

DDPR_feedback_0125s	
Name	Linda Hobbs
Organisation	on behalf of Tom & Linda Hobbs and Philip & Helen Barclay
Email	[REDACTED]
Response Date	Aug 31 22
Notes	
Q1	Select the chapter you want to provide feedback on
Q2	In general, to what extent do you support the contents of this chapter?
Q3	Objective/Policy/Rule/Standard reference:
Q4	Feedback/Comments
Q5	Objective/Policy/Rule/Standard reference:
Q6	Feedback/Comments
Q7	Objective/Policy/Rule/Standard reference:
Q8	Feedback/Comments
Q9	Objective/Policy/Rule/Standard reference:
Q10	Feedback/Comments
Q11	supporting documents?
	0
Q12	If you need more space, or have any other general comments, please leave them here
	<p>FROM: [REDACTED] RECEIVED AT 2022-08-30T23:55:02+00:00</p> <p>-----</p> <p>Dear District Plan Review Planning Team Please find attached feedback from the landowners of property assessment number 105881 and 115221 of 19 Cosy Dell Road, Waianakarua. This feedback is in addition to feedback from the "Cosy Dell Road, Waianakarua Property Owners", on which we are also named contributors. I would be grateful for a confirmation of receipt of this email and attachment. Kind regards Linda Hobbs (on behalf of Tom & Linda Hobbs and Philip & Helen Barclay)</p> <p>_____ Cosy Dell Crib 19 Cosy Dell Road Herbert Forest</p>

31 August 2022

Waitaki District Council

RE: Feedback on Waitaki District Plan Review, SCHED5 “Sites and Areas of Significance to Māori”

In addition to the feedback submitted from “Cosy Dell Road, Waianakarua Property Owners”, on which we are named contributors, we also put forward the below points.

In response to requested feedback to the Draft District Plan we ask that the following points are addressed in the release of the Proposed District Plan:

1. That with regard to the positioning of the Wāhi Tūpuna Overlay the Proposed District Plan provides explanation that justifies, from both mana whenua and legal perspectives, the land that is included in the overlay. For example, this should include justification for the blanket 50m buffer area that has been applied to the Waianakarua River and the seemingly contradictory use of SH1 as an overlay boundary for Hampden township. [*relevant Draft Plan ref: pp. 270 – 271*]
2. That with regard to the Wāhi Tūpuna Overlay the Proposed District Plan explicitly states that “existing use rights” are protected. [*relevant Draft Plan ref: SASM-O1; SASM-O2*]
3. That the Proposed District Plan explicitly states that rights of access to land for customary purposes, as provided for under the Wāhi Tūpuna Overlay, do not over-rule the requirement for landowner consent to enter private property. [*relevant Draft Plan ref: SASM-O1; SASM-O4; SASM-O5; SASM-P8; SASM-P9*]
4. That the Proposed District Plan explicitly states that mana whenua do not have rights to mahika kai (hunt and gather food) from private property without explicit permission from the landowner. [*relevant Draft Plan ref: SASM-O4; SASM-O5; SASM-P8; SASM-P9*]
5. That more detailed and specific information is provided from Council, and is included in the Proposed District Plan, regarding what land and property development may adversely affect the values that are protected by the Wāhi Tūpuna Overlay and hence be unlikely to gain mana whenua approval.
 - 5.1 As it stands, the Draft District Plan does not make it clear what developments mana whenua would see as being potential issues or cause to oppose. For example, would the installation of a new wastewater treatment system, for a new dwelling on a currently unoccupied section of land, that abided by current Rural G (general) District Plan rules be subject to non-approval under the Wāhi Tūpuna Overlay requirement for mana whenua approval? Similarly, what building developments (that are within those stipulated by current Rural G (rural) District Plan rules) would be subject to non-approval? [*relevant Draft Plan ref: SASM-R13*]

- 5.2 We ask that the Proposed District Plan clearly states *in more detail* what land and property development may adversely affect the values that are protected by the Wāhi Tūpuna Overlay. [*relevant Draft Plan ref: SASM-O2, point 1; SASM-P2; SASM-P3; SASM-P4; SASM-P6*]
- 6 We ask that the points above should be resolved during the draft stage of the District Plan and we look forward to seeing these issues being acknowledged and addressed in the release of the Proposed District Plan.
- 7 We also look forward to the points raised by the “Cosy Dell Road, Waianakarua, Property Owners” being properly acknowledged and addressed with direct feedback to the named submitters.

Regards,



Property owners, Tom & Linda Hobbs, Philip and Helen Barclay
Properties: 115221 and 105881 (19 Cosy Dell Road, Waianakarua, Herbert)

Contact details:

Linda Hobbs

[REDACTED]

Ravensbourne

Dunedin 9022

Email: [REDACTED]

DDPR_feedback_0213s		
	Name	Frans & Maxine Schlack
	Organisation	On behalf of: Frans & Maxine Schlack, 25 Cosy Dell Road, Herbert. Sarah & Jared Mclvor, 23 Cosy Dell Road, Herbert. Wyn & Gil Barbezat, 15 Cosy Dell Road, Herbert. Kim & Warren Shirtcliff, 284 Breakneck Road, Herbert. Anne & Geoff King 228 Break
	Email	██████████
	Response Date	Sep 13 22
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Mark Smith

From: Frans Schlack <[REDACTED]>
Sent: Tuesday, 13 September 2022 7:50 AM
To: Plan Review
Cc: David Campbell; Jared McIvor; Wyn & Gill Barbezat; Shirtcliffs; Warren Shirtcliff; [REDACTED] Geoff King; [REDACTED] Linda Hobbs; Jo Brewster; Darryn Brewster
Subject: RE: Feedback on Draft District Plan
Attachments: Feedback on WDC Draft District Plan_Rev0.pdf
Importance: High



External Email Be careful with links and attachments. Think before clicking – do I know this person and does this person's request make sense?

Herbert, Tuesday 13/09/2022

Good Morning Rachael,

On behalf of:

Frans & Maxine Schlack,
25 Cosy Dell Road, Herbert.

Sarah & Jared McIvor,
23 Cosy Dell Road, Herbert.

