



COUNCIL LEAD POLICY

POLICY TITLE:	CONSULTATION WITH TANGATA WHENUA ON RESOURCE CONSENT APPLICATIONS
Minute Ref:	
Date of Adoption:	11 July 2006

1. POLICY OBJECTIVES

- To clarify the roles and responsibilities of Tauranga City Council, Tangata Whenua of Tauranga Moana, and applicants in respect of resource consent applications under the Resource Management Act 1991 (RMA) and provide consistency and certainty within the application process.
- To ensure consultation occurs with Tangata Whenua in instances where Council has an opportunity under the District Plan to influence consent granting and/or consent terms and conditions in respect of proposed activities of interest to Tangata Whenua.
- To enable effective and efficient participation by Tangata Whenua in the application process in accordance with this policy.
- To ensure that any resource consent consultative legislative requirements under the Resource Management Act are met.

2. PRINCIPLES

Council acknowledges its obligations under the RMA to ensure adequate and meaningful consultation with Tangata Whenua on resource consent applications has occurred where consultation is determined by Council, in accordance with this policy, to be required.

While there is no legal requirement for the applicant to consult with Tangata Whenua prior to lodgement of the application, Council and many applicants consider it a matter of good practice to consult, prior to lodging an application, where proposals may affect the relationship of Tangata Whenua and their culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga and their ability to exercise kaitiakitanga. _

An appropriate, consistent, timely and cost-effective process for facilitating Tangata Whenua consultation in resource consent applications is critical for all parties involved. This requires all parties to have an understanding of their roles and responsibilities, as well as the legislative requirements. Effective consultation that occurs at the beginning of the resource consent application process may avoid lengthy and costly litigation.

The RMA expressly provides that under the Act a local authority has no duty, but discretion, whether to consult about resource consent applications and notices of requirement. As a consent authority Council is required by section 6(e) of the RMA to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga. Council acknowledges the potential for significant impact that land development within the district has on these Tangata Whenua interests.

Council is also required by section 7(a) of the RMA to have particular regard to kaitiakitanga (as exercised by Tangata Whenua within their rohe). Furthermore, Council is required by section 8 of the RMA to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) when exercising its function as a consent authority. Adequate consultation with Tangata Whenua in the resource consent application process is essential, where consultation is appropriate in accordance with this policy, to ensure that the Council can make an informed decision and have proper regard to sections 6(e), 7(a) and 8 of the RMA.

Where consultation is appropriate in accordance with this policy, an effective application process that results in a sound environmental outcome is significantly dependent on the capacity and ability of Tangata Whenua to engage in kaitiakitanga, participate effectively and respond appropriately to an application. Council recognises that Tangata Whenua have limited resources and recognises the need for Tangata Whenua to build and maintain their capacity to participate in the resource consent process and Council will advocate where appropriate.

Iwi/Hapu Management Plans and Iwi/Hapu Protocols endorsed by Council should be taken into account within the resource consent application process.

Council acknowledges that only Tangata Whenua can determine their relationship, and the relationship of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga and kaitiakitanga.

Council recognises that a proposal may affect specific Tangata Whenua at a local level but may also impact and affect other Tangata Whenua groups at a sub-regional level.

3. DEFINITIONS

Ancestral Land as defined in the Tauranga District Plan means land whether in current Māori title or not, which:

- a. is 'Māori Land' as defined by Te Ture Whenua Māori 1993 (the Māori Land Act 1993)
- b. was, or is, a site of settlement, occupation, or resource gathering by ancestors of Māori
- c. is a pa site, burial site, battle site, Tauranga waka (traditional canoe resting place), waiwera/waiariki (hot pool/spring) ceremonial site, or a natural feature which has strong spiritual or cultural values.

Applicant is the party lodging the resource consent application.

Application Site as it is referred to in sections 5.3 and 5.4 of this policy means the land which is the subject of the application for resource consent.

