BEFORE THE HEARINGS COMMITTEE

IN THE MATTER   of   hearings   on submissions concerning the proposed One Plan notified by the Manawatu-Wanganui Regional Council

**End of hearing statement of Helen Marr
for the Te Ao Maori hearing**

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
What is the relationship between the explanation of the terms in section 4.1.3, the information in Table 4.1 (where English meanings are put in brackets) and the definitions in 4.8 Glossary of Maori Terms?	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27
Kaitiakitanga is described in 4.1.3 in one way, defined in 4.8 in a different way, and defined in the RMA in a different manner. Is it intentional to use a different meaning from the RMA?	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27
"Tikanga" is explained in 4.1.3 and "tikanga Maori" is defined in 4.8 but tikanga Maori is also defined in the RMA in a different manner. Is it intentional to use a different meaning from the RMA?	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27
4. Tapu is referred to a number of times but not explained in 4.1.3 or defined in 4.8 though "Tapu (sacred)" is set out in Table 4.1 (k). Would it be helpful for there to be a definition of tapu?	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
5. There are some terms defined in 4.8 that do not seem to be used in English in the Plan. For example, awa, mahi and iwi Maori are defined in 4.8 but do not seem to be used in English in the chapter, though they are used in Maori. Is there any purpose in these terms being defined terms? Are there any other terms that are defined but not used in the Plan?	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27
6. Mahi tautara is defined in one way in 4.8 but is described differently in Table 4.1 (g). It seems that these are the only places in the Plan where the term is used.	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
Would it help integration of this chapter with the rest of the Plan for the words in the Glossary of Maori Terms (4.8) and any other terms that it may be desirable to define to be in the main Glossary and for the defined terms to be identified by as asterisk when they are used in the text (as in the rest of the Plan)? If that is not desirable, would it be helpful for the terms to be set out in the main Glossary with a cross reference to the Glossary of Maori Terms?	Chairs questions	Glossary	See comments on glossary terms in Appendix 1.	See recommendation in Appendix 1.	Clarity	TAM S27
In 4.1.3, the second sentence, should reference to the Regional Council also be included?	Chairs questions	4.1.3	Yes. Reference to Regional Council would be appropriate. Could use term 'local authorities' to encompass both.	Delete 'territorial authorities' and replace with 'local authorities'	Clarity. (First Schedule cl 16(2))	
There seems to be a wording issue in Recommendation TAM 5 p41 tracked-changes insert (ib) in 4.1.4 Land Use and Management.	Chairs questions	4.1.4	Typing error carried over from report.	Replace with "The removal, destruction or alteration of waahi tapu and waahi tupuna by inappropriate activities continues	TAM 5	

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
				to have a detrimental effect on those sites and upon hapu and iwi."		
Policy 4-1(f) – in light of the wording of section 61(2A)(a) "take into account any relevant planning documents recognised by an iwi authority..." should "recognising and" be deleted?	Chairs questions	Policy 4-1 (f)	Should be adequately dealt with by TAM S23. See also recommended changes to make it refer specifically to resource consent process as part of recommendation TAM S31	See TAM S 23 and TAM S31	TAM S23 and Clarity	
Policy 4-1 tracked changes (h) there seems to be wording issue "and the effects of the actual and potential adverse effects of..."	Chairs questions	Policy 4-1 (h)	Typing error carried over from report.	Reword to "…and the actual and potential adverse effects of…"	Clarification of TAM 9	

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
Policy 4-2 (a) after the list refers to "protected from inappropriate subdivision, use and development" and (b) refers to "protected from potential damage or disturbance" but 4.7 says that Policy 4-2 sets out protection "from earthworks". Is only earthworks relevant? Also, policy 4-2 refers to a number of places getting protection (and in the heading refers to "waahi tapu, waahi tupuna and other sites of significance") but this same sentence in 4.7 refers only to protecting "waahi tapu". Is "waahi tapu" too narrow a term in 4.7?	Chairs questions	Policy 4-2 (a)	See notes in Appendix 2	Change Policy 4-2 (b) and explanations and principle reasons for consistency as shown in Appendix 2	Clarification of, and consequential to, TAM 10	

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
Are the links between policy 4-2(b)(iii), the COP project in section 4.5 and the indicator in 4.6 clear? Is it clear who is to prepare the COP and who is to be involved? In 4.5 COP for Waahi Tapu Protection and Discovery second para says "will ensure that consent applicants and contractors follow the procedures" but only the Regional Council and the Region's hapu and iwi are listed as "Who". In 4.6 there is reference to the number of accords developed between hapu/iwi and resource users/contractors, but have these accords been mentioned earlier?	Chairs questions	Policy 4-2 (b)				TAM S28
In Policy 4-3(b), can the Regional Council initiate a rahui in the context of the RMA and, if so, how? If it can, policy 4-3(b) refers to "exceptional circumstances" but 4.7 refers to a drowning in a river without reference to any other circumstances.	Chairs questions	Policy 4-3 (b)	This should be resolved by changes to policy by TAM S24.		TAM S24	

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
If I recall correctly, Horizons made a submission that, in the event of conflict between the English and Maori wording, the English would prevail. When will we be dealing with that submission? Should there be any reference in this chapter to any outcome of that submission?	Chairs questions	New	This submission point will be dealt with in Chapter 2 (Admin hearing)		N/A	
Ngati Kahungunu submission to objective 4-1(b) is missing from report	At hearing	Objective 4-1 (b)	See supplementary comments in Appendix 4	Change Objective 4-1 as shown in Appendix 4		TAM S33
Spelling of Muaupoko v Mua Upoko	At hearing (Cr Bailey)	4.1.1	Muaupoko is the spelling used by the iwi authority.	Change the spelling in the POP to Muaupoko	Clarity. (First Schedule cl 16(2))	
Correct maori name of Lake Horowhenua: Punahau v Te Waipunahau	At hearing (Cr Bailey)	4.1.4 (c)	See notes in Appendix 5	Refer to Lake Horowhenua only, remove any translations.	Clarity. (First Schedule cl 16(2))	
Map of iwi boundaries of website	At hearing	New	Presented at hearing on 13 August 2008		N/A	
Include bullet point list of settled principles of TOW in revised para 4.1.2	At hearing (Mr Van Voorthuysen)	4.1.2	Principles are identified in John Maassens s42A report.	Incorporate principles into paragraph4.1.2	TAM 1	TAM S 29
Include reference to list of iwi management plans being on website	At hearing (Mr Van Voorthuysen)	4.1.2		Incorporate into paragraph	submission 377/11	TAM S30

