



**KAIPARA
DISTRICT**
PLAN REVIEW

AUGUST 2021



Kaipara District Plan Review
Discussion Document

Tangata Whenua

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Māori have experienced substantial losses of their land, culture and identity following the signing of Te Tiriti o Waitangi (Te Tiriti). Grievances against the principles of Te Tiriti are settled through the Treaty Settlement process.

Kaipara District Council currently has three Treaty partners who have settled their historical Treaty grievances with the Crown and whose rohe (tribal area) is part of the Kaipara District. They are: Te Roroa, Te Uri o Hau and Ngāti Manuhiri. The rohe of each Treaty partner area is set out in Figures 1–3.

Ngātiwai, Ngāti Whātua and Ngāpuhi are still in the process of negotiating their Treaty claims. It is anticipated that their areas of interest will cover parts of the Kaipara District once settled.

Kaipara District Council has a Mana Enhancing Agreement (MEA) with Te Roroa and a Memorandum of Understanding (MoU) with Te Uri o Hau, to support their status as Treaty partners. These are important documents that also provide direction for Council on district planning matters.

The Treaty settlement process generally results in the formation of Iwi Authorities. Te Roroa and Te Uri o Hau are referred to in the remainder of this document as ‘Iwi Authorities’. Both have developed Iwi Management Plans (IMPs, also known as environmental management plans). Section 8 of the RMA requires Kaipara District Council to take into account the principles of Te Tiriti and any IMPs as part of the plan-making process and decision-making.

BACKGROUND

The Kaipara District, being one of the first areas settled by Māori, boasts a rich history and is home to both Tangata Whenua and Mana Whenua groups.

The terms Tangata Whenua and Mana Whenua are defined in the Resource Management Act 1991(RMA), and for the purposes of this discussion document these definitions are provided in Appendix 1 for better understanding.

Figure 1. Te Roroa Rohe

Source: <http://teroroa.iwi.nz/our-rohe.html>



Figure 2. Te Uri o Hau Rohe

Source: Te Uri o Hau Settlement Trust Website <http://www.uriohau.com>



Figure 3. Ngāti Manuhiri Rohe

Source Ngāti Manuhiri Settlement Trust website <https://www.Ngātimanuhiri.iwi.nz/kaupapa>



A 'Tangata Whenua' chapter is required to be included in the new District Plan, which provides a strategic framework of Te Ao Māori/the Māori world view and how it needs to be taken into account when considering resource management matters.

Additionally, there are matters of importance to Council's Iwi Authorities, which also need to be reflected in the new District Plan. These matters include:

- provisions for the development of Māori land, including Papakāinga housing and land development
- the identification and protection of sites and areas of significance to Māori.

The Kaipara District includes marae and hapū groups that do not affiliate or belong to Te Roroa, Te Uri o Hau or Ngāti Manuhiri. While these groups may be non-affiliating Tangata Whenua, Council will be seeking their input into the development of the new District Plan to ensure all views are sought.



KEY ISSUES

- The new District Plan needs to reflect the matters of key interest to Tangata Whenua and acknowledge the existing agreements between the Council and Te Uri o Hau and Te Roroa.
- The rohe of the Iwi Authorities extends beyond the Kaipara District Council boundaries to our neighbouring local authorities (Auckland Council, Far North District Council and Whangarei District Council). Where possible and appropriate, consistent policy should be developed to be more effective and efficient across the rohe boundaries.
- Tangata Whenua have indicated to Council a desire to enable housing and economic development of Māori landholdings across the Kaipara District. The new District Plan will need to ensure provisions are enabling for this type of development to occur.
- The new District Plan needs to ensure sites and areas of significance to Māori are protected. This issue is also discussed in the Historical Heritage Discussion Document. To ensure privacy associated with some taonga and wāhi tapu sites, an approach is required to enable this information to remain confidential.
- Tangata Whenua have a strong interest in being involved where there may be cultural impacts on sites or areas of significance to Māori, or where an activity will impact on the mauri of natural resources.
- As more growth and development occurs, Tangata Whenua strive to protect the mauri of the natural environment. It is important to consider how to provide for this in the new District Plan.

IWI INTERESTS AND IWI MANAGEMENT PLANS

As previously stated, there are two Iwi Management Plans (IMPs) that the new District Plan must take into account:

- Nga Ture mo Te Taiao o Te Roroa 2009
- Te Uri o Hau Kaitiakitanga o te Taiao 2011

Both documents provide an overview of the history of the Kaipara area, information pertaining to their Treaty Settlements information, and each iwi authorities aspirations (including objectives, policies and methods) regarding resource management planning. These documents aim to ensure that any adverse effects are managed and mitigated to protect the environment where any land use activity, subdivision or other development occurs.

