

## Heritage Rules

These rules shall apply across all the zones of the District.

### 15.5 Status of Heritage Features

All heritage features known to the Council to be worthy of protection are listed in Appendices C, D and E, are part of the Heritage Rules, and have been identified on the Planning Maps by a special notation.

The heritage features include historic buildings, objects and properties, places of special interest, archaeological sites and areas, waahi tapu, and protected trees. All features have been categorised as follows:

#### Class A Historic

**Buildings:** These items warrant permanent preservation because their significance to the District and to New Zealand as a whole. Class A includes all places of historical or cultural significance included in Categories I and II of the New Zealand Historic Places Trust (NZHPT) Register.

#### Class B Historic

**Buildings:** Preservation of these heritage items is important but not as significant as Class A items. Class B includes places of local historic ~~all places of historical or~~ cultural significance.

#### Archaeological

**Sites:** Individual sites recorded by the NZ Archaeological Association which warrant consideration in the event of any proposed development in order to avoid, remedy or mitigate adverse effects on the site's particular values.

**Archaeological Areas** Areas that contain a number of individually important archaeological sites which warrant consideration in the event of any proposed development in order to avoid, remedy or mitigate adverse effects on the site's particular values.

~~and~~ \_\_\_\_\_

#### Historic Areas:

Historic Areas adopted from the NZ Historic Places Trust register ~~Areas of individually important sites which~~ warrant consideration in the event of any proposed development in order to avoid, remedy or mitigate adverse effects on the site's particular values.

#### Waahi Tapu

#### Sites and Areas:

All waahi tapu listed within the NZ Historic Places Trust Register ~~identified in the District as registered archaeological sites,~~ or specifically identified by Ngai Tahu.

#### Protected Trees:

Trees or groups of trees having either outstanding cultural and/or heritage values, botanical values or high visual amenity values.

### 15.6 Historic Buildings

#### 15.6.1 Permitted Activities

Modification of, or addition to, any historic building identified in Appendix C is a permitted activity which may be undertaken without resource consent, provided that such modification or addition complies with the following conditions:

- (a) the work is confined to restoration, redecoration, or general maintenance of the original character, fabric, or detailing of the heritage building, place or object and;
- (b) the work retains or reinstates the original design and/or colour scheme of the building or structure, except that this does not apply to interior redecoration where the original design or colour has already been modified~~the work is carried out to the same design (except for redecoration) and;~~
- (c) the work is undertaken using materials that are the same or similar to those materials originally used~~the work is undertaken using similar materials (or similar replica materials) as those originally used and;~~
- (d) the work will not detract from the character and appearance of the heritage building, place or object.

### 15.6.2 Controlled Activities - Class B Historic Buildings

Modification of, or addition to, any Class B historic building listed in Appendix C which does not comply with conditions in rule 15.6.1 is a **controlled** activity with Council's control limited to:

- (i) the nature of the proposed work
- (ii) design of the proposed modifications
- (iii) materials to be used
- (iv) effects on the character and appearance of the building
- (v) effects on heritage values

### 15.6.3 Discretionary Activities

#### (a) Class A Historic Buildings

Modification of, or addition to, any Class A historic building listed in Appendix C which does not comply with conditions in rule 15.6.1 is a **restricted discretionary** activity with Council's discretion limited to:

- (i) the nature of the proposed work
- (ii) design of the proposed modifications
- (iii) materials to be used
- (iv) effects on the character and appearance of the building
- (v) effects on heritage values

#### (b) Class A and Class B Historic Buildings

The relocation, removal or demolition of all or part of any historic building listed in Appendix C is an **unrestricted discretionary** activity.

## 15.7 Protected Trees (Appendix D)

Any of the following activities relating to a protected tree or group of trees listed in Appendix D shall be an **unrestricted discretionary** activity:

- (i) removal of any protected tree (other than any dead tree or any tree that is endangering people or property); or
- (ii) pruning at a height greater than one-third the total height of the tree, and/or any branches greater than 50mm diameter below this level; or
- (iii) the construction of any building or laying of new overhead or underground services within the drip line of any protected tree, whether on the site or not; or
- (iv) paving or storing of vehicles within the drip line of any protected tree; or

- (v) the addition or excavation of soil in a way that alters soil levels by more than 75mm within the drip line of any protected tree; or
- (vi) discharge or dispersal of any toxic substance within the drip line of any protected tree.

