

## 4 TANGATA WHENUA ISSUES

### 4.1 RESOURCE MANAGEMENT ACT OBLIGATIONS

- 4.1.1 It is mandatory for those exercising functions and powers under the RMA to "recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga" (s.6(e)); to "have particular regard to kaitiakitanga" (s.7(a)); and to "take into account the principles of the Treaty of Waitangi" (s.8). The RMA therefore clearly intends that tangata whenua should have a significant role in resource management and enables tangata whenua to take steps to protect their interests.
- 4.1.2 Principles of the Treaty of Waitangi, as generally sourced from the Waitangi Tribunal, of particular relevance to the preparation and operation of the District Plan include:
- (1) the principle of partnership;
  - (2) the duty to consult;
  - (3) the Crown's obligation to actively protect Maori Treaty rights; and
  - (4) the tribal right of self-regulation.
- 4.1.3 Section 33(1)(a) of the RMA provides, under certain conditions, for the transfer of functions by a local authority to a recognised Iwi Authority as defined in Section 2 of the Resource Management Act 1991.
- 4.1.4 Council has recognised a need to take special steps to ensure that tangata whenua concerns and interests are adequately identified before it makes decisions, which could affect these interests. For their part, tangata whenua in Wairoa District have clearly indicated through the consultation process that they desire to play a much greater role in managing the natural and physical resources of the District.

### 4.2 ISSUES

- 4.2.1 Tangata whenua need to use, develop and protect natural and physical resources in order to provide for their social, economic, cultural well-being and for their health and safety.
- 4.2.2 Tangata whenua wish to sustain their relationship, and that of their culture and traditions, with their ancestral land, water, sites, waahi tapu and other taonga.
- 4.2.3 A significant percentage of Wairoa District is Maori freehold land, and over 50 percent of the population is Maori. Some Maori aspire to establish and/or sustain thriving and vibrant communities on, and relationships with, their ancestral lands, much of which is multiply owned. Cultural, social and economic development is needed to achieve this. The District Plan needs to avoid or minimise restrictions on Maori and others from using and developing their land and resources, while always ensuring that sustainable management of natural and physical resources is promoted.
- 4.2.4 The use, development, and protection of Maori resources can affect the environment adversely. The partitioning of Maori land by the Maori Land Court is not a 'subdivision' in terms of the Resource Management Act if the partitioned parcels are to be held by owners who are members of the same hapu (s.11(2) RMA and s.301(1) Maori Land Act 1993). However, the use of partitioned land could have significant effects on the environment. Appropriate rules need to be provided in the District Plan to avoid, remedy or mitigate any such adverse effects.

- 4.2.5 The use, development, and protection of natural and physical resources can affect adversely the traditional relationship that tangata whenua have with the environment of the District, including parts of the environment that tangata whenua no longer own.
- 4.2.6 The tangata whenua of Wairoa District and their culture and traditions have special relationships with their ancestral lands, water, sites, waahi tapu and other taonga. Some activities and developments can have significant adverse effects on these relationships. The District Plan needs to provide processes to recognise and provide for these relationships.

### 4.3 OBJECTIVES

- 4.3.1 To promote, including recognising and providing for, the relationship of tangata whenua with their ancestral land, water, sites, waahi tapu and other taonga.
- 4.3.2 To develop a partnership between Wairoa District Council and the tangata whenua of the District for the purpose of promoting the sustainable management of natural and physical resources.
- 4.3.3 To enable tangata whenua to provide for their social, economic and cultural well-being and for their health and safety, while promoting sustainable management of the environment.
- 4.3.4 To promote sustainable management of natural and physical resources including the ancestral lands of tangata whenua, taking into account the principles of the Treaty of Waitangi so as to enable tangata whenua to provide for their social, economic and cultural well-being.
- 4.3.5 To enhance opportunities for future hapu development such as multiple dwellings, expanding marae facilities, hapu or whanau based tourism ventures, summer camping for related family members, and to promote protection of sacred areas and ancestral heritage areas.

