Good practice guidelines for working with tangata whenua and Māori organisations: Consolidating our learning

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1. Introduction

These good practice guidelines are based on just over a decade of learning by central and local government, crown research institutes, and Māori groups, using case studies, reports, papers, unpublished documents and personal communications. The information was summarised and collated to provide a record of what we have learnt about developing relationships between Māori groups and Crown agencies and the ways we measure that engagement performance from different perspectives – Māori and non-Māori. Real achievements have been made in the last decade to improve relationships and collaboration between Crown agencies and tangata whenua, with combined actions making a significant contribution to more harmonious race relations in New Zealand. These efforts have led to increased levels of Māori participation in planning, policy, science and research, and have helped determine issues, establish projects, and improve decision-making, allowing Māori to become more equal and active players in New Zealand society. This has generally been achieved through very targeted legislation and policies, and many of these participatory goals would never have been achieved without impetus from legislation, directives, principles, leadership, guidance, instruction and effort. Māori still believe we have a long way to go, while a large proportion of non-Māori New Zealanders feel we have gone too far.

Information was further developed and evaluated as part of collaborative research in the FRST funded programme ‘Integrated Catchment Management (ICM), Motueka’, and is aimed at a wide group of end-users, although focussed on the interactions between local government and iwi. It consolidates our learning by using past and present examples from many surveys and discussions, responses to issues, and references to activities, resolutions, and recommendations, and provides valuable guidance for forming effective participation, collaboration, and partnership. Guidelines are not prescriptive, and every situation may have a different set of issues and parameters to deal with. This report begins with a reflective view of where we have come from and provides some context for participation. It then gives some of the major participatory and planning issues from both a Māori and non-Māori perspective and provides background to international frameworks for participation and partnership with indigenous groups. A section is dedicated to the Te Tiriti o Waitangi and the relevance of such a document, and the report briefly summarises current resource management legislation. The final section of the report deals with forming an effective collaborative process for Māori and non-Māori to engage and work together, giving good practice guidelines and recommendations. A large number of publications have been produced in New Zealand over the last decade to improve engagement and participation with Māori groups. Some of the key publications are referenced at the end of this report.

The guidelines are intended to help improve race relations in New Zealand, in a time when there is mounting use of dis-information, mis-information, and historical amnesia, and high levels of uncertainty are being spread about cultural values and indigenous rights and whether in fact they still exist. We use the premise in this document that Māori cultural views are greatly under-represented and under-valued in the resource management planning and policy area and this is a guide to improve participation to achieve equity and balance.

We recognise that contemporary New Zealand society is greatly different from society in 1840 when there were two distinct peoples, European (Pakeha) and Māori. Modern New Zealand Māori are assimilated and integrated with other cultures, particularly European. Most Māori have a Pakeha side and vice versa, most Māori are part of Pakeha families and vice versa. But many Māori believe strongly they have an indigenous cultural identity, and although fully assimilated into New Zealand society this cultural identity and integrity has not been extinguished and in fact may have become stronger through cultural revitalisation, and Māori advancement. It is also important to recognise

that Māori have as wide a range of views on many issues, as do Pakeha and other non-Māori. Local Government and other Crown agencies – particularly in the resource management area – often work with Māori who represent a subset of wider Māori society, and it is this subset and their associates who commonly have a strong relationship with a defined geographic area, and expertise, knowledge, and perspectives that are usually based on traditional culture, beliefs, and values.

These guidelines therefore acknowledge that Māori people, Māori knowledge and Māori values exist. Māori are different and have a distinct cultural identity and, often, different perspectives compared with the mainstream population. What binds Māori as people is whakapapa (ancestral lineage), and responsibilities conferred on descendants by past generations also determine responsibilities for future generations. Māori identity as a population subset is not a definition based on the quantity of blood that is somehow translated into values, knowledge and rights. Māori have much to offer all planning, research and policy making by providing an indigenous perspective that is often lacking in the present Eurocentric western worldview. These guidelines will only work if there is a sincere will to work with Māori groups, such as iwi/hapū, tangata whenua, and urban Māori. That will has to be based on trust, respect, and understanding of indigenous culture; trust and respect – from Māori – for the collaborating individual or agency; a focus on achieving good social, economic, cultural and environmental outcomes for all New Zealanders; and a desire to achieve equity in terms of Māori representation and inclusion at all levels.

"The indigenous culture of New Zealand will always have a special place in our emerging culture, and will be cherished for that reason" [Dr Don Brash, leader of the opposition National Party, speech to Orewa Rotary 2004].

Background

In 1991 a move began away from the very prescriptive and regulatory Town and Country Planning Act to the more 'enabling' and 'participatory' Resource Management Act (RMA). Before 1991 there was very little consultation with Māori and non-Māori communities on resource management, district and regional planning, project development, works and engineering, and limited contribution from the wider multi-cultural society into district, regional, and central government environmental and development policy. Planning and policy before 1991 largely encompassed the view of those employed in institutional Crown agencies and therefore reflected a dominant Western-Eurocentric (Pakeha) perspective of the world. Little else of importance was recognised. To date, most staff in district and regional councils continue to be largely non-Māori, and Māori input really only comes about through external engagement (e.g., iwi liaison), consultation, working groups – a working relationship to resolve issues, collaborative projects, and good practice based on mutual respect. Those who have worked closely with Māori groups have often been enriched by the process of engagement through understanding another worldview.

In many cases, the baseline for engagement and consultation with Māori in 1991, was: very little recognition and understanding of Māori culture and issues; very little and usually top-down consultation; and very little to non-existent participation (Nuttall & Ritchie 1995). Over the last 12 years, however, most councils have taken major steps towards improving the consultative and participatory process with all communities, including Māori (LGNZ 1999; MfE 1999a, 2000a, b), and have in place what they regard as successful models for consulting and working with iwi/hapū (e.g., BPRC 1993; WRC 1995; Hewison 1997; PNCC 1998; DCC 2000; NCC 2001; HBRC 2002; ARC 2004; *Manawatu Evening Standard* 2004a, b). However, it is difficult to measure the effectiveness of this participation, the outcomes, the levels of engagement and consultation, the successful learning case studies, and how iwi and hapū actually regard the progress and improvements in practice and engagement. For local government, each council has its own

objectives and an appropriate model for engagement to ‘enable‘ Māori communities to incorporate cultural perspectives, such as cultural issues and values, into all planning and policy. This desire for engagement has been largely driven by resource management legislation. The local government systems and models in place have had to encourage all community and stakeholder participation and at the same time not be seen to provide special privileges to any one group. However, Māori have always seen this participation as two-dimensional: on the one hand there are indigenous rights for participation under international law and the Treaty of Waitangi, and mandatory inclusion of indigenous cultural perspectives under the RMA and the LGA. On the other hand, Māori enjoy equal status and the same rights and privileges as other non-Māori and all other community and stakeholder groups. Many Māori have felt alienated and disadvantaged from those resource management systems and structures that have been in place for decades, and see active participation in resource management decision-making in the 21st century as correcting an in-balance and achieving equity that hasn’t occurred for over 100 years.

The first step in participation is to recognise a Māori group such as tangata whenua, hapū or iwi, as a legitimate group or entity with which to engage, consult, and work.

Since 1990 there has been a wealth of documents and papers outlining the way Māori groups, tangata whenua, iwi/hapū, and organisations such as local and central government, can work effectively together and improve participation, consultation, collaboration, and mediation (e.g., Blackford & Matunga 1991; Blackford & Smith 1993; BPRC 1993; MfE 1992, 1998, 1999a,b, 2000a,b; Nuttall & Ritchie 1995; MfE & Office of Treaty Settlements 1999; PCfE 1992, 1998; Hewison 1997; Taiepa 1998; Office of Treaty Settlements 1999; DCC 2000; Harmsworth 2001, 2002; DOC 2002a, b; ARC 2004). These documents include guidelines, reports, brochures, examples of agreements, examples of good practice, case law on consultation, charters, accords, evaluation studies, partnerships toolbox, mediation guidelines, mechanisms for constructive dialogue, communication processes, documents on respective roles, responsibilities, and generally how to talk with and understand each other, and how to work together.

Why Māori participation is important

Māori have a long record of co-habitation with the New Zealand environment over the past 1000 years, and have acquired comprehensive knowledge of New Zealand ecosystems, and how to sustain them. They also have extensive knowledge of Māori cultural heritage, which some believe is the backbone of a New Zealand identity. It is important that we all remain committed to protecting and preserving the unique aspects of New Zealand’s natural and cultural environment. Māori therefore offer a unique indigenous perspective for planning, policy, decision-making and other activities such as projects. Resource management is becoming more and more complex, and requires participation at all levels to achieve agreed environmental, social, cultural and economic goals and outcomes. The key for achieving a clean, healthy environment balanced with expectations for economic growth and opportunity is our ability to work productively together, and participation lies at the heart of this. Quality decision-making requires effective participation between key stakeholders, and should be built on trust, respect and understanding. On occasion it also sometimes requires consideration of the diverse perspectives of an issue, and the integration of different types of knowledge.

Reference to international frameworks, the Treaty of Waitangi and other legislation is summarised in these good practice guidelines. However, the driving force for participation and collaboration should be the desire of parties to respect, consult, learn, and understand each other. These are crucial and fundamental and should be the reasons people of different cultures and backgrounds work together. Legislation and the Treaty confer obligations and responsibilities that are often misrepresented in practice. The reason Māori have often differentiated themselves from being just another part of a community or stakeholders is the unique part they play as an indigenous culture in

New Zealand, what is referred to as First Nations People in many other countries. The importance of working with Māori groups, as a distinct and important subset of community and stakeholder groups, provides a different world-view, a different set of perspectives often lacking at local and central government level. This distinction and significance for the role of Māori is supported by the following:

- Contemporary Māori offer an indigenous perspective that should be taken into account. The term Māori was used increasingly after colonial settlement in New Zealand to differentiate Māori from European (Pakeha). The term was used to refer to 'us' and 'them'. Māori culture is built on hundreds of years of co-evolution with the New Zealand landscape, and before that, on thousands of years of Polynesian culture in the Pacific region. Early Māori settlement in New Zealand was made up of a vast array of Polynesian tribal nations. At the time of the Treaty of Waitangi, Māori at least at a political level were becoming increasingly pan-tribal.

- The Māori population is spread throughout the whole country, not in one corner, and communities have strong attachments to the environment in specific geographic areas. Their participation is represented through marae, whānau, hapū and iwi or other organisations in those areas.

- Unlike many other cultures in New Zealand, this is the Māori cultural homeland, the genesis of Māori culture, and there is nowhere else in the world for Māori to express, live and sustain their culture. Assimilation, integration and subsumption of minority cultures, such as Māori, into larger Western Eurocentric cultures are not reasons to discriminate, marginalise and alienate a distinct minority culture, and to dispute its identity.

- Māori have a distinct set of customs and values often referred to as tikanga.

- Along with cultural identity, Māori often have a different set of issues often based on indigenous cultural perspectives, beliefs and assumptions, and distinct from the wider community and stakeholder groups.

- Many contemporary Māori have a responsibility to express views based on ancestral links, such as traditional values and knowledge, in a modern environment or forum. Many contemporary Māori, descendants of early Māori, take these responsibilities through different generations, very seriously.

As descendents, many Māori, feel they have a responsibility to their ancestors (tupuna, tipuna) to uphold, express and articulate Māori culture and values in modern society.

It is interesting that 165 years after the Treaty was signed Māori cultural identity has never waned, but the level of understanding between Māori and non-Māori, after 165 years of co-habitation, may now be at its broadest. Although New Zealand often refers to itself as a homogeneous nation made up of many cultures, we still have a Māori culture that believes it has special status and sovereignty, and a largely non-Māori culture in fear of the building blocks of Māori nationhood, such as Māori property rights, ownership, and customary rights. The level of intelligence of debate and understanding between Māori and non-Māori over many such issues is probably an accurate measure of where New Zealand is as a nation in terms of maturity.

2. Participatory issues

After several years of local and central government consultation with iwi/hapū, and especially since the RMA 1991, with the production of a large number of local government and iwi/hapū management plans, it is now important to consolidate our learning, take stock, and evaluate the progress made to date. This evaluation needs to use contrasting cultural and institutional perspectives – from local government and from iwi/hapū – to better appreciate the differing viewpoints, issues, achievements, deficiencies, problems, and realities. The work in this report builds on a large number of comprehensive publications that have provided guidelines for collaboration, interaction, relationship building, good practice, forming agreements, and mediation. It also builds on learning from two main pieces of collaborative science work, the FRST Māori community goals for enhancing ecosystem health programme 1998–2002 (Harmsworth 2001), and the FRST integrated catchment management (ICM) programme 2001 – ongoing, in Motueka (Landcare Research 2003; Harmsworth 2002, 2003).

Many excellent local government-iwi/hapū initiatives have been established during the last 12 years and many are still being created. We can cite many of these good practice examples of engagement and learn from them. However, on the other side of the ledger, many failures and problems still exist, and a large number of Māori groups continue to feel disgruntled and alienated from the processes of central and local government. We can also learn from these less positive examples. In reference to ongoing problems, a number of Crown agency and iwi planning, strategy, and reporting documents, as well as unpublished media articles and personal communications refer to difficulties in relationships and understanding between local government and iwi/hapū. Geographically in New Zealand some areas have established good working relationships with iwi and hapū; in other areas the relationship is still regarded as poor by both sides. For evaluation of achievement and progress it is important to consider a range of factors and indicators that can be used to measure success or failure, particularly those that measure progress towards outcomes and goals set by both iwi/hapū, communities, and local government.

The level of participation between the Crown and iwi/hapū, the interaction between stakeholders and iwi/hapū, and the level of understanding of cultural issues and indigenous perspectives in many geographic and council administrative areas still seems to be a major problem in New Zealand. This impedes constructive dialogue, appropriate and acceptable actions, active participation in resource management by iwi/hapū, and satisfactory outcomes for all communities. The lack of consultation on many important cultural matters is still an issue for many iwi and hapū groups, as is failure to reach acceptable solutions. However, in most areas in New Zealand the relationship and participation with iwi/hapū has improved markedly through the last 12 years – not difficult when it was virtually non-existent before. Many factors affect full participation and engagement across communities. For Māori, it is often the systems and processes that are barriers to participation, sometimes it is a lack of understanding between both parties, other times it is clearly a resource and capability issue.