Wyn & Gil Barbezat,
15 Cosy Dell Road, Herbert.

Kim & Warren Shirtcliff,
284 Breakneck Road, Herbert.

Anne & Geoff King
228 Breakneck Road, Herbert.

Tom & Linda Hobbs and Philip & Helen Barclay
19 Cosy Dell Road, Herbert

Jo & Darryn Brewster,
83 Cosy Dell Road, Herbert.

Please find attached our combined feedback on the Draft District Plan.

We take this opportunity to request from Waitaki District Council to keep us informed on all aspects of the further development of the District Plan and in particular when the Proposed District Plan becomes 'notified'.

If you require any further information about our feedback, or wish to discuss any other part of the District Plan, feel free to contact the undersigned.

Please confirm receipt of this email and its attachment.

Kind regards

Frans Schlack
25 Cosy Dell Road, Herbert
[REDACTED]

From: Plan Review <planreview@waitaki.govt.nz>
Sent: Friday, 19 August 2022 1:06 PM
To: 'Frans Schlack' <f[REDACTED]>
Cc: Plan Review <planreview@waitaki.govt.nz>
Subject: RE: Feedback on Draft District Plan

Afternoon Frans,

Confirming it is fine to do feedback that is applicable for more than one property. It would be helpful to identify in the feedback who it is on behalf of and their property addresses/legal descriptions.

It is absolutely fine to provide feedback to the planreview@waitaki.govt.nz by attaching a word document if that is easier than using the online feedback system.

Kind regards,

Rachael Bason
Resource Management Planner – Policy

Email: rbason@waitaki.govt.nz
Web: www.waitaki.govt.nz
Tel: +64 3 433 0300

Waitaki District Council
20 Thames Street
Private Bag 50058
Oamaru
Waitaki District
Otago 9444
New Zealand



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From: Frans Schlack <[REDACTED]>
Sent: Friday, 19 August 2022 7:58 am
To: Plan Review <planreview@waitaki.govt.nz>
Subject: Feedback on Draft District Plan



External Email Be careful with links and attachments. Think before clicking – do I know this person and does this person's request make sense?

Good morning,

Please advise if one person can provide feedback on behalf of our (Cosy Dell) Community or that individual feedback on the Draft District Plan has to be provided.

Also, please confirm that feedback via direct email is acceptable instead of the (somewhat cumbersome) feedback system.

Thank you & Regards

Frans Schlack

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Feedback on Waitaki District Council's Draft Plan

The feedback to the Waitaki District Council ('**Council**') is provided on behalf of the owners ('**Property Owners**', and expressed as '**We**', '**Us**', '**Our**', etc.) of the following properties with street addresses:

Frans & Maxine Schlack,
25 Cosy Dell Road, Herbert.

Sarah & Jared McIvor,
23 Cosy Dell Road, Herbert.

Wyn & Gil Barbezat,
15 Cosy Dell Road, Herbert.

Kim & Warren Shirtcliff,
284 Breakneck Road, Herbert.

Anne & Geoff King
228 Breakneck Road, Herbert.

Tom & Linda Hobbs and Philip & Helen Barclay
19 Cosy Dell Road, Herbert

Jo & Darryn Brewster,
83 Cosy Dell Road, Herbert.

The feedback provided in this document relates to the Council's Draft District Plan ('**Draft Plan**') and in particular to the Wāhi Tūpuna Overlays proposed in the Draft Plan.

Background

The Property Owners received a request from Council's CEO in May 2021 to provide feedback on proposed Wāhi Tūpuna Overlay applied over their properties. The Property Owners responded to Council including suggestions of alternative overlays that were better suited to their properties and the local area in general. When the Draft District Plan was released for public feedback in 2022 it became immediately apparent that Council rejected the Property Owners 2021 feedback without any explanation or justification.

After the public release of the Draft District Plan in 2022, The Property Owners felt compelled to lodge a LGIOMA request with Council to seek an explanation as to why their 2021 feedback had been ignored and rejected.

After it became obvious through correspondence with Council staff that that Council was not going to conduct any public meetings to discuss the Wāhi Tūpuna Overlays, the Property Owners sought a meeting with Council together with representatives of mana whenua of Te Rūnanga o Moeraki ('**Rūnanga**') to discuss the Wāhi Tūpuna Overlays, and their consequences, proposed in the Draft Plan.

This meeting was held on 16/08/2022 at Council's Draft Plan 'Drop-In Centre' in Oamaru. Council was represented by the WDC's Planning Department staff but no representatives of mana whenua of Te Rūnanga o Moeraki were present. Prior to the meeting, 38 questions were prepared and sent to Council staff for consideration.

During the meeting most questions could not be answered by Council's staff but instead had to be referred to the Rūnanga or the Aukaha Consultants.

The 38 questions were responded to by Council on 26/08/2022 in the form of a response to a (voluntary) LGIOMA request. The questions and responses are attached to this document as **Attachment A**.

General Feedback on the Draft District Plan and process:

The Property Owners do not object to preserving 'Areas and Sites Significant to Māori' or 'wāhi tūpuna'. On the contrary, we support the preservation of these sites and do not object if this is achieved by means of the application of Wāhi Tūpuna Overlays in the Waitaki District Plan. The Property Owners' concerns and objections are around the way the Wāhi Tūpuna Overlays have been established and how Council has managed the process of seeking public feedback on the Draft Plan.

Our concerns are expressed in the following key points:

- **Public Consultations:**

Throughout the feedback request period of both 2021 and 2022, the Property Owners have pursued Council to conduct a public meeting to discuss the Wāhi Tūpuna Overlays and their consequences on private properties. Instead, Council conducted only one virtual meeting to discuss the proposed overlays in 2021 (i.e., well before the release of the Draft Plan), and that meeting was restricted to discussions about the then proposed SNA zoning. Wāhi tūpuna zoning was specifically excluded by the meeting's moderator, Mayor Gary Kircher.

Email correspondence retained by the Property Owners between us and Council staff demonstrates that the suggestion of conducting a public meeting to discuss the Wāhi Tūpuna Overlays was deliberately avoided by Council. Instead, Council has sought public feedback on their complete 1134-page Draft Plan via Facebook posts, invites to their 'Drop-In' centres and a few newspaper advertisements.