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
Error in track changes (HRC should be underlined)	At hearing (Mr Van Voorthuysen)	Policy 4-1	Corrected in new version of track changes.		TAM 9 and TAM S23	
In subclauses identify who is going to be involved in projects, council, iwi, who else?	At hearing (Mr Van Voorthuysen)	Policy 4-1	Added into Policy.		TAM 9 and TAM S23	TAM S31
What are the key differences between memoranda of partnership and joint management agreements? Show examples	At hearing (Mr Van Voorthuysen)	New	See notes in Appendix 6. Could also indicate in POP that joint management agreement is defined in the RMA to clarify.		N/A	
How will iwi be involved in consent decision making process, as this is only as decision maker	At hearing (Mr Van Voorthuysen)	Policy 4-1 (g)	To broaden the reference, it could be changed to resource consent processes, to include involvement in the consultation, submission making and decision making processes.	Change the clause to read "(g) involvement in resource consent processes, including in the ways…"	Clarity.	TAM S31
add that it is HRC who will encourage consultation	At hearing (Mr Van Voorthuysen)	Policy 4-1 (h)			TAM 9 and TAM S23	TAM S31

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
Would like to see analysis of iwi management plans and how they are incorporated into POP	At hearing (Mr Van Voorthuysen)	new	See notes in Appendix 7		TAM 9 and TAM S23	
Expand (f) to make it clear it is in resource consent process.	At hearing (Mr Van Voorthuysen)	Policy 4-1 (f)	Can delete reference to 'lodged with council' as definition of iwi management plan includes lodgement. See also change to include reference to regional council to make the clause more specific as requested above	Change clause to read "(f) Horizons Regional Council having regard to iwi management plans* when making decisions on resource consents"	TAM 9 and TAM S23	TAM S31
Show committee iwi contacts webpage	At hearing	New	Presented at hearing on 13 August 2008		N/A	
How does the iwi database of 'secret' sites work, what is regional councils involvement in this?	At hearing	Policy 4-2 (b)(ii)	Presented at hearing on 13 August 2008		N/A	
Maori heritage council, who are they, what is their connection to Historic Places Trust, is it appropriate to refer to this in the POP?	At hearing (Cr Main)	New	See notes in Appendix 8 I do not think it is necessary to to refer to this council specifically in	No change recommended.	N/A	

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
			Chapter 4 of the POP.			
Would wording similar to 'past and ongoing degradation' be suitable to meet Mr Rudd's concerns?	At hearing (Mr Van Voorthuysen)	4.1.4 (c)	This is a sensible change.	Change words as requested	Submission 209	TAM S32
Wording issues changed	Chairs wording issues	various	All changed except those detailed below	Changes shown in track changes.	clarity.	
8. Practice v practise	Chairs wording issues	4.1.3	Practice is noun, practise is verb. Correct use in this sentence is as noun.	No change recommended.		
13. First schedule v Schedule 1	Chairs wording issues	4.7	Schedule 1 may be most correct but 'first schedule of' is most common usage, recommend retaining for readability.	No change recommended.		
15. references to the council	Chairs wording issues	various	Have used 'Horizons Regional Council' and 'Regional Council' only. Using 'Council'	Use 'Horizons Regional Council' and 'Regional Council' throughout plan.		

Matter	Raised by	Topic	Comment	Recommendation	Jurisdiction/scope?	Recommendation number
			alone may lead to confusion as to which council.			
16. land-use v land use v land use	Chairs wording issues	various	Have changed all references to land use.	Use land use consistently throughout plan.		

Appendix 1
TAM S27
Glossary and Definitions

Terms or words are explained or defined in three places in Chapter 4:
- in Part 4.1.3 gives an explanation of 'traditional maori values and concepts';
- in Table 4.1 which sets out resource management issues of concern to iwi and hapu;
- in the glossary of terms in Part 4.8.

Terms are also defined in the POP Glossary itself.

This use of multiple definitions or explanations can be confusing to the reader if the role of the various definitions or explanations is not well explained. The Chairperson very usefully provided some examples of where that occurs in Chapter 4.

I have looked at the various definitions and explanations used in relation to Chapter 4 of the POP, and the definitions used in legislation and in other RMA Plans. These comparisons are shown in the attached table. Below I make some recommendations to change Chapter 4 and make some additions to the Glossary where this is necessary to clarify and interpret the terms used in the Chapter.

Terms used in Objectives or Policies
Where terms are used in objectives or policies that may apply outside Chapter 4, for example Objective 4-1 regarding mauri, then ideally they should be defined. Terms included in policies and objectives include kaitiakitanga, waahi tapu, waahi tupuna, taonga, and mauri.

As legislative definitions already exist for kaitiakitanga and waahi tapu (see attached table) it would be sensible to adopt them, or identify that they are defined in the RMA.

In addition to waahi tapu, waahi tupuna will also need to be defined as it is used in conjunction with waahi tapu in policies.

There is no definition of taonga in the RMA. There is a definition in the Glossary in Chapter 4 and this should be used as a definition in the POP Glossary.

There is no definition of mauri in law. One form submission sought a definition of mauri to be included:

"The mauri represents the interconnectedness of all things both animate and in animate that have being. Nothing in the natural world is without this essential element which must be protected"

I recommend that this not be included in the Glossary, for the reasons set out p105 – 106 of my original report. I still believe it is problematic to try to define such a complex concept in a definition.

