

Section 42A: Areas and sites with significant values for mana whenua

Report Overview

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1. Introduction

1. The s42A report “Areas and sites with significant values for mana whenua” addresses provisions in the proposed Plan that relate to the identification and management of areas and sites with significant values for mana whenua. These provisions respond, in part, to the following key issues:
 - a. the loss of mana whenua relationships with land and water; and
 - b. degradation of sites with significant values for mana whenua.

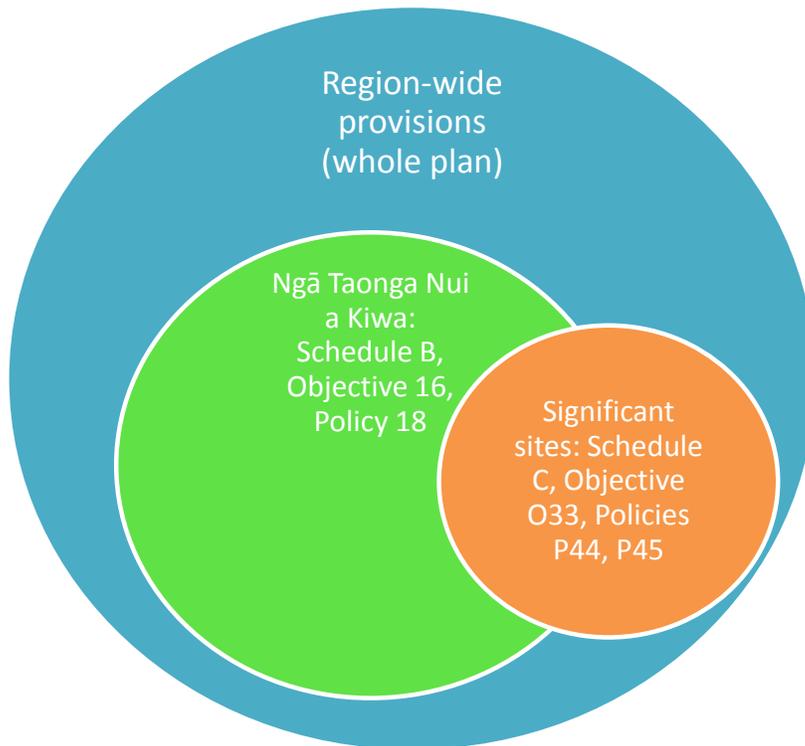
2. Plan framework for managing areas and sites with significant values for mana whenua

2. Mana whenua relationships with land and water are both extensive and discrete, operating at a regional and catchment level, as well as at a site-specific level. The proposed Plan addresses these relationships at each of these scales, using an integrated suite of objectives, policies, rules and other methods.
3. Region-wide provisions that work to improve environmental outcomes for all land and water resources across the region will also provide for mana whenua relationships and desired outcomes. Examples are the provisions relating to ki uta ki tai, mauri, intrinsic values, and management of all catchments to provide for contact recreation and Māori customary use.
4. At a catchment-scale, iwi have identified their most important water bodies – large entities such as lakes, harbours, rivers and parts of the coastal marine area, identified as Ngā Taonga Nui a Kiwa and listed in Schedule B. The proposed Plan recognises and provides for the relationship of iwi with these areas using a set of non-regulatory

measures (Objective O16 and Policy P18), while directing the whitua process to reflect these values and interests in developing more detailed provisions within whitua implementation programmes.

5. Iwi have also identified more discrete sites that have significant values for mana whenua and which are considered to require additional provisions to provide for their protection and/or restoration. These sites, and their significant values, are identified in Schedule C (Sites of significance to mana whenua).
6. Schedule C sites are restricted to areas within a water body or the CMA, are discrete and generally limited in area. To note, under RMA sections 12 and 13, there are a large number of activities that cannot be carried out within the CMA or the bed of a lake or river unless expressly allowed by a resource consent, a national environmental standard, or a rule in a plan.
7. Objective O33 aims for sites with significant mana whenua values to be protected and restored. Schedule C sites are managed via Policies P44 and P45, and a suite of rules, Methods M25 and M26 also apply to both Schedules B and C. There are also a number of other policies (Policy P4, P9, P20, P72, P74, P138, P143, P144, P148) which provide guidance to the rule framework by identifying which activities should be specifically avoided or provided for within Schedule C sites. Submissions on the rules which refer to Schedule C sites are addressed within the relevant topic report, including Discharges to water, Land use, Wetlands and Biodiversity and Coast, as listed in Appendix E of my s42A report.