Controlled Activity is an activity where a resource consent is required and complies with the controlled activity standards, terms, or conditions, if any, specified in the plan, proposed plan or proposed plan change, and for which the consent authority:

- has no power to decline that resource consent, and
- has specified in the District Plan, proposed plan and/or plan changes matters over which it has reserved control; and
- can only impose conditions on the resource consent in relation to those matters over which it has reserved control.

Cultural Assessment (in the context of consultation for a resource consent application) establishes, among other things, the customary relationship between Tangata Whenua and the site and outlines how, or if, that customary relationship is affected by the applicant's proposal.

Discretionary Activity is an activity where a resource consent is required and complies with the discretionary activity standards, terms, or conditions, if any, specified in the plan, proposed plan or proposed plan change, and for which the consent authority:

- may grant the resource consent with or without conditions; or
- decline the resource consent.

Enabler means those who provide the opportunity for others to actively participate in the process.

Greenbelt Zone means land zoned as such in the Tauranga District Plan, proposed plan or proposed plan change.

Hapu (singular) is a collection of whanau (families) who identify with a common tipuna (ancestor). The hapu is traditionally the main decision-making forum for Tangata Whenua in exercising kaitiakitanga over the resources for which they hold mana whenua.

Iwi/Hapu Management Plans are planning documents developed and promoted by Tangata Whenua that identify areas for protection and development for the entire rohe and may assist in assessing Māori heritage issues.

Iwi/Hapu Protocol Agreements outline the principles underpinning the relationship between Council and the iwi/hapu, the governance and operational roles and responsibilities of the respective parties.

Kaitiakitanga as defined by the RMA 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”. Only Tangata Whenua can be kaitiaki (guardians) of their rohe (territorial area).

Landscape Feature includes outstanding landscapes as identified in section 4.1.1.1 of the Tauranga District Plan or view shafts between sites of cultural or spiritual significance to Tangata Whenua.

Landscape Feature, Site or Item Known by Council includes any relevant information ascertainable by Council staff from any of the following documents: Council's GIS database, the District Plan Heritage Register, Hapu Protocol or District Plan Planning Maps held by Council, Hapu Management Plan provided to Council, Tangata Whenua Literature Review Maps, the Historic Places Trust recorded heritage items and Heritage Orders under the Historic Places Act 1993 or relevant designations or requirements made under the RMA.

Limited Discretionary Activity is an activity where a resource consent is required and complies with the limited discretionary activity standards, terms, or conditions, if any, specified in the plan or proposed plan, and for which the consent authority :

- has specified in the District Plan, proposed plan or proposed plan change matters to which it has restricted its discretion; and
- has power to decline a resource consent, and has power and to impose conditions only in respect to those matters to which it has restricted its discretion.

Māori Heritage means the relationship of Māori and the culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga.

Māori Land is land that is held in a Māori Land Title constituted pursuant to the Te Ture Whenua (Māori Land) Act 1993.

Mana Whenua is, as defined in the Resource Management Act, the “customary authority exercised by an iwi, hapu or whanau in an identified area”.

Non Complying Activity is an activity where resource consent is required under the District Plan, proposed plan or plan change and the consent authority:

- may grant the resource consent with or without conditions; or
- may decline the resource consent.

It should be noted that particular restrictions for non-complying activities are in section 104D of the RMA.

Notified Application means an application for resource consent publicly notified under section 93 of the RMA.

Non Notified Application means an application for resource consent that by virtue of section 94A of the RMA does not need to be publicly notified under section 93 of the RMA but may be required to be individually served on adversely affected persons (see Served Notice).

Permitted Activity is an activity where a resource consent is not required if it complies with the permitted activity standards, terms, or conditions, if any, specified in the Tauranga District Plan, proposed plan or proposed plan change.

Prohibited Activity is an activity under the District Plan, proposed plan or proposed plan change for which no resource consent application can be made or granted.

Resource Consent has the meaning set out in section 87 of the RMA; and includes all conditions to which the consent is subject.

