

# **Section 32 Report – Part 2**

## **Tangata Whenua**

prepared for the

# **Proposed Waikato District Plan**

**June 2018**



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# I OVERVIEW AND PURPOSE

The purpose of this Section 32 Report is to outline the approach undertaken by Council for the review and development of the framework of objectives, policies and rules that relate to Tangata whenua. This Section 32 is particularly relevant to the management of Maaori customary land and Maaori freehold land, as well as Maaori cultural values.

This Section 32 summary report should be read in conjunction with Part I of the Section 32 report, as Part I provides the overall broad context and approach for the evaluation and consultation undertaken in the development of the Proposed Waikato District Plan.

## I.1 Topic Description

The 1860 Waikato wars and confiscation of Maaori land had a far-reaching effect on Tangata whenua and their economic sustainability that has contributed to the ongoing issues faced by Maaori today.

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 authorities 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 whanau groups. It is the power associated with possession and occupation of tribal land.

The Tangata whenua chapter of the Proposed District Plan (PDP) contains objectives and policies and focuses on the special relationship Maaori have with the whenua (land) that remains in their ownership through whakapapa. Inherent in this relationship is kaitiakitanga which seeks to maintain the mauri of the land and its resources while, allowing for social, cultural and economic well-being. The topic acknowledges the importance of mana whenua participating in the decision making when managing these resources to ensure a sustainable future for them in the Waikato District.

The PDP is prepared under the Resource Management Act. The recognition of Maaori culture and values is prominent in the RMA through the following sections:

- Section 6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance;
- Section 6(g) the protection of protected customary rights is a matter of national importance;
- Section 7(a) kaitiakitanga is a matter to have particular regard to;
- Section 8 requires the principles of the Treaty of Waitangi are taken into account.

The protection of historic heritage is also a Section 6 matter of national importance. Historic heritage is defined in the RMA as including sites of significance to Maaori, including waahi tapu.

In addition, reviews of district plans are required by Section 75(2A) of the RMA to 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.

## **1.2 Significance of this Topic**

This topic addresses two main issues – enabling the development of Maaori owned land, and protecting areas and sites of significance to Maaori.

The topic seeks to address the issue by enabling the development of Maaori Freehold Land through provisions that support the development of Marae Complexes and Papakaainga housing and providing for a range of activities to support the economic, social and viability of the land.

The Tangata whenua topic is district wide and pertains to both Maaori Freehold Land as well as privately owned land. Legacy district plans have not fully understood or supported the land tenure of Maaori land ownership and the concept of whakapapa or kaitiakitanga and the application of these concepts to land in terms of a Maaori view. It is Maaori who have had to adapt to a eurocentric approach to land management and this has resulted in an inability to fully utilise traditional resources in a way that supports their concepts.

Tangata whenua have aspirations to develop their whenua and future needs. This is a slow process due to the requirements of the Maori Land Court governance issues, financial assistance, ownership agreements and in terms of the RMA, district plans rules that are required to be met. There is a need to assist Tangata whenua with information that empowers landowners to make informed choices about the future use of their land and enable them to develop their land in accordance with their cultural aspirations and preferences. Maaori wish to redevelop their own sense of place on their own lands for the cultural wellbeing of their whanau.

In terms of the relationship to land there is a desire for identification and protection of cultural sites/sites of significance to prevent destruction of taonga. This has been addressed by introducing the identification of Maaori sites of significance and Maaori areas of significance and an earthwork rule provision.

### 1.3 Resource Management Issues to be Addressed

There is an overarching issue for Tangata whenua which is the inability to manage and utilise their traditional resources. This issue manifests itself as the following resource management issues:

1. The limitations imposed on Maaori Freehold Land where the current sections of the Waikato and Franklin sections of the plan have limitations for Marae activities and papakaainga housing.
2. There is inadequate recognition of mana whenua interests and values within the district and their relationship to ancestral lands, water, sites, waahi tapu and other taonga.
3. There is no protection of Maaori sites and Maaori areas which includes Paa sites, waahi tapu and waahi tuupuna sites.

The Proposed District Plan seeks to address these issues.

### 1.4 Current Objectives, Policies, Rules and Methods

Both sections of the Waikato and Franklin plan deal with Tangata whenua in different ways. There is no separate section for Tangata whenua in either section. The provisions in both sections are very limiting and do not offer a sustainable future for Maaori on Maaori land especially multi-owned land.

There are no rules in either Section of the Operative District Plan which recognise or protect areas of Maaori significance.

#### Waikato Section

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, giving effect to the Vision and Strategy, the active co-management of the Joint Management Agreement, partnerships and an ongoing process of consultation. Tangata whenua interests are embodied throughout the plan, Chapter 11 Social, Cultural and Economic Wellbeing, has specific objectives and policies to recognise the special role that the Maaori have in New Zealand.

#### Franklin Section

Franklin District Council set in place future structures and processes through which their relationship with Maaori was to be managed. In terms of broader concerns of Tangata whenua, the district plan address;

- Tinorangatiratanga (self-management). In recognising the right of “self-management” the district plan provides for papakaainga housing in rural and coastal areas subject to the relevant performance standards and assessment criteria and health and building requirements.
- Kaitiaki (or stewardship/guardianship). The sustainable management of Franklin’s natural and physical resources is an issue of common concern to the Treaty partners. The Council acknowledges its responsibility to co-operate with Tangata whenua in this matter, and aimed to ensure that the

plan's objectives, policies and assessment criteria reflect Tangata whenua's perspectives on sustainable management.

## 1.5 Information and Analysis

Table 1 List of relevant background assessments and reports

Title	Author	Description of Report
Waikato District Plan Review Archaeological Heritage Report (Attached as Appendix 6)	Dr Alexy Simmons of Simmons & Assoc. Ltd. February 2016	The purpose of the report is to identify recorded archaeological sites, unrecorded traditional Maaori gardens sites and archaeologically sensitive urban areas in the Waikato District.
Maaori Sites of Significance - Methodology for Establishing Boundaries for the Sites	Dr Des Tatana Kahotea June 2018	The purpose of the report is to provide a methodology for the determining the boundaries for the Maaori sites of significance.
Comparison of Paa Zone with management of Maaori Freehold and Customary Land	Waikato District Council	This paper evaluated the options for managing Maaori land and assessed the value of retaining the Paa Zone.

## 1.6 Consultation Undertaken

Comprehensive consultation and engagement was undertaken with iwi on the topic of Tangata whenua. This topic was included in the comprehensive consultation and engagement on the wider District Plan review. A series of public open days and stakeholder information days were held during 2015 and the third phase during 2017, these are listed below:

- 02/06/2015 – Open day Raglan
- 03/06/2015 – Open day Te Uku
- 04/06/2015 – Open day Te Kowhai
- 09/06/2015 – Open day Tamahere
- 10/06/2015 – Open day Puketaha
- 11/06/2015 – Open day Ngaruawahia
- 16/06/2015 – Open day Whitikahu
- 17/06/2015 – Open day Orini
- 18/06/2015 – Open day Te Akau
- 23/06/2015 – Open day Matangi
- 24/06/2015 – Open day Huntly
- 25/06/2015 – Open day Tuakau
- 30/06/2015 – Open day Waerenga
- 01/07/2015 – Open day Mangatani
- 02/07/2015 – Open day Pokeno
- 07/07/2015 – Open day Te Kauwhata

- 08/07/2015 – Open day Port Waiakto
- 09/07/2015 – Open day Otaua
- 23/07/2015 – Extended working group workshop
- 25/03/2015 – Extended working group workshop
- 27/08/2015 – Consultants workshop
- 19/01/2015 – Presentation to Extended Working Group
- 17/10/2017 – Stakeholder information day in Ngaruawahia town hall;
- 19/10/2017 – Stakeholder information day in Tuakau town hall;
- 20/11/2017 – Open day Tuakau;
- 22/11/2017 – Open day Mangatangi;
- 23/11/2017 – Open day Pokeno;
- 28/11/2017 – Open day Te Kauwhata;
- 29/11/2017 – Open day Huntly;
- 30/11/2017 – Open day Raglan;
- 05/12/2017 – Open day Te Kowhai;
- 06/12/2017 – Open day Tamahere; and
- 07/12/2017 – Open day Ngaruawahia.

Specific consultation commenced on this topic with landowners in May and June 2018 with letters sent to property owners where a Maaori site or area of significance was located on their property. Discussions were had with landowners to discuss the draft provisions and what this would mean for them. Over this period written feedback was received and planning staff spoke with 68 landowners on the phone.

Feedback from Landowners is summarised as follows:

- Queries as to accuracy of the mapping
- Queries as to whether the area identified can still be used
- Queries as to whether areas need to be fenced or maintained
- Will public have access across my land
- Comfortable with the approach once an understanding had been made in regard to it will be 'business as usual' on the land.

Table 2 Specific consultation processes

Date	Group	Subject Matter	Feedback
2009-2018	Groups, individuals and Trusts	Specific issue/s, objective/s and/or provisions discussed; Papakaainga Housing Maaori Land Paa zone	General inability to utilise Maaori land. Need for whanau housing
2009-2018	Groups, individuals and Trusts	Specific issue/s, objective/s and/or provisions discussed; Heritage Sites of Significance Areas if Significance	The ongoing destruction of Maaori sites. Identification of Maaori sites Protection and celebration of Maaori sites.
2018	Heritage New Zealand	Maaori sites and areas of Significance	Concerns about duplication of legislation between District plan and HNZ. Would like ground truthing or remove identifier from the rule framework and have as an information only layer.
2018	General property owners with an identified Maaori site or area of significance	Provisions for the management and protection of sites and areas of significance	Feedback provided through phone discussions and via the dropin sessions as there were some concerns with property rights General understanding once rules were clarified.

In addition, the draft proposed district plan was made available to the public for comment in November 2017. There was no specific feedback on Tangata whenua issues other than from Heritage New Zealand (which is outlined above).

## 1.7 Iwi Authority Consultation and Advice

### 1.7.1 Consultation

Clause 3 of Schedule 1 of the RMA set out the requirements for local authorities to consult with Tangata whenua through and iwi authorities. Clause 3 also requires Local Authorities to consult with any person, group or ministry that may be affected by changes made to the District Plan.

Council used the following methods to establish an Iwi Reference Group.

- Joint Management Agreement
- Tai Tumu Tai Pari Tai Ao (Waikato Tainui Environmental Plan)
- Partnerships
- Collaboration

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The purpose of the Iwi Reference Group was to provide Council with a single forum to socialise the proposed changes to the Operative District Plan.

The Iwi Reference group was made up of all iwi and hapuu within the district that council currently consults with via the Resource Consent Process.

Engagement and consultation with the Iwi Reference group took place between December 2014 and December 2017. (See Part I Section 32 Report – Introduction to the Evaluation Report)

## 1.7.2 Advice

Under Clause 4A of Schedule I of the RMA sets out the requirements for local authorities to consult with iwi authorities before notifying a proposed plan. Clause 4A(1)(b) requires Council to have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

Council undertook consultation with the relevant Iwi and Hapuu and through Te Kahui Mangai website and included the following:

Iwi authorities within Waikato District:

- Waikato Tainui
- Ngaati Tamaoho

Iwi for the purpose of RMA list on Te Kahui Mangai

- Tainui o Tainui

Iwi that have relationship from other districts

- Hauraki
- Ngaati Maniapoto
- Ngaati Paoa - Hauraki

A summary of the issues identified through consultation and Council's consideration of those issues are listed in Part I Section 32 Report – Introduction to the Evaluation Report.

Advice from iwi has resulted in the following changes to provisions (additions are underlined):

### 1.4.2.2 Advantages

- (a) *Revocation of parts of State Highway 1 will offer opportunities for some town centre improvements and cycle/walk ways. It is important to note that there is a strong cultural identity in the district and the emergence of Te Whakakitenga o Waikato Incorporated – (Waikato-Tainui) as a major economic player is an advantage. Further advantages will become evident with the emergence of other post settlement iwi.*

#### 1.4.2.3 Challenges

(ix) With growth pressure in both the Urban and Rural sectors, maintaining and enhancing the natural environment.

#### 1.4.4 The urban environment

(b) Costs and inefficiencies can increase significantly, where development patterns are dispersed. For example, unplanned development, which increases vehicle traffic, may reduce roading efficiency and road safety, compromise rail operations and result in unplanned roading upgrades. Costs can be minimised, and better performance of infrastructure and services achieved, where infrastructure provision is timely in relation to demand, and optimally-sized and located. This may mean that it is necessary to stage infrastructure provision relative to growth in demand as well as ensuring that the natural environment is maintained and enhanced through Low Impact Design infrastructure.

1.4.5 The plan seeks to acknowledge Maaori Freehold and Maaori Customary Land. The Maori Land Court has the authority under the Te Ture Whenua Act to determine activity use and status of Maaori land.

