

**FEATURES OF DISTRICT WIDE IMPORTANCE**



## CHAPTER 12 THE COASTAL ENVIRONMENT

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### OVERVIEW (Updated November 2010)

The coastal environment of Banks Peninsula is a legacy of the District's unique geological past. The long and intricate coastline offers an attractive natural environment consisting of large sheltered harbours, coastal cliffs, tidal estuaries, marshes and dunelands, interspersed with beaches and sheltered coves. Many of the natural features of the coastal environment are recognised as having regional and national significance.

The coastline is also a focus for social, economic and cultural activity in the District. The major settlements of the District are located on the coast, and the coastline and surrounding waters are important for recreation, visitor industry and aquaculture. The coastal environment is a working landscape where pastoral farming continues to be the dominant landuse. The coastline is also likely to be of increasing importance for land-located aquaculture enterprises, which must be sited, very close to a source of unpolluted seawater.

As a result of early settlement patterns and the continued use of the land today some development including homesteads, accessory buildings and structures are established within these areas.

Users of the Rural Zone need to be able to respond to future opportunities for a range of land uses, which may include different forms of development. These types of activities can be complementary to farming activities and in the case of tourist, ecologically based or accommodation activities of a scale consistent with objectives and policies. These can have the added benefit of enabling the community and visitors access to the coast and outstanding landscapes.

One of the matters of national importance set out in Section 6 of the Resource Management Act is the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development. All tiers of government share the responsibility for the management of the coastal environment. At the national level there is the New Zealand Coastal Policy Statement which has, as its purpose, the statement of policies to achieve the purpose of the Act in relation to the coastal environment. The District Plan must not be inconsistent with this. The Canterbury Regional Council is responsible for the seaward side of the coastal environment from Mean High Water Springs (MHWS). This part of the coastal environment forms the Coastal Marine Area. The Regional Council and the Minister of Conservation are responsible for controlling activities, which take place within the Coastal Marine Area. The Regional Council also controls activities that are landward of the CMA and are within the Coastal Hazard Zones of the Regional Coastal Environment Plan.

In 2007 the Council completed a Landscaped Study of the Rural Zone on Banks Peninsula. As part of this study, the Council identified those areas of the coast most highly valued for their naturalness and lack of obvious modification in accordance with Section 6(a) of the Resource Management Act. These areas are now encompassed within a Coastal Natural Character Landscape category. This landscape category is defined on the planning maps and does not exceed a distance of approximately 500m from MHWS. Beyond this distance the

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dominance of the coast and the sea/land interface is considered to lessen. The landscape boundary line has been designed to accommodate localised landform subtleties and areas of modification which have reduced natural character.

The Landscape Study which identified the Coastal Natural Character Landscapes has been undertaken at a district wide level. In identifying these landscapes it is recognised that there is the potential for areas to exist within sites which have the potential to absorb some change. The nature of that change must be appropriate having regard to the landscape values identified and relevant objectives and policies.

The provisions of this section of the plan apply across much of the District wherever coastal influence is an important factor. Any application for a resource consent for an activity within the coastal environment will be assessed against the objectives and policies set out below as well as those for the relevant zone.

Updated (November 2010)

<b>ISSUE 1</b>	<b>Inappropriate subdivision, use and development can adversely affect the existing natural character of the coastal environment.</b>
<b>OBJECTIVE 1</b>	<b>To preserve the natural character and amenity values of the coastal environment of the District including the Coastal Natural Character Landscape, and protect it from the adverse effects of inappropriate subdivision, use and development.</b>

### **POLICIES** (Updated November 2010)

- 1A** Coastal landforms, landscapes and vegetation which exhibit distinctive natural character and visual amenity values within the coastal environment, are to be protected from inappropriate subdivision, use and development.
- 1B** To preserve the natural character of the coast through:
- retention, as far as possible, of remaining areas of indigenous vegetation, habitat, natural landforms and the ecological, open space and amenity values associated with these.
  - maintenance of the natural character in those parts of the coastal environment which are unbuilt and/or remote.
- 1C** The scale, form and location of buildings and other structures should not to be visually dominant in the coastal environment.
- 1D** New subdivision, use and development that are appropriate to the location are to occur generally in areas where the natural character has already been compromised.
- 1E** Avoid sprawling or sporadic subdivision use and development.

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**1F** The adverse effects of use and development (including but not limited to land disturbance, earthworks, exotic forestry, indigenous vegetation clearance, buildings and other structures) should be:

- avoided, remedied or mitigated in a manner that preserves the high natural character values of the Coastal Natural Character Landscape;
- avoided, remedied or mitigated in other areas of the coastal environment.

### EXPLANATION AND REASONS

Many parts of the coastline and the coastal environment of the District are wild and remote and are highly valued for their natural character and amenity values. It is important that these areas' high natural values are not adversely affected by activities, earthworks and structures located adjacent to the foreshore. Structures such as jetties and boatsheds, in as much as they are a District Council responsibility, are to be located in areas where that sort of development exists already, where such facilities are required for reasons of safety or are necessary for the carrying out of permitted activities. The policies therefore seek to recognise and provide for the relevant section 6 and 7 matters, while at the same time remaining consistent with section 5 of the Act in that people and communities will still be able to provide for their social, economic and cultural wellbeing.

