

# Te Awaroa



Ngati Kahu Hapu Environmental  
Management Plan 2011

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*"Ka rere atu nga awa o Kaimai ki  
te whakakotahi o te awa rongonui  
a Wairoa toku kainga, Wairoa  
toku turanga, Wairoa toku ukaipo,  
Wairoa toku moemoea"*

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## Acknowledgements

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The writer sincerely appreciates the contribution of Hapu/Iwi members who participated in previous research pertaining to Ngati Kahu and also in the compilation of this Plan. It was a privilege to learn about the tireless efforts of Ngati Kahu individuals, whanau, kaumatua and others who have strived to protect Ngati Kahutanga through the protection of our environment for many years. I have attempted to present the information, views and korero of Ngati Kahu Tangata Whenua as accurately as possible. Without the aforementioned efforts this Plan would not be have been possible.

No reira, e te whanau, ka nui te mihi aroha ki a koutou katoa.

Te Runanga o Ngati Kahu acknowledge the tremendous support received from the Bay of Plenty Regional Council to develop our Plan. Special thanks to the Maori Policy Team and the GIS team and all others who in one way or another invested their time and energy into this project. Mauri ora ki a koutou katoa.

Tuturu whakamaua kia tina

Haumi e, Hui e, Taiki e!

## Disclaimer

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## Executive summary

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This Plan is a statement of Ngati Kahu values in regard to natural resource and environmental management in the Ngati Kahu rohe. The Plan is a means for Tangata Whenua to carry out their role as kaitiaki and rangatira over their ancestral lands and taonga. This Plan is recognised by Ngati Ranginui Iwi Society as the Ngati Kahu Hapu Environmental Management Plan (2011) and as an official Iwi planning document.

The Resource Management Act (RMA) 1991 sections 61, 66, and 74 make specific reference to Iwi planning documents recognised by an Iwi authority. As such, this document is applicable to the planning processes undertaken by district and regional councils.

The Plan is not intended as a substitute for consultation with Ngati Kahu. Rather it is a document that provides a basis for understanding Ngati Kahu values related to natural resource and environmental management. The plan is considered a living, working document.

The Plan identifies specific issues for Ngati Kahu and then provides appropriate methods and policies to address these issues. A snapshot of Ngati Kahu's history is provided to help users of the Plan to understand the whakapapa and origins of Ngati Kahu and relationship to their rohe.

The Ngati Kahu sites of cultural significance are part of this plan but sit in a separate section in a Sites of Significance Booklet.<sup>1</sup> They will form part of the cultural heritage inventory which will be recorded in the Smartgrowth Cultural Heritage database.

## Background

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In January 2010, Te Runanga o Ngati Kahu endorsed the writer to begin the development of a Hapu Environmental Management Plan (the Plan) and to initiate a process to establish and formalise the Plan in accordance with the Regional Council's criteria.

The first stage of the development of the Plan was the production of a literature review and scoping report: the purpose of which is to present information about the history of Ngati Kahu, to present information key issues/concerns/values and to define the scope of the Plan which ultimately shaped and informed the Plan's content. The second stage was to consult the Hapu community to identify key issues and values associated with the environment.

There have been many issues relating to the natural resources of Ngati Kahu over the years. Hapu members and representatives who were consulted on over these issues often spoke from both a localised perspective and in a broad context of issues and the complex longer term effects of cumulative impacts.

While many of these longer term issues are reflected in the views of Tangata Whenua within this Plan, the Plan itself does not seek to consider the overall impact of the cumulative effect of all these changes.

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<sup>1</sup> The Sites of Significance Booklet for Ngati Kahu, Ngati Pango & Ngati Rangī; 2011 (on file at TRONK). Note: The author requested that it be made clear that this booklet was developed in the first instance for the purpose of Treaty Settlements information.

Contents	
Acknowledgements	i
Disclaimer	ii
Executive Summary	iii
Background	iii
Part 1: Introduction	1
1.1 Methodology	1
1.2 Purpose and aims	2
1.3 Why have an Iwi Management Plan?	2
1.4 Definition of “environment”	3
1.5 The Resource Management Act 1991	3
1.5.1 Section 5 RMA: Purpose	3
1.5.2 Outline of Māori specific reference in the RMA and summaries	3
1.6 Ngati Ranginui Iwi Society Environmental Policy	5
1.7 Kaupapa of this Report	5
1.8 Specific outcomes	6
1.9 Sources of information	7
Part 2: Mana Whenua O Ngati Kahu	9
2.1 Takitimu Waka	9
2.2 Ngati Kahu associations in Tauranga Moana	10
2.3 Geographical area	11
2.4 Post-European Ngāti Kahu	11
Part 3: Legislative framework	19
3.1 Te Tititi O Waitangi	19
3.1.1 Article the Second	19
3.2 The Resource Management Act 1991	19
3.2.1 Part 2: Purpose and principles	19
3.3 National Policy Statements	20

3.3.1	National Coastal Policy Statement	20
3.3.2	Policy 14 Restoration of natural character	22
3.4	National Policy Statement on Freshwater Management 2011	22
3.5	Bay of Plenty Regional Council Regional Policy Statement (RPS)	23
3.5.1	Bay of Plenty Regional Council Regional and Water Land Plan	24
3.5.2	Bay of Plenty Regional Council: On-Site Effluent Treatment Plan	25
3.6	Aquaculture Management Areas (AMA's)	25
3.7	Tauranga City Council and Western Bay of Plenty District Council Plans	26
3.8	Western Bay of Plenty District Council and LGA 2002	26
3.8.1	Section 40 Local Governance Statements:	27
3.8.2	Western Bay of Plenty District Council and Resource Management Act:	27
3.8.3	Western Bay Of Plenty District Council District Plan	27
3.9	Tauranga City Council plans	28
3.9.1	Tauranga City Council Operative District Plan	29
3.9.2	10 Year Community Outcomes Plan	29
3.9.3	Tauranga City Operative District Plan	29
3.10	Civil Defence Management Plan	31
3.10.1	Tsunami	32
3.11	Coastal parks	32
3.12	Crown agencies with coastal responsibilities	32
3.12.1	The Department of Conservation is responsible for:	32
3.12.2	The Ministry of Fisheries is responsible for:	33
3.12.3	Maritime New Zealand	33
3.12.4	The district councils are responsible for:	33

Part 4: Nga Wawata Me Nga Taketake – Nga Kaupapa/Policy	35
4.1 Kaitiakitanga	37
4.2 Ranginui – Our Sky Father	38
4.2.1 Irirangi	38
4.2.2 He Mahi Kino – Climate change	39
4.2.3 Bay Of Plenty Regional Council Regional Water and Land Plan policies	39
4.3 Papatuanuku	42
4.4 Wai – Water	46
4.5 Te Awa Wairoa - Wairoa River	51
4.6 Tangaroa Raua Ko Hinemoana	54
4.7 Ngati Kahu Community, Village and environs	59
4.8 Economic well-Being	60
4.9 Relationship building, consultation, principles for engagement	61
Appendix A - Map showing areas of interest	68





## Part 1: Introduction

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Establishing a methodology and layout has been the most difficult part of developing this Plan. The beneficiary of an Iwi Management Plan should be “Maori culture” of which the guardians and caretakers are Maori, the Indigenous Peoples of Aotearoa, in this case Ngati Kahu.

The Resource Management Act 1991 and its amendments, provides limited rights for protecting the cultural relationship that Maori have with the environment. In understanding these rights, it is important to realise the difference between for “Maori” and for “Maori culture”. Ngati Kahu issues have highlighted that some Maori individuals and even groups, from time to time, will want to use the kawana tools for economic gain. They have a right to, under the Treaty of Waitangi, Article 3. Exercising these rights by individual Maori and groups, should not be interpreted as a reason to avoid the obligations to Maori culture under the RMA. Expressed another way, Maori, including Maori developers, are not excused from their obligations to the environment, to the domains of the Atua Maori.

Any restriction on any activity which arises from this Plan should be just as applicable to Ngati Kahu and to other Maori as it is to non-Maori. The protection offered in the Resource Management Act is to protect Maori culture for the benefit of future generations of Maori. Our culture is inextricably tied to the natural environment, Te Taiao.

Even so, Maori rights under the Act are limited. As this report shows, it is more often when Tangata Whenua values have an alignment with Tauwiwi values or do not threaten tauwiwi values (i.e. “the wider community”), will recognition be given to Maori culture. That fact needs to be highlighted so that unreal expectations are not raised.

### 1.1 Methodology

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This Plan was based on issues raised at a hui a Hapu, and focus group hui as well as the literature review. The focus group hui consisted of people from three age bands of Ngati Kahu people: kaumatua, mid-aged and rangatahi, plus individual hui with key members of Ngati Kahu.

Issues were also identified from literature including issues raised in submissions on the environment from Ngati Kahu people, from other plans, Waitangi Tribunal claims and reports and the Wairoa River - management strategy focus group meetings.

Other Iwi plans were examined to identify any possible gaps in the issues identified locally. This was useful for also highlighting the uniqueness of the Ngati Kahu environment. Bay of Plenty Regional Council plans were also perused and early on a decision made not to duplicate what those plans provide as protection for the environment. There are many useful policies in that literature that would be supported by Iwi, however they do take a Western science approach and as has been stated already, references to Tangata Whenua in the RMA are for the protection of Maori culture.

The issues were then arranged according to the domain of the atua responsible for that particular issue; that is within a Maori framework.

The layout was then arranged so as to make it as user-friendly as possible to Ngati Kahu whanau, hence the literature review is in the appendices.

## 1.2 Purpose and aims

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### The vision

- To ensure we are fulfilling our Kaitiakitanga obligations to Ranginui and Papatuanuku me a raua Tamariki.
- To be pro-active in protecting and preserving our environment.
- To live and breathe Kaitiakitanga.
- To identify parts of our environment that needs restoration.
- To enhance, support and reaffirm we are Kaitiaki over our Taonga o Te Taiao.
- To express an authentic Ngati Kahu perspective on ALL Taonga of Te Taiao.
- Ki te tunga ta matou nei pou o Ngati Kahu i roto i te moana o Tauranga.
- Kia tutangata ai, kia pai ake te oranga o matou o Ngati Kahu, mena kia oranga pai Te Taiao, kia oranga pai hoki te Iwi.
- To provide safe, overarching/broad and generic objectives for the management of these Taonga and Te Taiao.
- Ensure that ALL Ngati Kahu are provided with a platform for their Te Tino Rangatiratanga with respect to the environment.
- Provide an international context to support Hapu objectives.
- To ensure we are not left out of important consultation obligations by regional and local authorities, other Iwi, resource consent applicants (mainly developers).
- To produce a manual for Ngati Kahu whanau to refer to and use when dealing with matters relating to Te Taiao.
- The production of a plan from a Ngati Kahu cultural paradigm using cultural values as a basis for relevant planning processes, leading to greater understanding and integration with mainstream plans to achieve good environmental management.

## 1.3 Why have an Iwi Management Plan?

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As previously stated, an Iwi Management Plan offers limited protection of the natural and historical resources which Maori see as important for their cultural well-being. By identifying the relationship and importance of this relationship, there is documented evidence that councils must take into account when planning.

The usefulness of preparing an Iwi Management Plan (IMP) has been identified by the Ministry for the Environment:

*[An Iwi management plan is] ...a planning document recognised by an Iwi authority. This may include planning for social, economic, and resource management issues based on tribal management and self-development...*

*... [it is] a vision of how the management and protection of natural and physical resources can be achieved based on the cultural and spiritual values of Tangata Whenua.<sup>2</sup>*

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<sup>2</sup> Ministry for the Environment, Te Raranga A Mahi, 2000.

The Ministry for the Environment also commissioned research on the same topic on the effectiveness of Iwi Management Plans.

## 1.4 Definition of “environment”<sup>3</sup>

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It is useful to provide a definition of “environment” at this point – as intended by the RMA 1991<sup>4</sup>. Environment includes:

- (a) Ecosystems and their constituent parts, including people and communities;
- (b) Natural and physical resources;
- (c) Amenity values; and
- (d) The social, economic, aesthetic and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.

## 1.5 The Resource Management Act 1991

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The following are the most significant references to Maori in terms of councils’ responsibilities under the Resource Management Act 1991 (as at 14 April 2008). Notwithstanding, the highest intention of the Act is contained in Section 5: Purpose of the Act and everything else in the Act, must address that purpose.

### 1.5.1 Section 5 RMA: Purpose

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- 1 The purpose of this Act is to promote the sustainable management of natural and physical resources.
- 2 In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -
  - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;
  - (b) Safeguarding the life supporting capacity of air, water, soil, and ecosystems;
  - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

### 1.5.2 Outline of Māori specific reference in the RMA and summaries

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**Section 6(e)** - requirement to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other Taonga.

**Section 7(a)** - requirement to have particular regard to Kaitiakitanga.

**Section 8** - requirement to take into account the principles of the Treaty of Waitangi.

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<sup>3</sup> Definition from the Quality Planning website: QP is a partnership between the New Zealand Planning Institute, the Resource Management Law Association, Local Government New Zealand, the NZ Institute of Surveyors and the Ministry for the Environment. The Ministry for the Environment currently owns and administers the website. The project is funded by the Ministry for the Environment. <http://www.qp.org.nz>

<sup>4</sup> Further key definitions are included in the Appendices/glossary at the back of this Plan.

**Section 33(1)** - Councils may transfer any one or more of its functions, powers or duties under the RMA 1991 to an Iwi authority.

**Section 61(2A)(a)** - Regional councils must take into account any relevant planning document recognised by an Iwi authority, and lodged with the council, to the extent that its content has a bearing on resource management issues of the region when preparing or changing a regional policy statement.

**Section 62 (1)(b)** - A regional policy statement must state - the resource management issues of significance to Iwi authorities in the region.

**Section 66(2)(c)** - When preparing or changing a regional plan, council shall have regard to:

- Management plans and strategies prepared under other Acts;
- Relevant entry in the Historic Places Register; and
- Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing).

**Section 66(2A)(a)** - Regional councils must take into account any relevant planning document recognised by an Iwi authority, and lodged with the council, to the extent that its content has a bearing on resource management issues of the region when preparing or changing a regional plan.

**Section 74(2)(b)(iii)** - Council shall have regard to any planning document and any regulations in relation to the conservation or management of taiapure, mahinga mataitai or other non-commercial Maori customary fishing fisheries when preparing district plans.

**Section 74(2)(A)(a)** - must take into account any relevant planning document recognised by an Iwi authority.

**Schedule 1 clause 3(1)(d)** - Councils are required to consult during the preparation of a proposed policy statement or plan with Tangata Whenua of the area who maybe so affected through Iwi authorities and tribal runanga.

**Schedule clause 3B** - For the purpose of clause 3(1)(d) above, a local authority is to be treated as having consulted Iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority –

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult;
- (b) establishes and maintains processes to provide opportunities for those Iwi authorities to consult it;
- (c) consults with those Iwi authorities;
- (d) enables those Iwi authorities to identify resource management issues of concern to them; and
- (e) indicates how those issues have been or are to be addressed.

## 1.6 Ngati Ranginui Iwi Society Environmental Policy

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The Environmental Policy adopted and used by the Ngati Ranginui Iwi Society states that:

- Where an application under the RMA is Hapu specific, then the Hapu affected will attend to the issue, Ngati Ranginui Iwi Society will become involved at the request of the Hapu or may bring relevant information to the attention of the Hapū;
- Where an application or an authority is unclear which Hapu/Iwi are affected, Ngati Ranginui Iwi Society will ensure they are correctly advised; and
- Where an application affects the whole Iwi, Ngati Ranginui Iwi Society will initiate action in consultation with constituent Hapu.

Being a Hapu of Ngati Ranginui Iwi, Ngati Kahu supported and endorsed the adoption and implementation of this policy.

## 1.7 Kaupapa of this Report

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The kaupapa<sup>5</sup> embraced by this report, is taken from Mason Durie's research *Hoe Nuku* and underpinned by Linda Smith's "Decolonising Methodologies". Durie<sup>6</sup> has outlined three goals for Maori educational achievement which are applicable to any situation where Maori aspirations need to be asserted and explained:

- Goal 1 - To live as Maori. That means being able to have access to te ao Maori, the Maori world - access to language, culture, marae, resources such as land, tikanga, whanau, kaimoana<sup>7</sup>.
- Goal 2 - To actively participate as citizens of the world ...education is equally about preparing people to actively participate as citizens of the world.
- Goal 3 - A third goal for education is linked to well-being. Education should be able to make a major; if not the major - contribution to health and wellbeing and to a decent standard of living.

These goals have been identified through intensive research and accepted by Maori academics/researchers and others<sup>8</sup> and are consistent with the human development reports of the United Nations.

Goal one has obvious resource management implications, while goal three has links to Local Government through the Local Government Act 2002, which is required to address community well-beings: social, cultural, economic and environmental.

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<sup>5</sup> Used in this context to denote "framework" or "theory".

<sup>6</sup> Durie, M. (2001) *A Framework for Considering Māori Educational Advancement* - Ministry of Education <http://www.minedu.govt.nz/index.cfm?layout=document&documentid=6113>

<sup>7</sup> Durie, M. (2001) *A Framework for Considering Māori Educational Advancement* - Ministry of Education <http://www.minedu.govt.nz/index.cfm?layout=document&documentid=6113>

<sup>8</sup> Love, C., M. Malaulau and A. Praat (2004) "Understanding social wellbeing: Maori contributions" Social Policy Research and Evaluation Conference, What works? Wellington, 25-26 November 2004. <http://www.msd.govt.nz/documents/events/strategic-social-policy/conference-04/104.doc>

Linda Smith's "Decolonising Methodologies"<sup>9</sup> holds that research on and for indigenous peoples is done within a framework which upholds Western values and knowledge. She highlights the need therefore for any Indigenous researcher to be aware of the implications of working in this context. The methodologies need to be decolonised so that indigenous knowledge creation that supports an indigenous world-view is able to emerge.

With direction from both these literatures, this report is written firstly for Ngati Kahu descendants who identify as Ngati Kahu and who have kept the home fires burning at Wairoa.

