Central Hawke's Bay District Council Proposed District Plan

> Tangata Whenua Section 32 Topic Report

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Contents

1	Introdu	ction	. 1
2	Statuto	ry & Policy Context	. 1
	2.1	Resource Management Act (RMA)	1
	2.2	National Direction	2
	2.3	Regional Policy Statement & Regional Plans	4
	2.4	Other Legislation & Regulations	8
	2.5	Local Policies, Plans & Strategies	10
	2.6	Operative District Plan Approach	10
3	Approa	ch to Evaluation	12
	3.1	Background Research	12
	3.2	Technical Information and Advice	14
	3.3	Iwi Consultation and Advice	17
	3.4	Draft Plan Feedback	19
	3.5	Decision-making	21
	3.6	Resource Management Issues	22
4	Evaluat	ion of Proposed Objectives	24
5	Evaluat	ion of Proposed Provisions (Policies & Methods)	26
	5.1	Identification of Reasonably Practicable Options	26
	5.2	Evaluation of Proposed Policies and Methods	30
	5.3	Adequacy of Information and Risks of Acting or Not Acting	41
	5.4	Quantification	41
	5.5	Summary	41
6	RMA So	hedule 1, Clause 4A Regard to Advice from Iwi	42
7	Overall	Summary and Conclusion	44

REFERENCES

1 Introduction

This report contains a summary evaluation of the objectives, policies and methods applying across the District relating to the Tangata Whenua provisions in the Proposed Central Hawke's Bay District Plan. This includes provisions in the following chapters:

- Part 1 Introduction Tangata Whenua / Mana Whenua, including TW-SCHED1 Schedule of Statutory Acknowledgement Areas
- TW Tangata Whenua
- SASM Sites and Areas of Significance to Maori, including SASM-SCHED3 Schedule of Wāhi Tapu, Wāhi Taonga, and Sites and Areas of Significance to Māori
- PKH Papakāinga and Kaumatua housing, and Associated Marae Based Development

It is important to read this report in conjunction with the Section 32 Overview Report which contains further information and evaluation about the overall approach and direction of the District Plan review and Proposed District Plan.

This report contains a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from implementing the proposed provisions.

The provisions of the Proposed Plan have been assessed against the relevant higher-order documents that have been prepared under the RMA.

For the purposes of this report, the term 'Sites and Areas of Significance to Māori' (SASM) has been applied to the relevant areas identified on the planning maps and contained in the SAM-SCHED3 schedule.

2 Statutory & Policy Context

2.1 Resource Management Act (RMA)

The RMA sets out in section 31 the functions of territorial authorities. The key function for the District Council is the integrated management of the use, development, or protection of land and associated natural and physical resources of the district. 'Natural and physical resources' includes all parts of the natural environment, including air, water, soil, and ecosystems (natural resources) throughout the District.

Section 5 sets out the purpose of the RMA, which is to promote sustainable management of natural and physical resources and this is explained more in section 5(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; 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.

Sections 6 and 7 of the Act set out principles of national importance and other matters in which the Council shall recognise and provide for, or have particular regard to, when reviewing the District Plan.

The following Section 6 'matters' are directly relevant to the Tangata Whenua provisions:

(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga: and

(g) the protection of protected customary rights:

The following Section 7 'Other Matters' that Council must have particular regard to include:

- (a) kaitiakitanga:
- (aa) the ethic of stewardship:

Section 8 of the RMA requires all persons exercising functions and powers under the Act to take into account the Principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Tangata whenua, through iwi authorities, have been consulted as part of the review process and the obligation to make informed decisions based on that consultation is noted.

Section 31 of the RMA further requires councils to control any actual or potential effects of the use, development or protection of land.

Section 35A identifies a duty on local authorities to keep records of iwi and hapū. A local authority must keep and maintain the contact details of iwi and hapū authorities or any groups that represent the hapū within its district or region. The records to be kept include any planning documents that are recognised by the iwi authority and are lodged with the Council, as well as records of any area of the region or district over which one or more iwi exercise kaitiakitanga.

Section 36B: sets out provisions for local authourities who want to make a joint management agreement.

Section 74(2A) requires that a territorial authority, when preparing or changing a District Plan '*must* 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 the resource management issues of the district'. There are currently no planning documents recognised by an iwi authority lodged with Central Hawke's Bay District Council at this time, however it is understood that Ngāti Kere are in the process of preparing one.

The Schedule 1 process is also relevant in that it requires a District Plan to be prepared in accordance with any applicable Mana Whakahono a Rohe (Clause 1A), and that during preparation of a District Plan, Council shall consult with the tangata whenua of the area who may be so affected, through iwi authorities (refer clause 3(1)(d), clause 3B & clause 4A).

The above matters are relevant when considering Tangata Whenua issues. The Treaty of Waitangi principles provide direction to the Council and need to be considered when preparing the District Plan. Under the matters of national importance, the Council is obligated to provide for the relationship of Māori with wāhi tapu, wāhi taonga and sites and areas of significance to Māori. Other matters can be achieved by taking into account the relationship of Māori with the environment and their culture and traditions, and recognising and providing for this through the provisions of the District Plan. Processes and procedures have been implemented to engage with iwi, hapu and marae with respect to the preparation of the District Plan.

2.2 National Direction

When considering Tangata Whenua matters, the following National Policy Statements apply:

- New Zealand Coastal Policy Statement (2010)
- Draft National Policy Statement on Indigenous Biodiversity (2019)
- National Policy Statement for Freshwater (2020)

In addition, the National Planning Standards (2019) are relevant.

2.2.1 New Zealand Coastal Policy Statement (2010)

The New Zealand Coastal Policy Statement contains a number of policies that direct the Council to work with Māori to provide for the identification, management and protection of places or values of historic, cultural or spiritual significance or special value, recognising that tangata whenua reserve the right not to publicly identify such places. In particular, Policy 2 states the following:

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- g. in consultation and collaboration with tāngata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tāngata 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.

2.2.2 Draft National Policy Statement on Indigenous Biodiversity (2019)

The Draft National Policy Statement on Indigenous Biodiversity (NPS-IB) sets out objectives and policies to identify, protect, manage and restore indigenous biodiversity under the RMA. The Draft NPS-IB has not passed as legislation, and as such does not have legal effect, however it has been used as guidance in reviewing the District Plan and preparing the proposed provisions. Once the NPS-IB takes effect, the Council will be required to ensure its District Plan is in accordance with the provisions of the NPS-IB (s74(1)(ea)). Central Hawke's Bay District Council has elected to anticipate the NPS-IB as much as possible in developing provisions for the Proposed Plan.

The Draft NPS-IB is underpinned by the fundamental concept of Hutia te Rito:

Section 1.7 Fundamental Concepts

(1) Hutia te Rito

[...] Hutia Te Rito recognises the health and wellbeing of indigenous biodiversity in the terrestrial environment – its habitats and ecosystems and unique vegetation and fauna – is also vital for the health and wellbeing of our freshwater, coastal marine area and all of our communities. It recognises we have a role as stewards or kaitiaki of indigenous biodiversity. This requires that when we undertake activities – such as subdivision, use and development – we have a responsibility to provide not only for te hauora o te tangata (the health of the people) but also for –

- te hauora o te koiora (the health of indigenous biodiversity), and
- te hauora o te taonga (the health of species and ecosystems that are taonga), and
- te hauora o te taiao (the health of the wider environment).

These elements are intrinsically linked. Any use and development that degrades the mauri and hauora of our indigenous biodiversity also degrades the hauora of the people. Hutia Te Rito is an overarching concept that can incorporate the values of tangata whenua and the wider community into the way indigenous biodiversity is managed so that it is maintained. This

National Policy Statement requires local authorities to work with tangata whenua and the wider community to

- protect, maintain and enhance indigenous biodiversity in a way that recognises that reciprocity is at the heart of the relationship between people and indigenous biodiversity; and
- develop meaningful and tailored objectives, policies and methods to operationalise Hutia Te Rito.

Whilst matters relating to indigenous biodiversity are addressed in a separate topic evaluation report¹, it is noted here that the District Plan approach in general recognises the special relationship of Maori with the land and water, and that this is reflected across the provisions of the District Plan.

2.2.3 National Policy Statement for Freshwater Management (2020)

The National Policy Statement for Freshwater Management (NPS-FW) came into effect on 3 September 2020 and provides updated direction to local authorities on how they should manage freshwater under the RMA. It introduces a framework that considers and recognises Te Mana o Te Wai, a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community².

2.2.4 National Planning Standards

The first set of National Planning Standards (NPS) were released in April 2019. Their purpose is to improve consistency in district plan and policy structure, format and content.

The District Plan Structure Standard (Standard #4), the District-Wide Matters Standard (Standard #7, clauses 1.d and 17) direct that resource management issues of significance to iwi must be contained within the strategic direction provisions, and provisions relating to sites and areas that have been agreed by Māori to include such provisions, must be contained within the 'SASM – Sites and areas of significance to Māori' chapter of the District Plan under the 'Part 2 Historical and Cultural Values' heading. The 'Schedule of Sites and areas of significance to Māori' (SASM-SCHED3) is also included in this chapter, as provided for in the Format Standard (Standard #10, clause 33).

The proposed provisions also use the standardised definitions from the Definitions Standard (Standard #14), where appropriate.

2.3 Regional Policy Statement & Regional Plans

2.3.1 Hawke's Bay Regional Resource Management Plan (28 August 2006) (incorporating the Regional Policy Statement)

Under Section 75(3)(c) of the RMA, the District Plan *'must give effect to'* the Regional Policy Statement (RPS). The Hawke's Bay RPS, contained within the Regional Resource Management Plan (RRMP), identifies the need to encourage papakāinga and marae-based development (Chapter 3.1 Managing the Built Environment), as well as to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (Chapter 3.14 Issues of Significance to Iwi/Hapu).

¹ Refer Section 32 Topic Report – Ecosystems and Indigenous Biodiversity

² NPS-FW section 1.3 Fundamental concept - Te Mana o Te Wai

This includes the following relevant RPS objectives and associated policies:

CHAPTER 3.1B MANAGING THE BUILT ENVIRONMENT

PROVISION FOR PAPAKAINGA AND MARAE BASED DEVELOPMENT (REGION)

POL UD6.1 District plans shall, where appropriate enable papakāinga and marae-based development in accordance with tikanga Maori values, outside existing urban areas and any urban limits, provided development:

a) Avoids or mitigates the following locational constraints:

- *i.* projected sea level rise as a result of climatic changes
- *ii.* active coastal erosion and inundation
- iii. stormwater infrastructure that is unable to mitigate identified flooding risk
- iv. flood control and drainage schemes that are at or over capacity
- v. active earthquake faults
- vi. high liquefaction potential
- vii. nearby sensitive waterbodies that are susceptible to potential contamination from onsite wastewater systems or stormwater discharges
- viii. no current wastewater reticulation and the land is poor draining
- *ix. identified water short areas with the potential to affect the provision of an adequate water supply.*

PAPAKAINGA AND MARAE-BASED DEVELOPMENT (REGION)

POL UD6.2 Papakainga and marae-based development shall be encouraged, where possible; to:

- a) integrate with existing development
- b) integrate with the provision of strategic and other infrastructure (particularly strategic transport networks in order to limit network congestion, reduce dependency on private motor vehicles and promote the use of active transport modes).
- c) Promote, and not compromise, social infrastructure including community, education, sport and recreation facilities and public open space.

CHAPTER 3.14 RECOGNITION OF MATTERS OF SIGNIFICANCE TO IWI/HAPU

- OBJ 34 To recognise tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions.
- POL 57 Where policy is being developed for the management of natural and physical resources the following matters shall be had regard to:
 - (a) Where the effects of an activity have minimal or no measurable impact on the state of mauri, the life sustaining capacity of a resource no or minimal regulation (noa).
 - (b) Where the actual or potential effects of an activity on the state of mauri are significant the activity shall be dealt with on a case-by-case basis according to those effects (rahui).
 - (c) Where the impacts of an activity have a severe and irreversible impact upon the state of mauri that activity shall be prohibited (tapu).
- POL 58 To share information on matters of resource management significance to Maori and on processes to address them.

OBJ 35 To consult with Maori in a manner that creates effective resource management outcomes.

- POL 59 Consultation with tangata whenua should be undertaken in a manner that acknowledges Maori values, with the fundamental approach in consultation being "kanohi ki te kanohi" (face to face) or personal contact. Other matters necessary to be exercised are:
 - (a) consideration of a consent application not yet finally decided upon:
 - (b) listening to what others have to say
 - (c) considering their responses:
 - (d) deciding what will be done:
 - (e) appropriate timing.
- POL 60 To encourage hapu to develop resource management plans, and to use the plan, when recognised by an iwi authority, to assess the incorporation of Maori values in the planning process.

- POL 61 Resource management decisions made subsequent to consultation shall show regard for that consultation.
- POL 62 The following is the recommended approach for consultation with tangata whenua:(a)Where the issue is at a macro, region-wide level consultation be with iwi.(b)Where the issue is localised, yet non site-specific, consultation be with hapu.(c)Where the issue is site-specific consultation be with whanau.
- POL 63 Consultation involving iwi or hapu is expected generally to be undertaken on a marae. The place of consultation should be determined as a result of agreement between both parties.
- OBJ 36 To protect and where necessary aid the preservation of waahi tapu (sacred places), and tauranga waka (landings for waka).
- OBJ 37 To protect and where necessary aid the preservation of mahinga kai (food cultivation areas), mahinga mataitai (sea-food gathering places), taonga raranga (plants used for weaving and resources used for traditional crafts) and taonga rongoa (medicinal plants, herbs and resource).
- POL 64 Activities should not have any significant adverse effects on waahi tapu, or tauranga waka.
- POL 65 Activities should not have any significant adverse effects on taonga raranga, mahinga kai or mahinga mataitai.
- POL 66 The importance of coastal, lake, wetlands and river environments and their associated resources to Maori should be recognised in the management of those resources.

The District Plan must give effect to the above objectives and policies. Therefore, the Tangata Whenua related provisions should support the aspirations of iwi and hapu for development of their land, enable dialogue and engagement on issues of importance to iwi and hapu, and seek to protect and aid the preservation of sites and areas of significance to Maori.

2.3.2 Hawke's Bay Regional Coastal Environment Plan (2014)

Under Section 75(4)(b) of the RMA, the District Plan must also not be inconsistent with a regional plan.

The Hawke's Bay Regional Coastal Environment Plan (RCEP) is therefore also relevant.

