

**POLICY:** **IWI INPUT INTO PLANS AND POLICY STATEMENTS**

**GROUP RESPONSIBLE:** Regulatory Services

**DATE APPROVED:** 28/1/99

**DATE AMENDED:** 26/09/02

**FILE NO:** 60/1/3/13, 240/10/6/1, 360/20, 140/15

**POLICY DETAIL:**

The Southland District Council, together with Gore District Council, Invercargill City Council and Southland Regional Council, has agreed to a protocol with Te Ao Mārama Inc to facilitate Iwi input into plans and policy statements prepared under the Resource Management Act 1991.

A copy of the protocol follows:

## **PROTOCOL FOR IWI INPUT INTO PLANS AND POLICY STATEMENTS**

**BETWEEN                      SOUTHLAND DISTRICT COUNCIL**

**AND                              TE AO MĀRAMA INCORPORATED**

### **1.        PURPOSE**

- 1.1      The purpose of this protocol is to define the process for facilitating iwi involvement and consultation in the policy statement and plan development processes administered by the Southland District Council.

### **2.        TE AO MĀRAMA INC**

- 2.1      In terms of the Te Rūnanga o Ngāi Tahu Act 1996, Te Rūnanga o Ngāi Tahu is the iwi authority. Te Rūnanga o Ngāi Tahu has delegated Te Ao Mārama Inc. in the context of this protocol to represent the tangata whenua of the area that lies within the local government jurisdiction of the Southland District Council.

### **3.        RESOURCE MANAGEMENT ACT**

- 3.1      Sections 6(e), 7(a), and 8 of the Resource Management Act recognise matters of importance to tangata whenua, the principles of the Treaty of Waitangi, and imply that iwi generally have a greater interest in resource management matters than the public generally, and have specific values in relation to natural and physical resources which need to be recognised and provided for in planning documents prepared under the Resource Management Act 1991.
- 3.2      The First Schedule Clause 3(1)(d) of the Resource Management Act 1991 requires that during the preparation, change or variation of a proposed policy statement or plan, the local authority concerned has a duty to consult the tangata whenua of the area who may be so affected, through iwi authorities and tribal Runanga.
- 3.3      When preparing a proposed policy statement, proposed plan or variation or change to a policy statement or plan; the local authority concerned shall consult with the tangata whenua. Hence, the Council acknowledges a duty to consult tangata whenua in relation to these matters.

#### **4. IWI**

- 4.1 The combined Runanga have established an office for the purpose of managing their relationship with the four Councils of Southland/Murihiku. The Councils have provided funding and administrative advice towards the running of the office.
- 4.2 The Councils and combined Runanga have agreed to the creation of a Kaupapa Taiao Manager's position within Te Ao Mārama Inc., responsible for co-ordinating iwi input into plans and policy statements, and for managing the overall liaison and public relations functions between the Runanga and the Councils.
- 4.3 The combined Runanga will appoint an appropriate person or persons to attend all local authority plan development, changes, variations and associated working party meetings in Southland/Murihiku on behalf of iwi.
- 4.4 The purpose of this person or persons is to facilitate iwi consultation and provision of information relevant to the planning process, to Te Taiao Tonga (Environment Southland), Invercargill City Council, the Southland and Gore District Councils.
- 4.5 A mana whenua management committee with representation from each Papatipu Runanga as defined by Te Runanga o Ngāi Tahu Act 1996 and Ngāi Tahu Claims Settlement Act 1998 is established with responsibility for directing and monitoring the information to be provided to the local authorities.
- 4.6 The "Kaupapa Taiao Manager" will facilitate mana whenua management committee meetings and workshop responses to consultative drafts or notified plans and co-ordinate Te Ao Mārama Inc submissions.
- 4.7 The "Kaupapa Taiao Manager" will facilitate mana whenua management committee meetings and workshops for the preparation of responses to submissions of other parties which have relevance to iwi, and co-ordinate Te Ao Mārama's cross submissions.
- 4.8 The "Kaupapa Taiao Manager" will co-ordinate Runanga representatives to attend hearings and present information in support of the statements made in submissions and cross-submissions.
- 4.9 When decisions on submissions and cross-submissions are released by the Southland District Council, the "Kaupapa Taiao Manager" will prepare a brief for Te Ao Mārama Inc. representatives on the content of any decisions of particular relevance. Te Ao Mārama Inc. representatives will then discuss and decide whether to appeal the decision. If the decision is made to appeal, then individual Runanga will have to negotiate resources for this process with Te Runanga o Ngāi Tahu.