*Note:* For the purpose of this rule, “drip line” means the outer-most edge of the canopy or branches projected down to the ground.

### 15.8 Archaeological Sites, Archaeological Areas, Historic Areas and Waahi Tapu (Appendix E)

Table 15.8.1—Activity Status

Status	Activity	Conditions
Permitted	Any earthworks further than 20m from an <u>archaeological site, historic area or waahi tapu</u> listed in Appendix E.	Earthworks shall not be closer than 20m to any site listed in Appendix E.
	Any earthworks within an <u>archaeological area</u> shown on the planning maps as surrounding an archaeological site.  c) The accidental discovery of artefacts or human remains during earthworks on any site.	Earthworks shall not exceed 500mm in depth or cumulatively 100m <sup>2</sup> in area per site <u>except that</u> earthworks may exceed these limits provided that the Site Management Protocol (15.8.2) shall be followed.  c) The Accidental Discovery Protocol (15.8.3) shall be followed for any accidental discovery.
Discretionary (restricted)	a) i) any earthworks within 20m of or; any modification, damage, destruction or disturbance to; any <u>archaeological site, historic area or waahi tapu</u> listed in Appendix E.  Any earthworks within an <u>archaeological area</u> shown on the planning maps which exceed 500mm in depth or cumulatively 100m <sup>2</sup> in area per site <u>and</u> which do not follow the Site Management Protocol (15.8.2)  Accidental discovery of artefacts or human remains where the Accidental Discovery Protocol (15.8.3) is not followed.	Council's discretion is restricted to effects on any historic, archaeological or cultural values of the site.

Status	Activity	Conditions
Permitted	a) Any earthworks, other than earthworks in or within 20m of an <u>archaeological site, historic area or waahi tapu</u> listed in Appendix E, or within an <u>archaeological area</u> .	Any earthworks in a) must comply with the <u>Accidental Discovery Protocol (15.8.3)</u> , <u>except in the Kaikoura Peninsula Tourism Zone and the Ocean Ridge Comprehensive Living Zone</u> where earthworks must comply with <u>Accidental Discovery Protocol (15.8.4)</u> .
	b) Any earthworks within an <u>archaeological area</u> shown on the <u>planning maps</u> as surrounding an <u>archaeological site</u> .	Any earthworks within an <u>archaeological area</u> in b) shall not exceed 500mm in depth or cumulatively 100m <sup>2</sup> per site <u>except that</u> earthworks may exceed these limits provided that the <u>Site Management Protocol (15.8.2)</u> shall be followed.

Status	Activity	Conditions
<b>Controlled</b>	Any earthworks within the Building Platform Location Areas or parking area locations shown on the Outline Development Plan in Appendix O (Kaikoura Peninsula Tourism Zone) and any earthworks associated with the construction of the primary or secondary vehicle accesses with the Kaikoura Peninsula Tourism Zone.	Council's control is restricted to the effects on historic, archaeological or cultural values, including the imposition of conditions that require an Archaeological Accidental Discovery Protocol, contained in 15.8.4, being complied with, and a condition on the requirement for archaeological supervisions during site disturbance.
<b>Discretionary (restricted)</b>	<p>a) i) Any earthworks within 20m of or;</p> <p>ii) Any modification, damage, destruction or disturbance to;</p> <p>any archaeological site, historic area or waahi tapu listed in Appendix E, <b>except in the Building Platform Location Area and parking area locations shown on the Outline Development Plan in Appendix O, and within a primary or secondary vehicle access with the Kaikoura Peninsula Tourism Zone (refer to controlled activity rule).</b></p> <p>b) Any earthworks within an archaeological area shown on the planning maps which exceed 500mm in depth or cumulatively 100m<sup>2</sup> in area per site and which do not follow the Site Management Protocol (15.8.2), <b>except in the building platform or parking area locations shown on the Outline Development Plan in Appendix O and within a primary or secondary vehicle access with the Kaikoura Peninsula Tourism Zone (refer to controlled activity rule).</b></p> <p>c) Any earthworks resulting in the accidental discovery of artefacts or human remains and the Accidental Discovery Protocol (15.8.3) and (15.8.4) is not complied with <b>except in the building platform and parking area locations shown on the Outline Development Plan in Appendix O, and within a primary or secondary vehicle access with the Kaikoura Peninsula Tourism Zone (refer to controlled activity rule).</b></p> <p>d) Any earthworks within the Building Platform Location Areas shown in the Outline Development Plan in Appendix O.</p>	Council's discretion is restricted to effects on any heritage historic, archaeological or cultural values of the site.

