

**'WALKING THE TALK'
INTEGRATION OF IWI PLANNING DOCUMENTS
WITH REGIONAL AND DISTRICT
POLICY STATEMENTS AND PLANS**

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SUMMARY

Iwi management plans and iwi policy statements are now an integral part of the resource management framework in this country. Iwi recognise the importance of these plans as a means to identify their intent regarding their social, economic, cultural and environmental development. This is who we are. This is what we think. This is what we've been saying for years. It is therefore not surprising that iwi and hapu are embracing these plans as a means to signal this intent to the outside world.

INCORPORATION OF IWI POLICY INTO THE PROCESS OF LOCAL GOVERNMENT

The Resource Management Act 1991 particularly, recognises the role that iwi management plans will play in resource management processes of the future, not only for iwi but the rest of the community. Similarly, and to their credit, some local authorities (ie. regional councils and territorial local authorities) are beginning to recognise the advantages of assisting with their preparation. They are after all, a 'proactive' means to secure iwi input into any local authorities resource management processed. Not before time, the increasingly predominant view is, why wait for the adversarial planning process (ie. council hearing, Planning Tribunal, High Court) to make all the decisions. It is costly, it takes time, and worst of all, it is not necessarily conducive to the establishment of good relationships. Perhaps there is more merit in first of all sitting around the table with iwi and talking to, rather than talking past each other.

Iwi management plans provide us with a 'talking point', an opportunity for local authorities and iwi to talk chief to chief. If there are resource management issues or problems we cannot talk our way through to resolution, perhaps then (and only then) should the adversarial process be called in to adjudicate.

Iwi management plans however, have bought with them an ensuing issue, which local authorities need to be mindful of, and be prepared to cope with. The colloquialism 'walking the talk' aptly describes phase two of the iwi management planning process. Simply put, it is one thing to have an iwi management plan, but for the plan to have the desired effect both within and outside of the iwi, policies, goals and objectives articulated in the plan need to be integrated with, incorporated into or adopted by, the many other resource management agencies that reside in an iwi's territories. The 'talk' needs to be 'walked through' by local authorities.

APPROACHES

There are three broad approaches that local authorities can use when dealing with the incorporation of iwi policy into their own policy and operations. The three are not mutually exclusive. They can be worked through simultaneously or incrementally and in any order the parties, ie. iwi and council, deem appropriate. The aim is to ensure that the iwi management plan once prepared, is not relegated to the bottom drawer of the Chief Executives desk and forgotten.

These approaches can be grouped as follows:

1. Direct incorporation of iwi policy into local authority policy statements and plans.
This will include incorporation into; Policy Manuals, Regional Policy Statements and Plans, Corporate/Annual Plans, Transport Plans, 'Special Purpose' Management Plans, and District Plans.
2. Establishment of structural mechanisms by local authorities to implement iwi policy, both at the political and operational level.
This will include establishment of; Maori Committees, tangata whenua representation on various local authority committees, Maori Secretariats, Iwi Consultancy, Iwi Liaison Officers (or indeed none of the aforementioned, favouring instead direct negotiation/contact with each iwi).
3. Establishment of partnership agreements between the local authority and iwi to monitor implementation of iwi policy.
This will include preparation of; Charters of Agreement between Iwi and local authority, establishment of Treaty Policy Filters, establishment of iwi - local authority fora.

Approach (1) should be used as the lead technique for incorporating iwi policy into the process of Local Government. When incorporation is achieved however, and the 'policy intent' of the local authority is signalled, implementation of this intent through its actions and decisions will need to be monitored. It is at this stage that structural mechanisms and partnership agreements (referred to as approaches (2) and (3) respectively) need to be put in place simply to monitor the local authorities effectiveness in implementing iwi policy.

This paper will focus primarily on approach (1), and the various opportunities available to local authorities, to deal with the process of incorporation.

OPPORTUNITIES FOR POLICY INCORPORATION

There are five major opportunities available to local authorities to incorporate iwi policy into their own policy and plans. These include:

Incorporation into local authority policy manuals.

Most local authorities will have a 'Policy Manual'. In many respects the policy manual is a historical commentary of decisions made by the local authority over many years. It is the local government equivalent of legal precedent. It will cover procedures the local authority use to carry out its functions including such things as, code of conduct between politicians and staff, procedures for establishing council committees, role of various committees and so on. It will also include important local authority 'statements of principle' on a wide range of issues such as parks management, resource management, water resources allocation, pollution control. It may even include policy on the Treaty of Waitangi and/or tangata whenua consultation. At the very least and as a minimum starting point all policy manuals, should include general policy on; the Treaty of Waitangi, tangata whenua consultation, processes for dealing with Iwi Management Plans and encouraging the use and understanding of Te Reo and Tikanga Maori.