<b>ISSUE 2</b>	<b>Modification of wetlands and dune systems, drainage, structures, vehicle access and noise, and clearance of significant indigenous vegetation, can adversely affect seabird and mammal and other wildlife habitats within the coastal environment.</b>
<b>OBJECTIVE 2</b>	<b>To protect, and where practicable, enhance significant indigenous vegetation and significant indigenous wildlife habitats in the coastal environment.</b>

### POLICIES

- 2A** The adverse effects of subdivision, use and development of areas identified as significant ecosystems, significant indigenous wildlife habitats, and significant indigenous vegetation are to be avoided, remedied or mitigated.
- 2B** The retention, restoration and rehabilitation of the indigenous ecosystem functioning, habitat values and natural character of the coast of the Banks Peninsula is to be encouraged.

### EXPLANATION AND REASONS

There are habitats or parts of habitats within the coastal environment. These include remnant areas of indigenous coastal vegetation and seabird and marine mammal habitats. Some of these habitats contain rare and endangered species and it is particularly important that they are not adversely affected by the physical intrusion of structures, or the effects of air, water, noise pollution, vegetation clearance or predators.

(Updated October 2006)

**ISSUE 3** Discharges and run-off from land use activities can affect the quality of coastal waters.

**OBJECTIVE 3** Land use activities are carried out in such a way so as to maintain or enhance coastal water quality.

### POLICIES

**3A** When considering resource consents or plan change requests, to ensure that proposals are designed to avoid or reduce sediment and other contaminants from entering the coastal water.

**3B** Land use activities should not induce erosion, subsidence or landslip.

### EXPLANATION AND REASONS

Although the Canterbury Regional Council through its control of discharges principally manages such issues, land use activities, if carried out inappropriately, do have the potential to reduce the quality of the coastal waters. The Council, in conjunction with the Canterbury Regional Council, will foster land use practices that serve to reduce silt-laden runoff. Mitigation measures, such as the use of silt ponds, will be required.

**ISSUE 4** Public access to and along the coast.

**OBJECTIVE 4** To maintain and enhance public access to and along the coast in a way that does not adversely affect natural character, indigenous ecosystems, human safety or the amenity values of the coast and adjacent land.

### POLICIES (Updated April 2007)

**4A** Public access is to be maintained and enhanced.

**4B** To maintain and enhance recreational amenity and public foot access to and along the coast by progressively identifying, mapping and signposting

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suitable unformed legal roads where alternative practical access is not available.

- 4C** Adverse effects of the use of public access on the natural character indigenous ecosystems and amenity of the coast, rural amenity values and human safety are to be avoided, remedied or mitigated.
- 4D** To restrict vehicle access to Kaitorete Spit and the margins of Te Waihora (Lake Ellesmere) to formed roads and authorised formed vehicle tracks except this shall not apply to vehicles used for management purposes (including for farming purposes), scientific research or by fire fighting, civil defence and rescue organisations. (Updated April 2007)

### EXPLANATION AND REASONS

Public access to and along the coastline is currently provided by public roads (some formed and some unformed) and reserves. A road, which is unformed for most of its length, encircles the majority of the coastline of the District. This road is located within the Interim Coastal Protection Area which will act as a buffer to assist in preserving the natural character of the coastal environment. For this reason, it is not intended that this road is formed for vehicular purposes, except where it is the only viable access to the coast or it is necessary for health or safety reasons. Some areas do not have clear or practical access. Following consultation with affected parties it may be appropriate to make improvements to such access.

In addition to this coastal road a proportion of the coastline is in public ownership and used for a range of recreational activities. However, it is important that the level of provision and degree of public access to the coastal environment takes into account environmental and other constraints such as the need for safety or privacy. Access for intensive recreational activities are to be directed towards the more developed parts of the coastline while allowing for limited access, for example only by foot or limited time to sensitive habitats where appropriate.

<b>ISSUE 5</b>	<b>Use and development of the coastal environment may adversely affect the traditional relationships that tangata whenua have with the coastal environment.</b>
<b>OBJECTIVE 5</b>	<b>To recognise and provide for the values of Ngai Tahu and the local tangata whenua relating to the coastal environment.</b>

### POLICIES

- 5A** Use and development should not adversely affect Waahi tapu and other sites, which are significant to tangata whenua.

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- 5B** Access to the coastline for the gathering of kai moana is to be maintained or enhanced where appropriate, in consultation with landowners.

### **EXPLANATION AND REASONS**

The coastal environment of Banks Peninsula and its conservation has a dual significance to Ngai Tahu. In particular, there is a desire to protect Ngai Tahu environmental values and to secure the protection of culturally significant places, sites and objects associated with the occupancy of land by Ngai Tahu who have mana whenua for the area within the jurisdiction of the Banks Peninsula District Council. In addition, there is the need to preserve access to traditional coastal food sources.

### **METHODS TO ACHIEVE OBJECTIVES AND POLICIES**

#### **Method 1 (Updated November 2010)**

Landscapes which display a high degree of naturalness along with an absence of obvious modification are identified as Coastal Natural Character Landscapes on the Planning Maps. Within these areas greater protection is to be afforded the existing values in accordance with Section 6(a) of the Resource Management Act. Ribbon development is considered to be undesirable along the coastal margin and coastal areas not encompassed within the Coastal Natural Character Landscape are subject to a 40m setback from MHWS to provide for the maintenance of recreation, amenity and other values in accordance with Sections 6 & 7 of the Resource Management Act.

