

3. Marlborough's tangata whenua iwi

Introduction

Section 62(1)(b)(i) of the Resource Management Act 1991 (RMA) requires resource management issues of significance to iwi authorities in Marlborough to be identified and included in a regional policy statement. As part of the process of preparing the Marlborough Environment Plan (MEP), a series of hui were held with Marlborough's tangata whenua iwi¹ to determine the resource management issues of significance for them. Three distinct groups of issues were identified through process:

- spiritual and cultural issues of fundamental importance that relate to iwi connection to and use of natural and physical resources;
- relationship and process issues, including iwi involvement in decision making on resource consent applications and on developing policy to assist in Council's decision making; and
- issues of significance or concern for both iwi and the wider community, such as adequate waste management, transport issues and the protection of people and property from natural hazards, etc.

Marlborough's tangata whenua iwi recognise that all of these issues are interconnected. They believe that Marlborough's natural and physical resources need to be managed in an integrated and holistic way to achieve a sustainable future.

This chapter describes the first two issues and provides objectives and policies to address them. There is a high degree of agreement among Marlborough's tangata whenua iwi on these issues. However, it is important to note that in some cases, the issue identified may not be able to be resolved through the MEP.

To help clarify the nature of the issues and to provide context for their significance, this chapter initially provides information on the Treaty of Waitangi/Te Tiriti o Waitangi, including the settlement of claims before the Waitangi Tribunal; how environmental management systems of Marlborough's tangata whenua iwi have developed and been practised generations; the mauri of natural and physical resources; and the significance of values such as kaitiakitanga, taonga and tikanga.

Te Tiriti o Waitangi (the Treaty of Waitangi) in a Marlborough context

The Treaty of Waitangi/Te Tiriti of Waitangi is the basis for the rights and responsibilities of the Crown and Māori. The Treaty of Waitangi/Te Tiriti of Waitangi is recognised in resource management through Section 8 of the RMA, which states that in achieving the purpose of the RMA, the principles of Te Tiriti shall be taken into account.

It is the position of Marlborough's tangata whenua iwi that the Council is a partner to Te Tiriti. This position stems from the delegation of functions for managing natural and physical resources to local government through the RMA. It is the view of Marlborough's tangata whenua iwi that this

¹ As explained in Chapter 2 - Background, eight iwi have manawhenua in Marlborough: Ngāti Apa, Ngāti Kōata, Ngāti Kuia, Ngāti Rārua, Ngāti Toa, Ngāi Tahu, Rangitāne and Te Ātiawa. Information on an individual iwi history and the relationship of each iwi with the Marlborough environment can be found in iwi management plans and the relevant Deed of Settlement. Collectively, these eight iwi are referred to in the MEP as Marlborough's tangata whenua iwi.

delegation also confers Te Tiriti obligations. In contrast, the Council's position is that the Crown alone is a partner to the Treaty of Waitangi/Te Tiriti o Waitangi. However, the Council does acknowledge that it has obligations to Māori as a result of the provisions of the RMA, especially through Sections 6, 7 and 8. The Council and Marlborough's tangata whenua iwi have chosen to put this divergence of position to one side and focus on creating and maintaining an effective working relationship under the RMA.

Notwithstanding the above, the Council has a relationship with Marlborough's tangata whenua iwi. A consultative relationship between the Council and Marlborough's tangata whenua iwi is important in providing for the relationship of Marlborough's tangata whenua iwi with resources and in upholding the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.

In order to take into account the principles of Te Tiriti, those principles must first be understood. There are six principles that have emerged through the Courts and Waitangi Tribunal processes and these are:

- the obligation to act reasonably and in good faith;
- rangatiratanga;
- a duty to consult;
- active protection;
- partnership; and
- mutual benefit.

This list is not definitive, nor are the specific principles always directly applicable to the range of circumstances that might arise under the RMA. These principles are constantly evolving as Te Tiriti is applied to particular existing and new situations and the Council and tangata whenua need to continue to consult and negotiate with each other as to how the principles of Te Tiriti should apply to resource management in Marlborough.

The MEP has been prepared in the spirit of Te Tiriti and its principles.

Deeds of Settlement

Marlborough's tangata whenua iwi have all signed Deeds of Settlement with the Crown to address breaches of the Treaty of Waitangi/Te Tiriti o Waitangi. The historic claims of each of Marlborough's tangata whenua iwi have been settled as follows:

- Ngāi Tahu were settled in the 1990s, culminating in the *Ngāi Tahu Claims Settlement Act 1998*.
- The settlements for Ngāti Apa, Ngāti Kuia, and Rangitāne are set out in the *Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014*.
- The settlements for Ngāti Kōata, Ngāti Rārua, and Te Ātiawa o Te Waka-a-Māui are set out in the *Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014*.
- The settlement for Ngāti Toa is set out in the *Ngāti Toa Rangatira Claims Settlement Act 2014*.

In the Deeds of Settlement and associated legislation, the Crown acknowledges that it acted in repeated breach of the principles of Te Tiriti in its dealings with the respective iwi and it apologises for the hardship and suffering that this has caused. These documents also set out the means of redress for each iwi, including cultural redress. The Crown's acknowledgments and apologies are based on historical accounts as described in the applicable legislation/deed.

Included within each deed forming part of the Te Tau Ihu Claims Settlement Act is provision for the establishment of a River and Freshwater Advisory Committee. The Advisory Committee will provide a foundation for the participation of iwi with interests in Te Tau Ihu in the management of rivers and freshwater in Marlborough, Tasman and Nelson. The Advisory Committee is intended

to work in a collaborative manner with the common purpose of promoting the health and wellbeing of the rivers and freshwater within the jurisdiction of the relevant councils. In undertaking its work, the Advisory Committee will be respectful and operate in a manner that recognises that while some resource management issues will be of generic interest to all iwi with interests in Te Tau Ihu, other issues may be of interest primarily to particular iwi.

The Cook Strait Forum was created as part of the cultural redress for Ngāti Toa. The Forum, jointly chaired by Marlborough District Council and Wellington Regional Council, brings together local and central government, iwi and other entities with interests in Cook Strait to discuss issues of concern about Cook Strait coastal marine area and to share information.

As recorded in the relevant Deed and legislation, Ngāti Tama ki Te Tau Ihu have statutory acknowledgements within Marlborough. Prior to the Settlement, the Council understood that the role of Ngāti Tama ki Te Tau Ihu was fully within the Nelson/Tasman region. It is acknowledged that Ngāti Tama ki Te Tau Ihu is not referred to in Chapter 3 of the MEP as the iwi has not been part of the consultation process. However, it is recognised that Ngāti Tama ki Te Tau Ihu is one of the Te Tau Ihu iwi and therefore will be part of the Council - Te Tau Ihu iwi relationship in the future.

Understanding the iwi resource management framework

The Māori world view

The environmental management system of Marlborough's tangata whenua iwi has been developed over many centuries and has been exercised by numerous generations. It is still practiced today and is recognised in the Treaty of Waitangi/Te Tiriti o Waitangi. Of fundamental significance to this management philosophy is the Māori view of the natural world and its origins. The underlying principles arising from this view guide all interaction with the environment.

Iwi/hapū traditions discuss the origins of the universe as being with Io who dwelt in Te Korekore. Io created various realms, such as the numerous Pō, which lasted for eons. Ranginui (the sky father) and Papatūānuku (the earth mother) emerged from these realms and had some 70 children, all of whom were Atua (Departmental Gods). The children of Ranginui and Papatūānuku created various domains in Te Ao Mārama, the world between earth and sky. Within these domains everything in the natural world was created. Hence, the tangata whenua view of reality is that the world is constructed of interrelated and interconnected domains of Atua.