Had Council genuinely sought public feedback they should have called for public meetings over the ongoing two-plus years that the Draft Plan's process has been undertaken, to create public awareness for each significant new overlay proposed in the Draft Plan, similarly like the one that was conducted for the SNA Overlay.

In our actual experience, most people that live or are connected to the Waitaki District were not aware of the Draft District Plan, let alone the introduction of Wāhi Tūpuna Overlays and their implication to private properties.

- **Draft District Plan Ownership:**

As a result of the information gained from the LGIOMA request and confirmed by the meeting of 16/08/2022 it has become clear that, in regard to the Wāhi Tūpuna Overlays, Council does not own the Waitaki District's Draft District Plan but instead the Aukaha Consultant who represent the Rūnanga does.

The use of Aukaha Consultants to compile the Wāhi Tūpuna Overlays in the Draft Plan raises serious questions about 'balance' and 'conflict of interest'. With reference to Question & Reponses #2 in Attachment A, in which Council states: "*The proposed overlays were defined by Aukaha on behalf of Ngāi Tahu/local rūnaka.*"

This is a concern given it is Council who has the statutory obligation to administer its District Plan. It cannot defer such obligations to third parties. It also raises questions how an equitable process can take place in establishing the Wāhi Tūpuna Overlays when an organisation as Ngāi Tahu with its own commercial and political aspirations directs the consultant? This is particularly concerning considering that Council failed to engage a consultant to represent the interests of the Waitaki District's private property owners affected by the Wāhi Tūpuna Overlays.

This concern is further emphasised by the use of the words: "*management and control*" by a representative of the Rūnanga and Ngāi Tahu in describing the purpose behind the Wāhi Tūpuna Overlays in Council's wāhi tūpuna explanation video. When this significant statement was queried in the meeting of 16/08/2022, Council's staff response was: "*a poor choice of words.*"

- **Transparency and Integrity:**

With reference to the Question & Responses in Attachment A, only a few of Council's responses are clear using terms indicating that items "will be" addressed in the Proposed Plan, however, many key questions (i.e., questions 10, 11, 17, 24, 25, 36 and 37) in regards to Wāhi Tūpuna Overlays are responded to in terms that indicate that items "may be" or "can be" or "look to be" addressed in the Proposed Plan.

This type of discretionary use of wording in responses to queries that Council is supposed to provide concise information and answers to does not create public trust that Council is really conducting a District Plan process with integrity and transparency.

- **Inconsistencies**

With reference to Question & Responses in Attachment A, question 1.

Council responds: "Aukaha have advised Council that redefining Wāhi Tūpuna Overlays using cadastral boundaries was not appropriate." Besides confirming that Aukaha Consultants decides what are appropriate Wāhi Tūpuna Overlays and Council simply accepts their decision, this statement is inconsistent with the Wāhi Tūpuna Overlay applied to Hampden where the western boundary of the Wāhi Tūpuna Overlay exactly follows State Highway 1?!



Figure 1: Proposed Wāhi Tūpuna Overlay over Hampden Village

With reference to Page 273 of the Draft Plan and in particular SASM P6:

SASM-P6	Culturally incompatible activities
Avoid degradation of the mauri of wāhi tūpuna by the following activities:	
1.	cemeteries and crematoria;
2.	landfills;
3.	wastewater treatment plants; and
4.	mining and quarrying activities.

Figure 2: Proposed Wāhi Tūpuna Cultural incompatible activities

The Wāhi Tūpuna Overlay proposed for Herbert (and Hampden see Figure 1) includes the Herbert Cemetery?!

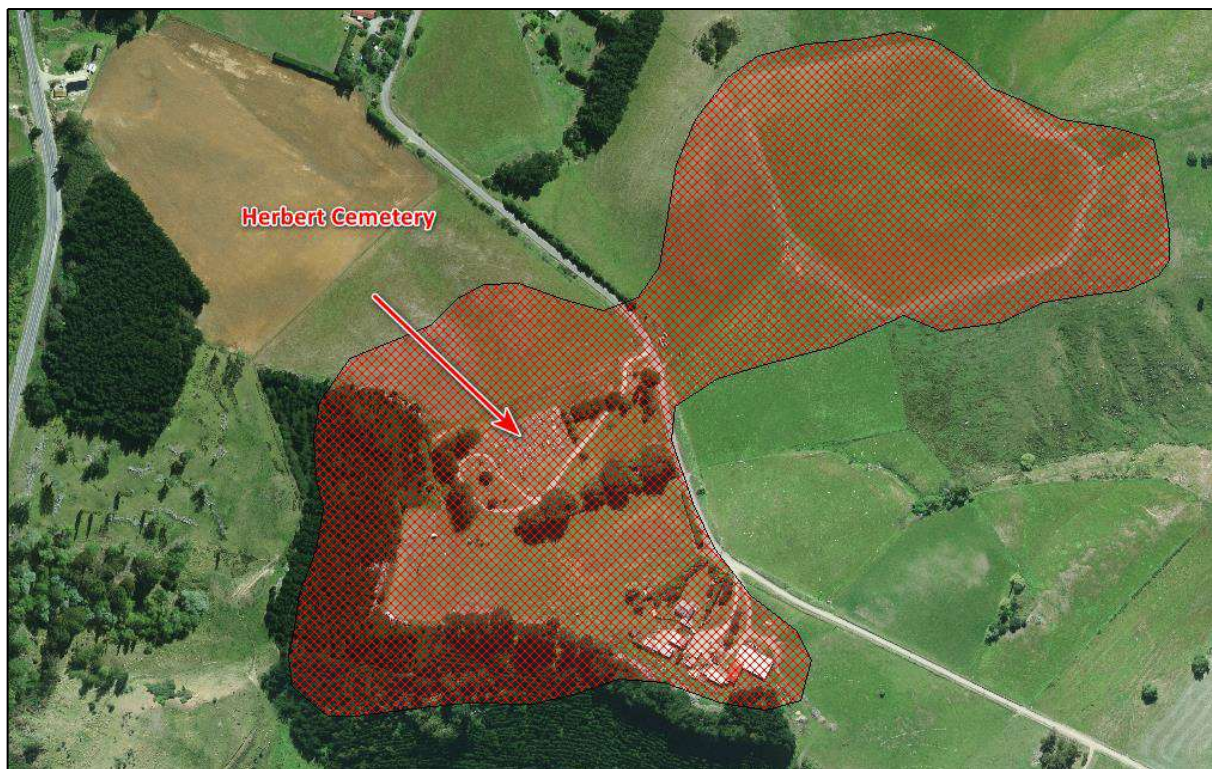


Figure 3: Proposed Wāhi Tūpuna Overlay over Herbert Cemetery

With reference to Question & Responses in Attachment A, question 3.

