair, or replacement of existing items within these areas, on the basis noted above – that the adverse effects of earthworks associated with the listed activities will have occurred when the item was installed, and any additional earthworks will disturb land that has already been previously disturbed, and in my view will therefore not have additional adverse effects of a level that warrant a resource consent being required (noting that the ADP will also still apply). I also note that some wāhi tapu sites are located in developed urban areas. Again noting the earthworks volume thresholds that apply in these areas, the existing development, and the

⁶³ SCHED6A – Wāhi Tūpuna Areas

⁶⁴ It is recommended that NATC-R5 permits expansions to existing buildings of up to the lesser of 50m² or 25% of the existing footprint.

activities anticipated by the underlying zoning, I consider it appropriate to exclude the application of the rule to these sites. Again, I consider that it is more efficient to add further matters of discretion to the rules in the Earthworks chapter, so that when a consent is otherwise triggered, effects on the cultural values is part of the consideration of that consent.

- 8.9.26 I have also specifically considered SASM8 and SASM9 which are areas containing rock art. I note that the mapping of these areas extends beyond the rock art itself and includes the surrounding areas. Mr Henry states that rock art sites form a part of the wider cultural landscape, which includes springs (waipuna), natural waterways and wetlands, with the landscape providing linkages to mahika kai, providing food, drinking water, resources, and the ability to transport goods. This reflects that it is not just the rock art itself that is significant, but that the rock art is there because these areas were important places to mana whenua. This is reflected in the mapping not being restricted to just the rock art. In terms of the size of the area that is mapped, I understand that rock art sites are inherently fragile, and can therefore be impacted by adjacent land use activities, and changes in the wider environment surrounding the sites. Activities involving or affecting the freshwater environment can, in particular adversely affect the surface condition of rock art pigments.⁶⁵
- 8.9.27 I note that within the mapped extent of these SASMs, Significant Natural Areas (SNAs) have also been identified. Within these SNAs, there are controls on earthworks (under ECO-R5). Notably, earthworks are only permitted in SNAs where they are within 2m, and for the purpose of the maintenance, repair or replacement, of existing lawfully established vehicle tracks, roads, walkways, firebreaks, drains, ponds, dams, waterlines, waterway crossings, or utilities. There are also controls (under ECO-R1.1) on the clearance of indigenous vegetation. Taking this into account, I do not consider there to be a need to effectively replicate the earthworks rule within these wāhi tapu sites. Outside of the mapped SNA areas (but otherwise within the mapped extent of SASM-8 and SASM-9) and taking into account the zoning is GRUZ, I consider that it is inefficient to require a resource consent for earthworks, provided that an ADP is applied. This reflects my understanding that a key issue in the area surrounding rock art sites relates to activities that change the freshwater environment, and the technical reporting⁶⁶ in relation to this does not identify a concern with earthworks in this respect.
- 8.9.28 Within the wai tapu overlay, I similarly consider that it is appropriate to permit earthworks associated with the maintenance, repair, or replacement of existing items within these areas; and that as these areas relate to waterbodies, it is more efficient to manage

⁶⁵ *Guideline for implementing a land-based taonga risk and vulnerability assessment in the context of freshwater environments: Māori Rock Art.* (November 2018). Gyopari, M. & Tipa, G. With contributions from Symon, A. & Scott, J., page 3. Refer to Appendix 5.

⁶⁶ *Guideline for implementing a land-based taonga risk and vulnerability assessment in the context of freshwater environments: Māori Rock Art.* (November 2018). Gyopari, M. & Tipa, G. With contributions from Symon, A. & Scott, J. Refer to Appendix 5.

earthworks in these areas which do not relate to maintenance, repair, or replacement, through the NATC chapter.

- 8.9.29 It is my view that amending the rule to provide for earthworks for “*animal welfare needs*” is not sufficiently certain as to what it encompasses and therefore not appropriate to include in a permitted activity rule.
- 8.9.30 With respect to allowing for earthworks to be undertaken through a collaborative decision between land owners and rūnanga, I note that this is supported, to an extent, through the provisions in the chapter already, in terms of encouraging engagement prior to consent applications being made or activities taking place, to obtain understanding of the potential impact of any activity on the site or area (SASM-P2). However, in the absence of rules relating to earthworks, there is no guarantee that input from rūnanga would be sought. I have also given consideration to whether a standard could be included, whereby earthworks would be permitted if approved by Te Rūnanga o Arowhenua. I consider there is a difficulty with such a standard, as in reading the plan rules, parties would not know if the earthworks are permitted; nor would it be clear in what circumstances approval would be given (or withheld). In particular, the approval would not be like a technical certification process where certification is undertaken against objective criteria. I also note that the approval might be subject to conditions. Given all of these factors, I have concerns that such a standard would not be sufficiently certain for use in a permitted activity rule and that the process required to obtain approval would likely be similar to that undertaken through a consent process in any case and therefore I do not consider a great deal of efficiency would be obtained.
- 8.9.31 As I have recommended that SASM-R1.1 PER-1.1 be retained, I agree with Brouchs Gully [167.48] that the matter of discretion relating to utilities should be amended to refer to a “*network utility*” to align with the definition in the PDP. I recommend that similar changes are made to the related matter of discretion.
- 8.9.32 I consider that the Council commissioning of a Cultural Impact Assessment for SASM-4 is a matter which sits outside the PDP and is for the Council to consider as part of its other functions. I would however note that it is common for landowners who wish to undertake an activity to commission and fund technical assessments required in relation to that activity, for example, commissioning of a landscape assessment for earthworks within an identified landscape area.

Conclusions and Recommendations

- 8.9.33 I recommend that the following note is added to NFL-R2:

Where the earthworks are also located within the wāhi tūpuna overlay, engagement with Te Rūnanga o Arowhenua should be undertaken to understand the effects of the activity on the identified values of the site or area.

- 8.9.34 I recommend that the following matters of discretion are added to NATC-R3:

Activity status where compliance not achieved with CON-1: Restricted Discretionary**Matters of discretion are restricted to:**

1. *the extent of any adverse effects on the overall natural character of an area by reference to the values listed in NATC-P1; and*
2. *the nature of any proposed mitigation measures that contribute to the preservation, maintenance or enhancement of the natural character values of the area; and*
3. *the extent to which alternative practicable options have been considered and their feasibility; and*
4. *the extent to which any restoration or rehabilitation of the natural character of the area is proposed; and*
5. *whether there is a functional need, or in relation to infrastructure an operational need, for the activity to locate in a riparian margin; and*
6. *the extent to which appropriate erosion and sediment control measures are to be implemented.*
7. *where the earthworks are within a wai taoka or wai tapu overlay:*
 - a. *whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and*
 - b. *the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and*
 - c. *the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and*
 - d. *whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and*
 - e. *the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and*
 - f. *the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:*
 - i. *affirm the connection between mana whenua and place; or*
 - ii. *enhance the cultural values of the site/area; or*
 - iii. *provide for the relationship of Kāti Huirapa with their taoka; or*
 - iv. *maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance**commensurate with the scale and nature of the proposal;*
 - g. *where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses; and*
 - h. *in respect of utilities, the extent to which the proposed utility has functional needs or operational needs for its location.*

8.9.35 I recommend that the following matters of discretion are added to EW-S1.2 and EW-S1.3:

Matters of discretion are restricted to:

1. *dust nuisance, sedimentation, land instability, erosion and contamination effects; and*
2. *the impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks; and*
3. *the impact on visual amenity and landscape character; and*
4. *the impact on any overland flow paths; and.*

5. where the earthworks are within a wāhi tūpuna, wāhi taoka or wāhi tapu overlay:
- a. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and
 - b. the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and
 - c. the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and
 - d. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and
 - e. the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and
 - f. the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:
 - i. affirm the connection between mana whenua and place; or
 - ii. enhance the cultural values of the site/area; or
 - iii. provide for the relationship of Kāti Huirapa with their taoka; or
 - iv. maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal; and
 - g. where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses.

8.9.36 I recommend that SASM-R1 is amended as follows (noting this incorporates recommended changes to the matters of discretion which are discussed later in this report):

SASM-R1	Earthworks not including quarrying and mining	
<p>1. <u>Within the General Rural Zone or Rural Lifestyle Zone and within one or more of the following:</u></p> <p><u>Wāhi Tūpuna Overlay (outside an ONL or</u></p>	<p>Note: for earthworks associated with quarrying and mining, see SASM-R5</p> <p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>The activity is either:</p> <ol style="list-style-type: none"> 1. earthworks, including those associated with and under new buildings/structures and those necessary for the installation of infrastructure / network utilities, do not exceed a maximum area of <u>7502000m² in any 12-month period per site</u>; or 2. earthworks for the purpose of maintaining, <u>repairing or replacing existing fences, roads, tracks,</u> 	<p>Activity status when compliance not achieved: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and 2. whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and 3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values as

<p><u>VAL overlay</u></p> <p>(excluding the Māori Purpose Zone)</p> <p><u>Wāhi taoka overlay</u></p> <p><u>Wai taoka overlay (outside a riparian margin)</u></p> <p><u>Wai tapu overlay (outside a riparian margin)</u></p>	<p><u>pipelines, building or natural hazard mitigation works, and are within the footprint or the area of ground previously modified ground</u> comprised by the existing road, track, pipeline, building, or natural hazard mitigation works; <u>or</u></p> <p>3. <u>earthworks authorised by the Canterbury Regional Council for maintenance of existing rock weirs and river works to the same level and extent as occurring as at 1 January 2000; and</u></p> <p>PER-2 <u>Except where an Archaeological Authority has been obtained from Heritage New Zealand Pouhere Taonga, the earthworks are undertaken in accordance with the Accidental Discovery Protocol commitment form, contained within APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol, has been completed and submitted to Council, at least 2 weeks prior to the commencement of any earthworks.</u></p>	<p><u>identified through engagement with Te Rūnanga o Arowhenua; and</u></p> <p>4. effects on sites where there is the potential for koiwi or artefacts to be discovered, including consideration of the need to implement an accidental discovery protocol or have a cultural monitor present, and whether an accidental discovery protocol has been agreed with Te Rūnanga o Arowhenua; and</p> <p>5. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and</p> <p>6. the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and</p> <p>7. <u>whether the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:</u></p> <ol style="list-style-type: none"> <u>affirm the connection between mana whenua and place; or</u> <u>enhance the cultural values of the site/area; or</u> <u>provide for the relationship of Kāti Huirapa with their taoka; or</u> <u>maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal; and</u> <p>8. any opportunities to maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance; and</p> <p>9. where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses; and</p> <p>10. in respect of <u>network utilities</u>, the extent to which the proposed <u>network utility has functional needs or operational needs for its location.</u></p>
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		Note: Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.
2. Wāhi Taoka and Wai Taoka Overlay	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The earthworks are for the purpose of maintenance, repair, or replacement, of any of the following:</p> <ol style="list-style-type: none"> 1. existing fencing; or 2. existing tracks or roads; or 3. existing reticulated stock water systems including troughs; or 4. existing natural hazard mitigation works; and <p>-</p> <p>PER-2 The earthworks are only undertaken within the footprint or modified ground comprised by the existing item; and</p> <p>-</p> <p>PER-3 Any replacement item is of the same nature, character and scale of the item being replaced; and</p> <p>-</p> <p>PER-4 The Accidental Discovery Protocol commitment form, contained within APP4 – Form confirming a commitment to adhering to an Accidental Discovery Protocol, has been completed and submitted to Council, at least 2 weeks prior to the commencement of any earthworks</p>	<p>Activity status when compliance not achieved: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and 2. whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in SCHED6 – Schedule of Sites and Areas of Significance to Kāti Huirapa; and 3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through engagement with Te Rūnanga o Arowhenua; and 4. effects on sites where there is the potential for koiwi or artefacts to be discovered, including consideration of the need to implement an accidental discovery protocol or have a cultural monitor present, and whether an accidental discovery protocol has been agreed with Te Rūnanga o Arowhenua; and 5. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and 6. the appropriateness of any mitigation measures proposed; and 7. whether the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to: <ol style="list-style-type: none"> 1. affirm the connection between mana whenua and place; or 2. enhance the cultural values of the site/area; or 3. provide for the relationship of Kāti Huirapa with their taoka; commensurate with the scale

		<p><i>and nature of the proposal;</i> <i>and</i></p> <p>8. any opportunities to maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance; and</p> <p>9. where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses; and</p> <p>10. in respect of utilities, the extent to which the proposed utility has functional needs or operational for its location.</p> <p>Note: Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</p>
<p>3. Wāhi tapu and wai-tapu overlays</p>	<p>Activity status: <u>Permitted Restricted Discretionary</u></p> <p>Where:</p> <p><u>RDISPER-1</u> <u>The earthworks are undertaken in accordance with the Accidental Discovery Protocol contained within APP4; and</u></p> <p><u>PER-2</u> <u>All earthworks, including those associated with and under new buildings/structures, and including those necessary for the installation of infrastructure/utilities. Within SASM-1a, SASM-4a and SASM-4c, the earthworks are for the purpose of maintaining, repairing or replacing existing fences, roads, tracks, pipelines, buildings, or natural hazard mitigation works, and are within the footprint or the area of ground previously modified by the existing road, track, pipeline, building or natural hazard mitigation works; and</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p><u>1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and</u></p> <p><u>2. whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in SCHED6 —</u></p>	<p>Activity status when compliance not achieved: <u>Not applicable Restricted Discretionary</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p><u>1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and</u></p> <p><u>2. the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and</u></p> <p><u>3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and</u></p> <p><u>4. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and</u></p> <p><u>5. the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and</u></p> <p><u>6. the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:</u></p> <p><u>a. affirm the connection between mana whenua and place; or</u></p>