### 15.8.2 Site Management Protocol: Archaeological Sites, Archaeological Areas, Historic Areas or waahi tapu

- (i) The consent holder or proponent shall engage an appropriately qualified archaeologist to monitor the progress of all excavation and to advise on methods to be undertaken to ensure that adverse effects on archaeological values are avoided, remedied or mitigated.

This condition shall not apply with respect to works undertaken in an Archaeological Area, however, before any works commence in an Archaeological Area, the NZ Historic Places Trust and Te Runanga o Kaikoura shall first be consulted and their views obtained. It is highly probable that an Archaeological Area contains unrecorded archaeological material that may be disturbed by earthmoving works.

- (ii) For any burial sites and waahi tapu, ~~the Te Runanga o Kaikoura~~ Runanga shall be entitled to have a representative during construction and excavation of the site to act as adviser to the developer on identification or protection of the site.
- (iii) The consent holder or proponent shall provide Te Runanga o Ngai Tahu and the Kaikoura Te Runanga o Kaikoura Runanga the following information no less than 25 working days prior to any excavation:
- a schedule of the dates of all significant excavation events, their sequence and duration;
  - a summary of all measures being undertaken to ensure that adverse effects on archaeological values are avoided, remedied or mitigated
- (iv) The consent holder or proponent shall invite Te Runanga o Ngai Tahu and the Te Runanga o Kaikoura Runanga to attend any episode of monitoring or earthmoving activity.
- (v) The consent holder or proponent shall consult with Te Runanga o Ngai Tahu and the Te Runanga o Kaikoura Runanga to determine if there are any matters of protocol which they wish to undertake in relation to any excavation.
- (vi) The consent holder or proponent shall provide Te Runanga o Ngai Tahu and the Te Runanga o Kaikoura Runanga a copy of all archaeological monitoring and investigation ~~reports~~ results which are required by the conditions of consent with an invitation to respond, comment or meet to discuss any of the results.
- (vii) The consent holder or proponent shall notify the Council of all information provided to Te Runanga o Ngai Tahu and the Te Runanga o Kaikoura Runanga and any responses received.

*Note: Prior to any development being undertaken within an archaeological site or waahi tapu identified in Appendix E, the consent holder or proponent shall ensure that all appropriate authorities required in accordance with sections 11 and 12 of the Historic Places Act 1993, or its subsequent replacement, have been obtained.*

### **15.8.3 Accidental Discovery Protocol: Archaeological Sites, Archaeological Areas, Historic Areas or waahi tapu**

This rule does not apply to the Kaikoura Peninsula Tourism Zone and the Ocean Ridge Comprehensive Living Zone

Where, during earthworks on any site, any archaeological feature, artefact or human remains are accidentally discovered or are suspected to have been discovered, the following protocol shall apply:

- (i) Immediately that it becomes apparent that a suspected archaeological site, burial site, waahi tapu or waahi taonga site has been uncovered, all excavation shall cease.

