



Shaping Whanganui

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Whanganui District Council District Plan Review Phase Six

Section 32AA Report

Proposed Plan Change 50 Tangata Whenua

Prepared by:
Dated:

WDC Policy Team
June 2017

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1. INTRODUCTION

1.1 PLAN REVIEW PROCESS

Section 79 of the Resource Management Act 1991 (the RMA) requires Council to commence a review of its plans at least every 10 years. Recent amendments to the RMA clarify that whole plans need not be reviewed. A Council may choose to review plans in part.

The existing provisions have been developed at different times and under different scenarios. There are some provisions that have been in the Plan since it was first developed but others have been operative for a shorter period of time. Others have been included in recent plan changes. The intention of the review is not to meet a specific deadline under section 79 but to ensure the provisions in the plan are efficient and effective in managing the resources in the district and ensuring that Council's obligations under the RMA are met.

The RMA does not detail how a Council must review its plans. However consideration of the efficiency and effectiveness of existing provisions is considered the first step. Section 32 of the RMA requires Council to carry out an evaluation of options before notifying a proposed plan change. The efficiency and effectiveness of the provisions in achieving the stated objectives is analysed in this report, as are the various options that were considered.

1.2 STATUTORY AND LEGISLATIVE FRAMEWORK FOR THE REVIEW

1.2.1 Resource Management Act 1991

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

Territorial authorities have the following functions under the RMA:

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.*
 - ...
 - f. *any other functions specified in this Act.*

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.*

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

1.2.2 National Policy Statements and National Environmental Statements

The RMA requires that district plans give effect to any relevant national policy statements or national environmental standards (NPS and NES). A NES is a document prepared under the RMA and national policy statement (NPS) to ensure that the same standards are enforced by each Council. There are no NPS or NES that relate specifically to Plan Change 50 (PC50). Therefore PC50 is not inconsistent with any NPS or NES.

1.2.3 Regional Policy Statement

In addition, the RMA 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 RMA in a local context, and in this regard, guides the development of lower tier plans, including the District Plan.

The Manawatu-Whanganui 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>* of natural and physical resources* to enable <i>hapū</i>* and <i>iwi</i>* 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>* must be given particular regard and the relationship of <i>hapū</i>* and <i>iwi</i>* with their ancestral <i>lands</i>*, <i>water</i>*, <i>sites</i>*, <i>wāhi tapu</i>* and</p>	<p>Policy 2-2: <i>Wāhi tapu</i>*, <i>wāhi tūpuna</i>* and other <i>sites</i>* of significance <i>Ko ngā wāhi tapu, wāhi tūpuna hoki me ētahi atu papa hirahira</i> (a) <i>Wāhi tapu</i>*, <i>wāhi tūpuna</i>* and other <i>sites</i>* 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>*, (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</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>other <i>taonga</i>* (including <i>wāhi tūpuna</i>*) 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>must be protected from inappropriate subdivision, use or development that would cause adverse <i>effects</i>^a on the qualities and features which contribute to the values of these <i>sites</i>*.</p> <p><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><i>Policy 2-4: Other resource management issues</i> <i>Table 2.1 Resource management issues of significance to hapū* and iwi*</i></p> <table border="1"> <thead> <tr> <th>Resource issue of significance to hapū* and iwi* <i>He take rauemi e hirahira ana ki ngā hapū me ngā iwi</i></th><th>Resource issue in the context of <i>tikanga Māori</i>^a <i>He take rauemi me te tikanga Māori</i></th><th>Relevant part of One Plan where issue is addressed <i>Te wāhanga o te One Plan ka kōrerotia te take</i></th></tr> </thead> <tbody> <tr> <td>(q) Monitoring and enforcement of environmental standards, including those contained in regional plans^a, district plans^a and resource consents^a, are insufficient at times. <i>I ētahi wā he iti rawa te aroturuki me te ūruhitanga o ngā taumata talao pērā ki ērā kei roto i ngā mahere rohe, ngā mahere takiwā, me ngā whakaaetanga rauemi.</i></td><td><i>Te aroturuki me te ūruhitanga (monitoring and enforcement)</i> <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^a or permitted activity^a conditions^a 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 tētahi 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></td><td>Monitoring and enforcement <i>Te aroturuki me te ūruhitanga</i> Chapter 12 Policy 12-8 Wāhanga 12 Kaupapa 12-8</td></tr> </tbody> </table>	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 <i>tikanga Māori</i> ^a <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 ^a , district plans ^a and resource consents ^a , are insufficient at times. <i>I ētahi wā he iti rawa te aroturuki me te ūruhitanga o ngā taumata talao pērā ki ērā kei roto i ngā mahere rohe, ngā mahere takiwā, me ngā whakaaetanga rauemi.</i>	<i>Te aroturuki me te ūruhitanga (monitoring and enforcement)</i> <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 ^a or permitted activity ^a conditions ^a 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 tētahi 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	<p>In relation to Policy 2.2, PC 39 has incorporated archaeological sites including wahi tapu, 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 <i>tikanga Māori</i> ^a <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>						
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2. PART 1 – PROPOSED PLAN CHANGE

2.1 Description of the Proposed Plan Change

This topic considers, 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.

