

Liaison and consultation with Tangata Whenua

*A survey of local government practice
December 1997*

Local Government New Zealand has as one of its core activities the sharing of information for the development of best practice.

The research that was undertaken earlier this year to identify the range of ways that councils undertake iwi liaison and consultation is an excellent example of this type of work. The survey provides the basis not only for analysis and debate, but also for the development of improved ways of working as a sector.

The range of mechanisms summarised in this report is as varied as are the councils and iwi concerned. There is clearly never going to be any one 'right way' of doing things. And nor should there be. One of the keys to healthy communities and strong democracy is the diversity of communities and the people in them. Local government believes that diversity is both a value and a strength. This research highlights for us one of the many areas that demonstrate this.

As part of our mission of promoting the national interests, we present this report for your consideration and to stimulate further discussion in this very challenging area. The topic of Tangata Whenua and local government is an area in which we are undertaking further work and this will also be made available to both members authorities and those with a stakeholder interest.

Ka kite ano



Kerry Marshall
President

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This paper presents the findings of a research project undertaken to 'map' the processes by which local government consults and undertakes liaison with Tangata Whenua. Its purposes are to provide a snapshot of current practice and a baseline for assessing future change. The survey will be repeated every two years to measure change.

The relationship of local government to Maori and its obligations to the Treaty of Waitangi continues to be a major issue for the sector. While the relationship is defined in specific functional areas, such as resource management where the Resource Management Act (RMA) imposes specific duties to consult and take into account Maori values, in other areas it is less clear. In general, views regarding the obligations the Treaty places on local government depend on the community's understanding of the constitutional basis of local government. The key factor is whether local government is seen to be part of the Crown, an agent of the Crown, or an independent sphere of government in its own right. This may not be clarified until the Local Government Act is fully reviewed.

This paper, the first in a series that will look at local government, Maori and the Treaty, attempts to describe current practice without evaluating or assessing the effectiveness or merits of the different mechanisms and processes used. Future papers will analyse specific mechanisms in terms of satisfaction and effectiveness, from the perspectives of both local government and Maori.

The paper reflects *Local Government New Zealand's* commitment to three core businesses - promoting local government's collective interests, information sharing, and member development. These involve:

- reading the environment
- anticipating developments
- researching and determining the issues
- initiating new thinking
- promoting sector views to all stakeholders
- influencing public policy
- acting as information clearing house
- providing sector wide advice on best practice approaches
- building knowledge levels.

The encouragement and direct provision of research and discussion papers is one of the means by which *Local Government New Zealand* fulfils its objects and core business.

The project was undertaken by Bruce Ross in early 1997. Additional analysis was provided by Ingrid Van Aalst.

The following is a summary of the information received from each council regarding their processes for liaising with Tangata Whenua. Appendix I presents the findings in table-form.

- most councils used a number of mechanisms to consult with Tangata Whenua on resource management issues
- the most frequently used mechanism was working directly with their respective iwi representative group (55%). This was particularly true for provincial/unitary and rural councils
- 42% of the councils had or were in the process of drawing a formal agreement/charter between themselves and their iwi representative/Maori Trust Board/Maori Standing Committee
- 39% had iwi representatives on working parties and sub-committees which dealt with resource management matters and other issues related to Maori
- 34% identified they employed iwi advisory officers to help their council deal with resource management issues and other matters relating to Maori. Maori elected council and staff members would also be called upon to provide advice. This was particularly true in cases where the Maori population was well represented
- 25% worked through their local Maori Trust Boards and 16% worked through their respective Maori Standing Committees
- 28% would also consult when the need arose
- consulting informally with iwi (17%) was more frequently used by rural than other councils
- the majority of agreements/charters provide clear identification of the roles and responsibilities of both parties as well as clear procedures for consultation
- most of the agreements, as to be expected, reflected the key principles of both the Resource Management Act and the Treaty of Waitangi
- the agreements were usually founded on *“good faith, co-operation and understanding”* and form the basis of *“developing an on-going relationship of mutual benefit”*
- some agreements also included other social, economic and cultural services (usually advice) which affected Maori
- the contracts usually identified a set fee for services

- in terms of the issue of settling Treaty grievances, the handful of councils which made a specific mention of this considered it to be an issue for the Crown.

Further details are presented in the attached tables and in the main body of the report.

The responses may not reflect accurately all the processes each council may use for liaising with Tangata Whenua, but give a broad indication of how those processes are undertaken, and the approach that underpins them.

Regional Councils

Response rate

Three of the twelve regional councils did not respond to the survey. This represented a response rate of 75%. Those councils which did not respond included: Environment Waikato¹, Hawkes Bay and the Manawatu-Wanganui Regional Councils.

Formal agreements with Tangata Whenua

All regional councils, with the exception of the West Coast Regional Council, identified they had formal agreements/charters between themselves and Tangata Whenua.

These detailed documents provide clear identification of the roles and responsibilities of both parties as well as clear procedures for consultation.

All of the regional councils, with the exception of the West Coast Regional Council, attached copies of their agreements. Details of these agreements are summarised in the main body of the report.

Maori Standing Committees

Environment BOP and the Taranaki Regional Council indicated they work with their respective Maori Standing Committees on issues related to resource management. In 1996 the Maori Standing Committee in the West Coast Region was disbanded *“due to a funding crisis and not working effectively from either a Council or Tangata Whenua perspective”*.

Local Maori Trust Boards

There was no clear evidence in any of the regional council replies that they work with a local Maori Trust Board.

¹ Environment Waikato has undertaken an evaluation of its relationship to Maori which was published after this survey was completed. It is available from the Council.

Iwi/Maori representation

With the exception of Otago and Southland, all regional councils identified they had iwi representatives on working parties or sub-committees which deal with resource management issues.

Iwi/Maori liaison staff

All regional councils, with the exception of Auckland and the West Coast, indicated they employ staff specifically to deal with any Maori issues relating to the Resource Management Act.

Informal consultation

Northland, Taranaki and the West Coast regional councils all said that they also consult with their local iwi regularly and on an informal basis.

Metropolitan Councils

Response rate

Three of the nine metropolitan-councils did not respond to the survey. They were Auckland City, Dunedin City and Waitakere City.

Formal agreements with Tangata Whenua.

Four of the seven metropolitan councils that responded to the survey indicated they had reached a formal agreement/declaration/charter of understanding between their local authority and Tangata Whenua.

Two of the four councils attached copies of their agreements.

Both agreements are founded on the Treaty of Waitangi and *“good faith, co-operation and understanding”* and form the basis of *“developing an on-going relationship of mutual benefit”*.

The agreements also include other obligations. For example, the Christchurch City Council agreement acknowledges and outlines procedures for formal consultation with Te Ngai Tuahuriri Runanga in relation to the Resource Management Act as well as obligations to other social, economic and cultural issues which affect Maori.

Maori Standing Committees

Both the Hamilton and Wellington metropolitan councils had earlier established Maori Standing Committees. These were, however, abolished in 1995. Hamilton City Council abolished it because *“the committee was not found to function as well as had been hoped...”*

Both the Hamilton and Wellington metropolitan councils now work in formal partnership with Maori organisations and iwi or hapu. Hamilton works with the Huakina Development Trust while Wellington City has memorandums of Understanding with the Wellington Tenth Trust and Te Runanga o Toa.

The Huakina Development Trust's role is effectively to act as Hamilton City's agent in terms of undertaking consultation with Tangata Whenua on resource management issues. The detailed partnership agreement outlines the role and obligations of each party in relation to the Resource Management Act and other related legislation. The work undertaken by the Huakina Development Trust is undertaken for an annual fee.

As well as providing ongoing input into the Resource Management Act 1991, Te Runanga o Toa and the Wellington Tenth Trust also provide Wellington City Council with:

- advice and support for civic occasions in terms of establishing the Tikanga and presiding over powhiri and other civic events
- ongoing input to the processes within the following pieces of legislation: Local Government Act; Reserves Act 1987 and the Transit NZ Act 1989
- input to the Council's annual policy programme.

The agreement is based on:

- recognising the limitations and constraints on each partner in terms of resources
- entering it in good faith and honesty and willingness to make it work
- developing a meaningful long-term relationship over time.

In progress

The North Shore City Council currently responds to the requirements for consultation with iwi in relation to mana whenua issues.

It is currently developing a joint council/urban working structure which will respond to mana tangata issues and be formally recognised by Council. It is the intention of this structure to use mechanisms such as charters and agreements.

The Hamilton City Council was the only metropolitan council which identified that it employed an Iwi Liaison Advisor.

Other activities

- The Christchurch Council has also produced *Consultation Guidelines for Local Authorities with Te Runanga o Ngai Tuahuriri* (1994). The document outlines the “mechanism for consultation with the Runanga”. The document incorporates the Resource Management Act and Treaty of Waitangi principles allowing the Runanga to “give expression to tino rangatiratanga”.
- The Hamilton City Council is undertaking a Maori ‘Needs Assessment and Feasibility Study’ for the Te Runanga O Kirikiriroa.
- The Hutt City Council is about to embark on a consultation round for establishing a bi-cultural policy.