Incorporation into regional policy statements, plans and district plans prepared under the Resource Management Act 1991.

In addition to general provisions in the Act dealing with Maori interests (ie. the need to "recognise and provide for the relationship between Maori and their culture and traditions with ancestral lands, waters, waahi tapu and other taonga" as a matter of national importance, to "have particular regard to kaitiakitanga" and to "take into account the principles of the Treaty of Waitangi"). The Act specifically states that:

- Regional Policy Statements (RPS) "shall state matters of resource management significance to iwi authorities".
- Regional Plans (RP), may be prepared, including plans to deal with "any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources".
- RPS, RP and District Plans (DP) whatsmore "shall have regard to...relevant planning documents recognised by an iwi authority affected by the (policy statement or plan)".

Given that the Act is quite directive in its stating that the RPS "shall state matters of significance to iwi authorities", it is quite clear that not only must the RPS do just that, but that the iwi must determine for itself what is significant. A clear directive is also given to local authorities that an iwi management plan which has the iwi's seal of approval on it will indeed be a relevant planning document, and therefore the articulator of what is 'significant' to the iwi.

The iwi therefore has every right to state its policy position on these issues and to reasonably expect that local authorities will incorporate these positions into their own resource management policy and plans, in a manner encouraged and expected by the Act.

Incorporation into annual plans and reports prepared under the Local Government Act 1974.

Section 223(D) of the Local Government Act 1974, establishes an annual public reporting procedure, requiring that local authorities, prepare (in every year) an annual plan. The annual plan is supposed to define 'specifically' (for the financial year to which applies), and in general (for each of the two following years), the following matters;

1. **Intended significant policies and objectives.**
For instance, natural resource management (ie. land, water, air and coastal management), Community and physical resource management (ie. transport and civil defence), strategic policy.
2. **Nature and scope of activities to be undertaken for each significant activity.**
For instance, under natural resource management, these may include such things as 'To monitor water quality and quantity' or 'To promote conservation and enhancement of cultural resources in the region'
3. **Performance targets and other measures to judge performance in relation to objectives.**
4. **Indicative costs and source of funds** for each significant activity needs to be identified.

It is entirely appropriate that the concepts of Treaty, Maori and Iwi be incorporated into any annual plan, and that they in fact be defined independently, as 'significant activities' of the local authority, with a requisite scope of activities, performance targets, and indicative costs clearly defined in the plan. In addition it is also entirely appropriate that 'other' significant activities such as environmental planning, natural resource management et al, define **as a matter of course**, Maori/Treaty programmes (eg. tangata whenua input into policy development), allocate expenditure for such programmes, and prescribe performance measures for such programmes, as an integral (not peripheral or irrelevant) part of the own 'significant activity'.

Incorporation Into Transport Plans prepared under the Transit New Zealand Act 1989.

Under Section 23 of the Act Regional Councils must prepare a 'Regional Land Transport Strategy' identifying land transport needs for the region and the best means of responding to these needs. Similarly, Section 26 requires that each territorial local authority prepare a 'District Land Transport Programme' for the district. Furthermore, Section 27 states that "No project affecting Maori land or Maori historical, cultural, spiritual interests shall be included in any district or regional land transport programme, unless the local authority has consulted with every iwi or hapu affected".

Given the Act recognises the importance of Maori historical, cultural and spiritual interests, it is appropriate that any Regional or District Transport Programme include relevant Maori and iwi policy, goals and objectives as part of any land transport strategy.

Incorporation into any other 'special purpose' plans

Special purpose plans could include anything from 'Cultural Heritage Plans' to 'Water Management Plans', 'Regional Parks Plans', 'Open Space Strategies', 'Harbour Management Plans' or 'Recreation Plans'. The list of specialist plans or policy statements which could be prepared by either a regional council or territorial local authority is quite comprehensive. It is also a direct reflection of the wide ranging activities and responsibilities given to local government, not only under specific legislation, but by the public because the issue is seen as a 'public' or 'community' responsibility.

For every 'special purpose plan' it is not stretching the imagination to suggest that there will not only be a 'Maori perspective' (on the particular issue) but a collective of 'iwi perspectives' and therefore iwi policies, goals and objectives. Whether such perspectives are readily available is another matter. It is however a basic truism that an iwi will be interested in everything that occurs within its tribal territories and anything which affects its citizenry. Therefore anything and everything that Local Government will be involved in or responsible for, will be of interest to iwi. The ability to translate this 'interest' into written policy is often variable though, and largely dependant on resources and skills available to iwi to enable them to carry out his translation from thought to word.