6 Relationship of Māori and the coast

Objective 6.1

'The protection of the characteristics of the coastal environment of special spiritual, heritage, historical and cultural significance to tangata whenua' and the following policies are particularly relevant:

- Policy 6.1 To recognise and support the role of tangata whenua of Hawke's Bay as kaitiaki of the region's coastal resources.
- Policy 6.2 To recognise and provide for the protection of sites within the coastal environment of spiritual, heritage, historical or cultural significance to Maori identified in accordance with tikanga Maori, including waahi tapu, nga toka, tauranga waka, mahinga mataitai, taiapure and taonga raranga.
- Policy 6.3 To promote the protection of sites within the Coastal Margin of spiritual, heritage, historical or cultural significance to Maori identified in accordance with tikanga Maori.
- Policy 6.4 To ensure adverse effects of activities on sites and areas of significant cultural value to tangata whenua are avoided, remedied or mitigated.
- Policy 6.5 To actively involve tangata whenua in management of the coastal environment and in protecting natural and physical resources of the coastal marine area that are of spiritual, heritage, historical and cultural significance.
- Policy 6.9 When assessing applications for land use consents, coastal permits, discharge permits or water permits, HBRC will take into account the findings of any cultural impact assessment prepared by a suitably qualified person.
- *Policy 6.10* To implement the policies set out above predominantly in the following manner:

- (a) resource consents the policies will primarily be used in the process of making decisions on resource consents in accordance with the RMA;
- (b) ...;
- (c) non-regulatory methods the policies may also be implemented through non-regulatory methods where appropriate, including the provision of information, environmental monitoring and reporting, and liaison/consultation with resource users and territorial authorities.

Explanation and reasons

Tangata whenua of Hawke's Bay have strong traditional and cultural relationships with the sea. They are the kaitiaki (or guardians) of their coastal resources. As such, they have assumed the responsibility to ensure that the mauri (the indefinable essence described as the life-force) of these resources is safeguarded. This has been recognised in the Foreshore and Seabed Act 2004. That Act now provides for Crown ownership of the public foreshore and seabed on behalf of all New Zealanders as well as recognition and protection of customary rights. The degradation of mauri, the life sustaining force of natural and physical resources in the coastal environment, including waterways, waterbodies and waahi tapu which are of spiritual, heritage, historical and cultural significance to Maori. HBRC has information, available upon request, about which hapu have mana moana over particular parts of the CMA.

The identification and protection of coastal characteristics of special significance to iwi recognises the special relationships that iwi have with coastal resources. The whole of the CMA is of significance to Ngati Kahungunu. The Coastal Margin is also of importance to Ngati Kahungunu. Water in particular has high spiritual, social and cultural values to Maori and the predominant view of Maori in Hawke's Bay is that water is an essential ingredient of life, therefore water and associated resources can form a basis for identification, belonging and mana. As kaitiaki for coastal waters, tangata whenua have concern for protecting its mauri and are particularly disturbed by practices which result in polluted water.

The objective and policies give effect to the New Zealand Coastal Policy Statement's provisions. In particular, NZCPS Policy 1.1.3 which states that it is a national priority to protect characteristics of special spiritual, historical or cultural significance to Maori identified in accordance with tikanga Maori and also to protect significant places or areas of historic or cultural significance.

The policies are necessary to ensure the relationship of Maori and coastal resources is recognised and provided for. This may include supporting tangata whenua (for example through provision of information, advice, or other similar resources) in their role as kaitiaki of the region's coastal resources and ensuring opportunities exist for effective participation in decision-making processes associated with the protection, use and development of coastal resources.

Some territorial authorities have already identified areas of significance to Maori in their districts (above MHWS) and included those in their district plans.

The policies are necessary to ensure the relationship of Maori, including spiritual relationships with coastal resources is recognised and provided for. This may include support and exchange of information between HBRC and tangata whenua (for example through provision of information, advice or resources to assist tangata whenua in their role as kaitiaki of the region's coastal resources and ensuring opportunities exist for effective participation in decision-making processes associated with the protection, use and development of coastal resources.

Only Maori can identify their taonga (and other cultural and traditional values). There is a statutory requirement for HBRC to have particular regard to kaitiakitanga. Tangata whenua hold the knowledge of their cultural and spiritual values, and may articulate these values through resource management decision-making processes. Local authorities must take into account the principles of the Treaty of Waitangi when exercising their functions and powers. There is, therefore, a need for HBRC and tangata whenua to develop a mutual understanding as to how the principles of the Treaty should apply to the management of natural and physical resources in the Coastal Environment.

In terms of Policy 6.9, cultural impact assessments will not be required in every case, but where there is potential for taonga to be affected, such an assessment will help HBRC to ascertain the nature and extent of any effects on taonga. Assessments should at least deal with the following:

- (a) a description of the methodology used, (including consultative processes used) in preparing the report (eg: site visits, hui, tangata whenua presentations, reviews of draft and sign-off);
- (b) a brief description of the proposed activity being assessed;
- (c) recognition if the mana whenua within vicinity of the proposed activity and a description of who the report is being prepared on behalf of;
- (d) a brief overview of the relevant planning framework;
- (e) identification and description of Maori cultural values associated with the site or the resource that is subject to the application;
- *(f) identification of impacts and evaluation of effects of a proposed activity on the identified cultural values;*
- (g) recommendations to avoid, remedy or mitigate any adverse effects on Maori cultural values;
- (h) recommended conditions of consent should the application be granted;
- (i) Iwi/hapu expectations for 'where to from here' (ie: the process following completion and submittal of the impact assessment); and
- (j) where relevant, the assessment may also include an archaeological assessment or survey (perhaps even as a subcontracted separate report that provides tangata whenua with information needed to assess impacts on archaeological values from a cultural perspective).

Anticipated environmental results

- AER 6.1 Protection of mauri, the life sustaining force of natural and physical resources of the coastal environment.
- AER 6.2 Protection of areas of significant value to Maori including waahi tapu, nga toka, tauranga waka, mahinga mataitai, taiapure and taonga raranga.
- AER 6.3 Protection of ancestral lands, water, sites, waahi tapu and other taonga.
- AER 6.4 Ongoing partnership between the Council and tangata whenua in the management of coastal resources.
- AER 6.5 Spiritual, heritage, historical and cultural values of the coastal environment are recognised and provided for.

The provisions of the Proposed District Plan apply methods to manage the effects of subdivision, landuse and development relating to the protection of sites and areas of significance to Māori across the District, including the coastal environment. The primary methods for achieving protection include the decision-making process for resource consents and non-regulatory methods, including the provision of information, environmental monitoring and reports and liaison/ consultation with resource users and territorial authorities.

The provisions of the Proposed District Plan with respect to Tangata Whenua matters are therefore not inconsistent with the RCEP.

2.4 Other Legislation & Regulations

2.4.1 Heretaunga Tamatea Claims Settlement Act 2018

Heretaunga Tamatea and its hapū is one of six large natural groupings represented by He Toa Takatini who negotiated settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu, signed on the 26 September 2015. Settlement assets for Tamatea sit with the trustees of the Heretaunga Tamatea Settlement Trust, the post-settlement governance entity.

Included as part of the deeds of settlement are statutory acknowledgements. Sections 23(b) and 27(1) of the Heretaunga Tamatea Claims Settlement Act 2018 require that information recording the statutory acknowledgements that apply to Central Hawke's Bay be attached for public information to the relevant District Plan.

National Planning Standard NPS#6, clause 28(ix) also requires relevant statutory acknowledgement areas to be listed in the District Plan.

Statutory Acknowledgement Areas within the Central Hawkes Bay District are listed in TW-SCHED1 and mapped in the Proposed Plan and include the following areas:

Site Identifier	Office of Treaty Settlements Reference
Elsthorpe Scenic Reserve	OTS-110-07
Hiranui Scenic Reserve	OTS-110-08
Inglis Bush	OTS-110-09
Karamu Stream and its Tributaries	OTS-110-11
Mātai Moana Scenic Reserve	OTS-110-15
Mcleans Bush Scenic Reserve	OTS-110-16
Monckton Scenic Reserve	OTS-110-18
Ngaruroro River and its Tributaries within the Heretaunga Tamatea Area of Interest	OTS-110-19
Ruahine Forest (East) Conservation Area	OTS-110-21
Part of Ruahine Forest Park	OTS-110-22
Springhill Scenic Reserve	OTS-110-23
Te Aute Conservation Area	OTS-110-24
Māharakeke Stream and its Tributaries	OTS-110-26
Mākāretu River and its Tributaries within the Heretaunga Tamatea Area of Interest	OTS-110-27
Tukipō River and its Tributaries	OTS-110-29
Tukituki River and its Tributaries within the Heretaunga Tamatea Area of Interest	OTS-110-30
Waipawa River and its Tributaries within the Heretaunga Tamatea Area of Interest	OTS-110-31
Pōrangahau/Tāurekaitai and its Tributaries within the Heretaunga Tamatea Area of Interest	OTS-110-32

Table 1: Statutory Acknowledgement Areas

2.4.2 Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act)

The Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act) provides a framework for the identification and listing of historic buildings, historic areas, wāhi tapu and wāhi tapu areas. Listing of buildings, land or wāhi tapu and wāhi tapu areas does not, however, offer direct protection under the HNZPT Act. Listing is primarily a means of identifying significant Heritage Items for the purposes of information and advocacy, with items listed by Heritage New Zealand Pouhere Taonga notified to Territorial Authorities.

The HNZPT Act also has requirements relating to all archaeological sites, whether they are identified, unknown, listed or recorded. Section 42 of the HNZPT Act 2014 makes it an offence for anyone to destroy, damage or modify the whole, or any part of any site, if it is known or suspected to be an archaeological site. Section 44 of the Act, however, allows an application to destroy, damage or modify an archaeological site to be made to Heritage New Zealand Pouhere Taonga.

An archaeological site is defined in the HNZPT Act as any place in New Zealand (including buildings, structures or shipwrecks) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods.

Before undertaking any work that may affect an archaeological site, a developer / landowner must obtain an authority from Heritage New Zealand. This work could include, amongst other things:

- Earthworks for forestry tracks, planting and harvesting
- Earthworks for residential developments, including building platforms, topsoil stripping and accessways
- Earthworks for stock races or farm tracks, fencing or landscaping
- Trenching for telephone, power, and waste disposal
- Road construction
- Quarrying
- Building demolition
- Alteration of a shipwreck

There is often confusion between the role of Heritage New Zealand and Council with respect to the management and protection of heritage resources and archaeological sites (including cultural sites). The Proposed District Plan heritage provisions seek to clarify Council's obligations to ensure that the District's heritage resource is appropriately protected.

2.5 Local Policies, Plans & Strategies

2.5.1 Iwi Management Plan

There are currently no iwi management plans relevant to Central Hawke's Bay District.

2.5.2 Hapu Plans

Ngāti Kere Rohe Trustees Strategic Plan 2013 – 2017

This Plan sets the long-term strategic direction for the Ngāti Kere Rohe Trustees that they can support the hapū to build a united and progressive Ngāti Kere. It is the foundation strategy supporting the trustees desire to see Ngāti Kere continue to stand tall and be happy, confident and prosperous, and to see their marae continue to flourish. It comprises 5 core strategic directions:

- Whakatō I Te Pū Harakeke Kia pūmau ki tō tātou Ngāti Keretanga (to protect, preserve and celebrate Ngāti Keretanga including use of te reo, histories and marae)
- **Kia Tapurutu, Kia Hautekohakoha** Whanaungatanga, Kotahitanga, Mahitahi (strong relationships within Ngāti Kere, with other Marae hapu and iwi, and the wider community)
- Kia Eke Ki Ngā Taumata O Te Mātauranga Ngā Matauranga (educational aspirations)
- I A Kere Te Ngahuru, Ka Ngahuru Noa Atu (economic independence and sustainability)
- Ko Te Kōiwi Ma Te Kurī, Ko Te Kiko Me Te Motu Ma Te Tangata Te Kaitiakitanga me te Tāhuhu (competent and dynamic leadership).

An updated strategic plan is currently being prepared by Ngāti-Kere.

2.6 Operative District Plan Approach

With respect to tangata whenua values the Operative District Plan includes the following:

- Section 3.1 Tangata Whenua Values this section provides a statement of Tangata Whenua identity in Central Hawke's Bay, references the Treaty of Waitangi and the Council's obligations in this respect as required by the provisions of the Resource Management Act, and lists areas of concern to Tangata Whenua being:
 - effective protection and maintenance of those natural and physical resources of importance, such as coastal and inland waterways, areas of indigenous vegetation.

- protection of traditional food gathering sites (mahinga kai) from any use or development which may threaten the sustainability and natural characteristics of these areas.
- effective protection and, where necessary, restoration of continued public access to mahinga kai.
- effective protection of culturally significant sites and areas, such as burial sites, occupancy sites.
- recognition of the right of Tangata Whenua to be involved in all aspects of natural and resource management in the District, including ongoing involvement beyond the District Plan preparation process.
- recognition of traditional Tangata Whenua place names within the District.

Two objectives and 10 policies are identified covering a range of matters, including enabling consultation and input to decision making, promoting awareness of Tangata Whenua concerns, identifying important cultural areas and sites, maintaining and enhancing public access, discouraging development that endangers indigenous species, controlling earthworks and giving recognition to traditional Tangata Whenua place names within Central Hawke's Bay.

- Section 3.2 Heritage Values Including provisions relating to the conservation and enhancement of wāhi tapu site and areas to preserve the character and history of the District.
- Section 3.6 Tangata Whenua Rules This section uses the term 'site of cultural significance to Tangata Whenua' as being a site that is sacred to the Tangata Whenua and includes urupa or pa sites, identified in partnership with the Māori community. These sites are recorded in District Plan Appendix C Schedule of Sites of Cultural Significance to Tangata Whenua.

Earthworks in the vicinity of a site identified on the Planning Maps require resource consent as a discretionary activity unless prior written permission to carry out such works is provided by Tangata Whenua.

A cross reference is also provided to the need for any person intending to disturb an archaeological site, or accidentally unearths archaeological material, to obtain an authority from New Zealand Historic Places Trust (now Heritage New Zealand Pouhere Taonga).

• Appendix C Schedule of Sites of Cultural Significance to Tangata Whenua – as outlined above this schedule records 'site of cultural significance to Tangata Whenua' being urupa or pa sites, identified in partnership with the Māori community, as well as sites defined as archaeological sites under the N.Z. Historic Places Trust Act³ due to their association with Māori occupation before the 20th century.

There have been significant advancements since the writing of the Operative District Plan, including the Heretaunga Tamatea Treaty of Waitangi settlements, advances in Plan writing and relationship development to better reflect the role of tangata whenua in resource management issues of the District, as well as a desire by Maori to utilise the potential of traditional land in accordance with their aspirations. These factors, combined with the legislative framework (outlined above), all confirm the importance of providing for Tangata Whenua issues as a significant matter for the Proposed Plan to address.

