



Mackenzie
DISTRICT PLAN REVIEW
TOMORROW'S MACKENZIE
KA AWATEA HŌU

Section 42A Report: Plan Change 24 – Sites and Areas of Significance to Māori

Reply Report

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1. Purpose and Scope of Report

1. The purpose of this Reply Report is to outline where my recommendations on PC24 have altered, as a result of the questions arising from the Hearing Panel, submitter evidence or matters traversed at the hearing. It also addresses other matters arising in submitter evidence or during the course of the hearing where I consider further comment may be of benefit to the Hearing Panel. As such, other than where stated in this Reply Report, my opinions and recommendations remain as set out in the Section 42A Report¹ and in the Response to Minute 4.²
2. For the avoidance of doubt, where I do not comment further, this is not because I have not carefully considered matters raised in any evidence and in the presentations made by submitters. Rather, I am not persuaded that there is a need to alter my recommendations from that in the Section 42A report, and my reasoning has not changed from what is set out within that report.

2. Format of Report

3. This report is structured by topics raised by submitters presented at the hearing, or questions from the Hearing Panel. For the reasons noted above, it does not however traverse all matters/topics discussed at the hearing.
4. A full set of the changes recommended to provisions are contained in **Appendix 1** to this Report, incorporating recommendations made in the Section 42A Report, the Response to Minute 9 and in this Reply Report. Changes recommended in the Section 42A Report are shown by way of ~~strikeout~~ and underlining. Changes recommended in the Response to Minute 9 and in this Reply Report are shown by way of ~~red strikeout~~ and red underlining. Changes previously recommended to be deleted but now recommended to be reinstated are shown in red without underlining. Changes previously recommended to be added but now recommended not to be included are shown in red strikethrough with black underlining. Footnoted references to the relevant submitter(s), and where applicable, submitter evidence, identify the scope for each recommended change.
5. Where required, an evaluation under s32AA of the RMA is undertaken of any further changes recommended.

3. SASM-P3

6. OWL seeks that SASM-P3 is amended as follows:

Enable mana whenua to undertake Mahika kai within SASM in accordance with tikaka, subject to consideration of the risks to human health and safety in carrying out such activities in areas where nationally and regionally significant infrastructure exists.

¹ Section 42A Report: Plan Change 24 – Sites and Areas of Significance to Māori, 19 April 2024

² PC24 Section 42A Report Author's Response to Hearings Panel Questions

7. At the hearing the submitter expressed concerns that it is not clear which activities currently sit outside the SASM Chapter that this may be applied to.
8. I firstly note, that in response to a question from the Hearings Panel, Mr McMillan confirmed that tikaka includes consideration of health and safety matters. As such, I consider that the additional wording sought by the submitter is not needed, as it is already encompassed by reference to tikaka. In addition, the wording sought implies that health and safety considerations would be limited to circumstances where nationally and regionally significant infrastructure exists. This would conflict with Mr McMillan's evidence that tikaka encompasses any health and safety considerations.
9. Further, the direction in this policy relates to how this matter is addressed in the District Plan. It does not override *other* legal requirements that exist with regards to health and safety or access, which sit outside the District Plan.
10. Overall, I do not consider the addition to be appropriate or necessary.

4. Mapping SASMs

11. Mr Murray (for the Wolds), accepts that mana whenua are best placed to identify SASMs, but comments that something more than a desktop, historic map and document assessment needs to be undertaken to confirm these areas (such as sites visits to confirm desktop values). He also notes that during a tenure review process, Waitaha identified the rivers and a swampy area as food sources, but did not make mention of Mt Mary, and therefore as a landowners, they understand the significance of the waterways, but were not aware of any significance associated with Mt Mary.
12. The evidence of Mr McMillan addresses the first point, which is that it is the connections and associations with the land that makes the areas significant. These have been identified using a variety of information sources. He also notes that effort was undertaken to align the specific mapping with modern-day conventions, e.g. the use of topographical lines, roads, ridgelines, riverbanks, and lake edges. I consider that historic connections are not something that can be "groundtruthed" in the same way as other mapping exercises such as to identify ONLs, and that care has been taken to "fit" the mana whenua mind-set as far as possible into a European planning regime in terms of the exact delineation of areas. I continue to consider that the identification and mapping approach undertaken is appropriate.
13. In relation to the second point, I accept that the submitter may not have been previously made aware of the significance of Mt Mary. However, I note that the tenure review process did not consider the site from the same perspective as under the RMA, and in particular, ensuring the provisions in the District Plan (including the mapping and framework applying to mapped areas) appropriately achieves the direction in s6(e) of the RMA etc. I do not consider that simply because a site was not identified or highlighted as being significant through a process that had a different frame of reference, that it is not appropriate to recognise its significance in the District Plan context.

