

# **WAIKATO DISTRICT COUNCIL**

## **Hearings of Submissions on the Proposed Waikato District Plan**

### **Report and Decisions of Independent Commissioners**

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#### **Decision Report 6: Tangata Whenua**

**17 January 2022**

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#### **Commissioners**

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Mr Dynes Fulton

Ms Linda Te Aho

## **Contents**

1. Introduction .....	3
2. Hearing Arrangement.....	3
3. Overview of Issues Raised in Submissions .....	4
4. Overview of Evidence .....	5
6. Process.....	11
7. Implementation of the National Planning Standards .....	13
8. Tangata Whenua Chapter .....	15
9. Chapter 27 Whaanga Coast.....	15
10. Maaori Land Chapter .....	15
11. Maaori Values and Maatauranga Chapter .....	16
12. Te Ture Whaimana Chapter.....	17
13. Conclusion .....	17

## 1. Introduction

1.1. Hearing 4 related to all the submissions received by the Waikato District Council (Council) on the provisions pertaining to Tangata Whenua within the Proposed Waikato District Plan (PDP). This hearing specifically related to the objectives, policies and rules managing development on Maaori owned land, as well as more general cultural objectives and policies in Chapter 2.

1.2. Chapter 2 Tangata Whenua fulfils two roles:

- a) An explanation of Maaori land ownership and its management within Waikato District, the legislative context, including the Resource Management Act 1991 (RMA) and Te Ture Whenua Māori Act 1993, concept management plans and iwi management plans. It also explains the issues around the ability of using and managing Maaori freehold and Maaori customary land; and
- b) Objectives and policies addressing Tangata Whenua planning issues.

## 2. Hearing Arrangement

2.1. The hearing was held on Monday 18 November 2020 at Council offices in Ngaruawahia. All of the relevant information pertaining to this hearing (i.e., Section 42A report, legal submissions and evidence) is contained on Council's website.

2.2. We heard from the following parties on the Tangata Whenua provisions of the PDP:

Submitter organisation	Attendee at the hearing
Council	Sheryl Paekau (author of section 42A report)
Waikato-Tainui	Maia Wikaira (counsel) Gavin Donald (planning) Glenda Raumati Marae Tukere
Heritage New Zealand Pouhere Taonga	Carolyn McAlley
Angeline Greensill	In person

Whenua Holdings Waikato Ltd	Tatau Arungi Te Tupara Moanaroa
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2.3. Although these parties did not attend the hearing, evidence was filed by:

- a) Ailsa Fisher on behalf of TaTa Valley Ltd; and
- b) Lisette Balsom on behalf of Waikato Regional Council (WRC).

### 3. Overview of Issues Raised in Submissions

3.1. In the section 42A report, Ms Paekau set out the full list of submissions received relating to the Tangata Whenua provisions. In brief, the key matters of relief sought by the submitters included:<sup>1</sup>

- a) Retain Chapter 2 Tangata Whenua;
- b) Provide greater clarity as to the contents of and process for developing a concept management plan;
- c) More enabling provisions for the development of Maaori land and treaty settlement land;
- d) Enable land in Te Wherowhero title at Hopuhopu to be planned for, developed and used;
- e) Ensure that the objectives, policies, principles and intent of the Tangata Whenua Chapter are provided for across the Plan with an explanation as to how they are to be implemented;
- f) Retain the rules enabling development of Maaori Freehold Land;
- g) Amend the rules to provide for a range of activities to be permitted on Riria Kereopa Drive;
- h) Include a new district-wide Maaori land chapter;
- i) Integration of Maturanga Maaori; and
- j) Amend the definitions of terms such as 'Tangata Whenua' and 'Mana Whenua'.

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<sup>1</sup> Section 42A report Hearing 4: Tangata Whenua, dated 11 November 2019.

#### 4. Overview of Evidence

4.1. Ms Maia Wikaira presented legal submissions on behalf of Waikato-Tainui. She addressed seven matters:

- a) Purpose and application of Tangata Whenua matters;
- b) Te Ture Whaimana (the Vision and Strategy for the Waikato River);<sup>2</sup>
- c) ‘Enabling’ Maaori land provisions;
- d) Concept management plans;
- e) Maatauranga Maaori as a decision-making criterion;
- f) Definitions; and
- g) Hopuhopu.

4.2. In terms of the first matter, Ms Wikaira considered that the purpose and application of Chapter 2 was confusing. She noted that the recommendations arising from Hearing 1 Introduction, which were to relocate Maaori Values of Importance into Chapter 2, were not carried through into Ms Paekau’s tracked changes version of Chapter 2. As a result, she considered that Chapter 2 stands in isolation from the remainder of the PDP and lacks any linkages to, or visibility in, other parts of the PDP.

4.3. Ms Wikaira considered that there is a risk that matters of importance to iwi may be inadvertently missing from the PDP due to the way Chapter 2 has been drafted. She stated that the matters raised in that chapter are focused on sites of significance to Maaori and Maaori freehold and customary land, rather than across the entire PDP.<sup>3</sup> She considered that objectives, policies, methods and rules should be included throughout the PDP, not just in Chapter 2, to improve visibility of tangata whenua matters.

4.4. Ms Wikaira also expressed concerns that Te Ture Whaimana has not been satisfactorily addressed. She described the unique legal status of Te Ture Whaimana in that the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 stipulates that it prevails over any inconsistent provision in a national policy statement, the New Zealand Coastal Policy Statement 2010 and any national planning standard. It also prevails over a national environmental standard if more stringent than the standard. Its inclusion in the Waikato Regional Policy Statement (RPS) means that it must be given effect to under

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<sup>2</sup> As contained in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

<sup>3</sup> Legal submissions on behalf of Waikato Tainui, Paragraph 8, dated 14 November 2019.

s75(3)(c) of the RMA.<sup>4</sup> She helpfully summarised amendments to ensure the visibility and voice of Te Ture Whaimana in the PDP.

4.5. While Waikato-Tainui support the policy intent of enabling Maaori land use identified in the PDP, Ms Wikaira remained concerned with the implementation of the policy intent. While a 'Marae Complex' or 'Papakainga Housing Development' on Maaori Freehold Land or Maaori Customary Land is a permitted activity in most zones, she considered the use of Maaori land is problematic where conditions are attached that, if not met, will result in application of the default rules associated with the zoning. Mr Gavin Donald, Waikato-Tainui's planning consultant, identified that, if eligible Maaori land does not meet the prescribed conditions, the following issues will arise:

- a) Papakainga and marae in the rural and residential zones will become a discretionary activity;
- b) Associated development aspirations, such as the addition of a whare taonga (to house tribal taonga or history, for example), or a café for the manaaki (hosting) of manuhiri (guests), will become a discretionary or non-complying activity; and
- c) New or replacement papakainga buildings on a site, or additions to marae buildings, will become a discretionary activity.

4.6. Ms Wikaira considered it was not clear whether Maaori freehold land (with or without a Concept Management Plan) would be required to satisfy, and indeed will satisfy, other permitted activity standards listed in the relevant zone activity tables. In this context she could not see the value in this approach replacing the Paa Zone,<sup>5</sup> which is in the Operative District Plan. She explained the difficulties of including a requirement for a concept management plan as a standard.

4.7. In order to effectively regulate consistent with the RMA, Council would need the power to approve the Concept Management Plan, which is *ultra vires* a permitted activity status. Ms Wikaira also submitted that the approach of importing a process for setting aside a Maaori reservation for communal purposes under Te Ture Whenua Maaori Act through the standards is flawed. She considered that the Concept Management Plan requirement will be an added constraint in a proposal that is supposed to enable flexibility for papakainga development on Maaori Freehold Land.<sup>6</sup> She suggested including Concept Management Plans in an advice note in the PDP as a potential solution.

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<sup>4</sup> Legal submissions on behalf of Waikato Tainui, Paragraph 16, 14 November 2019.

<sup>5</sup> Legal submissions on behalf of Waikato Tainui, Paragraph 29, 14 November 2019.

<sup>6</sup> Legal submissions on behalf of Waikato Tainui, Paragraph 52, 14 November 2019.

- 4.8. She considered that the intent of the PDP to enable development on Maaori freehold and customary land should be extended to also encompass land that has been returned through settlement processes between the Crown and Tangata Whenua of the district.
- 4.9. Ms Wikaira addressed the need for the PDP to include maatauranga Maaori as a decision-making criterion in respect of activities requiring resource consent. The appendix in the evidence of Mr Donald demonstrated that including maatauranga Maaori assessment criteria for controlled and restricted discretionary activities is familiar ground in other plans and referenced the Auckland Unitary Plan as an example. In terms of discretionary activities, Ms Wikaira considered that there is no legal reason not to include maatauranga Maaori as an assessment criterion for discretionary activities.
- 4.10. Ms Wikaira addressed the breadth of the definition of “marae complex” and considered this should be revised to reflect the permitted activities enabled in the Paa Zone of the Operative District Plan, including:
- a) Facilities for surface water activities;
  - b) Camp site and associated car wash, grocery or boating store and marae;
  - c) Restaurant;
  - d) Conference facilities; and
  - e) Travellers’ accommodation.
- 4.11. She considered that the inclusion of the term “traditional” in the definition of “papakaainga housing development” is also problematic and could lead to a narrowing the application of papakaainga opportunities.
- 4.12. Mr Donald provided planning evidence on behalf of Waikato-Tainui and focused his evidence on concerns around unplanned development and the associated effects on receiving environments, the treatment of Maaori freehold land, the lack of recognition and protection of the Waikato River – Te Mana o Te Awa and the lack of recognition of iwi as kaitiaki and Mana Whakahaere. Mr Donald also expressed concern that the Tangata Whenua chapter stands in isolation from remainder of the PDP. He considered there does not appear to be good linkages to it throughout the PDP and users may be mistaken that it only applies to Sites of Significance to Maaori and Maaori freehold land. He considered clear linkages should be made obvious throughout the PDP including through specific reference by way of cross-referencing to content included in the Tangata Whenua chapter.<sup>7</sup>

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<sup>7</sup> Evidence in Chief of Gavin Donald on behalf of Waikato-Tainui, Paragraph 5.3.

4.13. Mr Donald also considered that the sections of Chapter 1 which the section 42A report for Hearing 1 recommended to be relocated into Chapter 2, should also be reflected in the Hearing 4 section 42A report. Some of these sections are highly important, such as those that relate to Te Ture Whaimana. He supported increased visibility of Te Ture Whaimana and considered as a minimum that the objectives of Te Ture Whaimana be included in section 2.5 of the Tangata Whenua Chapter. Mr Donald then outlined how the Waipa District Plan manages this issue and summarised the gaps and areas for improvement in the PDP as follows:<sup>8</sup>

- a) Referencing and integration of the Vision and Strategy in objectives, policies and rules (e.g., those associated with building and earthwork setbacks);
- b) Recognition of cultural and Maaori values in matters of discretion;
- c) Recognition of paramount importance of maunga and other cultural landscapes to Maaori within the objective, policy and rule framework;
- d) Provision for commercial development and economic aspirations of Maaori in association with Maaori land, papakaainga and marae;
- e) Recognition and integration of iwi management plans within objectives, policies and rules;
- f) Iwi involvement in resource management processes including the recognition of the rule of iwi as a partner;
- g) Consideration and integration of Maaori values with regards to built heritage and archaeology;
- h) The recognition of the importance of fauna species to iwi; and
- i) Broader integration and reference to Maaori values within rural and urban objectives, policies, effect rules, subdivision rules, building rules and activity rules including those beyond Maaori Sites of Significance, Maaori Areas of Significance and Maaori Freehold Land.

4.14. Mr Donald considered that the PDP does not currently integrate the Tangata Whenua values across the plan, particularly at a zone and topic (overlay) level.

4.15. Mr Donald also expressed concern that the provisions for Maaori Freehold Land do not provide the flexibility they were intended to provide. Of primary concern was the requirement for concept management plans, and the risk that such requirements may hinder the normal operations of marae throughout the district. He considered that the

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<sup>8</sup> Evidence in Chief of Gavin Donald on behalf of Waikato-Tainui, Paragraph 6.4.

issue of enabling development at Hopuhopu is most appropriately addressed later in the hearings schedule due to the need to work collaboratively with Council and allow the governors at the Waikato-Tainui Endowed College to review the proposal. We agree, and therefore the development at Hopuhopu is not addressed in this decision report, and instead our decision on Hopuhopu is set out in Decision Report 28B in the context of the zoning hearings (Hearing 25 Zone Extents).