Council response states that: “recent aerial imagery” was used to establish the centre of the Waianakarua River which is the basis of the Wāhi Tūpuna Overlays overlaid over our properties. However, when considering responses to Questions 8 and 21 where Council states in their response that: “...Wāhi Tūpuna areas pre-dates....” and thereby referring to areas as they were prior to pre-colonial establishment, it is obvious Council is inconsistent in the establishment of the proposed Wāhi Tūpuna Overlays.

- **Going forward**

As previously stated, The Property Owners do not object to preserving ‘Areas and Sites Significant to Māori’ or ‘wāhi tūpuna’ but are in support the preservation of these sites. We also do not object if this is achieved by means of the application of Wāhi Tūpuna Overlays in the Waitaki District Plan.

To be clear, we object to the ‘blanket application’ of the proposed Wāhi Tūpuna Overlay that is applied to our properties. In our view, which is supported by legal advice, the Wāhi Tūpuna Overlays must be accurate and be able to be demonstrated to accurately represent ‘Areas of significance to Māori’. The Overlays cannot simply provide a general blanket mapping to catch such areas.

Examples of the ‘blanket application’ of Wāhi Tūpuna Overlays proposed under the Draft Plan is demonstrated below and attached to this document as **Attachment B**. These examples clearly demonstrates that the blanket application covers entire dwellings that cannot reasonably be identified as ‘Areas and Sites Significant to Māori’.

Moreover, permission to access wāhi tūpuna located on private properties for: “**SASM-05: Access and use for customary purposes**” is more likely to be withheld if the Wāhi Tūpuna Overlays include private dwellings. In effect, the blanket application of Wāhi Tūpuna Overlays as they are currently proposed in the Draft Plan are counterproductive to this key ‘Objective’ of The Plan.

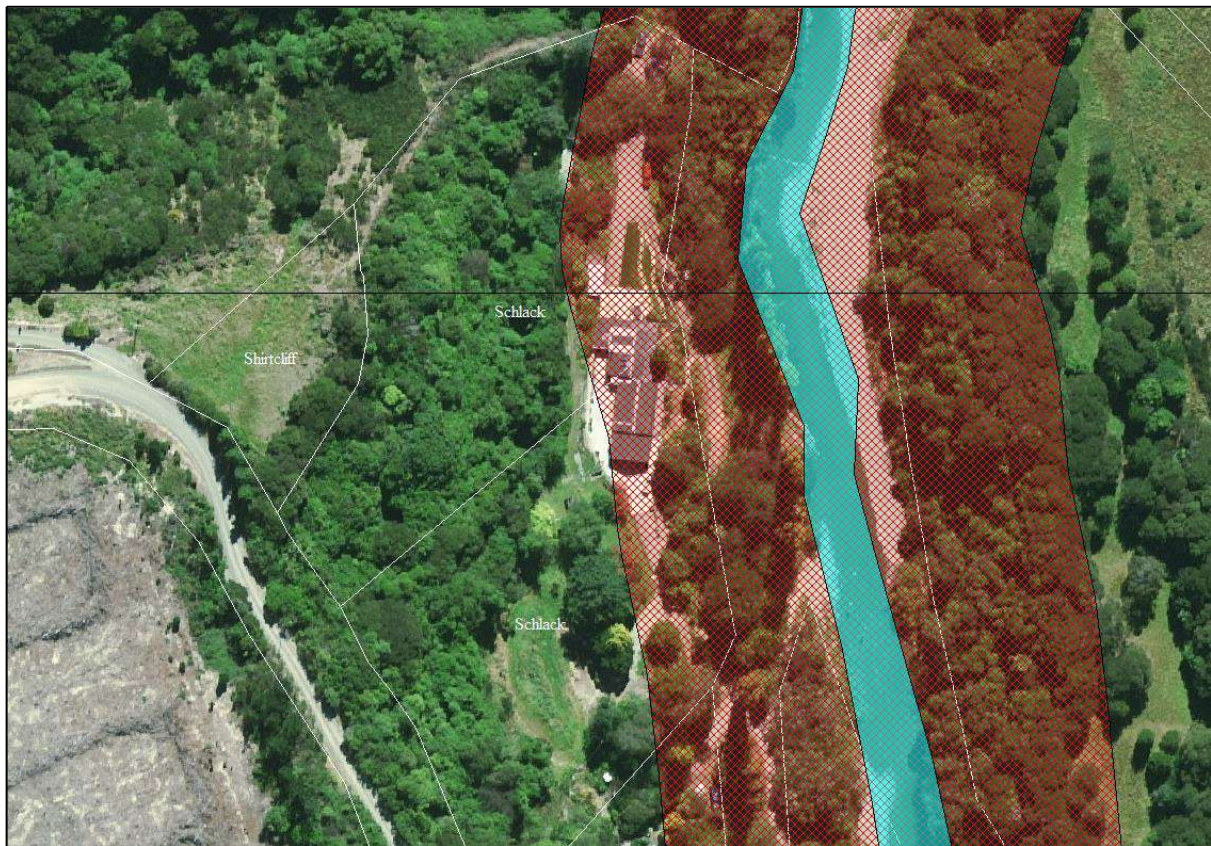


Figure 4: Proposed ‘blanket application’ of Wāhi Tūpuna Overlay over private property

As has been made clear to Council staff at the 16/08/2022 meeting and followed up in subsequent correspondence, we have been throughout this Draft Plan process (and we still are) willing to meet with Council and Rūnanga representatives to discuss the proposed Wāhi Tūpuna Overlays and in particular how they should be properly established.

