

**Section 42A Report to the  
District Plan Review Hearing Panel**

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**Proposed Horowhenua District Plan  
Matters of Importance to Tangata Whenua**

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**March 2013**

## **NOTE TO SUBMITTERS**

Submitters should note that the hearings on the Proposed District Plan have been organised according to topic. A total of 14 hearings are scheduled to hear submissions on each of the 14 topics. The topic which is the subject of this report is Matters of Importance to Tangata Whenua.

It is very likely that submitters who have made submissions in relation to Matters of Importance to Tangata Whenua may have also made submissions on other parts of the Proposed Plan. This report only addresses those submission points that are relevant to the subject of this report.

The hearings of submissions to the Proposed District Plan are being collectively heard by a Panel of eight commissioners. The appointed commissioners include a combination of local Councillors and independent commissioners. In most cases each hearing will be heard by a panel of three commissioners selected from the eight panel members. This does mean that different commissioners will be sitting on different hearings. It therefore will require submitters to ensure that when speaking at a hearing that they keep to their submission points that have been covered by the Planning Report for that hearing.

To assist submitters in finding where and how their submissions have been addressed in this report, a submitter index has been prepared and can be found at the very end of the report. The index identifies the page number(s) of where the submitter's submission points have been addressed in the report.

Submitters may also find the table contained in Section 6.2 of this report helpful as it identifies the Reporting Officer's recommendation to the Hearing Panel on every submission point and further submission point addressed in this report.

## EXECUTIVE SUMMARY

The Horowhenua District Plan has been operative for over 13 years (since 13<sup>th</sup> September 1999). During this time Council has undertaken a number of plan changes although the majority have been of a minor technical nature. In 2009 Council publicly notified three substantive plan changes that sought to address Rural Subdivision, Urban Growth and Outstanding Natural Features and Landscapes. A significant portion of the Operative District Plan has not been reviewed or modified since becoming operative in 1999. The Council in fulfilling its statutory duties has undertaken a review of those parts of the District Plan that have not been subject to a plan change since 2008.

This report focuses on the topic of Matters of Importance to Tangata Whenua. The relevant provisions within the Proposed Plan are largely contained within Chapter 1 (Matters of Importance to Tangata Whenua) with some related provisions appearing in the Zone Rules, Assessment Criteria and General Provision chapters of the Proposed Plan. The relevant provisions within the Operative District Plan relating to Matters of Importance of Tangata Whenua have not been the subject of any plan change or review process since the District Plan became operative (September 1999).

The Proposed District Plan was publicly notified for submissions on 14 September 2012. The period for further submissions closed 20 December 2012. Through the public notification process a number of submissions were received supporting and opposing the Proposed Plan provisions. These submissions have supported some provisions requesting they be adopted as proposed, while others have requested changes to the wording or deletion of specific changes.

The purpose of this report is to summarise the key issues raised in submissions and to provide advice to the District Plan Review Hearings Panel on the issues raised. All submission points have been evaluated in this report, with specific recommendations for each point raised within each submission. These recommendations include amendments to the Proposed Plan, including refinements to the wording of some provisions. Whilst recommendations are provided, it is the role of the District Plan Review Hearing Panel to consider the issues, the submissions received, the evidence presented at the hearing, and the advice of the reporting planner for Council before making a decision. The District Plan Review Hearing Panel has full delegated authority from the Council to make its decision. That decision is binding on Council subject to any appeals.

The District Plan Review Hearings Panel in making its decisions will determine whether to accept, reject or accept in part, the submissions received, and as a consequence, any amendments to be made to the Proposed Plan.

The officer's recommendations on the key issues raised in the submissions include:

- Upholding the consultation approach used for drafting and developing Chapter 1 by forming an Iwi Advisory Group consisting of members appointed by the Government recognised Iwi authorities.
- Upholding the approach of consulting with Iwi Authorities on resource management matters (plan changes and consents) in the first instance and relying on the internal procedures of each Iwi authority to ensure that affected Tangata Whenua have the opportunity to be involved.
- Recognising that interim measures remain in place to provide a level of protection to sites of importance to Iwi until such time that specific sites are identified and included in the District Plan.

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# 1. Introduction

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## 1.1 Qualifications

My full name is David Bruce McCorkindale. I hold a Bachelor of Resource and Environmental Planning (Honours) degree from Massey University, Palmerston North, New Zealand. I have over 12 years of experience as a planner. This has included working as a Resource Management Planner at the Horowhenua District Council for four and a half years before working as a Development Control Planner in the United Kingdom for the London Borough of Lewisham and the Watford Borough Council. I returned to the Horowhenua District Council in January 2008 to work as Senior Planner before taking on my current role of Project Manager (District Plan Review). I have been involved with and responsible for the review of the Horowhenua District Plan since the review project commenced in November 2009.

I have been involved with the Council-initiated Plan Changes 20 – 23 to the Horowhenua District Plan which have been undertaken since 2008. I have an understanding of the District Plan Review processes and requirements, a thorough understanding in the implementation and workability of district plans from a plan administration point of view, as well as knowledge and understanding of the significant resource management issues in the Horowhenua district.

## 1.1 Purpose

The purpose of this report is to assess the Proposed District Plan in terms of the relevant statutory considerations and obligations, taking into account those issues raised in submissions, and an analysis of the appropriateness and effectiveness of the proposed provisions in providing for matters of importance to Tangata Whenua in the Horowhenua District. I provide my findings and recommendations to the Hearings Panel in accordance with Section 42A of the Resource Management Act.

## 1.2 Outline

This report considers submissions and further submissions which were received on The Matters of Importance to Tangata Whenua (Chapter 1) and the associated provisions throughout the Proposed Horowhenua District Plan (referred to in this report as “the Proposed Plan”). This report has been prepared in accordance with Section 42A of the Resource Management Act (“the RMA”) to assist the Hearings Panel with its consideration of submissions received in respect of the provisions in these parts of the Proposed Plan.

This report is structured according to the following format:

- An overview of the Proposed Plan
- Statutory Requirements
- Analysis of Submissions
- Recommended Amendments to Proposed Plan

The report discusses each submission or groups of similar submissions and includes a recommendation from the report writer on each submission that has received, **but the recommendation is not the decision of the Horowhenua District Council** (“the Council”).

Following consideration of all the submissions and supporting evidence, if any, presented by the submitters and further submitters at the hearing, the Hearings Panel will make a decision on the

submissions. The decision report prepared by the Hearing Panel will include the Hearing Panel's decision to accept, accept in part, or reject individual submission points, and any amendments to the Proposed Plan. All recommendations in this report are subject to consideration of any further evidence provided by submitters at the hearing.

The amendments to the Proposed Plan arising from the reporting planner's recommendations discussed throughout this report are listed in full in Section 6.2. The suggested amendments are set out in the same style as the Proposed Plan.

The Analysis of Submissions section has been structured by grouping submission points according to individual provisions in the Proposed Plan. As far as possible, the individual submission points are listed in order to follow the contents of each Plan provision. The submission points relating to specific provisions are listed first with the general or unspecified submissions listed as the end.

Each submission and further submission has been given a unique number (e.g. 58). Further submissions follow the same number format although they start at the number 500, therefore any submitter number below 500 relates to an original submission and any submitter number of 500 or higher relates to a further submission.

In addition to the submission number, each submission point (relief sought) has been given a unique number (e.g. 01). When combined with the submitter number, the submission reference number reads 58.01, meaning submitter number 58 and submission point number 01. A similar numbering system has been used for further submissions.

This report contains selected text from the Proposed Plan itself, either when changes have been requested by a submitter or where a change is recommended by Council's reporting planners. Where changes to the text are recommended in this report the following protocols have been followed:

- New additional text is recommended is shown as underlined (i.e. abcdefghijkl)
- Existing text is recommended to be deleted is shown as struck-out (i.e. ~~abcdefghijkl~~)

## **2. Proposed Horowhenua District Plan**

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### **2.1 Background**

In November 2009, Council resolved to undertake a full review of its Operative District Plan. Under Section 79 of the RMA, the Council is required to commence a review of its District Plan provisions which have not been reviewed in the previous 10 years. The Council has notified 23 District Plan changes since the District Plan was made operative in September 1999. These Plan Changes addressed a wide range of issues, with the most recent Plan Changes including rural subdivision, urban growth, outstanding natural features and landscapes, and financial contributions. Whilst these Plan Changes covered a number of the provisions in the District Plan, many other provisions had not been changed or reviewed. Accordingly, the Council decided to do a full review of the rest of the District Plan, including the earlier Plan Changes. This review did not cover the most recent Plan Changes 20 – 22, which were not operative at the time the Proposed Plan was notified.

Chapter 1 of the Proposed Plan addresses 'Matters of Importance to Tangata Whenua' and is effectively an updated and revised version of Section 1 in the Operative Plan following a review of these provisions. There are a number of associated plan provisions that appear within Part C –

Rules, Part D – Assessment Matters and Part E – General Provisions. Where these provisions have been submitted on the provisions have been addressed in this report.

## 2.2 Consultation & Process

As outlined in the Section 32 Report associated with the Proposed Plan, general and targeted consultation has been undertaken for the District Plan Review from 2009. The general consultation was undertaken in two phases: 1. Survey and 2. Discussion Document (refer to the Section 32 Report for further details on the consultation approach and process).

The Shaping Horowhenua Survey in 2009 asked a targeted question relating to protection of sites of cultural significance. In response to the question “*Is the level of protection for sites of cultural significance adequate?*”, 49% of respondents considered there should be no change to the current level of protection, 34% considered more protection, and 17% considered less protection.

Unlike the survey document it is acknowledged that the second consultation phase (District Plan Review Discussion Document - October 2011) did not include any specific issues and options regarding matters of cultural significance to Maori. This was deliberate as a specific and detailed consultation process was intended to engage with Iwi on the issues and options.

Clause 3 of the Schedule 1 (RMA) requires Council in meeting its statutory obligations to consult the Tangata Whenua of the area who may be so affected, through iwi authorities during the preparation of the Proposed Plan.

Clause 3B states that “for the purposes of Clause 3(1)(d) a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and
- (b) Establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and
- (c) Consults with those iwi authorities; and
- (d) Indicates how those issues have been or are to be addressed.”

Council in determining which Iwi authorities it was required to consult with to fulfil its statutory obligations referred to the Iwi directory provided on the Te Puni Kokiri website ([www.tpk.govt.nz](http://www.tpk.govt.nz)). The national directory of Iwi and Maori organisations is called Te Kahui Mangai.

The website states that Te Kahui Mangai is the mechanism by which the Crown meets its obligations under section 35A(2) of the RMA in which it must provide information to each local authority on Iwi authorities and groups that represent hapu for the purposes of the RMA.

In referring to the Crown’s list of representative organisations for Muaupoko (last updated 13/12/2012) the Muaupoko Tribal Authority (MTA) is identified as representing Muaupoko as an Iwi authority for the purposes of the RMA. The website confirms the Crown’s recognition of the Muaupoko Tribal Authority Incorporated Society as a legal entity. No other representative organisations are listed.

In referring to the Crown’s list of representative organisations for Ngati Apa (last updated 13/12/2012) Te Runanga o Ngati Apa Trust is identified as representing Ngati Apa as an Iwi authority for the purposes of the RMA.

In referring to the Crown’s list of representative organisations of Ngati Raukawa ki te Tonga (last updated 12/12/2012) Te Runanga o Raukawa Incorporated is identified as representing Ngati Raukawa as an Iwi authority for the purposes of the RMA.

In referring to the Crown's list of representative organisations of Rangitane (last updated 20/09/2012) Tanenuiarangi Manawatu Incorporated is identified as representing Rangitane as an Iwi authority for the purposes of the RMA.

Council officers invited the four Iwi authorities above, being those recognised by the Crown as representing the four Iwi within the Horowhenua District, to be part of a consultative process in reviewing the provisions of the Operative District Plan and informing the preparation the Proposed District Plan and specifically Chapter 1 Matters of Importance to Tangata Whenua.

Following a presentation by officers to the respective Iwi authorities of Muaupoko, Raukawa and Rangitane, each Iwi authority was invited to nominate members to form a combined Iwi Advisory Group for the purposes of reviewing the Operative District Plan and inform the preparation of the Proposed Plan.

Ngati Apa were also contacted and invited to be represented on the Advisory Group. Ngati Apa declined the offer of attending the Iwi Advisory Group meetings but were kept advised of the matters discussed by the group and on occasion made contributions by email.

The Iwi Advisory Group held a series of meetings during 2012 which saw the group work with officers in reviewing the existing District Plan and drafting provisions for the Proposed Plan. Representatives from Rangitane, Raukawa, Tukorehe, Wehi Wehi and Muaupoko attended the Advisory Group meetings. A full draft of Chapter 1 was circulated to these parties for comment prior to the chapter being finalised for adoption by Council for public notification. Each Iwi authority accepted the invitation to provide their own Iwi statement regarding their respective interests in the Horowhenua District. These statements form part of the introduction to Chapter 1. With the exception of some minor formatting and typing corrections, these statements were included unabridged in the Proposed Plan.

### **2.2.1 Late Submissions**

No late submissions were received which raised matters relating to Matters of Importance to Tangata Whenua and the associated provisions.