4.16. Mr Donald helpfully set out a proposed definition of “Marae Complex”, as follows:

*Facilities used for the provision of a focal point for social, cultural, and economic activity for Maaori and the wider community. Can include one or more of the following:*

- *Waharoa (archway entrance);*
- *marae aatea (sacred courtyard);*
- *tuaahu (sacred place for ritual practices);*
- *wharenuī/wharehui (main building or meeting house – may include conference facilities);*
- *wharemoē (sleeping house);*
- *kaauta (kitchen, cookhouse, cooking shed);*
- *wharekai (dining hall);*
- *whare whakairo and / or whare waka (carving and waka shed);*
- *maara kai, maara rongoa (food garden, medicinal garden);*
- *accessory dwellings (including kaumatua and papakaainga housing);*
- *whare oranga (Healthcare centre);*
- *koohangā reo (early childhood centre);*
- *waananga (Education facility);*
- *papa taakaro (organised sport and recreation);*
- *facilities to support overnight accommodation of visitors (ablution blocks and toilets); and*

- *places of cultural or historical significance, including urupaa (burial ground).*

4.17. Ms Carolyn McAlley prepared evidence on behalf of Heritage New Zealand Pouhere Taonga and helpfully set out suggested amendments to Policy 2.15.1 Ngaa taonga tuuku iho (Maaori sites and areas of Significance) as she did not agree with Ms Paekau's recommendation. Ms McAlley sought amendments to the policy to further protect Maaori sites and areas of significance. She considered such amendments are necessary to give effect to Objective 3.18 of the RPS and that it is important that a distinction is made in the policy framework between modification, inappropriate modification, and destruction.<sup>9</sup> She considered that the amended policy she proposed was clearer and provided a more appropriate set of thresholds for these important and finite section 6 matters under the RMA. We note this evidence is relevant to our consideration of Maaori Areas and Sites of Significance and have addressed the matters raised by Ms McAlley in Decision Report 7.

4.18. Ms Angeline Greensill attended the hearing and outlined her support for recognition of all Maaori owned land and enabling papakaainga and marae complexes on that land. She considered that a concept plan was not onerous or difficult, and it encourages Tangata Whenua to plan the use of their land. We asked Ms Greensill about building papakaainga on general (i.e., non-Maori) land, and she said she was aware of papakaainga being successfully developed on general land.

4.19. Mr Moanaroa attended the hearing on behalf of Whenua Holdings Waikato Limited and although he provided a general overview of his company's submission, he stated that he "was in the wrong hearing", as his submission related to a rezoning request on Duke Road, Ngaruawahia. We have not addressed this matter in this decision, rather it is addressed in Decision Report 28L for Hearing 25 Zone Extents on Ngaruawahia.

4.20. Ms Lisette Balsom tabled a letter on behalf of WRC, and did not attend the hearing. Her letter supported the recommendation made by Ms Paekau in the Hearing 4 section 42A Report in relation to Section 9 – Planning Development of Hopuhopu. WRC opposed the rezoning request for Hopuhopu, in part, on the basis that flood hazard mapping and alligator weed need to be considered in the development of site-specific provisions. She welcomed the opportunity to take part in joint conferencing to work towards a jointly agreed approach and to be involved in the preparation of appropriate draft provisions for the site.

4.21. Ms Ailsa Fisher filed a letter on behalf of TaTa Valley Ltd although she did not attend the hearing. Ms Fisher stated her support for the section 42A recommendation to the submission by Heritage New Zealand Pouhere Taonga on Policy 2.15.1 and the

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<sup>9</sup> Evidence in chief of Carolyn McAlley on behalf of Heritage New Zealand Pouhere Taonga, Paragraph 5.1.

submission of Jade Hyslop requiring iwi management plans to be adhered to rather than considered.

## 5. Panel Decisions

## 6. Process

6.1. 93 submissions were received on the Tangata Whenua provisions and these were considered in a comprehensive section 42A report and rebuttal statement prepared by Ms Paekau, who recommended mostly minor changes to the notified provisions. At the hearing it became apparent to us that the issues raised by Waikato-Tainui required further koorero in a different forum to the hearing which would enable more collaborative discussions between Council and submitters. We posed a question to Ms Bridget Parham (counsel for Council) and Ms Wikaira (counsel for Waikato-Tainui) as to what an appropriate process might be. Based on their responses, we issued Directions on 20 November 2019 setting out a process that would involve all submitter and further submitter representatives. We provided the following preliminary guidance in our Directions to assist parties to prepare for further discussions:<sup>10</sup>

*a. It would be appropriate for Chapter 2 to include high level objectives/policy direction that recognised the importance of the “Vision and Strategy for the Waikato River” – Te Ture Whaimana;*

*b. Because the Vision and Strategy applied to the Waikato River catchment, rather than the Waikato District as a whole, that geographical distinction would need to be recognised in Chapter 2;*

*c. Regarding Maaori Freehold Land and Maaori Customary Land (both as defined in section 129 of the Te Ture Whenua Maori Act 1993), the Panel anticipated that Chapter 2 would:*

*i. Explicitly recognise the importance of tangata whenua being able to live on, and connect with, such land;*

*ii. Facilitate the development and use of such land, primarily for papakaainga and marae, while also making appropriate provision for associated activities that provided social and/or cultural and/or economic benefits to the landowners;*

*iii. Include objectives, policies and rules in respect of Maaori Freehold Land and Maaori Customary Land, noting that the rules may or may not be located in Chapter 2;*

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<sup>10</sup> Minute and Directions from Hearing Commissioners, dated 20 November 2019.

*iv. If it was considered appropriate, provide for the above as an “Maaori Purpose overlay” (or similar) rather than a “zone”, given that if zoning were to be used, each land parcel would need to be individually identified, and because a plan change would be required if additional land were ever to become Maori Freehold Land and Maori Customary Land; and*

*v. Clarify the relationship between the provisions relating to Maaori Freehold Land and Maaori Customary Land and land that is identified in other chapters in the proposed plan as requiring some form of protection for environmental reasons, and whether/the extent to which any particular provisions would have primacy.*

*d. Notwithstanding paragraph 15 c. above, the unique nature and significance of the land at Hopuhopu, mean that it could well be amenable to a “zoning” approach;*

*e. Regarding Treaty Settlement Land, the Panel anticipated that Chapter 2 would probably need to take a different approach from that for Maaori Freehold Land and Maaori Customary Land. In that regard, a “one size fits all” approach could well be problematic because such land will likely address both cultural and commercial redress and therefore comprise a wide variety of existing land uses in a wide variety of environmental settings. Additionally:*

*i. Not all such land can be easily identified, and in any event, the portfolio would likely change over time;*

*ii. Land zoned for other uses will likely become Treaty Settlement Land in the future as claims progress / rights of first refusal are exercised; and*

*iii. Land that became Treaty Settlement Land may be on-sold to others for commercial reasons.*

*f. Given the matters summarised in paragraph 15 e. above, it may be that a “Treaty Settlement Land overlay” (or similar) that creates an objectives and policies framework, but no rules, could be included in Chapter 2 - that framework could recognise the use and development of such land, but within appropriate constraints to protect the natural and physical environment;*

*g. Because Treaty Settlement Land may well include land in general title, care would need to be taken to ensure that if, for example, commercial land was on-sold to a third-party commercial entity, the Treaty Settlement Land provisions would then cease to apply;*

*h. Chapter 2 would need to make clear the extent to which / how Maatauranga Maaori would be applied to, and integrate with, the district plan as a whole; and*

*i. It would be important that all key terms used in Chapter 2 are precisely defined, so as to avoid ambiguity and/or confusion in the future, one particular example being "Treaty Settlement Land".*

6.2. In response to our Directions, three hui were held on 21 September 2020, 18 November 2020 and 19 April 2021 which, with the consent of the parties, were facilitated by panel members Mitchell, Cooney and Te Aho. These hui were well attended by submitters and Council staff, and we appreciate the open and constructive koorero. This was a highly valuable process and led to the development of a comprehensive set of provisions which was filed on behalf of the workshop participants via a memorandum dated 25 June 2021. We have largely adopted this set of provisions as our decision, with only minor amendments where this improves the readability or clarity.

6.3. The matters arising from Hearing 4 and subsequent workshops culminated in recommended amendments to the Tangata Whenua Chapter, the provisions relating to the Whaanga Coast Development Areas (notified section 22.7), and the following three recommended additional chapters:

- a) Maaori Land Chapter
- b) Maaori Values and Maatauranga Maaori Chapter
- c) Te Ture Whaimana - Vision and Strategy Chapter.

6.4. At a broad level, we understand that an alternative approach would be to zone Maaori land in a similar way to the Operative District Plan: Waikato Section with a Paa Zone, but we do not consider this to be flexible or agile enough to incorporate additional Maaori land. By way of background, the Paa Zone is applied to Maaori Freehold Land and enables a mix of uses including marae, residential, cultural, business, light industries and places of assembly. In contrast, the PDP does not have a zone that applies to Maaori owned land and instead has "floating" rules which are located in each zone chapter. These rules enable the development of a Marae complex or Papakaainga housing development on Maaori Freehold Land or on Maaori Customary Land. We consider that the approach of the PDP is the most appropriate for achieving Part 2 of the RMA, so our focus has been on making the provisions effective while meeting all the statutory tests in various parts of the RMA including sections 74 and 75.

## **7. Implementation of the National Planning Standards**

7.1. We are mindful of the National Planning Standards and accept that this will result in a significantly different structure to that which was notified. Implementation of the National

Planning Standards has led to the following structure for the Tangata Whenua provisions:

PART 1 – INTRODUCTION AND GENERAL PROVISIONS / Tangata Whenua / Mana Whenua / TW - Tangata Whenua

PART 2 – DISTRICT-WIDE MATTERS / Strategic Direction / TTW – Te Ture Whaimana – Vision and Strategy

PART 2 – DISTRICT-WIDE MATTERS / Historical and Cultural Values / SASM - Sites and Areas of Significance to Maaori

PART 2 – DISTRICT-WIDE MATTERS / General District-wide Matters / ML - Maaori Land

PART 2 – DISTRICT-WIDE MATTERS / General District-wide Matters / MV - Maaori Values and Maatauranga Maaori

7.2. The National Planning Standards require a Tangata Whenua / Mana Whenua chapter in Part 1 Introduction and General Provisions, however this section does not contain provisions and as set out in Standard 6 this section must only include context and process-related provisions such as:

- a) Recognition of hapuu and iwi;
- b) Relationships of tangata whenua / mana whenua and local authorities;
- c) Hapuu and planning documents; and
- d) Involvement and participation with tangata whenua / mana whenua.

7.3. The District-wide Matters Standard, Directions 1, requires that issues and objectives which address key strategic or significant matters for the district and guide decisions at a strategic level must be located under the Strategic direction heading. As Te Ture Whaimana is the primary direction-setting document for the Waikato River and activities within the catchment, we agree that a new Te Ture Whaimana – Vision and Strategy chapter should be located in Part 2 under the under the Strategic direction heading.<sup>11</sup>

7.4. The District-wide Matters Standard, Direction 17, requires that if descriptions of and provisions for sites and areas of significance to Maaori are included, these must be located in the Sites and Areas of Significance to Maaori chapter (SASM). We accept

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<sup>11</sup> Joint memorandum by Council and Te Whakakitenga o Tainui, on behalf of Tangata Whenua workshop participants, to Hearing Commissioners relating to Topic 4: Tangata Whenua, Whaanga Coast and Maaori freehold land, dated 25 June 2021, Paragraph 13.

that the PDP Chapter 2 Tangata Whenua provisions and any others throughout the relevant zones relating to Maaori Sites of Significance and Maaori Areas of Significance should be brought across into a new chapter titled "Sites and Areas of Significance to Maaori". While this is not covered by this decision report, we find it helpful to look at the Tangata Whenua provisions holistically, and the new SASM chapter includes objectives, policies, rules for the management of such sites/areas.

- 7.5. Direction 38 of the District-wide Matters Standard requires any additional chapters that address district-wide matters to be included under the General district-wide matters heading. We consider that this is the most logical place for the Maaori Land chapter and Maaori Values and Maatauranga Maaori chapter, given both their significance and application across the district.

## **8. Tangata Whenua Chapter**

- 8.1. We agree with the changes proposed to the Tangata Whenua chapter arising from the hui following the hearing. We consider the revised text more accurately and clearly reflects the tangata whenua relationships with local authorities as formalised through Joint Management Agreements, Memoranda of Understanding and Memoranda of Agreement. We agree with deleting the text that restates the RMA and Te Ture Whaimana as it is unnecessary. Our focus has been on avoiding duplication between the notified PDP Chapters 1 and 2 and replacing that text with succinct, focused content.

## **9. Chapter 27 Whaanga Coast**

- 9.1. We appreciate the comments and feedback from Ms Keren Paekau and Ms Greensill on the provisions relating to the Whaanga Coast including the feedback we received which arose out of the workshop. We agree that this area is important and benefits from specific provisions and retention of the Development Cells contained in the Operative Plan. These will appear as a precinct under the National Planning Standards structure. We have aligned the Whaanga Coast rules with the rules for Maaori Land in general. Some rules for Whaanga Coast have been deleted, but this is to avoid duplication with the new definition of "Maaori Purpose Activity".