Rural Zone means land zoned as such in the Tauranga District Plan, proposed plan or proposed plan change.

Served Notice means the serving of notice on affected persons under section 94 of the RMA as determined by virtue of section 94B of the RMA.

Tangata Whenua, in relation to a particular area, means the iwi, hapu or whanau that holds mana whenua over that area.

Taonga means all things prized or treasured by Māori, both tangible and intangible. Examples include water bodies, trees, special landmarks and te reo.

Tauranga Moana is the region about the shores of the Tauranga Harbour and is occupied by a number of Iwi. The boundaries extend from Nga Kuri a Wharei on the west coast, inland to Te Aroha, along the crest of ranges south to Puwhena, east to Otanewainuku, and out to sea at Wairakei.

Viewshaft means a visual connection between two physical locations. Refer to Smartgrowth: Mārae Sitelines Report which identifies the specific viewshafts of 36 marae throughout the Western Bay of Plenty.

Waahi Tapu (or Wahi tapu) means a place or item sacred to Māori in the traditional, spiritual, religious, historical, or mythological sense. Those places defined as “Waahi tapu” vary from hapu to hapu but typically include burial grounds and battlesites.

Working Day means any day except -

(a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, Waitangi Day, and

(b) a day in the period beginning on 20 December in any year and ending with 10 January in the following year.

4. BACKGROUND

In addition to the matters described in the Principles of this policy, the Local Government Act 2002 (LGA) Part 2 and 6 provides principles and requirements for inclusion of Maori participation in the local authority's decision making process.

The Tauranga District Plan sets out the objectives, policies and other provisions of the community in regard to achieving the purpose of the RMA. This includes the objectives, policies and other provisions for managing the effects of land use and subdivision.

Chapter 5 of the Tauranga District Plan sets out five objectives (in addition to associated policies and methods for achieving these) that relate to Tangata Whenua participation in the resource management decision making procedure (refer: 5.1.1; 5.1.2; 5.1.3; 5.1.4; 5.3.1 of the Tauranga District Plan).

5. POLICY STATEMENT

5.1 Roles and Responsibilities

There are four main parties involved in the resource consent application process: Council, applicant, Tangata Whenua and/or other potentially affected persons.

5.1.1 Council's Roles in the Application Process

Council has two key roles within the resource consent application process - enabler and decision maker.

As an enabler Council will:

- provide appropriate information in a timely manner as required to both applicants and Tangata Whenua including a summary of the application process;

- ensure that information known by Council officers relating to landscape features, sites or items that are important to Māori is accessible, complete, accurate and continually improved as new information becomes available;
- manage the application process by appropriately trained and skilled staff;
- periodically review this policy for continuous improvement with Tangata Whenua and invite key stakeholders and community participation;
- build the relationship with Tangata Whenua and the applicant community and improve understanding in those matters important to Tangata Whenua.

As the decision maker (ie consent authority) Council will:

- Subject to section 5.3 of this policy, ensure that adequate consultation with Tangata Whenua has occurred where the application has potential adverse effects on their exercise of kaitiakitanga section 7(a) and their relationship with their ancestral lands, waters, sites, waahi tapu and other taonga, even where an applicant chooses not to undertake such consultation section 6(b).
- Consider whether further information should be requested or a report commissioned regarding the impact of the application on Maori interests; and
- Determine whether each application is to be notified or not; and
- Consider and assess each application in accordance with the requirements of both the RMA and the District Plan; and
- Grant or refuse the consent, and specify resource consent conditions where appropriate; and
- Advise the applicant, submitters and Tangata Whenua (if section 5.3 of this policy applies) of the outcome of, and reasons for, its decision; and
- Retain its independence in the resource consent decision process.

5.1.2 Council as an Applicant for a Resource Consent

Where Council is the resource consent applicant making an application to the Tauranga City Council, the decision-making role will be undertaken by an independent party/parties.

As the applicant to either Tauranga City Council or to another local or regional authority, Council will consult with Tangata Whenua in accordance with this policy.