## **3. Statutory Requirements**

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### **3.1 Resource Management Act 1991**

In preparing a District Plan, Council must fulfil a number of statutory requirements set down in the Resource Management Act, including:

- Part II, comprising Section 5, Purpose and Principles of the Act; Section 6, Matters of National Importance; Section 7, Other Matters; and Section 8, Treaty of Waitangi;
- Section 31, Functions of Territorial Authorities;
- Section 32, Duty to consider alternatives, assess benefits and costs;
- Section 72, Purpose of district plans
- Section 73, Preparation and change of district plans;
- Section 74, Matters to be considered by territorial authorities;
- Section 75, Contents of district plans
- Schedule 1, Preparation, change and review of policy statements and plans

In Part II of the RMA, there are three specific matters to be considered by Council in fulfilling its obligations under this Act:

- Shall recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga. (Section 6(e)).
- Shall have particular regard to Kaitiakitanga. (Section 7(a)).
- Shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). (Section 8).



Under Section 74(2A) of the RMA, when preparing or changing a District Plan, Council must take into account any relevant planning document recognised by an Iwi authority and lodged with the territorial authority, to the extent that their content has a bearing on resource management issues of the district (e.g. an Iwi Management Plan). At this time, no such documents have been lodged with Council.

Section 75(1)(a)-(c) of the RMA sets out the items the contents of a District Plan “must” state “*the objectives for the district; and the policies to implement the objectives; and the rules (if any) to implement the policies*”. Part B, Chapter 1 (Matters of Importance to Tangata Whenua) provides for the objectives and policies with respect to managing cultural values associated with the use and development of natural and physical resources in the Horowhenua District. The zone chapters 15-20 provide for the associated rules.

The relevant aspects of the above matters have been considered in the analysis of the submissions in Section 4 of this report.

### **3.2 Proposed Amendments to Resource Management Act**

Central government has initiated a reform of the Resource Management Act (RMA) with a focus on reducing delays and compliance costs. The reform is being undertaken in two phases. Phase 1 focused on streamlining and simplifying the RMA, including changes to the preparation of district plans. Phase 2 focuses on more substantive issues concerning freshwater, aquaculture, urban design, infrastructure and the Public Works Act. Work on Phase 1 commenced late in 2008, while work on Phase 2 commenced in mid-2009.

The Phase 1 work culminated in the Resource Management (Simplifying and Streamlining) Amendment Act 2009, which came into force in October 2009. In respect of the Horowhenua District Plan and the Proposed Plan, the main effect of this Amendment Act have been process related to the further submission process, ability for simplified decision reports and notices, and changes when rules have effect.

In terms of Phase 2, in December 2012 the Resource Management Reform Bill was introduced to Parliament for its first reading and was referred to the Local Government and Environment Committee for submissions and consultation. In terms of District Plan Reviews and Proposed District Plans, this Bill propose changes in relation to the analysis that underpins District Plans including greater emphasis on the need for quantitative assessment of costs and benefits and the need to consider regional economic impact and opportunity costs. It is noted this Bill includes transitional provisions which state these new assessment and decision-making requirements do not apply to proposed plans after the further submission period has closed (refer Schedule 2, Clause 2 of the Bill).

Central government is also considering further changes to the RMA. In late February 2012 the government released a discussion document on proposals it is considering to change the RMA. The proposed reform package identifies six proposals:

Proposal 1: Greater national consistency and guidance

Proposal 2: Fewer resource management plans

Proposal 3: More efficient and effective consenting

Proposal 4: Better natural hazard management

Proposal 5: Effective and meaningful Iwi/Maori participation

## Proposal 6: Working with councils to improve practice

Of particular relevance to this report is Proposal 5. The proposed approach is based on clarifying the role of Iwi/Maori in plan-making processes and improving existing tools in the RMA. The Government seeks that the proposed changes would help achieve more effective and meaningful Iwi/Maori participation in plan-making processes upfront and reduce downstream costs and tensions. The Government hopes that this would contribute to a more effective resource management system overall.

At the time of writing this report, there have been no other announcements or research relating to the subject of this report.

### **3.3 Local Government Act 2002**

The Local Government Act 2002 (LGA) is designed to provide democratic and effective local government that recognises the diversity of New Zealand communities. It aims to accomplish this by giving local authorities a framework and power to decide what they will do and how. To balance this empowerment, the legislation promotes local accountability, with local authorities accountable to their communities for decisions taken.

The LGA also provides local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions. Section 14 of the LGA sets out the principles of local government with one of the principles stating:

- (h) in taking a sustainable development approach, a local authority should take into account—*
- (i) the social, economic, and cultural interests of people and communities; and*
  - (ii) the need to maintain and enhance the quality of the environment; and*
  - (iii) the reasonably foreseeable needs of future generations*

The above role and principle generally align with the overall purpose and principles of the Resource Management Act.

There are no other specific provisions in the LGA relevant to the subject matter of this report.

### **3.4 New Zealand Coastal Policy Statement 2010**

Under Section 75(3)(b) of the Resource Management Act, a District Plan must give effect to any New Zealand Coastal Policy Statement (NZCPS). This Policy Statement contains a relevant objective (Objective 3) which states

“To take into account the principles of the Treaty of Waitangi, recognise the role of Tangata Whenua as kaitiaki and provide for Tangata Whenua involvement in management of the coastal environment by:

- Recognising the ongoing and enduring relationship of Tangata Whenua over their lands, rohe and resources;
- Promoting meaningful relationships and interactions between Tangata Whenua and persons exercising functions and powers under the Act;
- Incorporating matauranga Maori into sustainable management practices; and
- Recognising and protecting characteristics of the coastal environment that are of special value to Tangata Whenua.”

The objective is supported by a policy (Policy 2), this can be found in Appendix 6.1.2.

The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. Chapter 1 of the Proposed Plan in addressing matters of importance to Tangata Whenua has a wider focus than just the Coastal Environment. The Coastal Environment is specifically addressed within Chapter 5 of the Proposed Plan. Despite having a wider focus than just the Coastal Environment, Chapter 1 gives effect to the NZCPS through the objectives and policies that apply across the District.

### **3.5 National Environmental Standards**

No National Environmental Standards (NES) are considered specifically relevant to the subject of this report.

### **3.6 National Policy Statements.**

Under Section 75(3)(a) of the Resource Management Act, a District Plan must give effect to any National Policy Statement (NPS). No provisions of the NPSs are considered specifically relevant to the subject of this report.

### **3.7 Operative Regional Policy Statement & Proposed One Plan**

Under Section 74(2) of the Resource Management Act, the Council shall have regard to any proposed regional policy statement, in this case, the Horizons Regional Council Proposed One Plan. In addition, under Section 75(3)(c) of the Resource Management Act, a District Plan must give effect to any Regional Policy Statement. The Operative Manawatu-Wanganui Regional Policy Statement became operative on 18 August 1998. The Proposed One Plan (incorporating the Proposed Regional Policy Statement) was publicly notified on May 2007 and decisions on submissions notified in August 2010. A total of 22 appeals were received, with some resolved through mediation while others were heard by the Environment Court. Interim decisions were issued by the Environment Court in August 2012 with final decisions expected in early 2013. In addition, Federated Farmers of NZ and Horticulture NZ have appealed these interim decisions to the High Court in relation to non-point source discharges and run-off (nutrient management).

Given the very advanced nature of the Proposed One Plan in the plan preparation process and that all matters relevant to the District Plan Review are beyond challenge, the Proposed One Plan is considered the primary Regional Policy Statement and should be given effect to by the Proposed District Plan.

Chapter 1 of the Proposed Plan address matters of importance to Tangata Whenua in the Horowhenua Context. The Proposed One Plan has a specific chapter (4) Te Ao Maori Resource Management Matters of Significance to Iwi and Hapu, that addresses matters at a regional level. This chapter acts as a central point of reference for hapu and iwi resource management issues and sets the scene for examining Maori concepts and expressions within modern resource management practice.

The Horizons Proposed One Plan identifies the resource management issues of significance to hapū and Iwi of the Manawatu-Wanganui Region in accordance with s62(1)(b) RMA. The identified resource management issues are:

- Water quality and demand
- Land use and management
- Indigenous habitat and biodiversity
- Research
- Monitoring and enforcement

In response to these issues, the Proposed One Plan includes the following objectives and policies that are relevant to the resource management issues of significance to hapu and Iwi.

#### **Objective 4-1: Resource management**

*(a) To have regard to the mauri of natural and physical resources to enable hapū and Iwi to provide for their social, economic and cultural wellbeing.*

*(b) Kaitiakitanga must be given particular regard and the relationship of hapū and Iwi with their ancestral lands, water, sites, wāhi tapu and other taonga (including wāhi tūpuna) must be recognised and provided for through resource management processes.*

#### **Policy 4-1: Hapū and Iwi involvement in resource management**

*The Regional Council must enable and foster kaitiakitanga and the relationship between hapū and Iwi and their ancestral lands, water, sites, wāhi tapu and other taonga (including wāhi tūpuna) through increased involvement of hapū and Iwi in resource management processes including:*

*(a) memoranda of partnership between the Regional Council and hapū or Iwi which set clear relationship and communication parameters to address resource management objectives,*

*(aa) recognition of existing arrangements and agreements between resource users, local authorities and hapū or Iwi,*

*(b) development of catchment-based forums, involving the Regional Council, hapū, Iwi, and other interested groups including resource users, for information sharing, planning and research,*

*(c) development, where appropriate, of hapū and Iwi cultural indicator monitoring programmes by the Regional Council,*

*(d) assistance from the Regional Council to hapū or Iwi to facilitate research, projects, seminars and training,*

*(e) development of joint management agreements between the Regional Council and hapū or Iwi where appropriate,*

*(f) the Regional Council having regard to Iwi management plans lodged with Council,*

1. *(g) involvement of hapū or Iwi in resource consent decision-making and planning processes in the ways agreed in the memoranda of partnership and joint management agreements developed under (a) and (e) above, and*

*(h) the Regional Council advising and encouraging resource consent applicants to consult directly with hapū or Iwi where it is necessary to identify:*

*(i) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (including wāhi tūpuna), and*

*(ii) the actual and potential adverse effects of proposed activities on those relationships.*

**Policy 4-2: Wāhi tapu, wāhi tūpuna and other sites of significance**

*(a) Wāhi tapu, wāhi tūpuna and other sites of significance to Māori identified:*

*(i) in district plans,*

*(ii) as historic reserves under the Reserves Act 1977,*

*(iii) as Māori reserves under the Te Ture Whenua Māori Act 1993,*

*(iv) as sites recorded in the New Zealand Archaeological Association's Site Recording Scheme, and*

*(v) as registered sites under the Historic Places Act 1993*

*must be protected from inappropriate subdivision, use or development that would cause adverse effects on the qualities and features which contribute to the values of these sites.*

*(aa) The Regional Council must facilitate hapū and Iwi recording the locations of wāhi tapu, wāhi tūpuna and other sites of significance to Māori in an appropriate publicly-available database.*

*(b) Potential damage or disturbance (including that caused by inappropriate subdivision, use or development) to wāhi tapu, wāhi tūpuna and other sites of significance to Māori not identified (for confidentiality and sensitivity reasons) by hapū or Iwi under (a), above, must be minimised by the Regional Council facilitating the compilation of databases by hapū and Iwi to record locations which need to remain confidential.*

*(c) The Regional Council must ensure that resource users and contractors have clear procedures in the event wāhi tapu or wāhi tūpuna are discovered.*

The above statutory and policy context outlines the role and responsibility of the District Council for hapū and Iwi involvement in resource management and to Wāhi tapu, wāhi tūpuna and other sites of significance to Māori from inappropriate use, development and subdivision. The evaluation below takes into account this statutory and policy context.

### **3.8 Operative Horowhenua District Plan**

As noted above, Operative Horowhenua District Plan has been operative for over 13 years (since 13<sup>th</sup> September 1999) and a number of plan changes made. None of these plan changes directly addressed the subjects of this report (i.e. Matters of Importance to Tangata Whenua). Therefore the provisions that have been reviewed as part of the overall District Plan review are those that formed part of the current District Plan when it first became operative.

