

APPENDIX 3 –CLEAN TEXT FOLLOWING HEARING

PC50 Hearing Report

<p>Key</p>

<p><i>Italics</i> – Not part of PC50</p>
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Chapter 2 DEFINITIONS

Hapū: means a kinship group, clan, tribe, subtribe - section of a large kinship group and the primary political unit in traditional Iwi society. It consisted of a number of whānau (family in the broadest sense) sharing descent from a common ancestor, usually being named after the ancestor, but sometimes from an important event in the people's history.

Iwi: means an extended Māori kinship group, tribe, nation, people, nationality, race - often refers to a collective of related hapū, descended from a common ancestor and associated with a distinct territory.

Kaitiakitanga*: means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship.

Marae: For the purposes of this Plan, means the land and buildings (meeting house/ wharehau, kitchen and dining hall/ wharekai, ablutions block/ wharepaku) generally associated with gatherings and meetings and programmes of tangata whenua, hapū or whānau for religious, educational, or community purposes.

Papakāinga: *means development or activity established on ancestral land by an iwi, hapū or whānau of the Whanganui District on behalf of and for use by its members which promotes Tangata Whenua community development, and sustains the relationship of Tangata Whenua with their culture, traditions and ancestral land.*

Tangata Whenua: means in relation to a particular place or area, the iwi or hapū that holds, or at any time has held, mana whenua in relation to that place or area.

Taonga: means all things that are considered to be treasures and of great value, and includes things that are intangible.

Urupa: means a Māori burial ground.

Waahi Tapu: means a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense.

Whānau: means the extended family, family group, a familiar term of address to a number of people.

Chapter 10 NATURAL ENVIRONMENT

The following documents should be considered when assessing any activity within the Natural Environment:

- The Ngā Wairiki Ngāti Apa statutory areas (Ruakiwi, part of the Whangaehu River and part of the Mangawhero River);
- Ngaa Rauru Kītahi Puutaiao Management Plan;
- The Statutory Acknowledgement for the Nukumarū Recreational Reserve; and
- The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 which recognises Te Awa Tupua as a living and indivisible whole comprising the Whanganui River from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements.

Chapter 15 TANGATA WHENUA

- 1 The connections between Tangata Whenua and the local environment are known to have existed before the arrival of the Polynesian explorer, Kupe. From that time to the present day the inter-dependence between Tangata Whenua and their environment has resulted in the development of a sophisticated value system. This is recognised in the Treaty of Waitangi that establishes Tangata Whenua and the Crown as treaty partners with the obligation to work together to manage the environment.
- 2 Ongoing management of the environment is the responsibility of the whole community, with specific rights and responsibilities identified for local, regional and central government and Māori formalised in the RMA. In particular the reference to kaitiakitanga, is a way of managing the environment through guardianship and protection.
- 3 Sections 6, 7 and 8 of the Resource Management Act 1991 places a ~~duty~~ various duties on the Council with regard to Māori. Section 6 identifies as a matter of national importance the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. Section 7 requires particular regard to be had to Kaitiakitanga and the recognition and protection of the heritage values of sites, buildings, places or areas. Section 8 requires the principles of the Treaty of Waitangi to be taken into account. Other sections of the Act relate specifically to procedural matters.

- 4 This Chapter responds to the requirements of the Act with regard to Tangata Whenua. It is not a 'stand-alone' section and reference should be made to all other chapters of the Plan, particularly Earthworks (Chapter 14), the Natural Environment (Chapter 10), Heritage (Chapter 9), and Appendix G (Design Guidelines).
- 5 The Treaty of Waitangi (Te Tiriti o Waitangi) is New Zealand's founding document that establishes the relationship between Tangata Whenua and the Crown, and by association the Whanganui District Council. It is underpinned by the principles of partnership – incorporating a duty to act reasonably, honourably and in good faith, and a duty to make informed decisions. The Waitangi Tribunal have recognised several core principles from the terms of the Treaty and the surrounding circumstances in which the Treaty agreement was entered into. These include:
- **Partnership** – Both the Crown and Tangata Whenua agree to act towards each other with good faith. The obligations of partnership include the duty to consult tangata whenua.
 - **Reciprocity** – The partnership is a reciprocal one. Tangata whenua ceded to the Crown kawanatanga (governance) of the country in return for a guarantee that tino rangatiratanga (full authority) over their land, people and taonga would be protected.
 - **Autonomy** – The Crown guaranteed to protect tangata whenua autonomy.
 - **Active protection** – The Crown's duty to protect tangata whenua rights and interests is not merely passive, but extends to active protection and full consultation.
 - **Equal treatment** – The Crown is required to treat all Iwi/hāpu fairly and not advantage one Iwi/hāpu over another if their circumstances, rights and interests are broadly the same.
- 6 Informal arrangements exist between the Council and Ngā Wairiki Ngāti Apa and Ngaa Rauru Kiitahi. Both Ngaa Rauru Kiitahi and Ngā Wairiki Ngāti Apa have settled their Treaty claims with the Crown.
- 7 Ngaa Rauru Kiitahi have developed the Te Kaahui o Rauru Puutaiao Management Plan (2013) which identifies their statutory acknowledgement areas. Ngā Wairiki Ngāti Apa also have statutory acknowledgement areas within the Whanganui District. These areas must be taken into account when considering any resource consent application. A summary of these areas is found in Appendix D of the Whanganui District Plan.
- 8 The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 was recently enacted whereby Ruruku Whakatupua (the Whanganui River Settlement) was recognised at law. The Te Awa Tupua Act provides for a new legal framework for Te Awa Tupua, where Te Awa Tupua is recognised as a legal person with its own intrinsic values (Tupua te Kawa) and voice. Ngā

