PART B

SIGNIFICANT RESOURCE MANAGEMENT ISSUES
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B  SIGNIFICANT RESOURCE MANAGEMENT ISSUES

The significant resource management issues facing the City have emerged through the district plan preparation process, and have guided the development of the objectives and policies which follow. The Resource Management Act (RMA) requires that the District Plan include a statement of the significant resource management issues of the City. These issues, some of which relate to the whole City and some of which relate to parts of the City, are set out below.

B1  GENERAL ISSUES

One of the major resource management issues has been to determine the level at which to promote the sustainable management of resources. The previous District Scheme included a large number of different zones, each representing a distinctly different set of objectives, policies and rules. In the development of this Plan assessments of the resource management issues led to the identification of eight areas within the City for which the resource management issues could be clearly differentiated.

The differentiation between these zones is clearly set out in the objectives and policies for each zone. The distinctive factors which promote the sustainable management of each of these areas are set out in the rules and standards for each zone.

The environmental issues addressed by the Plan for the eight zones include the following:

(i) Ensuring an environment which is healthy, attractive and safe.

(ii) Recognising the importance of the City Centre as a built resource and the need for it to continue to develop to meet changing needs and demands.

(iii) To have a suburban environment which is an attractive and lively place in which to live.

(iv) To have a rural area in which there is a balance between rural activities and the natural environment.

(v) To recognise and provide for development in the Judgeford Hills Zone in accordance with specific criteria.

(vi) To recognise and provide for development in the Aotea Supermarket Zone in accordance with specific criteria.

B1.1  Suburban Zone – Medium Density Residential Development

Conventional housing densities do not meet the needs of all parts of the community. Providing choice in the housing market better enables people and communities to provide for their social, cultural and economic wellbeing.

Provision for medium density residential development is also an efficient and effective use of the land resource as it has the potential to help reduce...
pressure for urban expansion into the Rural Zone. Appropriately located medium density residential development can also help maximise the use of existing infrastructure and community services, including reserves, suburban shopping centres and public transport routes.

However, if not adequately controlled, poorly located, designed and constructed medium density residential development could create a low quality living environment and may adversely affect the amenity values of surrounding areas.

B2 TREATY OF WAITANGI ISSUES AND OTHER MATTERS OF CONCERN TO MAORI

The RMA includes in sections 6 through to 8, very specific references to resource management issues, and to the Treaty of Waitangi. These issues are complex and prone to misunderstandings. The Plan sets out to meet the obligations of the RMA by recognising issues, clarifying issues, and providing the means through objectives and policies for these issues to be an integral part of the management of the natural and physical resources of the City.

B2.1 A Common Understanding of the Treaty of Waitangi

The Treaty of Waitangi is recognised as the founding document of our nation. The RMA imports, by reference, the principles of the Treaty of Waitangi to guide decision-makers in the exercise of their responsibilities to tangata whenua. Section 8 of the RMA states that:

"In achieving the purpose of this Act all persons exercising functions and powers under it in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi."

The Resource Management Act requires emphasis to be given to those principles for interpretation in the context of issues concerning resource management as distinguished from resource ownership. It is therefore important that, in the first instance, the Council and the tangata whenua endeavour to arrive at a consensus on what the principles should be, bearing in mind that the application of the principles will need to be ongoing consideration with practical and legal experience under the Act. The spirit of partnership and good faith requires as much.

This section introduces the three issues which are essential to a common understanding of the Treaty of Waitangi and its effect on resource management processes and decisions. These three issues are:

(a) The identity and nature of the Treaty partners.

(b) The Principles of the Treaty of Waitangi

(c) The different understandings of resource issues which exist between Maori and the Council (operating under the Act).

A common understanding of these issues is developed in the sections which follow. The response to this understanding is presented in Section C5 of the Plan in the form of objectives, policies and methods of implementation. Section
B. Significant Resource Management Issues

C5 is the record of the appropriate response by Council to the obligations contained in Section 8 of the Act.

B2.1.1 Understanding the Identity of the Treaty partners

The first requirement of a common understanding of the principles of the Treaty is an understanding of the nature of the Treaty Partners.