## **10. Maaori Land Chapter**

- 10.1. We consider there is value in provisions relating to Maaori Freehold Land being collated into a single chapter, rather than being dispersed through the PDP in most of the zones (which is the current approach). The Maaori Land Chapter we have included will apply to Maaori freehold land, Maaori customary land, Maaori reservations and Treaty settlement land. We agree that these should be highly enabling, but also seek to manage adverse effects. This chapter contains objectives, policies and rules relating to the development of Maaori Freehold Land, Maaori Customary Land, Treaty Settlement Land and Maaori Reserve Land.

10.2. We agree with Ms Wikaira and Mr Paul Beverley (legal advisor to Council) that the requirement for concept plans and requiring approval or endorsement of these from the Maaori Land Court is problematic in a legal sense. We understand what Council staff were trying to achieve with the use of concept management plans, but consider that integrated management of Maaori land is more effectively achieved by Council working with external agencies such as WRC and Te Puni Kookiri to support tangata whenua in the development of Maaori land. This can include actions such as promoting best practice guidance and toolkits and engaging early in development planning for sites. We agree that this concept is best signalled through the inclusion of non-regulatory policies and an advice note.

10.3. Enabling the development of Treaty Settlement Land was the focus of many discussions in the hui. Treaty Settlement Land is often returned as general title, and because the notified PDP provisions were focused on Maaori Freehold Land or Maaori Customary Land, general title land could not access those provisions. We agree that it is appropriate to include Treaty Settlement Land and Maaori Reservation Land in the provisions as it will minimise barriers to the development of Maaori land. We do see Maaori Freehold Land or Maaori Customary Land having different issues to Treaty Settlement Land and Maaori Reservation Land, and have included a discrete objective and policy framework for such land.

10.4. We agree that a new definition of “Maaori Purpose Activity” is an efficient way to capture a wide range of activities without needing to specify each activity in the chapter.

## **11. Maaori Values and Maatauranga Chapter**

11.1. Waikato-Tainui, in particular expressed concern in the hearing and subsequent hui that Chapter 2 of the PDP was very focused on Maaori owned land, and this was confirmed by Ms Paekau in her section 42A report. It seems to us that there were very limited provisions which enabled maatauranga Maaori to be considered in the assessment of resource consent applications. We consider that this gap will be addressed by a district wide chapter for Maaori Values and Maatauranga Maaori. We agree with Ms Wikaira that a “clear line of sight” is required from values through to objectives, policies and matters of discretion. Through the hui, a number of options were canvassed for addressing this issue, and the analysis of Ms Lisa Te Heuheu was invaluable in outlining the options then the advantages and disadvantages of each. We consider that a single matter of discretion requiring consideration of maatauranga Maaori for discretionary and non-complying activities to be the most effective approach.

11.2. On behalf of Federated Farmers, Ms Hilary Walker provided valuable feedback and expressed concern that such a matter of discretion would apply to more activities on private land than was outlined in the notified PDP. She considered there was a risk that such a matter of discretion would unreasonably prevent landowners undertaking and/or continuing legitimate use and development that is otherwise anticipated by the PDP. She suggested an alternative approach is to apply the new matter of discretion to those

rules that already have a matter of discretion relating to effects on Maaori cultural values. We have carefully examined the activities which could potentially have an effect on cultural values, and consider that the focus should be on discretionary and non-complying activities instead of restricted discretionary activities. We are aware that the objectives and policies in the Maaori Values and Maatauranga Maaori Chapter will apply to all discretionary and non-complying activities and we consider this to be an appropriate approach.

## 12. Te Ture Whaimana Chapter

12.1. Ms Wikaira and Mr Donald both expressed concern that the PDP did not effectively address Te Ture Whaimana. We do not see the value in including the wording Te Ture Whaimana in the PDP, but we consider that it and its implications need to be clearly signalled. We consider this can be achieved through including an additional strategic direction chapter with an objective and policy to effectively and efficiently implement Te Ture Whaimana. We are aware that Te Ture Whaimana applies to the Waikato River catchment, rather than the Waikato District as a whole, and therefore the geographical distinction needs to be recognised in the PDP. We consider that the spatial extent of the river catchment can be described either in the chapter, or as an information layer on the PDP maps; our preference is for it to be mapped.

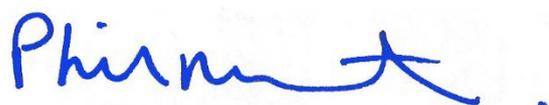
## 13. Conclusion

13.1. We understand the intent and objective of Council staff in the notified Tangata Whenua provisions and consider that our decision retains the fundamental premise of the notified version provisions. That is, a focus on enabling the use and development of Maaori Land through a suite of permitted activity rules operating within the backdrop of standard zone 'effects' rules to manage any adverse effects of the use and development of land.

13.2. We accept the section 42A report and the evidence filed by the submitters as set out in this Decision. As our amended provisions have departed significantly from what was originally notified, we have undertaken a section 32AA assessment which has informed our Decision (Appendix A).

13.3. Overall, we are satisfied that the Tangata Whenua provisions as amended will provide a suitable framework for enabling land use and development on Maaori land whilst managing any adverse effects.

**For the Hearings Panel**



**Dr Phil Mitchell, Chair**

**Dated: 17 January 2022**

## **14. APPENDIX A SECTION 32AA EVALUATION**

### **Introduction**

The provisions that were developed through the hearing and more specifically the three hui with submitters and Council depart significantly from the Tangata Whenua provisions that were notified. For this reason, we have undertaken our own evaluation as required by s32AA of the RMA to assess whether firstly the objectives are the most appropriate way to meet the purpose of the RMA and secondly, whether the provisions are the most appropriate way to achieve the objectives. The provisions have been structured to comply with the National Planning Standards to the greatest extent possible:

PART 1 – INTRODUCTION AND GENERAL PROVISIONS / Tangata Whenua / Mana Whenua / TW - Tangata Whenua

PART 2 – DISTRICT-WIDE MATTERS / Strategic Direction / TTW – Te Ture Whaimana – Vision and Strategy

PART 2 – DISTRICT-WIDE MATTERS / Historical and Cultural Values / SASM - Sites and Areas of Significance to Maori

PART 2 – DISTRICT-WIDE MATTERS / General District-wide Matters / ML - Maori Land

PART 2 – DISTRICT-WIDE MATTERS / General District-wide Matters / MV - Maori Values and Maatauranga Maori

### **Scale and significance evaluation**

The level of detail undertaken for the evaluation of the Tangata Whenua provisions has been determined by an assessment of the scale and significance of the implementation of them. 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 RMA;
- (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 Maori;
- (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.

Policies and rules for each chapter have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective.

This matter has a moderate significance due to the degree of change from the current planning framework and the importance of this issue to Tangata Whenua. In accordance with s32AA(1)(b) and (c) this evaluation is required to be undertaken in accordance with s32(1) to (4) and to a level of detail that corresponds to the scale and significance of effects anticipated by the proposed changes to the PDP.

## Objectives

Section 32(1)(a) (and therefore s32AA(1)(b)) requires an assessment of whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA.

*Section 32 of the RMA states that “Objective” means –*

- (a) For a proposal that contains or states objectives, those objectives;*
- (b) For all other proposals, the purpose of the proposal.*

The original s32 documents prepared for the PDP considered the objectives of the plan and whether they were the most appropriate way to achieve sustainable management in the Waikato District. The following considers whether the proposed changes included in the decision are now the most appropriate way to achieve sustainable management.

There are a number of objectives that are located in the following sections:

- TTW – Te Ture Whaimana Vision and Strategy

- ML - Maaori Land
- MV - Maaori Values and Maatauranga Maaori

The Sites and Areas of Significance to Maaori chapter (SASM) is the subject of a separate decision and s32AA evaluation.

The following objectives are relevant to Tangata Whenua and are assessed below against the purpose of the Act:

TTW-O1 Achieving Te Ture Whaimana (Vision and Strategy for the Waikato River)

ML-O1 Whenuatanga (land management)

MV-O1 Recognition of Maaori values

MV-O2 Hononga

MV-O3 Kaitiakitanga

MV-O4 Whakaute Ahurae

MV-O5 Tikanga aa-iwi o Waikato me te takiwaa o Waikato

PREC4-O1 Rural character and amenity

Section 5 Purpose	
Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social well-being	Objective ML-O1 enables use of Maaori land in a way that will provide for the social well-being. It will enable the creation of a connected community and may be used for activities to support the social well-being of that community.
Managing the use, development, and protection of natural and physical resources in a	Objective ML-O1 enables use of Maaori land in a way that will provide for the economic well-being of the

<p>way, or at a rate, which enables people and communities to provide for their economic well-being</p>	<p>community. It will enable Maaori to meet their housing needs in a cost-effective way.</p>
<p>Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their cultural well-being</p>	<p>Objective ML-O1 enables use of Maaori land in a way that will provide for the cultural well-being of Maaori and enable reconnection with their lands. It will enable them to provide for their housing needs now and into the future. This objective will strengthen the relationship of Maaori to the environment.</p> <p>Objective TTW-O1 protects the Waikato River from activities within the catchment that have the potential to degrade it. This will protect the awa as a natural resource, but also allow the awa to provide for people and communities and the important cultural connections.</p> <p>All the objectives in the Maaori Values chapter will achieve this part of Section 5 of the RMA. The objectives recognise the cultural practices and beliefs of mana whenua and protect the connections with taonga.</p>
<p>Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their health and safety</p>	<p>Restoring and protecting the Waikato River by Objective TTW-O1 will provide for people’s health and safety. The Vision and Strategy states that as the Waikato River is important to all the people of the region, the ultimate measure of the Vision and Strategy will be that the Waikato River will be safe for people to swim in and take food from over its entire length. Having a healthy river will assist in having a healthy community.</p>
<p>Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable</p>	<p>Objective ML-O1 enables Tangata Whenua to utilise, manage and enjoy Maaori Land. This objective will assist Maaori in meeting their current and future needs.</p>

<p>needs of future generations</p>	<p>Restoring and protecting the Waikato River by Objective TTW-O1 will assist in sustaining the natural resource of the awa to meet the needs of future generations.</p> <p>Land use and development activities can adversely affect the ability of the Waikato River to sustainably support the economic, social, cultural and environmental aspirations of Waikato-Tainui and the community.</p>
<p>Safeguarding the life-supporting capacity of air, water, soil, and ecosystems</p>	<p>Objective MV-O1 safeguards the life-supporting capacity of the environment.</p> <p>Objective MV-O2 protects the connections between tangata whenua and their ancestral lands, water, sites of significance, waahi tapu, other taonga and taonga species. In doing so, this objective will achieve this part of s5.</p>
<p>Avoiding, remedying, or mitigating any adverse effects of activities on the environment.</p>	<p>While the objectives in these sections are not focused on the adverse effects of activities, they will as a consequence have the effect of avoiding, remedying or mitigating any adverse effects through the exercise of kaitiakitanga (MV-O3 and MV-O1), protecting the cultural connections between tangata whenua and taonga (MV-O2) and restoring and protecting the Waikato River (TTW-O1).</p>
<p><b>Section 6, 7 and 8</b></p>	
<p>6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga</p>	<p>All of the objectives will achieve these sections of the Act. The Te Ture Whaimana Vision and Strategy chapter recognises the relationship of Waikato-Tainui with the Waikato River as it lies at the heart of their identity as well being a major influence on their spiritual, cultural, historic and physical wellbeing. To Waikato-Tainui, the Waikato River is their Tuupuna</p>

<p>6(h) the protection of customary rights</p> <p>7(a) kaitiakitanga</p> <p>8 Treaty of Waitangi</p>	<p>Awa, an ancestor. Te Ture Whaimana responds to four fundamental issues:</p> <p>(a) The degradation of the Waikato River and the ability of Waikato River iwi to exercise kaitiakitanga or conduct their tikanga and kawa;</p> <p>(b) The relationships and aspirations of communities with the Waikato River;</p> <p>(c) The cumulative effects of physical intervention, land use and subsurface hydrological changes on the natural processes of the Waikato River;</p> <p>(d) The time and commitment required to restore and protect the health and well-being of the Waikato River.</p> <p>Mana whenua have a responsibility to protect and nurture the mauri of all living things within their sphere of influence and control. The exercise of kaitiakitanga recognises the intricate balance and integral relationship between and with all natural resources. Mana whenua have learnt and long recognised that, in order for the environment to sustain life, people have a responsibility to protect and sustain the environment. All of the objectives in these chapters recognise and enable the importance of kaitiakitanga.</p> <p>The objectives in these chapters all achieve Section 8 by effectively recognising the principles of the Treaty of Waitangi.</p>
<p><b>7 Other matters</b></p>	
<p>(b) the efficient use and development of natural and physical resources</p>	<p>The objectives will ensure efficient use of natural and physical resources in primarily TTW-O1 which recognises the River as a key natural resource and giving effect to the Vision and Strategy is important.</p>

(c) the maintenance and enhancement of amenity values	The objective in the Whaanga Coast Precinct recognises the need to maintain rural character and amenity.
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Having undertaken the assessment above, the suite of objectives for Tangata Whenua are considered the most appropriate to achieve the Purpose of the Act in accordance with s5(1).