Below are the two perspectives that shape our current thinking on the issues. To develop good practice guidelines for the future, it is important to review this information.

Māori perspective
From a Māori perspective, many iwi/hapū – often documented in iwi planning, strategy and SOE reports – still see the major issues as limited partnership (e.g. Nuttall & Ritchie 1995; Kowhai Consulting Ltd & MfE 2002), lack of recognition and implementation of kaitiaki principles in resource management decision-making (e.g., Tūwharetoa Māori Trust Board 2003), and lack of

understanding of cultural issues in plans (e.g., Jefferies et al. 2002). Most iwi and hapū have called for active participation as partners in the resource management decision-making process (TMTB 2003), for example, "promote and initiate processes that enables the effective exercise of partnership and kaitaikitanga by Ngāti Tūwharetoa". This partnership refers to the building of equitable relationships between iwi, local government, community groups, other stakeholders, and hapū. "Advocate for the integration of kaitiaki principles and practices into all aspects of resource management decisions at local and regional government" (TMTB 2003).

Studies of District and Regional Council plans by Ericksen et al. (2001) and Jefferies et al. (2002) both found that 'policy statements and plans prepared under the RMA do not adequately address the role of Māori in land use and resource management'. An extensive evaluation of 'local government plan quality' in all key cultural sections (Jefferies et al. 2002), assessed plan quality (for 28 district councils) as generally poor, and most of the 28 district councils reviewed 'need to improve the way they identify Māori issues and incorporate these into plans'. Jefferies et al. (2002) also showed most councils had difficulty understanding and implementing the main sections in the RMA, such as section 8, 6e, and 7, often providing a 'narrow treatment of iwi interests in plans'. District Council plans in particular lacked formal consultation guidelines; generally many sections referring to Māori/iwi/cultural issues were unclear, poorly written or poorly understood. Another area, monitoring and evaluation, was poorly written into plans, with the monitoring methods and participation sections most poorly written and defined.

But some key findings from the PUCM study to date (Ericksen et al. 2001; Jefferies et al. 2002) show that those councils with better quality plans and implementation made considerable effort to develop effective relationships with Māori. The extent to which Māori were involved in the planning process could be inferred from the quality of plans; and councils that funded Māori participation in the plan preparation process had a clearer understanding and definition of cultural issues, and scored well. Other PUCM recommendations included a need for an improved two-way education process between iwi/hapū and council regarding the RMA, RMAA, and plan preparation.

The PUCM study (Ericksen et al. 2001) revealed the length some district and regional councils went towards developing new relationships with iwi, only to feel the wrath of other segments of their constituency who saw these developments as 'special treatment' or as involvement in inter-iwi tribal/hapū/whānau conflicts

In 1998 in a comprehensive report, 'He Tohu Whakamarama', MfE questioned 25 Māori organisations about their interaction with local government, and found that about 65% of Māori authorities thought their relationship with local government was satisfactory or better than satisfactory, and about 30% thought it was unsatisfactory. However, a large proportion of Māori respondents said local council staff had poor to moderate knowledge of cultural understanding and the Treaty of Waitangi. While most Māori organisations felt their concerns and issues were accommodated in statements and plans, just over 50% said they were not properly notified of resource consents that impacted on them. It was found that the most effective consultation method for involvement in policy and planning was through contract for services, and hui were the most important way to interact. Limited resource management expertise was identified as an impediment to resource management processes. Most respondents felt inadequate levels of understanding by council staff limited council effectiveness to address cultural issues. Māori respondents also felt the expectations placed on iwi organisations to respond to planning and resource consent applications were too high, given the limited financial and human capital available. Timeframes for responding to planning and policy were also regarded as too short. All respondents said councils should fund their involvement, and most Māori groups felt that to be effectively engaged in planning and policy they should have better support. Overall the need to provide guidance to assist interactions and relationship building between local authorities and iwi/hapū was apparent from both council and

Māori organisation responses.

A report on good practice guidelines based on a large number of interviews and case studies with local government and iwi/hapū authorities in 1998 and 1999 (MfE 2000b), found that "iwi and local authorities were developing effective working relationships, despite some ongoing difficulties", and iwi were increasing capability to participate more fully in resource management decisions. The majority of Māori organisations interviewed for this report saw Local Government as representing the Crown and had little distinction between central government and local government. This view has important consequences for establishing Treaty partnership as a basis for relationships between iwi/hapū and local authorities. Most iwi/and hapū representatives were unhappy with the "soft language" in local authority planning documents for commitment to the RMA's Treaty requirements. The majority of iwi/hapū saw their kaitiaki role as complementary to the resource management functions and operations of local government.

Many Māori groups still see nationwide problems with the level of participation and engagement of iwi in resource management planning and policy. Most iwi around the country cited the main barriers to effective participation as being:

- lack of recognition of rights and status of iwi and hapū as Treaty partners
- lack of Treaty knowledge and provision for the Treaty of Waitangi
- at a disadvantage for effectively managing their natural resources and taonga
- process and timeframes that do not take into account iwi/hapū consultation processes
- lack of, or difficult systems in place for allowing iwi/hapū participation
- actions by local government that impinge on iwi/hapū rights, e.g., lands subject to Treaty claims, adverse effects on wahi tapu and other cultural sites, loss of access to cultural sites
- under-resourcing of iwi/hapū to effectively participate
- lack of knowledge of Māori issues by local government
- lack of Māori representation in local government
- consultation with the wrong parties
- offensive pollution practices
- urban and rural policies that do not take Māori communities into account

Many iwi and hapū members prefer kanohi ki kanohi (eye-to-eye, face-to-face) consultation in preference to written documents, electronic communication, and telecommunications. There is also preference for holding hui on marae or more tangata whenua friendly locations, and giving representatives an appropriate mandate to deal with issues (e.g., Office of Treaty Settlements 1999; MfE 2000b; TMTB 2003; ARC 2004). There have been many further calls for local authorities to resource or fund iwi/hapū participation (PCfE 1998; MfE 1998; Jefferies et al. 2002). Good practice guidelines are based on respect, acknowledgement of peoples or group differences and perspectives within a community, and a desire to engage with these groups.

Local Government perspectives

The 1998 MfE survey 'He Tohu Whakamarama' reported 46 responses from local government that showed 83% of councils felt their level of cultural awareness of Māori resource management concepts and the Treaty of Waitangi were adequate or higher. General comments, however, indicated a need to increase cultural understanding and awareness. Employment of Māori staff was seen as one way to improve this understanding in house, while other ways included courses for staff and councillors on cultural issues and the Treaty. In the 2004 Local Government New Zealand (LGNZ) survey (LGNZ 2004), 66% of councils were shown to be providing internal training on subjects such as statutory obligations, the Treaty of Waitangi, Māori language and culture, and marae-based protocols. A wide range of consultation methods are employed by local government (MfE 1998), the use of Māori consultants and working advisory groups was seen as beneficial, over

half of the councils were trying to streamline consultation processes, and Māori were usually involved in the initial phases of planning. In terms of satisfactory engagement with Māori, the 2004 LGNZ survey – based on a 100% response rate – indicated that 80% of all councils had a formal consultation process, while 92% had informal consultation and information sharing. In a similar 1997 LGNZ survey – based on a 74% response rate – this figure was only 25% and 17% respectively. Hui/meetings with local iwi/hapū were identified by the majority of council staff as being the most effective way to build relationships (MfE 1998) and to provide personal contact and goodwill. The 1998 MfE report also found that several councils were having difficulties identifying the appropriate iwi/hapū to consult with, several iwi members felt concerned that iwi organisations were making decisions on their behalf, and many iwi members felt iwi organisations were not representing them and did not have a suitable mandate or knowledge to speak on their behalf. Most councils used Māori liaison officers or Māori committee members to determine the right iwi groups to make contact with. In the 2004 LGNZ survey, many local authorities provided funding for Māori participation and 25% of all councils had established some type of co-management regime with local Māori for managing a site, activity or resource. Almost 66% of all councils provided funding for joint initiatives with Māori or have projects to work with the Māori community. Between 30 and 50% of councils had implemented tools to monitor and assess the effectiveness of their engagement with Māori, but the proportion was higher for metropolitan and regional councils than for rural councils (LGNZ 2004). Over half of all councils were shown to hold iwi management plans, but there was very little information on their use and implementation. In the 1998 MfE report some councils felt many iwi/hapū had unrealistic expectations about some of their concerns.

Another MfE report in 2000, based on interviews in 1998 and 1999, used the results to produce a guide with examples of good practice (MfE 2000b). The aim of good practice advice is to assist the parties – local government and iwi/hapū – to interact more successfully. Results showed that, "notwithstanding ongoing difficulties, local government and iwi are developing effective working relationships, and utilising diverse mechanisms that reflect the distinctive communities and the priority issues facing them" (Page 20). Mechanisms employed by parties to work together often change as parties increase their capability, or as mutual trust increases.

Effective Māori participation in local government decision-making on resource management matters is an essential element of the successful implementation of the Act, and in the achievement of good environmental outcomes (MfE 2000b).

During the last decade most councils have made improvements in the way they interacted with, consulted, and incorporated Māori organisations and concerns in their planning documents, and this had had positive benefits for all parties. It was acknowledged, however, that some councils had made little attempt to build relationships, trust, and goodwill, and these were experiencing on-going difficulties.

Planning issues

Two of the more difficult areas that need to be addressed are first, improving the quality and standard of iwi and hapū management plans, and second, developing good practice methods that facilitate inclusion and implementation of iwi/hapū planning and policy information effectively into council and community planning, policy, management, and decision-making (Ericksen et al. 2001; Day et al. 2003). The process by which these plans are implemented would be greatly improved through increased training for Māori and local government, along with increased levels of engagement and participation. Improvements should focus on increasing the standards of plans, including: defining criteria and principles that measure iwi plan quality; evaluating plan implementation (Day et al. 2003); and measuring achievement of desired outcomes for planning and

policy – from both Māori and local government perspectives. At the same time, evaluation tools – such as indicators – need to be used regularly to monitor the effectiveness of engagement with Māori and the implementation of plans – by local government and the wider community – towards achievement of agreed national, regional and district goals.

It must be recognised, however, that many Local Government/Council (Crown) district and regional plans in New Zealand are not of superior standard (Ericksen et al. 2001; Day et al. 2003). The findings of the FRST funded 'Planning under a Co-operative Mandate' (PUCM) report (Ericksen et al. 2001) showed that:

> The devolved and cooperative environmental mandate – mainly under the RMA 1991 – was badly compromised from the start though a lack of resources for capability building in central and local government, thus a great deal of work needs to be done to bridge this gap…. It is well past the time for central government to recognise its responsibilities and fund its resource management mandate effectively.

This lack of resourcing and of experienced staff, technical skills, and institutional knowledge in local government may have affected the quality of planning, implementation, and decision-making in many situations.

The PUCM study used a systematic evaluation of plans and planning processes in New Zealand (Ericksen et al. 2001; Day et al. 2003). The research was unique because it linked the assessment of plan quality (PQ) to implementation quality (IQ) and ultimately to environmental quality (EQ). The PUCM research evaluated and ranked 16 regional policy statements and 34 district and combined plans from the total 58 notified in March 1997, and scored them using rigorous criteria out of a total of 80. By applying 8 main plan quality principles (Table 1) it was found that most councils produced inferior policy statements and plans; over 50% scored below 50%. Research showed that when the capability (resources, technical skills, institutional knowledge, experience) in councils was strong, the quality of the plans increased, and when the capability was weak the plan quality decreased. "Effects-based" planning was generally not well enough understood by planners. Plan quality was also greatly affected by unrealistic timeframes and deadlines. About 50% of all district councils had less than 1 FTE planner. Many councils have had to make expensive plan variations in response to strong public reaction following notification. Just over 50% of councils philosophically understood the mandate with respect to the Treaty of Waitangi and Māori interests, but failed to follow through due to lack of political commitment and capacity.

Table 1. The key 8 principles of plan quality (from Ericksen et al. 2001).

Principle	**Example**
Interpretation of the mandate	Clarification of legislative understanding, legislative interpretation, understanding
Clarity of purpose	Outcomes; goals
Identification of issues	Clearly identified, articulated, and understood issues
Quality of fact base	Factual data, knowledge systems, technical input, clear objectives and policies
Internal consistency of plans	Mutually reinforcing, inter-connection, consistency of issues, objectives, policy, etc.
Integration with other plans and policy instruments	Integrate key actions from other plans and policy, and by other agencies
Monitoring	Evaluation, methods to measure progress towards desired outcomes, goals, organisational responsibility. Performance of objectives policies, indicators
Organisation and presentation	Readable, comprehensible, easy to use, clearly formatted and organised

Statistical evidence showed that attempts to coordinate or collaborate with Māori early in the planning process had a positive influence on how well plans advanced (Ericksen et al. 2001).

Many gains in local government working closely with Māori were often lost due to more powerful stakeholder interests diminishing Māori input and causing difficulty with uptake of Māori perspectives and iwi and hapū plan implementation (Ericksen et al. 2001).

Poor mandate design has impeded progress in recognition of Māori values and resources (taonga) in plans. The PUCM study found that nearly 50% of plan-makers in district councils did not understand the provisions in the RMA for Māori issues (RMA 1991 ss 6(e), 7 (a) and 8) (Ericksen et al. 2001).

A major obstacle was that – through the RMA – councils had to acknowledge the Treaty of Waitangi, but council obligations under the Treaty have never been clarified. Some local councils assumed they were "Treaty partners", while others were uncertain about their responsibilities. Widespread non-compliance has resulted (Ericksen et al. 2001).

Further findings (Ericksen et al. 2001) showed:

- Managerial reforms have profoundly affected local government, limiting benefits and often increasing costs, and restructuring that has had large impacts on the retention of experienced staff and on long-term planning and continuity of projects

- At the time of the PUCM study there was little evidence of partnership building between regional and district councils, partnerships were generally weak, and most councils were seen to work independently of each other. However, the PUCM research did show relationships between councils were improving as at 2002, and there was evidence since 1999 of partnerships being developed

- Regional council policy statements on the whole, were of fair to poor quality. Regional councils therefore have limited influence in enhancing the capability of local councils and the quality of their plans, and have substantial limitations in authority and capability to plan

- The disconnection between regional and district councils suggests lack of staff and financial resources, territorial protection, and conflict caused by uncertainty in roles were key reasons for a lack of council-council partnerships.