#### **5. REIMBURSEMENT OF EXPENSES**

- 5.1 General out-of-pocket expenses and mileage/travel costs for iwi representatives other than the Kaupapa Taiao Manager, directly related to the meetings referred to in clause 4.3 above, may be reimbursed by the Southland District Council on a case by case basis where prior Council approval has been obtained, on the lodgement of a tax invoice, and copies of the relevant receipts.

6. **IWI PARTICIPATION IN DECISION MAKING**

- 6.1 Southland District Council is encouraged to invite iwi representation onto the Southland District Council hearings panel when the submissions to the proposed policy statements, or plans, or variations or changes are being heard in order to provide for tikanga Māori within the hearing process and subsequent deliberations and decision making process.

7. **REVIEW**

Either party may seek a review of the protocol at any time.

Signed on behalf of Te Ao Mārama Inc.

\_\_\_\_\_  
**Te Ao Mārama Inc**

\_\_\_\_\_  
Date

Signed on behalf of Southland District Council

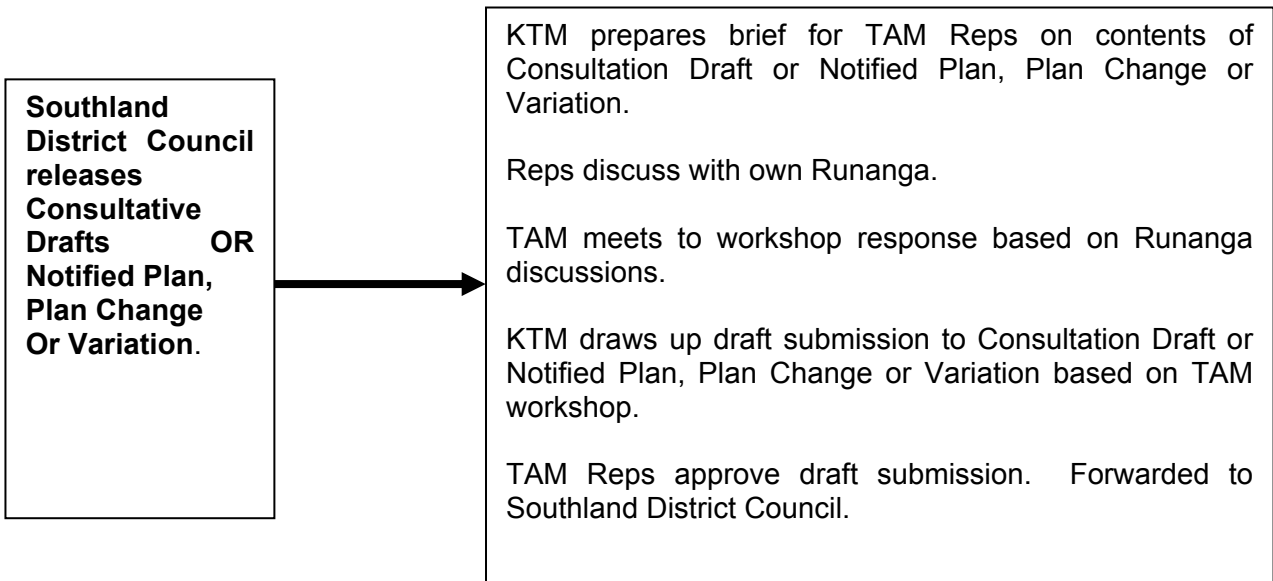