We occupy a unique and relatively small area within the District. For this reason, the proposed Wāhi Tūpuna Overlay significantly affects our community. Therefore, we propose a wāhi tūpuna identification session over (just) our properties and conducted by the Rūnanga representatives whereby the ‘Areas and Sites Significant to Māori’ can be identified by tangible or historic evidence.

For the sake of clarity, our properties’ locations are indicated below in Figure 5:

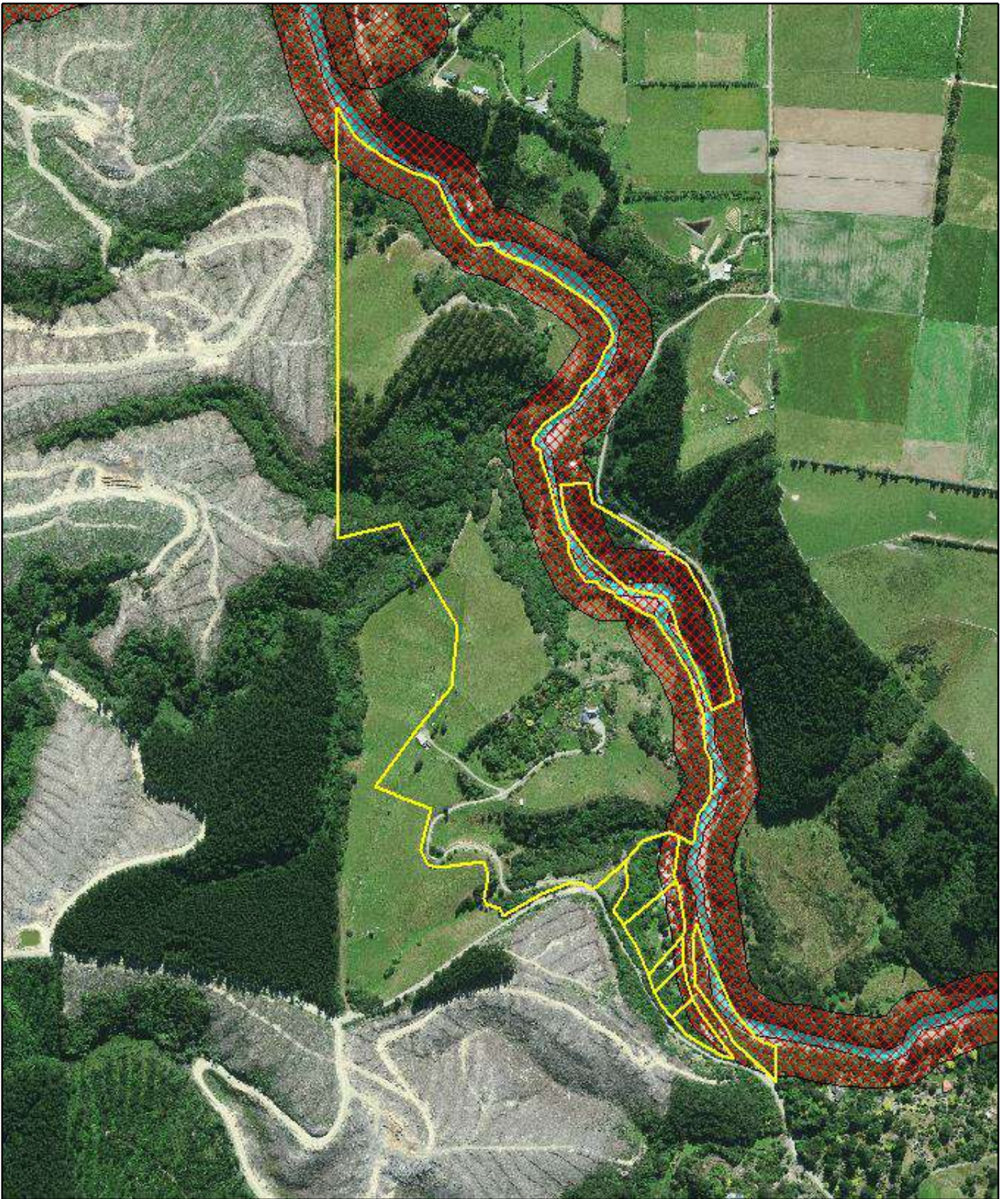


Figure 5: 'Our Properties' with proposed Wāhi Tūpuna Overlay

Specific Feedback on the Draft District Plan:

The following feedback makes direct reference to passages in the Draft District Plan document using page numbers and chapter headings.

- Reference Page 4, "***The Treaty of Waitangi /Te Tiriti o Waitangi and the Resource Management Act***", second paragraph.

Please add to "...appropriate consideration to the principles of the Treaty as part of their statutory obligations to Māori", "...and recognition of statutory rights of private property owners."

- Reference Page 4 & 5, "***Other Planning Documents and Legislation Considered***".

Please add all significant legislation and acts affecting the Proposed District Plan including:

Resource Management Act 1991;

The Otago Regional Policy Statement;

2019, Ngāi Tahu Claims Settlement Act 1998;

Health and Safety at Work Act 2015; and

The Trespass Act 1980.

- Reference Page 45, "***Definitions***", "*Mahika kai activities*"

This definitions indicates that this allows mana whenua to hunt within wāhi tūpuna. Clarification should be provided if this includes the use of firearms and who will be responsible for the health and safety of these hunting activities when conducted on private properties.

- Reference Page 71, "***Glossary***"

Many Te Reo Māori words used in the Draft Plan are not explained in the 'Glossary'. Also, some words are explained but than used in the southern dialect form. This is very confusing for people not conversant with Te Reo Māori. The meaning of all Te Reo Māori words used in the Proposed Plan should be consistent explained in the 'Glossary'.

- Reference Page 86, "***Participation of mana whenua in RMA processes***"

Observation: In this section, or anywhere else in the Draft Plan, there is no mention at all about the protection of the rights or interests of private property owners or any mention maintaining communication with private property owners or the public in general on the effects of the RMA processes?

