

HE KUPU TAUTOKO

NOTES - DRAFTING A MANA WHAKAHONO AGREEMENT

These notes explain options for the structure and content of a Mana Whakahono agreement. Use these notes to consider examples and to find the relevant content in the comprehensive Mana Whakahono guidance [here](#).

WĀHANGA TUATAHI - INTRODUCTION AND CONTEXT

	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Introduction	What introduction is required to appropriately frame the agreement?	☞ Karakia ☞ Mihi	
Strategic introduction	What are the foundations of the agreement, and what is the context for the agreement?	☞ Vision, principles and context ☞ Iwi/hapū aspirations ☞ Council aspirations ☞ Description of iwi/council roles	The purpose and principles of Mana Whakahono are outlined in sections 58M and 58N of the RMA. For more information see MWaR guidance, pp12 -15.
Scope of agreement	Where will the agreement apply, and to what activities?	☞ Boundaries ☞ Relevant council activities and legislation	
Parties	Which entities are participating in the agreement?	☞ Iwi authority, hapū or other entities ☞ Councils, CCOs or other entities ☞ Boundaries and areas of shared interest	
Governance and management	How will the implementation of the agreement be governed and managed?	☞ Dedicated manager ☞ Responsible staff ☞ Implementation plan ☞ Committee	
Collective agreements	If there are 2 or more iwi authorities participating in a Mana Whakahono ā Rohe, how will those iwi authorities work collectively together to participate with local authorities? (RMA Section 58R(4)(d))	☞ Contact point ☞ Information sharing ☞ Dispute resolution	"Where two or more iwi authorities have joined to have one Mana Whakahono with one or more local authorities, it may be useful to set out how these parties will work collectively." For more information see MWaR guidance, p56.



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	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Delegation	Has a participating iwi authority delegated to a person or group of persons (including hapū) a role to participate in particular processes under the RMA? (RMA Section 58R(4)(e))	- Boundaries - Functions	"During the negotiation of a Mana Whakahono an iwi authority may delegate to a person or group of persons (including hapū) a role to participate in a process under the RMA. The provision to delegate provides a direct way of involving other groups, such as hapū and/or marae, formally within the Mana Whakahono" For more information see MWaR guidance, p56.
Resourcing	How will the implementation of the agreement be resourced?	- Resource for engagement in plan development and other processes - Resource for developing Iwi or Hapū Environmental Management Plans - Resource for training and inductions - Links with any other resource agreements?	
Key issues	What are the key issues to be included in the Mana Whakahono ā Rohe, including both RMA process and processes outside the RMA?	- Priority areas (eg. sites of significance) - Priority resources (eg. water) - Priority processes (eg. streamlined planning processes, spatial planning, emergency response planning and implementation)	

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WĀHANGA TUARUA - AGREEMENTS REGARDING RESOURCE MANAGEMENT PROCESSES*

*(sections highlighted in grey must be included in a Mana Whakahono agreement)