- Pressure on councils to meet statutory deadlines for regional policy statements and coastal plans was also an impediment to building partnerships with district councils

- In the quest for transparency and accountability, councils split the administration of policy, regulatory, and service delivery functions. This has commonly resulted in poor coordination and loss of technical skills across council

- Integral research areas were often lost and compromised to provide more direct benefit back to the public, such as speeding up the resource consent process

- The benefits of managerial reforms included: business-like systems, financial accountability, long-term financial strategies, improving customer services approach, long-term asset management plans, and annual plans through which funding of district and regional plans could be implemented.

> Plan makers often found key provisions in the RMA and matters of national importance unclear. Uncertainty about their own functions and plans has sometimes resulted in "plans that mean all things to all people" (Ericksen et al. 2001).

The PUCM study stated that, "A cooperative mandate needs strong leadership from key agencies of central government to ensure that councils have adequate capacity and capability to implement the national RMA mandate and the principles of the Act". Where implementation efforts were strong, higher quality plans resulted. With regards to implementation of the RMA 1991, the PUCM study found that central government did not adequately resource its lead agencies, such as Ministry for the Environment, for its implementation role. Better outcomes resulted where central government produced a national policy statement, and agreed on national strategies and priorities as guidance.

> The RMA 1991 relies on active participation by Māori in the planning process. There has been very little capability building by councils to assist Māori and improve both council and iwi/hapū management plans. The consequences have been aggravated by the lack of clarity in the role of Councils as agents of the Crown. In general, few Councils have undertaken capability building and few have clear lines of communication with Māori (adapted from Ericksen *et al.* 2001).

> The RMA 1991 prescribes duties of local authorities with regard to iwi and hapū planning and policy documents. It is good practice to recognise these documents, and decide on effective ways to implement these documents. This work should be carried out in conjunction with iwi/hapū following the steps described in section….
>
> It is good practice for local authorities to support the development of iwi and hapū management plans. Authorities should offer assistance such as funding, office space, use of equipment, sharing information, and technical expertise.

The LGNZ 2004 survey indicated that almost 66% of all councils have provided funding for joint initiatives with Māori or have projects to work with the Māori community. These have all been excellent initiatives for building trust, understanding and participation. Alongside councils, other organisations have also been building participatory projects, and many iwi have developed projects themselves to contribute to national and regional initiatives. To date a large number of iwi and hapū have produced iwi and hapū management plans, and one iwi, Ngāti Maniapoto, have prepared a state of the environment (SOE) report (Kowhai Consulting Ltd & MfE 2002). A number of iwi, hapū, kaitiaki groups are presently working on or have completed environmental indicator projects, in collaboration with, for example, research agencies such as NIWA and Landcare Research; local councils (e.g.. Nelson City Council), district, and regional councils; and central government (MfE) funded case studies. A number of city, district and regional councils are also collaborating with iwi,

hapū, and whānau groups on a range of environmental and biodiversity type projects, including restoration (e.g., lake, wetland), biodiversity enhancement, riparian planting, cultural heritage management and protection, environmental and landscape beautification projects, sewage disposal and wastewater treatment, contaminated site projects, upgrades in technology and systems to deal with resource consents, and development of information systems such as Geographic Information Systems (GIS).

The incorporation of Māori ideas and knowledge of the relevance of Māori environmental concepts and frameworks is a very constructive way to start collaboration. Māori frameworks and environmental concepts are holistic and usually emphasise the inter-connectedness and inter-relationship between different parts of the environment. They are based on integrating different parts of the environment, along with social, cultural and economic elements, to provide greater understanding. A common part of the Māori philosophy is the integration and use of trans-disciplinary and multi-disciplinary skills to address problems. This holistic and integrated philosophy is becoming a more accepted norm for addressing an array of connected and complex environmental, social, cultural and economic issues. As part of good practice, it is not difficult to incorporate this type of thinking into most types of projects in the 21st century, in contrast to the reductionist, compartmentalised, and regulatory thinking prevalent before the early 1990s.

3. An international framework for participation and partnership

The United Nations, mainly through UNESCO and its culture programmes, is very active in trying to mainstream goals for achieving cultural diversity and perspectives into policy agendas at national and international levels, strengthening links between cultural and development policies, promoting and implementing the convention concerning the protection of cultural and natural heritage, protecting cultural diversity, and eradicating poverty. These include strategies through the UNESCO Universal declaration on Cultural Diversity and implementation of its Action plan. In April 2000 the Commission on Human Rights adopted a resolution to establish a permanent forum on Indigenous issues, made up of indigenous representatives from around the world, and the Economic and Social Council endorsed this resolution in 2000. The permanent forum was established because "the United Nations felt that the participation of indigenous peoples in the United Nations was limited". The new body was set up to focus on global issues related to indigenous peoples that would offer the "opportunity for indigenous peoples to participate effectively". Funding by the United Nations, rather than being based on race, is targeted to indigenous peoples to achieve indigenous and cultural outcomes. It was felt that existing structures of the United Nations were "not well suited to consider issues of concern to indigenous peoples comprehensively".

> Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories or parts of them (UNESCO).

Such communities form at present "non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems", (definition accepted by the United Nations Working group on Indigenous Populations, UNESCO). "Their material, environmental and spiritual situations together with their world-views and intimate relationship with the land and natural resources, are particularly vulnerable to the impacts of globalisation". The resulting instability of these people and their culture "aggravated by dispossession of their land and natural resources has disrupted the handing down of their cultural heritage from one generation to the next."(UNESCO). The International Decade (1994–2005) of the World's Indigenous People is coming to a close, and was proclaimed by the General Assembly to " to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health"; it further proclaimed the decade was about "efforts to implement partnership for action".

UNESCO strives to strengthen and enhance the identity of indigenous people's and to promote their accession to multi-cultural citizenship. It seeks to come closer to indigenous realities by strengthening links and synergy connecting its various areas of competence and encourages the:

- adoption of national cultural policies that enhance indigenous cultural resources
- recognition of indigenous people's cultural rights and protection of indigenous heritage, especially the intangible heritage
- active participation of indigenous communities in the management of sites, especially World Heritage Sites and sacred sites
- implementation of bilingual, intercultural education programmes

- appreciation of the value of the traditional knowledge at the heart of indigenous lifestyles and the establishment of links between indigenous and non-indigenous scientific knowledge with a view to sustainable development
- participation of community members in democratic bodies at local and national levels
- development of media and means of communication suited to the needs of indigenous people.

In response to serious discrimination in terms of human rights, property, culture and citizenship, the United Nations Draft Declaration on the Rights of Indigenous Peoples (United Nations 1993) was developed by a working group in 1993 and adopted in 1994, and is being considered by a working group of the Geneva based UN Commission of Human Rights. It would give indigenous peoples, including "native Americans and Canadians, Australian Aborigines, New Zealand Māoris, and South American Quechua and Mapuche – the right to self-determination and the right to own, develop, control and use their traditional lands, waters and other resources".

The lengthy draft declaration deals with the rights of indigenous peoples in areas such as self-determination, culture and language, education, health, housing, employment, land and resources, environment and development, intellectual and cultural property, indigenous law, and treaties and agreements with governments. In 1995 the Commission on Human rights established its own working committee to examine the draft agreement. Part I of the draft declaration sets out fundamental rights, Part II Life and Security, Part III Culture, Religion and Language, Part IV Education, Media, and Employment, Part V Participation and Development, Part VI Land and Resources, Part VII Self Government and Indigenous Laws, Part VIII Implementation, and Part IX Understanding the Declaration. An example of Part I, fundamental rights is given below:

- *Article 1 – Human rights:* Indigenous peoples have the right to all the human rights and freedoms recognised in international law

- *Article 2 – Equality:* Indigenous peoples are equal to all other peoples. They must be free from discrimination

- *Article 3 – Self-determination:* Indigenous people have the right to self-determination. This means they can choose their political status and the way they want to develop

- *Article 4 – Distinct characteristics:* Indigenous peoples have the right to keep and develop their distinct characteristics and systems of law. They also have the right, if they want, to take part in the life of the rest of the country

- *Article 5 – Citizenship:* Every indigenous person has the right to be a citizen of a country.

Indigenous leaders have been campaigning for a UN Declaration on the Rights of Indigenous People to take the 1948 Universal Declaration of Human Rights a step further and affirm that indigenous peoples are equal in dignity and rights to all other peoples – but also have a right to be different. The Draft Declaration represents representation from 70 countries representing 300 million indigenous people around the world. The campaign for indigenous rights, particularly rights for self-determination and land, have run into strong opposition from USA, Canada, Australia and New Zealand who see it as racist and discriminatory. Despite objections from the four nations, indigenous leaders are hopeful they will achieve their goal of getting the UN to adopt the declaration by the end of the International Decade of the World's Indigenous People in 1995–2004. While the declaration would not be legally binding, it does provide a powerful international framework and guide for partnerships and indigenous rights. Recognition of indigenous people within a nation and within all legislation is an important premise of the declaration.

The permanent forum was established because “the United Nations felt that the participation of indigenous peoples in the United Nations was limited”, the new body was set up to focus on global issues related to indigenous peoples that would offer the opportunity for indigenous peoples to participate effectively”. Funding by the United Nations, rather than being based on race, is targeted to indigenous peoples to achieve indigenous and cultural outcomes.

4. The Treaty of Waitangi/Te Tiriti O Waitangi, 1840

Treaties with indigenous peoples were not unusual in the history of British imperial expansion, and in Aotearoa-New Zealand the Treaty of Waitangi was signed in 1840 by William Hobson representing the British Crown, and over 500 Māori chiefs from most parts of New Zealand (Orange 1987). The Treaty began its journey in the north of New Zealand, and was first supported by tribes in Northland, north of Auckland (e.g., Nga Puhi). Since this time many, mostly Māori scholars, have referred to the Treaty of Waitangi as the founding document of Aotearoa-New Zealand.

It should also be noted that the Treaty as a document followed the Declaration of Independence signed by Māori chiefs in 1835, which recognised Māori sovereignty and independence (tino rangatiratanga over all people, culture, land and resources) (Orange 1987). In 1840 the Māori tribes Ngāti Tūwharetoa, Te Arawa, Rangitāne, and Kati Mamoe did not sign the Treaty, and Tūwharetoa actively refused to subsume their mana to the English Queen. Many rangatira called the Treaty a "Ngapuhi" affair. Te Wherowhero, the great Tainui chief, entered into the 1835 Declaration of Independence but refused to sign the Treaty (although other Waikato chiefs did).

Once the Treaty was signed in 1840 the British considered they had acquired sovereignty over New Zealand, while Māori believed they had allowed British governance over New Zealand, and that the Treaty safeguarded Māori culture, territories and resources, and all Māori were protected under the Crown. Most Māori now see the document as significant in providing the basis for achieving equal citizenship and representation, as a basis for partnerships, and to affirm rangatiratanga or Māori collective authority. The Treaty is recognised by the United Nations as a significant historical document signed by two distinct peoples and has been instrumental in diffusing serious conflict in New Zealand for 165 years. Ever since 1840 the Treaty has been a contentious document in two versions. In the latter part of the 1990s and early 21st century, an increasing number of New Zealanders, mainly non-Māori, see the document as an important historically but not of the status of a founding document of New Zealand. Nor do most believe it gives Māori rights of sovereignty and rangatiratanga, "full exclusive and undisturbed possession of their Lands, and Estates, Forests, Fisheries, and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession", nor do they believe it confers special rights or privileges to the indigenous people of New Zealand.

Following long examination of international historical documents that outlined contemporaneous British policy toward indigenous people, the various instructions issued to British negotiators of the period, French and American attitudes to British involvement in New Zealand, and subsequent international arbitral decisions, Benedict Kingsbury (Kingsbury 1989) concluded that "the Treaty was a valid international treaty of cession, and the parties in 1840 were recognised as having the necessary legal capacity to enter into such a treaty". Both texts of the original 1840 version of the Treaty of Waitangi (Orange 1997) are:

Schedule: Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any part of those islands – Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws

and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorise me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

Article the first: The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole sovereigns thereof.

Article the second: Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

Article the third: In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.
(signed) W. Hobson Lieutenant Governor

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof: in witness of which we have attached our signatures or marks at the places and the dates respectively specified. Done at Waitangi this Sixth day of February in the year of Our Lord One thousand eight hundred and forty.
(Here follow signatures, dates, etc.)

The text in Māori:
Ko Wikitoria, te Kuini o Ingarani i tana mahara atawai ki nga Rangātira me Nga Hapū o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangātiratanga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangātira – hei kai wakarite ki nga Tangata māori o Nu Tirani – kia wakaaetia e nga Rangātira māori te Kawanatanga o te Kuini ki nga wahikatoa o te wenua nei me nga motu – na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

Na, ko te Kuini e hiahia ana kia wakaritea te Kawanatanga, kia kaua ai nga kino e puta mai ki te tangata māori ki te Pakeha e noho ture kore ana.

Na kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianei amua atu ki te Kuini, e mea atu ana ia ki nga Rangātira o te wakaminenga o nga hapū o Nu Tirani me era Rangātira atu enei ture ka korerotia nei.

Ko te tuatahi: Ko nga Rangātira o te wakaminenga, me nga Rangātira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu – te Kawanatanga katoa o o ratou wenua.

Ko te tuarua: Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangātira, ki nga hapū – ki nga tangata katoa o Nu Tirani te tino Rangātiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangātira o te wakaminenga, me nga Rangātira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua – ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

Ko te tuatoru: Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata māori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

(Signed) William Hobson – Consul and Lieutenant Governor
Na ko matou ko nga Rangātira o te Wakaminenga o nga hapū o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangātira o Nu Tirani ka kite nei i te ritenga o enei kupu. Ka tangohia ka wakaaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te ono o nga ra o Pepuere i te tau kotahi mano, e waru rau e wa tekau o to tatou Ariki.