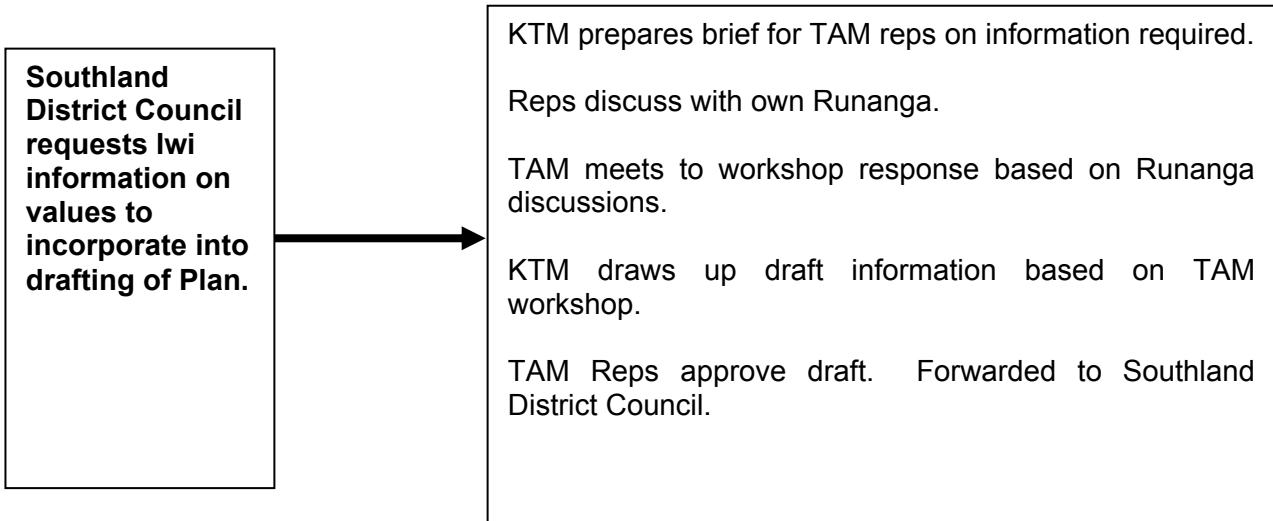
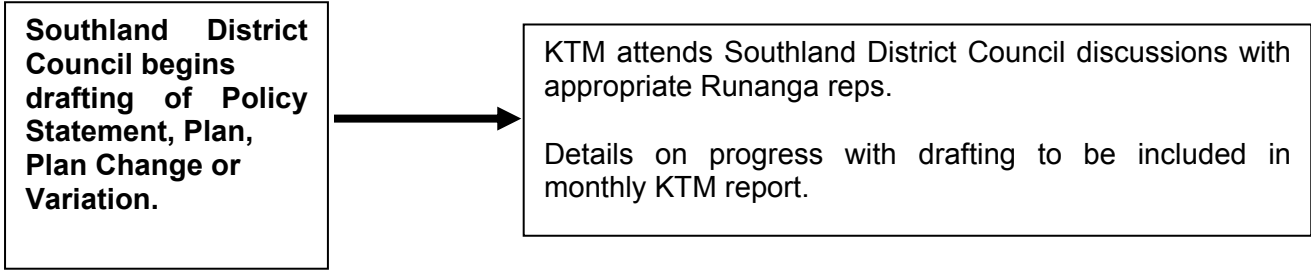
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**Mayor**

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Chief Executive**

\_\_\_\_\_  
Date:

**PROCESS FOR INPUT INTO PLANS AND  
POLICY STATEMENTS**



**Formal submissions close. Cross submissions sought.**



Southland District Council prepares summary of submissions and makes available to KTM and other parties.

Other parties' submissions received by TAM.

KTM prepares brief for TAM Reps on (a) contents of other parties' submissions relevant to iwi.

Reps discuss with own Runanga.

TAM meets to workshop response based on Runanga discussions.

KTM draws up draft cross-submission based on TAM workshop.

TAM Reps approve draft. Final version forwarded to Southland District Council.

**Southland District Council officer's report with recommendations on submissions is released.**

**Hearings commence.**



KTM co-ordinates Runanga representatives to attend hearings and present information in support of the statements made in submissions.

