

5 Tangata Whenua Strategy

5.1 Introduction

The Kaipara District is steeped in Maori history, being one of the first Districts settled by Maori and also the focus of early European exploration. The District has an extensive range of archaeological sites principally related to early Maori occupation. Numerous pa terraces, pits and middens are present along Kaipara's coasts, as well as some inland areas.

The Maori people of the Kaipara District generally belong to the following iwi or tribal runanga, these being Te Uri o Hau, and Te Roroa. Other smaller groups include Te Kuihi, Te Parawhau and Ngati Whatua Runanga, Ngapuhi and Ngatiwai, all of whom have historical connections with Kaipara.

Te Uri o Hau is a Northland hapu grouping of Ngati Whatua whose area of interest is located in the Northern Kaipara region. Te Uri o Hau descend from Haumoewaarangi through Hakiputatomuri, who is Te Uri o Hau's founding ancestor. Te Uri o Hau occupy the largest portion of the District. Their takiwa or territory in which they are Tangata Whenua extends in a general sense from Auckland, around the Kaipara Harbour, to the Northern Wairoa in the vicinity of Dargaville.

Te Roroa are based in Northland. Te Roroa's takiwa generally extends in a general sense from the Northern Wairoa River, in the vicinity of Dargaville, along the coast and includes the Waipoua Forest and the Manganui Bluff areas. It also extends into the South Hokianga area which is part of the Far North District.

5.2 The Resource Management Act

Both Te Uri o Hau and Te Roroa have recently resolved long standing Treaty of Waitangi claims and have received settlements from the Crown. Te Uri o Hau and Te Roroa each have a Deed of Settlement outlining the compensation awarded to them by the Crown. The respective Deeds of Settlement for Te Uri o Hau and Te Roroa have informed the preparation of the District Plan.

Both Te Uri o Hau and Te Roroa have Treaty Settlements

Part 2 of the Resource Management Act 1991 makes provisions for Maori perspectives to be considered in planning and decision making processes of local authorities. Sections 6, 7 and 8 of the Resource Management Act 1991 require specific duties of Council with respect to sustainable management.

Section 6 of the Resource Management Act 1991 requires Council to recognise and provide for matters of national importance. In accordance with Section 6(e) of the Resource Management Act 1991, Council must take into account the relationship of Tangata Whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

The Kaipara District already recognises Maori Land that is held in Maori title (Te Ture Whenua Maori Act 1993) as its own unique Zone. The Maori Purposes Zone of the Kaipara District Plan 1997 is identified in this Plan as "Maori Purposes: Maori Land Zone". In addition to this Zone, the Deed of Settlement between the Crown and Te Uri o Hau (2000) and the Deed of Settlement between the Crown and Te Roroa (2005) provide an agreed historical account of the relationship of Te Uri o Hau and Te Roroa with the Kaipara District. The Plan recognises this through the identification of 'Areas of Significance to Maori' acknowledging the special relationship iwi have with a particular area (as identified in the Treaty Settlements), and the new Maori Purposes Zone called 'Maori Purposes: Treaty Settlement Land Zone'.

Section 7 of the Resource Management Act 1991 requires Council to have regard to specified 'other matters' when exercising its functions and powers under the Act, including regard for kaitiakitanga (in accordance with Section 7(a)). The Deeds of Settlement identify areas in which Te Uri o Hau and Te Roroa exercise kaitiakitanga and should be consulted. This ethic of stewardship extends to activities that affect natural and physical resources such as air and fresh or coastal waters, or heritage and archaeology.

Kaitiakitanga is recognised throughout the District Plan and is provided for through 'Areas of Significance to Maori', which includes areas of Nohoanga, Te Tarehu or Kirihipi, Statutory Acknowledgements, Special Protocols between government agencies and iwi, or Deeds of Recognition that have been registered on the titles of Crown owned land as a result of the Treaty Settlement process. Consultation with Maori and recognition of their role as Kaitiaki in the Resource Consent process where "Areas of Significance to Maori" are affected is important.