5.1.3 Applicant (other than Council)

The applicant in the resource consent process will be encouraged to undertake the following in accordance with section 5.3 of this policy:

- Consult with Tangata Whenua during the preparation of the application as a matter of good practice.
- Agree with Tangata Whenua a reasonable timeframe for consultation to occur.
- Build the relationship with Tangata Whenua and Council, and improve their understanding on those matters important to Tangata Whenua in relation to the application.

Where consultation is encouraged under this policy, it is suggested that the applicant should, as a matter of good practice, commence discussions with appropriate Tangata Whenua (refer section 5.5) at the preliminary concept stage by:

- consulting with appropriate Tangata Whenua during the preparation of the application prior to lodgement of the application with Council;
- providing the appropriate Tangata Whenua with sufficient information to enable them to determine whether the proposal will affect them. This could be done by way of a 'Preliminary Application Summary' (refer section 5.2);
- allowing a reasonable amount of time, as agreed with the appropriate Tangata Whenua, for them to consider and comment on the application.

Where consultation has occurred under this policy the applicant should, in respect of a lodged application:

- report on the consultation undertaken with the appropriate Tangata Whenua, if any, and the response to the views of those consulted;
- include sufficient information relating to any potential environmental effects of the proposal on the appropriate Tangata Whenua;
- identify what changes and/or mitigation, if any, are in the lodged application that have arisen from the consultation with Tangata Whenua.

5.1.4 Tangata Whenua

In the resource consent process Tangata Whenua will be encouraged to participate in consultation in accordance with section 5.3 of this policy as follows:

- provide appropriate information and responses to both the applicant and Council in a timely manner;
- ensure that information relating to landscape features, sites or items that are important to Maori is provided to Council and is complete, accurate and continually improved as new information becomes available;
- build the relationship with the development community and Council and improve the understanding on those matters important to Tangata Whenua in relation to the application;
- periodically review this policy for continuous improvement with Council and invite key stakeholders and community participation;
- where the applicant chooses to undertake consultation, agree a reasonable timeframe for consultation to occur.

5.2 Preliminary Application Summary

As a matter of good practice Council strongly recommends that applicants prepare a 'Preliminary Application Summary' as a means of providing sufficient information to the appropriate Tangata Whenua to enable them to determine whether the proposal will affect them.

A Preliminary Application Summary needs to contain adequate information of the proposal that is available including:

- a. a description of the proposed activity including plans and concept drawings,
- b. the classification of the activity in accordance with the District Plan,
- c. the geographic location of the proposed activity,

- d. a summary of assessment of actual or potential effects on the environment,
- e. a description of any possible mitigation measures, alternative locations or methods considered for undertaking the activity, where the activity is likely to result in any significant adverse environmental effect,
- f. an explanation of the matters in respect of which Council has restricted its discretion and that Council is able to consider in making a decision on the application, where the activity is a controlled or limited discretionary activity.

5.3 Consultation with Tangata Whenua under the Tauranga District Plan

Policy 5.1.4.1 of the District Plan recognises that applicants, as a matter of recognised good practice, should consult with Tangata Whenua where a proposal has the potential to adversely affect ancestral land, water, sites, waahi tapu and other taonga.

In applying Policy 5.1.4.1 of the District Plan, consultation with Tangata Whenua is considered appropriate in respect of development (being subdivision or land use for which a resource consent is required) where the application relates to any of the following:

- An application site that includes, is within or directly adjoins a landscape feature, view shaft, site or item known by Council to be of cultural or spiritual significance to Māori; or
- A subdivision of any application site that is greater than 2000 m² in size.

5.4 When Consultation with Tangata Whenua is not Required

With the exception of Tangata Whenua being an adversely affected party or as in section 5.3 of this policy, Council is unlikely to consider that consultation with Tangata Whenua, as Tangata Whenua, is necessary for any other resource consent application including, but not limited to, the following:

- Streetscene
- Yards
- On-site vehicle parking
- Access and manoeuvring
- Loading/unloading facilities
- Financial contributions
- Registered trees on private property
- Airport height
- Port noise contours
- Special permitted activity conditions:
 - Activities requiring more than 25 on-site vehicle parking spaces, or
 - Activities in the Coastal Hazard Erosion Policy Area.