	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Preparing or changing a policy statement or plan	How the iwi authority may participate in the preparation or change of a policy statement or plan, including the use of any of the pre-notification, collaborative or streamlined processes in Schedule 1 (RMA Section 58R.1.c.i)	- Development of a proposed policy or plan ☞ Iwi environmental management plans ☞ Identifying areas of significance ☞ Policy statement and plan-change prioritisation ☞ Preparation of a proposed policy or plan ☞ Consultation during the preparation of a proposed policy or plan ☞ Further pre-notification requirements ☞ Section 32 evaluation report	"Iwi authorities should consider which areas or resource use issues are of greatest interest to them – and what role they want to have in developing objectives, policies and rules applying to those areas or resources. This is an opportunity for iwi authorities and local authorities to discuss issues raised about: ☞ what plans are in place, if any reviews are underway – and if so the timetable for those reviews ☞ what compliance and state of the environment monitoring is revealing ☞ emerging resource management issues ☞ where resource management pressures are ☞ any national direction ☞ where changes to the plan may be needed in the future" (MWaR guidance, p 39)
Consultation requirements	Consultation requirements, including requirements of s. 34A(1A) and clause 4A of Schedule 1 (RMA Section 58R.1.c.ii)	- Public involvement in policy statement and plan-making processes ☞ Further submission opportunities ☞ Mediation ☞ Hearings ☞ Hearing panel ☞ Receipt of decisions (MWaR guidance, p40 - 42)	
Monitoring	Working together to develop and agree on methods for monitoring under the RMA (RMA Section 58R.1.c.iii)	☞ State of the environment and mātauranga Māori monitoring ☞ National Policy Statement on Freshwater Management requirements ☞ Inclusion of Cultural Health Indicators (CHIs) ☞ Monitoring plan effectiveness ☞ Resource consent monitoring (MWaR guidance p45) ☞ Links with climate change adaptation and natural hazards monitoring ☞ Opportunities to transfer monitoring to iwi/hapū	"Points for discussion could include: ☞ Tangata whenua vision for an area ☞ Tangata whenua priorities for monitoring ☞ The incorporation of Mātauranga Māori into monitoring ☞ Cultural health indicators in the monitoring methodologies established for compliance monitoring and state of the environment monitoring activities ☞ Opportunities to share information and reporting" (MWaR guidance, p44)



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	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Implementing Treaty settlements and other agreements	Giving effect to the requirements of any relevant iwi participation legislation (RMA Section 58R.1.c.iv)	☞ Incorporating Treaty settlement legislation into Council induction processes and planning documents ☞ Incorporating specific settlement instruments such as Statutory Acknowledgement Areas and other taonga and resources identified within Treaty settlement within planning documents ☞ Establishing appropriate engagement when activities may affect areas, taonga or resources identified within Treaty settlement. ☞ Stating iwi/hapū intentions for use of areas, taonga or resources identified within Treaty settlement, and council roles in supporting those intentions.	“As redress is provided through legislation, Mana Whakahono does not provide the opportunity to renegotiate what has been established. However, a Mana Whakahono may build on, support and help clarify how the parties will work together to achieve the outcomes established in iwi participation legislation. Mana Whakahono is also an opportunity to consolidate and remove areas of duplication between matters local authorities, iwi authorities, and hapū are working on – and ensure all the elements of the work fit together and complement each other... If a Mana Whakahono is agreed when a deed has been signed, but the Treaty settlement legislation has not been passed, the parties may still consider how the provisions of the deed will work with the content of the Mana Whakahono” (MWaR guidance p46)
Resource consent matters	How a local authority is to consult or notify an iwi authority on resource consent matters, where the RMA provides for consultation or notification	☞ Circulation of resource consent applications ☞ Pre-application processes ☞ Affected party status ☞ When Council is the regulator and when Council is the applicant	“Section 36A states there is no statutory duty under the RMA for an applicant or local authority to consult tangata whenua about resource consent applications. However, in practice, consultation can be of real assistance when fulfilling the requirements of a resource consent application. Best practice suggests that when tangata whenua interests are triggered by an activity, consultation and engagement with those tangata whenua will help determine the effects of the activity (required by the Fourth Schedule of the RMA)” (MWaR guidance p52) For more information see MWaR guidance, p52.



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WĀHANGA TUARUA - AGREEMENTS REGARDING RESOURCE MANAGEMENT PROCESSES*