TAM reps attend Workshop at TAM to practice Hearings presentations.

Where possible, Southland District Council is urged to hold hearings on iwi issues on Marae.

**Southland District Council releases decisions after hearings.**



KTM prepares brief for TAM reps on Southland District Council decisions.

TAM reps discuss. TAM recommends appeal/no appeal to Runanga.

Runanga decide whether to appeal and negotiate resources with Te Runanga o Ngāi Tahu.

**POLICY:** **IWI - THE CHARTER OF UNDERSTANDING**

**GROUP RESPONSIBLE:** Regulatory Services

**DATE APPROVED:** 23/10/03

**DATE AMENDED:**

**FILE NO:** 60/1/3/13

**POLICY DETAIL:**

The Southland District Council, together with Gore District Council, Invercargill City Council, Environment Southland and Te Ao Mārama Incorporated have signed a Charter of Understanding.

Te Ao Mārama was authorised to represent Te Runaka O Awarua, Hokonui Runanga, Oraka/Aparima Runaka, Waihopai Runaka who hold mana whenua over all ancestral lands in Murihiku.

As an additional role, has agreed to assist the local authorities through Te Roopu Taiao on their wider responsibilities under the Local Government Act.

The Charter was endorsed by Te Runanga o Ngāi Tahu.



The

Charter

of

Understanding

***He Huarahi mō Ngā Uri Whakatupu***  
**(A Pathway for the Generations Coming Through)**

**He Huarahi mō Ngā Uri Whakatupu**

Mai ea, mai ea, mai ea  
Mai ea te tupuranga  
Ki te whaiao  
Ki te aomarama

E kī anei  
Kia mura tonu te ahi  
O te hinengaro  
Ka oho ake nga uri  
Hei tiaki mo  
Nga whenua papatupu

Whakamaua kia tina, tina!  
Haumi e  
Hui e  
Taiki e!

From its conception  
To its growth  
Into this world  
To the world beyond

It has been said  
Keep the flames of the fire  
Burning in the mind  
The younger generation will arise  
As protectors of  
The ancestral lands and taonga

Gather it into place, fix it, fix it!  
Bind it in place

Bind it tightly  
It is set!

***He Huarahi mō Ngā Uri Whakatupu***

**The Charter of Understanding**

Between

Environment Southland  
Invercargill City Council  
Southland District Council  
Gore District Council

and

Te Ao Mārama Incorporated

Te Ao Mārama is authorised to represent:

Te Runaka O Awarua  
Hokonui Runanga  
Oraka/Aparima Runaka  
Waihopai Runaka

who hold mana whenua over all ancestral lands in Murihiku; and

As an additional role, has agreed to assist the Local Authorities  
through Te Roopu Taiao in their wider responsibilities  
under the Local Government Act.

The Charter is endorsed by Te Runanga o Ngāi Tahu.

## **1 Purpose**

- 1.1 The purpose of this Charter of Understanding is to develop a relationship of mutual benefit between Environment Southland (the brand name of the Southland Regional Council), Invercargill City Council, Gore District Council, Southland District Council, and the mana whenua of Murihiku and Te Runanga o Ngāi Tahu. Te Ao Mārama will assist the Councils, through Te Roopu Taiao in their relationship with matawaka living in te takiwa o Murihiku.
- 1.2 The Charter establishes and provides for a clear understanding of the basis and on-going conduct of the relationship between the Councils and the tangata whenua, in the context of both:
- the Resource Management Act 1991 (RMA); and
  - the Local Government Act 2002 (LGA).

