

DRAFT ENGAGING WITH TANGATA WHENUA ON RESOURCE CONSENT APPLICATIONS POLICY



Policy type	City		
Authorised by	Council		
First adopted	11 July 2006	Minute reference	M06/66.3
Revisions/amendments		Minute references	
Review date	As required.		

1. PURPOSE

- 1.1. 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 resource consent application process.
- 1.2. To encourage effective, efficient and meaningful engagement with tangata whenua in the context of resource consent applications under sections 6, 7(a) and 8 of the RMA.

2. SCOPE

This policy applies to:

- 2.1 Application sites within Tauranga City Council boundaries where a proposed development has the potential to adversely affect ancestral land, water, sites, waahi tapu and other taonga.
- 2.2 Application sites that include, are within, or directly adjoin a landscape feature, view shaft, site or item known by Council to be of cultural or spiritual significance to Māori.
- 2.3 A subdivision of any application site that is greater than 2000sqm in size.

3. DEFINITIONS

- 3.1 For the purposes of this policy, the following terms and definitions apply:

Term	Definition
Applicant	The party lodging the resource consent application.
Application site	As it is referred to in this policy means the land which is the subject of the application for resource consent.
Cultural assessment	In the context of engagement for a resource consent application, is intended to explain, among other things, the customary relationship between tangata whenua and the site and how, or if, that customary relationship is likely to be affected by the applicant's proposal.

Engagement	For the purposes of this policy, is the intentional process of working meaningfully with tangata whenua to shape and inform the idea or proposal related to a resource consent application and to better understand the potential effects of a proposal on tangata whenua. Engagement may include informing, consulting, involving, collaborating and/or empowering (refer to Schedule 1 for a description of each).
Hapū (singular)	A collection of whanau (families) who identify with a common tipuna (ancestor). The hapū is traditionally the main decision-making forum for tangata whenua in exercising kaitiakitanga over the resources for which they hold mana whenua.
Iwi/hapū management plans	Planning documents developed and promoted by tangata whenua that describe resource management issues of importance to them as tangata whenua.
Iwi/hapū relationship protocols	Agreements that outline the commitment to the relationship between Council and the iwi/hapū. They summarise the principles underpinning the relationship and 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 Chapter 6 of the Tauranga City 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 (Archaeological Sites), the City Plan (Significant Māori Areas, Heritage Register, Planning Maps), Iwi and Hapū Management Plans.
Mana whenua	As defined in the RMA, the “customary authority exercised by an iwi, hapū or whanau in an identified area”.
Resource consent	Has the meaning set out in section 87 of the RMA; and includes all conditions to which the consent is subject.

Tangata whenua	As defined under the RMA, “in relation to a particular area, means the iwi, hapū or whanau that holds mana whenua over that area.”
Taonga	All things prized or treasured by Māori, both tangible and intangible. Examples include water bodies, trees, special landmarks and te reo.
Tauranga City Council boundaries	The whole of the Local Government Territorial Authority of the City of Tauranga as shown in the Plan Maps (Part B) of the City Plan.
Viewshaft	A visual connection between two physical locations. Refer to Smartgrowth: Marae Sitelines Report which identifies the specific viewshafts of 36 marae throughout the western Bay of Plenty.
Waahi tapu (or wāhi tapu)	A place or item sacred to Māori in the traditional, spiritual, religious, historical, or mythological sense. Those places defined as “waahi tapu” vary from hapū to hapū but typically include burial grounds and battle sites.

4. PRINCIPLES

4.1 The following principles define good practice engagement with tangata whenua on resource consent applications under this policy:

- **Early** – engagement with tangata whenua starts at the beginning of the resource consent application process, prior to lodging an application when proposals are less ‘set in stone’.
- **Good faith** – engagement is based on honesty, mutual trust and cooperation.
- **Open mind** – all parties must be open to discussion such that the proposal may evolve or be amended in response to issues raised during the engagement process to make informed decisions.
- **Ongoing** – engagement may be continual with all parties committed to improving understanding of each other’s intentions and to building and maintaining enduring relationships.
- **Genuine** – discussions are meaningful where all parties may not always agree on a proposal but there are sincere efforts to reach an agreement.
- **Respectful** – tangata whenua must be able to present their views in a way that is appropriate and relevant to them.
- **Active Protection** – engagement is undertaken in a manner that recognises the desire of Māori to actively protect and exercise kaitiakitanga over their ancestral lands, water, sites, waahi tapu and other taonga.

