

1 ISSUES, OBJECTIVES: Matters of Importance to Tangata Whenua

1.1 OVERVIEW OF MATTERS OF IMPORTANCE TO TANGATA WHENUA

The function of this section is to provide a statement of how the issues of concern to Tangata Whenua are to be addressed through the District Plan.

The Resource Management Act includes the following requirements:

Section 6(e) “In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

The relationship of Tangata Whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.”

Section 7(a) “...all persons exercising functions and powers under itshall have particular regard to -

(a) Kaitiakitanga”

Section 8 “In achieving the purpose of this Act, all persons exercising functions and powers under it.....shall take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi).”

Clause 3 of the First Schedule:

To consult with Tangata Whenua, through iwi authorities and tribal Runanga, in the preparation of the District Plan or Plan Changes.

Section 74(2): When preparing or changing the District Plan, to have regard to any relevant planning document recognised by an iwi authority which is affected by the District Plan.

Section 74(2): When preparing or changing the District Plan, to have regard to any regulations relating to the conservation or management of taiapure or fisheries to the extent that their content has a bearing on resource management issues of the district.

Section 9(1)(f): To supply iwi authorities copies of publicly notified applications for resource consent as considered appropriate.

The Act enables the Council to receive written or spoken evidence in Maori (s39(2)(b) and to hold hearings with the public excluded in order to avoid serious offence to Tikanga Maori or to avoid the disclosure of the location of waahi tapu (s42(1)(a).

1.2 RELATIONSHIP BETWEEN TANGATA WHENUA AND THE COUNCIL

The Horowhenua District Council exercises its functions within Muaupoko, Rangitane and Ngati Raukawa tribal boundaries.

- Muaupoko
- Rangitane
- Ngati Raukawa

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Tangata Whenua acknowledge that the Council is entrusted by Parliament with statutory duties and responsibilities under the Resource Management Act 1991 to promote the sustainable management of the natural and physical resources of the district.

Council for its part recognises the special status of the Tangata Whenua as separate and distinct from interest groups and further recognises the need for active protection of Tangata Whenua interest in dealing with other parties and in administering this plan. In stating this, the Council believes it is discharging its responsibilities under Sections 6(e), 7(a) and 8 of the Resource Management Act 1991.

Council and Iwi representatives intend to develop Memoranda of Understanding which will determine the mechanisms, protocols, scope and detailed ongoing consultation regarding resource management issues. This is to be the umbrella which commits both Tangata Whenua and Council to certain actions and responsibilities. In the meantime the Council must also pursue its responsibilities under the Resource Management Act with respect to the District Plan.

1.3	SIGNIFICANT RESOURCE MANAGEMENT ISSUES PURSUANT TO THE RESOURCE MANAGEMENT ACT, FOR MATTERS OF IMPORTANCE TO TANGATA WHENUA
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Issue 1: How to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in managing the use, development and protection of natural and physical resources of Horowhenua District.

Issue 2: Recognising and providing for the relationship of Maori and their culture and traditions with the ancestral lands, water, sites, waahi tapu and other taonga (Resource Management Act 1991 S6(e)).

Issue 3: The detriment that can be caused to the relationship of Maori with their ancestral lands, water, sites, waahi tapu and other taonga by inappropriate subdivision, use and development of resources, having regard to the Kaitiakitanga role of tangata whenua of the Horowhenua District (Resource Management Act 1991 57(a)).

Issue 4: Recognising and having regard to the Kaitiaki role of Tangata Whenua of Horowhenua District.

Issue 1: How to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in managing the use development and protection of natural and physical resources of Horowhenua District.

The “principles of the Treaty” referred to in Section 8 of the Act are not defined in the Act. Some important principles have emerged from decisions of the Court of Appeal, the Environment Court and from the recommendations of the Waitangi Tribunal. The principles are continually evolving as an understanding of the Treaty relationship develops.

Recent Resource Management Act case law has clarified that what is necessary is that consent authorities (e.g. Council) must take into account the principles of the Treaty. This means that appropriate matters which may affect the discretion of the consent authority in this regard must be considered. To this extent there must be sufficient consultation as to the full implications for Tangata Whenua of what is proposed. What must also be weighed in any decision-making is how to give effect to the concerns of Tangata Whenua.