5.5 Who to Consult With

Where consultation is undertaken in accordance with this policy, the appropriate Tangata Whenua (this may be more than one iwi/hapu) must be consulted with.

To assist consultation in accordance with this policy Council will:

- provide applicants (as a guide to assist identification of groups to be consulted) with information on the geographic boundaries of each iwi/hapu (as advised by the iwi/hapu to Council through the Iwi/Hapu Protocol),
- provide applicants with the current mandated iwi/hapu representative/s contact details (as advised by the iwi/hapu to Council through the Iwi/Hapu Protocol).

The iwi/hapu will be encouraged by Council to advise it of any changes to the mandated representatives or other material changes that may impact on implementing this policy.

5.6 Principles of Consultation

The parties should act in accordance with the following principles when engaging in consultation:

- Consultation should be conducted in good faith based on mutual trust and cooperation.
- All parties should be open minded and open to discussion such that the proposal may evolve or be amended in response to issues raised during the consultation process.
- Consultation is about meaningful discussion and may not always result in agreement.
- Tangata Whenua should be enabled to present their views in a way that is appropriate and relevant to them.
- If parties, having had both reasonable time and opportunity to state their views, for any reason fail to avail themselves of the opportunity, then they cannot complain.
- Neither party is entitled to make demands.

5.7 Process Timeframes

5.7.1 Legislative Timeframes

In general, a decision will be issued on non-notified/non-served applications which do not require a hearing within 20 working days from the receipt of the application.

The above timeframe assumes no extension of time or no further information is requested under the RMA.

For non-notified/non-served applications that require a hearing, the general timeframe is 40 working days, plus the length of the hearing itself.

For notified/served applications which require a hearing, the general timeframe is 70 working days, plus the length of the hearing itself.

5.7.2 Pre-application Consultation Timelines

Where an applicant is consulting on a prepared, but un-lodged, application it is suggested that the appropriate Tangata Whenua should provide comment and/or advice within a “reasonable timeframe”, e.g. 20 working days or earlier of that comment being sought.

5.8 Application Processing by Council

On receipt of an application Council will follow a 4 step process:

1. Assess whether consultation with the appropriate Tangata Whenua is required in order for the Council to have sufficient information relating to the application.
2. Assess whether consultation with the appropriate Tangata Whenua has occurred.
3. Provide a copy of the lodged application to the appropriate Tangata Whenua.
4. Assess the adequacy of the consultation with the appropriate Tangata Whenua that has occurred.

5.8.1 Step 1 - Assessment of Whether Consultation is Required

Council will assess whether the application is required to be consulted on in order for the Council to have sufficient information to determine the application.

5.8.2 Step 2 - Assess Whether Consultation has Occurred

Consultation will be assessed as having occurred if the application records that consultation with the appropriate Tangata Whenua has occurred and the response to the views of those consulted has been recorded and recognised in the application.

If the application records that consultation has not occurred then section 5.8.3 of this policy applies.

5.8.3 Where Consultation has not Occurred and is Required by this Policy

Where consultation has not occurred and is required by this policy, or it is inadequate (see section 5.8.5) Council will, under section 92 of the Resource Management Act, either request that the applicant provides further information or give notice to the applicant that it wishes to commission a report relating to the potential significant environmental effects of the application on the appropriate Tangata Whenua. Council will provide a copy of any Section 92 information within 3 working days.