Iwi/hapū traditions concerning the creation of the universe recount the emergence of the physical reality (taha tinana), but also the creation of the intellectual plane (taha hinengaro), the family plane (taha whānau) and, most importantly, the spiritual realm (taha wairua), which is present in all things.

The children of Ranginui and Papatūānuku breathed life or mauri, which originated from Io, into their various domains. These children became the Atua of these domains and created the plants and animals within. They are the original kaitiaki or guardians of the domains. The authority of the Atua (mana Atua), which allows them to be kaitiaki, is handed down through whakapapa (genealogy). Mana is passed from Io to Ranginui and Papatūānuku, then to the Atua. All things in the universe are interconnected through whakapapa. Some of these Atua and their domains include:

- Papatūānuku (land)
- Ranginui (sky)
- Tāne Mahuta (forests)
- Tangaroa (sea)
- Rūaumoko (earthquakes)
- Tāwhirimātea (winds)

Marlborough's tangata whenua iwi do not see their existence as separate from Te Ao Tūroa (the natural world), but an integral part of it. Through whakapapa, all people and life forms descend from a common source. Whakapapa binds each iwi to the mountains, forests and waters and the life supported by them, and this is reflected in traditional attitudes towards the natural world and resource management. Whanaungatanga embraces whakapapa through the relationships between people and between people and the environment. The nature of these relationships determines peoples' rights and responsibilities in relation to the use and management of the resources of the natural world.

All natural and physical elements have the qualities of wairua (spiritual dimension) and mauri (life force) and have a genealogical relationship with each other. Mauri provides the common centre between the natural resources (taonga), the people or guardians who care for the taonga (the kaitiaki) and the management framework (tikanga) of how taonga are to be managed by the kaitiaki. It is through kawa (protocol) that the relationship between taonga, tikanga and kaitiakitanga is realised.

Environmental management concepts

Mauri

Mauri is the life force that comes from wairua - the spirit, or source of existence and all life. Mauri is the life force in the physical world. The overall purpose of resource management for Marlborough's tangata whenua iwi is the maintenance of the mauri of natural and physical resources and to enhance mauri where it has been degraded by the actions of humans.

As a life principle, mauri implies health and spirit. In the environment, mauri underlies all resources and the total ecosystem. In the community, mauri is of paramount importance to the wellbeing of the people. Mauri can be harmed by the actions of humans but is unaffected by natural processes, such as natural disasters.

The preservation of the mauri of natural resources is paramount to Marlborough's tangata whenua iwi to ensure that resources may be used sustainably by present and future generations. Traditionally, rules were established to govern the use of natural and physical resources and ensure that mauri was protected from human actions. These rules form part of kawa and tikanga (Māori protocol) and have been passed on through the generations. For example, a rāhui may be used to safeguard the mauri of a particular resource, by enforcing a temporary restriction on use of the resource to protect the overall health and availability of the resource for both present and future generations. The RMA seeks these same outcomes: to promote the sustainable management of natural and physical resources (Section 5(1)).

Marlborough's tangata whenua iwi use indicators within the environment to interpret the status of mauri. These include (but are not limited to) the presence of healthy kai and other indigenous flora and fauna, the presence of resources fit for cultural use and the aesthetic qualities of resources, such as the visibility of important landmarks. Other indicators can take many forms and are recalled in the kōrero pūrākau (stories) of whānau and hapū.

Tikanga

Cultural practices, or tikanga, were developed to maintain the mauri of the domains of Atua. They are based on the general understanding that people belong to the land and, as kaitiaki of that land, have a responsibility to care for it. Tikanga incorporates concepts such as tapu (sacredness) and rāhui (temporary restriction). These are forms of social control, which manage the interrelationship of people and the environment.

Tikanga were developed to specifically recognise the four planes of reality:

- te taha tinana (the physical plane);
- te taha hinengaro (the intellectual plane);
- te taha wairua (the spiritual plane); and

- te taha whānau (the family plane).

Tikanga seek to unify these four planes in a holistic way. Observing tikanga is part of the ethic and exercise of kaitiakitanga.

Kaitiakitanga

All persons exercising powers and functions under the RMA in relation to managing the use, development and protection of natural and physical resources, shall have particular regard to kaitiakitanga (Section 7). The definition of kaitiakitanga given in the RMA is only a starting point for Marlborough's tangata whenua iwi, as kaitiakitanga is a much wider cultural concept than pure guardianship.

Marlborough's tangata whenua iwi have their own traditional means of managing and maintaining resources and the environment. Kaitiakitanga is the expression of Māori authority, mana, ethics and guardianship. Kaitiakitanga includes the right to access resources but also includes the responsibility to ensure that the resource is available and in a fit state to be passed onto future generations. This system of rights and responsibilities is inherited from previous generations and has evolved over time. Kaitiakitanga is fundamental to the relationship of tangata whenua and the environment. The resources in any given area are representative of the people who reside there and are a statement of identity. Traditionally, the abundance or lack of resources directly determines the welfare of every tribal group and so affects their mana.

A kaitiaki is usually a person with traditional knowledge handed down from generation to generation for the purpose of sustaining the mauri in relation to resources within their rohe. Kaitiaki are empowered with the responsibility of ensuring that the spiritual and cultural aspects of natural and physical resources are maintained for future generations. Contemporary roles and responsibilities of kaitiaki are wide and varied. Today, kaitiaki are often involved in advocating for and promoting the protection of cultural values in resource management processes.

Kaitiakitanga may be practiced through, but not limited to:

- the maintenance of wāhi tapu, wāhi tipuna and other sites of importance;
- the management of fishing grounds (mahinga maataitai);
- observing the maramataka (lunar calendar);
- observing the tikanga of sowing and harvest;
- designing settlements in keeping with the environment; and
- securing resources for present and future uses.

Kaitiakitanga is linked inextricably to tino rangatiratanga, as it may only be practiced by those iwi, hapū or whānau who possess tino rangatiratanga (customary authority) in their tribal area.

Occasionally individuals, whanau or hapu are charged with the tasks of kaitiakitanga. Kaitiaki often receive their mana or authority with respect to a particular locality, place or resource because they possess an intricate knowledge of the local environment. For example, a family or individual might be the kaitiaki for a pā or local fishing ground.

Taonga

The term taonga is used in Section 6(e) of the RMA and Article 2 of the Te Tiriti o Waitangi. Taonga identifies things of value to tangata whenua and also symbolises a Māori approach to environmental management. Taonga can refer to anything that contributes to the maintenance of a tribe's intellectual, physical, family and spiritual wellbeing. Although some taonga, such as land and water in any form (including rivers, lakes, groundwater, pools, waterfalls and springs), relate directly to domains, other taonga are of a different nature. They include sites and resources such as wāhi tapu, tauranga waka and mahinga maataitai, other sites for gathering food and other cultural resources, hills, mountains and caves.

Taonga can refer to the intangible as well as the tangible. Other practices and beliefs that give expression to the tino rangatiratanga and mana whenua of the iwi are also regarded as taonga. The taonga of each iwi are extensive and diverse and are important parts of the cultural and tribal identity of iwi. Information about the taonga of Marlborough's tangata whenua iwi can be found in their respective Deeds of Settlement and iwi management plans and through direct engagement with iwi.

Ngā Wai (waters)

"We are water and water is us." Water is an essential element of life; it has the power to revive, cleanse, heal and neutralise. Consequently, it is a very significant taonga to Māori and plays a central role in both the spiritual and secular worlds. Water represents the life blood of Papatūānuku, the tears of Rangi, and is the domain of Tangaroa. The condition of water is a reflection of the state of the land and this in turn is a reflection of the health of the tangata whenua.

