

Tangata Whenua Summary

1.0 Introduction

- 1.0.1 Councils have a statutory responsibility under the Resource Management Act 1991 to consult and work with tangata whenua in the management of natural resources, including:
- the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu (sacred places) and other taonga (treasures);
 - Kaitiakitanga (the ethic of guardianship/stewardship); and
 - the principles of Te Tiriti o Waitangi (the Treaty of Waitangi).
- 1.0.2 Ngāi Tahu whānui are the tangata whenua of the entire Southland region, and have lived and occupied the area and used its natural resources for centuries. The Treaty of Waitangi was signed locally by Ngāi Tahu whānui in 1840 at Ruapuke Island in Foveaux Strait, as well as well as other places in Te Wai Pounamu/the South Island.
- 1.0.3 In 1997, the Ngāi Tahu iwi reached an historical treaty settlement with the Crown, for various omissions and Treaty of Waitangi breaches that occurred during historical land sales in the 1800's. The Ngāi Tahu Claims Settlement Act 1998 provides an apology to Ngāi Tahu whānui, as well as economic, social and cultural redress elements, including provisions to enhance mahinga kai (food gathering activities and places).
- 1.0.4 The Te Rūnanga o Ngāi Tahu Act 1996 provides that Ngāi Tahu whānui are legally represented by the iwi authority Te Rūnanga o Ngāi Tahu (TRONT), which is made up of the 18 Papatipu Rūnanga (traditional marae based communities). The four Murihiku Papatipu Rūnanga are Waihōpai Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima and Hokonui Rūnaka.
- 1.0.5 Councils have specific requirements under the Resource Management Act 1991 (RMA) to consult and engage iwi/tangata whenua in resource management decision-making processes, including:
- the contents of a Regional Policy Statement must state “*the resource management issues of significance to iwi authorities in the region*”.
 - councils, in preparing or changing a Regional Policy Statement or District Plan, must “*take into account any relevant planning document recognised by an iwi authority, and lodged with the council, to the extent that its content has a bearing on resource management issues...*”.

1.0.6 Since the current Southland Regional Policy Statement (RPS) and Southland District Plan were prepared around 10 years ago, several new collaborative structures and relationships have developed between tangata whenua and Councils in Southland, including:

- the four Murihiku Papatipu Rūnanga established Te Ao Mārama Incorporated, to represent the local rūnanga in day-to-day resource management matters within Murihiku;
- Te Ao Mārama Inc and the Southland councils entered into a Charter of Understanding “*He Huarahi mō ngā uri Whakatipu*”, which sets out the basis and conduct of the parties under the RMA and Local Government Act 2002, and also formed the political structure Te Rōpū Taiao, to give effect to the Charter;
- several new iwi planning documents have been developed and adopted, including Te Tangi a Tauira, the new Iwi Environmental Plan for Murihiku, adopted in 2008.

2.0 Relevance of existing RPS/Southland District Plan issues – a brief synopsis

2.0.1 The Tākata Whenua o Murihiku section of the current RPS contains four issues. In summary, they are:

1. there is a need to protect wahi tapu adversely affected by resource use activities;
2. the customary use of water and the importance of wahi tapu, wahi taoka, mahika kai to Kai Tahu has not always been recognised;
3. Maori cultural and traditional spiritual values have not been fully considered under the resource management decision-making process;
4. the use, development and protection and natural and physical resources do not always have regard to the concept of kaitiakitanga.

2.0.2 The “Manawhenua Issues” section of the current Southland District Plan identifies objectives, policies and methods based around:

- Kaitiakitanga (guardianship).
- Whenua Papakaika (ancestral land).
- Waahi Tapu (sacred places).
- Waahi Taoka (treasured resources).
- Wai (water).
- Mahika Kai (places where food is produced or procured).

2.0.3 It will largely be up to tangata whenua to determine the relevance of the above issues in the current RPS and District Plan, in meeting tangata whenua needs.

2.0.4 However as a starting point, we’ve reviewed the issues against Te Tangi a Tauira iwi planning document and held preliminary discussions with Te Ao Mārama Inc staff.

2.0.5 We've found that, on the whole, the issues remain relevant but some amendments would assist:

- whilst the term wāhi tapu (sacred places) remains highly relevant, the more general phrase “Māori historic heritage, including wāhi tapu” could be used instead, which would incorporate other sites and values of cultural and historic significance to tangata whenua;
- other customary uses and resource values not identified include “ancestral lands” and “recognised customary activities”;
- “Māori values” in resource management decision-making could be replaced with “tangata whenua values”;
- there is also a need for consistent usage (eg “k” versus “ng”) throughout both documents; use of macrons; accuracy of Treaty of Waitangi material; definitions/terminology (it is suggested that Papakupu/Glossary from Te Tangi a Tauira be incorporated).