However if the hearing panel is of a mind to include one, then a reasonably commonly used definition adopted in other regional plans is:

> *"essential life force or principle; a metaphysical quality inherent in all things, both animate and inanimate"*

This definition is consistent with the way the term is explained in the POP, although it is questionable as to whether it adds any further clarity to its use in the objective.

Terms explained in part 4.1.3

Part 4.1.3 gives an explanation of 'traditional maori values and concepts', and explains mauri, taonga, waahi tapu, tikanga and kaitiakitanga. These are identified as the concepts of most relevance to environment and resource management.

This part of the plan fulfills a different function than that of a glossary. It is not giving a legal or technical definition, it is explaining concepts which are at times complex. It does not form part of an objective, policy or method, and is only part of the context text of the Chapter.

Because of the role these explanations play I think it is appropriate if they elaborate on the strict definitions of the terms. However I think it would be helpful if the existence of a definition for interpreting the objectives and policies was noted in the explanations themselves. This will be the case for waahi tapu, kaitikitanga and possibly mauri and taonga. It is not the case for tikanga. Tikanga is not used in objectives or policies, so I do not think it is necessary to include a glossary definition.

Terms defined in Table 4.1

Table 4.1 is part of Policy 4-4 as it is referenced in that policy. It identifies the resource management issues of concern to iwi and hapu and identifies where they are dealt with in the plan. The second column explains the issue in more detail and sometimes includes an English translation next to the maori term. Table 4.1 does not 'have a life' outside of Policy 4-4 as it is not referred to in any other policy. It is simply interpretive and points the reader to other parts of the plan where the issues are dealt with. Therefore I do not recommend that all terms used in this table are defined in the glossary. For terms that are defined (or explained) in other places (for example tapu and possible mauri) it may be useful to include that cross reference to the glossary or explanation.

Glossary of Maori Terms

I recommend removing the glossary of terms from Chapter 4. Terms should be defined in main glossary if necessary. None of the terms is used the other chapters of the POP, with the exception of rua koiwi and taonga.

Recommendation TAM S27:

(a)   Retain the explanations of terms in 4.1.3 'An Understanding of Maori Values'
(b)   Identifying that kaitiakitanga is defined by the RMA and that waahi tapu and waahi tupuna and taonga are defined in the Glossary.
(c)   Include a definition of waahi tapu consistent with that from the Historic Places Act.
(d)   Include a definition of waahi tupuna as follows: **waahi tupuna means** ancestral places of significance (but not necessarily tapu) to a particular whanau, hapu or iwi.
(e)   If the hearing panel is minded to include a definition of mauri, include the following definition in the POP glossary: **mauri means** essential life force or principle; a metaphysical quality inherent in all things, both animate and inanimate
(f)   Remove the glossary of maori terms from Chapter 4
(g)   Include a definition of rua koiwi in the POP Glossary as follows: **rua koiwi means** places where skeletal remains are kept
(h)   Include a definition of taonga in the POP Glossary as follows: **Taonga means** all things prized or treasured, both tangible and intangible.

Definitions and Glossary – Maori Terms

Term	Definition in Proposed One Plan (POP)	Definition in other council plans	Definition in the Resource Management Act 1991 ("The Act" (Section 2)
Kaitiakitanga	• Section 4.1.3 Page 4.4 - Kaitiakitanga is described as: "The concept of kaitiakitanga (the ethic of stewardship) is based on spiritual and physical guardianship met within the social norms and everyday practices of tikanga. Recognition of the mauri held by particular resources also necessitates communication with the spiritual kaitiaki (guardian) to whom that resource is dedicated. The physical responsibility of kaitiakitanga is met by the recognition of the interconnectedness of all elements – mauri and wairua, tapu and noa, mana and tikanga. Therefore, the ethics that underpin hapū and iwi responsibility to practice kaitiakitanga are based on spiritual and cultural practices and wise resource management to ensure a healthy environment for future generations." • The POP does not give a definition of Kaitiakitanga in the chapter 4 glossary nor in the plan glossary.	• Environment Waikato Regional Plan (section 2.3.2 – Matters of significance to Maori) uses the same definition of kaitiakitanga as the Act. • Timaru District Council - District Plan "Kaitiakitanga - The exercise of guardianship. In relation to a resource, kaitiakitanga includes the ethic of stewardship based on the nature of the resource itself."	• "Kaitiakitanga" means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship:
Tikanga /Tikanga Maori	• Section 4.1.3 Page 4.4 – Tikanga is described as: "Tikanga not only encompasses the lore, customs and practices of Māori but also the guiding principles of social, economic and political life - a way of life that accounts for all factors whilst practicing a close affinity with nature. Tikanga also gives physical expression, through social norms and behavior, to the concepts of kaitiakitanga and mana.	• Gisborne District Council - Regional Plan for Discharges to Land and Water, Operative Waste Management and Hazardous Substances "Tikanga Maori - Maori tradition and custom. It includes protocol and ceremony, values, beliefs." • Regional Soil Plan for Taranaki	• "Tikanga Maori" means Maori customary values and practices:

		Regional Council "Tikanga Māori means Māori customary values and practices."	
	• Chapter 4 glossary – section 4.8, Page 4-21 "Tikanga Māori social norms, practices and lore adhered to by Māori (see section 4.1.3)"		
Tapu	• Table 4.1 Page 4.14 – Tapu is described as: Tapu (sacred) Cross-pollinating plants native to a particular rohe (region) affects elements of tapu. The act of artificially cross-pollinating plants or trees or removing and planting them away from their points of origin is not common practice to hapū and iwi. Ideally they would like the integrity of each rohe preserved in its natural state.	• Regional Soil Plan for Taranaki Regional Council "Tapu means under spiritual protection or restriction."	• Tapu is not defined in section 2 of the RMA.
Mahi Tautara	• Table 4.1 Page 4.14 – Mahi Tautara (sewage waste) is described as: "There are serious physical and spiritual connotations to hapū and iwi associated with human sewage discharge to waterways. The act of doing so intentionally is, in itself, regarded poke – an act of spiritual and physical uncleanliness (this term may vary between iwi). The physical and spiritual effects on hapū and iwi can be wide ranging. The best method of avoiding these effects is the prevention of direct discharge. Hapū and iwi are advocating for assistance via policy and funding to protect the integrity of indigenous flora and fauna from human activity and plant and animal pests." • Section 4.8, page 4-21 - mahi tuatara is defined in the chapter 4 glossary as: Indiscriminate act of human sewage discharge to	Information not available. Other plans do not appear to use the word "Mahi Tautar"	• Mahi Tautar is not defined in section 2 of the RMA.