### 4.4 POLICIES

- 4.4.1 I raro I te mauri o te Tiriti o Waitangi me ata korero te Kaunihera Takiwa ki te tangata whenua nona nei te whenua, te ahi ka me te mana ki runga i nga wahi i whakatapua e o ratou tupuna. Ma reira e whakamana na wawata o ia rohe, o ia rohe i roto i te Kaunihera Takiwa o Te Wairoa kia tutuki ai te ha o te Tiriti o Waitangi.
- 4.4.2 A translation of the preceding paragraph into English is as follows:
- Within the spirit of the Treaty of Waitangi, the Wairoa District Council must consult with Maori who are the descendents of the original inhabitants, who own the land, who currently reside in the area, and who exercise traditional authority over the areas made sacred by their ancestors. Through this consultation process the aspirations of each area within Wairoa District will be realised in accordance with the Treaty of Waitangi.*
- 4.4.3 Promote the protection and sustainable management of all cultural heritage places, mahinga kai, and other taonga of Maori.
- 4.4.4 Recognise the importance of marae to tangata whenua and their culture and to the cultural life of the District.
- 4.4.5 Provide for multiple dwellings and papa kainga on any land in the District, on the condition that they comply with relevant zone standards and district wide rules.

- 4.4.6 Provide for the development of existing and new marae and for the re-establishment of existing marae on new sites as permitted activities where these activities comply with the relevant performance standards.
- 4.4.7 Provide for work skills training, commercial activities, and home occupations on Maori land provided that any adverse environmental effects are avoided, remedied or mitigated.
- 4.4.8 Recognise the Maori Land Court's partitioning of Maori land and provide rules to avoid, remedy or mitigate the adverse effects of activities carried out on partitioned land.
- 4.4.9 Where practicable and appropriate, to use traditional Maori means to manage natural and physical resources, such as rahui.

## **4.5 METHODS AVAILABLE USING THE PROVISIONS OF THE DISTRICT PLAN**

- 4.5.1 Encourage applicants to consult tangata whenua about resource consent applications, notices of requirement for a designation or heritage order, and proposed private plan changes which could have a significant adverse effect on resources of interest to them, before these applications, notices of requirement and plan changes are publicly notified.
- 4.5.2 All resource consent applications, notices of requirement and private plan change requests received by Wairoa District Council will be reviewed by Council Officers as part of discharging Council's duties under the Resource Management Act.
- 4.5.3 If Council Officers advise that tangata whenua are an affected party, then the applicant will be encouraged to carry out consultation with tangata whenua. The Maori Liaison Officer may be available to introduce the applicant to the tangata whenua and to facilitate the consultation, if the parties so desire.
- 4.5.4 If tangata whenua are an affected party and are opposed to a resource consent application as evidenced from the documents presented as part of the application, this may constitute special circumstances for notification in terms of Section 94(5) of the Resource Management Act 1991.
- 4.5.5 Encourage a resource consent applicant, requiring authority, or promoter of a proposed private plan change to reach agreement with tangata whenua on a process for consultation including the reasonable costs incurred in the process of that consultation.
- 4.5.6 Together, the RMA (s.34(1)) and the Local Government Act 1974 (s.114Q(5), and s.114R(4), (6) and (7)) provide, under certain conditions, for persons who are not members of a local authority to be appointed to a committee or sub-committee exercising the local authority's Resource Management Act functions, powers or duties. Such appointments can be made if, in the opinion of the Council, such persons have knowledge that will assist the work of the Council's committee or sub-committee.
- Where the Council considers it appropriate, these provisions will be used to appoint one or more persons with appropriate knowledge and understanding of Maori issues to a committee considering proposals that could affect tangata whenua interests, provided that such persons are not a party affected by the proposals under consideration. The Maori Committee of the Wairoa District Council will nominate people for the Wairoa District Council to consider appointing to the relevant committee.
- 4.5.7 Holding all or part of any hearings or pre-hearing meetings under the RMA on a marae when issues of significance to the tangata whenua are involved, and when the relevant tangata whenua group requests a marae-based hearing or meeting.