	<p><i>Schedule of Sites and Areas of Significance to Kāti Huirapa; and</i></p> <p>3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through engagement with Te Rūnanga o Arowhenua; and</p> <p>4. effects on sites where there is the potential for koiwi or artefacts to be discovered, including consideration of the need to implement an accidental discovery protocol or have a cultural monitor present, and whether an accidental discovery protocol has been agreed with Te Rūnanga o Arowhenua; and</p> <p>5. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and</p> <p>6. the appropriateness of any mitigation measures proposed; and</p> <p>7. whether the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:</p> <p style="padding-left: 40px;">a. affirm the connection between mana whenua and place; or</p> <p style="padding-left: 40px;">b. enhance the cultural values of the site/area; or</p> <p style="padding-left: 40px;">c. provide for the relationship of Kāti Huirapa with their taoka; commensurate with the scale and nature of the proposal; and</p> <p>8. any opportunities to maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance; and</p> <p>9. where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses; and</p> <p>10. in respect of utilities, the extent to which the proposed utility has functional needs for its location.</p> <p>Note: Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</p>	<p>b. <u>enhance the cultural values of the site/area; or</u></p> <p>c. <u>provide for the relationship of Kāti Huirapa with their taoka; commensurate with the scale and nature of the proposal; or</u></p> <p>d. <u>maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal</u></p> <p>7. <u>where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses; and</u></p> <p>8. <u>in respect of network utilities, the extent to which the proposed network utility has functional needs or operational needs for its location.</u></p> <p>Note: Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</p>
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- 8.9.37 In terms of s32AA of the RMA, I consider that these changes will collectively provide a much more efficient approach to the management of earthworks within SASMs, while still being effective at protecting the values of these areas. More specifically I consider that the changes will still appropriately manage the effects of earthworks on the values of SASM, but without unnecessarily duplicating the rules contained in other chapters.
- 8.9.38 Where a more permissive approach is proposed, I consider that this reflects that there are limited benefits to be gained by requiring a resource consent for earthworks associated with the maintenance/ repair/ replacement of existing items, given the extent to which the values have already been affected by the initial installation of the items. As I consider that the potential adverse effects on values from the maintenance/ repair/ replacement of existing items are likely to be limited, I consider the benefits of requiring a consent are not sufficient to outweigh the costs associated with obtaining resource consent.
- 8.9.39 With respect to increasing the permitted threshold for earthworks, I consider that this provides a more appropriate balance between managing the effects of earthworks to achieve the objectives sought in the SASM chapter, and the reasonable ability for people to undertake those activities which are provided for in the underlying zone, and which therefore relate to the achievement of the outcomes sought in those zones.

8.10 Appendix 4 – Form confirming a commitment to adhering to an Accidental Discovery Protocol

- 8.10.1 APP4 contains a form, which requires commitment to adhere to an ADP. The ADP is set out within the form, with the form requiring details of who is undertaking earthworks, where they are being undertaken, and what methods will be used to ensure that parties are aware of, and comply with the protocol set out in the form. In a number of places within the PDP, there is a requirement to submit the form as part of a permitted activity (SASM-R1.1 PER-2; SASM-R1.2 PER-4; SASM-R5.1 PER-2; EW-R1 PER-2; GRUZ-R16 PER-4). The commitment is also a matter of discretion in relation to earthworks undertaken within a heritage setting (HH-R4); and expansion of existing quarries within the GRUZ (GRUZ-R23).
- 8.10.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Rabbidge, Singline and RSM Trust	27.4
Pye Group	35.1
King et al	43.1
OSA	51.1
MFL	60.22
Heritage NZ	114.34, 114.48

NZDF	151.11
Alliance Group	173.46
Rooney Holdings	174.28, 174.98
Rooney, GJH	191.28, 191.98
Rooney Group	249.28, 249.98
Rooney Farms	250.28, 250.98
Rooney Earthmoving	251.28, 251.98
TDL	252.28, 252.98

Submissions

- 8.10.3 Rabbidge, Singline and RSM Trust [27.4], King et al [43.1], OSA [51.1] and MFL [60.22] consider that providing 2 weeks' notice of earthworks for submission of an ADP is too long and impractical for contractors, and seek that it is reduced (in PER-2 of SASM-R1) to 5 working days. Pye Group [35.1] also considers that the ADP will add time and cost and seeks that the requirements relating to it are amended to remove the 2 week notification requirement, and allow for an ADP included in a FEP to be relied on. Six submitters⁶⁷ consider that the 2 weeks' notice requirement is difficult for minor activities to be undertaken and seek that the advance notification requirement is removed. Heritage NZ [114.34], reflecting the changes sought to SASM-P8, seeks that SASM-R1 is amended so that an ADP is only required where an Archaeological Authority has not already been issued by Heritage NZ, as such an authority is stated as superseding an ADP. Alliance Group [173.46] seeks that SASM-R1.2 PER-4 is amended so that a form does not have to be submitted to make this commitment prior to every earthwork's activity.
- 8.10.4 Heritage NZ [114.48] supports the principle of inclusion of an ADP in APP4, but considers the wording provided does not cover all requirements, and requests that the wording of the Heritage NZ ADP be used in the Appendix instead.
- 8.10.5 NZDF [151.11] requests the deletion of APP4, noting that direction on accidental discovery is provided by an advice note in the Earthworks chapter. The submitter considers that the standard (in EW-R1) does not help protect archaeological sites as no site-specific investigation is required and considers that it will create an administrative burden for the community and Council.
- 8.10.6 Six submitters⁶⁸ seek the deletion of the requirement to "commit" to the ADP throughout the various chapters of the PDP. While stating that they support the principle of an ADP, the submitters consider that a specified requirement is a pseudo contract that is unnecessary.

⁶⁷ Rooney Holdings [174.28], Rooney, GJH [191.28], Rooney Group [249.28], Rooney Farms [250.28], Rooney Earthmoving [251.28] and TDL [252.28]

⁶⁸ Rooney Holdings [174.98], GJH Rooney [191.98], Rooney Group [249.98], Rooney Farms [250.98], Rooney Earthmoving [251.98] and TDL [252.98]

Instead, the submitters support working with the relevant authorities and local Rūnanga when accidental discovery occurs.

Analysis

- 8.10.7 I agree with submitters that there are difficulties with requiring completion of the ADP commitment and submission of it two weeks prior to earthworks commencing. In my experience, where a rule requires a certain period of notice to be given, this generally relates to either allowing time for the Council to check compliance of any activity, or where there are benefits to giving prior warning of an activity taking place (e.g. to allow time to notify parties about a temporary activity taking place). I do not consider that either of these applies in this situation. I also have concerns with the efficiency and effectiveness of the requirement. I consider it administratively inefficient to require a form to be filled out for a large range of earthworks activities that are otherwise permitted, noting that the form simply formalises a commitment to adhere to the protocol, which in my view is no different in effect from simply requiring compliance with the protocol. I therefore consider it more appropriate to remove the requirement to fill in the form, and instead amend the standard (and related policy direction in SASM-P8.2, now recommended to be included in SASM-P5.1), so that it requires compliance with the ADP. APP4 would then need to be amended to remove the 'form' elements and retain only the protocol itself.
- 8.10.8 With respect to the detail of the protocol applying, I have compared that contained in APP4 with the protocol included in the Heritage NZ submission. I consider that the wording between the two is similar, and I am unclear on what requirements from the latter are missing. I also note that the Heritage NZ ADP Protocol refers to "*the appropriate iwi groups or kaitiaki representative*" whereas APP4 refers specifically to Te Rūnanga o Arowhenua. I consider this to be more appropriate. Therefore, I do not recommend deletion of APP4 and its replacement with the Heritage NZ ADP Protocol. The submitter may however wish to identify any specific amendments to APP4 that they consider to be appropriate. At this stage, I have therefore only recommended minor changes to the protocol under clause 16(2) to provide greater clarity and consistency.
- 8.10.9 I agree with Heritage NZ [114.34] that the ADP should not apply where an Archaeological Authority has already been issued and recommend that the standard be amended to reflect this.

Conclusions and Recommendations

- 8.10.10 I recommend that SASM-R1.1 PER-2, SASM-R5.1 PER-2; EW-R1 PER-2; and GRUZ-R16 PER-4 are amended as follows:

Except where an Archaeological Authority has been obtained from Heritage New Zealand Pouhere Taonga, the earthworks shall be undertaken in accordance with the Accidental Discovery Protocol commitment form, contained within APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol, has been completed and submitted to Council, at least 2 weeks prior to the commencement of any earthworks.

8.10.11 I recommend that APP4 is amended to remove the elements within it that constitute a form. (The changes are set out in full in Appendix 1).

8.10.12 In terms of s32AA, I consider the amended standard and appendix will still be effective at achieving the outcomes sought, in terms of protecting the values of SASMs from inappropriate subdivision, use and development (SASM-O3) and ensuring that the adverse effects of earthworks on the surrounding environment are avoided or mitigated (EW-O1). However, I consider this approach to be far more efficient than the notified requirement to fill in a form committing to the protocol each time an earthworks activity is undertaken. I also consider that there are efficiencies with avoiding duplication with the Heritage New Zealand Pouhere Taonga Act archaeological authority process.

8.11 Buildings and structures - SASM-R2

8.11.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bonifacio, P	36.22
Hart, J	58.5
Moore, D and J	100.5
Alliance Group	173.47
OWL	181.60
Federated Farmers	182.93
TRoNT	185.99
Beattie, D	238.2

Submissions

8.11.2 Alliance Group [173.47] supports SASM-R2, agreeing that the limits should not apply in the GIZ. OWL [181.60] supports the rule as it expressly addresses network utilities / infrastructure.

8.11.3 Bonifacio, P [36.22] opposes SASM-R2, stating that there is no justification about how the height and footprint of a building or structure within the wāhi taoka will impact on the values of that site. The submitter therefore seeks that justification is provided as to how the restrictions on height and footprint have been determined.

8.11.4 Hart, J [58.5] opposes buildings and structures being a restricted discretionary activity in wāhi tapu areas, stating that this is unnecessary regulation. The submitter seeks that SASM-R2 is amended to permit buildings and structures in this overlay.

- 8.11.5 Moore, D and J [100.5] seek that SASM-R2 does not affect their ability to continue farming, noting that their use of a farm plan enables them to make best use of the land while ensuring protection of the land.
- 8.11.6 Federated Farmers [182.93] are concerned about the additional restrictions the rule may place on farm activities, and seeks that SASM-R2.1 is amended to increase the height limit from 5m to 10m; to exempt "*pre-existing structure, or a new structure with little to no impact on the aesthetics of the environment*" from condition 2 of PER-1; and to increase the permitted height above sea level from 900m to 1100m.
- 8.11.7 TRoNT [185.99] supports the intent of the rule but considers that clarification is required to ensure that the rule protects the values identified.
- 8.11.8 Beattie, D M [238.2] seeks that if the SASM overlay is not removed from their property, then the 5m height restriction is removed, as buildings above this height are not uncommon for storage of winter feed etc and in their view are essential.

Analysis

- 8.11.9 SASM-R2.1 permits buildings and structures within the wāhi taoka overlay, subject to limits on their height, scale and location, where they are outside urban areas. Any building or structure within a wāhi tapu or wai tapu overlay require resource consent as a restricted discretionary activity under SASM-R2.2. Wāhi taoka are treasured resources, places and sites. The majority of these sites are located along the coast line (SASM-3b, SASM-4a, SASM-4b and SASM-5a); with SASM-7 covering a large inland area – the Kākahu basin and foothills. The built form controls applying in these areas are similar to those applying to ONLs, namely a 5m height limit (NFL-S1.1 and SASM-R2.1 PER-1.1); not being located within a 20m vertical or 100m horizontal distance of any ridgeline (NFL-S2.1.1 and SASM-R2.1 PER-1.2) or any point more than 900m above sea level (NFL-S2.1.2 and SASM-R2.1 PER-1.3); and a maximum footprint of 300m² (NFL-S4.1.1.b and SASM-R2.1 PER-1.1). Because of their coastal location, the ridgeline and altitude controls in SASM-R2 will not apply to the SASMs located along the coastline but will affect SASM-7. This area is not identified as an ONL, so in effect the proposed controls will apply a similar regime to built form in this area as applies within ONLs.
- 8.11.10 I note firstly that there are no areas within the wāhi taoka overlay that are 900m above sea level and therefore consider this condition should be removed as it has no practical application. As outlined in Mr Henry's evidence, the intent of the restrictions in the rule was to manage buildings so as to provide a clear line of sight from Te Waiateruatī and Arowhenua Marae across to the Tarahaoa Range and to Mount Peel. The height control was therefore intended to protect this line of site, with other bulk and location controls managing, in particular, larger-scale buildings, including commercial and industrial-type developments, or buildings in prominent locations, that would impact on the relationship of mana whenua with these areas. I therefore consider it broadly appropriate to have controls on the scale and location of built form in these areas, including restrictions on building near ridgelines

(SASM-R2.1 PER-1.2) – where development would be visually prominent, and limits on the scale of buildings (SASM-R2.1 PER-1.4) – to avoid dominance.