Council recognises the relationship of Te Uri o Hau and Te Roroa to their ancestral lands, water, sites, waahi tapu and other taonga in the District

Section 8 of the Resource Management Act 1991 requires all persons acting under the Act (including applicants, Councils and Tangata Whenua) to take into account the principles of the Treaty of Waitangi. The principles reflect the underlying importance of the Treaty of Waitangi as being the guiding document in the relationship between Maori and the Crown.

5.2.1 Treaty of Waitangi

The Council endorses the following principles relevant to the sustainable management of natural and physical resources as being a current reflection of the purpose and intent of the Treaty of Waitangi (as interpreted by the Courts):

Council endorses the Principles of the Treaty of Waitangi

- The Principle of Government / Kawanatanga: Article I gives expression to the right of the Crown to make laws and its obligation to govern in accordance with constitutional process (ie. to make laws applying to everyone). The delegation of resource management powers by the Crown to local authorities under the Act means that those authorities can make policies, set objectives and make rules affecting the management of natural and physical resources, subject to the guarantee of te tino rangatiratanga and recognition of the partnership between Maori and the Crown.
- The Principle of Partnership: The Treaty of Waitangi signified a partnership between Maori tribes and the Crown, exercised with the utmost good faith. The exchange of promises under Articles I and II of the Treaty of Waitangi is seen as an exchange of gifts; the gift of the right to make laws and the promise to do so as to accord the Maori interest appropriate priority.
- The Principle of Te Tino Rangatiratanga: Te tino rangatiratanga (full chiefly authority) over the management of resources (including lands, forests, and fisheries) and other taonga was guaranteed to Maori under Article II of the Treaty of Waitangi. Te tino rangatiratanga includes tribal self-regulation of resources in accordance with Maori cultural preferences. The preservation of a resource base, restoration of iwi self-management and the active protection of taonga, both material and cultural, are necessary elements of the Crown's policy of recognising rangatiratanga.
- The Principle of Active Protection and Consultation: The Treaty of Waitangi obliges the Crown not only to recognise the Maori interests specified in the Treaty, but to actively protect them. The confirmation and guarantee of te tino rangatiratanga given in Article II of the Treaty is consistent with an obligation to recognise and actively protect Maori people in the use of their lands, water, waahi tapu and other protected taonga. Effective, early and meaningful consultation is an integral and necessary component of greater participation by Maori in resource management decision-making, and an essential component of the principle of partnership.
- The Principle of Hapu/Iwi Resource Development: Recognition of the ability and need for hapu/iwi to develop their resources in a manner which achieves the purposes of the Act is a fundamental principle embodied in the Treaty of Waitangi. Article II of the Treaty confirmed and guaranteed to Maori the retention of their property rights, and the choice of developing those rights under Article III. To Maori, the efficient use and development of what are in many ways currently under-utilised hapu/iwi resources is an important principle of the Treaty of Waitangi in the context of resource management under the Act. The Treaty of Waitangi recognises the right of Maori to develop those resources in accordance with their own needs and aspirations.

5.2.2 Recognising the Treaty of Waitangi in the District Plan Development

Kaipara District Council recognises the importance of the principles of partnership, te tino rangatiratanga and hapu/iwi resource development in the preparation of the District Plan. Te Uri o Hau and Te Roroa in consultation with Kaipara District Council have developed Chapters 15A: Maori Purposes – Maori Land and 15B: Maori Purposes – Treaty Settlement Land within Part B (Zone Chapters) of the Plan. These chapters set out the issues, objectives, policies, methods and rules for the use of traditional Maori Land and the new Treaty Settlement Land Zone.

Te Uri o Hau and Te Roroa put forward Chapters of the District Plan for Maori Land

The Maori Purposes: Maori Land Zone recognises the unique land tenure associated with Maori Land and multiple ownership and the need to continue to provide for traditional cultural land uses associated with Marae and Papakainga housing on Maori Land.