2.0.6 We have also analysed the relevance of each objective, policy and method that relate to the above issues. The basic framework remains relevant but some amendments would assist:

- wording changes to clarify the legal obligations set out in the RMA (ie “recognise and provide for”, “have particular regard to”, “take into account” etc);
- replace references to “Te Whakatau Kaupapa o Murihiku” with “Te Tangi a Tauira Iwi Environmental Plan and other relevant iwi planning documents”;
- strengthen the objective/policy in respect of tangata whenua involvement in resource management decision-making (ie imbed the Treaty of Waitangi provisions, specify those decision-making processes which iwi seek to be part of);
- replace the current RPS wording of “prepare and implement an Accord between Local Authorities and Tangata Whenua” with “Implement, review and update the Charter of Understanding, including provision for capacity building”;
- confirm the kaitiaki/tangata whenua status of Ngāi Tahu whānui in the Southland Region, by making reference to the Te Rūnanga o Ngāi Tahu Act 1996 which also identifies the takiwā (areas) of the respective Papatipu Rūnanga;
- identify additional methods (eg Māori place names, implementation of Ngāi Tahu Claims Settlement Act 1998, South Island Customary Fishing Regulations 1999, Ngāi Tahu Pounamu Vesting Act 1997, cultural assessments, wānanga, accidental discovery protocols, Memorandum of Understanding, joint management, advocacy, mahinga kai cultural parks, face-to-face consultation);
- identify established resource management structures/processes between tangata whenua and Councils in Southland (eg, Te Ao Mārama Inc, Te Rōpū Taiao etc);
- identify the Ngāi Tahu Claims Settlement Act 1998, including statutory acknowledgements;

- check the current RPS/District Plan wording for consistency against amendments to the RMA.;
- introduce/update planning provisions around the development of natural resources in a commercial manner by iwi (eg Māori Land, coastal resource development or other resources).

3.0 What has changed and what are the issues now and for the future?

3.0.1 Changes have occurred over the last 10 years in the area of iwi resource management, and new issues and thinking will continue to emerge in this area.

3.0.2 Some of the main changes that may need to be considered as part of the RPS and District Plan review process, are:

3.0.2.1 *Ngāi Tahu Treaty Settlement*

3.0.2.1.1 The Ngāi Tahu iwi now have a Treaty Settlement, resulting in the Ngāi Tahu Claims Settlement Act 1998, and a new legal structure set out in the Te Rūnanga o Ngāi Tahu Act 1996, as well as an increased ability to participate in the management of natural resources. Many of the matters arising from the Settlement process are directly relevant to resource management in Southland, but are not contained in the current RPS or District Plan (eg iwi legal identity/tribal structure, statutory acknowledgements, pouamu/greenstone, tribal properties, nohoanga/temporary camping entitlements, dual place names, taonga species and other matters).

3.0.2.2 *Amendments to legislation*

3.0.2.2.1 Various amendments have been made to the RMA during the last 10 years, and this needs to be addressed through the review process. Key amendments which are directly relevant to iwi resource management include:

- the status of iwi planning documents has been elevated, with councils now required to “take into account” such documents when preparing their RPS and Plans;
- new Matters of National Importance have been inserted into Section 6 of the Act, which Councils need to recognise and provide for, including the protection of “historic heritage” and “recognised customary activities”;
- RPSs must now state “the resource management issues of significance to iwi authorities in the region”;
- councils and iwi groups may now enter into joint management agreements;
- new consultation/capacity building requirements between tangata whenua and local authorities in plan-making processes.

3.0.2.3 *New iwi resource management process/structures*

3.0.2.3.1 Several new collaborative iwi resource management processes and structures have been established, to facilitate consultation between tangata whenua and Southland councils (eg, formation of Te Ao Mārama Inc, the Charter of Understanding, formation of Te Rōpū Taiao).

3.0.2.4 *New iwi planning document*

3.0.2.4.1 Tangata Whenua have prepared and released Te Tangi a Tauira Iwi Environmental Plan 2008, which sets out local Ngāi Tahu values and aspirations for the management of natural resources in Murihiku. Other relevant iwi planning documents include the Ngāi Tahu Freshwater Policy and the Ngāi Tahu Pounamu Management Plan. Iwi planning documents need to be “taken into account” by councils in preparing or changing the RPS or District Plan.