The current Tangata Whenua section of the District Plan was drafted over 20 years ago, in the early days of the Resource Management Act (RMA). Much has happened and changed since then. Whanganui has experienced and learned from the Pakaitore occupation which was a significant catalyst for change in our community and at Council. Long-term formal, robust and evolving relationship agreements have been developed between the Council and Tamaupoko and Tupoho. Informal arrangements exist between the Council and Ngā Wairiki Ngāti Apa and Ngāa Rauru Kīitahi. Both Ngāa Rauru Kīitahi and Ngā Wairiki Ngāti Apa have settled their Treaty claims with the Crown. The Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 has established the legal identity of Te Awa Tupua which will have direct and indirect implications for Council processes. The Whanganui land claim report has been delivered and negotiations are in progress.

The above relationship agreements with Tamaupoko and Tupoho and developments have resulted in progress in a number of areas for river iwi in respect to resource management and district plan matters:

- Engagement of Iwi representatives on the District Plan Review Working Party.
- Iwi members training as RMA hearing commissioners.
- Agreement on using the District Plan to present iwi archaeological information.

- Collaboratively working through to set up the Outstanding Natural Landscapes – Tamaupoko and Tupoho Landscape Project 2016.
- Iwi initiation of a process with Whanganui District Council to explore ways to map a cultural heritage information spatially.
- Growing understanding of Iwi cultural perspectives by Council policy officers.

Development of Te Matapihi ki Tangaroa – an accord between Tangata Whenua and Council in regards to the wastewater treatment plant – has involved all iwi.

These developments reflect progress towards a collaborative resource management system which is working towards co-governance and co-management. The growing understanding and capacity building for all involved provides a shared cultural context for the Plan and its operation. A significant potential addition will be guidance from future Iwi Management Plans, as provided for under the Act.

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 provisions affected by this Plan Change in Chapter 15:

- The introduction (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 the 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.

2.2 CONSULTATION AND OUTCOMES

Section 32(4A) of the RMA requires this evaluation report to summarise all advice concerning the Plan change received from Iwi authorities and Council's response.

Consultation and collaborative effort with Iwi via representatives from the four runanga of the District has greatly improved the content of the proposed Plan Change. In mid-2016 Council planners prepared a discussion paper for discussion with iwi representatives. This was followed by a draft text document. The iwi representatives on the District Plan Working Party agreed that the way forward

was to make relevant modifications to the original material, deleting information which was no longer relevant, giving the present state of progress and setting out aspirations for the future.

Consultation during the Plan text drafting has included:

Time	Stakeholders involved	Activity	Response
26 May, 21 July, 18 August, 15 September 2016	Tamaupoko and Tupoho representatives on the District Plan Working Party	Discussion about the options for the Plan Change process and content	
24 June 2016	Ngaa Rauru Kiitahi, Tamaupoko, Tupoho and Ngati Apa	Letter introducing the topic	
5 August 2016	Ngaa Rauru Kiitahi, Tamaupoko, Tupoho and Ngati Apa	Discussion paper circulated	
8 August 2016	Daryn Te Uamairangi, Tamaupoko	Feedback on discussion paper	Amendments and additions made
19 August 2016	Nicola Patrick, Ngaa Rauru Kiitahi	Meet to discuss the topic	Await further information
25 August 2016	Tupoho representatives	Feedback on discussion paper	Minor amendments
21 September 2016	Ngaa Rauru Kiitahi, Tamaupoko, Tupoho and Ngati Apa and District Plan Working Party.	A draft District Plan chapter for final review	
7 October 2016	Tupoho representatives		Draft text approved

3. PART 2 – SECTION 32 EVALUATION

3.1 REQUIREMENT TO MAKE AN EVALUATION

The RMA requires that when a Council undertakes a plan change it must produce a report evaluating the proposed provisions. This is known as a Section 32 Report. This report contains an evaluation of the proposed Plan change, prepared in accordance with section 32 of the RMA (as amended 2013).

The evaluation examines:

- *the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act (to promote the sustainable management of natural and physical resources), and*
- *whether, the provisions are the most appropriate way to achieve the objectives by*
 - *identifying other reasonably practicable options for achieving the objectives; and*
 - *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - *summarising the reasons for deciding on the provisions; and*
- *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from the implementation of the proposal.*

For the purposes of this examination, the evaluation must:

- *Identify and assess the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions including the opportunities for –*
 - *economic growth that are anticipated to be provided or reduced; and*
 - *employment that are anticipated to be provided or reduced; and*
- *if practicable, quantify the benefits and costs referred to above; and*
- *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

3.2 EVALUATION OF THE PURPOSE OF PC50

3.2.1 Section 32 requires plan changes to be assessed focussing on the consideration of alternatives, benefit and costs. In considering the alternative methods it is necessary to consider different planning methods to achieve the purpose of the RMA, including retaining the status quo (doing nothing), non regulatory methods and the proposed plan change.