³ Since replaced by Heritage New Zealand Pouhere Taonga Act 2014

3 Approach to Evaluation

3.1 Background Research

In 2017, a high-level scoping exercise was undertaken to determine what aspects of the Operative District Plan were in reasonable shape and identify areas for review and the general approach to be taken to review them⁴. With respect to the Tangata Whenua provisions, the review identified the following:

- Inadequate identification, provision for, and protection of, identified sites of cultural significance to Tangata Whenua in the current District Plan.
- Need to insert provisions in the District Plan to enable papakāinga and marae-based development, as required by the RPS.

Consequently, the review recommended a re-write of provisions in partnership with tangata whenua to include:

- a) a review and update of Appendix C Schedule of Sites of Cultural Significance to Tangata Whenua, and determining how best to map these (or not);
- *b)* developing more comprehensive provisions/chapter addressing Tangata Whenua values and the protection of sites of cultural significance to Tangata Whenua;
- *c) developing new provisions/chapter providing for papakāinga and marae-based development, to give effect to the particular policies in the Hawke's Bay RPS.*

As part of the District Plan scoping exercise the following background reports and feedback were also noted:

3.1.1 Landscape Assessments

The draft 'Coastal Zone Landscape Assessment' (Terraforme, Sept 2013)⁵ and draft 'Rural Landscape Assessment' (Terraform, Sept 2016)⁶ prepared in the early stages of the District Plan review process, both acknowledged that in assessing natural character, natural features and landscapes and amenity landscapes, that there had been no consultation with tangata whenua, and that consultation may result in changes to the areas shown on the maps or may in fact result in additional areas being identified.

Landscape assessments⁷ prepared by Hudson Associates, Landscape Architects in 2018-2019 identified a number of important landscape features, including one Outstanding Natural Landscape (ONL) (i.e. the Ruahine Range), 11 Outstanding Natural Features (ONF) and 11 Significant Amenity Features. These assessments included (among matters) information on tangata whenua cultural associations with the landscapes, based mainly on research and information provided by local historian Pat Parsons.

These reports reinforce the important associations of tangata whenua with the land, and the Proposed District Plan provides for cultural matters to be further assessed when subdivision, landuse or development of any of these landscape features is proposed. These matters are dealt with more fully in the section 32 Natural Features & Landscapes Report.

⁴ "Initial Section 32 Scoping Report – CHB District Plan Review 2017", prepared by Sage Planning HB Ltd, (24 August 2017)

⁵ *Coastal Zone Landscape Assessment'*, Terraforme, Final Draft (September 2013.)

⁶ 'Rural Landscape Assessment', Terraforme, Final Draft (September 2016)

⁷ 'Central Hawke's Bay District Outstanding Natural Landscapes Assessment', Hudson and Associates (January 2019) and 'Natural Character Assessment of the Central Hawke's Bay Coastal Environment', Hudson and Associates (20 June 2018)

3.1.2 'Central Hawke's Bay District Plan Review – A Report on the Efficiency and Effectiveness of the Central Hawke's Bay District Plan', CHBDC, August 2017

This document identified a number of issues of general concern including:

- Issues of general concern that have been identified include the following matters:
 - Regulatory controls applying to sites of cultural significance are not adequate to provide protection of these sites;
- Examples of District Plan effectiveness achieved as a result of the review might include the following:
 - o increased recognition of and provision for sites of significance to tangata whenua;
 - o provision for papakainga in the district.
- The principles of partnership are very significant to tangata whenua of Central Hawkes Bay. The Plan states that Council recognises its obligations to consult with local hapu to achieve an ongoing and working relationship between local authority and Tangata Whenua.
- Pre statutory consultation for the review included focused meetings with Ngāti Kahungunu Iwi Incorporated and Te Taiwhenua o Tamatea. This consultation identified the following issues which are of concern to iwi within the Central Hawkes Bay District.
 - Full recognition of tikanga, including in decision making
 - Recognition of the Treaty of Waitangi purpose and principles and including partnership in writing and implementing policy on resource management issue.
 - Effective protection and maintenance of those natural and physical resources of importance including coastal and inland waterways, water quality including the Ruataniwha Aquifer and the coastal zone.
 - Recognition and protection of culturally significant sites including urupa, wāhi tapu and whenua tapu
 - Recognition of traditional Tangata Whenua place names.
 - Introduction of controls on earthworks in relation to the protection of wāhi tapu and cultural sites.
 - To provide for development of papakāinga on Maori land within the district.
 - Identification and protection of cultural landscapes.

This report recommended that the District Plan Review include a new chapter on Cultural Values to ensure that the District Plan is compliant with the RMA and to express the views and values of Tangata Whenua and that the new chapter should include an updated schedule of cultural sites and also incorporate robust controls on earthworks and land development in relation to wāhi tapu and cultural sites. It identified that there have been examples of damage occurring to wāhi tapu sites in the past due in part to lack of understanding of the significance of the site and the value it has to iwi.

3.1.3 'Central Hawke's Bay Blueprint - Appendices for Central Hawke's Bay District Council', Urbanism Plus Ltd, July 2017

In April 2017, Council consulted with the local community on their long term goals for the District. The outcome of this process 'Project Thrive', has informed Council's strategic direction and investment since that time.

Specific feedback relevant to tangata whenua matters from this community-wide consultation included:

• *Review the District Plan to increase protection of historic heritage, including sites of significance for Maori (submission from Heritage New Zealand Pouhere Taonga).*

- Feedback referred to a review of the District Plan to protect historic heritage, including sites of significance for Maori.
- Feedback referred to Maori ancient history.
- Feedback referred to keeping Whanau on their lands.
- *Feedback referred to engaging with iwi at every opportunity.*

3.1.4 Issues Raised in Staff Interviews:

Discussion with Council's Cultural Heritage Team (Rangitane Tipene, Pat Parsons & Elizabeth Pishief) on 2 August 2017, identified that:

- Appendix C (Archaeological Sites) and the associated rules in the District Plan at present, are likely incomplete and insufficient, and recommended a review of the approach to identifying and addressing sites of cultural significance to Tangata Whenua.
- There was also concern from this team that the current District Plan did not adequately provide for and protect identified sites of cultural significance. The ongoing work of the Cultural Heritage Team will likely lead to a significant review of Parts 3.1 & 3.6 and Appendix C of the District Plan.
- 3.2 Technical Information and Advice

3.2.1 Te Taiwhenua o Tamatea Guidance

Two representatives from Te Taiwhenua O Tamatea were appointed to the District Plan Committee to provide input and guidance to the overall review process from a local tangata whenua perspective and advised on the chapters in the Proposed District Plan that are the subject of this section 32 report.

Dr Roger Maaka (one of the appointees) developed a mihi specifically for the District Plan, as well authored the Tangata Whenua strategic chapter, that provides the Māori context for Central Hawke's Bay. Both the Mihi and the strategic Tangata Whenua chapter are outlined below for context:

'Mihi

Tēnei au te tū nei i te tihi o te Atua o Mahuru i Ruahine

Here I stand at the peak, Te Atua Mahuru, in the Ruahine ranges

ka titiro whakararo ki ngā waiora o Tukituki,

looking down at the life-giving waters of Tukituki,

e koropiko ana, e haehae ana i te mānia Ruataniwha, e horo rā.

twisting, turning, cutting across the Ruataniwha plains spread out before me.

Ka haere taku tiro ki ngā whare pā o Tamatea,

My focus moves to the settlements of Tamatea,

Tamatea Ariki nui, Tamatea Pōkaiwhenua, Pōkaimoana,

Tamatea the supreme chief, Tamatea who traversed the lands and the oceans,

Ko Pukehou, ko Whatuiapiti, ko Tapairu ko Mataweka ki te raki.

Pukehou, Whatuiapiti, Tapairu and Mataweka are the marae to the North.

Ka titiro atū ke te takutaimoana, mai Kairakau, ki Whangaehu,

I look along the coastline from Kairakau ki Whangaehu,

ko Hikatoa, ko Kere, Ko Manuhiri, ko Pīhere e noho tonu ra.

where Ngāti Hikatoa, Kere, Manuhiri and Pihere (hapū of the coastal areas) still reside.

Ka hoki taku tiro ki Waipukurau a Ruakuha,

I look back towards Waipukurau,

ki ngā pā tūwatawata, ki Pukekaihau, ki Kaimananawa, e tū mokemoke ai.

to the fighting pa, Pukekaihau and Kaimanawa, standing solitary and without people.

Ka whakatitonga taku tiro ki Rakautātahi,

My gaze turns south to Rakautātahi,

kei reira Te Poho o Whatuiapiti e tū whakahīhī mai.

where Te Poho o Whatuiapiti (the marae) stands proudly.

A, ka tae ki te Takapau, ki te Rangitapu-a-Whata,

Finally, I arrive at Takapau to te Rangitapu-a-Whata, (The hill overlooking Takapau on which the pā Horehore stood),

Ko Puera kei runga, ko Whatumā kai raro.

Puera stands above and Whatumā lies below.

(Lake Hatuma and Puera [the hill to the south of te Rangitapu-a-Whata],

are both important mahinga kai, food gathering sites)

Tihei Tamatea!'

3.2.2 The Tangata Whenua Strategic Chapter

The intent of the Tangata Whenua Strategic Chapter is to assist plan users to engage constructively and productively with Ngāti Kahungunu in general, and specifically with the marae and hapū of Tamatea. It is set out as follows:

'Te Whenua: The Land

The lands of Tamatea stretch from the majestic Ruahine mountain range in the west, across the Ruataniwha and Takapau plains to the wild and picturesque coastline from Kairakau in the north to Whangaehu in the south. Both the Ruataniwha and Takapau Plains are dissected and drained by the Tukituki River and its many tributaries, which in turn interconnect to a network of ephemeral wetlands that stretch from the east of State Highway 2 North of Otane, encompassing Te roto-a-Tara and Poukawa, south to Lake Whatumā (Hatuma). Collectively they are known as Ngā Puna-a-Tara (the spring waters of Tara). The braided river environment of the Tukituki is the breeding ground for a diverse range of wading birds and various indigenous fish species. Water and the mauri of the water is and always has been of paramount importance to the Tangata Whenua of Tamatea.

The vegetation of the area varied from the tōtara/beech-kāmahi forests of the Ruahine foothills to the podocarp/broadleaf forest of the rolling hill country, to scrub and tussock grasslands of the Takapau and Ruataniwha plains, to the aquatic flora and fauna of the wetlands, and on to the dune lands of the eastern seaboard. These areas are now encompassed by the Hawke's Bay Ecological Districts of: Ruahine, Heretaunga, Puketoi and Eastern Hawke's Bay.

The territorial local authority boundaries of Central Hawke's Bay District approximate the tribal takiwā or taiwhenua (territory) known to tangata whenua as Tamatea (local authority and tribal boundaries are both shown on the Planning Maps). There is some extension beyond the local authority boundaries into the Hastings District and Tararua District, and vice versa for neighbouring hapū.

Tangata Whenua: The People of the Land

Tangata whenua first settled in the Central Hawke's Bay District circa the ninth century, and over the centuries there were successive waves of people, who through warfare, marriage and land gifting established themselves on these lands. From a tangata whenua perspective, the first wave of peoples are understood as Kupe people, the second wave as Kuruhaupo people and the third wave as Takitimu people.

The founding Tūpuna, ancestors, and their deeds were acknowledged through the embedding of their names in the landscape. Te roto-a-Tara (the lake of Tara), Nga-kaihinaki-a-Whata (the hills to the East of Takapau) and the illustrious ancestor Tamatea. Tamatea was known throughout Aotearoa/New Zealand and across the Pacific Ocean. While there are varying accounts of his whakapapa (genealogy) the Ngāti Kahungunu version is:

Tamatea, Ariki-nui, mai-Tāwhiti (Tamatea the great Lord from across the seas)

Rongokako (recalled in the full name of Te Mata Peak, Te Mata o Rongokako)

Tamatea Pokai-whenua (Tamatea who encircles the lands i.e. the navigator, the explorer)

Kahungunu (the eponymous ancestor of Ngāti Kahungunu)

Tamatea Pokai-whenua has his name immortalised in the renowned and longest place-name in the world: Te Taumata-whakatangihanga-koauau-o-Tamatea-turi-pukaka-piki-maunga-horonuku-pokai-whenua-ki-tana-tahu (the summit where Tamatea, with large knees, a climber of mountains, explorer and encircler of lands, played his flute to his loved one).

There are many other examples throughout Tamatea, indicating the interrelationship between tangata whenua and the land as they have held and continue to hold ahi-kā-roa (permanent residency) from the original settlement to the present day, and into the future.

From the nineteenth century to today, the predominant overarching tribal name has been Ngāti Kahungunu. In addition to our proudly acclaimed iwi identity, hapū identity is paramount for tangata whenua and there are more than 15 hapū names associated with this district that are still remembered – these are listed alongside the marae with which they affiliate.

The histories and stories of the Tangata Whenua of Tamatea very clearly illustrates their relationship with the lands and natural resources of this district. It is because of this relationship that the hapū permanently settled these lands and established themselves as tangata whenua (People of the Land) with Ahi-kā (Fires that burn on the land) or Ahi-kā-roa (Long burning fires) signifying permanent residency. At the birth of a child, the whenua (placenta) and pito (umbilical cord) were buried at a site – a tree or rock of significance to the hapū to link the child to the land and reaffirm Ahi-kā. Not surprisingly Papatuānuku, the earth mother, is personified as the nurturer of her children, encapsulated in the expression 'ūkaipō' (feeding by night i.e. breast-feeding) and the expression 'kua hoki mai ki te ūkaipō' refers to returning to the place where your pito was buried i.e. the place where you will be nurtured.

From and within this relationship, flow the values that are integral to tangata whenua identity. This environment, and associated lifestyle, has produced a worldview that is centred on interconnectedness, where all things are connected through whakapapa (genealogy).

All living things are connected through their descent from the children of Papatuānuku, the earth mother, and Ranginui, the sky father, specifically: Tāne of people and forests, Rongomātāne of cultivated foods, Haumiatiketike of the uncultivated foods and Tangaroa of the waters. Tangata whenua, the children of Tane, have been vested with the responsibility of guardianship and stewardship of the natural world, kaitiakitanga. Of special significance to kaitiaki is the state of well-being of the water, lands vegetation, flora and fauna. The state of well-being is encapsulated in the concept of mauri (often translated as life-force). From this world view where all living things are connected through their genealogical linkages (whakapapa), emerges a set of values that guide the relationship between tangata whenua and the natural world.

All features of the natural world – such as flora, fauna, water bodies and ancestral sites – are considered taonga (treasures and treasured possessions) and acknowledgement of tangata whenua status as kaitiaki is guaranteed under Article Two of the Treaty of Waitangi:

Ko te tuarua

Ko Te Kuini o Ingarangi ka waakarite ka wakaae ki nga Ranagtira ki nga hapū - ki nga tangata katoa o Nu Tirani Te Tino Rangatiratanga o ratou whenua o ratou kainga me o ratou taonga katoa...

