

## **Recommendations to Council from the Statutory Management Committee**

Date: 27 July 2017

### **WHANGANUI DISTRICT COUNCIL**

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**Subject:** Plan Change 50 – Tangata Whenua

**Decisions on Submissions**

**Meeting Date:** 11 July 2017

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#### **1.0 INTRODUCTION**

**1.1** Council is presently reviewing the District Plan in phases. This Plan Change is part of Phase 7.

**1.2** This report records the public notification and hearing process in relation to Plan Change 50. It records the Statutory Management Committee's recommendations and Council's decisions on submissions.

**1.3** For details of the deliberations discussion refer to the formal Council Minutes of the meetings.

#### **2.0 PROCEDURAL MATTERS**

**2.1** The Committee was convened to hear submissions on 11 July 2017. Three submitters attended. There was no written evidence submitted to consider.

**2.2** The Committee members were: Commissioner Alan Taylor (Chair) and Independent Commissioners Jenny Tamakehu, Ramari Te Uamairangi and Martin Visser.

**2.3** PC50 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Resource Management Act 1991 (the Act) on 10 December 2016, with the period for submissions closing on 31 January 2017.

**2.4** Four submissions were received at the close of submissions.

**2.5** All submissions received were summarised and the decisions requested by submitters were publicly notified in accordance with Clause 7 of the First Schedule of the Act. The further submission period closed on 24 February 2017. Three further submissions were received.

### 3.0 SCOPE OF THE PROPOSED PLAN CHANGE

3.1 The purpose of proposed PC50 is to update, in liaison with Tangata Whenua, the information likely to be most useful for Plan users such as Treaty Settlement implications, provision of appropriate iwi contacts, processes and protocols for engagement for Plan review and resource consent matters.

3.2 When the Plan Change was notified, the following content was reviewed:

- The Tangata Whenua sections of Chapter One (Introduction).
- Chapter 15 (Tangata Whenua and Papakainga). Note: the Papakainga content was added by PC 37 in 2013 and is not subject to this review.

Since notification, Plan Change 51 (Miscellaneous) has become operative, which moved the Tangata Whenua Sections in Chapter 1 to the start of Chapter 15. Therefore the marked up text for this hearing report and decision report assesses all the relevant text from both chapters within the Tangata Whenua Chapter (15), even though the notification report referred to Chapter 1.

The only provisions affected by this Plan Change in Chapter 15 are:

- The introduction (excluding paragraph 13 on Papakainga)
- Issues (15.1.1 to 15.1.3 and 15.1.7 to 15.1.9)
- Objectives (15.2.1 to 15.2.3 and 15.2.7)
- Policies (15.3.1 to 15.3.5)

Rules within Chapter 15 are beyond the scope of this Plan change as they were introduced in Plan Change 37 (Papakainga) in 2014.

Associated changes to Chapter 2 (Definitions) and Chapter 10 (Natural Environment) has also occurred as a result of reviewing this topic.

### 4.0 STATUTORY AND LEGISLATIVE FRAMEWORK

#### 4.1 Resource Management Act 1991

Section 74 of the Act requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the Act in section 5 and the other matters under sections 6, 7 and 8.

Territorial authorities have the following functions under the Act:

*31 Functions of territorial authorities under this Act*

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
  - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*
2. *The methods used to carry out any of the functions under subsection (1) may include the control of subdivision.*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined:

5(2) *In this Act, “sustainable management” means 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, economic, and cultural wellbeing and for their health and safety while:*

- a. Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c. Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In accordance with Section 5 of the RMA, PC50 has been developed with a focus on providing for the community’s social and cultural wellbeing.

Other Part 2 matters which influenced this Plan change are:

*6 Matters of national importance*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

*(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*

*(f) the protection of historic heritage from inappropriate subdivision, use, and development:*

*(g) the protection of protected customary rights.*

*7 Other matters*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

*(a) kaitiakitanga:*

*(aa) the ethic of stewardship:*

*8 Treaty of Waitangi*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

Plan Change 50 plays an important supporting role in ensuring that Council acknowledges and meets its obligations under sections 6, 7 and 8 of the RMA.

## 4.2 National Policy Statements and Environmental Standards

The Act requires that district plans give effect to any relevant national environmental standards (NES). A NES is a document prepared under the Act and national policy statement (NPS) to ensure that the same standards are enforced by each Council. There are no national policy statements or national environmental standards relevant to this Plan change.

## 4.3 Regional Policy Statement and Regional Plan (the One Plan)

In addition, the Act requires District Plan provisions give effect to the Regional Policy Statement (section 75(3)). The Regional Policy Statement (RPS) is the main vehicle for interpreting and applying the sustainable management requirements of the Act in a local context, and in this regard, guides the development of lower tier plans, including the District Plan.

The Manawatu-Wanganui Regional Council (Horizons) combined the Regional Policy Statement and six regional plans into one document called the One Plan. The One Plan became operative on 19 December 2014.