Where Council is advised in writing that the applicant refuses either to provide the further information (which may entail undertaking consultation with the appropriate Tangata Whenua, or agree to the commissioning of a report), then Council will:

- a) Consider whether there is sufficient information for it to determine the application, and if not, it may decline the application or, it may:

- b) Extend the processing timeframe in accordance with section 37 of the RMA. However Council is unable to extend the processing timeframe by more than an additional 20 working days unless agreed to by the applicant;
- c) Negotiate and agree with the appropriate Tangata Whenua the consultation costs in accordance with the guidance in section 5.11.2 of this policy; and
- d) Advise the applicant in writing:
 - o that Council or Council's agent will undertake the consultation; and
 - o an estimate of the associated costs to be borne by the applicant; and
 - o the breakdown of the costs (which may include the Tangata Whenua consultation fees, a Council administration fee, consultation fees); and
 - o the timeframe within which consultation will be completed.
- e) Undertake the consultation with the appropriate Tangata Whenua; and
- f) Provide the applicant with documentation of the consultation which has occurred eg minutes of meetings or any other information that has been provided by Tangata Whenua being consulted (where the application is notified under section 93 of the RMA or notice served under section 94 of the RMA the consultation report will be available at the Council's offices no later than 10 working days before any hearing of the application); and
- g) Invoice the applicant for the costs of the consultation as advised in (c) and (d).

Where Council or its agent undertakes consultation it shall comply with this policy.

5.8.4 Step 3 - Provision of Lodged Application to Tangata Whenua

Where it is determined under step 2 that adequate consultation has occurred, Council will forward a copy of the lodged application to the appropriate Tangata Whenua within five days of lodgement.

5.8.5 Step 4 - Assess Adequacy of Consultation that has Occurred

Adequate consultation will be considered to have occurred when the following criteria have been met:

- a) The appropriate Tangata Whenua has had a reasonable timeframe in accordance with 5.7.2 or such other timeframe as has been agreed between the applicant and the appropriate Tangata Whenua to consider and comment on the application. (In most instances 20 working days is considered to be an appropriate amount of time however this depends on the nature of the application); and
- b) A record in the application of the date(s), time(s) and details of pre-lodgement consultation by the applicant details of what was discussed, what was decided (if agreement was reached), and/or an attached cultural assessment (refer 5.8.6) where the appropriate Tangata Whenua has identified this as necessary; and

- c) The record of consultation shows that those consulted with were, at the time of consultation, the mandated representatives as per Council's records; and
- d) the lodged application, in the opinion of Council planning staff, provides sufficient information which is accurate and easily understandable to enable the appropriate Tangata Whenua to respond, and
- e) The appropriate Tangata Whenua have verified and/or demonstrated to Council, within 10 working days of the application being lodged, that:
 - the lodged application is in general accordance with the proposal that they have been consulted on, and the outcome of consultation is accurately represented; and
 - they were advised and consulted on those issues over which Council has discretion (refer section 5.2.2.e).

If Council has not received a response from the appropriate Tangata Whenua, on (e) above, within 10 working days of the application being lodged, and where requirements (a) to (d) above have been met, Council will be likely to consider that adequate consultation has occurred.

If it is determined that adequate consultation has not occurred, and in Council's opinion the proposal may have significant adverse environmental effects on Tangata Whenua, then Council will apply the steps identified in section 5.8.3 of this policy.

5.8.6 Cultural Assessment

The objective of the Cultural Assessment is to:

- Describe the relationship between the appropriate Tangata Whenua and the ancestral land, waters, sites, waahi tapu and other taonga being affected.
- Identify how the relationship will be affected.
- Identify, for Council consideration, the resource consent conditions that may mitigate any effects.

5.9 Impact of Consultation on Council Decision Making

Where consultation is recognised in accordance with section 5.3 of this policy to be appropriate and where adequate consultation has occurred, Council will, in relation to the particular activity proposed, follow a 3 step process:

1. Identify those matters which Council is able to consider under the provisions of the District Plan in relation to the specific resource consent application and/or conditions that may be imposed as part of that consideration; and
2. Consider the issues and any proposed mitigation measures suggested by the appropriate Tangata Whenua and/or the applicant through the consultation and application process; and
3. For those matters identified in step 1, and taking into consideration the issues raised in Step 2, Council will assess the environmental effects;

and the effect of the proposal on the relationship of Maori with their ancestral lands, waters, sites, waahi tapu and other taonga; and depending on the activity status of the application and Council's decision, will be to either:

- grant consent with no conditions; or
- grant consent and impose resource consent conditions to avoid, remedy or mitigate the environmental effects; or
- refuse consent.