Summary and comparison of the two versions
New translations of the Treaty were printed in 1869 by order of the Legislative Council, New Zealand (Orange 1987). The following is a useful summary of each article of the Treaty of Waitangi, comparing both versions (RCSP 1987, 1988):

Article 1: The English version states that the Māori gave their sovereignty authority and control to the Queen. The Māori version does not use the nearest Māori equivalent to sovereignty, "mana", but "kawanatanga" (governorship), an improvised word in missionary usage, new to Māori ears. In providing for the exercise of powers of government it may have conveyed something less than an absolute transfer of authority.

Article 2: The English version guarantees "the full, exclusive and undisturbed possession of their lands and estates, forests, fisheries and other properties" to the Māori. The Māori version is less specific but its language is inclusive. A translation prepared by Professor H Kawharu holds that the Māori be given the protection of the Queen in the "unqualified exercise of their chieftainship ('tino rangātiratanga') over their lands, villages, and all their treasures ('taonga'). Debate has focussed on the concepts 'tino rangātiratanga' (obviously not synonymous with unqualified 'possession') and 'taonga', and the meaning that each would have conveyed in 1840.

The Waitangi Tribunal's decision that language could be regarded as a treasure (within the context of the Treaty) gave substance to the notion that 'taonga' might refer to social and cultural properties as well as physical possessions. There is further confusion in Article 2 as to whether the provision that chiefs "will sell their land to the Queen" (Māori version) has the same meaning as the "Crowns exclusive right to pre-emption" (English version).

Article 3: This article appears less contentious although there is by no means uniform agreement on the extent of the Queens protection to "all the ordinary people of New Zealand".

Article 4: There is some debate about the status of Article Four, as it appears only in the Māori version of the text. The Race Relations Office statement about this Article is as follows: “The

Churchmen, the Catholic Bishop Pompallier and the Anglican Missionary William Colenso were recorded in discussion on what we would call religious freedom and customary law. In answer to a direct question from Pompallier, Hobson agreed to the following statement "E mea ana to Kawana ko nga whakapono katoa o ingarani, o nga Weteriana, o Roma, me te retenga Māori hoki e tiakina ngatahitia e ia". (Translation: The Governor says that the several faiths (beliefs) of England, of the Wesleyans, of Rome and also the Māori custom shall alike be protected by him). It was read to the meeting before any of the Chiefs had signed the Treaty (Reference: The Treaty – Te Tiriti o Waitangi, Race Relations Office, 1990).

Summary

Findings from the Royal Commission on Social Policy (RCSP 1987, 1988) were:

(a) The two parties to Treaty of Waitangi are Māori and the Crown. The Crown has failed to uphold its commitments to the articles of the Treaty and this failure has had a profoundly negative impact on Māori. In recent years attempts have been made to re-define te Tiriti as a set of principles. This was largely an effort by government to find a ready way of redressing grievances arising from breaches of the Treaty. But the texts of the two documents stand in their own right.

(b) For 165 years the meaning of the Treaty of Waitangi has been debated. There are two versions – one in Māori and one in English. Enormous energy and effort has gone into interpretation, translation and explanation of the differences between the two versions. Trying to reduce the differences or to eliminate them is not helpful. It is important to understand and acknowledge the differences.

(c) The two texts establish the rights and obligations for each party.

In simple terms, the Treaty (Te Tiriti) established:

- The right of the British Crown to govern this country
- The authority of Māori over things Māori
- Equal rights for Māori and non-Māori
- Respect for and protection of Māori custom and English beliefs (faiths).

The Treaty of Waitangi is a valid, internationally recognised document that has a significant place in the history of Aotearoa-New Zealand and for its time can be regarded as a visionary document. In 1840 it acknowledged indigenous customary rights, established British rights to govern, and provided the basis for equal rights in Aotearoa-New Zealand. It also established the first critical pathway towards partnership in New Zealand between two distinct cultures. Whether this pathway is followed reflects more the degree of misinterpretation of the Treaty and the lack of respect paid to the indigenous party in the document than anything inherent in the document itself.

Reference to the Treaty is now enshrined in legislation and policy. The intent and substance of the document, although not legally binding in the 21st century, and always reliant on interpretation from different perspectives and agendas, allows it to take its place with many other international conventions, treaties, and declarations signed before the latter part of the 20th century. The Treaty must be seen in this historic context, which certainly does not undermine its relevance and significance, as with the Magna Carta in 1215. It is unfair to abandon and relegate a document of such stature and importance to the past. The moves toward sustainable development in New Zealand also provide the opportunity for better definition of the principles emanating from the Treaty of Waitangi, for all people, as a basis for the development of a constitution for New Zealand and as a platform for nationhood, identity, and advancement.

Principles of the Treaty

A large number of groups and organisations have attempted to develop principles based on the Treaty. The principles have been almost as contentious and as widely varied in interpretation as much as the original Treaty. A key set of principles, developed in 1989 by the Department of Justice, was used through the 1990s by most Government departments. These principles (Department of Justice 1989) are summarised below:

1. Principle of Government (Kawanatanga principle): taken directly from Article 1 of the Treaty – Sovereignty. It stated that government had the right to govern and to make laws. That right, however, was based on a conditional requirement to include Māori interests from Article 2 of the Treaty as a priority (redrafted in 1990 by the National Party to indicate government to govern for the common good).

2. Principle of self-management (rangatiratanga principle): from Articles 1 and 2, confirming that iwi should have the right to organise iwi affairs and, under the common law, control and manage resources they own. Active protection of Māori interests. This principle recognises sustainable tribal development, government interest in devolution, a move towards greater autonomy with less dependence on the state. Again this principle is consistent with government policies since 1988 and encouragement of the private sector, and the promotion of economic and social development (redrafted in 1990 by the National Party to reflect self-management within the scope of the law).

3. Principle of equality: all New Zealanders are equal under New Zealand law. Rights and privileges are the same for all people in New Zealand society (Article 3). This also identifies the large disparities in many areas in society that requires attention through targeted policy and action in order to achieve social equity. Aspects of this principle led to “closing the gaps” policies in the late 1990s, and strategic objectives to reduce and correct large social and economic disparities and disadvantage of certain groups in New Zealand society, particularly between ethnic and socio-economic classes. In 1991 Government introduced the mainstreaming policy to the state sector.

4. Principle of reasonable cooperation: government and iwi are obliged to accord each other cooperation on major issues of concern. Recognition to the Treaty in all aspects, by central and local government. This has been interpreted by many Labour Party politicians as being based on mutual respect and good faith between Treaty partners. This principle was used to improve under-representation of indigenous peoples on policy and management controlled by central and local government.

5. Principle of redress: the government was responsible for providing effective processes for the resolution of grievances in the expectation that reconciliation could occur.

After 1990, the National Party asked for these principles to be redrafted to accommodate new policies. No one has been sure whether these Treaty principles have any official standing or even form the basis of Treaty policy. Government departments have never been told to disregard the 5 principles, or to enforce them. However, they do provide a good platform for discussion and for collaboration.

5. Legislative Frameworks

Introduction
Iwi and hapū Māori work under a raft of legislation that requires interaction with a range of stakeholders, governance responsive to legislative requirements, understanding, and capacity to engage and fulfil responsibilities to iwi, hapū, and other stakeholders. Some of the key legislative frameworks and sections that promote the development of relationships, collaboration and partnerships are given in this chapter.

The Resource Management Act 1991 (RMA)
The Resource Management Act (1991) (Appendix 1) replaced a large number of previous Acts such as: Town and Country Planning Act 1977, Water and Soil Conservation Act 1967, Clean Air Act 1974, Noise Control Act, large parts of the Soil Conservation and Rivers Control Act 1941, Harbours Act, large parts of the Mining Act 1971, the Coal Mines Act 1979, the Petroleum Act 1932. The RMA now works alongside a number of strengthened and amended Acts, for example, the Conservation Act 1987, Reserves Act 1977, and fisheries and wildlife legislation.

The purpose of the RMA 1991 (Appendix 1) is to promote the sustainable management of natural and physical resources. Section 5 (2) "Sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, that enables people and communities to provide for their social, economic, and cultural well-being, and for their health and safety. A number of sections in the RMA make specific reference to the need to recognise and include tangata whenua/iwi issues, interests and values, and therefore provide the basis for consultation, collaboration, participation, the development of iwi management plans, development and implementation of appropriate planning tools, and processes and systems for resource consent applications, planning and policy. In achieving this purpose, three main sections 6(e), 7(a) and 8, below, require those exercising powers and functions under the Act to recognise and provide for iwi environmental interests and values:

- Section 6(e) (Matters of National Importance) emphasises the need to "recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sacred sites and other taonga, having regard to kaitiakitanga (stewardship) and Treaty of Waitangi principles".

- Section 8 states that "all persons exercising functions and powers under the RMA in relation to managing the use, development, and protection of natural and physical resources shall take into account the principles of the Treaty of Waitangi". These principles include partnership and active protection (Crengle 1993; MfE 1993; English 1996).

- Section 7(a) makes reference to "having regard to the exercise of kaitiakitanga", which provides acknowledgement of the role of tangata whenua as kaitiaki or guardians over resources. The inclusion of the concept of kaitiakitanga, the Māori ethical principle of resource management, in Section 7 and Section 2 of the RMA is an attempt at giving practical recognition to Māori values (PCfE 1998).

The RMA 1991 gives iwi/hapū (tangata whenua) significant status and provides a framework for participation. In preparation of policy and plans the Act requires the views of iwi/hapū to be sought [First Schedule Clause 3 (1)(d), Clause 2(2), Clause 5(4) (f), Clause 20(4)(f)] and section 62 (1) (b)]. No other stakeholder group is singled out in this way for specific input into resource management planning documents.

There are legislative requirements for the inclusion of Māori cultural, historical and spiritual values in all aspects of land-use planning. These requirements are specified in the Treaty of Waitangi 1840 and the Resource Management Act (RMA) 1991. The RMA sections, 61(2)(a)(ii), 61(2)(a)(iii), 66(2)(c)(ii), and 74(2)(b)(ii) state that local authorities must have regard to, and make provision for any iwi or hapū plan. Section 62(1) of the RMA also comments that a regional policy statement shall make provision for and state matters of resource management significance to iwi authorities. There is therefore an obligation for local authorities to consult with iwi and hapū over consents, policies, and plans.

Through these and other provisions in the RMA, especially the provisions in Part II, there is an acknowledgement of the relationship of iwi/hapū with the environment. The provisions recognise that tangata whenua knowledge about environmental management is valuable and contributes to the achievement of good environmental outcomes. Effective implementation of the RMA requires the establishment of processes to enable iwi to make meaningful input into environmental management particularly in the policy and planning stages. The Ministry for the Environment (MfE) considers that for local government to meet its statutory obligations under the RMA it is important for them to enter into effective relationships with iwi/hapū in their geographic-administrative areas (e.g., MfE 1992, 1998, 1999a,b, 2000b; MfE & Office of Treaty Settlements 1999).

Iwi management plans

As part of a multi-cultural, pluralistic society, planning affects us all, and processes and systems are sought to represent a cross-section of community aspirations and values and find solutions to complex issues. Planning should involve, as much as possible, the individuals and communities most affected by plans. Historically, the planning process, particularly before 1991, isolated tangata whenua from the planning process and seldom consulted them on any important cultural issues. This isolation was represented and manifest nationally in, for example, planning urban and rural landscapes, built environments, housing, all aspects of land-use planning, land development and subdivision, roading, policy on coastal and marine ecosystems, coastal development. From a Māori perspective this has had a long-term detrimental effect on planning. Understanding different stakeholder and tangata whenua issues is a learning process for educating and improving the capabilities of decision-makers, and hopefully achieving better environmental and social outcomes for the wider community.

Since the advent of the RMA in 1991 we have evidence of more effective methods and processes being used in New Zealand to incorporate Māori values information into land use and environmental planning. This requirement to acknowledge and include Māori values was elaborated by Tau et al. (1992), who stated that to understand Māori values and beliefs " part of the process of being involved in planning, involves assisting the other Treaty partner to understand Māori approaches to resource and planning"(Tau et al. 1992, part 1, page 2). In Tau et al. 1992, principal planning judge David Shephard wrote:

> "The duty of resource managers to take into account the needs of the Māori people has not been fully performed in the past. In part that has been because many planning and resource management authorities have not obtained ready and reliable sources of information about the attitudes and interests of tangata whenua. Planning decisions have been to the poorer for that (Tau et al. 1992, preface, page 20).

Iwi, hapū, and marae management plans need to re-introduce traditional knowledge (mātauranga Māori) into resource management, and document and expand on traditional environmental management systems and expertise. Iwi management plans should therefore define both general and particular iwi Māori attitudes, values, beliefs, and policies. Management plans need to specify what activities are permitted and where, what activities should be restricted, and what activities should be prohibited: "...Tino rangātiratanga, as guaranteed in Article the second of the Treaty of Waitangi,

includes the right to contribute to resource allocation and management decisions, where these impact on tribal resources" (Tau et al. 1992).

A number of sections in the RMA make reference to the role and need for iwi and hapū management plans (Appendix 1). Section 66 refers to "matters to be considered by a regional council", and sections, 61(2)(a)(ii), 61(2)(a)(iii), 66(2)(c)(ii), and 74(2)(b)(ii) make provision for iwi or hapū plans. Section 74: (2) ...when preparing or changing the district plan, a territorial authority shall have regard to – (b) Any – (ii) Relevant planning document recognised by an iwi authority affected by the district plan; and (iii) Regulations relating to ensuring the sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitati, or other non commercial Māori customary fishing, – to the extent that their content has a bearing on resource management issues of the district.

A large number of iwi planning documents have been produced during the last decade and, those that are geographically pertinent are held by respective regional and local authorities (for survey purposes local authorities are often classified into regional, metropolitan, provincial and unitary, and rural LGNZ 2004). Most of these iwi reports follow a similar formula and state a tribal identity with key contacts, provide some background to cultural issues, articulate cultural values and explain terms, identify relationships and legislative responsibility, and often provide an inventory of natural resources and culturally significant sites to varying degrees. These iwi management plans are of major importance because they provide an undiluted reference point for iwi Māori perspectives, by articulating iwi/hapū issues and values for a distinct geographical area. There is every reason therefore for these plans to stay as separate documents in their own right but to be referred to regularly.