The Treaty is an agreement between the Crown and Maori.

Governor Hobson signed the Treaty on behalf of the Queen and the New Zealand Government has recognised that it is an ongoing, active partner to the Treaty.

There are obviously issues regarding the Treaty which extend well beyond the Resource Management Act. The Act states "In achieving the purpose of this Act [Council] in exercising functions and powers under it in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi." While the legal interpretation of this will develop over time, there can be little doubt that the Act places obligations on the Council.

The Treaty was signed by more than 350 Chiefs representing the majority of iwi from throughout New Zealand. Collectively, these iwi constitute the tangata whenua of New Zealand. Individually though, each iwi has tangata whenua status only for the area in which they maintain mana whenua. This means that Maori residing in Porirua who are not of Ngati Toa descent will be able to claim tangata whenua status elsewhere. Thus in Porirua, Ngati Toa are the Maori treaty partner. Te Runanga o Toa Rangatira is an iwi authority under the Resource Management Act 1991. It promotes the interests of Ngati Toa Rangatira in all aspects of social, economic and environmental development.

Consultation with the Tangata whenua should be directed through this body.

B2.1.2 Principles of the Treaty of Waitangi

While the Act refers to the "principles of the Treaty of Waitangi" it does not state what those principles are, or how they are to be interpreted. Bearing this in mind, the principles which follow provide guidance for the Council and Ngati Toa for the purposes of Council's response to section 8 of the Act.

The Principle of Mutually Beneficial Relationship

This includes the duty to act reasonably and in good faith. It imposes a duty on both tangata whenua and the Crown to interact with reason and respect. It implies a partnership which is fundamental to the compact embodied in the Treaty of Waitangi.

Partnership implies a commitment by decision-makers to determine the extent to which both the interests of the public good and those of the tangata whenua can be accommodated. The fundamental message of the Treaty is one of balance. Therefore, assertions of rangatiratanga over certain resources are not attacks on the mana of the Crown to make law in respect of Maori resources, but are simply expressions of the obligation to ensure that the right of Maori to act in accordance with their own values is given an appropriate emphasis.
The Principle of Active Protection

This denotes a duty that is not merely passive, but extends to active protection of Maori resources and other guaranteed taonga to the fullest extent practicable. Active protection implies adequate resourcing for tangata whenua in resource management activities.

In the context of the Resource Management Act, what is to be protected under this principle is a continuing capacity for Maori to exercise self-regulated decision-making authority over those resources important to them. Generally, this obligation has a three-fold application:

Firstly, as far as is practicable, Maori should be protected from restrictions imposed by policy or rule which prevent them using their land and resources according to their cultural preferences.

Secondly, as far as is practicable, Maori should be protected from the adverse effects of the activities of others on their ability to use their land and resources, both in biophysical and spiritual terms.

Thirdly, where practicable, resources should be directed towards informing and supporting Maori in the development of resource management strategies which reflect their cultural and spiritual preferences consistent with the principles embodied in the Resource Management Act.

The Principle of Tribal Self-Regulation

This principle recognises that Maori can retain responsibility and control of the management and allocation of resources that they (Maori) wish to retain control of. This involves the right to develop these resources to meet iwi social and economic needs. Application of this principle involves recognising the right of tribal groups to exercise tino rangatiratanga.

The use of the term "rangatiratanga" in the context of the Treaty denotes an institutional authority to control the exercise of a range of user rights in resources, including conditions of access, use and conservation management. The ability to exercise rangatiratanga over tribal resources goes to the heart of the mana of the iwi. It reflects the relationship between people and resources as sources, not only of physical commodities, but also of personal and tribal identity and community stability. Rangatiratanga is expressed in decisions which reflect Maori priorities and values, and is given practical effect in application of customary regulatory practices and controls.

The Principle of Shared Decision-Making

The aspects of the partnership which imply how decision-making is to be shared between Maori and the Crown arise out of the essential bargain made in the exchange between kawanatanga (sovereignty) and rangatiratanga (full chiefly authority). This requires Council to allow the tangata whenua to participate in the decision-making process.