Provincial/Unitary Councils

Response rate

Ten of the 38 provincial/unitary councils did not respond to the survey. This represents a response rate of 74%. Those councils which did not respond were:

• Invercargill	• Marlborough	• Matamata-Piako	• Nelson
• Rotorua	• South Waikato	• Tauranga	• Upper Hutt
• Waimakariri	• Whakatane		

Consultation with local iwi committee/representative

Eighteen of the 28 provincial/unitary councils (64%) indicated they work directly with local iwi committees or representatives, or through their local Runanga on resource management issues.

The Southland, Gisborne, South Taranaki, Franklin, Rodney, Wanganui, Waipa, Waikato, Waitaki, and New Plymouth district councils work with local iwi groups in relation to the Resource Management Act. Most of these district councils have developed, or are in the process of developing, a formal working relationship by clearly identifying each party role and responsibilities. The Treaty of Waitangi is also recognised in many of these agreements/ charters.

Selwyn, Tasman, Thames-Coromandel, Timaru, Palmerston North, Whangarei and Western Bay of Plenty also work directly with their local iwi on the Resource Management Act and other issues relating to Maori. Porirua City Council provides their iwi with the opportunity to comment regularly on resource management issues through the local Runanga Council.

Waipa, Timaru, Franklin, and Gisborne district councils worked with their respective iwi through their local Maori Trust Boards.

Local Maori Trust Boards

Western Bay of Plenty, Waipa, Waikato, Masterton, Selwyn, Southland, Thames-Coromandel, Timaru, Gisborne, Franklin, and Far North district councils, all indicated in their responses that they work with their respective Trust Boards in matters relating to the Resource Management Act.

Two of these eleven councils, Southland and Franklin, had a formal charter/agreement established with their Trust Boards.

The Taupo District Council is in the early stages of establishing ties and developing a formal relationship with its local Maori Trust Board.

Maori Standing Committee

Five councils (18%), Hastings, Kapiti Coast, Napier, Papakura, and Waipa district councils, work with a Maori Standing Committee.

The Kapiti Coast was the only district council which has a formal agreement with its Maori Standing Committee.

The Porirua and the Far North District Councils disbanded their Maori Standing Committees because they proved unsuccessful. In the Far North a Maori Task Force has been established instead, and the Porirua City Council now works through the local Runanga Council.

The Far North's Maori Task Force addresses Maori related issues that may arise that are unable to be dealt with effectively through normal processes. In addition the Task Force visits various maraes providing a forum for local Maori issues to be held.

Formal agreements with Tangata Whenua

Nine councils (32%) indicated they had, or are in process of developing, a formal agreement.

Iwi/Maori representation

Fifteen councils (54%) have iwi representatives on various committees dealing with resource management issues and other issues relating to Maori.

Iwi/Maori liaison staff

Nine councils (32%) employ an iwi/Maori Liaison Officer/unit to consult with local iwi on resource management matters and to deal with Maori related issues. They also have the role of educating council staff and elected councillors on such matters.

Informal consultation

Eight of the district councils (28%) consulted with local iwi informally and/or when the need arises.

Most of these district councils believed at this point in time that informal consultation was the best way of dealing with any resource management and other issues relating to Maori. This was due to such factors as the 'nature' of their district (the relatively small/large size of their Maori population), the existing relationship between the district council and iwi, and the relationship between iwi themselves (which dictated one council having to deal directly with each iwi in the district rather than through a local Maori Trust Board).

In progress

A number of district councils made the comment that they have reached a stage of development when they are waiting for their respective iwi to determine what the best method of consultation should be, for example, at iwi, runanga, hapu or whanau level.

The Waikato District Council asked the eleven management committees whose responsibilities include resource management issues to agree on three or four representatives to be on a Maori Liaison Committee with the Tainui Maori Trust Board.

Rural Councils

Response rate

Six of the 27 rural councils did not respond to the survey. This represents a response rate of 78%. Those councils, which did not respond, were:

• Banks Peninsula	• Chatham Island	• Grey
• Tararua	• Westland	• Otorohanga

Consultation with local iwi committee/organisation

Fourteen of the 26 rural councils (46%) which responded work directly with their local iwi or Runanga on matters relating to the Resource Management Act and other issues relating to Maori.

Most of these councils worked directly, and informally, through their local council or staff members. Only one rural council, Kaipara, used outside consultants in Tikanga Maori/Resource Management.

Those rural councils which did not work directly with their local iwi worked through their Maori Standing Committee.

Maori Standing Committee

The Central Hawkes Bay, Hauraki (just established), Kaikoura, Rangitikei, South Wairarapa and Wairoa rural councils indicated they work with their respective Maori Standing Committees.

Local Maori Trust Boards

None of the rural councils indicated in their replies a relationship with their local Maori Trust Boards.

Formal agreements with Tangata Whenua.

Five of the rural councils (24%), Opotiki, Wairoa, Carterton, Central Hawkes Bay and Gore, indicated they have formal contracts/agreements/charters of understanding with their local Maori Trust Board or local iwi representative group.

Three rural councils (15%), Hurunui, South Wairarapa and the Rangitikei, indicated they were in the process of drafting a formal agreement.

Kaipara, Kawerau, Mackenzie, Queenstown-Lakes, Stratford, Clutha and Buller rural councils all identified they had no formal agreements or charters. They considered informal consultation was the best way of meeting the requirements of the Resource Management Act as it suited their particular situation.

Iwi/Maori representation

Central Hawkes Bay, Kaikoura, Ruapehu and Waimate were the only rural councils which identified they had iwi representatives on working parties or sub-committees.

Iwi/Maori liaison staff

Gore and the Wairoa rural councils indicated they employ iwi representatives on staff while the Hurunui and Clutha councils were in the process of recruiting such staff.

One or two of the rural councils, such as Stratford and Kawerau, stated representation of local Maori was through elected members of council and staff.

Informal consultation

Almost all of the rural councils mentioned they had regular informal consultation with their local iwi. They also consulted them on specific projects or when the need arose.

This section presents an overview of the current relationship between local government and Maori. It provides a context for the survey results that describe the range of consultative mechanisms.

Introduction

Local government liaison with Tangata Whenua is complex and fluid. Consultation procedures can be formal, informal, or consist of a diversity of approaches. Formal consultation occurs mainly through memorandums of understanding or in district plan preparation. Informal consultation mainly consists of unwritten understandings between councils and local Maori. However, these consultation procedures are not mutually exclusive.

While there is no national local government Maori consultation policy statement defined in legislation, the requirements of the RMA compel local authorities to enter into consultation with Maori. However, the legal obligation of local authorities to Maori is unclear. This is evident in the variety of consultation strategies employed by councils nationwide.

Local government interest in and responsibility towards Tangata Whenua consultation has substantially increased since the RMA became law. Section 8 acknowledges local government's obligation, as a consent authority, to Treaty principles. Maori have voiced frustration with current RMA consultative processes, especially the lack of formal protocols concerning implementation and practice.

The current challenge facing local government is how to effectively involve Tangata Whenua in consultation processes, especially under the RMA. Genuine and successful consultation is a two way process as are the partners' obligations under the Treaty. The essential elements of genuine consultation must include: adequate information, realistic time frames to operate in, and a willingness on the part of council to consider and alter opinions on proposals.

Recent trends in administrative and constitutional law suggest that local government should regard the Treaty, an agreement between Crown and Maori, as the legitimate foundation and guide in Tangata Whenua consultation.

Inter-relationship

Despite the differences in population size, ethnicity, history and political structure of local government, there are identifiable and reoccurring themes in the consultative relationship between councils and Tangata Whenua.

The Treaty is a contemporary document of primary constitutional importance. The New Zealand Maori Council v Attorney General [1987] case established the *founding document* status of the Treaty. Formal council agreements with iwi occur chiefly concerning The RMA. The Act sets out the scope for meaningful Maori participation and consultation in resultant decision making processes.

The local government relationship with Tangata Whenua is of critical importance - and will continue to be so in the next decade. The relative invisibility of Maori in local government suggests a compounding of Treaty inequities as a result of past mutual distrust and possible council apathy. However, councils have played an intermediary role in iwi Treaty claims against the Crown. Kaipara District Council's Mayor, for example, has facilitated the Aranga Claim involving the Crown, Aranga farmers and Te Roroa, but the degree to which council is able to negotiate with Tangata Whenua as a separate entity from the Crown is at present unclear.

Some councils have argued that the responsibility for resolving outstanding Treaty grievances rests with the Crown. While these councils may not wish to provoke Maori regarding outstanding claims, they imagine a possible resolution as originating in Crown statute and action. However iwi often have expectations of local government and may not distinguish between local and central government in the process of settling grievances.

Constitutional issues

The Waitangi Tribunal has ruled that "the Crown cannot divest itself of its Treaty obligations or confer, an inconsistent jurisdiction on others" (Wai 8, 1989). Local government is one such "other".