In cases other than suspected human remains

- (ii) The contractor must shut down all machinery immediately, secure the area and advise the consent holder (or landowner/proponent) and Kaikoura District Council of the occurrence.
- (iii) The consent holder (or proponent) must notify the NZ Historic Places Trust so that the appropriate consent procedure can be initiated.
- (iv) The consent holder (or proponent) must consult with a representative of the Te Runanga o Kaikoura to determine what further actions are appropriate to safeguard the site of its contents. The consent holder (or landowner) must consult with a representative of the Kaikoura Runanga and the Historic Places Trust to determine what further actions are appropriate to safeguard the site or its contents.

Where human remains are suspected

- (iv)(v) The contractor must take steps immediately to secure the area in a way which ensures human remains are not further disturbed. The contractor shall advise the consent holder (or landowner/proponent) of the steps taken.
- (vi) The contractor shall notify the Police of the suspected human remains as soon as practicably possible after the remains have been disturbed. The consent holder (or landowner/proponent) shall notify the Te Runanga o Kaikoura Runanga and NZ Historic Places Trust within 12 hours of the suspected human remains being disturbed, or otherwise as soon as practicably possible.
- (vii) Excavation of the site shall not resume until the Police, NZ Historic Places Trust and the relevant Kaumatua have each given the necessary approvals for excavation to proceed.

*Note. If any land use activity (such as earthworks, fencing or landscaping) is likely to modify, damage or destroy any archaeological site (whether recorded or unrecorded), an "authority" (consent) from the NZ Historic Places Trust must also be obtained for the work to lawfully proceed.*

#### **15.8.4 Accidental Site Discovery Protocol for the Kaikoura Peninsula Tourism Zone and the Ocean Ridge Comprehensive Living Zone**

##### **Purpose**

The purpose of this protocol is:

- To manage and protect the integrity of "known" and "unknown" archaeological sites from damage and loss.
- To maximise the opportunity to retrieve physical and archaeological evidence from disturbed sites. In cases where sites clearly are unable to be retained intact, the orderly and systematic removal of archaeological evidence and information is of the utmost importance.
- Koiti Tāngata (human skeletal remains) are from time to time unearched through a range of causes, man made and natural. The dignified and appropriate cultural management of such sites and remains is of vital importance.
- To obtain quality information on the lives, activities, food, resource use, trails and camp sites of Ngāi Tahu ancestors from archaeological sites. Early detection and assessment is dependent on early intervention to manage retrieval of such information.
- To obtain quality historic information on the lives of people, their activities, resource use and structures.
- To provide the conditions to be imposed on any earthworks consent within the Kaikoura Peninsula Tourism Zone and the Ocean Ridge Comprehensive Living Zone.

**Definition**

“Archaeological site” means any place in New Zealand that —

- (a) Either —
  - (i) Was associated with human activity that occurred before 1900; or
  - (ii) Is the site of the wreck of any vessel where that wreck occurred before 1900; and
- (b) is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand<sup>22</sup> Historic Places Act 1993

**Process**

The developer shall consult with Te Runanga o Ngai Tahu and Te Runanga o Kaikoura to determine, in accordance with Tikanga Maori, if there are any matters of protocol which tangata whenua wish to undertake in relation to the commencement of any development works, significant events or the commissioning of the completed works.

**In the event of any discovery of suspected cultural remains (e.g. shells, charcoal or charcoal-stained soil, fire-fractured stone, or bones) the developer, or workman/contractor representing the developer, shall take the following action:**

1. Cease all works immediately.
2. Advise the site supervisor of a find.
3. The site supervisor shall contact an appointed archaeologist to advise on the significance of the find.
4. If the find is of potential significance to Ngāi Tahu, “contact” person(s) from Te Rūnanga o Kaikōura must be advised.
5. The NZ Historic Places Trust must be advised in all cases (note that it is an offence under section 99 of the Historic Places Act 1993 to modify, damage or destroy an archaeological site without the prior authority of the New Zealand Historic Places Trust).

**In cases of wāhi taonga and wāhi tapu**

- The nominated representative(s) of Te Rūnanga o Kaikōura will be consulted by the archaeologist and site supervisor to determine what further actions are appropriate to avoid, reduce, remedy or mitigate any damage to archaeological sites.
- The developer shall consult with Te Rūnanga o Kaikōura on any matters of protocol which they may wish to undertake in relation to the find and prior to the commencement of any investigation.
- The developer shall consult with NZ The Historic Places Trust for advice of any requirements under the Historic Places Act.