## **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.

### **Identification of Reasonably Practicable Options – for Achieving Objective(s)**

The following assessment identifies reasonably practicable options for achieving the objectives. This high-level screening process considers the effectiveness of each option. The only options which will be evaluated in this section are those which we consider are reasonably practicable to implement.

Option 1: Remove all provisions relevant to Maaori culture

Option 2: Apply a zone to Maaori land

Option 3: Enable development of Maaori land regardless of the zone

Option 4: Require consideration of maatauranga Maaori for all activities

Option 5: Require maatauranga Maaori to be considered in certain circumstances based on:

- a. the activity and/or
- b. the activity status.

Having considered the various options, we consider that option 3 and 5 are the most appropriate way to achieve the objectives.

### Efficiency and effectiveness

Section 32(1)(b) (and thus s32AA(1)(b)) of the RMA requires an examination of the proposed provisions to ensure that they are the most appropriate way of achieving the relevant objectives. The decision is an amending proposal insofar as the s32 evaluation for the PDP has already been written. It follows that this assessment must relate to the provisions and objectives of the decision as if they were the amending proposal. The complexity is that some of the objectives and provisions have been sourced from the notified PDP, and therefore are not amended by our Decision per se. To avoid complexity, all of the provisions included in the Decision have been considered to be the amending proposal and have been considered as a comprehensive package.

### Use of Maaori land

Provisions most appropriate	Effectiveness and Efficiency	
	Benefits	Costs
Policies and rules in: <ul style="list-style-type: none"> <li>• Maaori Land Chapter</li> <li>• Whaanga Coast Development Precinct</li> <li>• Definitions</li> </ul>	Environmental:  Tangata whenua are able to apply kaitiakitanga to the environment in accordance with their tikanga and kawa.	Environmental:  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.  There may be destruction or damage to matters of national importance such as landscapes, natural character and biodiversity.  Development may be in inappropriate locations.

	<p>Economic:</p> <p>Makes housing more affordable.</p> <p>Enables development of Maaori land for a range of activities including commercial.</p> <p>Provides employment opportunities for Maaori.</p>	<p>Economic:</p> <p>There may be effects on the economic sustainability and viability of other towns and villages in the District.</p>
	<p>Social:</p> <p>Enables the effective use of Maaori land.</p> <p>Creates a community.</p>	<p>Social:</p> <p>Feelings of inequity that increased development is enabled on Maaori owned land.</p>
	<p>Cultural:</p> <p>Empower Tangata Whenua to manage their traditional resources in a customary manner that is of their choice.</p> <p>Enables exercise of kaitiakitanga.</p> <p>Enables development in accordance with Maaori cultural aspirations and preferences.</p> <p>Enables connection with land and whanau.</p> <p>The encouragement of concept management plans will enable holistic</p>	<p>Cultural:</p> <p>Nil</p>

	and comprehensive planning of the site.	
<b>Opportunities for economic growth and employment</b>		
The provisions are likely to result in economic growth for Maaori and employment opportunities.		
<b>Risk of acting or not acting</b>		
<p>Uncertainty or insufficiency of information:</p> <p>There is uncertainty is whether additional land may be added as a result of Treaty settlements and the location of those.</p> <p>The likely level of development on each site is not known.</p> <p>Risk of acting or not acting:</p> <p>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.</p>		
<b>Efficiency and effectiveness</b>		
The proposed provisions will be both effective and efficient means of achieving the utilisation of Maaori Land by Tangata Whenua, thereby upholding the RMA and subsequently giving effect to the RPS.		

### Maatauranga Maaori and the Waikato River

Provisions most appropriate	Effectiveness and Efficiency	
	Benefits	Costs
Policies and rules in: <ul style="list-style-type: none"> <li>Maaori Values and Maatauranga Maaori</li> </ul>	Environmental:  Explicit recognition of culturally important natural features.	Environmental:  Nil

<ul style="list-style-type: none"> <li>• Te Ture Whaimana (Vision and Strategy for the Waikato River)</li> <li>• Definitions</li> </ul>	<p>Explicit recognition of the value of the Waikato River.</p> <p>Identification of the Waikato River as an Outstanding Natural Feature/Landscape.</p> <p>Protecting and restoring significant natural areas, riparian margins and wetlands within the catchment.</p> <p>Enabling conservation activities.</p> <p>Managing the effects of subdivision, use and development including those associated with certain activities.</p>	
	<p>Economic:</p> <p>Nil</p>	<p>Economic:</p> <p>Increases costs to resource consent applications.</p> <p>May preclude development in some areas or certain activities.</p>
	<p>Social:</p> <p>Enabling public access to and along the Waikato River at time of subdivision.</p> <p>Encourages closer working relationships between Council and Tangata whenua.</p>	<p>Social:</p> <p>Nil</p>

	<p>Cultural:</p> <p>Recognises the relationship between mana whenua and waters, ancestral lands, sites of significance, waahi tapu, urupaa, maunga and other landforms, mahinga/hauanga kai, and other taonga and taonga species (indigenous flora and fauna).</p> <p>Requires cultural values assessments to be carried out.</p> <p>Accidental discovery protocols will be implemented to protect discoveries.</p> <p>Use of mana whenua traditional place names.</p> <p>Protection, enhancement and restoration of mauri.</p> <p>Use of appropriate locally sourced native plant species where practicable.</p> <p>Use of archaeological information including Maaori archaeological information.</p> <p>Incorporation of traditional or sympathetic Maaori</p>	<p>Cultural:</p> <p>Iwi may not have sufficient resources to assess consent applications.</p>
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	<p>design elements where practicable.</p> <p>Enable mana whenua to exercise kaitiakitanga.</p> <p>Providing opportunities for mana whenua involvement in decision-making on resource consents in relation to sites of significance to Maaori and issues of cultural significance.</p> <p>Increased awareness of cultural values.</p>	
<p><b>Opportunities for economic growth and employment</b></p>		
<p>There are unlikely to be any increased opportunities for economic growth or employment as a result of these provisions.</p>		
<p><b>Risk of acting or not acting</b></p>		
<p>Uncertainty or insufficiency of information:</p> <p>The number of consent applications and scale of resourcing needed by iwi cannot be anticipated.</p> <p>Risk of acting or not acting:</p> <p>The risk of not acting is that consent applications do not consider cultural effects, or the effects on the Waikato River.</p>		
<p><b>Efficiency and effectiveness</b></p>		
<p>The policies and rules will be the most effective and efficient approach for achieving the objectives because they:</p> <ul style="list-style-type: none"> <li>• give effect to the RPS and iwi management plans;</li> </ul>		

- enable the Council to fulfil its statutory obligations, including Part 2 of the RMA, most notably sections 6, 7 and 8;
- ensure that adverse effects on Maori cultural values are managed appropriately by rule requirements; and
- enable the Council to effectively administer its District Plan and to monitor the outcomes of the proposed provisions in a clear and consistent manner.

## TW – Tangata Whenua

### Recognition of Iwi and Hapuu

#### Overview

Te Tiriti o Waitangi recognises rangatiratanga and the importance of lands, waterways and other taonga of iwi and hapuu. The plan adopts an innovative approach to resource management intended to reflect partnership as envisaged by Te Tiriti. 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 stronger recognition of iwi plans and ongoing engagement with iwi and hapuu consultation. The introduction of a tangata whenua section is to provide background and better understanding of Maaori issues. It is a new approach that is further. To strengthen the presence of tangata whenua throughout the plan, this approach is supported by specific objectives, policies, rules, and methods that align more specific to kaitiakitanga. From a tangata whenua perspective, kaitiakitanga is a broad concept that includes balanced use and development in ways that respect and protect lands, waterways and other taonga for future generations. The purpose of this chapter is to provide context to assist decision makers and users of the plan. Maaori aspirations. It is thought that this approach will enable an improved presence of tangata whenua throughout the plan and the relevant objectives, policies, rules and methods to be given more consideration.

#### *Nga Iwi o Tainui ki te Waikato Takiwaa o Waikato-Tangata Whenua*

(1) Maaori are the tangata whenua of Aotearoa New Zealand, 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”. Tangata whenua It literally means ‘people of the land’ from tangata, ‘people’ and whenua, ‘land’. Tangata whenua are made up of several iwi throughout New Zealand. In the context of this plan, tangata whenua include iwi, hapuu, and marae that are recognized as holding mana whenua over a particular area on the basis of an association to that area in accordance with whakapapa and tikanga such as ahi kaa roa. Within tangata whenua, Mmana whenua’ means the collective authority to act, or speak on issues that 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 affect iwi, hapuu or marae, and their taonga. of the hapuu/marae/or whaanau groups. It is the power associated with whakapapa, possession and occupation of tribal land. Te Whakakitenga o Waikato (Waikato-Tainui) is recognised as the Tangata Whenua-recognised Iwi Governance Authority of the representative of tangata whenua. Waikato district, but it acknowledges that the marae/hapuu have ‘mana whenua’ over their rohe or individual areas of the Waikato. There are 68 marae and 33 hapuu in the Waikato rohe who affiliate to the Waikato-Tainui, 41 of those marae are within Waikato District. The 33 hapuu are listed below. Iwi Authority. It has a registered membership of over 70,000. As at 2021, there are more than 75,000 registered beneficiaries. There are also many Maaori from other New Zealand tribal areas who choose to ‘live, work and play’ in the Waikato district. There are 41 marae within the Waikato district Council area. Council also recognises other hapuu who have received Treaty settlement and may identify themselves as iwi authorities. Council recognises that, as Treaty claims are settled, there may be other iwi authorities who wish to be recognized within the Waikato district. The importance of tangata whenua is also recognised in a number of legislative provisions. Council also recognizes that there

are many Maaori from other tribal areas who choose to 'live, work and play' in the Waikato district.

- (2) A brief ~~historical~~ account of the rich history of Maaori and New Zealand history that is relevant to the Waikato district has been provided to support this chapter. The report gives pertinent information and context in respect of understanding the rich history, culture, iwi connections, colonial settlement, Te Tiriti o Waitangi, the New Zealand land wars, raupatu and redress ("Engaging the Waikato" (Ormsby & Gannin, 2016)). Some of the key aspects of that history are set out below.
- (3) ~~At least since 1300AD~~ After 1300/1400AD ~~the descendants of the Tainui waka~~ have settled ~~began to spread inland and populate Hauraki, Waikato, Maniapoto and Raukawa areas. In the Waikato District. The the Waikato takiwa (district) there became two distinctive landscapes, harbours and waterways in the district from Aotea Harbour to Te Puaha o Waikato (mouth of the Waikato River at Port Waikato), and the Waikato River landscape that follows the river from Tamahere to Te Puaha o Waikato. The archaeological evidence of the settlement pattern on the west coast and along the banks and tributaries of the Waikato River pointed to the demonstrate the rich resources that have sustained the Hapuu of the Iwi whaanau, hapuu and iwi for centuries.~~
- (4) Today there are 33 iwi/hapuu listed in the Waikato-Tainui Deed of Settlement; in the Waikato takiwa who have mana whenua as part of Ngaa Iwi o Tainui:
- (a) Ngaati Maahanga;
  - (b) Ngaati Mahuta;
  - (c) Ngaati Makirangi;
  - (d) Ngaati Naho;
  - (e) Ngaati Ngutu;
  - (f) Ngaati Paretauaa;
  - (g) Ngaati Paretekawa;
  - (h) Ngaati Pou;
  - (i) Ngaati Aamaru;
  - (j) Ngaati Aapakura;
  - (k) Ngaati Hauaa;
  - (l) Ngaati Hikairo;
  - (m) Ngaati Hine;
  - (n) Ngaati Koheriki;
  - (o) Ngaati Korokii;
  - (p) Ngaati Kuaarangi;
  - (q) Ngaati Puhiaue;
  - (r) Ngaati Raukawa ki Panehakua;
  - (s) Ngaati Ruru;
  - (t) Ngaati Tahinga;
  - (u) Ngaati Tamainupo;

- (v) Ngaati Tamaoho;
- (w) Ngaati Taratikitiki;
- (x) Ngaati Te Ata;
- (y) Ngaati Te Wehi;
- (z) Ngaati Tai;
- (aa) Ngaati Tiipaa;
- (bb) Ngaati Wairere;
- (cc) Ngaati Werokoko;
- (dd) Ngaati Whaawhaakia;
- (ee) Ngaitai;
- (ff) Tainui; and
- (gg) Te Aakitai.