Tāngata Tiaki o Whanganui Trust has been established as the post-settlement governance entity for Whanganui Iwi for the purposes of the Whanganui River Settlement and the Te Awa Tupua Act. The Whanganui Land Settlement Group claim report for Te Atihaunui-a-Paparangi hapū has been delivered and negotiations are in progress.

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Long-term formal, robust and evolving relationship agreements have been developed between the Council and Te Runanga o Tamaupoko and Te Runanga o Tupoho. The above relationships agreements have resulted in progress in a number of areas.

- The engagement of Tangata Whenua representatives on the District Plan Review Working Party.
- Tangata Whenua members training as RMA commissioners.
- Agreement on using the District Plan to present Tangata Whenua archaeological information.
- Collaboratively working through a major issue to set up the Outstanding Natural Landscapes – Tamaupoko and Tupoho Landscape Project 2016.
- Tangata Whenua initiation of the recording of information for cultural overlay mapping.
- Growing understanding of Tangata Whenua cultural perspectives by policy officers.

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Additional relationship building is required with Ngaa Rauru Kiitahi in the future. Ngaa Rauru Kiitahi have settled their Treaty of Waitangi claim with the Crown and as part of this have determined their rohe in the Deed of Settlement. An extract of the Deed of Settlement explaining the rohe can be viewed in Appendix D of the District Plan.

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These developments reflect progress in a fluid situation towards a resource management system which is collaborative and working towards co-governance, co-management and the potential for joint management agreements. The growing understanding and capacity building for all involved provides a shared cultural context for the Plan and its operation. A significant potential addition is guidance from iwi and hāpu management plans, as provided for under the Act.

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Plan users and those considering development activity need to ensure they engage with Tangata Whenua as appropriate. Up-to-date contact information is available from the Council.

The 2017 amendment to the Resource Management Act allows for Mana Whakahono a Rohe, which is a type of relationship document between Tangata Whenua and Whanganui District Council which enables the specific

identification of the planned methods to achieve compliance with the statutory obligations to Tangata Whenua under the Act.

PAPAKAINGA

13 *Multiple ownership of land has led to some difficulties with development and use. The intention of the papakainga provisions is to enable Tangata Whenua to cater for their aspirations. Development of papakainga will bring benefits to the people, the land, the community and the economy. It is recognised by Council that papakainga has multiple meanings from hāpu to hāpu. The definition in the District Plan is intended to recognise the significance of marae and to enable hāpu to use land in a way that meets their aspirations for the future.*

15.1 ISSUES

15.1.1 It is important to build on agreed approaches with Tangata Whenua to address resource management matters of significance to Tangata Whenua.

15.1.2 The Act requires recognition of and provision for the special relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, and having particular regard to Kaitiakitanga (ethic of stewardship).

Tangata Whenua identify that their role in respect of land and water is as guardians for current and future generations and this impacts on how land and resources are used, developed and protected. It relates to, but is not limited to, the following:

- a. Marae, pā, urupā, ancestral lands, waahi tapu sites.
- b. Whanganui River, coastal water.
- c. Objects and places of cultural significance.

15.1.3 The exercise of Kaitiakitanga is a way of caring for Māori heritage and respecting the relationship between Māori and the environment based upon traditional perspectives, knowledge, values and world view. Although it is a Māori term, the courts have defined that the exercise of Kaitiakitanga is a responsibility placed on all people exercising functions under the Act, including the Council.