One Plan Chapter 2		Proposed Plan Change 50
Objectives / Whāinga	Policy / Kaupapa	Evaluation
<p>Objective 2-1: Resource management <i>Te whakahaere rauemi</i> (a) To have regard to the <i>mauri</i><sup>*</sup> of natural and physical resources<sup>^</sup> to enable <i>hapū</i><sup>*</sup> and <i>iwi</i><sup>*</sup> to provide for their social, economic and cultural wellbeing. <i>Kia aro atu ki te mauri o ngā rauemi māori - ōkiko hoki - hei oranga haporiōhanga hoki, tikanga hoki mō ngā hapū me ngā iwi.</i> (b) <i>Kaitiakitanga</i><sup>^</sup> must be given particular regard and the relationship of <i>hapū</i><sup>*</sup> and <i>iwi</i><sup>*</sup> with their ancestral <i>lands</i><sup>^</sup>, <i>water</i><sup>^</sup>, <i>sites</i><sup>*</sup>, <i>wāhi tapu</i><sup>*</sup> and other <i>taonga</i><sup>*</sup> (including <i>wāhi tūpuna</i><sup>*</sup>) must be recognised and provided for through resource management processes. <i>Ka mate ka tino arohia te kaitiakitanga, ā, ka mate ka whakamanatia te hononga o ngā hapū me ngā iwi ki ō rātou whenua tūpuna, wai, papa, wāhi tapu hoki me ētahi atu taonga (pērā i ngā wāhi tūpuna), ā, ka whakaratongia mā ngā tukanga whakahaere rauemi.</i></p>	<p>Policy 2-2: <i>Wāhi tapu</i><sup>*</sup>, <i>wāhi tūpuna</i><sup>*</sup> and other <i>sites</i><sup>*</sup> of significance <i>Ko ngā wāhi tapu, wāhi tūpuna hoki me ētahi atu papa hirahira</i> (a) <i>Wāhi tapu</i><sup>*</sup>, <i>wāhi tūpuna</i><sup>*</sup> and other <i>sites</i><sup>*</sup> of significance to Māori identified: <i>Kua tautuhia ngā wāhi tapu me ngā wāhi tūpuna me ētahi atu wāhi hirahira ki te Māori:</i> (i) In the Regional Coastal Plan and <i>district plans</i><sup>^</sup>, (ii) as historic reserves under the Reserves Act 1977, (iii) as Māori reserves under the Te Ture Whenua Māori Act 1993, (iv) as sites recorded in the New Zealand Archaeological Association's Site Recording Scheme, and (v) as registered sites under the Historic Places Act 1993 (i) <i>kei roto i te Mahere Takutai ā-Rohe me ngā mahere ā-takiwā,</i> (ii) <i>hei Historic Reserves i raro i te Reserves Act 1977,</i> (iii) <i>hei Māori Reserves i raro i Te Ture Whenua 1993,</i> (iv) <i>hei wāhi kua rēhitatia mā te Site Recording Scheme o te New Zealand Archaeological Association, ā</i> (v) <i>hei wāhi kua rēhitatia i raro i te Historic Places Act 1993</i> Te Ao Māori 2-12 One Plan - 2014 must be protected from inappropriate subdivision, use or development that would cause adverse effects<sup>^</sup> on the qualities and features which contribute to the values of these <i>sites</i><sup>*</sup>. <i>ka whakamarumarutia i te hē o te wehewehe whenua, te whakamahi whenua, whakaahu whenua rānei e puta ai pea he pānga kino ki ngā painga me ngā āhuatanga ka pā ki te ūara o ēnei wāhi...</i></p> <p>Policy 2-4: Other resource management issues Table 2.1 Resource management issues of significance to <i>hapū</i><sup>*</sup> and <i>iwi</i><sup>*</sup></p>	<p>PC 50 proposes to include guidance for plan users to facilitate appropriate engagement with and outcomes for <i>iwi</i> and <i>hāpu</i> in relation to ensuring appropriate and timely consideration of <i>iwi</i> and <i>hāpu</i> values, including <i>kaitiakitanga</i>.</p> <p>The wider plan review process has been undertaken in a manner that is consistent with and gives effect to the One Plan.</p> <p>In relation to Policy 2.2, PC 39 has incorporated archaeological sites including <i>wāhi tapu</i>, where appropriate.</p> <p>In relation to Policy 2.4 (Monitoring and Enforcement), this is a Council process and legal requirement, but not a requirement to be specifically provided for within the District Plan as it is an operational matter.</p>



Resource issue of significance to hapū* and iwi* <i>He take rauemi e hirahira ana ki ngā hapū me ngā iwi</i>	Resource issue in the context of tikanga Māori* <i>He take rauemi me te tikanga Māori</i>	Relevant part of One Plan where issue is addressed <i>Te wāhanga o te One Plan ka kōrerotia te take</i>
(q) Monitoring and enforcement of environmental standards, including those contained in regional plans*, district plans* and resource consents*, are insufficient at times. <i>I ētahi wā he iti rawa te aroturuki me te ūruhitanga o ngā taumata talaoa pērā ki ērā kei roto i ngā mahere rohe, ngā mahere takiwā, me ngā whakaaetanga rauemi.</i>	<b>Te aroturuki me te ūruhitanga (monitoring and enforcement)</b> <i>Te aroturuki me te ūruhitanga</i>  Māori wish to see a greater level of monitoring undertaken for resource use activities. Many Māori also wish to see those who do not comply with resource consent* or permitted activity* conditions* undertake remedial work to remedy their actions. <i>Ko te pirangi o te Māori kia nui ake te aroturuki ka mahia hei ngohe whakamahi rauemi. Ko ētahi pirangi anō o te Māori kia mahi te hunga kore whai i ngā whakaritenga whakaaetanga rauemi me ngā mahi ka whakaaetia ki te whakatikatika i ā rātou mahi hē.</i>	Monitoring and enforcement <i>Te aroturuki me te ūruhitanga</i>  Chapter 12 Policy 12-8 Wāhanga 12 Kaupapa 12-8

#### 4.4 Other Plans & Strategies

Another matter to which Council must have particular regard is other management plans and strategies. Those which are relevant provisions are discussed below. They have informed the preparation of this section 32 analysis.

##### Te Kaahui o Rauru Puutaiao Management Plan (2013)

Whanganui District Council has the requirement to take into account any management plans prepared by Iwi and lodged at Council. This management plan is relevant to this Plan Change as it informs the public and Council of Te Kaahui o Rauru rohe and areas they claim mana whenua over. It is also specifically referenced in the proposed District Plan text as one of the documents to consider when implementing the District Plan.