Secondly the report is a statement of Ngati Kahu's relationship to Te Taiao for any other organisation which has a statutory responsibility to make provision for Ngati Kahu's relationship with Te Taiao and the well-being's of the Local Government Act 2002.

Lastly the report gives guidance to any other organisation or individual who may need to have an understanding of the Ngati Kahu cultural relationship to Te Taiao.

## 1.8 Specific outcomes

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In providing tools to assist with Kaitiakitanga by nga whanau me nga tangata katoa o Ngati Kahu, the Plan aims is to achieve this by:

- 1 Describing the relationship between Ngati Kahu and the natural environment that Ngati Kahu want to restore, strengthen and maintain.
- 2 Identifying the environmental issues for Ngati Kahu from research and consultation - ensuring that ahikaa roa whanau views are represented.
- 3 Reviewing, incorporating and over-laying their korero on this Plan as far as it relates to their relationship to Te Taiao and their well-beings.
- 4 Providing clear management guidelines for ourselves and others on tiakitanga o Te Taiao o Ngati Kahu interpreting Te Taiao in its widest sense.
- 5 Providing an overview of plans and legislation etc which impact on Ngati Kahu as an easy reference point for Tangata Whenua when developing submissions to plans and resource consents and as a tool for assisting ahi kaa roa whanau o Ngati Kahu of Ngati Kahu cases which may need to proceed to an Environment Court process.
- 6 Clearly stating the expectations of Ngati Kahu about how organisations and other parties should exercise their functions when engaging with Ngati Kahu and in relation to any issues which arise from this Plan.
- 7 Highlighting critical issues, risks and opportunities that require more detailed investigation.
- 8 Asserting the tino rangatiratanga of Ngati Kahu.
- 9 Ensuring that the Taonga o nga atua are available to future generations.

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<sup>9</sup> Decolonising Methodologies: Research and Indigenous Peoples by Linda Tuhiwai Smith, 1999, Zed Books, London.

## 1.9 Sources of information

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The research for the Plan has taken the writer to two regional libraries, Tauranga City, and Waikato University Library.

The Bay of Plenty Regional Council website and publications (including plans) was also extensively used. Regional Council staff were also helpful with information.

Information derived from research and submissions from 1980's until present times were a most valuable source for identifying Ngati Kahu's environmental issues and provide proof again of our kaitiakitanga in a changing political and knowledge context.



## Part 2: Mana Whenua O Ngati Kahu

### 2.1 Takitimu Waka

Ngati Kahu are descendants of the ancestors who came to Aotearoa on the Takitimu waka. The exciting stories around the Takitimu waka cannot be given full justice within this Plan. The references here to that history are the minimum sufficient to establish the mana whenua status of Ngati Kahu to their area. It is further acknowledged that each Takitimu storyteller may have a slightly different version of events!



When the Takitimu canoe arrived in Tauranga, the tribes in residence were Nga Marama of the Tainui waka, along with Te Purukupenga and sections of Te Tini o Toi. The Takitimu was a highly sacred canoe, and it is said that only the aristocracy and priestly class from the homeland of Hawaiki travelled aboard her. Ranginui, the founding ancestor of Ngāti Ranginui, was the son of Tamatea-pokai-whenua, the captain of the waka. Other traditions state that Tamatea-arikinui was the captain, and that he was the great-grandfather of Ranginui.

It was Tamatearikinui (captain of Takitimu) who gave the name Maunganui to the sacred mountain known as Mauao. He planted the Mauri<sup>10</sup> of the waka at the summit. According to other traditions, a Mauri from Takitimu was also placed underneath 'Te Toka a Tirikawa' otherwise known as North Rock at the base of Mauao. These acts of planting Mauri forever cement the connection of the people of the Takitimu waka to the area and furthermore obligate us to fulfil our duties to protect and preserve this cultural landscape.

Some say Tamatea first settled at Te Mangatawa and according to those same traditions, it is said he is buried there. Ranginui and his brothers Kahungunu and Whaene took separate paths with Kahungunu heading south and settling at the East Coast. Whaene went to Taupo and Ranginui remained in Tauranga Moana, where he settled at Pukewhanake on the banks of the Wairoa River. It is however well known that Ngati Ranginui at one stage did occupy Mauao.

*The pa of Maunganui, situated on the hill of that name, covered about 100 acres. The fortifications crossed the top of the hill and ran down each side, then, circling round the base towards the south, they met. Waitaha held the east side, and Ngatiranginui the west side of the pa, which enjoyed a beautiful view and splendid position on the shore of the harbour. The fortifications were so strong and the garrison so numerous that the pa seemed impregnable to Maori weapons--no matter what the prowess, the situation, with the means at command, was unassailable.<sup>11</sup>*

<sup>10</sup> In this context 'Mauri' is referring to a talisman.

<sup>11</sup> 1907 - Wilson, J. A. The Story of Te Waharoa pg

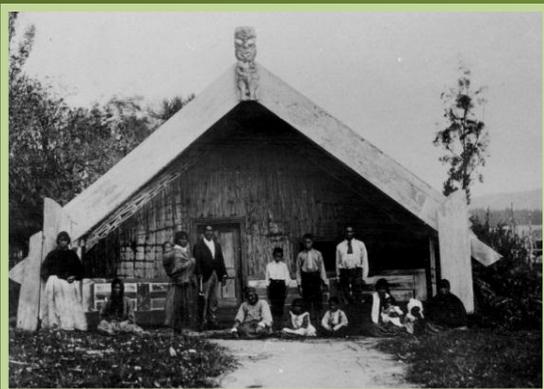
## 2.2 Ngati Kahu associations in Tauranga Moana

The following discussion emphasises the extent of ancestry and historical association of Ngati Kahu in Tauranga Moana. It includes information sourced from treaty claims evidence, oral history and other literature sources. It has a focus on the whakapapa of Ngati Kahu in order to explain how mana whenua o Ngati Kahu within Tauranga Moana was established. It further gives the basis to why an assertion of Ngati Kahu-tanga in relation to environmental matters is crucial to preserving our uniqueness, our identity, our mana whenua and rangatiratanga in Tauranga Moana today.



*Ko Mauao te Maunga  
Ko Tauranga te Moana  
Ko Ngati Kahu, Ngati Rangī, Ngati Pango nga Hapu  
Mai Mauao ki Ranopane o Raumati  
Tae atu ki pūranga o te Wairoa  
Mai Pukeorihaneke ki Te Tūhanga ki Weraiti  
Ki Arapohatu ki Whaiti Kuranui ki Kuranui  
Mai Phakahaheke ki Ruahihi ki Kaimai ki Te Hanga*

There are two levels of traditions presented here. One level stems from the Iwi level. The other is Hapu level.



Ngati Kahu are Ngamarama- the original Tangata Whenua of Tauranga Moana.<sup>12</sup> Assimilation with Ngati Ranginui through social and economic obligations has occurred over time. Ngati Ranginui origins stem from the Takitimu waka. Ranginui, the founding ancestor of Ngati Ranginui, was the son of Tamatearikinui, the captain of the waka. According to supporting evidence<sup>13</sup> to the Wairoa Hapu Treaty Claim (WAI42a) Ngati Kahu are descendants of the ancestors Kahu and Kahu Tapu. Kahu (the name of the previous wharenui) is of Ngamarama origins and Kahutapu a tipuna with connections to Ngati Raukawa and Iwi of Tauranga.

Ngati Kahu are the river people. By ancient tradition Ngati Kahu belongs beside the Wairoa River and nowhere else. Mana whenua issues over the Wairoa continue to surface from time to time. The reference in the Resource Management Act to “ancestral” does not help the situation, given the many Iwi and Hapu who can claim ancestral rights in Tauranga. Neither is it helped by the Waitangi Tribunal process which allows any Iwi to claim ancestral rights on flimsy evidence, as has happened already.

<sup>12</sup> TE RAUPATU O TAURANGA MOANA CHAPTER 11 ALIENATION OF AWARDED LAND

<sup>13</sup> Coffin, Antoine (1996) Ngati Kahu, Ngati Pango, Ngati Rangī Evidence to WAI 42a Claim Research

However, despite the claims for whatever reasons, for Wairoa, the fact remains that the whanau of Ngati Kahu are able to clearly identify whom amongst them have had continuous occupation rights; they are clear on what their tribal links are and they have a marae in Wairoa which they have maintained. Further their dead are buried in Wairoa urupa and continue to be buried in Wairoa urupa. In terms of kaitiakitanga, they are the ones who have kept the home fires burning – nga tangata, nga whanau ahi kaa roa o Wairoa.

Ngati Kahu's mana whenua legitimacy under tikanga comes from Ngamarama and whakapapa links as earliest occupiers of Wairoa and continuous occupation since. Therefore Ngati Kahu have ahi kaa, tupuna take as well as "ancestral rights" – the latter being essentially Pakeha terms given authority by the Resource Management Act and the Waitangi Tribunal. Ahi kaa for Ngati Kahu as Hapu and whanau, (not as individuals) infers social as well as cultural rights and obligations, including kaitiakitanga.

Our old people have always acknowledged our Ngamarama whakapapa and continue to do so. They will ensure that the knowledge and the practice of handing on the korero continues. They say that anyone who knows the old tuturu korero will know the history. Their jobs to hand down the korero are made much more difficult by Crown processes such as the aforementioned RMA example.

Traditional korero regarding the mana whenua of Ngati Kahu has been overlaid in recent times by Waitangi Tribunal claims reports and research. This information is designed to present the claimant in "best light" and thus it is not surprising that Ngati Kahu's mana whenua status korero is challenged by some of these WAI claims.

Ngati Kahu's cultural landscape includes Mauao, Tauranga Harbour, and the mouth of the Wairoa River. The eastern side of the landscape includes the Wairoa River Valley to the Kaimai Watershed West of the Omanawa River to Te Hanga. The western side of the landscape includes the Wairoa River Valley to Te Irihanga and extending to Weraiti.

### 2.3 Geographical area

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Described in the pepeha on the previous page are the Wairoa hapu traditional areas. For the sake of this Plan, the areas have been provided figuratively in landscape format in Appendix A. It must be noted that the map highlights certain parts of the landscape and has not included Te Awanui. Ngati Kahu assert shared kaitiakitanga responsibilities to Te Awanui and advise that for the purposes of local government planning processes, Ngati Kahu wish to be kept informed on all matters affecting Te Awanui.

### 2.4 Post-European Ngāti Kahu

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An early, post 1840 original written source for Tauranga history,<sup>14</sup> refers to the earliest record of Tauranga with the arrival of waka (approx. AD 1290). Coffin's (1996) evidence to the Waitangi Tribunal states that in Judge Wilson's sketches of ancient Maori life and history, the "Takitumu" called in at Te Awanui (as Tauranga was then named) and found the district in possession of a tribe of aborigines whose name, Puruapenga or "full net" bore testimony to the rich harvest to be drawn from the surrounding waters. This occupancy was shared with another aboriginal tribe, known as Ngamarama.

According to the WAI reports, Ngati Ranginui Hapu had their interests more intensely located in the blocks that the Government purchased or retained through



<sup>14</sup> Gifford and Williams. 1940 A centennial History of Tauranga. AH & AW Reed. Tauranga District Library.

confiscation, and they could relocate only to rugged bush lands. Following confiscation, Ngai Tamarawaho were awarded 142 acres of coastal reserves, Ngati Hangarau 130 acres, and the Wairoa Hapu group 315 acres (but not until 1886), while the majority of Pirirakau received no coastal land.

These Ngati Ranginui Hapu were clearly those most affected by the Crown's retention of the 50,000-acre confiscated block and purchase of Te Puna–Katikati. The allocation of reserves in these areas left them with title to little of their fertile coastal lands. Further, some of their customary land in and around Te Puna, Bethlehem, and Judea was awarded to individuals of Ngai Te Rangī, Ngati Pukenga, or Te Arawa. In the mid-1860s, the major Ngati Ranginui Hapu were large groupings, and they were the Hapu that struggled most to survive on their allotted land in the 1880s and 1890s.

Ngati Kahu interests also ran along the eastern side of the Wairoa River to the Kaimai watershed, while Ngati Pango and Ngati Rangī (not to be confused with Ngai Te Rangī) had interests on the western side. All three of these related Hapu (who submitted a joint claim as 'the Wairoa Hapu') had interests on both sides of the river toward the Kaimai Range. They had kainga in the inland bush areas at Te Iriranga, Poripori, and Kaimai.

In the closing submission to the Waitangi Tribunal hearings, it was asserted by the Wairoa Hapu that they 'have never consented to the extinguishment of their rights in respect of the Wairoa River and, in treaty terms at least, it follows that those rights remain extant'.

The establishment of Tauranga as a place of settlement for immigrants from Britain has its origins before the land wars with the establishment of the Mission Station in 1838-9 by early missionaries and the subsequent effort to "throw open" the country was demonstrated by the raupatu. According to Coffin (1996) the subsequent actions of the Crown through the Tauranga Districts Lands Act of 1867 and 1868 between the two rivers, Waimapu and Wairoa saw the taking of a 50,000 acre block. However, even then, the wish to see 'all lands' opened up was apparent.



By the early 1900's infrastructures roading and railway were being put in place. Prior to 1940, farmers in the district were experiencing drainage problems of coastal swamp areas. By late 1940's the area experienced extensive development of grassland farming for dairy, cattle and sheep, deer and goats. Tauranga County became one of the fastest rural counties in New Zealand. Horticultural activities increased in the late 1950's.

With the expansion of the Tauranga City Council's boundary over Tauranga County in 1989 urban development progressed rapidly in the eastern area of Wairoa close to Ngati Kahu lands.

By the 1960's, pressures to have in place development plans was essential. In 1969 the rural nature of Wairoa from rural to intensive horticulture was prevalent but with the down turn in the kiwifruit industry in the early 1980's urban subdivision was the investment alternative. Over time rural blocks were broken down into 10 acre – 4 hectare lifestyle blocks with the city limits coming closer to Wairoa. This demand for land led to a change in jurisdiction boundaries and in 1989/1990, Wairoa was incorporated in Tauranga District, the boundary with Western Bay of Plenty District Council (WBOPDC) being half way across the River.



During the 1980's the Hapu lands on the eastern side of the River were being consolidated by moves within, to protect the last bastion. In 1981 the landscape suffered the effects of the collapse of the Ruahihi Canal. By 1986 two Land Trusts were formed and a Marae Community Zone established.

With the new boundaries formed under the local government restructuring in 1989 Ngati Kahu lands came under the jurisdiction of Tauranga District Council. The Council looking to accommodate residential demand throughout Tauranga targeting Bethlehem as an area suitable for potential urban development which

was met with stern resistance from Ngati Kahu culminating in a Planning Tribunal hearing in 1994 involving the Tauranga Urban Growth Strategy and Plan Change No.1 1991. City urban limits and residential development was prevented from proceeding until detailed analysis and input from Tangata Whenua was completed.

Bethlehem is considered to be a 'prestige area' and the pressure for urban development in Wairoa is now higher than ever. The continuation of the development ethic of the 1800's is prevalent today and will continue at the detriment of Maori society to be able to perform as a cultural identity and continue in its existence. Urban development in Tauranga has a history of hapu marginalisation and decay.<sup>15</sup>

The assault on the landscape had begun. By the turn of the century the small townships of Katikati and Tauranga were a vantage point for businessmen set on capital investment, land being the commodity.

In 1986 an undertaking by the Ministry of Works and Development and the Bay of Plenty United Council to investigate urban development options for the western Bay of Plenty was had. The recommended strategy from this study included a provision for urban growth overspill to the southwest of Tauranga, including Bethlehem. The recommendations from this strategy focused on addressing potential impacts of urban development on the Maori community which included:

- Preventing alienation of Maori land by excluding Maori land from the urban area.
- Providing for Hapu housing needs on Hapu lands in proximity of mare.
- Protecting urupa.
- Establishing protocols for on-going consultation with Māori.

For a number of infrastructure related factors and existing value and use factors, Bethlehem was identified as a deferred growth area with 1996 presented as a date for re-visiting the area as a possible urban development area.

In 1988 Tauranga County Council notified a review of its district scheme. Bethlehem was proposed as a Future Urban Zone area. The proposal was opposed by locals. Objections were accepted and the area was zoned back to rural.

<sup>15</sup> Coffin, Antoine (1996) Ngati Kahu, Ngati Pango, Ngati Rangī Evidence to WAI 42a Claim Research.

In 1989 there was a local Government re-organisation. The Tauranga Urban Growth Study followed the re-organisation. Findings of the study were that there was a preference at that stage for rural-residential development rather than urban and to keep the rural zone in place.

The Tauranga Urban Growth Strategy 1991 carried the process on and saw the formulation of a strategy for development of the Tauranga District. Submissions were sought on the Tauranga Urban Growth Study. The submissions received shaped the subsequent strategy. This strategy significantly altered the amounts of land which would be made available for residential development by 2001. Reductions were made in Welcome Bay and an increase was made for Bethlehem. Another report produced by Denis Nugent that looked at a commercial strategy for the council, recommended that 4.5 ha of land was needed to be set aside in Bethlehem to provide for a commercial centre with some 18,000 m<sup>2</sup> of floor space.

Transitional Plan Change No.1 was to follow. The purpose was to implement residential aspects of an urban growth strategy. The Transitional Plan Change No.1 retained the commercial zone for Bethlehem.

Ngati Kahu (Te Pura and 453 Land Trusts and Wairoa Marae Committee) made a submission to Plan Change No.1 seeking the removal of a range of residential zones in Bethlehem. The decision sought was:

- Delete proposed Future Urban, Greenbelt, Marae Residential and Proposed Amenity Reserve north of State Highway 2 and maintain rural zoning.
- Delete Future Urban Zone south of State Highway 2 between Wairoa River and commercial area and maintain Rural Zoning.
- Delete Future Urban and Rural Residential Zone between Moffats Road – Cambridge Road and the Wairoa River and maintain Rural Zoning.
- Delete Residential Zone for Ngati Kahu Marae Community Zone.
- Undertake further consultation on walkways alongside Wairoa River and Tauranga Harbour.

Ngati Kahu objected to the Plan Change No.1 before the Planning Tribunal. The Planning Tribunal noted “it was an important case”.