#### 1.5.7.3

(e) Water for industry located outside municipal supply areas is sourced from a combination of surface water (mostly the Waikato River catchment) and groundwater. Recently, new allocation limits and minimum flows have been set for surface water resources across the whole Waikato region (as a result of a change to the Waikato Regional Plan). Greater scrutiny of, and restrictions on, groundwater takes have also been introduced. While the availability of surface water will depend on the point of abstraction, the level of allocation at the bottom of the Waikato catchment is the overriding constraint on water availability. The majority of Waikato district is within the Waikato catchment. As at the beginning of 2015, 87% of the flow that was able to be allocated at the river mouth was already allocated for the summer months. Although more water is available in winter, demand for water is either year round for industrial processing and municipal supply, or for the summer season for irrigation. Therefore, unless winter water can be stored, the use of water tanks should be encouraged as the available winter water is practically unavailable for economic use.

#### 1.7.3.3 Consultation

(d) According to Section 35A a local authority has a duty to keep records about iwi and hapuu, this information can be sourced from the Te Kahui Mangai website.

### 2.14 Objective –Kaitiaki (steward/guardian)

#### 2.14.1 Policy Kaitiakitanga (stewardship/guardianship)

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

## Chapter 2: Tangata Whenua

### 2.2 Background

(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 District Council.*

## 1.8 Decision-making

A series of presentations have been presented to Councillors on the content and focus of the draft proposed district plan. These presentations included information in respect of Tangata whenua as follows;

- Discussion document
- Issue Statement
- Objectives
- Policies
- Rules
- RMA Section 4 consultation

Table 3 Summary of decision-making processes

Meeting / Feedback	Document	Decision/direction
Councillor Workshop – District Plan Review – Tangata Whenua and Heritage	Councillor workshop Presentation	-Difficult topic to digest -Concept of papakainga could be equally applied to pseudo-retirement -good introduction to the topic - How realistic is it to identify on a subdivision during earthworks -If it is marked on a map they would know to look out for things.
Councillor Workshop Iwi Consultation	Workshop Presentation June 2018	Agree to blend Paa zone into Maori freehold land

## 1.9 Reference to Other Relevant Evaluations

This Section 32 report should be read in conjunction with the following evaluations:

- All zone evaluation reports
- Biodiversity
- Landscapes and Natural Character
- Historic Heritage
- Infrastructure
- Transport
- Renewable Electricity Generation
- Water Supply, Stormwater and Wastewater
- National Grid

## 2 ISSUES, OBJECTIVES, POLICIES AND RULES

### 2.1 Higher Level Planning Documents and Legislation

Under section 75(3) of the RMA, a district plan must give effect to the following:

- (a) any national policy statement; and
- (b) any New Zealand coastal policy statement; and
- (c) any regional policy statement.

These statutory documents are discussed below in terms of their relevance to Tangata whenua.

#### 2.1.1 Waikato Regional Policy Statement

The purpose of the Regional Policy Statement (RPS) is to achieve the purpose of the RMA by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources. With the RPS, Waikato Regional Council (WRC) acknowledges the special status of Maaori under the RMA. In order to understand the perspectives and values of Tangata whenua, WRC has sought input to the Plan from predominant tribal groups in the Region: Waikato-Tainui, Hauraki, Ruakawa, Maniapoto and Tuwharetoa.

There are matters of significance to Tangata whenua in regard to natural and physical resources, their relationship with the environment and the health and wellbeing of the Waikato River. The physical and heritage relationships of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, are to be recognised and provided for.

The RPS is directive in its approach to Tangata whenua needs and aspirations. There is a list of 'shall' and 'should' clauses that provide Council direction to make provisions in the district plan.

The relevant provisions are set out in full in Appendix 2.

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

The purpose of the New Zealand Coastal Policy Statement (NZCPS) is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand.

The coastal environment has characteristics, qualities and uses that mean there are particular challenges in promoting sustainable management:

- The coastal environment varies in nature and extent around the country;
- Most existing towns and cities are in or close to a coastal location;
- The coast has particular importance to Tangata whenua, including as kaitiaki;
- Demand for coastal sites for infrastructure uses (including energy generation)
- For aquaculture to meet the economic, social and cultural needs of people and communities
- Loss of natural, built and cultural heritage from subdivision, use and development

The relevant provisions are set out in full in Appendix 2.

### **2.1.3 Heritage New Zealand Pouhere Taonga Act 2014**

This Act is administered by Heritage New Zealand Pouhere Taonga (HNZPT). The purpose of this Act is to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.

Heritage New Zealand Pouhere Taonga administers the HNZPT and specifically seeks to register historic buildings, sites or areas or Waahi tupuna, Waahi tapu sites or areas. It also aims to protect archaeological sites for the purpose of: informing members of the public and landowners about these sites and assisting in the protection of these sites through the Resource Management Act 1991.

### **2.1.4 Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010**

The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the Settlement Act) gives effect to the 2009 Deed of Settlement in respect of the raupatu claims over the Waikato-Tainui area. This legislation also records that the Waikato River and its contribution to New Zealand's cultural, social, environmental and economic wellbeing is of national importance.

The overarching purpose of the Settlement Act is to restore and protect the health and wellbeing of the Waikato River for future generations and provides for the establishment of a Vision and Strategy for the Waikato River and co-governance and co-management arrangements to achieve the overarching purpose of the Settlement Act.

Schedule 2 of the Settlement Act contains Te Ture Whaimana o Te Awa o Waikato-the Vision and Strategy for the Waikato River. The Vision and Strategy is the primary

direction-setting document for the Waikato River and its catchments, which includes the lower reaches of the Waipa River.

On 23 March 2010, the Council and Waikato Tainui signed a Joint Management Agreement (JMA) to formalise their partnership at both governance and management levels in working together to achieve the overarching purpose of the Deed of Settlement.

### **2.1.5 Iwi Management Plans**

Iwi management plans (IMP) articulate the aspirations of Tangata whenua and is 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). IMP's 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)):

*.....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.*

#### **Waikato-Tainui Environmental Plan (WTEMP)-Tai Tumu, Tai Pari, Tai Ao.**

The WTEMP is the aspirations of Tangata whenua that was developed out of Whakatupuranga 2050. Whakatupuranga 2050 is a long-term development approach to building the capacity of Waikato-Tainui marae, hapuu and iwi and will be the legacy for those who come after. The WTEMP is designed to enhance Waikato-Tainui participation in resource management. The Plan also provides clear high-level guidance to external agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment. It includes a process for resource developers and users to consult and engage with Waikato-Tainui about proposed resource use or activities.

#### **Maniapoto Environmental Plan (MEP)-He Mahere Taiao**

The MEP provides an Iwi wide strategy that expresses Maniapoto worldviews, values and aspirations, to enhance and sustain the exercise of kaitiakitanga of the environment. The Plan provides an overview of Maniapoto views on environmental matters and describes the vision that Maniapoto have for the environment and their place with it. Te Ao Maaori Maniapoto worldviews connect whanau, hapuu and iwi to their environment. The Plan describes issues that are or may affect Maniapoto and their taonga, and suggested actions to avoid, remedy or mitigate these effects, or to restore and maintain the quality and integrity of the environment. It provides a framework for further development of actions and tools to help Maniapoto achieve the vision. Maniapoto recognises that responsibility for certain outcomes may lie with one or more external agencies or groups. Differing demands on resources may limit their ability to act, however Maniapoto encourages these agencies and groups to show leadership in working collaboratively with Maniapoto to implement this plan.

Waikato District Council's link to this plan is the association and relationship of the Local Authorities to Te Ture Whaimana o Te Awa o Waikato- the Vision and Strategy for the Waikato River and its tributaries, particularly Waipa River which flows through the Waikato district's southern boundaries to the Waikato River in Ngaruawahia.

## 2.1.6 Future Proof- Future Proof Strategy Planning for Growth November 2017

The Future Proof Strategy acknowledges the pressures of growth, in particular on taonga of value to iwi. Tangata whenua are a partner to the strategy and have worked with the Future Proof partners to plan for growth in the region. They are seen as kaitiaki and the strategy acknowledges the importance of working together. The strategy states;

*“Tangata whenua and Local Authorities must together paddle the waka of development together. My late mother, Te Arikinui Te Atairangikaahu stated in 2000, “Without balance - waka sink. All waka! There is no place for compromising waka as the safety of all that travel within them, are put at risk”.*

Those strategic matters and provisions that have been specifically given effect or had regard to in this chapter are summarised in Table 4 below and are set out in full in Appendix 2. These documents broadly identify the resource management issues for the District and provide the higher level policy direction to resolve these issues.

Table 4 Higher order and guiding documents

Document (Statutory obligation in italics)	Relevant provisions the Tangata Whenua topic is required to take into account/give effect to
<i>Waikato Regional Policy Statement</i>	Policies 4.3 Tangata whenua 6.4 Marae and papakaainga 10.1 Managing historic and cultural heritage  Implementation methods 4.3.1 Strategic partnerships with iwi authorities 4.3.2 Tangata whenua involvement 4.3.3 Kaitiakitanga 4.3.4 Use and enjoyment of resources 6.4.1 Provisions for marae and papakaainga 6.4.2 Sustainability of marae and papakaainga 6A. Development principles; - q. consider effects on the unique tāngata whenua relationships, values, aspirations, roles and responsibilities with respect to an area. Where appropriate, opportunities to visually recognise tāngata whenua connections within an area should be considered; 10.2 Relationships of Maori to taonga 10.2.1 Sensitive information 10.2.2 Identification of taonga 10.2.3 Maintaining or enhancing tangata whenua

	relationships with their rohe
<i>New Zealand Coastal Policy Statement 2010</i>	Policy 2: The Treaty of Waitangi, tangata whenua and Maori. In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment: a-g Policy 6 d. recognise tangata whenua needs for papakainga, marae, and associated developments and make appropriate provisions for them. Policy 17- Historic heritage identification and protection
<i>Heritage New Zealand Pouhere Taonga Act 2014</i>	The purpose of this Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand
<i>Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010</i>	The overarching purpose is to restore and protect the health and wellbeing of the Waikato River for future generation
<i>Waikato-Tainui Environmental Plan (WTEMP)-Tai Tumu, Tai Pari, Tai Ao.</i>	The WTEMP provides issues, objectives, policies and methods to address its overarching position on the environment.
<i>Maniapoto Environmental Plan (MEP)-He Mahere Taiao</i>	This provides an Iwi wide strategy that expresses Maniapoto worldviews, values and aspirations, to enhance and sustain the exercise of kaitiakitanga of the environment.
<i>Future Proof Strategy Planning for Growth November 2017</i>	Priority 15 Develop a Papakainga Housing initiative to enable greater papakainga development as well as a coordinated response to papakainga housing needs and aspirations in the sub-region

## 2.2 Issues

### 2.2.1 Issue 1

The evaluation of objectives and provisions in the following sections relate to the resource management issue stated below:

Issue statement	Issue - Inability to utilise resources The inability for Tangata Whenua to access, utilise, manage and enjoy their traditional resources diminishes their relationship with their ancestral lands, water, sites, waahi tapu and other taonga.
Enabling Maaori to establish and maintain their relationship, cultures and traditions with their ancestral lands is a matter of national importance. Providing that such activity is consistent with the environmental capacity of the area to sustainably use ancestral land for such purposes that will promote the economic, cultural and social health and wellbeing of the Maaori community.	

### 2.2.2 Issue 2

The evaluation of objectives and provisions in the following sections relate to the resource management issue stated below:

Issue statement	<p><b>Issue - Inappropriate Development</b>          The relationship of Maaori with their culture and traditions and with their ancestral lands, water, waahi tapu and other taonga may be destroyed or compromised through inappropriate development.</p>
<p>There are a number of archaeological sites, sites and areas, of significance to Maaori (including waahi tapu sites and waahi tapu areas), and significant places (e.g. redoubts) identified in the plan. Key impacts on these sites arise from earthworks (including quarrying), and the placement of inappropriate structures within their vicinity. There is a need to ensure protection of the actual form of the sites and their integrity in terms of heritage values. This protection involves consideration of the way a site might be modified and the extent of any proposed modification. Protection measures might also include relocation of artefacts, objects, or structures as a planned response.</p>	

### 3 SCALE AND SIGNIFICANCE EVALUATION

The level of detail undertaken for the evaluation of the proposed District Plan provisions has been determined by an assessment of the scale and significance of the implementation of the proposed District Plan provisions. The scale and significance assessment considered the environmental, economic, social and cultural effects of the provisions. In making this assessment regard has been had to the following, namely whether the provisions:

- (a) Are of regional or district wide significance;
- (b) Have effects on resources that are considered to be a matter of national importance in terms of Section 6 of the Act;
- (c) Adversely affect people's health and safety;
- (d) Result in a significant change to the character and amenity of local communities;
- (e) Adversely affect those with particular interests including Maaori;
- (f) Limit options for future generations to remedy effects;
- (g) Whether the effects have been considered implicitly or explicitly by higher order documents; and
- (h) Include regulations or other interventions that will impose significant costs on individuals or communities.

