

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

'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.

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

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.

ISSUE 2	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.
OBJECTIVE 2	To protect from inappropriate use and development, the 'silent file' areas which have been identified as having significant cultural value for local runanga.

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.

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

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

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