Kawanatanga as ceded by Maori under Article I of the Treaty, gave the Crown the right to govern and to make laws applying to everyone. The conferral of resource management powers by the Crown to local authorities under the Resource Management Act means that those authorities can make policies, set objectives and make rules affecting the management of natural and physical...
resources, subject to the protection and emphasis given to Maori issues in the Resource Management Act.

The Principle of Iwi/Hapu Resource Development

This principle recognises that Maori are not bound in the exercise of rangatiratanga and kaitiakitanga to just the methods and technologies available at the signing of the Treaty of Waitangi, but have the right to take advantage of new technology.

Article III of the Treaty gave to Maori the same rights and duties as other New Zealand citizens. The Treaty guaranteed to Maori retention of their property rights under Article II, and the choice of developing those rights under Article III. In pursuing development, Maori may choose to pursue non-traditional uses of their resources instead of or as complementary to, their traditional practices.

The Principle of Consultation

Effective, early and meaningful consultation is an integral and necessary component and forerunner to greater participation by Maori in resource management decision-making.

In the course of their discussions on good faith and reasonableness, the High Court and Waitangi Tribunal have identified a number of characteristics of good consultation, including:

(a) the obligation to provide sufficient information so as to allow tangata whenua to make an informed assessment on the proposal and determine their response to it;

(b) the obligation to be willing to change plans or proposals, if that is the result of consultation;

(c) the obligation to ensure adequate time frames. This means allowing sufficient time for tangata whenua to absorb what they are being asked to consider, and giving them sufficient time to respond (extensive tribal discussion and hui must be taken into consideration).

B2.2 Recognising the different understandings of resource issues which exist between Ngati Toa and Council

B2.2.1 Ngati Toa Values and Environmental Management - as stated by Te Runanga O Toa Rangatira

By the time of the First European contacts, in 1642 (Abel Tasman) and 1769 (James Cook), Maori had developed a sophisticated set of resource management practices which ensured that both people and natural resources could be sustained over succeeding generations.

Since the signing of the Treaty in 1840 however, Maori systems of resource management have seldom been recognised by European approaches to resource management and planning. It was not until 1975 with the founding of the Waitangi Tribunal, that the relevance of Maori values and approaches to environmental management was established.
In order to fully appreciate the depth of meaning and profound implications of the strong conservation ethic within traditional Maori society, it is necessary to refer back to Maori mythological origins.

The Ngati Toa World View

The overall Maori world view is common to all iwi but there are variations between iwi. This is the world view of Ngati Toa. Council accepts that, as tangata whenua, the world view of Ngati Toa is the Maori world view for the City.

The Maori creation myth embodies both physical and spiritual concepts of the world's origins. Maori believe that the world was originally divided into three great states of reality. The first being Te Korekore (the void) within which Io-Matua Kore (the Parentless One) dwelt. The second state of reality was the numerous Po (the night), which was created by Io and lasted for eons. Ranginui (the sky father) and Papatuanuku (the earth mother) emerged from these realms and bore many children, all of which were atua (deities). Tane Mahuta, the first son of Rangi and Papa grew tired of living in the dark, cramped space between his parents. So he forced his parents apart, creating space between earth and sky. Thus, the third state of reality came about and became known as Te Ao Marama (the world of light).

Tane was the procreator of mankind. Having no female counterpart he took part of the soil from mother earth to fashion a female form and invoking authority from Io-Matua Kore, Tane was given the mana (authority) to breathe life (mauri) into the nostrils of his female creation so giving rise to the first human being. Thus began an evolutionary process which produced mankind. In order to cover his mother's nakedness, Tane clothed her with forest and plant life and became dominant over the land and all who dwelt upon her.