3.2.2 A Section 32 analysis is required to identify that a preferred approach is more efficient and effective than other options in achieving the objectives of the Whanganui District Plan and the purpose of the RMA. The benefits and costs for each option are identified by subtopic below.

3.2.3

Assessment Criteria Options

Options		Explanation
Option 1	Maintain the Status Quo – Do nothing. – Retain current Tangata Whenua content	Leave Plan as it is – no substantial changes made apart from formatting to be consistent with the rest of the Plan and to correct matters of fact.
Option 2	Revise the Tangata Whenua content of the Plan to reflect the current situation and aspirations	Much has changed in the 20 years since the Plan was written, making much of the current content out of date. The Plan does not currently reflect the aspirations of Council and Iwi for the future.
Option 3	Remove the Tangata Whenua content and rely on the provisions of the RMA to address resource management concerns as appropriate	This would remove information on the relationships and understandings which guide current resource management practice.

Benefits and costs of each option are considered below.

Benefits		Costs
Option 1 – Maintain the Status Quo – Do nothing. – Retain current Tangata Whenua content	Least financial cost in the short term as minimal requirement for Plan Change. Significant long term costs to consent applicants due to lack of clarity and relationships.	Current Tangata Whenua interests are not reflected in the Plan. Content is confusing and unhelpful for Plan users. Does not engender positive relations between Council, Iwi and the community.
Option 2 - Revise the Tangata Whenua content of the Plan to reflect the current situation and aspirations	Current Tangata whenua interests and aspiration will be reflected in the Plan. Facilitates and informs Plan users about Iwi perspectives, roles and aspirations in relation to natural and physical resources. Review of Plan content in collaboration with Iwi engenders positive relationships and understanding of their	Minimal Plan Change process costs.

	<p>role and responsibilities under the RMA.</p> <p>Minimises or reduces potential Plan and resource consent process costs by providing greater clarity of obligations and expectations.</p>	
<p>Option 3 - Remove the Tangata Whenua content and rely on the provisions of the RMA to address resource management concerns as appropriate</p>	<p>Minimal</p>	<p>Plan Change process costs.</p> <p>It would miss the opportunity to include valuable information to assist and inform Plan users about Iwi perspectives, roles and aspirations in relation to natural and physical resources.</p>

Option Two is the recommended option.

3.2.4 Examination of Changes Proposed by PC50

Section 32 (1)(b) of the RMA requires that Council examine whether the provisions included in PC50 are the most appropriate way to achieve the purpose of the RMA. In this instance the provisions are the policies proposed.

Option 2 is the most appropriate course of action as it provides current and future focused content. It gives guidance for plan users while and achieves the objectives of the Plan and purpose of the RMA. This option has been supported by Iwi representatives during engagement discussions.

3.2.11 Appropriateness of the Plan Change

Whether or not the Plan change is necessary or appropriate is directly linked to sections 6, 7 and 8 of the Resource Management Act 1991. This Plan change is considered necessary to achieve the purpose and principles of the RMA because it assists Council to meet the following:

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 Maori 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 meets its obligations under Sections 6, 7 and 8 of the Resource Management Act.

3.3 EVALUATION OF THE RECOMMENDED OPTION

Various Council staff and stakeholders have been involved in research or consultation to ensure that Council has sufficient information to prepare a Plan Change. The Council has not relied on any uncertain or insufficient information, but has undertaken research to ensure the subject is adequately understood and recommendations are appropriate.

It is considered that the review of Chapter 15 and changes proposed to the Plan as a result, are the most efficient and effective means available to Council to achieve its obligations as set out in the RMA.

Amending and updating Chapter 15 Tangata Whenua and subsequent changes to Chapter 2 (Definitions) and Chapter 10 (Natural Environment).	
Summary of benefits	The plan will accurately reflect Tangata Whenua interests and aspirations
Summary of costs	Minimal Plan Change process costs
Effectiveness	Highly efficient and effective as changes provide a clear and positive summary of the history of Council – Iwi relations, celebrate recent achievements and identify aspirations for the future. These are supported by Iwi representatives and will guide Plan users and facilitate improved relationships and processes.
Efficiency	
Appropriateness	It is appropriate to have a Plan with up-to-date content.
Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods	There is low risk of acting or not acting as the proposed changes have been subject to consultation and collaboration. PC 50 identifies principles of engagement appropriate for the next Plan period.

4. Conclusion

The objective of PC50 is to update the Tangata Whenua content of the Plan. This Plan change achieves this in a positive, collaborative and informative manner.

The Whanganui District Council is satisfied that the preferred option is necessary to achieve this desired outcome in accordance with the purpose of the RMA and that it is the most appropriate way of doing so.