The Maori Purposes: Treaty Settlement Land Zone, recognises the ecological, cultural and landscape values that some of this land has. Treaty Settlement Land is already subject to a number of covenants that protect these values and in some instances maintain public access to these areas. The District Plan recognises that the principle of hapu/iwi resource development and the need to provide for the efficient development of Maori Land and resources in accordance with the needs and aspirations of the Iwi through appropriate zoning.

The principle of te tino rangatiratanga (full chiefly authority) over resources including lands, forests, fisheries and other taonga was guaranteed to Maori under Article II of the Treaty of Waitangi, and is provided for in these chapters of the District Plan. The District Plan recognises 'Areas of Significance to Maori' to provide for the active protection of Maori and their culture and traditions to their ancestral lands, sites, waterways, waahi tapu, wai tapu and other taonga. Maori consultation rights are provided for where applicable, such as where development is proposed in proximity to an 'Area of Significance to Maori' or where there is recognition of the ethic of stewardship Maori have over activities that affect natural and physical resources such as air and fresh or coastal waters, or heritage and archaeology.

5.3 How to Use This Chapter of the District Plan

This Chapter is intended to provide an overview of the District Wide Issues for the Tangata Whenua of Kaipara and how Part 2 Resource Management Act 1991 matters (including the principles of the Treaty of Waitangi) are provided for in this District Plan. This Chapter provides Objectives and Policies to respond to Tangata Whenua resource management issues in the District. While this Chapter contains Methods, it does not contain 'Rules'. The Outcomes sought for the Tangata Whenua of Kaipara will be achieved through Land Use and Subdivision Rules and Performance Standards in the Maori Land and Treaty Settlement Land Zone Chapters, through Part B of the District Plan.

While there are no Rules in this Chapter, if you are doing a Plan Change or require a Resource Consent (particularly if you are preparing an Integrated Development Subdivision), in addition to Part B, Council will consider how your proposal contributes to the Objectives and Policies of this Chapter and the Outcomes of Chapters 3-and 3B.

Issues, Objectives and Policies within each Chapter of the Plan are presented in no particular order of importance.

5.4 Significant Issues for Tangata Whenua

5.4.1 The Council has a responsibility to take into account the principles of the Treaty of Waitangi in managing the use, development and protection of natural and physical resources.

The overriding principle of the Treaty of Waitangi is the establishment of a partnership between Treaty parties. Recognising and understanding Maori social, spiritual and cultural values and needs is therefore an important resource management issue for the Council. The Council considers that structures and processes around partnerships with Tangata Whenua are an important outcome of the planning process and in promoting sustainable management of natural and physical resources.

5.4.2 There are a number of areas of significance to Tangata Whenua in Kaipara. Council has the responsibility to provide for the protection of these areas.

The District's Tangata Whenua has a special relationship to the land and environment. The District Plan needs to address this relationship by managing the effects of land uses on these sites. See also Chapter 17: Historic Heritage.

5.4.3 Through the Treaty of Waitangi settlement process there are now two forms of Maori Purpose Land within the Kaipara District (Maori Land and Treaty Settlement Land). Treaty Settlement Land includes land that is subject to conservation covenant to protect natural and historic features and to preserve public access. Council has the responsibility to recognise the differences between these two forms of Maori Purpose Land, providing for the economic and social well-being of Maori.

It is important for Maori to be able to maintain their traditional association with the land, whilst enabling the efficient use and appropriate development of their land to provide for Maori social and cultural well-being. Certain land uses may be appropriate on Maori Land, such as Papakainga housing and Marae, given the different title structure of Maori Land. Treaty Settlement Land is held in free-hold title and could potentially be sold in the future. It is important to recognise this key differentiator when identifying what land uses are appropriate on this land.

5.4.4 A large amount of Maori Purpose Land is in areas of high landscape or ecological value. It is important to enable Maori to provide for their economic and social well-being whilst ensuring the sustainable use of this land.

Some areas of Vested Cultural Redress land may be able to be developed for commercial benefit (such as for eco-tourism ventures). It is important to recognise that a flexible approach to the use and development of this land should be taken.

5.5 Tangata Whenua Objectives

5.5.1 To involve Tangata Whenua as partners in policy development and implementation and decision making under the District Plan.