#### **Method 2**

Rules relating to activities located within these areas and the coastal environment generally have been chosen as one appropriate method of achieving the purpose of the Act. These are set out in the Rural Zone provisions. A range of non-regulatory methods also applies in this and other Zones.

#### **Method 3 (Updated April 2007)**

Council shall, in conjunction with affected landholders and interested parties, consider management options, including signage and fencing, to protect those parts of Kaitorete Spit which are at risk or experiencing damage from inappropriate vehicle access. These areas are shown in Appendix XXII.

### **ASSESSMENT OF APPLICATIONS**

Any application for resource consent for an activity which is located within the Coastal Environment, is to be assessed against the objectives and policies set out above as well as the objectives and policies for the Rural Zone and any other



objectives and policies and assessment matters of the Plan which are relevant in the consideration of the application.

**ANTICIPATED ENVIRONMENTAL RESULTS AND MONITORING**

The environmental results, which are anticipated through the administration of the provisions of this chapter, are indicated in Chapter 19, the Rural Zone. In order to assess the suitability and effectiveness of the objectives, policies and methods in achieving the Anticipated Environmental Results the Council will develop a monitoring strategy which will include monitoring indicators of the type shown – see Chapter 19 Anticipated Environmental Results.

**REFERENCE TO OTHER PROVISIONS**

- 14 Cultural Heritage
- 15 Trees
- 16 Conservation Reserves Zone
- 19 The Rural Zone
- 31 Subdivisions
- 32 Financial Contributions
- 33 Noise
- 34 Signs
- 35 Access Parking and Loading



## CHAPTER 13                    OUTSTANDING NATURAL FEATURES AND LANDSCAPES

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### OVERVIEW (Updated November 2010)

The distinctive landscape of Banks Peninsula results from a combination of physical processes and human activity. The natural components of the landscape are the landforms, which include ridges, peaks and volcanic features such as cones, bluffs and coastal cliffs and seastacks. Logging and land clearance stripped the Peninsula of much of its original forest cover prior to the present farming regime. By the 1920s less than 1% of the original forest cover was left. By the 1990s the situation was much improved, with regenerating native forest now covering about 15% of Banks Peninsula. This regenerated forest cover, including areas nurtured or enhanced by landowners along with the remnants of old growth forest and other landscape features have become important elements of the landscape character of the District. In particular, some areas of natural habitat and some of the highly visible upland areas are regarded by many as the most outstanding elements of the landscape and worthy of protection from the adverse effects of subdivision and development which could detract from their visual integrity or habitat value. The outstanding natural landscape is a working landscape where pastoral farming continues to be the dominant landuse.

As a result of early settlement patterns and the continued use of the land today some development including homesteads, accessory buildings and structures are established within these areas.

Users of the Rural Zone need to be able to respond to future opportunities for a range of land uses, which may include different forms of development. These types of activities can be complementary to farming activities and in the case of tourist, ecologically based or accommodation activities of a scale consistent with objectives and policies. These can have the added benefit of enabling the community and visitors access to the coast and outstanding landscapes.

In 2007, the Council completed a Landscape Study of the Rural Zone. As part of this study, the Council identified areas of outstanding natural features and landscapes.

They represent those areas with the most significant values assessed in relation to the statutory requirements of Section 6(b) of the Resource Management Act and which require protection from inappropriate development and subdivision. Activities and structures which may potentially modify or detract from these values are to be discouraged from occurring. The coastal landscape is discussed in Chapter 12.

The Landscape Assessment which identified the Outstanding Natural Landscapes has been undertaken at a district wide level. In identifying these landscapes it is recognised that there is the potential for areas to exist within sites which have the potential to absorb some change. The nature of that change must be appropriate having regard to the landscape values identified and relevant objectives and policies.

**ISSUE 1** Inappropriate subdivision, use and development can adversely affect the Banks Peninsula outstanding natural features and landscapes.

**OBJECTIVE 1** Avoid, remedy or mitigate adverse effects of subdivision, use and development on those areas of outstanding natural features and landscapes.

### **POLICIES**

- 1A** Outstanding natural features which contribute most to the distinctive character and visual amenity of the landscape of the district are to be identified and protected.
- 1B** The adverse effects of subdivision, development and buildings in prominent locations and on outstanding natural features and landscapes should be avoided.
- 1C** The adverse effects of earthworks, forestry or clearance of significant indigenous vegetation on outstanding natural features, landscapes are to be avoided, remedied or mitigated. (Updated November 2010)
- 1D** Appropriate land management practices which foster enhancement of natural values will be encouraged through the work of individuals, community groups and bodies such as the Banks Peninsula Conservation Trust.
- 1E** Recognise and provide for existing significant physical infrastructural resources and their function in providing for sustainable management within the District.

### **EXPLANATION AND REASONS**

The most significant ridgelines, peaks and coastal landscape features are highly visible and sensitive to adverse effects from many kinds of development. Collectively, they form an especially significant component of the landscape character and coastal environment of the District, which is worthy of protection.