- 8.11.11 I understand however, from discussions with Ms Hall and Ms Davidson, that intent was not to impose undue restrictions on the height of buildings, particularly when taking into account the activities anticipated in the underlying zone (such as farming, including related structures). I therefore recommend that the height limit is increased to 9m. This is the same limit generally applying within the GRUZ to residential units (under GRUZ-S1.1), but lower than the 15m limit that would otherwise apply to other buildings and structures (under GRUZ-S1.2), or the 25m limit applying to silos (under GRUZ-S1.3). A 9m limit would generally allow for a two-storey building, and various farm accessory buildings. Higher buildings and structures could then be assessed on a case-by-case basis through a consent process.
- 8.11.12 In terms of wāhi tapu, I note that some of these sites are located within urban areas. This includes areas with an underlying General Residential or General Industrial zoning, where that zoning anticipates a high level of built form, and there are already a range of buildings established. Given the effects of existing buildings on cultural values, as well as the anticipated character of these areas, I consider it onerous to require a consent for any new building or structure. While I generally consider it appropriate for a resource consent pathway to apply to larger scale development or redevelopment in these areas, I consider it is likely that resource consent will be triggered through the earthworks rules, and as such there is no need to also require consent for built form. (Noting the recommended changes to the earthworks rules will allow for consideration of effects on SASM values when an earthworks consent is triggered in these areas.)
- 8.11.13 I have also specifically considered SASM-8 and SASM-9 which are areas containing rock art. As noted above, within the mapped extent of these SASMs, SNAs have been identified, within which buildings or structures would not be permitted because clearance of indigenous vegetation would be required. Following further discussion with Ms Hall and Ms Davidson, I am comfortable that the key concerns about the impacts of activities on the values of these areas is addressed through the earthworks and vegetation clearance rules, without the need for buildings and structures to also be limited. I therefore consider it appropriate to exclude SASM8 and SASM9 from SASM-R2.2
- 8.11.14 For other wāhi tapu areas, where there is limited built form established, or anticipated by the underlying zoning, I consider that the requirement for resource consent is appropriate to recognise the values of these areas and the impact that buildings and structures may have on their sacredness.
- 8.11.15 For wai tapu sites, as noted above, these overlays relate to waterbodies, and the NATC Chapter also manages activities, including buildings, within defined margins of waterbodies. As notified, resource consent would be required for any buildings and structures within a riparian margin. Through the s42A Report, it is however recommended that a permitted activity status apply to the replacement of, or expansion to, an existing building or structure

(with expansions limited to the lesser of 50m² or 25%). I consider that it is appropriate to take the same approach to buildings in wai tapu as applies through the NATC Chapter; namely that replacement buildings and structures are provided for. Because of this, and similar to the recommended changes in relation to earthworks, I recommended that the SASM Chapter is amended to remove application of SASM-R2 to wai tapu areas, with matters of discretion instead added to NATC-R5 which would apply when resource consent is triggered under that rule.

8.11.16 With respect to Moore, D and J [100.5], I note that the rule controls buildings and structures, not farming activities, so it will only be relevant where a new building or structure associated with a farming activity is proposed.

8.11.17 I do not consider the addition sought by Federated Farmers [182.93] to be appropriate. I firstly note that the rule does not apply to existing structures which have existing use rights, so there is no need to exclude pre-existing structures. I consider that the level of impact of the structure on the environment would require a subjective judgement and is therefore not appropriate to include in a permitted activity rule. In addition, I do not consider that the rule is related to managing effects on the “*aesthetics of the environment*” in any case, but rather those things in SASM-P5.

8.11.18 With respect to TRoNT’s submission [185.99] I am unsure what clarification is required to ensure that the rule protects the values identified.

Conclusions and Recommendations

8.11.19 I recommend that SASM-R2 is amended as follows (noting this incorporates recommended changes to the matters of discretion which are discussed later in this report):

SASM-R2	<i>Buildings and structures, including additions and alterations to existing buildings and structures and network utilities</i>	
1. Wāhi taoka Overlay (outside of residential zones, commercial and mixed use zones, the General Industrial Zone or the Port Zone)	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 <i>For buildings or structures located outside of the residential zones, Commercial and mixed use zones, Industrial zones or Port Zone, the following limitations apply:</i></p> <ol style="list-style-type: none"> 1. The maximum height of buildings and structures does not exceed 59m above ground level; and 2. Buildings and structures are not located within 20m vertical or 100m horizontal of any ridgeline; and 3. Buildings and structures are not located at any point above 900m above sea level; and 4. The maximum footprint of any building or structure does not exceed 300m². 	<p>Activity status when compliance not achieved: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and 2. whether a cultural impact assessment has been undertaken and the proposal’s consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and 3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through engagement with Te Rūnanga o Arowhenua; and

	<p>Note: For buildings or structures located within the residential zones, Commercial and mixed use zones, Industrial zones or Port Zone, there is no limitation.</p>	<ol style="list-style-type: none"> 4. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of works on the values associated with the site or area of significance; and 5. the appropriateness of any mitigation measures proposed, <u>including the need for an accidental discovery protocol</u>; and 6. whether the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to: <ol style="list-style-type: none"> a. affirm the connection between mana whenua and place; or b. enhance the cultural values of the site/area; or c. provide for the relationship of Kāti Huirapa with their taoka; <u>or</u> d. <u>maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal</u>; and 7. any opportunities to maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance; and 8. in respect of <u>network</u> utilities, the extent to which the proposed <u>network</u> utility has functional needs <u>or operational needs</u> for its location. <p>Note: Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</p>
<p>2. Wāhi tapu and wai tapu overlays, (excluding SASM1c, SASM2 and SASM3a, SASM8 and SASM9)</p>	<p>Activity status: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and 2. whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and 3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through engagement with Te Rūnanga o Arowhenua; and 	<p>Activity status when compliance not achieved: Not applicable</p>

	<p>4. <i>whether there are alternative methods, locations or designs that would avoid or mitigate the impact of works on the values associated with the site or area of significance; and</i></p> <p>5. <i>the appropriateness of any mitigation measures proposed, <u>including the need for an accidental discovery protocol</u>; and</i></p> <p>6. <i>whether <u>the extent to which</u> the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:</i></p> <p style="margin-left: 40px;"><i>a. <u>affirm the connection between mana whenua and place; or</u></i></p> <p style="margin-left: 40px;"><i>b. <u>enhance the cultural values of the site/area; or</u></i></p> <p style="margin-left: 40px;"><i>c. <u>provide for the relationship of Kāti Huirapa with their taonga; or</u></i></p> <p style="margin-left: 40px;"><i>d. <u>maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal; and</u></i></p> <p>7. <i>any opportunities to maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance; and</i></p> <p>8. <i>in respect of <u>network</u> utilities, the extent to which the proposed <u>network</u> utility has functional needs <u>or operational needs</u> for its location.</i></p> <p>Note: <i>Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</i></p>	
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8.11.20 I recommend that the following matters of discretion are added to NATC-R5:

X. Where the earthworks are within a wai tapu overlay:

- a. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and
- b. the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and
- c. the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and

- d. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of works on the values associated with the site or area of significance; and*
- e. the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and*
- f. whether the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:*
- i. affirm the connection between mana whenua and place; or*
- ii. enhance the cultural values of the site/area; or*
- iii. provide for the relationship of Kāti Huirapa with their taonga; or*
- iv. maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance;*
- commensurate with the scale and nature of the proposal; and*
- g. in respect of network utilities, the extent to which the proposed network utility has functional needs or operational needs for its location.*

8.11.21 In terms of s32AA, I consider that removing the application of SASM-R2 to wai tapu overlays, while adding matters of discretion relating to SASMs into NATC-R5, will result in a more efficient approach to the management of earthworks within SASMs, while still being effective at protecting the values of these areas. More specifically I consider that the changes will still appropriately manage the effects of earthworks on the values of SASM, but without unnecessarily duplicating the rules contained in other chapters.

8.11.22 In terms of increasing the height limit applying in the wāhi taoka overlay, I consider that this provides a more appropriate balance between managing the visual effects of buildings in these landscapes to achieve the objectives sought in the SASM chapter, and the reasonable ability for people to undertake those activities which are provided for in the underlying zone, and which therefore relate to the achievement of the outcomes sought in those zones.

8.12 Indigenous vegetation clearance - SASM-R3

8.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Dairy Holdings	89.10

Port Blakely	94.3
McArthur, K and J	113.5
Waka Kotahi	143.81
Hart, J R	149.5
Alliance Group	173.48
Federated Farmers	182.94
ECan	183.66
TRoNT	185.100

Submissions

- 8.12.2 Dairy Holdings [89.10], Alliance Group [173.48] and ECan [183.66] support this rule. Waka Kotahi [143.81] specifically support SASM-R3 PER-2 and PER-3 because they provide for the removal of indigenous vegetation where there is an imminent threat to the safety of people, structures or utilities; or for the purpose of maintenance repair or replacement of road or network utilities.
- 8.12.3 TRoNT [185.100] support the rule but consider that it should also apply to the Wāhi Tūpuna overlay.
- 8.12.4 Port Blakely [94.3] opposes the rule on the basis that it does not distinguish between significant and non-significant indigenous vegetation, stating that this places an onerous burden on applicants to comply in situations where vegetation is a mix of indigenous and introduced species and has low value ecological value. The submitter also considers the rule is stricter than the NESPF, which does not meet the requirements of s42A(b) of the RMA. Port Blakely seeks that the rule is amended to: apply to significant indigenous vegetation only, with the criteria used to assess significance overlapping with what is used in the ECO chapter; distinguish between indigenous vegetation cleared prior to afforestation and indigenous vegetation which has regrown after afforestation of a site; permit the clearance of indigenous vegetation associated with plantation forestry activity provided by Regulation 93(2) & (3) of the NESPF, and amend the matters of discretion for a restricted discretionary activity to those set out in Regulation 94(2) NESPF.
- 8.12.5 McArthur, K and J [113.5] states that clearance of indigenous vegetation is important for the renewal of existing pasture or arable land and seeks that it is permitted on land already used for farming purposes.
- 8.12.6 Hart, J R [149.5] states that the native vegetation clearance rules do not mention noxious weed control e.g. gorse, broom, blackberry, burdock. The submitter considers that *“if we are forced to shut up areas of the farm it will be hard to keep weeds like the above examples under control.”* No specific relief is sought with respect to changes to this rule.

- 8.12.7 Federated Farmers [182.94] considers that the removal of native bush on land under existing use rights for clearance of regrowth should be provided for, seeking that “or exercising existing use rights” is added to PER-6 of SASM-R3.

Analysis

- 8.12.8 The PDP also includes an Ecosystems and Indigenous Biodiversity (ECO) Chapter, which manages the clearance of indigenous vegetation. As notified, the ECO Chapter only included rules relating to clearance in mapped SNAs, in a specified proximity to waterbodies, on land above 900m in altitude or land with an average slope of 30°. In some cases, these areas will overlap with identified SASMs, meaning two sets of indigenous vegetation clearance rules will apply. However, SASM-R3 is the only indigenous vegetation clearance rule applying in SASMs that are located outside SNAs or other specified areas. In the Hearing D S42A report, I have however recommended that an additional rule be added to the ECO Chapter, which would apply to indigenous vegetation clearance more broadly. This would only permit clearance (where not managed through other rules in the ECO Chapter) in specifically defined circumstances, which are similar to those set out in SASM-R3 as notified.
- 8.12.9 Given this recommended rule would apply in any SASM area, I consider that it is no longer necessary to include a separate rule within the SASM Chapter, as I consider the broader rule is more efficient, while still ensuring sustainability of ecosystems supporting taoka species and mahika kai resources (in accordance with SASM-P5.5, now recommended to be SASM-P5.2.d.) and ultimately the protection of the values of SASMs from inappropriate land use activities and development (SASM-O3). However, where indigenous vegetation clearance is proposed which is outside the recommended permitted conditions, I consider that there is a need to ensure that the values of any SASM within which indigenous vegetation clearance is proposed are appropriately considered. I therefore recommend that the matters of discretion in the addition recommended to ECO-R1 are expanded to more specifically refer to SASMs, carrying through the most relevant matters of discretion in SASM-R3. I consider that deletion of this rule can be undertaken as a consequential change to the changes recommended in relation to ECO-R1, and is within the scope of the submission made on the ECO Chapter.

Conclusions and Recommendations

- 8.12.10 I recommend that SASM-R3 is deleted, subject to ECO-R1 being amended as recommended in the Hearing D Report for the ECO Chapter. I recommend that the matters of discretion for that rule be amended as follows:

- X. where the proposed clearance is located within a site identified in in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa:
- a. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and
 - b. the proposal’s consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and
 - c. the nature of any effects on mahika kai and other customary uses;

- d. the potential adverse effects, including on sensitive tangible and/or intangible cultural values.
- e. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of works on the values associated with the site or area of significance;
- f. the appropriateness of any mitigation measures proposed; and
- g. the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:

 - a. affirm the connection between mana whenua and place; or
 - b. enhance the cultural values of the site/area; or
 - c. provide for the relationship of Kāti Huirapa with their taonga; or
 - d. maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance;commensurate with the scale and nature of the proposal

8.12.11 In terms of s32AA, I consider that deletion of SASM-R3 (subject to the changes recommended to ECO-R1) avoids unnecessary duplication, and reduces the complexity of the rule framework applying. However, I consider that the approach, including the expansion of the matters of discretion applying to general indigenous vegetation clearance, will still be effective at achieving the outcomes sought, including those in the SASM Chapter, as well as ECO-O3 which seeks to recognise and provide for the relationship of Ngāi Tahu whanui with indigenous biodiversity.

8.13 Temporary Activities - SASM-R4

8.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Jet Boating	48.19
Hart, J	58.6
Federated Farmers	182.95
TRoNT	185.101
Beattie, D M	238.3

Submissions

8.13.2 Jet Boating [48.19] considers that a range of activities that fall within the definition of a Temporary Event can occur in a safe and respectful manner, and with due recognition to the significance of the sites and areas to Māori. The submitter seeks that "or the temporary event has been formally approved by iwi, recognising that approval will not be unreasonably withheld" is added to PER-1.

- 8.13.3 Hart, J [58.6] opposes SASM-R4, on the basis that it restricts property rights, making activities such as a wedding, or fundraising events such as mountain biking, running or trail rides non-complying. The submitter is also concerned that the rule does not apply to temporary cultural events. The submitter seeks that the rule is amended so that temporary events are not restricted.
- 8.13.4 Federated Farmers [182.95] acknowledges the importance of cultural events but considers that there is a need to take into account private ownership. The submitter therefore seeks that “if required on private property consent from private landowner is gained prior to the event occurring” is added to PER-1.
- 8.13.5 TRoNT [185.101] considers that it is not clear that all activities in the Temporary Activities Chapter are not permitted in the SASM overlay and therefore seeks that a cross-reference is included in the TEMP chapter to clearly reference SASM-R4.
- 8.13.6 Beattie, D M [238.3] seeks that if the SASM overlay is not removed from their property, then SASM-R4 is deleted, on the basis that the rule lacks any detail of what constitutes a temporary event.