3.0.2.5 *Sites of significance along the Southland coast*

3.0.2.5.1 Increased subdivision, use and development activities along the Southland coast pose a potential risk to heritage sites of cultural significance to tangata whenua along the Southland coast. The RPS/District Plan review process needs to address this issue by providing greater planning protection of Māori historic values, as well as triggers to consult with tangata whenua early in the planning process.

3.0.2.6 *Customary fishing*

3.0.2.6.1 The Fisheries (South Island Customary Fishing) Regulations 1999 were promulgated by the Crown to provide for customary fishing in the South Island. Several mātaihai reserves have been gazetted in Southland (eg, Patersons Inlet/Te Whaka ā Te Wera, Mataura River and Waikawa/Tumu Toka) and others could be established in the future. The RPS and District Plan could provide for recognition of mātaihai and other mechanisms as a customary resource management tool, which is in use throughout Southland.

3.0.2.7 *Indigenous biodiversity*

3.0.2.7.1 An important new focus for tangata whenua identified in Te Tangi a Tauira iwi planning document is “to find ways to protect, maintain and improve indigenous biodiversity” (eg in water, riparian margins, native bush or wetlands). Appropriate provisions relating to biodiversity may need to be included in the tangata whenua sections of the RPS/District Plan, through the review process.

3.0.2.8 *SILNA lands*

3.0.2.8.1 Issues have arisen in respect of activities on the South Island Landless Natives Act 1906 (SILNA) Māori owned lands in Southland, a number of which contain large amounts of indigenous forestry and biodiversity values. As an acknowledgement of wrongdoing during historic land sales, the Crown granted land to Landless Māori in the South Island in the early 1900s to “provide for their support and maintenance”. Today, some owners of SILNA lands may seek to extract and use native timber for commercial return. Where appropriate, Councils may seek to assist and encourage owners towards a sustainable management regime. This would enable owners to obtain financial returns from their landholdings, while also recognising the importance of

protection of areas of significant indigenous vegetation and habitats of indigenous fauna under Section 6(c) of the RMA.

3.0.2.9 ***Commercial development by iwi***

3.0.2.9.1 The development of natural resources in a commercial manner by iwi is a potential issue for the RPS/District Plan review process. Examples include:

- coastal resource development, through aquaculture/marine farming; and
- the development of iwi owned resources (eg multiple-owned Māori land, and other resources).

4.0 **Options for addressing issues**

4.0.1 New issues and thinking by tangata whenua have emerged in the area of iwi resource management over the last 10 years, as discussed above.

4.0.2 Using the tangata whenua “issues and options’ paper as an initial starting point, Papatipu Rūnanga, Te Ao Mārama Inc, Te Rōpū Taiao and Te Rūnanga o Ngāi Tahu will be consulted during the review of the RPS and District Plan. It is envisioned that consultation with tangata whenua will clarify and confirm the resource management issues of significance to iwi authorities, as well as relevant material from iwi planning documents.

4.0.3 Options include:

- ***Option A: Status Quo.*** Retain the current RPS/District Plan wording (issues, objectives, polices and methods) “as it stands”, to address tangata whenua resource management issues in Southland.
- ***Option B: Comprehensive review of tangata whenua sections of the current RPS/District Plan.*** Review the wording and approach of the tangata whenua sections in the current RPS/District Plan based on this “issues and options” paper, as well as ongoing consultation with tangata whenua. This would include necessary changes to the issues, objectives, policies and methods of the current RPS/District Plan to incorporate what has happened over the last 10 years and potential future issues.
- ***Option C: Another approach.*** Another option, as yet undefined, may be identified through consultation with tangata whenua.

5.0 **Questions for your comment**

1. Have the existing RPS/Southland District Plan approaches to tangata whenua resource management issues been successful? Which areas, if any, need to be re-examined through the review process?
2. Do tangata whenua have enough involvement in resource management decision-making in Southland?

3. Is a separate tangata whenua section needed in the RPS/District Plan, or should the themes be woven throughout the various sections of the documents (or a combination of both of the above, which is the approach in the current RPS/District Plan)?
4. What are the significant resource management issues for tangata whenua of the Southland region that have emerged since the current RPS/District Plan was adopted, and what are the best ways to address these issues?
5. Which material from the Ngāi Tahu iwi planning documents (Te Tangi a Taurira, and others?) is specifically relevant for inclusion in the RPS/District Plan?
6. To what extent, if any, should the RPS/District Plan make provision for iwi to develop natural resources in a commercial manner (e.g., aquaculture coastal development, Māori-owned land or other resources)?