

Engagement with Tangata Whenua on resource consent applications

1. References and Relevant Legislation

- Resource Management Act 1991 (RMA)
- Local Government Act 2002 (LGA)
- Hapu/ Iwi Management Plans
- Western Bay of Plenty District Council – Operative District Plan
- Statutory Acknowledgements
- Western Bay of Plenty District Council Tangata Whenua engagement guidelines and protocols.

2. Objectives

- To clarify the roles and responsibilities of Western Bay of Plenty District Council, Tangata Whenua and applicants.
- Tangata Whenua are meaningfully and consistently engaged in relation to resource consent applications.
- To ensure that any legislative requirements to consult Tangata Whenua in relation to resource consents are met.
- To ensure cultural values are taken into account in the setting of consent conditions.
- To contribute to the ongoing development of Council and iwi/ hapu relationships.

3. Background

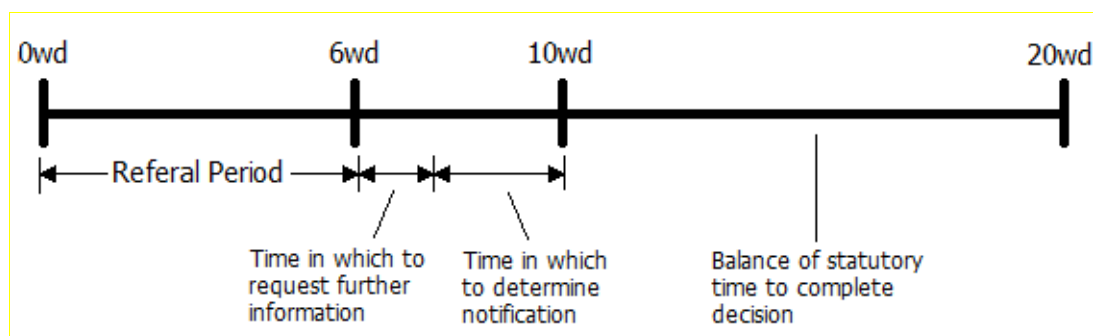
Resource Management Act 1991

The RMA expressly provides that a local authority has no duty, but discretion, whether to consult about resource consent applications and notices of requirement. As a consent authority, the 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.

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Legislative Time Frames



The above diagram represents the timeframe constraints on Council staff in determining a non-notified resource consent application under the Resource Management Act 1991.

An important step for Council staff is the notification determination at the 10 working day milestone. It is important that staff have all the information necessary to make this determination, including the response from the Tangata Whenua who has been engaged.

To that end, it is necessary to seek a quick response from them such that any request made to the applicant to discuss further or provide information, of which Council is permitted to only make one, is made as soon after the 6 working day timeframe. Should further discussion between the applicant and the Tangata Whenua be requested then this can occur and the application placed on-hold.

When any further information is received, the application process may continue and the notification determination made.

Local Government Act 2002

The Local Government Act 2002 (LGA), Parts 2 and 6, provides principles and requirements for inclusion of Maori participation in the local authority's decision making process.

Tangata Whenua engagement guidelines and protocol

Consents staff will use the guidelines and protocol to ensure effective engagement with Tangata Whenua.

Definitions

Please see the following documents for definitions of terms used in this policy:

- Western Bay of Plenty District Council Operative District Plan;
- Resource Management Act 1991; and

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- Western Bay of Plenty District Council Tangata Whenua engagement protocols

4. Policy Statements

Roles and Responsibilities

There are four main parties involved in the resource consent application process: Council, the applicant, Tangata Whenua and (if determined) potentially affected persons.

5. 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 applicant(s) 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 (consenting authority) Council will:

- Ensure that adequate consultation with Tangata Whenua has occurred where the application has potential adverse effects on their exercise of kaitiakitanga section (RMA Section 7a) 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.
- 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

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- Advise the applicant, submitters (if applicable) and Tangata Whenua of the outcome of, and reasons for, its decision; and
- Retain its independence in the resource consent decision process.

6. Council as an Applicant for Resource Consent

Where Council is the resource consent applicant making an application to the Western Bay of Plenty District Council, the decision-making role will be undertaken by an independent commissioner(s).