The creation and the evolutionary processes were continued by the atua through the mana (authority), mauri (life force) and wairua (spirit) granted to them by Io-Matua Kore. These atua were responsible for the creation and evolution of all living things, including human beings, within the physical world. The Maori was born into this physical reality as part of it. He/she belonged to this physical environment, it did not belong to him/her. Although people were seen to test the boundaries of their relationship with the environment, a complex set of concepts and rules, grounded in the spiritual world, ensured that people did not push this relationship too far. These practices, or tikanga, were developed to maintain the mauri of the domains of atua.

Tikanga

Tikanga incorporates concepts such as tapu (sacredness) and rahui (temporary restriction). Tapu implies a prohibition which, if violated would have calamitous consequences; quite possibly, death. A tapu site has been described as being protected by an unseen gate, and has also been likened to an area of harmful radiation. Even though nothing is visible, a person who violates the area knows the awful and inescapable consequences which will certainly follow.

Rahui is a temporary form of prohibition used to preserve birds, fish, or any natural product. In many instances the rahui is indicated by a pou rahui, or post, which warns people against trespassing into the area of the rahui. A person becomes tapu when he or she dies. Rahui is used therefore when a
person is drowned at sea or in a lake or river. Gathering of fish or shellfish is prohibited for a period sufficient for the natural balance and mauri of the environment to be restored.

Kaitiakitanga

Kaitiakitanga is a term that denotes the package of tikanga or practices concerning environmental management. Inherent in the notion of kaitiakitanga is the understanding that members of the present generation have responsibility, passed to them by preceding generations, to care for their natural environment by protecting mauri. Kaitiakitanga carries with it an obligation not only to care for the natural world, but also for each generation, by ensuring that a viable likelihood is passed on. Kaitiakitanga is inextricably linked to tino rangatiratanga as it may only be practised by those iwi, hapu or whanau who possess tino rangatiratanga in their tribal area.

Taonga

Within the domains of atua there are a variety of sites, resources, environmental phenomena and cultural institutions that are of particular significance to tangata whenua. The term taonga is used in s. 6(e) of the Resource Management Act and in Article II of the Treaty. Taonga encompasses all things tangible or intangible and derive their meaning at both the physical and spiritual levels. At a spiritual level, taonga includes the three great states of reality, Te Korekore, Te Po and Te Ao Marama and all that was created out of those states. At a physical level, taonga is manifested in the physical states of moana through to whenua. Examples of taonga include wai (water), moana (sea), maunga (mountains), awa (rivers), kai (traditional food), maataitai (seafood), waahi tapu, tauranga waka, cultural resources such as flora and fauna for rongoa maori (medicine) and weaving, and cultural encystations such as marae, papakainga, mahinga maataitai.

B2.2.2 The City Council Perspective

An understanding of the Council's origins and functions is important to an understanding of the Council's perspective on resource management.

Porirua is a very young City. It became a City in 1968 and the present City boundaries were established as recently as 1989.

The City Council receives its authority from the Crown by way of statute. The Local Government Act, Public Works Act, Rating Powers Act, Resource Management Act etc set out what Council is empowered to do, and in many cases how it should do this.

The function of the Council is to manage the City within the frameworks laid down in the relevant legislation, including the Resource Management Act 1991.


The purpose of the Resource Management Act is "to promote the sustainable management of natural and physical resources". This is a change from the Town and Country Planning Act which referred to the wise use of resources. This illustrates the way in which the Council's world view is established by statute, and can be changed by statute.
Resource Management Principles

The principles of the RMA are set out in Sections 6 through to 8, namely the matters of national importance, other matters to be had particular regard to, and the Treaty of Waitangi. These are the basis of Council’s resource management philosophy, and the District Plan is Council’s statement of interpretation of these as they relate to Porirua City.

Boundaries of Resource Management Responsibilities

The City Council does not have an open ended authority to manage the use of resources. The resources which come within the City’s resource management responsibilities are clearly delineated in the Act.

Council has responsibility for policy and decision making on activities on the surface of land and fresh water, and for the subdivision of land. The Wellington Regional Council has responsibility for the management of activities in and over the coastal marine area and for the quality of air and water, including discharges to air, land and water. These few examples of the way in which the Act divides the responsibility for various aspects of resource management provide some indication on the limitations within which the Council operates.