Section 6(b) of the Act applies to the protection of outstanding natural features and landscapes. Some would have it that Banks Peninsula, as a whole is an outstanding feature and landscape. However, the Council has selected some areas within Banks Peninsula which warrant more care than the district as a whole. Before a feature qualifies as outstanding it needs to be out of the ordinary within Banks Peninsula. Accordingly those areas chosen are prominent, striking or special within the district. The Council also must recognise and provide for the protection and, in appropriate cases the enhancement of these features subject to achieving the purpose of the Act set out in section 5. The term "outstanding natural features and landscapes is defined in Part VII of this plan.

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There are significant physical infrastructural resources, such as State Highway 75, district roads, and utilities, which are located within and adjacent to areas identified as 'outstanding natural features and landscapes'. Their maintenance and ongoing development is critical to the needs of the community and is a key element in achieving sustainable management within the District.

### **METHODS TO ACHIEVE OBJECTIVES AND POLICIES**

#### **Method 1: Identification of Outstanding Natural Features and Landscapes** (Updated November 2010)

Features, and landscapes with the most significant values which contribute most to the distinctive landscape character of Banks Peninsula identified on the planning maps as Outstanding Natural Landscapes.

#### **Method 2: Action Outside this Plan**

The Council will encourage bodies, such as land-care groups and the Banks Peninsula Conservation Trust to work with land managers to prepare Land Management Plans for the adoption of land management practices which foster the conservation and protection of outstanding natural features and landscapes, among other values.

#### **Method 3: Rules**

Methods including, among other things, control over the location of structures and forestry within the areas is set out in Chapter 19 in the Rural Zone.

#### **Method 4: The Summit Road (Canterbury) Protection Act**

The provisions of the Summit Road (Canterbury) Protection Act apply to land within the area from the Summit to 30 vertical metres below the Summit Road between Gebbies Pass and Evans Pass (refer to the Act, and any subsequent Acts, and the gazette notice).

### **ASSESSMENT OF APPLICATIONS**

An application for resource consent for an activity which is located within an area of outstanding natural features and landscape is to be assessed against the objectives and policies set out above as well as the objectives and policies for the Rural Zone and any other objectives and policies and assessment matters of the plan which are relevant to consideration of the applications.

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### **ANTICIPATED ENVIRONMENTAL RESULTS AND MONITORING**

The environmental results, which are anticipated through the administration of the provisions of this chapter, are included in Chapter 19 The Rural Zone. In order to assess the suitability and effectiveness of the objectives, policies and methods in achieving the Anticipated Environmental Results the Council will develop a monitoring strategy which will include monitoring indicators of the type shown - see Chapter 19 Anticipated Environmental Results.

### **REFERENCE TO OTHER PROVISIONS**

- 14    Cultural Heritage
- 15    Trees
- 16    Conservation Reserves Zone
- 19    Rural Zone
- 31    Subdivisions
- 32    Financial Contributions
- 33    Noise
- 34    Signs
- 35    Access Parking and Loading
- 37    Waste Management and Hazardous Substances
- 38    Natural Hazards

### OVERVIEW

Banks Peninsula has a rich legacy of human occupancy and this is reflected in the distribution of sites, buildings, places and areas of heritage value throughout the District. Such features are important for their archaeological value and their architectural and historical significance.

The long history of human occupancy of the District has also left a rich cultural and historical heritage encompassing urban and rural landscapes, archaeological sites and individual buildings and trees. Cultural and historical heritage provides the context for community identity and enables people to relate to their physical environment and its history. In this way, places and features of cultural and historical heritage provide visible evidence of the continuity of past, present and future. The community has indicated that it values these historic and cultural elements of the District and wishes to retain and preserve them.

The provisions contained in this Chapter apply to those structures, buildings, places and sites identified on the Planning maps as having significant cultural heritage value or identified as being a 'silent file area'. The provisions of this Chapter are in addition to any other provisions of the relevant Zone or District-wide rules. In addition to the provisions of the District Plan, certain structures, buildings, places and sites may be subject to other provisions such as those of the Historic Places Trust Act 1993. These structures, buildings, places and sites are listed in Appendix IV of the Plan. Notable buildings, objects and sites are listed in Appendix V, and archaeological sites are listed in Appendix VI of the Plan. It should be noted that most of these heritage items are privately owned. Their inclusion in the schedules does not imply any public ownership or opportunity for public access.

As well as the provisions in this chapter for the protection of heritage items, the Residential Conservation and Town Centre Zones contain provisions to protect the historic character of Akaroa and Lyttelton. These townships are characterised by features such as the high proportion of heritage buildings, the mixture of residential and commercial uses in the town centre, the narrow streets, and other historic features such as cemeteries and monuments.

Akaroa is also historically important as the first and most significant French settlement in New Zealand. It has retained a historic 'village' atmosphere, which makes it attractive to tourists. It is considered an exceptionally well preserved example of a colonial New Zealand town from the second half of the nineteenth century, and in recognition of this has been given the status of a Historic Area which affords it some extra protection.

The Council is required to have particular regard to the recognition and protection of the heritage values of structures, buildings, places and sites. To give effect to this requirement the Planning maps identify buildings, objects and sites which are worthy of protection and adopts suitable measures to ensure the preservation of such items. The Planning maps also identify the general location of 'silent file' sites, as identified by the local runanga, which have special heritage significance to Maori.