- 4.5.8 Following Maori protocol and tikanga Maori at hearings and pre-hearing meetings, and providing for the use of the Maori language at these gatherings.
- 4.5.9 Providing notice of a Resource Management Committee decision on a proposal to tangata whenua groups consulted about the proposal.
- 4.5.10 Have regard to any relevant planning document recognised by an iwi authority affected by the District Plan when preparing or changing the District Plan.
- 4.5.11 To consider alteration to the District Plan to ensure that it is better able to have regard to any newly developed relevant planning document produced in the future and recognised by an iwi authority affected by the District Plan.
- 4.5.12 Transferring Wairoa District Council functions, and the necessary resources to carry out those functions, to an iwi authority in circumstances where the criteria specified in Section 33(4) of the RMA are satisfied.
- 4.5.13 Providing for the Maori Committee of Wairoa District Council and the tangata whenua of Wairoa District to participate in monitoring the effectiveness of the District Plan.
- 4.5.14 Provide for multiple dwellings and papakainga on a single title and for marae developments in the Rural Area.
- 4.5.15 Consider a change to the District Plan in order to accommodate tangata whenua development plans formulated in the future.
- 4.5.16 Facilitate the involvement of tangata whenua in the resource management process and accommodate, where possible, the exercise by them of tino rangatiratanga and kaitiakitanga.
- 4.5.17 Establish rules for the control of activities on the surface of water adjacent to marae so as to ensure that these activities do not adversely affect ceremonies on the marae.
- 4.5.18 Take steps to ensure the Council's decision makers are adequately informed about tangata whenua issues before they make decisions, which may affect tangata whenua interests. This is to be achieved by continuing to support and consult the District Council Maori Committee, and, as the need arises, by consulting other Maori organisations and the tangata whenua.
- 4.5.19 Establish and regularly update a register of tangata whenua contacts for consultation.
- 4.5.20 Council agreeing protocols with tangata whenua groups concerning the resourcing of the tangata whenua comment on resource consent applications, notices of requirement and plan change requests.

## **4.6 EXPLANATION AND REASONS**

- 4.6.1 The Resource Management Act 1991 contains specific obligations in relation to the Treaty of Waitangi and Maori interests. These require the Council to take into account the principles of the Treaty of Waitangi between the Crown and tangata whenua and to recognise and provide for the relationship of the tangata whenua with the District's natural resources. The District Plan includes provisions to satisfy these obligations when resource management decisions are made in Wairoa District.
- 4.6.2 Central to these provisions is consultation with the tangata whenua groups whose interests may be affected by a particular resource management decision. Such consultation is necessary in order to identify any effects on tangata whenua interests of any resource use, development or protection proposal. It is also necessary in order to identify measures that

could be taken to avoid, remedy or mitigate these effects. It is necessary to have this information before resource management decisions are made in order to ensure that the resources are managed in a way that enables tangata whenua to provide for their social and cultural well-being.

- 4.6.3 Through information in the District Plan, consultation procedures, and the involvement of tangata whenua in resource management processes, including monitoring, waahi tapu and other taonga of tangata whenua can be sustained. Following Maori protocol and tikanga Maori at hearings and providing for the use of the Maori language at these gatherings, recognises the special status of tangata whenua under the Treaty of Waitangi and the equal place of te reo Maori in New Zealand. Specifying the involvement of tangata whenua in the consideration of resource consent applications where appropriate provides certainty for applicants and tangata whenua as to the procedures to be followed.

## 4.7 ANTICIPATED ENVIRONMENTAL RESULTS

- 4.7.1 Te whakahaere tokonga o nga rauemi taahorahora, tinana ranei i roto i te Kaunihera takiwa o te Wairoa, me te whakaae whakarite ano hoki ki te hononga o te Maori me ona tikanga a iwi me na taonga tuku iho e pa ana ki te whenua o nga tupuna, na wai, na ngahere, na waahi tapu me etahi atu taonga, he take a iwi tino hira.

- 4.7.2 A translation of the preceding paragraph into English is:

*The sustainable management of natural and physical resources within Wairoa District while recognising and providing for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga as a matter of national importance.*

- 4.7.3 Greater public awareness of Maori cultural considerations concerning the management of natural and physical resources.
- 4.7.4 Maori communities and their culture and values are sustained and enhanced within the Wairoa District.

**Cross References:**

All other sections of the District Plan can influence the nature of activities that tangata whenua may wish to carry out. Some key chapters that tangata whenua may need to consider when planning a new activity or development are as follows:

Part B – Resource Management Strategy

- [Chapter 6](#) – Subdivision, Use and Development Impacts on the Coastal Environment
- [Chapter 7](#) – Land Use, Changes and their Effects on Natural and Physical Resources
- [Chapter 10](#) – Safeguarding Amenity Values

Part C – Land Management Zones and Rules

- Either Chapter 12, 13, 14, 15, 15A, 16, 17, 18, 18A, or 19, depending on the zone in which the proposed activity is located

Part D – District Wide Rules

- [Chapter 23](#) – Indigenous Vegetation and Habitats of Indigenous Fauna
- [Chapter 24](#) – Access & Parking
- [Chapter 27](#) – Subdivision

Part E – Applying for Resource Consent

- [Chapter 28](#) – Information Requirements