Some of the apparent difficulties for councils using these iwi-planning documents are how to implement and incorporate the key values, aspects, statements, iwi policy, and recommendations of iwi and hapū plans effectively into local authority planning and policy. Implementation and usefulness also raise questions about iwi plan quality and identification of the key ingredients and structure required to improve the quality of these plans (along with council plans) to be effective. For plans to achieve desired outcomes, effect change, and influence human and organisational behaviour, they need articulately, specifically, and strategically to describe goals and objectives that can be used to align with community, district, regional and national goals and priorities. The next necessary area of planning is to develop appropriate tools to evaluate and measure achievement towards, for example, desired cultural and environmental outcomes. This work on plan quality, implementation, and evaluation, requires further study and discussion and will not be addressed in this report. However, this future area of work depends on councils and tangata whenua forming strong, effective relationships, collaboration and partnerships.

Information systems

Iwi and hapū information systems linked to the information systems of local authorities, research agencies, and government departments would help improve delivery of Māori values information to resource management and land-use planning processes and systems.

The development of iwi or hapū-specific databases or information systems is an essential pre-requisite for the development of iwi or hapū management plans. Because the majority of information systems and planning databases presently used in New Zealand for resource management and land-use planning are deficient in Māori value information (i.e. cultural, historic, spiritual) it can be argued that many of goals of the RMA are difficult to meet, or at best are only partially met through indirect processes (Harmsworth 1995).

The Resource Management Amendment Act (RMAA) 2003
The RMAA 2003 was passed in May 2003 to strengthen and simplify the existing Resource Management Act in 4 key areas:

- reduce compliance costs – improve the implementation of the RMA, with particular emphasis on reducing costs (while ensuring environmental outcomes are not compromised and retaining opportunities for public participation)
- simplify the use of national instruments – strengthen those parts of the RMA that provide establishment of national instruments, national policy statements and national environmental standards) to assist with the management of nationally important environmental issues
- strengthen the historic heritage provisions – enhance the provisions of the RMA for historic heritage
- make a number of miscellaneous amendments relating to the RMAs implementation.

A number of provisions were written to meet the above purposes, and these changes included:

- A focussed notification process for minor-effect applications where affected party approvals have not been obtained
- No provision to challenge non-notification decisions on resource consent applications in the Environment Court (i.e. maintain status quo)
- The RMA amendments were also to clarify the implementation of national environment standards. In particular, to remove the potential for inconsistency between a national environmental standard, a rule or a resource consent, by ensuring the more restrictive provisions always prevail.

The following changes are particularly relevant to iwi and hapū participation:

- *Iwi and hapū planning documents have been elevated in importance*, in the hope of creating a more consistent approach to iwi concerns because the current consultation process by councils with iwi and hapū is considered to be relatively ad hoc

- *Historic heritage protection* has been added to matters of *national importance*, giving more weight to the protection of historic sites, including cultural sites, when making decisions under the RMA Act

- *Processing resource consents*, speeding up the resource consent process through specified or *clarified timeframes*

- Increased public participation – *for people representing a relevant aspect of the public interest* – including increased opportunity for iwi and hapū participation in proceedings of the *Environment Court* at the *council hearing stage*

- Clarify the position and importance of *national instruments* (*national environmental standards and national policy statements*) to provide policy direction to local authorities and provide national consistency to environmental regulation, making district and regional plans more consistent but also more restrictive under *national approach and consistent environmental bottom lines*

- *Limited notification of resource consents*, providing a category of consents that only need public notification when identified by local government as those being adversely affected. This will place responsibility on all councils to direct applications for consent to the appropriate people, for example with relevance to identifying the correct iwi, tangata whenua, hapū or whānau groups

- Providing regional and district councils an explicit function to maintain *indigenous biodiversity*

- Requirements by regional and district councils to prepare a *monitoring report* every 5 years that evaluates the *efficiency and effectiveness of the provisions in policy statements and plans.*

For references to Māori or tangata whenua the 2003 RMA amendments have not altered these sections significantly. The key sections from the RMAA 2003 read:

- Section 6 – Matters of national importance: states that these matters of national importance will be recognised and provided for. For Māori, Sections 6 (e) "The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga", and (f) "the protection of historic heritage from inappropriate subdivision, use, and development" remain the strongest sections in the RMA. It should be noted that wāhi tapu is not specifically defined in the RMA, and until 2003 was a Section 7 matter. Its inclusion in Section 6 strengthens this provision for Māori, because the RMA's (1991) definition of historical heritage includes "sites of significance to Māori, including wāhi tapu".

- Section 7 – Other Matters: (a) Kaitiakitanga, (aa) the ethic of stewardship. The RMA's use and definition of the term kaitiakitanga, does not adequately explain this environmental concept and the way in which regional and district councils have regard for kaitiakitanga is unclear. It has been asserted that to give effect to kaitiakitanga, councils need to have a relationship with this process. Most councils define kaitiakitanga in their policy statements. The definition from WRC (1995) is: "The exercise of guardianship; and, in relation to a resource includes the ethic and stewardship based on the nature of the resource itself". The definition of a kaitiaki is, "a person or agent who cares for taonga; may be spiritual or physical. A guardian or steward" (1995). The meaning of kaitiaki in practical application may vary between different hapū and iwi but many generic definitions and explanations are available (TPK 1996).

- Section 8 – Treaty of Waitangi: In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). These principles are still under contentious debate but an example of what is meant by Treaty principles can be viewed in section 4.

Resource Management Act – review 2004–2005

The Resource Management Act can be regarded, internationally, as an extremely forward thinking piece of umbrella legislation to protect many facets of the New Zealand environment. The RMA provides the mechanisms and tools to protect and sustainably manage the environment, natural resources, cultural heritage values, and secure New Zealand values. It promotes balance, participation and decision-making at all levels, and provides the legislative rigour and policy framework to achieve sustainable management of natural resources and sustainable development. The RMA, however, has come under enormous criticism from various sectors who see it as constraining development, impacting on economic growth, delaying initiatives, and creating complex hurdles and barriers for nationally and regionally strategic projects. More specific local development projects regard the RMA as inefficient, expensive, time wasting, unfair, and increasingly bureaucratic. The Government is therefore again reviewing the RMA, which will see more changes to the Act. This is will be known as the RMA Reform Bill. To address the concerns raised over many years, the Government decided to focus on five key areas:

- Achieving the right balance of national and local interests

- Improving the design and process for local policy formulation
- Improving the consent decision-making process
- Allocating natural resources (water, air or geothermal)
- Building capacity and promoting best practice and implementation.

Key initiatives (February 2005) were put in place to provide a greater role for central government in local decision-making, and leadership was seen as central to the comprehensive package of proposed RMA improvements. “The legislative changes are just one part of a package of measures reflecting a stronger leadership role for central government in implementing and supporting the RMA….This includes poorer performing councils being given greater direction to improve planning processes and systems where these are found to be deficient” (David Benson-Pope MP Feb 2005). This directive from central government will include greater consistency in national policy statements and standards, and greater support for local government.

Key features of the new Bill therefore include:

- providing mechanisms to manage competing national benefits and local interests, with provision of a menu of tools for government to support local decision-making
- strengthening the expression of national interest by reinforcing the role of national policy statements and national environmental standards
- improving local policy and plan-making, streamlining the plan-making processes to reduce compliance costs and end duplication of process
- the Government providing information to councils on the iwi authorities in each area or rohe. In terms of resource consents, iwi will have the same opportunities to participate as any other person affected by an activity.

The purpose of the RMA remains unchanged:

> We are committed to protecting and preserving the unique aspects of New Zealand's natural environment…. That means striking the right balance between our desire for a clean, healthy environment and our expectations for growth and opportunity….The RMA has always recognised that these important decisions are best made in the communities which might be affected by any initiative….This package of improvements is about practical solutions and improved processes to make the law work better….By providing leadership and partnership with the community, business and local government we will get better environmental results….This Bill is about providing greater certainty and efficiency in the way the RMA operates, while not sacrificing protection for our environment. We need to get the balance right so that New Zealanders get the environmental protection they expect and deserve, as well as certainty about the process. There is a lot we can do to improve the quality of decision-making, and further reduce delays and uncertainty about costs. (David Benson-Pope MP Feb 2005).

Local Government Act 1974

The Local Government Act of 1974 consolidated and amended the law relating to the reorganisation of the districts, and defined functions for local authorities and provision for the administration of those functions that can most effectively carried out on a regional basis. It made provision for the establishment of united councils, regional councils, district councils, district community councils, and community councils, and to consolidate and amend the Municipal Corporations Act 1954, the Counties Act 1956, the Local Authorities (Petroleum Tax) Act 1970, and provisions of other Acts of the Parliament of New Zealand relating to the powers and functions of regional councils, united councils, and territorial local authorities.

Review of the Local Government Act

The 1974 Local Government Act was reviewed between 2000 and 2002. Local Government New

Zealand (LGNZ) made substantial submissions and recommendations. One of the key recommendations was that the purpose of Act be changed: "to make local decisions and undertake activities in order to promote the social, economic, cultural and environmental wellbeing of communities, now and for the future". The amendments therefore were developed to increase community involvement and fulfil community aspirations. In 2002 it was stated the Act should establish a system for the good democratic governance of communities throughout New Zealand which is accessible to them and which contributes to meeting their social, economic, cultural and environmental wellbeing, now and for the future, in ways that are appropriate to each community and complementary to the systems of government of New Zealand as a whole.

LGNZ believed 3 key objectives should be targeted for the new legislation:

- Provide an empowering framework
- Clarify the relationship between local government and the Treaty
- Provide for an effective partnership between local government and central government.

LGNZ recommended that Local Government develop detailed strategies to increase collaboration with communities and tangata whenua. A Treaty approach was recommended that could provide: commitment, specific guidance, and a reporting/audit function for increasing participation with hapū/iwi Māori. The new legislation would encourage collaboration between Local Government, Central Government and hapū/iwi Māori. In 2002 LGNZ identified some key drivers for the new legislation:

- Participation and subsidiary
- Authority to govern
- Working in partnership
- Clarity on Treaty of Waitangi responsibilities
- Adding Value (i.e. reduce compliance to add value to the productive sector)
- Accountability and Transparency
- Empowering frameworks.

The legislation stated that the Crown's challenge was to increase understanding of the Treaty and its implications. The LGNZ submission recommended that, as the Crowns' representative, Local Government should have regard to the cultural identity and values of hapū/iwi to improve outcomes for them, and suggested a framework consisting of strategies that would:

- improve mechanisms for hapū /iwi to contribute to decision-making
- establish and maintain effective processes to enable hapū/iwi to contribute to local government decision-making
- develop hapū/iwi capacity to participate in Local Government decision-making
- Provide information to hapū/iwi to increase their contribution to Local Government decision-making

LGNZ also recommended in 2002 that Local Government include in all future annual reports, mechanisms to meet the obligations to the Treaty of Waitangi under some type of framework. However, this treaty framework area and agreement on a defined set of principles (section 5) have been viewed as highly contentious, and have become immensely difficult areas to implement in New Zealand at both central and local government levels. The political and constitutional debate over what the Treaty means to all New Zealanders will continue for sometime.

Local Government Act 2002

The Local Government Act 2002 replaced the Local Government Act 1974. The philosophy behind the Act is that the best growth and development for communities comes from the communities themselves and that the role of local government is in leadership, empowerment, and co-ordination

to achieve local sustainable development. The Act requires Local Government to reflect the views and aspirations of its community and to be part of the community. The Act requires a greater level of understanding of community aspirations. The new Act therefore introduces some significant changes to the governance of local communities:

- Local authorities are granted the power of "general competence"
- Greater emphasis is placed on forward strategic planning and consultation with communities.

The purpose of the new LGA 2002 is in Section 10 and reads: "to enable democratic local decision-making and action by, and on behalf of, communities and to promote the social, economic, environmental, and cultural wellbeing of communities, in the present and in the future"
Section 14 further sets out some principles that include:

- operating in an open, transparent, and democratically accountable manner
- having regard to the views of all its communities
- taking account of diversity of the community, the interests of future and current communities, and the impact of each decision on the communities
- providing opportunities for Māori to contribute to decision-making processes
- conducting commercial transactions in accordance with sound business practice
- prudent stewardship and efficient use of resources
- aiming for sustainable development.

The LGA 2002 introduces the concept of 'long term council community plans' (LTCCPs) and many of these plans have been produced in New Zealand in 2004/2005. The concept was introduced to "enable democratic local decision-making and action by, and on behalf of, communities and to promote the social, economic, environmental, and cultural wellbeing of communities, in the present and in the future".

The Act therefore sets out a complex pathway to sustainable development and participation for both communities and local government. The power of general competence is constrained by the requirement to build long-term plans that reflect community (not local government) goals. Decision-making must be carried out within this framework. In future, district and regional plans will have to reflect long-term community-based plans. The Act encourages much more collaboration with all community groups, including tangata whenua.

Historic Places Act 1993

The Historic Places Act (HPA) 1993 has four key objectives:

- To promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand
- To allow the New Zealand Historic Places Trust and the New Zealand Historic Places Board of Trustees to continue with the functions and powers necessary for the full and proper attainment of the objectives of this Act
- To establish the Māori Heritage Council
- To amend and consolidate the Historic Places Act 1980.

The HPA is commonly referred to by iwi, hapū and local authorities, and covers all culturally significant sites that require protection and management. The Act can apply to many different types of cultural sites including pā, marae, archaeological sites, papa kainga, middens, artefacts, landscape features, and wāhi tapu (Harmsworth 1995; TPK 1996). Protection, preservation and conservation for these sites can also be given under most district plans if the site is geo-referenced, described, and related to a distinct group of tangata whenua. However, the vast majority of culturally significant sites in New Zealand are not formally protected in any way. Very few cultural

sites are actually protected under the Act or in district plans. In order for the HPA to offer protection the site must be identified, described, and registered or proposed for registration, or be a designated and surveyed archaeological site and listed in the national or regional archaeological site register or file. Very few cultural sites are identified and described in iwi management plans, largely due to confidentiality and sensitivity issues. Information on cultural sites in many areas in New Zealand is piecemeal and from a Māori perspective lacks verification and in-depth description– due either to the reluctance of individuals to pass on this knowledge, or because large amounts of matauranga Māori have been lost as a result of the increasingly ageing population of many Māori communities.

