

# SUMMARY

## *Draft Issues and Options for Bay of Plenty Regional Natural Resources Plan Kaitiakitanga/Tangata Whenua chapter*



The Bay of Plenty Regional Natural Resources Plan (RNRP) Kaitiakitanga Chapter provisions were made operative in December 2008 and are due for review under section 79 of the Resource Management Act 1991 (RMA). Since the RNRP was made operative, the landscape around the application of Te Tiriti o Waitangi<sup>1</sup> has changed significantly including how the principles of Te Tiriti are expressed and around the expectations for tangata whenua engagement in the management of natural and physical resources. For example, Council now has over 45 iwi and hapu resource management plans lodged with it.

The changing legislative environment that is giving more weight to iwi/hapu/Māori is particularly evident in the direction within the National Policy Statement for Freshwater Management (NPSFM). Implementing the NPSFM will mean that Māori centric concepts must be woven through the RNRP. The Kaitiakitanga Chapter provisions are linked to freshwater and are considered to be part of the overall NPSFM implementation programme. The Regional Policy Statement (RPS) also post-dates the RNRP and giving effect to this higher order policy document is an important reason to undertake this review.

This issues and options report provides:

- 1 an initial broad-brush assessment of the operative RNRP Kaitiakitanga Chapter provisions,
- 2 recommendations on new provisions to support implementation of the NPSFM, and
- 3 recommendations to deliver a National Planning Standards (NPStds) compliant RNRP.

The Kaitiakitanga Chapter provisions apply across the scope of activities addressed in the RNRP as will the new Tangata Whenua (TW) Chapter provisions. The recommendations also form part of the broader suite of issues and options reports that collectively review all the freshwater related contents of the RPS and RNRP and seek to implement the NPSFM.

The NPStds compliant RNRP structure requires a Tangata Whenua/Mana Whenua chapter to be located in Part 1 '*Introduction and General Provisions*' of the regional plan. It can only contain context and process related provisions which include the recognition of iwi/hapū resource management plans, Treaty of Waitangi principles and tangata whenua involvement in resource management processes and decisions. Non-context or process related provisions (e.g. site/areas of significance or cultural allocation) are to be included in Part 2 '*Management of resources*' chapters as appropriate.

The operative RNRP Kaitiakitanga chapter contains 9 Issues, 7 Objectives, 20 Policies and 23 Methods of implementation (but no rules) to address sections 6(e), 7(a) and 8 RMA matters. While there have been legislation changes since the current RNRP was made operative, the RMA sections relating to Māori culture and traditions, kaitiakitanga and Te Tiriti o Waitangi principles have remained unchanged. There are also considerably more iwi and hapū resource management

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<sup>1</sup> Te Tiriti o Waitangi is used to refer to the Treaty of Waitangi and has the same meaning as Treaty in section 2 of the Treaty of Waitangi Act 1975.

plans (over 40 now) formally lodged with Bay of Plenty Regional Council (BoPRC) in the last 10 to 15 years.

Initial thinking about effectiveness of the Kaitiakitanga chapter, indicates the provisions are poorly used, unwieldy, contain a lot of duplication, and don't follow best practice plan drafting (i.e. some simply restate the RMA requirements and many methods repeat policies). A key challenge is finding the right balance between RNRP provisions that are too high level, with little direction to plan users and provisions that are too detailed or better addressed within domain, topic or area specific chapters of the plan.

As with all other RNRP chapter reviews, a streamlined approach is being taken. This involves removing all issues of resource management significance (no longer a mandatory requirement for regional plans) and methods of implementation. Some methods in the Kaitiakitanga chapter are more appropriate as policies and so there are recommendations to retain them but make them policies. In the Kaitiakitanga Chapter many methods duplicate policy direction in greater detail. Policies are either recommended as 1) not necessary; or 2) to be retained in other parts of the plan.

Key recommendations resulting from this review are:

- 1 Use 'Tangata Whenua' (TW) Chapter as the NPStds compliant chapter title, unless tangata whenua engagement otherwise dictates an alternative term is preferred.
- 2 Delete KT chapter Issues, but retain some relevant content within the context part of the TW chapter. This aligns with the streamlining approach but retains content that is important.
- 3 Streamline or relocate the seven KT Objectives, leaving one Objective in the TW chapter recognising tangata whenua interests in resource management processes and decisions. Other provisions that are to be retained or amended will be rehoused. Overarching directive provisions would sit in the Integrated Management Chapter, with more specific provisions in the relevant domain or topics.
- 4 Streamline or relocate the 20 KT Policies, leaving five Policies in the TW chapter addressing:
  - (a) *tangata whenua consultation/engagement,*
  - (b) *tangata whenua identification of adverse effects on cultural values,*
  - (c) *Iwi and hapū resource management plans,*
  - (d) *exercising Kaitiakitanga, and*
  - (e) *Te Tiriti o Waitangi.*
- 5 Where still appropriate and relevant, other KT Policies will be addressed in domains and topics.
- 6 The RNRP changes required to successfully implement the NPSFM and NPStds means Māori centric terms and concepts like *Te mana o te wai, mātauranga Māori, mauri, mana whakahaere, manaakitanga* and *ki uta ki tai* will be woven through the entire RNRP. Integration of these Māori concepts relies heavily on tangata whenua engagement as to how they may apply.
- 7 A key concern is ensuring more effective implementation. The proposed TW Chapter provisions will rely on the relevant RNRP Domain and Topic provisions cross-referencing them where relevant (particularly via resource consents processes). This review recommends that *the relevant TW Chapter provisions will be explicitly referenced by provisions in the Domain or Topic.*

These recommendations are a starting point for engagement with tangata whenua. An iterative tangata whenua engagement (and plan drafting) process will continue up until Council decisions and public notification of the freshwater related RNRP changes in 2024.