	water.		
Mauri	• Table 4.1 Page 4.14 – Mauri is described as: "Mauri (essential element) On the topic of mixing waters hapū and iwi contention can be vastly complex. To gain deeper appreciation of this issue, refer to evidence presented during the Environment Court hearings on the Tongariro Power Development Scheme presented by Ngati Rangi (paragraph 130)." • Section 4.8, page 4-21 - mauri is defined in the chapter 4 glossary as mauri the essential essence of all being (see 4.1.3)	• Regional Soil Plan for Taranaki "Mauri/Mouri means essential life force or principle; a metaphysical quality inherent in all things, both animate and inanimate. • Environment Canterbury – Regional Coastal plan Mauri: means essential life force or principle; a metaphysical quality inherent in all things, both animate and inanimate (after Goodall, Palmer and Tau, (1990) Te Whakatau Kaupapa).	• Mauri is not defined in section 2 of the RMA.
Waahi Tapu	• Section 4.1.3, page 4-3 – Waahi tapu is described as: "Waahi tapu (wāhi tapu) relates specifically to sites, areas or locations that remain in a state of tapu. These may include, but are not exclusively, urupā (grave sites), rua kōiwi (places where skeletal remains are kept), wai tohi (streams where baptismal rites are performed), and wāhi pakanga (battle sites). As hapū and iwi have the knowledge of their waahi tapu, the task of defining waahi tapu must rest with them. However, there may be some ambiguity as to which sites remain in a state of tapu. It is important to note that waahi tupuna - sites of cultural and historical significance to hapū and iwi - exist (though not necessarily in a state of tapu) and should be protected. Such waahi tupuna may be ancient pā sites, important caves, landscape features, ancient pathways or tribal boundary indicators."	• The Historic Places Trust Act 1993 defines Waahi Tapu as: "Wahi tapu means a place sacred to Maori in the traditional, spiritual, religious, ritual, or mythological sense" • Auckland City Council, central area plan defines waahi tapu as: "Waahi Tapu means sacred site, place or object." • Waikato operative Regional Policy Statement defined Waahi Tapu as "Waahi tapu means sacred site: these are defined locally by the hapu and iwi which are the kaitiaki for the waahi tapu. Typically includes burial grounds and sites of historical importance to the tribe. In order to protect particular sites from interference and desecration, some tribes will refuse to	• Waahi Tapu is not defined in section 2 of the RMA.

	• Section 4.8, page 4-21 - mauri is defined in the chapter 4 glossary as waahi tapu Sites, areas or localities associated with tapu. These may include urupa, places where baptismal rites are performed and historical battlegrounds (see 4.1.3)	disclose the exact location to outsiders." (Obtained from Parliamentary Commissioner for the Environment, Proposed Guidelines for Local Authority Consultation with Tangata Whenua, Parliamentary Commissioner for the Environment, Wellington, 1992.) • The Ministry for the Environment in their ambient air quality guidelines define Waahi tapu as: Sacred or significant site applying to various types of area. Iwi determines the use of the word.	
Taonga	• Section 4.1.3, page 4-3 – Taonga is described as: **"**Taonga may be material or immaterial, tangible or intangible. The concept of taonga relates to anything that is prized, treasured or valued for what it is, where it came from and what its potential is. The cultural and spiritual relationship of Māori with their ancestral lands, water, sites, waahi tapu and other taonga are referred to in the RMA as a matter of national importance. This implies that Taonga incorporates not only the stated resources in s 6(e) RMA, but also anything that is highly prized – physically, mentally, spiritually and culturally. Physically, Taonga include traditional forms of food and natural material harvested for traditional purposes. Adverse effects on these would not only see the demise of the physical taonga (food and weaving materials), but the demise of a spiritual and cultural taonga also. Hapū and iwi are concerned that resources of cultural and spiritual significance be	• Waikato regional coastal plan defines Taonga in its glossary as "Treasure, property: taonga are prized and protected as sacred possessions of the tribe. The term carries a deep spiritual meaning and taonga may be things that cannot be seen or touched. Included for example are language, waahi tapu, waterways, fishing grounds and mountains (Environment Waikato 1996)" • Environment Canterbury define Taonga in their coastal environment plan as: "Taonga treasured possessions, includes both tangible and intangible treasures, for example, the Maori language."	• Taonga is not defined in section 2 of the RMA.

	protected. • Section 4.8, page 4-21 - Taonga is defined in the chapter 4 glossary as taonga all things prized or treasued, both tangible and intangible (see 4.1.3)		

Appendix 2

Links between Waahi Tapu Policy, Method and Explanation

Chairpersons question:

12. Policy 4-2 (a) after the list refers to "protected from inappropriate subdivision, use and development" and (b) refers to "protected from potential damage or disturbance" but 4.7 says that Policy 4-2 sets out protection "from earthworks". Is only earthworks relevant?
Also, policy 4-2 refers to a number of places getting protection (and in the heading refers to "waahi tapu, waahi tupuna and other sites of significance") but this same sentence in 4.7 refers only to protecting "waahi tapu". Is "waahi tapu" too narrow a term in 4.7?