As has been outlined in this Discussion Document, the focus of the Tangata Whenua chapter of the new District Plan will need to define objectives and provide a strategic overview of how resource management matters should be considered through the Te Ao Māori/ the Māori world view. As such the new District Plan will be informed and guided by all the objectives, policies and methods contained within these Plans.

SUMMARY OF THE OPERATIVE DISTRICT PLAN PROVISIONS

The Operative District Plan includes the Tangata Whenua Strategy (Chapter 5) which provides an overview of significant issues for Tangata Whenua/Mana Whenua, as well as objectives, policies and methods. This chapter is further supported by Chapters 4, 15A, 15B and 17. Further information on these provisions is provided in Appendix 1.



THINGS TO THINK ABOUT

The content of a district plan ranges from fulfilling legal requirements made by Central Government and regional councils, to proposing specific provisions that meet the needs of our District and its communities. This list includes any changes required to meet legal obligations, as well as some ideas Council wants to explore further with our communities.

- Council will develop the Tangata Whenua chapter in collaboration with our Iwi Authorities to ensure alignment of the objectives, policies, and methods with the respective Iwi Management Plans and the Te Ao Māori/ the Maori world view.
- Provisions for Papakāinga Development need to be updated to ensure they support and encourage whānau to return to their whenua.
- It is envisaged that the new District Plan needs to include provisions that support the development of Māori landholdings to ensure economically sustainable and resilient outcomes for landowners.
- The new District Plan needs to protect sites and areas of significance to Māori and provide the framework to include appropriate triggers and mechanisms to ensure consultation and/ or a cultural assessment is undertaken with Tangata Whenua.

NEXT STEPS

Council is working collaboratively with its Iwi Partners to develop the draft Tangata Whenua chapter.

For the sites and areas of significance to Māori, as discussed in the Historic Heritage Discussion Document, both Iwi Partners will undertake work to identify the sites and areas of significance, which they would like mapped on the new District Plan maps, with the exception of the sites required to stay private and confidential (for which another process will apply). Provisions will also need to be developed to ensure activities which are likely to generate adverse effects on the cultural values of these sites and areas are appropriately managed through the new District Plan.

APPENDIX 1

RELEVANT LEGISLATION AND NATIONAL DIRECTION

Resource Management Act 1991	
Section 2 (Interpretation) Iwi Authority	The authority which represents an iwi, or hapu roopu, and is recognised by that iwi or hapu roopu as having authority to do so through the Treaty Settlement legislation.
Section 2 (Interpretation) Kaitiakitanga	The exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship
Section 2 (Interpretation) Mana Whenua	Means customary authority exercised by an iwi or hapu in an identified area
Section 2 (Interpretation) Tangata Whenua	Means in relation to a particular area, means the Iwi or hapu that holds mana whenua over that area.
Section 6	Matters of National Importance Section 6(e) requires recognition of the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga. Section 6(g) recognises the protection of protected customary rights.
Section 7	Other Matters Sections 7(a) and 7(aa) require local authorities to have particular regard to kaitiakitanga and the ethic of stewardship.
Section 8	Treaty of Waitangi Section 8 requires councils to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) when managing the use, development and protection of natural and physical resources.
Section 42	Protection of Sensitive Information This section is particularly relevant to sites and areas of significance to Māori, as it enables councils to protect information which is sensitive to Māori, such as the location of wāhi tapu.

NATIONAL PLANNING STANDARDS

Direction 3	Requires District Plans to include the following matters in the 'Recognition of iwi/hapū' chapter: <ul style="list-style-type: none"> a history of the iwi/hapū within the rohe, the iwi/hapū relationship with the rohe, environmental management perspective and values a description of resources of significance to tangata whenua where agreed with the iwi authorities, a list of relevant iwi authorities (where possible this should include a link to iwi authority websites) a description of the relationship of iwi or hapū with ancestral lands, water, sites, wāhi tapu, and interests in resource management an explanation of how iwi and hapū values have been considered when preparing the Plan, or are reflected in the Plan an overview of the outcome of resource management arrangements from Treaty Settlement and Post-Treaty Settlement Agreements a list and explanation of what the statutory acknowledgements for the district and region are (where possible this should include a link to the relevant statutory acknowledgement legislation) a brief explanation of how statutory acknowledgements affect the Plan and/or how statutory acknowledgements are reflected in specific objectives, policies, and methods, including rules (if any).
Direction 4	Requires the following matters to be included in the 'Tangata Whenua – local authority relationships' chapter: <ul style="list-style-type: none"> if any statutory acknowledgement requires a specific resource management process, identification of that process, and a list of any formal relationship agreements between tangata whenua and a local authority. Those formal relationship agreements may include any memoranda of understanding, Mana Whakahono a Rohe/ iwi participation arrangements, co-management agreements, joint management agreements and transfer of powers under RMA 1991 section 33, as they relate to resource management functions.

