

# Appendix 2

## Chapter 2: Tangata Whenua

Proposed Waikato District Plan

Stage 1

(Notified version)



## Contents

Chapter 2: Tangata Whenua.....	3
2.1 Introduction .....	3
2.2 Background .....	3
2.3 Legislative context .....	4
2.4 Principles of the Treaty of Waitangi (Te Tiriti o Waitangi) .....	5
2.5 Understanding Maaori Land Ownership.....	5
2.6 Powers to set aside Maaori Land for special purposes .....	5
2.7 Preliminary provision .....	5
2.8 Concept Management Plan .....	6
2.9 Examples of a Concept Management Plan .....	7
2.10 Iwi Management Plans .....	8
2.11 Strategic Objective – Tautoko te Whakatupuranga .....	8
2.12 Objective -Whakapapa (connection to nature).....	8
2.12.1 Policy- Whanaungatanga (relationship to nature).....	8
2.13 Objective-Whenuatanga (land management).....	8
2.13.1 Policy Tangata Whenuatanga (utilisation by landowners) .....	8
2.14 Objective –Kaitiaki (steward/guardian) .....	9
2.14.1 Policy Kaitiakitanga (stewardship/guardianship).....	9
2.15 Objective Waikatotanga (way of life) .....	9
2.15.1 Policy- Ngaa taonga tuku iho (Maaori Sites and Areas of Significance) .....	9
2.16 Objective-Tikanga aa-iwi o te takiwaa o Waikato.....	9
2.16.1 Policy- Whaanga Coast Specific Area .....	9
2.16.2 Policy- Aahuatanga Motuhake (special features).....	9

## Chapter 2: Tangata Whenua

### 2.1 Introduction

- (a) The plan uses a holistic cultural and ethical approach to resource management and takes into account the principles of the Treaty of Waitangi, in particular the idea of active involvement. Partnership is approached through the recognition of iwi plans and ongoing consultation. The introduction of a Tangata Whenua section is to provide background and better understanding of Maaori issues. It is a new approach that is further supported by objectives, policies, rules and methods more specific to Maaori aspirations. It is thought that this approach will enable an improved presence of Tangata Whenua throughout the plan and the relevant objectives, policies, rules and methods to be given more consideration.

### 2.2 Background

- (a) Maaori are the native people of New Zealand and are of Polynesian descent. They are the “Tangata Whenua, the indigenous people of the land of Aotearoa and their culture is an integral part of local life.” It literally means ‘people of the land’ from tangata, ‘people’ and whenua, ‘land’. Tangata Whenua are made up of several Iwi throughout New Zealand. Within Tangata Whenua, ‘Mana Whenua’ is a term used to describe those who have tribal links to the local Iwi authority or authorities. Within their tribal areas or ‘rohe’ they have the tribal authority or ‘mana’ to act or speak on behalf of the hapuu/marae/or whaanau groups. It is the power associated with whakapapa, possession and occupation of tribal land. “Te Whakakitenga o Waikato” (Waikato-Tainui) is recognised as the Tangata Whenua Iwi Authority of the Waikato district, but ~~it~~ the Iwi and Council acknowledges that the marae/hapuu have ‘mana whenua’ over their rohe or individual areas of the Waikato. There are 68 marae and 33 hapuu in the Waikato rohe who affiliate to the Waikato-Tainui Iwi Authority. It has a registered membership of over 70,000. There are also many Maaori from other New Zealand tribal areas who choose to ‘live, work and play’ in the Waikato district. There are 41 marae within ~~the~~ Waikato District Council area. Tangata Whenua are those who whakapapa to the tribal areas and exercise mana whenua. Council also recognises other hapuu who have received treaty settlement and may identify themselves as Iwi Authorities. As Treaty settlements are settled, there maybe others who wish to be recognised as Iwi Authorities within the Waikato District. Status is also recognised under the Resource Management Act by relevant planning documents recognised by an Iwi authority and lodged with the territorial authority. (s74).

A brief historical account of Maaori and New Zealand history that is relevant to the Waikato district has been provided to support this chapter. The report gives pertinent information and context in respect of understanding the rich history, culture, iwi connections, colonial settlement, Te Tiriti o Waitangi, the New Zealand land wars, raupatu and redress (“Engaging the Waikato” (Ormsby & Gannin, 2016)).