#### *Kiingitanga*

- (5) The Kiingitanga was founded in 1858 with the aim of uniting Maaori under a single sovereignty in the face of increasing demand for land by incoming settlers. Waikato is the seat of the Kiingitanga (King movement). The appointment of Pootatau Te Wherowhero as the first Maaori King was ~~not only~~ based on his whakapapa, his exceptional skills as a warrior, and intricate knowledge of te Ao Maaori (the Maaori World). ~~It also recognised, but also in recognition of~~ the rich resources he could access ~~commanded~~ from the surrounding environment. ~~The new King would be required to feed the masses on a regular basis, and the resources within the rohe enabled the King to provide a bountiful amount of food.~~ Today the Kiingitanga Maaori Kingitanga Movement is still seen as remains an important and enduring expression of Maaori strength in unity and holds an established place in New Zealand society.

#### *Waikato River*

- (6) The Waikato River is the tūpuna (ancestor) of the Waikato peoples. ~~Waikato-Tainui from with whom they share which Tainui derive their name and therefore is~~ . ~~The Kiingitanga movement is the heart of the Waikato region and the Waikato River is the~~ at the heart of their identity. ~~blood stream of the life of the Waikato people.~~ The following whakataukii-pepeha (proverb tribal saying) expresses this relationship:

*Ko Tainui te waka (Tainui is the canoe)*

*Ko Waikato te awa (Waikato is the river)*

*Ko Te Wherowhero te tangata (Te Wherowhero is the ~~man~~ person)*

- (7) ~~These~~ The following whakatauaakii (proverb) expresses the strategic importance and intergenerational connection of the Waikato River to Waikato-Tainui:

*Waikato Taniwharau (Waikato of a hundred taniwha)*

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

(8) Taniwha refer to the metaphysical aspects of the River, and to chiefs, signifying the leadership in paa and villages that existed at every bend of the Waikato River. The River continues to be their source of physical and spiritual sustenance. The special relationship that mana whenua have with their ancestral river cannot be overstated. ~~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.~~ Demonstrating the importance of the River, Waikato-Tainui negotiated a settlement which is enshrined in ~~Important relationships have been formed through the River Settlement Acts: The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, and which created Te Ture Whaimana (the, the Vision and Strategy) (Te Ture Whaimana o Te Awa o Waikato) and the Joint Management Agreement between Waikato-Tainui and the Waikato District Council, ;~~ which are redress instruments of a Treaty of Waitangi settlement, so have significant meaning and status for Waikato-Tainui. Te Ture Whaimana is the primary direction setting document for decisions that relate to, or affect, the Waikato River. The overarching purpose of the settlement is to restore and protect the health and wellbeing of the Waikato River for current and future generations. ~~Other hapuu and iwi, including those of the harbours and coastal communities bordering the western boundary of Waikato district have also developed relationships with the Waikato District Council.~~

#### *Iwi and the environment*

- (9) ~~Many of the issues faced by~~ €Tangata whenua have rights and responsibilities as kaitiaki of lands and waterways and other taonga. Tangata whenua have consistently advocated for a change in the relationship that humans are of historical and current uses of the land and the have with the environment that is more respectful. They will only be solved by changing our relationships and values with the land, air and water. ~~The Council has certain obligations in terms of the Resource Management Act 1991 (RMA 1991) in managing the district's resources to ensure that tangata whenua's rights are recognised and provided for. However, it is everyone's responsibility to protect, restore and enhance the natural and cultural resources of the district. Under s6(e) of the RMA 1991, Ppart of Council's responsibility is to look for ways to recognise and provide for, as a matter of national importance, the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. This can be done by ensuring that objectives, policies, rules, and methods are provided to enable tangata whenua to use their whenua to culturally live, work and play throughout the district in ways that align to kaitiakitanga.~~
- (10) ~~For iwi tangata whenua within the Waikato district, significant the impact of raupatu (wholesale confiscation) following the establishment of the Kiingitanga and the ensuing land wars, has been devastating. events have shaped their perspective and attitudes to their people, lands, waterways, waahi tapu (sacred sites) and environs. The establishment of the Kiingitanga movement, the land wars, which ensued, the wholesale confiscation of lands across the region, had an undeniable impact~~
- (11) ~~In 1995 Subsequently, the way in which the iwi Waikato-Tainui was the first major iwi to settle their comprehensive historical land claims. To provide redress for Crown omissions and actions such as confiscation, the settlement resulted in the return of lands and the subsequent creation of a significant economic base that enables Waikato-Tainui to make positive contributions to the district in multiple ways. has mobilised itself to derive a livelihood and seek redress was by setting a pathway forward that others could follow in the settlement process. Treaty settlements and relationships stemming from these agreements continue to have an increasing impact on growth, opportunity, and environmental stewardship of natural resources in the region.~~

(12) Enabling Maaori tangata whenua to establish and maintain their relationship, cultures and traditions with their ancestral lands is a matter of national importance. It is important that this is consistent with the environmental capacity of the area ~~to~~ for sustainable ~~sustainably~~ use ~~ancestral land for such purposes~~ that will promote the economic, cultural and social holistic health and wellbeing of the Maaori community. In this regard, Council supports Maaori land entities tangata whenua in the development of good quality papakainga housing on multiple-owned land. This is reflected through the policies in the ML-Maaori Land chapter.

#### *Iwi authorities*

(13) Te Whakakitenga o Waikato Incorporated Society (Waikato-Tainui) is the iwi authority that represents ~~representative of the 33 hapuu, 68 marae and supporters of the Kiingitanga movement.~~ The name Te Whakakitenga o Waikato represents the future “pathway” of vision for Waikato-Tainui’s ~~social, cultural, environmental and economic~~ holistic wellbeing.

(14) Waikato District Council has boundary relationships with the following iwi authorities:

- (a) Hauraki Collective;
- (b) Maniapoto ~~Iwi~~ Maaori Trust Board; and
- (c) Raukawa Settlement Trust.

#### Tangata whenua – local authority relationships

##### *Joint Management Agreement (Waikato-Tainui) 2010*

(15) As a result of the Waikato-Tainui Raupatu Claims (Waikato River) Act 2010, a Joint Management Agreement (JMA) between Waikato-Tainui and Waikato District Council was signed in March 2010. The JMA affirms commitment between Waikato-Tainui and Waikato District Council to co-manage the Waikato River, to restore and protect the health and wellbeing of the river for current and future generations and also to provide an enhanced relationship between the parties on areas of common interest.

~~(16) This agreement provides Council with a relationship with Waikato-Tainui to share the exercise of functions, duties and powers under the Local Government Act 2002, and the Resource Management Act 1991 and the Waikato-Tainui Deed of Settlement in relation to the Waikato River and enabling legislation.~~

~~(17) Council and Waikato-Tainui share areas of commonality when it comes to structure, constituency, democratic appointment, geographic influence, natural resource management, political, social and economic imperatives and long term generational planning.~~

##### Guiding Principles

~~When this agreement is exercised Council and the Waikato Raupatu River Trust acting on behalf of Waikato-Tainui have a number of principles that layout how the JMA will provide a platform for working collaboratively when preparing RMA planning documents that relate to the Waikato and Waipa Rivers and their catchments.~~

~~The JMA enables joint objectives of:~~

- ~~(a) The restoration and protection of the health and wellbeing of the Waikato River for future generations; and~~

- ~~(b) Establishing and maintaining a positive, co-operative and enduring relationship consistent with the guiding principles and the principles for engagement~~
- ~~(c) Work co-operatively on matters of common interest to both parties.~~

~~(18) The JMA also has a number of schedules that outline the process for engagement with Waikato-Tainui to achieve the purpose, principles and objectives of this agreement.~~

#### *Joint Management Agreement (Maniapoto) 2012*

- (16) The Nga Wai o Maniapoto (Waipa River) Act 2012 came into effect on 5 April 2012. Under this Act ~~the~~ there is a requirement for Waikato District Council to enter into a Joint Management agreement with Ngaati Maniapoto. The purpose of the Act is to "...restore and maintain the quality and integrity of the waters that flow into and form part of the Waipa River for present and future generations..." ~~(16)~~ Waikato District Council, Waipa District Council, Waitomo District Council, Otorohanga District Council and the Waikato Regional Council signed the Waipa River Joint Management Agreement with the Maniapoto Maaori Trust Board on 3 April 2013.
- (17) ~~The overarching purpose of t~~This agreement has a number of principles with the ~~overarching purpose of~~ is restoring and maintaining the quality and integrity of the waters that flow into, and form part of, the ~~Waipa~~ Waipa River for present and future generations.

#### *Memorandum of Understanding (Nga Uri aa Maahanga) Memoranda of Understanding or Memoranda of Agreement*

- (18) Council has Memoranda of Understanding or Memoranda of Agreement with the following iwi groups to provide for an enhanced relationship between the parties on areas of common interest:
  - (a) Nga Uri aa Maahanga;
  - (b) Ngaati Hauaa Iwi Trust; and
  - (c) Ngaati Hounuku as represented by Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust).
- ~~(1) There is a memorandum of understanding with Nga Uri aa Maahanga which formalises an informal relationship that Council has had with Nga Uri aa Maahanga for a number of years.~~

#### *Memorandum of Agreement (Ngaati Hauaa Iwi Trust)*

- ~~(1) There is a memorandum of agreement with Ngaati Hauaa Iwi Trust which formally records the relationship that Council has with Ngaati Hauaa Iwi Trust and provides direction for both parties.~~

#### *Memorandum of Understanding (Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust)*

~~(1) There is a memorandum of understanding with Ngaati Hounuku being represented by Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust in relation to the Te Whaanga Roading matters, and the sewerage and wastewater pipeline.~~

## Hapuu and iwi planning documents

### *Iwi Management Plans*

~~Iwi and Hapuu Management Plans articulate the aspirations of Tangata Whenua and are a term commonly applied to a resource management plan prepared by an Iwi, Iwi authority, ruunanga or hapuu to address matters of resource management activity of significance within their respective rohe (area). Iwi and Hapuu Management Plans also consider the environment in a holistic manner and as being inseparable from people. It is a "Matter to be considered by the territorial authority" [Section 74 (2A)(a)] including Section 35A of the Resource Management Act 1991.~~

~~A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an Iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. The district plan seeks to provide Tangata Whenua with the ability to utilise communally-owned land in accordance with their cultural values, such as papakainga housing, marae/paa, and support economic development.~~

~~Planning documents recognised by an iwi authority and lodged with the Council must be taken into account when district plans are being prepared, and are a matter to be considered in the processing of resource consents, plan changes and designations. In addition to the requirements of the RMA, the Waikato and Waipa Rivers' associated legislation places similar responsibilities on the Council with respect to Iwi planning documents.~~

~~Iwi management plans provide both the Council and the community with a greater understanding of the environmental issues that are of concern to tangata whenua. Under section 74(2A) of the Resource Management Act 1991 (RMA) the Council has taken into account planning documents in the district recognised by iwi authorities. These documents are also considered under section 104(1)(c) of the RMA, when making decisions on resource consents.~~

~~The following iwi management plans currently apply in the Waikato district:~~

- ~~(a) Tai Tumu Tai Pari Tai Ao - Waikato-Tainui Environmental Plan;~~
- ~~(b) Ko Ta Maniapoto Mahere Taiao - Maniapoto Environmental Management Plan;~~  
~~and~~
- ~~(c) Te Rautaki Ki Taamata Ao Turoa o Hauaa – Ngaati Hauaa Environmental Management Plan.~~

~~A number of Several other iwi management plans are also in the process of being prepared. These documents once prepared and lodged with the Council, will provide both the Council and the community with a greater understanding of the environmental issues that are of concern to Tangata Whenua.~~

### *Waikato-Tainui Environmental Management Plan*

The Waikato-Tainui Environmental Management Plan ('the Environmental Plan') provides a clear high-level guidance on Waikato-Tainui objectives and policies with respect to the environment within the Waikato-Tainui rohe. The Environmental Plan also provides a process that guides the ongoing and effective involvement of Waikato-Tainui in matters related to resource use and activities affecting the environment, including the preparation of planning documents. The Environmental Plan encourages the initiation of the consultation/engagement process as early as practicable

The Waikato-Tainui Environmental Plan and the Maniapoto Iwi Management Plans are is a redress instruments of Treaty settlements.

### *Maniapoto Iwi Environmental Management Plan*

The plan identifies some of the most pressing issues for Maniapoto and the impacts on their well-being. The plan sets out clear, consistent objectives, policies, methods and monitoring and reporting processes to help Maniapoto address those issues and to achieve their aspirations the environment.