Although councils are separate legal entities from the Crown, their legitimate authority rests with their statutory power, such as, the Local Government Act 1974. In some areas local government operates as the *licensee* of the Crown, and as agent. Some commentators take the view that local government's obligations to consult rests with the prior fact of the Crown's Treaty partnership with Maori. Local government may be autonomous, but from this perspective its obligations to the Crown (and the Crown's partnership with Maori) require that Tangata Whenua be consulted.

Consultation strategies

Local government has a constitutional responsibility, albeit unclear, towards Maori consultation. To clarify this responsibility councils may have to look at formalising their consultative relationship with Tangata Whenua. While some councils do, the absence of nationally mandated formal guidelines for the drafting of council protocols invites the possibility of Treaty principles being locally undermined despite the good intentions of councils.

Consultation has been defined as mutual communication with genuine and honest intent. In most cases “consultation” implies that the council is undecided about the outcome of a proposal. Meaningful consultation must allow the consulted party sufficient information and time to consider and prepare advice.

Sometimes, representatives on a Maori standing committee have no mandate to act on behalf of local iwi/hapu. Therefore, the mechanisms employed by councils to consult iwi should include a number of options. This strategy avoids the possibility of any singular, less effective, representation becoming entrenched.

The distinction between council *representation* and *consultation* by iwi is important. This is clear in cases where iwi representatives do not represent the desires and opinions of unconsulted iwi. For example, the Eriapo Urumo v Carter Holt Harvey and Pouhere Taonga case, when Te Hao (Ngati Whatua) group management failed to inform the local hapu of resource consents approval with regard to future road construction. The local marae (Haranui) complained that they were not directly consulted. The case was resolved when the appropriate Maori signed a *Heads of Agreement* (1996).

The Ministry for the Environment draft document, *He Tohu Whakamarama*, states that the most common form of consultation with Tangata Whenua is either through Hui or by way of draft submissions to iwi/hapu. The report suggests that the forms of consultation reflect inconsistencies in local government attempts to interact effectively with iwi/hapu.

The High Court recently interpreted RMA section 8 in Worldwide Leisure Ltd v Northland RC (22/11/94) as placing “an obligation to consult Maori upon local governments, consistent with the Crown”. However, this duty was recently interpreted as an obligation *only* to consult regarding the preparation of a plan or policy statement, ie, Greensill v Waikato RC (11/17/95). Consent authorities, ie, local government, must take into account iwi as an “affected party” under the RMA.

The RMA provides significant opportunities for Maori participation and consultation in local government practices. However, council administration costs are large. Maori also lack adequate funding. The lack of Maori representation at council level is pertinent. Effective consultation must consist of both parties having adequate resources to do so on an “even footing”.

Between many councils and iwi there are informal and unwritten agreements that preclude formal protocols. This is often the case where there is a small local iwi population. However, informal consultation must still account for, and is not a substitute for, Treaty and RMA obligations.

Issues in consultation

“Urban” Maori (Maori residents who are not Tangata Whenua within an area) present a challenge in regard to consultation, especially where prior consultative arrangements exist with iwi/hapu. This is highlighted in the larger centres, like Auckland, Wellington and Christchurch, where urban Maori constitute a greater number than the iwi/hapu population. This poses a challenge for local body democracy in its claim to represent communities.

Submissions received for this report showed that local government references to, and arrangements with, non-iwi urban Maori were minimal.

Rural Maori who are not Tangata Whenua in their district of residence, also present another consultation dimension. Maori have continued migrating not only into the urban centres but also into non-traditional rural areas, albeit in significantly smaller numbers. At present, on the basis of evidence received from this survey, local government recognition of these interest groups is minimal.

Councils may also be faced with some iwi/hapu groups which want separate council recognition, rather than being or represented through iwi “umbrella groups”. In such cases councils still have an obligation to recognise the group’s prior kaitiakitanga relationship with the land, while the RMA commits councils to consult Tangata Whenua as an “affected party”. Both have an obligation to avoid stalemate situations. The RMA obliges Tangata Whenua to participate (with goodwill) in resource management processes.

The issue highlights the need to consult the *right* Maori in regard to the *right* iwi. Some local authorities have drafted separate agreements and contracts with a number of iwi in order to avoid this problem.

Though non-iwi may have no historic iwi/hapu connection to the council’s region or district, this does not automatically exclude them from participation and/or consultation. Non iwi residing in the district also have the obvious claim to consultation as constituents, residents and ratepayers.

Costs

Submissions to *Local Government New Zealand* suggest that the increasing council emphasis on Tangata Whenua consultation under the RMA has placed a strain upon iwi resources. Many councils have commented that the RMA requires a substantial increase in both council and iwi time and resources, to adequately address its obligations.

Some councils have complained that Maori are manipulating the RMA in order to make “quick cash,” ie, a pre-consultation lump sum payment. Presently, under the RMA, Maori can not demand fees even though councils are obliged to consult. Maori can elect not to exercise the right of consultation, though this would not necessarily make the consultation process invalid. However, it should not be assumed or implied that councils must “buy submissions” from Maori. Few councils appear to have adequate or consistent arrangements for iwi payment/reimbursement.

Many within and beyond local government, including among Maori organisations, take a strong view that for any agency to fund Maori for consultation inherently destroys the nature of the consultation, turning it instead into payment for services. They take the view that consultation cannot and must not be paid for by a council, or any other agency, if it is to retain any integrity. This view would also hold that any separate relationship eg of a council contracting for services, must indeed keep the process and substance of consultation and contracts for services separate. That there are differing views around this emerged from the survey.

The Parliamentary Commissioner for the Environment has recommended, in the *Proposed Guidelines for Local Authority Consultation with Tangata Whenua* (1992), that councils should assist Maori (both financially and technically) in the compilation of consultative reference documents.

As stated, Maori have a right to consultation as a Treaty principle. Councils have a duty, consistent with all Treaty principles, to actively consult Tangata Whenua in good faith in regard to impending council actions, which may involve the concept of “community resource funding”. Maori are ‘not just another interest group that lobby local government.’ Limitations in funding and support for Maori participation in consultation restrain the development of an equitable partnership.

Boundary issues

Traditional iwi/hapu boundaries (iwi takiwa) do not always coincide with local government boundaries. The historic presence of iwi may overlap local council boundaries, or there may be more than one district/regional iwi. In some instances iwi are practically absent, for example Ashburton District Council.

In many cases, especially the lower South Island, historically sparse Maori settlement has made for limited council involvement by Maori. A good example is Central Otago District Council’s approach to iwi consultation. Council meetings with runanga are held in coastal Otago, which is outside the district boundaries.

The Treaty

As stated, the Treaty is an agreement between Crown and Maori. However, many councils are uncertain as to their Treaty obligations to Maori. The Crown has no constitutional opinion regarding the relationship of local government and Maori. That is not to say that such an opinion will not eventuate.

The Local Government Act 1974 does not recognise the Treaty. The Maori Council criticised the Local Government Reform Bill 1988 for not recognising the Treaty in regard to Tangata Whenua representation on local government. However, the legal relationship established between Maori, local government and the Treaty, in RMA section 8, is pertinent and primary.

In the Treaty *Article the First*, Maori recognise the Crown's right to govern. In exercising governance, the Crown promises to acknowledge the rangitiratanga of Maori. Some commentators argue therefore that rangitiratanga provides Maori with a legitimate claim to participate in council decision making, especially where councils act in an agency role on behalf of the government.

Overall, Maori have expressed confusion regarding the vague (functional) separation between Crown and local government, especially in regard to RMA practices.

One source of contention for Maori is the Treaty of Waitangi Act's (1975) classification of local government land as private. Under the Act council land (because it is private) can not be returned as part of any Treaty settlement. (This has now been challenged following the Maori Land Court's decision in the Tahora 2F2 Block vs Wairoa District Council 1997.)

The RMA and the Treaty

The primary goal of the RMA is the sustainable management of natural and physical resources. The RMA recognition of the traditional practice of *kaitiakitanga* (guardianship) addresses this Treaty principle. It is of interest to note that RMA section 2: defines Tangata Whenua as the following:

"In relation to a particular area, means the iwi or hapu, that holds manawhenua over that area".

Therefore, Tangata Whenua Maori have a local claim to consultative representation predating the establishment of the council. Manawhenua status can be clarified by The Maori Land Court, applying section 30 (1b) Te Ture Whenua Maori Act 1993.

Local government is compelled under section 8, RMA, that in its purpose and function:

“(It) shall take into account the principles of the Treaty of Waitangi.”

Therefore, both the RMA and the Treaty impose explicit duties upon local government as a constitutional fact of its relationship with the Crown. The lack of a formal local government protocol can be compared with the Treaty as a Crown agreement of documented national significance. The RMA is a pertinent example, whereby local government must not only take into account Crown responsibilities but also exercise them locally through consultation with iwi.