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The Horowhenua District Council recognises the mana whenua and tino rangatiratanga of individual Iwi, and their hapu, over their resources and taonga. The Council, through its officers, will consult with Tangata Whenua where their interests are affected. It is intended that protocols for such consultation will be developed through Memoranda of Understanding.

The Council appreciates and is committed to ensuring that Tangata Whenua's views concerning the management of natural and physical resources are taken into account. This includes the cultural concerns of the Maori community. Iwi or any individual hapu affected, and their relationship with traditional resources. Their concerns must be weighed and be shown to be weighed with other matters of relevance in the course of the decision-making process.

One of the most fundamental ingredients for a successful relationship between Tangata Whenua and the Council is meaningful dialogue and consultation. Consultation is a principle of the Treaty of Waitangi. The development of an appropriate relationship concerning decision making under the Resource Management Act relies on meaningful dialogue/consultation between Maori and Council through its officers, and on occasions, applicants for resource consents. The Council is committed to contributing, in good faith, to ongoing dialogue/consultation with Tangata Whenua on resource management issues.

The Act makes varying references to "Maori", "Tangata Whenua", and "iwi Authorities and tribal Runanga". The Council, recognises that, as individual resource management issues arise, it is important to have dialogue with the people who have the closest interest in the issue. This may sometimes be an iwi authority but is often likely to be an individual hapu. The Council will seek the guidance of Tangata Whenua as to the most appropriate point of contact for such dialogue.

OBJECTIVE 1:	Active recognition of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in the exercise of the Council's functions and duties under the Resource Management Act.
POLICY 1.1:	Enable the sustainable use and development by Maori of their lands, resources and other taonga.
POLICY 1.2:	Ensure as far as possible that the interests of Tangata Whenua are fully taken into account when considering the sustainable use and development of the land, resources and other taonga.
POLICY 1.3:	Ensure as far as possible on-going dialogue between the Council and Tangata Whenua over resource management issues of concern to them.
POLICY 1.4:	Recognise the authorised and mandated representatives of the Tangata Whenua.
POLICY 1.5:	Provide for the involvement of Tangata Whenua in the resource management decision-making and planning process of the District through the provision of necessary resources.
POLICY 1.6:	Endeavour to promote an understanding of the Treaty of Waitangi and the Tangata Whenua environmental management system within Horowhenua District.

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Explanation and Principal Reasons

The objective and policies seek to provide a basis for giving effect to the principles of the Treaty. The policies recognise the protection given by the Treaty to tino rangatiratanga held by the Tangata Whenua over their own resources. At the same time, the policies recognise the right of the Council to exercise its duties and functions in promoting sustainable management of resources.

The policies promote, in appropriate cases, the Council's duty of active protection of Maori interests and of informed decision making where relevant. They seek to ensure that Maori rights and interests over use and development of their resources, will be taken into account in the overall context of sustainable management of those resources while ensuring that the Tangata Whenua are consulted with, in the resource management process where Maori interests are affected.

METHODS FOR ISSUE/OBJECTIVE 1

District Plan

- The Plan will permit the occupation, use, subdivision and development of Maori owned land subject to the purpose and principles of the Act and the usual constraints relating to sustainable management.
- The Plan will also enable development of particular Maori resources such as Marae and Papakainga.
- The Plan will include standards and/or processes to protect taonga Maori and values against inappropriate use and development. (It is considered that the Plan is necessary and appropriate to enable use and to control any adverse effects of inappropriate use and development).

Ongoing Consultation

- Memoranda of Understanding are seen as a useful way to facilitate ongoing dialogue between Tangata Whenua and the Council. The Council sees Memoranda of Understanding as a positive basis for partnership. Further dialogue and work is required by both Council and Tangata Whenua to make progress on such Memoranda of understanding.
- Council will consult with the Tangata Whenua of the area who may be so affected, in preparing any changes to the District Plan.
- Council will establish a forum for the discussion of issues of mutual concern to Tangata Whenua and Council. This forum will be developed through Memoranda of Understanding. The Council will also seek, over time, to improve lines of communication with Tangata Whenua.
- Council will encourage the preparation of Iwi Development Plans prepared by Tangata Whenua, and will be guided by their contents as they are relevant to resource management and the District Plan.
- The Council will endeavour to provide to the Tangata Whenua all necessary information about resource management policy matters which are expected to be of concern to them, and will consider proposals for amendment to this Plan as issues arise over time.