Through the recognition of the Council’s shortfalls in their planning process, the Planning Tribunal determined that the Council failed to meet its requirements under (s.74)(1) and thus overturned the Council’s decision.

The Council determined the future status of Bethlehem:

Without independent study or with the benefit of having consulted over Ngati Kahu’s special position and interest... the Council did not undertake analysis involving, “having regard to”, evaluating” and “being satisfied on” the various aspects in the three paragraphs of s.32(1).

The Tribunal had this to say<sup>16</sup>:

*At the end of the day, it is plain that, in the light of submissions made by, or on behalf of, various local residents and development interests opposed to the continued rural status of the Bethlehem area, the Council have decided, without independent study or with the benefit of having consulted over Ngati Kahu's special position and interest, that Bethlehem should be recognised as being a major development area to help meet future urban growth demand through to 2001 and:*

*Under the Act 1991, the need to undertake investigative research, consult, make other enquiries and rationalise the basis and reasoning for an approach finally embraced and adopted under a plan change, is relatively comprehensive, specific and intensive.*

*Before proceeding to adopt its policy for the future planning direction of the Bethlehem area, the Council should have undertaken further investigation and embarked (inter alia) on a course of consultation involving each of the local Hapu in particular (as well as other groups and individuals as deemed appropriate) – culminating, ideally, in a report bring together all relevant aspects, in turn demonstrating clear fulfilment of the incumbent statutory duties. If such a course had been taken by the Council after it became aware of the strong pro-urbanisation attitude of those local landowners concerned, it is possible that a proposal for some degree of future urban growth at Bethlehem could still have emerged.*

*On the other hand, one cannot gainsay the possibility of a rather more conservative approach, perhaps directed to allowing opportunity for rural-residential development in certain areas, while aimed essentially at maintaining the existing character of the area and seeking to avoid, as distinct from endeavouring to remedy or mitigate, adverse effects on the river and its environs. In short, one cannot state definitely what the change proposal to the plan would have been had due steps occurred.*

*On the other hand, it was conceded in evidence for the Council that, in identifying the Bethlehem area for future urban growth, no detailed consideration had been afforded to whether the anticipated demand could be met, either wholly or in part, by more intensive in-fill within the existing urban confines.*

As the case unfolded and it became clear that not only the fear of being engulfed by the urban monster was a stake, but the future existence of the Hapu depended on a decision in their favour. The decision was in Ngati Kahu's favour however Coffin (1996) asserts that the long term ramifications of this decision have been manipulated and watered down to suit the requirements of Council and pressure groups.

Evidence<sup>17</sup> from Mr Desmond Kahotea<sup>18</sup>, Professor Ann Salmond<sup>19</sup> and Mr Joe Williams, in support of the opposition by Ngati Kahu certainly impacted on the final decision.

<sup>16</sup> Decision No.A 72/94. Judge Bollard pg 32.

<sup>17</sup> Planning Tribunal Evidence 1994. Appeal 519/93 between Ngati Kahu and Tauranga District Council and Pacific Investments Limited appeal 509/93. Hearing at Tauranga on 9 and 10 May, 5 – 8 July and 11 – 15 July 1994.

<sup>18</sup> Kahotea, Desmond Tatana. MA. With Honours. Archaeologist and Cultural Heritage Expert.

<sup>19</sup> Salmond, Ann. Professor in Social Anthropology and Maori Studies.

*It is ironic that Tangata Whenua would have seen some constructive result for long term planning initiatives to protect Tangata Whenua in light of the decision in their favour. Taking on board Council, diligently trying to meet their statutory obligations and finding difficulty with the principles of the Tiriti o Waitangi included in the RMA 1991 it would be prudent to predict that the implementation of actions that will achieve the spirit of the Tiriti will not be forthcoming as shown in the past. History in Tauranga Moana has shown an unwillingness of authorities to deal with Tangata Whenua rights unless the law specifically requires it and even then the pretence of good faith is overshadowed by political overtones and vested interest groups.<sup>20</sup>*

Two years later came the Bethlehem Planning Study. The main recommendations to note here are:

- 1 Zoning more land either Residential or Future Urban is considered premature at best. Available data does not demonstrate any need for additional land and significant servicing issues are currently unresolved. Further urbanisation would be contrary to the wishes of some Tangata Whenua. The zoning of additional land south of State Highway 2 may compromise future re-alignment options. Given the foregoing, any challenge to additional urban zonings is likely to be successful.
- 2 It is likely that if a lifestyle Zone was put in place, there would be pressure to rezone to full residential in the future. Again, if productive land was involved, it would be unlikely to survive a challenge before the Planning Tribunal.

In the context of the RMA, this is considered to be the appropriate option, at least in the short term and until:

- A clear need (as opposed to demand) for additional land to accommodate the urban growth of Tauranga had been established;
- Bethlehem is confirmed as an appropriate location for urban growth to be accommodated within existing zoned areas;
- Outstanding servicing issues are resolved;
- The route of State Highway 2 re-alignment has been confirmed;
- Other issues, notably those of concern to the Tangata Whenua, have been addressed.

### **Recommendation**

That in the Proposed District Plan as it relates to Bethlehem and for the foregoing reasons no additional land be zoned Residential, Future Urban or Rural Residential and with the exception of the extension to the Education Zone and the proposed new Commercial Zone the existing zonings be retained (as modified by the detailed zone provisions under the proposed District Plan).

The immediate response to the release of the report was an emphatic opposition. The Bay Times reported several opinions during the month of September 1996.

Councillor Elinor Elder had this to say about the Ngati Kahu position in the Bethlehem area.

*Ngati Kahu (the Wairoa Hapu) had no more right to ancestral land and their claim to it, than she did, whose farm was in the fourth generation of her family.<sup>21</sup>*

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<sup>20</sup> Coffin, Antoine (1996) Ngati Kahu, Ngati Pango, Ngati Rangī Evidence to WAI 42a Claim Research.

<sup>21</sup> BOP Times 18 September 1996.

MP for Tawera Max Bradford had this to say:

*Tauranga's sub-tribe Ngati Kahu's demand for cash before it approves property developments could be considered a form of extortion. He (Max Bradford) is seeking a review of the RMA to stop Ngati Kahu from tagging environmental payments to consents. If the Ngati Kahu arrangement is condoned, then such behaviour will become irresistible for all sorts of groups which have rights to be consulted, he said. It was going too far to have to consult with the Tangata Whenua when Maori had no ownership interest in, or Waitangi claim over the land. The requirement to consult should be removed from the RMA. Max Bradford said he had written to the Ministers of the Environment and Maori Affairs asking them to review the Act to ensure the Ngati Kahu process cannot happen again...*<sup>22</sup>

Minister of Justice Doug Graham had this to say:

*...Maori Hapu had no rights of veto on property developments... The ultimate responsibility lies with the Council...*<sup>23</sup>

The impact on Ngati Kahu, in particular the kaumatua was immediate and heavy.

Developers were raising concerns about of delays, Maori wanting compensation for the impacts on the ancestral landscape. At Council, the pressure from vested interest groups was immense. On one side the Council staff recognised the need to remain consistent with the recommendations of the Bethlehem Planning Study whilst the Councillors "agreed in principle to rezoning proposals put up by the Bethlehem residents' liaison group."<sup>24</sup>

*The residents plan, disclosed publicly for the first time yesterday, overturns a Council commissioned report by planning consultant Russell De Lucca.*<sup>25</sup>

The situation clearly showed that if Tangata Whenua interests were taken on board and then given effect, they would be immediately overturned. Once the decision was made, Council then instructed staff to make the necessary analysis to justify the reasons for supporting the residents plan. In Ngati Kahu's opinion the processes as evidenced here used by the Council were questionable.

In 1996 a statement of evidence<sup>26</sup> made by Coffin and Kahotea, the Tangata Whenua position with respect to urbanisation was that the position of Hapu is that we do not want to be buried by urban development. This is the Hapu position which is still relevant and applicable today.

Other principles and values associated with resource management in Bethlehem included:

- There is an overriding desire to avoid being engulfed and marginalised by urban development which is seen to have no reciprocal benefit to Tangata Whenua.
- Raupatu claims are currently awaiting settlements and a moratorium on future development at Bethlehem is desired at least in the interim to avoid the Tangata Whenua ability to regain ancestral lands being compromised.
- The attrition rate of archaeological sites recorded and unrecorded, particularly through intensive sub-division, further diminishes the relationships Ngati Kahu have with the ancestral landscape.

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<sup>22</sup> BOP Times 10 September 1996

<sup>23</sup> BOP Times 18 September 1996

<sup>24</sup> BOP Times 18 September 1996

<sup>25</sup> BOP Times 18 September 1996

<sup>26</sup> Statement of Evidence. 10<sup>th</sup> September 1996 Antoine Coffin & Desmond Kahotea. Ngati Kahu position concerning the establishment of a shopping centre.

- There is considered to be a general lack of awareness of heritage issues and the potential social and cultural impact that further urbanisation of Bethlehem may create if those issues are not properly addressed.
- Prior to any further development occurring, agreement needs to be reached with the wider community on the extent and the nature of an appropriate buffer to protect tribal and ancestral land.
- There is a concern at the potential for rating and other financial pressure to be put on tribal lands as development at Bethlehem intensifies, particularly if Bethlehem is promoted as a “prestige” residential area.
- The Wairoa River and environs are a part of the heritage landscape which is of great significance to Tangata Whenua. Along with other Tangata Whenua, Ngati Kahu see themselves as kaitiaki of this resource which is not “publicly owned” but which is nevertheless to be protected and shared. This requires Tangata Whenua to be able to exercise meaningful control over the resource.
- The Ngati Kahu position is not a separatist one, but one which aims at preserving and fostering traditional values. There is nervousness about possible changes in cultural and social values that the influx of newcomers associated with new development might bring to Bethlehem.
- Ngati Kahu concerns are reflected in the degree of land fragmentation in the Bethlehem area that has already occurred to date. Further fragmentation in the form of residential and other urban development should not be seen as inevitable.



Today, Ngati Kahu remain known as the river people. Our unique, strong, undisputed connection to the River was cemented in pre-European times and extends to nowadays. The histories, whakapapa, stories, place names and other knowledge’s associated with the River belong to and are entrenched in Ngati Kahu heritage. Te Pura the guardian taniwha of the River is Ngati Kahu. It is this very connection that shapes our unique identity as a people.

These strong connections to the River make us responsible in the active management, enhancement, growth, protection and preservation of the awa, its environs as well as the knowledge associated with the awa. Ngati Kahu are the Kaitiaki for the entire awa. Ko tatou te awa - ko te awa ko tatou.<sup>27</sup>

As previously qualified, the Ngati Kahu cultural landscape environment also extends to the coast. We assert that we have an active role to play in the management of our coastal environment as well. Ngati Kahu actively participated in the consultation process during the development of the Te Awanui Iwi Harbour Management Plan. Ngati Kahu expressed what our issues were that we wanted included and addressed in the Plan. One of the many issues articulated by Ngati Kahu was an assertion of Hapu rights to their rangatiratanga over their tribal areas and environs. As a result, the Iwi Harbour Plan appropriately provided for recognition of Hapu autonomy and Kaitiakitanga. Research has also upheld the korero of a unique cultural/natural environment.

<sup>27</sup> Translation: We are the river; the river is us.

## Part 3: Legislative framework

### 3.1 Te Tiriti O Waitangi

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Te Tiriti o Waitangi (the Treaty of Waitangi) was signed by Ngāiiterangi rangatira in 1840, marking the beginning of what was seen as a partnership between the Iwi and the Crown. The Treaty gave the right to govern to the Crown, but guaranteed to Iwi the full exclusive and undisturbed possession of their lands, forests, fisheries and other properties (Article 1 and 2 respectively).

#### 3.1.1 Article the Second

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*Māori text: “Ko te Kuini o Ingarani ka whakarite ka whakaae ki nga Rangatira, ki nga Hapu, ki nga tangata katoa o Nu Tirani, te tino rangatiratanga o ratou whenua o ratou kainga me o ratou taonga katoa. Otira ko nga Rangatira o te Whakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi whenua e pai ai te tangata nona te Whenua, ki te ritenga o te utu e whakarite ai e ratou ko te kai hoko e meatia nei I te Kuini hei kai hoko mona”.*

*English text: “Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession...”.*

### 3.2 The Resource Management Act 1991

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The main purpose of the Act, is set out in Section 5. [All issues raised under the maru of the Act must meet this principle].

#### 3.2.1 Part 2: Purpose and principles

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- 1 The purpose of this Act is to promote the sustainable management of natural and physical resources.
- 2 In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -
  - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
  - (b) Safeguarding the life supporting capacity of air, water, soil, and ecosystems; and
  - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The second test is Section 6.

Section 6 of *The Act* states in part that those who have powers under the act have to “recognise and provide” for matters of National importance including:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers:
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

The third test is Section 7 of the Act, which says instead of “recognise and provide for”, “shall have particular regard for”:

- (a) Kaitiakitanga

Councils therefore set rules for sustainable management via their resource management plans (e.g. RPS) following these guidelines and resource consents decisions must concur with the Act also.

### 3.3 National Policy Statements<sup>28</sup>

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In the hierarchy of planning documents under the RMA, National Policy Statements take precedence. National Policy statements are government directives on resource management issues of national significance. Councils, both regional and territorial authorities, must give effect to National Policy Statements. At the present time, September 2007, the only National Policy Statement is the New Zealand Coastal Policy Statement, though other issues are presently being considered. The NZ Coastal Policy Statement is currently under review.

#### 3.3.1 National Coastal Policy Statement

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The NZCPS comes under the jurisdiction of the Ministry for the Environment. Policy 2 (linked to Objective 2) of the NZCPS is headed “The Treaty of Waitangi, Tangata Whenua and Maori Heritage” and refers to some principles which recognise Tangata Whenua kaitiakitanga in relation to the coastal environment.

The NZCPS, makes explicit provision for Tangata Whenua, which councils have to provide for:

- (a) Recognise that Tangata Whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;

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<sup>28</sup> Environmental Defence Society website <http://www.rmaguide.org.nz/rma/plandocs/natpolicystmts.cfm>

- (b) Involve iwi authorities or hapū on behalf of Tangata Whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with Tangata Whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- (c) With the consent of Tangata Whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori<sup>1</sup> in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- (d) Provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;
- (e) Take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapu and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
  - (i) where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
  - (ii) consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
- (f) Provide for opportunities for Tangata Whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
  - (i) bringing cultural understanding to monitoring of natural resources;
  - (ii) providing appropriate methods for the management, maintenance and protection of the taonga of Tangata Whenua;
  - (iii) having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non-commercial Māori customary fishing; and
- (g) In consultation and collaboration with Tangata Whenua, working as far as practicable in accordance with tikanga Māori, and recognising that Tangata Whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
  - (i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and
  - (ii) provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

### 3.3.2 Policy 14 Restoration of natural character

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This Policy of the NZCPS represents well supported principles in relation to kaitiakitanga and Tangata Whenua values and views with respect to the coastal environment.

Promote restoration or rehabilitation of the natural character of the coastal environment, including by:

- (a) Identifying areas and opportunities for restoration or rehabilitation;
- (b) Providing policies, rules and other methods directed at restoration or rehabilitation in regional policy statements, and plans;
- (c) Where practicable, imposing or reviewing restoration or rehabilitation conditions on resource consents and designations, including for the continuation of activities; and recognising that where degraded areas of the coastal environment require restoration or rehabilitation, possible approaches include:
  - (i) restoring indigenous habitats and ecosystems, using local genetic stock where practicable; or
  - (ii) encouraging natural regeneration of indigenous species, recognising the need for effective weed and animal pest management; or
  - (iii) creating or enhancing habitat for indigenous species; or
  - (iv) rehabilitating dunes and other natural coastal features or processes, including saline wetlands and intertidal saltmarsh; or
  - (v) restoring and protecting riparian and intertidal margins; or
  - (vi) reducing or eliminating discharges of contaminants; or
  - (vii) removing redundant structures and materials that have been assessed to have minimal heritage or amenity values and when the removal is authorised by required permits, including an archaeological authority under the Historic Places Act 1993; or
  - (viii) restoring cultural landscape features; or
  - (ix) redesign of structures that interfere with ecosystem processes; or
  - (x) decommissioning or restoring historic landfill and other contaminated sites which are, or have the potential to, leach material into the coastal marine area. There are also references to Tangata Whenua in other sections of the statement.

The NZCPS (2010) also contains several other references to Tangata Whenua and Tangata Whenua values.

### 3.4 National Policy Statement on Freshwater Management 2011

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This NPS on Fresh water is also particularly relevant to Ngati Kahu and this Plan given that Ngati Kahu have mana whenua and kaitiakitanga responsibilities to the Wairoa River, the Wairoa River catchment and surrounding environs.

Explicit mention of the role of the Treaty of Waitangi relationship between Crown and Iwi/Hapu is made within the NPS on Freshwater Management. However interestingly is the statement that Freshwater is “culturally” significant to all New Zealanders.

The Treaty of Waitangi (Te Tiriti o Waitangi) is the underlying foundation of the Crown – Iwi/Hapu relationship with regard to freshwater resources. Addressing Tangata Whenua values and interests across all of the well-beings, and including the involvement of Iwi and Hapu in the overall management of fresh water, are key to meeting obligations under the Treaty of Waitangi.

All New Zealanders have a common interest in ensuring the country's freshwater lakes, rivers, aquifers and wetlands are managed wisely.

This National Policy Statement sets out objectives and policies that direct local government to manage water in an integrated and sustainable way, while providing for economic growth within set water quantity and quality limits. The National Policy Statement is a first step to improve freshwater management at a national level.

Setting enforceable quality and quantity limits is a key purpose of this National Policy Statement. This is a fundamental step to achieving environmental outcomes and creating the necessary incentives to use fresh water efficiently, while providing certainty for investment. Water quality and quantity limits must reflect local and national values.