Ki uta ki tai (from the mountains to the sea) describes the approach of Marlborough's tangata whenua iwi to natural resource management. This principle enables a holistic approach to resource management and recognises the relationships and connections between land uses, water quality and quantity, biodiversity and the sea.

Water has been and remains an integral political, economic and spiritual resource for Marlborough's tangata whenua iwi; water provides the connection between the past, the present and the future. For these iwi, there are seven central categories of water: waioara, waitapu, waitaonga, waitai, waimāori, waikino and waimate.

Waioara Purest form of water, not compromised either spiritually or physically.

Waitapu Water that is tapu due to its relationship to other waters, places or objects.

Waitaonga Water that has taonga status because of the particular uses the waterway supports.

Waitai Tidal waters; distinguishes seawater from freshwater.

Waimāori Water that has flowed over Papatūānuku; it is profane and suitable for most uses.

Waikino Water whose mauri has been compromised and can cause harm.

Waimate The water is contaminated or polluted; its mauri has been exhausted.

Ngā Awa (rivers)

Awa have a mauri, mana and tapu of their own. They are entities, like maunga, with which iwi groups identify. Tangata whenua often refer to the river as a taonga and in doing so describe their relationship to the entire river system, not to any one part. The river mouth is particularly important during native fish spawning times. Rivers carry the life blood of the land; the wellbeing of a river is reflected in the wellbeing of the local people.

Te Moana (sea)

The domain of Tangaroa has great spiritual significance as well as practical value. The sea is a food basket for the iwi. As such, practices and elements that defile the mauri and mana of the coastal environment are seen as abhorrent. The discharge of contaminants, such as human sewage, into the sea is an obvious example. Te moana includes the shoreline, foreshore, estuaries and river mouths and all the species that live within these environments. River mouths and estuaries are particularly significant as these dynamic environments support important ecological processes and act as a cultural indicator of environmental health.

Ngā Maunga (mountains)

Maunga are a source of the mana of an iwi/hapū and enhance that mana. The relationship of an iwi with its maunga can be affirmed and strengthened in a number of ways. Often a maunga is named directly after a tribal tipuna (ancestor), establishing a clear whakapapa line or commemorating a significant event. Other maunga are named to describe the natural environment or processes within it. Often such maunga are classified as tapu to an iwi or hapū.

Ngā Whenua (lands)

The land and environment in which people live forms the foundation of their view of the world, the centre of their universe and the basis of their identity. Bonding to the land is a means of cultural identity and social solidarity. The survival and strength of iwi is dependent on the land and wā kāinga (home base) where people live and carry out practices of an extended family.

The relationship is not about the ownership of land as a personal asset or commodity to dispose of as owners see fit; rather, it is about an inheritance handed down the whakapapa line from generation to generation. Thus land is considered ever-lasting, to be passed on accordingly to continue to affirm the total identity and existence of iwi, hence the term "tangata whenua," which literally means "people of the land."

Te Hau (air)

Air is a taonga, valued for its life supporting capacity for all things. The health and vitality of human life is dependent upon the air we breathe. This is captured within the term 'te hau kāinga' (home), which represents the entire physical, cultural, social and spiritual wellness that one's home provides. It is this "air of home" that feeds and strengthens one's whakapapa links, cultural practices and iwi identity.

Hau is also an intrinsically individual quality. For instance, in partaking of the hongī, the sharing of breath represents the encompassing merging of one person's wellness with another, in order to symbolize the joint strength this action represents.

Traditional foods

Mahinga kai is the customary gathering of food and natural materials, the places where those resources are gathered and the methods by which the resources are gathered. Mahinga kai was and remains central to the way of life to Marlborough's tangata whenua iwi. All fauna and flora are the offspring of various deities; for example, all sea life are of Tangaroa, while forests and animals are of Tāne Mahuta. They therefore have mana atua (divine origins) and are considered tapu.

Food also has a strong social and cultural meaning. Manaaki tangata is the custom of being aware of and caring for the needs of your guests. Food is a fundamental way of expressing this ethos. In turn, the mana of the tangata whenua is both upheld and enhanced. The loss of the ability of tangata whenua to provide for guests in this way can also be seen as a loss of mana.

Kaimoana is food provided by the sea, including shellfish, fish and crayfish. Apart from being a major source of mana, the state of kaimoana is a reflection of an iwi, hapū or whānau duty of kaitiakitanga. Where they are no longer able to protect these resources, iwi may suffer a loss of mana in being unable to fulfill their role as kaitiaki.

Wāhi tapu and wāhi taonga

Wāhi tapu, which is specifically referred to in the RMA, covers a broad range of places. It is a status that recognises the tapu of the area. The area may be associated with creation stories of tangata whenua, a particular event (such as a battle or ceremony); it may be where the whenua (placenta) was returned to the earth or where whānau are buried (urupā); it may be a landing site for waka (tauranga waka); or it may be the location of a certain type of valued resource. Wāhi tapu are sites of great importance and/or sacredness to Marlborough's tangata whenua iwi and are to be respected. The locations of some wāhi tapu are purposely not made public in order to preserve their sacredness.

Some cultural resources are regarded as wāhi taonga. These comprise a broad category of resources used in cultural practices and activities of tangata whenua. Such resources include flora and fauna for rongoā (medicine), prized flora and fauna for weaving (e.g. pīngao, kiekie, pigeon feathers) and wood for carving purposes (e.g. tōtara).

Cultural beliefs and practices

Cultural beliefs and practices are of significance to Marlborough's tangata whenua iwi because of their relationship to tribal identity, tribal life and tribal development. They comprise the essential elements that denote mana and mātauranga (knowledge), the customary right of decision making relating to tribal rohe (boundaries). Tūrangawaewae (ancestral homes, including pā and marae), papakāinga (whānau/communal housing settlements), whare rūnanga and mahinga maataitai are some of these essential elements. The essential working elements of tribal culture give rise to and reaffirm the relationship of tangata whenua with the land. The guaranteed availability of resources has implications that extend beyond the use of a material for any one cultural activity to preserving tikanga (customary practices) associated with their use.

Marae

As an institution, a marae is a vital part of Māori culture. The land and buildings carry the historical prowess of the iwi, with the wharenuī (meeting house) often built to symbolise an eponymous ancestor. The stories of the iwi/hapū are entwined within the wharenuī as knowledge for present generations and as lessons for the future.

While the marae has many roles, fundamentally it is a place where tangata whenua gather to kōrero and discuss topics with whānau or manuhiri (visitors). It is a place where difficult issues can be presented and discussed safely and where the mana of the speaker and those spoken to is kept intact. It provides the most appropriate context for discussing cultural values.

Marae provide aspects of both richness and responsibility for iwi. The intergenerational transfer of knowledge, skill and tikanga observance, along with the provision of hospitality, are requirements that iwi increasingly strive to uphold. Marae buildings and grounds are wāhi tapu and have mana that must be respected by everybody who enters the marae grounds.

Issues of significance to Marlborough's tangata whenua iwi

As set out in the Introduction, a regional policy statement must identify resource management issues of significance to iwi authorities in Marlborough (Section 62(1)(b)(i) of the RMA). Issues 3A to 3F are the spiritual and cultural matters of fundamental importance to Marlborough's tangata whenua iwi concerning their connection to and use of natural and physical resources. Issues 3G to 3J are relationship and process issues, which include iwi involvement in decision making processes, consultation and cross boundary matters. The third set of issues relating to specific resources, are integrated throughout the MEP.

SPIRITUAL AND CULTURAL ISSUES

Issue 3A – The principles of the Treaty of Waitangi/Te Tiriti o Waitangi are not taken into account.

In exercising its functions and powers under the RMA, the Council is required to take into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi. A number Te Tiriti principles have been defined to date through the Courts and these establish guidelines to govern the relationship between Marlborough's tangata whenua iwi and the Council.