Reference to protection of important Maori 'sites' in chapter 4 of the Proposed One Plan

Section	What the policy states	Analysis	Recommendation
Policy 4-2(a)	Waahi Tapu, Waahi Tapuna and other sites of significance identified in district plan…. (etc) shall be protected from <u>inappropriate</u> subdivision, use and development that would cause adverse effects on the qualities and features which contribute to the values of these sites.	This section of the policy looks to protect 'identified' and recorded "Waahi Tapu, Waahi Tapuna and other sites of significance". It is acceptable to protect them from 'inappropriate subdivision, use and development as they are known and therefore there is an ability to assess when the subdivision, use and development is inappropriate.	No change recommended
Policy 4-2(b)	Sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be protected from potential damage or disturbance by:	Policy 4-2 details and recommends a precautionary approach around the subdivision, use and development of land. It is recommended that the words "inappropriate subdivision, use and development" are inserted into this policy to gain consistency with Policy 4-	Change policy 4-2(b) to read: Potential damage or disturbance (including that caused by inappropriate subdivision, use and development) to sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be protected from potential damage or disturbance

		2(a)	<u>minimised</u> by:
		Policy 4-2(b) also uses the word "protect" which is suggests absoluteness. In the right hand side of this table the first recommendation suggests an alternative approach using the word minimised.	Sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be protected from potential damage or disturbance <u>including that caused by inappropriate subdivision, use and development</u> by:
Para 4-7	Policy 4-2 sets out measures to protect waahi tapu (disclosed and undisclosed) from earthworks.	Paragraph 4.7 requires some changes in order to gain consistency with Policy 4-2(b) (eg. The inclusion of Waahi Tapuna), and to clarify the term 'earthworks' .	Paragraph 4.7 is recommended to be changed to: Policy 4-2 sets out measures to protect Waahi Tapu, <u>Waahi Tupuna and other sites of significance</u> (disclosed and undisclosed) from <s>Earthworks</s> <u>potential damage or disturbance including that caused by inappropriate subdivision, use and development.</u>

Appendix 3
TAM S28
Links between COP Policy, Method and AER

Chairpersons question:
13. Are the links between policy 4-2(b)(iii), the COP project in section 4.5 and the indicator in 4.6 clear?
Is it clear who is to prepare the COP and who is to be involved? In 4.5 COP for Waahi Tapu Protection and Discovery second para says "will ensure that consent applicants and contractors follow the procedures" but only the Regional Council and the Region's hapu and iwi are listed as "Who".
In 4.6 there is reference to the number of accords developed between hapu/iwi and resource users/contractors, but have these accords been mentioned earlier?

Section of plan	Analysis	Recommendations
Policy 4-2(b)(iii) **Policy 4-2** (b) Sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be protected from potential damage or disturbance by: (iii) Developing a code of practice whereby resource users and contractors have clear guidelines in the event rua koiwi or waahi tapu are discovered.	This policy outlines the regional council, hapu and iwis desire to minimise the potential for damage to rua koiwi or waahi tapu.	No changes recommended
4.5 (Codes of Practice) Description: The aim of this project is to develop a code of practice to ensure all efforts are made to protect waahi tapu from unnecessary damage, and procedures are put in place in the event waahi tapu are discovered. This code of practice will enable consent applicants to meet resource consent conditions for the protection of waahi tapu and will ensure that consent applicants and contractors follow the procedures outlined in the code. Who: Regional Council and the Region's hapū and iwi.	This method sets out a framework to develop a code of practice which will help minimise the potential for damage to rua koiwi or waahi tapu. At present it is inconsistent with policy 4-2(b) as it only mentions protection waahi tapu and not rua koiwi and also omits resource users and contactors as a party to the method.	4.5 (Codes of Practice) Description: The aim of this project is to develop a code of practice to ensure all efforts are made to protect waahi tapu from unnecessary damage, and procedures are put in place in the event rua koiwi or waahi tapu are discovered. This code of practice will enable consent applicants to meet resource consent conditions for the protection of rua koiwi or waahi tapu and will ensure that consent applicants and contractors follow the procedures outlined in the code. Who: Regional Council, and the Region's hapū and iwi and

<u>Links to policy:</u> This project links to policy 4-2(b). <u>Target:</u> To reduce the number of waahi tapu inadvertently uncovered by earthworks.	The method also only discusses earthworks – instead of "damage or disturbed (including that caused by inappropriate subdivision, use and development)" Changes are recommended in the right hand column to help gain consistency.	resource users/ contractors. Links to policy: This project links to policy 4-2(b). Target: To develop a code of practice for waahi tapu protection and discovery by 2010 which will reduce the number of rua koiwi or waahi tapu inadvertently ~~uncovered by earthworks~~ damage or disturbed (including that caused by inappropriate subdivision, use and development).
4.6 Anticipated Environmental Results <u>Anticipated environmental result:</u> Reduction in the number of waahi tapu uncovered inadvertently by land-use activities. <u>Link to policy:</u> Policy 4-2 <u>Indicator:</u> Number of accords developed between hapū/iwi and resource users/contractors <u>Data source:</u> Code of Practice for Waahi Tapu Protection and Discovery	This Anticipated Environmental Results (AER) sets out how the regional council can tell if the policy and method for COP is successful. Like the method – it is inconsistent with policy 4-2(b) as it only mentions protection waahi tapu and not rua koiwi. The AER only discusses earthworks – instead of "damage or disturbed (including that caused by inappropriate subdivision, use and development)". Changes are recommended in the right hand column to help gain consistency. To further gain consistency the recommendations include changing 'accord' to codes of practice.	4.6 Anticipated Environmental Results Anticipated environmental result: Reduction in the number of rua koiwi or waahi tapu ~~uncovered inadvertently by land-use activities~~ damage or disturbed (including that caused by inappropriate subdivision, use and development). Link to policy: Policy 4-2(b) Indicator: Number of ~~accords~~ codes of practice developed between hapū/iwi and resource users/contractors Data source: Code of Practice for Waahi Tapu Protection and Discovery

Appendix 4
Objective 4-1

Dealing with submission point 180/18 which was inadvertently left out of original report and providing consistency with RMA.