Article the second

Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand and the respective families and individuals thereof the full and exclusive and undisturbed possession of their Lands and Estates forests and fisheries and other properties...

Despite the promise in Article Two, land alienation in Central Hawke's Bay has been severe. From the Waipukurau Purchase in 1852 through to the present day, tangata whenua land holdings have dwindled and, as a result, many sites of cultural, historical and spiritual significance are no longer in tangata whenua ownership. The protection and culturally appropriate care of these sites is an ongoing concern for tangata whenua today.

Te Ao Hurihuri: Tangata Whenua today

Progressively throughout the twentieth century, hapū representation was vested in the marae. The most public expression of this development was evident with the formation of the treaty settlement group, He Toa Takitini, in 2003, when the people chose to be represented by marae rather than hapū. The marae of the Tangata Whenua of Tamatea are:

MARAE	HAPŪ	LOCATION
Pukehou	Ngāi Te Rangikahutia	State Highway 2, Pukehou

	Ngāti Puketutu	
Whatuiāpiti	Ngāi Whatuiapiti	Te Aute Trust Road, Patangata
Kairakau	Ngāi Tamatera	
	Ngāi Te Ōatua	
	Ngāi Hikatoa	
Tapairu	Ngāti Marau, Rangitāne	Marae Road, Waipawa
Mataweka	Ngāi Toroiwaho	Tapairu Road, Waipawa
Pourērere	Ngāti Hikatoa,	
	Ngāi Te Ōatua,	
Rongomaraeroa	Ngāti Kere	Pah Road, Porangahau
	Ngāti Manuhiri	
	Ngāti Hinetewai	
	Ngāti Pihere	
Te Rongo a Tahu	Ngāi Tahu Makakanui	Polson's (stock route), Takapau
	Ngāi Toroiwaho	
	Ngāi Kikiri o Te Rangi	

Note: Other hapū historically associated with the lands and district of Tamatea include: Ngāi Pouwharekura, Ngāi Ta Ao, Ngāti Honomōkai, Ngāi Upokoiri, Ngāti Te Ruatōtara, Ngāi Tūrāhui, Ngāi Te Opekai, Ngāi Parakiore.

Many Māori living in and around Waipukurau are not of Tamatea heritage, but they are regarded, locally, as integral to the Māori identity of Tamatea. These people are represented through affiliation to one of the Tamatea marae or through the Waipukurau Community Marae.

MARAE	ΗΑΡŪ	LOCATION
Waipukurau Community	Ngā Mata-a-waka	Takapau Road, Waipukurau
Marae		

•••

Ngā Reo o te Takiwa: Representative Voices

For the purposes of the District Plan, tangata whenua interests are represented by:

- Individual marae: where issues specific to the respective areas of interest occur. Each marae exercises its own rangatiratanga through their role as kaitiaki.
- Ngāti Kahungunu Iwi Incorporated (NKII): for issues that extend beyond the boundary of the Tamatea Rohe. Ngāti Kahungunu Iwi Incorporated is recognised as an iwi authority under the RMA for issues across Hawke's Bay.
- Representatives of Māori land owners and managers: for issues specific to their land holdings.
- Aorangi Māori Trust Board (AMTB): in agreement with the Crown, AMTB has co-management rights over the Department of Conservation owned land on the southern shore of Lake Whatumā.
- Heretaunga Tamatea Treaty Settlement Trust (HTTST): for issues identified in the Heretaunga Tamatea Claims Settlement Act 2018. The HTTST represents the treaty settlement interests of the Tamatea hapū and marae.
- Te Taiwhenua o Tamatea: as a collective and representative voice for the marae of Tamatea. The Taiwhenua was incorporated in 1990 and its geographic boundaries, which align closely with the local authority boundaries, are registered with the Māori Land Court. Te Taiwhenua O Heretaunga also has some overlap with northern Central Hawke's Bay.'

3.3 Iwi Consultation and Advice

The inclusion of two representatives from Te Taiwhenua O Tamatea (Dr Roger Maaka and Brian Gregory) on the District Plan Committee (comprising a total of six members) was instrumental in providing guidance on cultural matters and developing the tangata whenua provisions of the District Plan.

Date	Method		
7 May 2018	Hui at Te Taiwhenua o Tamatea (Waipukurau) – John Hudson (Council's Consultant Landscape Architect) presented draft Landscape Assessment for discussion. Associational values for tangata whenua were discussed, and a field trip with Paul Sciascia, as well as contacting Hawke's Bay historian and author, Mr Pat Parsons, were recommended to the Consultant.		
11 May 2018	Field trip – John Hudson met with Paul Sciascia to walk over identified landscape areas around Porangahau/Parimahu.		
16 May 2018	Meeting with Pat Parsons (local historian, author of several publications, and custodian of Maori history) and John Hudson (Council's consultant landscape assessor) to further develop understanding of the deep associational values of the identified landscapes to tangata whenua		
7 November 2018	Joint letter from Dr Roger Maaka, chair Te Taiwhenua o Tamatea and District Plan Committee member, and Council's District Plan Manager Helen O'Shaughnessy, to He Toa Takatini (Treaty Settlement Group for Heretaunga Tamatea) hapu and marae of Central Hawke's Bay, advising of the District Plan review and requesting opportunity to meet to further discuss implications for iwi and hapu, and offer opportunities to engage through the process.		
6 June 2019	Presentation of Draft Plan to Rongomaraeroa Marae.		
20 June 2019	Presentation of Draft Plan to Te Taiwhenua O Tamatea.		
12 October 2019	Meeting between Council District Plan Project Team and representatives of Kairakau Lands Trust (KLT) to discuss implications of the District Plan and identify issues specific to KLT owned land.		
20 November 2020	Hui at Te Taiwhenua o Tamatea (Waipukurau) to discuss the impending release of the Proposed District Plan and to offer assistance with responding within that process, including the statutory pre-notification Clause 4A consultation with Ngāti Kahungunu iwi authority.		

In addition, a number of hui were held as outlined in the table below:

Council have also recently made an appointment to the role of Pou Whatuia/Māori Engagement Officer and are working with Te Taiwhenua O Tamatea, hapu and marae to offer assistance in having meaningful input to the Schedule 1 process, as well as ongoing dialogue with Ngāti Kahungunu Iwi Incorporated (the iwi authority) and Te Hoa Takitini (the Treaty Settlement Group for Heretaunga Tamatea).

No specific feedback was provided in response to these hui and Council are continuing efforts to engage and support marae and hapu to have input into the District Plan process – refer also section 6 of this report in this regard.

In addition, two meetings were held with representatives of Kairakau Lands Trust as follows:

- Hui with representatives of Kairakau Lands Trust at Paper Mulberry, Te Aute, 1/7/2019
- Hui with Kairakau Lands Trust, 10/12/2019

Key messages from Kairakau Lands Trust for the District Plan review are summarised as follows:

- Māori landowners also need to be consulted, not just marae and Taiwhenua.
- Wāhi tapu and taonga are located all over the district (e.g. along ridges by the coast) and it is impossible to say what is there or what is not. As such, everywhere should be checked before developing land. The current schedule does not list all the sites the District Plan should either list all of them or none of them. A cultural overlay is a potential back up.
- District Plan overlays identifying natural landscapes and features are restrictive for development of Māori land, particularly in coastal areas.

3.4 Draft Plan Feedback

A Draft District Plan was publicly notified on the 3 June 2019 for community feedback.

Feedback on the Tangata Whenua provisions of the Draft Plan was received from Heritage New Zealand Pouhere Taonga (Heritage NZ), Kairakau Lands Trust (KLT), Fire & Emergency NZ, Hawke's Bay Regional Council, and a private individual. Issues raised are summarised as follows:

- The interrelationship and accuracy of the information contained in the Appendices B1 Heritage Items, B2 Heritage Trees, C Archaeological Sites and D Wāahi Tapu, Wāhi Taonga and Sites and Areas of Significance to Tangata Whenua – Issues include overlap and confusion between appendices, appropriateness of the amount of information (Heritage New Zealand *Pouhere Taonga* (Heritage NZ)); and the lack of Wāhi Tapu. Wāhi Taonga and sites and areas of significance to Māori identified, implying that those are the only sites of significance or value (Kairakau Lands Trust);
- **Cultural Overlay** A request for a cultural overlay to be included on the District Plan maps for the purpose of notifying relevant persons (including the landowner) of the presence of an area of high cultural significance and a high possibility of wāhi taonga, to ensure their recognition and protection in the District Plan, and a broader requirement for opportunities to notify and consult with iwi on such matters (Kairakau Lands Trust);
- Protection for all wāhi taonga, irrespective of their identification and mapping A request that the District Plan should include provisions for all wāhi taonga, irrespective of whether they have been identified or not and a request that Council investigate how a systematic archaeological survey can be undertaken to provide necessary information for the District Plan by identifying and recording wāhi taonga, increasing awareness and educating landowners about their responsibilities (Kairakau Lands Trust); stronger activity status was sought for activities that have the potential to destroy or damage a wāhi tapu, wāhi taonga or site of significance to Maori (Heritage NZ).
- Legality of Draft Plan Rules relating to Wāhi Taonga Concern that the Draft Plan approach (rules) relating to wāhi taonga is fundamentally flawed and are unlawful (Kairakau Lands Trust);
- Wāhi Taonga and Forestry Specific request for provisions relating to forestry and Wāhi Taonga (Kairakau Lands Trust);
- Chapter 17 Papakāinga and Kaumātua Housing, and Associated Marae-Based Development -Feedback on this chapter included a request for cross referencing to underlying zone provisions with respect to firefighting water supply and emergency access provisions (note these matters are addressed in the subdivision and transport sections of the Proposed District Plan); to include water for fire-fighting supply (Fire & Emergency NZ). There was also a submission from a private individual asking if the marae could be used more to assist in addressing issues with housing availability.
- Definitions Hawke's Bay Regional Council advised that the National Planning Standards require all te reo Maori terms used in rules to be defined in the definitions chapter. This has been picked up as part of the alignment of the Proposed Plan with the Standards. They also recommended that the definition of 'whenua' Maori needed to include a broad definition for 'Maori land' so as not to exclude general maori land from the papakainga and kaumatua housing and associated marae-based development.

Key changes to the Tangata Whenua provisions as a result of this feedback to the Draft Plan included:

- Part 1 Introduction Tangata Whenua / Mana Whenua, and TW Tangata Whenua Amended referencing to hapū for Kairakau, expanded RMA list of provisions referenced, recognition of northern taiwhenua who cross over into Kairakau lands, and amended/clarified objectives, policies and explanations.
- SASM Sites and Areas of Significance to Maori, including SASM-SCHED3 Schedule of Wāhi Tapu, Wāhi Taonga, and Sites and Areas of Significance to Māori – It is acknowledged that the current SASM-SCHED3 is incomplete and that adding to this is a 'work in progress' for Central Hawke's Bay District Council as the Council develops its relationship with Te Taiwhenua o Tamatea and capacity is developed within the Māori community to respond to this issue. Similarly, progressing a cultural overlay to sit alongside (and ultimately within) the District Plan will also be progressed. Provisions for protecting those sites that are identified provide a framework for future sites to be included within and protected by the Plan.

The activity status for activities in or near identified sites in SASM-SCHED3 that do not meet permitted activity conditions, was amended from 'discretionary' or 'non-complying' to 'restricted discretionary'. This was in response to a recommendation from Council's internal legal review of the Plan. Applying a 'restricted discretionary' status to such activities will allow a more focussed assessment on cultural matters.

Additional assessment criteria were introduced for other activities requiring resource consent (e.g., subdivision, earthworks and certain landuse activities such as intensive farming and offensive processes, trimming and modification of indigenous vegetation or removal of manuka or kanuka etc) to ensure effects on cultural sites are appropriately considered. The assessment matters for activities affecting a SASM were also carefully reviewed to ensure they allow for full consideration of the site's values and include reference to consultation with tangata whenua. This ensures that where standards for a permitted activity cannot be met, there is a requirement for thorough consideration of effects on the SASM. It is also noted that any resource consent will be assessed against the objectives and policies which require 'protection from damage, modification or destruction'.

- With respect to provisions relating to forestry, the National Environmental Standard for Plantation Forestry (NES-PF) does not address effects on SASM, and the Plan may therefore include terms or conditions which apply to plantation forestry in addition to those included in the NES-PF (see s 43A(5)(b) RMA). Terms and conditions for activities within or close to SASM are stated in SASM-R5 and SASM-R6, and these apply to plantation forestry as well as any other relevant activity. There will also be a requirement to apply for an archaeological authority from Heritage NZ Pouhere Taonga for forestry activities in areas identified as archaeological sites under the Heritage New Zealand *Pouhere Taonga* Act.
- PKH Papakāinga and Kaumatua housing, and Associated Marae Based Development minor amendments were made to accommodate feedback to these provisions. The matter of use of marae to assist with housing availability is a matter that sits outside the District Plan and therefore no specific changes were made in response to this feedback.
- Definitions alignment with National Planning Standards and definition of 'whenua Māori' to provide for development on Māori General land –all Te Reo terms are translated/defined in the Glossary contained within Part 1 Interpretation in accordance with the National Planning Standards (# 4 Definitions Standard; #6 Introduction and General Provisions Standard Cl14; and #10 Format Standard cl 11).

The term 'whenua Māori' has been used in a particular way with respect to the Papakāinga and Kaumātua Housing and Associated Marae Based Development provisions, adopted from the definition provided in the Te Puni Kokiri document 'A Guide to Papakāinga Housing', 2017. The Proposed District Plan provisions also provide for Māori land held under general title.

3.5 Decision-making

A series of presentations and discussion documents were presented to the District Plan Working Party Subcommittee on the Tangata Whenua Topic during the preparation of Draft / Proposed District Plan provisions. These are described in the following table:

Meeting	Document	Overview and Direction
26 September 2018	Overview of Tangata Whenua Chapters including proposed replacement / new chapters:	The committee considered the proposed new chapters. Dr Maaka provided text and guidance for the strategic provisions. The committee debated the best way to ensure Tangata Whenua issues could be addressed through the District Plan.
	 Tangata Whenua Values Wāhi Tapu, Wāhi Taonga and Sites of Significance Papakāinga and Kaumātua Housing and Marae-based Development Associated amended and new definitions Amended / new assessment matters Powerpoint presentation 	With respect to adoption of a cultural overlay the committee accepted there is currently insufficient information to provide for this, and that its development needs to be led by tangata whenua and hapu with the support of Council. The committee agreed that this should be a work in progress and a priority for a Plan Change in the near future.
16 March 2020	Reporting on public feedback to Tangata Whenua provisions	The issue of a cultural overlay was acknowledged, and as determined previously it was highlighted as a priority for a future Plan Change.