Figure 1: Provisions addressed in the s42A Report: Areas and Sites with Significant Values for Mana Whenua



3. Key issues addressed in the section 42A report

8. My s42A evaluation groups the issues raised in submissions into four main groups.
9. Issue 1 – The approach to manage **areas** with significant values for mana whenua: Ngā Taonga Nui a Kiwa (Objective O16 and Policy P18).
10. Issue 2 - The approach to manage **sites** with significant values for mana whenua (Objective 33, Policies P44 and 45), specifically:
 - 2.1 use of the terms ‘protect and restore’ (Objective O33 and Policy P44)
 - 2.2 request to tailor management provisions to specific sites

2.3 use of ‘the mitigation hierarchy’ in Policy P45

2.4 interpretation of the term ‘cultural impact assessment’

2.5 lack of provision for existing uses and regionally significant infrastructure

2.6 requiring written consent from an iwi authority/ies.

11. Issue 3 - Site-specific amendments to Schedule B: Ngā Taonga Nui a Kiwa and associated maps.

12. Issue 4 - Site-specific amendments to Schedule C: Sites with significant values for mana whenua and associated maps.

4. Key Recommendations in my s42A Report

13. Within the s42A Report: Areas and sites with significant values for mana whenua, I have made the following key recommendations:

14. Interpretation for ‘Cultural Impact Assessment’: Amend the definition to clarify that a Cultural Impact Assessment must be prepared by a suitably qualified person mandated by mana whenua.

15. Amendments to several Schedule C sites, including amendments to site boundaries, and the deletion or partial deletion of a site.

5. Outstanding issues identified in submitter’s evidence

16. Following release of the s42A report “Areas and Sites with significant values for mana whenua”, submitters have provided expert planning evidence. Some of the key matters further addressed in this evidence include:

- Application of ‘protection and restore’ to the Schedule C site, rather than applying only to the identified significant values. Qualify with terms such as Protect from ‘inappropriate use’.

- In Objective O33 and/or Policy P45, lack of provision for, and recognition of, established activities, regionally significant infrastructure, and the degree of existing modification within a Schedule C site.
- A number of submitters are concerned that the requirement for written consent from Iwi in Policy P45(d) appears to give iwi an undue level of decision making power in relation to resource consents.
- Lack of regulatory measures to protect and restore Schedule B areas.
- Opportunities to improve clarity and integration within the plan framework by combining specific objectives and policies (Objectives O14, O16 and O33 and Policies P44 and P45).
- Concern that the plan provisions will not manage the cumulative effects of many minor activities and that there is no guidance regarding activities upstream of a Schedule C site.
- Heritage NZ has provided further detail to support the addition of one site (the Rangitatau Wāhi Tapu Area) to Schedule C.

Comment [PG1]: Was this raised in their original submission?

6. Recommendations I would reconsider

17. Having reviewed the pre-circulated planning evidence, I consider that there are grounds to reconsider the following matters:
18. Rewording Policy 45(d) to state that iwi authority are considered to be affected parties for resource consent applications, rather than stating that written consent is required (as requested by a number of submitters).
19. As requested by Mr Phillip Percy:
 - Combining Policies P44 and P45 to provide a more efficient plan framework, as requested by Mr Percy, while noting that I do not necessarily agree with many of the detailed amendments requested. I also note that, as the so-called mitigation

hierarchy used in Policy P45 is also central to several other policies in the proposed Plan, consideration would be required as to consistency across policies.

- Consider combining objectives O14 and O16 to improve the efficiency of the plan framework, but noting that the detail and potential effectiveness of this proposal requires further consideration.

20. Addition of the Rangitatau Wāhi Tapu Area, with attendant consultation.