- (b) The Waikato River is the tuupuna (ancestor) of Waikato-Tainui from which Tainui derive their name. The Kiingitanga movement is the heart of the Waikato region and the Waikato River is the blood stream of the life of the Waikato people.

The following whakataukii (proverb) expresses this relationship:

*Ko Waikato te awa Waikato is the river  
Ko Te Wherowhero te tangata Te Wherowhero is the man  
Waikato Taniwharau Waikato of a hundred chiefs*

*He piko he taniwha, he piko he taniwha At every bend there is a chief*

- (c) These taniwha represent a chief or person of tremendous influence. It underlines the ‘mana’ of the Waikato people. Usually at every bend of the river was a paa with its own chief. Today, Tangata Whenua play a large partnership role in the lifeline of district issues and goals. Important relationships have been formed through the River Settlement Acts: The Waikato River Settlement Act 2010, the Vision and Strategy (Te Ture Whaimana o Te Awa o Waikato) and the Joint Management Agreement, which are redress instruments of a Treaty of Waitangi settlement, so have significant meaning and status for Waikato Tainui. Other hapuu and iwi, including those of the harbours and coastal communities bordering the western boundary of Waikato District have also developed relationships with the [Waikato](#) District Council. Many of the issues faced by Tangata Whenua are of historical and current uses of the land and the environment. They will only be solved by changing our relationships and values with the land, air and water. The Council has certain obligations in terms of the Resource Management Act 1991 (RMA 1991) in managing the district’s resources to ensure that Tangata Whenua’s rights are recognised and provided for. However, it is everyone’s responsibility to protect, restore and enhance the natural and cultural resources of the district. Under s6(e) of the RMA 1991, part of Council’s responsibility is to look for ways to recognise and provide for, as a matter of national importance, the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. This can be done by ensuring that policies, rules and methods are provided to enable Tangata Whenua to use their whenua to culturally live, work and play throughout the district.
- (d) Specifically, the district council has identified sites of significance to Maaori, for example under Schedule 16(f) of the Joint Management Agreement with Waikato-Tainui, significant archaeological sites such as paa and urupaa. While individual sites are noted on the district plan maps and are afforded the protection under the district plan rules, special mention is being made here of cluster sites which make up ‘significant areas’ of Waikato history: The Point; Wainui Reserve; Horea, Te Toto; Oioroa; Rangiriri, Meremere; Te Aukati ki Maungatawhiri, Hooker Road and Kernott Road Maaori Gardens and all of the redoubts and mission stations. These sites should be recognised for both their tangible and metaphysical association to Maaori to the extent enabled by planning and decision-making management of natural resources through objectives, policies and rules.

## 2.3 Legislative context

- (a) The district council has legal obligations with respect to Tangata Whenua when managing the natural and physical resources of the district. These obligations are set out in the Resource Management Act 1991 as follows:
- (i) Recognise and provide as a matter of national importance the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga - Section 6 (e) of the RMA 1991
  - (ii) Have particular regard to kaitiakitanga - Section 7 (a) of the RMA 1991
  - (iii) Take into account the principles of the Treaty of Waitangi - Section 8 of the RMA 1991
  - (iv) Have regard to any relevant planning document recognised by an Iwi authority - Section 74 (2) (b) (ii) of the RMA 1991
  - (v) The requirement to consult Tangata Whenua during the preparation of a proposed plan, including any proposed plan changes - Schedule 1 cl.(3) of the RMA 1991.
- (b) The district council is also required under the Local Government Act 2002 to take into account the relationships of Maaori, which includes Tangata Whenua, and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna and other taonga, where a significant decision is being made in relation to those resources. The objectives and policies have given effect to these obligations in respect to Tangata Whenua.

## 2.4 Principles of the Treaty of Waitangi (Te Tiriti o Waitangi)

- (a) The Principle of Government – The Kawanatanga Principle: The Government has the right to govern and make laws.
- (b) The Principle of Self-Management – The Rangatiratanga Principle: The Iwi have the right to organise as iwi, and under the law to control their resources as their own.
- (c) The Principle of Equality – All New Zealanders are equal before the Law.
- (d) The Principle of Reasonable Cooperation – Both the Government and the Iwi are obliged to accord each other reasonable cooperation on major issues of common concern.
- (e) The Principle of Redress – The Government is responsible for providing effective processes for the resolution of grievances in the expectation that reconciliation can occur.