The evaluation has focused on those provisions that will result in a substantial change to the Tangata whenua topic and are of greater importance to ensure the objective of the Tangata whenua Chapter (and other objectives where relevant) are achieved. The majority of changes proposed to the current provisions involve the utilisation of and relationship to, Maaori Land and the greater district.

Policies and rules have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective. Some rules implement more than one policy, for example Policies and rules for the utilisation of land therefore have been referred to multiple times.

The following table (Table 5) contains a summary of the policies and rules considered to be of a scale and significance to justify a more comprehensive evaluation of options.

Table 5 Scale and significance assessment

Issue	Provisions evaluated	Scale and Significance Reasoning
<p>Issue - Inability to utilise resources The inability for Tangata Whenua to access, utilise, manage and enjoy their traditional resources diminishes their relationship with their ancestral lands, water, sites, waahi tapu and other taonga.</p> <p>Issue - Inappropriate Development The relationship of Maaori with their culture and traditions and with their ancestral lands, water, waahi tapu and other taonga may be destroyed or compromised through inappropriate development.</p>	<p>Policies i. Policy- Whanaungatanga (relationship to nature) ii. Policy Tangata Whenuatanga (utilisation by landowners) iii. Policy- Kaitiakitanga (stewardship) iv. Policy- Ngaa taonga tuku iho (Maaori Sites and Areas of Significance) v. Policy- Whaanga Coast Specific Area vi. Policy- Aahuatanga Motuhake (special features)</p> <p>Rules Permitted Activity rules for Maaori Freehold Land and Maaori Customary Land for Marae Complexes and Papakaainga Housing</p> <p>Permitted activity allowance for higher level of site coverage for building.</p> <p>Permitted activity allowance for building and structures in landscape and natural character areas.</p> <p>Permitted activity allowance for building height in Outstanding Natural Landscape, Feature.</p> <p>Permitted activity for building height in Outstanding Natural Character Areas and High Natural Character area of the coastal environment.</p> <p>Permitted activity rule for allowance of earthworks for the purposes of Marae Complexes and Papakaainga Housing.</p> <p>Permitted activity rule for allowance of indigenous</p>	<p>a)The provision that relate to Tangata whenua are considered to be of low scale but of moderate significance across the district</p> <p>b) The provisions are intended to give effect to Part 2 of the RMA, and relate to matters of national importance and 'other matters' namely Section 6(e) the relationship of Maaori and their culture and traditions with their ancestral lands and Section 6(f) the protection of historic heritage from inappropriate subdivision, use and development. The plan seeks to recognise and afford some protection for Maaori Sites and Areas for their significance.</p> <p>c)The provisions will provide for the health and wellbeing of Maaori people by enabling the utilisation of their land. Some Maaori land has significant development limitations and it is important that these limitations are addressed</p> <p>d) There is approximately only 5% of the Waikato District that is either Maaori Freehold Land or Maaori Customary Land and in this regard the provisions for Tangata Whenua are small in scale across the district. In this regard there will not be a significant change to the character and amenity of local communities.</p> <p>e) The provisions will support particular interests of Maaori in particular sites and areas that are significant. For the purposes of the PDP there are approximately 320 Maaori sites of significance and 80 Maaori areas of significance have been identified as requiring recognition and protection.</p> <p>f) The provisions provide for the future generations of Tangata whenua</p> <p>g)The provisions give effect to direction within the NZCPS and RPS</p>

	<p>vegetation clearance for the purposes of Marae Complexes and Papakaainga Housing.</p> <p>Earthworks rules that manage works within a Maaori site or area of significance which requires consultation with the appropriate Manu whenua of the area.</p> <p>New definitions Marae complexes-includes an economic sustainability composition Papakaainga Housing Development Papakaainga Building-allows for temporary accommodation</p> <p>Matters of discretion</p> <ul style="list-style-type: none"> <li>• Cultural values</li> <li>• Heritage values</li> </ul>	<p>e) The proposed provisions do not include significant change from the existing provisions (Waikato Section) wherein there are currently provisions for papakaainga within the Paa Zone, Rural Zone and Coastal Zone. The provisions have been extended to be included within the Residential and Business Zone as this is where there is also Maaori Freehold Land. This has led to the blending of Paa Zone into Maaori Freehold Land (see Appendix 3).</p>

## 4 EVALUATION OF OBJECTIVES

Below (Table 6) is a summary of the objectives that have been identified as the most appropriate to address this resource management issue and achieve the purpose of the Resource Management Act 1991.

The following objectives are considered to be the most appropriate way to achieve the purpose of the Act.

Table 6 Summary of objectives

Objective	Summary of evaluation
<p>2.11 Strategic Objective (Tautoko te Whakatupuranga) To support Iwi aspirations to grow a prosperous, healthy, vibrant, innovative and culturally strong people</p>	<p>This objective enables iwi to realise their aspirations. This achieves Section 5(2) of the Act in that it enables people and communities to provide for their social, economic and cultural well-being. This will strengthen the resilience of Maaori culture, and indeed Maaori communities.</p> <p>The objective also achieves Section 5(2)(a) by meeting the needs of future generations. The Objective recognises not only current generations of Maaori but the aspirations for</p>

	<p>future generations.</p> <p>The objective achieves Section 6 (e) by supporting the relationship of Maaori and their culture and traditions with their ancestral lands</p> <p>The objective achieves Section 7 (a) kaitiakitanga, by supporting the aspirations of a culturally strong people where to be kaitiaki is inherent in their culture.</p> <p>The objective achieves Section 8 as it supports the principles of the Treaty.</p> <p>The objective is also consistent with the requirements of the Waikato Regional Policy Statement(WRPS) Objective 3.9 Relationship of Tangata whenua and policies 4.3, and 6.4 by supporting Tangata whenua’s relationship to the environment and enabling marae and papakainga development.</p> <p>This strategic objective aligns the Proposed District Plan with the Waikato-Tainui Environmental Management Plan.</p> <p>The objective is considered the most appropriate way to achieve the Purpose of the Act.</p>
<p>2.12 Whakapapa (connection to nature) Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.</p>	<p>This objective achieves Section 5(2) of the Act in that it enables people and communities to provide for their social, economic and cultural well-being. This will strengthen the relationship of Maaori to the environment</p> <p>The objective also achieves Section 5(2)(a) and (b) by recognising not only current generations of Maaori but the aspirations for future generations and safeguarding the life-supporting capacity of the environment.</p> <p>The objective achieves Section 6 (e) by supporting the relationship through the whakapapa of Maaori with their ancestral lands.</p> <p>The objective achieves Section 7 (a) kaitiakitanga, by supporting the relationship to the environment through whakapapa.</p> <p>The objective achieves Section 8 as it supports the principles of the Treaty.</p> <p>The objective is also consistent with the requirements of the Waikato Regional Policy</p>

	<p>Statement (WRPS) Objective 3.9 Relationship of Tangata whenua by supporting Tangata whenua's relationship to the environment.</p> <p>The objective is consistent with the requirements of the RPS objective 3.18 Heritage and its policies as it supports the management of areas or places of cultural significance to Maori.</p> <p>This objective aligns the Proposed District Plan with the Waikato-Tainui Environmental Management Plan.</p> <p>The objective is considered the most appropriate way to achieve the Purpose of the Act.</p>
<p>2.13 Objective-Whenuatanga (land management) 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.</p>	<p>This objective achieves Section 5(2) of the Act in that it enables people and communities to provide for their social, economic and cultural well-being.</p> <p>This will also achieve Section 5(2)(a) by meeting the needs of future generations. The objective recognises not only current generations of Maaori but the aspirations for future generations.</p> <p>The objective achieves Section 6 (e) by supporting the relationship of Maaori and their culture and traditions with their ancestral lands by enabling the utilisation of Maaori land.</p> <p>The Objective achieves Section 7 (a) kaitiakitanga, by supporting the management of land by being kaitiaki.</p> <p>The objective achieves Section 8 as it supports the principles of the Treaty.</p> <p>The objective is also consistent with the requirements of the Waikato Regional Policy Statement (WRPS) Objective 3.9 Relationship of Tangata whenua by supporting Tangata whenua's relationship to the environment through policies relating to local authority processes and marae and papakainga development</p> <p>This objective aligns the Proposed District Plan with the Waikato-Tainui Environmental</p>

	<p>Management Plan.</p> <p>The objective is considered the most appropriate way to achieve the Purpose of the Act.</p>
<p>2.14 Objective –Kaitiaki (steward / guardian) The role of Tangata Whenua as kaitiaki is recognised and maintained.</p>	<p>This achieves Section 5(2) of the Act in that it enables people and communities to provide for their social, economic and cultural well-being.</p> <p>The Objective achieves Section 6 (e) by supporting the role of kaitiaki and the relationship of Maaori and their culture and traditions with their ancestral lands.</p> <p>The Objective achieves Section 7 (a) kaitiakitanga, by supporting the aspirations of a culturally strong people where to be kaitiaki is inherent in their culture.</p> <p>The objective achieves Section 8 as it supports the principles of the Treaty.</p> <p>The objective is also consistent with the requirements of the Waikato Regional Policy Statement (WRPS) Objective 3.9 Relationship of Tangata whenua by supporting Tangata whenua’s relationship to the environment through policies relating to local authority processes and marae and papakainga development.</p> <p>This objective aligns the Proposed District Plan with the Waikato-Tainui Environmental Management Plan.</p> <p>The objective is considered the most appropriate way to achieve the Purpose of the Act.</p>
<p>2.15 Objective Waikatotanga (way of life) Cultural practices and beliefs of Tangata Whenua are respected.</p>	<p>This achieves Section 5(2) of the Act in that it enables people and communities to provide for their social, economic and cultural well-being.</p> <p>The objective achieves Section 6 (e) by supporting the relationship of Maaori and their culture and traditions with their ancestral lands</p> <p>The objective achieves Section 7 (a) kaitiakitanga, by supporting the aspirations of a culturally strong people where to be kaitiaki is</p>

	<p>inherent in their culture.</p> <p>The objective achieves Section 8 as it supports the principles of the Treaty</p> <p>The objective is also consistent with the requirements of the Waikato Regional Policy Statement(WRPS) Objective 3.9 Relationship of Tangata whenua by supporting Tangata whenua's relationship to the environment through policies relating to local authority processes and marae and papakainga development</p> <p>This objective aligns the Proposed District Plan with the Waikato-Tainui Environmental Management Plan.</p> <p>The objective is considered the most appropriate way to achieve the Purpose of the Act.</p>
<p>2.16 Objective-Tikanga aa-iwi o te Takiwaa o Waikato Recognise the cultural significance of Waikato Takiwaa (district)</p>	<p>This achieves Section 5(2) of the Act in that it enables people and communities to provide for their social, economic and cultural well-being.</p> <p>The objective achieves Section 6 (e) by recognising the relationship of Maaori and their culture and traditions with their ancestral lands</p> <p>The objective achieves Section 7 (a) kaitiakitanga, by recognising the cultural significance of kaitiaki and the application of this across the district.</p> <p>The objective achieves Section 8 as it supports the principles of the Treaty.</p> <p>The objective is also consistent with the requirements of the Waikato Regional Policy Statement (WRPS) Objective 3.9 Relationship of Tangata whenua by supporting Tangata whenua's relationship to the environment.</p> <p>This strategic objective aligns the Proposed District Plan with the Waikato-Tainui Environmental Management Plan.</p> <p>The objective is considered the most appropriate way to achieve the Purpose of the Act.</p>

## 5 EVALUATION OF PROPOSED POLICIES, RULES AND METHODS

Section 32 (1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions. The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must if practicable quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

### 5.1 Identification of Reasonably Practicable Options – for Achieving Objectives

The following assessment (Table 7) consists of an examination of all reasonably practicable options for achieving Objectives. This high-level screening process considers the effectiveness of each option. Only those options considered to be reasonably practicable will be evaluated in this section.

The options broadly considered for the development of Maaori Land comprised of the following;

- Do nothing (remove all policies and associated methods including rules);
- Status quo;
- Expanding activities for Maaori freehold land and opportunities for Papakaainga across the district. This option does not include a Paa zone within the Plan. It clearly recognises the relationship Tangata whenua have with land and the environment.
- Development of Maaori Freehold anywhere in the district is permitted.
- Non-regulatory

The options for all four objectives have been assessed together as the objectives work together as a package.