## CHAPTER 14 CULTURAL HERITAGE

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'Silent file' areas indicate the general location of particular sites or features of significance to tangata whenua. Because of the cultural sensitivity of those sites or features, tangata whenua do not wish the precise location to be identified.

A number of 'silent file' areas have been identified in the Plan. A resource consent is necessary to undertake particular activities within such areas in order to avoid compromising the significance of the areas and to ensure that appropriate consultation with tangata whenua occurs. The provisions for 'silent file' areas and waahi tapu sites are necessary to achieve the purpose of the Act and are in accordance with the principles of the Treaty of Waitangi.

Review periods for updating the schedules are set out in the 'Monitoring and Review' chapter.

The schedule of archaeological sites is not a total listing of places of heritage significance in the District. To date, there has only been one systematic archaeological survey on the Peninsula, in the vicinity of Lake Forsyth/Wairewa. The bulk of the Peninsula has not been surveyed (although sites have been recorded sporadically in most of the bays), and there will be many sites which have not yet been recorded.

Further, the sites in the Plan schedule may not have a greater significance than other sites not registered or existing on an archaeological record. The Plan schedule is a compilation of recorded sites dating back over four decades, and development may have disturbed some sites. The sites are located within a 100 metre radius; there are likely to be further sites nearby to these sites which are marked on the planning maps. The New Zealand Archaeological Association will undertake a reassessment of the known sites in the near future to obtain a better record and location of sites. If a higher degree of accuracy is required than the Plan currently contains, the New Zealand Archaeological Association's Canterbury Filekeeper can be contacted for further information.

<b>ISSUE 1</b>	<b>Inappropriate use and development of identified heritage structures, buildings, places and sites may compromise such features for future generations.</b>
<b>OBJECTIVE 1</b>	<b>To identify and secure the protection of structures, buildings, places, sites and areas which have cultural heritage value.</b>

### POLICIES

- 1A** To prevent inappropriate use or development of natural and physical resources which have the potential to adversely affect the heritage value of the scheduled items having archaeological, architectural, historical or cultural significance.
- 1B** To protect the scheduled structures, buildings, places and sites which have archaeological, architectural, historical or cultural significance.



- 1C** Council to provide assistance to property owners for the protection of scheduled heritage items.

### EXPLANATION AND REASONS

There are a number of structures, buildings, places and sites throughout the District which warrant protection because of their heritage value. Heritage includes anything that is or may be inherited, but here excludes natural heritage. These policies are intended to safeguard items of archaeological, architectural and historical or cultural significance in the District. In order for these items to be preserved for the benefit of present and future generations they must be protected. However, the degree of protection must be balanced by consideration of the significance of each item in terms of its contribution to the District's heritage.

The Plan identifies and lists significant structures, buildings, places, sites and areas that have important cultural heritage values for the District. The provisions for the conservation of heritage recognise the irreplaceable nature of these items and the irreversibility of destruction. Along with the destruction, modification or removal of an artefact is the loss of the historic materials, construction and design features, together with less tangible aspects such as its relationship to a particular social and historic context. The above policies seek to ensure that any use or development will not adversely affect those items listed as having heritage value.

<b>ISSUE 2</b>	<b>Features and sites which have been identified by tangata whenua and defined as 'silent file' areas and areas of significance to Maori may be compromised by inappropriate development.</b>
<b>OBJECTIVE 2</b>	<b>To protect from inappropriate use and development, the 'silent file' areas which have been identified as having significant cultural value for local runanga.</b>

### POLICY

- 2A** Consultation with the relevant runanga shall be required where activities are to be undertaken in locations identified within a 'silent file' area.

### EXPLANATION AND REASONS

There are a number of sites and features throughout the District that are of cultural significance to Maori and warrant protection. While the general locality of such features has been identified, the precise location is not identified in order to respect the cultural sensitivity of these sites.

'Silent file' areas are significant to local runanga for a range of reasons, and it is important to protect them from inappropriate development. Any activity undertaken within a 'silent file' area must not compromise the significance of the area listed for protection. In most instances the reason for an area's selection as a 'silent file' area will not be known by the applicant and consultation must be undertaken with the local runanga to ascertain whether or not the proposal will adversely affect the 'silent file' area. Individual property rights and alternative development opportunities will ensure that reasonable development expectations are not compromised. Development concessions may be appropriate in certain circumstances where they would lead to the protection of the significant aspect of the 'silent file' area.

<b>ISSUE 3</b>	<b>The relationship of tangata whenua with waahi tapu can be adversely affected by inappropriate development.</b>
<b>OBJECTIVE 3</b>	<b>To protect identified waahi tapu from damage or destruction.</b>

### **POLICY**

- 3A** Consultation with tangata whenua shall be required where activities have the potential to adversely affect waahi tapu.

### **EXPLANATION AND REASONS**

Features identified as having significant cultural heritage value to Maori must be protected from inappropriate development. Where development is proposed in such areas, consultation with the local runanga is required so that their significance is not compromised.

Section 8 of the Resource Management Act requires that the Council take into account the principles of the Treaty of Waitangi. One of the key principles of the Treaty is that of protection. Waahi tapu are important features of the cultural heritage of the District and therefore require appropriate protection.

