The common understanding of the Treaty of Waitangi is set out in the Significant Resource Management Issues (Part B) of the Plan. The function of this section is to provide a clear statement of how the issues of concern to Ngati Toa are to be addressed through the District Plan. To achieve this, a commentary on relevant sections of the Act has been developed between Council and tangata whenua which is then translated into objectives, policies, and implementation methods.

Section 6(e) of the Act requires decision-makers to recognise and provide for the ancestral relationship of Maori and their culture and traditions with their ancestral lands, water, waahi tapu and other taonga. This was considered to be of such significance as to warrant recognition in the Resource Management Act as a matter of national importance.

Section 6(e) is an extension of section 3(1)(g) of the (repealed) Town and Country Planning Act 1977. Over the years Maori have sought to rely on this section to enable the establishment of marae or papakainga-based settlement or to persuade decision-makers against particular resource uses. The ability of Maori to use resources is as fundamental to the relationship as the obligation to conserve and protect them. Council and Ngati Toa recognise that the relationship between s6(e) and s8 is complex and will need to be resolved by legal interpretation over time.

Kaitiakitanga and the Principles of the Treaty (Section 7(a))

The definition given to kaitiakitanga in the Act is based on concepts of guardianship and stewardship which are familiar to decision-makers.

While rangatiratanga is not specifically mentioned in the Act, to Ngati Toa kaitiakitanga and rangatiratanga are intrinsically linked. Both are concerned with actions which are the right and responsibility of the tangata whenua, but there are differences. Rangatiratanga is primarily exercised between people, and includes for example, the right to control other people's access to a resource.

Kaitiakitanga on the other hand, infers a relationship between people and the environment. This relationship determines the position occupied by people in relation to the natural world in both its physical and metaphysical senses. Kaitiaki have the function of alerting people to the obligations of compliance with the tenets of this relationship. Where kaitiaki are people, the exercise of kaitiakitanga and rangatiratanga both control the actions of other people. Where the kaitiaki are non-human, the obligation on people is to respect and respond to the indications which the kaitiaki give.

Kaitiaki, and the exercise of the responsibilities, kaitiakitanga, are a part of Maori cultural and spiritual belief, rooted in the values of that society. They cannot be fully understood without reference to those values. Therefore the meaning of these concepts to Ngati Toa will be the crucial factor in determining the characteristics of kaitiakitanga to which the Act requires Council to have particular regard.
C5. Responding to the Treaty of Waitangi

C5.1 Objective

TO RESPOND TO THE PRINCIPLES OF THE TREATY OF WAITANGI, AND THE OTHER MATTERS OF SIGNIFICANCE TO MAORI AS REFERRED TO IN THE ACT, IN A MANNER WHICH IS APPROPRIATE AND CLEAR.

Explanation

This objective is based on sections 6(e), 7(a) and 8, with regards to tangata whenua and taurahere.

The previous discussions of worldviews have identified the differences which exist between tangata whenua and Council. It is essential all parties have the same understanding of, and expectations from the District Plan provisions which implement the relevant provisions of the Act.

C5.1.1 Policy

To recognise Te Runanga O Toa Rangatira as the voice of the tangata whenua.

Explanation

Te Runanga O Toa Rangatira Inc. is an iwi authority as referred to in the Resource Management Act, and represents the Ngati Toa people including those members of the tangata whenua who live outside Porirua City.

Method of Implementation

All notifications and consultation will be undertaken with Te Runanga O Toa Rangatira except where that body requests otherwise. A submission from Te Runanga O Toa Rangatira will be treated as a submission from the tangata whenua.

Principal Reasons

This policy provides a clarity to the consideration of issues affecting the tangata whenua by ensuring that Council recognises any submission from Te Runanga O Toa Rangatira as being a submission from the tangata whenua. It also allows Council to distinguish clearly between those matters which are of concern to the tangata whenua from those matters which may be of concern to particular members of the tangata whenua on an individual basis.

C5.1.2 Policy

To promote the ongoing development of the relationship between the tangata whenua and the Council on resource management matters.

Explanation

There has been ongoing consultation between the Council and the tangata whenua in the preparation of the District Plan and this policy is about ensuring that this continues as the Plan is implemented and monitored in the future.
Method of Implementation

To promote ongoing education of resource management decision-makers on Treaty and Maori resource management issues to avoid misunderstandings over terms, concepts and priorities.

To recognise marae as the preferred venue for consultation with tangata whenua and to seek guidance from the tangata whenua on how consultation should be conducted on a case by case basis.

To recognise the tangata whenua's preference for oral submissions and provide for the presentation of submissions in Maori where requested.

To work to develop a charter between the Council and the tangata whenua which would clarify the obligations and responsibilities of each party to the other.

To recognise the desire of the tangata whenua to have an ongoing input into the management of the resources of the City and to ensure that any request from the tangata whenua for a change to the District Plan is given priority consideration.