Historic Places Amendment Bill (5 August 2004)

This bill adjusts and clarifies the application of the Historic Places Act 1993, and also strengthens the New Zealand Historic Places Trust's governance arrangements, enhancing its accountability to the Government. In the provisions relating to wāhi tapu (Section 25(3)(b)(ii)), responsibilities are added to agencies by inserting, after the word "authority", the words "and regional council".

Other legislation

A plethora of legislation, recognised by Māori and Crown agencies, affects their operations, functions, governance, compliance, and relationships, and forms the framework in which they navigate to fulfil obligations and responsibilities to achieve environmental, social, economic, and cultural goals.

6. A collaborative process for working with Māori

Since 1991, improvements to the collaborative process have largely been advanced in response to: requirements and obligations under statutory law; moral and ethical consideration; the nature of the work and the perceived outcomes; and responsibility to recognised stakeholders. These improvements have provided the frameworks, elements, guidelines, and process for best practice and effective collaboration. Collaborative process is the organisational and often sequential or ordered set of practices required to achieve collaboration. It is often driven by desired outcomes based on key activities, priorities and protocols.

A large number of contributing pieces of information have been used over many years to build up a more consistent and complete picture of the essential practices and ingredients required to form good relationships and effective engagement with Māori. Learning about effective processes (Harmsworth 2001; MfE 1998, 2000b; ARC 2004) has been based on many previous and current examples, derived, for example, from: surveys, guidelines, mediation guides, existing case law, case studies, council staff, iwi and hapū groups, and personal communication. This provides insight into established protocols, practice, activities, and other initiatives. Learning needs to consider all the successes and failures, moral, ethical and cultural dilemmas, rights and wrongs, and evaluation studies (e.g., what works and what doesn't), such as assessing practices against desired goals.

When developing effective collaborative process and guidelines it is important to see the process and what constitutes best practice from both a Māori and non-Māori (e.g., local government) perspective. The report "Iwi and Local Government: Examples of Good Practice" (MfE 2000b) provided an interesting background and comprehensive summary of perspectives from iwi/hapū and local government, and this has been used to develop a large number of good practice examples and principles. These different perspectives on partnership and collaboration are essential for identifying the key ingredients and practices required for achieving effective engagement, dialogue and collaboration. The summary (MfE 2000b), starting with iwi views, is given below:

Iwi views:

- The Treaty is often the basis for the relationship (especially by iwi/hapū).
- Local government represents the Crown
- The RMA gives iwi/hapū a special position in resource management (most iwi/hapū see the main decision-making under the RMA as being carried out by local government). Iwi/hapū see this unilateral decision-making as undermining partnership
- Iwi/hapū see a lot of "soft language" in all local government planning and policy documents, especially regarding Treaty commitments
- Iwi/hapū would like some devolution of power from local government, especially for monitoring the natural, cultural, and physical environment
- Most iwi/hapū do not see their role as duplicating or replacing local authorities
- Environmental and cultural issues have a high priority for iwi/hapū, but lack of resources, skilled staff, and time greatly limit participation in resource management.

Local government views:

- Local government does not constitute the Crown, and this is a constitutional issue that needs clarification

- Few local government personnel see the relationship with iwi/hapū as a partnership, and therefore should not give iwi/hapū status or superiority over other stakeholders or any other community group. Iwi/hapū are one element of the wider community

- The role of iwi/hapū to participate in resource management is unclear. Many local government staff do not see iwi/hapū as having special status in resource management, but there were concerns about iwi/hapū status and responsibilities – a common perception being that these had the potential to be in conflict with local government roles and responsibilities

- The exact meaning and significance of the Treaty is unclear, and requires clarification and definition based on education and debate

- The RMA and LGA do not provide a clear guide for the roles and responsibilities of local government working with iwi/hapū

- Many councils maintain a cautious approach to giving financial assistance to iwi/hapū, interpreting and implementing the Treaty of Waitangi, and conferring special status to iwi/hapū over other stakeholders.

The MfE 2000 report shows that iwi/hapū place greater weight on the Treaty as a basis for relationships and participation than on local government, especially as a basis for partnership, roles, and responsibility. This represents a major difference of opinion and perspective that needs to be debated and clarified under constitutional law. Comprehensive reports such as “He Tohu Whakamarama” (MfE 1998) and “Iwi and Local Government: Examples of Good Practice” (MfE 2000b) provide examples and make many recommendations for achieving good practice. Many of these examples have already been adopted or refined by local authorities and central government. More recently, the Auckland Regional Council produced a very useful set of Māori consultation principles (Appendix 2) as part of their consultation policy (ARC 2004).

To date, a large number of documents provide guidelines for best practice from a Māori perspective (Blackford & Matunga 1991; Blackford & Smith 1993; MfE 1992, 1998; 1999; 2000; TPK 1996; Taiepa 1998, 1999a, b; Harmsworth 2001; HBRC 2002; Jefferies et al. 2002; ARC 2004). Specific recommendations from a Māori point of view include:

- Council staff should learn more about the tangata whenua living in their districts and how to work with all tangata whenua by consulting with each marae and hapū

- Consultation needs to be more effective in implementing iwi concerns. Consultation should relate to the notion of kanohi ki kanohi (face to face) with iwi/hapū on marae

- Protocols and guidelines on how to consult with tangata whenua would be helpful

- Council staff should be educated on Māori issues and values

- Regular reviews of councils’ relationships with iwi/hapū should be conducted and methods should be sought to improve such relationships

- Iwi/hapū should not be expected to work on a voluntary basis, and councils should meet the expenses incurred in consultation

- Māori liaison staff and iwi representatives on council committees would be helpful

- Consultation should not be replaced by an iwi standing committee. The iwi standing committee's role should be to direct the council and applicants to the appropriate iwi/hapū and act as a liaison between those parties. They should be responsible for notifications, co-ordination of council and for iwi/hapū affairs, and be accountable to iwi/hapū

- Councils should assist Māori in the development of iwi/hapū resource management plans

- More resources from central government to councils would provide better mechanisms for consultation

- Rūnanga should have the ability to provide an infrastructure that is capable of responding effectively to consultation demands from government departments, councils, and other authorities

- Councils should look toward a shared partnership, shared decision-making, and the involvement of tangata whenua through the transfer of functions.

Local and central government have also documented recommendations for good practice from practical experience over many years. The following examples come from a number of reports (PCfE 1992; MfE 1992, 1998, 1999b, 2000a,b; DOC 2002b):

- It is important to keep communication open, honest and on going

- The consultation responsibilities of both councils and resource consent applicants need to be clarified

- There is a need to continue or increase cultural awareness among all staff and councillors

- There is a need to educate Māori on the RMA and its processes

- The quality of consultation depends on the quality of the relationship

- There is a need to develop protocols on a number of issues that affect the consultation process

- Memoranda of understanding between rūnanga and councils have been beneficial

- Clearer direction is needed to ensure councils consult with appropriate groups

- Goodwill on the part of all parties is important to the process

- There is a need to establish regular contact or dialogue at an iwi/hapū level

- Issues of resourcing for the consultation process need to be addressed for both iwi and councils

7. Good practice guidelines

Introduction

Previous sections indicate several reasons for improving dialogue, communication, and collaboration with indigenous Māori groups. Increasing Māori representation in decision-making at all levels, building Māori capacity, incorporating a Māori perspective into all planning and policy, and achieving good environmental, social, cultural and economic outcomes for all New Zealanders are fundamental reasons for working with Māori. In terms of legislative requirements, there are statutory obligations for councils to consult with Māori and tangata whenua on a wide range of issues (PCfE 1992, 1998; MfE 1993, 1998, 2000b; English 1996; LGNZ 1999; Jefferies et al. 2002). The RMA 1991 and RMAA 2003 require councils to consult with iwi authorities and local rūnanga when developing or changing resource management-related plans, on policy, and on resource consent issues, if in a council's opinion, the iwi authority or rūnanga is adversely affected. This usually requires the council to acquire an understanding, and degree of sensitivity to iwi and hapū issues and values to determine impacts and effects. The new Local Government Act 2002 requires councils to ensure consultation processes are in place for Māori and that the processes comply with general consultation provisions. While particular mechanisms or processes are not yet prescribed (LGNZ 2004), many councils have independently and collectively developed policies and practices to meet these statutory obligations, and some councils have formalised these consultation policies in relationship agreements (LGNZ 2004). Local authorities have also developed a number of other initiatives and practices that are now in common use, such as internal cultural training, iwi liaison officers, information-sharing hui, joint projects, regular dialogue, newsletters, etc. (LGNZ 2004).

Good practice is learnt over many years from shared experiences, reflection, documented guidelines, lessons, practice, and actions. Much of this information is sourced from case studies, reports, papers, unpublished documents and personal communication, usually produced through central and local government, crown research institutes, or from local government representative organisations. Learning in this report has been augmented by work in a number of science programmes carried out over the last 10 years, the more recent since 2000, e.g., FRST programmes 'Integrated Catchment Management: from the Ridge Tops to the Sea (C09X0305)', 'Restoring Indigenous Biodiversity in Human Landscapes (C09X0205)', 'Māori community goals for enhancing ecosystem health (TWWX0201), or the 'Waiapu project', along with a large number of associated research projects with iwi/hapū. When used appropriately and correctly, good practice and its practical steps, can result in effective dialogue and long-lasting collaboration with Māori (e.g., such as iwi/hapū, tangata whenua, urban Māori groups, Māori organisations).

Good practice guidelines

The most important fundamental ingredient for developing good practice is to ensure the relationship is founded on a sound set of principles, and on trust, respect, and cultural understanding. Many iwi/hapū members believe all relationships should be based from the onset on the Treaty of Waitangi, and recognise local government as the Crown. The majority of iwi/hapū see no distinction between central and local government. Once the relationship and understanding is in place, it then sets the foundation for partnerships. Local government needs to take this step very seriously when initially meeting with iwi/hapū at a senior level, at an appropriate venue that gives mana (i.e. status, respect, prestige, authority) to the iwi/hapū members and initiates the development of the relationship in good faith, and at a senior level. Many iwi/hapū at this early stage have been taken aback, sometimes offended, by early meetings with junior staff members. The cultural protocol is usually for a meeting between senior iwi/hapū representatives and elected councillors and senior council staff or mangers at the beginning of the relationship, providing the context for

later meetings between other staff. This applies to all agencies intending to make contact with iwi/hapū.

However, examples from most local authorities and research agencies in New Zealand show that it is often individual staff who make the greatest contribution to developing effective partnerships and good practice rather than local authorities and other organisations as a whole. Often the relationship hinges on key individuals, and relationships and partnerships have little continuity or substance when these staff members leave or are absent from the process. Few local authorities, for example, have developed strong and lasting relationships with iwi/hapū at the councillor or management level.

Most iwi/hapū and Māori organisations feel this lack of a relationship at the appropriate level misses the point of what partnership is about. Such relationships are not seen as true partnerships because they do not involve those representing the Crown sitting alongside those representing iwi and hapū; they do not reflect the true spirit of the Treaty. Such lack of appropriate contact also conflicts with many Māori protocols; junior or isolated members of local authorities and other research organisations cannot provide the main initiatives for partnerships. But this effort by key individual council staff members (e.g., planners, policy staff) has greatly contributed to improving relations with iwi/hapū throughout the country. We have learnt much over the last decade from these various interactions between staff representing the Crown, such as local government, and associated agencies like CRIs, and people representing iwi/hapū. Together these lessons provide the ingredients and wairua for good practice.

Lessons

Many lessons, in various forms, (both positive and negative) have been documented and evaluated to provide instruction for all sectors, communities, and Crown agencies (PCfE 1992; MfE 1998, 2000b; Harmsworth 2001; NCC 2001; DOC 2002b; HBRC 2002; ARC 2004 – Appendix 2). Findings from surveys, case studies, projects, and personal communications have been used to make connections between particular work attitudes, perceptions, activities or actions and relationship outcomes – particularly for local authorities (LGNZ 1997, 2004; MfE 1998, 1999c; Jefferies et al. 2002). One significant finding is that those local authorities that have sought to understand and respect iwi/hapū environmental values and the exercise of kaitiakitanga as complementary to their own work activities, have generally formed much more solid partnerships than those local authorities that have not recognised the importance of iwi/hapū values and kaitiakitanga, or see the iwi/hapū role in conflict with themselves.

Local authorities often select Māori groups or individuals to work with on the basis of:

- whakapapa (ancestral lineage and connection to an area)
- an area, demonstrating a history and strong relationship to a specific geographic area, district, or region
- a mandated tribal authority
- the resources and capacity to engage.