5. BACKGROUND

5.1 The Council’s fundamental statutory obligations to tangata whenua are predominantly provided for in the RMA and Local Government Act 2002 (LGA).

5.2 Under the RMA, Council has certain responsibilities when exercising its functions and powers as a consent authority in regard to managing the use, development, and protection of natural and physical resources, including:

- to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga (section 6)
 - to have particular regard to kaitiakitanga (as exercised by tangata whenua within their rohe) (section 7(a))
 - to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (section 8).
- 5.3 Council also has obligations under the LGA to maintain and improve opportunities for Māori to contribute to local government decision-making processes.
- 5.4 Council recognises that engaging with tangata whenua in the resource consent application process where any decision is likely to involve the matters identified in sections 6, 7 and 8 of the RMA will be important in ensuring Council is well equipped to make informed decisions and to give effect to its obligations under the RMA.

6. POLICY STATEMENT

6.1 General

- 6.1.1 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.
- 6.1.2 As a matter of recognised best practice, engagement with tangata whenua should occur where a proposal 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. Without such engagement, the council may be unable to make a fully informed decision on an application for resource consent.
- 6.1.3 Engagement typically requires two-way communication between the applicant and the appropriate tangata whenua groups. Requests for feedback without a response in writing from tangata whenua does not constitute engagement for the purposes of determining cultural impact. Applicants may proceed with finalising their application if all reasonable steps have been taken to engage but a response is not received or tangata whenua do not engage in a timely manner.
- 6.1.4 Council recognises that tangata whenua have limited resources, capacity and capability to participate effectively in the resource consent process and will provide training support where appropriate and necessary.
- 6.1.5 Iwi/hapū management plans lodged with the council and iwi/hapū relationship protocols endorsed by the council should be taken into account within the resource consent application process.
- 6.1.6 Engagement in accordance with this policy must involve working with the appropriate tangata whenua (this may be more than one iwi/hapū) which are the mandated representatives for the particular geographic boundary. Council officers can assist in providing information held by the council about iwi authorities, groups representing hapū, and areas where those groups exercise kaitiakitanga.
- 6.1.7 Effective engagement with tangata whenua that occurs at the beginning of the resource consent application process, particularly during the development of the proposal and before an application is lodged, will be more efficient and may avoid lengthy and costly litigation.

6.1.8 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.

6.1.9 Council will ensure that the cultural effects of a proposed development are adequately assessed where this is enabled by the activity status in the City Plan.

6.2 Roles and Responsibilities

6.2.1 There are three main parties involved in the resource consent application process for the purposes of this policy: council, applicant and tangata whenua.

6.2.2 Council

6.2.2.1 Council will assist engagement in accordance with this policy by:

- keeping up to date records about iwi authorities, groups representing hapū, and areas where those groups exercise kaitiakitanga (as required under section 35A RMA)
- ensuring 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
- building the relationship with tangata whenua and the applicant community to reach a full understanding of those matters important to tangata whenua
- ensuring resource consenting staff are appropriately trained and skilled (including participating in professional development opportunities)
- advocating the purpose of this policy through the council's consultant forum
- helping build capability, including training new iwi/hapū RMA representatives on how to effectively participate in a resource consent process.

6.2.2.2 Council will assist engagement once an applicant has approached the council by:

- providing applicants with information on the geographic boundaries of each iwi/hapū to assist identification of groups to work with
- providing applicants with information on any landscape feature, site or items known by council to be of cultural or spiritual significance to tangata whenua from the documents listed in the definitions above
- providing applicants with the current mandated iwi/hapū representative/s contact details and advise them on the best way to engage

6.2.2.3 Council will assist engagement where appropriate after an application has been received by:

- providing a brief summary of the application to assist tangata whenua in determining whether the proposal might affect them.