5. Future Rules

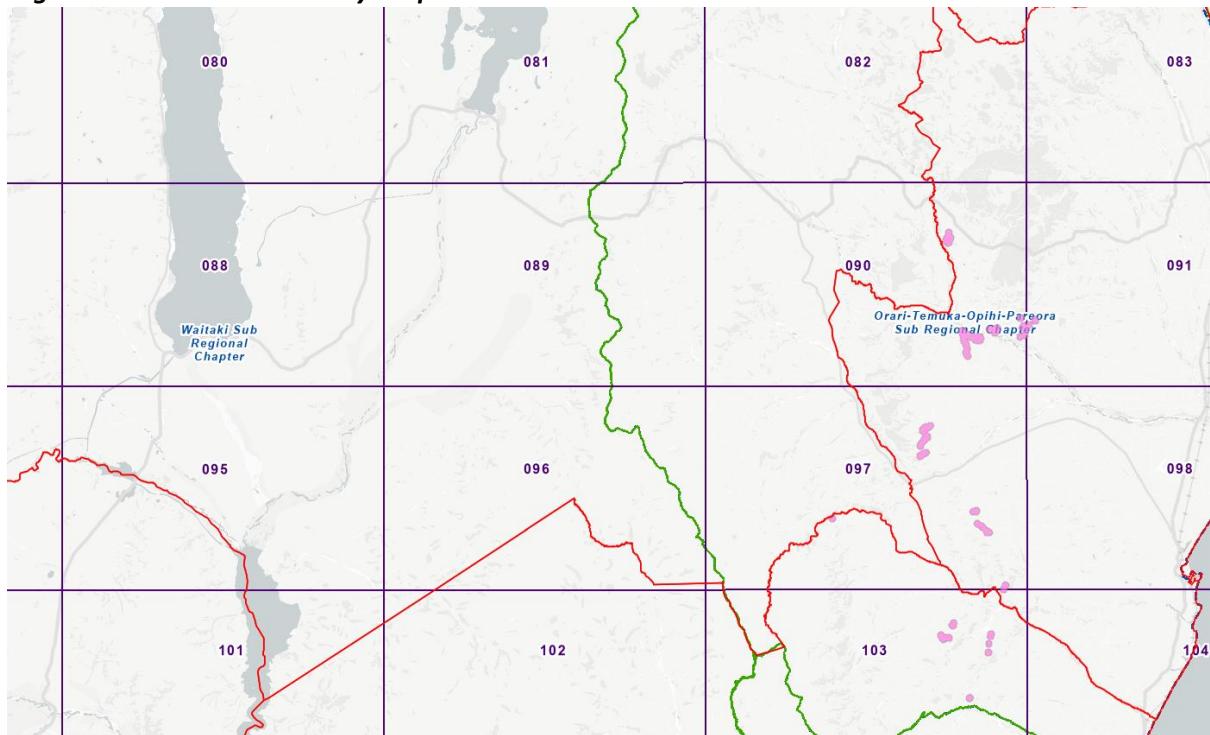
14. In their oral presentations, or in response to Panel questions, some submitters noted that their concerns with SASMs were in part, not related to the rule framework proposed in PC24 (or other Stage 3 Plan Changes) but in relation to what might apply in future to any mapped areas.
15. I note that any changes to the rule package (or related policy framework) will be required to be undertaken via a plan change process, where they will need to be assessed under s32 as to their appropriateness. It is my view that potential changes to the rules in future are not a matter that the Hearings Panel can take into account in considering the identification of SASMs and the framework relating to them that has been proposed through PC24.