## **2 Background**

- 2.1 The Treaty of Waitangi (Te Tiriti o Waitangi) is the founding document of Aotearoa/New Zealand. It provides for the exercise of Kawanatanga/Governance, by the Crown, while actively protecting Te Tino Rangatiratanga/Full Tribal Authority, of the Iwi in respect of their natural, physical and metaphysical resources.
- 2.2 In exercising governance, the Crown has made laws relating to the promotion of the sustainable management of natural and physical resources, and enhancing the role of local government. The relevant legislation requires that in achieving the purpose of those Acts, all persons exercising functions and powers under them shall:
- Recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga as a matter of national importance (RMA);
  - Have particular regard to Kaitiakitanga (RMA);
  - Take into account the principles of the Treaty of Waitangi (RMA);
  - Recognise and respect the Crown's responsibility to take account of the Treaty of Waitangi by complying with Parts 2 and 6 of the LGA 2002 (section 4); and
  - To maintain and improve opportunities for Māori to contribute to local government decision-making processes (LGA).
- 2.3 The Crown has also created Environment Southland, Invercargill City Council, Gore District Council and the Southland District Council under the Orders specified in the Local Government Act 2002, and requires them to exercise certain functions and powers in relation to:
- The sustainable management of natural and physical resources (RMA).
  - The requirements for local authorities to facilitate participation by Māori in local authority decision-making processes (LGA).
  - Enable democratic local decision-making and action by, and on behalf of, communities (LGA); and
  - Promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future (LGA).



### **3 The Parties**

3.1 Environment Southland, Invercargill City, Gore District and Southland District Councils are represented by their elected Councils.

3.2 By passing of Te Runanga o Ngāi Tahu Act 1996, Te Runanga o Ngāi Tahu is now the legal tribal representative of Ngāi Tahu Whanui, being descendents of the following tribes:

- Ngāi Tahu
- Ngati Mamoe, and
- Waitaha

Ngāi Tahu Whanui are also represented locally in Murihiku by the abovementioned four Runanga. It is the practise of Te Runanga o Ngāi Tahu that consultation in the first instance is via Papatipu Runanga, however, Te Runanga o Ngāi Tahu may from time to time be consulted where it is appropriate to do so (for example, on matters relevant to the Ngāi Tahu Claims Settlement Act 1998).

3.3 For the purpose of this Charter in Murihiku, tangata whenua are represented by the following organisation:

- **Te Ao Mārama Incorporated**

This organisation has been authorised to act in this capacity by Te Runanga o Ngāi Tahu. In terms of Article II of the Treaty, the tangata whenua hold mana whenua over all ancestral lands within Murihiku and on that basis the Councils will liaise with Te Ao Mārama Inc. The membership of this organisation is made up of the four mana whenua Runanga in Murihiku. They are:

- Te Runaka o Awarua,
- Hokonui Runanga,
- Oraka/Aparima Runaka, and
- Waihopai Runaka.

3.4 The LGA refers to all Māori rather than just those who hold mana whenua. This means that no individual or group representing a Māori interest with relevant issues of significance to them can be precluded from interacting with local government directly should they wish. To assist and facilitate that interaction, Te Roopu Taiao, in addition to the primary role of assisting the Councils with their LGA responsibilities, will assist the Councils in their relationship with matawaka living in te takiwa o Murihiku by holding open forum at the commencement of each Te Roopu Taiao hui. By way of explanation, Te Roopu Taiao is the political group made up of representatives from each Council and each runanga in Murihiku.

### **4 Goals and Objectives**

4.1 The Councils and the tangata whenua of Murihiku have a common goal. It is the sustainable management of the region's environment and for the social, cultural, economic, and environmental well-being of the community, for now and into the future.

- 4.2 In pursuit of this goal, the Councils and the tangata whenua of the region agree that:
- 4.2.1 The relationships are based on good faith, co-operation, and understanding.
  - 4.2.2 There is commitment to work towards solutions with reasonableness and honesty of purpose.
  - 4.2.3 All parties respect and seek to accommodate different cultural values and ways of working. They recognise a range of philosophies and practices of environmental and local government management and acknowledge that tangata whenua are working to restore an iwi environmental management system.
  - 4.2.4 To ensure that issues relating to Māori are appropriately addressed in local government decision-making processes.
  - 4.2.5 The specific relationship of tangata whenua and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga where considering all significant decisions in relation to land or water bodies.

## **5. Principles for the Relationship**

### **The Resource Management Act 1991**

- 5.1 The Purpose and Principles (Part II) of the RMA, provide for a Māori dimension to be included in resource management decision-making. Three provisions refer to matters Māori. They are:
- 5.1.1 Section 6(e): The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.  
  