#### SUMMARY OF SUBMISSIONS

- 4.5 Refer to Appendix 1 to this report for a summary of each submission and Council's decision and reasons for each decision.

#### 5.0 PRINCIPAL ISSUES IN CONTENTION

- 5.1 The submitters identified the following concerns in relation to PC50:

- Consistency in Te Kaahui o Rauru rohe
- Confirmation that Te Runanga O Tupoho rohe will not be affected by acknowledgement of Te Kaahui o Rauru rohe in the District Plan
- Concern with the consultation and engagement process pre notification of the Plan Change
- Additional information in Appendix D required to explain the Te Awa Tupua Act and Ngā Tāngata Tiaki o Whanganui

#### 6.0 SUMMARY OF TABLED EVIDENCE

##### 6.1 Officer's Right of Reply is summarised below:

The Officer's stands by the comments and recommendations of the s42A report except where stated below.

- Te Kaahui o Rauru and Ngā Tāngata Tiaki o Whanganui expressed in their submissions that the full names of relevant Iwi groups and legal identities are used. Therefore it is recommended that paragraph 9 of the Introduction to

Chapter 15 is amended to use the full names of Tamaupoko and Tupoho in order to be consistent with the rest of the Plan and show equal respect to all Iwi recognised by this Plan.

- Te Kaahui o Rauru requested that the full rohe description in the Deed of Settlement be used instead of the summary proposed in paragraph 10 of the Introduction. Consistency between the documents provides the most clarity to the users of the document and should be encouraged. The purpose of using a summary was due to the length of the rohe description. A potential solution would be to move the full rohe description to Appendix D of the Plan.
- Recognition of Te Kaahui o Rauru rohe does not diminish Te Runanga O Tupoho mana whenua over Whanganui or the relationship with the Council. The proposed text enhances the value and obligations on plan users for all Iwi. Once Te Runanga O Tupoho and are Iwi are comfortable with the status and boundary of their rohe, putting it in the Plan will be welcomed.
- In regards to the need to improve consultation pre notification, I note the recent changes to the Resource Management Act that requires Council to consult with all Iwi bodies before the Plan Change is notified with adequate time to respond.

## 7.0 MAIN FINDINGS ON PRINCIPAL ISSUES

### 7.1 The Committee considered each submission and confirmed a decision for each.

Refer to Appendix 1 for the decisions on individual submissions.

- The Committee accepted the recommendations of the reporting officer in respect to the majority of the issues raised in relation to PC50 and the officer's reply. It was noted that the majority of the changes had the submitter's support.
- The Committee determined minor amendments to the **definitions** of 'Iwi' and 'Marae' in order to improve readability.
- The Committee agreed with the submitter and officer that the Deed of Settlement description of the **Te Kaahui o Rauru rohe** should be used within the District Plan. They then debated long and hard about where it should be within the Plan. It was acknowledged that due to the length of the description, that the main body of the Introduction was not appropriate as it would place too much emphasis on one Iwi over the others. Therefore it was concluded that acknowledgement of the Te Kaahui o Rauru rohe should remain in the Introduction of the Chapter, but the full text be placed in Appendix D, which is the most appropriate place to refer to legal documents related to engaging Tangata Whenua.
- The Committee agreed with Ngā Tāngata Tiaki o Whanganui that more wording explaining the **Te Awa Tupua Act** 2017's effect on the District Plan requirements would be beneficial, however the wording had to be from the legal documents surrounding the Act.
- The Committee determined an addition to the Introduction of Chapter 15 was required to explain the recent ability to develop **Mana Whakahono a Rohe**,

which was introduced via the RMA amendments in April 2017, well after the notification period. This is consistent with the purpose of the Plan Change to inform the plan users of Plan review and resource consent matters relating to Tangata Whenua. It is also consistent with Te Kaahui o Rauru and Horizons Regional Council's submissions to clarify how/why and when to consult with Tangata Whenua.

- The Committee accepted the officer's assessment that the s.32 evaluation had been completed appropriately.

## **8.0 SECTION 32 REPORT EVALUATION**

Further evaluation of the Section 32 report was considered as a result of submissions. The Section 32AA report attached in Appendix 4 reconfirms the original Section 32 report. No changes were made to the evaluation as a result of submissions at the hearing.

## **9.0 STATEMENT OF DECISIONS AND REASONS**

Refer to Appendix 1 to this report for the Council's decision and reasons relating to each submission. Refer to Appendix 2 for the complete version of the Plan change maps and text.

## **10.0 APPENDICES**

- 1: Decisions on Submissions and Reasons for Decisions
- 2: Marked- Up version of Plan Change 50 following Decisions on Submissions
- 3: Clean text version of Plan Change 50 following Decisions on Submissions
- 4: Section 32AA Evaluation

Signature of Chairman



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Commissioner Alan Taylor

Dated: 22/9/2017

**APPENDIX 1 – DECISIONS**  
**DECISIONS ON SUBMISSIONS**



**APPENDIX 1 – Decisions on Submissions and Reasons for Decisions**

The following are the summary of submissions received and decisions of Council on each submission following consideration of the evidence.

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## **Submissions**

**Submitter Name:** [Whanganui District Council](#)

**Submission No:** 1

### **Summary:**

Support the plan change. Requesting amendments to the definitions that relate to this topic and use within the District Plan.

### **Decision Sought:**

That the following definitions be **retained**:

Kaitiakitanga, Papakāinga, Taonga, Urupā

That the following definitions be **amended**:

Hapū, Iwi, Marae, Tangata Whenua, Wāhi Tapu, Whānau

That the following definitions be **deleted**:

Kaitiaki, Kaumatua housing, Kawanatanga, Mana Whenua, Rahui, Tikanga Māori, Tino Rangatiratanga, Tribal Runanga

### **Council Decision:**

That Submission 1 by Whanganui District Council be **Accepted**. The following amendments to the definitions are made as a result of this submission:

#### **Amend definitions in Chapter 2: Definitions as set out below:**

**Hapū:** means ~~a sub-tribe of Iwi, and is made up of a group of families with a common ancestor.~~ 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 ~~major tribes who are Tangata Whenua.~~ 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.