## 2.5 Understanding Maaori Land Ownership

- (a) Before the arrival of colonial settlers, all land in New Zealand was held as customary land, by the tribes or hapuu groups. One of the primary tasks of the early Native Land Court was to define the boundaries of that land and convert it from communally-held land by allocating owners and shares. This process allowed for the sale of land, but Maaori could only sell to the Crown. The 1860 Land Wars resulted in Maaori land confiscation by the Crown which was sold for colonial settlement. Today, only 5.5% of New Zealand land is held in Maaori ownership. It is administered by the Māori Land Court and subject to Te Ture Whenua Maori Act 1993. Land titles issued to Maaori by the Maori Land Court became known as Māori freehold land. Maaori rights to land do not translate neatly into common law categories of property and title. Generally, descendants inherit shares in the land from deceased parents. Succession of shares often becomes uneconomical because of multiple ownership. However, what is important is the whakapapa connection to the land through the original tuupuna of the place. The land is a source of identity and Maaori see themselves as not only “of the land” but “as the land.” The majority of Maaori land blocks in multiple ownership have caused significant challenges for Maaori owners, the Māori Land Court and Te Puni Kōkiri (who work within government and communities to support Maaori). Lack of good governance, absentee owners, lack of knowledge and relevant information prevent owners from engaging and utilising the land for their social, cultural and economic well-being. The burden that is placed on Maaori land owners to satisfy the Te Ture Whenua Maaori Act and the RMA is acknowledged when attempting to utilise their land. Objectives, policies and enabling rules have been provided to assist this matter.

## 2.6 Powers to set aside Maaori Land for special purposes

- (a) In accordance with the powers of the Māori Land Court, the district plan will seek to enable Maaori land provisions to be made by the court. The Māori Land Court has the jurisdiction to determine the status and use of Maaori land. The Te Ture Whenua Maori Act 1993 provides for certain purposes for which the whenua may be reserved. The Court may, on application, make an order for land to be gazetted for an individual or a combination of purposes (it is common for the Māori Land Court to request a Concept Management Plan as part of its deliberations).

## 2.7 Preliminary provision

- (a) Part 17, s338 of the Te Ture Whenua Maori Act 1993, lists certain purposes for communal use of Maaori reservations:
  - (i) a papakaainga housing site
  - (ii) a marae
  - (iii) a meeting place
  - (iv) a recreation or sports ground

- (v) a bathing place
- (vi) a church site
- (vii) a building site
- (viii) an urupa
- (ix) a landing place
- (x) a fishing ground
- (xi) a spring, well, catchment area, or other source of water supply
- (xii) a timber reserve
- (xiii) a place of cultural or historical interest
- (xiv) a place of scenic interest
- (xv) a place of special significance according to tikanga Māori
- (xvi) a wāhi tapu or wāhi tūpuna
- (xvii) any other particular purpose stated in the declaration.

(b) This would also include the function of a Hauora within some Marae complexes.

## 2.8 Concept Management Plan

- (a) A Concept Management Plan can be used for all the foreseeable uses for the land over time. By placing papakaainga alongside the future uses on one single map, the project manager and the Land Trust can make decisions about placement of buildings and infrastructure so as not to cut off the possibility of future developments. The Concept Management Plan is not compulsory, but it is an important process to carry out if the Land Trust wants to maximise the use of the land for future generations. It can take several forms and be at different levels of detail, from a simple colour-coded sketch drawing to a commissioned artist's impression of what the land will look like if fully developed to the Concept Management Plan.
- (b) Although the Concept Management Plan must be approved by the owners through the Māori Land Court, it is not set in concrete. It is a land guide. Time and the desires of the people may change for different generations, therefore they may wish to return to the court with a variation to the Concept Management Plan. This is otherwise known as future-proofing or structure planning.