Table 7 Reasonably Practicable Options for Achieving Objective

Objective	<p>2.12 Whakapapa (connection to nature) Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.</p> <p>2.13 Objective-Whenuatanga (land management) Tangata whenua have the ability to utilise, manage and enjoy their traditional resources in accordance with tikanga Maori, including matauranga Maori maintaining their relationship to ancestral land.</p> <p>2.14 Objective –Kaitiaki (steward / guardian) The role of Tangata Whenua as kaitiaki is recognised and maintained.</p> <p>2.15 Objective Waikatotanga (way of life) Cultural practices and beliefs of Tangata Whenua are respected.</p> <p>2.16 Objective-Tikanga aa-iwi o te Takiwaa o Waikato Recognise the cultural significance of Waikato Takiwaa (district)</p>				
Options Approach to achieve objective	Description (brief) Describe the option and acknowledge the source of this option (if there is one e.g. feedback from consultation, suggestions from workshops with elected members etc).	Relevance How effective provisions are in achieving the objective(s).	Feasibility Within council's powers, responsibilities and resources, degree of risk and uncertainty of achieving objectives, ability to implement, monitor and enforce.	Acceptability Level of equity and fair distribution of impacts, level of community acceptance.  Where possible identify at a broad level social, economic, environmental, cultural effects.	Recommendation Discard or evaluate further (with brief explanation).
Option 1 - Do nothing (remove all policies and associated methods)	No district plan policies and provisions to support the objective	This approach will not achieve the objective through the district plan.	The RMA requires via Section 5 & 6 to recognise and provide for the relationship of	The 'do nothing' approach will mean no recognition of Tangata whenua's relationship to land	Discard  This option would not achieve the objectives and in

	<p>No Provisions for Papakainga or Marae complexes</p>		<p>Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. Section 8 requires the principles of the Treaty of Waitangi are taken into account.</p> <p>This devolves to the Regional Policy Statement. The RPS has a number of objectives and policies which require the relationship of Tangata whenua with the environment to be recognised and provided for, This approach would not achieve the RPS objectives and policies.</p>	<p>resulting in a continued cost to economic, social, environmental and cultural wellbeing of Tangata whenua. Tangata whenua would not be able to provide for their wellbeing. This approach does not recognise the importance of the marae and papakainga in Maori culture and their relationship with these sites.</p>	<p>addition does not give effect to the requirements of the RMA, RPS, NZCPS and Tainui Environmental Management Plan.</p>
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			<p>In addition to this the New Zealand Coastal Policy Statement requires plans to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter alia).</p> <p>This option would not support the objective to give effect to the RMA or higher order planning documents</p> <p>This option would not recognise the Tainui Environmental Management Plan.</p>		
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<p>Option 2 - Status quo (retain existing policies)</p>	<p>There are policies and limited methods in both Section of the Operative District Plan which provide for limited opportunities for development on Maaori Freehold land in the rural and coastal zones for papakaainga housing.</p> <p>There is a dedicated Paa zone within the Waikato Section, but with some restraints on land use.</p> <p>The Franklin Section accommodates papakaainga housing on Maaori Freehold Land but with a restrictive distance for such development to be within a 1 kilometre of a marae, or in lieu of this there is a requirement for the written approval of the relevant marae</p>	<p>This is an ineffective method to achieve the objective.</p> <p>There are limited methods with both plans. These only partially give effect to the objectives as they allow for papakaainga housing in limited zones only.</p> <p>Some of these are based only around involvement in processes such as plan changes and resource consent applications.</p>	<p>The RMA requires via Section 5 &amp; 6 to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. This devolves to the RPS.</p> <p>The RPS has a number of objectives and policies which require the relationship of tāngata whenua with the environment to be recognised and provided for. Policy 6 of the RPS requires recognition of the historical, cultural and social importance of</p>	<p>Inconsistent with council's strategic approach to create one plan.</p> <p>The restrictive nature of this option would inhibit the economic, social, environmental and cultural wellbeing of Tangata whenua.</p> <p>There would be a continuing lack of recognition of Maori land and the ability to develop in accordance with tikanga Maaori, including matauranga Maaori.</p> <p>The feedback from iwi is there is a general inability to utilise Maaori land and a need for whanau housing</p>	<p>Retain for further evaluation</p> <p>This option would not support the objectives to meet the requirements of the RMA, RPS, NZCPS and Waikato/Tainui Environmental Plan</p>
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	<p>committee. However the committee members may not be shareholders of the land and do not have jurisdiction over this matter.</p>		<p>marae and papakaainga and to provide for their ongoing use and development. This approach partially gives effect to the RPS objectives and policies.</p> <p>In addition to this the New Zealand Coastal Policy Statement requires plans to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter alia).</p> <p>This option would not support the objective or achieve higher legislation, nor give effect to the NZCPS or RPS.</p> <p>This option would</p>		
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			<p>not recognise the Tainui Environmental Management Plan</p> <p>There would be a high risk and uncertainty to achieving the objective and does not acknowledge our JMA requirements.</p>		
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<p>Option 3 - Expanding activities for Maori freehold land and opportunities for Papakainga across the district.</p> <p>Do not include a Paa Zone within the Plan.</p> <p>Clearly recognise the relationship Tangata whenua have with land and the environment by providing for the utilisation of Maori Freehold land</p>	<p>Provide for papakainga housing and marae complexes within the Rural, residential and business zone.</p>	<p>The objectives would be fully supported by having provisions / methods that specifically address the aspirations of iwi. This option provides for Tangata whenua to effectively to sustainably manage their land.</p> <p>This will provide for clear and specific iwi needs and aspirations for Maaori Freehold land. This option will recognise the special relationship of Tangata whenua to their land.</p> <p>This provides for clearer direction for a plan user to implement.</p>	<p>The RMA requires via Section 5 &amp; 6 to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. This devolves to the RPS.</p> <p>This option is highly effective at achieving Policy 6 of the RPS requires recognition of the historical, cultural and social importance of marae and papakainga and to provide for their ongoing use and development.</p> <p>In addition to this the New Zealand Coastal Policy</p>	<p>Targeted provisions provide for certainty of development for Tangata whenua on Maori land. This enables the overall wellbeing of Tangata whenua by acknowledging the Maori view and matauranga and tikanga while providing the ability for development to occur outside zones where they are provided for (ie residential development in the rural areas).</p> <p>Should this occur these areas are likely to be small as there is only approximately 5% of land in the district that is either Maori Freehold Land or Maaori Customary land some of which is not suitable for development due to constraints such as</p>	<p>Retain for further evaluation</p> <p>This option would best support the objectives as it ensures council meets the requirement of higher level legislation and plans.</p>
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			<p>Statement requires plans to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter alia).</p> <p>This option would recognise the Tainui Environmental Management Plan</p> <p>This is also in line with the goals of Future Proof in respect of papakaainga</p> <p>This would recognise the Joint Management Agreement and Memorandums of Understanding between Council and iwi.</p> <p>This option would</p>	<p>topography, being land locked, being located in sensitive landscapes or containing large areas of significant natural areas which are subject to other provisions. Therefore the impacts on the rural areas will be minor in comparison of the benefits to Maaori wellbeing.</p>	
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			support the objective achieve higher legislation and give effect to the NZCPS and RPS.		
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<p>Option 4</p> <p>Development of Maaori Freehold anywhere in the district is permitted with no constraints on size, scale or location.</p>	<p>This provision would effectively allow any type of development by Maaori anywhere in the district with no restrictions.</p>	<p>This option would achieve the objective but not the purpose of the Act.</p>	<p>While this would be enabling for Maaori it does not take into consideration the duty of care under the RMA to sustainably manage the resources and effects. While this would give effect to s5, 6 &amp; 7 in terms of enabling Maaori to meet their economic, social and cultural needs it does not meet the purpose of Part 2 of the Act.</p> <p>Partially supports the RPS and the NZCPS</p>	<p>This option would provide for the Maaori community by highly enabling the use of their land but does not take into account the significant adverse effects on the wider community or Council's ability to manage these effects.</p>	<p>Retain for further evaluation</p> <p>This option would not support the objectives to meet the requirements of the RMA, however would partially support the RPS, NZCPS and Waikato/Tainui Environmental Plan</p>
<p>Option 5</p> <p>Non-regulatory</p>	<p>Reliance on Joint Management Agreement's, the provisions of the Waikato Agencies Papakainga Forum, the Te Ture Whenua Act 1993 (Maori Reservations), rates relief.</p>	<p>Highly enabling for Maaori.</p>	<p>No district plan provisions so there would be a reliance on other legislations such as Building Act, Health Act, Central government directives, and any requirements under the Maaori land</p>	<p>There would be no district plan provisions which could potentially create tension between parties such as Council, community and Maaori land owners.</p>	<p>Discard</p> <p>This option would not achieve the objectives and in addition does not give effect to the requirements of the RMA, RPS, NZCPS and Tainui Environmental</p>

	No district plan provisions.		court.		Management Plan.
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The following table documents the options for protecting sites of Maaori cultural significance.

The options broadly considered for the development for protecting sites of Maaori cultural significance

- Do nothing (remove all policies and associated methods including rules);
- Status quo;
- A comprehensive framework of provisions that identifies and protects all sites of significance to Maaori, including waahi tapu; and surroundings associated with the natural and physical resources.
- Recognise areas and sites of significance to Maaori, but no protection provided
- Non regulatory approach
- Include provisions within the District Plan that consider and reflect Maaori values

Objective(s)	<p>2.12 Whakapapa (connection to nature) Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.</p> <p>2.13 Objective-Whenuatanga (land management) 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.</p> <p>2.14 Objective –Kaitiaki (steward / guardian) The role of Tangata Whenua as kaitiaki is recognised and maintained.</p> <p>2.15 Objective Waikatotanga (way of life) Cultural practices and beliefs of Tangata Whenua are respected.</p> <p>2.16 Objective-Tikanga aa-iwi o te takiwaa o Waikato Recognise the cultural significance of Waikato Takiwaa (district)</p>				
Options Approach to achieve objective(s)	Description (brief) Describe the option and acknowledge the source of this option (if there is one e.g. feedback from consultation, suggestions from workshops with elected members etc).	Relevance How effective provisions are in achieving the objective(s).	Feasibility Within council's powers, responsibilities and resources, degree of risk and uncertainty of achieving objectives, ability to implement, monitor and enforce.	Acceptability Level of equity and fair distribution of impacts, level of community acceptance.  Where possible identify at a broad level social, economic, environmental, cultural effects.	Recommendation Discard or evaluate further (with brief explanation).
Option 1 - Do nothing (remove all policies and	No district plan policies and provisions to support	This approach will not achieve the objective through	The RMA requires via Section 5(2) of the Act in that it enables people and	The 'do nothing' approach will mean no recognition of Tangata whenua's	<b>Discard</b> This option would not achieve the