**Kaitiaki:** ~~means the Tangata Whenua guardian who has ancestral authority and responsibility for the management of resources.~~

**Kaumatua housing:** ~~means housing for Māori elders.~~

**Kawanatanga:** ~~means the act of governing, or government.~~

**Mana Whenua\*:** ~~as defined under the RMA, means customary authority exercised by an iwi or hapū in an identified area.~~

**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.

**Rahui:** ~~means temporary restrictive controls imposed over the use of resources for conservation purposes.~~

**Tangata Whenua\*:** ~~In relation to a particular area, means iwi or hapū that holds mana whenua over that area.~~ 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.

**Tikanga Māori\*:** ~~means Māori customary values and practices.~~

**Tino Rangatiratanga:** ~~means great chieftainship and full authority over land and all taonga.~~

**Tribal runanga:** ~~means an organisation or authority set up to administer tribal affairs.~~

**Waahi Tapu:** ~~means a device whose sole purpose is to inform road users of an approaching traffic hazard.~~ means a place sacred to Māori in the traditional, spiritual, religious, ritual, or mythological sense.

**Whānau:** ~~means a family as interpreted in accordance with Māori culture and values.~~ means the extended family, family group, a familiar term of address to a number of people.

**Council Reasons for Decision:**

1. The deletion, retention and amending of definitions will provide clarity to Plan users as to the intent of the issues, objectives and policies as detailed in the submission.
2. It is appropriate that these definitions be reviewed as part of this Plan Change as indicated in Plan Change 51 (Miscellaneous - which reviewed all definitions) because the definitions are Tangata Whenua specific, and not standardized (except where quoting the RMA).
3. The change requested is considered appropriate for the reasons outlined in this submission, subject to two minor grammar corrections to the terms 'iwi' and 'marae'.

**Submitter Name:** [Ngā Tāngata Tiaki o Whanganui](#)

**Submission No:** 2.1

**Summary:**

Support the Plan Change. Request amendments to improve references within the Plan.

**Decision Sought:**

The addition of a paragraph to recognise the Treaty of Waitangi/Te Tiriti o Waitangi. Standardise the wording within the document.

Referances to Ngā Tāngata Tiaki should be referred to by its full name: Ngā Tāngata Tiaki o Whanganui Trust.

**Council Decision:**

That Submission 2 by Ngā Tāngata Tiaki o Whanganui Trust be **Accepted**. The following amendments are made as a result of this submission:

**Chapter 15 – Tangata Whenua**

Amend text to standardise wording and refer to all Iwi organisations by their full name.

**Introduction**

Add to the end of paragraph one as follows:

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.

Insert as paragraph five as follows:

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.

Amend paragraph six as follows:

Informal arrangements exist between the Council and Ngā Wairiki Ngāti Apa and Ngāa Rauru Kītahi. Both Ngāa Rauru Kītahi and Ngā Wairiki Ngāti Apa have settled their Treaty claims with the Crown.

Delete paragraph eight and replace as follows:

~~Whanganui Iwi are awaiting legislation to enact the Whanganui River settlement and establish the legal identity of Te Awa Tupua, administered by Ngā Tāngata Tiaki o Whanganui Trust. 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.~~

#### **Council Reasons for Decision:**

1. Throughout the draft text, Tangata Whenua are referred to in a number of ways, including: 'māori', 'iwi', 'hāpu' and 'Tangata Whenua'. The RMA refers to 'Māori' which the Plan duplicates when referring to RMA provisions. For the rest of the Plan, it is recommended that the terms are standardized as requested by the submitter to 'Tangata Whenua' so it is clear that the provisions relate to groups with a connection to part of the Whanganui District rather than all iwi.
2. The Committee agreed that Ngā Tāngata Tiaki o Whanganui Trust should be referred to by its full name: Ngā Tāngata Tiaki o Whanganui Trust. The same respect should be shown to all iwi organisations referred to within the District Plan.
3. Ngā Tāngata Tiaki o Whanganui Trust also requested amendments to improve references within the Plan. As a result of this, the Committee adopted that the sentence in the Introduction to Chapter 15 discussing the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 be updated to reflect that the legislation passed.
4. Ngā Tāngata Tiaki o Whanganui Trust were concerned about the lack of reference to the Treaty of Waitangi, given its prominence both within the RMA and the Local Government Act (2004). Given that one of the purposes of this Plan Change is to provide information to Plan users about the Treaty and the treaty settlement implications, it makes sense to provide additional information about the Treaty. Therefore the Committee agreed that additional information be adopted for the Introduction to Chapter 15 to acknowledge that the Treaty is one of the founding documents to consider. An addition to the first paragraph to give a brief overview and a more detailed description located at paragraph five based on the Māori

Heritage Council and the Waitangi Tribunal's interpretation of the Treaty principles will achieve this.

5. The Committee agreed with Ngā Tāngata Tiaki o Whanganui that more wording explaining the Te Awa Tupua Act 2017's effect on the District Plan requirements would be beneficial, however the wording had to be from the legal documents surrounding the Act, which would make the new wording exempt from needing to be notified (Schedule 1 process).



**Submitter Name:** [Te Kaahui o Rauru](#)

**Submission No:** 3.1

**Summary:**

**Summary:**

Support the Plan Change. Request amendments to strengthen and improve references within the Plan and activities outside it. Requests better consultation processes for both Plan changes and general Council activities.