The active involvement of tangata whenua in the management and protection of waahi tapu will therefore assist the Council to achieve the purpose of the Act.

### METHODS TO ACHIEVE OBJECTIVES AND POLICIES

#### Method 1: District Plan Provisions

- Listing protected buildings, objects and sites in Appendix IV.
- Listing notable buildings, objects and sites in Appendix V.
- Listing archaeological sites in Appendix VI.
- Controls limiting the extent to which any heritage item can be altered.
- Identification of heritage items and the Akaroa Historic Area on the Planning maps.
- Identification of 'silent file' areas on the Planning maps.
- Identification of runanga to be contacted in respect of proposals within 'silent file' areas.
- Consultation with appropriate runanga to identify the location and possible reduction of 'silent file' areas and to determine what may be appropriate development within those areas.
- Consultation with appropriate groups and organisations involved in heritage protection.
- Guidelines for buildings located within Rural, Rural-Residential and Akaroa Hill Slopes Zones in Appendix VIII.
- Protected trees are identified on the Planning maps and listed in Appendix VII, and objectives, policies and methods are set out in Chapter 15 (Trees).
- Lists of Protected and Notable buildings, objects and sites in Appendices IV and V, and the objectives, policies and methods set out in Chapter 14 (Cultural Heritage).

#### Method 2: Other

- Continued identification of buildings and structures of architectural or historic significance.
- Advice regarding appropriate designs and modifications to heritage buildings can be obtained from the Historic Places Trust or the Akaroa Design and Appearance Advisory Committee.
- Co-operation with the New Zealand Archaeological Association in the identification of archaeological sites in the Banks Peninsula District.

- The development of a Conservation Plan for the historic red volcanic stone retaining walls in Lyttelton.

### **Method 3: Council Assistance** (Updated 2 July 2011)

- Council will give consideration to grants, loans, and rate relief for the protection of listed heritage buildings, objects and sites where these incur costs to the property owner above and beyond the usual costs of property maintenance.
- Rate relief may be available for heritage items and archaeological sites which are protected by suitable long-term measures.
- The provision of information to enable people to have a greater understanding of heritage features and the need for their protection, and information regarding the organisations which can provide assistance to protect them.
- For resource consent applications which are required solely in relation to the heritage protection controls associated with the provisions below, the Council shall:
  - waive application fees for non-notified applications (up to and including the release of Council's decision),
  - reduce application fees for notified applications up to the comparable amount for non-notified applications, and will give consideration to waiving application fees over and above this:
    - Protected Buildings, Objects and Sites
    - Notable Buildings, Objects and Sites
    - 'Silent file' areas
    - Archaeological sites
    - Rule 3.2 of the Residential Conservation Zone
    - Rule 2.2 (first bullet) of the Town Centre Zone
    - Notable Trees
- The Council will give consideration to waiving or reducing financial contributions, which arise from subdivision involving, listed cultural heritage items when the heritage values of the property are adequately safeguarded.

### RULES

#### 1. Permitted Activities

Any activity which is not identified as a restricted discretionary, discretionary, or non-complying activity in Rules 2 to 6 (below) is a permitted activity provided that is a permitted activity in the underlying Zone. In addition, the following activities in relation to heritage items are permitted:

- a) The restoration, repair and internal alteration of any existing building fabric or detailing thereof which is carried out in manner and design and with similar materials to those originally used and which does not detract from those features for which the item has been listed; or
- b) Any change of use on the site which would be otherwise permitted which is unrelated to the purpose for which the item was listed and which does not detract from the features for which it was listed; or
- c) Routine maintenance and repair of lawns, gardens, and structures; or
- d) The carrying out of minor works that would not modify the site or feature.

#### 2. Restricted Discretionary Activities – ‘Silent File’ Areas

Any activity within any ‘silent file’ area identified on the Planning maps involving earthworks, planting or removal of trees, or the establishment of any building or structure is a restricted discretionary activity, except this rule does not apply to:

- a) Any maintenance or other works undertaken by the runanga that will protect or enhance any feature of cultural value to Maori; or
- b) Any permitted activity undertaken by the runanga that will not adversely affect any feature of cultural value located in the ‘silent file’ area.

(Note: (a) and (b) do not diminish private property rights regarding trespass.)

##### 2.1 Resource Consent Conditions

In granting a resource consent the Council shall restrict the exercise of its discretion to conditions which recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

##### 2.2 Notification of Applications

Any application made in terms of this rule need not be notified in accordance with Section 94 of the Resource Management Act 1991, where the Council is satisfied that the approval of the relevant runanga has been obtained.

##### 2.3 Location of Activities in Silent File Areas

Where this rule refers to ‘silent file’ areas, the rule is to be read so that it refers only to such locations that are clearly within the ‘silent file’ areas as indicated on the Planning maps.

### 3. Restricted Discretionary Activities – Protected Buildings, Notable Buildings and Archaeological Sites

The following are restricted discretionary activities:

- a) Any activity, which involves alteration, addition or damage to any building, object or site identified in Appendix IV (Category 2 or registered area).
- b) Any activity which requires the external modification, demolition or removal of any building listed in Appendix V which is located outside the Residential Conservation Zone or the Town Centre Zone.
- c) Any activity, which involves the modification of any site or object, identified in Appendix VI.
- d) The construction of any new building on a site containing a notable building, object or site identified in Appendix V which is located outside the Residential Conservation Zone or the Town Centre Zone.
- e) The construction of any new building on a site containing an archaeological site identified in Appendix VI.