Issue 5.4.1

5.5.2 To recognise the importance of providing for the relationship of Maori, including their culture and traditions, with their ancestral lands, water, sites, waahi tapu and other taonga.

Issue 5.4.2

5.5.3 To recognise the different types of Maori Purpose Land that exist within the Kaipara District.

Issues 5.4.3 and 5.4.4

5.6 Tangata Whenua Policies

5.6.1 Recognising the partnership with Tangata Whenua by:-

- 1) Consultation is undertaken with Te Uri o Hau and Te Roroa on those matters that may affect their taonga, or their use, development and protection of the natural and physical environment (recognising Kaitiaki); and
- 2) Ensuring that active consideration is given to the impacts of development on taonga. This includes Tangata Whenua involvement in consent processing / hearings.

Objective 5.5.1

Figure 1-2 in Chapter 1 provides a summary of how to use this District Plan

5.6.2 By recognising and protecting the values of Areas of Significance to Maori

The District Plan recognises that Te Uri o Hau and Te Roroa have traditional, historical, cultural and spiritual association with places and sites within the Kaipara District. A number of these sites have been identified in the Deeds of Settlement for Te Uri o Hau and Te Roroa through the Treaty settlement process. These sites of cultural significance to Maori have been recorded in Appendix 17.2 and are mapped in Map Series 2. Where development is proposed in proximity to an Area of Significance to Maori, Maori are to be involved in the consultation process and can be identified as an affected party through the Resource Consent process. This takes into account the relationship of Maori, their culture and traditions with their ancestral lands and allows the exercise of Kaitiakitanga over the land.

Objectives 5.5.2 and 5.5.3

5.6.3 Recognising Iwi Management Plans in consents and decision making

Iwi Management Plans are expressions of rangatiratanga, to help iwi and hapu exercise their Kaitiaki roles and responsibilities. As Iwi Management Plans are developed by iwi in the Kaipara District and adopted by Council, these will form guiding documents that will be used to inform the decision making process and administration of activities located within areas of iwi and hapu influence.

Objective 5.5.1

Draft versions of Iwi Management Plans have informed the preparation of this District Plan, particularly with respect to the identification of significant issues for the District and for the objectives and policies for Maori Purposes Land.

5.6.4 By recognising the unique constraints and special characteristics of Maori Land.

Maori Land and Treaty Settlement Land has unique constraints compared to other land in the District. This is due to the land tenure of Maori and Treaty Settlement Land and the multiple ownership of this land, which has historically made it difficult for Iwi to develop their land efficiently. In addition and partially as a result of limited development, most Maori land contains areas of ecological, cultural and landscape values that contribute to the amenity and character of the Kaipara District. It is important that the District Plan recognises these unique constraints and characteristics to ensure that Maori Land can still be developed efficiently in accordance with the needs and aspirations of the Iwi.

Objective 5.5.3

5.7 Methods

The above policies will be implemented through the following methods:

5.7.1 District Plan Methods

5.7.1.1 The use of zoning to provide direction on the appropriate activities and effects of activities that will occur on Maori land and Treaty Settlement Land within the District.

5.7.1.2 The use of overlays to identify areas of significance to Maori within the District to ensure Tangata Whenua are included in the decision making process on activities that may impact upon the cultural values of the land.

5.7.1.3 The mapping of sites, areas and features where specific resource management methods are required.

5.7.1.4 Provision of assessment criteria and direction on matters to be considered in Resource Consents and growth planning.

5.7.1.5 Undertaking consultation with Tangata Whenua during the consenting process;

5.7.1.6 Providing for Iwi Management Plans to be another assessment matter for relevant performance standards.

5.7.1.7 Land that is administered under the Te Ture Whenua Maori Act 1993, but not identified as being within the Maori Purposes: Maori Land Zone can be considered under Chapter 15A Maori Purposes - Maori Land Zone, as provided through rules in other general Zones of the Plan.