Marlborough's tangata whenua iwi are concerned that past decision making processes under the RMA have not necessarily taken into account the principles of Te Tiriti. For this reason, the iwi seek to establish an effective relationship with the Council in resource management processes. This issue is reflected in a number of the other issues included in this chapter.

Issue 3B – Regard is not given to kaitiakitanga and the ability of Marlborough's tangata whenua iwi to exercise kaitiakitanga is not enabled.

Marlborough's tangata whenua iwi have developed an environmental ethic and management system for the sustainable management of natural resources, which is embodied in kaitiakitanga. As explained earlier, the responsibility of kaitiaki is twofold: first, the ultimate aim is to protect mauri; secondly, there is a duty to pass the environment to future generations in the same or better condition than the current state. While the RMA requires the Council to have particular regard to kaitiakitanga in Section 7(a), Marlborough's tangata whenua iwi consider that they are not always practically able to exercise kaitiakitanga.

There are a number of reasons for this, including those described in the issues that follow. For example, Issue 3D identifies that because of the holistic approach of iwi to the environment, they are very aware of the impact of resource use on the mauri of resources. In wanting to protect the mauri of resources, Marlborough's tangata whenua iwi believe that kaitiakitanga practices need to be recognised and implemented. In terms of Issue 3E, an inability to access and use cultural resources in traditional ways may see the mana of an iwi being impaired as they cannot fulfil their roles and responsibilities as kaitiaki.

Of considerable significance for Marlborough's tangata whenua iwi is a lack of iwi involvement and consideration of iwi values in resource management decision making processes. This is described further in Issue 3G, but essentially iwi consider that a practical expression of kaitiakitanga can only be achieved through greater involvement by iwi in decision making.

Collectively, the issues that follow identify matters that impact on the ability of Marlborough's tangata whenua iwi to exercise kaitiakitanga.

Issue 3C – The threats to the cultural heritage of Marlborough's tangata whenua iwi.

The Marlborough landscape and coastline is rich in iwi heritage. This history has a present day reality, reflected in the many sites and features of particular significance to iwi (either individually or collectively). These are primarily sites connected to iwi histories, traditions and tikanga. Examples include mahinga mātaītai (places for gathering seafood), wāhi tapu (ancestral sites), landscape features that define iwi boundaries, arawhito (significant trails), access points to rivers, wetlands and the coast, places of iwi occupation such as pā and marae, urupā (burial sites) and battle grounds. Some of the sites are wāhi tapu, or sacred sites, as a result of past events or activities. Individual sites may collectively contribute to culturally significant landscapes. These sites, features and landscapes are collectively part of the cultural heritage of each of Marlborough's tangata whenua iwi.

This cultural heritage forms a particularly significant and unique part of Marlborough's wider heritage and is significant to all of the community, due to the link that it provides between past, present and future generations. Some of these sites and features, such as the Wairau Bar, Tuamarino (site of the Wairau Incident), Mussel Point and Horahora Kākahu Island are of national significance.

Marlborough's tangata whenua iwi believe their ability to access areas of cultural heritage (whether areas of Māori owned land, mahinga mātaītai or other important sites or features) has been significantly compromised in some areas of the Marlborough Sounds by uses such as jetties, reclamations, moorings, boatsheds, etc. Being able to access the features, sites or landscapes that contribute to the cultural heritage of each of Marlborough's tangata whenua iwi is fundamental to their identity.

The destruction and degradation of cultural heritage sites, features and landscapes of significance to Marlborough's tangata whenua iwi has occurred in the past as a result of the use and development of Marlborough's natural and physical resources, especially land resources. The

development of land for residential, commercial, industrial and rural purposes has occurred on or near significant sites or features, resulting in their disturbance, damage and, in the worst cases, complete destruction. This has usually occurred as a result of ignorance of the significance of the site to iwi. However, in some cases artefacts from sites have been deliberately sought after and removed.

Māori place names are also part of Marlborough's cultural heritage. They provide an important link to the significance of traditional sites, historical events and spiritual associations. Many traditional place names have been lost and those that remain are under threat.

Given the sustained economic development of Marlborough, it is likely that there will be an ongoing threat to remaining sites and features of significance to Marlborough's tangata whenua iwi. Marlborough's tangata whenua iwi cannot tolerate any further loss of their cultural heritage and protection of significant sites, features and place names is critical.

Issue 3D – The impact of resource use on the mauri of natural resources.

Mauri is the life force that exists in all things in the natural world, comprising both physical and spiritual qualities. If the environment is to flourish, the mauri within all natural things must be protected and sustained.

Freshwater bodies and coastal waters are particularly significant to Marlborough's tangata whenua iwi. This is because water is a "life force," both spiritually, in terms of the connection to Atua, and physically in Marlborough's dry climate. Wetlands, streams and rivers can therefore be likened to the "arteries" of the environment and the health of these water bodies is reflected in the wellbeing of the people. Wetlands are particularly important to tangata whenua for their biodiversity. In addition, Marlborough's tangata whenua iwi lament the cumulative loss of wetlands in Marlborough as a source of traditional food (such as, but not limited to, tuna) and believe that those wetlands that remain are so significant that they should be given absolute protection. To ensure the mauri of streams and rivers is maintained, Marlborough's tangata whenua iwi want to ensure that there are constant supplies of good quality water flowing into them. It is particularly important that rivers are managed to ensure there are enough floods and flows to maintain the opening of river mouths, especially at native fish spawning times. There is therefore an ongoing concern about the volume of water abstracted from surface water bodies, the diversion of these water bodies, the loss of vegetated riparian margins and any discharge of contaminants into fresh or coastal waters. Discharges of human sewage and stock effluent into water are a serious affront to the mauri of the water and Marlborough's tangata whenua iwi are unable to use water that is contaminated in this way.

Water bodies are not the only component of the environment over which Marlborough's tangata whenua iwi have concern about mauri. Indigenous biodiversity on land is also part of the cultural landscape in Marlborough, even if the landscape has been much reduced as a result of forest clearance and the draining of wetlands. The traditional knowledge of tangata whenua in relation to biodiversity needs to be recognised. The loss of any further indigenous vegetation is a significant concern to Marlborough's tangata whenua iwi, both in terms of the loss of the plants (some of which are taonga) and the habitat they provide to other indigenous flora and fauna.

Reflecting their holistic approach to the environment, Marlborough's tangata whenua iwi are also very conscious of the effect that land use activities have on other natural resources, particularly the run-off of contaminants into water and the potential for reduced water quality.

Collectively, these losses of habitat and species as well as general degradation in resource quality has a cumulative effect on the mauri of natural resources. Marlborough's tangata whenua iwi believe that protecting the mauri of natural resources should be the overarching goal for all resource management planning and practices in Marlborough. To this end, there is a strong desire for Māori environmental practices, such as kaitiakitanga, to be recognised and implemented. In particular, Marlborough's tangata whenua iwi would like cultural indicators,

based upon human sensory perceptions and spiritual association, to be used alongside existing environmental indicators in state of the environment monitoring.

Issue 3E – Difficulties in accessing and using cultural resources in traditional ways.

Marlborough's tangata whenua iwi traditionally relied upon the flora and fauna of Marlborough for their survival. The sea, coastal waters of the Marlborough Sounds, foreshore, rivers and river mouths, bush and wetlands all provided abundant sources of food and were valuable mahinga kai. Foods of traditional cultural importance to Marlborough's tangata whenua iwi include but are not limited to tītī (muttonbirds), tuna (eel), Īnanga, watercress, pūhā, kōura (freshwater crayfish) and shellfish.