## 2.9 Examples of a Concept Management Plan

### Before



### After



Diagram 1 and 2 sourced from Te Kete Paaraha Mo Nga Papakainga Ki Waikato Tool Kit

## 2.10 Iwi Management Plans

- (a) Iwi and Hapuu Management Plans articulate the aspirations of Tangata Whenua and are a term commonly applied to a resource management plan prepared by an Iwi, Iwi authority, ruunanga or hapuu to address matters of resource management activity of significance within their respective rohe (area). Iwi and Hapuu Management Plans also consider the environment in a holistic manner and as being inseparable from people. It is a “Matter to be considered by the territorial authority” [Section 74 (2A)(a)] including Section 35A of the Resource Management Act 1991.
- (b) 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. The district plan seeks to provide Tangata Whenua with the ability to utilise communally-owned land in accordance with their cultural values, such as papakainga housing, marae/paa, and support economic development.
- (c) The Waikato-Tainui Environmental Plan ~~and the Maniapoto Iwi Management Plans are~~ is a ~~redress instruments of Treaty settlements.~~

## 2.11 Strategic Objective – Tautoko te Whakatupuranga

- (a) To support Iwi aspirations to grow a prosperous, healthy, vibrant, innovative and culturally strong people.

## 2.12 Objective -Whakapapa (connection to nature)

- (a) Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.

### 2.12.1 Policy- Whanaungatanga (relationship to nature)

- (a) Recognise the relationship of Tangata Whenua with areas of significance, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora through provisions which may include:
  - (i) Cultural value assessments and/or cultural impact assessments
  - (ii) Accidental discovery protocols
  - (iii) Use of traditional place names
  - (iv) Protection, enhancement and restoration of mauri
  - (v) Use of appropriate plant species
  - (vi) Use of archaeological information
  - (vii) Incorporation of traditional or sympathetic design elements.

## 2.13 Objective-Whenuatanga (land management)

- (a) Tangata Whenua have the ability to utilise, manage and enjoy their traditional resources in accordance with tikanga Maaori, including matauranga Maaori maintaining their relationship to ancestral land.

### 2.13.1 Policy Tangata Whenuatanga (utilisation by landowners)

- (a) Tangata Whenua are enabled to sustainably manage their lands and resources in accordance with their cultural preferences and aspirations.
- (b) Tangata whenua are enabled to sustainably use and develop ancestral land, including; marae complexes and associated facilities, and papakainga housing development according to customs and practices.
- (c) Economic development supports the occupation, development and use of Maaori land.



## 2.14 Objective –Kaitiaki (steward/guardian)

- (a) The role of Tangata Whenua as kaitiaki is recognised and maintained.

### 2.14.1 Policy Kaitiakitanga (stewardship/guardianship)

- (a) Consult with Tangata Whenua where activities have the potential to adversely affect ancestral lands, water, sites, waahi tapu, and other taonga and which may include:
- (i) Establishing who should be consulted
  - (ii) Establishing formal arrangements such as joint management agreements or memoranda of understanding
  - (iii) Tangata Whenua involvement with consent processes and representation on hearings
  - (iv) Supporting the creation of Iwi and hapuu management plans
  - (v) The exercising of kaitiakitanga or stewardship.
  - (vi) **Kaitiaki responsibility to ensure the mauri and the taonga inherited from tupuna are not negatively affected through resource consent and activities.**

## 2.15 Objective Waikatotanga (way of life)

- (a) Cultural practices and beliefs of Tangata Whenua are respected.

### 2.15.1 Policy- Ngaa taonga tuku iho (Maaori Sites and Areas of Significance)

- (a) Ensure subdivision, use and development does not compromise the cultural and spiritual significance of areas, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora and fauna.
- (b) Areas and sites of significance to Maaori including waahi tapu sites and waahi tapu areas are protected from adverse effects of development or activities on those sites.

## 2.16 Objective-Tikanga aa-iwi o te takiwaa o Waikato

- (a) Recognise the cultural significance of Waikato Takiwaa (district)

### 2.16.1 Policy- Whaanga Coast Specific Area

- (a) Enable the use and development of Maaori land for a range of activities in accordance with tikanga Maaori including kainga nohoanga and mahinga kai to support the social, cultural and economic aspirations of mana whenua on the Whaanga coast.

### 2.16.2 Policy- Aahuatanga Motuhake (special features)

- (a) Recognise and maintain the cultural significance of wetlands lakes and other waterbodies, including the Waikato and Waipa awa (rivers), coastal areas of Whaingaroa (Raglan Harbour), Aotea, and Te Puaha o Waikato (Port Waikato).
- (b) Recognise the historic and contemporary relationships of Ngaa iwi o Tainui to Karioi, Taupiri, Hakarimata Range, Hunua and Pirongia maunga.