Analysis

- 8.13.7 I firstly note that ‘temporary event’ is a defined term and applies to a range of temporary activities that are planned public or social occasions. Under the Temporary Activities Chapter, such events are otherwise permitted (under TEMP-R3) subject to controls on their duration and frequency, and limits on earthworks associated with them. SASM-R4 would apply in addition to TEMP-R3, and result in a resource consent being required for any temporary event within a wāhi tapu or wai tapu overlay, unless the temporary event is a cultural event undertaken in accordance with tikanga. Although the definition of temporary event is to be considered in Hearing F, I note that in my view there are some difficulties with reference in the definition to “*social occasions*”. The remainder of the definition appears to me to imply that the activities envisaged are public, rather than private events, but reference to “*social occasions*” could arguably capture private functions such as wedding. I understand from discussions with Ms Hall and Ms Davidson, that concern about events being undertaken in wāhi tapu areas relate to concerns about public access to these areas, for example to rock art sites. I recommend that the definition of temporary events is amended so that it does not apply to “*social occasions*”, at least insofar as it applies to SASM-R4. I note that the broader application of definition will need to be considered further in Hearing F as the definition has a bearing on other provisions.
- 8.13.8 I consider that there are difficulties with amending the rule to permit temporary events where they have been formally approved by Te Rūnanga o Arowhenua. This is because someone reading the plan rules would not know if the event is permitted; nor would it be clear in what circumstances approval would be given (or withheld). Written approval could be withheld for any reason, and a permitted activity rule could not oblige a third party to provide written approval for a specified reason only. Such approval would also not be like a

technical certification process where certification is undertaken against objective criteria. I also note that the approval might be subject to conditions. Given all of these factors, I do not consider permitting temporary events where formally approved by Arowhenua is a suitable option.

- 8.13.9 I note that SASM-R4 only applies in wāhi tapu and wai tapu overlays, which are sacred sites or water bodies. The AECL Report identifies temporary events as potentially incompatible activities that can impact on the mauri/intangible values of these sites, and in relation to rock art (tuhituhi o neherā) some recreation activities are seen as being an incompatible.⁶⁹ For wāhi tapu sites in rural areas, which are part of larger landholdings, I do not consider it generally unreasonable to restrict temporary events within these areas. However, I understand from Ms Davidson that for rock art sites (SASM8 and SASM9), there is not a concern over temporary events being undertaken within the wider area of the mapped SASMs. Rather, the concern is with such events resulting in the public accessing and potentially damaging the rock art itself and surrounding limestone outcrops. These areas are generally also identified as SNAs. To narrow the rule, I therefore recommend that temporary events are only restricted in SASM8 and SASM9 where they are within an SNA. This change would allow for fundraising events such as mountain biking, running or trail rides to occur without a resource consent, where within these SASMs but outside the mapped SNA.
- 8.13.10 In relation to those wāhi tapu areas that are within a largely built up urban and/or public area, I consider that the effects of temporary events on cultural values are unlikely to be different to those arising from the current land uses (noting that there are also limits placed on temporary events through TEMP-R3). This applies to SASM-1c (Pātītī Point); SASM-2 (Ōtipua Road and Quarry Road (including former Talbot Hospital site) and SASM-3a (Caroline Bay Trust Aoraki Centre and Ashbury Park). I therefore recommend that SASM-R4 is amended to exclude its application to these urban SASMs.
- 8.13.11 As I do not recommend deletion of the rule, I have also considered the activity status applying. While acknowledging the sensitivity of these sites, I consider that temporary events may be undertaken in a way that avoids adverse effects on identified values (in accordance with SASM-P8) taking into account the values set out in SAMS-P5. Similar with a number of other rules in the PDP, I consider that this can be addressed through a restricted discretionary status. The recommended matters of discretion are consistent with those applied on other rules in the SASM, as relevant to this activity.
- 8.13.12 As noted earlier, the rules in the PDP do not override other legal rights which sit outside the PDP, so I do not agree with Federated Farmers [182.95] that reference is required to gaining permission from any private landowners.

⁶⁹ Pages 30 and 54.

8.13.13 I note that there are a range of rules across the PDP which are modified by more restrictive rules in overlay chapters. I do not consider that it is appropriate to cross-reference one particular example of this (being referring to SASM-R4 in the TEMP Chapter).

Conclusions and Recommendations

8.13.14 I recommend that the definition of 'temporary event' is amended as follows:

Means a type of temporary activity that is a planned public or social occasion and includes carnivals, fairs, markets, auctions, displays, rallies, shows, commercial filming or video production, gymkhanas (equestrian), dog trials, concert, and other recreational and sporting activities, public meetings, hui, and emergency services training events, but excludes motorsport events. But for the purpose of SASM-R4, a temporary event does not include a planned social occasion.

This is a sub-definition of temporary activity.

8.13.15 I recommend that SASM-R4 is amended as follows:

SASM-R4	Temporary events	
Wāhi tapu, and wai tapu overlays (excluding SASM1c, SASM2 and SASM3a)	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 Any temporary event where this is limited to a cultural event undertaken in accordance with tikanga; <u>or</u></p> <p>PER-2 Any temporary event within SASM8 or SASM9 that is undertaken outside a Significant Natural Area.</p>	<p>Activity status where compliance not achieved: Non-complying Restricted Discretionary</p> <p><u>Matters of discretion are restricted to:</u></p> <ol style="list-style-type: none"> <u>1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and</u> <u>2. the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and</u> <u>3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and</u> <u>4. the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and</u> <u>5. the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the</u>

		<p><u>site/area, and any potential to:</u></p> <p><u>a. affirm the connection between mana whenua and place; or</u></p> <p><u>b. enhance the cultural values of the site/area; or</u></p> <p><u>c. provide for the relationship of Kāti Huirapa with their taoka; or</u></p> <p><u>d. maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal.</u></p> <p>Note: <u>Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</u></p>
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8.13.16 In terms of s32AA, I consider that the amendments to the rule will still be effective at protecting the values of wāhi tapu and wai tapu sites from inappropriate land uses, taking into account the nature of these sites. I consider that the alteration to the activity status is a more efficient way in which to consider the effects of a temporary event, against the policy direction in SASM-P5 and SASM-P8.

8.14 Mining and Quarrying – SASM-R5

8.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bonifacio, P	36.23
McArthur, K and J	113.6
Heritage NZ	114.35
Road Metals	169.17, 169.18
Fulton Hogan	170.18, 170.19
Rooney Holdings	174.29
Federated Farmers	182.96
ECan	183.67
TRoNT	185.102
Rooney, GJH	191.29
Rooney Group	249.29

Rooney Farms	250.29
Rooney Earthmoving	251.29
TDL	252.29

Submissions

- 8.14.2 Bonifacio, P [36.23] considers it incongruous that mining and quarrying are a permitted activity if under a certain size, and with no other limitations, while dairy farming is restricted discretionary. He seeks that justification is provided for this. The submitter also identifies an error in SASM-R5 PER-2, whereby “the bed” is repeated.
- 8.14.3 McArthur, K and J [113.6] consider that farm quarries should not be included in the restrictions in the SASM chapter, with the rules of the GRUZ applying instead. Federated Farmers [182.96] also seeks that SASM-R1.1 PER-1 is amended so that it applies to commercial mining operations and excludes rural on-farm mines, stating that farm quarries are small and are used for on farm purposes that do not have the same impact on the environment as commercial mining operations.
- 8.14.4 Heritage NZ [114.35], reflecting the changes sought to SASM-P8, seeks that SASM-R5 is amended so that an ADP is only required where an Archaeological Authority has not already been issued by Heritage NZ, as such an authority is stated as superseding an ADP.
- 8.14.5 Road Metals [169.17, 169.18] and Fulton Hogan [170.18, 170.19] note that “*quarrying*” is not defined and therefore seek amendments to SASM-R5 to refer to “*quarry*” rather than “*quarrying*”. In relation to SASM-R5.1, Road Metals [169.18] and Fulton Hogan [170.19] support quarrying in the bed of a river which has been authorised through the regional plan being permitted, as they consider this avoids duplication of matters addressed in ECan consents. In relation to SASM-R5.2, Road Metals [169.17] and Fulton Hogan [170.19] seek that PER-2 is deleted to avoid duplication with matters addressed in ECan consents.
- 8.14.6 Rooney Holdings [174.29], GJH Rooney [191.29], Rooney Group [249.29], Rooney Farms [250.29], Rooney Earthmoving [251.29] and TDL [252.29] seeks that SASM-6 is excluded from the 750m² earthworks limit under SASM-R5.1 PER-1, as they consider that as the upper Rangitata is back country land, the limit is too restrictive for mining and quarrying in this area.
- 8.14.7 ECan [183.67] supports what they consider is the intention to clarify that gravel extraction in the beds of lakes and rivers requires Regional Council permission. However, in its view, the inclusion of this as a permitted activity condition (in SASM-R5.2 PER-1), may cause confusion because beds of lakes and rivers are not under District Council jurisdiction. The submitter therefore seeks that the clause is deleted and included instead as an advice note.
- 8.14.8 TRoNT [185.102] supports the rule but seeks clarification as to the amount of earthworks by amending SASM-R5.1 PER-1 to refer to “750m³ per site” instead of “750m²”. The submitter

also seeks that the rule is shifted to the EW chapter as they consider it is better suited to that chapter.

Analysis

- 8.14.9 The rules in the SASM Chapter are aimed at managing activities that have been identified as a threat to the values of the identified sites and areas. Mining or quarrying, where it is on a small scale only, is therefore not considered to be an activity, within the wāhi tūpuna overlay, that requires further consideration or additional controls in order to protect the values in these areas. I note that in the wai taoka overlay, mining and quarrying is only permitted where it is from the bed of a river (and has been authorised by ECan). Outside the bed it is not permitted, regardless of scale. Intensively farmed stock is also not permitted within the wai taoka overlay. I therefore consider the approach to be similar in any case, notwithstanding that the rules are intended to manage activities differently depending on the effects associated with them on cultural values.
- 8.14.10 I do not agree that because an area is “*back country*” that the limit should be removed for SASM6. I note that much of SASM6 is also located within an ONL or VAL, within which mining and quarrying is a non-complying activity. To avoid duplication, and consistent with my recommendations relating to SASM-R1, I do however recommend that SASM-R5 is amended to remove areas which are located within an ONL or VAL, subject to a note being included in NFL-R10. Where within SASM6 but outside an ONL/VAL, I note that non-compliance with the area threshold is a restricted discretionary threshold which allows for a mining or quarrying activity to be considered through a consenting process, to ensure that it aligns with the policy direction. I consider this to be appropriate.
- 8.14.11 With respect to farm quarries, I note that the GRUZ rules are related to the policy direction and objectives for that zone. I do not consider that the standards in the GRUZ are therefore aimed at achieving the objectives sought within SASMs. I therefore do not agree with deleting the rule and relying on the GRUZ controls. I have also considered whether it is appropriate to increase the maximum permitted area (in SASM-R5.1 PER-1) from 750m² to 2,000m², to align with the changes recommended to SASM-R1 which applies to other earthworks. However, I note Mr Henry’s comments that the concern about earthworks relates to the way the volume or extent of earthworks can alter landscapes, and in particular, to earthworks that extend beyond previous disturbance (e.g. which go deeper than previous disturbance from historical farming practises). I therefore consider quarrying and mining to pose a greater risk than other types of earthworks and consider retention of the lower volume for these activities to be appropriate.
- 8.14.12 I have earlier recommended changes to SASM-R5 PER-2 to address the concerns raised by Heritage NZ [114.35].
- 8.14.13 I note that “*quarry*” and “*quarrying activity*” are defined terms, and agree that it is appropriate that SASM-R5 uses a defined term. Having considered the rule drafting, I

consider that “*quarrying activity*” should be used, and recommend the rule uses this term throughout.

- 8.14.14 In relation to SASM-R5.2, I have assumed that the rule is intended to allow for quarrying and mining in that part of the wai taoka overlay where it is regulated by ECan (i.e. not also require a resource consent to be obtained for this activity from the district council), while requiring consent in the remainder of the overlay (i.e. outside the riverbed itself). However, I consider that the way the rule is drafted does not make this particularly clear. From a drafting perspective, I consider that it is best to separate out mining and quarrying activities within the wai taoka overlay from the rest of SASM-R5, and instead insert a new restricted discretionary rule for “*Mining and quarrying activities outside the bed of a river*”, with a note to the effect that quarrying activities within the bed of a river are managed under the regional plan. This does not alter the way the rule applies, but in my view provides much greater clarity as to how the rule is intended to work.
- 8.14.15 In relation to SASM-R5.2 PER-2, I understood from previous discussions around this rule prior to notification, that Arowhenua had concerns about stockpiling that was more than temporary, and the impact it had on the landscape and their connection with it. However, having reviewed recent gravel extraction consents, I note that this appears to already be considered in the regional consenting framework. I therefore agree with PER-2 being deleted as I do not consider it necessary to duplicate this consideration through the district plan. This For completeness I note that there is a typo in PER-2 with “the bed” being repeated and the word “river” is also missing. However, it is not necessary to address this due to my recommendation to delete this condition.
- 8.14.16 With regards to TRoNT’s request [185.102] to amend the limit in SASM-R5.1 PER-1 to cubic metres, I consider that this changes the effect of the rule from being about managing the area over which the activity is undertaken (i.e. limiting its scale) to managing its volume. I do however agree with clarifying that the area applies “per site”. The approach to managing the area rather than the volume is consistent with that taken to earthworks across the PDP. With respect to where the rule is located, I note that quarrying and mining provisions are included in other district-wide chapters including ONLs, so I consider it would be inconsistent with the drafting approach to move the rule to the Earthworks chapter.