Resource Management Processes

The Resource Management Act sets out the processes for decision making on resource management issues. These processes cover the preparation of plans, the timetables for decisions on resources consent applications, the matters to be taken into account in resource consent decisions etc. While some of these processes have some flexibility, for the most part they are firmly fixed by the Act, including the time periods available for submissions of resource consent applications.

Private Property Rights

The subdivision provisions of the Resource Management Act deal directly with the private property right of title to land, the ability of owners to divide and sell parts of the land to which they have title. This process is an essential part of the development of the City in that it is the basis of urban development, the rearrangement of farms into more efficient forms and areas etc. It is also very different from the Maori world view in that it treats land as a tradeable asset.

The Act presumes that the owner of a property has the right to do whatever they wish in terms of land-use unless and until the Council has established good reason to restrict the uses of that land. Under section 32 of the Act Council is required to consider whether it is justified in restricting the use of land and if so to what extent. The policies and rules in the Plan set out the extent to which Council has determined private property rights should be restricted in order to promote the sustainable management of the natural and physical resources for which it has resource management responsibility.

The RMA is based on the consideration of the effects of activities. A resource consent is tied to the land. The RMA does not allow one person to obtain a resource consent for an activity and then sell that consent to the owner, or in any way to stop that owner taking advantage of that consent.
It is important to recognise that, while many express their environmental concerns in terms of an entirely holistic understanding of the environment, Council can only respond on those aspects of environment for which it has resource management responsibility as embodied in the District Plan.

The Act makes particular reference to a number of Maori issues in addition to the Treaty. The wording of section 8 of the Act, which deals with the Treaty of Waitangi, makes it clear that the Treaty is one of the factors which must be taken into account in decision making.

B2.3 Conclusions

The Resource Management Act includes statements on the Treaty of Waitangi, and on a number of resource management issues of particular concern to Maori. While the interpretation of what these sections mean must be left to the courts, this section of the Plan sets out to clarify terms and understandings as the basis for the ongoing operation of the District Plan. This section has been developed co-operatively by Ngati Toa and Council and provides an essential basis for common understandings of issues, concepts and statutory responsibilities. The emphasis placed on the Treaty in any particular circumstance can to some extent be guided by the objectives and policies which are set out in Section C5 of the Plan.

B3 SUBDIVISION ISSUES

The City has the significant advantage of large areas of land available for urban development which are within the existing "urban" environment. This requires the management of the urban areas of the City to ensure that the pattern of subdivision which develops results in a sustainable management of such resources as water, roads, waste disposal etc. It also allows a subdivision policy in the rural area which avoids, remedies or mitigates effects on the natural environment, coast and the future potential of the rural resource. This follows the direction given in the Wellington Regional Policy Statement. Part C6 of the Plan sets out the Objectives and Policies which the Council has adopted in response to this issue.

B4 TRANSPORT ISSUES

The transportation needs and issues vary across the City, but in all parts of the City the transportation network represents a significant resource, and ensuring that it is used efficiently and effectively is a significant resource management issue for the City, and for the Region. The District Plan will seek to ensure that the adverse environmental effects of the transportation network on Porirua City are avoided, remedied or mitigated. Part C7 of the Plan sets out the Objectives and Policies which the Council has adopted in response to this issue.

B5 Part B5 has been deleted as a result of Plan Change 15. See Part HH for Historic Heritage issues.

B6 LANDSCAPE AND ECOLOGY ISSUES

The protection of outstanding features, significant indigenous vegetation and public access to the coast, lakes and rivers are all matters of national importance under the RMA. Many of the issues related to the landscape and ecology of the City are also referred to within section 7 of the Act. Part C9 of the Plan sets out the Objectives and Policies which the Council has adopted in
response to this issue. The Landscape and Ecology section of the Plan is a recognition of both the importance of the City's landscape and of the many issues which surround the management of these natural resources.