Due in part to unit differences and circumstances nationwide, local authorities have no national guidelines. Some councils have only one iwi within their territory, others several, while some have none. This does not include the variability of district hapu numbers that can also be taken into account.

The RMA provides explicit legislative requirements on local government concerning the Treaty. Not all councils, however, address these requirements. As Dr Ngatata Love stated at the 1996 Local Government Annual Conference:

“(In) many cases local government seems to consider itself divorced from the responsibilities the Crown has towards Tangata Whenua under the Treaty.” Where Crown Maori policy is “an agreed understanding of the place of the Treaty of Waitangi in New Zealand Society,” local government policy, on the other hand, lacks the same overall framework and consistency.

Post fiscal envelope expectations of some iwi in regard to Treaty settlement are high. The Government has resolved to settle all outstanding claims by 2000 AD. Some iwi/hapu regard local government as part of the Crown, whereas some local authorities do not. For example, Taranaki District Council’s position is that it is “a creature of statute, not tied to the principles of the Treaty in the same way as the Crown”.

The tripartite relationship of Maori, Crown and local government is dynamic. This means bipartisan arrangements and disagreements also affect the excluded party. This is especially the case in Maori disagreements with Crown, which affect local government in a number of ways. Firstly, councils’ role in satisfying obligations and expectations to both iwi and Crown is uncertain. Secondly, issues such as the consumption of council time, resources and community tension, also impede local council initiatives.

It is important to note that the Environment Court (and the courts generally) have reviewed council actions - where they have been contested by Maori - from the perspective of council obligations under the Treaty.

RMA section 75 (2a) states that a district plan “shall not be inconsistent with any national policy”. The Treaty may be considered “national policy”. In fact, RMA

section 82 (4) allows for the referral of “contradictory” (national policy) district plans to the Planning Tribunal for resolution.

RMA iwi consultation is statutory and expectations of both parties in regard to submissions have highlighted the problem of resourcing iwi to fulfil the task. How councils fund or reimburse iwi is an issue that invites discussion. Explicit contracts with local iwi for the provision of services, for example, would no doubt help.

Summary

Local government decisions affect Maori. The indeterminate constitutional and functional position of local government complicates the discussion about Treaty obligations. It is only fair that Maori should be consulted. The Maori claim to consultation and participation in local government concurs with the logic of Treaty principles. Local government has an unwritten, but possibly constitutional obligation under the Treaty, towards Maori consultation. RMA section 8 however provides an innovative application of Maori rights under the Treaty.

The drafting of formal guidelines would oblige councils to foster a meaningful and creative partnership with Maori. Many local authorities have shifted their strategies from informal Tangata Whenua liaison to formal contracted consultancy. This is one of the positive results of the RMA, and perhaps indicative of a future trend for other councils.

The responses have been briefly summarised and ranked alphabetically. Where appropriate, and for the purpose of illustration, council submissions are directly quoted.

Ashburton District Council

Ashburton District Council has a no local iwi organisation resident within their district. The Council has fulfilled its statutory responsibilities regarding iwi by consulting with Arowhenua, the Temuka Iwi. The Council funded Arowhenua Iwi to prepare a *Tangata Whenua Statement*, and their submission on the District Plan took place on Marae. Iwi are also represented on pertinent Council working parties and sub-committees.

There are no formal Council agreements with iwi, instead there is “an accord of mutual trust”. The Council has no Maori standing committees. In its reply to the survey the Council identified its lack of human resources as creating “difficulties in satisfying local Maori expectations”. The local Maori community are mostly North Island migrants (rather than indigenous iwi).

Auckland Regional Council

The Auckland Regional Council believes chapter three of its Proposed Regional Policy Statement (RPS) is of most significance to iwi consultation. The Council has adopted the RPS, in response to its RMA obligations (s8). Beyond the RPS, confidential Agreements of Understanding have been drafted with various local iwi. There is no Maori Standing Committee or Tangata Whenua representation on any Council standing committee. However, the Council does work with nominees who have expertise in Tikanga Maori and Resource Management.

Environment Bay Of Plenty (Bay of Plenty Regional Council)

Environment Bay of Plenty has established three local Iwi Liaison Ward Committees after consultation with Maori, named the Maori Regional Representative Committees (MRRC). These groups work from similar charters and protocols. Their annual budget is \$10,000 (in addition to allowances) and they have existed since 1994. A Maori Ward Constituency is currently being established - with the combined efforts of iwi and a Council working party. Council believes that the land confiscation last century has made the establishment of iwi trust in the Bay of Plenty difficult. Current MRRC policy puts an emphasis on Council/iwi cooperation.

Buller District Council

Buller District Council has no charters or agreements with Tangata Whenua, not any Maori standing committees or provisions for Tangata Whenua to appoint representatives to specific standing committees. The Council does however have informal contact with the Kawatiri Maori Komiti. Past Council attempts to formalise contacts with iwi have been unsuccessful.

Canterbury Regional Council

The Canterbury Regional Council has drafted a Regional Policy Statement (basically a consultation agreement with Ngai Tahu) after considerable consultation with hapu within its region. There are no special Tangata Whenua committees, however, Council has two as Iwi Liaison Officers on its staff. A special unit has existed since 1992, for the purpose of facilitating consultation with Ngai Tahu so as to satisfy Council accountability to RMA section 8.

Carterton District Council

The Carterton District Council has drafted a Charter with Tangata Whenua of the district. This Charter evolved from a previous consultation process in order to allow the Council to consult local iwi in the development of the new District Plan. However, there has only been a “minimal response” by Tangata Whenua to Resource Consents processes and protocols.

Central Hawke’s Bay District Council

The Central Hawke’s Bay District Council’s Maori Consultative Committee (MCC) is the main conduit for iwi consultation. The Committee consists of combined representation from local marae, which discusses issues about six times a year. The MCC Chairperson attends all the Council meetings, acting as consultant in regard to “Tangata Whenua issues”.

Central Otago District Council

The Central Otago District Council has limited involvement with local Maori, confined mostly to the RMA. The District Plan has required the formation of a consultative group of combined Runanga. There is a small district iwi population, hence a “limited involvement with Maori”. Maori consultation is “issue specific”.

Christchurch City Council

The Christchurch City Council has drafted a Charter of Understanding with Te Ngai Tuahuriri Runanga. The purpose of the Charter is to “develop a relationship of mutual benefit between Christchurch City Council and the manawhenua runanga of Ngai Tuahuriri”. The Charter is founded on “good faith, cooperation and understanding”. The Charter provides the basis of an ongoing relationship in the context of the RMA, and also acknowledges “the importance of proper consultation” in regard to “policy and programme development”. The Council has also produced *Consultation Guidelines for Local Authorities with Te Runanga o Ngai Tuahuriri* (1994). The document outlines the “mechanism for consultation with the runanga”. The document incorporates the RMA and Treaty principles allowing the runanga to “give expression to tino rangatiratanga”.

Clutha District Council

The Clutha District Council is currently in the process of developing a private enterprise iwi liaison officer for RMA issues only. Apart from this Council has no other formal relationships with Tangata Whenua.

Far North District Council

The Far North District Council recently discontinued its Maori Affairs Committee, replacing it with a Maori Task Group (MTG) comprising three Councillors. However, the workload has been “very light”. The Committee is able to deal with issues that are “outside normal processes”. The Te Kotahitanga Group represents collective iwi in District Plan negotiations. The comparatively high percentage of the population which is Maori has resulted in all Council processes including iwi input as a matter of course. The MTG deals with Maori issues on a specific basis. Community boards hold monthly meetings on local Marae to provide Maori forums.

Franklin District Council

A Memorandum of Understanding with local iwi (1993) is the foundation of the Council’s partnership with Nga Hapu o Waikato, which is represented by the Huakina Development Trust. This is not a formal agreement, but the regular consultation of local iwi highlights genuine desire between the parties. Although the Huakina Trust does not represent Ngaati te Ata and Ngati Paoa, the Council does have regular informal consultation with iwi. The Memorandum of Understanding draws on prior decisions of the Waitangi Tribunal for guidance. Strategic sub-committees address particular issues of Hapu o Waikato interest.

Gisborne District Council

The Gisborne District Council has signed a Declaration of Understanding (1995) with the Maori Liaison Group (MLG) representing affected Maori and iwi in the District. The Treaty is the basis of the Declaration's ongoing partnership with Tangata Whenua that was entered into in a "spirit of goodwill". The MLG has a strategic plan that seeks to consult, advocate with and advise Council on matters relating to the terms of the RMA and the Treaty of Waitangi. The MLG does not hold the status of "standing committee", although MLG members receive meeting attendance and travel allowances. The Council consults extensively with whanau/hapu/iwi primarily through the three runanga in the district. Consultation hui are generally held at marae for which consultation fees and costs are negotiated. The position of Maori Liaison Officer allows the extensive task of consultation to be achieved. The cost of the Maori Liaison Officer is met within the Council's administration budget and is independent of iwi consultation costs. Council also has three elected Maori Councillors.