- Reference Page 87, "***Consultation with mana whenua***", second paragraph 'Cost Recovery'.

We object to private property owners having to pay for the involvement of Aukaha Consultants "...on a cost-recovery basis..." during a consent application. This will basically result in having Aukaha Consultants charge a consent application fee without any limits. The cost of the (enforced) engagement of Aukaha Consultants in a consent application process should be met by Council.

- Reference Page 270, “**Sites and Areas of Significance to Māori**”, last paragraph 3rd bullet point ‘wastewater treatment plant’.

Clarification is sought if a “*wastewater treatment plant*” includes a household septic system.

- Reference Page 271, “**Sites and Areas of Significance to Māori**”, 1st item “*identifying and mapping wāhi tūpuna;*”

Observation: Applying a blanket wāhi tūpuna zoning along the Waianakarua River without explanation or justification cannot be considered as identifying and mapping”.

- Reference Page 271, “**Sites and Areas of Significance to Māori**”, last paragraph, reference to other chapters in the District Draft Plan.

Observation: A common reader (like most residents) cannot be expected to read through a 1134-page document trying to find anything relevant to wāhi tūpuna “*in other chapters of this District Plan*”. Information relevant to wāhi tūpuna in other chapters should be referenced here with page numbers and clauses.

- Reference Page 272, “**Objectives**”, SASM-02, “*Co-governance and kaitiakitaka*”.

To the best of our knowledge, co-governance at local government level has not been endorsed by an Act of Parliament. The use of this term should be deleted and not be used in the Proposed Plan until such time as it has gone through a full democratic process.

- Reference Page 272, “**Objectives**”, SASM-01, “*Protection of wāhi tūpuna values*”

Supported on the proviso that “significant sites” and non-significant sites on a private property are properly identified with tangible evidence and formally established in a property deed.

- Reference Page 272, “**Objectives**”, SASM-05, “*Access and use for customary purposes*”

Amend to reflect that private property owner permission is acquired prior to conducting any actions for “*customary purposes*”.

- Reference Page 272, “**Policies**”, SASM-P1, “*Identification of wāhi tūpuna*”.

Sites and Areas of Significance to Māori, wāhi tūpuna, should be properly identified, not blanket applied as in the Draft Plan proposal.

The Draft District Plan identifies land as Wāhi Tupuna areas based on the values of these areas and whether they are significant to Māori. These include traditional settlement areas, travel routes or burial grounds. The Plan includes a schedule of these areas and the planning maps identify the land that has been identified as being within such areas.

As set out above, and having sought legal advice, we understand the Council is entitled to identify and map this land as being within a wāhi tūpuna area. However, the following must still occur:

- a) The mapping of sites must be accurate and be able to be demonstrated to actually represent the areas of significance. It cannot simply provide a general blanket mapping to catch such areas.

b) The evidence in support of these areas being of significance to Māori must be able to be assessed and tested in the normal way, as would any other evidence to support a restriction over land. In this regard, a mere assertion by mana whenua of significance is not enough. We do not consider Council would be acting within its duties as a statutory authority if it were to simply accept on face value the assertions made by mana whenua.

To date, there does not appear to be a strong evidential foundation provided by either the Council or mana whenua to support the mapping of sites. An example of this is the fact no explanation has been provided for the blanket 50 metre buffer areas that have been applied to the Waianakarua River. The schedule in the Draft Plan for instance does not explain the basis for such a buffer area.

The Council is required under section 32 of the RMA to identify and assess the provisions it proposes to introduce, and weigh the costs and benefits associated with such. This analysis needs to have regard to the costs to landowners of their land being identified as a wāhi tūpuna area and the restrictions this imposes. Unless clear evidence can be shown which demonstrates the significance of these areas, then the costs to landowners cannot be said to be outweighed by any benefits in terms of protection of Māori values or Treaty of Waitangi principles.

Tangible evidence should be provided, specific to our particular properties, identifying if our properties do in fact contain 'Areas and Sites Significant to Māori'. If the currently proposed Wāhi Tūpuna Overlay is too wide in respect of capturing these areas of significance or if such evidence cannot be provided, then the Overlay should be corrected to accurately capture the areas of significance and not simply provide for a buffer or blanket position.

General Observations on the Draft District Plan:

- **Restrictions imposed on wāhi tūpuna areas**

Development restrictions imposed on land identified as wāhi tūpuna areas in the Draft District Plan generally relate to the following:

- buildings and structures where certain standards are not met, such as footprint, height, distance to wetlands etc.;
- clearance of vegetation unless necessary for a matter identified such as for maintenance of lawfully established roads, tracks or access ways;
- earthworks unless for a purpose identified such as maintenance or repair of lawfully established tracks, fences or yards;
- wastewater treatment activities;
- mining activities; and
- cemeteries.

When a resource consent is required for these activities, Council will likely take the position in most cases that some form of approval from mana whenua is required in order to conclude that effects relating to wāhi tūpuna issues have been sufficiently addressed.

Our primary concern with this is that it is not clear in the Draft Plan what exactly mana whenua would see as being potential issues associated with these activities. For example, a landowner seeking consent for a new building will be totally unaware as to what characteristics that building must have, or what characteristics the land has, that would affect the position mana whenua would take in respect of that proposal.

For this reason, whilst the restrictions on the use of the land may not necessarily be unreasonable, more information needs to be provided in the Proposed Plan as to what values are being sought to be protected by mana whenua and what kind of development would adversely affect those values.

The Schedule in the Draft Plan does state what the values are, but it is unclear and does not have an English translation to the various Te Reo Māori terms used to describe the values. The Schedule requires to be updated in English in this respect.

- **Comparison to other districts mapping of Sites and Areas of Significance to Māori.**

Upon reviewing other districts' draft and proposed district plans (for example Waimakariri and Selwyn Districts) we have noted that the areas significant to Māori have been identified quite diligently and therefore resulting in different classifications of identified areas with differing restrictions associated. For example:

- Wāhi Tapu
- Wāhi Taonga
- Ngā Wai
- Ngā Reporepo
- Ngā Tūranga Tūpūna

Considering these surrounding districts have to give effect to the same *Resource Management Act 1991* in respect to identifying '*Sites and Areas of Significance to Māori*', Council should provide a justification as to why, compared to other nearby districts, only one blanket application of Wāhi Tūpuna Overlays is proposed in the Draft Plan.