**Decision Sought:**

1. Reference to include the relevant statutory acknowledgement areas and Puutaiao Management Plan in chapters 10 and 15.
2. Include reference in the Methods section to support implementation.
3. Balance the relationship with Whanganui Iwi with Ngaa Rauru Kiitahi.
4. Reference the Iwi Accord developed for the wastewater treatment plan consent.
5. Reference the Treaty of Waitangi and its principles better within Chapter 15.
6. Provision made within the planning document to provide resources to Tangata Whenua.
7. Refer to Ngaa Rauru Kiitahi by its full name.

**Further Submitter Name:** [Te Runanga O Tupoho](#)

**Further Submission No:** FS1

**Summary:**

Opposed in part to submission 3 in relation to the area claimed by Ngaa Rauru Kiitahi.

**Council Decision:**

That submissions 3.1 and 3.2 from Te Kaahui o Rauru be **accepted in part**.

That further submission 1 from Te Runanga O Tupoho is appreciated and have been considered but the remedies sought be **rejected**.

The following amendments are recommended as a result of these submissions:

**Chapter 10 – Natural Environment**

Amend the second paragraph in the Introduction to as set out below:

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 ~~Statement of Association~~ and part of the Mangawhero River);
- Ngaa Rauru Kiitahi Puutaiao Management Plan;
- The Statutory Acknowledgement for the Nukumarū Recreational Reserve; and

- The ~~Whanganui River Treaty Settlement~~ 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.

### **Council Reasons for Decision:**

1. Ngaa Rauru Kiitahi requested reference to the relevant **statutory acknowledgement areas** and their management plan in Chapters 10 (Natural Environment) and 15 (Tangata Whenua). This is a legal requirement of most settlement legislation<sup>1</sup>. Therefore, in order to be compliant, it is recommended that the statutory acknowledgement areas for all Treaty Settlements<sup>2</sup> be updated in Chapters 10 and 15 and a more detailed explanation of them are provided in Appendix D of the District Plan. Reference to the Te Kaahui o Rauru Puutaiao Management Plan (2013) will also be made in Chapters 10 and 15.
2. Ngaa Rauru Kiitahi requested reference to the **methods** section to support implementation. The methods section of the District Plan was removed as part of Plan Change 51 (Miscellaneous). This was because the methods were either redundant, no longer followed best practice principles or sat outside the Plan and/or RMA process.

The Committee concluded that instead of reinstating the methods chapter of the Plan, that Council and Ngaa Rauru Kiitahi continue to work towards a potential partnership agreement (whether a Memorandum of Understanding or a Mana Whakahono a Rohe) where these types of process-based agreements can be made.

Regardless of the former methods section or any partnership agreement, Council will still have obligations as stated in the RMA and Local Government Act 2002 to work with Tangata Whenua to meet its statutory requirements.

3. Ngaa Rauru Kiitahi have also commented that the **relationship** between different Iwi groups and Council is unbalanced. Council has a duty under the principles of the Treaty of Waitangi to act fairly between Māori groups and not to unfairly advantage one group over another<sup>3</sup>. Within the District Plan document this involves acknowledging, referencing and referring to all known Iwi groups that claim to be Tangata Whenua within the District boundaries and treating information received from each group fairly and on its merits. The Plan reflects this by listing recent planning progress made with various Iwi.

The list of recent planning progress has been amended as a result of this submission to more accurately acknowledge the varying maturity of relationships Council has

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<sup>1</sup> Section 45(2); Ngaa Rauru Kiitahi Claims Settlement Act 2005 and Section 32(2); Ngāti Apa (North Island) Claims Settlement Act 2010

<sup>2</sup> The land settlement part of the Treaty Settlement for Tamaupoko and Tupoho and the Treaty Settlement for Ngāti Rangi have not yet been passed into law and therefore cannot be referenced in Appendix D at this time.

<sup>3</sup> As stated on the Waitangi Tribunal website accessed on 20 May 2017.

<https://www.waitangitribunal.govt.nz/treaty-of-waitangi/principles-of-the-treaty/>

with Tangata Whenua of the District. These relationships are dynamic and will continue to evolve throughout the life of this Plan.

4. Ngaa Rauru Kiitahi have also requested reference to the **Iwi Accord** developed for the wastewater treatment plan. It was not included for the following reasons:
  - There is no evidence that the accord is achieving its purpose as it has only just been signed.
  - The accord is not related to District Plan matters – it relates to discharge and the coastal environment, both of which are outside the jurisdiction of the District Plan.
  - Te Runanga O Tupoho (a signatory of the accord) do not want the accord mentioned in the District Plan.
5. Ngaa Rauru Kiitahi and Ngā Tāngata Tiaki o Whanganui (Submitter 2) both requested better reference to the **Treaty of Waitangi** and its principles. As this is a key document which guides the relationship between the Crown and Māori and the principles guide and influence the District Plan processes. The proposed text is amended to provide more clarity and explanation of the Treaty. The statement of principles recommended to be included in the Plan is largely based on the One Plan text and are consistent with the Waitangi Tribunal website and the Māori Heritage Council.
6. Ngaa Rauru Kiitahi request that the District Plan provide **resources** to Tangata Whenua. The purpose of the Plan Change is to provide information to Plan users. The District Plan does not allocate financial resources. This request is beyond the scope this Plan change. Financial planning is a full Council decision (via the Annual Plan or Ten Year Plan) in accordance with the Local Government Act 2002.
7. It is agreed that Ngaa Rauru Kiitahi should be referred to by its **full name**: Ngaa Rauru Kiitahi. The same respect should be shown to all iwi organisations referred to within the District Plan.
8. The Committee accepted that reference should be made to the Te Kaahui o Rauru Puutaiao Management Plan (2013). The Committee also recognised that it is best to refer to the Deed of Settlement when defining the rohe of Ngaa Rauru Kiitahi in order to be consistent, rather than a summary based on the management plan. Due to the length of the description of the rohe, reference is made in the Introduction of Chapter 15 and the full text is moved to Appendix D which is renamed “Statutory Acknowledgements and Rohe Boundaries”.
9. The Committee acknowledges Te Runanga O Tupoho further submission and notes that Te Runanga O Tupoho chose not to define their rohe in the District Plan until their land settlement is reached and that there is overlap with Ngaa Rauru Kiitahi rohe.
10. In weighing up the evidence provided by the two submissions, it is concluded that it is not for Council to decide the boundary, rather to identify the rohe as requested. It is noted that weight would be given on any resource consent application or Plan change is according to the evidence presented. In this case, Ngaa Rauru Kiitahi have prepared and published a management plan under the RMA, which Council has a legal obligation to ‘take into account’. It is recommended that the District Plan