associated methods)	<p>the objective</p> <p>No provisions to recognise and protect Maaori sites of significance and Maaori Areas of significance</p>	<p>the district plan.</p>	<p>communities to provide for their social, economic and cultural well-being.</p> <p>As well section 6 requires recognition and provision for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. Section 8 requires the principles of the Treaty of Waitangi are taken into account.</p> <p>This devolves to the Regional Policy Statement. The RPS has a number of objectives and policies which require the relationship of Tangata whenua</p>	<p>relationship to land resulting in a continued cost to economic, social, environmental and cultural wellbeing of Tangata whenua.</p> <p>This approach does not recognise the importance of kaitiakitanga in Maaori culture and their relationship with these sites.</p>	<p>objectives and in addition does not give effect to the requirements of the RMA, RPS, NZCPS and Tainui Environmental Management Plan</p>
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			<p>with the environment to be recognised and provided for, This approach would not achieve the RPS objectives and policies.</p> <p>In addition to this the New Zealand Coastal Policy Statement requires plans to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter alia).</p> <p>This option would not support the objective to give effect to the RMA or higher order planning documents</p> <p>This option would not recognise the</p>		
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			Tainui Environmental Management Plan.		
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<p>Option 2 - Status quo (retain existing policies)</p>	<p>Both Plans use a holistic cultural approach to resource management.</p> <p>The Waikato plan embodies Tangata whenua's interests throughout the plan. However, Chapter 11 social Cultural and Economic Wellbeing, has specific objectives and policies to recognise the special role that Maori have.</p> <p>Franklin Plan has the similar approach through chapter 4 where it acknowledges Tino rangatiratanga and kaitiaki and aims to ensure the plans objectives and policies reflect Tangata whenua perspectives on sustainable</p>	<p>This is an ineffective method to achieve the objective.</p> <p>This option only partially achieves the objective i.e the plans have recognised the Waikato Tainui River settlement sites.</p> <p>Some of these are based only around involvement in processes such as plan changes and resource consent applications</p>	<p>The RMA requires via Section 5 &amp; 6 shall recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. Section 8 requires the principles of the Treaty of Waitangi are taken into account.</p> <p>This devolves to the Regional Policy Statement. The RPS has a number of objectives and policies which require the relationship of Tangata whenua with the environment to be recognised and provided for, policy</p>	<p>Inconsistent with council's strategic approach to create one plan.</p> <p>This approach will mean no recognition of Tangata whenua's relationship to land and the role of kaitiaki.</p> <p>The restrictive nature of this option would inhibit the economic, social, environmental and cultural wellbeing of Tangata whenua.</p> <p>The feedback from iwi is there is concern with the ongoing destruction to sites and areas of cultural significance</p>	<p><b>Retain for further evaluation</b></p> <p>This option would not support the objectives to meet the requirements of the RMA, RPS, NZCPS and Waikato/Tainui Environmental Plan</p>
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	<p>management.</p> <p>Both Plans identify sites of significance from the Waikato-Tainui Claims (Waikato River) Settlement Act 2101 on planning maps, however neither plan affords protection via a rule framework.</p>		<p>10.2 requires recognition and provision for the relationship of Tangata whenua and their culture and traditions with their ancestral lands wahi tapu and other taonga</p> <p>In addition to this the New Zealand Coastal Policy Statement requires plans to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter alia).</p> <p>This option would not support the objective to give effect to higher legislation.</p> <p>This option would</p>		
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			<p>not recognise the Tainui Environmental Management Plan</p> <p>There would be a high risk and uncertainty to achieving the objective and does not acknowledge our JMA requirements.</p>		
<p>Option 3 – A comprehensive framework of provisions that identifies and protects all sites of significance to Maaori, including waahi tapu; and surroundings associated with the natural and physical resources.</p>	<p>This approach provides for recognition and protection of sites and areas of significance by Recognising the relationship Tangata whenua have with land and the environment.</p>	<p>The objectives would be fully supported by having provisions / methods that specifically address the aspirations of iwi. This option provides for Tangata whenua to effectively be involved with the decision-making process on matters relation to iwi</p> <p>This option will recognise the special relationship</p>	<p>This option would give effect to the RMA which requires via Section 5 &amp; 6 to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. This devolves to the RPS.</p>	<p>This approach is effective at recognising and protecting the cultural identity of the District.</p> <p>While development opportunities may be constrained for individuals where those features and sites are located, this approach is likely to have a community benefit in terms of preserving cultural sites of significance.</p>	<p><b>Retain for further evaluation</b></p> <p>This option would best support the objectives as it ensures council meets the requirement of higher level legislation and plans.</p>

		<p>of Tangata whenua to their land.</p> <p>This provides for clearer direction for a plan user to implement.</p>	<p>This option would support the RPS which requires recognition of the relationship Tangata whenua has with the land and to protect, maintain or enhance cultural heritage.</p> <p>This option would support the New Zealand Coastal Policy State also requires district plans to give effect to the NZCPS where plans need to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter alia).</p> <p>This option would recognise the Tainui Environmental Management Plan</p>		
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<p><b>Option 4</b></p> <p>Recognise areas and sites of significance to Maaori, but no protection provided</p>	<p>This approach involves the recognition only of identified features and sites of significance to Maaori in the district plan (scheduled and on the district plan maps), but provides no protection.</p>	<p>This approach only partially achieves the objective, i.e. “recognised”.</p> <p>The objective would rely solely on the property owner to give effect to it. There would be no requirement for land owners to protect a site of significance to Maaori on their property, or manage the effects of any alterations or development on the site or on the surrounding area.</p>	<p>This option would not achieve Section 6(f) of the RMA which requires <i>protection</i> of historic heritage as a matter of national importance. It would only partially achieve Section 6(e) of the RMA.</p> <p>This approach would also only partially give effect to the RPS and NZCPS insofar as it “identifies” areas of significance to Maaori, This approach does not provide any protection.</p> <p>There would be a high degree of risk to achieving the objective. This approach has potential to lead to the loss of sites of significance to</p>	<p>This approach provides landowners with a great deal of flexibility with regards to development or destruction of sites of significance to Maaori. However it is likely to result in the loss of sites of cultural significance. This may negatively impact on the District’s cultural identity, and that of Maaori.</p> <p>The acceptability to the community will be varied – some landowners will appreciate the flexibility and development opportunities while Maaori will be concerned at the loss of cultural sites.</p>	<p><b>Discard</b></p> <p>This option does not achieve Section 6(f) of the RMA and only partially gives effect to the RPS and NZCPS in terms of “identification” of sites of significance to Maaori. It will not result in protection or retention of sites of significance to Maaori as required by the higher order planning documents.</p>
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			Maaori within the district.		
Option 5 Non regulatory approach	This option would look at using other methods, such as the heritage fund, rates relief, and education. While these are essentially methods outside the district plan, the district plan may recognise their contribution to achieving the objective through policies.	<p>An ineffective way to meet the objectives.</p> <p>This approach is more of a carrot than stick, meaning there is encouragement to protecting sites of significance to Maaori rather than consequences of damage or destruction.</p> <p>The objective would rely solely on the property owner to give effect to it. There would be no requirement for land owners to protect a site on their property, or manage the effects of any alterations or development on the site or on the surrounding area.</p>	<p>This approach only encourages protection rather than requiring it. It is therefore only partially effective in achieving the requirements of the RMA and giving effect to the RPS and NZCPS.</p> <p>There would be a high degree of risk and uncertainty to achieving the objective. This approach has potential to lead to the loss of areas of significance to Maaori within the district.</p>	<p>This option relies on encouragement (including financial) rather than requirement for protection. It is likely to lead to continuing loss of sites of significance to Maaori.</p> <p>The community and in particular Maaori will likely express concerns regarding the loss of these.</p> <p>There is potential for some who would take advantage of no policies and methods, while others make an effort.</p> <p>The non-regulatory option would mean the plan is not providing for the social, economic, environmental and cultural well-being of its communities.</p>	<p><b>Discard</b></p> <p>This option would not fully support the objective. In addition, it would not give effect to the RPS or the NZCPS, and would not fulfil the requirements of Section 6(f) of the RMA.</p>

<p>Include provisions within the District Plan that consider and reflect Maaori values</p>	<p>This option would involve including provisions require consideration of Maaori values. This could include:</p> <ul style="list-style-type: none"> <li>* Cultural value assessments and/or cultural impact assessments</li> <li>* Use of traditional place names</li> <li>* Protection, enhancement and restoration of mauri</li> <li>* Use of appropriate plant species</li> <li>* Use of archaeological information</li> <li>* Incorporation of traditional or sympathetic design elements.</li> </ul>	<p>The objectives would be supported by having provisions that speak to Maaori relationships. This option would provide for certainty and clarity in identification of the Maaori world view when development occurs</p>	<p>The RMA requires via Section 5 &amp; 6 shall recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and Section 7 (a) kaitiakitanga. This devolves to the RPS.</p> <p>In addition to this the New Zealand Coastal Policy State also requires district plans to give effect to the NZCPS where plans need to take into account the role of kaitiaki by recognising the relationship of Tangata whenua over the lands, rohe and resources (inter</p>	<p>The acceptability of this will be varied as development opportunities will need to consider the Maaori world view.</p> <p>However, enhancing awareness and understanding will assist in recognising and retaining Maaori values</p> <p>This approach will recognise the cultural identity of Tangata whenua across the District and give the opportunity for iwi to be involved in the Resource Management Act process.</p>	<p><b>Retain for further evaluation.</b></p> <p>This option would support the objectives to meet the requirements of the RMA, RPS, NZCPS and Waikato/Tainui Environmental Plan</p>
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			<p>alia).</p> <p>The RPS has a number of objectives and policies which require the relationship of Tangata whenua with the environment to be recognised and provided for.</p> <p>This option would recognise the Tainui Environmental Management Plan</p> <p>This would recognise the Joint Management Agreement and Memorandums of Understanding between Council and iwi.</p> <p>This option would support the objective achieve higher legislation,</p>		
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			and give effect to the NZCPS and RPS.		
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## 5.2 Evaluation of Selected Options

This section contains an evaluation of those options identified above for further evaluation. The short list of options has been developed further to include (where relevant) policies, rules and methods. In some instances, provisions have been bundled where they are expected to work together to achieve the objective(s). For efficiency, this second-tier evaluation focuses on the approach and the policies and rules which implement that approach as a package, rather than a detailed analysis of every policy and every rule. The following table provides a summary of the evaluation results.

There are two separate issues which are addressed in this section;

1. The management of Maaori Freehold and Customary Land
2. The protection of Maaori Areas of Significance and Maaori Sites of Significance

While these matters are inextricably linked in terms of matauranga Maaori, these matters are addressed separately in the PDP.

## 5.3 Objectives

2.12 Objective-Whakapapa (connection to nature)

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

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.

2.14 Objective –Kaitiaki (steward / guardian)

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

2.15 Objective Waikatotanga (way of life)

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

2.16 Objective-Tikanga aa-iwi o te Takiwaa o Waikato

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

Policies:

- 2.12.1 Policy- Whanaungatanga (relationship to nature)
- 2.13.1 Policy Tangata Whenuatanga (utilisation by landowners)
- 2.14.1 Policy- Kaitiakitanga (stewardship / guardianship)
- 2.15.1 Policy- Ngaa taonga tuku iho (Maaori Sites and Areas of Significance)
- 2.16.1 Policy- Whaanga Coast Specific Area
- 2.16.2 Policy- Aahuatanga Motuhake (special features)

**Rules:**

- Permitted Activity rules within: Residential, Business, Business Town Centre and Rural Zone with activity specific standards and effects rules
- Earthworks rules to manage Maaori sites and areas of significance (MSOS and MAOS)
- Vegetation clearance rules within Significant Natural Areas
- Subdivision rules that help protect MSOS and MAOS
- Definition clearly defining activities for Tangata whenua and by providing clear definitions for activities that are normally associated with a marae or papakainga housing will ensure there is an understanding of how Maaori live and the traditional use of land.

**5.3.1 Identification of Options**

In considering options for managing and enabling Tangata whenua a number of factors were taken into account including:

- Sections 6 (e), 7 (a) and 8 of the RMA
- Policy 2 of the NZCPS
- Waikato Regional Policy Statement
- Waikato Tainui Environmental Plan
- Maniapoto Environmental Plan
- Consultation with iwi

The above planning documents and discussions with iwi, directs the Proposed Waikato District plan to incorporate objectives, policies and rules to include the following:

- Enable the utilisation of Maaori land
- Acknowledge the effects of development on the environment

This is further supported by the feedback received through consultation with Iwi.

The option considered most appropriate for Tangata whenua:

- Expand activities for Maaori Freehold Land/Maaori Customary Land and opportunities for Marae and Papakainga across the district. Clearly recognise the relationship Tangata whenua have with land and the environment.

**Evaluation:**

This option is considered the most appropriate way to achieve the objectives and is further discussed below and then evaluated in the following table below.

The provisions recognise the aspirations of Tangata whenua to relate to ancestral lands by developing and living on the land. 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 Te Tiriti of Waitangi (Treaty of Waitangi) as well, Section 6(e) of the RMA, the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

## **Maaori Freehold Land/Maaori Customary Land**

The provisions have been developed to work in conjunction with the Maaori Land Court (MLC). The function of the MLC is to gazette activities on Maaori Freehold Land under the jurisdiction of the Te Ture Whenua Act. This Act specifies activities that can occur on Maaori Freehold Land. The provision for a Marae complex or papakaainga housing is a permitted activity providing a Concept Plan has been through the MLC. This provision supports Maaori to plan and thereby ensures the sustainable use of the land while recognising the Maaori way of life.

Through the district plan review process, it has been identified that the Paa Zone is restricted geographically to only those areas zoned on the planning maps and afforded to particular whanau who whakapapa back to that land (see Appendix 3 for analysis). After careful consideration and discussion with iwi, the recommended approach is to blend the Paa Zone into Maaori freehold land (and remove reference to Paa Zone within the district plan).

These policies and rules will give the opportunity for Tangata whenua to build Marae Complexes and papakaainga housing which can form focal points for social and cultural activities. The inclusion of a papakaainga building is for the purposes of people who may not have enough shares in a land parcel but still have the desire to return. Papakaainga buildings may be used for temporary accommodation, and will therefore incorporate facilities in support this. This will also provide the ability for non-residential activities appropriate to their traditions and customs on their land that provide some opportunity for income for whanau to sustain themselves on their land culturally and economically. The nature of Marae and Papakaainga housing will require a greater area of site coverage.