## 4. Analysis of Submissions

### 4.1 Chapter 1 Introduction

#### 4.1.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.01	Philip Taueki	Oppose	The statement supposedly made by Muaupoko is not a valid account.	Delete the proposed Muaupoko statement and replace with a statement that is historically and culturally authentic.	519.00 Charles Rudd(Snr) - Support
60.02	Muaupoko Co-operative Society	Oppose	Submitter contends that statements supposedly made by Muaupoko at the beginning of Part B – Chapter 1 are incorrect and should be removed from the Proposed Plan.	No specific relief requested.  Inferred: That the inaccurate statements within Chapter 1 be deleted.	
67.01	Taiao Raukawa Environmental Resource Unit	In-Part	The submitter seeks amendment to the Statement of Ngāti Raukawa.	<p>Amend the Statement of Ngāti Raukawa as follows:</p> <p>Paragraph 1: Amend to read as “Ngāti Raukawa and affiliates (like Kauwhata (<u>Feilding</u>), Tukorehe (Kuku)...”</p> <p>Paragraph 1: Include a new sentence at the end of Paragraph 1 as follows: <u>The legacies set down by ancestral Māori land tenure activities during Te Rauparaha and his allies' time for Ngāti Raukawa and affiliates, continue to this day.</u></p> <p>Paragraph 5: Include new bullet point to list (as first bullet point) as follows: <u>Tuku Whenua - Gifting land;...</u></p> <p>Paragraph 6: Amend third sentence as follows: Embedded cultural markers, whether urupā, burial grounds, cemeteries; <u>wāhi tapu</u>, pā sites, former papa kainga; <u>wāhi tūpuna...</u></p> <p>Paragraph 6: Include new bullet point list of marae after second sentence as follows (listed from</p>	

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
				north to south): <u>Te Au, Himatangi;</u> <u>Paranui, Himatangi;</u> <u>Motuiti, Himatangi;</u> <u>Whakawehi, Shannon;</u> <u>Kereru, Kōptāraoa;</u> <u>Matau, Kōptāraoa;</u> <u>Huia, Poroutawhao;</u> <u>Ngātokowaru; Hōkio</u> <u>Kikopiri, Muhunoa;</u> <u>Tukorehe, Kuku;</u> <u>Wehiwehi, Manakau...</u>	
67.02	Taiao Raukawa Environmental Resource Unit	In-Part	The submitter seeks amendment to Chapter 1 Introduction.	Amend Chapter 1 Introduction to include a new heading above paragraph 3 on page 1-6 (below dissecting line) to read as follows ' <u>Statutory Duties and Responsibilities under the RMA</u> '	
67.10	Taiao Raukawa Environmental Resource Unit	Oppose	Oppose the statement by Ngāti Apa on Omarupapako/Round Bush Reserve.	Amend the Statement of Ngāti Raukawa to include the following text after paragraph 6:  <u>...natural systems in Horowhenua. In particular, Council needs to note that customary interests in certain areas such as Omarupapako, Round Bush Reserve will be referred back to Crown for further consideration, and if need be, for amendment of the Ngāti Apa legislation. The Ngāti Raukawa Treaty Claims team flag with Council that the Ngāti Apa claim will be challenged before the Waitangi Tribunal. Council need note too that Ngāti Raukawa and affiliates are determining their customary interests and mana tuku iho, exercised by iwi, hapū and whanau as tangata whenua to certain areas of the marine and coastal region of Horowhenua.</u>	

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
				<u>Whanau, hapū or iwi groups have until March 2017 to seek customary marine title or claims to the common marine and coastal area. This can be done through specific negotiations with the Crown or through an application to the High Court.</u>	
109.02	Charles Rudd (Snr)	In-Part	Chapter 1, paragraph 2 states: <i>This section recognises that the Council exercises its functions within the tribal boundaries of the following Iwi:</i>  Muaupoko Ngati Apa Ngati Raukawa Rangitane  The submitter seeks amendments to this list to reflect the correct order.	Amend Chapter 1 Introduction as follows:  <u>Muaupoko</u> <u>Ngati Apa</u> <u>Ngati Raukawa</u> <u>Rangitane</u> <u>Muaupoko</u> <u>Rangitane</u> <u>Ngati Apa</u> <u>Ngati Raukawa ki te Tonga</u>	
109.03	Charles Rudd (Snr)	In-Part	The submitter seeks amendment to Chapter 1 Introduction Statement of Muaupoko to reflect the correct listing of traditional hapu who are active.	Muaupoko have many traditional hapu. Those currently active are: <u>Ngati Pariri</u> , <u>Ngati Hine</u> , <u>Ngati Tamarangi</u> , <u>Ngati Whanokirangi</u> , <u>Ngati Te Ao</u> , <u>Te Ngarue</u> and <u>Punahau</u> .  <u>Ngai te Ngarue</u>  <u>Ngai te Ao</u>  <u>Ngati Tamarangi</u>  <u>Ngati Hine</u>  <u>Ngati Pariri</u>  <u>Ngati Whanokirangi</u>  <u>Punahau</u>	
109.05	Charles Rudd (Snr)	In-Part	The submitter seeks the deletion of the statement of the recognised Mandated Iwi Authority representing Muaupoko for the following reasons:  Misinformation in the proposed document, Muaupoko Tribal Authority Incorporated were	Delete the following:  <del>At the time of preparing the Proposed District Plan, the Muaupoko Tribal Authority Incorporated is the recognised Mandated Iwi Authority representing Muaupoko for the purposes of the RMA. The Muaupoko Tribal Authority</del>	



Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
			going through a process at the time of preparing the proposed document, represents only those registered with them, do not represent the Muaupoko tribe, conflicts with sections 6, 7, 8 and 95E of the RMA, Iwi authorities should not get preferential treatment and should be required to make submissions like anyone else.	<del>encourages and invites consultation should people wish to know its views and obtain information regarding sites and areas of significance to Muaupoko.</del>	

A number of submission points have been made in relation to the introductory text of Chapter 1. These submission points range from suggestions for minor wording amendments to submissions challenging the accuracy or validity of the statements that have been supplied by each Iwi.

#### 4.1.2 Discussion & Evaluation

1. Taueki (11.01) opposes the Statement of Muaupoko which is included within the Introduction of Chapter 1 on the basis that it is not a valid account. Taueki seeks that the statement be replaced with a statement that is historically and culturally correct. The submission point is supported by Rudd (519.00). The Statement of Muaupoko was prepared by the Muaupoko Tribal Authority and aside from minor typing or formatting corrections the statement was included in the Proposed Plan unabridged. The Council has in this case relied on the Muaupoko Tribal Authority to provide a statement that they believe would accurately reflect the interests of Muaupoko. Taueki states that it is wrong to claim that Punahau (Horowhenua) Lake bed and Hokio Stream including specific land adjacent to them are owned by the Lake Horowhenua Trust. Taueki sets out that Section 18 of the Reserves and Other Lands Disposal Act 1956 states that the bed of the lake, the islands therein, the dewatered area and strip of land one chain width around the original margin of the lake are declared to be and to have always been owned by the Maori owners. The legislation continues on beyond what Taueki has included in his submission and states “that the said bed of the stream and the said strip of land hereby vested in the trustees appointed by Order of the Maori Land Court dated 8 August 1951 in trust for the said Maori owners”. The full text of Section 18 is included as an Appendix (6.1.3).
2. Neither Taueki or Rudd have provided an alternative statement to be included in the Proposed Plan. I do not consider that the proposed wording in Chapter 1 seeks to misconstrue the ownership of Punahau (Horowhenua) Lake bed and Hokio Stream including specific land adjacent to them. I acknowledge that to provide some clarity, the Proposed Plan could be amended as follows: “Please note the Punahau (Horowhenua) Lake Bed and Hokio Stream including specific land adjacent to them have been vested with the ~~are owned by the~~ Lake Horowhenua Trust on behalf of the Maori owners, that it the Muaupoko Iwi”. This change would make the wording consistent with the legislation and clarifies which Maori land owners. I therefore recommend that this submission points by Taueki (11.01) and Rudd (519.00) be accepted in part.

3. Muaupoko Co-operative Society (60.02) opposes the statements in the Introduction of Chapter 1 in relation to Muaupoko as they contend the statements are incorrect and should be removed from the Plan. As discussed for the previous submission point above, the statement of Muaupoko was prepared by the Muaupoko Tribal Authority and aside from minor typing or formatting corrections the statement was included in the Proposed Plan unabridged. No specific errors have been identified and no corrections have been suggested by the Muaupoko Co-operative Society in their submission. I am therefore not persuaded to recommend any changes based on the submission point of Muaupoko Co-operative Society and therefore recommend that this submission point (60.02) be rejected.
4. The Taiao Raukawa Environment Resource Unit (67.01) seek several relatively minor changes to the Statement of Ngati Raukawa. As the statement was originally prepared by Taiao Raukawa and there have been no further submissions opposing these changes, it is recommended that the suggested changes are accepted. I recommend that the submission point (67.01) be accepted.
5. The Taiao Raukawa Environment Resource Unit (67.02) seek a heading be added to Chapter 1 at the point where the chapter outlines the statutory duties and responsibilities under the RMA. The proposed heading would be "Statutory Duties and Responsibilities under the RMA". The proposed heading is considered to be a helpful addition to the chapter as it assists in understanding and detail of the following text. It is therefore recommended that this submission point be accepted and that the proposed heading be added to the Proposed Plan. I recommend that the submission point (67.02) be accepted.
6. The Taiao Raukawa Environment Resource Unit (67.10) oppose the part of the wording within the Statement by Ngati Apa that refers to Omarupapako. Taiao Raukawa seek to amend the Proposed Plan to update the Statement of Ngati Raukawa to also include reference to Omarupapako/Round Bush Reserve. The proposed additional wording submitted is considered to helpfully identify that Raukawa intend to pursue an interest in Omarupapako through the Waitangi Tribunal. The proposed changes do not impact on the wording of the Ngati Apa statement at this point. I consider the proposed confirmation of a future challenge to this area to be helpful to plan users drawing attention to the fact that more than one Iwi may have an interest in this site. The text also helpfully identifies the process that will be followed to determine this interest. With no further submission lodged or in opposition to the submission point, I recommend that the submission point (67.10) be accepted and submitted wording be added to the Proposed Plan.
7. Rudd (109.02) seeks that the order that the Iwi are listed in the Introduction to Chapter 1 be changed. Rudd seeks that they be listed in the correct order as follows; Muaupoko, Rangitane, Ngati Apa and Ngati Raukawa ki te Tonga. No rationale has been provided to justify this alternative order as the 'correct' order. The Iwi are currently listed in alphabetical order. I consider the order in which the Iwi appear listed in the Proposed Plan to be of little overall significance, and I am not persuaded to change from the current alphabetical listing. I therefore recommend that submission point 109.02 be rejected.
8. Rudd (109.03) seeks a revision to how the currently active hapu for Muaupoko are listed within this chapter. No reason has been given for the changed order or the bullet point list. I consider the list order to be of little significance in the context of the Plan. However, as the current list appears to be in no particular order (i.e. not alphabetical), I can support a change

to the format and order of the hapu listed as has been submitted. I recommend that submission point 109.03 be accepted.

9. Rudd (109.05) supports in-part the Introduction to Chapter 1 but seeks an amendment to the Statement of Muaupoko. Rudd seeks that the following paragraph be deleted as he believes it contains misinformation given that the Muaupoko Tribal Authority (MTA) only represents those that are registered with them and do not represent the Muaupoko tribe.

*“At the time of preparing the Proposed District Plan, the Muaupoko Tribal Authority Incorporated is the recognised Mandated Iwi Authority representing Muaupoko for the purposes of the RMA. The Muaupoko Tribal Authority encourages and invites consultation should people wish to know its views and obtain information regarding sites and areas of significance to Muaupoko.”*

10. I consider this statement to be both factually correct and helpful. I consider it factually correct as the MTA are recognised on the Government’s website (Te Kahui Mangai being the mechanism the Crown uses for fulfilling its statutory obligations under s35A(2) of the RMA) as being mandated to represent the Muaupoko Iwi on RMA matters. The statement included in the Proposed Plan recognises that this may not necessarily be the case in the future but confirms the mandate in place at the time the Proposed Plan was drafted.
11. The statement also recognises that the Proposed Plan as notified acts as a holding pattern given that no sites of cultural significance have been formally identified and included in the Proposed Plan. The final sentence that Rudd seeks to delete is considered helpful to users of the Proposed Plan as it invites consultation with the MTA so that plan users can obtain information regarding sites and areas of cultural significance to Muaupoko. The Council is admittedly reliant on the internal processes of MTA to ensure that the information that is provided to plan users following any such consultation is accurate and supplied by those who have the appropriate mandate to do so. In terms of the content of the Proposed Plan, I do not consider it is appropriate or necessary for details of these internal procedures to be specified. I am therefore satisfied with the current wording included in the Proposed Plan and recommend that submission point 109.05 be rejected.

#### **4.1.3 Reporting Officer’s Recommendation**

<b>Sub. No</b>	<b>Further Sub. No.</b>	<b>Submitter Name</b>	<b>Further Submitter Position</b>	<b>Officer’s Recommendation</b>
11.01	519.00	Taueki Rudd	Support	Accept In-Part Accept In-Part
60.02		Muaupoko Co-operative Society		Reject
67.01		Taiao Raukawa Environmental Resource Unit		Accept
67.02		Taiao Raukawa Environmental Resource Unit		Accept
67.10		Taiao Raukawa Environmental Resource Unit		Accept
109.02		Rudd		Reject

109.03		Rudd		Accept
109.05		Rudd		Reject

#### 4.1.4 Recommended Amendments to the Plan Provisions

It is recommended that the following amendments be made to the Introduction of Chapter 1.

Amend Statement of Muaupoko as follows:

Paragraph 2: “Muaupoko have many traditional hapu. Those currently active are: ~~Ngati Pariri, Ngati Hine, Ngati Tamarangi, Ngati Whanokirangi, Ngati Te Ao, Te Ngarue and Punahau.~~

- Ngai te Ngarue
- Ngai te Ao
- Ngati Tamarangi
- Ngati Hine
- Ngati Pariri
- Ngati Whanokirangi
- Punahau.”