Gore District Council

The Gore District Council believes that the small local Maori population makes iwi consultation "not a problem". The locally appointed Iwi Liaison Officer, who has speaking rights, has an input to all Council meetings. The Council has also appointed an iwi officer to represent Southland iwi. Funding from local councils helped produce *Te Whakatau Kaupapa o Murihiku*, a document designed to assist Southland Councils (including Gore District Council) to undertake liaison with Tangata Whenua and understand local Maori aspirations.

Hamilton City Council

The Hamilton City Council employs a number of strategies in its relationship with Tangata Whenua. In 1987, the Council established Nga Hui Haumi - the Maori Standing Committee. However, the Council disestablished this Committee in 1995 because "it did not function well". To replace Nga Hui Haumi the Council entered into partnership (1996) with the Huakina Development Trust (the environmental arm of Tainui). The Trust acts as the Council's agent for Tangata Whenua consultation under the RMA. The development of the Council's 20 year Strategic Plan has paralleled the Maori consultation process. The Council is currently funding a Maori needs assessment and feasibility study for Te Runanga o Kirikiriroa. Both Runanga and the Council have assessed the report and the Council has indicated its desire to implement the recommendations in the Strategic Plan. An Iwi Liaison Officer also provides a nexus between the Council and Maori.

Hastings District Council

The are no elected Maori members on Hastings District Council, however, Tangata Whenua do participate on the Maori Advisory Standing Committee (MASC) which is composed of 13 appointed hapu/marae members and three members from Council (including the Mayor). An Iwi Liaison Officer supports MASC in policy development through regular Maori consultation. Ngati Kahungunu are the only iwi in the district and Maori comprise 22% of the population. The MASC is attempting to clarify the Council's obligations under the Treaty. The Council believes the process of drafting Tangata Whenua Treaty policy is "ongoing and evolutionary". The Council consults iwi early in regard to resource consents.

Hauraki District Council

The Hauraki District Council described its relationship with Maori as "rudimentary". Local iwi consultation is irregular and primarily concerns RMA issues as they arise, ie, waste disposal, sewerage and water management. The Hauraki Maori Trust Board has set up committees to deal with Resource Management but not all iwi have agreed to formally participate.

Horowhenua District Council

The Horowhenua District Council remains in the early stages of developing a Charter of Understanding with the three local iwi of the area. Progress on this Charter has been set aside until Tangata Whenua consultation in the development of the *Maori section* of the proposed District Plan is completed. The Council does not have a Maori standing committee but committees work with iwi as required eg the Lake Horowhenua Domain Board is working with iwi in developing a management strategy. The Council has not considered the matter of appointing Maori representatives to any specific standing committee, preferring to solicit informal Maori consultation "on an ad-hoc basis". It also consults Tangata Whenua on an "as required" basis in regard to received Resource Consent Applications.

Hurunui District Council

The Hurunui District Council is currently drafting an Operating Protocol with local runanga groups. The draft provides guidelines for Maori participation in local government. The legislative status of Kati Weake as a runanga group may affect their exclusion from the protocols final draft. Council consults local iwi under its Charter of Understanding. The Ngai Tahu Runanganui Act 1996 helped develop the Charter's scope.

Hutt City Council

The Hutt City Council has two memorandums of understanding with Tangata Whenua, one with Te Runanganui o Taranaki Whanui ki te Upoko o te Ika a Maui and the other with the Wellington Tenth Trust. These memorandums are a contract for service where Council pays for advice. Council is also in the early stages of a consultation round towards establishing a bi-cultural policy.

Kaikoura District Council

The Kaikoura District Council obtains iwi input “through a variety of mechanisms”. The Council recently established a Standing Committee for the development of the new Kaikoura District Plan. Regular iwi consultation consists of two local iwi members on the Hearing and Applications Committee. The District Plan allows iwi to express interest in the development of the Kaikoura Coastal Management Strategy. A Resource Consent mailing list, along with informal local marae visits, allows opportunity for additional iwi input.

Kaipara District Council

The Kaipara District Council recognises that there are “a large number of Treaty Claims,” including Te Roroa’s Aranga Claim, within the District. While the Council has no professional opinion on the issue, it is engaged informally with iwi in regard to their Treaty Claims. Council has a working relationship with local Tangata Whenua Ngata Whatua, who singularly represent iwi in dealings with Council. No formal charters or committees regulate Council’s relationship with iwi, instead, Council deals with iwi on a day to day basis which has “proven most satisfactory”.

Kapiti Coast District Council

The Kapiti Coast District Council have signed a Memorandum of Partnership with the three iwi of the District. Te Whakaminenga o Kapiti (the Joint Committee’s name), meets three to five times a year. The Committee is the principle forum for Maori consultation. The Council is unsure whether this forum has been successful in “operating outside the usual meeting format”.

Kawerau District Council

The Kawerau District Council has no formal arrangements with iwi, but Maori representation “is ensured” because Maori make up a large percentage of the population. Tangata Whenua believe that the Council is “generally doing a good job”, and have provided Council with the names of iwi who can be contacted in regard to consultation. Overall, issues that affect Maori affect the whole community. The Council has also met with iwi to discuss Treaty claims.

Mackenzie District Council

The MacKenzie District Council has no formal arrangements with iwi. There is however, regular and informal consultation with Arowhenua Runanga (which is based outside the District). Iwi have no representation on Council committees.

Masterton District Council

The Masterton District Council has no memoranda or agreements with iwi. Instead a nine person Maori Liaison Task Group (five members are Maori) has been set up to participate in the Council decision making process. The Task Group has regular input in District Plan implementation and provides a mechanism for RMA consultation with Tangata Whenua. However, Task Group resolutions must have Council ratification. The Task Group has found the documents, *Taking into Account the Principles of the Treaty of Waitangi* and *Proposed Guidelines for Local Authority Consultation with Tangata Whenua*, valuable. The Task Group's aim is to tailor iwi consultative structures to suit local expectations.

Napier City Council

The Napier City Council recognises its Maori Advisory Committee (MAC) as essential to maintaining a successful relationship with local Tangata Whenua. The MAC regularly advises the Mayor on RMA issues and cultural protocols. The Council believes it has met its responsibilities to Tangata Whenua under the RMA and has circulated an internal memo on this subject (1996). It regularly consults Tangata Whenua in regard to relevant issues which are identified by a Maori Liaison Officer.

New Plymouth District Council

The New Plymouth District Council has made some progress towards establishing formal lines of communication between itself, iwi and hapu. A District Iwi Liaison Sub Committee was established as a direct formal line for all iwi and hapu to liaise for regular two-way communications and for formal partnership documentation to be brought through to Council. The Deputy Mayor chairs the Committee and the Mayor attends regularly.

Council has one Draft Charter of Understanding from Te Iwi O Ngati Maru. Ngati Rahiri Hapu formally presented Council with their "Field Study of Ngati Rahiri Hapu Waahi Tapu Sites". Marae are included under Council's "Rural Halls" policy, and Marae Trustees meet yearly to decide their distribution of fixed cost contributions and maintenance from the contestable funds.

Tangata Whenua have access to the Council Heritage Fund. Contracts with Council are negotiated with iwi and hapu for specific information and services. A District Iwi Liaison Adviser has been appointed to assist on Maori issues, RMA issues, and protocols for council staff and elected representatives.

Finally council has iwi representation on a Working Party dealing with the construction of the new Pukeariki Museum/Library development.

Northland Regional Council

The Northland Regional Council employs two officers to ensure iwi participation in plan preparation and Resource Consents. The Council coordinates consultation through the pan-tribal Te Kotahitanga Resource Management Sub-committee. Elected delegates from each iwi comprise the Sub-committee. The delegates use their pre-existing networks to liaise with Tangata Whenua. The same networks allow the reciprocal dissemination of Council information.

The Council also maintains “an open door policy” to requests from iwi not affiliated with Te Kotahitanga. The Council has representatives from both Te Kotahitanga and the Taitokerau District Maori Council on the Planning and Policy Committee, Environmental and Rural Services Committee and the Regional Land Transport Committee. The Council acknowledges the opinion of Tangata Whenua at every stage of the Resource Consent process. The Council encourages applicants to consult iwi informally, or at pre-hearing meetings. When required, Council policy is to offer Tangata Whenua a suitable venue for consent hearings. Tikanga Maori and the use of Maori language are also used in consultation hearings.

The Council is presently negotiating a contract with Te Kotahitanga in order to develop iwi management plans and joint monitoring initiatives. The Council has produced a booklet - *Consultation the Challenge*, discussing how to involve Maori effectively in consultation. A Workshop (1996) was held to discuss Council options for developing future relationships with iwi in regard to District Plan preparation. A Performance Contract has also been drafted (1996) with Te Kotahitanga in regard to consultancy payment.

North Shore City Council

The North Shore City Council recognises its RMA “mana whenua obligations”. Consultation with Maori consists of a joint Council/urban Maori working structure. The Council anticipates formal recognition of the presently undecided working party’s format in the future. It expects formal mechanisms, such as charters and agreements, to be the end result.