identify the rohe of Ngaa Rauru Kiihi as they have identified, although it is noted that the area as far as Kai Iwi Stream is also in the rohe of Te Runanga O Tupoho.

11. In terms of RMA processes, this does not limit or restrict Te Runanga O Tupoho area, as it is well known that rohe can overlap. In these instances, Plan users must consult with both iwi.



**Submitter Name:** [Te Kaahui o Rauru](#)

**Submission No:** 3.2

**Summary:**

Support the Plan Change. Request amendments to strengthen and improve content of Chapter 15.

**Decision Sought:**

1. Within the Introduction to Chapter 15
  - a. Need to reference Tangata Whenua as Treaty Partners.
  - b. Amend the term “sharing of management with the whole community”
  - c. No recognition of Kaitiakitanga.
  - d. No explanation how the Treaty principles are taken into account.
  - e. How does this chapter support the One Plan commitments to Tangata Whenua?
  - f. Grouping all Iwi together in paragraph 2<sup>4</sup> confuses the issue as to the ‘progress’. Ngaa Rauru Kaitahi are not represented equally on this progress.
  - g. Need better explanation/acknowledgement as to which iwi/hāpu/marae has mana whenua and where etc.
2. Issues
  - Issue 15.1.1 should be amended to reference building capacity and understanding in both directions (and creating associated methods). Reference should also be made to Department of Conservation land under Council control and how Tangata Whenua can be involved in the management and transfer of reserve land and other assets.
  - Issue 15.1.2 should be amended to cover present as well as future generations. The description of Kaitiakitanga should be deleted as it dilutes its meaning. Each Iwi have their own explanation and stories and this should be mentioned here or at least reference the Puutaiao Management Plan.
  - Reference of the statutory acknowledgement areas, water bodies and other areas are missing. Also special information such as the sites of significance which can be viewed in the Management Plan.
  - Issue 15.1.3 Amend the numbering reference in this issue as it is current unclear.
  - Issue 15.1.8 Amend this issue to include the kaitiaki role which is not well understood. This will help the Plan user.
3. Objectives

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<sup>4</sup> In the marked up text for the Hearing Report this paragraph is referred to as paragraph 9.

- Objective 15.2.1 Amend to include active two way decision making and learning. Also how to resource Tangata Whenua in key processes.
- Objective 15.2.2 Amend to include contemporary practices as well as traditional.
- Objectives 15.2.4-6 Although not part of this Plan Change, this submission recommends inclusion of text to reference a strong Treaty-based relationship.

4. Policies

- Policy 15.3.1 Amend to include cultural and legislative roles within resource management. Also need to reference more than consultation, but instead move towards co-governance and joint decision making.
- Addition of a policy to support collaboration/co-governance/co-management, so that this is undertaken where there is the opportunity to do so.
- Addition of an objective/policy around “Enhancing Tangata Whenua engagement”. The Management Plan provides several methods for achieving this.
- Policy 15.3.2 Amend wording as current wording undermines the intent of the Treaty principle. Recommended that the word principle is replaced with obligation to help the Plan user understand that these are statutory acknowledgements. Recommend strengthening policy so open communication regarding issues like the Port and sewage spill occurs.
- Policy 15.3.3 Amend “may include” to “including but not limited to”.

5. Rules

- Amend this section to include rules related to the relationship and resource management. Reference to the statutory acknowledgement areas may be appropriate.

**Council Decision:**

That Submission 3.2 by Ngaa Rauru Kiitahi be **Accepted in part**. The following amendments are made as a result of this submission:

**Chapter 15 – Tangata Whenua**

**Introduction**

Add to the end of paragraph one as follows:

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.

Delete paragraph two and replace as follows:

A management regime to care for and protect the environment, based on this cultural and spiritual value system, developed and improved over time.



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. This management is now shared with the whole community, as formalised in the Resource Management Act. In particular the reference to kaitiakitanga, is a way of managing the environment through guardianship and protection.

Insert as paragraph five and amend paragraph six as follows:

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.

Informal arrangements exist between the Council and Ngā Wairiki Ngāti Apa and Ngāa Rauru Kītahi. Both Ngāa Rauru Kītahi and Ngā Wairiki Ngāti Apa have settled their Treaty claims with the Crown.

Insert paragraph seven as follows:

Ngāa Rauru Kītahi 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.

Amend paragraph nine as follows:

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 and developments 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 Iwi cultural perspectives by policy officers.
- Provision for recovered koiwi to be interred at Aramoho Cemetery.

Insert paragraph ten as follows:

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.

Amend paragraph eleven as follows:

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.

## **15.1 Issues**

Amend Issues 15.1.2, 15.1.3 and 15.1.9 as follows:

**15.1.2** ... Māori 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.

**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. The concept of Kaitiakitanga is defined in the Act as 'the exercise of guardianship; and, in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself.' 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. This definition is not necessarily the same as that which Māori would give the word. 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.

- 15.1.9 Māori values and information and the concept of kaitiaki are not always well understood, or respected or implemented correctly in resource management processes.