Paragraph 7: “Please note the Punahau (Horowhenua) Lake Bed and Hokio Stream including specific land adjacent to them have been vested with the ~~are owned by the~~ Lake Horowhenua Trust on behalf of the Maori owners.”

Amend the Statement of Ngāti Raukawa as follows:

Paragraph 1: Amend to read as “Ngāti Raukawa and affiliates (like Kauwhata (Feilding), Tukorehe (Kuku)...”

Paragraph 1: Include a new sentence at the end of Paragraph 1 as follows: “The legacies set down by ancestral Māori land tenure activities during Te Rauparaha and his allies' time for Ngāti Raukawa and affiliates, continue to this day.”

Paragraph 5: Include new bullet point to list (as first bullet point) as follows:

- Tuku Whenua - Gifting land; ...

Paragraph 6: Amend third sentence as follows: “Embedded cultural markers, whether urupā, burial grounds, cemeteries ; wāhi tapu, pā sites, former papa kainga; wāhi tūpuna...”

Paragraph 6: Include new bullet point list of marae after second sentence as follows (listed from north to south):

- Te Au, Himatangi;
- Paranui, Himatangi;
- Motuiti, Himatangi;
- Whakawehi, Shannon;
- Kereru, Kōptāraoa;
- Matau, Kōptāraoa;
- Huia, Poroutawhao;
- Ngātokowaru; Hōkio
- Kikopiri, Muhunoa;
- Tukorehe, Kuku;

- Wehiwehi, Manakau.

Amend the Statement of Ngāti Raukawa to include the following text after paragraph 6:

“...natural systems in Horowhenua. In particular, Council needs to note that customary interests in certain areas such as Omarupapako, Round Bush Reserve will be referred back to Crown for further consideration, and if need be, for amendment of the Ngāti Apa legislation. The Ngāti Raukawa Treaty Claims team flag with Council that the Ngāti Apa claim will be challenged before the Waitangi Tribunal. Council need note too that Ngāti Raukawa and affiliates are determining their customary interests and mana tuku iho, exercised by iwi, hapū and whanau as tangata whenua to certain areas of the marine and coastal region of Horowhenua. Whanau, hapū or iwi groups have until March 2017 to seek customary marine title or claims to the common marine and coastal area. This can be done through specific negotiations with the Crown or through an application to the High Court.”

Amend Chapter 1 Introduction to Include a new heading above paragraph 3 on page 1-6 (below dissecting line) to read as follows “Statutory Duties and Responsibilities under the RMA”

## 4.2 Objective 1.1.1

### 4.2.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
83.00	Ross & Margaret Hood	In-Part	<p>The policies and objectives outlined in this section are admirable. The same rules and understating should apply across the boards, as the barriers alluded to are the same for all citizens.</p> <p>The submitter considers property rights have been quietly eroded and that it is time for the Council to reassess its attitude towards the Property Rights of all its landowners.</p> <p>The submitter requests that HDC staff and Councillors give more, not less respect to property rights.</p>	<p>Amend and Include provisions in the Plan to provide for the following:</p> <p>A policy of protection of all landowners' property rights must be the written policy of all future District Plans.</p>	

The submission by Hood (83.00) supports in-part Objective 1.1.1 as the issues of costs and time are the same for all landowners not just Tangata Whenua.

### 4.2.2 Discussion & Evaluation

1. The submission point by Hood (83.00) seeks that the Proposed Plan is amended to include provisions in the Proposed Plan that protect the property rights of all landowners. The submission by Hood contends that there has been a movement by Council to quietly erode property rights, as Council does not see these rights as having significant importance. No

wording has been proposed by the submitter to amend the Proposed Plan. It is acknowledged that by its nature a District Plan will have some impact on the property rights of landowners. It is also recognised that a District Plan must be prepared in accordance with the requirements of the RMA and seek to achieve sustainable management, the purpose underpinning the RMA. For a Council to achieve sustainable management of the natural and physical resources within its jurisdiction it will inevitably mean that there will be some restrictions placed on landowners as to how they use their land. The imposition of such provisions within a District Plan are not made lightly and are evaluated as to their relative costs and benefits under Section 32 of the RMA. Furthermore, the statutory submission processes allow the public to inform and influence the final provisions going into a District Plan, which can include further consideration of their relative costs and benefits. I consider the Proposed Plan has tried to achieve a balance between fulfilling Council's statutory obligations and respecting individual's private property rights. For this reason, I am satisfied that no further changes to the Proposed Plan are required in relation to this submission. I recommend that this submission point (83.00) be rejected.

#### **4.2.3 Reporting Officer's Recommendation**

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
83.00		Hood		Reject

#### **4.2.4 Recommended Amendments to the Plan Provisions**

No change is recommended to Objective 1.1.1.

### **4.3 Policy 1.1.2**

#### **4.3.1 Submissions Received**

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.02	Philip Taueki	Support	Support Policy 1.1.2	No specific relief requested. Inferred: Retain Policy 1.1.2.	

Taueki (11.02) supports Policy 1.1.2.

#### **4.3.2 Discussion & Evaluation**

1. The support for Policy 1.1.2 is noted, with no changes sought. I recommend that the submission point 11.02 be accepted.

### 4.3.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.02		Taueki		Accept

### 4.3.4 Recommended Amendments to the Plan Provisions

No change is recommended to Policy 1.1.2

## 4.4 Policy 1.1.3

### 4.4.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.33	Philip Taueki	Support	Support Policy 1.1.3	No specific relief requested. Inferred: Retain Policy 1.1.3.	

Taueki (11.33) supports Policy 1.1.3.

### 4.4.2 Discussion & Evaluation

- The support for Policy 1.1.3 is noted, with no changes sought. I recommend that the submission point 11.33 be accepted.

### 4.4.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.33		Taueki		Accept

### 4.4.4 Recommended Amendments to the Plan Provisions

No change is recommended to Policy 1.1.3.

## 4.5 Policy 1.1.4

### 4.5.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
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Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.34	Philip Taueki	Support	Support Policy 1.1.4	No specific relief requested. Inferred: Retain Policy 1.1.4.	

Taueki (11.34) supports Policy 1.1.4.

#### **4.5.2 Discussion & Evaluation**

1. The support for Policy 1.1.4 is noted, with no changes sought. I recommend that the submission point 11.34 be accepted.

#### **4.5.3 Reporting Officer's Recommendation**

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.34		Taueki		Accept

#### **4.5.4 Recommended Amendments to the Plan Provisions**

No change is recommended to Policy 1.1.4.

## **4.6 Policy 1.1.5**

### **4.6.1 Submissions Received**

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.35	Philip Taueki	Support	Support Policy 1.1.5	No specific relief requested. Inferred: Retain Policy 1.1.5.	

Taueki (11.35) supports Policy 1.1.5.

#### **4.6.2 Discussion & Evaluation**

1. The support for Policy 1.1.5 is noted, with no changes sought. I recommend that the submission point 11.35 be accepted.

#### **4.6.3 Reporting Officer's Recommendation**

Sub. No	Further	Submitter Name	Further Submitter	Officer's
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Sub. No.	Position	Recommendation
11.35	Taueki	Accept

#### 4.6.4 Recommended Amendments to the Plan Provisions

No change is recommended to Policy 1.1.5.

## 4.7 Policy 1.1.6

### 4.7.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.36	Philip Taueki	Support	Support Policy 1.1.6	No specific relief requested. Inferred: Retain Policy 1.1.6.	

Taueki (11.36) supports Policy 1.1.6.

### 4.7.2 Discussion & Evaluation

- The support for Policy 1.1.6 is noted, with no changes sought. I recommend that the submission point 11.36 be accepted.

### 4.7.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.36		Taueki		Accept

#### 4.7.4 Recommended Amendments to the Plan Provisions

No change is recommended to Policy 1.1.6.

## 4.8 Policy 1.1.7

### 4.8.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.37	Philip Taueki	Support	Support Policy 1.1.7	No specific relief requested. Inferred: Retain Policy	

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
				1.1.7	

Taueki (11.37) supports Policy 1.1.7.

#### 4.8.2 Discussion & Evaluation

1. The support for Policy 1.1.7 is noted, with no changes sought. I recommend that the submission point 11.37 be accepted.

#### 4.8.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.37		Taueki		Accept

#### 4.8.4 Recommended Amendments to the Plan Provisions

No change is recommended to Policy 1.1.7.

## 4.9 Explanation & Principal Reasons (Objective 1.1.1)

### 4.9.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.03	Philip Taueki	In-Part	The majority of the Explanation and Principal Reasons for Objective 1.1.1 are laudable and the definition for Kaitiakitanga is helpful. The final paragraph on page 1-11 however, undermines Objective 1.1.1.	No specific relief requested.  Inferred: Amend Explanation and Principal Reasons for Objective 1.1.1 to remove the commitment of Council to seek guidance of mandated Iwi Authorities.	519.01 Charles Rudd(Snr) - Support

One submission was received opposing in-part the text in the Explanation and Principal Reasons for Objective 1.1.1 and Policies 1.1.2 – 1.1.7. The submission point suggests that the final paragraph of this text undermines the objectives of these provisions (Objective 1.1.1 and Policies 1.1.2 – 1.1.7).

### 4.9.2 Discussion & Evaluation

1. Taueki (11.03) supported by Rudd (519.01) oppose in-part the wording included in the Explanation and Principal Reasons relating to dialogue between Iwi Authorities and Council for resource management issues. The submitters consider that the commitment of Council

to seek guidance of mandated Iwi authorities undermines Objective 1.1.1 which seeks to provide Tangata Whenua with opportunities to actively participate in resource management processes.

2. Page 1-11 (final paragraph) includes the following statements “the RMA 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 be an Iwi authority but may also be an individual hapu. The Council will seek guidance of the mandated Iwi authorities to understand the most appropriate point of contact for such dialogue and also to identify any Iwi Management Plans recognised by Iwi Authorities and lodged with Council”.
3. The Proposed Plan also states in the preceding paragraph “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” and further “The involvement of Tangata Whenua is necessary to ensure that their views are raised and can be incorporated into the process”.
4. During Iwi engagement in drafting the Proposed Plan it became clear that the preferred engagement approach on resource management issues managed under the jurisdiction of the District Plan is for Council to firstly engage at the Iwi authority level for both policy and resource consent matters. This being the approach supported by the Iwi Advisory Group. I consider this approach is a practical response as it gives Council an initial contact point to then be advised about who needs to be engaged. On occasions, this engagement may be necessary at a hapu or whanau level, or other occasions it might be appropriate for an Iwi authority to provide comment or input. The actual process of engagement and determining who needs to be engaged will to a large extent depend on the respective Iwi authorities and their individual processes. It is possible these processes could differ between each Iwi.
5. I consider the engagement approach outlined in the Proposed Plan has two positive aspects. Firstly, that the Proposed Plan sets out a clear intent to have dialogue with the people who have the closest interest in the issue, and secondly that there is an understanding of how this dialogue would occur. The Council is not trying to avoid the necessity of consulting or engaging with Tangata Whenua and has made it clear how in the local context it envisages this process working. I am accepting of the fact that the proof of how effectively Tangata Whenua feel they have been engaged and consulted on resource management matters will come when it is put to the test. However, I remain satisfied with the intent that has been conveyed in the Proposed Plan as an effective and efficient process for engagement with Tangata Whenua, and I note this approach was supported by the Iwi Advisory Group. Therefore, I do not support any changes to the current wording. I am of the opinion that text included in the Explanation and Principal Reasons does not undermine Objective 1.1.1 and is helpful in that it explains how Council will provide for these engagement opportunities. I recommend that the submission points 11.03 and 519.01 be rejected.

### 4.9.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.03		Taueki		Reject
	519.01	Rudd	Support	Reject

### 4.9.4 Recommended Amendments to the Plan Provisions

No changes are recommended to the Explanation and Principal Reasons for Objective 1.1.1.