This provision is not restricted to lands, water, sites, waahi tapu and other taonga in current Māori ownership, but may extend to include resources that were once owned by the ancestors of the tangata whenua in the past.  
  
The Councils (and all other parties exercising functions and powers) must recognise and provide for this special cultural and traditional relationship as a matter of national importance.
  - 5.1.2 Section 7(a): Kaitiakitanga - the exercise of guardianship.  
  
Kaitiakitanga is concerned with both the physical and spiritual well-being of the resource. The Councils must have particular regard to kaitiakitanga.
  - 5.1.3 Section 8: To take account of the principles of the Treaty of Waitangi.  
  
The RMA recognises the central importance of the Treaty of Waitangi to resource management. The parties consider that this is appropriate, for the mandate to enact the legislation comes ultimately

from the Treaty itself. Councils must take account of the Treaty's principles in all decisions under the RMA. The principles of the Treaty which the parties consider to be important at this stage are set out in Section 6 of this Charter.

The parties recognise that the protection afforded the Māori interest under Part II of the RMA is not absolute. In all cases, there will be a requirement to balance Māori interest against other interests that must be considered under the RMA.

### **The Local Government Act 2002**

5.2 The Local Government Act provides opportunities for Māori to participate in local governance and decision-making. The relevant provisions are:

5.2.1 Section 14(1)(d) – a local authority should provide opportunities for Māori to contribute to its decision-making processes.

5.2.2 Resolving Conflict – processes must be in place to resolve conflict should it arise (refer Section 9).

5.2.3 Section 77(1)(c) – take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga where considering all significant decisions in relation to land or water bodies.

5.2.4 Section 81(1)(a)-(c) – provision of processes for Māori contributions in decision-making, development of capacity to contribute, and providing information to assist those roles (see also clause 7.3.5).

5.2.5 Section 82 – the established principles of consultation must be followed (see also clause 8).

### **The Local Electoral Act 2001**

The Local Electoral Act (Sections 19Z – 19ZH) provides a discretionary opportunity for Councils to create Māori Wards and Constituencies that will assist in providing fair representation for Māori living within the region.

## **6 Principles of the Treaty of Waitangi**

6.1 The parties recognise that understanding of the principles of the Treaty of Waitangi is a developing area and new principles may emerge as the meaning and intent of the Treaty is further defined.

6.2 The principles of the Treaty describe a dynamic relationship between the treaty partners, recognising that the Treaty is a living document.

6.3 The Councils and the tangata whenua may, with mutual agreement, decide to develop and adopt further principles.

6.4 The principle of “The Essential Bargain” is of primary significance for the conduct of the relationship and is to be taken into account under the Resource Management Act. This term has been interpreted to mean the right of the Crown to make laws was exchanged for the obligation to protect Māori interests (Waitangi Tribunal and see also Court of Appeal).

- 6.5 The Tribal Self Regulation principle recognises that the tangata whenua may wish to retain responsibility and control of the management and allocation of their resources.
- 6.6 Application of this principle requires those exercising Kawanatanga to recognise the exercise of Rangatiratanga by tribal groups, and for those exercising Rangatiratanga to recognise Kawanatanga.
- 6.7 In exercising Rangatiratanga and Kaitiakitanga the tangata whenua rights to development including but not limited to, access to new knowledge and technologies, shall be recognised by the Councils.