As the applicant to either Western Bay of Plenty District Council or to another local or regional authority, Council will consult with Tangata Whenua in accordance with this policy.

7. Applicant (other than Council)

The applicant in the resource consent process will be encouraged to undertake the following in accordance with 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 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';
- 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;

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- 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.

8. Tangata Whenua

In the resource consent process Tangata Whenua will be encouraged to participate in consultation as follows:

- provide appropriate information and responses to both the applicant and Council in a timely manner as prescribed in the written request;
- where the applicant chooses to undertake consultation, agree a reasonable timeframe for consultation to occur.
- 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 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;

9. When will Tangata Whenua be notified:

Non-notified applications, excluding permitted activities, will be sent out for comment triggered by the following:

- a) Sites including archaeological sites or areas of significance to Maori are confirmed in:
 - i. Heritage schedules in the District Plan within 150m of the proposed activity.
 - ii. The current New Zealand Archaeological Association (NZAA) inventory within 50m of 100m site or within 150m of the site identified by GPS location.
 - iii. Any iwi/hapu planning documents and/or statutory acknowledgements.

Explanation: For land use consent applications it refers to actual land use activities, including access. For subdivision consent applications refers to new lot boundaries, house site and access.

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- b) Activities which require more than one domestic septic tank within 100m of a water body (a water body shall be defined as a natural waterway and includes wetlands, rivers, lakes and coastal waters).
- c) Intensive land use activities that require a resource consent within 400m of a water body (e.g. quarries, landfills, waste-water treatment, large subdivisions).
- d) Activities within landscape features as identified in the Schedule of Identified Outstanding Landscape Features (Appendix 2) of the District Plan.
- e) Activities on sites adjoining Marae and Papakainga Housing.

10. How Tangata Whenua will be notified, respond and be advised of the outcome of resource consent applications:

- a) Council will email receipt of accepted consent application summaries to all relevant hapu/iwi as identified in the Tangata Whenua Contact Directory within 24 hours.
- b) Hapu/iwi will respond within 6 working days to Council indicating whether or not they wish to have further involvement in the resource consent.
- c) If hapu/iwi wish to have further involvement the resource consent application will be put on hold to allow for hapu/iwi to make recommendations, referenced to hapu/iwi management plans, where appropriate.
- d) Council will advise the relevant hapu/iwi of the decision on the resource consent application for those applications which have had input from hapu/iwi.
- e) Council will hold annual workshops between Council consents staff and iwi/hapu resource management units to share information, clarify processes and strengthen relationships.

11. Requirements for a cultural impact assessment (CIA)

A CIA is a report documenting Māori cultural values, interests and associations with an area or a resource, and the potential impacts of a proposed activity on these. CIAs are a tool to facilitate meaningful and effective participation of Māori and should be regarded as technical advice, much like any other technical report such as ecological or hydrological assessments.

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There is no statutory requirement for applicants or the council to prepare or commission a CIA. However, an assessment of impacts on cultural values and interests can assist both applicants and the council to meet statutory obligations in a number of ways, including:

- preparation of an Assessment of Environmental Effects (AEE) in accordance with s88(2)(b) and Schedule 4 of the Resource Management Act 1991 ('the RMA')
- requests for further information under s92 of the RMA in order to assess the application
- providing information to assist the council in determining notification status under ss95 to 95F of the RMA
- providing information to enable appropriate consideration of the relevant Part 2 matters when making a decision on an application for resource consent under s104 of the RMA
- consideration of appropriate conditions of resource consent under s108 of the RMA.

12. Associated Policies

- Koha Policy

13. Associated Procedures

- Tangata Whenua engagement guidelines and protocol.
- Tangata Whenua contact directory.

| Group | Lead role in development/review | Contact (3 rd Tier Manager) | Position title |
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Management Policy



Engagement with Tangata Whenua on resource consent applications

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| Supersedes | | | |
| Creation Date | | Resolution Reference | Link to minutes |
| Last Review Date | | Resolution Reference | |
| Review Cycle | Three yearly/legislative revisions, not later than | Date | |
| Authorised by | Management Team/Council | Date | |