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	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Limited notification	The circumstances in which an iwi authority may be given limited notification as an affected party	☞ Iwi and/or hapū environmental management plan ☞ Statutory acknowledgements ☞ Areas of significance (MWaR guidance p53)	"A local authority must decide within 20 working days of receiving a resource consent application whether to give public or limited notification of the application...A Mana Whakahono cannot override the notification provisions. However, it provides a further opportunity for the parties to discuss situations in which an iwi authority would be notified and/or how a local authority does an affected person assessment" (MWaR guidance p52) For more information see MWaR guidance, p52-53.
Other arrangements under the RMA	Other arrangements relating to functions, powers, and duties under the RMA which could be considered in the agreement	☞ Joint decision-making ☞ Transfer functions, powers or duties ☞ Assessment of resource consent applications ☞ Training ☞ Secondments ☞ Funding /resourcing (MWaR guidance pp54 - 55)	"Local authorities have a range of functions, powers and duties under the RMA. A Mana Whakahono can give a forum for iwi authorities and local authorities to discuss any other potential arrangement about those functions, powers and duties" (MWaR guidance p53) Some of these examples may trigger RMA and Local Government Act 2002 consultation requirements. For more information see MWaR guidance, pp53-55.

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WĀHANGA TUATORU - AGREEMENTS REGARDING OTHER LEGISLATION

	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Other legislation or processes	What other legislation or processes, apart from the RMA, would it be useful to set expectations for how iwi/hapū and council will work together?	- Local Government Act - Reserves Act - Fast-track Approvals Act - Climate change adaptation planning - Spatial planning processes - Emergency response planning and implementation	Although Mana Whakahono agreements originate in the RMA, some existing agreements also include protocols relating to other legislation.
Disclaimer	Papa Pounamu is a collective of intentionally Māori planners and practitioners, including kaitiaki, who whakapapa to iwi and hapū across Aotearoa. We are also tangata Tiriti allies who respect Te Tiriti o Waitangi and uphold Tiriti-centric planning approaches. Our members are committed to supporting iwi and hapū aspirations and outcomes while also enhancing broader national planning processes. Papa Pounamu does not represent iwi or hapū authorities, nor are we an iwi or hapū entity. Rather, we serve as a national professional forum that supports, advocates for, and practices Māori planning. While we offer technical support to iwi and hapū, we acknowledge that mana to speak for iwi and hapū rests solely with those entities. This guidance, tools and information sheets are intended to support iwi, hapū and councils to envision, scope, and negotiate agreements that fulfil their aspirations for a better working relationship. These resources are not prescriptive and should not be used to limit the scope or content of Mana Whakahono agreements		

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WĀHANGA TUAWHĀ - OTHER MATTERS*

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	PURPOSE OF THIS SECTION	EXAMPLES OF WHAT MIGHT BE INCLUDED	THINGS TO CONSIDER
Conflicts of interest	A process for identifying and managing conflicts of interest (RMA Section 58R.1.c.v)	Process for identifying, declaring and managing conflicts of interest if required	"Whakapapa on its own does not amount to a conflict of interest" (MWaR guidance p47) For more information see MWaR guidance, p47.
Dispute resolution	A process that parties will use for resolving disputes about the implementation of the Mana Whakahono ā Rohe (RMA Section 58R.1.c.vi)	Process for resolving disputes Extent to which dispute resolution process can: - Alter or terminate an agreement - Conclude an agreement - Complete an agreement at a later date - Jointly review the effectiveness of the agreement at a later date - Undertake additional reporting Each party must bear its own costs for dispute resolution	"The strength of a Mana Whakahono will likely be based on the strength of the relationships the parties build over time and the trust they share. To support those relationships, the parties must include in their Mana Whakahono a process they will use to resolve disputes during the life of the agreement – that is, a dispute resolution scheme" (MWaR guidance p47) For more information see MWaR guidance, pp48 – 50.
Review	Iwi and local authorities are also required by section 58T(3) to jointly review the effectiveness of the Mana Whakahono every sixth anniversary, while considering the statutory purpose for Mana Whakahono and the guiding principles.	- Process for reviewing agreement - Process for amending agreement - Process for terminating agreement	"We suggest the parties discuss expectations for such a review through the Mana Whakahono negotiations. For example, will an independent person conduct the review? In addition to the statutory purpose and guiding principles, what measures will be used to consider and review effectiveness? It is important the parameters for the review are clear, so the outcome of the review is useful for the parties" (MWaR guidance p60) For more information see MWaR guidance, p60.
Any other matters?			

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