Given the vital importance of freshwater resources to New Zealand and New Zealanders, and in order to achieve the purpose of the Resource Management Act 1991 (the Act), the Crown recognises there is a particular need for clear central government policy to set a national direction, though the management of the resource needs to reflect the catchment-level variation between water bodies and *National Policy Statement for Freshwater Management 2011* different demands on the resource across regions. This includes managing land use and development activities that affect water so that growth is achieved with a lower environmental footprint.

### 3.5 Bay of Plenty Regional Council Regional Policy Statement (RPS)

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Regional policy statements must be prepared for each region and they set out principles for resource management within regions. When preparing a regional policy statement, a regional council must also take into account planning documents recognised by an Iwi authority and lodged with the council as well as management plans prepared for foreshore and seabed reserves.<sup>29</sup>

A regional policy statement does not contain rules controlling the use of natural resources. These are provided for in regional and district plans.<sup>30</sup> For example, The Bay of Plenty Regional Water and Land Plan, the Tauranga City Council's Tauranga District Plan and the Western Bay of Plenty District Councils District Plan.

**The Bay of Plenty Regional Council Coastal Environmental Management Plan** is the main Plan for addressing coastal issues under the hierarchy of the National Coastal Policy statement. As a consequence, Bay of Plenty Regional Council carries out statutory monitoring roles of the Bay of Plenty coastline.<sup>31</sup>

<sup>29</sup> Environmental Defence Society website <http://www.rmguide.org.nz/rma/plandocs/natpolicystmts.cfm>.

<sup>30</sup> Environmental Defence Society website <http://www.rmguide.org.nz/rma/plandocs/natpolicystmts.cfm>.

<sup>31</sup> NERMN Natural Environment Regional Monitoring.

Network (NERMN) programme. Beach Profile Monitoring Environmental Publication 2007/08.

The Plan also contains policies about important environmental issues on land adjacent to the sea. This includes issues relating to the natural character and landscape of the coast, public access and coastal hazards. These policies do not regulate people's activities directly but provide guidance in the preparation of district plans and consideration of resource consents.

In summary, in relation to the Coast, Bay of Plenty Regional Council:

- Has a Regional Coastal Environment Plan for the management of the use, development and protection of the Coastal Marine Area and the adjacent coastal environment.
- Issues coastal permits for activities in the Coastal Marine Area (e.g. for wharves, sea walls, dredging and discharges).
- Controls earthworks, burning and vegetation disturbance in the Coastal Environment.
- Monitors coastal permits and the state of the coastal resources (excluding fisheries).
- Manages navigation and safety in harbours and out to the 12 nautical mile limit.
- Controls oil pollution within coastal waters out to the 12 nautical mile limit.<sup>32</sup>
- Assists with the management of any orders made under the Foreshore and Seabed Act 2004.<sup>33</sup>
- Special duties in regard to Aquaculture Management Areas (AMAs).

### 3.5.1 Bay of Plenty Regional Council Regional and Water Land Plan

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While the Regional Water and Land Plan excludes the Coastal Marine Area it makes references to impacts on all waters from unsustainable land practices and acknowledges coastal areas often extend upstream into the mouths of rivers.<sup>34</sup> One of the anticipated environmental results of the Plan refers to the water quality improvements of harbours, estuaries and the open coast waters<sup>35</sup> and cites improper land management damage to coastal sand dunes as a major issue in the Bay of Plenty.<sup>36</sup> Policies and rules for dealing with these issues are part of the Plan. Local Authorities have a responsibility to implement Regional Plan policies and rules within their district plans. Over the years Ngati Kahu consider that local authorities have not done a good job at this.

Issue 11, Paragraph 2 of the Plan refers to degraded water quality which it concedes can:

- (c) Adversely affect natural character, landscape, Maori cultural, and recreational values.
- (d) Adversely affect the mauri of the waterbody.
- (e) Adversely affect the water quality in estuaries, coastal margins and the open coast.<sup>37</sup>
  - (iv) For discharges to rivers and streams that flow directly to the open coast, or are tributaries of harbours and estuaries, the effect on the water quality of coastal waters will be given full regard. This includes cumulative effects.<sup>38</sup>

Another issue which concerns Ngati Kahu's environment is one of inappropriate structures preventing indigenous freshwater fish species requiring continuous access to and from the sea to complete their life cycles.

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<sup>32</sup> [www.envbop.govt.nz](http://www.envbop.govt.nz) website.

<sup>33</sup> [www.envbop.govt.nz](http://www.envbop.govt.nz) website.

<sup>34</sup> Introduction of Regional Water and Land Plan 1.2 Scope of Plan 1.2.1 Spatial Coverage page 8.

<sup>35</sup> Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) 12.2 Water Quality.

<sup>36</sup> Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) Para 5 & 6, page 33.

<sup>37</sup> Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) page 34.

<sup>38</sup> Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) 4.1.3 Policies Policy 30 (b) Rivers and streams Page 74.

All these factors can lead to a decline in fish numbers and aquatic indigenous biodiversity.<sup>39</sup> Cultivation of land in a coastal zone also has rules in the Regional Water and Land Plan.<sup>40</sup>

There are some complicated formulas for identifying various coastal designations especially around river outlets viz Coastal Margin, Coastal Marine Area, Coastal Water.<sup>41</sup> In the Bay of Plenty region the river mouths have been defined by agreement between the Minister of Conservation, Bay of Plenty Regional Council, and the appropriate district councils, in accordance with section 2(1) of the Act.<sup>42</sup>

### 3.5.2 Bay of Plenty Regional Council: On-Site Effluent Treatment Plan

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The On-Site Effluent Treatment (OSET) Plan refers to monitoring estuaries for detection of bacteriophage, paragraph 4 showed extremely high F-specific bacteriophage numbers were found in the estuarine sediments where contamination by septic tank effluent was obvious. Te Puna, Maketu and Little Waihi are sites where the environmental effects of septic tank effluent pose a threat to public health.<sup>43</sup> The Plan stipulates that from 1 December 2010, all existing conventional on-site effluent treatment systems in these communities will either need to apply for a discharge permit from Bay of Plenty Regional Council; be upgraded to advanced systems; or connected to a reticulated system.<sup>44</sup>

## 3.6 Aquaculture Management Areas (AMA's)

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Government aquaculture reforms have resulted in the amendment of five existing Acts and initiated two new Acts: Amended to accommodate new Government Policy were:

- Resource Management Amendment Act (No 2) 2004.
- Fisheries Amendment Act (No 3) 2004.
- Conservation Amendment Act 2004.
- Biosecurity Amendment Act 2004.
- Te Ture Whenua Maori Amendment Act (No 3) 2004.

New Acts are:

- Maori Commercial Aquaculture Claims Settlement Act 2004.
- Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

The Regional Council's role is mainly to allocate space in the coastal region where aquaculture may be undertaken, known as AMA's, and manage that space under the Resource Management Amendment Act (No 2) 2004. In identifying AMAs, councils must consider the effects of an aquaculture development on the environment, fisheries resources, fishing interests and other uses of the coastal marine area.

The Bay of Plenty Regional Council research has identified areas which have potential for aquaculture, one being off the Pukehina coast. The Pukehina space was applied for by Te Arawa's fishery arm, Te Kotahitanga. The Ministry of Fisheries has the final say on whether or not an AMA can be established.

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<sup>39</sup>Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) Issue 42A Para 2 Page 129 Activities in the beds of streams and rivers, including damming and diversion, can prevent the passage and migration of indigenous fish species and trout.

<sup>40</sup>Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) At 9.2.5 Cultivation page 192.

<sup>41</sup>Regional Water and Land Plan [www.envbop.govt.nz](http://www.envbop.govt.nz) Definition of Terms page 443.

<sup>42</sup>Grid references of the river mouths have been scheduled in the Regional Coastal Environment Plan. In addition, Environment Bay of Plenty has detailed maps and descriptions of the agreed river mouths and consequent landward edge of the CMA within the rivers of the region. These maps and descriptions can be viewed at the Whakatane office of Environment Bay of Plenty.

<sup>43</sup>Environment Bay of Plenty On-Site Effluent Treatment Environmental Impact.

Regional Plan 2006 13 Para 2 Sediment and shellfish samples taken at lake.

<sup>44</sup>P13 and P14 Environmental Impact On-Site Effluent Treatment Environment Bay of Plenty Regional Plan 20.

### 3.7 Tauranga City Council and Western Bay of Plenty Council Plans

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Tauranga City Council is the territorial authority with jurisdiction over part of the Ngati Kahu rohe WBOPDC also has jurisdiction over some of the Ngati Kahu rohe. Both authorities have responsibilities<sup>45</sup> under:

- Local Government Act (2002);
- the Resource Management Act (1991); and
- the Reserves Act (1977) which are expressed in plans.

### 3.8 Western Bay of Plenty District Council and LGA 2002

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**The 10 Year Plan** ((known also as its Long Term Community Plan or LTCCP) is the main plan. It gives important directions involving Maori that councils must address under the LGA 2002 and which are usually contained in its LTCCP, and include:

- Section 14 (d)... provide opportunities for Maori to contribute to decision-making processes.
- Section 40 Local Governance statements, a statement has to be prepared by a local authority that includes information on (representation arrangements, including the option of establishing Maori wards or constituencies, and the opportunity to change them.. and under (i) policies for liaising with, and memoranda or agreements with, Maori;
- Section 108 Policy on remission of rates on Maori land.
- Sections 14 (d)... provide opportunities for Maori to contribute to decision making processes.

The Western Bay District Council has recently (2008) considered the establishment of Maori wards and decided against it. This is not surprising as the WBOPDC has over a number of years maintained a paternalistic attitude towards Maori political empowerment, probably reflecting its “colonial/farmer” Tauranga County Council origins. The Council further undermines Tangata Whenua political potential by seeking to continuously assimilate the Maori voice. An example of its assimilation bias includes the process for assessing its cultural outcomes by asking a random sample of 500 people:

“To what extent do you agree or disagree that the general community recognises and respects Maori culture in your District?”

...and apparently got a 72% positive response. It would have been more appropriate, though more risky, to ask only Maori how they are being treated. Similarly where there is a direction to address Maori issues under the LGA 2002, as for example in its “Statement on the development of Maori capacity to contribute to decision-making processes”.<sup>46</sup> Council makes its statement via two policies, the second of which is:

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<sup>45</sup> It has many other responsibilities under other Acts, these are the main ones.

<sup>46</sup> p 257 Long Term Plan

1.2 Council recognises that decision-making processes play an important part in the achievement of sustainable development, and this is supported by a set of decision-making principles. Strategy 3.1 (d) states:

"The need for community involvement - ensuring that all sectors and groups in our local communities are included and given the opportunity to participate in decisions that affect their lives".

Throughout the LTTCP (10 Year Plan) there are numerous other examples which reflect a philosophy of assimilation of Maori. WBOPDC also mentions, apparently with pride, that it is continuing to run its Maori forum which was first established in 1990 via the LGA 2002. One could have expected some progress to have been made, but apparently the unwillingness to give Maori a valid political voice, pervades. Ngati Kahu must stay vigilant given WBOPDC's denial of any political power.

### **3.8.1 Section 40 Local Governance Statements:**

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WBOPDC says it aims to continue to develop and maintain a strong relationship with Tangata Whenua by providing for the on-going involvement of the Maori Forum.

### **3.8.2 Western Bay of Plenty District Council and Resource Management Act:**

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The development of the District Plan is a key duty of Western Bay of Plenty District Council under the RMA:

#### **31 Functions of territorial authorities under this Act**

(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:

#### **72 Purpose of district plans**

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act. [Resource Management Act].

(2A) A territorial authority, when preparing or changing a district plan, must:

- (a) take into account any relevant planning document recognised by an Iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district; and
- (b) recognise and provide for the management plan for a foreshore and seabed reserve adjoining its district, once the management plan has been lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.

### **3.8.3 Western Bay Of Plenty District Council District Plan**

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#### **Notified and unnotified consents:**

WBOPDC sets out its policies for the management of the district's land under a sustainable management approach. The Plan lists which activities will require a notified consent and which will

not and which will require limited notification. There is always concern expressed by Tangata Whenua over what consents do not need public notification and lack of consultation.

**Policies of Heritage, Significant Landscapes, Ecological Features, Heritage Features, and Esplanade Reserves and Strips** are significant resource management issues for Ngati Kahu. Sites are listed in the appendices to the WBOPDC Plan). WBOPDC's District Plan does not offer automatic protection of special sites to Tangata Whenua. Chapter 11, Heritage, for example, requires the [heritage] site to be registered, supported by "factual" information and needs landowners consent.<sup>47</sup> Many Maori cultural sites have ended up in tauwi hands and unless they agree, the site cannot be registered in WBOPDC's database for protection.

**The Appendices to the WBOPDC District Plan contain identified sites** and gives short descriptions.

Appendix (i) – Schedule of Identified Significant Ecological

Appendix (ii) – Schedule of Identified Significant Landscape Features

Appendix (iii) – Schedule of Identified Significant Heritage Features

Appendix (iv) – Schedule of Proposed Esplanade Reserves and Strips

**Appendix (i) – Schedule of Identified Significant Ecological**

The Schedule of Identified Significant Ecological Features<sup>48</sup> has identified sites in the District Planning Maps that are protected by rules in the Plan. The schedule gives details on the location, identity, and habitat type for each site. Those relevant to Ngati Kahu are not provided here but may be researched and added at a later date.

**Appendix (ii) – Schedule of Identified Significant Landscape Features**

This appendix lists the visually significant natural features and landscapes in the District (also identified on the planning maps). Those relevant to Ngati Kahu are not provided here but will be researched for the final plan in a later stage of plan development.

**Appendix (iii) – Schedule of Identified Significant Heritage Features**

Those relevant to Ngati Kahu are not provided here but will be researched for the final Plan in a later stage of plan development.

**Appendix (iv) – Schedule of Proposed Esplanade Reserves and Strips**

An Esplanade Strip of 10 Metres in width or 20 Metres in width where topography dictates a wider strip is necessary to provide public access shall be set aside along the rivers and streams identified in the Plan.

### 3.9 Tauranga City Council plans

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Tauranga City Council (TCC) impacts on Ngati Kahu in two ways: firstly, the TCC western boundary abuts the Wairoa River. Secondly because there are historical sites which have a Ngati Kahu connection, which are within the Tauranga City Council boundaries. A review of Tauranga City Council literature shows how the TCC plans will avoid, mitigate or remedy these issues they have identified.

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<sup>47</sup> Western Bay of Plenty District Plan 20 July 2002 Heritage 11-2 11. Heritage Explanatory Statement.

### 3.9.1 Tauranga City Council Operative District Plan

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Coastal issues are spread over a number of chapters in the Tauranga City council operative District Plan and in the Council's 10 Year Plan. In summary:

### 3.9.2 10 Year Community Outcomes Plan

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As part of their 10 Year Plan, "clean, green, valued environment..." Health of coastal ecosystem and coastal water and freshwater quality are two of the monitoring indicators.<sup>49</sup> TCC's Open Spaces Policy also has objectives and policies to protect and enhance coastal areas. The Environmental Policy of the 10 Year Plan, makes reference to implementing a Sub-regional Parks Policy in collaboration with WBOPDC with the purchase of harbour side and active rural parks.<sup>50</sup>

### 3.9.3 Tauranga City Operative District Plan

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Chapter 1 of the TCC plan sets out the obligations of TCC under the Resource Management Act including protection of the coastal marine area and kaitiakitanga.

#### Chapter 3 refers to "amenity values"

"amenity values" are those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes. This section sets rules for example, on the height of buildings in the river and coastal environment in order to protect those values.. Particularly appropriate to Ngati Kahu is issue 3.5.

- (a) *Indigenous vegetation*, rivers, streams, the Coastal Marine Area, *wetlands*, coastal landscape character.
- (b) Remnants of *indigenous vegetation*, particularly those containing *emergent tree species*, or those that protect water quality.
- (c) Areas with significant historic associations.
- (d) Publicly conspicuous open-space areas, particularly those associated with hillsides in clear view of State Highways, the urban areas of the District.<sup>51</sup>

3.6.4.1 Generally recognises the future planning for parks and recreation space, recognising that population growth will increase demand for recreation and leisure space.

#### Chapter 4<sup>52</sup> contains TCC policies on natural resources

Included are references to river and coastal development issues,<sup>53</sup> generally conceding that many natural features are degraded. There is a weak reference to "enhancements", but in the main little recognition of the "amenity value" in restoration of these sites, including the coast and river margins. However this chapter/section has many implications for Ngati Kahu due to the pressure of urbanisation from Tauranga City and western Bay of Plenty developments and should not be ignored. There is also recognition of Tangata Whenua values.

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<sup>48</sup> Western Bay District Council Plan 29 August 2005 Appendix (i) A(i)-1 Appendix (i) – Schedule of Identified Significant Ecological Features.

<sup>49</sup> Tauranga City Council Ten Year Plan page 56

<sup>50</sup> Tauranga City Council Ten Year Plan ENVIRONMENTAL POLICY: Other Environmental Policy actions. 2006

<sup>51</sup> Page 18 of 26 Chapter 3: Amenity Values

<sup>52</sup> Tauranga District Plan Part A - Policy Statement Chapter 4: Natural Resources Page 1 of 16

<sup>53</sup> 4 Natural Resources

<sup>53</sup> 4.2 Issue: Coastal Margins and Sensitive Habitats

Other important *ecosystems* occur along the open coastal dunes... and adjacent to major and minor waterways. The protection and *enhancement* of these remaining areas is considered important to the sustainable management of the District's natural *heritage resource*.<sup>54</sup>

Land on the margins of the coast, rivers, streams and *wetlands* holds special significance to Tangata Whenua and has been identified as "outstanding" as both a landscape and natural feature by various authorities.<sup>55</sup>

**Chapter 5** looks at **heritage policies**. Despite reference to the minimal land holdings of Tangata Whenua, Objective 5.1.1 opts for a weak rule in recognising and providing for Maori Relationships with Ancestral Land.

To minimise the adverse effects of subdivision, development and land use on the cultural and traditional relationship of Maori with their ancestral lands.<sup>56</sup>

As well as minimum requirements for Maori/water relationships. The Plan displays the usual "planners" mentality whereby areas are to be identified and mapped out as a way of minimal impediment to development. Coastal hazard issues are addressed here also.<sup>57</sup> Part B sets out management rules, again with relatively weak rules on developments in coastal areas.