Opotiki District Council

The Opotiki District Council, in acknowledging Treaty principles, has drafted a Memorandum of Understanding that “provides the basic principles for a working relationship between Council and iwi”. The Memorandum’s purpose is to “develop and cement a relationship for the mutual benefit of Opotiki District Council and the mana whenua tribes of Whakatohea, Ngaita I Rununga o Te Whanau and Te Ehotu”. The Council has prepared a discussion paper on Maori issues in regard to District Plan preparation (in accordance with the RMA).

In its reply the Council noted that Maori constituted nearly half the district population and due to the high Maori population in Te Whanau a Apanui and Ngaitai areas, their interests were substantial. Council believes that a keynote to any discussion of Maori issues under the District Plan must focus on the following areas: “Functional Relationships,” (ie, the constitutional relationship between iwi and Council), “Process/Management,” (ie, strategies towards policy objectives), and “Environment Impact Issues,” (ie, the regulation of human environmental impact).

Otago Regional Council

The Otago Regional Council has recently established a Memorandum of Understanding with iwi. The Memorandum is accompanied by a protocol on consent application processing. The Council wants to establish the (occasional) position of Iwi Liaison Manager/Kaitakawaenga. Council recognises the RMA and Treaty as comprising “the fabric of local governance”. The Council does not have a Maori committee. Local iwi, Kai Tahu, support the established Memorandum consultation processes.

Palmerston North City Council

The Palmerston North City Council has “not employed any formal consultative mechanisms with iwi,” although it has prepared a plan, *Partnership with Tangata Whenua*. It operates a Maori Policy Unit which has initiated Council workshops to discuss Treaty principles. The Council has developed its Strategic Plan focused on the Treaty. The Policy Unit has prepared a paper for the Council on the implications of the Treaty, *Crown Proposals for Settlement of Treaty of Waitangi Claims*.

Papakura District Council

The Papakura District Council has a Maori Standing Committee that meets six times annually, making its recommendations directly to Council. The *Democracy and the Community* section of the Annual Plan aims to increase Maori/Pakeha Treaty principle understanding. The Council recognises the Treaty explicitly in terms of satisfying its RMA obligations.

Porirua City Council

The Porirua City Council believes that Treaty grievances are a matter for the Crown to resolve, however the Council “acknowledges the principles of the Treaty” and has drafted two contractual agreements with iwi. The Council believes it recognises Treaty principles by referring “Maori issues” to the Runanga Council, and recognises the value of the Runanga’s work through a lump sum of \$15,000 per annum. Councillors have maintained a close relationship between Ngatitōa Iwi and Council, but there is no special iwi representation on Standing Committees. The Council has provided iwi with the opportunity for comment under formal RMA consultation commitments.

Queenstown Lakes District Council

The Queenstown Lakes District Council has no formal understanding or relationship with Ngai Tahu. Council consults iwi when issues arise, and Ngai Tahu is invited to make comment on Council projects that concern Maori.

Rangitikei District Council

The Rangitikei District Council established a district iwi committee known as Te Roopu Ahi Kaa in 1993. A proposed draft Process of Consultation Policy recognises Councils Resource Management Act obligation. Te Roopu Ahi Kaa drafted a RMA Discussion Paper that, in summary, sought to voice Maori concerns in Council meetings. Since the Council formed Te Roopu Ahi Kaa (and its sub-committees), its partnership with Maori has “flourished”. (This Committee proposed a Memorandum of Understanding, incorporating current Waitangi Tribunal Treaty interpretations.)

Rodney District Council

The Rodney District Council has a small local Maori population despite its large district area. The principle iwi is Ngati Whatua (with six marae). Ngati Wai are the secondary iwi (with one marae). However, the Council recognises other iwi and urban Maori as well. An Accord signed between Te Hao and the Council acknowledges “the purpose of compliance with the spirit of the Treaty of Waitangi Act and the RMA”.

However, the accord has not been without problems, such as internal conflicts due to the increase in iwi consultation obligations. The Accord allows for private Resource Consent applicant consultation. The Planning Court has focused on the Council’s concerns about the limitations of current Tangata Whenua consultation procedures. A recent case involving Carter Holt Harvey Ltd highlighted the problem of Te Hao consent being in conflict with that of local marae (who were not consulted by the Council in the first instance). “What was needed,” the judge ruled, “was better consultation with the proper people”.

Ruapehu District Council

The Ruapehu District Council employs a range of consultative mechanisms in consulting with Tangata Whenua. An Iwi Liaison Group represents Tangata Whenua

at the council level and iwi representatives attend both general and special meetings, when the need arises. The present debate over the ownership and control of the Whanganui River concerns Council and the Council will make its final submission to the Government when the recommendations of the Waitangi Tribunal are completed. The Council believes ongoing RMA iwi consultation processes have clarified its Treaty obligations and contributed to the development of the District Plan. The Council does not have a Maori Standing Committee because the Iwi Liaison Working Party already represents iwi in the Resource Management process.

Selwyn District Council

The Selwyn District Council has no formal arrangement or relationship with Tangata Whenua, though it has “developed an excellent relationship with Ngai Tahu”. The Council has conducted meetings with Tangata Whenua, canvassing issues of importance to Maori. For example all Council sewerage project teams must have formal Maori representation. A Ngai Tahu Council representative has built up trust amongst the two parties. Representative funding takes the form of an allowance (based on attendance participation and kilometres travelled).

Southland District Council

A local Iwi Liaison Committee has been established to represent Maori views on the Council. Murihiku, Awarua, Waihopai, Hokonui and Oraka/Aparima Runanga comprise the Southland membership. An Iwi Liaison Joint Committee, Te Roopu Taiao, also exists amongst Southland Councils recognising these Runanga. Te Runanga o Ngai Tahu advised the Council to consult with iwi, especially where statutory Treaty precedents in Murihiki are at issue. Council recently approved a Charter of Understanding. Te Ao Marama Incorporated (representing Southland iwi authorities) entered into a consultation contract with Te Roopu Taiao. The Charter’s aim is to “develop a relationship of mutual benefit” between the Southland Council and Maori, and governs ongoing conduct between the parties within the scope of the RMA.

Southland Regional Council

The Southland Regional Council, along with the three other local authorities in the region, have drafted a Charter of Understanding with Te Ao Marama Incorporated, representing local iwi. The purpose of the Charter is to “develop a relationship of mutual benefit” among local authorities and iwi. Te Roopu Taiao, a joint Iwi Liaison Committee, exists to provide a forum for the exchange of views between councils and iwi - its costs are met by all four local authorities. A Kaupapa Taiao Manager has been appointed under the provisions of a contract signed between Te o Marama, an iwi trust, and the four local authorities. The Kaupapa Taiao Manager’s purpose is to “give effect to the partnership developed between local authorities and iwi in Murihiku, to assist in the understanding and to enhance the consultation process”.

South Taranaki District Council

The South Taranaki District Council, in its Annual Plan, has the goal of achieving “a thorough and sensitive understanding of the issues surrounding the Treaty of Waitangi within the context of South Taranaki”. In order to achieve this goal Council has formed an Iwi Liaison Committee that meets every six weeks and considers matters relating to Tangata Whenua, and the interface between the Council’s operations and iwi. The Council has enacted a cultural awareness programme for both staff and elected members.

South Wairarapa District Council

The South Wairarapa District Council recently established a Maori Standing Committee (1997) after consultation with local Maori. The Council believes this to be a genuine attempt at fulfilling its Treaty obligations. The Committee has prepared a work plan that includes a draft Memorandum of Understanding between iwi and the Council. The Council’s *Maori Policy* is that it should “advise on Tangata Whenua and Maori interests in the Council’s major area of activity”.

Stratford District Council

There are six to seven iwi in Stratford, although none have marae in the district, which accounts for their low population. There is no formal charter or agreement with iwi, nor is there a Maori standing committee, although Council emphasises the maintenance of strong, informal links with local iwi, via the General Manager and Mayor. No Council standing committees exist apart from the Committee of the whole. Tangata Whenua have no opportunity to appoint representatives, however, iwi do have Agendas and Resource Consents circulated for their comment.

Taranaki Regional Council

The Taranaki Regional Council employs a number of strategies when dealing with iwi. The Council drafted a Declaration of Understanding with Iwi o Taranaki, taking into account Treaty principles. A Code of Conduct acknowledges these principles “within the limits of the RMA”. The Regional Policy Statement contains these agreements ensuring the *Principle of Rangatiritanga* right of Iwi o Taranaki, while also addressing Tangata Whenua Treaty grievances. In acknowledging its responsibility to Maori under the RMA the Council drafted a working report with Te Putahitanga o Taranaki. This discussion document provides the Council with the suggestions and guidance of participating iwi. The Council has also created an “Iwi Liaison Officer/Policy Analyst” position to assist in the development of a Resource Management programme. The Council has appointed two members of Te Putahitanga o Taranaki to the Policy and Planning Committee as part of its information exchange programme.