### *Consultation*

In matters of consultation under the Resource Management Act 1991 (RMA), Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) is the iwi authority established under the Waikato Raupatu Claims Settlement Act 2010.

The RMA requires the principles of Te Tiriti o Waitangi and any iwi management plan to be taken into account when developing the district plan. In addition, Council must consult with the iwi authority in preparing a district plan or plan change under the RMA (Schedule 1) and the Order.

Council has a number of joint management agreements with Iwi partners that gives a platform for consultation. These agreements are the foundations for working collaboratively with our iwi partners to reflect the principles of Te Tiriti o Waitangi and the Vision and Strategy for the Waikato River.

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.

## PREC5 – Whaanga Coast development precinct

The relevant district-wide chapters and GRUZ – General rural zone provisions apply in addition to this chapter (unless specified otherwise).

### Objective

PREC5-O1 Whaanga Coast.

Rural character and amenity are maintained.

### Policies

PREC5-P1 Whaanga Coast.

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.

PREC5-P2 Whaanga Coast development specific control area.

Provide for a bulk and scale of land use and development to enable papakaainga housing in the Whaanga Coast development specific control area.

### Rules

Land use – activities

<b>PREC5-RI</b>	Maaori Purpose Activity within a Whaanga Coast Development specific control area	
<p><b>(1) Activity status: PER</b>  <b>Activity-specific standards:</b></p> <p>(a) Building height does not exceed 7.5m measured from the natural ground level immediately below that part of the structure 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>(b) For residential units:</p> <ul style="list-style-type: none"> <li>(i) Where the underlying zone would otherwise require a outdoor living space, and compliance with that cannot be achieved, a communal outdoor living space of at least 24m<sup>2</sup> per residential unit shall be provided;</li> <li>(ii) Where the underlying zone would otherwise require a service court, and compliance with that cannot be</li> </ul>	<p><b>(2) Activity status where compliance not achieved: RDIS</b>  <b>Council's discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>(a) The adverse visual and amenity effects from any building or structure on the attributes of the identified landscape or natural character area are avoided, remedied or mitigated;</li> <li>(b) In regards to outdoor living spaces: <ul style="list-style-type: none"> <li>(i) The extent to which the space is useable to the occupiers;</li> <li>(ii) Access to sunlight;</li> <li>(iii) Privacy of adjoining residential sites; and,</li> <li>(iv) Accessibility to and convenience of the space for occupiers.</li> </ul> </li> <li>(c) In regards to service courts: <ul style="list-style-type: none"> <li>(i) The convenience and accessibility of the spaces for building occupiers;</li> </ul> </li> </ul>	

	achieved, a communal service court of at least 3m <sup>2</sup> per residential unit shall be provided at ground floor	(ii) The adequacy of the space to meet the expected requirements of building occupiers; and, (iii) Adverse effects on the location of the space on visual amenity from the street or adjoining sites.
<b>PREC5-R2</b>	A home business within a Whaanga Coast development specific control area	
(1) Activity status: <b>PER</b> Activity-specific standards:	(a) It is wholly contained within a building; (i) The storage of materials or machinery associated with the home business are wholly contained within a building; (ii) No more than 2 people who are not permanent residents of the site are employed at any one time; (iii) Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:30am and before 7:00pm on any day; (iv) Machinery may be operated after 7:30am and up to 9pm on any day	(2) Activity status where compliance not achieved: <b>DIS</b>
<b>PREC5-R3</b>	Farming within a Whaanga Coast development specific control area	
(1) Activity status: <b>PER</b> Activity-specific standards:	Nil.	(2) Activity status where compliance not achieved: <b>n/a</b>
<b>PREC5-R4</b>	Produce stall within a Whaanga Coast development specific control area	
(1) Activity status: <b>PER</b> Activity-specific standards:	Nil.	(2) Activity status where compliance not achieved: <b>n/a</b>
<b>PREC5-R5</b>	Any land use activity or building located outside a Whaanga Coast development specific control area	
(1) Activity status: <b>DIS</b> Activity-specific standards:	Nil.	(2) Activity status where compliance not achieved: <b>n/a</b>

*Land-use building*

<b>PREC5-SI</b>	Building height within a Whaanga Coast development specific control area	
(1) Activity status: <b>PER</b> Where:	(a) A building within a Whaanga Coast development specific control area must comply with the following standards: (i) Height does not exceed 7.5m measured from the natural ground level immediately below that part of the structure; and	(2) Activity status where compliance not achieved: <b>DIS</b>

<p>(ii) It does not protrude through a height control plane rising at an angle of 45 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.</p> <p>(b) Rules GRUZ-S3 – GRUZ-S7 do not apply.</p>	
<p><b>PREC5-S2</b>   Accessory building within a Whaanga Coast development specific control area</p>	
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(a) An accessory building within a Whaanga Coast development specific control area must comply with the following standards:</p> <p>(i) Its gross floor area must not exceed 75m<sup>2</sup>; and</p> <p>(ii) It is the only accessory building for a residential unit.</p>	<p><b>(2) Activity status where compliance not achieved: DIS</b></p>
<p><b>PREC5-S3</b>   Building setback within a Whaanga Coast development specific control area</p>	
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(a) A building within Whaanga Coast development specific control area must be set back a minimum of:</p> <p>(i) 12m from any road boundary or any other zone boundary;</p> <p>(ii) 20m from any watercourse or area proposed for wastewater disposal and treatment; and</p> <p>(iii) 100m from mean high water springs</p> <p>(b) Rules GRUZ-S12 – GRUZ-S18 do not apply.</p>	<p><b>(2) Activity status where compliance not achieved: DIS</b></p>
<p><b>PREC5-S4</b>   Papakaainga Building – gross floor area within a Whaanga Coast development specific control area</p>	
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(a) A Papakaainga Building within Whaanga Coast development specific control area that does not exceed 300m<sup>2</sup> gross floor area.</p>	<p><b>(2) Activity status where compliance not achieved: DIS</b></p>
<p><b>PREC5-S5</b>   Residential unit – gross floor area within a Whaanga Coast development specific control area</p>	
<p><b>(1) Activity status: PER</b></p> <p><b>Where:</b></p> <p>(a) A residential unit within a Whaanga Coast development specific control area that does not exceed 180m<sup>2</sup> gross floor area.</p> <p>(b) Rules GRUZ-S1 does not apply.</p>	<p><b>(2) Activity status where compliance not achieved: DIS</b></p>

## ML – Maaori Land

### Overview

#### Understanding Maaori Land Ownership Tenure

- (1) Land in Aotearoa was governed and managed by hapuu in accordance with tikanga. This customary regime was profoundly changed in 1840 with the British Crown's assumption of sovereignty and the introduction of the doctrine of tenure and estates. The Crown became the sole body able to deal with Maaori regarding land. Following Te Riri Paakehaa (the New Zealand land wars), the government confiscated millions of acres of land from hapuu and iwi in the Waikato under the New Zealand Settlements Act 1863. Thousands of acres were returned via a Compensation Court. This land was no longer customary land. It had been converted into a freehold title. The Native Land Court was also established in the 1860s. One of the Court's primary tasks was to determine the nature of the Maaori customary interest in any land and to convert that interest into a fee simple interest which settlers could then directly purchase from those Maaori to whom it has been awarded. This land is now known as Maaori Freehold Land. As a result of Native Land Court determinations for generations that, on intestacy, interests were to be distributed equally among the children of the deceased, land interests have become fragmented. define the boundaries of that land and convert it from communally held land by allocating owners and shares. The combined impact of confiscation and the Native Land Court regime took from Maaori the land necessary to sustain their people. Other laws, such as Public Works legislation, also contributed to alienation of land. Today, approximately 5.5% of the land mass in Aotearoa New Zealand is Maaori Land that comes under the jurisdiction of Te Ture Whenua Maaori 1993. That includes some 5% of the land in Waikato District. Individualisation and extreme fragmentation continue to impede efforts of Maaori landowners to utilise and develop their land. This plan incorporates specific objectives, policies and rules and methods that are intended to enable utilisation and development.
- (2) ~~Before the arrival of colonial settlers, all land in New Zealand was held as customary land, by the tribes or hapuu groups. This process allowed for the sale of land, but Maaori could only sell to the Crown. The 1860 Land Wars resulted in Maaori land confiscation by the Crown which was sold for colonial settlement. Today, only 5.5% of New Zealand land is held in Maaori ownership. It is administered by the Māori Land Court and subject to Te Ture Whenua Maaori Act 1993. Land titles issued to Maaori by the Maori Land Court became known as Māori freehold land. Maaori rights to land do not translate neatly into common law categories of property and title. Generally, descendants inherit shares in the land from deceased parents. Succession of shares often becomes uneconomical because of multiple ownership. However, what is important is the whakapapa connection to the land through the original tuupuna of the place. The land is a source of identity and Maaori see themselves as not only "of the land" but "as the land." The majority of Maaori land blocks in multiple ownership have caused significant challenges for Maaori owners, the Māori Land Court and Te Puni Kōkiri (who work within government and communities to support Maaori). Lack of good governance, absentee owners, lack of knowledge and relevant information prevent owners from engaging and utilising the land for their social, cultural and economic well-being.~~
- (3) In accordance with the powers of the Māori Land Court, the district plan will seek to enable Maaori land provisions to be made by the court. The Māori Land Court has the jurisdiction to determine the status and use of Maaori land. The Section 2 of Te Ture Whenua Māori Act 1993 (Te Ture Whenua) directs that the powers, duties and discretions conferred by Te Ture

Whenua are to be exercised in a manner that facilitates and promotes the retention, use, development and control of Maaori land as a taonga tuku iho. In light of the legislative history summarised above, and the designation of Maaori land as a taonga tuku iho, Te Ture Whenua imposes restraints on further alienation of land. The Maaori Land Court has jurisdiction to do such things as set aside land as a Maaori Reservation, to establish trusts, to grant occupation orders, and to grant orders for partition. It is common for the Court to provides for certain purposes for which the whenua may be reserved. The Court may, on application, make an order for land to be gazetted for an individual or a combination of purposes (it is common for the Māori Land Court to request a Concept Management Plan or a Land Plan and comments from the Council as part of its deliberations).

## **Te Ture Whenua**

### Maaori Reservations

(4) Part 17, s338 of the Te Ture Whenua Maori Act 1993, Under section 338, a Maaori Reservation may be created from Maaori Freehold Land or General Land for: lists certain purposes for communal use of Maaori reservations:

- (a) "...the purposes of a village site, marae, meeting place, recreation ground, sports ground, bathing place, church site, building site, burial ground, landing place, fishing ground, spring, well, timber reserve, catchment area or other source of water supply, or place of culture cultural, historical, or scenic interest, or for any other specified purpose;" or
- (b) for "a waahi tapu, being a place of special significance according to tikanga Maori".

It is not necessary for a Maaori Reservation to include a marae and section 338 is broad enough to include a hauora, or health facility.

### Trusts and Incorporations

In light of difficulties associated with multiple ownership, Trusts and Incorporations are useful for managing blocks of Maaori Freehold Land or General Land. The Ahu Whenua Trust is the most common form of trust used for commercial purposes. Under section 215, an Ahu Whenua Trust may be formed where the Court is satisfied that the trust would "promote and facilitate the use and administration of the land in the interests of the persons beneficially entitled". Other forms of trust that can be established under Te Ture Whenua that may be used to manage land include Whaanau Trusts and Whenua Toopu Trusts. The Court is required to set out the terms of any trust by Court order. The Trust Order would also identify the purposes of the Trust. Incorporations are another popular model for managing Maaori land. Incorporations are administered by management committees elected by shareholders, who work to a constitution set down by the Maaori Incorporations Constitutions Regulations 1994. A land plan or concept management plan can be useful as a planning tool to assist trustees and committee members fulfil their responsibilities, such as allocating licences to occupy land.

### Occupation orders

(5) Under Part 15, the Maaori Land Court may make an Occupation Order over Maaori Freehold Land or General Land. Where there is a Trust or Incorporation in place, the Court must not make an Occupation Order without the consent of the trustees or the Incorporation.

### Integrated development of Maaori Freehold Land

(6) The integrated and comprehensive management of Maaori land is promoted through a range of methods outside of the regulatory framework of the District Plan. Council has been actively leading the promotion of integrated planning of Papakainga housing development with Te Puni Kookiri and

a range of supporting agencies including Waikato Regional Council. This commenced with the development of the Papakaainga Maaori Housing Toolkit in 2013, developed to assist landowners in their aspirations to return to their whenua. This toolkit includes the development of concept plans.