### Chapter 6 Addresses hazards

This chapter sets out rules to address safety issues from:

Development in Areas Prone to Natural Hazards, Hazard Management of:

Peat and other highly compressible soils, land instability, discharge to ground, flooding, and coastal erosion and inundation hazards.

There are extensive references to coastal protection zones and an admission of ongoing research being needed on these issues. This Chapter therefore has implications for Ngati Kahu and potential effects from Tauranga's increasing urbanisation.<sup>58</sup>

### Chapter 16

Refers to rules for impacts on heritage sites and natural heritage values.

16.3.1.1 Sets out Special Information Requirements for an application for a limited discretionary activity including: (f) Where any site is identified as being of significance to Maori, a cultural assessment outlining the importance of the site to Maori (and in particular the Iwi or Hapu within whose rohe the site or land is located) shall accompany an impact assessment and (g) The outcome of any consultation undertaken with any affected body or individual, or special interest group such as the Historic Places Trust, Department of Conservation and local Iwi (or Hapu as appropriate) The Coastal Marine Area is covered by the Regional Coastal Environment Plan of Bay of Plenty Regional Council (Bay of Plenty Regional Council).

<sup>54</sup> Tauranga District Plan Part A - Policy Statement Chapter 4: Natural Resources Page 1 of 16 4 Natural Resources.

<sup>55</sup> Tauranga District Plan Part A - Policy Statement Chapter 4: Natural Resources Page 1 of 16 4 Natural Resources.

<sup>56</sup> Page 2 Chapter 5, Tauranga District Plan : Heritage (Amended as at 18/08/03).

<sup>57</sup> See Chapter 6 plan change 45.

<sup>58</sup> Tauranga District Plan (Amended as at 28/08/2006) Part A - Policy Statement.

## Chapter 17 Natural Hazard Policy Area Rules

This Chapter sets the rules for the “subdivision, land use, development and protection of natural and physical resources contained within a Natural Hazard Policy Area, either for a coastal erosion or inundation hazard or flooding.”<sup>59</sup> Ngati Kahu is affected by the designation given to the area which abuts the Wairoa River and the adjoining coast.

Natural hazards issues must also be addressed by regional councils<sup>60</sup> and there is recognition that these are steadily increasing as a result of climate change. Of concern are flooding, landslides, coastal erosion, storm surge and wind damage, sedimentation supply and recently tsunami. Extreme weather events will increase the risk of damage and erosion from storms including landslides and debris flows. The 2006 review of climate change confirms these impacts<sup>61</sup>, this also applies to sea level rise which has been rising at a historical rate of around 1.8 mm/year. All these probabilities have implications for Ngati Kahu.<sup>62</sup>

## Chapter 21 Rural Activity Zone Rules

Sets out rules for activities (mostly development activities – e.g. buildings) in rural zones. This includes activities to be located in the coastal environment and natural waterways setbacks specifically in paras 21.2.2.1 Natural Character: Coastal Environment, Natural Waterways and Wetlands. These rules are applicable to Ngati Kahu’s situation:

(a) 60 m inland of *mean high water springs* (MHWS) in a Rural Zone.

(c) 20 m of any perennially flowing stream or river.

(f) Any *wetland* greater than 10 m<sup>2</sup>.

The rules do not support development activities.

## Chapter 22 Recreation and Leisure and Conservation Zone Rules

Sets out the rules for management of activities providing for recreation facilities and spaces. Basically the provision of these activities need to also comply with other rules. Of particular interest is rule para 22.2.2.1 setting rules for Natural Character: Coastal and 22.2.5.2 “Marina Identified Sites: Permitted Activity Conditions” given the pressure from developers to develop coastal areas and potential conflicts with Maori values.

### 3.10 Civil Defence Management Plan

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The Civil Defence Management Plan<sup>63</sup> reviews preparedness for risks posed by some natural hazards recognising that risks are steadily increasing as a result of climate change. The natural coastal hazards of concern according to the CDEM<sup>64</sup> include flooding, landslides, coastal erosion, storm surge and wind damage.<sup>65</sup> Tsunami Civil Defence must plan for these hazards.

<sup>59</sup> Tauranga District Plan Page 1 Chapter 17.

<sup>60</sup> Section 35 of the Resource Management Act.

<sup>61</sup> See Coastal Hazards Risk Indicators 1 and Coastal Hazards Risk Indicators 2 [www.envbop.govt.nz/media/pdf/0605](http://www.envbop.govt.nz/media/pdf/0605).

<sup>62</sup> See EBOP Report: Impacts of climate change on the coastal margins of the Bay of Plenty.

<sup>63</sup> Bay of Plenty Civil Defence Emergency Management Group Plan 2005 Approved May 2005 Civil Defence Publication 2005/01 ISSN 1175 8902 Environment Bay of Plenty page 7.

<sup>64</sup> Bay of Plenty Civil Defence Emergency Management Group Plan 2005 Approved May 2005 Civil Defence Publication 2005/01 ISSN 1175 8902 Environment Bay of Plenty page 7.

<sup>65</sup> Bay of Plenty Civil Defence Emergency Management Group Plan 2005 Approved May 2005 Civil Defence Publication 2005/01 ISSN 1175 8902 Environment Bay of Plenty.

The WBOPDC has identified the same risks in Section 12<sup>66</sup> of its District Plans and set out objectives for dealing with minimisation of the threat of natural hazards to human life and the natural and physical environment and the protection of the existing natural character of the coastal environment and other natural features of significance.

### 3.10.1 Tsunami

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Prior to the recent 2005 Tsunami event, Bay of Plenty Regional Council had contracted NIWA to undertake a tsunami inundation study for the Bay of Plenty. The particular focus of this work was to determine the potential tsunami inundation associated with a credible, locally-sourced, “Worst case scenario” event.

Results show that regionally active faults within the Bay of Plenty, offshore volcanic sources, and local sector collapse of seamounts would not appear to generate a large enough tsunami to inundate the coastal development areas. Large fault ruptures along the Tonga-Kermadec trench however, can generate large tsunamis.

Tsunamis are known to have affected the eastern coast of Aotearoa at least 11 times since 1840.<sup>67</sup> The largest tsunamis were generated by large earthquakes in South America with the 1883 tsunami being generated by the Krakatau eruption in Indonesia. The same report puts the open coast between Mauao and Maketu as an area of “high vulnerability”.

The authors “local sources” of tsunami can potentially be arise from: local volcanic eruptions, from volcanoes off the Bay of Plenty’s coast, including undersea volcanoes as well as inland volcanoes, landslide sources and upper plate faults around the East Cape, earthquakes associated with the Australian-Pacific fault boundaries, regional active faults (earthquakes), Whakatane to Whakaari being a major, potential source. The authors point out however that the present equipment can only measure for run-up waves higher than 5 metres<sup>68</sup> and point out that a tsunami of even 1 metre can be dangerous, especially if it coincides with high tide,<sup>69</sup> and that locally sourced tsunami would not give as much warning time as one generated from South America.

## 3.11 Coastal parks

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In 2003, Bay of Plenty Regional Council approved a policy that allows it to secure land for use by the public. The policy gives priority to coastal peninsulas and spits, harbour headlands, salt marshes and land by lakes, rivers and wetlands.

## 3.12 Crown agencies with coastal responsibilities

### 3.12.1 The Department of Conservation is responsible for:

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- Protection of marine mammals, e.g. whales, dolphins, seals.
- Supervising whale and dolphin rescues, including the care and disposal of sick or injured marine mammals.
- Administering Crown-owned foreshore and seabed.

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<sup>66</sup> Western Bay of Plenty District Plan, Section 12 Natural Hazards.

<sup>67</sup> Tsunami Hazard for the Bay of Plenty and eastern Coromandel Peninsula. NIWA Project: BOP 04216 NIWA Client Report HAM2004-084 R.G. Bell and others June 2004 Page vi.

<sup>68</sup> Tsunami Hazard for the Bay of Plenty and eastern Coromandel Peninsula. NIWA Project: BOP 04216 NIWA Client Report HAM2004-084 R.G. Bell and others June 2004 Page 68.

<sup>69</sup> Tsunami Hazard for the Bay of Plenty and eastern Coromandel Peninsula. NIWA Project: BOP 04216 NIWA Client Report HAM2004-084 R.G. Bell and others June 2004 Page 72.

- Protection of wildlife, i.e. insects, reptiles, birds.
- Advocacy (providing a conservation perspective on regional policy and plans, and district plans) to the general public.
- Managing and caring for marine reserves.

**The Minister of Conservation is responsible for:**

- Approving the Regional Coastal Plan and any changes to the Coastal Plan.
- Approving applications for restricted coastal activities, (Bay of Plenty Regional Council will let you know if your proposed activity requires ministerial approval when you apply for your coastal permit).
- Leasing legally reclaimed land.
- Monitoring the effect and implementation to the NZ Coastal Policy Statement and restricted coastal activity permits.
- Making directions on allocation of space for aquaculture in the coastal marine area.

**3.12.2 The Ministry of Fisheries is responsible for:**

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Conserving and managing all marine and certain freshwater fisheries on a sustainable basis through:

- Research programmes.
- Public education and consultation.
- Policing the Quota Management System as well as other gear and catch controls.
- Establishing Taiapure and mataitai reserves (locally managed coastal management area of special significance to Iwi).
- Assisting Regional Councils with the development and implementation of Aquaculture Management Areas.
- Implementing the Maori Commercial Aquaculture Claims Settlement Act 2004.

**3.12.3 Maritime New Zealand**

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Implements the Maritime Transport Act especially in navigation, safety and oil pollution control. In the Bay of Plenty, Maritime New Zealand is responsible for:

- The general control of vessels at sea, including survey standards.
- Dealing with oil spills outside of 12 nautical mile limit or in Tier III operations.

**3.12.4 The district councils are responsible for:**

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- Issuing consents for activities ABOVE the mean high water springs (i.e. land activities outside the Coastal Marine Area).
- Dog control and litter control to the mean low water mark.
- Coastal reserves management.
- Noise control in the Coastal Marine Area (in conjunction with Bay of Plenty Regional Council).



**Part 4:**  
**Nga Wawata me Nga Taketake –**  
**Nga Kaupapa/Policy**

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The things we want this Plan to help us achieve are:

- 1 The restored and protected mauri of Te Taiao o Ngati Kahu.
- 2 Recognition of Rangiratanga and Kaitiakitanga of Ngati Kahu.
- 3 Our spiritual/cultural connections to Te Taiao maintained and strengthened.
- 4 The cultural/spiritual well-being of Ngati Kahu improved, strengthened and sustained.
- 5 A better environment for our mokopuna.

#### 4.1 Kaitiakitanga

Ngati Kahu have chosen to put forward a generic set of Kaitiakitanga principles alongside the specific taiao tikanga. These principles take precedence over all other Ngati Kahu resource management policies.

##### Generic principles

Ngati Kahu recognises that:

- (a) Te Taiao, including nga ira tangata, is the creation of Ranginui and Papatuanuku and their children. The mauri imbued in the Taonga of Ranginui and Papatuanuku is proof of the mana of these atua. Nga ira tangata are part of Te Taiao creation but also have the responsibility for protection of the mauri of nga Taonga o Te Taiao. This is the basis of Kaitiakitanga of the environment.  
  
Therefore, the principle of respect and protection for the mauri of Te Taiao as the ultimate Taonga from the atua takes precedence at all times.
- (b) The Kaitiaki responsibilities of nga ira tangata also include the effects on the relationships between whanau and whanau and whanau and Te Taiao of Ngati Kahu.
- (c) Any desecration or manipulation of Te Taiao must involve Utu (reciprocity). This principle demands that Utu (reciprocity) exceed the desecration or manipulation (adverse effects) in order to maintain or restore the mauri of Te Taiao. Ngati Kahu do not accept that “less than minor or minor negative effects” can be excluded from Utu. Utu will focus on restoring the mauri of the Taonga, whether or not the action proposed is the progenitor or not of the undermining of the mauri of the Taonga. This allows for atonement of past inaction regarding Utu in respect of damage to the environment or, put another way, allows for nga ira tangata to take responsibility for addressing past mistakes (he) and including (rather than excluding) those past effects when assessing appropriate Utu.<sup>70</sup>
- (d) If desecration or manipulation of Te Taiao is needed, the benefits must be for the direct benefit of the whole Ngati Kahu Tangata Whenua community, not just one or two individuals or one or two communities. The benefits arising from any desecration or manipulation of the environment must be proven. The benefits must absolutely outweigh any negative effects. Negative effects will include effects on the mauri of the Taonga, on Maori cultural relationships with Te Taiao, on relationships between whanau and whanau and Hapu. Furthermore the obligation of Utu falls on all beneficiaries of the desecration and manipulation, not just Tangata Whenua.
- (e) Likewise any benefits arising from the manipulating of any Ngati Kahu Taonga must be for the direct benefit of the Ngati Kahu whanau and Hapu of Ngati Kahu (as opposed to other Ngati Ranginui whanau, individuals or other Iwi, or tauiwi) in the first instance.
- (f) Ensure that it is understood by all, especially by those who have direct jurisdiction that Maori culture relies on the relationship it has with the natural environment and that lack of respect, honour and protection of this natural environment compromises Maori culture, Maori well-being and Wairuatanga and interferes with our ability to carry out Kaitiakitanga.

<sup>70</sup> It is acknowledged that this approach exceeds current mitigation practices under the Resource Management Act. However this principle is consistent with the purpose of the act.

## 4.2 Ranginui – Our Sky Father

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*Ki te koma te anivaniva, ka mate te tangata*<sup>71</sup>

Ranginui and Papatuanuku in their parental roles inspire the principles for Kaitiakitanga of Te Taiao and establish the framework for the “issues” and “policies”.

Interviewees said that while much of Wairoa is degraded through bad environmental management from pre-RMA times, the degradation is not beyond restoration and coupled with better planning for the undeveloped areas there still remained the opportunity for Wairoa to achieve true sustainable development. Consistently, however, people expressed distrust in local authorities and their willingness to protect the relationship Ngati Kahu whanau have with the environment, especially with the River.

Ngati Kahu believe that councils need to better balance the cultural, economical, environmental and social well-beings in respect of any planning. The socio-cultural stability of Ngati Kahu requires that any future developments must be at a pace that the community can cope with. In this regard the Ngati Kahu community expects any Greenfield developments or intensification applications for development will need to be accompanied by social impacts reports as part of an assessment of environmental effects.

There was passion expressed by Ngati Kahu people over tikanga around the environment. This issue aligns with indigenous knowledge growth and passing on of indigenous knowledge. Concerns arose over the passing of the elders with that knowledge and the lack of opportunity to pass it on to the younger generations.

Again this issue was closely linked to the issue of whanaungatanga and manaakitanga which the writer has put in the domain of Ranginui, since these are issues which can prevent full expression of Kaitiakitanga. People should care for each other in order to care for the environment. The tikanga here is our whakapapa to each other and to the environment which is headed by Ranginui and Papatuanuku.

### 4.2.1 Irirangi

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Tangata Whenua in common with their Pacific cousins have a relationship that requires respect for Ranginui and all in his domain including the stars, clouds, moon, air and other planets. Tawhirimatea is also included in his domain. To enable our mokopuna to see the stars clearly without visual pollution, to sustain and pass on our navigation knowledge and practices requires clear skies so that tohu can be seen and interpreted. The various tohu signal when to plant and harvest plants, kaimoana, and birds and requires an unpolluted, visually as well as physically, atmosphere. For example, Matariki signalling the start of the New Year needs to be seen. Certain distant cloud and wave formations observed in traditional seafaring and navigation and identification of customary fishing sites require a visually unimpaired vista.

Besides cultural reasons, our air needs to be kept clean for health reasons, for the “amenity” values of a clear atmosphere, to reduce our contribution to global warming, to stop the harmful health effects from less ozone protection, and to ensure the survival of indigenous species – flora and fauna.

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<sup>71</sup> “A pale rainbow portends that someone will die”. A light coloured rainbow is an evil omen. This proverb is used to illustrate the need to look after Ranginui – the sky. Brougham A.E and Reed, A.E, Revised by T.S. Karetu (1963) Revised by S. Karetu (1987) Maori proverbs, Reed Methuen, Auckland.

#### 4.2.2 He Mahi Kino – Climate change

*Āutia te rito o te harakeke, kei whā te komako e ko?*<sup>72</sup>

Ngati Kahu whanau are not exempt from the desecration that human beings have inflicted on Papatuanuku and Ranginui, to our shame. Ngati Kahu Tangata Whenua must accept their part in reducing their carbon foot print due to the deterioration of Papatuanuku and Ranginui and their children, as evidenced by climate change.

Climate change will impact on Ngati Kahu. The exact effects cannot be determined with accuracy, but in broad terms will mean greater extremes – more rain, heavier rain, longer drought periods, higher sea levels, more wind, more coastal erosion, the list is not absolute. It will affect winds, waves, and ocean currents.<sup>73</sup>

Ngati Kahu is not likely to have great issues with Government and regional efforts to deal with climate changes, other than insuring that Maori are not disadvantaged any more than any other group of people in New Zealand society. However there may be implications for Maori economic development e.g. land use restrictions. Ngati Kahu as Kaitiaki for our part of Te Takutai, have a responsibility in line with other Tauranga Moana Hapu.

#### 4.2.3 Bay Of Plenty Regional Council Regional Water and Land Plan policies

Ngati Kahu acknowledge the Bay of Plenty Regional Water and Land Plan objectives and policies. The Bay of Plenty Regional Water and Land Plan has sufficient policies to cover most of the land and water issues that Ngati Kahu have outside the cultural, and so those policies are not repeated here. Ngati Kahu endorse Chapter 2 – Kaitiakitanga. However they have concerns over the operationalisation of this section and feel its effectiveness is undermined by the policies and methods of implementation, that the Bay of Plenty Regional Water and Land Plan has not properly taken this chapter into account in the rest of the Plan. There needs to be evidence of its effectiveness – either through the Environment Court or Resource Consents Hearing Committee’s decisions on Kaitiakitanga. The other method maybe to review the Kaitiakitanga section for its methods of implementation, in which case Ngati Kahu ask to be involved.