Taken into consideration is the fact that often Maaori freehold land is located in sensitive landscapes such as:

- 97 Maaori land parcels within a Significant Amenity Landscape, covering 3,500ha,
- 82 Maaori land parcels within a Natural Character area covering 6,304ha,
- 157 Maaori land parcels within an Outstanding Natural Landscape covering 13690ha.
- 353 Maaori land parcels within a significant natural areas (SNAs)

Consideration of the policies and rules have a dual function:

1. To recognise the relationship Maaori have for these areas; and
2. To allow for Maaori to develop within these areas.

Consideration was given to the fact that these areas are also matters of national importance under Section 6 of the RMA. The RMA does not afford a hierarchy to Section 6 matters however. For this reason, there will still be parameters on development of Maaori Freehold and Customary land within these features. This approach supports the higher thresholds for height, earthworks and vegetation clearance within these areas. Also taken into consideration is that there is a high percentage of MFL that is either landlocked or not accessible for development or has topographical restraints.

It is important to understand and recognise the functions of marae and papakaainga. The definitions have been inclusive of the normal activities and functions that these terms encompass to ensure these can operate as a normal activity for Maaori without the need for a RMA consenting process. It recognises the special relationship Maaori have with land whilst providing for some economic sustainability.

The policies support the intergenerational responsibility inherited at birth to care for the environment, which is passed down from generation to generation. The purpose of kaitiakitanga is not only about protecting the life supporting capacity of resources but fulfilling spiritual and the responsibility to care for the environment and ensuring the ongoing welfare of the people who are supported by those resources. It is how sustainability is achieved.

### **5.3.2 Policy, Rule and Method Evaluation**

This section assists to identify the provisions (i.e. policies, rules and methods) that are the most appropriate to achieve the objective.

The costs and benefits are quantified in Appendix 5 of this report

Table 8 Evaluation of provisions

Provisions most appropriate	Effectiveness and Efficiency	
	Benefits	Costs
<p>Policies</p> <p>2.12.1 Policy- Whanaungatanga (relationship to nature)</p> <p>2.13.1 Policy Tangata Whenuatanga (utilisation by landowners)</p> <p>2.14.1 Policy- Kaitiakitanga (stewardship / guardianship)</p> <p>2.15.1 Policy- Ngaa taonga tuku iho (Maori Sites and Areas of Significance)</p> <p>2.16.1 Policy- Whaanga Coast Specific Area</p> <p>2.16.2 Policy- Aahuatanga Motuhake (special features)</p> <p>Rules</p> <p>Permitted Activities-</p> <p>A Marae Complex or Papakaainga Housing Development on Maori Freehold Land or on Maori Customary Land.</p> <p>All building and effects rules with the exception of:</p> <p>Number of Dwellings</p> <p>Minor Dwelling</p> <p>Site coverage</p> <p>Buildings in Landscape and Natural Character areas</p> <p>Building Height</p>	<p>Environmental:</p> <p>Tangata whenua are able to apply kaitiakitanga to the environment in accordance with their tikanga and kawa</p>	<p>Environmental:</p> <p>The nature of a Marae complex and papakaainga will require a greater level of site coverage of buildings and therefore a higher allowance for SNA clearance and building in sensitive landscapes</p> <p>There may be destruction or damage to matters of national importance such as landscapes, natural character and biodiversity</p> <p>Development may be in inappropriate locations</p>
	<p>Economic:</p> <p>The package of policies and rules enables Tangata whenua some economic sustainability.</p> <p>The provisions support the development of Marae Complexes and papakaainga housing and provide for a range of activities to support the people living there. It allows for the viable use of their land.</p>	<p>Economic:</p>
	<p>Social:</p> <p>This package will provide for the social wellbeing of Tangata whenua by enabling the use of Maori land. And increases the awareness of all the Waikato districts communities in respect of the issues Tangata whenua faces.</p>	<p>Social:</p> <p>Feelings of inequity that increased development is enabled on Maori owned land</p>

<p>Signs-Maori Sites of Significance</p> <p>Earthworks - Maori Sites and Maori Areas of Significance</p> <p>Indigenous vegetation clearance inside a Significant Natural Area</p> <p>Height - Buildings in a battlefield view shaft</p> <p>Subdivision of Maori Freehold Land</p> <p>Title boundaries – Significant Natural Areas, heritage items, Maori sites of significance and Maori areas of significance</p> <p>Specific Area – Whaanga Coast Development Area</p>	<p>Cultural:</p> <p>This package of policies and rules ensure there is genuine involvement of Tangata whenua through RMA processes and empower Tangata whenua to manage their traditional resources in a customary manner that is of their choice. This package makes a real contribution to the exercise of kaitiakitanga.</p> <p>The policies and rules enable them to develop their land in accordance with their cultural aspirations and preferences. Maori wish to redevelop their own sense of place on their own lands for the cultural wellbeing of their whanau.</p> <p>The package aligns with iwi management plans.</p>	<p>Cultural: NIL</p>
<p><b>Opportunities for economic growth and employment</b></p>		
<p>The package acknowledges the desire of Tangata whenua to return to their land while providing for economic sustainability through traditional use that will help to support the people who live there. The Paa zone is restricted geographically to only those areas zoned on the planning maps and only represents iwi who whakapapa back to that land. By not zoning Maori Freehold Land (MFL) provides for the flexibility as to where MFL can be developed. The rules for MFL enable economic sustainability of that land and appropriately achieve section 6(e), Section 7 and Section 8 of the RMA and therefore Part 2 of the Act.</p>		
<p><b>Options less or not as appropriate to achieve the objective</b></p>		
<p>The options for managing this issue are set out in full and considered in Section 5.1 of this report.</p> <p>Option 2: Status quo This option retains two sections of the plan;</p>		

Waikato section

Primarily Objective; 11.4.1 and policies 11.4.2,11.4.3,11.4.3A, and 11.4.4

Franklin section: Objective 8.1.1 and Policy 1. Objective Information 8.1.2 and Policy 1

Appropriateness:

The policies within both plans are not an efficient way to address the issues of Tangata whenua. This option does not integrate the two plans into one district wide plan. Both sections are restrictive in nature and inhibit Tangata whenua from providing for their economic, social, environmental wellbeing. There would be a continuing lack of recognition of Maaori values and the ability to develop in accordance with tikanga Maaori including matauranga Maaori.

Option 4: Development of Maaori Freehold/Maaori Customary Land anywhere in the district

This would effectively allow any type of development by Maaori anywhere in the district with no restrictions.

Appropriateness:

Although this option would achieve the objective it would not achieve the purpose of the Act. This option would not take into consideration the duty of care under the RMA to sustainably manage resources and the effects of development. While this would give effect to sections 5, 6, 7 & 8 it does not meet the purpose of the Act. This option would provide for Maaori communities by highly enabling the use of their land, however there is potential for there to be adverse effects on the wider community or Councils ability to manage these effects. Therefore, this option would not support the Objectives to meet the requirements of the RMA.

**Risk of acting or not acting**

Uncertainty or insufficiency of information:

There has been substantial consultation undertaken with Tangata whenua and the feedback received has clearly identified the issues faced by Tangata whenua. There has been little uptake for development on Maaori freehold land potentially due to the constraints of legacy plans.

Risk of acting or not acting:

The risk of not acting will result in the continuing of Tangata whenua not been able to utilise their land in accordance with their customs and traditions,

**Efficiency and effectiveness**

The proposed provisions will be both effective and efficient means of achieving the utilisation of Maaori Freehold Land by Tangata whenua thereby uphold the RMA and subsequently give effect to the RPS.

### 5.3.3 Policy, Rule and Method Evaluation

This section assists to identify the provisions (i.e. policies, rules and methods) that are the most appropriate to achieve the objective with regards to protection of Maaori sites and areas of significance.

The option considered most appropriate for Tangata whenua:

A comprehensive framework of provisions that protects all sites of significance to Maaori, including waahi tapu; and surroundings associated with the natural and physical resources.

#### Recognition of the significance of Paa/Kainga Archaeological sites

Although the majority of the New Zealand Archaeological sites are Maaori sites, it is difficult for iwi and hapuu to attribute their cultural value to these sites. The reasons are mainly alienation from them due to land confiscation for European settlement. These sites and taonga are now mostly in private ownership and Maaori do not have access to them.

The lack of understanding and awareness of cultural heritage has led to the destruction of many sites across the district along with their values and relationship of Tangata whenua with them. After consultation with iwi and hapuu, Council recognised the issues faced by most of the hapuu groups and iwi and recommend managing the importance on the preservation and recognition of the archaeological Paa sites through the district plan. The protection and recognition of Maaori Sites and Areas of significance through the PDP ensures Manu whenua have the opportunity to be involved with the consenting process when these sites are affected.

The PDP has incorporated into the planning maps the New Zealand Archaeological Associations (NZAA) data set. Paa are a symbol of 'tohu' of 'mana'. It is important to note that a Paa site is not just a dot on the map but can include an area of several acres of trenches, house floors, pits terraces and middens. Paa sites are sometimes damaged beyond recognition by earthworks.

Initially consideration was given to a 100m buffer around all sites. However due to the number of sites, it was considered to be potentially onerous for current property owners. The approach the PDP has taken has recognised through consultation with iwi that it is that Paa sites that are considered to be of significance. Initially a 100m buffer was considered around these Paa sites. However, it was identified that this was not an accurate way to protect a site which may be larger or smaller than that buffer. An iwi archaeologist/anthropologist was engaged to provide council with a methodology to delineate on the planning maps areas around an identified site that are to be considered when undertaking earthworks in close vicinity to these sites.

Also taken into consideration is the role of the Heritage New Zealand Pouhere Taonga Act (HNZPT) which is administered by Heritage New Zealand. The initial

rule framework was to require an archaeological assessment; however as third-party approval is ultra vires under the RMA this was discarded as an option. Feedback from Heritage New Zealand indicated that they did not consider it appropriate that the district plan rule framework duplicated their own requirement. Further to this is the consideration that HNZPT is more concerned with the science of archaeology in relation to the identified site rather than the story behind the site. In this regard, the protection of archaeological sites has been incorporated into the Tangata whenua chapter as opposed to the Historic Heritage chapter. This meant that through the earthworks provision where earthworks are undertaken within a site, the activity is afforded a restrictive discretionary activity status where the effects on cultural values can be considered. This gives the opportunity for Tangata whenua to be involved in the decision-making process on matters that are important to them.

The matters of discretion will provide for the opportunity for Tangata whenua to be involved in an RMA process on land that is not owned by them. This will ensure that their relationship to land is acknowledge and sites and areas of significance are appropriately managed.

Table 9

Provisions most appropriate	Effectiveness and Efficiency	
	Benefits	Costs
Policies 2.12.1 Policy- Whanaungatanga (relationship to nature) 2.13.1 Policy Tangata Whenuatanga (utilisation by landowners) 2.14.1 Policy- Kaitiakitanga (stewardship / guardianship) 2.15.1 Policy- Ngaa taonga tuku iho (Maori Sites and Areas of Significance) 2.16.1 Policy- Whaanga Coast Specific Area 2.16.2 Policy- Aahuatanga Motuhake (special features)	Environmental: Tangata whenua are able to apply kaitiakitanga to the environment in accordance with their tikanga and kawa	Environmental:
	Economic:	Economic: The requirement to consult with Manu whenua when managing sites and areas may impose an added cost to development on properties where these occur.  Will constrain development of sites
	Social: Increases the awareness of all the Waikato districts communities in respect of the issues Tangata whenua faces.	Social: May create tension between landowners and Maaori  Landowners may not realise the significance of the site
	Increased public awareness about the significance of heritage items and Maaori Sites of Significance	Sites may be wilfully destroyed
Rules  All building and effects rules with the exception of: Buildings in Landscape and Natural Character areas Building Height	Cultural: This package of policies and rules ensure there is genuine involvement of Tangata whenua through RMA processes and empower Tangata whenua to manage their traditional resources in a customary manner that is of their choice. This package makes a real contribution to the exercise of kaitiakitanga.	Cultural: May create tension between landowners and Maaori
Signs-MSOS  Earthworks - Maaori Sites and Maaori Areas of Significance  Indigenous vegetation clearance inside a Significant Natural Area		

<p>Height - Buildings in a battlefield view shaft Title boundaries – Significant Natural Areas, heritage items, Maaori sites of significance and Maaori areas of significance</p>	<p>Recognises and protects areas of cultural significance</p> <p>Increases the prominence and knowledge of cultural history</p>	
<p><b>Opportunities for economic growth and employment</b></p>		
<p>The protection of Maaori sites and areas of significance will not result in any additional economic growth or employment.</p>		
<p><b>Options less or not as appropriate to achieve the objective</b></p>		
<p>Option 2 - Status quo (retain existing policies)</p> <p>This option retains two sections of the plan; Waikato section Primarily Objective; 11.4.1 and policies 11.4.2, 11.4.3, 11.4.3A, and 11.4.4 Franklin section: Objective 8.1.1 and Policy I. Objective Information 8.1.2 and Policy I</p> <p>Appropriateness: The policies within both plans are not an efficient way to address the issues of Tangata whenua. Some policies are only for informational purposes and therefore are not afforded a rule framework. This has resulted in the ongoing destruction of sites and areas of significance.</p> <p>This option does not integrate the two plans into on district wide plan. Both sections do not have provisions that protect Maaori sites and areas of significance. There would be a continuing lack of protection. This approach will mean no recognition of Tangata whenua’s relationship to land and the role of kaitiaki.</p>		
<p>Option 6</p> <p>Include provisions within the District Plan that consider and reflect Maaori values. This will require every development in the district to consider the provisions and there for is not as an efficient way to address the objective as the preferred option</p>		
<p><b>Risk of acting or not acting</b></p>		
<p>Uncertainty or insufficiency of information: There has been substantial consultation undertaken with Tangata whenua and the feedback received has clearly identified the issues faced by Tangata</p>		

whenua. They expressed concern at the lack of protection and potential for damage to cultural significant sites.