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Resource Consents

- The Council shall provide to the Tangata Whenua affected by any resource consent application all relevant information provided to the Council by an applicant, together with any other relevant information concerning that application held or prepared by Council Officers concerning that resource consent application.
- The Council's officers will ensure that the views and concerns of Tangata Whenua which may emerge during any process of consultation are recorded in reports submitted at any hearing. However, there will remain cases where, due to the significance of their concerns, Maori may need to be a submitter to any application made.

(Such consultative procedures are seen as straightforward methods for ensuring that the Tangata Whenua are aware of issues of interest to them and are able to participate in the resource management process).

Issue 2:	Recognising and providing for the relationship of Tangata Whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.
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The relationship of Tangata Whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga encompasses such matters as:

- The spiritual importance of ancestral lands, forests, and other resources;
- The cultural and traditional values and uses of some plants e.g. pingao or other local indigenous species;
- The importance of harvesting certain foods or resources and the cultural, spiritual, as well as food values of these;
- The particular importance of individual sites or areas as waahi tapu;
- The importance of respecting and maintaining the spiritual qualities of resources such as water - and the offence caused by pollution of waterways;
- The importance of occupying and developing ancestral lands and Marae;
- The particular importance of the coast and of the resources, lakes, rivers, wetlands, and other habitat found there;
- The importance of being able to gain access to traditional sites and along ancestral pathways;

OBJECTIVE 2:	Recognition of and provision for the relationship of the Tangata Whenua of Horowhenua, and their culture and traditions, with their ancestral lands, water, sites, waahi tapu, and other taonga.
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POLICY 2.1:	The Council shall recognise and make provision for the relationship of Tangata Whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga in a manner that is consistent with the principles of sustainable management.
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POLICY 2.2:	Recognise the spiritual and cultural values held by Maori and their traditional practices in the management of their resources.
POLICY 2.3:	Recognise and protect cultural, and spiritual values and characteristics of the coastal environment, the waterways of special value to Tangata Whenua.
POLICY 2.4:	Protect waahi tapu, sites of cultural importance and other taonga, where they are known, from desecration.
POLICY 2.5:	Recognise the desire of Tangata Whenua to maintain and enhance their traditional relationship with the natural environment.

Explanation and Principal Reasons

The objective and policies seek to make positive provision for the matters that are important to the relationship between Maori and their environment.

METHODS FOR ISSUE/OBJECTIVE 2

District Plan

- The Plan will enable a wide range of uses of land and other resources.
- The Plan will make specific provision for the occupation and use of Marae.
- The Plan will include policies, standards and processes which recognise and protect the cultural and spiritual character of the coastal environment, waterways, outstanding natural features and landscapes, areas of significant indigenous vegetation and significant habitats of indigenous fauna of the District.
- The Plan will make specific provisions for Tangata Whenua in their relationship to waterways of the District by Tangata Whenua identifying specific sites.
- The Plan will not identify individual sites of importance to Tangata Whenua unless specifically requested to do so.
- The Plan will identify Maori cemeteries (urupa) where specifically requested to do so by Tangata Whenua.
- Council will consider holding closed files of waahi tapu if requested by Tangata Whenua.

Resource Consent Decisions

- The Council will consult with Tangata Whenua in the case of individual resource consent applications where appropriate, and will seek the guidance of Tangata Whenua concerning how to take into account the particular spiritual and cultural values associated with the use and management of the resources in issue.

(The Council has a commitment to giving, in good faith, consideration to the values of importance to Tangata Whenua. The Council will, from time to time, need assistance in recognising and understanding these values and will seek guidance, in these cases from Tangata Whenua).

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Ongoing Dialogue

The Council will continue to welcome discussions with Tangata Whenua, about other methods that will enhance the relationship of Tangata Whenua with their environment.