Natural resources are not only used for food, but have traditionally been used in cultural practices and activities such as medicine, weaving, carving and other arts. Some plants are particularly significant in this regard, including flax and pīngao for weaving, the tōtara tree for carving and kawakawa and koromiko for medicinal purposes. Some locations are particularly significant as mahinga kai or as a source of other cultural resources, such as Te Hoiere (Pelorus Sound) for snapper breeding.

Across New Zealand and Marlborough, the natural environment has been highly modified. Much of the land, particularly lowland areas, has been cleared of forest or wetland vegetation to make way for new land uses. Freshwater and coastal water resources have also been modified through river and creek diversions, the construction of flood defences, the reclamation of the sea bed, water abstraction and the discharge of contaminants into rivers and coastal water. The loss of ecosystems has resulted in a corresponding decrease in the number and variety of mahinga kai and a reduction in the abundance and quality of ngā kai (traditional foods) and mātaītai (seafood) within them. Marlborough's tangata whenua iwi believe that this places even more significance on the areas that remain. They also believe that remaining mahinga kai are still being affected by resource use, especially those uses and activities in rivers, wetlands and coastal areas.

The change in land tenure that occurred with European settlement has also created difficulties for Marlborough's tangata whenua iwi in accessing mahinga kai, as well as areas that contain other cultural resources. Some areas are now privately owned or can only be accessed through private land, creating barriers to the ability of Marlborough's tangata whenua iwi to continue the cultural harvest or activities they were historically able to. Legal barriers can also prevent the harvest of traditional foods kai and other cultural resources, such as the protection afforded to endangered species.

Difficulties accessing mahinga kai and using traditional foods have an impact upon the mana of Marlborough's tangata whenua iwi, as this adversely affects the ability of each iwi and whānau within the iwi to provide for their family and to care for guests. It also compromises their mana by impairing their ability to fulfil their role and responsibilities to kaitiakitanga. Furthermore, it presents barriers to the maintenance and enhancement of traditional cultural practices.

Issue 3F – The provision of papakāinga.

In Marlborough, particular iwi and/or whānau retain culturally significant tracts of land, for example in the Marlborough Sounds and in the vicinity of Wairau Pā. This land is held in multiple ownership of iwi or whānau members and in most cases has not been developed, or has only been developed in a minimal way by the owners. Even so, Māori have a special spiritual and cultural attachment to this land, which is described as Māori land in terms of the Te Ture Whenua Māori Act 1993. Additionally, some land returned to iwi through settlement processes and in freehold title is regarded by Marlborough's tangata whenua iwi as Māori land.

There are tribal or whānau aspirations to exercise rangatiratanga over Māori land to use this land resource for the betterment of whānau or iwi members. In particular, there is a strong desire among Marlborough's tangata whenua iwi to provide papakāinga. This could be the provision of a

single or small number of houses for whānau or iwi members, through to small settlements involving kaumātua housing, kōhanga reo, cottage industries, places of worship and marae. Marlborough's tangata whenua iwi wish to have the freedom to establish papakāinga activities on Māori land to meet the housing and social needs of iwi members. The intention is to improve the quality of life of whānau and iwi in a manner consistent with their cultural values and customs.

In seeking the ability to adequately house and sustain iwi and whānau members, Marlborough's tangata whenua iwi recognise that papakāinga must be developed in a manner that is consistent with the surrounding environment. In particular, that the physical needs of the settlement, in terms of water supply and waste disposal, should be met without adverse effects on the environment.

RELATIONSHIP AND PROCESS ISSUES

Issue 3G – Lack of representation and recognition of iwi values in decision making processes.

Marlborough's tangata whenua iwi share a collective concern that their spiritual and cultural values are not being recognised in resource management decision making and believe that this is contributing to Issues 3A to 3F. The two areas of particular concern are resource consent applications and resource management policy development, where Marlborough's tangata whenua iwi believe they should have greater involvement in decision making than they currently do. They believe that such involvement would better fulfil the Council's obligations under the Treaty of Waitangi/Te Tiriti o Waitangi and, in doing so, ensure spiritual and cultural values would be given appropriate recognition.

The RMA provides opportunities for the direct involvement of tangata whenua in the sustainable management of their ancestral lands, water, sites, wāhi tapu and other taonga. It also requires the Council to have particular regard to kaitiakitanga and requires the principles of Te Tiriti to be taken into account. Te Tiriti principles indicate the need to involve tangata whenua in decision making that affects them. There are also provisions in the RMA for iwi authorities to be consulted in the preparation of policy statements and plans. It is therefore necessary that the Council implements mechanisms and processes for Marlborough's tangata whenua iwi to be involved in resource management decision making as a practical expression of kaitiakitanga and as part of ensuring adequate identification of the effects and provision for protection of the values of iwi.

Iwi have identified barriers to full and active participation, including a lack of mechanisms for participation, and seek the Council's co-operation to break down these barriers. Ideally, meaningful involvement in such processes would represent a partnership in a manner consistent with the Treaty of Waitangi/Te Tiriti o Waitangi. However, iwi recognise that there is also a capacity issue in achieving any such partnership (see Issue 3I below).

Marlborough's tangata whenua iwi believe that they share a common goal with the Council of sustaining the environment and natural resources. They therefore welcome the opportunity to explore ways of improving their participation in resource management decision making processes as a practical expression of kaitiakitanga.

This could be expressed through Mana Whakahono ā Rohe agreements. Iwi authorities can invite the Council to enter into an agreement in order to record ways in which Marlborough's tangata whenua iwi can participate in resource management and decision making processes.

Issue 3H – The importance of consulting with iwi.

Marlborough's tangata whenua iwi believe it is important for a resource consent/plan change applicant to consult with the relevant iwi authority where the interests of an iwi may potentially be affected by a proposal. Indicators of the matters that may affect an iwi are set out in Section 6(e) and Section 7(a) of the RMA. The provisions of this chapter and other chapters in the MEP also assist to identify these matters.

Consultation with the iwi authority allows an assessment of cultural effects to be carried out and, where necessary, the preparation of a cultural impact assessment as part of the process of assessing environmental effects.

Principles of good consultation have been established over time and should be followed to achieve the best possible outcome for all parties. These principles state that:

- consultation should be undertaken prior to lodging of any application;
- all parties need to enter into consultation with an open mind;
- reasonable time must be provided by the applicant to allow the consulted party to respond with queries or concerns from which the applicant can modify their proposal if appropriate;
- the consulted party needs to be adequately informed (through the provision of all relevant information and any other information reasonably requested) in order to make a useful response; and
- consultation is by its very nature a two-way process, which means that the applicant must take due notice of what has been said by the consulted party.

Marlborough's tangata whenua iwi accept that consultation will not necessarily guarantee an agreement with the resource consent/plan change applicant. However, they believe that consultation is required to ensure identification and quantification of all potential effects of a proposal on the interests of an iwi authority.

Issue 3I – Capacity of iwi to be able to effectively take part in resource consent processing and policy development.

Even if mechanisms were put in place to enable greater participation in resource management decision making by Marlborough's tangata whenua iwi, the iwi believe that a significant barrier to participation remains: that is, the capacity to participate. Many of Marlborough's tangata whenua iwi have limited financial resources and limited numbers 'on the ground' in terms of iwi members participating in resource management processes. It is therefore the view of most iwi that they do not currently have the capacity to effectively take part in the two processes that they have the greatest interest in - resource consent processing and policy development.

The response of each iwi therefore varies, with some focussing on the iwi management plans, some establishing strong resources for consultation and response to applications for resource consent and others focussing on involvement in policy development. The importance of recognising these varying abilities and approaches will enable selection of the most effective method or methods of obtaining an understanding of the values of iwi and providing for their involvement in resource management procedures affecting their rohe.