3.5.1 Reference to Other Relevant Evaluations

This section 32 topic report should be read in conjunction with the following other evaluations:

- Section 32 Overview Report
- Section 32 Coastal Environment Report
- Section 32 Ecosystems & Indigenous Biodiversity Report
- Section 32 Historic Heritage Report
- Section 32 Natural Features and Landscapes Report
- Section 32 Network Utilities & Renewable Energy Report
- Section 32 Rural Environment Report
- Section 32 Urban Environment Report
- Section 32 Remaining Chapters Report.

3.6 Resource Management Issues

The Operative District Plan does not contain any specific resource management 'issue statements' in relation to Tangata Whenua. Rather, it relies on reference to 'Areas of Concern to Tangata Whenua'.

Therefore, the TW - Tangata Whenua Chapter and other related provisions of the Proposed District Plan more clearly identify the resource management issues for tangata whenua in Central Hawke's Bay, based on guidance from Te Taiwhenua o Tamatea representatives on the District Plan Committee, the above mentioned research and discussions, and consultation and engagement with marae and hapu groups and Māori landowners.

3.6.1 Tangata Whenua

The table below details the key issues for Tangata Whenua:

Operative District Plan

3.1.1 Introduction

•••

Areas of Concern to Tangata Whenua

- effective protection and maintenance of those natural and physical resources of importance, such as coastal and inland waterways, areas of indigenous vegetation.
- protection of traditional food gathering sites (mahinga kai) from any use or development which may threaten the sustainability and natural characteristics of these areas.
- effective protection and, where necessary, restoration of continued public access to mahinga kai.
- effective protection of culturally significant sites and areas, such as burial sites, occupancy sites.
- recognition of the right of Tangata Whenua to be involved in all aspects of natural and resource management in the District, including ongoing involvement beyond the District Plan preparation process.
- recognition of traditional Tangata Whenua place names within the District.

Proposed District Plan

<u>TW – Tangata Whenua</u>

- TW-I1 The modification and degradation of lakes, rivers, springs and wetlands and traditional food gathering places (mahinga kai) that are central to the well-being of the hapū of Heretaunga Tamatea;
- TW-I2 The modification and degradation of the environment due to the introduction of weeds and pests, farm run-off, industrial pollution, and drainage works have severely damaged traditional food sources and mahinga kai.
- TW-I3 The loss of traditional lands has limited the ability of tangata whenua to access traditional sites and food gathering areas.

Providing for and enabling reasonable ongoing access to remaining sites of cultural significance and mahinga kai is important to tangata whenua – consideration of access to these sites needs to be included in any decisions affecting paper roads, stock routes, culverts and other developments. With the loss and alienation from ancestral lands, the provision/enabling of papakāinga housing,

kaumātua flats, marae-based development is important to enable tangata whenua to use their land in a way that is consistent with their culture and traditions and their social and economic aspirations.

TW-I4 Sites of cultural significance have been modified and lost due to disturbance – for example through earthworks, vegetation clearance and land disturbance activities e.g. harvesting etc.

TW-I5 Some activities in the vicinity of sacred/sensitive places of significance to tangata whenua, e.g. burial sites/urupā can cause significant offence.

Consideration of the segregation of food production activities, effluent and solid waste storage or disposal activities or outfalls, storage and use of hazardous substances, and earthworks activities from these sacred places is required.

TW-I6 Lack of and misuse of traditional place names has further alienated tangata whenua from their ancestral lands, water and sites of significance.

SASM - Sites and Areas of Significance to Māori

SASM-I1 Loss of Sites and Areas of Significance to Māori

The degradation or loss of wāhi tapu, wāhi taonga and sites of significance over time, and implications of this for the relationship of tangata whenua with their ancestral lands. Explanation

Sites that are significant to tangata whenua can be vulnerable to inappropriate land use and development when their location and values are not known or understood. Particular types of works that pose a threat to these site and areas are those that involve excavation or construction. Over time this has resulted in the loss of, or damage to, sites that are important to tangata whenua, and their protection is of ongoing concern. In addition, some land use practices can be offensive to cultural sites, such as the burial of offal or dead stock in close proximity to urupā.

Protection of site values and areas of cultural and spiritual significance to tangata whenua requires identifying and mapping these sites and areas and understanding their values. This process is led by tangata whenua who hold this information and knowledge.

PKH – Papakāinga and Kaumatua housing, and Associated Marae Based Development

PKH-I1 Obstacles to Developing Māori Land

Enabling Māori land to be used in a way that is consistent with cultural values, aspirations and customs in relation to traditional lands, water, sites, wāhi tapu and other taonga. Explanation

The process of developing Māori land for papakāinga and kaumātua housing and marae-based development is a difficult and complex process for whanau. Land ownership is complex and traditional land zoning provisions have not enabled this process. Recognising this issue, the District Plan seeks to remove planning obstacles and enable development that is sustainable, and in accordance with kaupapa Māori practices and tikanga.

Comment:

The Operative District Plan identifies 'areas of concern' that broadly reflect RMA matters to be provided for, however the proposed issues better reflect the environmental concerns of Ngā Tangata Whenua o Tamatea, including recognition of the importance of their relationship with the natural world, the impact of loss of traditional lands on their sites of cultural significance, and the need to provide for Māori land development in accordance with their customs and aspirations.

Following identification of issues, the Operative District Plan Tangata Whenua provisions were revised, and proposed provisions were developed as follows:

- Part 1 Introduction Tangata Whenua / Mana Whenua this introductory chapter seeks to assist plan users to engage constructively and productively with Ngāti Kahungunu in general, and specifically with the marae and hapū of Tamatea. It includes a waiata written specifically for the District Plan, telling the whakapapa of the founding Tupuna, ancestors, of Nga Tangata Whenua o Tamatea and provides details of the nine marae of the Tangata Whenua as well as the Waipukurau community Marae acknowledging the important role of Maori living in the area who are not of Tamatea heritage.
- <u>TW Tangata Whenua</u> This new chapter sets out the particular resource management issues relevant to Ngā Tangata Whenua o Tamatea, and provides objectives and policies to address these, including identifying implementation methods,
- <u>SASM Sites and Areas of Significance to Māori</u> This chapter replaces the current Tangata Whenua Rules in the Operative District Plan (Part 3.6) which is considered inadequate in meeting the requirements of the RMA and in addressing concerns as raised by Tangata Whenua. The proposed new chapter deals specifically with SASM, and provides objectives, policies and methods providing guidance to the community and Council on how landuse proposals that potentially impact SASM will be assessed, including rules pertaining to Wāhi Tapu, Wāhi Taonga and Sites and Areas of Significance to Māori as identified in SASM-SCHED4

Schedule of Wāhi Tapu, Wāhi Taonga and Sites and Areas of Significance to Māori, and shown on the Planning Maps.

<u>PKH – Papakāinga and Kaumātua Housing, and associated Marae Based Development</u>. This chapter seeks to enable Maori to utilise their whenua Māori in accordance with their aspirations. It provides a policy framework, methods and rules encouraging the development of whenua Maori for papakāinga and kaumātua Housing, as well as associated Marae-based development, with assessment being focused on amenity and servicing considerations.

Some refinements, as a result of feedback through the Draft Plan engagement process, have been made.

The following diagram, included in the Proposed Plan, summarises the areas of the Proposed District Plan that are particularly relevant to the resource management issues identified by Tangata Whenua:



4 Evaluation of Proposed Objectives

Section 32(1) requires an evaluation to examine the extent to which the objectives proposed are the most appropriate way to achieve the purpose of the RMA.

The following evaluates the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the RMA with respect to the sustainable management of wāhi tapu, wāhi taonga sites, sites and areas of significance to tangata whenua, papakāinga and kaumātua housing and associated Marae-based development in the District, and the issues identified in the previous section.

Proposed Objectives			
<u>TW - Tangata Whenua</u>			
TW-O1 The role of tangata whenua as kaitiaki in the protection and management of the natural and physical resources of an area is acknowledged and provided for.			
TW-O2 Enable the active participation of tangata whenua in all aspects of the implementation of the Central Hawke's Bay District Plan.			
TW-O3 Wāhi taonga and sites of significance to tangata whenua are managed and protected.			
TW-O4 Tangata whenua are able to protect, develop and use Whenua Māori in a way that is consistent with their culture and traditions and their social and economic aspirations.			
SASM - Sites and Areas of Significance to Maori			
SASM-O1 Recognise and provide for wāhi tapu, wāhi taonga sites and sites of significance in the District as being of cultural significance to tangata whenua through whakapapa, and ensure their protection from damage, modification or destruction from land use or other activities.			
SASM-O2 Protect wāhi tapu, wāhi taonga sites and sites of significance in a way that recognises the customary practices of tangata whenua.			

SASM-O3Develop partnership between the Council, landowners and tangata whenua in the management of wāhi tapu, wāhi taonga and sites of significance.

PKH - Papakāinga & Kaumātua Housing and associated Marae Based Development

- PKH-O1 To recognise the desire of Māori to maintain and enhance their traditional relationship with their land.
- PKH-O2 To provide for papakāinga development, kaumātua housing and associated Māori economic development on Māori Land.
- PKH-O3 To allow for hapū to develop papakāinga, kaumātua housing and engage in associated economic activity, while ensuring appropriate health, safety and amenity standards are met.

Comment	These objectives respond directly to the identified resource management issues for Tangata Whenua set out in the Proposed District Plan.			
	These objectives recognise the special relationship of Māori with their land and the natural environment. They seek to provide for active partnership in addressing the issues identified and encourage Māori participation in District Planning matters; to protect important sites and areas to Māori, in a way that is appropriate for them; and to enable use and development of whenua Māori (land) in a way that meets their aspirations and needs.			
Appropriateness (relevance,	Objectives TW-O1 and TW-O2 respond to Issues TW-I1 to TW-I4 and the important role of tangata whenua in the protection and management of the district natural resources.			
usefulness, achievability, reasonableness)	Council will be largely dependent on Tangata Whenua in identifying opportunities for how the role of tangata whenua as kaitiaki is acknowledged and provided for. These objectives directly respond to the matter of kaitiakitanga in section 7 of the RMA. This participation is achievable and reasonable and will be greatly assisted by an effective working relationship between Council and tangata whenua.			
	Objectives TW-O3, SASM-01, SASM-02 and SASM-O3 respond directly to Issue TW-I5 and are focussed on achieving greater protections for sites and areas of significance to Māori. Protection of sites and areas of significance to Māori are key 'matters of national importance' that must be recognised and provided for, and 'other matters' that must be given particular regard to, under sections 6 and 7 of the RMA. The achievement of this objective relies on identification of the sites and areas. Tangata Whenua hold the knowledge on these sites and areas. Council acknowledges that further work with Tangata Whenua is required to identify these sites, however, the inclusion of the proposed objectives will ensure that those sites that are currently identified will continue to be protected and a framework is in place for future sites to be added to SASM-SCHED3 - Schedule of Wāhi Tapu, Wāhi Taonga, and Sites and Areas of Significance to Māori. Objectives TW-O4, PKH-O1, PKH-O2 and PKH-O3 respond directly to Issue TW-I7 and direct the Plan to provide a more enabling approach to landuse on Māori whenua that will enable			
	Māori landowners to achieve their social and economic aspirations in line with their Māori world view. These objectives recognise and provides for tangata whenua to maintain and develop their traditional institutions, such as marae and papakāinga housing, which foster retention of the customs and traditions of Maori. This aim is reasonable and achievable as it supports the ongoing use and development of marae and papakāinga housing throughout the District.			
	<u>Summary</u> Given the above, the proposed suite of objectives is deemed appropriate in terms of achieving the purposes of the RMA, being the sustainable management of the District's resources, including taking into account the spirit and intent of the Treaty of Waitangi through recognising the need for strong partnerships to implement the District Plan, and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.			
	These objectives are in line with Council's functions under section 31 of the RMA, including establishment of objectives to achieve integrated management of the effects of the use, development, and protection of land and associated natural and physical resources of the District, and give effect to relevant Part 2 matters and relevant matters in the RPS, and is not inconsistent with the RPS/RRMP.			

Other Alternatives Considered	 Maintaining the status quo – being retention of the following existing objectives in the Operative District Plan: Part 3.1 Tangata Whenua Values 3.1.2(1) Recognition of a partnership between the Council and the Tangata Whenua in the management of the District's natural and physical resources. 3.1.2(2) Recognition of the importance of the relationship of the Tangata Whenua, their culture and traditions, with their ancestral lands, waters and sites, in the management of these resources within the District.
Preferred Options and Reasons	The proposed suite of objectives is the preferred option. These objectives clearly address the identified Tangata Whenua resource management issues and highlight the importance of good working relationships between Council and Ngā Tangata Whenua o Tamatea in implementing the Proposed District Plan. The proposed objectives are more specific about protection of cultural sites and areas and provide for the development of Māori land in a way that is currently not provided for in the Operative District Plan, thus recognising the aspirations of Tangata Whenua for use of their land. Therefore, this suite of objectives is deemed the most appropriate way to achieve sustainable management of the natural and physical resources (the purpose of the RMA), in that it will contribute to the economic, social and community wellbeing of the District, and responds directly to matter of national importance (S6(e)) and Council's Treaty of Waitangi responsibilities.

5 Evaluation of Proposed Provisions (Policies & Methods)

Section 32(1)(b) requires an evaluation of whether the proposed provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must if practicable quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

5.1 Identification of Reasonably Practicable Options

The other options that were deemed reasonably practicable for achieving the above Objectives of the Proposed Plan in relation to Tangata Whenua issues are:

- Retaining the Status Quo rely on the policies and methods currently contained in the Operative District Plan.
- Inclusion of Other Methods for Identifying Sites of Cultural Significance regulatory and /or non regulatory.

5.1.1 Evaluation of Option 1 – Status Quo (predominantly non- regulatory)

The status quo in the District Plan involves:

- 1. Retention of introduction section referencing RMA relationship obligations with Tangata Whenua.
- 2. Retention of Appendix C Schedule of Sites of Cultural Significance to Tangata Whenua and shown on the Planning Maps.
- 3. Retention of district wide Objectives and Policies related to partnership obligations and recognition of Tangata Whenua's special relationship with the land and a single rule requiring

resource consent as a discretionary activity for earthworks within any identified site of cultural significance unless permission from Tangata Whenua is obtained.

As outlined in the summary of provisions above, the District's tangata whenua values are identified in the Operative District Plan as a district wide activity and rules are limited to consideration of earthworks in relation to identified sites of cultural significance only. No other rules standards apply, nor are assessment matters provided for consideration of tangata whenua values if they are present, when applying for resource consent. The Operative District Plan does not recognise statutory acknowledgment areas or provide for any specific land use activities that enable Maori to use their traditional land in a way that aligns with their aspirations and needs. This results in in the default rule category applying to any such activities, which is often a discretionary or non-complying status, with a high threshold of assessment required.