- The Plan is an appropriate mechanism for providing some level of recognition to these values, but the Council acknowledges the Kaitiaki role of Tangata Whenua over certain special areas and sites and will work co-operatively with Tangata Whenua to achieve the worth of protection appropriate to Tangata Whenua concerning such areas.

Other Methods

- The Council will make specific provisions for Lake Horowhenua and Lake Papaitonga.

Issue 3: The detriment that can be caused to the relationship of Tangata Whenua with their ancestral lands, water, sites, waahi tapu, and other taonga by inappropriate subdivision, use and development of resources.
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While Issue 2 is concerned with recognising the inherent importance of certain Tangata Whenua values and relationships, Issue 3 is concerned with protecting those values, sites, and relationships from the potentially adverse effects of subdivision, use and development.

Issues include:

- Activities which, even inadvertently, damage or desecrate significant sites or burial sites; or
- practices which offend the spiritual values of resources;

The Council intends to work with Tangata Whenua to better understand the types of effects that compromise the relationship they have with their ancestral lands, water, sites, waahi tapu, and other taonga. The Council and the community will then be in a better position to prevent any compromise to these values and relationships.

OBJECTIVE 3:	Protection of the relationship of Tangata Whenua, culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga from the adverse effects of inappropriate subdivision, use, and development of resources.
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POLICY 3.1:	When considering applications for the subdivision, use and development of resources the Council shall recognise and have regard to any adverse effects which would compromise the relationship of Maori with their culture, traditions, ancestral lands, water, sites, waahi tapu and other taonga.
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Explanation and Principal Reasons

The objective and policy seek to actively protect the relationship of Tangata Whenua with the environment and to protect the values and sites that are particularly important to Maori.

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METHODS FOR ISSUE/OBJECTIVE 3

District Plan and Resource Consents

- Certain individual sites or areas of particular ecological, cultural, spiritual, heritage, or archaeological significance will be identified on the planning maps but only after consulting the Tangata Whenua.
- Activities occurring close to or within these identified areas may require resource consent applications.
- The Council will forward to the Tangata Whenua details of resource consent applications which may affect the sites and values identified by Tangata Whenua as being significant.
- The merits of individual resource consent applications will be considered in terms of the impacts of the individual proposal in sites and values identified by Tangata Whenua as being significant. Discretion will be exercised accordingly and conditions of consent may be required where mitigation measures are necessary.
- The Council will encourage applicants for resource consent to consult individually affected Tangata Whenua prior to lodging any application which may affect significant Tangata Whenua values or sites.

(The methods propose that the Council will, with guidance from Tangata Whenua, respond to the effects of individual activities on sites and values as they occur. The Council will be constrained in its ability to respond and protect such sites and values by the extent of its knowledge about these values and sites. Some archaeological information is publicly available in the NZ Historic Places Trust (Te Pouhere Taonga) register and other sources.

The Council will consult with Tangata Whenua to determine whether or not such information can or should be included in the Plan. It is therefore important to ensure that a workable system for accessing information is established. Continuing dialogue between Council and Tangata Whenua is considered necessary to expand overall understanding of the issues and values).

Other initiatives

- The Council will undertake discussions with Tangata Whenua and the owners of land where sites or values of significance are present - with a view to enhancing the protection of those values or sites.

(Discussion may not, alone, be sufficient to secure protection but is a necessary first step to appreciating the importance of values and sites and to gaining voluntary protection).

- As part of the annual and/or strategic plan process, the Council may consider specific requests for incentives to encourage the protection of individual sites which have significant cultural, spiritual, natural, heritage, or archaeological significance.

(Assistance with voluntary protection measures can be a cost-effective means of protecting areas or sites with community-wide benefits).

- The Council will work with the Regional Councils and the Historic Places Trust (Te Pouhere Taonga) who also have functions and powers in recognising and protecting significant values and sites.

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Other Legislation

- Building consents will be assessed in terms of their implications for known values or sites of importance to Tangata Whenua.
- The Antiquities Act 1975.

(The ability of Council to assess impacts and provide protection will be constrained by the extent of its knowledge about these values and sites. It is therefore important to ensure that a workable system for access information is established. Continued dialogue between the Council and Tangata Whenua is considered to be necessary to better understand the issues and values. The method acknowledges the importance of respecting the confidentiality of certain information).