Except this rule does not apply to works carried out in relation to the Menzies house and cemetery at Menzies Bay, adjacent to Archaeological Site 60 on Map R5.

#### 3.1 Resource Consent Conditions

In granting a resource consent the Council shall restrict the exercise of its discretion to conditions on the following:

- Form, features and fabric of buildings and additions to buildings.
- Cladding of buildings.
- External colour of buildings.
- Location and size of buildings and structures on a site.

### 4. Discretionary Activities – Protected Buildings and Archaeological Sites

Any activity which involves:

- a) Alteration, addition or damage to any building, object or site identified in Appendix IV (Category 1) or in Appendix VI; or
- b) Destruction or removal of any building, object or site identified in Appendix IV (Category 2 or registered area) or in Appendix VI; or
- c) The construction of any new building on a site containing a protected building, object or site identified in Appendix IV;
- d) Excavation, destruction, removal, alteration or damage to any object or site identified in Appendix VI;

is a discretionary activity.

Except this rule does not apply to works carried out in relation to the Menzies house and cemetery at Menzies Bay, adjacent to Archaeological Site 60 on Map R5.

### 5. Discretionary Activities – Protected Areas – Akaroa Historic Area

The following are discretionary activities within the Akaroa Historic Area:

- a) Buildings or structures that have one or more walls over 20m in length facing a street frontage. This rule shall only apply to walls and roofs facing road boundaries and shall not apply to fences less than 1.8m in height.
- b) Any garage which is facing the street except where it is sited behind a dwelling.

### 6. Non-Complying Activities – Protected Buildings

- 6.1 The demolition or removal of any Category 1 building, object or site identified in Appendix IV is a non-complying activity.

## ASSESSMENT OF APPLICATIONS

### 7. Restricted Discretionary Activities – ‘Silent File’ Areas

Assessment of applications for restricted discretionary activities shall be limited to those effects of the activity on the relationship of Maori, their culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga. In making such assessment the Council may seek such expert advice and assistance as it considers appropriate.

Applications for restricted discretionary activities will be assessed against the following:

- The objectives and policies listed above.
- Any other objectives and policies of the Plan which are relevant to consideration of the application.
- Any relevant criteria set out in Chapter 30 (Resource Consent Procedures).

### 8. Restricted Discretionary Activities – Protected Buildings, Notable Buildings and Archaeological Sites

Assessment of applications for restricted discretionary activities in terms of this rule shall be limited to the form, design, siting, size and appearance of buildings and structures. In making such assessment the Council may seek such expert advice and assistance as it considers appropriate.

Applications for restricted discretionary activities will be assessed against the following:

- The objectives and policies listed above.
- Any other objectives and policies of the Plan which are relevant to consideration of the application.

- Any relevant criteria set out in Chapter 30 (Resource Consent Procedures).

### 9. Discretionary and Non-Complying Activities

Applications for discretionary and non-complying activities will be assessed against the following:

- The objectives and policies listed above.
- Any other objectives and policies of the Plan which are relevant to consideration of the application.
- Any relevant criteria set out in Chapter 30 (Resource Consent Procedures).

In addition, any relevant conditions for permitted activities and standards for restricted discretionary activities will be used as a guide.

### ANTICIPATED ENVIRONMENTAL RESULTS

The following environmental results are anticipated from the implementation of the objectives and policies relating to cultural heritage:

- Protection of the listed historic and notable buildings, sites, places and areas and archaeological sites.
- Protection of waahi tapu and the features and sites located within the 'silent file' areas.
- The built environment does not dominate the natural environment and identified heritage items and heritage areas.
- Preservation of the historical character and streetscape of the Akaroa township.

### RELATED DISTRICT PLAN PROVISIONS

- Rules to control external alterations or additions to buildings, and the erection or demolition of buildings in the Residential Conservation and Town Centre Zones of Akaroa and Lyttelton.
- Design guidelines for buildings located within Residential Conservation and Town Centre Zones in Appendices X and XI.

### REFERENCE TO OTHER PROVISIONS

- 15 Trees
- 16 Conservation Reserves
- 22 Papakaianga
- 31 Subdivisions



## **CHAPTER 14      CULTURAL HERITAGE**

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- 32 Financial Contributions
- 33 Noise
- 34 Signs
- 35 Access Parking and Loading
- 37 Waste Management and Hazardous Substances
- 38 Natural Hazards



### OVERVIEW

Several issues can be identified in relation to trees in the District: the visual effects of large scale tree planting; the protection of indigenous trees; the protection of notable trees; and the adverse effects caused by trees of inappropriate size or location. The first two issues are not dealt with in this chapter because they are more closely associated with other provisions in the Plan. The visual effects of large scale tree planting are addressed in the Rural Zone chapter and in the Forestry Guidelines (Appendix IX). The protection of indigenous trees and indigenous vegetation is provided for in many ways in the Plan, and Chapter 9 gives an overview of these provisions. The present chapter specifically addresses two issues, the first; trees judged to be notable, and the second; adverse effects of shading associated with the size and location of the trees.