B7 COASTAL ISSUES

The preservation of the natural character of the coastal environment and the maintenance and enhancement of public access to the coast are matters of national importance. Porirua has an extensive and diverse coastline and many parts of the coast are of national and international significance. Many of the coastal issues facing the City cross the mean high water springs line which separates the City's resource management jurisdiction from that of the Regional Council. One of the major resource management issues facing the City is to ensure the integration of policy and implementation of resource management objectives and policies across this sensitive environmental interface. The objectives and policies which recognise this importance are principally contained in Section C10 of the Plan. Part G, the cross-boundaries issues section of the Plan also deals with these issues.

B8 NOISE ISSUES

Noise can create a very real adverse environmental impact and has an effect well beyond its source. Objectives and policies which manage this effect are set out in Section C11 of the Plan.

B9 NATURAL HAZARD ISSUES

The sustainable management of resources, and the protection of the community requires that the prospect of natural hazards is recognised and taken into account in resource management decision making. Seismic hazard and flood hazard are particularly significant issues for Porirua and the Plan recognises this both through the information provided in the Planning Maps and through the objectives and policies set out in Section C12 of the Plan.

B10 SIGNS

Signs, by their very nature, can have a significant visual impact in any particular locality. They can have a significant effect on the character and amenity of any part of the City, and on traffic safety. For this reason signs are considered a significant issue for the City and specific provisions have been adopted to manage their effect. Section C13 of the Plan deals with signs.

B11 NETWORK UTILITIES

Network utilities include such activities as water, gas, and electricity supply, radiocommunications, telecommunications, roads, rail and sewerage disposal. The City is traversed by two state highways, the North Island main trunk line, and the high pressure natural gas line for the Region. Some of the Region's largest and most powerful communications facilities are also located in the City. In addition to these large utilities, the safe, convenient and efficient operation of the City depends on the network utilities which serve all parts of the City. Chapter NU of the Plan recognises the importance of these resources and the need to provide for them while managing their effect on the environment.
B12  HAZARDOUS SUBSTANCES

The Regional Policy Statement makes it clear that the principal responsibility for controlling the use of land to manage the effects of hazardous substances will be at District and City level. This is a potentially significant issue, with implications for the built environment, and for the many sensitive ecological areas of the City. For this reason the Plan deals with this issue in some detail in section C15 and Part I.

B13  RENEWABLE ENERGY

Section 7(j) of the Resource Management Act requires particular regard to be given to the benefits to be derived from the use and development of renewable energy. These benefits may be of national significance. The rural areas of the City, in particular, have potential for the development of renewable energy, such as wind energy at a commercial scale, while the urban areas of the City offer the opportunity for domestic scale renewable energy use. Government energy policy, expressed in the New Zealand Energy Efficiency and Conservation Strategy (2007) adopts a target of 90% electricity generation from renewable sources by 2025.

Section C4 of the Plan recognises the importance of the development of, and use of, renewable energy resources while at the same time ensuring that adverse effects of such development are appropriately avoided, remedied or mitigated.

The rural land resource in Porirua has multiple values including its potential value for wind energy generation. Primary production and plantation forestry activity are predominant in the Rural Zone. However, the nature of the Rural Zone is changing, with rural lifestyle land use becoming increasingly prevalent

Along with its landscape attributes, the harbour catchment also has significant ecological values, and Pauatahanui Inlet is recognised by Greater Wellington Regional Council as being of regional significance as an estuarine harbour ecosystem. The Wellington Regional Policy Statement (1995) also recognises many of the coastal escarpments as regionally significant for habitat, fauna or landscape and the New Zealand Coastal Policy Statement (1994) contains policies to achieve the sustainable management of the coastal environment.

Both the geographical location of Porirua City and its many hills and ridges within close proximity to the coastal area, lends the City to being a potential wind energy resource. However, the characteristics that make the City a potential wind energy resource are the same that provide the landscape backdrop and natural edge to the harbour catchment and the City’s urban areas. The relatively close proximity of the hills and ridges to the lower lying urban areas, the increasing presence of rural lifestyle land use and the harbour ecosystem combine to create potential tensions between the existing values of the Rural Zone and its potential as a wind energy resource. These tensions require careful management in considering the sustainable management of the Rural Zone.
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