Issue 3J – Cross boundary issues with an overlap in rohe of Marlborough's tangata whenua iwi.

The rohe, or tribal boundary of each of Marlborough's tangata whenua iwi has changed over time as a result of migration and occupation. This situation has stabilised and each iwi has a good understanding of their current rohe. In many cases, the respective rohe overlap. This makes it difficult for the Council and others (such as resource consent applicants) to establish who exercises kaitiakitanga in a particular area. This can lead to iwi not being consulted as they should be or, conversely, being consulted when they do not need to be. This can cause frustration for all involved in resource management processes, including the iwi authorities.

Rohe do not coincide with local government boundaries. This means that the rohe of a number of Marlborough's tangata whenua iwi extends beyond the boundaries of the Council. In these circumstances, the iwi must deal with more than one local authority. This can be problematic where the local authorities concerned perform RMA functions and undertake RMA processes in

different ways. This can force each iwi to adjust the way they participate in and provide an input to RMA processes.

Marlborough's tangata whenua iwi seek to develop mechanisms for effectively managing these cross boundary issues.

OBJECTIVES TO ADDRESS RESOURCE MANAGEMENT ISSUES 3A TO 3J

[RPS]

Objective 3.1 – The principles of the Treaty of Waitangi/Te Tiriti o Waitangi are taken into account in the exercise of the functions and powers under the Resource Management Act 1991.

Marlborough's tangata whenua iwi have developed an environmental management system over many centuries that is still practised today and is embodied within the principles of the Treaty of Waitangi/Te Tiriti o Waitangi. The RMA requires the Council to take into account the principles of Te Tiriti in exercising its functions and powers. The objective reflects this requirement (set out in Section 8 of the RMA) and the remaining objectives and policies of this chapter and throughout the rest of the MEP set out how the principles can be achieved.

[RPS]

Objective 3.2 – A strong relationship between the Council and Marlborough's tangata whenua iwi in the delivery of outcomes that support iwi to exercise kaitiakitanga.

Marlborough's tangata whenua iwi believe that the exercise of kaitiakitanga is essential to protecting the mauri of natural resources and to fulfilling a duty to ensure the environment is left in the same or better condition than the current state for future generations. This objective recognises the role of the Council in enabling opportunities for Marlborough's tangata whenua iwi to exercise kaitiakitanga. The nature of the opportunities is identified in other provisions of this Chapter. However, all policies and methods require a strong, positive relationship between the Council and the iwi authorities in order for the provisions to be implemented successfully and meaningfully. The objective therefore places emphasis on the development and maintenance of that relationship.

[RPS]

Objective 3.3 – Natural and physical resources are managed in a manner that has particular regard to the spiritual and cultural values of Marlborough's tangata whenua iwi as kaitiaki and respects and supports tikanga Māori.

It is important to iwi that in sustainably managing Marlborough's natural and physical resources, appropriate recognition is given to tikanga Māori when having regard to the spiritual and cultural values of iwi. This is important for iwi as observing tikanga is part of the ethic and exercise of kaitiakitanga.

[RPS]

Objective 3.4 – The cultural and traditional relationship of Marlborough's tangata whenua iwi with their ancestral lands, water, air, coastal environment, wāhi tapu and other sites and taonga are recognised and provided for.

The objective reflects in part the requirements of the RMA in regard to matters of national importance – Section 6(e). It also acknowledges the special relationship that Marlborough's tangata whenua iwi share with the environment.

Commented [1]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
ENV-2020-CHC-46
By consent order dated 25 March 2022

Commented [2]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
ENV-2020-CHC-46
By consent order dated 25 March 2022

Commented [3]:
Te Rūnanga a Rangitāne o Wairau
ENV-2020-CHC-39
By consent order dated 25 March 2022

[RPS]

Objective 3.5 – Opportunities for development on Māori land that meet the needs of the landowners and respects the relationship of Marlborough's tangata whenua iwi with land, water, significant sites and wāhi tapu.

Planning policies and rules within former resource management plans have potentially limited how Marlborough's tangata whenua iwi have been able to use their own land. The objective therefore aims to maintain and strengthen the traditional relationship of Marlborough's tangata whenua iwi with land, water, significant sites and wāhi tapu by enabling a range of activities to occur on Māori land, including papakāinga, marae cultural activities, customary use and other activities. This approach will support economic, social and cultural development for Marlborough's tangata whenua iwi. This objective also assists in giving effect to the principles of the Treaty of Waitangi/Te Tiriti o Waitangi and to Section 6(e) of the RMA.

[RPS]

Objective 3.6 – Resource management decision making processes that recognise the cultural and spiritual values of Marlborough's tangata whenua iwi, and their relationship to lands, water, wāhi tapu and wāhi taonga

Through a number of the issues described in 3A to 3J, Marlborough's tangata whenua iwi have clearly identified that current decision making processes on resource management matters do not always recognise the cultural and spiritual values of Marlborough's tangata whenua iwi. While there has been ongoing consultation between the Council and Marlborough's tangata whenua iwi in the preparation of the MEP, it is important this continues as the MEP is implemented and monitored in the future. On-going consultation and involvement in decision making will help to ensure that the cultural and spiritual values of Marlborough's tangata whenua iwi are given recognition.

This can be achieved through Mana Whakahono ā Rohe agreements.

POLICIES TO ACHIEVE OBJECTIVES 3.1 TO 3.6

[RPS]

Policy 3.1.1 – Management of natural and physical resources in Marlborough will be carried out by:

- (a) taking into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi, including kāwanatanga, rangatiratanga, partnership, active protection of natural resources and spiritual recognition.
- (b) recognising that the way in which the principles of the Treaty of Waitangi/Te Tiriti o Waitangi will be applied will continue to evolve;
- (c) promoting awareness and understanding of the Marlborough District Council's obligations under the Resource Management Act 1991 regarding the principles of the Treaty of Waitangi/Te Tiriti o Waitangi among Council decision makers, staff and the community;
- (d) recognising that tangata whenua have rights protected by the Treaty of Waitangi/Te Tiriti o Waitangi and that consequently the Resource Management Act 1991 accords iwi a status distinct from that of interest groups and members of the public; and
- (e) recognising the right of each iwi to define their own preferences through management plans and other documents for the sustainable management of natural and physical resources, where this is not inconsistent with the Resource Management Act 1991.
- (f) recognising the right of iwi authorities to invite the Council to enter into Mana Whakahono ā Rohe agreements.

Commented [4]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
ENV-2020-CHC-46
By consent order dated 25 March 2022

Commented [5]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
ENV-2020-CHC-46

New policies: Council consulting with iwi on applications, Council limited notification to iwi on water related applications, Council notification to iwi on subdivision applications.
By consent order dated 25 March 2022

The policy identifies the principles of the Treaty of Waitangi/Te Tiriti o Waitangi that Marlborough's tangata whenua iwi have determined are important in terms of sustainably managing Marlborough's natural and physical resources and that the way in which these principles are taken into account will continue to evolve over time.

A recent amendment to the RMA has created the opportunity for iwi authorities to invite local authorities to enter into Mana Whakahono ā Rohe agreements in order to build on the Treaty relationship between local authorities and iwi authorities.

[RPS]

Policy 3.1.2 – An applicant will be encouraged, as best practice to consult early in the development of a proposal (for resource consent or plan change) so that cultural values of Marlborough's tangata whenua iwi can be taken into account.

Only Marlborough's tangata whenua iwi can identify their relationship and that of their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga. This means that iwi are in the best position to determine whether a proposal will affect areas of significance for iwi. It is therefore important that consultation with iwi occurs early in the planning of a development (either by resource consent or plan change) to ensure effects are appropriately identified and addressed.