Principal Reasons

Many of the issues surrounding the relationship between Council and the tangata whenua are tied up in interpretations of the Treaty of Waitangi, and the ongoing development of decisions regarding the implementation of Treaty obligations. These matters are often resolved through court decisions and through the recommendations of the Waitangi Tribunal. It would be inappropriate to attempt to resolve such matters within the District Plan but it is appropriate to ensure that there is ongoing discussion on tino rangatiratanga, kawanatanga, resource management policy and resource management decision making.

This policy addresses the need for the relationship between the Council and the tangata whenua to be recognised and applied in a practical manner to the management of the resources of the City.

C5.1.3 Policy

To have particular regard to the exercise of kaitiakitanga in the management of the resources of the City.

Explanation

Kaitiakitanga is the traditional resource management system of Maori.

Methods of Implementation

Where the use of a resource may conflict with the principles of kaitiakitanga Council shall have particular regard to these principles as expressed by the tangata whenua.
Principal Reasons

Kaitiakitanga is not necessarily an alternative means of resource management, rather it should be seen as a complementary system of resource management. The infusion of aspects of kaitiakitanga into predominant resource management practice and policy is the ultimate method of promoting sustainable management.

C5.1.4 Policy

To recognise the desire of Ngati Toa to maintain and enhance their traditional relationship with the natural world.

Explanation

This policy refers to the spiritual and physical relationships with the natural world including access to and use of such traditional resources as flax, clays, plant material etc.

Methods of Implementation

While there are no provisions in the District Plan which are explicitly intended to prevent access to traditional resources, it is recognised that the District Plan cannot provide for this access to occur. Where these resources are on reserve land any access agreements would need to be developed through the reserve management plan and administration processes. In the case of private land the agreements for access to traditional resources would need to be with the owner.

Principal Reasons

Many of these resources are fundamental to the ongoing relationship of the tangata whenua with the natural environment and opportunities for access should be sought and provided wherever this is practicable.

C5.1.5 Policy

To recognise the resources needed by Ngati Toa if the tangata whenua are to have an active role in all aspects of resource management in the City.

Explanation

The Resource Management Act and the Treaty require the Council to consult with Ngati Toa. One of the key components of consultation is that the parties have access to appropriate resources.

Methods of Implementation

Council notify the Runanga of all notified resource consent applications and plan changes.

Council provide access to information which the Council holds.

Council provide assistance and advice to the Runanga.
To consider requests by the Runanga for **extensions to the statutory time period for the lodging of submissions** on notified resource consent applications in accordance with the provisions of Section 37 of the Act.

Council has in the past, provided funds to assist the Runanga in providing resources to enable input to the development of the District Plan. This is a matter which is decided on a year by year basis through the **annual planning process**.

**Principal Reasons**

Access to appropriate resources is essential to ensuring that Ngati Toa are able to respond to issues which are of concern, and that they are able to have an input based on knowledge of the proposal. The Act encourages consultation however this imposes a considerable cost on the tangata whenua. The term 'resources' as used in this policy can include access to information, financial assistance for research and consultation etc, necessary for the tangata whenua to respond to Council policy initiatives, applications for resource consents, and to prepare Iwi Management Plans, which set out the iwi's aspirations for the management of the resources of the City.

The Maori decision making process is based on consensus politics which often requires more time than other forms of decision making. The Act however provides minimum time periods for submissions. Iwi may in some instances have difficulty meeting these submission timeframes. This needs to be balanced against the desire of the applicant to receive a decision as early as possible.

Section 37 of the Act allows the Council to extend timeframes in particular circumstances. The Council will therefore seek to use this provision of the Act where the Runanga formally request a time extension. This exercise must however be undertaken in strict accordance with Section 37 of the Act.

**C5.1.6 Policy**

**To protect waahi tapu and other taonga from desecration.**

**Explanation**

Waahi tapu are sites deemed sacred and are imbued with a spirituality that distinguishes them from other areas. The activities which constitute desecration vary according to the nature of the site, including physical desecration e.g. earthworks, or cultural desecration e.g. an inappropriate activity on a site.

**Methods of Implementation**

Where the location of waahi tapu were known at the time of notification of the Plan, these were included in the Plan’s Heritage Register and on Planning Maps. Council seeks to update its knowledge of such sites where possible.

Council recognises that the location and nature of some waahi tapu are sensitive and that information on these matters may require **special handling to ensure their confidentiality.**
Council will encourage land owners to recognise and respect waahi tapu sites.

Where a resource consent is required for an activity on waahi tapu sites the applicant will be encouraged to consult on the values associated with that site.

Principal Reasons

The identification and protection of waahi tapu is an essential means of addressing the requirement of Section 6(e) of the Act and an expression of the tino rangatiratanga. There are many waahi tapu sites in the City on both public and private land. Any desecration of waahi tapu is abhorrent to Maori.

C5.2 Environmental Outcomes Anticipated

The following environmental outcomes are anticipated:

C5.2.1 The Council meets its obligations in terms of Sections 6, 7 and 8 of the Act in relation to Maori.

C5.2.2 The tangata whenua have greater opportunity for involvement in resource management processes.

C5.2.3 The interests of the tangata whenua are taken into account in resource management decisions.