6.2.3 Applicant

6.2.3.1 The applicant is encouraged to undertake the following in accordance with this policy to ensure that any cultural effects of the application can be assessed through the application process:

- start engagement with tangata whenua early in the preparation of the application as a matter of good practice

- agree with tangata whenua a reasonable timeframe for engagement **and how it will occur**
- **gain an understanding about the appropriate iwi/hapū prior to meeting with them, including from resources such as iwi and hapū management plans lodged with the council and from other publicly available resources listed under the 'Landscape Feature, Site or Items Known by Council' definition above**
- build the relationship with tangata whenua and the council **to reach a full understanding** of matters important to tangata whenua in relation to the application
- **cover the agreed reasonable costs associated with any engagement that takes place**
- prepare a Preliminary Application Summary with relevant and sufficient information for the appropriate tangata whenua to enable them to determine whether the proposal will affect them (note that this is not a substitute for providing them with the full application in due course);
- a Preliminary Application Summary should contain:
 - 1) a description of the proposed activity including plans and concept drawings
 - 2) the classification of the activity in accordance with the City Plan
 - 3) the geographic location of the proposed activity
 - 4) a summary assessment of actual or potential effects on the environment
 - 5) 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 (which may include cultural effects)
 - 6) an explanation of the matters in respect of which the council has restricted its discretion and that the council is able to consider in making a decision on the application, where the activity is a controlled or restricted discretionary activity.

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

- report on the engagement undertaken with the appropriate tangata whenua, and the applicant's response (if any) to the views of those who were engaged with
- include sufficient information relating to any potential environmental / cultural effects of the proposal on the appropriate tangata whenua
- identify any changes and/or mitigation included in the lodged application that have arisen from the engagement with tangata whenua **and provide a copy to tangata whenua.**

6.2.3.3 Where the council is the resource consent applicant making an application to Tauranga City Council, the consent processing and decision-making role **may** be undertaken by an independent party/parties.

6.2.4 Tangata Whenua

6.2.4.1 **To support this policy tangata whenua are encouraged to work with the council by:**

- **providing appropriate information about their relevant area of interests**

- providing information relating to landscape features, sites or items that are important to iwi/hapū and ensuring the information is complete, accurate and continually improved as new information becomes available
- **advising of any changes to the mandated representatives or other material changes that may impact on engagement occurring**
- building the relationship with the council to improve understanding of matters important to tangata whenua in relation to resource consent applications.

6.2.4.2 To support this policy tangata whenua are encouraged to work with applicants by:

- providing appropriate information and responses in a timely manner
- agreeing on a reasonable timeframe for engagement **and how it will occur**
- **negotiating fees to cover the reasonable costs associated with engagement**
- building the relationship with the development community to improve understanding of matters important to tangata whenua in relation to resource consent applications.

7. DELEGATIONS

7.1 The implementation of this policy is delegated to the chief executive or their sub delegate.

8. REFERENCES AND RELEVANT LEGISLATION

- Te Tiriti o Waitangi (Treaty of Waitangi Act) 1975
- Local Government Act 2002
- Resource Management Act 1991
- **Waitaha Claims Settlement Act 2013**
- **Tapuika Claims Settlement Act 2014**
- **Ngāti Pūkenga Claims Settlement Act 2017**
- Tauranga City Plan (and proposed plan changes)
- Iwi and Hapū Management Plans
- Iwi and Hapū Relationship Protocols
- Smartgrowth: Marae Sightlines Report
- **Bay of Plenty Regional Policy Statement**
- **Bay of Plenty Regional Plans**

9. ASSOCIATED POLICIES/PROCEDURES

- **Engagement with Tangata Whenua on Resource Consent Applications Procedure (sets out the implementation process for the Environmental Planning team).**

10. SCHEDULES

- **Schedule 1: Table of the different levels of engagement**
- **Schedule 2: Flow chart of best practice engagement with tangata whenua on resource consent applications (for applicants)**

Schedule 1: Table of the different levels of engagement*

	Purpose
Inform	To provide appropriate information to assist understanding of a proposal and/or alternatives. Information may be in the form of council reports, maps, project plans, resource consent applications, research and photos.
Consult	To obtain the views and opinions of the appropriate tangata whenua groups on a proposal in relation to its potential cultural effects to inform the proposal's development.
Involve	To include tangata whenua in the process of a proposal development to ensure their concerns and aspirations are understood and considered.
Collaborate	To work together with tangata whenua on the development of a project proposal and alternatives to ensure their concerns and aspirations are incorporated.
Empower	Explore ways to involve tangata whenua in decision-making on a proposal, alternative or solution, or its implementation, to protect their interests and aspirations in relation to development in their rohe.

*Based on the International Association for Public Participation (IAP2) Spectrum of Public Participation.

Schedule 2: Flow chart of best practice engagement with tangata whenua on resource consent applications (for applicants)