Ranginui	
Nga wawata me nga take	Nga Kaupapa/Policy
<p><b>The cultural well-being of Ngati Kahu</b></p> <p><b>Potential for true sustainable development</b></p> <p><b>Tikanga and indigenous knowledge and passing on the knowledge</b></p> <p><b>Lack of whanaungatanga, manaakitanga</b></p> <p><b>Lack of appreciation of tikanga</b></p>	<p>1 Ngati Kahu require that all peoples, including Tangata Whenua, resource consent applicants, Councils and other agencies which have jurisdiction or which may impact Ngati Kahu environmental (social, cultural, economic and environmental well-being’s) matters apply the generic principles above in all planning and management tools and resource consent application assessments of environmental effects. Note especially the concept of ‘Utu’ and the requirement to take into account past mistakes in assessing and developing remedies (mitigation).</p> <p>2 Ngati Kahu will monitor Councils’ and other agencies actions on sustainable management issues as they affect us and bring to those parties’ notice any concerns.</p>
	<p>3 Ngati Kahu intends to pro-actively input into Councils’</p>

<sup>72</sup> From where will the bellbird sing?

<sup>73</sup> <http://www.niwa.cri.nz/ncc/Maori> National Climate Centre. NIWA

<p><b>Critical decline of biodiversity</b></p>	<p>plans and any Resource Consents conditions through this Iwi Management Plan and other tools and the submission process and requires Councils and other agencies to recognise their tino rangatiratanga in this regard and consult as appropriate according to the principles of good consultation.</p>
<p><b>Climate change</b></p>	
<p><b>“more frequent and severe storms in the west, and droughts in the east of New Zealand”<sup>74</sup></b></p>	<p>4 Ngati Kahu will investigate ways to ensure that customary knowledge of the environment is passed on to younger generations of Ngati Kahu.</p>
<p><b>Effects on kaimoana and other kai species</b></p>	<p>5 Ngati Kahu require that when Councils or central government and agencies undertake any scientific studies on the our environment, that Ngati Kahu people are given the opportunity to work alongside them so as to ensure that Ngati Kahu can grow their indigenous knowledge and maintain a continuum of knowledge about Te Taiao.</p>
<p><b>Potential adverse impacts on our environmental, economic, social and cultural well-being.</b></p>	
<p><b>Risks to indigenous flora and fauna through loss of biodiversity</b></p>	<p>6 Ngati Kahu require all agencies to raise the profile of the Convention on Biological Diversity, article 8j.</p>
<p><b>Ngati Kahu awareness</b></p>	<p>7 Ngati Kahu will encourage Ngati Kahu people to collaborate with other Iwi and indigenous peoples in indigenous knowledge forums.</p>
	<p>8 See 4 above also. Ngati Kahu will investigate ways to restore and teach whanaungatanga and manaakitanga.</p>
	<p>9 Te Runanga o Ngati Kahu will seek funding to run wananga on tikanga of the environment, whanaungatanga and manaakitanga or encourage other agencies to do the same. (e.g. he whare wananga).</p>
	<p>10 Ngati Kahu will apply to the BOPRC's EEF fund and/or other funds to develop a plan to address loss of 'biodiversity' in our rohe.</p>
	<p>11 Ngati Kahu will attempt to provide input into any climate change submission process on the issue of loss of biodiversity on behalf of future generations.</p>
	<p>12 Ngati Kahu will encourage Ngati Kahu people to plant indigenous species on their own lands.</p>
	<p>13 Ngati Kahu will encourage councils and other agencies to promote information about loss of biodiversity in our rohe and ways to stop decline and replenish biodiversity.</p>

<sup>74</sup> “Why climate change is important to New Zealand” [www.maf.govt.nz/climatechange/consultation/discussion-document/05-why-it-is-important.htm](http://www.maf.govt.nz/climatechange/consultation/discussion-document/05-why-it-is-important.htm).

	<p>Ngati Kahu will:</p> <p><b>Nationally:</b></p> <p>14 Support measures to reduce carbon emissions locally, regionally, nationally and globally.</p> <p>15 Support Māori input on climate change issues.</p> <p><b>Locally:</b></p> <p>16 Continually monitor effects on our takutai, awa and significant sites and bring any concerns to the notice of authorities who have jurisdiction over our rohe.</p> <p>17 Support research on climate change impacts on kaimoana/kaiawa chains.</p> <p>18 Seek advice for Ngati Kahu whanau on climate change impacts and promote this information to our community.</p> <p>19 Promote access for Ngati Kahu people to and use of public transport.</p> <p>20 Support and promote education initiatives for children and adults alike to raise awareness.</p> <p>21 Support and advocate for inclusion of sustainable energy systems in Council plans and community wide.</p> <p>22 Promote recycling.</p> <p>23 Promote native plantings.</p> <p>24 Support the mauri model of water sustainability developed by Kipa Morgan.</p>
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## 4.3 Papatuanuku

*No Ranginui ki runga, ko Papatuanuku ki raro*<sup>75</sup>

For documentation formatting convenience, Papatuanuku has been allocated a domain of her own. This Plan recognises however, that Papatuanuku is bound to Ranginui and the environmental issues that they have authority over are intertwined. The Generic principles above take precedence. Management of and access to the waahi tapu and waahi tupuna sites is a problem for Ngati Kahu due to mostly to land fragmentation as well as past Government and Council actions. Private property rights accruing to individual titles are issues, as well as the numerous cross-overs of various agencies (e.g. DOC, Historic Places Trust) including councils in a small, intensely historical rohe.



Another issue that arises over sacred sites is the fact that many Pa sites and other sites that have been modified or built over or continuously occupied. So a generic policy in respect of pa sites for example is not possible. Despite this or because of it the natural landform has not altered much, there has been some alteration of the geography by bulldozing land forms, but the original geoscape is still very identifiable to our experts.

Waahi tapu can mean different things to different people, hence the division between waahi tupuna and waahi tapu in this Plan. Both carry tapu, however the degree is debatable and beyond the scope of this plan to resolve. Many places are significant sites due to the history associated with them.

Our ancestors may have had a particular connection with a particular site and as many sites have been destroyed, the remaining sites have the potential to become more important, though the degree of “tapu” will depend on each whanau’s perception and connection to that site.

There needs to be some clear directions to councils, private developers (Maori or Pakeha) and other agencies (e.g. DOC) on consultation with Ngati Kahu on the issues around waahi tapu, waahi tupuna and other significant sites. Ngati Kahu have concerns about impacts on their ability to “live as Maori” arising from the rapid urbanisation that has occurred in Tauranga and potential impacts from Tauriko developments.

Water, its availability and purity, is expected to continue to provide a huge challenge to Ngati Kahu cultural well-being. In that regard, Ngati Kahu supports the Indigenous Declaration on Water which starts: We, the Indigenous Peoples from all parts of the world assembled here, reaffirm our relationship to Mother Earth and responsibility to future generations to raise our voices in solidarity to speak for the protection of water. We were placed in a sacred manner on this earth, each in our own sacred and traditional lands and territories to care for all of creation and to care for water.<sup>76</sup> Water rights are believed by Ngati Kahu to be protected by the Treaty of Waitangi, Article 2.

<sup>75</sup> Ranginui the sky father above, Papatuanuku the Earth Mother below.

<sup>76</sup> INDIGENOUS PEOPLES KYOTO WATER DECLARATION Third World Water Forum, Kyoto, Japan March 2003.

<b>Papatuanuku</b>	
<b>Nga wawata me nga take</b>	<b>Nga Kaupapa/Policy</b>
Honour the earth mother and sky father through active Kaitiakitanga of the whenua	
<p><b>Waahi tapu/waahi hirahira/waahi tupuna<sup>77</sup></b></p> <p><b>Sites to be included here<sup>78</sup>:</b></p> <p><i>Pukehina</i>  <i>Pupuwai</i>  <i>Purakautahi</i>  <i>Rangiora</i>  <i>Rarotonga Stream</i>  <i>Rataroa</i>  <i>Rerengatutemahurangi Falls</i>  <i>Ruahihi</i>  <i>Ruakaka</i>  <i>Severance</i>  <i>Tahataharoa</i>  <i>Tahurangi</i>  <i>Takapui</i>  <i>Taumata</i>  <i>Taumatawhioi</i>  <i>Tautau</i>  <i>Tauwharawhara</i>  <i>Te Aite</i>  <i>Te Arahaki</i>  <i>Te Haehaenga</i>  <i>Te Irihanga</i>  <i>Te Karaka</i>  <i>Te Repo</i>  <i>Te Mapou</i>  <i>Te Matai</i>  <i>Te Ongaonga</i>  <i>Te Papa 453 and Te Papa 91</i>  <i>Te Paeroa</i>  <i>Te Paeroa Native School</i>  <i>Te Panepane o Raumati</i>  <i>Te Paorangi</i>  <i>Te Papa o Wharia</i>  <i>Te Pepepe</i>  <i>Te Poka</i>  <i>Te Pokuru</i>  <i>Te Puna 182</i>  <i>Te Roto Horua</i>  <i>Te Roto Parera</i>  <i>Te Tapere</i></p>	<p>1 Ngati Kahu require that Ngati Kahu people are able to effectively exercise their role as Kaitiaki over waahi tapu, waahi hirahira, waahi tupuna and significant sites in our rohe.</p> <p>2 Ngati Kahu require that in their Kaitiaki roles Ngati Kahu must ensure that the language, knowledge, histories and names associated with those sites can be learnt and passed on.</p> <p>3 Ngati Kahu require that all Ngati Kahu people must have unimpeded access to the cultural sites which affirm their identity and Hapu association with those sites.</p> <p>4 Dependant on the site, Ngati Kahu people must be able to have solitary time at sites of spiritual significance without tourist and other intrusions.</p> <p>5 Ngati Kahu require that Ngati Kahu relationships with these sites are provided for in any planning and consenting decisions and conditions and that the cultural importance of such places is identified in relevant plans and policies of the various statutory agencies.</p> <p>6 Ngati Kahu require that any public cultural information relating to these sites are approved by Te Runanga o Ngati Kahu/Kaumataua.</p> <p>7 Ngati Kahu will seek resources to erect interpretative panels where appropriate to educate the general public on the importance of such sites to Tangata Whenua in order to engender respect for such sites.</p> <p>8 In addition to the above, Ngati Kahu seek that all parties (including private land-owners) avoid compromising the cultural, historic, and natural values of special sites as a result of inappropriate land use, subdivision and development.</p> <p>9 Ngati Kahu require protection through RMA and other protection mechanisms of known sites and appropriate maintenance if required. Protection to include protection of the integrity of the site which means protection of immediate environs to the extent needed to uphold the integrity of that site.</p> <p>10 Ngati Kahu require that registers of known sites are</p>

<sup>77</sup> The Sites of Significance Booklet for Ngati Kahu, Ngati Pango & Ngati Rangi; 2011 (on file at TRONK). Note: The author requested that it be made clear that this booklet was developed in the first instance for the purpose of Treaty Settlements information.

<sup>78</sup> Ibid & Sites taken from Ngati Kahu Raupatu Sites Register 2010- refer TRONK for access to information.

<p><i>Te Tawa</i>  <i>Te Kauranga</i>  <i>Te Waerenga a te whawhai Pa</i>  <i>Te Wai Haupapa</i>  <i>Te Whakakotahi o te awa</i>  <i>Te Whakamarake</i>  <i>Te Whanautanga o Kiharoa</i>  <i>Tirakarakatahi</i>  <i>Tuakopai</i>  <i>Te Umukuri</i>  <i>Te Wairoa</i>  <i>Waimanu</i>  <i>Waitehai</i>  <i>Waiwhatawhata</i>  <i>Whakaheke</i>  <i>Whakamarama</i>  <i>Whangapota</i>  <i>Wharepoti</i>  <i>Wairoa marae</i>  <i>Te Awa</i>  <i>Te Takutai</i></p> <p><b>Protection of special places</b></p> <p><b>Protection of historical small sites</b></p> <p><b>Access</b></p> <p><b>Authority and management</b></p> <p><b>Respect</b></p> <p><b>Consultation</b></p> <p><b>Passing on knowledge</b></p> <p><b>Modification, desecration, destruction of waahi tapu, waahi tupuna, waahi hirahira</b></p> <p><b>De-registration of waahi tapu, waahi tupuna, waahi hirahira from Council registers</b></p> <p><b>Lack of Council support to retain and</b></p>	<p>current with each local council and the Regional Council and other agencies where appropriate and are regularly reviewed.</p> <p>11 Ngati Kahu seek to establish, maintain and enhance good working relationships with those agencies involved in the management and protection of cultural and historical sites to ensure collaborative goals are set and worked toward.</p> <p>12 Ngati Kahu will seek to establish and maintain effective working relationships with landowners and the wider community, with regards to the protection of, and access to, cultural and historic sites.</p> <p>13 When assessing the cultural heritage values of a site, Ngati Kahu require that the oral history and customary knowledge of Ngati Kahu is considered equally alongside any documented evidence.</p> <p>14 Any applications for activities in areas of cultural significance, including sites where there may not be any documented cultural Taonga but where the likelihood of finding sites is high, will require one or more of the following (<u>at the cost of the applicant</u>):</p> <ul style="list-style-type: none"> <li>(a) Consultation with Te Runanga o Ngati Kahu in the first instance.</li> <li>(b) Te Runanga o Ngati Kahu will ascertain which particular whanau may be affected and if necessary make contact with that party.</li> <li>(c) A site visit will be arranged.</li> <li>(d) An archaeological survey (walk over/test pitting), by an archaeologist approved by the Te Runanga o Ngati Kahu will be sought.</li> <li>(e) A socio-cultural impact assessment will be sought.</li> <li>(f) A socio - cultural monitoring plan will be established.</li> <li>(g) An accidental discovery protocol agreement will be signed off.</li> </ul> <p>15 Ngati Kahu require that any site that fulfils the criteria of the Historic Places Act 1993, whether recorded or not (it just has to be suspected), is protected under the Act. This refers to unexpected sites that may be uncovered during development, even after approval of the overall project has been consented to by Tangata Whenua.</p> <p>16 Ngati Kahu require that resource consent applicants are made aware by Councils that liaising with Hapu on the cultural impacts of a development does not constitute an archaeological assessment.</p> <p>17 Ngati Kahu will develop a protocol for dealing with unexpected sites and Taonga discovery including kolwi.</p>
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<p><b>protect registered or unregistered waahi hirahira o Ngati Kahu</b></p>	<p>(Appended).</p>
<p><b>Loss of natural and landscape character values.</b></p>	<p>18 Ngati Kahu will need to be resourced by the various agencies, including Councils, in order to develop specific management plans for the surviving special sites as a matter of urgency.</p>
<p><b>Significant sites/landscape/amenity</b></p>	<p>19 All registered and non-registered sites of significance belonging to Ngati Kahu (irrespective if they are situated on lands “owned” by Ngati Kahu) must be retained as such.</p>
	<p>20 Ngati Kahu support the concept of a Regional Sites of Significance register to be developed, kept, maintained and implemented by BOPRC in accordance with the RPS and seek that all Ngati Kahu sites of significance are recorded in the register.</p>
	<p>21 Te Runanga o Ngati Kahu shall be the sole consenting authority on any application, submission, review process (or otherwise) to de-register sites of significance (or other value) to Ngati Kahu.</p>

## 4.4 Wai – Water

Ngati Kahu recognise the life supporting capacity of water and regard it as a special Taonga which they must protect. It is a Taonga from nga atua whose purpose is to sustain life. Ngati Kahu have a long association with the waters around Wairoa and their potential to provide kai. Ngati Kahu have knowledge's on fauna and flora migration cycles, optimum feeding and breeding conditions and harvesting methods which support sustainability.

Ngati Kahu support the Indigenous Peoples Kyoto Statement on water sustainability.<sup>79</sup>

Another major concern regarding the mauri of the river and coastal fringes is the issue of degraded and diminishing wetlands. According to the DOC Wetlands directory,<sup>80</sup> the Bay of Plenty has approximately only 1% of its wetlands left. The directory acknowledges that this has been due to man-made interferences, coupling Maori with Pakeha as “users and modifiers of the wetlands”.



*There is considerable history of modification and use of wetlands by both Maori and Europeans. ...As a result of all these modifications it has been estimated (Hughes 1981) that only about 10% of the country's former wetlands remain. There is great regional variation in the extent of depletion. For example in Southland unmodified wetland associations presently occupy about 37% of their original area; in South Canterbury 25%; in the Waikato 15%; and in the Bay of Plenty less than 1%. It is likely that in the last one hundred years some characteristic New Zealand wetland types have been lost completely, while very few examples are left of others such as kahikatea swamp forest and some kinds of flax swamp and salt marsh.<sup>81</sup>*

Just as concerning for the mauri, is the observation that despite these enormous losses, wetlands are still being threatened. This has implications for Ngati Kahu, given the proximity to one of the fastest growing areas in Aotearoa, Tauranga.

<sup>79</sup> See appendices.

<sup>80</sup> New Zealand Department of Conservation (2004) A DIRECTORY OF WETLANDS IN NEW ZEALAND Compiled by Pam Cromarty and Edited by Derek A. Scott.

<sup>81</sup> WETLANDS AND WETLAND CONSERVATION IN NEW ZEALAND. Introductory Note.

*Pervasive changes to wetland continue throughout the country: the extension of urban settlements on to wetlands; extraction of sand and gravel and reclamation of estuaries, lagoons, lake shores and river margins; draining of on-farm swamps; runoff, encroachment of exotic weeds, broom, lupin, gorse and willow into terrestrial wetland habitats and planting of spartina on coastal mudflats. The greatest single need is the establishment of buffers of indigenous vegetation along rivers (from their headwaters to the sea), and around the margins of lakes, swamps and estuaries; and the protection of corridors linking wetlands of all kinds to other terrestrial and marine protected areas.<sup>82</sup>*

The publication gives a useful description of the worth of the wetlands. On the repo, the DOC website says that “In the Bay of Plenty, less than one percent remains of the 40,000 hectares of shallow wetlands which existed.<sup>83</sup> DOC also says...