The current Schedule of Sites of Cultural Significance to Tangata Whenua is limited in terms of number of sites identified and it is unclear from the schedule the value of respective sites and the reasons for their inclusion in the District Plan.

The current objective and policy framework for Tangata Whenua issues relies heavily on relationship development and engagement with Tangata Whenua.

Retaining the status quo would not be effective in terms of addressing the Tangata Whenua resource management issues that have been identified, nor meet the objectives of the Proposed District Plan.

This approach does not reflect the RMA framework that recognises the importance of resource management issues for Maori and the need to build strong relationships with tangata whenua to address these. This includes meeting Council's Part 2 obligations under Section 6 (e) and (g), Section 7(a) and (b) and Section 8 taking into account the Treaty of Waitangi, thus it is unlikely that retaining the status quo would meet the sustainable management purpose of the Act. Further it does not give effect to the RPS for integrated papakāinga and marae-based development or recognition of matters of significance to iwi/hapu.

For the above reasons, this option is <u>not</u> considered the most appropriate way to achieve the proposed objectives.

5.1.2 Evaluation of Option 2 – Inclusion of Other Methods for Identifying Sites of Cultural Significance – regulatory and /or non-regulatory

The other methods for identifying Sites of Cultural Significance approach involves:

1. Identifying a cultural overlay on the District Planning Maps indicating high likelihood of culturally important sites being present; and/or

Holding a 'silent file' identifying wāhi taonga, whose exact location has not been disclosed by tangata whenua.

- 2. Updating Operative District Plan Appendix C Schedule of Sites of Cultural Significance to Tangata Whenua.
- 3. District Plan rules and /or provisions addressing cultural values as part of consideration of resource consents.
- 4. Information exchange between all parties involved in the management and protection of wāhi tapu and wāhi taonga withing the District.
- 5. Policies and rules providing enabling development of māori land for pāpakainga, and kaumātua housing, and associated marae-based development.

One of the challenges in protecting sites and areas of significance to Māori is that Tangata Whenua do not always want the location of these important sites to be known. Applying a cultural overlay to areas of likely cultural significance is an effective method to trigger consideration of cultural matters when any proposed subdivision, land use or development is being considered.

An alternative method is a 'silent file' which operates in a similar manner, and involves a 'silent file' identifying wāhi taonga, whose exact location has not been disclosed by tangata whenua. The indication of sites in this manner, serves as a trigger for Council officers, to advise developers and landowners to engage with tangata whenua when works are could impact on cultural values.

Updating the current Operative Plan 'Schedule of Sites of Cultural Significance to Tangata Whenua' is also an effective method providing of the protection of these sites. It is acknowledged that the current list is likely incomplete, and that it does not provide sufficient information about the particular values of all identified sites.

As part of the review of the District Plan chapters relating to the protection of sites and areas of significance to Māori, the above options for identifying the general location of cultural sites were considered. The application of cultural overlays for this purpose was also requested as part of the submission from the Kairakau Lands Trust.

It was considered that, while there is opportunity for such an overlay or silent file to be developed, and acknowledging that the current schedule needs updating, this needs to come from engaging with, and receiving a mandate from, the District's hapu in terms of their cultural intellectual property. Given the sensitivity of such information, this would be best developed as 'a work in progress'. On this basis, it was decided that the development of this body of knowledge would be progressed outside of the current District Plan review process, with a view to investigating incorporation of an overlay on Council's GIS (i.e. outside of the District Plan) at some point in the future, if and when hapū are willing and able to contribute their information. This will enable such an overlay to be discussed at their pace and, if progressed, would enable continual refinement and additions to the overlay to take place progressively over time without the need for formal Plan Changes, whilst still providing an alert to landowners /developers /Council staff of the need to liaise with hapū.

Thus, while the Council acknowledges that overall, this is an effective method for protecting cultural sites and areas, the information to apply alternative methods of identifying sites and areas of significance to Maori are not currently available.

For the above reasons, this option is <u>not</u> considered the most appropriate way to achieve the proposed objectives.

5.1.3 Schedule of Sites and Areas of Significance to Maori (SASM)

Provision of a Schedule of SASM that identifies important sites and their values, along with mapping of these on the District Plan maps is a key method providing for protection of these sites. In particular the rules in the SASM chapter rely on such sites being identified. The loss of important sites has been an ongoing issue and so there is also a need for a regulatory approach. Whilst other methods are also provided (e.g. education and advocacy) these do not always result in the best outcomes for Tangata Whenua.

As acknowledged above, the existing schedule in the Operative Plan (and the proposed District Plan) is likely incomplete and has little to no information about the particular values or extent of the sites that are identified. Thirty-six of the items on this Schedule are also archaeological sites with cross referencing to the New Zealand Archaeological Association (NZAA) database number, and the remaining twenty-six items comprise urupa or wāahi tapu sites, two of which have cross referencing to the Heritage New Zealand Rarangi Kōrero list number, with the remaining items having no information other than a Planning Map location number. This level of information is insufficient and progressing the updating of this Schedule is a priority for Council. However, identification of important sites is a matter for Tangata Whenua to decide as they do not necessarily wish to disclose the location of all sites and need capacity and resourcing to provide this information. As Council's relationship with Ngā Tangata Whenua o Tamatea is developed and support is made available, this Schedule will be progressed.

In the interim, it is proposed that the existing Operative District Plan schedule remains in the Proposed District Plan to ensure that at least those sites that are identified have protection.

5.1.4 Summary

The evaluation above concludes that current approach in the Operative District Plan does not meet Council's obligations in Part 2 of the Act in particular Section 6 matters of national importance (e) & (g), Section 7 other matters (a) & (b) and Section 8 to take into account the Treaty of Waitangi, and thus would not meet the sustainable management purpose of the Act. Nor does it enable Maori to realise aspirations for development of whenua Māori, and therefore is not effective in achieving the objectives of the Proposed District Plan.

Similarly, inclusion of other methods for identifying sites of cultural significance and an associated policy and rule framework, requires the mandate from the District's hapu in terms of their cultural intellectual property, and working in partnership with Council, which is currently better placed to operate outside of the time constraints of the District Plan review process.

The preferred approach is one that:

- 1. Retains the existing schedule of sites and areas of significance to Maori until such time as updated information to amend the schedule is available;
- 2. Applies District Plan rules and /or provisions addressing cultural values as part of consideration of resource consents;
- 3. Provides for information exchange between all parties involved in the management and protection of wāhi tapu and wāhi taonga withing the District; and
- 4. Provides policies and rules enabling development of Māori land for pāpakainga, kaumātua housing, and associated marae-based development.

This approach achieves the objectives of the Proposed District Plan, and gives effect to Policy 2 of the NZCPS as well as the RPS, without duplicating other legislative requirements or regional council functions.

5.2 Evaluation of Proposed Policies and Methods

Building on the approach to evaluation in Section 3 of this report, including background research, approach to evaluation, and iterative process including public feedback on informal submissions to the Draft District Plan, this section of the report provides a summary evaluation of the provisions in terms of assessing their efficiency and effectiveness in achieving the objectives.

In undertaking this assessment, the emphasis is on the issue(s), and the policies and methods proposed to achieve the objective(s) surrounding the issue.

As per section 32(1)(c), the evaluation below contains a level of detail that corresponds to the scale and significance of the effects that are anticipated from the implementation of the provisions.

Issue(s)		TW-I1	The modification and degradation of lakes, rivers, sprir kai) that are central to the well-being of the hapū of He	gs and wetlands and traditional food gathering places (mahinga retaunga Tamatea.	
		TW-I2 The modification and degradation of the environment due to the introduction of weeds and pests, farm run-off, industrial pollution, and drainage works have severely damaged traditional food sources and mahinga kai.			
		TW-I3	TW-I3 The loss and alienation of ancestral lands has limited the ability of tangata whenua to access traditional sites and food gathering areas, and to meet their social and economic aspirations.		
				s to remaining sites of cultural significance and mahinga kai is as to these sites needs to be included in any decisions affecting ents.	
		TW-I6	Lack of and misuse of traditional place names has furt and sites of significance.	her alienated tangata whenua from their ancestral lands, water	
Associated Objective(s)		TW-O1 and TW-O2			
Propose	Proposed Suite of Provisions		Effectiveness and Efficiency		
		Benefit	S	Costs	
Policies:		Enviror	mental:	Environmental:	
TW-P1	To provide for timely, effective and meaningful engagement with tangata whenua in resource management decision-making and implementation where tangata whenua are interested and/or affected.		pposed provisions set out how Council seek t their RMA responsibilities with respect to	No obvious environmental costs associated with the proposed provisions.	
TW-P2	To recognise that only tangata whenua can identify their relationship with their culture, traditions, ancestral lands, waterbodies, wāhi tapu and other taonga.	their relationship with Tangata Whenua as kaitiaki of the natural and physical environment.			
TW-P3	To acknowledge and recognise iwi/hapū management plans as a mutually appropriate means of achieving sustainable environmental outcomes.	· ·	stablish a clear intent as to how Tangata a are to be involved in decision-making and		
TW-P4	To encourage and support the recognition and use of traditional place names and the use of interpretive material.	how the	e relationship of Māori with land, water, sites as of cultural and spiritual significance, wāhi		

TW-P6	To identify those areas where there was traditional and customary Māori use of lands and waterways within the District and implement procedures	tapu and other taonga is to be recognized and	
	for tangata whenua involvement regarding any proposal to disturb ground	provided for.	
	in and around the identified areas.	The partnership accord, Tūhono mai Tūhono atū	
TW-P8	To maintain and enhance public access to the District's public forests and	between Te Taiwhenua o Tamatea and the Council	
	significant waterways, wetlands and coastal areas, having regard to their	is an important method for progressing this.	
	traditional importance as mahinga kai.		
NFL-P1	To identify the District's outstanding natural features and landscapes	Other methods also recognise the rights and	
	having regard to the following criteria:	responsibility established through Heretaunga	
	 associational factors, including historical associations, value to 	Tamatea Claims Settlement Act 2018 and managed	
	tangata whenua, and whether the values are shared and	by the Heretaunga Tamatea Treaty Settlement	
	recognised.	Trust, the statutory functions of Hawke's Bay	
NFL-P3	To protect the District's outstanding natural features and landscapes by:	Regional Council with respect to pest management,	
		and management of activities affecting the quality	
	3. recognising the role of tangata whenua as kaitiaki over those	of air and water, the opportunities provided by the	
	outstanding natural features and landscapes which have cultural association.	RMA Mana Whakahono ā Rohe provisions and	
Methods		future iwi/hapū management plans, and other	
	Takana mai Takana ata	information sources that will help guide decisions on	
	Tühono mai Tühono atū enua o Tamatea and the Council have an active and ongoing relationship to	resource consents.	
	reas of mutual interest. This is evident by the first Maori Engagement Strategy	Economic:	Economic:
	mai Tūhono atū'), adopted in August 2020 by the Central Hawke's Bay District		
Council.	an Tubono atu, developed with the support of To Tojubonus o Tamatas	No obvious environmental costs associated with the	There are resourcing costs Tangata Whenua and
Tūhono mai Tūhono atū, developed with the support of Te Taiwhenua o Tamatea, recognizes the special status of mana whenua and takes into account the Te Tiriti o		proposed provisions.	Council associated with responding to and
	in resource management making processes as well as increasing cultural	There are economic benefits in policies and	participating in RMA processes.
	nd capability of Council to effectively engage with Tangata Whenua.	methods that give tangata whenua greater	
	tment of the Pou Whatuia, a Māori Engagement Manager, for Council to focus ip-building between the Council and Tangata Whenua, is another progressive	connection with their ancestral lands, and that	
	nsolidating this partnership.	reflect their aspirations of use of this land.	
	The Heretaunga Tamatea Claims Settlement Act 2018		
As a conse	equence of the settlement, hapū have certain conservation estate rights and	Social:	Social:
	lities. These rights and responsibilities managed by the Heretaunga Tamatea		
Treaty Settlement Trust or its successor, are listed under the following categories: 1. Fee simple sites.		Enabling Māori to be part of decisions that affect	No obvious social costs associated with the
2.	Sites administered as Recreation Reserves.	them gives effect to the principles of the Treaty of	proposed provisions.
3.	Overlay Areas, which recognise the cultural, spiritual and historical	Waitangi and addresses issues of significance to	
	association of Tamatea and Heretaunga sites of significance and requires the	tangata whenua in the District. This benefits the	
	New Zealand conservation authority to have particular regard to Heretaunga Tamatea values and protection principles.	wider community through creating mutual	
		understanding of cultural values.	1
4.	Statutory Acknowledgement Areas, which acknowledge Heretaunga		
4.			