Direction 5	Requires the following matters to be addressed in Plans in the 'Iwi and hapū planning documents' chapter: <ul style="list-style-type: none"> • a list of iwi and hapū planning documents lodged with a local authority (where possible this should include a link to planning documents) • a description of how the local authority has taken the iwi/hapū planning documents into account in the Plan • a flowchart of how iwi and hapū planning documents are used • if relevant and agreed, parts of the iwi/hapū planning documents.
Resource Management Act 1991 (continued)	
Direction 6	Requires the following matters to be addressed in the 'Consultation' chapter: <ul style="list-style-type: none"> • any specific consultation processes with tangata whenua (as required by the RMA) • any relevant consultation processes from iwi and hapū planning documents • a description of best practice consultation and engagement processes as agreed with specific iwi or hapū • a flowchart of the consultation process used or supported • a link/reference to external best practice process documents • an explanation of the purpose of any consultation processes • reference to how the consultation processes are given effect to.
Te Ture Whenua Maori Act 1993	
Various sections	The Act applies to all Maori Freehold Land. While it does not necessarily apply to the District Plan, it is important to understand how land is managed under this Act and how the Maori Land Court processes interact with District Plan processes (i.e. hapu partitions, occupation orders).
Te Uri o Hau Claims Settlement Act 2002	
Various sections	This document is the key piece of legislation providing redress to Te Uri o Hau. Of note is Part 4, which relates to specific properties within the Kaipara District boundaries.
Te Uri o Hau Claims Settlement (Resource Consent Notification) Regulations 2003	
Section 4	Requires a summary of resource consent applications to be forwarded to Te Uri o Hau Settlement Trust.
Te Roroa Claims Settlement Act 2008	
Various sections	This document is the key piece of legislation providing redress to Te Roroa. Of note is Part 2, subpart 2, which relates to specific properties within the Kaipara District boundaries.
Section 69	Requires relevant consent authorities to forward summaries of resource consent applications to the trustees of the Manawhenua Trust.
Ngāti Manuhiri Claims Settlement Act 2012	
Various sections	This document is the key piece of legislation providing redress to Ngāti Manuhiri. Of note is Part 2, subparts 2-4 and Part 3 which relate to specific properties under their Act.
Section 28	Requires relevant consent authorities to forward summaries of resource consent applications, or copies of notices of resource consent applications, to the trustees.

REGIONAL GUIDANCE

Regional Policy Statement for Northland	
Issue 2.6	Issues of significance to tangata whenua – participation in resource management
Objective 3.12	Tangata whenua role in decision making
Policy 8.1.1	Tangata whenua participation
Policy 8.1.2	The regional and district council statutory responsibilities
Policy 8.1.3	Use of Mātauranga Māori
Policy 8.1.4	Māori concepts, values and practices
Policy 8.3.1	Kaitiaki role
Policy 8.3.2	Marae and Papakāinga
Policy 8.3.3	Provision of information
Method 8.3.4	Statutory plans and strategies The regional and district councils shall, as soon as practicable after the Regional Policy Statement becomes operative, initiate a joint review of regional and district plans to identify and implement agreed opportunities to improve the ability of tangata whenua to develop marae and papakāinga, and achieve greater consistency in management approaches.
Method 8.1.5	Statutory plans and strategies The regional and district councils shall: (a) Engage with iwi authorities at the earliest possible stage of any review and / or change to plans developed under the Resource Management Act 1991(RMA) to agree appropriate mechanisms for tangata whenua participation and consultation; and (b) Include an analysis of the effects of any resource consent application on tangata whenua and their taonga, including details of any proposed measures to avoid, remedy, or mitigate effects and consultation undertaken, in all regional and district council reports on resource consent applications
Method 8.1.7	Advocacy and education

OPERATIVE KAIPARA DISTRICT PLAN 2013 – RELEVANT PROVISIONS

Chapter 5	Tangata Whenua Strategy This chapter provides an overview of significant issues for Tangata Whenua, as well as objectives, policies and methods.
Chapter 4	Overlays This chapter recognises the importance of protecting coastal and waterway environments and other taonga in the District.
Chapter 15A	Māori Purposes: Māori Land This chapter relates to Māori land zoning.
Chapter 15B	Māori Purposes – Treaty Settlement Land This chapter relates to land included as part of the recent Treaty Settlements between: <ul style="list-style-type: none"> • Te Uri o Hau, Ngāti Whatua and the Crown; and • Te Roroa and the Crown.
Papakāinga provisions	Papakāinga provisions have been included in Chapters 15A and 15B of the Plan to support whānau/hapū/iwi communal development on Māori and Treaty Settlement Land. The Plan currently provides for no more than 10 individual units per site if the relevant standards are met
Chapter 17	Historic Heritage This chapter included Appendix 17.2 – Nohoanga Areas and Areas of Significance to Māori. (This topic is also discussed in the Historic Heritage discussion document.)



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