*The vast majority of New Zealand’s wetlands have been drained or irretrievably modified for coastal land reclamation, farmland, flood control, and the creation of hydro-electricity reservoirs. This occurred mostly between 1920 and 1980 but still continues to a limited degree in some areas. The rainwater which would normally pond and seep slowly into the surrounding waterways is now swiftly carried to rivers, reservoirs and lakes by hundreds of kilometres of ditches and channels. Cattle now graze where water birds once waded, and weeds, eutrophication and pollution have reduced the biodiversity of many surviving wetlands.<sup>84</sup>*

...suggesting that the original freshwater wetlands have declined by about 85 percent since European settlement.

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<sup>82</sup> New Zealand Department of Conservation (2004) A DIRECTORY OF WETLANDS IN NEW ZEALAND Compiled by Pam Cromarty and Edited by Derek A. Scott Page 2.

<sup>83</sup> <http://www.doc.govt.nz/templates/page.aspx?id=33722>.

<sup>84</sup> Parliamentary Commissioner for the Environment, Wellington: The State of New Zealand’s Environment - The State of Our Waters. p 62 Chapter 7.

<b>Wai</b>	
<b>Nga wawata me nga take</b>	<b>Nga Kaupapa/Policy</b>
<b>Protection of the mauri of all water</b>	1 Authorities recognise and provide for Ngati Kahu Kaitiakitanga with the water and mahinga kai.
<b>Disregard for the sacredness of water</b>	2 Authorities assess formal protection for existing areas of indigenous vegetation that have conservation value.
<b>Mismanagement of water resources</b>	3 Riparian and buffer zones and remnant native plantings around and beside waterways be protected to ensure their ecological function is maintained and that mahinga kai and waterway ecosystems are protected and enhanced.
<b>Water purity</b>	
<b>Water quantity</b>	
<b>Stormwater</b>	
<b>Environmental restoration works</b>	
<b>Cumulative effects of pollution, sedimentation, upstream damming and diversion</b>	4 Ensure that all native fish species have uninhibited and have environmentally appropriate passage between rivers, streams and the sea, where such passage is a natural occurrence.
<b>Increased sediment loading from land clearance activities</b>	5 Require that adverse effects associated with the discharge of sediments on aquatic and terrestrial ecosystems are avoided.
<b>Water quality</b>	
<b>Water mix between salinity and wai Maori</b>	6 Require the development and implementation of monitoring regimes to ensure that any adverse effects (including existing or potential loss of tuna/eel) on the health of mahinga kai resources and/or their habitats are identified and addressed.
<b>Natural vegetation contributions to water mix and Taonga</b>	
<b>Access</b>	
<b>Ability to sustain the system</b>	7 Require that consent holders accommodate opportunities for Ngati Kahu appointees to participate in any monitoring.
<b>Mahinga kai</b>	
<b>Effects of pollutants</b>	8 Require that Ngati Kahu have input into the setting of consent conditions (during consultation) associated with any and all resource consents for hydro power development activities on the Wairoa.
<b>Loss of rangatiratanga</b>	
<b>Well-being issues</b>	
<b>Perception that developers have preference over Tangata Whenua concerns</b>	9 All Ngati Kahu current and future generations, must have the ability to access, use and protect ngā waimāori, and the history and traditions that are part of such landscapes.
<b>Lack of accountability by councils over water allocation and sustainability</b>	10 Protect, and where needed enhance, the mauri or life supporting capacity of ngā puna me nga roto waimāori.
<b>Lack of implementation of RWLP</b>	11 Avoid the use of ngā puna me nga roto waimāori as a receiving environment for the discharge of contaminants (e.g. industrial, residential, recreational or agricultural sources).
<b>Lack of leadership over water quality</b>	
<b>Repo</b>	
<b>Environmental restoration works</b>	
<b>Lack of attention to socio-cultural effects of river/estuary degradation</b>	12 Encourage researchers to consult with and involve local Tangata Whenua experts as identified by Ngati Kahu in part of any research on culturally important native bird species.
<b>Pest Control (spraying)</b>	
<b>Nga Puna Waimaori</b>	13 Encourage the use of Mātauranga Māori in scientific research and monitoring surveys for species recovery.

	<p>14 Protect and enhance the tuna (eel) population and/or habitat within the Wairoa catchment, while recognising the customary use rights of Ngati Kahu.</p> <p>15 Riparian and buffer zones around waterways must be protected to ensure their ecological function is maintained and that mahinga kai and waterway ecosystems are protected.</p> <p>16 Vehicle access must ensure that buffer and riparian zones are recognised and observed around all waterways, including drains, springs, wetlands, tarns and aquifers.</p> <p>17 Protect mahinga kai habitats.</p> <p>18 Encourage protection of existing indigenous forest remnants, bush stands or regenerating indigenous vegetation through use of buffer zones.</p> <p>19 Encourage formal protection by way of covenant for existing areas of indigenous vegetation that have high cultural or conservation value.</p> <p>20 Maintain uninhibited fish passage within any waterway flowing within and adjacent to forestry plantations.</p> <p>21 Forestry operations should not interfere with the natural functioning of streams and rivers, especially in regard to sedimentation and fish passage and breeding.</p> <p>22 Ngati Kahu require that their rights to water as enunciated in the Treaty of Waitangi, Article 2 be respected by the Treaty partner and their agents (i.e. councils etc).</p> <p>23 Ngati Kahu require that Ngati Kahu relationships to all forms of water be recognised and provided for.</p> <p>24 Ngati Kahu seek that they be represented in any decision making body and process that has jurisdiction over quality and quantity of water in their rohe mana whenua.</p> <p>25 Ngati Kahu require that all water management bodies show how they have provided for the mauri of water in any decision making.</p> <p>26 Ngati Kahu require that no pollutants or other harmful or toxic chemicals, including nutrient pollutants, be allowed to be put into or infiltrate any water ways, including the moana.</p> <p>27 Ngati Kahu do not support the privatisation of water.</p> <p>28 Ngati Kahu require that all water management bodies ensure that sustainable ways for managing water are placed on all users of water. This includes large users of water having to provide means for collecting rainwater, and establishing ponds for water storage as their contribution to sustainable use of water and also for insuring that water aquifers are replenished, including in urban areas.</p>
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	<p>29 Ngati Kahu require that <i>cultural</i> and social effects are considered as part of an Assessment of Environmental Effects on any water use activity which may impinge on the well-being of Ngati Kahu.</p> <p>30 Ngati Kahu require water including aquifers be monitored for the amount of nitrates in the water, in recognition of the risks to babies and pregnant mothers.</p> <p>31 Require that all water abstraction activities associated with all upper catchment practices are efficient and consider downstream effects, including impacts on estuarine environments. This is reflected particularly in respect to sustainable irrigation design, delivery and management. Large scale water abstraction should be avoided.</p> <p>32 Prevent direct stock access to waterways. This is to avoid discharge and damage by stock to lake, river edges, riparian species, indigenous plants and coastal environments.</p>
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## 4.5 Te Awa Wairoa - Wairoa River

*Vision: An Awa that honours Te Pura*

Ngati Kahu are the river people. Our unique, strong, undisrupted undisputed connection to the River was cemented in pre-European times and extends to nowadays. The histories, whakapapa, stories, place names and other knowledges associated with the river belong to and are entrenched in Ngati Kahu heritage. Te Pura the guardian taniwha of the River is Ngati Kahu. It is this very connection that shapes our unique identity as a people.

These strong connections to the River make us responsible in the active management, enhancement, growth, protection and preservation of the awa, its environs as well as the knowledge associated with the awa. Ngati Kahu are the Kaitiaki for the entire awa. Ko te awa ko au- ko au te awa.

The River is a dominant physical feature of the landscape. It is the provider of sustenance, with an abundance of kai moana that is shared amongst the community. Pipi, titikio, koura and a range of fish form a nutritious provision of nourishment that has been enjoyed in traditional and modern times.

The mauri or life-giving qualities of the River are measured by natural indicators. Dirty water is one such indicator. Another is the abundance of kai. This is why Wairoa Hapu take all developments on or near the river very seriously.

The River waters are a medium for spiritual and physical healing too. The Wairoa has been a source of healing in traditional and modern times as a wai-whakanoa, to remove tapu. This practice carries on today by Hapu members bathing in the waters near the banks of the River. The water frequents a small fresh water stream to the Wairoa to whakanoa.



There are several recorded accounts about our Taniwha. According to kaumatua, some of the information pertaining to the taniwha has deliberately not been recorded.

The Wairoa is the mainstay of the people physically and spiritually. At the time of European arrival, Wairoa Hapu were among the most affluent people in this country having access to a wide range of resources- offshore and harbour fishing grounds, eeling pools in the River, fertile horticultural soils and native podocarp, kauri and tawa forests further up the river. Over time much of these

resources have been depleted but Ngati Kahu and Ngati Pango remain still, enhancing many traditional and cultural activities. There is a need to protect these activities and uses for the survival of Wairoa Hapu traditions and identity.

The Wairoa River and harbour margin is a traditional food gathering area. All year round members of the Hapu fish the river for tuna, mullet, herrings, patiki, kahawai and many other kinds of fish. From the harbour reaches tuangi, pipi, and titiko are gathered.

Traditionally Hapu marked out their domains for food gathering although special places were often shared with other Hapu. The quantities of kai and gathering places and periods were controlled by tribal/Hapu lore sometimes taking the form of tapu or restrictions. If certain fish stocks were low, a rahui was placed on that fish stock, place or practice/method to allow the population to recover.

The Wairoa River by ancient tradition has been an access corridor to the interior with waka being a principle vehicle for transport and fishing. Ngati Kahu started a waka ama outrigger canoe club to

encourage and promote physical and spiritual well-being of the people through an activity that maintained the affinity and relationship the people have with the awa. Swimming is another activity that takes place in the awa and is enjoyed by many.



The state of Wairoa River is by far the most critical environmental issue for mana whenua o Ngati Kahu. In terms of Kaitiakitanga, the people seek full restoration of the River. We want kaiawa beds restored and flora and fauna around the margins restored also. We have issues over the prevention of access given the river scheme stop banks and other commercial operations which now prevent traditional access to what were traditional sites, watercress beds, customary fisheries (white baiting especially) and kaiawa and Tauranga waka.

The awa Te Wairoa is tapu to the river people whose settlements have consistently been located along the margins of the river and valley. Ngati Kahu is recognised in Tauranga Moana as being tino Kaitiaki of the River.

*Ko te Awa te mauri o tenei rohe  
Ko te Awa te wairua o matou tipuna  
Ko tatou te Awa, ko te Awa ko tatou*

<b>Wairoa River</b>	
<b>Nga wawata</b>	<b>Nga Kaupapa/Policy</b>
<b>State of Wairoa River</b> <b>River schemes continuing impacts</b> <b>Kai awa/kai moana loss</b> <b>Environmental restoration works</b> <b>Pressures from urban growth and development</b> <b>Access</b> <b>Protection of the mauri of all water</b> <b>Disregard for the sacredness of water</b> <b>Mismanagement of water resources</b> <b>Mahinga kai</b> <b>Effects of pollutants</b> <b>Loss of rangatiratanga</b> <b>Well-being issues</b> <b>Perception that developers have preference over Tangata Whenua concerns</b>	<p>Ngati Kahu require that those agencies with jurisdiction over activities that impact on the Wairoa river:</p> <ol style="list-style-type: none"> <li>1 Recognise the special relationship that Ngati Kahu has with the Wairoa River.</li> <li>2 Actively promote and resource the enhancement and protection of the mauri of the Wairoa River.</li> <li>3 Review all consented activities, for their effects on the mauri of the river and where they do not comply, or do not comply with best practices, to take steps to ensure that they do.</li> <li>4 Prevent any unsustainable management practices, including siltation and pollutant effects and any activities or effects that reduce river and river margins biodiversity.</li> <li>5 Actively work to restore biodiversity that has been lost through unsustainable practices.</li> <li>6 Review the Wairoa River Strategy to introduce into those strategies, specific policies from this management plan, in particular, policies for restoring biodiversity lost through the poor management decisions and practices</li> </ol>

<b>Opposition to any unsustainable river margins developments</b>	7	of the past and for protection of existing biodiversity.
<b>Cultural landscapes</b>		
<b>Cumulative effects on natural character</b>	7	Recognise the importance of the junction of river/sea meeting environment and ensure that consent conditions work to avoid or mitigate over 100% of impacts in order to effect resolution of past degrading activities.
<b>Water quality</b>	8	Recognise the effects on customary fisheries from unsustainable river management practices.
<b>Cumulative effects on water quality</b>	9	Ngati Kahu do not support any development of any structures which will further impact on the mauri of the Awa including buildings, marinas and jetties and walkways.
<b>Use of flocculants</b>	10	Develop a State of the Wairoa River report and a Wairoa River Management Plan which recognises the tino rangatiratanga of Ngati Kahu and the relationship they have with the Awa.
<b>Pressures from urban growth and development</b>	11	All Ngati Kahu current and future generations, must have the ability to access, use and protect ngā waimāori, and the history and traditions that are part of such landscapes.
<b>Inappropriate land use and development</b>	12	Ngati Kahu seek to protect and enhance kaiawa and kaimataitai for future generations.
<b>Protection and recognition of customary rights and access</b>	13	Ngati Kahu require that no pollutants or other harmful or toxic chemicals, including nutrient pollutants, be allowed to be put into or infiltrate into the Awa.
<b>Protection of known and unknown waahi tapu sites.</b>	14	Ngati Kahu seek to include in Schedule 7 of the Regional Water and Land Plan, the Wairoa River as a waterbody that requires an In-stream Minimum Flow rate for which Ngati Kahu must be part of the formulation of such an IMFR to ensure the IMFR is 'balanced'.
<b>Impacts of uncontrolled access to areas of sensitivity or vulnerability</b>	15	Ngati Kahu wish to be advised immediately of all breaches of resource consent conditions for all resource consented activities on the Awa.
<b>Visual amenity values</b>	16	Ngati Kahu require copies of all monitoring and compliance reports for consented activities relating to the Awa to be forwarded to TRONK upon their completion or availability.
<b>Visual pollution</b>	17	Ngati Kahu require a 5% allocation of low flow water from the Awa to be set aside for Ngati Kahu purposes.
<b>Risk to kaiawa and kaimātaïtai from upper reaches discharges</b>	18	Ngati Kahu require that 100% of all stormwater discharges to the Awa (proposed or existing) is properly treated (according to tikanga) prior to Ngati Kahu require that 100% of all stormwater discharges to the Awa (proposed or existing) is properly treated (according to tikanga) prior to discharging into the Awa.
<b>In-stream minimum flow rates</b>	19	Ngati Kahu are strongly opposed to and do not accept the use of flocculants as a mitigation measure for water quality effects of activities (proposed or existing) to the
<b>Resource consent "caps"</b>		
<b>Resource consent compliance monitoring and reporting</b>		

	<p>Awa.</p> <p>20 Ngati Kahu require authorities to impose a “Cap” to limit the amount of discharge consents on the Awa in order to limit the amount of discharges to the Awa. Ngati Kahu require no further discharge consent applications to discharge paru into the Awa to be accepted without the express permission of Te Runanga o Ngati Kahu in the first instance.</p> <p>21 Ngati Kahu require authorities in collaboration with Ngati Kahu to conduct 5 yearly retrospective analysis of existing discharge consents on the Awa to gauge the impacts the discharges are having on the Awa in relation to the mauri.</p> <p>22 Require that activities related to roading, bridges, sewage facilities, buildings and other infrastructure avoid discharges of any contaminants to the waters of Wairoa and follows or leads in best management practices.</p> <p>23 Ensure that the effects of visitors and other tourism developments on the environment in Wairoa are managed in a way that ensures that the values of Ngati Kahu are not compromised.</p>
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#### 4.6 Tangaroa Raua Ko Hinemoana

##### *Te ngaungau a Hinemoana*

The state of Te Awanui is another critical environmental issue for mana whenua o Tauranga Moana, including Ngati Kahu. In terms of Kaitiakitanga, the people seek full restoration of Te Awanui. We want kaimoana beds restored and flora and fauna around the margins restored also. We have issues over the prevention of access given the river scheme stop banks which now prevent traditional access to what were customary fisheries and kaimoana and Tauranga waka. The complicated ownership issues around the margins of Te Awanui on what was deemed Maori customary lands (bed of the estuary and repo) and have now greatly inhibited claims to customary title under the Takutai Coastal Area Act 2011.

Te Awanui represents a waahi tupuna, a waahi tapu (in parts), crosses the domains of Hinemoana, Tangaroa, Papatuauku and Nga Ira Tangata.

##### **Tangaroa**

##### *Tangaroa kiriuka;<sup>85</sup> Ko Tangaroa ara rai<sup>86</sup>*

Tangaroa is the God of the sea who is responsible for the fishes and plants who rely on the sea environment, including the takutai (coast).

Ngati Kahu share Kaitiakitanga responsibilities of Te Awanui or the Tauranga Harbour. Ngati Kahu want to see the cumulative negative effects of bad environmental decisions which impact on the coast addressed. Ngati Kahu wish to work with the agencies to address the environmental degradation of Te Awanui and its constituent ecosystems.

<sup>85</sup> Unflinching Tangaroa – a symbol of ferocity and courage.

<sup>86</sup> Tangaroa of many paths.

Ngati Kahu are aware of the many negative impacts of land based activities on Tangaroa and seek to promote the relationships and values which Ngati Kahu deem necessary to restore, protect and sustain the seas and coast. Ngati Kahu acknowledge the Bay of Plenty Regional Water and Land Management Plan and its policies. However Ngati Kahu seek the maximum operation of these policies and do not think that to date these policies have been properly given effect to.