#### Treaty Settlement Land

(7) As part of Treaty Settlements, claimant groups such as iwi and hapuu receive an acknowledgement and apology by the Crown for its past actions and omissions, particularly in relation to confiscation, the Native Land Court regime and other legislation that led to Maaori being dispossessed of their land. Through settlement processes, post-settlement governance entities are established to receive cultural and commercial redress. The return of land is an integral form of both cultural and commercial redress. With a few exceptions, claimants choose to have their redress land returned to them as General Land, rather than Maaori Freehold Land. The 1995 Waikato Raupatu Settlement created a unique form of inalienable title known as Pootatau Te Wherowhero title. Some of Waikato-Tainui's land is held in this title. For the purposes of this plan, land returned via a Treaty settlement is called Treaty Settlement Land. In this plan, Maaori land encompasses both Treaty Settlement Land and land that comes under Te Ture Whenua. Given the historical context set out above, it is an aim of this plan to remove any undue barriers for Maaori to utilise, manage and enjoy their land. To this end, the plan provides permitted activity status for particular uses and administration of Maaori Land.

## Objectives

### ML-OI Whenuatanga (land management)

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

## Policies

### ML-PI Tangata whenuatanga (utilisation by landowners)

- (1) Tangata Whenua are enabled to sustainably manage their lands and resources in accordance with their cultural preferences and aspirations.
- (2) Tangata whenua are enabled to sustainably use and develop ~~ancestral lands~~ Maaori Land, ~~through a range of uses in accordance with tikanga and maatauranga Maaori, including:~~
  - (a) ~~marae complexes~~ and associated facilities;
  - (b) papakaainga housing development; ~~according to customs and practices.~~
  - (c) Papakaainga buildings;
  - (d) Cultural events;
  - (e) Urupaa;
  - (f) Tuaahu;
  - (g) Waharoa;
  - (h) Church;
  - (i) Hauora;
  - (j) Koohanga;

- (k) Conference centre and facilities;
  - (l) Waananga;
  - (m) Recreation facilities; and,
  - (n) Papa taakaro.
- (3) Economic development supports the occupation, development and use of Maaori land. Commercial activity is provided for in a way and at a scale that supports the occupation, development and use of Maaori land and meets the needs of Tangata Whenua, whilst complementing or supporting the role of business town centres in the District.

#### Non-regulatory policies

- (4) Council will work with iwi, hapuu and whaanau to encourage and support the comprehensive, co-ordinated and efficient development of Maaori land.
- (5) Alongside partner agencies, Council will support and promote the use of best practice guidance and toolkits for Maaori housing, including Te Kete Paaraha Mo Nga Papakainga Ki Waikato: Waikato Maaori Housing Toolkit, to assist iwi and hapuu in the development of Maaori land.

#### Rules

- (1) The rules that apply to Maaori Land are:
  - (a) Land Use – Activity Rule ML-R1 to ML-R5;
  - (b) Land Use – Activity Rules of the underlying zone, excluding the following:
    - (i) Home business; and
    - (ii) Commercial activity where the activity status is non-complying.
  - (c) Land Use – Effects rules of the underlying zone.
  - (d) Land Use – Building rules of the underlying zone, excluding the following:
    - (i) Number of residential units;
    - (ii) Minor residential unit rules;
    - (iii) Buildings and structures in Landscape and Natural Character Areas;
    - (iv) Building Height; and
    - (v) Building Coverage.
- (2) The activity status tables and standards in the following district-wide chapters also apply to activities on Maaori Land:
  - (a) 14 Infrastructure and Energy, excluding the following:
    - (i) Rule 14.11.2.RD7 (Outfall structures);
    - (ii) Rule 14.12.1. P1 (1)(j) (Vehicle access for all activities);
    - (iii) Rule 14.12.1. P2 (1)(e) (On-site parking and loading);
    - (iv) Rule 14.12.1. P2 (1)(f) (On-site parking and loading);
    - (v) Rule 14.12.1. P2 (1)(j) (On-site parking and loading); and,

(vi) Rule 14.12.1. P3 (1)(g) (On-site manoeuvring and queuing).

(b) 15 Natural Hazards and Climate Change.

Land use – activities

<b>ML-R1</b>	<u>Maaori Purpose Activity</u>
<p><b>(1) Activity status: PER</b>  <b>Activity-specific standards:</b>                  (a) <u>Building height does not exceed 7.5m in any of the following areas:</u>                  (i) <u>Outstanding Natural Landscape;</u>                  (ii) <u>Outstanding Natural Feature;</u>                  (iii) <u>Outstanding Natural Character Area of the coastal environment;</u>                  (iv) <u>High Natural Character Area of the coastal environment;</u>                    (b) <u>For residential units:</u>                  (i) <u>Where the underlying zone would otherwise require an outdoor living space, and compliance with that cannot be achieved, a communal living court of at least 24m<sup>2</sup> per residential unit shall be provided.</u>                    (ii) <u>Where the underlying zone would otherwise require a service court, and compliance with that cannot be achieved, a communal service court of at least 3m<sup>2</sup> per residential unit shall be provided at ground floor.</u></p>	<p><b>(2) Activity status: RDIS</b>  <u>Maaori Purpose Activity that does not comply with any activity-specific condition of Rule ML-R1 (1) PER.</u>  <b>(1) Council's discretion is restricted to the following matters:</b>                  (a) <u>The adverse visual and amenity effects from any building or structure on the attributes of the identified landscape or natural character area are avoided, remedied or mitigated;</u>                  (b) <u>In regards to outdoor living spaces:</u>                  (i) <u>The extent to which the space is useable to the occupiers;</u>                  (ii) <u>Access to sunlight;</u>                  (iii) <u>Privacy of adjoining residential sites; and,</u>                  (iv) <u>Accessibility to and convenience of the space for occupiers;</u>                  (b) <u>In regards to service courts:</u>                  (i) <u>The convenience and accessibility of the spaces for building occupiers;</u>                  (ii) <u>The adequacy of the space to meet the expected requirements of building occupiers; and,</u>                  (iii) <u>Adverse effects on the location of the space on visual amenity from the street or adjoining sites.</u></p>

<b>ML-R2</b>	<u>Home business</u>
<p><b>(1) Activity status: PER</b>  <b>Activity-specific standards:</b>                  (a) <u>There is only one home business per residential unit;</u>                  (b) <u>Each home business does not occupy more than 100m<sup>2</sup>;</u>                  (c) <u>Is wholly contained within a building;</u>                  (d) <u>No more than two people who are not permanent residents of the site are employed at any one time per home occupation;</u>                  (e) <u>Unloading and loading of vehicles or the receiving of customers or deliveries only occur after 7:00am and before 7:00pm on any day; and,</u></p>	<p><b>(2) Activity status: RDIS</b>  <u>Home business that does not comply with an activity-specific condition of Rule ML-R2 (1) PER.</u>    <b>Council's discretion is restricted to the following matter:</b>                  (a) <u>The adverse visual and amenity effects from any building or structure on the attributes of the identified landscape or natural character area are avoided, remedied or mitigated.</u></p>

(f) Machinery is only operated after 7:30am and up to 7:00pm on any day.	
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<b>ML-R3</b>	Visitor accommodation at Riria Kereopa Drive
<b>(1) Activity status: PER</b>	
<b>Activity-specific conditions:</b>	
Nil	

<b>ML-R4</b>	Commercial activity at Riria Kereopa Drive
<b>(1) Activity status: PER</b>	<b>(2) Activity status: DIS</b>
<b>Activity-specific standards:</b>	Commercial activity that does not comply with an activity-specific condition of Rule ML-R1 (1) PER.
(a) Commercial activity is for any one or more of the following:	
(i) Restaurant	
(ii) Car wash	
(iii) Boat wash	
(iv) Grocery store	
(v) Boating store	

<b>ML-R5</b>	Any commercial activity that is a Non-complying activity in the Activity Rules of the relevant Zone Chapter.
<b>(1) Activity status: DIS</b>	
<b>Activity-specific conditions:</b>	
Nil	

*Advice Notes:*

- (1) Council encourages Maori Land Trusts to prepare a Concept Management Plan as part of their land planning, to assist shareholders to overcome the barriers of consents and funding grants from other agencies. A Concept Management Plan is a 'Best Practice Planning Tool' that was introduced by the Te Kete Paaraha Mo Nga Papakainga Ki Waikato (Waikato Maori Housing Toolkit).
- (2) As part of the building consent process, an applicant seeking to build on Maori Freehold Land or Maori Customary Land may be required to provide:
  - (a) a Licence to Occupy, where the land is vested in trustees whose authority is defined in a Trust Order and/or a Maori Incorporation;
  - (b) A lease, or an Occupation Order of the Māori Land Court, where a Trust Order or Maori Incorporation does not exist.

Definitions:

Definition	Meaning
<u>Communal living court</u>	Means an area of outdoor space for the exclusive use of the residents, and guests to the residential units on the site. It does not include parking, manoeuvring areas and buildings, but does include swimming pools, pergolas and similar open-framed structures.
Communal service court	Means an area of outdoor space for three or more residential units the exclusive use of the residents on the site for domestic requirements, such as the communal use of garbage storage, refuse and or recycling materials, and clotheslines. It excludes excluding any space required for a living court outdoor living space, parking, manoeuvring, or buildings.
<u>Maaori land</u>	Means Maaori freehold land, Maaori customary land, Maaori reservation or Treaty settlement land.
<u>Maaori reservation</u>	Means Maaori free hold land or general land set apart as a Maaori reservation under s338 of Te Ture Whenua Māori Act 1993.
<u>Maaori customary land</u>	Means land determined by the Māori Land Court as being 'Māori Customary Land', that is held by Maaori in accordance with tikanga Maaori as referred to in Section 129(1)(a) and section 129(2)(a) of the Te Ture Whenua Māori Act 1993.
<u>Maaori freehold land</u>	Means land determined by the Māori Land Court as being 'Māori freehold land', consistent with Section 129(2)(b) of the Te Ture Whenua Māori Act 1993.
<u>Maaori purpose activity</u>	<p>Means the use of land and/or buildings for one or more of any of the following activities:</p> <ul style="list-style-type: none"> <li>• <u>Marae</u></li> <li>• <u>Papakaainga</u></li> <li>• <u>Papakaainga building</u></li> <li>• <u>Cultural event</u></li> <li>• <u>Urupaa</u></li> <li>• <u>Tuaahu</u></li> <li>• <u>Waharoa</u></li> <li>• <u>Church</u></li> <li>• <u>Hauora</u></li> <li>• <u>Koohanga</u></li> <li>• <u>Conference centre and facilities</u></li> <li>• <u>Waananga</u></li> <li>• <u>Recreation facilities</u></li> <li>• <u>Papa taakaro</u></li> </ul>
<u>Marae complex</u>	Means a group of buildings that constitutes a marae and can be made up of a wharenuī (meeting house), wharekai (eating house), an aatea (courtyard area in front of the wharenuī), urupaa (graveyard), tuaahu (memorial statues), waharoa (archway entrance at the entrance to the aatea), and other buildings, (church, hauora (health clinic), koohanga (pre-school), conference centre and facilities, waananga (education facility), recreation facilities, places of cultural significance, a papakaainga/papakaainga building and utility services.

Papakaainga building	Means <u>in relation to papakaainga</u> , a building for communal use. It may include <del>some</del> centralised <del>services or</del> facilities such as food preparation, dining, conference, cultural facilities, sanitary facilities, and accommodation.
<u>Treaty settlement land</u>	<p>Means land which is either:</p> <ul style="list-style-type: none"> <li>• <u>vested with a claimant group by the Crown as a result of Treaty settlement legislation and final deeds of settlement; or</u></li> <li>• <u>acquired by a claimant group pursuant to a right of first refusal or deferred selection process.</u></li> </ul> <p><u>It includes:</u></p> <ul style="list-style-type: none"> <li>• <u>land transferred to other iwi, hapuu or whaanau entities associated or affiliated with the claimant group; and,</u></li> <li>• <u>land transferred to a company in which the claimant group holds a controlling interest.</u></li> </ul> <p><u>It excludes:</u></p> <ul style="list-style-type: none"> <li>• <u>land in which the claimant group, or an iwi, hapuu or whaanau entity associated or affiliated with the claimant group, no longer retains a legal freehold interest;</u></li> <li>• <u>land leased by the claimant group to an unrelated entity for a term which, including renewals, is or could be more than 35 years;</u></li> <li>• <u>land transferred to a company in which the claimant group has a minority interest; and,</u></li> <li>• <u>For the purpose of the Maori Land Chapter, the land within the HOPZ – Hopuhopu zone.</u></li> </ul>

## MV – Maaori Values and Maatauranga Maaori

### Values of importance to Maaori

This chapter addresses values of importance to Maaori and the following provides an explanation and description of identified values of importance to Maaori. These values are represented in the objectives and policies of this chapter and particular zone rules. As such this chapter is to be read in conjunction with zone chapters which contain matters of discretion to address the effects of certain activities and land uses on mana whenua values.