Conclusions and Recommendations

- 8.14.17 I recommend that the following note is added to NFL-R10:

Where the earthworks are also located within the wāhi tūpuna overlay, engagement with Te Rūnanga o Arowhenua should be undertaken to understand the effects of the activity on the identified values of the site or area.

- 8.14.18 I recommend that SASM-R5 is amended as follows (noting this incorporates recommended changes to the matters of discretion which are discussed later in this report):

SASM-R5	<i>Mining and quarrying activities</i>
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<p>1. Wāhi tūpuna Overlay (outside an ONL or VAL overlay)</p>	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The mining and/or quarrying <u>activity</u> do not exceed a maximum area of 750m² <u>per site</u>; and</p> <p>PER-2 <u>Except where an Archaeological Authority has been obtained from Heritage New Zealand Pouhere Taonga, the earthworks are undertaken in accordance with the Accidental Discovery Protocol commitment form, contained within APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol, has been completed and submitted to Council, at least 2 weeks prior to the commencement of any earthworks.</u></p>	<p>Activity status when compliance not achieved: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and 2. whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and 3. the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through engagement with Te Rūnanga o Arowhenua; and 4. effects on sites where there is the potential for koiwi or artefacts to be discovered, including consideration of the need to implement an accidental discovery protocol or have a cultural monitor present, and whether an accidental discovery protocol has been agreed with Te Rūnanga o Arowhenua; and 5. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the site or area of significance; and 6. the appropriateness of any mitigation measures proposed, <u>including the need for an accidental discovery protocol</u>; and 7. whether the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to: <ol style="list-style-type: none"> a. affirm the connection between mana whenua and place; or b. enhance the cultural values of the site/area; or c. provide for the relationship of Kāti Huirapa with their taoka; <u>or</u> d. <u>maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance;</u> commensurate with the scale and nature of the proposal; and 8. any opportunities to maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance; and
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		<p>9. where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses; and</p> <p>10. in respect of utilities, the extent to which the proposed utility has functional needs for its location.</p> <p>Note: Limited notification of Te Rūnanga o Arowhenua is likely to be required under this rule.</p>
32. Wāhi taoka, wāhi tapu, and wai tapu	Activity status: Non-Complying	Activity status where compliance not achieved: Not applicable
SASM-R5A	Mining and quarrying activities outside the bed of a river	
2. Wai taoka Overlay	<p>Activity status: Permitted Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through; and the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to: <ol style="list-style-type: none"> affirm the connection between 	<p>Activity status when compliance not achieved with PER 1: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and whether a cultural impact assessment has been undertaken and the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and the potential adverse effects, including on sensitive tangible and/or intangible cultural values as identified through engagement with Te Rūnanga o Arowhenua; and whether the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to: <ol style="list-style-type: none"> affirm the connection between mana whenua and place; or enhance the cultural values of the site/area; or provide for the relationship of Kāti Huirapa with their taonga; commensurate with the scale and nature of the proposal; and any effects on the ability of Kāti Huirapa to access and use the Site or Area of Significance. <p>Activity status when compliance not achieved with PER 2: Discretionary</p>

	<p><u>mana whenua and place; or</u></p> <p><u>b. enhance the cultural values of the site/area; or</u></p> <p><u>c. provide for the relationship of Kāti Huirapa with their taonga;</u></p> <p><u>d. maintain or enhance the ability of Kāti Huirapa to access and use the Site or Area of Significance commensurate with the scale and nature of the proposal; and</u></p> <p><u>6. where the mining or quarrying activity will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses.</u></p> <p>Where:</p> <p>PER-1 <u>The quarrying is from the bed of a river, and is authorised under the Canterbury Land and Water Regional Plan (either as a permitted activity, or through a resource consent having been obtained); and</u></p> <p>PER-2 <u>Excavated materials are removed from the bed of the within 10 days.</u></p> <p>Note: <u>Quarrying activities within the bed of a river are managed under the regional plan.</u></p>	
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8.14.19 In terms of s32AA of the RMA, I consider that relying on NFL-R10 to manage quarrying and mining which is within both an ONL or VAL and a SASM, is a more efficient approach, while still being effective at protecting the values of these areas.

8.14.20 In terms of the changes to rule as it applies to the wai taoka overlay, I consider that deletion of PER-1 and the recasting of this rule (as SASM-R5A) does not alter the way the rule applies, but makes it much clearer for plan users what is managed under this district plan rule. I consider that deletion of stockpiling controls under PER-2 is a more appropriate approach. This is because stockpiling is sufficiently addressed through the regional consenting

framework, and in my view an additional control in the district plan is not necessary in this instance to achieve the SASM objectives. As such, deletion of this control is more efficient and reduces consenting costs, without undermining the achievement of the SASM objectives.

8.15 Intensively Farmed Stock - SASM-R6

8.15.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
EJAPS	4.2
Hargreaves, T	29.2
Pye Group	35.2
Bonifacio, P	36.2, 36.24
Rangitata Dairies	44.15
Stack, D	50.8
Hart, J	58.1, 58.7
Coles, R and T	76.3
Dairy Holdings	89.3, 89.11
Moore, D and J	100.6
Peel Forest	105.9
McArthur, K and J	113.7
Hart, J R	149.6
Forest and Bird	156.23
Fenlea Farms	171.31
Silver Fern Farms	172.6
Alliance Group	173.6, 173.49
Rooney, A J	177.13
Federated Farmers	182.97
TRoNT	185.103
KJ Rooney	197.6
Beattie, D M	238.4

Submissions

8.15.2 The majority of submissions on SASM-R6 are opposed to the restrictions it imposes on intensively farmed stock. Reasons include:

- Increased time and costs for landowners resulting from increased consenting requirements.⁷⁰
- Intensive grazing is already managed by ECan and the rule therefore results in duplication.⁷¹
- It does not take into account environmental enhancement undertaken by farmers such as planting indigenous vegetation and excluding stock.⁷²
- It is an unnecessary restriction on farming, including restricting flexibility.⁷³
- It will affect / does not appropriately recognise existing intensively farm stock activities⁷⁴, and existing use rights may not necessarily apply (for example, as farm management practices can change from year to year, farming is rotational, stock are spread across multiple farms, and cover a very large extent of land).⁷⁵
- It is unclear what the values are which will be assessed through the resource consent process.⁷⁶
- It may cause stress affecting health and well-being of those who work in the agricultural industry.⁷⁷
- Intensively farmed stock can be adequately managed through matters of control and discretion and a more appropriate process for approval should be provided.⁷⁸

8.15.3 These submitters seek that:

- SASM-R6 is deleted in its entirety.⁷⁹
- SASM-R6.1 (applying in the wai taoka overlay) is deleted.⁸⁰
- SASM-R6.2 (applying in the wāhi taoka, wāhi tapu, and wai tapu overlays) is deleted or amended from non-complying to controlled (or other less restrictive consenting pathway).⁸¹
- The rule is amended to provide a permitted status for intensively farmed stock generally⁸², or in the wai taoka overlay⁸³.

⁷⁰ EJAPS [4.2], Hargreaves, T [29.2], Bonifacio, P [36.24]

⁷¹ EJAPS [4.2], Bonifacio, P [36.24], Pye Group [35.2], Stack, D [50.8]

⁷² EJAPS [4.2], Hargreaves, T [29.2], Moore, D and J [100.6], Peel Forest [105.9]

⁷³ Pye Group [35.2], Hart, J [58.7], Peel Forest [105.9], McArthur, K and J [113.7], Federated Farmers [182.97]

⁷⁴ Moore, D and J [100.6], Fenlea Farms [171.31], Alliance Group [173.49], Rooney, A J [177.13], KJ Rooney [197.6], Beattie, D M [238.4]

⁷⁵ Pye Group [35.2], Rangitata Dairies [44.15]

⁷⁶ Stack, D [50.8]

⁷⁷ Coles, R and T [76.3]

⁷⁸ Fenlea Farms [171.31], Rooney, A J [177.13], KJ Rooney [197.6]

⁷⁹ EJAPS [4.2], Hargreaves, T [29.2], Beattie, D M [238.4]

⁸⁰ Pye Group [35.2]

⁸¹ Fenlea Farms [171.31], Alliance Group [173.49], Rooney, A J [177.13], KJ Rooney [197.6]

⁸² Bonifacio, P [36.24], Stack, D [50.8], Hart, J [58.7], Moore, D and J [100.6]

⁸³ Rangitata Dairies [44.15]

- Putting a ban on livestock grazing in restricted areas should be avoided⁸⁴.
- 8.15.4 Some submitters alternatively seek changes to the definition of 'Intensively Farmed Stock'.⁸⁵
- 8.15.5 Dairy Holdings [89.11] considers that they will have existing use rights to continue farming their properties, but considers that existing intensively farmed stock should be provided for as a permitted activity to ensure the right balance is struck between protecting cultural values and enabling the continuation of existing, established farming activities. The submitter seeks that SASM-R6 be deleted.
- 8.15.6 TRoNT [185.103] support the intent of the rule but consider it could be clarified. No specific wording is provided.
- 8.15.7 With respect to the definition of 'Intensively Farmed Stock', Forest and Bird [156.23] supports the definition.
- 8.15.8 Bonifacio, P [36.2] seeks that the definition is amended, in consultation with the farming community to provide a more concise and considered definition. He considers that the proposed definition is too broad and captures too many small-scale and low impact activities, noting that ECan manage farming activities.
- 8.15.9 Hart, J [58.1] seeks that the definition is amended so that it is less vague and allows for more flexibility.
- 8.15.10 Dairy Holdings [89.3] considers the definition should not capture existing intensively farmed stock and therefore seeks addition of a clause "*that was not already occurring as at the date this plan was notified*".
- 8.15.11 Silver Fern Farms [172.6] and Alliance Group [173.6] seeks that stock held for processing purposes are not captured by the definition.

Analysis

- 8.15.12 The term 'Intensively Farmed Stock' is used in SASM-R6 and applies a restricted discretionary activity status to this activity within the wai taoka overlay; and a non-complying activity status within the wāhi taoka, wāhi tapu, and wai tapu overlays. It is not otherwise used in the PDP.
- 8.15.13 I accept that those activities falling within the proposed definition of Intensively Farmed Stock are already managed by ECan, but I do not agree that this in and of itself means that the rule results in duplication. The same activities are often subject to both regional and district plan rules, as relevant to the functions of each council. The PDP can therefore manage the same activities as regional plans, provided what it is managing falls within its functions as a territorial authority. This includes, under s31(b), control of the use of land for

⁸⁴ Hart, J R [149.6]

⁸⁵ Alliance Group [173.49]

the purposes of the maintenance and enhancement of water quality. However, from an efficiency perspective, I do think it is appropriate to consider if it is necessary for the District Plan to manage this activity to achieve the outcomes sought in the PDP, or whether the effects of concern are already sufficiently managed under the CLWRP. In this regard, I note that the CLWRP includes controls on land use which seek to manage the effects of land use activities on water quality. The ability to intensify further, or start new intensive farming activities, and the effects of these activities on water quality, are therefore already managed under the regional plan. Because of this, I consider that an additional rule in the PDP to manage intensively farmed stock would duplicate the CLWRP controls and is not needed to achieve the outcomes sought in the PDP, in particular, the protection of the values of SASMs from inappropriate land use (SASM-O3).

- 8.15.14 I note that Mr Henry's evidence also acknowledges that while the District Council has a role in managing land uses in order to protect water quality, it is primarily the responsibility of the regional council, and he accepts that the PDP rule seeking to manage such land use would result in duplication. I therefore consider that the rule should be deleted, insofar as it relates to wai taoka, wai tapu and wāhi taoka overlays.
- 8.15.15 For wāhi tapu sites (which are not related to waterbodies), intensively farmed stock could have some potential impact on the integrity of these sites (e.g. destruction or modification of rock art or ground disturbance). However, this may not occur from these activities, and in any case, destruction, damage or modification of any pre-1900 areas themselves are protected under the Historic Places Act (HPA). The HPA also applies to a range of other activities (not just intensive farming activities), so I consider it inefficient to retain a control in the District Plan that would duplicate the HPA process in relation to one particular activity alone.
- 8.15.16 As a consequence of recommending that SASM-R6 is deleted, I also recommend that definition of 'Intensively Farmed Stock' is deleted, as it is only relied on in the context of this rule.

Conclusions and Recommendations

- 8.15.17 I recommend that SASM-R6 is deleted.
- 8.15.18 I recommend that definition of 'Intensively Farmed Stock' is deleted.
- 8.15.19 In terms of s32AA, I consider that the deletion of the rule reflects that the CLWRP already includes controls to manage the effects of Intensively Farmed Stock on water quality. In relation to wai taoka, wai tapu and wāhi taoka overlays, I therefore do not consider an additional rule in the PDP is necessary to achieve SASM-O3. In relation to wāhi tapu sites, I consider that SASM-R6 is an inefficient way to manage potential effects of this activity on such sites and would duplicate the Heritage New Zealand Pouhere Taonga Act. I therefore consider that deletion of the rule will not undermine the achievement of SASM-O3, but is a more efficient approach.

8.16 Subdivision - SASM-R7

8.16.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
King et al	43.2
OSA	51.2
MFL	60.24
Speirs, B	66.48
Moore, D and J	100.7
Federated Farmers	182.98
TRoNT	185.104

Submissions

8.16.2 King et al [43.2], OSA [51.2] and MFL [60.24] are concerned that the rule is too broad, with no measurable parameters, including what steps, processes and costs are required to obtain subdivision consent under this rule and seeks that it is reviewed and amended. OSA [51.2] and MFL [60.24] seek that the rule is amended to be restricted discretionary, with assessment matters inserted that relate solely to the SASM / are measurable, including consideration of any pre-consultation with iwi.