Tararua District Council

Early in its inception, the Tararua District Council activated a Maori Community Advisory Committee in order to fulfil its obligations under the Treaty of Waitangi Act 1975. The Committee (currently in recess) assisted the Council on issues pertaining to the Maori community's rights under the Treaty (Article Two). The Council has sought legal determination. The issue is still before the courts and therefore undecided in regard to "appropriate Maori representation" in the district. The Council is mindful of its statutory responsibilities to consult under the RMA, so there is a Council resolve towards reaching a solution.

Tasman District Council

The Tasman District Council has no formal written agreements with Tangata Whenua or a Maori standing committee. However, the Council maintains a close relationship with iwi in regard to specific projects. Iwi have discussed the District Plan proposals at a hui on a local marae. An on-site Maori Liaison Officer carried out negotiations with Golden Bay Iwi regarding a proposed sewerage scheme that would pass through ancient burial sites. An appointed Maori Affairs Adviser regularly informs the Mayor and Council regarding Maori protocol. Tangata Whenua also provide regular input to the Community Services, Creative Communities and Grants Sub-committee.

Taupo District Council

The Taupo District Council is in the early stage in the development of a relationship with iwi. The Council has received requests from the Tuwharetoa Maori Trust Board, Raukawa Maori Trust Board and a variety of hapu groups to formulate Charters of Understanding. Several Charters have been drafted but none are complete. Council has no Maori Standing Committee, or Maori Advisory Group, but is exploring the possibility of creating them. The Council believes that a Maori Advisory Group could be "a clearing house for all iwi issues in the District". The Council also employs an Iwi Liaison Officer

Thames Coromandel District Council

The Thames Coromandel District Council has consulted iwi and the Hauraki Maori Trust Board in regard to the proposed District Plan. The Trust Board has registered interest in becoming further involved in Council procedure, however not all iwi support this - arguing that the right to be consulted is a separate duty. The Council has been unable so far to develop its own consultative strategy, therefore, the recommendations of *Local Government New Zealand's* Maori Consultative Committee have greatly assisted it in formulating strategy.

Timaru District Council

The only Council strategy that exists for addressing its Treaty obligations to Tangata Whenua is on the Marae at Arowhenua. However, the Council has appointed a Tangata Whenua representative to the Resource Planning and Regulation Committee. This has not been as successful as hoped, although, regular consultation does take place on an informal basis. The Council has also held a hui to discuss proposed sewerage disposal.

Waikato District Council

The Waikato District Council has only one iwi authority within its district, the Tainui Maori Trust Board, which, as a result of a High Court case, is deemed to be the legal iwi authority for Maori in the district. The Trust Board has been negotiating its Raupatu Claim for a number of years and this has been the subject of a recent settlement between the Board and the Crown. For resource management purposes the Tainui Maori Trust Board has designated a series of management committees responsibility for local issues within the district. The Board nominated the Huakina Development Trust to act as environmental adviser to council in regard to the management of the Waikato River. The Council also has a Maori Liaison Committee that meets on an irregular basis to discuss issues that involve Maori. There is, however no formal Council charter or agreement with this committee. The Council plans to establish a Maori Liaison Committee have been unsuccessful.

Waimate District Council

The Waimate District Council has no formal agreement with iwi. However, during the compilation of the proposed District Plan the Council consulted Maori Upoko on the "very powerful" Resource Management Committee. The Upoko did not wish to be part of the completed District Plan in order to avoid potential conflict of interest.

Waipa District Council

The Waipa District Council worked through its Iwi Consultative Committee to formalise liaison between itself and iwi. This is a forum whereby Council raises concerns and exchanges information with iwi. The Nga Iwi Toopu o Waipa Committee, an iwi initiative, meets monthly ensuring regular district hapu input. An iwi representative sits on Council's Regulatory Committee in order to satisfy Section 8 of the RMA.

Wairoa District Council

The Wairoa District Council has drafted a Maori Policy Document and has employed a Maori Liaison Officer since 1996. The Maori Committee develops iwi policy issues (meeting on a six-week cycle). Over half the district constituency are Maori, as is the Mayor and many staff members and Councillors, which means that the Council considers Maori issues as a natural consequence of the local government process. The Maori Policy document has the intent of ensuring full Maori participation in "decisions that concern Maori and the Wairoa District Council". The Maori Council comprises fourteen district representatives from marae, iwi and hapu.

Waitaki District Council

The Waitaki District Council recognises takata whenua values in its RMA District Plan. The Treaty is regarded as the foundation in the relationship between Council and Te Runanga o Moeraki. The Council recognises the partnership with mana whenua in the management of the district's natural and physical resources, and has made provision for the preservation of the Maori character of the district, ie, place names, archaeological sites, waahi tapu, waahi taoka and kaitiakitanga.

Waitomo District Council

The Waitomo District Council is still developing its consultative process with iwi/hapu, and it is currently drafting a Strategic Plan. Meetings with iwi have resulted in goodwill towards formalising an ongoing consultation process in regard to Tangata Whenua issues.

Wanganui District Council

Since 1989, the Council's Iwi Liaison Working Party (Te Roopu Whakakotahi) has been involved with the "appropriate groups" in the district. Working Party minutes are referred to the Council's Planning Committee. Most iwi wish to formalise protocols with the Council and it often appoints an iwi representative to specific committees and working parties. Committees and organisations initiated by the Council also have iwi representatives.

Wellington City Council

The Wellington City Council has entered into Memorandums of Understanding with two iwi, the Wellington Tenth Trust (1996) and Te Runanga o Toa (1996). Specific issues that are not covered by these umbrella agreements require wider consultations both agreements are founded on Treaty principles. The Council has also published a RMA guide for consultation with Tangata Whenua (1995) which develops and explores themes in the consultation procedure. The Council abolished its Maori Committee and Maori Unit in 1995. There has been a recent call for the establishment of one or more positions for Maori councillors.

Wellington Regional Council

The RMA governs the Council's formal relationship with iwi which has been detailed in the Regional Policy Statement. A Maori translation (1995) of the 1993 Charter of Understanding was the result of a Council/iwi review. Two representatives from each of the seven regional iwi compose the inter-iwi group, Ara Tahi.

The Council's Rural Services and Wairarapa Committee includes Tangata Whenua representatives and there is provision for iwi representation on other Council committees. An employed Iwi Liaison Officer facilitates consultation on behalf of Council with Tangata Whenua.

Over the past two financial years iwi have secured RMA consultation contracts regarding their specialist advice as Tangata Whenua. The Council is currently reconsidering when to inform iwi in regard to non-notified resource consents. Overall, the Council regards the Crown as having the ultimate right of decision over Treaty grievances and believes that because of statute, it has "no mandate to determine whether the Treaty has been breached". The Council has produced a report on the implications of land claims before the Waitangi Tribunal to the region. It has a specific goal with regard to the Treaty that "its activities should not exacerbate existing grievances or cause new ones".

West Coast Regional Council

The West Coast Regional Council has no charters or agreements with Tangata Whenua because the Council's "current method of consultation and Maori participation do not require them". However, if the situation arises where Council needs to solicit Tangata Whenua views "it may be necessary to formulate charters and agreements". In January 1996, due to a funding crisis, the Council disbanded Komiti Rangapu - its Maori Standing Committee. (It also believed the Komiti Rangapu was "not functioning effectively".) The Council has replaced the Komiti Rangapu with elected Tangata Whenua representatives from the two papatipu Runanga who participate fully on its Planning and Civil Defence Committee. Other Council methods of Maori consultation relate to regulations and consents. Informally, Tangata Whenua are "provided the opportunity to have their views considered regarding any consent application received by Council.

Western Bay of Plenty District Council

The Western Bay of Plenty District Council has a Maori Forum Committee rather than a standing committee. The Committee is comprised of six representatives from five

iwi groups and one member from the Tauranga Moana Trust Board. There has been no support forthcoming for charters, agreements or protocols. The Forum Committee has not been supportive of the appointment of Iwi Representatives to any standing committee. The Council's relationship with iwi dates back to the 1960's with the position of Maori Land Rating Officer. In the 1980s the relationship expanded to include the paid position of Iwi Liaison Officer. This position is now located in the Council's Strategic Planning Department. In 1995, Council reviewed its relationship with iwi, and found that the Committee was needed, more than ever.

Whangarei District Council

The Whangarei District Council believes that Treaty issues are between the Crown and Maori. The Council regards statute and case law, especially Hanton v ACC, as the degree to which local government is obliged to the Treaty.

The Council employs a Maori Liaison Officer and prefers direct negotiation, "chief to chief", to the use of single purpose committees, such as a Maori Standing Committee.

Appendix

Notes to the tables

Please note that the information presented in the following tables reflects **only** what councils actually specified in their survey responses as their processes for liaising and consulting with Tangata Whenua in their cities, regions or districts.