## **7 Implementing the Principles**

### **7.1 Representation**

- 7.1.1 Representation refers to the mechanisms which provide for individuals and groups authorised to speak for the tangata whenua and Māori generally to participate in the Council's decision-making processes.
- 7.1.2 Iwi representation and participation will be undertaken through the mechanisms listed below. These mechanisms take account of the principles of partnership and shared decision-making, and the independence and diversity of Iwi organisations.
  - 7.1.2.1 "One to One" relationship between Iwi and the Councils. The Councils will continue to develop a direct relationship with Iwi.
  - 7.1.2.2 Iwi-Council Representative Group (Te Roopu Taiao). The function of the Iwi-Council representative group is to provide a forum for the exchange of views between the tangata whenua and the Councils. The Group will provide advice to the Councils and contribute to setting policy directions. Meetings will focus on, but are not limited to, issues affecting the Iwi, and monitoring the effectiveness of the Charter and Council's management policies and plans under both the RMA and LGA.
  - 7.1.2.3 The Group will consist of one representative from each Runanga and one Councillor representative from each Council. There will be provision for additional Council and Iwi representatives to be present for items of specific interest to them. For the purposes of clarity, the Kaupapa Taiao Manager from Te Ao Mārama and Council staff are in attendance in an advisory capacity only, and shall have no voting rights.
  - 7.1.2.4 The parties understand the powers and functions of the Councils to be expressions of Kawanatanga. However, the parties recognise that the Councils are limited by statute in their exercise of Kawanatanga.

- 7.1.2.5 The Essential Bargain is in the nature of an exchange and a recognition of respective rights. The operation of this principle will include “rangatira to rangatira” interaction between the Councils and Iwi representatives.
- 7.1.2.6 The Partnership/Mutually Beneficial Relationship principle imposes a duty on both tangata whenua and the Councils to interact in the best possible way with reason and respect. This is reflected in the Goals and Objectives (referred to in Section 4 above), which set out the parameters of the relationship.
- 7.1.3 Iwi Representation at Council Meetings - Within the framework of the Councils’ standing orders, Iwi representatives have the right to address any committee meeting or meeting of the full Council on matters relating to Councils functions and responsibilities. This right is in addition to the right that members of the general public have to make statements at Council meetings. In the event of a matter being discussed at a hearing, then the statutory processes must be followed.
- 7.1.4 Council Representation at Iwi Meetings - In implementing consultation on a “Rangatira to Rangatira” basis, Council and Iwi representatives may meet to discuss matters of mutual importance on the Marae or other venue nominated by the tangata whenua.
- 7.1.5 All parties retain the right to choose their own representatives. Both the tangata whenua and the Councils recognise that those representatives are authorised to speak for their respective organisations.
- 7.1.6 Council staff members or consultants involved in facilitating liaison between the Councils and tangata whenua do not act as representatives of Iwi or Council views.

## **7.2 Building Capacity**

The Local Government Act requires the Council to outline steps to be taken to foster the development of Māori capacity to contribute to Councils’ decision-making processes. The approach from the Councils is to ensure that tangata whenua through Te Roopu Taiao and Te Ao Mārama Inc have that capacity in the first instance but to also make sufficient capacity building capability available to matawaka should it be required.

### **7.2.1 Organisational Level**

The Councils and te tangata whenua o Murihiku have a well established relationship and understanding for collaboration that has stood the test of time. The relationship and its associated processes evolved primarily through the Resource Management Act duties but has been expanded in scope to cover all aspects of mutual interest, including the Local Government Act 2002. The level of trust and collaboration is such that the interaction between the Councils, te Kaupapa Taiao Manager and the four papatipu Runanga representatives, is now a natural part of daily business.

The primary collaborative structure that has been put in place is Te Roopu Taiao. This management group is made up of elected representatives from each of the four Southland Councils, and representatives of the four papatipu runanga. This group provides the overarching administrative input to maintaining the collaborative arrangements.

Te Ao Mārama Inc. is the management organisation that takes on the role of looking after tangata whenua interests in resource management and other aspects related to local government in Southland. If the issues are of a wider Treaty or of precedent character, there will be a requirement to consult with Te Runanga o Ngāi Tahu. Te Runanga O Ngāi Tahu has authorised the four papatipu runanga to look after all other issues in Southland that affect tangata whenua including Ngāi Tahu Claims Settlement Act interests.

To facilitate tangata whenua participation in these matters, Te Ao Mārama Inc is financially resourced by the four local authorities on an annual basis. This funding is in addition to other funding gained directly by Te Ao Mārama Inc from other sources.