## 4.10 Methods for Issue 1.1 & Objective 1.1.1

### 4.10.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.04	Philip Taueki	In-Part	Bullet four needs adjustment because it is not the tribal authorities who should be consulted on the survey to identify areas and sites of cultural significance, but Tangata Whenua.	No specific relief requested. Inferred: Amend Method 1.1 bullet four to replace Iwi authority with Tangata Whenua.	519.02 Charles Rudd(Snr) - Support
11.05	Philip Taueki	In-Part	Bullet one should be liaison with Tangata Whenua not Iwi authorities.	No specific relief requested. Inferred: Amend Method 1.1 Monitoring to replace Iwi authority with Tangata Whenua.	519.03 Charles Rudd(Snr) - Support
11.06	Philip Taueki	In-Part	Bullet one and two - Iwi Management Plans and Memoranda of Partnerships are of no value if they are not ratified by the Iwi as they will discourage engagement between Council and Tangata Whenua.	No specific relief requested. Inferred: Ratify Iwi Management Plans and Memoranda of Partnerships with Iwi.	519.04 Charles Rudd(Snr) - Support
11.07	Philip Taueki	In-Part	Bullet three - The establishment of a forum for the discussion of resource management issues of mutual concern to Tangata Whenua and Council will be a waste of time and resources if this forum is developed through relationships with Council and Iwi authorities.	No specific relief requested. Inferred: Open the discussion forum to Tangata Whenua not only Iwi authorities.	519.05 Charles Rudd(Snr) - Support

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.08	Philip Taueki	In-Part	Bullet five will not give full effect to Kaitiakitanga for Council to devolve any functions, powers or duties under the RMA to Iwi authorities.	No specific relief requested.	519.06 Charles Rudd(Snr) - Support
11.09	Philip Taueki	In-Part	Bullet six - For Council to work with Iwi authorities to develop and agree on operational procedures for processing proposed plans, plan changes and resource consent applications for proposals which may adversely affect identified areas and sites of cultural significance, will marginalise the Tangata Whenua.	No specific relief requested.	519.07 Charles Rudd(Snr) - Support
11.10	Philip Taueki	In-Part	Bullet seven - An Iwi Consultation Guide will serve no purpose because it will not devolve consultation to the hapu who have a right under the RMA, to be consulted over these matters.	No specific relief requested.  Inferred: Delete method referring to an Iwi Consultation Guide.	519.08 Charles Rudd(Snr) - Support

Taueki has made a number of submission points in relation to the proposed methods for Issue 1.1 and Objective 1.1.1. These submission points have been supported by Rudd. The submission points are generally in opposition to the proposed methods.

#### **4.10.2 Discussion & Evaluation**

1. Taueki (11.04) supported by Rudd (519.02) seeks an amendment to the fourth bullet point of the District Plan Methods under the Methods for Issue 1.1 and Objective 1.1.1. The Proposed Plan states that Council will encourage applicants to engage with the relevant Iwi authority where a resource consent application involves activities or development that Council considers may adversely affect sites or areas of cultural significance. Taueki considers that it is not just the tribal authorities who should be consulted. The submission did not provide wording to amend the Proposed Plan but it was inferred that Tangata Whenua should be used instead of Iwi authority.
2. The wording proposed of the method outlines Council intends for Iwi authorities to be the starting point for any consultation that may be necessary regarding sites or areas of cultural significance. The expectation is that the respective Iwi Authorities would then ensure that the necessary Tangata Whenua are consulted. The Iwi representatives involved in the drafting of Chapter 1 agreed that this approach was a much more streamlined approach than uncertainty for potential resource consent applicants in ascertaining who the correct Tangata Whenua were to consult. I also note that under Section 36A of the RMA, there is no duty on resource consent applicants to consult with any party, including Tangata Whenua.
3. It is accepted that the intention of consultation for resource consent matters is for that consultation to occur with Tangata Whenua. Council are reliant on the internal referral

procedures of the Iwi authorities to ensure that the appropriate personal are involved in the consultation process. Council is satisfied that using Iwi authorities as the starting point for commencing consultation does not preclude Tangata Whenua from the process, which would seem to be the concern of this submission point. Based on the above, I do not consider that a change to this method is warranted to address this submission point. The Memorandum of Partnerships between different Iwi authorities and Council are also used to formalise relationships and to encourage and outline expectations around engagement. It is noted that these memoranda are not just in relation to resource management matters, they are prepared at a higher level covering all aspects of Council business and interaction with Iwi. I do not consider that there needs to be any change to the wording of this method. I am of the opinion that it remains a valid, effective and efficient method. I therefore recommend that the submission points 11.04 and 519.02 be rejected.

4. Taueki (11.05) supported by Rudd (519.03) oppose in part the method relating to Council developing a District Plan Monitoring Strategy (under the Monitoring method). The submitters contend that in developing this Strategy Council should be liaising with Tangata Whenua and not Iwi authorities.
5. The Council does not currently have a District Plan Monitoring Strategy and the intention of developing this Strategy is to monitor the effectiveness and efficiency of the District Plan. Council has signalled through this method that it will liaise with the Iwi Authorities in developing this monitoring strategy. Iwi authorities have been identified instead of Tangata Whenua in the same way that it is Iwi Authorities are identified by the RMA (Schedule 1) for the purpose of consulting on proposed plans. The strategic nature of the Strategy together with the matters it would address means that it is logical that Council officers work with members of the Iwi Authorities at a similar level to that applied in developing the Proposed Plan. The reference to Iwi authorities is not intended to prevent Tangata Whenua from being involved in this process. Rather, the use of Iwi authorities provides Council a centralised point of contact for each Iwi which can then in turn ensure that their respective Tangata Whenua concerns are included in the considerations. Given that it is Iwi authorities who have worked with Council to develop the policy and methods for the Proposed Plan, I consider that it is appropriate the same entity is used to monitor the District Plan. Therefore, I recommend this method remains unchanged and refer to Iwi authorities. I recommend that the submission points 11.05 and 519.03 be rejected.
6. Taueki (11.06) supported by Rudd (519.04) opposes in-part the method regarding Iwi management plans and Memorandum of Partnerships (first and second bullet points under Council Initiatives) because the Iwi Management Plans and Memoranda of Partnerships are of no value if they are not ratified by Iwi. There is also a concern that they discourage engagement between Tangata Whenua and Council. To date, no Iwi management plans have been lodged with the Council. Iwi management plans can be prepared in a variety of ways and the detail and content would be dependent on the Iwi preparing the document. While the submitters consider that the documents would foster resentment rather than provide the foundation for ongoing engagement and dialogue, these plans can have the opposite effect also. The documents can outline the areas and values that Iwi may place on particular areas or resources within the District, allowing for increased recognition to be given to these aspects by potential developers, resource users and Council. In relation to the submission points (11.06 and 519.04), I do not consider there is reason to change the current Proposed Plan wording. I recommend these submission points 11.06 and 519.04 be rejected.

7. Taueki (11.07) supported by Rudd (519.05) opposes in-part the method regarding the establishment of a forum for the discussion of resource management issues (third bullet point under Council Initiatives). The submitters consider that it will be a “waste of time” if the forum is developed through the relationship agreements between Council and Iwi authorities. They contend this forum needs to be open to Tangata Whenua as well as Iwi authorities.
8. I consider the yet to be established forum does not need to be limited to participants from Iwi authorities. The intention of the forum would be to ensure that there is a discussion of resource management issues of mutual concern to Tangata Whenua. This method has potential to create some time efficiencies and allow ideas to be pooled together. The development of this forum through the relationship agreements with Iwi authorities provides Council with formal documentation to specify a commitment and any details, obligations or expectations that may be associated with such a forum. I therefore recommend that the method be retained unchanged and that the two submission points 11.07 and 519.05 be rejected.
9. Taueki (11.08) supported by Rudd (519.06) opposes in-part the method (fourth bullet point under Council Initiatives) regarding transferring functions, powers, duties under the RMA to Iwi authorities as it will not give full effect to kaitiakitanga. Section 33 of the RMA in outlining the transfer of local authority functions, powers or duties to a public authority under the RMA identifies an Iwi authority as a public authority. I consider that it is appropriate for this method to refer to Iwi authority. It is acknowledged that a simple transfer of a function, power or duty won't necessarily give full effect to kaitiakitanga. However, this method would provide for efficient and effective decision-making on resource management issues of significance to Tangata Whenua and signals that Council will consider these opportunities and its desire to recognise kaitiakitanga. I recommend that no further changes to this method are necessary and that the submission points 11.08 and 519.06 be rejected.
10. Taueki (11.09) and supported by Rudd (519.07) oppose in-part the method (fifth bullet point under Council Initiatives) which involves Council working with Iwi authorities to develop and agree operational procedures for processing proposed plans, plan changes and resource consent applications for proposals that may adversely affect identified areas and sites of cultural significance. The submitters oppose this method as it is likely to marginalise the very people Council is required to consult, the Tangata Whenua. It is noted that the operational procedures are to ensure that the correct people are engaged, it does not mean that the consultation or engagement is only limited to one person or group. On some matters such as the consultation regarding Proposed Plans and plan changes, the RMA is very specific about whom that consultation is to be undertaken with (i.e. Iwi Authorities). The operational procedures would outline how this consultation would take place, for instance the preferred means of communication and how this might work recognising the varying capacity levels of each Iwi to respond to consultation. I recommend that the method remain unchanged and that the submission points 11.09 and 519.07 be rejected.
11. Taueki (11.10) supported by Rudd (519.08) seeks that the method (sixth bullet point under Council Initiatives) which refers to an Iwi consultation guide be deleted. The submitters consider that an Iwi consultation guide will serve no purpose because it will not devolve consultation to the hapu who have the right to be consulted.
12. The consultation guide would be prepared by Council officers with input from Iwi authorities. The intention of the consultation guide is to provide a consistent and clear reference for

potential applicants to understand who they may wish to consult in considering a particular development proposal. A common complaint from applicants at present is that they do not know who they may wish to consult with. The consequence is that applicants then prefer to wait until an application has been lodged with Council to see if Council identifies any consultation is needed to better understand and/or assess the effects of a proposal. This situation can result in an inefficient and ineffective process for all parties (e.g. Tangata Whenua, applicants and Council).

13. The intention of the guide would be that each Iwi would identify the process for how they wish to be consulted (e.g. what information applicants should look to provide and how long to allow). The guide would also be a user friendly way of making this information conveniently available to the public and Council officers. Given that the Guide has not been prepared, it is premature to state that the Guide will not devolve consultation to the hapu who have the jurisdiction under the RMA to be consulted. Each Iwi authority would inform Council of the contact details for the Tangata Whenua and hapu to be consulted. It is acknowledged that this outcome is reliant on the internal knowledge and processes of each Iwi authority to ensure that all potentially affected Tangata Whenua have the opportunity to be engaged and consulted. I therefore do not support any change to this method as I consider it to be a method that could improve the active participation of Tangata Whenua in local resource management matters. I therefore recommend that submission points 11.10 and 519.08 be rejected.

#### **4.10.3 Reporting Officer's Recommendation**

<b>Sub. No</b>	<b>Further Sub. No.</b>	<b>Submitter Name</b>	<b>Further Submitter Position</b>	<b>Officer's Recommendation</b>
11.04	519.02	Taueki Rudd	Support	Reject Reject
11.05	519.03	Taueki Rudd	Support	Reject Reject
11.06	519.04	Taueki Rudd	Support	Reject Reject
11.07	519.05	Taueki Rudd	Support	Reject Reject
11.08	519.06	Taueki Rudd	Support	Reject Reject
11.09	519.07	Taueki Rudd	Support	Reject Reject
11.10	519.08	Taueki Rudd	Support	Reject Reject



#### 4.10.4 Recommended Amendments to the Plan Provisions

No changes are recommended to the Methods for Issue 1.1 and Objective 1.1.1.

### 4.11 Methods for Issue 1.2 & Objective 1.2.1

#### 4.11.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
117.31	New Zealand Historic Places Trust (NZHPT)	In-Part	The submitter supports the Council's future investigative cultural heritage survey with Iwi and the New Zealand Historic Places Trust to ensure cultural and historic heritage will be captured in the District Plan. As part of this method Historic Places Trust hope that all historic marae of the district can be recognised.	No specific relief requested.  Inferred: Retain 1.2 Methods	

One submission has been received in relation to the methods for Issue 1.2 and Objective 1.2.1. The submission supports the proposed method but also seeks a specific outcome in the District Plan through the inclusion of all historic marae.

#### 4.11.2 Discussion & Evaluation

1. NZHPT (117.31) supports the method of Council's future investigative cultural heritage survey and hope that all historic marae of the district can be recognised. Whilst the cultural landscape survey of the district is identified as a further piece of work to be undertaken as part of the District Plan Review, exactly what will be recognised and included in the District Plan will be an outcome of the survey. It is unclear at this point whether or not including marae in the District Plan would be something supported by Iwi. I recommend that this submission point (117.31) be accepted in-part as the methods should be retained. However, the inclusion of historic marae in the District Plan is considered pre-mature at this point. No changes to the wording of this method are considered necessary.

#### 4.11.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
117.31		New Zealand Historic Places Trust (NZHPT)		Accept In-Part

#### 4.11.4 Recommended Amendments to the Plan Provisions

No change is recommended to Issue 1.2 and Objective 1.2.1.

## 4.12 Methods for Issue 1.3 & Objective 1.3.1

### 4.12.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
117.03	New Zealand Historic Places Trust (NZHPT)	In-Part	The submitter notes that legal case law has determined that holding silent files could be ultra vires which would challenge this method.	No specific relief requested.	

One submission was received in relation to the Methods for Issue 1.3 and Objective 1.3.1. The submission identifies that a particular method that has been proposed could be subject to legal challenge.

### 4.12.2 Discussion & Evaluation

1. NZHPT (117.03) supports in-part the method of using silent files, but notes that legal case law has determined that holding silent files could be ultra vires and therefore this method could be subject to challenge. The use of silent files for local wahi tapu sites is not something that has been utilised previously by this Council. It is an approach that is used by other Councils and has led to a greater level of information being made available to Council. Our research on this matter has not identified the legal case law referred to by the submitter on this matter and the submitter may wish to provide this at the hearing. In the absence of the details on this case law, I consider that keeping silent files as a method is appropriate in these circumstances. The method is simply outlining an option that is available to Council and Iwi as part of the wider process of identifying and recording areas and sites of cultural significance. What information is kept on Council files about areas and sites of cultural significance will be decided at the time an area/site is identified for recording, and consideration can be given to reasons for using silent files and the implications of any legal challenge at that time. I recommend accepting in part the submission point 117.03 and note no further changes to this method are necessary.