#### *Kaitiakitanga*

- (1) ~~Tangata Mana~~ ~~W~~whenua ~~has~~ have a responsibility to protect and nurture the mauri of all living things within their sphere of influence and control. The exercise of kaitiakitanga recognises the intricate balance and integral relationship between and with all natural resources. ~~Tangata Mana~~ ~~W~~whenua have learnt and long recognised that, in order for the environment to sustain life, people ~~in turn, had~~ have a responsibility to protect and sustain the environment.

#### *Manaakitanga*

- (2) ~~Iwi Mana~~ whenua ~~is able to provide sustenance for~~ have an obligation to manaaki all manuwhiri that arrive in the rohe. The ability to care for and support manuwhiri ~~demonstrates is an~~ expression of the mana and wealth of ~~the tribe~~ tangata mana whenua. Waikato is home for many ~~other~~ Maaori from other iwi, who ~~choose to live, work and play~~ in the region.

#### *Tikanga*

- (3) ~~Good~~ Sustainable management of natural resources provides for the ongoing sustenance of tangata whenua and manuwhiri ~~ensures that the whenua could continually provide for the Iwi and all manuwhiri. The tools~~ Provisions required to sustain natural resources is captured in tikanga. Tikanga ensures that traditional practices observed by tangata mana whenua are given appropriate recognition in resource management, during customary gatherings, and includes ~~acknowledgement is provided to the domain of the various Atua Maaori. to respect the mutual relationship and guarantee a successful bounty for the following years. Tikanga is a living and~~ evolving concept and embodies all aspects of mana whakahaere. ~~Tikanga in the management of resources is a living, evolving concept that the Iwi developed over generations learning from experience, from both successes and failures, in resource management~~ Application of tikanga developed over generations and the exercise of mana whakahaere ensures sustainable resource management in the present day and for generations to come.

#### *Mana whakahaere*

- (4) Mana whakahaere is the exercise of authority, access to, and management of resources in accordance with tikanga, within the Waikato rohe by tangata mana whenua. Waikato Iwi mana whakahaere has long been exercised over many generations.

## Objectives

#### MV-O1 Recognition of Maaori values

- (1) Maaori values are recognised and tangata mana whenua are able to exercise kaitiakitanga, manaakitanga tikanga and mana whakahaere.
- (2) Recognise that only tangata whenua can determine effects on their values, traditions, resources, waters, sites of significance, waahi tapu, other taonga and taonga species.

#### MV-O2 ~~Whakapapa~~ Hononga (~~connection to nature~~)

- (1) ~~Whakapapa, including familial connection between tangata whenua individuals and groups, and~~ The connections between tangata whenua and their Relationships with ancestral lands, water, sites of significance, waahi tapu, and other taonga and taonga species are protected and or enhanced.

#### MV-O3 Kaitiakitanga (~~steward/guardian~~)

- (1) The exercise of kaitiakitanga by ~~role of~~ Tangata mana Whenua as kaitiaki is recognised and maintained.

#### MV-O4 ~~Waikatotanga~~ Whakaute Ahurāe (~~way of life~~)

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

#### MV-O5 Tikanga aa-iwi o te takiwaa o te rohe o Waikato me te takiwaa o Waikato

- (1) Recognise the cultural significance of Waikato Takiwaa (district) within the Waikato rohe (Region).

### Policies

#### MV-P1 ~~Hononga~~ Whanaungatanga (~~relationship between tangata whenua and~~ to nature)

- (1) Recognise the hononga (~~relationship of~~ between Tangata mana Whenua and nature) with areas of significance, including waters, ancestral lands, sites of significance, waahi tapu, urupaa, maunga and other landforms, mahinga/hauanga kai, and other taonga and taonga species (indigenous flora and fauna), ~~through provisions which~~ may include:
  - (a) Cultural value assessments and/or cultural impact assessments;
  - (b) Accidental discovery protocols;
  - (c) Use of mana whenua traditional place names;
  - (d) Protection, enhancement and restoration of mauri;
  - (e) Use of appropriate locally sourced native plant species where practicable;
  - (f) Use of archaeological information including Maaori archaeological information; and,
  - (g) Incorporation of traditional or sympathetic Maaori design elements where practicable.

#### MV-P2 Kaitiakitanga (stewardship/guardianship)

- (1) ~~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) Supporting the creation of iwi and hapuu management plans~~
  - ~~(e) The exercising of kaitiakitanga or stewardship.~~
  - ~~(f) Kaitiaki responsibility to ensure the mauri and the taonga inherited from tupuna are not negatively affected through resource consent and activities.~~
  - ~~(g) Support the use of natural and physical resources in accordance with maatauranga Maaori~~
- (1) Enable mana whenua to exercise kaitiakitanga where activities have the potential to adversely affect ancestral lands, water, sites, waahi tapu, and other taonga, which may include:
- (a) Providing for early and ongoing engagement with mana whenua;
  - (b) Providing for kaitiaki involvement in land use and subdivision proposals as a means to uphold mauri and taonga inherited from tuupuna;
  - (c) Acknowledging and providing for the appropriate use of maatauranga Maaori and recognise that iwi, hapuu and whaanau are owners and kaitiaki of maatauranga Maaori; and,
  - (d) Providing opportunities for mana whenua involvement in decision-making on resource consents in relation to Sites and Areas of Significance to Maaori and issues of cultural significance.

#### MV-P3 Aahuatanga Motuhake (special features)

- (1) 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).
- (2) Recognise the historic and contemporary relationships of Ngaa iwi o Tainui to Karioi, Taupiri, Hakarimata Range, Hunua and Pirongia maunga.

#### MV-P4 Recognition of Maaori values

- (1) Recognise Maaori values, including the following:
  - (a) Kaitiakitanga;
  - (b) Manaakitanga;
  - (c) Tikanga; and,
  - (d) Mana whakahaere.
- (2) Recognise that Maaori values will vary across the district and that Maaori values additional to those in (1) above can be identified through engaging with mana whenua at a local level.

#### MV-P5 Subdivision, land use and Maaori Values

- (1) Manage the effects of subdivision and land use on Maaori values, in particular those arising from the following:
  - (a) Quarrying industry;
  - (b) Waste management facilities;
  - (c) Hazardous waste storage;
  - (d) Intensive farming;
  - (e) Earthworks within the vicinity of the Waikato River and other water bodies within the Waikato River Catchment;
  - (f) Subdivision;
  - (g) Building and structures in water body setbacks;
  - (h) Modification or clearance of indigenous biodiversity within Significant Natural Areas;
  - (i) Activities within identified landscape and natural character areas, on or within the vicinity of maunga and other landforms or sites of cultural significance; and,
  - (j) Activities on the surface of waterbodies.
  
- (2) Manage the effects of subdivision and land use on Maaori values, including by:
  - (a) Providing for the opportunity for engagement with mana whenua prior to undertaking activities or applying for resource consent and addressing the outcomes of that engagement;
  - (b) Providing the opportunity for mana whenua to assess the effects on Maaori values such as through cultural impact/values assessments;
  - (c) Recognising and providing for customary uses of resources including hauanga kai;
  - (d) Recognising and providing for maatauranga Maaori, including as expressed through kaitiakitanga and tikanga;
  - (e) Recognising that iwi, hapuu and whaanau are owners and kaitiaki of Maatauranga; and,
  - (f) Recognising and providing for tangata whenua relationships with ancestral lands, water, sites, waahi tapu and other taonga to be maintained or strengthened.

#### Non-regulatory policies

##### MV-P6 Iwi and hapuu management plans

- (1) That Council support the creation and review of Iwi and hapuu environmental management plans by Iwi and hapuu.

##### MV-P7 Partnership and relationship agreements

- (1) That Council establishes formal partnership and relationship arrangements such as Mana Whakahono aa Rohe, joint management agreements or memoranda of understanding with Iwi and hapuu.

- (2) That Council develops a work programme for the implementation of partnership agreements and memoranda of understanding.

MV-P8 Guidance on understanding Maaori concepts and values

- (1) That Council work with Iwi and hapuu to develop guidance material that sits alongside the Plan and provides district plan users with a foundational understanding of Maaori concepts, tikanga, values and mana whenua of the district.

Rules

MV-RI	<p>(1) All discretionary and non-complying activities <b>in Chapters X – Y of this plan</b> must address:</p> <p>(a) <u>the effects on values held by mana whenua and the appropriateness to mana whenua of any avoidance, mitigation or enhancement measures including as identified through cultural impact/values assessments and any relevant iwi planning document.</u></p>
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Advice note: Council, Te Kaahui Maangai, Te Puni Kookiri and Iwi authorities, including Te Whakakitenga o Waikato, hold records and contacts of iwi and hapuu in the district.

## TTW– Te Ture Whaimana – Vision and Strategy

### Overview

The relationship of Waikato-Tainui with the Waikato River cannot be underestimated as it lies at the heart of their identity as well being a major influence on their spiritual, cultural, historic and physical wellbeing. To Waikato-Tainui, the Waikato River is their Tuupuna Awa, an ancestor.

The Waikato River Claim was filed with the Waitangi Tribunal by Sir Robert Mahuta on 16 March 1987 on behalf of Waikato-Tainui, the Tainui Trust Board and Ngaa Marae Toopu but was excluded from the 1995 Raupatu Land Settlement for future negotiation.

The 2009 Deed of Settlement between the Crown and Waikato-Tainui acknowledges the deterioration of the health of the Waikato River while the Crown had authority over the river. The Deed of Settlement has an overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for future generations. This district plan aims to restore the river's health in conjunction with other agencies. The ~~Settlement Act~~ Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 gave effect to the 2009 Deed of Settlement in respect of the raupatu claims of Waikato-Tainui over the Waikato River.

Te Ture Whaimana o Te Awa o Waikato (Te Ture Whaimna) is the Vision and Strategy ~~The Vision and Strategy is Te Ture Whaimana o Te Awa o Waikato [s9(3)]~~ and is intended by Parliament to be the primary direction-setting document for the Waikato River and activities within its catchment ~~[s5(1)]~~.

This district plan reflects the new era of co-management between Waikato District Council and iwi. The Settlement Act requires that a district plan shall give effect to ~~the Vision and Strategy~~ Te Ture Whaimana.

~~The Vision and Strategy~~ Te Ture Whaimana responds to four fundamental issues:

- (a) The degradation of the Waikato River and the ability of Waikato River iwi to exercise kaitiakitanga or conduct their tikanga and kawa;
- (b) The relationships and aspirations of communities with the Waikato River;
- (c) The cumulative effects of physical intervention, land use and subsurface hydrological changes on the natural processes of the Waikato River;
- (d) The time and commitment required to restore and protect the health and well-being of the Waikato River.

Section 13 of the Waikato River Act requires that district plans be reviewed and where necessary updated following an RMA Schedule 1 process no later than 12 months after the completion of a review of Vision and Strategy.

### Definition of Waikato River and its catchment area

The body of water known as the Waikato River flowing continuously or intermittently from the Huka Falls to the mouth of the Waikato River shown as located within the areas marked "A" and "B" on SO plan 409144, and

All tributaries, streams and watercourses flowing into the part of the Waikato River, including the Waipaa River, described in sub-paragraph (i7), to the extent to which they are within the areas marked "A" and "B" on SO plan 409144, and

Lakes and wetlands within the areas marked "A" and "B" on SO plan 409144, and

The beds and banks of the water bodies described in sub-paragraphs (a7) to (e9).

For the avoidance of doubt, this definition is an excerpt from the interpretation of 'Waikato River' in Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The area contained within SO plan 409144 is administered by a number of territorial authorities. Waikato District Council only administers that part of SO plan 409144 that is within the Waikato District.

## Issue – Health and wellbeing of the Waikato River

Land use and development activities can adversely affect the ability of the Waikato River to sustainably support the economic, social, cultural and environmental aspirations of Waikato-Tainui and the community.

## Objectives

TTW-O1 Achieving Te Ture Whaimana (Vision and Strategy for the Waikato River)

(1) The health and well-being of the Waikato River is restored and protected and Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) is achieved.

## Policies

TTW-PI Implementing Te Ture Whaimana (Vision and Strategy for the Waikato River)

To restore and protect the health and wellbeing of the Waikato River including by:

- (a) identifying and recognising the Waikato River as an Outstanding Natural Cultural Landscape;
- (b) acquiring appropriate public access to and along the Waikato River at time of subdivision;
- (c) protecting and restoring significant natural areas, riparian margins and wetlands within the catchment;
- (d) providing for conservation activities;
- (e) protecting waahi tapu, sites and areas of significance to Maaori;
- (f) recognising and providing for application of maatauranga Maaori; and
- (g) managing the effects of subdivision, use and development including those associated with:
  - (i) building in river setbacks;
  - (ii) intensive farming;
  - (iii) earthworks and land disturbance; and
  - (iv) subdivision.