It does not therefore represent all the liaison processes councils may engage in at any point in time.

Legend

Symbol	Explanation
✓	<i>Council specified they used this process for liaising with Tangata Whenua in their cities, regions or districts.</i>
X	<i>Council specified they did not use this process for liaising with Tangata Whenua in their cities, regions or districts.</i>
-	<i>Council did not specify whether they used this process or not for liaising with Tangata Whenua in their cities, regions or districts.</i>

Regional Councils

Local authority	Local iwi committee/ organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/ sub-committees	Formal charter/ agreement/ Declaration of understanding	Use experts in Tikanga Maori/ Resource Management	Iwi/ Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding
Auckland Regional	✓	X	-	✓	✓	-	-	-	-	-
Canterbury Regional	-	-	-	✓	✓	-	✓	-	-	-
Environment BOP	✓	-	-	✓	✓	-	✓	-	-	-
Environment Waikato	-	-	-	-	-	-	-	-	-	-
Hawke's Bay Regional	-	-	-	-	-	-	-	-	-	-
Manawatu-Wanganui Regional	-	-	-	-	-	-	-	-	-	-
Northland Regional	✓	-	-	✓	✓	-	✓	-	✓	-
Otago Regional	-	X	-	X	✓	-	✓	-	-	-
Southland Regional	✓	-	-	-	✓	-	✓	-	-	-
Taranaki Regional	-	✓	-	✓	✓	-	✓	-	✓	-
Wellington Regional	-	-	-	✓	✓	-	✓	-	-	-
West Coast Regional	-	Disbanded	-	✓	X	-	-	-	✓	-

Metro Councils

Local authority	Local iwi committee/organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/sub-committees	Formal charter/agreement/Declaration of understanding	Use experts in Tikanga Maori/Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding	Other
Auckland City	-	-	-	-	-	-	-	-	-	-	-
Christchurch City	-	-	-	-	✓	-	-	-	-	-	✓
Dunedin City	-	-	-	-	-	-	-	-	-	-	-
Hamilton City	✓	<i>Abolished in 1995</i>	✓	-	✓	-	✓	-	-	-	-
Hutt City	-	-	✓	-	✓	-	-	-	-	-	-
Manukau City	-	-	-	-	-	-	-	-	-	-	✓
North Shore City	-	-	✓	-	-	-	-	-	-	-	-
Waitakere City	-	-	-	-	-	-	-	-	-	-	-
Wellington City	-	<i>Abolished in 1995</i>	✓	-	✓	-	-	-	✓	-	-

Provincial/Unitary* Councils

Local authority	Local iwi committee/ organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/ sub-committees	Formal charter/ agreement/ Declaration of understanding	Use experts in Tikanga Maori/ Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding	Other
Ashburton District	X	X	-	✓	X	-	-	-	-	✓	✓
Far North District	-	<i>Disbanded</i>	✓	✓	-	-	-	✓	-	-	-
Franklin District	✓	-	✓	✓	✓	-	-	✓	-	✓	-
Gisborne District*	✓	-	✓	-	-	-	✓	-	-	-	-
Hastings District	-	✓	-	✓	-	-	✓	-	-	-	-
Horowhenua District	-	X	-	✓	Draft	-	-	-	✓	-	-
Invercargill District	-	-	-	-	-	-	-	-	-	-	-
Kapiti Coast District	-	✓	-	✓	✓	-	-	-	-	-	-
Manawatu District	-	-	✓	✓	X	-	-	-	-	-	-
Marlborough District*	-	-	-	-	-	-	-	-	-	-	-

Provincial/Unitary* Councils

Local authority	Local iwi committee/organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/sub-committees	Formal charter/agreement/Declaration of understanding	Use experts in Tikanga Maori/Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding	Other
Masterton District	-	-	✓	✓	X	-	-	✓	-	-	-
Matamata-Piako District	-	-	-	-	-	-	-	-	-	-	-
Napier District	-	-	✓	✓	-	-	✓	-	-	-	-
Nelson City *	-	-	-	-	-	-	-	-	-	-	-
New Plymouth District	✓	-	-	✓	Draft	✓	✓	-	-	-	-
Palmerston North District	✓	-	-	-	X	-	✓	-	-	-	✓
Papakura District	-	✓	-	-	-	-	-	-	-	-	-
Porirua District	✓	Disbanded	-	✓	✓	-	-	-	-	-	-
Rodney District	✓	-	-	-	✓	-	-	-	-	-	✓
Rotorua District	-	-	-	-	-	-	-	-	-	-	-

Provincial/Unitary* Councils

Local authority	Local iwi committee/ organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/ sub-committees	Formal charter/ agreement/ Declaration of understanding	Use experts in Tikanga Maori/ Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding	Other
Selwyn District	✓	-	-	✓	X	-	-	-	-	✓	-
South Taranaki District	✓	-	-	-	-	-	-	-	✓	-	✓
South Waikato District	-	-	-	-	-	-	-	-	-	-	-
Southland District	✓	-	✓	-	✓	-	-	-	-	-	-
Tasman District*	✓	-	-	✓	X	✓	✓	-	✓	-	-
Taupo District	-	X	Possibly	-	Developing	-	✓	-	-	-	-
Tauranga District	-	-	-	-	-	-	-	-	-	-	-
Thames-Coromandel District	✓	-	✓	-	-	-	-	-	-	-	✓

Provincial/Unitary* Councils

Local authority	Local iwi committee/ organisation . Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/ sub-committees	Formal charter/ agreement/ Declaration of understanding	Use experts in Tikanga Maori/ Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding	Other
Timaru District	✓	-	✓	-	-	-	-	✓	✓	-	-
Upper Hutt City	-	-	-	-	-	-	-	-	-	-	-
Waikato District	✓	X	✓	-	-	-	-	-	-	-	-
Waimakariri District	-	-	-	-	-	-	-	-	-	-	-
Waipa District	✓	✓	✓	✓	-	-	✓	-	-	-	-
Waitaki District	✓	-	-	-	✓	-	-	-	-	-	-
Wanganui District	✓	-	-	✓	-	-	X	✓	-	-	-
Western Bay of Plenty District	✓	-	✓	X	X	-	✓	-	-	-	-
Whakatane District	-	-	-	-	-	-	-	-	-	-	-
Whangarei District	✓	X	-	-	-	-	✓	-	-	-	-

Rural Councils

Local authority	Local iwi committee/organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/sub-committees	Formal charter/agreement/Declaration of understanding	Use experts in Tikanga Maori/Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Consultation when need arises	No formal agreement but understanding	Other
Banks Peninsula District	-	-	-	-	-	-	-	-	-	-	-
Buller District	✓	X	-	X	X	-	-	-	✓	-	-
Carterton District	✓	-	-	-	X	-	-	-	-	-	-
Central Hawkes Bay District	-	✓	-	✓	✓	-	-	-	-	-	-
Central Otago	✓	-	-	-	-	-	-	-	✓	-	-
Chatham Islands District	-	-	-	-	-	-	-	-	-	-	-
Clutha District	-	-	-	-	X	-	In progress	-	-	-	-
Gore District	-	-	-	-	✓	-	✓	-	-	-	✓
Grey District	-	-	-	-	-	-	-	-	-	-	-
Hauraki District	✓	Just established	-	-	-	-	-	-	✓	✓	-
Hurunui District	✓	-	-	-	Draft	-	In progress	-	-	-	-
Kaikoura District	-	✓	-	✓	-	-	-	✓	✓	-	-
Kaipara District	✓	X	-	-	X	✓	-	✓	✓	-	-

Rural Councils

Local authority	Local iwi committee/organisation. Work with runanga	Maori Standing Committees	Work with Local Maori Trusts	Iwi representative on working parties/sub-committees	Formal charter/agreement/Declaration of understanding	Use experts in Tikanga Maori/Resource Management	Iwi/Maori liaison staff &/or Unit	Regular informal consultation Open door policy	Ad-hoc consultation when need arises	No formal agreement but understanding
Kawerau District	-	-	-	X	X	-	-	✓	✓	-
Mackenzie District	✓	-	-	-	X	-	-	✓	✓	-
Opotiki District	-	-	-	-	✓	-	-	✓	✓	-
Otorohunga District	-	-	-	-	-	-	-	-	-	-
Queenstown District	✓	-	-	X	X	-	-	✓	✓	-
Rangitikei District	✓	✓	-	-	Draft	-	-	-	-	-
Ruapehu District	✓	X	-	✓	-	-	-	-	-	-
South Wairarapa District	-	✓	-	-	Draft	-	-	-	-	-
Stratford District	✓	X	-	X	X	-	-	-	-	✓
Tararua District	-	-	-	-	-	-	-	-	-	-
Waimate District	✓	-	-	-	-	-	-	-	-	-
Wairoa District	-	✓	-	-	✓	-	✓	-	✓	✓
Waitomo District	In progress	-	-	-	-	-	-	-	-	-
Wetland District	-	-	-	-	-	-	-	-	-	-