1		
New Zealand Pouhere Taonga Act 2014. These statutory acknowledgement areas are scheduled in TW-SCHED1 – Schedule of Statutory	Cultural:	Cultural:
Acknowledgement Areas and shown on the Planning Maps.		
5. Deed of Recognition Areas, which require the Crown to consult with	The propose provisions provide for greater	No obvious cultural costs associated with the
Heretaunga Tamatea in the management of lands administered by the	participation by Tangata Whenua in District Plan	proposed provisions.
Department of Conservation or the Commissioner of Crown Lands.	matters and recognises their role as kaitiaki of the	
TW-M3 Mana Whakahono ā Rohe	land. This will assist in maintaining and enhancing	
Central Hawke's Bay District Council welcomes the opportunities provided by the Mana	their connection with the natural environment,	
Whakahono ā Rohe provisions introduced through the 2017 Amendments to the RMA,	ancestral land and water and sites and restoring	
and believes that reaching an agreement with iwi relating to consultation required under the Act, including giving effect to relevant Treaty settlements, will mark a	mana.	
significant and important development in the relationship between tangata whenua and	india.	
the Council.		
At the time of the production of this District Plan, the Council has not yet received an		
application from iwi to develop a Mana Whakahono ā Rohe. It is anticipated during the		
life of this District Plan (10 years from adoption) that iwi may wish to invite Council to		
form a Mana Whakahono \bar{a} Rohe to provide an agreed approach on the ways tangata		
whenua can participate in RMA decision making and assist Council with its statutory		
obligation to tangata whenua under the RMA.		
TW-M4 District Plan		
Tangata whenua matters are addressed throughout the chapters of the Plan, as		
summarised below.		
Ngā Tangata Whenua o Tamatea		
Rga rangala whenda o rannalea		
SASM - Sites and Areas of Significance to Mapri		
Significance to Maori based Development		
CE - Coastal Natural EW - HAZS - Area-Specific SUB - Environmental Earthworks Hazardous Autors - Bubdivision		
Construction Values Contraction Values Contractions Values Contractions		
3. <u>Other District Plan Rules and Standards:</u> Earthworks, land-use activities and setback standards, outstanding natural features and landscapes provisions,		
significant natural area provisions, coastal environment provisions and general		
zone provisions, all collectively assist in addressing issues of concern for Ngā		
Tangata Whenua o Tamatea.		
4. District Plan Assessment Matters and Conditions on Resource Consents: To		
ensure the adverse effects of land use, subdivision or development are		
avoided, mitigated or remedied on sites and areas of cultural and spiritual		
significance, as well as in recognising and providing for the relationship of tangata whoma with their culture and traditions (including mauri) ascertral		
tangata whenua with their culture and traditions (including mauri), ancestral		<u> </u>

	lands, water, sites and areas of cultural and spiritual significance, wāhi tapu and other taonga in all decision-making.	
includin Manage (Hawke Plan), w	Hawke's Bay Regional Council Functions Bay Regional Council has various statutory functions and responsibilities g for regional pest management purposes (Hawke's Bay Regional Pest ment Plan), and management of activities affecting the quality of air and water s Bay Regional Resource Management Plan and Regional Coastal Environment hich specifically address issues such as introduction of weeds and pests, farm industrial pollution, and drainage works.	
	ncil will liaise with neighbouring hapū and councils in ensuring hapū in the uring Hastings and Tararua Districts are considered, where their interests	
Plans. V	ncil will encourage the preparation and lodgement of lwi/Hapū Management /here the plans have been lodged with the Council, Council will be guided by ntents to the extent that they are relevant to the resource management issues	
TW-M8	Information	
	owing are sources of further information:	
L.	Ngāti Kahungunu Iwi Inc. website (www.kahungunu.iwi.nz): This website	
	provides information relating to the various hapū comprising Ngāti	
	Kahungunu, including those in the Tamatea rohe;	
	Maori Land Online (www.maorilandonline.govt.nz): This website provides a snapshot of current ownership, trustee, memorial and block information for	
	land that falls within the jurisdiction of the Māori Land Court under Te Ture	
	Whenua Māori Act 1993 and other legislation. This is primarily Māori	
	Customary and Maori Freehold Land, but also includes General Land Owned	
	by Māori, Crown Land Reserved for Māori and some Treaty settlement	
	reserves, mahingā kai and fishing rights areas.	
	Pātaka (Māori Resource Management Mapping Tool): This tool uses digital	
	mapping to show the location and extent of iwi and hapū resources in Hawke's	
	Bay developed by Hawke's Bay Local Authority Shared Services Ltd (HBLASS)	
	and accessed from the Hawke's Bay Regional Council website	
	(www.hbrc.govt.nz). Pātaka brings together all the information held by local and regional councils	
	and gives tangata whenua a resource to assist with their roles as this region's	
	kaitiaki. It includes the location and contact information for each local marae,	
	customary marine titles, protected customary rights and any iwi/hapū	
	management plans that are available.	

The proposed provisions that seek to encourage participation in District Plan processes that affect Tangata Whenua and respond to Māori values associated with the natural environment, sites of significance and enabling provisions for developing Maori land, will need resourcing and may result in opportunities which could lead to creation of jobs.

Summary of efficiency and effectiveness of the provisions in achieving the objectives

The proposed provisions are considered efficient and effective in addressing the issues identified and generally provide an efficient way to achieve TW-O1, TW-O2 and SUB-O1. The primary benefits of the methods are that they establish a consistent policy framework within which tangata whenua representation is involved in resource management decision making. The proposed provisions recognise and provide for the relationship of Māori with land, water, sites and areas of cultural and spiritual significance, sites, wāhi tapu and other taonga and are therefore consistent with RMA matter of national importance section 6(e). The proposed provisions also demonstrate having regard to 'other matters' including the kaitiakitanga (section 7(a)) and the ethic of stewardship (section 7(b)) as well as reflect Council's Treaty of Waitangi obligations consistent with section 8 of the RMA. This approach promotes certainty around the desired level of iwi involvement in resource management decision making.

Issue(s) Associated Objectives		 TW-I4 Sites of cultural significance have been modified and lost due to disturbance – for example through earthworks, vegetation clearance and land disturbance activities e.g. harvesting etc. TW-I5 Some activities in the vicinity of sacred/sensitive places of significance to tangata whenua, e.g. burial sites/urupā can cause significant offence. Consideration of the segregation of food production activities, effluent and solid waste storage or disposal activities or outfalls, storage and use of hazardous substances, and earthworks activities from these sacred places is required. TW-03, SASM-01, SASM-02 and SASM-03, SUB-01 		
Proposed Suite of Provisions		Effectiveness and Efficiency		
Policios		Benefits	Costs	
Policies: TW-P7 TW-P9 SASM-P1 SASM-P2 SASM-P3	 Where there is no agreed procedure between tangata whenua and the resource user, to implement procedures in conjunction with the tangata whenua when any burial sites or Māori artefacts are unearthed or disturbed. To control land development, subdivision, earthworks or other disturbance activities so as to avoid, remedy or mitigate any adverse effects on wāhi tapu and other taonga. To continue to identify, in partnership with tangata whenua, land within the District which contains wāhi tapu, wāhi taonga and sites of significance. To ensure activities do not adversely affect the values of wāhi tapu and wāhi taonga sites and sites of significance. To promote a greater awareness and understanding of wāhi tapu and wāhi taonga sites and sites of significance of importance to tangata whenua. 	Environmental: Whilst there are only a limited number of sites and areas of Significance to Maori identified in SASM SCHED3, this does provide some certainty for these sites as to works and activities that can be undertaken without resource consent, which can provide a higher level of flexibility in the use and development of land. In addition, increased general awareness of sites/areas of cultural significance may assist in their protection.	Environmental: The main costs associated with the proposed provisions is the potential loss or deterioration of sites and areas of cultural significance due to uncertainty regarding the location, nature and scale of these sites/areas. For non-regulatory and voluntary methods, Council and/or landowners are likely to incur costs in funding these initiatives.	

SASM-P4	To notify and consult with tangata whenua on applications received by the Council for subdivision consents and resource consents relating	Economic:	Economic:
	to proposals affecting or potentially affecting a wāhi tapu or wāhi taonga site or site of significance identified in SASM-SCHED3 and shown on the Planning Maps.	Where heritage items are maintained and enhanced there is potential to increase the value of that item.	Cost involved in obtaining sufficient information and knowledge to understand the relationship of
SASM-P5	To establish a schedule of key hapū / tangata whenua representatives who will be notified of, or consulted on, applications received for subdivision consents or resource consents relating to proposals affecting or potentially affecting wāhi tapu or wāhi taonga.		Maori with land, water, sites and areas of cultural and spiritual significance, wāhi tapu and other sites of taonga.
SUB-P2	To provide for subdivision of land to create in-situ Lifestyle Sites in conjunction with the legal and physical protection in perpetuity of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (including Significant Natural Areas identified in ECO-SCHED5), sites and areas of significance to Māori (identified in		Costs to landowners who may now be required to obtain a cultural assessment when developing in proximity to identified sites or areas of significance to Māori located on their land.
Methods	SASM-SCHED3), and historic heritage items (identified in HH-SCHED2).		There are administrative costs (in applying for
TW-M4 Di	istrict Plan nua matters are addressed throughout the chapters of the Plan, as below. Ngā Tangata Whenua o Tamatea		resource consent) and potentially opportunity costs for landowners undertaking activities that involve offal pits, burial of dead stock or plant waste, or effluent storage or disposal fields within 100 metre of a site identified in SASM SCHED3.
	PKH - Papakāinga & Kaumātua	Social:	Social:
S, CE-Coastal	ASM - Sites and Areas of Significance to Maori Natural HAZS - Area-Specific SUB -	Council acts to give effect to the principles of the Treaty of Waitangi and to address an issue of significance to tangata whenua in the District.	No obvious social costs associated with the proposed provisions.
Environment	Values Earthworks Hazardous Zones Provisions		
of o	hi Tapu, Wāhi Taonga and Sites of Significance: All matters concerning sites cultural, historical and spiritual significance to Ngā Tangata Whenua o	Cultural:	Cultural:
and in S HH- Maj Spe Dist Plar Arcl (<u>ww</u> arch Tao	hatea are addressed in the SASM – Sites and Areas of Significance to Maori I HH – Historical Heritage sections of this District Plan. Sites are contained ASM-SCHED3 – Schedule of Sites and Areas of Significance to Maori and -SCHED2 – Schedule of Heritage Items, and are mapped on the Planning ps. In addition, the Heritage New Zealand Pouhere Taonga Act 2014 cifically deals with archaeological sites. Recorded archaeological sites in the trict as at the date of notification of this District Plan are mapped on the nning Maps (current up-to-date records can be found on the New Zealand haeological Association's Archaeological Site Recording Scheme website ww.archsite.org.nz). Under that Act, it is an offence to modify or destroy an haeological site without an Authority from Heritage New Zealand Pouhere nga.	These provisions are likely to result in enhanced cultural wellbeing by protecting significant sites of importance to Tangata Whenua.	No obvious cultural costs associated with the proposed provisions.
Dev	relopment: All matters concerning provision for papakāinga & kaumātua ising and marae-based development are addressed in the PKH - Papakāinga		

and Kaumātua Housing and Associated Marae-Based Development section of this District Plan.

- 3. <u>Other District Plan Rules and Standards:</u> Earthworks, land-use activities and setback standards, outstanding natural features and landscapes provisions, significant natural area provisions, coastal environment provisions and general zone provisions, all collectively assist in addressing issues of concern for Ngā Tangata Whenua o Tamatea.
- 4. <u>District Plan Assessment Matters and Conditions on Resource Consents:</u> To ensure the adverse effects of land use, subdivision or development are avoided, mitigated or remedied on sites and areas of cultural and spiritual significance, as well as in recognising and providing for the relationship of tangata whenua with their culture and traditions (including mauri), ancestral lands, water, sites and areas of cultural and spiritual significance, wāhi tapu and other taonga in all decision-making.

SASM-M1 Identification and Mapping of Wāhi Tapu, Wāhi Taonga and Sites of Significance

Identifying sites and areas of significance to Māori in SASM-SCHED3 in the District Plan and showing them on the relevant Planning Maps.

SASM-M2 Other Provisions in the District Plan

Other sections of the District Plan contain additional rules and standards applying to applying to wāhi tapu, wāhi taonga and sites of significance:

- ECO Ecosystems and Indigenous Biodiversity identifies those areas of the Central Hawke's Bay District that have special natural heritage values (indigenous vegetation, habitats of indigenous fauna, riparian values). Many of these areas are also of special spiritual, historic or cultural significance to tangata whenua and assessment matters are provided to ensure these values are taken into account when considering resource consent applications in relation to these areas.
- 2. NFL Natural Features and Landscapes identifies those areas of the Central Hawke's Bay District that have outstanding or significant landscape values. Many of these landscapes and features are also of special spiritual, historic or cultural significance to tangata whenua and assessment matters are provided to ensure these values are taken into account when considering resource consent applications in relation to these natural landscapes and features.
- 3. SUB Subdivision includes rules relating to subdivisions containing wähi tapu and wähi taonga, and ensuring building platforms, servicing infrastructure and any development recognises and ensures that wähi tapu and wähi taonga are protected from modification or any further disturbance.
- EW Earthworks assessment matters are provided to ensure these spiritual, historic and cultural values are taken into account when considering resource consent applications affecting wāhi tapu, wāhi taonga and sites of significance.
- 5. HH Historic Heritage in addition to the wāhi tapu, wāhi taonga and sites of significance identified in SASM-SCHED3, there are also wāhi tapu registered under the Heritage New Zealand *Pouhere Taonga* Act 2014. These are listed in the District Plan in HH-SCHED2 and shown on the Planning Maps. Recorded

archaeological sites (as at the date of notification of this District Plan) are also shown on the Planning Maps. Contact with Heritage New Zealand *Pouhere Taonga* is advised in such instances.

District Plan Rules:

- Rules SASM-R1 SASM-R5 in the SASM chapter permit certain activities within wāhi tapu, wāhi taonga or sites or areas of significance identified in SASM-SCHED3 subject to conditions (maintenance and enhancement works, burials (in urupa), limited works relating to network utilities, maintenance of existing farm fences and tracks). Where conditions are not met activities fall to restricted discretionary status.
- Rule SASM-R6 provides for activities that involve offal pits, burial of dead stock or plant waste, or effluent storage or disposal fields within 100 metre of a site identified in SASM SCHED3 as restricted discretionary.
- Rule ECO-R3 allows for the removal of up to 25m³ of timber per site per 10year period of indigenous vegetation inside any area of significant indigenous vegetation and/or significant habitat of indigenous fauna (excluding natural wetlands) for use by tangata whenua for cultural purposes.
- Rules SUB-R1, SUB-R5 & SUB-R7 make it 'discretionary activity' if it contains part or all of a Site or Area of Significance to Māori in HH-SCHED3.
- Rules SUB-R4 makes it a 'restricted discretionary activity' if it contains part or all of a Site or Area of Significance to Māori in HH-SCHED3.

Assessment Matters:

 Assessment Matters (for consideration as part of resource consent applications) relating to potential effects on cultural values and significant cultural sites (wāhi tapu, wāhi taonga and sites of significance) are provided in a number of chapters including ECO – Ecosystems and Indigenous Biodiversity, NFL – Natural Features and Landscapes, SUB – Subdivision, EW – Earthworks, and various Area Specific Matters (Zones).

Opportunities for economic growth and employment

The are no likely opportunities for economic growth and employment as a result of these provisions.

Summary of efficiency and effectiveness of the provisions in achieving the objectives

The proposed provisions are significantly constrained in achieving objectives TW-O3, SASM-O1, SASM-O2 and SASM-O3, SUB-O1 until such time as sites can be effectively identified and included in the District Plan in such a way to provide the protection afforded to them by the proposed provisions. The proposed provisions do however provide protection for sites that are already identified in a way that is consistent with Section 6(e) of the RMA.