8.16.3 Speirs, B [66.48] considers that it would make more sense to include all subdivision rules in one place in the PDP and seeks that SASM-R7 is deleted, and, if necessary, *“appropriate objectives, policies, rules, standards, activity status, matters of control and discretion, for subdivision of land shown in the Wāhi taoka, wāhi tapu, wai taoka and wai tapu overlay areas”* are included in the Subdivision Chapter.

8.16.4 Moore, D and J [100.7] oppose SASM-R7, for the same reasons as set out in relation to SASM-R6.

8.16.5 Federated Farmers [182.98] consider that it is important to allow small subdivisions to occur on farms, for example allow multiple generations to live on the farm. It states that this rule restricts the ability for generations to live alongside one another and seeks that the following is added to SASM-R7:

Subdivision occurring in rural areas where housing is required on intergenerational farms, farm housing for employees, or as required for the operations for safe farm management housing.

- 8.16.6 TRoNT [185.104] considers that it is not clear in the Subdivision chapter that activity status and matters of discretion are different when a subdivision is proposed in the SASM overlay. The submitter therefore seeks that the rule is cross-referenced in the Subdivision Chapter.

Analysis

- 8.16.7 With respect to changing the activity status to restricted discretionary, my concern is that there are a range of matters that will need to be considered in relation to any subdivision, which extend beyond particular effects in relation to the SASM. I consider that for a restricted discretionary activity, there would need to be cross-referencing to a range of other matters addressed in the subdivision chapter, as well as those particularly relating to SASMs. Because of the broad range of matters that would need to be considered, my preference is to retain a fully discretionary status.
- 8.16.8 With respect to the location of the subdivision rule, I note that the drafting approach taken in the PDP is to include rules applying to subdivision within overlay areas within each respective overlay chapter, rather than the Subdivision Chapter. As this affects a number of other chapters, this matter is addressed in the s42A report of Mr Boyes, who recommends that the rule is shifted into the Subdivision Chapter. If his recommendation is not accepted and the rule is retained in the SASM Chapter, then I note that the Subdivision Chapter already includes a cross-reference to the SASM Chapter, as well as to other chapters which also apply to subdivision. I do not consider that a cross-reference to the specific rule is required.
- 8.16.9 With respect to the request from Federated Farmers [182.98] I am unclear on how the addition sought would work in the rule. In any case, I do not consider that it relates to the achievement of the objectives or policies in the SASM Chapter, and therefore do not recommend that it is added to the rule.

Conclusions and Recommendations

- 8.16.10 I recommend that SASM-R7 is retained as notified, noting that the location of the rule is addressed by Mr Boyes in the s42A report relating to Subdivision.

8.17 Shelterbelts, Woodlots and Plantation Forestry - SASM-R8

- 8.17.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Hart, J	58.2, 58.8
Port Blakely	94.4
Moore, D and J	100.8
Peel Forest	105.11
McArthur, K and J	113.8

Hart, J R	149.7
Federated Farmers	182.99
TRoNT	185.105
Rangitata Island Dairy	221.6
Beattie, D M	238.5

Submissions

- 8.17.2 Hart, J [58.2, 58.8] is concerned that the non-complying activity status applying to shelterbelts, woodlots and plantation forestry within wāhi tapu areas will reduce the amount of future tree planting, add unnecessary regulation and reduce options for property owners. The submitter states that landowner knowledge on appropriate land management such as where planting is necessary to stop erosion and what species are best suited, should be considered. The submitter seeks that SASM-R8 is amended so that forestry is not non-complying in SASM8 and SASM9.
- 8.17.3 Port Blakely [94.4] states that SASM-R8 imposes a stricter standard than the NESPF, as it makes plantation forestry a non-complying activity in areas with a wāhi tapu overlay, which they consider is not allowed in Regulation 6(1)&(2) of the NESPF. The submitter seeks that the rule is amended to only apply to forestry earthworks and forest quarrying activities, not to afforestation or replanting, and to impose a buffer around these sites of 10 or 20m, not designate the whole title as non-complying.
- 8.17.4 Moore, D and J [100.8] oppose SASM-R8, for the same reasons as set out in relation to SASM-R6.
- 8.17.5 Peel Forest [105.11] considers SASM-R8 is overly prescriptive and creates unnecessary regulation for landowners, stating that they know what their land requires and what enables sustainable management of the land, having planted trees, shade and shelterbelts on their property which are important for stock welfare and land management.
- 8.17.6 McArthur, K and J [113.8] and Federated Farmers [182.99] oppose the restrictions on shelterbelts, woodlots, or plantation forestry as this can have implications on farm operations, especially the welfare of stock. Federated Farmers [182.99] request that the rule is amended as follows:
- the addition of shelterbelts for the protection of crops, welfare of animals, creating ecological habitats on farm in consultation with iwi through a relationship to which trees can be planted around these sites of significance.*
- 8.17.7 Hart, J R [149.7] considers that limiting planting of shelterbelts or woodlots, it may result in deterioration of sacred sites through lack of shade.
- 8.17.8 TRoNT [185.105] support the rule but seek that it is expanded to include all forestry activities in order to protect these sites.

- 8.17.9 Rangitata Island Dairy [221.6] opposes the approach to shelterbelts and the lack of consideration of the implications of these restrictions, especially on the welfare of stock.
- 8.17.10 Beattie, D M [238.5] opposes the rule, stating that shelterbelts are essential for stock protection and that existing woodlots which are in an unsafe condition and need to be cut down should be able to be replanted. The submitter seeks deletion of SASM-R8.

Analysis

- 8.17.11 I accept that landowners have good knowledge of where planting on their properties may help stop erosion or is appropriate for stock welfare and land management purposes. However, the purpose of these rules is to restrict shelterbelts, woodlots and plantation forestry in particular areas (being rock art sites). My understanding is that the reason for this control is that changes to the freshwater environment in the vicinity of rock art can impact on the integrity of rock art.⁸⁶ Forestry is a land use activity that can result in changes to the freshwater environment, such as through increasing the water removed from the ground and reducing the amount of precipitation that reaches the ground. This is reflected in the NESCF implementation guide, which states that “*Afforestation can have an impact on total water yield and low flows in low-to-moderate rainfall areas*”.⁸⁷ Rock art is also typically located near a waterbody, (including waipuna and wetlands) and therefore changes in groundwater flows can affect flow entering the surface waterbody, which has potential flow-on effects on surface condition of rock art pigments. This, along with the corresponding need to manage afforestation in relation to rock art sites, is also identified in the AECL Report.⁸⁸ I therefore consider that the control is appropriate to align with SASM-P5, and in particular, the protection of the integrity of these sites. I am not aware of lack of shade causing an issue with the integrity of rock art sites, but note in any case that the rule is controlling *new* planting in rock art areas and therefore does not relate to removal of existing planting.
- 8.17.12 Having considered the reason for the rule, my view is that the effects of concern are more related to stands of trees (i.e. forestry and woodlots), and that the same level of adverse effects will not arise from shelter belts, which cover less area and are linear in nature. I therefore consider it appropriate to amend the rule so that it does not apply to shelterbelts. This will also address the concerns of some submitters relating to shelterbelts being necessary for stock protection.
- 8.17.13 With respect to “*all forestry activities*” I am unclear exactly what TRoNT [185.105] is referring to, but assume it relates to other activities managed under the NESCF such as harvesting. I

⁸⁶ *Guideline for implementing a land-based taonga risk and vulnerability assessment in the context of freshwater environments: Māori Rock Art*. (November 2018). Gyopari, M. & Tipa, G. With contributions from Symon, A. & Scott, J. Refer to Appendix 5.

Māori rock art and associated freshwater taonga protection: A sensitivity-based knowledge convergence approach. (2019). Gyopari, M., Symon, A. & Tipa, G. Refer to Appendix 5.

⁸⁷ *Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 Plan Alignment Guidance*. (May 2018). Prepared for Ministry for Primary Industries By 4Sight Consulting Limited, page 36.

⁸⁸ AECL Report, pages 53 and 55.

generally consider that it would need to be established what effects other activities associated with forestry may have on rock art sites before additional controls could be considered. I note, for example, that other aspects of forestry are not identified as threats to the values of SASMs in the AECL Report, nor in the technical guidelines⁸⁹ relating to rock art protection.

8.17.14 With respect to the NESCF, I note that this NES manages the establishment (afforestation) of commercial forestry. Under Regulation 12, afforestation is not permitted within SNAs, ONLs or ONFs, and is treated as a restricted discretionary activity under Regulation 16(1). SASMs are not included in the District Plan as ONFs, ONLs or SNAs and therefore, these provisions in the NESCF do not apply in these areas. The NESCF does not otherwise include provisions relating to, or managing effects on, areas of significance to Māori. The District Plan can therefore control forestry with respect the potential effects of this land use activity on the values of SASMs. In addition, under Regulation 6(4A) of the NESCF, a rule in a district plan can be more stringent or more lenient than the NESCF rules in relation to afforestation (i.e. planting of commercial forestry).

8.17.15 In absence of the NESCF including any controls which are specific to the potential effects of forestry on the values of SASMs, I consider that the correct test for the inclusion of rules in the PDP is whether such control is necessary to achieve the outcomes sought – in this case, ensuring that if forestry affects the values of the identified sites and areas, Kāti Huirapa are actively involved in decision making relating to this (SASM-O1); and ensuring that the values the identified sites and areas are protected from any effects of forestry that are inappropriate (SASM-O3). SASM-R8 only seeks to control plantation forestry within two sites, which are rock art sites. Forestry in other SASMs will instead be managed under the NESCF. I therefore consider the control to be appropriate.

Conclusions and Recommendations

8.17.16 I recommend that SASM-R8 is amended as follows:

SASM-R8	Shelterbelts or w Woodlots or plantation forestry	
Wāhi tapu Overlay — SASM8 and SASM9 only	Activity status: Non-complying	Activity status where compliance not achieved: not applicable

8.17.17 Under s32AA, I consider that the exclusion of woodlots from the rule is a more efficient approach, taking into account that the scale and nature of these will have lesser adverse effects on the freshwater environment surrounding the rock art. I therefore consider that

⁸⁹ *Guideline for implementing a land-based taonga risk and vulnerability assessment in the context of freshwater environments: Māori Rock Art.* (November 2018). Gyopari, M. & Tipa, G. With contributions from Symon, A. & Scott, J. Refer to Appendix 5.

Māori rock art and associated freshwater taonga protection: A sensitivity-based knowledge convergence approach. (2019). Gyopari, M., Symon, A. & Tipa, G. Refer to Appendix 5.

the potential cultural costs of removing them from the rule are not sufficient to justify the costs associated with limiting the establishment of new shelterbelts in these areas.

8.18 Matters of Discretion

8.18.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Transpower	159.68, 159.69
TRoNT	185.97

Submissions

8.18.2 Transpower [159.68] generally supports the rules and the manner in which the sites are identified in SCHED6 so that the rules are clear and certain. In order to give effect to the National Policy Statement on Electricity Transmission 2008, Transpower [159.69] seeks that the matters of discretion are amended so that when considering to utilities, regard is had to the benefits of these utilities, as well as to operational needs, as follows:

In respect of utilities, the local, regional and national benefits of the utility and the extent to which the proposed utility has functional needs or operational needs for its location.

8.18.3 TRoNT [185.97] states that cultural effects can only be determined by Kāti Huirapa and therefore considers that any cultural impact assessment needs to be endorsed by Kāti Huirapa to ensure that all the effects are considered. The submitter seeks that “endorsed by Kāti Huirapa” is added to all matters of discretion that refer to a CIA.

Analysis

8.18.4 EI-P2 – which applies to infrastructure – does not refer to benefits of infrastructure, and with respect to SASMs, directs that adverse effects of infrastructure are managed by seeking to avoid adverse effects on the identified values and qualities of these areas. I therefore do not agree with adding reference to benefits of the utility. I note that the direction in EI-P2 does however refer to having regard to both functional and operational needs, and I therefore consider it appropriate that the matters of discretion relating to utilities similarly include reference to operational needs.

8.18.5 I note that in reviewing the matters of discretion, SASM-R5, which pertains to quarrying and mining, includes a matter of discretion referring to utilities. I recommend that this be removed (as a clause 16(2) change) as the rule itself does not apply to utilities.

8.18.6 With respect to referring to any CIA as being “endorsed by Kāti Huirapa”, I note that this would essentially operate as a requirement, and as such I do not consider that this can be included as a matter of discretion, which is about what the Council can consider.

8.18.7 In discussing this matter with Ms Davidson (a planner from AECL), she noted that a key aspect of the matters of discretion relate to assessing the effects of activities on values; but that exactly how these are assessed is of less relevance. Consultation with Arowhenua will assist in this assessment (as provided for in the first matter of discretion) and may be undertaken through a CIA; but in my view, the matters of discretion do not need to be specific in this regard. I also note that a number of the matters of discretion overlap, or could be rationalised/streamlined. I have therefore recommended changes to the matters of discretion to remove express reference to CIAs, and to otherwise rationalise the matters of discretion, making them clearer and more concise. I consider that these changes do not ultimately affect the substance of the matters and therefore can be made under clause 16(2).

Conclusions and Recommendations

8.18.8 I recommend that the following matters of discretion, where it is used in the SASM Chapter, is amended as follows:

X. in respect of network utilities, the extent to which the proposed network utility has functional needs or operational needs for its location.

8.18.9 In terms of s32AA, it is my view that this change is minor, but better aligns the consideration with the direction in EI-P2. As such, I consider it improves the effectiveness of the provisions.

8.18.10 I recommend that changes are made to the matters of discretion in the SASM Chapter, under clause 16(2), to rationalise them. There are set out in full in Appendix 1. In terms of s32AA, it is my view that these changes do not alter the effect of the matters of discretion and therefore the original s32 assessment still applies. However, I consider they will improve the efficiency of the consent process.

8.19 Other Matters

8.19.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.75
Heritage NZ	114.30
TRoNT	185.36

Submissions

8.19.2 TDC [42.75] seek that the label of **SASM1a** on the Planning Maps is amended from 'Normandy' to 'Te Wharetawhiti (Pig Hunters Creek)', stating that the label is incorrect.