### 4.12.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
117.03		NZHPT		Accept In-Part

### 4.12.4 Recommended Amendments to the Plan Provisions

No change is recommended to the methods for Issue 1.3 and Objective 1.3.1.

## 4.13 Anticipated Environmental Result 1(g)

### 4.13.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
67.03	Taiao Raukawa Environmental Resource Unit	In-Part	The submitter seeks amendment of Anticipated Environmental Result 1(g).	Amend Anticipated Environmental Result 1(g) as follows:  Greater public awareness of Tāngata Whenua and their customary rights and relationships with taonga, <u>including lands, coastlines, waterways, foothills and mountain ranges, etc.</u>	

One submission was received in relation to the Anticipated Environment Results for Chapter 1. This submission seeks an amendment to 1(g).

Anticipated Environmental Result 1(g) reads

“Greater public awareness of Tāngata Whenua and their customary rights and relationships with taonga”.

### 4.13.2 Discussion & Evaluation

1. Taiao Raukawa Environmental Resource Unit (67.03) supports in-part Anticipated Environmental Result 1(g) but seeks some additional text be added to help provide a better understanding of what might form part of the customary rights and relationships Tangata Whenua have with their taonga. The suggested text to be added includes “lands, coastlands, waterways, foothills and mountain ranges”. I consider that these elements are all matters that could form part of these rights and relationships and therefore it is helpful to add them to the Proposed Plan in this context. Whether intentionally or not, the submitter has used ‘etc’ to perhaps suggest that there might be other elements also. To make provision for these other elements in a slightly more formal manner, I recommend that the words “but not limited” be added immediately prior to the new items listed. This would have the same effect of ensuring that the rights and relationships are not limited to just those matters identified. I therefore recommend that submission point 67.03 be accepted in-part.

### 4.13.3 Reporting Officer’s Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer’s Recommendation
67.03		Taiao Raukawa Environmental Resource Unit		Accept In-Part

#### 4.13.4 Recommended Amendments to the Plan Provisions

Amend Anticipated Environmental Result 1(g) as follows:

‘Greater public awareness of Tāngata Whenua and their customary rights and relationships with taonga, including but not limited to lands, coastlines, waterways, foothills and mountain ranges.’

## 4.14 General Matters

### 4.14.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.00	Philip Taueki	Oppose	This section of the Proposed Plan fails demonstrably to address matters of importance to Tangata Whenua in Horowhenua by assuming that an Iwi Authority has the mana to speak on behalf of Tangata Whenua.	No specific relief requested.	
11.11	Philip Taueki	In-Part	Where the mauri or relationship of Tangata Whenua and their culture and traditions with their ancestral lands is not recognised, protected or provided for, the Maori resource management system is compromised.	No specific relief requested.	519.09 Charles Rudd(Snr) - Support
11.12	Philip Taueki	In-Part	This whole chapter is in breach of the RMA and needs to be adjusted by removing all reference to Iwi authorities on the grounds that sections 6, 7 and 8 of the RMA refer to Maori and their culture and traditions with their ancestral lands not Iwi authorities. An Iwi authority is not a substitute for Tangata Whenua or Maori.	Amend Chapter 1 to remove all references to 'Iwi authorities'.	519.10 Charles Rudd(Snr) - Support
60.03	Muaupoko Co-operative Society	Oppose	Submitter opposes Chapter 1. Chapter 1 is not considered consistent with the purpose or intentions of the RMA In-Particular section 6(e), 7(a) and 8. It would appear that the Council is committed to consulting with the tangata whenua of the District, however this is not quite the case.  Reference to the Council consulting with Iwi Authorities is common	No specific relief requested.  Inferred: Delete Chapter 1 in its entirety.	519.27 Charles Rudd(Snr) - Support

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
			throughout Part B – Chapter 1, however the RMA only refers specifically to “consultation with the tangata whenua of the area who may so be affected through Iwi Authorities” in Clause 3(1)(b) of the First Schedule in relation to the preparation of proposed policy statements or plans. This does not apply to Sections 6(e), 7(a) and 8 of the RMA, and there is no provision within the RMA that gives authority to either the Council or an Iwi Authority to circumvent the mana of the tangata whenua or to remove their right to participate in the matters discussed in Chapter 1, which is what will occur if the proposed plan is adopted in its current state. The provision to consult through an Iwi Authority totally undermines all of the objectives stated in Chapter 1.		

Several submission points have been made which relate more generally to Chapter 1 rather than specific provisions. These submission points generally oppose the way that Chapter 1 recognises Iwi authorities and the way it provides for ongoing engagement with them rather than engagement directly with Tangata Whenua.

#### **4.14.2 Discussion & Evaluation**

1. Taueki (11.00) opposes Chapter 1 of the Proposed Plan as it fails to address matters of importance to Tangata Whenua in Horowhenua at both a generic level and also at an Iwi specific level. In reviewing and preparing the Proposed Plan, I consider the Council has fulfilled its statutory duties under Clause 3 of the Schedule 1 of the RMA by consulting with the Iwi authorities identified by Central Government as being mandated to speak for their respective tribes on matters pertaining to the RMA. I consider the Council has satisfied through this consultative requirement with the Iwi authorities that the matters of importance to Tangata Whenua in the Horowhenua within the context and relevant to the District Plan framework have been appropriately identified and responded to in the Proposed Plan. It is acknowledged that the consultation in drafting the Proposed Plan was undertaken through Iwi authorities and the submitter clearly feels that matters that they would have requested be included are not in this chapter of the Proposed Plan. It is noted that the submitter has not identified any examples of matters that has not been included and have not suggested any specific relief (i.e. inserting additional matters). Without specific examples it is difficult to comment on what has not been addressed. I have not been persuaded that the Proposed Plan does not adequately address matters of importance to Tangata Whenua. I therefore recommend that this submission point 11.00 be rejected.

2. Taueki (11.11) supported by Rudd (519.09) oppose in-part Chapter 1 because the spiritual and metaphysical values have not been adequately considered in the Proposed Plan. Where the mauri or the relationship of Tangata Whenua and their culture and traditions with their ancestral lands is not recognised, protected or provided for, the Maori resource management system is compromised. Objective 1.2.1. and Policy 1.2.2 both specifically seek that the Proposed Plan does recognise and provide for the relationship of Tangata Whenua and their culture and traditions (including mauri) with their ancestral lands coastal areas, waterways, heritage landscapes and cultural sites of significance, wahi tapu, wahi tupuna and other taonga. The Proposed Plan has sought to recognise the Maori worldview and identify how this differs from a pakeha (non-Māori) worldview. Although I am sympathetic to the submitter's view regarding the Maori resource management system, I am satisfied that the Proposed Plan as currently worded does adequately recognise and provide for the holistic environment values of a Maori worldview. The Proposed Plan has certainly a much greater emphasis on this aspect than the current Operative Plan. As the submitters have not identified any specific relief to address this submission point, I am not of the opinion that any changes need to be recommended. I therefore recommend that these submission points (11.11 and 519.09) be rejected.
3. Taueki (11.12) supported by Rudd (519.10) oppose in-part Chapter 1 as they contend the whole chapter is in breach of the RMA and needs to be amended by removing all references to the Iwi authorities. The grounds for seeking this change are that sections 6, 7 and 8 of the RMA refer to Maori and their culture and traditions with their ancestral lands not Iwi authorities. The submitters contend that an Iwi authority is not a substitute for Tangata Whenua or Maori.
4. Page 1-11 (final paragraph) includes the following statements "the RMA 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 be an Iwi authority but may also be an individual hapu. The Council will seek guidance of the mandated Iwi authorities to understand the most appropriate point of contact for such dialogue and also to identify any Iwi Management Plans recognised by Iwi authorities and lodged with Council".
5. The Plan also states in the preceding paragraph on Page 1-11 "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" and further "The involvement of Tangata Whenua is necessary to ensure that their views are raised and can be incorporated into the process".
6. During Iwi engagement in drafting the Proposed Plan it became clear that the preferred engagement approach on local resource management issues managed under the jurisdiction of the District Plan is for Council to engage firstly at the Iwi authority level. I consider this approach is a practical response as it gives Council an initial contact point to then be advised about who needs to be engaged. On occasions, this engagement may be necessary at a hapu or whanau level, or on other occasions it might be appropriate for an Iwi authority to provide the comment or input. The actual process of engagement and determining who needs to be engaged will to a large extent depend on the respective Iwi authorities and their individual processes. It is possible this process could differ between each Iwi.

7. I consider the engagement approach outlined in the Proposed Plan has two positive aspects. Firstly, that the Proposed Plan sets out a clear intent to have dialogue with the people who have the closest interest in the issue, and secondly that there is an understanding of how this dialogue will occur. If the Plan had not made it clear about how Council intended to proceed I would have understood the potential confusion from using a variety of terms such as Tangata Whenua, Iwi authority and hapu. I do not support the submitter's inferred relief of removing references to Iwi Authorities. The Council is not trying to avoid the necessity of consulting or engaging with Tangata Whenua and has made it clear how in the local context it envisages this occurring. I am accepting of the fact that the proof of this will come when it is put to test, however I remain satisfied with how this has been conveyed in the Proposed Plan and therefore do support any changes to the current wording. I recommend that the submission points 11.12 and 519.10 be rejected.
8. Muaupoko Co-operative Society (60.03) supported by Rudd (519.27) opposes Chapter 1 as it is not considered consistent with the purpose or the intentions of the RMA in particular sections 6(e), 7(a) and 8. The relief inferred by the submitter is to delete Chapter 1 in its entirety.
9. The submitter appears particularly aggrieved by not being consulted on the Proposed Plan and the intention to consult through an Iwi authority for future resource management matters is of concern to them. The submitter is of the opinion that this intention totally undermines all of the objectives in Chapter 1. They contend there is no provision in the RMA that gives authority to either the Council or an Iwi to circumvent the mana of the Tangata Whenua or to remove their right to participate in the matters discussed in Chapter 1, which is what the submitter considers will occur if the Proposed Plan is adopted in its current form.
10. There would seem to be two key points to this submission point, the first being the consultation process undertaken in preparing the Proposed Plan and the second being the proposed means of consultation going forward. To address the first point, it is acknowledged that Council chose to engage with the Government recognised Iwi Authorities during the detailed phase of preparing the Proposed Plan and this meant that the submitter was not directly involved during this phase of consultation. In fulfilling its duties under Clause 3 of the First Schedule the Council is satisfied that it was appropriate to directly engage with the Iwi authorities and we understand the Iwi authorities to have supported that process as well. I note during earlier consultation phases of the District Plan Review process (e.g. Shaping Horowhenua Survey and Discussion Document), opportunities were providing for any member of the public to comment on issues of importance to them. It is disappointing to read that the submitter feels that the Iwi authorities have not done a satisfactory job in identifying and defining exactly what the matters of importance are to Tangata Whenua in relation to their taonga and waahi tapu. However, the submitter has not suggested any relief to indicate what matters of importance have not been adequately identified or addressed.
11. Turning to the second point, future consultation. The Proposed Plan does refer to Iwi authorities and identifies that Council intends to use the mandated Iwi authority as the first point of contact for future consultation. As I have discussed and evaluated on similar points above regarding the Methods for future consultation, I consider the Proposed Plan provides an appropriate framework for future consultation with Tangata Whenua. I am accepting of the fact that the proof of how effectively Tangata Whenua feel they have been engaged and consulted on resource management matters using these Methods will come when they are implemented. However I remain satisfied with the intent that has been conveyed in the

Proposed Plan and therefore do support any changes to the current wording on consultation undertaken in preparing the Proposed Plan and future consultation. I recommend that the submission points 60.03 and 519.27 be rejected.

#### **4.14.3 Reporting Officer's Recommendation**

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.00		Taueki		Reject
11.11	519.09	Taueki Rudd	Support	Reject Reject
11.12	519.10	Taueki Rudd	Support	Reject Reject
60.02		Muaupoko Co-operative Society		Reject
60.03	519.27	Muaupoko Co-operative Society Rudd	Support	Reject Reject

#### **4.14.4 Recommended Amendments to the Plan Provisions**

No changes are recommended to the plan provisions as a result of the above submission points.

### **4.15 Rule 16.6.21(a) – Sites of Significance to Tangata Whenua**

#### **4.15.1 Submissions Received**

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
37.05	Homestead Group Limited	Oppose	Oppose this rule as the sites of significance to Maori have not been identified in the Plan and it could lead to the situation where people use this rule inappropriately.	Delete Rule 16.6.21(a)	

Rule 16.6.21 has been opposed by Homestead Group Limited (37.05).