15.1.4 The Council recognises the value and sensitivity of information shared between Tangata Whenua and the Council. Knowledge held by Tangata Whenua has generally been closely guarded and

what has been given has sometimes been reinterpreted and/or misused.

- 15.1.5 *Difficulty in developing Māori land may inhibit efficient use of such land.*
- 15.1.6 *The character of development in the Whanganui District does not reflect the long established tradition of Māori settlement and use of natural resources which may diminish the community awareness of the significance of this history.*
- 15.1.7 *Marae are places with a high cultural value that are centres of learning, traditional arts, community interaction, celebration and mourning. There is potential for activities that surround Marae to adversely impact on these activities, and conversely for activities within the Marae to impact on surrounding activities.*
- 15.1.8 The development process through impacts on land modification, building location, scale, height or even presence alone, may adversely affect Tangata Whenua values for that place.
- 15.1.9 Tangata Whenua values information and the concept of kaitiaki are not always well understood, respected or implemented correctly in resource management processes.

15.2 OBJECTIVES

- 15.2.1 Enhancement of Tangata Whenua participation in resource management by further developing meaningful relationships, through understanding and learning which take into account the unique roles and responsibilities of Tangata Whenua. A commitment is made to go beyond consultation and consider the further processes available for active participation by Tangata Whenua, for example through joint decision making and building capacity.
- 15.2.2 Contemporary and traditional practices and beliefs in resource management are recognised and valued.
- 15.2.3 *Development of Māori land that sustainably achieves Tangata Whenua aspirations.*
- 15.2.4 *Development reflects a culturally inclusive community.*
- 15.2.5 *Development that avoids or mitigates adverse effect on the cultural values of items and places of significance to Tangata Whenua, hāpu or whānau.*

15.3 POLICIES

15.3.1 Promote knowledge and understanding of the Tangata Whenua legislative and cultural roles in resource management.

15.3.2 Develop and maintain open communication and participation between Tangata Whenua and the Council in resource management matters.
Open communication will provide for participation by Tangata Whenua in resource management matters in a way which recognises the partnership principle of the Treaty, and ensures recognition of tikanga Māori in the processes and practices of the Council, in areas of significance to Tangata Whenua. This does not mean that Tangata Whenua principles take precedence, but that these areas will be discussed and agreed between the Council and Tangata Whenua. Implementation will depend on the issues involved and the agreements reached.

15.3.3 While many archaeological sites of Iwi significance have been identified and are protected in the District Plan, all waahi tapu sites require protection.

Note: Sites of value to Tangata Whenua include but are not limited to marae, waahi tapu (canoe landing sites, burial grounds [urupā], battlefields, islands, and areas of spiritual significance) and taonga (rivers, lakes, waterways, mountains, wildlife species and plants). An important consideration in the protection of Tangata Whenua sites is the need to ensure protection from deliberate or accidental interference or destruction. This includes finding and implementing methods to protect the information from common usage, but to ensure the location of sites is identified in some way to intending developers.

15.3.4 To take into account any management plans and statements of associations prepared by Tangata Whenua when considering resource consents. To date this includes (but is not limited to):

- The Whangaehu River Statement of Association
- The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017
- Ngaa Rauru Kiitahi Puutaiao Management Plan

- The Statutory Acknowledgement for the Nukumarū Recreational Reserve

15.3.5 *To enable Papakainga or marae developments to be established by Tangata Whenua, hāpu or whānau.*

15.3.6 *To enable Tangata Whenua to design papakainga and marae developments in accordance with cultural needs, subject to relevant legislation and District Plan requirements.*

15.3.7 *Ensure that adverse effects beyond the outer boundary of papakainga or marae developments are avoided, remedied or mitigated.*

15.4 RULES

15.4.1 Permitted activities

All activities shall comply with Performance Standards and District-wide rules where relevant.

The following are permitted activities in all zones:

- a. *Papakainga or marae development or activity on ancestral land that comply with the zone performance standards at the outer boundary.*

15.4.2 Restricted Discretionary Activities

The following are restricted discretionary activities:

- a. *Papakainga or marae development or activity on ancestral land that does not comply with any relevant zone performance standard, at the outer boundary.*

Council restricts its discretion to the following matters:

- i. *The effect of the particular non-compliance on the environment, including the cumulative or combined effect of non-compliance.*

15.4.3 Discretionary Activities

The following are discretionary activities:

- a. *Papakainga or marae development or activity on land that does not comply with the District Plan definition of ancestral land*.*