Issue 4: Recognising and having regard to, the Kaitiaki role of Tangata Whenua of Horowhenua District.

The expression “kaitiakitanga” is defined in the Act as “the exercise of guardianship by the Tangata Whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship”. The expression concept is not one that is readily translated into English. A helpful interpretation of the expression is provided in the “Report and Recommendation of the Board of Inquiry on the New Zealand Coastal Policy Statement” published by the Department of Conservation:

“Kaitiakitanga is the role played by kaitiaki. Traditionally, kaitiaki are the many spiritual assistants of the gods, including the spirits of deceased ancestors, who are the spiritual minders of the elements of the natural world. All the elements of the natural world, the sky father and earth mother and their offspring; the seas, sky, forests and birds, food crops, winds, rain and storms, volcanic activity, as well as people and wars are descended from a common ancestor, the supreme god. These elements, which are the world’s natural resources, are often referred to as taonga, that is, items which are greatly treasured and respected. In Maori cultural terms, all natural, and physical elements of the world are related to each other, and each is controlled and directed by the numerous spiritual assistants of the gods.

Maoridom is very careful to preserve the many forms of mana it holds, and in particular is very careful to ensure that the mana of kaitiaki is preserved. In this respect Maori become one and the same as kaitiaki, becoming the minders for their relations, that is, the other physical elements of the world.

In specific terms, each whanau or hapu is kaitiaki for the area over which they hold mana whenua, that is, their ancestral lands and seas.

An interpretation of kaitiakitanga based on this explanation must, of necessity, incorporate the spiritual as well as physical responsibilities of Tangata Whenua, and relate to the mana not only of the Tangata Whenua, but also of the gods, the land and the sea.”

“**Kaitiakitanga**” will need to be interpreted in the context of individual resource use issues with guidance from the appropriate Tangata Whenua who are the kaitiaki in different parts of the District.

OBJECTIVE 4:	Recognition of the kaitiakitanga of the Tangata Whenua who are the kaitiaki over the various parts of the Horowhenua environment.
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POLICY 4.1:	Have particular regard to the exercise of Kaitiakitanga by Tangata Whenua in the management of the District’s resources, where it is appropriate.
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POLICY 4.2: Ensure that there are opportunities for contribution from the Tangata Whenua as kaitiaki, in resource management policy making and decision-making.

POLICY 4.3: Acknowledge the expression and implementation of Kaitiakitanga by Tangata Whenua.

Explanation and Principal Reasons

The objective and policies recognise the valuable contribution Tangata Whenua have in providing a traditional, or Kaitiaki, perspective to sustainable resource management. The policies also acknowledge the status of the Tangata Whenua as kaitiaki over resources.

METHODS FOR ISSUES/OBJECTIVE 4

- Where resource consents are required for activities, the Council will seek to ensure that details of proposals likely to affect, or be affected by kaitiakitanga, are forwarded to the relevant Tangata Whenua.
- Council will seek the guidance of Tangata Whenua in understanding specific kaitiakitanga issues in individual resource consents and will consider ways that kaitiakitanga can be respected in consent conditions.

(This consultation is necessary given the fact that only the relevant iwi or hapu holds kaitiakitanga over the resources).

- The Council may consider requests to delegate pursuant to s33, to Tangata Whenua, the management of defined areas or resources where this is necessary to give full effect to kaitiakitanga.

(It may be that a management plan developed for individual sites or areas could quite effectively manage any potential effects of use and development of resources there).

1.4 ANTICIPATED ENVIRONMENTAL RESULTS

The following environmental results are expected from the effective implementation and administration of the District Plan:

- Council meets its obligations in terms of Section 6, 7 and 8 of the Resource Management Act 1991 in relation to Tangata Whenua.

In particular Council will recognise the special role of the Tangata Whenua who have the kaitiakitanga relationship and mana whenua to the environment of the Horowhenua District.

- Tangata Whenua have greater opportunity for involvement in resource management processes.
- The interests of Tangata Whenua are taken into account in resource management decisions.
- Tangata Whenua are involved in environmental monitoring of matters of resource management significance to them.
- Tangata Whenua values are incorporated, where appropriate, into sustainable management.