- 8.19.3 Heritage NZ [114.30] considers that reference to “site” in the SASM chapter is not used in a way that aligns with the definition of “site”, and seeks that the link to the definition of site is removed where the word is used in the chapter.
- 8.19.4 TRoNT [185.36] notes that s220 of the Ngāi Tahu Claims Settlement Act 1998 (NTCSA) requires that Council attach information recording all statutory acknowledgements affecting statutory areas covered wholly or partly by such policy statements or plans, either by way of reference, or by setting out the statutory acknowledgements in full. They seek that a new schedule is added which sets out Ōrakipaoa Wetland and Rangitata River (Schedules 49 and 55 in the NTCSA).

Analysis

- 8.19.5 I agree with correcting the label of SASM1a on the Planning Maps, noting ‘Te Wharetawhiti (Pig Hunters Creek)’, as the latter is used in SCHED6C. However, I have been advised by Ms Hall that the spelling in SCHED6C is not quite correct, and should be “Te Wharetawhiwhi”. I therefore recommend that this is corrected in both the schedule and on the Planning Maps. As a result of reviewing this, Ms Hall has also identified that:
- the full te reo name for Te Aitarakihi is “Te Ahi Tarakihi”, and therefore the reference in SCHED6 (in the “Site Identifier” columns in SASM3 and SASM13; should be updated to read “Te Ahi Tarakihi / Te Aitarakihi” to reflect both the correct name and the commonly used one; and
 - the reference to a famous chief in SASM3a in SCHED6 (Te Upoko Rakai Taweka) is spelt incorrectly and should be “Te Upoko a Te Rakaitau Wheke.”
- 8.19.6 I recommend that these are corrected.
- 8.19.7 I agree with Heritage NZ [114.30] that the way that “site” is used in the SASM chapter, where it is referring to “sites and areas of significance” is not used in the manner that aligns with the definition of site. I therefore agree that the link to this definition should be removed where the word is used in the chapter in this context – i.e. in terms of “sites and areas” of significance. However, the recommended addition to SASM-R1.1 PER1.1 - to limit the scale of earthworks “per site” - should be linked to the definition of site, because this condition does relate to the defined term.
- 8.19.8 With respect to Statutory Acknowledgements, I acknowledge the requirement in s220 of the NTCSA to either include the relevant Statutory Acknowledgements within the PDP, or reference to them. Within the Mana Whenua Chapter of the PDP, in MW3.2, these statutory acknowledgements are already referred to. As these areas are also identified as SASMs, the statutory acknowledgements pertaining to them are also referred to in SCHED6 (SASM4b - Waipopo - Waiateruati - Ōrakipaoa to Brown's Beach; SASM19 - Ōrakipaoa Stream; and SASM23 - Rakitata (Rangitata) River (including south branch)). These statutory acknowledgements are also referred to in SCHED8, as the Rangitata River is within ONL-1; and in SCHED14, as the Ōrakipaoa wetland is within a High Natural Character area within the

Coastal Environment. Given these references, I consider that the requirements of the NTCSA are already met in the PDP. This is the same approach taken in the Mackenzie District Plan, which similarly lists statutory acknowledgement areas in the Mana Whenua Chapter and then further refers to them in the relevant SASM listings, but does not include the full statutory acknowledgements within a schedule to that Plan. I therefore do not consider there to be a need to include the full statutory acknowledgements within a schedule of the PDP. However I am neutral in regard to this, in that I see no harm in these being included.

Conclusions and Recommendations

8.19.9 I recommend that the label of SASM1a on the Planning Maps is amended from ‘Normandy’ to ‘Te Wharetawhiwhi (Pig Hunters Creek)’.

8.19.10 I recommend that the “Site Identifier” columns relating to SASM3 and SASM13 in SCHED6, (and the corresponding reference in the planning maps) are amended as follows:

Te Ahi Tarakihi / Te Aitarakihi

8.19.11 I recommend that the “Site Types and Values” column relating to SASM3a is amended as follows:

Pā site (Te Upoko a Te ~~Raki Taweke~~ Rakaitau Wheke), urupā...

8.19.12 In terms of s32AA, these changes are minor corrections which improve the implementation of the PDP and better recognise the relationship of mana whenua with these areas through correct spelling, without altering the effect of the provisions. The original s32 evaluation therefore still applies.

8.19.13 I recommend that the link to the definition of ‘site’ is removed where the word is used in the SASM Chapter (except where it is used in SASM-R1.1 PER1.1).

8.19.14 In terms of s32AA, this change better aligns with the intent of the provisions and therefore provides greater clarity in their interpretation. In doing so, I consider the change will better assist with the efficient and effective administration of the PDP.

9. Māori Purpose Zone

9.1 MPZ Mapping

9.1.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.73
Te Kotare	115.3

Waipopo Huts	189.1, 189.2, 189.8, 189.48, 189.49
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Submissions

- 9.1.2 Waipopo Huts [189.1, 189.2] seeks that the PDP is amended to enable the re-establishment of the village that once occupied the submitter's 36 properties at Waipopo Huts, and to upgrade and develop the land for safe residential use, to appropriately recognise its significance to tangata whenua. More specifically, Waipopo Huts [189.1] seek that the land is rezoned from Open Space Zone to MPZ, that [189.8] the PREC4 Holiday Huts overlay is removed from this land, and [189.2] that new dwellings and upgrades to existing dwelling be permitted, subject to performance standards that mitigate the risk to the environment and human health. The submitter considers that the OSZ and PREC4 does not formally recognise the land as Māori Reserve; restricts new residential activity on it; does not give effect to Kemp's Deed, Te Tiriti o Waitangi, or the RMA and will effectively result in any building or replacement building requiring resource consent for a non-complying activity. The submitter considers that a more permissive zoning, such as the MPZ is more appropriate.
- 9.1.3 TDC [42.73] also seeks that the area to which the Waipopo Huts submission relates, as well as other additional land to the north of Waipopo Road is zoned MPZ, on the basis that this was "inadvertently" left off the map, and that the extent of the MPZ was intended to correlate to the former Māori Reserve.
- 9.1.4 Te Kotare [115.3] seeks that the PDP is amended to enable the re-establishment of the village that once occupied the submitter's properties at 447-475 Waipopo Road, and to upgrade and develop the land for safe residential use, to appropriately recognise its significance to tangata whenua. In terms of zoning, the submitter seeks that an alternate zoning to MPZ is considered, such as GRUZ, RLZ, GRZ or Low Density Residential, along with the introduction of bespoke provisions to allow for papakāinga housing on the Trust Land; with the provisions of the PDP amended to recognise and provide for the residential use and development within the Trust Land, with new dwellings and upgrades to existing dwellings permitted, subject to performance standards that mitigate the risk to the environment and human health.
- 9.1.5 For completeness I note that both Waipopo Huts and Te Kotare also opposes a number of overlays that apply to the land, which are addressed in other topics.⁹⁰

Analysis

- 9.1.6 I consider that it is appropriate to zone the 36 properties at Waipopo Huts MPZ, as well as the wider area identified in TDC's submission, as based on TDC's submissions, this was the intended zoning, and its inclusion would be consistent with how the zoning has otherwise been applied in this area (i.e. to correlate with the former Māori Reserve.) This is consistent with the Introduction to the MPZ chapter which states that "*The Māori Purpose Zone is*

⁹⁰ Including the Regional Council Stopbank Overlay, High Hazard Overlay, Sea Water Inundation Overlay, Flood Assessment Area Overlay, PREC4 Holiday Huts Overlay, Liquefaction Awareness Areas Overlay and Drinking Water Protection Area Overlay, which are addressed in the Natural Hazards topic.

applied to areas of land originally granted as Native Reserve for Māori occupation or use.”

As a consequence of this, I also recommend that PREC4 is removed from these properties (noting that this is a precinct that only applies within the OSZ). For completeness I note that the submitter (Waipopo Huts) has also sought changes to the MPZ framework which are considered further below.

- 9.1.7 With respect to the properties at 447-475 Waipopo Road, I consider that it would be less efficient to zone these properties something other than MPZ, but then apply a bespoke suite of provisions allowing for papakāinga housing. In effect, this would result in two sets of provisions within the PDP (MPZ for some land; and then another zoning with a Precinct or Specific Control Area also applied to this land) seeking to achieve the same outcome.

Conclusions and Recommendations

- 9.1.8 I recommend that 550-582 Waipopo Road, as well as the other land to the north of Waipopo Road identified in TDC's submission [42.73] are zoned MPZ; and that these properties are removed from PREC4.
- 9.1.9 Under s32AA, I consider that applying MPZ will better achieve MPZ-O1, by recognising and providing for the occupation of ancestral land by mana whenua. Similarly, it assists in achieving SD-O5.v. as it better facilitates the use of Māori reserve lands by Kāti Huirapa for their intended purpose. Conversely, I consider that application of OSZ and PREC4 would not assist in achieving these outcomes and is therefore less appropriate.
- 9.1.10 I recommend that the MPZ zoning of 447-475 Waipopo Road is retained as notified.

9.2 MPZ Framework

- 9.2.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.59
Te Kotare	115.1, 115.2, 115.4, 115.19, 115.20, 115.21, 115.22, 115.23, 115.24, 115.25, 115.26, 115.27, 115.32
TRoNT	185.87
Waipopo Huts	189.29, 189.30, 189.31, 189.32, 189.33, 189.34, 189.35, 189.36, 189.37, 189.38, 189.39, 189.48, 189.49
Te Tumu Paeroa	240.3, 240.9, 240.10, 240.11, 240.12

Submissions

- 9.2.2 TRoNT [185.87] generally supports the MPZ, considering it a critical part of the Plan to enable rakatirataka for Kāti Huirapa on their land. Te Kotare Trust [115.4] state that they both support and oppose the zone, stating that it “Provide for mana whenua needs and activities

provided by MPZ-O2.” However, there is no requested relief in relation to this point. Te Kotare Trust [115.32] supports the Introduction to the MPZ Chapter, as it provides for the recognition of mana whenua interests in the occupation of ancestral land and formation of a thriving, sustainable and self-sufficient Māori community on Māori Trust land.

- 9.2.3 Te Kotare [115.19, 115.20, 115.21] and Waipopo Huts [189.29, 189.30] support MPZ-O1, MPZ-O2 and MPZ-P1 as they provide for the recognition of mana whenua interests in the occupation of ancestral land and formation of a thriving, sustainable and self-sufficient Māori community on Māori Trust land. Waipopo Huts [189.32] also supports MPZ-P2; while Te Kotare [115.22] supports MPZ-P7, for the same reasons.
- 9.2.4 Te Tumu Paeroa [240.3, 240.9, 240.10, 240.11, 240.12] seeks a range of changes to various provisions (including the definition of ‘Papakāika (Papakāinga)’, the MPZ Chapter Introduction [240.9], MPZ-O1 [240.10], MPZ-O2 [240.11], MPZ-P6 [240.12]) to expand the application of the provisions to all Māori landowners, not just mana whenua. The submitter states that not all Māori landowners will be actively involved in Kāti Huirapa, and this is why they consider that all Māori landowners need to be included.
- 9.2.5 Te Kotare [115.1] and Waipopo Huts [189.48] broadly support all rules in the PDP insofar as they enable the outcomes contemplated by the MPZ objectives and policies. However, they oppose those within the PDP that they consider frustrate or impede these objectives by imposing undue regulatory burdens on the use, development and renewal of dwellings within their land.
- 9.2.6 In particular, the submitters state that despite the flood hazard overlays and the lack of reticulated water/sewage there needs to be the ability to construct new buildings as a permitted activity. The broad relief sought is that the provisions in the PDP be amended as necessary to enable the use, development and renewal of dwellings on the submitters’ properties, and to provide for mana whenua needs and activities on their land. They more specifically seek that a permitted activity rule be included to allow the re-construction of dwellings that previously occupied the submitters’ land; for new buildings to be permitted regardless of any flood hazard overlays; and for new buildings to be permitted regardless of whether the land is able to be serviced by a reticulated sewage system or potable water supply.
- 9.2.7 Te Kotare [115.23, 115.24, 115.25, 115.26, 115.27] and Waipopo Huts [189.33, 189.34, 189.35, 189.36, 189.37] support MPZ-R1, MPZ-R22, MPZ-S1, MPZ-S3, MPZ-S4.2 insofar as they enable the outcomes contemplated by the MPZ objectives and policies. However, they oppose those aspects of these rules and standards that they consider frustrate or impede these objectives by imposing undue regulatory burdens on the use, development and renewal of dwellings within their land.
- 9.2.8 Te Kotare [115.27] and Waipopo Huts [189.38] consider that the requirement (in MPZ-S4.1) to store 45,000 litres of potable water is excessive given the small size of dwellings, the cost and storage tanks and the circumstances of the submitter’s property and its occupants. They

seek that the volume is reduced to a level that recognises the particular circumstances of the submitter's land and its occupants.

- 9.2.9 Waipopo Huts [189.39] also oppose the requirement in MPZ-S4.2 to require connection to a reticulated service system, as they consider it does not provide for holding tanks. The submitter seeks that the standard is amended to allow connection to holding tanks as an alternative connection to a reticulated service system.
- 9.2.10 Both these submitters (Te Kotare [115.2] and Waipopo Huts [189.49]) also seek that the relief outlined above be applied equally to other Māori owned land within the MPZ, as they consider that the matters raised in their submission appear to be equally applicable to other Māori owned land. As such, while the above submission points refer specifically to the land owned by the submitters, the changes sought are to the application of the provisions across the MPZ as a whole.
- 9.2.11 TDC [42.59] states that each zone should have a rule which covers all other uses not listed and provide the associated activity status, to provide certainty for plan users as to the activity status of uses not specifically listed in the Plan. The submitter states that the MPZ does not have such a rule, and seek that a new rule is added to the chapter to apply a discretionary activity status to "*Any activities not otherwise listed in this chapter*".