[RPS]

Policy 3.1.3 – Where an application for resource consent or plan change is likely to affect the relationship of Marlborough's tangata whenua iwi to their culture and traditions, decision makers shall consider how:

- (a) the ability for tangata whenua to exercise kaitiakitanga is maintained;
- (b) mauri is at least maintained, particularly in relation to fresh and coastal waters, land and air;
- (c) mahinga kai and natural resources used for customary purposes are maintained or enhanced and that these resources are healthy and accessible to tangata whenua;
- (d) the special relationship between tangata whenua and ngā wai will be recognised and provided for.
- (e) traditional and cultural Māori uses and practices relating to natural and physical resources such as mahinga maataitai, wāhi tapu, papakāinga and taonga raranga are recognised and provided for.

These matters must be assessed by decision makers when considering an application for resource consent or a plan change in which there is a likelihood that particular values of significance to iwi may be adversely affected. The matters to be assessed in relation to the mauri of waterbodies are particularly detailed given the significance of water resources to iwi. Dependent on the circumstances of the consent application or plan change, these matters may need to be assessed. This can only be done with the assistance of a hearings commissioner with expertise in tikanga Māori.

[RPS]

Policy 3.1.4 – Encourage iwi to develop iwi management plans that may include:

- (a) specific requirements to address the management of coastal waters, land and air resources, including mauri, and in relation to Sections 6(e), 7(a) kaitiakitanga and 8 of the Resource Management Act 1991;
- (b) protocols to give effect to their role as kaitiaki of water and land resources;
- (c) sites places, areas and landscapes of cultural significance;
- (d) descriptions of how the document is to be used, monitored and reviewed; and

Commented [6]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
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By consent order dated 25 March 2022

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ENV-2020-CHC-46
By consent order dated 25 March 2022

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ENV-2020-CHC-50
By consent order dated 25 March 2022

(e) the outcomes expected from implementing the management plan.

Encouraging Marlborough's tangata whenua iwi to develop and implement iwi management plans will assist to achieve two significant outcomes. Ultimately, it will assist the Council to meet its requirements relating to Māori in the resource management planning process, especially when preparing new resource management policy and plans. Secondly, because the plans belong to the iwi that prepared them, they will assist those iwi to identify and express the values and relationships they have with their resources and how they ought to be protected, maintained or enhanced. Iwi management plans can provide a framework for consultation both for plan review and resource consent processes. Including the matters identified within (a) to (e) of the policy and implementing an iwi management plan will build and strengthen partnerships between iwi and the Council, and build trust and good relationships.

[RPS]

Policy 3.1.5 – Ensure iwi management plans are taken into account in resource management decision making processes.

Having encouraged Marlborough's tangata whenua iwi to prepare iwi management plans, it is important that they are then taken into account by the Council when making decisions on resource management matters. The Council is required by the RMA to take into account iwi management plans when preparing a regional policy statement or regional and district plans. In terms of its decision making on resource consent applications, the Council must have regard to, subject to Part 2, other matters the Council considers relevant and reasonably necessary to determine an application (Section 104(1)(c)). This could include having regard to iwi management plans. As more iwi management plans are prepared and lodged with the Council, it will be important they receive the appropriate recognition in decision making by the Council.

[RPS]

Policy 3.1.6 – Enable opportunities for marae and papakāinga development on Māori land that provides for a range of functions including living, working, cultural activities and recreation where it is of a scale, extent and intensity that is determined by the physical characteristics of the site, surrounding environment and tikanga Māori.

The policy recognises that papakāinga and marae settlements are an essential means for Māori to pursue the traditional relationship with their land. The policy encourages and strengthens this relationship by enabling development of Māori land, provided it is consistent with the matters set out in the policy. Māori land includes land that is regarded as Māori land in terms of the Te Ture Whenua Māori Act 1953, including multiple owned Māori land and customary land.

[RPS]

Policy 3.1.7 – Foster a principle of partnership between Marlborough's tangata whenua iwi, the Marlborough District Council and statutory management agencies on an ongoing basis to give effect to Policies 3.1.1 to 3.1.6.

This policy highlights that to give effect to the other policies in this chapter, a partnership between Marlborough's tangata whenua iwi, the Council and statutory agencies, such as the Department of Conservation, will be necessary. The partnership principle is reflective in the holistic approach of iwi to resource management in being all encompassing. Fostering partnerships with Marlborough's tangata whenua iwi will assist in increasing capacity for iwi to add value to resource management decision making processes. Additionally, there will be times that non-statutory groups will combine with the Council and iwi in the context of community involvement in the management of natural and physical resources.

[RPS]

Policy 3.1.8 – Enable customary harvest in accordance with tikanga

Customary harvest is required in enabling Marlborough's tangata whenua iwi to exercise kaitiakitanga and to provide for their relationship with their culture, lands, water and other taonga. Cultural harvest may be for different reasons, including but not limited to, medicinal uses,

Commented [9]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu
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ceremonial uses, weaving or for consumption. It is important that taonga and other species can be accessed by iwi throughout the District, including from sites and areas that retain significant indigenous biodiversity value. Where particular resources are available on private land, access agreements or case by case permissions from the landowner are essential before entry onto the property is allowed.

[RPS, R, C, D]

Policy 3.1.9 - Customary access to sites of significance, mahinga kai, customary material or harvesting areas is encouraged in subdivision and development through landowner agreements or through wider public access arrangements.

Customary access is necessary to enable Tangata Whenua Iwi to exercise kaitiakitanga and to actively maintain their relationship with sites of significance, lands, waters, wāhi tapu and wāhi taonga. Where resources or sites are located on private land, access arrangements such as agreements or case by case permissions are essential before entry can occur. Permission to enter private land is entirely at the discretion of the landowner. This policy acknowledges this and highlights that the Council encourages such agreements to be considered by resource consent applicants and through plan change processes.

Commented [10]: By consent order dated 25 March 2022

[RPS, R, C, D]

Policy 3.1.10 - Recognise that there are sites and places of significance to Marlborough's tangata whenua iwi that have not been included in Schedule 3 of Appendix 13. Adverse effects on these sites and places of significance should be avoided, remedied or mitigated, having regard to:

- (a) the values of the site or place of significance, including effects on the spiritual and cultural values of Marlborough's tangata whenua iwi;
- (b) the position of all relevant iwi, and whether there are any matters of tikanga which need to be observed;
- (c) the views of Heritage New Zealand Pouhere Taonga, if relevant;
- (d) any cumulative effects, especially where the site or place is part of a group of related sites or places;
- (e) efforts by the resource user to retain important features of the site or place of significance, or spiritual and cultural values of Marlborough's tangata whenua iwi;
- (f) whether accidental discovery protocol and/or cultural monitoring is proposed or sought by iwi in relation to the activity;
- (g) whether the activity can be undertaken at an alternative location, where the adverse effects on the site or place of significance or place can be avoided; and
- (h) how the application will affect both tangible and intangible values.

Not all sites or places of significance or value to iwi will be included in Schedule 3 Appendix 13. This may be because the process of including sites has not yet occurred, or alternatively, because iwi choose to keep some sites silent. In some instances the best protection for tangata whenua sites and places is to retain knowledge of those places at a whānau, hapū or iwi level. In other instances, iwi may choose to protect sites or places in the plan through inclusion in Schedule 3 Appendix 13. Policy 3.1.10 provides for unrecorded/unlisted sites or places where through consultation or other practice, it becomes apparent that they are at risk. The policy includes both tangible and intangible values. Tangible values are those that are physical, while intangible are those values that are intrinsic, experiential and not physical.

Commented [11]: By consent order dated 25 March 2022

[RPS, R, C, D]

Policy 3.1.11 - Adverse effects on any urupā, including associated cultural values, not listed in Schedule 3 of Appendix 13 should be avoided by applying best practice to ascertain whether an urupā may be present on an application site.