**In cases of suspected koiwi Tāngata**

- The site supervisor shall take steps to immediately stop work, shut down all machinery or activity, secure the area to ensure that the remains are not touched and then notify the police and the nominated representative(s) of Te Rūnanga o Kaikōura.
- The developer shall consult with The Historic Places Trust for advice of any requirements under the Historic Places Act.
- The site supervisor must ensure that staff are available to meet and guide Police (note that the Coroners Act applies), Kaumatua and Historic Places staff to the site and to assist with any requests made. The area shall be marked off and if the remains are of Māori origin, Kaumatua will decide what will happen to the remains and advise the Police and other parties of their decision.
- Work may only recommence in the area with the approval of the Police, Kaumatua and the NZ

Historic Places Trust.**In all other cases**

- The archaeologist and site supervisor to determine what further actions are appropriate to avoid, reduce, remedy or mitigate any damage to archaeological sites.
- The NZ Historic Places Trust shall be consulted for advice of any requirements under the Historic Places Act.

**Responsibilities of the Developer**

1. To require all staff/contractors involved in drilling, earthmoving or mining operations to undertake a training session on the recognition of archaeological sites, wahi tapu, wahi taonga, urupa or koiwi tangata. Te Runanga o Kaikoura and Te Runanga o Ngai Tahu will be contracted to provide appropriate training to such staff.
2. To implement internal management protocols to ensure staff are aware of the requirement to monitor operations in a way that allows the identification of archaeological sites including wahi tapu, wahi taonga, urupā or historic (European) cultural sites.
3. To implement a reporting procedure in the event of a "find" of any archaeological material as described in the Process above.
4. To ensure that the developer will meet all statutory obligations under the Historic Places Act 1993 and comply with all conditions of resource consent as they relate to matters of archaeological significance.
5. To provide a copy of the work plan no less than 25 working days prior to any earth-moving works to Te Runanga o Kaikoura and the NZ Historic Places Trust setting out:
  - A schedule of the dates of all significant earthmoving events, their sequence and duration; and,
  - A summary of all measures being undertaken to ensure that adverse effects on archaeological values are avoided, remedied or mitigated.
6. To invite Te Runanga o Kaikoura and Te Runanga o Ngai Tahu to attend any episode of archaeological, monitoring or earthmoving activity.
7. To provide Te Runanga o Kaikoura and Te Runanga o Ngai Tahu and the NZ Historic Places Trust with a copy of all archaeological monitoring and investigation results with an invitation to respond, comment or meet to discuss any results.
8. The developer shall notify the District Council of all information provided to Te Runanga o Kaikoura and Te Runanga o Ngai Tahu and any responses received. If appropriate, the District Council, with the agreement of the developer and Te Runanga o Kaikoura and Te Runanga o Ngai Tahu shall convene meetings/hui should any of the information or issues require further discussion.
9. To appoint an archaeologist(s) approved by Te Runanga o Kaikoura to be available during all earthworks and excavations to act as an advisor on identification or protection of wahi tapu, wahi taonga, urupā or historic cultural sites. This person(s) to be on-site as required by conditions of resource consent or as required in the event of a discovery.

**Note : Responsibilities of Te Runanga o Kaikoura**

1. To inform the developer of the position of any known sites prior to earth disturbance.
2. To inform the developer in accordance with tikanga Māori, if there are any matters of protocol which Tāngata whenua wish to undertake in relation to the commencement of work or significant events.
3. To provide a list of contact persons and phone, fax and mobile numbers to the developer.
4. To adopt a policy of guaranteeing response to notification of a "suspected site find" within a 24 hour time frame:
  - (a) this will consist of contacting appropriate people and organisations depending on the nature of the "find";

- (b) arranging a time for inspecting the site;
- (c) co-ordination of the appropriate action to remove or otherwise any archaeological material from the site.