Notwithstanding the above, any decision Council makes needs to be in accordance with the requirements of the RMA.

In undertaking Step 3 Council will record as an Advice Note, any agreements reached which do not form part of the conditions. Advice Notes can not be enforced by Council and are merely recorded for information.

5.10 Appropriate Tangata Whenua Advised of the Application Decision

Council will, in respect of an application that was considered to be appropriate to be consulted on under section 5.3, advise the appropriate Tangata Whenua of the decision on the resource consent application within 5 working days of the decision being made.

Council will, in respect of all other applications, provide the appropriate Tangata Whenua with a monthly summary of decisions affecting their rohe. The summary will include information on the applicants, the site, description of the activity, and decision.

5.11 Determination and Payment of Costs Associated with Resource Consent Application

5.11.1 Processing of Applications

Council will set fees and charges appropriate to cover the costs associated with processing a resource consent application through its usual fees and charges processes.

5.11.2 Associated Costs of Consultation with Tangata Whenua

Council suggests that where a consultation fee is to be charged by the appropriate Tangata Whenua it should be negotiated and agreed between those parties. The following is suggested as a useful guide:

- As part of the pre-application consultation the appropriate Tangata Whenua should provide the applicant with an estimate of the likely costs associated with the consultation.
- The fee rate should be agreed prior to the consultation occurring.
- The fees should be based on actual and reasonable costs in that they should reflect actual time involved and market rates for equivalent consultant service.
- The fee should be paid on receipt of a detailed invoice specifying actual hours, hourly rate and disbursements.
- In the event that the estimate is insufficient to cover actual and reasonable costs, a renegotiation should be initiated by the appropriate Tangata Whenua as soon as this becomes apparent.

These guidelines may also be useful in the negotiation of other fees associated with resource management related activities such as monitoring of earthworks.

5.11.3 Costs Associated Where Further Consultation is Required (RMA: Section 92)

Where Council has determined that adequate consultation has not occurred, in accordance with section 5.8.3, and further evidence of adequate consultation with the appropriate Tangata Whenua is required, then another consultation fee may need to be agreed between the applicant and the appropriate Tangata Whenua (as per section 5.11.2).

5.12 Objections to Consent Condition

It should be noted that under section 357 of the RMA only the applicant may object in respect of conditions imposed on a non-notified consent.

5.13 Appeals to Resource Consents

It should be noted that where either the applicant or a party who has submitted on a notified consent objects to the decision and/or conditions imposed, they have a right to appeal to the Environment Court under section 120 of the RMA.

5.14 Minor Policy Amendments

This policy will be updated in accordance with any changes to RMA section references. Where changes materially affect the substance of this policy then a review of the policy is required.

6 RELEVANT DELEGATIONS

The implementation of this policy is delegated to the Chief Executive or his/her sub delegate.

7 REFERENCES AND RELEVANT LEGISLATION

- Local Government Act 2002
- Resource Management Act 1991
- Tauranga District Plan (and proposed plan changes)
- Hapu Management Plans
- Hapu Protocols
- Tangata Whenua Literature Review Maps
- Smartgrowth: Marae Sightlines Report
- The Sustainable Evaluation of the Provision of Urban Infrastructure Alternatives using the Tangata Whenua Mauri Model within the Smartgrowth Sub-region, July 2003
- Environment Bay of Plenty Regional Policy Statement
- Environment Bay of Plenty Regional Plans
- A Review of Tauranga District Council's Resource Consent Process – Vaughan Paine
- Tangata Whenua Consultation on Resource Consent Applications – Peter Crawford