6. Size of Māori Rock Art Protection Areas (MRAPAs)

16. At the hearing, Mr Anderson and Mr Morrison emphasised the concerns raised in their submissions about the extent of land included in the MRAPAs. Related to this, the Hearing Panel also requested a detailed rationale for this 300m buffer (question 15), as opposed to another limit, and also what restrictions on irrigation and wastewater disposal in proximity to rock art are required by ECan (question 11). Mr Anderson also expressed the view that changes in land use within a MRAPA would trigger a consent requirement.
17. With respect to changes in land use triggering a consent requirement, I note that paragraph 43 of the Section 42A report identifies where resource consent is required in relation to MRAPAs. The only land use change captured by this relates to where irrigation or forestry is proposed, and not other land use changes.
18. The detailed rationale for the buffer is set out in paragraph 45 of the s42A Report, which in turn refers to two reports relating to Māori Rock Art. These reports have been separately provided to the Panel.
19. The Canterbury Land and Water Regional Plan (CLWRP) includes a “Rock Art Management Area” (RAMA), but the mapping, policy and rule framework relating to it only applies within the Orari-Temuka-Opihi-Pareora (OTOP) sub-region - this means that it does not apply to rock art sites located within a different sub-region (for example, around Lake Tekapo and Lake Benmore, which are in the Waitaki sub-region).

20. Importantly, however, all RAMAs included in the CLWRP are outside the Mackenzie District. This is demonstrated in Figure 1 below, where the pink areas show the RAMAs, the green lines indicate the sub regional boundaries and the red lines show local authority boundaries.

Figure 1: Source – Canterbury Maps.



21. This means that the provisions applying within the CLWRP to RAMAs do not apply to any of the proposed MRAPAs identified in PC24. As such, the provisions proposed in the SASM Chapter are in my view necessary to manage the effects of activities within the MRAPAs to ensure the values of these sites are not compromised and that activities in close proximity to Māori Rock Art avoid damage to their integrity (SASM-P6), in turn assisting in achieving SASM-O1, SASM-O2 and SASM-O3. These potential risks to the integrity of these sites, including the application of a 300m buffer is substantiated in the two reports relating to Māori Rock Art.

22. Notwithstanding the above, for completeness I have set out the relevant framework in the CLWRP applying to rock art within the OTOP sub-region to those areas mapped within the CLWRP:

- Policy 14.4.4 applications to use land for a farming activity, to take and use water, or to discharge contaminants, are required to undertake an assessment of the actual and potential effects of the proposal on rock art. Under Policy 14.4.19(e) farming activities with irrigation within the RAMA are required to demonstrate through their Farm Environment Plan how adverse effects on tuhituhi neherā (rock art) sites will be avoided.
- Rule 14.5.18 permits the use of land for a farming activity on a property greater than 10 hectares in area, subject to conditions being met, which include that there is no irrigation or discharge of water or solid or liquid waste on the part of the property

within the RAMA. Where this is not met, the activity is restricted discretionary under Rule 14.5.20, with matters of discretion including methods to avoid adverse effects on rock art.

- c. Schedule 7 of the CLWRP, which sets out requirements for Farm Environment Plans (FEPs), also includes a requirement for FEPs within the OTOP sub-region to include management of rock art sites.

7. Raincliff Station

- 23. Mr Morgan queried, in his oral presentation, the identification of MRAPAs on this land. The Hearing Panel requested the veracity of the basis on which the SASM was identified on this property (noting the landowner is not aware of any rock art) (question 14). However, the submitter subsequently clarified via email that rock art had been identified on the property, and provided photos and a list from the Māori Rock Art Charitable Trust of the sites identified. Amanda Symon (from the Māori Rock Art Charitable Trust) also verbally confirmed that there are recorded rock art sites located on the Raincliff property. I also note that no primary or further submission was made in relation to these sites seeking changes to the MRAPAs identified on it.