4.8   Objective 4-1 Environmental Management TAM S33

Table of Submitters, Submission Points and Recommendations

Submitter	Number	Point	Decision sought	Recommendation
NGATI KAHUNGUNU IWI INCORPORATED	**180**	**18**	**Amendment to "(b) Kaitiakitanga and the relationship of hapu and iwi with their ancestral taonga will be recognised [and provided for] through resource management processes."**	**Accept in part**

4.8.1 Submission summary

Ngati kahungunu would like the objective to be changed to 'recognise *and provide for'* kaitiakitanga and the relationship of hapu and iwi with ancestral taonga.

This request raises an interesting problem in regards to consistentcy with the sections of the RMA that the matters raised in this objective come from.

Section 6 of the RMA states that we must *recognise and provide for* the relationship of maori with their ancestral taonga, lands and waters. Mauri is commonly recognised as forming part of this relationship.

Section 7 of the RMA states that we must *have particular regard to* kaitiakitanga.

Therefore Objective 4-1 currently has a mix of concepts and decisional verbs from both section 6 and 7 and does not apply them in the same way that the RMA does. This may be confusing for decision makers when also fulfilling their duties under section 6 and 7 and using the POP.

To ensure consistency with the RMA, and to grant some relief to the submission of Ngati Kahungunu, I recommend the Objective is rewritten using the appropriate terminology.

Recommendation TAM S33

(a) Accept in part the submission seeking to recognise and provide for the relationship of maori with their taonga.

(b) Make a consequential change to the objective to ensure it is consistent with sections 6 and 7 of the RMA.

Recommended changes to provisions

Amend Objective 4-1 to read (words to add are shown in <u>underline</u>, words to delete are shown in ~~strike through~~):

Objective 4-1: Environmental management

(a) The mauri of natural and physical resources <u>and the relationship of hapū and iwi with their ancestral taonga </u>will be <u>recognised and provided for</u> ~~protected~~ in order to provide for the social, economic and cultural wellbeing of hapū and iwi.

(b) <u>Resource management process will have particular regard to</u> kaitiakitanga. ~~and the relationship of hapu and iwi with their ancestral taonga will be recognised through resource management processes.~~

And add an appropriate te reo maori translation when final changes have been made.

Appendix 5
Correct Maori term for Lake Horowhenua

The "correct" te reo name for Lake Horowhenua might well depend on from what perspective one is approaching the question.

"**Punahau**" is a "traditional" alternative mentioned on the Muaūpoko Tribal Authority website (www.muaupoko.iwi.nz) and Wikipedia

"**Waipunahau**" is the "traditional" alternative used in "*Te Ara: The Encyclopedia of New Zealand*" and "*Horowhenua County and its People: A Centennial History*" (Dreaver, 1984) [Quote: "…Muaupoko whose home was from Lake Horowhenua (or "Waipunahau", as they called it."]

"**Te Moana o Punahau**" is quoted in "*Levin the making of a town*" (Dreaver, 2006) [Quote: "…Lake Horowhenua (or Te Moana o Punahau, as it was then called.")]

"**Lake Horowhenua**" used without "traditional" alternative in a Waitangi Tribunal claim document on the Muaūpoko Tribal Authority website and Waitangi Tribunal "research" documents ("*Wellington District: Port Nicholson, Hutt Valley, Porirua, Rangitikei and Manawatu*" Rangahaua Whanui Series, Dr Robyn Anderson and Keith Pickens, August 1996; "*Inland Waterways: Lakes" Rangahaua Whanui Series*", Ben White, March 1998.]

"**Lake Horowhenua**" is also the title given the lake in the Reserves and other Land Disposal Act 1956.

Discussion by Horizon's staff with some members of the Horowhenua Lake Trustees in the early 2000's around giving Lake Horowhenua a more 'traditional title' gave the impression that Lake Horowhenua was preferred because an alternative was not agreed by Muaūpoko at that time.

It is likely that the POP tried to be sensitive to Muaūpoko by referring to a "traditional" name for the lake. In reality, given the uncertainty about what is the "correct" alternative it is probably best to use Lake Horowhenua as our reference and delete any alternative references because they are likely to have both their supporter and detractors.

Appendix 6
Comparison of Memorandum of Partnership with Joint Management Agreements

Memoranda of Partnership (MOP) and Joint Management Agreements (JMA) (Also known as Joint Iwi Management Plans) are both referenced in the Proposed One Plan. The following table outlines where in the POP each of the documents are referenced:

Document type	Reference in the Proposed One Plan
Memoranda of Partnerships	• Chapter 4, Policy 4-1(a) • Chapter 4, Method of implementation: memoranda of Partnerships • Chapter 4, 4.6 – Anticipated Environmental Results • Chapter 4, section 4.7 – Explanations and principle reasons
Joint Management Agreements	• Chapter 4, Policy 4-1(e) • Chapter 4, Method of implementation: Joint Management Agreements • Chapter 4, section 4.7 – Explanations and principle reasons

Key differences between Memoranda of Partnership (MOP) and Joint Management Agreements

Document type	Definition	Key similarities and differences
Memoranda of Partnerships	MOU is not defined by the Resource Management Act 1991 (RMA) nor by the POP. However other documents have sought to define MOU. The following is an example: MOU…"have no particular legal status, but do indicate the intent of councils and iwi to work together and to exchange information about applications for resource consents at an early stage. That means that issues will be highlighted at an early stage and the potential for misunderstandings reduced" [1]	• Both documents outline an agreement between a local authority and iwi authority or group who represents hapu • JMA have legal standing whereas MOU do not • JMA are written up under the RMA, MOU are not • JMA convey joint management of a

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[1] From "Maori Values and Tikanga Consultation under RMA 1991 and the Local Government Bill – Possible Ways Forward" a conference address for Inaugural Maori Legal Forum Conference (9-10 October 2002) presented by Robert Joseph (Te Matahauariki Institute, School of Law, University of Waikato)

| Joint Management Agreements | Joint Management Agreement is defined in section two of the RMA as:

"Joint management agreement" means an agreement that –
(a) is made by a local authority with one or more –
(i) public authorities, as defined in paragraph (b) of the definition of
public authority:
(ii) iwi authorities or groups that represent hapu; and
(b) provides for the parties to the joint management agreement jointly to perform or exercise any of the local authority's functions, powers, or duties under this Act relating to a natural or physical resource; and
(c) specifies the functions, powers, or duties; and
(d) specifies the natural or physical resource; and
(e) specifies whether the natural or physical resource is in the whole of the region or district or part of the region or district; and
(f) may require the parties to the joint management agreement to perform or exercise a specified function, power, or duty together; and
(g) if paragraph (f) applies, specifies how the parties to the joint management agreement are to make decisions; and
(h) may specify any other terms or conditions relevant to the performance or exercise of the functions, powers, or duties, including but not limited to terms or conditions for liability and funding

JMA are further referenced in the RMA in relation to sections 36(B), (C), (D), (E) which outline the joint performance of any of the local authority's functions, powers, or duties under this Act relating to a natural or physical resource. | resource to an iwi authority or group who represents hapu whereas a MOU outlines an agreement of how the two parties can better work together. MOU do not transfer powers to iwi authority or group who represents hapu. |

Memoranda of Partnership (MOP) and Joint Management Agreements (JMA) in the Horizons region.

At present there is one MOP within the Horizons region between Horizons Regional Council and local iwi. This MOP is between Horizons Regional Council and Tanenuiarangi Manawatu Incorporated and Te Mauri O Rangitaane O Manawatu who represent Rangitaane O Manawatu, the mana whenua.

Signed on the 14th of November 2007 this MOP objectives and approaches to ensure a better working relationship between the two parties.

To date there are no JMA within the Horizons region between Horizons Regional Council and local iwi.

Appendix 7
Iwi Management Plans taken into account in preparing the POP

In this region Horizons Regional Council are aware of two active iwi management plans
- Ngati Rangi Waterways document (2002)
- Ngati Tuwharetoa Environmental Iwi Management Plan (2003)

Ngati Rangi Waterways document (2002)

As the title of the iwi management plan suggest this plan is focused on the management of waterways and the environmental outcomes that Ngati Rangi seeks.

The following is an outline of how the Ngati Rangi Waterways document links to the Proposed One Plan.

Ngati Rangi Waterways document (2002)	Proposed One Plan
Sections 1- 6– Overview, Background and purpose of the document. These sections set out the background to the document – why Maori see water as important, the importance of water within Ngati Rangi's area and the recognition of Maori within the RMA.	Chapter 4 of the Proposed One plan recognises the importance of water bodies to Maori.
Section 7 – Cultural integrity This section discusses the mean of the 'mouri' of a waterway, what waterways mean to Ngati Rangi and ways in which council can support Ngati Rangi.	Chapter 4 of the Proposed One plan recognises the importance of water bodies to Maori. Chapter 4 also outlines methods and ways in which it can support Iwi wanting to participate in Resource Management including Regional Iwi Environmental projects and Memoranda of Partnership.
Section 8 – Integrated management – This section discusses the various roles and powers organisations in New Zealand have when it comes to resource management.	Chapter 2 of the Proposed One Plan discusses the various organisations that Horizons Regional Council works with and the roles of Regional Councils compared to Territorial Authorities.
Section 9 – Treaty of Waitangi fisheries settlement act 1992. This section discusses the importance of integrated management and taking a holistic approach to resource management.	The Proposed One Plan looks to take a holistic approach to resource management by recognising that different facets of the environment (air, water, coast, land) are integrated.
Section 10 – Integration of regional and local objectives. Ngati Rangi outline that sometimes regional policy can be to general for local authorities.	It also looks to ensure that objectives and policies are specific and focused.
Section 11 – In stream water flows	Water quantity is recognised in several parts of the plan • Chapter 4 – Te Ao Maori • Chapter 6 – Water • Chapter 15 – Takes, uses and diversions of water and bores • Schedule B – Surface water quantity
Section 12 – Water quality	Water quantity is recognised in several parts of the plan

	• Chapter 4 – Te Ao Maori • Chapter 6 – Water • Chapter 13 – Discharges to land and water • Schedule D – surface water management zones and standards
Section 13 – Cumulative effects	Both Chapters 6 and 13 discusses cumulative impacts that activities can have in waterways. For example section 6.1.5 discusses the negative cumulative impacts dams can have in waterways. Policy 13-4 discusses monitoring for cumulative effects in waterways.
Section 14 – Freshwater fisheries habitats	Linked to both water quality and quantity this issue is recognised in • Chapter 4 – Te Ao Maori • Chapter 6 – Water • Chapter 13 – Discharges to land and water • Chapter 15 – Takes, uses and diversions of water and bores • Schedule B – Surface water quantity • Schedule D – surface water management zones and standards
Section 15 – Participation in freshwater management	Chapter 4 encourages iwi participation in freshwater management including methods for Regional Iwi Environmental projects, Joint Management Agreements and Memoranda of Partnership
Section 16 – Claims settlement	
Section 17 – Participation in freshwater management (An introduction to the following four chapters)	Table 4.1 in section 4 (page 4-10) recognizes that waterways can be of significance to Maori for cultural and spiritual reasons. The table outlines that chapters 4, 6 and 13 recognise and address this issue
Section 18 – Priority – Wahi Tapu – this section sets out how Ngati Rangi will manage waterways of particular spiritual significance including water burial sites, hot springs etc	
Section 19 – Priority – Mouri – this section sets out objectives and strategies for restoring, protecting and maintaining the Mouri of freshwater resources. This broadly includes water quality and water quantity.	Table 4.1 in section 4 (page 4-10) recognizes that waterways are an essential element and need to be protected and maintained. The table outlines that chapters 4, 6 and 13 recognise and address this issue.
Section 20 – Priority – Mahinga Kai - this section sets out objectives and strategies for restoring and enhancing the Mahinga Kai of waterways including lakes, wetland, rivers and streams.	Table 4.1 in section 4 (page 4-10) recognises that clean water is linked to food gathering. The table outlines that chapter 6 recognises and addresses this issue.
Section 21 – Priority – Kaitiakitanga – This section outlines the desire for more iwi involvement in resource management, especially freshwater management.	Iwi involvement in resource management is well reflected in chapter 4 of the POP. Key sections are 4.1.2 (Hapu and iwi involvement in Resource Management) Objective 4-1 and Policy 4-1.
Section 22 – Performance Monitoring – This section gives an overview of section 23 which explains the environmental outcomes	The goals in the Ngati Rangi document are set out in a similar fashion to the 'anticipated environmental results' (AER). To view the AER for water quality and water quantity see section 6.6 (page 6-25)
Section 23 – Goals. This section of the plan sets out indicators and outcomes for issues addressed including water quality, water quantity.	For an outline of the Proposed One Plan monitoring see section 2.2 (page 2-2)
Section 24 – Geographical location of Ngati Rangi Waterways	Although not contained within the Proposed One Plan – the Regional Council does have a database available with