Attachment A, Questions & Responses of Meeting 16/08/2022

LGOIMA 1102 request – responses

1. Why were the 'alternative' Wāhi Tūpuna zoning over the Cosy Dell Road properties and proposed in 2021 rejected by Council?

Aukaha have advised Council that redefining Wāhi Tūpuna overlays using cadastral boundaries was not appropriate.

2. Were the Wāhi Tūpuna Overlays established by/on behalf of WDC? (Establishing that WDC is ultimately responsible for the location and size)

The proposed overlays were defined by Aukaha on behalf of Ngāi Tahu/local rūnaka.

3. What caused last year's Wāhi Tūpuna Overlays to be adjusted?

It was noted that the Wāhi Tūpuna had been defined using river centrelines that did not accurately reflect the current extent of these waterways. The river centrelines were redefined using more recent aerial imagery to rectify this.

4. Why are the proposed Wāhi Tūpuna Overlays so big? (If the Wāhi Tūpuna Overlays are 'oversized' to capture all unknown Wāhi Tūpuna (as per WDC's explanatory video), why than are these 'oversized' Wāhi Tūpuna Overlays applied to achieve the Draft Plan's Wāhi Tūpuna Rules and Objectives? Also, as they are proposed currently, shouldn't they actually be designated as 'potential Wāhi Tūpuna Zones'?

The extent of the Wāhi Tūpuna were defined by Aukaha in a way that they considered reflected the values that are important to mana whenua. They are mapped as an overlay to capture Kāi Tahu associations with ancestral lands, water, sites, wāhi tapu, taoka – as required by RMA s6(e). As with outstanding natural landscapes and features, the mapping varies in scale according to the values and whakapapa relationships associated with each area. A pragmatic and scaled-down approach has been taken – for instance the Waianakarua Wāhi Tūpuna could cover the entire catchment where manu (birds) and other forest resources were gathered as well as the resources of the awa (river).

5. Why weren't areas significant to Māori individually identified on private properties? (Whilst having the opportunity over a period of >2 years & >\$2 Million in rate payers costs)

As per the response to question 4, they are mapped as an overlay to capture Kāi Tahu associations with broader areas, regardless of cadastral or other boundaries.

We also add that the values that the Wāhi Tūpuna identify are not necessarily discrete features that can be pin-pointed; they may be ancestral trails, sites where significant events (i.e. battles) have occurred, or similar. Furthermore, where there are physical features, there has been concern historically that having detailed location information in the public domain could make sites vulnerable to disturbance – i.e. through fossicking.

6. Why were only selected private properties notified last year of the proposed Wāhi Tūpuna Zoning? (Nobody in Hampden)

Only sites in the rural zone with more than 10% site coverage or more than 4 ha (whichever is smaller) were considered affected enough to warrant notification through the landowner engagement process. Properties within the operative District Plan urban zones (Residential, Township, Business) were also not considered to be affected by the new rule framework and were not notified.

7. How were the Wāhi Tūpuna zones established in location and size. (Reference Otago Regional Policy Statement to which WDC has to give effect to)

The extent of the Wāhi Tūpuna were defined by Aukaha in a way that they considered reflected the values that are important to mana whenua. Through a process of wānanga by rūnaka cultural experts and Te Rūnanga o Ngāi Tahu, including reference to oral history and whakapapa, the Ngāi Tahu cultural mapping project, hiko across the district and other historical sources.

8. Why are people's private residences included in the Wāhi Tūpuna Overlays?

Refer the answer to question 4 – Kāi Tahu associations to these mapped Wāhi Tūpuna areas pre-dates the establishment of private residences.

9. Does WDC recognize the principle of "existing use rights" for residences and amenities (for example waste water systems), and if so, will the Proposed Plan clearly state that?

Existing use rights are protected under section 10 of the RMA. Clarification on this will be provided in the Proposed District Plan.

10. Why was the requirement of gaining private property permission prior to Mana Whenua entering private property not included in The Draft Plan?

This was not an intentional omission and can be addressed in the Proposed District Plan.

11. WDC has only recently advised that access to Wāhi Tūpuna Zones does not over-rule the requirement for Mana Whenua to seek landowner consent prior to enter private properties. Will the Proposed Plan clearly state that?

This was not an intentional omission and can be addressed in the Proposed District Plan.

12. How was the balance between private properties value and benefits to Māori values of Wāhi Tūpuna established over private properties? (From T&W review #10: Reference s32 of the RMA: "The Council is required under s 32 of the RMA to identify and assess the provisions it proposes to introduce, and weigh the costs and benefits associated with such. This analysis needs to have regard to the costs to landowners of their land being identified as a wāhi tupuna area and the restrictions this imposes. Unless clear evidence can be shown which demonstrates the significance of these areas, then the costs to landowners cannot be said to be outweighed by any benefits in terms of protection of Māori values or Treaty of Waitangi principles.")

This will be considered in the section 32 assessments released with the Proposed District Plan.

13. Besides what is contained in The Plan now, what other purposes will or may the Wāhi Tūpuna zoning be applied to in the future? Is there a Federal or Regional instruction to WDC to make the Wāhi Tūpuna Overlays 'as big as possible'?

Waitaki District Council is not aware of any other purposes other than that provided for in national legislation and national and regional policy direction.

14. If the Wāhi Tūpuna Overlays we're established by 'consultants', why didn't WDC employ consultants to represent private property owners rights & interests as well?

The Draft District Plan engagement process is intended to provide for private property owners to let us know their interests and concerns. The Council can then be further informed by responses to the engagement and decide on the Plan provisions based on all competing interests.

15. How was Aukaha selected as 'consultants' to The Draft Plan? (i.e. Direct Selection by WDC, Iwi Appointment, Tender, Quotation, etc.)?

Aukaha are the mandated consultants acting on behalf of Te Rūnanga o Moeraki.

16. Has WDC established what the detriment to private property values will be after the Wāhi Tūpuna Overlays are applied and the resulting drop in rates?