## 15.2 Objectives

Amend Objectives 15.2.1 and 15.2.2 as follows:

- 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 and the Council is essential. 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.

## 15.3 Policies

Amend Policies 15.3.1 and 15.3.3 as follows:

- 15.3.1 Promote knowledge and understanding of the Tangata Whenua legislative and cultural roles in resource management.
- 15.3.3 While many archaeological sites of lwi significance have been identified and are protected in the District Plan, all, other wahi tapu sites also require protection.

Note: Sites of value to Tangata Whenua may include 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).

Insert as Policy 15.3.4 as follows:

- 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

### Council Reasons for Decision:

1. It was requested that **Tangata Whenua** be referenced as Treaty Partners. An additional sentence referencing the Treaty was inserted near the start of the Introduction to stress its importance. Using the term “Tangata Whenua” as the Treaty partner with the Crown (even though the term is not directly used within the

Treaty as stated in further submissions 2 and 3) provides consistent terminology as requested by submitter 2.1 and is accepted.

2. Ngaa Rauru Kiitahi were concerned with the statement '*sharing of management with the whole community*' in paragraph 2 as it could potentially understate government responsibility.

The purpose of the District Plan (and in particular Chapter 15) is to provide for all Plan users, not just Council, information regarding statutory obligations under the RMA to work with and respect Tangata Whenua. Therefore the Committee accepted that this sentence is re-worded to clarify that these provisions relate to the **community** as well as every level of government.

3. A specific reference to '**Kaitiakitanga**' was requested in the Introduction. It is a defined term in the RMA and has a specific requirement that those making decisions to '*have particular regard*' to. The purpose of this chapter and the review is to provide information and clarity to these types of requirements, therefore it is appropriate to add an additional sentence stating the importance of kaitiakitanga to paragraph 3. Additional information is also provided in Issue 15.1.3.
4. Ngaa Rauru Kiitahi questioned how this chapter supports the **One Plan** commitments to Tangata Whenua. Chapter 2 of the One Plan sets out the issues, objectives, policies and methods for how the Horizons Regional Council will interact with Tangata Whenua and meet their legal requirements within their document. There are only minor references to what Whanganui District Council needs to do to support the One Plan (as assessed in section 4.3 of this report) as a territorial authority preparing a District Plan. Our legal responsibility is to not be inconsistent with regional documents which we have achieved by setting out in Chapter 15 the relevant statutory duties to consider Tangata Whenua. Whanganui District Council's other role as a developer/land user subject to the One Plan requirements is a separate issue outside the scope of the District Plan and this Plan change.
5. There was comment that the Introduction should better explain who has mana whenua where. This is information that would be very useful to Plan users, however Council only has this information for Ngaa Rauru Kiitahi, courtesy of their management plan and Deed of Settlement. Therefore Ngaa Rauru Kiitahi rohe is stated in Appendix D and Council will insert a description of the other lwi **rohe** as information becomes available.

### Issues

6. Ngaa Rauru Kiitahi requested that **Issue 15.1.1** should be amended to include understanding of viewpoints by Council and Tangata Whenua and the potential for more collaborative processes like joint management agreements. Issues are about setting out the problem/issue to be resolved by the later provisions, so instead an additional reference is inserted into the Introduction (paragraph 11) providing for this potential outcome and future successes. The reference to DOC within the submission point was a typographical error by the submitter. And no changes to Issue 15.1.1 are made.
7. **Issue 15.1.2** is amended as requested by Ngaa Rauru Kiitahi to include present as well as future generations.

8. Ngaa Rauru Kiitahi suggested that the definition of kaitiakitanga in **Issue 15.1.3** be amended to be more encompassing and include whakapapa. As the RMA definition of kaitiakitanga is included in the definition section of the Plan there is the ability to explain the meaning in a more traditional sense in the issue and therefore amendments to this issue to clarify are made.

The suggestion to reference the **Puutaiao Management Plan** within the issue are covered by the amendments to the Introduction and the proposed Policy 15.3.4, which have been seen and provisionally approved by the submitter. Other sites of significance can/have been picked up (with rules attached to protect them) in the heritage, archaeological, natural environment and proposed outstanding natural landscape plan changes. Therefore no further changes to address these issues are made.

9. Ngaa Rauru Kiitahi pointed out that with **Issue 15.1.3** that there was no number and therefore the rest of the numbering was incorrect. The provisions are re-numbered and re-formatted (with the headings removed) in order to be consistent with the rest of the Plan.
10. Ngaa Rauru Kiitahi requested to amend **Issue 15.1.8** (now 15.1.9) to include the kaitiaki role and its implementation. As this will help the Plan user, this minor amendment to the issue is adopted.

### Objectives

11. Ngaa Rauru Kiitahi requested amending **Objective 15.2.1** to include active two way decision making and how to resource Tangata Whenua. Resourcing is not a function of the District Plan and is beyond the scope of this Plan change.

The purpose of the objective is to set out the goal of working with Tangata Whenua to achieve the purpose of the RMA. Therefore the objective is amended to better reflect the two way decision making and learning as raised by the submitter.

12. **Objective 15.2.2** is amended as suggested by Ngaa Rauru Kiitahi to include contemporary practices as well as traditional. This is logical and reflects the changing values of all cultures over time.

13. Ngaa Rauru Kiitahi requested amending **Objectives 15.2.4-6** (which relate to papakainga) to better reflect the Treaty-based relationship. These provisions were inserted as part of Plan Change 37 and are beyond the scope of this Plan change. The proposed explanation of the Treaty relationship and the principles in the introduction to this chapter will provide context to any RMA decisions. No changes are made to Objectives 15.2.4-6 as a result of this submission point.