#### **4.15.2 Discussion & Evaluation**

1. Homestead Group Limited (37.05) have opposed Rule 16.6.21(a) because there are no sites of significance to Maori identified in the Proposed Plan and it could lead to the rule being used inappropriately. The submitter raises the question about what constitutes a site of significance to Maori and who will judge this? The submitter is of the opinion that these sites should be shown in the Proposed Plan if known to Council at this point in time and if others



are discovered, then the Historic Places Act 1993 is the appropriate legislation to manage the administration of these sites.

2. Rule 16.6.21(a) is a permitted activity standard which applies to the Industrial zone. A similar rule exists for all other zones. The rule requires that no activity or development shall lead to the modification, demolition or removal of any site of significance to Maori where such site has been identified to Council prior to the time that any activity or development is proposed. The rule has essentially been carried over from the Operative Plan.
3. It is acknowledged that there are currently no sites formally identified in the Proposed Plan. It is also signalled in the Proposed Plan through the District Plan methods for Issue 1.1 and Objective 1.1.1 that a comprehensive district wide cultural landscape survey for the purpose of identifying areas or sites of cultural significance is to be undertaken so these can be included in the District Plan. The District Plan methods for Issue 1.3 and Objective 1.3.1 sets out the intention to identify areas and individual sites of cultural significance on Planning Maps. It is accepted that this rule or a further variation of it will have greater relevance and application once a list of sites of significance has been incorporated into the District Plan. However, despite its shortcomings, the rule is considered effective in the interim of achieving the objective of protecting sites and areas of significance to Tangata Whenua as it recognises that there are other ways in which sites of significance to Maori may be identified to Council than through their formal inclusion in the Plan. For example, this identification could include through Iwi Management Plans.
4. It is also recognised that some sites of significance to Maori may be of a sensitive nature and identifying the details of those in a public document such as the District Plan may not be the preferred approach of an Iwi. The rule provides an interim level of protection to sites which may have been identified to Council. The rule is consistent with Objective 1.3.1 and Policies 1.3.3 and 1.3.5.
5. Relying on the Historic Places Act 1993 (HPA) for the protection of sites of significance to Tangata Whenua is not considered effective in achieving the objective of protecting these sites. The HPA only protects archaeological sites (pre-1900) and has a different role and purpose than the RMA. Sites of significance to Tangata Whenua may not have any archaeological evidence. I also understand that from an Iwi perspective relying on the HPA is not always an approach favoured by Iwi as there is a sense that Iwi do not have an ability to participate in this process. In other words NZHPT have the ability to give approval for proposals on sites of importance to Iwi, without Iwi being involved. Therefore, relying solely on the HPA to protect sites of significance to Tangata Whenua is not considered appropriate.
6. While I understand the submitter's concerns regarding the uncertainty over what sites might be considered to be of significance to Maori, I consider it necessary to have a rule of this nature in the Plan to provide some protection to sites which are identified to Council prior to an activity or development taking place. I therefore recommend that this submission point (37.05) be rejected.

#### **4.15.3 Reporting Officer's Recommendation**

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
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37.05		Homestead Group Limited		Reject
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#### **4.15.4 Recommended Amendments to the Plan Provisions**

No changes are recommended to Rule 16.6.21(a).

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## **4.16 Rule 19.6.13(a) – Sites of Significance to Tangata Whenua**

### **4.16.1 Submissions Received**

<b>Sub No.</b>	<b>Submitter Name</b>	<b>Support/ In-Part/ Oppose</b>	<b>Summary of Submission</b>	<b>Decision Requested</b>	<b>Further Submission</b>
38.00	Range View Ltd & Page	Oppose	Oppose this rule as the sites of significance to Maori have not been identified in the Plan and it could lead to the situation where people use this rule inappropriately.	Delete Rule 19.6.13(a)	526.29 Truebridge Associates - Support
46.00	Vincero Holdings Ltd	Oppose	Oppose this rule as the sites of significance to Maori have not been identified in the Plan and it could lead to the situation where people use this rule inappropriately.	Delete Rule 19.6.13(a)	

Rule 19.6.13(a) has been opposed by two submitters Range View Ltd & Page (38.00) and Vincero Holdings Ltd (46.00) with the former of these submissions supported by a further submission from Truebridge Associates (526.29).

### **4.16.2 Discussion & Evaluation**

1. Vincero Holdings Ltd (46.00) and Range View Ltd & Page (38.00) supported by Truebridge Associates (526.29) have opposed Rule 19.6.13(a) because there are no sites of significance to Maori identified in Plan and it could lead to the rule being used inappropriately. The submitter raises the question about what constitutes a site of significance to Maori and who will judge this? The submitters are of the opinion that these sites should be shown in the Proposed Plan if known to Council at this point in time and if others are discovered, then the Historic Places Act 1993 is the appropriate legislation to manage the administration of these sites.
2. Rule 19.6.13(a) is a permitted activity standard which applies to the Rural zone. A similar rule exists for all other zones, such as Rule 16.6.21(a) discussed and evaluated above for the Industrial Zone. The same circumstances, discussion and evaluation for Rule 16.6.21(a) discussed above apply to Rule 19.6.13(a) in the Rural Zone. I therefore recommend that submission points 38.00, 46.00 and 526.29 be rejected.

#### **4.16.3 Reporting Officer's Recommendation**

<b>Sub. No</b>	<b>Further Sub. No.</b>	<b>Submitter Name</b>	<b>Further Submitter Position</b>	<b>Officer's Recommendation</b>
38.00	526.29	Range View Ltd & Page Truebridge Associates	Support	Reject Reject
46.00		Vincero Holdings Ltd		Reject

#### **4.16.4 Recommended Amendments to the Plan Provisions**

No change is recommended to Rule 19.6.13(a)

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## 5. Conclusion and Main Recommended changes from Proposed Horowhenua District Plan (as notified)

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In preparing Chapter 1 (Matters of Importance to Tangata Whenua) of the Proposed Plan it was necessary to undertake a thorough review of the Operative District Plan provisions on this subject, as these provisions had not been subject to any formal review or plan change process since the District Plan became operative in September 1999.

The majority of submissions received were from three submitters who shared a very similar view on most matters addressed in the report. These three submitters had not been involved in the Iwi Advisory Group that was formed to provide input and direction on the drafting of Chapter 1. Underlying the majority of their submission points, is the frustration at not being included in this process (and an apparent lack of confidence in those who were part of the Iwi Advisory Group). In addition, there appears to be anxiety about potentially being excluded from being consulted on future resource management matters by virtue of Council signalling that it intends to liaise with the recognised Iwi Authorities in the first instance on such matters and rely on the Iwi Authorities to ensure that affected Tangata Whenua are provided with the opportunity to be engaged. What is apparent is that in the case of the submitters above there is an uneasy relationship between the submitters and the Muaupoko Tribal Authority who are recognised by the Government as representing Muaupoko for RMA matters. The submitters are understandably concerned that if a more harmonious relationship between the MTA and the submitters is not fostered or developed they could continue to be excluded from processes that they believe they are entitled to be part of. The Council has sought to ensure that in undertaking the process of preparing the Proposed Plan that it fulfilled its statutory obligations in relation to consultation and relied on Central government advice on ensuring that the correct parties were consulted.

The only changes that have been recommended as a result of submissions received are relatively minor wording and grammatical changes. These are set out in their entirety in Section 6.2 below.

The officer's recommendations on the key issues raised in the submissions include:

- Upholding the consultation approach used for drafting and developing Chapter 1 by forming an Iwi Advisory Group consisting of members appointed by the Government recognised Iwi authorities.
- Upholding the approach of consulting with Iwi Authorities on resource management matters (plan changes and consents) in the first instance and relying on the internal procedures of each Iwi authority to ensure that affected Tangata Whenua have the opportunity to be involved.
- Recognising that interim measures remain in place to provide a level of protection to sites of importance to Iwi until such time that specific sites are identified and included in the District Plan.

Overall, it is recommended that Council proceed with Chapter 1 (Matters of Importance to Tangata Whenua) and the related plan provisions, subject to the amendments recommended in this report.

## 6. Appendices

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### 6.1 Legislation Extracts

#### 6.1.1 Resource Management Act 1991

##### 5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

##### 6 Matters of national importance

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:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights.

##### 7 Other matters

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 have particular regard to—

- (a) kaitiakitanga:
  - (aa) the ethic of stewardship:
- (b) the efficient use and development of natural and physical resources:
  - (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems:
- (e) *[Repealed]*
- (f) maintenance and enhancement of the quality of the environment:

- (g) any finite characteristics of natural and physical resources:
- (h) the protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy.

## 8 Treaty of Waitangi

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 take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

### 36A No duty under this Act to consult about resource consent applications and notices of requirement

- (1) The following apply to an applicant for a resource consent and the local authority:
  - (a) neither has a duty under this Act to consult any person about the application; and
  - (b) each must comply with a duty under any other enactment to consult any person about the application; and
  - (c) each may consult any person about the application.
- (2) This section applies to a notice of requirement issued under any of sections 168, 168A, 189, and 189A by a requiring authority or a heritage protection authority, as if—
  - (a) the notice were an application for a resource consent; and
  - (b) the authority were an applicant.]

### 74 Matters to be considered by territorial authority

(1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.

(2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—

- (a) any—
  - (i) proposed regional policy statement; or
  - (ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and
- (b) any—
  - (i) management plans and strategies prepared under other Acts; and
  - (ii) *[Repealed]*
  - (iia) relevant entry in the Historic Places Register; and
  - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—to the extent that their content has a bearing on resource management issues of the district; and
- (c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial

authority, to the extent that its content has a bearing on the resource management issues of the district.

(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.

### **First Schedule Clause 3 Consultation**

- (1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—
  - (a) The Minister for the Environment; and
  - (b) Those other Ministers of the Crown who may be affected by the policy statement or plan; and
  - (c) Local authorities who may be so affected; and
  - (d) The tangata whenua of the area who may be so affected, through iwi authorities; and
  - (e) any customary marine title group in the area.
- (1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—
  - (a) The Minister for the Environment; and
  - (b) Those other Ministers of the Crown who may be affected by the policy statement or plan; and
  - (c) Local authorities who may be so affected; and
  - (d) The tangata whenua of the area who may be so affected, through iwi authorities; and
  - (e) any customary marine title group in the area.

### **First Schedule Clause 3B Consultation with iwi authorities**

For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and
- (b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and
- (c) consults with those iwi authorities; and
- (d) enables those iwi authorities to identify resource management issues of concern to them; and
- (e) indicates how those issues have been or are to be addressed.

## 6.1.2 New Zealand Coastal Policy Statement 2010

### Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- (a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;
- (b) involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- (c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori<sup>1</sup> in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- (d) provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkengaz, may have knowledge not otherwise available;
- (e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
  - (i) where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
  - (ii) consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
- (f) provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
  - (i) bringing cultural understanding to monitoring of natural resources;
  - (ii) providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;
  - (iii) having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non-commercial Māori customary fishing; and
- (g) in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
  - (i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and



(ii) provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

### **6.1.3 Reserves and Other Lands Disposal Act 1956**

#### **18 Special provisions relating to Lake Horowhenua**

Whereas under the authority of the Horowhenua Block Act 1896, the Maori Appellate Court on 12 September 1898 made an Order determining the owners and relative shares to an area of 13 140 acres and 1 rood, being part of the Horowhenua XI Block:

And whereas the said area includes the Horowhenua Lake (as shown on the plan lodged in the office of the Chief Surveyor at Wellington under Number 15699), a 1 chain strip around the lake, the Hokio Stream from the outlet of the lake to the sea, and surrounding land:

And whereas certificate of title, Volume 121, folio 121, Wellington Registry, was issued in pursuance of the said Order:

And whereas by Maori Land Court Partition Order dated 19 October 1898 the lake was vested in trustees for the purposes of a fishing easement for all members of the Muaupoko Tribe who might then or thereafter own any part of the Horowhenua XI Block (in this section referred to as the **Maori owners**):

And whereas the minutes of the Maori Land Court relating to the said Partition Order recorded that it was also intended to similarly vest the 1 chain strip around the lake, the Hokio Stream from the outlet of the lake to the sea, and a 1 chain strip along a portion of the north bank of the said stream, but this was not formally done:

And whereas the Horowhenua Lake Act 1905 declared the lake to be a public recreation reserve under the control of a Domain Board (in this section referred to as the **Board**) but preserved fishing and other rights of the Maori owners over the lake and the Hokio Stream:

And whereas by [section 97](#) of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1916 the said 1 chain strip around the lake was made subject to the Horowhenua Lake Act 1905, and control was vested in the Board:

And whereas subsequent legislation declared certain land adjoining the said 1 chain strip, and more particularly firstly described in subsection (13), to form part of the recreation reserve and to be under the control of the Board:

And whereas as a result of drainage operations undertaken some years ago on the said Hokio Stream the level of the lake was lowered, and a dewatered area was left between the margin of the lake after lowering and the original 1 chain strip around the original margin of the lake:

And whereas this lowering of the lake level created certain difficulties in respect of the Board's administration and control of the lake, and in view of the previous legislation enacted relating to the lake, doubts were raised as to the actual ownership and rights over the lake and the 1 chain strip and the dewatered area:

And whereas a Committee of Inquiry was appointed in 1934 to investigate these problems:

And whereas the Committee recommended that the title to the land covered by the waters of the lake together with the 1 chain strip and the said dewatered area be confirmed by legislation in ownership of the trustees appointed in trust for the Maori owners:

And whereas certain other recommendations made were unacceptable to the Maori owners, and confirmation of ownership and further appointment of a Domain Board lapsed pending final settlement of the problems affecting the lake:

And whereas by Maori Land Court Order dated 8 August 1951 new trustees were appointed for the part of Horowhenua XI Block in the place of the original trustees, then all deceased, appointed under the said Maori Land Court Order dated 19 October 1898:

And whereas agreement has now been reached between the Maori owners and other interested bodies in respect of the ownership and control of the existing lake, the said 1 chain strip, the said dewatered area, the said Hokio Stream and the chain strip on a portion of the north bank of that stream, and certain ancillary matters, and it is desirable and expedient that provision be made to give effect to the various matters agreed upon:

Be it therefore enacted as follows:

(1) For the purposes of the following subsections:

**lake** means that area of water known as Lake Horowhenua enclosed within a margin fixed by a surface level of 30 feet above mean low water spring tides at Foxton Heads

**dewatered area** means that area of land between the original margin of the lake shown on the plan numbered SO 15699 (lodged in the office of the Chief Surveyor, at Wellington) and the margin of the lake as defined aforesaid

**Hokio Stream** means that stream flowing from the outlet of the lake adjacent to a point marked as Waikiekie on plan numbered SO 23584 (lodged in the office of the Chief Surveyor, at Wellington) to the sea.