These matters will be considered in the section 32 assessments released with the Proposed District Plan.

17. Will the requirement of gaining private property permission prior to Mana Whenua entering private property be included in The Proposed Plan?

This can be clarified in the Proposed District Plan.

18. What is the WDC procedural difference in last year's public feedback on the Proposed Wāhi Tūpuna Overlays and this year's?

All feedback will be provided in its original format to elected members and made publicly available on Council's website.

Feedback from the landowner engagement phase was not made publicly available and only provided to elected members by way of staff summaries.

19. It is Mana Whenua who will benefit from the application of Wāhi Tūpuna Zoning, why then do private property owners have to pay for Aukaha's services as part of a consent process? (For example: West Coast District will bear that cost in their district)

This is based on the same approach as an applicant who would be required to pay for landscape architects, ecologists, geotechnical experts or similar, if required as part of an assessment of effects of a resource consent application. If no resource consent is triggered, then there are no costs to be borne.

20. Is it WDC's official position that it is 'appropriate' for Mana Whenua to forage for food and materials across the Herbert & Hampden cemeteries?

Council bylaws/reserve management plans around cutting plants or taking wildlife from within parks and reserves will still stand.

21. Why are existing cemeteries included in the proposed Wāhi Tūpuna Overlays when 'cemeteries' are considered one of the *Culturally incompatible activities*? (Herbert and Hampden cemeteries are included in the proposed Wāhi Tūpuna Overlays.)

As with question 8 response, the Wāhi Tūpuna associations to these areas pre-date the cemeteries. As they are already established, these cemeteries will have existing use rights.

22. Why are there no Wāhi Tūpuna Overlays proposed anywhere in or around Oamaru?

Makotukutuku (SASM022) Cape Wanbrow is at Ōamaru. Nearby Wāhi Tūpuna include Pukeuri (SASM020) and Te Ana Raki (SASM021).

23. During the SNA virtual meeting, it was clearly stated by the consultants that recognisable land features should be used to identify Overlay boundaries. Most Wāhi Tūpuna Overlay boundaries are not determined by recognisable land features. How is Mana Whenua going to determine when they are entering private property?

Wāhi Tūpuna are not identified using the ONF criteria. With regards to the question – in the same way that anyone can determine when they are entering private property – cadastral boundaries and fences, private property signs.

24. In reference to Mana Whenua accessing Wāhi Tūpuna Areas for cultural activities, define 'Access'?

This is something that we can look to clarify in the Proposed District Plan.

25. Define 'hunting' methods that Mana Whenua will be allowed to use. (Does that include the use of firearms?)

This is something that we can look to clarify in the Proposed District Plan.

26. Will WDC provide responses to feedback received from the Public or just go straight to a Proposed Plan without any further 'public consultation'?

Feedback from the Draft District Plan will be provided to elected members in its raw format. This will also be released on Council's website next year. Following this, elected members will be presented with officer recommendations on the feedback and this will also be made publicly available as part of the Council meeting agenda. There will also be a statutory public consultation process with the release of the Proposed District Plan.

27. Under SASM-R2, why is the maximum building footprint restricted to only 200 m²? (When the national restriction is 300 m²)

Greater than 200m² is the trigger for seeking input from runaka. Below this threshold the impacts are considered compatible with the values of the Wāhi Tūpuna areas. 200m² provides for a large building footprint. We are not aware of a national restriction of 300m².

28. What will be the process for Mana Whenua to follow for permission to access private property?

This process would be the same as for gaining access to any private property.

29. As private property owners, we are responsible for the safety of anyone on our properties. Who will be responsible for Mana Whenua when accessing private properties?

The landowners as well as those visiting private property also have obligations for their own safety.

30. The video states that Wāhi Tūpuna zoning is about “*control and management*”. Is Mana Whenua going to maintain Wāhi Tūpuna zones? (Infestations of Gorse, blackberry, rabbits, etc.)

Landowners can maintain their own pest species, which is also set out in the Otago Regional Pest Management Plan 2019.

31. At what stage in The Plan process do the Wāhi Tūpuna Overlays become ‘enforceable’?

Sections 86B-G of the RMA states that a rule in a proposed plan now only has legal effect after decisions on submissions have been made. However, there are a number of exceptions where rules have immediate effect earlier, as follows:

- if an Environment Court order gives a rule in a plan legal effect on a different date; or
- if the rule protects or relates to water, air, soil (for soil conservation purposes); or
- if the rule protects areas of significant indigenous vegetation, significant habitats of indigenous fauna or historic heritage; or
- if the rule provides for or relates to aquaculture activities.

32. What rights will Mana Whenua have in collecting home grown produce? (Reference: Vanessa’s Café recent incident)

None

33. Will WDC provide more information as part of the Draft or Proposed Plan what values are being sought to be protected by Mana Whenua within Wāhi Tūpuna zones? (Reference: T&W Review #14 & #15 and Cosy Dell Cottage response)

Yes, where this information is available.

34. Does WDC realise and acknowledge that the application of Wāhi Tūpuna zoning over properties may actually prevent developing our properties further? (Reference: Lot 6, Deposited Plan 15187)

Yes, in part as some activities are permitted and will not require resource consent.

35. Will Mana Whenua consent be required when repositioning property boundaries?

No, if it is a boundary adjustment subdivision.

36. Will WDC add the **Resource Management Act 1991, The Otago Regional Policy Statement 2019, Ngāi Tahu Claims Settlement Act 1998 and the Trespass Act 1980** to the Proposed Plan? (reference Page 4 of The Plan: *“Other Planning Documents and Legislation Considered”*)

We can consider including these.

37. Will WDC update the ‘Glossary’ in the Proposed Plan with the Te Reo terms used in the Draft Plan that are not translated in English? (Reference: T&W Review #15)

We can consider including these.

38. What is the expected timeline for the Proposed Plan to be ‘notified’?

An indicative timeline for the Proposed Plan to be notified in early 2024. This relies on Council processes/meetings to work through changes to the Draft District Plan following feedback.

Attachment B: Example of 'Blanket Application' of Wāhi Tūpuna Overlay over along Cosy Dell Road