Analysis

- 9.2.12 The general support for the MPZ Chapter, the Introduction and MPZ-O1 and MPZ-O2 is noted.
- 9.2.13 In terms of Te Tumu Paeroa's requests, I note that the reason for the request relates to Māori landowners not being actively involved in Kāti Huirapa. However, the provisions refer to "mana whenua". The MPZ Chapter also applies to all Māori Land, as that is defined, which includes Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Maori Act 1993; and land owned by a person or persons with evidence of whakapapa connection to the land (where documentary evidence of whakapapa connection is provided from either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit). Application of the provisions is therefore not determined by the involvement of a landowner in Kāti Huirapa (noting that Kāti Huirapa is defined as the hapū that holds rights of mana whenua in the defined area). The change sought by the submitter would therefore have the effect of expanding the provisions beyond simply parties who are not actively involved in Kāti Huirapa, and instead to any Māori landowner, without them holding rights as mana whenua.
- 9.2.14 I note that SD-O5.v. seeks that the mana whenua status of Kāti Huirapa is recognised and their historic and contemporary relationship with the District's land is recognised and provided for by ensuring Māori reserve lands are able to be used by Kāti Huirapa for their intended purposes. I consider that expanding the application of the MPZ provisions is not related to achievement of this outcome, as it would apply to provisions to any Māori

landowners, and not relate to those who hold mana whenua status. Although s6(e) of the RMA does not explicitly refer to mana whenua, I note that the matter to be recognised and provided for, is the relationship of Māori with their ancestral lands. The extension sought by Te Tumu Paeroa, in my view, extends beyond this, because it would apply the provisions in a way that extends beyond ancestral lands. I therefore do not consider the changes to be appropriate to achieve the objectives of the PDP, nor to align with s6(e) of the RMA.

- 9.2.15 As I do not agree with the extension of MPZ-O1 and MPZ-O2 to refer more broadly to all Māori landowners, I recommend that the objectives are retained as notified.
- 9.2.16 Similarly, as the only change sought to the MPZ policies (MPZ-P6) relates to extending it to refer more broadly to all Māori landowners, which I have recommended rejecting, and the other policies are either supported or not subject to submissions, I recommend the policies are retained as notified.
- 9.2.17 With respect to Te Kotare [115.1] and Waipopo Huts [189.48] broad submissions, I note, with respect to the MPZ chapter itself, that dwellings are permitted, as these (*“whare (household unit)”*) fall within the definition of papakāika, which is permitted under MPZ-R1, subject to standards being met, and the building not being on the riverside of a regional council stopbank. I note that consideration of how the natural hazard rules might affect this will be considered as part of the Natural Hazards topic, but consider that no changes are required to the MPZ provisions in relation to these submission points. With respect to servicing, servicing requirements are discussed further below, but I note that the requirements (in MPZ-S4) provide alternate (permitted) options to reticulated servicing.
- 9.2.18 With regard to the rules and standards being opposed to the extent that they frustrate or impede the achievement of the MPZ objectives by imposing undue regulatory burdens on the use, development and renewal of dwellings within their land, it is not clear what aspects of the rules do this. Broadly speaking, the rule framework seeks to enable (through a permitted activity status) use and development of the MPZ for papakāika, while ensuring any significant adverse effects from these activities on adjoining landowners beyond the zone and the wider environment are minimised (which is generally achieved through standards) and requiring adequate servicing (as set out in MPZ-P1). Other compatible activities are enabled subject to meeting the criteria set out in MPZ-P4; and activities which are likely to be incompatible with the Zone Purpose are to be avoided, in absence of a cultural impact assessment demonstrating that effects on cultural values are acceptable or can be minimised (MPZ-P5). I consider that the suite of rules and standards is appropriate to align with this policy direction, and to provide for mana whenua needs and activities, including papakāika, to achieve a thriving, sustainable and self-sufficient Māori community (as sought in MPZ-O2), while also ensuring significant adverse effects beyond the zone are minimised and that appropriate servicing is provided.
- 9.2.19 With respect to the specific servicing requirements in MPZ-S4, I note that the requirements for the MPZ, in terms of the alternative provision of 45,000 litres of potable water, is

consistent with the requirements applied to the Settlement Zone (in SETZ-S5). This also reflects the requirement currently applying.⁹¹ This is intended to ensure that an appropriate supply of potable water is provided, where this is not otherwise achieved through connection to a community water scheme or private bore. I do not consider that the circumstances of the submitter's property or its occupants negates the need to ensure an appropriate water supply is provided. However, if a smaller supply is proposed, this is still able to be considered through a restricted discretionary consent pathway, with narrow matters of discretion which allow for consideration of the adequacy of the storage volume.

9.2.20 In terms of wastewater disposal, I note that connection to a sewerage network is required, where such a network exists. Where it does not, the requirement (for a permitted activity) is for an on-site treatment and sewage disposal system to be provided that has been consented or approved by the Canterbury Regional Council. I firstly recommend a minor change to this, to align with the wording Mr MacLennan has recommended for the SETZ chapter - to refer to a system that is permitted or has been consented, rather than referring to "approved". In considering the use of holding tanks, I understand that this would allow for wastewater to be collected and held on site, with tanks cleared out when required, and waste ultimately disposed of off-site, with the latter disposal regulated under the CLWRP. I also understand that there are limitations on servicing within the MPZ, where there is currently no reticulated option. On-site treatment and disposal systems are also likely to be problematic due to proximity to on-site water supplies and other disposal systems. These servicing constraints could frustrate the ability to further develop and utilise the zone to achieve a thriving, sustainable and self-sufficient Māori community. In the specific circumstances of the MPZ, I therefore consider that it is appropriate to allow for the use of holding tanks.

9.2.21 I agree with TDC [42.59] that for consistency with the approach taken across the zone chapters within the PDP, it is appropriate to include a rule applying to activities not otherwise listed in the chapter, and for this to be discretionary. In absence of such a rule, my understanding is that activities within this zone not otherwise covered by a rule would be permitted (as under s9(3), they would be a use of land that would not contravene a district rule). However, the activities that are considered to be appropriate in the zone have already been identified as permitted activities, and other activities not listed may not align with the policy direction nor achieve the outcomes sought. I therefore consider it appropriate that a consent is required for these, with the consent process allowing for consideration on a case-by-case basis against the policy direction and objectives.

Conclusions and Recommendations

9.2.22 I recommend that MPZ-O1 and MPZ-O2 are retained as notified.

9.2.23 I recommend that MPZ-P1 to MPZ-P7 are retained as notified.

⁹¹ Performance Standard 5.4 applying in Rural 1 & 2 Zones, and as directed in Policy 2 in Section 1.2 – Intensification of Development in the Part D1 – Rural Zones.

9.2.24 I recommend that MPZ-R1 to MPZ-R22 are retained as notified.

9.2.25 Add new rule to the MPZ Chapter as follows:

<u>MPZ-RX</u>	<u>Any activities not otherwise listed in this chapter</u>	
<u>Māori Purpose Zone</u>	<u>Activity status: Discretionary</u>	<u>Activity status where compliance not achieved: Not applicable</u>

9.2.26 In terms of s32AA, I consider that including a rule covering activities not otherwise listed is a more appropriate way to achieve MPZ-O1 and MPZ-O1, as it allows for the consideration of any activities that may not be listed in the rule framework through a consenting pathway, against the policy direction. I consider that the costs arising with this approach are limited to those associated with obtaining a consent, and that these are outweighed by the benefits of being able to consider the effects of other activities on a case-by-case basis.

9.2.27 I recommend that MPZ-S1 to MPZ-S3 and MPZ-S5 are retained as notified.

9.2.28 I recommend that MPZ-S4 is amended as follows:

<u>MPZ-S4</u>	<u>Servicing</u>	
<u>Māori Purpose Zone</u>	<p>All new buildings and activities shall ensure that:</p> <ol style="list-style-type: none"> All residential units or habitable buildings are required to provide Council with evidence of access to potable (drinkable) water from a community water scheme or private water bore or shall be able to store 45,000 litres of potable water from another source. All residential units or habitable buildings shall be connected to an available sewerage network where one exists; or be served by an on-site treatment and sewage disposal system that is permitted or has been consented or approved by the Canterbury Regional Council; or be served by on-site holding tanks. 	<p><u>Matters of discretion are restricted to:</u></p> <ol style="list-style-type: none"> <u>the ability to ensure an adequate supply of potable water for the uses of the site or activity; and</u> <u>the security of any proposed potable water supply from contamination; and</u> <u>the adequacy of storage volume of water for domestic and fire-fighting purposes.</u>

9.2.29 Under s32AA, I consider that allowing for use of holding tanks is a more effective way of allowing for development within the MPZ that will contribute towards a thriving, sustainable and self-sufficient Māori community (MPZ-O2), while still ensuring such development is adequately serviced in accordance with MPZ-P2.

9.3 Other Matters

9.3.1 This section of the report addresses broad submission points that are relevant to the MPZ Chapter, that are not addressed in the earlier sections of this report.

9.3.2 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in Appendix 2:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Te Kotare	115.3, 115.32
ECan	183.1, 183.4
Waipopo Huts	189.3

Submissions

9.3.3 ECan [183.1] is concerned that various rules in the PDP use variable terminology to define floor areas of buildings, often with the term undefined, so that it is not clear what is being measured. The submitter considers that it is necessary to review all references to size of buildings and consider whether a clear definition is required linking development to either the "*building footprint*" or "*gross floor area*", which are defined National Planning Standard terms, and then create exclusions from those terms within the rules if necessary.

9.3.4 ECan [183.4] is also concerned that within the PDP, references to "*height*" of buildings or structures do not make reference to where height is measured from, and seek that all references to the height of buildings across the PDP is reviewed to ensure that height is measured from ground level, with consistent expression of height rules.

9.3.5 Te Kotare [115.3] and Waipopo Huts [189.3] seeks a response "*to the need to provide [the submitter's land] with adequate drinking water, wastewater and stormwater infrastructure.*"

Analysis

9.3.6 With respect to the size of buildings, MPZ-R10 PER-2 limits the retail area for rural produce retail to a gross floor area of 75m². I note that "*gross floor area*" is a defined term, taken from the National Planning Standards and consider the meaning of the condition is clear. MPZ-R5 PER-3 refers to buildings or structures relating to the keeping of poultry which have "*an area of less than 50m²*". I consider that it would be more appropriate for this to be amended to also refer to "*gross floor area*", to avoid any ambiguity.

9.3.7 MPZ-R11, which relates to home business also refers to areas, requiring, in PER-2, that the activity does not occupy a total area greater than 100m². This is in addition to the requirement (in PER-1) for the home business to be carried out within a residential unit or accessory building. Read together, the home business must be located within a residential building, and take up a maximum of 100m² within that building. In this context, I consider the reference to area is clear, and reference to "*gross floor area*" would not work.

- 9.3.8 With respect to height, I note that MPZ-S2 imposes height limits for buildings and structures. These are explicitly stated as being measured from ground level. I therefore do not consider that the concern raised by ECan arises in relation to the MPZ provisions.
- 9.3.9 With respect to the Council's provision of servicing to land in Waipopo, I note that this is a matter that sits outside the District Plan and therefore do not consider that any changes to the PDP are appropriate in response to these submission points.

Conclusions and Recommendations

- 9.3.10 Amend MPZ-R5 PER-3 as follows:

Any building or structure with ~~an~~ a gross floor area of less than 50m² used to confine poultry is setback a minimum distance of 25m from a building containing an existing sensitive activity on a separate site under different ownership; and

10. Conclusion

- 10.1.1 This report has considered the framework proposed within the PDP for the identification and management of sites and areas of significance to Māori; and for management of the MPZ.
- 10.1.2 A number of concerns have been raised in submissions which relate to the identification of SASMs, or which seek further clarity on the values within the identified areas which are sought to be protected from inappropriate subdivision, use and development. The process for their identification is set out in the AECL Report and expanded on further in the evidence of Mr Henry. These also detail the values of these areas (which are broadly set out in SCHED6), along with the potential threats to the values, which are then reflected in the rule framework. I consider that the identification process can only be undertaken by Māori, and am comfortable that the process has been appropriate. I therefore support the identification and mapping of SASMs proposed in the PDP.
- 10.1.3 In relation to the objective and policy framework, the key changes I have recommended are to:
- Amend those provisions relating to access to SASMs to provide a more realistically achievable outcome, particularly when taking into account legal and practical constraints to access to these areas.
 - Rationalise the policy direction so that it is simpler, clearer, and provides greater guidance for resource consents to be assessed against.
- 10.1.4 In relation to the rules package, a number of changes have been recommended to:
- Avoid duplication of rules contained within chapters, while ensuring that when a resource consent is triggered under such district-wide rules, the effects on the values of SASMs are able to be considered.

- Provide a more lenient approach to earthworks and buildings and structures, reflecting:
 - that there are limited benefits to be gained by requiring a resource consent for earthworks associated with the maintenance/ repair/ replacement of existing items, given the extent to which the values have already been affected by the initial installation of the items; and
 - the activities that exist or are anticipated in the underlying zone, and the need to balance these (which contribute towards the achievement of the outcomes sought in those zones) with managing the effects of earthworks/buildings to achieve the objectives sought in the SASM chapter.
- Avoid controls which overlap with the functions of the regional council.

10.1.5 Overall, I consider that the recommended suite of provisions provides clear guidance on the outcomes sought for SASMs and will assist in achieving the purpose of the RMA in the Timaru District, particularly in terms of section 6(e). I consider that the recommended approach to how these outcomes are to be achieved – including the identification of sites and areas, as well as the policy and rule framework - are the most appropriate way to achieve the stated objectives, taking into account their efficiency, effectiveness, costs and benefits.

10.1.6 In terms of the MPZ, the provisions are generally supported, and only three minor changes have been recommended to improve the provisions.