The District Plan has been developed to recognise Maori issues throughout. In particular Tangata Whenua values have specifically influenced the following Sections of the District Plan:

Chapters 15A: Maori Purposes – Maori Land and 15B – Maori Purposes – Treaty Settlement Land: These chapters contain the issues, objectives, policies, methods and rules relating to the use and development of Maori Land and Treaty Settlement Land. Te Uri o Hau and Te Roroa have prepared the Maori Purpose Zone Chapter in consultation with Kaipara District Council. As such, Tangata Whenua values of hapu/iwi resource development, te tino rangatiratanga (full chiefly authority) and partnership are recognised and provided for in these chapters. These chapters provide for Papakainga and Marae activities on Maori Land.

Chapter 17: Historic Heritage: This chapter contains a schedule of 'Areas of Significance to Maori' which identifies areas of land within the District where iwi have a traditional, historical, cultural and/or spiritual association (shown as overlays in Map Series 2). This chapter recognises and provides for the Treaty of Waitangi principles of te tino rangatiratanga and of active protection, allowing iwi the control and enjoyment of those resources and taonga which it is their wish to retain.

Chapter 4: Overlays: This chapter recognises the importance of protecting coastal and waterway environments and other taonga in the Kaipara District. This recognises and provides for the Tangata Whenua values of te tino rangatiratanga and active protection, consistent with the Treaty of Waitangi obligation to actively protect Maori in the use of their land, water and other protected taonga, to the fullest extent practicable.

Papakainga

Papakainga is the development of housing for Maori to support traditional Maori cultural living on Maori and Treaty Settlement Land. The Papakainga provisions on Maori Land provide for this activity. Traditionally Maori Land is held in joint ownership. Accordingly, the objectives, policies and rules in regard to Papakainga have been designed in a flexible manner that encourages communal type development. Papakainga provisions are closely linked to the functioning of the Te Ture Whenua Maori Act 1993 to ensure that any development is genuinely provided for Maori to meet their housing needs and cultural aspirations. It is anticipated that such provisions will maintain or improve Maori quality of life in a manner consistent with their cultural values and customs in relation to other traditional lands, water, sites, waahi tapu and other taonga.

Marae and Places of Assembly

Marae in the Kaipara District are of extreme importance to Maori. The Marae is the focus for community life and centre for the most vital social and cultural activities of its community and people. Council recognises the importance of Marae to local Tangata Whenua, and has provided for Marae and places of assembly in the District Plan as District Wide Activities. The District Plan recognises the land and buildings associated with the Marae as Places of Assembly.

5.7.2 Other Methods

Establish and implement working relationships with relevant Iwi groups for District Plan implementation through the following measures:

Co-management

In some areas of particular significance such as the Taharoa Domain (Kai Iwi Lakes), Council and iwi have existing arrangements for iwi involvement in the decision making process. Taharoa Domain comprises 538 hectares of Crown land which is a recreation reserve and managed by the Council. The Domain is a taonga to Tangata Whenua. The Council and iwi developed the Taharoa Domain Reserve Management Plan under the Reserves Act 1977, to ensure provision for Tangata Whenua to participate in the management of the Domain. A joint committee representing Tangata Whenua and the Council manages the reserve in accordance with the Reserve Management Plan.

Protocols for Consultation with Maori

Consultation with Maori is encouraged and provided for in this District Plan. Kaitiakitanga is recognised for Resource Consent applications that may impact on an area of significance to Maori, as well as where there is recognition of the ethic of stewardship Maori have over activities that affect natural and physical resources such as air and fresh or coastal waters, or heritage and archaeology. Tangata Whenua will be consulted on all Resource Consent applications that have an effect over these features. Te Uri o Hau have in place a guideline for consultation in their Rohe (area of interest) where they exercise Kaitiakitanga.

5.8 Outcomes

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| 5.8.1 Active partnership with Tangata Whenua in policy development and in decision making. | Issue 5.4.1 |
| 5.8.2 The relationship of Maori, including their culture and traditions, and relationships with ancestral lands is recognised and provided for. | Issues 5.4.3 and 5.4.4 |
| 5.8.3 Specific sites of cultural and heritage value for Maori are preserved, protected and enhanced. | Issue 5.4.2 |