Such co-operation often depends on finding the right people or representatives with the right skills, expertise, understanding, knowledge, and temperament. Local authorities may also take into account a previous collaborative record, established relationships, or ease of working together, which is often demonstrated through the success of past projects and activities. Selecting the right people with whom to work is therefore based on several criteria. Once the right group is selected by a council, such as a mandated iwi/hapū or group with a demonstrated track record, a number of practices are employed to sustain or enhance the relationship. The lessons of good practice given below are in no particular order, and have been used by numerous local authorities, research agencies, and other organisations to establish effective relationships and partnerships with iwi/hapū and other Māori groups. They include employing practices that:

- recognise and understand iwi/hapū issues/concerns
- involve iwi/hapū and other Māori organisations, at an early stage in the development of planning and policy and consent application process
- establish key contacts and extensive Māori networks in a geographic or administrative area
- document and formalise agreements and arrangements for forming relationships partnerships between local authorities, research agencies and iwi/hapū, etc. – such as charters, MOUs, MOPs, agreements, contracts for special projects
- recognise iwi/hapū values and knowledge as important in planning and policy
- recognise iwi/hapū knowledge as important in special or collaborative projects
- recognise the importance of iwi/hapū participation in projects
- help build capacity and resources for iwi/hapū
- encourage education and debate on the Treaty within a constitutional law framework
- maintain good links, regular dialogue and ongoing communication, for example through attendance, awareness and understanding of local Treaty claims hearings
- encourage education and learning, e.g., on environmental and cultural issues, for all parties
- engage with iwi/hapū outside significant issues by holding regular meetings, encouraging involvement in special projects, and regular dialogue
- identify and discuss goals and outcomes for both iwi/hapū and Crown agencies
- understand the implications of Treaty settlements, statutory responsibilities, and management functions and develop practices that takes these into account
- respect and understand the significance of important cultural sites, and facilitate and implement agreements between iwi/hapū and local government on how these should be protected and managed
- develop aligned policies between local government and iwi/hapū on interaction and collaboration within a contextual framework of goals/achievements/outcomes
- employ and retain Māori staff within local authorities, such as iwi liaison officers, Māori planners, advisers, policy managers, community relations, and Māori employed as part of special projects
- help develop mutually beneficial projects (e.g., council and Māori) – the development of projects that include stakeholders and community groups working together towards defined, measured and collective goals
- help develop practices and activities that contribute to local, regional and national goals and outcomes – social, environmental, cultural and economic, where some type of measured or successful return can be expressed and demonstrated to the wider community
- help develop practices and activities that contribute to work of national importance, and through which national benefit can be shown (e.g., contribute to the national biodiversity strategy)
- identify and align outcomes for local government, the wider community, and iwi/hapū as a premise on which to develop special projects (e.g., wetland restoration, riparian planting, native bush remnants protection and management, animal pest and noxious weed control, soil conservation, coastal survey and enhancement, waste management, and lake and river water quality research and enhancement programmes)
- improve the sharing of resources, as an investment to build capacity for local government, research agencies and iwi/hapū
- promote information sharing
- encourage the development of iwi and hapū environmental management plans and monitoring plans. Local authorities could offer help with plans, provide staff time, office space, equipment, special project funding, technical expertise, information or data sharing
- provide funding assistance to iwi/hapū for special projects that align with goals and outcomes of the wider community or contributes to national strategies.

Steps towards effective collaboration

Consolidated learning from many sources is therefore used to form best practice guidelines of what are considered some of the more important, effective and constructive building blocks of partnership. These are given as a series of steps below and should be read in conjunction with the consultation guidelines given in Appendix 1. All steps are equally important, and are roughly but not specifically in any progressive order.

Step 1: Respect indigenous culture. Acknowledge that Māori have a unique part to play in all planning, policy, management, decision-making and projects. Establish the will to be effectively engaged in communication and collaborative work. The Treaty and other types of legislation should form reference points but should not be the driving forces to develop collaborative work and partnerships.

Step 2: Acknowledge and recognise the importance of incorporating an indigenous perspective into all plans, policy, management, decision-making and the development of new projects; define outcomes, and measure the success of outcomes.

Step 3: Have an open mind and respect for other forms of knowledge, such as local knowledge, community knowledge, traditional Māori knowledge (mātauranga Māori) in the work, and demonstrate this through incorporation of 'other' knowledge into plans, policy, management, decision-making and the development of new projects, and in the way we might measure the success of outcomes.

Step 4: Identifying the right group of people to work with depends on the nature of the collaborative or consultative work. It is important with resource consents and consultative work, particularly when responding to specific geographic and cultural issues, that the correct Māori groups, such as tangata whenua, are engaged. Most local authorities have dramatically improved the identification and selection process since the mid-1990s and most have comprehensive networks and contacts in place and have strengthened these. Identifying the right group requires expert knowledge of Māori history and politics, tribal boundaries, and past and present relationships in defined geographic-administrative areas (e.g., tribal rohe, local government areas, and catchments). It also requires an understanding of the Māori constituency (e.g., population, demographics, iwi) and Māori governance in an area (e.g., whakapapa, marae, hapū, iwi, trust boards, incorporations, and urban authorities). This will determine whether the correct Māori group is being consulted. Most often, in line with legislative requirements, a Crown mandated iwi authority (e.g., rūnanga, trust board) is contacted; although on specific environmental and cultural issues another Māori group (e.g.; tangata whenua, marae, hapū, kaitiaki group) may be appropriate. The key is the ability to talk to and collaborate with Māori individuals with specific sets of skills, knowledge, and expertise. The reasons for collaborating with different Māori groups can be the result of many factors and may be based on:

- consultation, engagement with mandated iwi and hapū groups – corresponding to defined tribal boundaries (rohe), correct whakapapa, or representative of an area
- a long-lasting relationship between local authorities and a Māori group – requires identifying a group(s) with the correct whakapapa, iwi, hapū, tribal boundaries, mandated or representative groups in the local authority area, district or region
- working with a group(s) with a proven track record in resource consents
- determining the group(s) in response to legislation, policy, planning, specific issues
- identifying whether the group(s) or individuals can deliver expert or technical advice of a high professional standard, e.g., resource consents, cultural impact assessments
- obtaining information on cultural issues, perspectives on key issues, for planning and policy – sometimes requiring a cross-section of views, e.g., regional, local, community
- engaging with a group or individual for input into planning and policy

- identifying experts to work with – when the work is of a specific or special nature requiring specialist skills, knowledge or expertise (e.g., cultural impact assessment, iwi values, taonga inventories, GIS)
- selecting the right group (e.g., kaitiaki) for a specific environmental or cultural project, such as biodiversity, restoration, coastal, wetlands, bio-community projects, waste management, etc.
- working with a group to achieve shared or agreed outcomes, recognised as important by the council or by communities and stakeholders
- working with a group on a defined research project, such as environmental indicators, GIS, oral histories, Māori knowledge.

Step 5: A willingness and desire for both parties to develop a partnership and to define what is expected on both sides. The development of agreements (Hewison 1997; LGNZ 2004) or arrangements between Māori groups and Crown parties, such as Memoranda of Understanding (MOU), Memoranda of Partnership (MOP), charters (Hawke's Bay Regional Council 2002), accords (*Manawatu Evening Standard* 2004 a,b) is becoming increasingly common. These documents define the roles of each party, and the expectations on both sides, and essentially formalise the relationship and help it progress. They provide statements of intentions and responsibilities by including a set of protocols, identifying key contacts on both sides, and clarifying the exact nature and purpose of the arrangement. A number of national models and examples exist that are used by many organisations. The importance of building a relationship is primarily based on mutual understanding, respect and trust. A lack of respect for cultural difference and practice usually has long-term detrimental consequences that are difficult to rectify, and often set relationship building back several years, if not decades. Building a strong relationship between local authorities and Māori groups is improved when councillors or staff respect cultural practices, such as tikanga and kawa, and spend time out of their comfort zone, such as meeting on a marae or in cultural environments other than council offices. In the field is often an appropriate neutral place to meet to discuss issues.

The contents of an agreement can vary, but most contain some or all of the following elements (LGNZ 2004):

- the purpose and background to the agreement
- identification of the parties and their roles
- the goals and objectives of the agreement
- the values and principles of the parties
- recognition of the Treaty of Waitangi
- recognition of statutory obligations
- principles to guide the relationship
- processes for consultation and information sharing
- intellectual property agreements
- the potential of either working together or transferring council powers
- processes to resolve conflict, and
- the obligations and expectations of both parties.

Step 6: Many iwi authorities have consultation procedures and guidelines in place, and best practice guidelines (e.g., Appendix 2) can be developed jointly with iwi/hapū or tangata whenua, once relationships have been established and there is a degree of respect, understanding, and trust on both sides. A number of documents refer to these best practice guidelines (e.g., Ministry for the Environment/Office of Treaty Settlements 1999; Nelson City Council 2001; Hawke's Bay Regional Council 2002, ARC 2004).

Step 7: Identify, define and clarify general and specific issues with Māori groups and understanding Māori values

Step 8: Align Māori issues with local government, and other stakeholder issues, and objectives. Identify areas of common interests, agreed goals.

Step 9: Identify capacity needs for effective engagement. Do groups have sufficient capacity, such as skills/expertise, knowledge, and resources to participate and collaborate effectively, and what strategies and actions need to be implemented?

Step 10: Determine goals, objectives and outcomes with Māori groups.

Step 11: Determine goals, objectives and outcomes with community and stakeholder groups.

Step 12: Determine areas of common interest with common purpose; determine and articulate benefits back to the wider community; identify strategies, projects and actions that contribute to local, district and national goals (e.g., national biodiversity strategy).

Step 13: Develop collaborative work programmes and joint projects; share information, special projects and collaborative learning.

Step14: Proactively engage other parts of the community with clearly defined and articulated sets of values and goals to address Māori issues and enhance Māori values.

8. Indicators for measuring collaborative success

In order to measure collaborative success and assess progress towards desired outcomes it is important to identify the level of good practice being achieved between iwi/hapū and local government by some form of evaluation or measurement. Evaluation tools such as indicators are useful when monitoring the collaborative approach and process, measuring the effectiveness of engagement, improving procedures, and evaluating strategies and activities against desired outcomes.

Examples in this report show that common activities and practices in most local authorities to improve engagement with iwi and hapū and to satisfy legislative obligations and requirements, have included: increased staff training (e.g., cultural awareness, te reo Māori, Treaty issues, tikanga – custom, protocols); development and refinement of processes and systems to identify and respond to Māori issues; improved consultation and dialogue; inclusion of Māori staff in councils; increased resourcing to iwi/hapū; engagement in special projects; resourcing iwi and hapū to increase their capacity; upskilling and training; recognition of iwi and hapū management plans and policy; and the general improvement of relationships and partnerships. Many of these practices have been evaluated informally against statutory obligations and environmental and cultural outcomes. More recently the identification of local-community aspirations and priorities in long-term council community plans (LTCCP), and the ongoing development of district and regional plans, has further necessitated the need for effective dialogue between all stakeholders and community groups, including Māori.

Indicators are often formed around good practice. Used in combination they provide a tool for measuring progress towards a desired set of outcomes based on effective collaboration. Many local authorities have initiatives that are regarded as good practice and facilitate effective relationships and partnerships. LGNZ 2004 provided a summary of some of these organised into the following categories for survey questions:

Involvement of Māori in council structures

- Māori standing committee
- membership on additional council committees, subcommittees and working parties
- advisory committees, and
- consideration of Māori constituencies/wards

Council policies and practices for establishing relationships with Māori

- co-management of sites and activities
- relationship agreements
- consultation policies and practices
- iwi management plans, and
- projects and funding

Council resources training and relationship monitoring

- iwi liaison and Māori policy units
- internal staff and councillor training
- monitoring of relationships, and
- hearing commissioners

Particular initiatives such these can be used as bases to measure and monitor good practice. Such indicators can be used to measure whether a specific practice is in place, and whether this is

working effectively. The following indicators, many derived from the categories above, can be used to measure collaborative success and as checklists to evaluate working relationships. Some local authorities may identify several or all indicators as having been achieved and relevant; other councils may only have limited examples. Indicators for measuring successful engagement with tangata whenua, iwi, hapū groups include:

- Council has identified key people, representative of iwi, hapū, tangata whenua, to work with
- Council staff always approach the right tangata whenua (iwi/hapū) groups on issues
- Council is responsive to cultural protocols and sensitivities (e.g., meetings follow tikanga, kawa, mihi, karakia, etc.)
- Council staff have visited and talked on a marae
- Council staff work with, or engage with, tangata whenua in the field
- Council has run courses on cultural understanding (e.g., Treaty issues, te reo Māori, tikanga, guidelines) and staff are confident and have the capacity to engage with tangata whenua
- Council has Māori staff
- Council has access to, or set up a Māori committee, for advice and feedback
- Māori are involved in council management
- Council has identified and documented tangata whenua issues (examples)
- Council has developed a good relationship with most tangata whenua groups in the region/district
- An MOU, charter, agreement, has been signed with tangata whenua (examples)
- Regular meetings are held with tangata whenua to discuss issues/projects
- Tangata whenua are actively involved/engaged in biodiversity projects
- Tangata whenua are actively involved/engaged in biosecurity projects
- Tangata whenua are actively involved/engaged in cultural projects (e.g., cultural heritage mapping)
- Tangata whenua are active participants in decision-making
- A budget has been allocated and set up to develop/advance work with iwi, hapū, tangata whenua
- Council has worked with tangata whenua groups to prepare cultural maps and develop information systems
- Council has provided successful cultural heritage protection mechanisms, and can demonstrate these
- Council actively includes tangata whenua in district and regional planning (participation, consultation, projects)
- Council has an effective resource consent process working with tangata whenua
- Council includes tangata whenua in SOE reporting and environmental monitoring
- Successful outcomes have been achieved for both council, stakeholders, and tangata whenua (examples)
- Council staff carry out joint research with tangata whenua
- Council staff develop policy with tangata whenua seldom/occasionally/regularly
- Council staff include cultural information in planning documents
- High-quality district/regional plans are produced that incorporate cultural perspectives
- A joint project with tangata whenua is being developed
- A joint project with tangata whenua has been successfully completed
- Systems, processes are in place to resolve issues with tangata whenua
- Council works with a Māori group at a local level, e.g., participatory work programme to manage and harvest harakeke, riparian planting, etc.
- Council works with a Māori group on the day-to-day management of a resource, e.g., sand or gravel extraction, pounamu, forest (ngahere), etc.

- Council works with a Māori group on the day-to-day management of an enterprise, e.g., eco-tourism, art and culture, etc.
- Council works with a Māori group at a strategic governance level, e.g., co-management board of a river, lake, landscape, coastal area, etc.

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9. Recommendations

As part of good practice, a number of recommendations are made to enhance and build partnerships and collaboration with Māori groups at the local government level. These include:

- Clarify the obligations and responsibilities of local government under the Treaty of Waitangi

- Improve the mandate under the RMA 1991 and RMAA 2002 that clarifies and defines how Māori values and resources (taonga) can be incorporated and implemented in planning, policy and decision-making. The PUCM study found that nearly 50% of plan-makers in district councils did not understand the provisions in the RMA on Māori issues (RMA 1991 ss 6(e), 7 (a) and 8) (Ericksen et al. 2001).

- Hold meetings with Māori groups (iwi/hapū, tangata whenua) on a regular basis, at agreed venues and times, outside issue or policy-driven debates, or legislative consultation rounds.