	contact details and geographical location of iwi throughout the region.
Appendix 1 – Consultation with Ngati Rangi	
Appendix 2 – Glossary	Glossary of Maori terms in the Proposed One Plan (page 4-21)

Ngati Tuwharetoa Environmental Iwi Management Plan (2003)

Ngati Tuwharetoa Environmental Iwi Management Plan is focused on the management of the environment and the environmental outcomes that Ngati Tuwharetoa seeks.

The following is an outline of how the Ngati Tuwharetoa Environmental Iwi Management Plan links to the Proposed One Plan.

Ngati Tuwharetoa Environmental Iwi Management Plan (2002)	Proposed One Plan
Introduction – Provides an overview of the plan including the importance of natural resources to iwi.	Chapter 4 of the Proposed One Plan provides an overview of the importance of natural resources to iwi.
Kaitiakitanga – this chapter discusses active participation in the management of resources Partnerships (Te Tiriti o Waitangi, Principles of the Treaty of Waitangi)	The Proposed One Plan encourages participation by maori and iwi in resource management through: • Memorandum of partnerships (see chapter 4) • Joint management agreements (see chapter 4) • Objectives and policies – see Objective 4-1 and Policy 4-1
Nga Tonga Water	The importance of water and iwi participation in its management is recognised in • Chapter 4 – Te Ao Maori • Chapter 6 – Water • Chapter 13 – Discharges to land and water • Chapter 15 – Takes, uses and diversions of water and bores • Schedule B – Surface water quantity • Schedule D – surface water management zones and standards
Land	The importance of Land and iwi participation in its management is recognised in • Chapter 4 – Te Ao Maori • Chapter 5 - Land • Chapter 12 – land use activities and land based biodiversity • Chapter 13 – Discharges to land and water
Sacred Places	The importance of sacred places and the need to minimised the risk posed by subdivision, use and development is recognised in Chapter 4 – Te Ao Maori – specifically Policy 4-2
Fisheries	Linked to both water quality and quantity this issue is recognised in • Chapter 4 – Te Ao Maori • Chapter 6 – Water • Chapter 13 – Discharges to land and water • Chapter 15 – Takes, uses and diversions of water and bores • Schedule B – Surface water quantity • Schedule D – surface water management zones and standards
Minerals	Mineral resources are not discussed in the Proposed One Plan as they are not something that Horizons are able to control However participation in resource management (something also discussed in this chapter) is discussed in the Proposed One Plan and encouraged in chapter 4 through: • Memorandum of partnerships (see chapter 4) • Joint management agreements (see chapter 4) • Objectives and policies – see Objective 4-1 and Policy 4-1

Geothermal	Geothermal resources are not discussed in the Proposed One Plan as they are not present in the Horizons region. However participation in resource management (something also discussed in this chapter) is discussed in the Proposed One Plan and encouraged in chapter 4 through: • Memorandum of partnerships (see chapter 4) • Joint management agreements (see chapter 4) • Objectives and policies – see Objective 4-1 and Policy 4-1
Airspace (including air quality)	Air quality is discussed in chapters • Chapter 8 – Air • Chapter 14 – discharges to air • Schedule G – Air Sheds
Flora and Fauna	The importance of Flora and Fauna and iwi participation in its management is recognised in • Chapter 4 – Te Ao Maori • Chapter 7 – Living heritage • Chapter 12 – land use activities and land based biodiversity • Schedule E – indigenous biological biodiversity
Legal Frameworks (Resource Management Act 1991, Submissions)	The Resource Management Act and legal framework is not discussed in the Proposed One Plan.
Appendices (Resource Management Act 1991, funding sources, catchment responsibilities)	

Appendix 8
Maori Heritage Council
Information from http://www.historic.org.nz/aboutus/maoriheritagecouncil.html

Maori Heritage Council - Microsoft Internet Explorer provided by Horizons Regional Council

File   Edit   View   Favorites   Tools   Help

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Historic Places Trust *Pouhere Taonga*

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How You Can Help
Job Vacancies
Historic Places Amendment Act
Post Election Briefing
Links to Other Sites

Maori Heritage Council

The Trust's Maori Heritage Council was established under the Historic Places Trust Act 1993. It comprises a minimum of three appointed or elected Maori members of the Board of Trustees, one other Board member, and four people appointed by the Minister of Culture and Heritage. The functions of the Council include:

- the protection and registration of wahi tapu and wahi tapu areas
- assisting the Trust to develop and reflect a bicultural view in the exercise of its powers and functions
- providing assistance to whanau, hapu and Iwi in the preservation and management of their heritage resources
- consideration of recommendations in relation to archaeological sites
- advocacy of the interests of the Trust and Council so far as they relate to Maori heritage at any public or Maori forum.

Current Members of the Maori Heritage Council:

- Tumu te Heuheu (Chair)
- Waaka Vercoe (Deputy Chair)
- Te Aue Davis
- Rima Edwards
- Merata Kawharu
- Gerard O'Regan
- Te Ahukaramu Charles Royal