### Policies

14. Ngaa Rauru Kiitahi requested amending **Policy 15.3.1** to include cultural and legislative roles within resource management and expand beyond consultation. More clarity in the different roles held by Tangata Whenua helps the Plan user understand the viewpoint of Tangata Whenua, and therefore it is included in the policy.

The references to co-governance and joint decision making are discussed in the introduction to the Chapter. The intent of this policy is to encourage all Plan users to understand Tangata Whenua values within the RMA context. If co-governance and

other models of joint decision making were recorded here it becomes a policy limited to Council and Iwi, instead of everyone and loses its effectiveness. Therefore no further changes beyond clarifying the roles are made.

15. A new policy was requested to support **collaboration/co-governance/co-management** which are processes to share governance and decision making responsibilities. Policies are in place to explain how to achieve objectives and assess breaches to the District Plan provisions. With the changes to the text to include/encourage these types of processes in the Introduction to the chapter, the Plan has provided reference. However the only way to enforce these types of shared responsibilities is outside the District Plan in a type of partnership agreement. Therefore a new policy is not the most efficient way to encourage collaboration/co-governance/co-management and has not be adopted.
16. A new objective/policy was suggested around “Enhancing Tangata Whenua engagement”. The purpose of **Objective 15.2.1** is about engagement and active participation with Tangata Whenua. Therefore this objective is expanded to include improving engagement into the future as mentioned in their management plan.
17. Ngaa Rauru Kiitahi requested that within Policy **15.3.2** that the word ‘principle’ is replaced with ‘obligation’. The reasoning behind this request was to emphasise the importance of partnership. However the term ‘principle’ in relation to the Treaty is a legalisation and case law term which gives weight to the importance of partnership. The ‘obligation’ within the Treaty belongs to the Crown, not Council.  
  
There was also a request to strengthen this policy so that communication issues like what was experienced with the Port and sewage spill at Mowhananu were reduced. Both these issues were outside the scope of the District Plan.  
  
Therefore no amendments are made as a result of this submission point.
18. Ngaa Rauru Kiitahi requested that **Policy 15.3.3** is amended to clarify that sites of value are not limited to those listed in the policy. This is accepted as it will provide clarity to Plan users.

### Rules

19. There was a request to insert rules related to the relationship and resource management. There is no ability regulate with the rules a relationship between Tangata Whenua and Council, because rules need to be a quantifiable measure of a physical effect.
20. There are rules throughout the Plan relating to earthworks, archaeology, town centre design and the natural environment that require Plan users to assess their effect on identified Tangata Whenua values. This chapter provides guidance to developers and Council staff on how to consider those effects and what Tangata Whenua, Council and the community are trying to achieve for the District’s future.
21. Reference to the statutory acknowledgement areas is appropriate in terms of meeting the purpose of this Plan Change (usability for Plan users) and is added as an appendix to the Plan as a supporting document. This is a legal requirement that can happen outside the Schedule 1 process.



**Submitter Name:** [Horizons Regional Council](#)

**Submission No:** 4.1

**Summary:**

Support the Plan Change. Request amendments to strengthen and improve content of Chapter 15.

**Decision Sought:**

No changes.

**Further Submitter Name:** [Mr. Ian Brougham](#)

**Further Submission No:** FS2

**Summary:**

Opposed to all four submissions in their support of this Plan Change. In particular the term “Tangata Whenua” which does not relate to Māori. The Tiriti o Waitangi does not refer to “Tangata Whenua”.

**Further Submitter Name:** [One New Zealand Foundation Inc](#)

**Further Submission No:** FS3

**Summary:**

Opposed to all four submissions in their support of this Plan Change. In particular:

1. The term “Tangata Whenua” which does not relate to Māori.
2. There being a relationship between “Māori and the Crown”

**Council Decision:**

That submission 4.1 from Horizons Regional Council be **accepted in full**.

That further submissions 2 and 3 from Mr Ian Brougham and One New Zealand Foundation Inc are appreciated and have been considered but the remedies sought be **rejected**.

No amendments are made as a result of these submissions.

**Council Reasons for Decision:**

1. Horizons Regional Council (Submission 4.1) has provided a submission in **general support** of the Plan change and requests that any changes from the notified text strengthen and improve the content of the Plan change. The changes made as a result of the submissions received will greatly improve the content of Chapter 15.
2. The District Plan is a document prepared under the Resource Management Act (RMA), which sets out Council’s legal requirements. Some of the most relevant sections to this Plan Change include:

*Section 2 – Interpretation*

*Tangata whenua, in relation to a particular area, means the iwi, or hāpu, that holds mana whenua over that area.*

*Section 6 Matters of national importance*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance...*

- (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development.*
- (g) the protection of protected customary rights.*

*Section 7 Other matters*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

- (a) kaitiakitanga.*
- (aa) the ethic of stewardship.*

*Section 8 Treaty of Waitangi*

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

3. Therefore, regardless of what version of history is preferred, Council has a legal responsibility to enact the RMA provisions within the Whanganui District Plan. The submitters concern is with the legislation at a national level and the documents that inform it, not this particular Plan Change and no changes are made as a result of these submissions.
4. In regards to the objection to there being a relationship between “Māori and the Crown”, the Committee refers to the principles of the Treaty of Waitangi (which in accordance with the RMA must be taken into account) as determined by the Waitangi Tribunal which are: *Partnership, Reciprocity, Autonomy, Active Protection and Equal treatment between different Iwi*. None of these principles can be enacted without a relationship between the two parties. The relationship is further entrenched in law with each piece of Treaty Settlement legislation passed.
5. At a local government level, the latest changes to the RMA allow for Mana Whakahono a Rohe, which is a type of relationship document between Tangata Whenua and council(s) which enable the specific identification of the planned methods to achieve compliance with the statutory obligations to Tangata Whenua under the RMA.
6. It is entirely appropriate to refer to a relationship between the Crown and Māori in this context.