- Meet and engage with Māori as early as possible in the planning or issue process – this has a positive influence on how well planning, management, and policy advances from this point and is implemented

- Base meetings on trust, respect and understanding

- Promote the development of iwi and hapū management plans, and provide assistance to the development of these plans

- Promote the development and use of Māori environmental and cultural indicators, and provide assistance for the development of these indicators

- Promote the development of iwi and hapū state of the environment (SOE) reports, and provide assistance for preparation of these reports

- Help Māori groups such a iwi/hapū, tangata whenua build capacity (skills, resources, expertise) to develop high-quality plans, and become involved in all aspects of decision-making (social equity and representation target)

- Establish joint projects with Māori groups that demonstrate direct benefits to the wider community and stakeholders, while also fulfilling national and local government goals, strategies, and outcomes

- Evaluate and measure, through indicators (section 8), progress towards achieving clearly defined goals at the local government level; measure this success against defined and clarified roles under the Treaty of Waitangi and legislation such as the RMA 1991 and RMAA 2002.

10. Conclusion

All New Zealanders should be proud of the indigenous culture that has created the foundations of our nationhood and been pivotal in the development of Aotearoa-New Zealand. In a global context this blend of cultures provides uniqueness or a point of difference for New Zealand, and should be embraced by all to achieve a strong pluralistic society that respects differences and recognises the importance of cultural integrity. Many New Zealanders have links with their indigenous ancestry, have inter-married into indigenous culture, or have families that have been intertwined with indigenous culture during many stages of New Zealand's history. Indigenous culture is therefore at the heart of New Zealand and allows us to portray a unique New Zealand society or 'Kiwi' cultural identity to the world. To achieve distinctness it is important to encourage cultural diversity whilst building a strong unified New Zealand identity, and respect the important role of indigenous culture within this identity.

The other major challenge for New Zealand is to achieve goals for sustainable development. Part of the progress towards sustainable New Zealand development is to measure our environmental, social, cultural and economic performance against a set of standards. These standards need to be defined by all New Zealanders. Sustainable development is a distant vision, but progress will be measured by achievement towards some level of social and economic equity, equal citizenship, social justice, economic performance, sustainable management of natural resources, and by balancing our aspirations for economic growth with protection and conservation of the natural environment. The way we achieve this sustainable development may also reflect our identity as a nation. This requires participation from all sectors of society and also requires the utilisation of all forms of knowledge.

As we move from the first generation plans in local government that required effective consultation practice but low-level participation, the 2nd and 3rd generation plans to achieve environmental and sustainability goals will increasingly require high-level participation and active collaboration.

The good practice guidelines given in this report provide the elements to build positive relationships between Māori, Pakeha, and other cultures. They indicate how to work together to achieve desired goals and outcomes for all New Zealanders through effective dialogue and collaboration, particularly through identifying the actions required for sustainable development and sound environmental management. Māori bring to the table a unique set of skills and expertise based on over 1000 years of knowledge, and offer an important perspective in all decision-making. They are an integral part of any collaborative effort to achieve sustainable environmental management.

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13. Appendices

Appendix 1. Resource Management Act 1991

RMA Provisions for Māori
Part II: Purpose and Principles
Section 5 (2) "Sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety

Section 6(e) Matters of national importance – In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.

Section 7 (a), (e) Other matters – In achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to kaitiakitanga and the heritage value of sites

Section 8 Treaty of Waitangi – In achieving the purpose of the Resource Management Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principals of the Treaty of Waitangi (Te Tiriti o Waitangi).

Part III: Duties and Restrictions under this Act
Section 14(3), (c)
Restrictions relating to water: A person is not prohibited by subsection (1) of this section from taking, using damming, or diverting any water, heat, or energy if in the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Māori for the communal benefit of the tangata whenua of the area and does not have an adverse effect on the environment

Part IV: Functions, Powers, and Duties of Central and Local Government
Section 33 (1), (2) Transfer of powers –
(1) A local authority that has functions, powers, or duties under this Act may transfer any one or more of those functions, powers, or duties to another public authority in accordance with this section. For the purposes of this section, "public authority" includes any iwi authority

(2) A local authority may not transfer the approval of a policy statement or plan or any changes to a policy statement or plan; the issuing of, or the making of a recommendation on, a requirement for a designation or heritage order under Part VIII; or this power of transfer

Duty to gather information, monitor, and keep records – Section 35
(1) Every local authority shall gather such information, and undertake or commission such research, as is necessary to carry out effectively its functions under this Act.
(2) Every local authority shall monitor –
(a) The state of the whole or any part of the environment of its region or district to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and
(b) The suitability and effectiveness of any policy statement or plan for its region or district; and

(c) The exercise of any functions, powers, or duties delegated or transferred by it; and
(d) The exercise of the resource consents that have effect in its region or district, as the case may be and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.

Section 39 (2) (b)
In relation to hearings, in determining an appropriate procedure for the purposes of subsection (1) of this section, a local authority, a consent authority, or a person given authority to conduct hearings shall recognise tikanga Māori where appropriate, and receive evidence written or spoken in Māori and the Māori Language Act 1987 shall apply accordingly

Standards, Policy Statements and Plans
Section 45 (2) (h)
In determining whether it is desirable to prepare a national policy statement, the Minister for the Environment may have regard to anything that is significant in terms of section 8 (Treaty of Waitangi)

Section 58 (b)
A New Zealand coastal policy statement, prepared and recommended by the Minister of Conservation, may state policies about the protection of the characteristics of the coastal environment of special value to tangata whenua including wāhi tapu, tauranga waka, mahinga mataitai and taonga raranga

Section 61 (2) (a) (ii) (iii)
When preparing or changing a regional policy statement, the regional council shall have regard to any relevant planning document recognised by an iwi authority affected by the regional policy statement, and any regulations relating to ensuring sustainability, or the conservation, management or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai or other non-commercial Māori customary fishing)

Section 62 (1) (b)
A regional policy statement shall make provision for such of the matters set out in Part I of the Second Schedule (and such of the matters set out in Part II of that Schedule as are of regional significance) that are appropriate to the circumstances of the region, and shall state matters of resource management significance to iwi authorities

2nd Schedule, Part 1, clause 4(c)
Part I of Second Schedule says, in relation to regions, policy statements and plans may provide for any matter relating to the management of any actual or potential effects of any use, development, or protection described in clauses 1or 2 on natural physical, or cultural heritage sites and values, including landscape, land forms, historic places, and wāhi tapu

2nd Schedule, Part II, clause 2(c)
Part II of the Second Schedule says, in relation to districts, policy statements and plans may provide for any matter relating to the management of any actual or potential effects of any use, development, or protection described in clause 1 of this Part, including on natural, physical, or cultural heritage sites and values, including landscape, land forms historic places, and wāhi tapu

Section 64 (1)
There shall at all times be, for all the coastal marine area of a region, one or more regional coastal plans prepared in the manner set out in the First Schedule

1st Schedule clause 2(2)
A proposed regional coastal plan shall be prepared by the regional council concerned, in consultation with the Minister of Conservation and iwi authorities of the region

1st Schedule clause 3(1)(d)
During the preparation of a proposed policy statement or plan, the local authority concerned shall consult the tangata whenua of the area who may be so affected, through iwi authorities and tribal rūnanga

1st Schedule clause 5(4)(f)
A local authority shall provide one copy of its proposed policy statement or plan without charge to the tangata whenua of the area, through iwi authorities and tribal rūnanga

1st Schedule clause 20(4)(f)
The local authority shall provide one copy of its operative policy statement or plan without charge to the tangata whenua of the area, through iwi authorities and tribal rūnanga

Section 65 (3)(e)
Without limiting the power of a regional council to prepare a regional plan at any time, a regional council shall consider the desirability of preparing a regional plan whenever any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources arise or are likely to arise

Section 66 (2)(c)(ii)(iii)
When preparing or changing any regional plan, the regional council shall have regard to relevant planning documents recognised by an iwi authority affected by the regional plan, and regulations relating to ensuring sustainability, or the conservation, management or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai or other non-commercial Māori customary fishing

Section 67(1)
A regional plan may make provision for such of the matters set out in Part I of the Second Schedule as are appropriate to the circumstances of the region (see above for Part I of the Second Schedule)

Section 74 (2) (b) (ii)
Matters to be considered by territorial authority – (1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part II, its duty under section 32, and any regulations. In addition to the requirements of section 75 (2), Section 74 (2) (b) (ii) When preparing or changing a district plan, a territorial authority shall have regard to any relevant planning document recognised by an iwi authority affected by the district plan and regulations relating to ensuring sustainability, or conservation, management or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Māori customary fishing)

Part IV Resource Consents – Notification of Applications
Section 93 (1) (c)(ii)
Section 93 (1) (f)
(1) (c) (ii) Once a consent authority is satisfied that it has received adequate information, it shall ensure that notice of every application for a resource consent made to it in accordance with this Act is (f) served on the New Zealand Historic Places Trust if the application affects any historic place, historic area, wāhi tapu, or wāhi tapu area registered under the Historic Places Act 1993; and served on iwi authorities as it considers appropriate

Section 104: A consent authority's consideration of an application for a resource consent and any submissions received is subject to Part II of the RMA

Section 140 (2) (h): The Minister may call in applications for resource consents of national significance, such as where the applications are relevant to the Treaty of Waitangi

First Schedule, 3 – Consultation
(1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult –
(d) The tangata whenua of the area who may be so affected, through iwi authorities and tribal rūnanga.

Appendix 2: Consultation guideline from the Auckland Regional Council. Māori Consultation Principles ☑

The **Consultation Policy** lists eight principles to guide all our consultations. Here are an additional 10 principles to guide consultation with Māori.

	Principle	Why this matters	Putting this into practice	Principle applied? ☑
1.	Kanohi ki te kanohi – 'Face to face'	• It's a cultural preference of Māori to meet face-to-face • This reflects the oral tradition • Trust is built out of personal contact	• Meet in person, wherever possible. This does not mean you should never use the phone or email, but significant issues are best discussed face-to-face • Discuss and seek agreement on where to meet • Be prepared to go out to Māori communities – meet people on their own ground	
2.	Rangatira ki te rangatira – 'Chief to chief'	• Māori have confidence that the people consulting with them have the mana (status) to do so	• Involve the right people • Involve people at an equal level • Involve the decision-makers/those who can answer the questions then and there	
3.	Nā te kakano – 'From the seed'	• This reflects the Māori life cycle: from seed to plant to flower • Early involvement shapes the final result • Māori have a different world view of time. Your priority and timelines may not be the same as the Māori community's. • Your issue may also be new to Māori , who need time to absorb the issue, and identify and develop their position (e.g., genetic modification)	• Involve Māori from the start • Be prepared for a slow process based on consensus • Don't expect Māori to slot into your limited time scales • Many Māori have jobs in addition to their community responsibilities • Māori representatives are likely to need time to consult with their communities too: many Māori organisations only meet once a month • Be guided by Memoranda of Understanding or other agreements, if these exist.	
4.	Kei mou mou taima - Open and meaningful	• This phrase literally means 'waste of time' • It's important not to waste people's time – Māori are seeking meaningful engagement and response to consultation	• Consult with a clear purpose • Don't use consultation just to tell Māori what is happening – think about what you can get from their involvement and what its value could be • Don't waste the Māori community's time – explain why you are consulting and what you hope to gain • Don't have a predetermined outcome • Ask Māori if they wish to be consulted on a specific issue, rather than assuming they don't	
5.	Ki tai wiwi, ki tai wawa – Flexible	• This phrase refers to moving from side to side to change direction in your waka when you become stuck, or are heading the wrong way and need to change direction. You need to be open to different pathways, or prepared to achieve different objectives on your way to the bigger objective. • The Māori community has its own processes and structures, which need to be taken into account. • They also have to juggle lots of issues and responsibilities.	• Be prepared to consult several times, at different levels • Allow for organic processes to emerge • There is a need for balance and a two-way relationship • Involve Māori and seek agreement on key consultation decisions, e.g. when, where, what, how, who's involved etc.	

	Principle	Why this matters	Putting this into practice	Principle applied? ☑
6.	Tikanga Māori - the correct Māori way of doing things	• Māori have their own protocols, customs and ways of doing things • Recognising these is a sign of respect towards and acknowledgement of the people you are meeting – they are willing to go with your process, and this is a two-way relationship	• Recognise, respect and use Māori protocols, customs and ways of doing things • The iwi liaison team run regular Tikanga Māori training sessions for staff • There is more information on Tikanga Māori below.	
7.	Ko te tūmanako – Transparent	• Literally means 'good faith', 'good will' or 'good heart', i.e. not hiding anything • It is important for Māori to know who is involved • They need to know they have been invited in good faith • Also if they are unable to attend an event, they will know who else can represent their views	• Be open and honest (and ask for feedback) about: - who's been invited to participate, and who the audience is - the purpose, the process and how they fit in - how information will be used - who's making the decision, and what is their level of authority in the process • Don't have a hidden agenda – be upfront • Explain the ARC's consultation model – that the decision will take into consideration both consultation and other information.	
8.	Mahia te whare – Foster capacity	• Literally 'build the house' • Good consultation should help foster Māori capacity and capability, rather than building from scratch every time	• Ensure Māori have capacity to participate • You may not necessarily remunerate individuals, but it shouldn't cost people anything to participate, so you should at least cover costs (e.g. venue, food, key individuals) and include a koha • Most Māori organisations don't have paid staff – and some don't have any staff • Budget for Māori participation in the consultation	
9.	Whakatika te he – Accountability	• Literally 'right the wrongs', or 'find the right way through the confusion' • Māori believe we should learn from the past and look to the future • This means not continuing past mistakes and injustices, taking responsibility for our organisation's actions, keeping our promises and listening to and valuing what Māori say	• Be accountable and take responsibility as representatives of the ARC • Feed back what Māori have told you before (e.g. previous consultation results) • Feed back what was decided and why – close the loop and show what the outcome was • Do some research – you may be able to get a sense of Māori views of an issue from their iwi/hapū management plans and other documents	
10.	Kia tika te reo – Use appropriate language	• Use clear and appropriate communication and language to ensure Māori understand and can engage with the consultation issue and process	• Change the language you use depending on the situation and audience • Learn Māori pronunciation – the iwi liaison team run regular training sessions on te reo Māori	