Issue(s) Associated Objectives		 TW-I3 The loss and alienation of ancestral lands has limited the ability of tangata whenua to access traditional sites and food gathering areas, and to meet their social and economic aspirations. With the loss and alienation from ancestral lands, the provision/enabling of papakāinga housing, kaumātua flats, marae-based development is important to enable tangata whenua to use their land in a way that is consistent with their culture and traditions and their social and economic aspirations. PKH-11 Obstacles to Developing Māori Land Enabling Māori land to be used in a way that is consistent with cultural values, aspirations and customs in relation to traditional lands, water, sites, wāhi tapu and other taonga. TW-04, PKH-01, PKH-02 and PKH-03 		
	Suite of Provisions	Effectiveness a	and Efficiency	
		Benefits	Costs	
Policies: TW-P5 PKH-P1 PKH-P2	To recognise and provide for development of, and a range of activities on, Māori Land to meet the needs and aspirations of tangata whenua, while ensuring that actual or potentially adverse effects of activities are avoided, remedied or mitigated. Encourage hapū, whānau and marae to establish Master Plans as a guide to development on Māori Land in accordance with the provisions of the RMA and the District Plan. Allow for papakāinga development and kaumātua housing on general title where there is a historical ancestral connection to the land and an expectation that the land will remain in Māori ownership in the long	Environmental: No obvious environmental benefits associated with the proposed provisions, other than through the rules and standards that ensure potential adverse effects on the environment of providing for papakāinga housing, kaumātua flats and marae- based development are avoided remedied and mitigated.	Environmental: No obvious environmental costs associated with the proposed provisions.	
РКН-РЗ	term. Provide for papakāinga development and kaumātua housing on Māori Land subject to adverse effects being avoided, remedied or mitigated.	Economic: The proposed provisions enable development of	Economic: There will be some costs associated with applying	
PKH-P4	Encourage papakāinga developments and kaumātua housing, to adopt whichever servicing methods are suitable for individual site conditions and, where possible, the use of communal infrastructure.	ancestral whenua māori, in line with māori aspirations in a way that provides for their economic wellbeing at a whanau and hapū level.	for resource consent for development of ancestral land.	
РКН-Р5	Allow for the establishment and development of cottage industry and commercial activities provided they relate to papakāinga development and kaumātua housing, in a manner that complements the principles of tikanga and kaitiakitanga.	Social: The proposed provisions will likely result in	Social: No obvious social costs associated with the	
РКН-Р6 РКН-Р7 РКН-Р8	To allow for hapū to develop papakāinga and kaumātua housing, while ensuring appropriate health, safety and amenity standards are met. Control the impact of papakāinga developments and kaumātua housing on adjoining activities, the community and the environment, in a manner that complements the principles of tikanga and kaitiakitanga. Control papakāinga developments and kaumātua housing to protect residential amenity within the site, in a manner that complements the principles of tikanga and kaitiakitanga.	enhanced well-being through increased self- reliance, and through enabling more housing opportunities and small scale commercial and industrial activities, which provides opportunity for iwi and hapu development.	proposed provisions.	

РКН-Р9	Ensure that adequate sunlight and daylight is available to papakāinga developments and kaumātua housing.	Cultural:	Cultural:
PKH-P10	Ensure that open space, service areas, access and parking are provided for papakäinga developments and kaumātua housing.	These provisions will likely result in enhanced cultural wellbeing by enabling the use and	No obvious cultural costs associated with the proposed provisions.
PKH-P11	Ensure that the privacy of residential units is maintained.	development of ancestral lands, as well as enabling	
Methods		kaitiakitanga, whanaungatanga and rangatiratanga.	
Other sec	Other Provisions in the District Plan tions of the District Plan contain additional rules and standards applying to n the respective zones:		
The Hawk the locatio kaumātua PKH-M3	Regional Policy Statement e's Bay Regional Policy Statement includes objectives and policies guiding onal constraints and servicing requirements for papakāinga housing, flats and associated marae-based development within the District. Assistance with Master Plans		
establishr	sistance to marae through the establishment of Master Plans. The nent of Master Plans is useful to the Council's decision-making process; aff expertise and relevant information will be made available to facilitate the		
	f these Plans.		
a.	 A Master Plan is anticipated to provide the following detail: i. location of house sites and availability of land for future house sites with consideration given to retaining the potential of any residual land; ii. location of structures other than dwellings; iii. how compatible the layout and design of any buildings are with any other buildings or services that are present or planned on the site; iv. areas of the site proposed to be devoted to rural productive activities or other employment generating activities; v. location of any community facilities, industrial or commercial buildings; vii. location of access ways and internal roading network. viii. identification of, and avoidance or mitigation of the risk from natural hazards, such as erosion, falling debris, subsidence, slippage, or inundation from any source when considering the location of buildings and other structures; and ix. how the principles of tikanga and kaitiakitanga have been incorporated into the development. 		
b.	 For papakāinga developments of more than 5 dwellings, it is anticipated the following additional details will be provided: location of communal open spaces; elevations and detailed description of the character, scale and intensity of community facilities, and industrial and commercial activities proposed to be undertaken in any building or buildings; how the development will be landscaped to mitigate the visual effects of clustered housing development in a rural area; 		

iv. how the development can meet servicing requirements including the	
incorporation of Low Impact Urban Design Principles and the	
Engineering Code of Practice.	
PKH-M4 Te Ture Whenua Māori Act 1993	
This Act provides for the classification of land as Māori Land. The District Plan	
recognises Māori Land for the purpose of papakāinga and kaumātua housing, and	
associated marae-based development.	
PKH-M5 Non-Statutory Guides Reference to papakāinga development guides such as Te Puni Kōkiri's 'A Guide to	
Papakāinga Housing' (2017) and Hastings District Council's 'Papakāinga Development	
Guide' (2008)	
PKH-M6 Engineering Code of Practice	
Central Hawke's Bay District Council uses the Hastings District Council Engineering	
Code of Practice. The Engineering Code establishes standards and guidelines for land	
levelopment and the provision of roading and service infrastructure which can be	
sed as a means of compliance with the objectives, policies, and rules of the District	
Plan.	
District Plan Rules:	
 Rule PKH-R1 provides for accessory buildings to residential units as a permitted activity subject to standards. 	
 Rules PKH-R2 and PKH-R3 provide for papakāinga and kaumātua housing on 	
ancestral land; and industrial activities and commercial activities ancillary to	
papakāinga and kaumātua housing and marae-based activities on the site,	
land as controlled activities, subject to standards to protect amenity, reverse sensitivity, appropriate access parking and loading etc.	
- Rule PKH-R4 provides for Papakāinga and kaumātua housing on land held	
under General Title not already provided for as a discretionary activity.	
Assessment Matters:	
- Assessment Matters (for consideration as part of discretionary resource	
consent applications) relating to potential effects of development associated	
with papakāinga and kaumātua housing (including where this may involve	
relocated housing) are outline in this Chapter.	

The enabling of development of whenua Māori land provides opportunity for employment associated with building and servicing infrastructure development as well as for economic growth opportunities through better enabling establishment of small scale commercial and industrial activities on ancestral land.

Summary of efficiency and effectiveness of the provisions in achieving the objectives

The proposed provisions are considered efficient and effective in addressing the issues identified and generally provide an efficient way to achieve TW-O4, PKH-O1, PKH-O2 and PKH-O3. The primary benefits of the methods are that they encourage the development of Māori ancestral land in accordance with their aspirations while ensuring rural amenity, reverse sensitivity, access and transport issues are appropriately addressed.

5.3 Adequacy of Information and Risks of Acting or Not Acting

Section 32(2)(c) states that an evaluation report must assess the risk of acting of not acting if there is uncertain or insufficient information about the subject matter of the provisions.

It is acknowledged that there is incomplete information relating to identification of sites and areas of significance to Māori, both in that the list of sites and areas is likely to be incomplete, and that the information held about the existing sites, in terms of their exact extent, location and values is somewhat lacking. It is acknowledged that there is some risk in acting to regulate land uses in or near listed sites, in that landowners may be required to obtain resource consent for activities where that may not be justified by actual effects on a valued site. There are acknowledged costs and delays associated with that requirement. However, it is considered that there is significant risk in not acting to put in place provisions to protect those sites that are identified, in terms of the risk of ongoing loss or modification of these sites. Thus, a framework for their protection has been identified and as Council works with Tangata Whenua to build relationships and capacity, more information about the listed sites will be gathered (and the list refined if necessary) and other sites will be added.

For other matters relating to the Tangata Whenua provisions of the Proposed District Plan it is considered that Council has sufficient information to determine the provisions. Therefore, there is no assessment of risk associated with acting or not acting in respect of these other associated provisions in the Proposed District Plan.

5.4 Quantification

Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.

Exact quantification of the costs and benefits was not considered practicable, given the application of the provisions across the District and the differing circumstances that will apply through the life of the Plan. Any attempt at quantifying the costs and benefits would therefore be speculative and would not provide any real assistance in assessing the proposed provisions.

5.5 Summary

Given the evaluation above, the proposed provisions (policies and methods) are deemed the most appropriate way to achieve the objectives relative to the other reasonably practicable options considered.

The proposed policies and methods give effect to section 6(e) matters, have particular regard to section 7(a) and (b) other matters, and take into account the principles of the Treaty of Waitangi as required by Section 8 in a way that achieves the proposed objectives, through:

- Setting out the local iwi (Ngāti Kahungunu) and hapu relationships (the marae and hapū of Tamatea) as the basis for engaging constructively and productively on District Plan matters.
- Listing the Statutory Acknowledgement Areas in a dedicated schedule (TW-SCHED1).
- Identifying the primary resource management issues currently facing Nga Tangata Whenua o Tamatea and providing a framework for addressing these.
- Setting out expectations for Council and the community to engage with Tangata Whenua as kaitiaki of the natural and physical environment, and on decisions that impact on their relationship with the cultural values and important cultural sites.
- Retaining the existing Operative District Plan list of sites and areas of significance to Maori in a dedicated schedule (SASM-SCHED3) and showing these sites on the Planning Maps until such time as a more accurate list can be developed.

- Providing an SASM Sites and Areas of Significance to Maori chapter with policies and applying restricted discretionary rules specifically addressing the protection of important sites and areas.
- Providing a PKH Papakāinga and Kaumātua Housing and Associated Marae Based
 Development chapter applying controlled activity rules for the development of whenua māori
 land to enable māori to develop their ancestral lands in accordance with their aspirations.
- Providing assessment criteria for consideration in resource consent decision-making in chapters ECO – Ecosystems and Indigenous Biodiversity, NFL – Natural Features and Landscapes, SUB – Subdivision, EW – Earthworks, and various Area Specific Matters (Zones).

The Tangata Whenua provisions are a significant change from those in the Operative District Plan. On balance, the evaluation indicates that the benefits of the proposed District Plan provisions outweigh the costs.

6 RMA Schedule 1, Clause 4A Regard to Advice from Iwi

Schedule 1 of the RMA sets out the process for the preparation of plans by local authorities. Before notifying a proposed plan, Council is required under clause 4A, to:

- (a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and
- (b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

Clause 4A(2) requires that:

'When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.'

Section 32(4A) also requires that the Section 32 Evaluation Report must -

- (a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and
- (b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.

In addition to the iwi consultation outlined in section 3.3 of this report above, the following table summarises the consultation undertaken by Council under clause 4A, Schedule 1 requirements:

Relevant Iwi Authority	Contact with iwi representatives*	Advice Received	Response to Advice	Hui
Ngāti Kahungunu lwi Authority	13/01/ 2021 26/01/2021 6/05/2021	No formal advice received to date Council advised to engage directly with Marae / hapū	Nil	-
Heretaunga- Tamatea Settlement Trust	14/01/2021 22/01/2021	No advice received to date	Nil	CHB Staff attended hui on 11 Feb 2021
Te Taiwhenua o Heretaunga	22/01/2021 26/01/2021 27/01/2021	No advice received to date	Nil	Council advised to send copy of District Plan to all Marae/ hapū

Relevant Iwi Authority	Contact with iwi representatives*	Advice Received	Response to Advice	Hui		
Marae/Hapū						
Rongomaraeroa	13/01/2021 27/01/2021	No advice received to date	Nil	CHB Staff attended hui on 15/01/2021 CHB Staff attended hui at marae on 8/02/2021. Discussed opportunities to assist Ngāti Kere Iwi Authority with support and resources to identify wāhi tapu sites on an ongoing basis		
Te Whatuiapiti	15/01/2021 27/01/2021	No advice received to date	Nil	-		
Pukehou Marae	21/01/2021 27/01/2021	No advice received to date	Nil	-		
Tapairu Marae	21/01/2021 27/01/2021	No advice received to date	Nil	CHB Staff to attend hui on 22 May 2021		
Mataweka Marae	21/01/2021 27/01/2021	No advice received to date	Nil	CHB Staff to attend hui on 22/05/ 2021		
Pourerere Marae	21/01/2021 27/01/2021	No advice received to date	Nil	-		
Waipukurau Community Marae	21/01/2021 27/01/2021	No advice received to date	Nil	-		
Rakautatahi Marae	21/01/2021 27/01/2021	No advice received to date	Nil	-		
Te Rongo o Tahu Marae	21/01/2021 27/01/2021	No advice received to date	Nil	-		
Other Entities	Other Entities					
Aorangi Maori Trust Board	26/01/2021	No advice received to date	Nil	-		
Kairakau Maori Land Trust	27/01/2021	No advice received to date	Nil	-		

* contact included providing a link to a copy of the draft Proposed District Plan, and inviting further discussion/hui and any feedback and advice

It is acknowledged that marae/hapū are responding to multiple demands on their time, and the District Plan is one of many matters being brought before them at this time. Thus, whilst no formal advice was received in response to these consultations to date, it has raised awareness about the role of the District Plan and its potential impacts for whanau, hapū and iwi, as well as progressed Council's relationship at this level. Council is continuing to work with hapū and iwi to progress matters of concern to them that can be addressed through the District Plan over time.

7 Overall Summary and Conclusion

This evaluation has been undertaken in accordance with section 32 of the Act to examine the extent to which the proposed objectives in the Proposed District Plan are the most appropriate way to achieve the purpose of the RMA, and whether the provisions (policies and methods) are the most appropriate way to achieve the objectives, with respect to the resource management issues of importance to Tanga Whenua.

The evaluation identifies other reasonably practicable options, assesses the efficiency and effectiveness of the selected suite of provisions (including benefits and costs and opportunities for economic growth and employment), and contains a level of detail that corresponds to the scale and significance of the effects anticipated from their implementation.

The evaluation demonstrates that the proposed objectives and supporting provisions are the most appropriate, as:

- The proposed objectives address the identified resource management issues for Tangata Whenua in Central Hawke's Bay, including recognising and providing for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (section 6(e)) of the RMA as a matter of national importance, as well as having particular regard to the role of Maori as kaitiaki of the natural and physical environment, and the ethic of stewardship (section 7(a) and(aa)).
- The proposed policies and methods give further effect to sections 6(e) and 7(a) & (aa) as well as Council's Treaty of Waitangi obligations in relation to managing the use, development and protection of the District's natural and physical resources, in a way that achieves the proposed objectives. Whilst the proposed methods for protecting sites and areas of significance to Māori are constrained until such time as a more effective list of areas and sites is developed, the proposed policies and methods will provide protection for those sites that are listed.

REFERENCES

'Te Rautaki o Ngāti Kere – Strategic Plan 2013 – 2017', Ngāti Kere, n.d.