Coastal structures any more than are presently located in Te Awanui, except for navigational aids are not supported. There have been too many man-made impacts on the coastal environment and Ngati Kahu do not support any more structures. To this end, they require this to be had particular regard to when planning and setting consent conditions on coastal activities. Coastal and river structures can give rise to reduced visual amenity, loss of public access on foreshore and seabed areas, loss of habitat; have environmental impacts on the surrounding landscape, the foreshore and seabed, coastal waters and coastal ecosystems and historically have ignored effects on Tangata Whenua. They also attract careless day trippers who then impose various social and other costs on Tangata Whenua. E.g. conflicts with traditional activities and access as well as kaimoana gathering, rubbish pollution, rates burden to provide amenities born by locals. Coastal structures have the effect of interfering with access for customary activities purposes. Because of the accumulated effects from past structures, Tangata Whenua do not accept any other structures in the coastal and riverine zones.

Increased public pressure to access coastal areas has the potential to affect culturally significant sites, the natural character of the landscape and the availability and protection of resources as well heighten conflicts with Tangata Whenua over use. The latter has significant impacts on cultural and social stability.

<b>Tangaroa/Hinemoana</b>	
<b>Nga wawata</b>	<b>Nga Kaupapa/Policy</b>
<b>Takutai issues</b> <b>Opposition to marina developments</b> <b>Opposition to any coastal margins development</b> <b>Opposition to any river margins developments</b> <b>Cultural landscapes</b> <b>Cumulative effects on natural character</b> <b>Pressures from urban growth and development</b> <b>Inappropriate land use and development</b> <b>Protection of dunes</b> <b>Protection and recognition of customary rights and access</b>  <b>Protection of known and unknown waahi tapu sites</b> <b>Protection of coastal wetland ecosystems</b> <b>Enhancement and protection of coastal indigenous biodiversity</b> <b>Risk to kaimoana and kaimātaitai from upstream discharges</b> <b>Structures in the Coastal Marine Area</b> <b>Impacts of uncontrolled access to areas of sensitivity or vulnerability</b> <b>Visual amenity values</b> <b>Visual pollution</b> <b>Visual intrusion of light pollution and the effects of such on migratory birds</b> <b>Placement of warning signs</b> <b>Impacts of development on kaimoana e.g. port or marina development</b> <b>Access to the coastal areas</b> <b>Obstruction of views</b> <b>Loss of natural and landscape character values</b>	<p>1 Ngati Kahu uphold the significance of the cultural and environmental connection between the coastal and inland environments and wish to remind authorities whose activities impact on Ngati Kahu and the other Tauranga Hapu of this fact.</p> <p>2 Ngati Kahu require consenting bodies to demonstrate via planning documents and consent conditions that they understand the impacts on Ngati Kahu well-beings of mismanagement of the environment such as poor urban development, land use intensification, diversion of water-ways, using rivers and water-ways to carry pollutants to the sea.</p> <p>3 Ngati Kahu seek to be involved in the resource management decisions and conditions of consents (if any), as Treaty partners and NOT as any community group, which impact on coastal resources around Tauranga Moana including issues around zoning and development of policies and rules to ensure that the principles of the Treaty of Waitangi are upheld in any decisions.</p> <p>4 Ngati Kahu recognise and seek avoidance for adverse effects on coastal cultural landscapes regardless of whether areas are significant.</p> <p>5 Ngati Kahu seek the use of protection tools such as buffer zones or covenants (placed on titles) or set-back lines to ensure preservation of areas of indigenous vegetation wetlands and other ecological and culturally important features and places.</p> <p>6 Ngati Kahu require that visual intrusion or obstruction of views as a result of built structures are avoided.</p> <p>7 Ensure that the erection of lights on coastal structures does not adversely affect the natural character and amenity values around Tauranga’s coastline.</p> <p>8 Ngati Kahu require that any Assessment of Environmental Effects around coastal resource consents includes an assessment of cultural (including cultural relationships to the environment) and social effects on Ngati Kahu and addresses the potential and cumulative effects on the natural character of the coastal environment.</p> <p>9 Ngati Kahu seek avoidance of large scale and imposing development that intrudes on the natural character and visual amenities associated with the coastal environment.</p>

<p><b>Protection of open spaces, including out at sea</b></p> <p><b>Sustainability of the kaimoana</b></p> <p><b>Coastal management issues</b></p> <p><b>The lack of respect for Tangaroa and other coastal Kaitiakitanga responsibilities</b></p>	<p>10 Ngati Kahu require that all decisions related to coastal land use and development activities in Ngati Kahu coastal environment give effect to the spiritual and historical association of Ngati Kahu within the coastal environment.</p> <p>11 Ngati Kahu require consenting bodies to understand the effect on the mauri of the coastal environment of the above activities and take this into account when planning and setting consent conditions. (refer also to the generic principles).</p> <p>12 Ngati Kahu seek to protect and enhance kaimoana and kaimataitai for future generations.</p> <p>13 Ngati Kahu require consenting bodies to understand that the impacts of mismanagement may affect future generations ability to carry out customary activities. Activities which have the potential to interfere with customary activities should be avoided.</p> <p>14 Ensure protection of nursery and spawning areas within coastal environments.</p> <p>15 Require continued “low footprint” access to coastal environments where mahinga kai is gathered for customary use.</p> <p>16 Prohibit at all times any boat and or vehicular use which may put kohikohi kaimoana and passive recreational users at risk or otherwise interfere with customary activities.</p> <p>17 Advocate for the protection of coastal dune systems and enhance and restore these areas as riparian margins between the coast and sea.</p> <p>18 Require that any application for coastal land use or development is assessed on a case by case basis and includes a contribution to management for cumulative effects from passed unsustainable activities.</p> <p>19 Advocate for prohibition of recreational vehicles within coastal dunes systems and the seabed and foreshore.</p> <p>20 Support recommendations for use of marginal strips, buffer zones, riparian margins or other protection mechanisms adjacent to waterways, for protection of mahinga kai resources and places, water quality and biological diversity.</p> <p>21 Ngati Kahu do not want any further hard development of/on our coast and waterways, and are opposed to marinas and/or jetties.</p> <p>22 Ensure that Ngati Kahu are involved in any formation of access ways or coastal walkways to facilitate access to coastal areas.</p>
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	<p>23 Prohibit development on known tauranga waka, cultural, archaeological and mahinga kai sites.</p> <p>24 Advocate for continued access to areas of cultural significance in coastal areas by Ngati Kahu.</p> <p>25 Avoid any discharge of human or other associated waste to water.</p> <p>26 Advocate against unnecessary removal of sand or stones for non-commercial use in coastal areas of cultural significance.</p>
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4.7 Ngati Kahu Community, Village and environs

Nga wawata	Nga Kaupapa/Policy
<p><b>Pressures from urban growth and development</b></p> <p><b>Protection of village environment</b></p> <p><b>Environmental restoration works</b></p>	<ol style="list-style-type: none"> <li>1 Ngati Kahu require that cultural and social effects are considered as part of an Assessment of Environmental Effects on any activity which may impinge on the well-being of Ngati Kahu whānau.</li> <li>2 Ngati Kahu require that any planning by Councils take into consideration the impacts on social well-being of Ngati Kahu and show how any negative effects will be avoided.</li> <li>3 Ngati Kahu require that all Councils ensure that the adverse effects of development be addressed by all developers under Council planning policies and rules, including developers who are Maori. That is, because the developers are “Maori” does not exclude them from any obligations that apply to any other developer under this Ngati Kahu Hapu Environmental Management Plan.</li> <li>4 Ngati Kahu are opposed to any development in Wairoa which puts at risk the relationship of Ngati Kahu whanau to the whenua, wai, awa, takutai and moana of Tauranga.</li> <li>5 Ngati Kahu require that any development in Wairoa must demonstrate the social, economic, cultural and environmental benefits to Ngati Kahu whānau.</li> </ol>



## 4.8 Economic well-Being

Economic well-being has been a concern that has not drawn a lot of discussion. Generally Ngati Kahu are accepting of industrialisation happening away from Wairoa, and support a “Live and Play in Wairoa but work elsewhere” approach. There is support from Ngati Kahu whanau for advancing the economic interests of Tangata Whenua. Ngati Kahu would support some tourism activity which was sustainable and returned the benefits to Ngati Kahu whanau.

<b>Economic development</b>	
<b>Nga wawata</b>	<b>Nga Kaupapa/Policy</b>
<b>Economic development</b>	1 Ensure that any business development enhances the natural and cultural values of Wairoa.
<b>Social stability</b>	2 Ensure that the existing and new infrastructure reflects the highest environmental standards (e.g. review existing stormwater infrastructure).
<b>Community benefits</b>	3 Require that activities related to roading, bridges, sewage facilities, buildings and other infrastructure avoid discharges of any contaminants to the waters of Wairoa and follows or leads in best management practices.
<b>Protection of environment</b>	4 Ensure that the scale, siting, design, colour or landscaping of any development (e.g. protection of skylines/ridgelines) does not detract from the natural landscape.
<b>Protection of views</b>	5 Ensure that the effects of visitors and other tourism developments on the environment in Wairoa are managed in a way that ensures that the values of Ngati Kahu are not compromised.
<b>Monitoring</b>	6 Ensure that Ngati Kahu are not having to provide through their rates, facilities for visitors which directly benefit only a few individuals, given the huge contributions Ngati Kahu have already made to the cities growth and development. This is deemed by Ngati Kahu to be a social effect of environmental assessments.
<b>Power schemes</b>	7 Require implementation of monitoring regimes to ensure that any adverse effects (including existing or potential loss of tuna/eel) on the health of mahinga kai resources and/or their habitats are identified and addressed.
<b>Energy developments</b>	8 Require if deemed necessary, that companies provide opportunities for Hapu representatives to participate in monitoring.
<b>Tourist activities</b>	9 Require that monitoring provisions are present in all aspects of hydropower development scheme operations.
<b>Aquaculture</b>	10 Ensure that Ngati Kahu are involved in the setting of consent conditions (during consultation) associated with any and all resource consents for hydro power development activities.

	11	Require the active mitigation of tuna/eel loss in the turbines of power generation schemes.
	12	Require that the costs of elver transfer are met by the electricity generator where there is a cause-effect link.

#### 4.9 Relationship building, consultation, principles for engagement

Concerns about relationships with councils and other agencies were expressed at every point of consideration of environmental issues, most often expressed as a lack of trust and negativity about any remedial actions. Councils were seen as supporters of developers.

In order to achieve Ngati Kahus plans vision of:

- Restored and protected mauri of Te Taiao.
- Spiritual/cultural connections maintained and strengthened.
- Cultural well-being of Ngati Kahu ira tangata improved and sustained.

It will require Ngati Kahu to develop effective relationships with councils, government departments, agencies, groups and individuals with jurisdictions and rights in the Ngati Kahu rohe, as well as with its own people.

Maximising protection of Ngati Kahus cultural relationships with the environment now and for future generations will require Ngati Kahu to further develop, improve and sustain key relationships in order to maximise the Ngati Kahu influence. Key organisations include the Bay of Plenty Regional Council, Western Bay of Plenty District Council, Tauranga City Council, Ministry of Fisheries, Ministry for Environment, Department of Conservation, Historic Places Trust, Transit, Te Ohu Kai Moana, Ministry of Maori Development, Ministry of Justice (Foreshore and Seabed) Maori Land Court.

It is essential to develop co-operative and respectful relationships in managing ancestral sites. Also some sites maybe situated on private property and will require mutually respectful relationships. These relationships are critical to achieving best outcomes for Ngati Kahu’s cultural well-beings.

Lastly and most importantly, Ngati Kahu must engage with and educate its own people with regard to the potential of this Plan to protect their relationship with the environment of Wairoa. This will require wananga, capacity building and whanau strengthening amongst other strategies.

<b>Tāne Mahuta</b>	
<b>Nga wawata</b>	<b>Nga Kaupapa/Policy</b>
<p><b>RELATIONSHIP BUILDING, CONSULTATION, PRINCIPLES FOR ENGAGEMENT</b></p> <p><b>Acknowledgement and recognition of Ngati Kahu Mana whenua, Kaitiakitanga, rangatiratanga status</b></p> <p><b>Restored and protected mauri of Te Taiao</b></p> <p><b>Spiritual/cultural connections maintained and strengthened</b></p> <p><b>Cultural well-being of Ngati Kahu iratangata improved and sustained</b></p> <p><b>Maximising protection of Ngati Kahu’s cultural relationships with the environment</b></p> <p><b>Develop, improve and sustain key relationships</b></p> <p><b>Capability building</b></p> <p><b>Maximise the Ngati Kahu influence</b></p> <p><b>Consultation protocols</b></p> <p><b>Monitoring protocols</b></p>	<p>Te Runanga o Ngai Kahu have a mandate to work towards advancing the cultural, social, economic and environmental well-beings of its members. With that task in mind, Te Runanga o Ngati Kahu will:</p> <ol style="list-style-type: none"> <li>1 Seek funding and other resources from various agencies in order to maintain an office to enable a permanent place for liaison of various agencies and Ngati Kahu Tangata Whenua.</li> <li>2 Will make every endeavour to seek resources to support Te Runanga o Ngati Kahu office costs, however agencies must realise that Te Runanga o Ngati Kahu is a voluntary organisation and as such may not be able to respond in a timely manner.</li> <li>3 Requires that early notification is provided to allow for informed and considered responses on consultation.</li> <li>4 Require that consultation as a minimum is consistent with the legislative requirements of the RMA and the Local Government Act 2002 and legal rulings and opinions in regard to local government authorities.</li> <li>5 Ngati Kahu require that any costs incurred by the Runanga in regards to consultation, should be carried by the agency or company or individual requiring consultation with Ngati Kahu. If this is not acceptable, then the consultant will be required to make an appointment to attend a regular monthly meeting of the Runanga. This may fall outside RMA timeframes. However that is the risk carried by the consultant as Ngati Kahu has limited capacity to respond in a more efficient manner.</li> <li>6 Ngati Kahu will meet with and respond to the various parties on an equal partnership basis – as the Treaty of Waitangi intended.</li> <li>7 Ngati Kahu will make every endeavour to promote resolution of issues for which they have primary responsibility as identified by Ngati Kahu members.</li> <li>8 Ngati Kahu require that authorities provide appropriate resourcing, funding and training as per their obligations under the RMA 91 to with respect to building the capability of Ngati Kahu to participate effectively in decision making processes.</li> </ol>

**Consultation protocols:**

Ngati Kahu see the consultation process as including:

- 9 That the purpose of the consultation is made clear at the outset.
- 10 That adequate information of a proposal is to be given in a timely and appropriate manner (this may mean that experts attend a hui and explain the issues) so that those consulted know what is proposed.
- 11 That those consulted be given a reasonable opportunity to state their views and that Ngati Kahu might need a second hui for more information before being able to furnish a collective, informed response.
- 12 That consultation process between parties is an occasion to exchange views, and not just to tell.
- 13 That parties approach the consultation with an open mind.
- 14 That it is important that any party or individual who initiates consultation recognise that consultation with individual kaumatua is not consultation with Ngati Kahu. Ngati Kahu requires a Hapu or whanau consensus, NOT one or two individuals whatever their station in Maori society.
- 15 Consultation requires adequate support and resources and agencies may need to provide appropriate expert/technical advice and resources e.g. advertising costs, costs of use of Runanga o Ngati Kahu paid employee time, to ensure informed decisions are made.
- 16 Consultation is two way and the advice given by Ngati Kahu with respect to cultural values and importance should be respected and inform decision makers.
- 17 Information given orally should be considered equally with written information.
- 18 Apply policies in Hapu Management Plan to consent applications as per section 104 Other Matters of the Resource Management Act.
- 19 Ensure as per agreement with Ngati Kahu, as an affected party, consultation on appropriate resource consent applications by consent.
- 20 Ensure that cultural and social effects are considered as part of an Assessment of Environmental Effects on any activity which may impinge on the well-being and relationship of Ngati Kahu to the environment.

	<p>21 Utilise section 92 (request for further information in relation to the application to clarify possible effects) under the Resource Management Act when additional information is necessary to enable council to better understand the potential effects of the proposal on Ngati Kahu values.</p> <p>22 Encourage use of Cultural Impact Assessments when needed.</p> <p>23 Issues involving significant cultural impacts should have a qualified pukenga representative on hearing and application panels.</p> <p>24 To use Iwi Management Plan 2008 as a guide on affected party status and when writing consent conditions.</p> <p>25 Ensure site visits and/or archaeological assessments are undertaken where needed to ensure informed decision making.</p> <p>26 Ensure appropriate duration of consents that reflect Ngati Kahu concerns.</p> <p><b>Monitoring</b></p> <p>27 Monitoring can be used in instances where the baseline data is lacking or there is a need to assess impact of an activity over series of time.</p> <p>28 If Kōiwi (human skeletal remains) are discovered, then any work in the area shall stop immediately and Te Runanga o Ngati Kahu will be advised as well as the respective land-owner.</p> <p>29 Te Runanga o Ngati Kahu will contact the appropriate Tangata Whenua (whanau, Hapu or Iwi, mana whenua or ancestral rights holders or kaumatua of these groups).</p> <p>30 Te Runanga o Ngati Kahu will arrange a site inspection for them and look to include statutory Agencies.<sup>87</sup> This may be needed to assess whether a site analysis needs to be made (for e.g. if the site is likely to contain other koiwi).</p> <p>31 The appropriate Iwi/Hapu will be responsible for the tikanga appropriate to the koiwi or materials. Koiwi will not be automatically re-interred at another site and may need re-interment at site where found.</p> <p>32 The same process will apply for any archaeological discovery.</p> <p>33 Respective agencies may be requested to develop a management plan for an area where discoveries occur, including interpretative panels.</p>
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<sup>87</sup> Section 6 of the Resource Management Act (1991) and legal requirements under the Historic Places Act (1993) require that the New Zealand Historical Places Trust be contacted when archaeological sites are disturbed. The New Zealand Police also need to be consulted if the discovery includes Koiwi or human remains.

	<p>34 It is important that decisions on removal involve the right people and one kaumatua alone does not necessarily have the right to act unilaterally in Tauranga Moana.</p> <p>35 Further the appropriate ceremonies for the discovery need to be carried out by appropriate pukenga. Attendance at these ceremonies should be made available to mana whenua; this may entail contact having to be made with various families.</p>
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*Xua hoki a Te Pura ki tona kainga*

*Xua marino te tai o te awa*

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# Appendix A

## Wairoa Hapu Cultural Landscape and Areas