Trees which shade roadways can contribute to icing of roads in winter. This can create a hazard for motorists to the extent that shading prevents the sun from heating the road and disbursing the ice.

- The District contains a number of individual trees and stand of trees which make a particular contribution to its character and amenity. The Plan recognises these trees as valuable community assets and has adopted a system of identifying and protecting notable individual specimens and stands of trees. These trees are listed in the 'Schedule of Notable Trees' in Appendix VII and are identified on the Planning maps.

It should be noted that many of these trees are on private land. Where this is so, their inclusion in the schedule does not imply any public ownership or automatic opportunity for public access.

While trees are capable of having a variety of adverse effects, such as obstructing views, and shading, the only effect of consequence which has not already been addressed through other means, and which warrants some provision in the District Plan is the effect of trees which shade roadways and consequently contribute to icing of roads in winter. This can create a hazard for motorists to the extent that shading prevents the sun from heating the road and disbursing the ice.

Review periods for updating the schedules are set out in the 'Monitoring and Review' chapter.

<b>ISSUE 1</b>	<b>Notable trees make an important contribution to the character and environmental qualities of the district and must be protected from unnecessary damage or destruction.</b>
<b>OBJECTIVE 1</b>	<b>To protect identified notable trees which contribute to the character and environment of the District.</b>

**POLICY**

- 1A** Notable trees identified in the Plan shall be protected from damage or destruction unless it can be demonstrated that alteration or removal is justified in terms of the criteria of Rule 1.1.

**EXPLANATION AND REASONS**

Notable trees are considered worthy of recognition on a number of criteria which may include: historic significance to the community; scientific or botanical value; cultural or spiritual significance; recreational significance; landscape significance; functional value; size or age. A tree may be listed for a combination of these factors, or because it is outstanding in one respect.

<b>ISSUE 2</b>	<b>Trees which shade the road carriageway during the winter months can create a hazard to motorists by preventing the melting of ice.</b>
<b>OBJECTIVE 2</b>	<b>To avoid the adverse effects of shading of the road carriageway caused by trees in winter.</b>

**POLICY**

- 2A** Trees should not be allowed to grow in such a way that shading of the road occurs which contributes to icing of that carriageway.

**EXPLANATION AND REASONS**

The shading of the road carriageway by trees can cause ice to remain on roads in winter. To the extent that this creates a natural hazard it is desirable to avoid that hazard.

**METHODS TO ACHIEVE OBJECTIVES AND POLICIES**

(Updated October 2006)

- District Plan rules to protect the schedule Notable Trees.
- District Plan rules to prevent planted trees from shading the State Highway and Section 55 of the Government Roding Powers Act 1989 enables the Council to require any land owner or occupier to remove any tree or vegetation which affects or may affect road safety or damages the road.

**RULES**

**1.    Protection of Scheduled Trees**

No person shall without a resource consent:

- a) Cut, damage, alter, injure, destroy or partially destroy any scheduled tree listed in Appendix VII (including its roots); or
- b) Within the drip-line of any scheduled tree:
  - Alter the soil levels or water table by addition or excavation;
  - Store materials, vehicles or machinery;
  - Discharge or disperse any toxic substance or put in place any weed control membrane; or
  - Undertake any use, excavation, construction work or activity.

Except that this shall not preclude:

- The regular minor trimming or maintenance of any tree undertaken by hand operated secateurs or pruning shears in accordance with accepted arboricultural practice.
- The felling or destruction of any tree by the Council or a statutory authority, when this is required as an emergency work to maintain or restore power and communication links or to safeguard life or property. In such circumstances the authority concerned shall notify the Council, in writing, within two weeks of the felling or destruction.

**1.1    Exemption to Rule 1**

The scheduled pohutukawa hedge at 84 Rue Lavaud (War Memorial grounds) is exempt from the restriction as regards mechanical trimming.

**ASSESSMENT OF APPLICATIONS**

**2.    Notable Trees**

An application to destroy or substantially trim any scheduled tree listed in Appendix VII, or any substantial part thereof, is a discretionary activity and will be assessed against the objective and policy above and the criteria below:

- The necessity for carrying out the works.
- Any proposal for the removal or destruction of a tree must satisfy the Council that circumstances exist which may include dangerous, diseased or damaged condition; the need to comply with any statutory or legal obligation; or significant or unusual hardship.
- Any alternative methods and locations available to the applicant for carrying out the work or activities.
- The extent to which the tree or trees contribute to the amenity of the neighbourhood.
- Whether any proposed activities within the drip-line are likely, in the opinion of the Council, to damage the tree or endanger its health.

Conditions may be imposed as part of any consent to an application and may include:

- The requirement to pay a bond to ensure that a scheduled tree is not damaged or destroyed while carrying out pruning and maintenance or works or activities in the drip-line area.
- The requirement to provide a replacement tree where a scheduled tree is removed or destroyed, where it is appropriate having regard to the amenity of the area.

**ANTICIPATED ENVIRONMENTAL RESULTS**

The following environmental results are anticipated from the implementation of the objectives and policies relating to trees:

- The conservation of the scheduled Notable trees.
- Trees located and managed so that in winter ice on roads is not prevented from melting.