Ururupā contain kōiwi which are human remains. Not all known urupā will be listed in the Plan, either because the process has not yet occurred or because iwi choose to remain silent about those sites. In addition, while knowledge of the location of urupā is held within an iwi, there are some instances where the old markers traditionally used to indicate urupā sites have themselves been removed, damaged, or have moved with the changing environment.

Commented [12]: Clause 16

Best practice can prevent damage or destruction to urupā not listed in Schedule 3 of Appendix 13 through:

- Assessment of the content of Iwi Management Plans
- Assessment of Archaeological Association information
- Consultation and engagement with all relevant iwi
- Use of cultural monitor, if urupā is suspected
- In all cases, use and practical implementation of Accidental Discovery Protocol.

Commented [13]: By consent order dated 25 March 2022

Methods of implementation

The methods listed below are to be implemented by the Council unless otherwise specified. These methods provide the framework within which the Council will work in partnership with Marlborough's tangata whenua iwi.

[RPS]

3.M.1 Developing partnerships

Developing effective partnerships with Marlborough's tangata whenua iwi will be important in promoting resource management and taking into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi. This may include the Council facilitating and practically assisting iwi to develop iwi management plans as a mean of expressing kaitiakitanga. It could also include Marlborough's tangata whenua iwi assisting the Council to facilitate an increase in its awareness of the principles of the Treaty of Waitangi/Te Tiriti o Waitangi, particularly how those principles apply in a Marlborough context. How the partnerships will be expressed on an ongoing basis may be in the form of protocols, memorandums of understanding, strategies or the like. Regardless of what form the partnerships are expressed in, a fundamental component will be simple good faith.

Commented [14]: Te Rūnanga o Kaikōura and Te Rūnanga o Ngāi Tahu ENV-2020-CHC-46

New methods: Recognising and promoting awareness of Te Tiriti o Waitangi, Recognising the right of iwi to state their preferences to environmental management
By consent order dated 25 March 2022

Commented [15]: By consent order dated 25 March 2022

[RPS, R, C, D]

3.M.2 Recognising statutory acknowledgements

The relevant iwi authority must be provided with a summary of a resource consent application for an activity within, adjacent to, or directly affecting a statutory area. The Council must also have regard to the Statutory Acknowledgement relating to a statutory area when deciding whether the relevant iwi authorities are affected persons in relation to an activity within, adjacent to, or directly affecting the statutory area and for which an application for resource consent is made. In some cases this will involve more than one iwi. The Council is also required to include information recording the statutory acknowledgements within its resource management documents.

[RPS, R, C, D]

3.M.3 Consideration of iwi management plans

Iwi management plans will be used and taken into account to:

- *assist in the identification of issues of resource management significance to Marlborough's tangata whenua iwi, including recognition of these issues through the Council's decision-making functions;*
- *provide cultural context and understanding of values underpinning the relationship between iwi and the environment;*
- *understand, acknowledge and account for the importance of local knowledge and guidance about the environment;*
- *assist in the identification of sites, places, areas and landscapes of cultural significance;*
- *assist in the determination of the nature and extent of consultation that may be required over particular activities or places of importance;*
- *assist in the development of resource management policy; and*
- *assist decision makers to make an informed decision with respect to a proposal or development of policy.*

For the reasons listed above, iwi management plans are an essential resource for applicants and as such, the Council will provide access to iwi management plans via the Council website, with the relevant iwi authority's consent. Iwi authority websites may provide a further resource to applicants.

[RPS, R, C, D]

3.M.4 Consultation

Because only Marlborough's tangata whenua iwi can identify their relationship and that of their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, it is important that where a proposal is likely to affect the values of one or more of Marlborough's tangata whenua iwi, an applicant is encouraged to consult early in the development of the proposal.

Consultation with Marlborough's tangata whenua iwi will identify the type and/or location of resource consent applications, notices of requirement and plan change requests that are of interest to each iwi. The Council will then provide iwi with information on those applications as they are received in order for iwi to establish which applications may have an impact on the relationship with land, water wāhi tapu or wāhi taonga, or otherwise on their cultural values. Information and feedback provided by iwi informs decision making involved with the processing of applications.

Where a Council officer is processing resource consent applications, notices of requirement or plan change requests, and the circumstances of the application indicate that issues of cultural or spiritual significance to Māori may be present, this will be brought to the attention of the applicant.

Consultation may result in the iwi advising an applicant that a cultural impact assessment or cultural values report is required to document iwi values and provide appropriate measures to avoid, remedy or mitigate any adverse effects of the proposal on those values.

[RPS, R, C, D]

3.M.5 Cultural indicators

Environmental monitoring involves measuring the state/condition of our natural and physical resources so that they can be understood and managed in an informed way. While environmental monitoring is not new to New Zealand, to date this Council has relied upon scientific indicators to

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determine the health of Marlborough's natural and physical resources. However, the use of cultural indicators, which is based upon human sensory perceptions and spiritual association, has long been used by Marlborough's tangata whenua iwi to determine the health (mauri) of the natural world. Cultural indicators can be used alongside existing scientific indicators to assist in our collective understanding of the health of our environment. The Council will work with Marlborough's tangata whenua iwi to develop cultural indicators to assist in monitoring the state of Marlborough's natural and physical environment.

[RPS, R, C, D]

3.M.6 Cultural impact assessment reports and cultural value reports

A cultural impact assessment report is a professionally prepared assessment of the potential impacts of a given activity on resources and values of importance to tangata whenua. Such a report documents iwi values associated with an area and provides appropriate measures to avoid, remedy or mitigate any adverse effects on those values.

Cultural impact assessment reports are an effective means of providing cultural and technical input, mainly with respect to resource consent applications under the RMA. Such reports can form part of a resource consent application's assessment of environmental effects. Iwi will advise an applicant or developer if a cultural impact assessment report is needed. Reports may be requested by an applicant or developer as part of pre-resource consent consultation or a resource consent assessment of effects, but it is the iwi that will advise if a cultural impact assessment report is required. The report will be prepared by the iwi or someone identified by iwi as appropriate to prepare the report. Iwi authorities may have protocols around the production and use of cultural impact assessments. The costs associated with preparing the report are met by the applicant.

Cultural value reports are similar to cultural impact reports but are focussed on providing information on the nature and extent of cultural interests in a given area, as opposed to assessing impacts of a specific proposal.

[RPS, R, C, D]

3.M.7 Decision making processes

Where an application for resource consent or plan change may have an effect on the relationship of Marlborough's tangata whenua iwi and their culture and traditions, the Council will consider appointing a commissioner(s) with expertise in tikanga Māori to the hearing committee charged with hearing and deciding the application. It may also be appropriate to undertake the hearing, if one was to occur, on marae.

The Council will support iwi members to become certified commissioners and provide opportunities for these commissioners to participate in hearings.

[RPS]

3.M.8 Māori place names

The MEP and other Council documents will utilise the Māori place names set out in Deeds of Settlements and will consider the use of dual place names for other Māori place names that are not set out in Deeds of Settlement, in consultation with the appropriate Marlborough tangata whenua iwi.

[RPS, R, C, D]

3.M.9 Customary Access

Where there are sites of interest to Marlborough's tangata whenua iwi that they may wish to access, the Council will encourage Plan Change or resource consent applicants to consider whether or not customary access is possible. While respecting the private property rights of landowners, formal access agreements between landowners and iwi will be encouraged by the Council to solidify arrangements where appropriate or necessary.

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[RPS]

3.M.10 Education

Working with tangata whenua iwi and schools, or other education providers, education programmes will be encouraged about environmental issues and sustainable use, including traditional Māori perspectives.

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