Risk of acting or not acting:

The risk of not acting is the continued destruction and damage of Maaori sites and areas of significance (archaeological sites)

Efficiency and effectiveness

The proposed provisions will be both effective and efficient means of protecting for Maaori sites and areas of significance and thereby uphold the RMA and subsequently give effect to the RPS. By identifying the Paa site and the surrounding area on the planning maps has enabled an effective way of applying the provisions to the appropriate area.

## 6 CONCLUSION

After undertaking an evaluation as required by Section 32 of the RMA, the Objectives 2.11 to 2.16 are considered the most appropriate way to achieve the Purpose of the RMA (Section 5) for addressing Tangata whenua matters.

It is considered that the recommended policies and methods outlined above are the most appropriate way for achieving the objective, having considered:

- (i) other reasonably practicable options for achieving the objective; and
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objective.

## APPENDIX I PROVISION CASCADE

Issue to be addressed	Objective	Policies	Rules	Assessment Criteria
<p>Inappropriate Development The relationship of Maaori with their culture and traditions and with their ancestral lands, water, waahi tapu and other taonga may be destroyed or compromised through inappropriate development.</p> <p>Inability to utilise resources The inability for Tangata Whenua to access, utilise, manage and enjoy their traditional resources diminishes their relationship with their ancestral lands, water, sites, waahi tapu and other taonga.</p>	<p>2.12 Whakapapa (connection to nature) a) Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.</p> <p>2.13 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.</p> <p>2.14 Kaitiaki (steward/guardian) a) The role of Tangata Whenua as kaitiaki is recognised and maintained.</p> <p>2.15 Waikatotanga (way of life) a) Cultural practices and beliefs of Tangata Whenua are respected.</p> <p>2.16 Tikanga aa-iwi o te Takiwaa o Waikato a) Recognise the cultural significance of Waikato Takiwaa (district)</p>	<p>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.</p> <p>2.1.3.1 Tangata Whenuatanga (utilisation by landowners) Tangata Whenua are enabled to sustainably manage their lands and resources in accordance with their cultural preferences and aspirations. a) Tangata whenua are enabled to sustainably use and develop ancestral land, including; marae complexes and associated facilities, and papakaainga housing development according to customs and practices. b) Economic development supports the occupation, development and use of Maaori land.</p> <p>2.14.1 Kaitiakitanga (stewardship / guardianship) (i) 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: A. Establishing who should be consulted B. Establishing formal arrangements such as joint management agreements or memoranda of understanding C. Tangata Whenua involvement with consent processes and representation on hearings D. Support the creation of iwi and hapuu management plans E. The exercise of kaitiakitanga or stewardship</p> <p>2.15.1 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.</p>	<p>Rules</p> <p>Residential Zone P2 A Marae Complex or Papakaainga Housing Development on Maaori Freehold Land or on Maaori Customary Land. (a) The total building coverage does not exceed 50%; (b) Where the land is vested in trustees whose authority is defined in a Trust Order and/or a Maaori Incorporation, the following is provided to Council with the associated building consent application: (i) A Concept Management Plan approved by the Māori Land Court and (ii) A Licence to Occupy; (c) Where a Trust Order or Maaori Incorporation does not exist, one of the following instruments is provided to Council at the time of lodgement of the application for building consent: (i) A Concept Management Plan approved by the Māori Land Court; (ii) A lease, or an Occupation Order of the Māori Land Court; (d) The following Land Use – Effects rules in Rule 16.3 do not apply: (i) Rule 16.3.1 (Dwelling); (ii) Rule 16.3.2 (Minor dwellings); Rule 16.3.6 (Building Coverage).</p> <p>Business Zone P16 A Marae Complex or Papakaainga Housing Development on Maaori Freehold Land or on Maaori Customary Land. (a) Where the land is vested in trustees whose authority is defined in a Trust Order and/or a Maaori Incorporation, the following is provided to Council with the associated building consent application: (i) A Concept Management Plan approved by the Māori Land Court; and (ii) A Licence to Occupy. (b) Where a Trust Order or Maaori Incorporation does not exist, one of the following instruments is provided to Council at the time of lodgement of the building consent: (i) A Concept Management Plan approved by the Māori Land Court; and (ii) A lease, or an Occupation Order of the Māori Land Court. (c) The following Land Use – Effects rules in Rule 17.2 do not apply: (i) Rule 17.3.8 (Dwelling); (ii) Rule 17.1.4 (Multi-unit development).</p> <p>Rural Zone P1 A Marae Complex or Papakaainga Housing Development on Maaori Freehold Land or on Maaori Customary Land. (a) Land Use – Effects in Rule 22.2; (b) Land Use – Building in Rule 22.3 except: (i) Rule 22.3.1 (Number of dwellings) does not apply; (ii) Rule 22.3.2 (Minor Dwellings) does not apply; (iii) Rule 22.3.3 (Buildings and structures in landscape and natural character areas) does not apply; (iv) Rule 22.3.4 (Building Height) does not apply; (v) Rule 22.3.6 (Building Coverage) does not apply;</p>	<p>The following applies to all zones</p> <p>Earthworks Maaori sites of significance (b) Council's discretion shall be restricted to the following matters: (i) location of activity in relation to the site; (ii) effects on heritage and cultural values.</p> <p>Earthworks Maaori areas of significance (b) Council's discretion shall be restricted to the following matters: (i) location of activity in relation to the site; (j) effects on heritage and cultural values.</p> <p>Signs general RDI(b) (viii) Effects on cultural values of any Maaori Site of Significance;</p> <p>Subdivision Title boundaries-Maaori sites and Maaori areas of significance (i) Effects on sites of significance to Maaori; (ii) Effects on areas of significance to Maaori.</p>

		<p>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.</p> <p>2.16.1 Policy- Whaanga Coast Specific Area</p> <p>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.</p> <p>2.16.2 Policy- Aahuatanga Motuhake (special features)</p> <p>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).</p> <p>b) Recognise the historic and contemporary relationships of Ngaal iwi o Tainui to Kairioi, Taupiri, Hakarimata Range, Hinua, Pirongia maunga</p>	<p>(c) Building height does not exceed 7.5m in any of the following areas:</p> <ul style="list-style-type: none"> <li>(i) Outstanding Natural Landscape;</li> <li>(ii) Outstanding Natural Feature;</li> <li>(iii) Outstanding Natural Character Area of the coastal environment;</li> <li>(iv) High Natural Character Area of the coastal environment;</li> </ul> <p>(d) A Concept Management Plan is provided, with either:</p> <ul style="list-style-type: none"> <li>(i) A Licence to Occupy at the time of lodgement of the building consent application where the land is vested in trustees whose authority is defined in a Trust Order and/or a Maaori Incorporation; or</li> <li>(ii) Where a Trust Order or Maaori Incorporation does not exist, one of the following instruments is provided to Council at the time of lodgement of the building consent application: <ul style="list-style-type: none"> <li>A. A lease; or</li> <li>B. An Occupation Order of the Māori Land Court.</li> </ul> </li> </ul> <p>Village Zone</p> <p>P2 A Marae Complex or Papakainga Housing Development on Maaori Freehold Land or on Maaori Customary Land.</p> <ul style="list-style-type: none"> <li>(a) The total building coverage does not exceed 50%;</li> <li>(b) Where the land is vested in trustees whose authority is defined in a Trust Order and/or a Maaori Incorporation, the following is provided to Council with the associated building consent application: <ul style="list-style-type: none"> <li>(iii) A Concept Management Plan approved by the Māori Land Court; and</li> <li>(iv) A Licence to Occupy.</li> </ul> </li> <li>(c) Where a Trust Order or Maaori Incorporation does not exist, one of the following instruments is provided to Council at the time of lodgement of the building consent application: <ul style="list-style-type: none"> <li>(iii) A Concept Management Plan approved by the Māori Land Court; and</li> <li>(iv) A lease, or an Occupation Order of the Māori Land Court.</li> </ul> </li> <li>(d) The following Land Use – Effects rules in Rule 24.3 do not apply: <ul style="list-style-type: none"> <li>(iii) Rule 24.3.1 (Dwelling);</li> <li>(iv) Rule 24.3.2 (Minor dwellings);</li> </ul> </li> </ul> <p>Rule 24.3.5 (Building Coverage).</p> <p>P6 Cultural event on Maaori Freehold Land containing a Marae Complex</p> <p>Earthworks-Maaori Sites and Maaori Areas of Significance</p> <p>RD1</p> <ul style="list-style-type: none"> <li>(a) Earthworks within a Maaori Site of Significance as identified in Schedule 2 (Maaori Site of Significance) and shown on the planning maps.</li> </ul> <p>RD2</p> <ul style="list-style-type: none"> <li>(a) Earthworks within a Maaori area of significance as identified in Schedule 3 (Maaori Area of Significance) and shown on the planning maps.</li> </ul> <p>Signs –general</p> <p>P2 (xi) The sign is not attached to a Maaori Site of Significance listed in Schedule 2 (Maaori Sites of Significance), except for the purpose of identification and interpretation</p> <p>P4 Indigenous vegetation clearance inside a Significant Natural Area</p> <ul style="list-style-type: none"> <li>(a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule No. 5 (Urban Allotment Significant Natural Areas) where: <ul style="list-style-type: none"> <li>(ii) There is no alternative development area on the site outside the Significant</li> </ul> </li> </ul>	
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			<p>Natural Area;</p> <p>(iii) The following total areas are not exceeded:</p> <p>F. 1500m<sup>2</sup> for a Marae complex, including areas associated with access parking and manoeuvring; and</p> <p>G. 500m<sup>2</sup> per dwelling, including areas associated with access parking and manoeuvring; and</p> <p>500m<sup>2</sup> for a papakainga building including areas associated with access parking and manoeuvring.</p> <p>P5 Indigenous vegetation clearance inside a Significant Natural Area</p> <p>(a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule No. 5 (Urban Allotment Significant Natural Areas) for the following purposes:</p> <p>(i) Removing vegetation that endangers human life or existing buildings or structures; or</p> <p>(ii) Conservation fencing to exclude stock or pests; or</p> <p>(iii) Maintaining existing farm drains; or</p> <p>(iv) Maintaining existing tracks and fences; or</p> <p>Gathering plants in accordance with Maaori customs and values. On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule No. 5 (Urban Allotment Significant Natural Areas) for the following purposes</p> <p>Title boundaries-Maaori sites and Maaori areas of significance</p> <p>RDI</p> <p>(a) Subdivision of sites containing Maaori Sites of Significance and Maaori trees of Significance that includes all of the site or area within a proposed lot.</p> <p>Subdivision of Maaori Freehold Land</p> <p>D1 Subdivision for a full partition of Maaori Freehold Land under the Te Ture Whenua Maori Act 1993.</p>	
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## APPENDIX 2 - HIGHER LEVEL PLANNING DOCUMENTS AND LEGISLATION

<i>Waikato Regional Policy Statement, 2016</i>	
<i>Vision and Strategy Te Ture Whaimana o Te Awa o Waikato-Vision and Strategy for the Waikato River</i>	<i>The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the Waikato-Tainui Act) gave effect to the 2009 deed of settlement in respect of the raupatu claims of Waikato-Tainui over the Waikato River. The overarching purpose of the settlement is to restore and protect the health and wellbeing of the river for future generations.</i>
<i>Objectives for the Waikato River</i>	<p><i>a) The restoration and protection of the health and wellbeing of the Waikato River.</i></p> <p><i>b) The restoration and protection of the relationships of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships.</i></p> <p><i>c) The restoration and protection of the relationships of Waikato River Iwi according to their tikanga and kawa with the Waikato River, including their economic, social, cultural and spiritual relationships.</i></p> <p><i>d) The restoration and protection of the relationships of the Waikato Region's communities, with the Waikato River, including their economic, social, cultural and spiritual relationships.</i></p> <p><i>e) The integrated, holistic and co-ordinated approach to management of the natural, physical, cultural, and historic resources of the Waikato River.</i></p> <p><i>f) The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular, those effects that threaten serious or irreversible damage to the Waikato River.</i></p> <p><i>g) The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within the catchment on the health and wellbeing of the Waikato River.</i></p> <p><i>h) The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.</i></p> <p><i>i) The protection and enhancement of significant sites, fisheries, flora and fauna.</i></p> <p><i>j) The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing, requires the restoration and protection of the health and wellbeing of the Waikato River.</i></p>