GETTING STARTED

Before the process of incorporation begins, ground rules to deal with the act of incorporation need to be defined and agreed to by both iwi and local authority. While whatever process both parties agree to will be the 'right' process, the following elements should nevertheless be incorporated into these basic groundrules.

On receipt of an iwi management plan the local authority should;

1. Establish a 'project team' within the local authority to handle the process of incorporation. The team should either include senior staff from departments whose operations come within the ambit of iwi policy identified in the plan, or a system should be put in place to enable regular reporting to such staff. Representatives of the iwi should be included, if they so wish.
2. Devise a comprehensive checklist of all local authority policy statements and plans, including those referred to above, and into which, iwi policy can be incorporated.
3. Develop a time frame for carrying out the process of incorporation.
4. Identify stages in the process at which the project team will report back to the iwi (or its representatives) on progress.
5. Obtain concurrence of iwi to the incorporation process.
6. Work through the process of incorporation prescribed below.

PROCESS OF INCORPORATION

When process matters have been organized, the next critical phase is to methodically examine **each** iwi policy, goal and objective in the iwi management plan **and** to determine two things in respect of each policy, goal and objective listed. These are;

1. Determine which local authority plans and/or policy statements (ie. Policy Manual, Regional Coastal Plan, Regional Policy Statement et al) **each** iwi policy, goal and objective examined, is pertinent to.

2. Determine firstly, **If** and secondly **how**, each iwi policy, goal and objective may be incorporated into the particular local authority plans and/or policy statements identified as being appropriate. There will probably be four categories of responses into which each (ie. iwi policy, goal, objective) can be slotted.

These are;

- a. Yes, the iwi policy, goal or objective can be incorporated because it is consistent with current or proposed local authority policy or because statute supports the iwi's policy position.
- b. Yes, the iwi policy, goal or objective is worthy of local authority support but needs to be formally endorsed because it falls outside present policy.
- c. No, the iwi policy, goal or objective cannot be supported in its present form, but there may be room for negotiation with the iwi to attempt a compromise. If on the other hand a compromise agreement cannot be reached, the iwi may be advised to seek adjudication by objection/submission to the local authority, and appeal to the Planning Tribunal or High Court.
- d. No, the iwi policy, goal or objective cannot be supported because it is in direct conflict with established or proposed council policy, or it is outside the bounds of current statute. For these the iwi can either use the adversarial planning process, or lobby politically to seek resolution.

When the project team has reached its own understandings or recommendations on 'what policy statement or plan' is appropriate, and 'if' or 'how' **each** iwi policy, goal and objective can be incorporated the next critical phase is to then;

3. Report back to the iwi (or their representatives) the draft recommendations for incorporation and to then discuss each recommendation from the point of view of whether the iwi agrees or does not agree with how the specific iwi policy, goal or objective to which it refers, has been incorporated.

Three categories will probably emerge. These are;

Category A

Yes, we the iwi agree with the recommendation on incorporation.

For iwi policy, goals and objectives that fit this category, the onus is then placed on the local authority, to expedite the inclusion of these policies, goals and objectives into the relevant policy statement or plan as efficiently as possible.

Category B

Yes, we the iwi agree to a greater or lesser extent, with the recommendations on incorporation, but we do have a few concerns.

For iwi policy that falls into this category, the onus is placed on the local authority to negotiate the differences in opinion and attempt an agreement to modify. Those for which an agreement can be struck, will be reassigned to Category A. Those for which an agreement to modify cannot be struck will need to be reassigned to Category C, below.

Category C

No, we the iwi do not agree at all with the recommendations on incorporation.

For iwi policy, goals and objectives which fit this category, while some attempts should be made to negotiate differences in position, this category will include all iwi, policy, goals, and objectives which may need to be taken through the adversarial planning process, and/or political lobbying procedures.

CONCLUSION

Ultimately the degree of integration, incorporation or adoption (or indeed non-integration or non-adoption) will still depend on how radical or 'realistic', 'reasonable' or unreasonable the local authority perceives the plan to be. It will depend on the extent to which the Resource Management Act 1991 (or any other relevant resource statute) backs up and supports the iwi's policy with the force of the law. It will also depend on the willingness of the local authority to listen constructively to what is being articulated and the extent to which this articulation causes management anxiety for senior managers from the chief executive down or political angst for the politicians.

In many respects the process of incorporation applies not only to regional councils and territorial local authorities, but just as easily to the policy and plans of the regional office of the Department of Conservation, Historic Places Trust or the cultural committee of the local young farmers club.

The challenge is that once an iwi has declared its management plan to be operative, the next (and arguably more difficult) step is to ensure integration, incorporation or adoption of iwi policy by the various resource management agencies who may have jurisdiction over, natural resources within the iwi's territories. Only then can the iwi 'idea' become the reality, the word become the action, and the action to lead to progress.