(2) Notwithstanding anything to the contrary in any Act or rule of law, the bed of the lake, the islands therein, the dewatered area, and the strip of land 1 chain in width around the original margin of the lake (as more particularly secondly described in subsection (13)) are hereby declared to be and to have always been owned by the Maori owners, and the said lake, islands, dewatered area, and strip of land are hereby vested in the trustees appointed by Order of the Maori Land Court dated 8 August 1951 in trust for the said Maori owners.

(3) Notwithstanding anything to the contrary in any Act or rule of law, the bed of the Hokio Stream and the strip of land 1 chain in width along a portion of the north bank of the said stream (being the land more particularly thirdly described in subsection (13)), excepting thereout such parts of the said bed of the stream as may have at any time been legally alienated or disposed of by the Maori owners or any of them, are hereby declared to be and to have always been owned by the Maori owners, and the said bed of the stream and the said strip of land are hereby vested in the trustees appointed by Order of the Maori Land Court dated 8 August 1951 in trust for the said Maori owners.

(4) Notwithstanding the declaration of any land as being in Maori ownership under this section, there is hereby reserved to the public at all times and from time to time the free right of access over and the use and enjoyment of the land fourthly described in subsection (13).

(5) Notwithstanding anything to the contrary in any Act or rule of law, the surface waters of the lake together with the land firstly and fourthly described in subsection (13), are hereby declared to be a public domain subject to the provisions of Part 3 of the Reserves and Domains Act 1953:

provided that such declaration shall not affect the Maori title to the bed of the lake or the land fourthly described in subsection (13):

provided further that the Maori owners shall at all times and from time to time have the free and unrestricted use of the lake and the land fourthly described in subsection (13) and of their fishing rights over the lake and the Hokio Stream, but so as not to interfere with the reasonable rights of the public, as may be determined by the Domain Board constituted under this section, to use as a public domain the lake and the said land fourthly described.

(6) Nothing herein contained shall in any way affect the fishing rights granted pursuant to section 9 of the Horowhenua Block Act 1896.

(7) Subject to the provisions of this section, the Minister of Conservation shall appoint in accordance with the Reserves and Domains Act 1953 a Domain Board to control the said domain.

(8) Notwithstanding anything to the contrary in the Reserves and Domains Act 1953, the Board shall consist of—

- (a) 4 persons appointed by the Minister on the recommendation of the Muaupoko Maori Tribe:
- (b) 1 person appointed by the Minister on the recommendation of the Horowhenua County Council:
- (c) 2 persons appointed by the Minister on the recommendation of the Levin Borough Council:
- (d) the Director-General of Conservation, *ex officio*, who shall be Chairman.

(9) Notwithstanding anything in the [Land Drainage Act 1908](#), the [Soil Conservation and Rivers Control Act 1941](#), or in any other Act or rule of law, the Hokio Drainage Board constituted pursuant to the said Land Drainage Act 1908 is hereby abolished, and all assets and liabilities of the said Board and all other rights and obligations of the said Board existing at the commencement of this Act shall vest in and be assumed by the Manawatu Catchment Board, and until the said Catchment Board shall have completed pursuant to the Soil Conservation and Rivers Control Act 1941 a classification of the lands previously rated by the said Drainage Board, the said Catchment Board may continue to levy and collect rates in the same manner as they have hitherto been levied and collected by the said Drainage Board.

(10) The Manawatu Catchment Board shall control and improve the Hokio Stream and maintain the lake level under normal conditions at 30 feet above mean low water spring tides at Foxton Heads:

provided that before any works affecting the lake or the Hokio Stream are undertaken by the said Catchment Board, the prior consent of the Domain Board constituted under this section shall be obtained:

provided further that the said Catchment Board shall at all times and from time to time have the right of access along the banks of the Hokio Stream and to the lake for the purpose of undertaking any improvement or maintenance work on the said stream and lake.

(11) The District Land Registrar for the Land Registration District of Wellington is hereby authorised and directed to deposit such plans, to accept such documents for registration, to make such entries in the register books, and to do all such other things as may be necessary to give effect to the provisions of this section.

(12) The following enactments are hereby repealed:

- (a) the Horowhenua Lake Act 1905:

- (b) [section 97](#) of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1916:
- (c) [section 64](#) of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1917:
- (d) [section 53](#) of the Local Legislation Act 1926.

(13) The land to which this section relates is particularly described as follows:

Firstly, all that area in the Wellington Land District, being Subdivision 38 and part of Subdivision 39 of Horowhenua 11B Block, situated in Block I, Waiopahu Survey District, containing 13 acres 3 roods and 37 perches, more or less, and being all the land comprised and described in certificate of title, Volume 165, folio 241, Wellington Registry: as shown on the plan marked L and S 1/220, deposited in the Head Office, Department of Lands and Survey, at Wellington, and thereon edged red (SO Plan 15589).

Secondly, all that area in the Wellington Land District situated in Block XIII, Mount Robinson Survey District, Block II, Waitohu Survey District, and Block I, Waiopahu Survey District, containing 951 acres, more or less, being part of the land comprised and described in certificate of title, Volume 121, folio 121, Wellington Registry, and being more particularly the bed of the lake, the islands therein, the dewatered area, and the strip of land 1 chain wide around the original margin of the lake: as shown on the plan marked L and S 1/220A, deposited in the Head Office, Department of Lands and Survey, at Wellington, and thereon edged blue, and coloured orange and red respectively (SO Plan 23584).

Thirdly, all that area in the Wellington Land District situated in Block IV, Moutere Survey District, and Block II, Waitohu Survey District, containing 40 acres, more or less, being part of the land comprised and described in certificate of title, Volume 121, folio 121, Wellington Registry, and being more particularly the bed of the Hokio Stream together with a strip of land 1 chain wide along a portion of the north bank of the said stream: as shown on the plan marked L and S 1/220A, deposited in the Head Office, Department of Lands and Survey, at Wellington, and thereon coloured blue and sepia respectively (SO Plan 23584).

Fourthly, all that area in the Wellington Land District situated in Block I, Waiopahu Survey District, being that portion of the dewatered area together with so much of the 1 chain strip of land herein secondly described as in each case fronts Subdivision 38, Horowhenua 11B Block, herein firstly described, and being parts of the land coloured orange and red respectively on the plan marked L and S 1/220A, deposited in the Head Office, Department of Lands and Survey, at Wellington (SO Plan 23584).

Section 18(7): amended, on 1 April 1987, by [section 65\(1\)](#) of the Conservation Act 1987 (1987 No 65).

Section 18(8)(d): amended, on 1 April 1987, by [section 65\(1\)](#) of the Conservation Act 1987 (1987 No 65).

## 6.2 Proposed District Plan as amended per officer's recommendations

It is recommended that the following amendments be made to the Introduction of Chapter 1.

Amend Statement of Muaupoko as follows:

"Muaupoko have many traditional hapu. Those currently active are: ~~Ngati Pariri, Ngati Hine, Ngati Tamarangi, Ngati Whanokirangi, Ngati Te Ao, Te Ngarue and Punahau.~~

- Ngai te Ngarue
- Ngai te Ao
- Ngati Tamarangi
- Ngati Hine
- Ngati Pariri
- Ngati Whanokirangi
- Punahau."

"Please note the Punahau (Horowhenua) Lake Bed and Hokio Stream including specific land adjacent to them have been vested with the ~~are owned by the Lake Horowhenua Trust~~ on behalf of the Maori owners, that it the Muaupoko Iwi."

Amend the Statement of Ngāti Raukawa as follows:

Paragraph 1: Amend to read as "Ngāti Raukawa and affiliates (like Kauwhata (Feilding), Tukorehe (Kuku)..."

Paragraph 1: Include a new sentence at the end of Paragraph 1 as follows: "The legacies set down by ancestral Māori land tenure activities during Te Rauparaha and his allies' time for Ngāti Raukawa and affiliates, continue to this day."

Paragraph 5: Include new bullet point to list (as first bullet point) as follows:

- Tuku Whenua - Gifting land; ...

Paragraph 6: Amend third sentence as follows: "Embedded cultural markers, whether urupā, burial grounds, cemeteries ; wāhi tapu, pā sites, former papa kainga; wāhi tūpuna..."

Paragraph 6: Include new bullet point list of marae after second sentence as follows (listed from north to south):

- Te Au, Himatangi;
- Paranui, Himatangi;
- Motuiti, Himatangi;
- Whakawehi, Shannon;
- Kereru, Kōptāraoa;
- Matau, Kōptāraoa;
- Huia, Poroutawhao;
- Ngātokowaru; Hōkio
- Kikopiri, Muhunoa;
- Tukorehe, Kuku;
- Wehiwehi, Manakau.

Amend the Statement of Ngāti Raukawa to include the following text after paragraph 6:

“...natural systems in Horowhenua. In particular, Council needs to note that customary interests in certain areas such as Omarupapako, Round Bush Reserve will be referred back to Crown for further consideration, and if need be, for amendment of the Ngāti Apa legislation. The Ngāti Raukawa Treaty Claims team flag with Council that the Ngāti Apa claim will be challenged before the Waitangi Tribunal. Council need note too that Ngāti Raukawa and affiliates are determining their customary interests and mana tuku iho, exercised by iwi, hapū and whanau as tangata whenua to certain areas of the marine and coastal region of Horowhenua. Whanau, hapū or iwi groups have until March 2017 to seek customary marine title or claims to the common marine and coastal area. This can be done through specific negotiations with the Crown or through an application to the High Court.”

Amend Chapter 1 Introduction to Include a new heading above paragraph 3 on page 1-6 (below dissecting line) to read as follows “Statutory Duties and Responsibilities under the RMA”

Amend Anticipated Environmental Result 1(g) as follows:

“Greater public awareness of Tāngata Whenua and their customary rights and relationships with taonga, including but not limited to lands, coastlines, waterways, foothills and mountain ranges.”

### 6.3 Schedule of Officer's Recommendations on Submission Points

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.01	519.00	Taueki Rudd	Support	Accept In-Part Accept In-Part
60.02		Muaupoko Co-operative Society		Reject
67.01		Taiao Raukawa Environmental Resource Unit		Accept
67.02		Taiao Raukawa Environmental Resource Unit		Accept
67.10		Taiao Raukawa Environmental Resource Unit		Accept
109.02		Rudd		Reject
109.03		Rudd		Accept
109.05		Rudd		Reject
83.00		Hood		Reject
11.02		Taueki		Accept
11.33		Taueki		Accept
11.34		Taueki		Accept
11.35		Taueki		Accept
11.36		Taueki		Accept
11.37		Taueki		Accept
11.03	519.01	Taueki Rudd	Support	Reject Reject
11.04	519.02	Taueki Rudd	Support	Reject Reject
11.05	519.03	Taueki Rudd	Support	Reject Reject
11.06	519.04	Taueki Rudd	Support	Reject Reject
11.07	519.05	Taueki Rudd	Support	Reject Reject

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.08	519.06	Taueki Rudd	Support	Reject Reject
11.09	519.07	Taueki Rudd	Support	Reject Reject
11.10	519.08	Taueki Rudd	Support	Reject Reject
117.31		New Zealand Historic Places Trust (NZHPT)		Accept In-Part
67.03		Taiao Raukawa Environmental Resource Unit		Accept In-Part
11.00		Taueki		Reject
11.11	519.09	Taueki Rudd	Support	Reject Reject
11.12	519.10	Taueki Rudd	Support	Reject Reject
60.02		Muaupoko Co-operative Society		Reject
60.03	519.27	Muaupoko Co-operative Society Rudd	Support	Reject Reject
37.05		Homestead Group Limited		Reject
38.00	526.29	Range View Ltd & Page Truebridge Associates	Support	Reject Reject
46.00		Vincero Holdings Ltd		Reject



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