Waikato Regional Policy Statement, 2016	
	<p>k) The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.</p> <p>L) The promotion of improved access to the Waikato River to better enable sporting, recreational, and cultural opportunities.</p> <p>m) The application to the above of both <i>maatauranga Maaori</i> and the latest available scientific methods</p>
Objective 3.9-Relationship of tāngata whenua with the environment	<p>The relationship of tāngata whenua with the environment is recognised and provided for, including:</p> <ol style="list-style-type: none"> <li>the use and enjoyment of natural and physical resources in accordance with <i>tikanga Māori</i>, including <i>mātauranga Māori</i>; and</li> <li>the role of tāngata whenua as <i>kaitiaki</i>.</li> </ol>
Policy 4.3 Tāngata whenua	Tāngata whenua are provided appropriate opportunities to express, maintain and enhance the relationship with their rohe through resource management and other local authority processes.
Policy 6.4 Marae and papakāinga	To recognise the historical, cultural and social importance of marae and papakāinga and to provide for their ongoing use and development.
Objective-3.18 Historic and cultural heritage	Sites, structures, landscapes, areas or places of historic and cultural heritage are protected, maintained or enhanced in order to retain the identity and integrity of the Waikato region's and New Zealand's history and culture.
Policy 4.3 Tāngata whenua	Tāngata whenua are provided appropriate opportunities to express, maintain and enhance the relationship with their rohe through resource management and other local authority processes.
Policy 10.1 Managing historic and cultural heritage	Provide for the collaborative, consistent and integrated management of historic and cultural heritage resources. Improve understanding, information sharing and cooperative planning to manage or protect heritage resources across the region.

New Zealand Coastal Policy Statement	
<p>Objective 3</p> <p>To take account of 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:</p>	<ul style="list-style-type: none"> <li>recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;</li> <li>promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;</li> <li>incorporating mātauranga Māori into sustainable management practices; and</li> <li>recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.</li> </ul>
<p>Policy 2:</p> <p>The Treaty of Waitangi, tangata whenua and maori</p>	<p>In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:</p> <ol style="list-style-type: none"> <li>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;</li> <li>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</li> </ol>

	<p>be early, meaningful, and as far as practicable in accordance with tikanga Māori;</p> <ul style="list-style-type: none"> <li>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;</li> <li>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 pūkenga<sup>2</sup>, may have knowledge not otherwise available;</li> <li>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 <ul style="list-style-type: none"> <li>i. where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and</li> <li>ii. consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;</li> </ul> </li> <li>f. provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as: <ul style="list-style-type: none"> <li>i. bringing cultural understanding to monitoring of natural resources;</li> <li>ii. providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;</li> <li>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;</li> </ul> </li> <li>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: <ul style="list-style-type: none"> <li>i. recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and</li> <li>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.</li> </ul> </li> </ul>
Policy 6:	1. In relation to the coastal environment:

Activities in the coastal environment	d. recognise tangata whenua needs for papakāinga <sup>3</sup> , marae and associated developments and make appropriate provision for them;
Policy 17: Historic heritage identification and protection	Protect historic heritage <sup>9</sup> in the coastal environment from inappropriate subdivision, use, and development by: <ul style="list-style-type: none"> <li>a. identification, assessment and recording of historic heritage, including archaeological sites;</li> <li>b. providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;</li> <li>c. initiating assessment and management of historic heritage in the context of historic landscapes;</li> <li>d. recognising that heritage to be protected may need conservation;</li> <li>e. facilitating and integrating management of historic heritage that spans the line of mean high water springs;</li> <li>f. including policies, rules and other methods relating to (a) to (e) above in regional policy statements, and plans;</li> <li>g. imposing or reviewing conditions on resource consents and designations, including for the continuation of activities;</li> </ul>

Waikato-Tainui Environmental Plan	
Objective – approach to land use and development	25.3.1 Development principles are applied to land use and development (urban and rural) and, in particular, development in new growth cells, that enhance the environment.
Policy – approach to land use and development	25.3.1.1 To encourage development principles to be applied to land use and developments (urban and rural) and, in particular, development in new growth cells, that enhance the environment.
Objective – urban and rural development	25.3.2 Urban and rural development is well planned and the environmental, cultural, spiritual, and social outcomes are positive.
Policy – urban development	25.3.2.1 To ensure that urban development is well planned and the environmental, cultural, spiritual, and social outcomes are positive.
Policy – rural development	25.3.2.2 To ensure that rural development is well planned and the environmental, cultural, spiritual and social outcomes are positive.
Objective – positive environmental and cultural effects	25.3.3 Land use and development has positive environmental and cultural effects.
Policy – positive environmental and cultural effects	25.3.3.1 To ensure that land use and development, particularly new land use and development, has positive environmental and cultural effects.

# APPENDIX 3 – PAA ZONE ANALYSIS

## Paa Zone Analysis

The purpose of the following is to undertake an analysis of the merit of removing the Paa Zone from the District Plan.

### Background

The Waikato section of the operative plan has a Paa Zone which is attributed to land with a gazetted marae located on it. The gazetting of the marae is a Maaori Land Court (MLC) procedure which occurs outside the jurisdiction of the Resource Management Act and subsequently, both the Regional and District Councils.

The Franklin Section does not have a dedicated Paa zone.

### Development of Maaori Freehold Land

*Maaori freehold land is land that is defined through the Maori Land Court as land that has been;*

- *investigated by the Māori Land Court and a freehold order has been issued or,*
- *was set aside by the Crown as Māori freehold land and awarded by Crown Grants to specific individuals or,*
- *has had the status determined as Māori Freehold Land by order of the Māori Land Court.*

Maaori Freehold Land is held by individuals who have shares together as tenants in common. In a modern context it has two main characteristics which make it a unique land tenure:

- economic value
- cultural value.

There are policies and methods in both the Waikato and Franklin sections of the operative District Plan which provide for limited opportunities for development on Maaori Freehold Land (MFL) in the rural and coastal zones for papakaainga housing.

The rules in both sections allow for papakaainga housing but with varying degrees of allowance. The Waikato Section has a designated Paa Zone which is based on where Marae have been established as per the MLC but with some restraints on future land use. For any other MFL there is a restriction for only papakaainga and only within the Rural and Coastal zones. The land currently zoned Paa is restricted to the individuals who have shares in that particular land parcel. This approach has resulted in some families being afforded Paa zone with some ability to develop whereas other families who do not have a gazetted marae are restricted to only papakaainga and limited ability to develop.

The Franklin Section enables papakaainga housing on MFL but it must be within 1km of a marae, or for papakaainga developments further than 1km from a marae, written approval of the relevant marae committee is required. One difficulty of this approach is that the committee members may not be shareholders of the land and do not have jurisdiction over this matter. Also, as the rule assigns the determination of activity status to a 3<sup>rd</sup> party (in this case a marae committee), it is ultra vires.

Through the district plan review process, it has been identified that both plans limit the ability of Tangata Whenua to utilize their land. There are a number of relevant objectives and policies that support the development of MFL. However the rule framework does not support the aspirations of MFL owners, nor does it implement the relevant objectives and policies of the Proposed Waikato District Plan. Feedback from iwi has indicated that it is difficult, and expensive to navigate through the district plan and the consenting process. They consider that Councils do not understand Maaori land tenure and are not listening to iwi needs and aspirations for returning to the land.

### **Approach of the Draft Proposed District Plan**

The draft proposed plan addresses these issues by collaborating with the Maaori Land Court (MLC) and allowing the MLC to manage what occurs on Maaori freehold land rather than the district plan. This means that the plan is not concerned with where marae or papakainga occurs as this has been decided by the owners through the Maaori Land court. The approach is that the management of MFL is the role of the MLC, with the district plan more appropriately promoting the sustainable use of land in accordance with the RMA and the Regional Policy Statement.

It is the MLC that governs the activities on MFL under part 17 section 338 of the Te Ture Whenua Act 1993. However, Section 6(e) of the RMA requires that the district plan must recognise and provide for the relationship of Maaori with their ancestral lands as a matter of national importance. By the District Plan reflecting decisions and recognising the role of the MLC, the Proposed District Plan would give effect to Section 6(e).

Section 8 of the RMA requires that the principles of the treaty are taken into account in relation to managing the use, development, and protection of natural and physical resources. The principle of self-management (rangitiratanga) means that iwi have the right to control their resources as their own. The proposed objectives, policies and methods of the draft proposed plan are a further step in achieving this principle by acknowledging Tangata whenua's relationship to land and as well the function of the Maori Land Court, which is to govern Maaori land.

#### **Broad options**

*There are two broad options available for enabling development of MFL;*

- Zoning MFL as Paa. This means a specific zone chapter in the district plan to manage activities within the zone, namely marae complexes and papakainga housing development; or
- Enable the development of marae complexes and papakainga housing development on MFL across the district.

The table below compares the detail of the two approaches:

<b>Paa Zone</b>	<b>Rules for Maori Freehold Land</b>
<p><b>Note:</b> This zones purpose was to identify Marae complexes within the district. These existing maraes have already been gazetted by the MLC as Marae reservations.</p> <p><b>Permitted activity</b>            Marae Complex            Papakaainga housing            50% site coverage            Cultural Event            Home Occupation</p> <p>All Building and Effects rules for the Paa zone apply</p>	<p><b>Note:</b> For permitted activity status the applicant must meet the requirements of MLC and the plan rules.</p> <p><b>Permitted activity</b>            Marae complex            Papakaainga housing            50% Site coverage (100% in Business Zone)            Temporary event            Home occupation</p> <p>All Building and Effects rules for the Paa zone apply (rather than the zone rules in which the MFL is located).</p>

The Paa Zone and rules for MFL are similar in the draft Proposed District Plan. Both approaches are achieving similar outcomes and resulting in duplication.

The following definitions would apply, regardless of the approach:

**Maori Freehold Land:** Means; land that has become Maaori freehold land in accordance with the Te Ture Whenua Māori Land Act (1993) or any other enactment. It can only become Maaori freehold land if the Māori Land Court changes or vests an order to change the status of Maaori Customary Land to Maaori Freehold Land.

**Papakaainga housing development:** residential living, a papakaainga building, kaumatua flats, urupaa, agricultural and horticultural activity, the exchange of goods, and a marae.

**Marae complex:** wharenuui (meeting house), wharekai (eating house), an aatea (courtyard area in front of the wharenuui), urupaa (graveyard), tuaahu (memorial statures), waharoa (archway entrance at the entrance to the aatea), and other buildings, (church, hauora (health clinic), koohanga (pre-school), conference centre and facilities, waananga (educational facility), recreation facilities, places of cultural significance, a papakaainga/papakaainga building and utility services

**Papakaainga building:** Means a building for communal use. It may include some centralised services or facilities such as food preparation, dining, conference, cultural facilities, sanitary facilities, and accommodation.

There are advantages and disadvantages of each approach are summarised below:

	Advantages	Disadvantages
Zone	Clearly defined on planning maps.	Constrained to only those sites zoned as Paa Zone and is limited to only families associate with that land parcel. Although an application to the MLC can change general title to MFL providing you whakapapa to that land, a RMA district plan change process would be required to rezone any new land and until this occurs the Paa zone rules would not apply, instead the underlying zone rules would apply.
Rules for Maori freehold land that apply to every zone where this occurs	Acknowledges all MFL and provides for the utilisation and development of the land for the associated shareholders. Supports and encourages Maaori planning of the land.	Rules need to be written to ensure that adverse effects of the MFL development on other activities is recognised and that reverse sensitivity effects on activities within MFL are also recognised.

### Recommended Approach

Inserting rules into each zone where there is MFL, (or the likelihood that the land can be converted to MFL) enabling marae complex and papakaainga housing is the preferred approach as this will provide flexibility as to where MFL can be developed, whereas the Paa Zone is restricted geographically to only those areas zoned on the planning maps. The rules for MFL enable economic sustainability of that land and more appropriately achieve Sections 6(e) and 8 of the RMA, and therefore the purpose of the RMA (Section 5).

In order to recognise existing Marae, the Paa Zone could be replaced with a symbol of a 'meeting house' to represent the presence of a Marae on that MFL.

# **APPENDIX 4 – MAAORI SITES OF SIGNIFICANCE - METHODOLOGY**

# **APPENDIX 5 - QUANTIFICATION OF COSTS AND BENEFITS**

# **APPENDIX 6 - ARCHAEOLOGICAL HERITAGE REPORT**