Other opportunities that may be addressed on an ongoing basis include:

- Opportunities to assist the Runanga contributions to decision making in Southland.
- Additional resourcing assistance to enable participation in Local Government Act processes.
- An invitation to Runanga to discuss the matters they should be involved in and how.
- Capacity enhancement to enable Māori to participate in the Council's decision-making process and how that might happen.
- Developing a policy for dealing with requests for remission of rates on Māori freehold land.

### 7.2.2 Activity Level

Councils' goal is to ensure that tangata whenua matters are incorporated seamlessly into the normal daily activities and core business of local government in Southland.

This Charter of Understanding exists between the Councils and Te Ao Mārama Inc on behalf of te papatipu runanga o Murihiku. The Charter forms the basis from which the current relationship is formed. The Councils initially signed the Charter of Understanding with Te Ao Mārama Inc. for Resource Management Act matters, and this continues to provide the basis for an ongoing contribution to decision-making on those matters. The Charter has been extended to incorporate the requirements of the Local Government Act 2002 and the Local Electoral Act 2001.

Council staff undertake consultation and discussion with Māori through Te Kaupapa Taiao Manager on a regular basis. In some cases, these are ongoing processes required by legislation (e.g. the Resource Management Act 1991 and the Local Government Act 2002), others are simply a way of recognising the spirit of open partnership inherent in the Treaty of Waitangi.

The Councils in conjunction with tangata whenua over time, have committed to ensuring that tangata whenua are appropriately resourced to enable participation in the matters of common interest. Some examples of these initiatives include:

- Assistance for the production of the iwi resource management plan *Te Whakatau Kaupapa O Murihiku*;
- The adoption of a Protocol for Iwi input to Plans and Policy Statements;
- Offer of employment opportunities for a tikanga Māori student;
- Participation in Hearings panel deliberations.

Changes to the Resource Management Act mean that the Councils now have responsibilities concerning heritage matters. The Councils will have to establish a strategy for heritage assets in conjunction with all stakeholders. Significant consultation will be needed before any policies are developed, and meetings with Te Ao Mārama Inc. are to be organised as the first step in this process.

Human Resources policies are currently being developed and will address cultural awareness training for Councillors and staff, and these will be written in consultation with Te Ao Mārama. Training opportunities for iwi will be considered by and offered to iwi as they arise.

These interactions can all be seen to help build Māori capacity to participate in the operational and decision-making processes of the Councils.

### **7.3 Shared Decision-Making**

#### **Resource Management Act 1991**

- 7.3.1 Shared decision-making is a principle implied in the requirement to balance the Kawanatanga role of Article I of the Treaty and the Rangatiratanga role of Article II of the Treaty.
- 7.3.2 The Councils will seek to achieve the principle of shared decision-making within the limitations of the relevant legislation, and the RMA in particular. The options include those representation mechanisms outlined under Representation (Clause 7.1.2 etc), the use of the tangata whenua as consultants to advise Councils, the appointment of the tangata whenua as Hearings Commissioners, and the transfer of powers under Section 33 of the RMA. However, it is recognised that in the event of Iwi Commissioners being required for a hearing process, the same persons cannot act as consultants in that regard so as to maintain objectivity in decision-making.
- 7.3.3 The Councils will seek to take opportunities to include Iwi representatives in decision-making processes under the RMA.

#### **Local Government Act 2002**

- 7.3.4 The Councils, within their roles and responsibilities, shall
- (a) establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and
  - (b) consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and
  - (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b). (Section 81, LGA)

### **7.4 Active Protection**

- 7.4.1 The Crown's duty of active protection of the tangata whenua rights and interests in resource management is not simply a passive one, but is in all senses active to the fullest extent practicable.
- 7.4.2 The Councils will recognise the need for active protection to be considered in all aspects of their business that affect the customary rights and interests of tangata whenua and in particular when developing their RMA and LGA policies and plans.

## **7.5 Shared Initiatives**

- 7.5.1 Te Roopu Taiao (as referred to in 7.1.2.2 above) will meet not less than four times a year. There will be opportunity for additional meetings to be held, at the request of Iwi or the Council representatives.
- 7.5.2 Te Ao Mārama Inc. Kaupapa Taiao Manager - The role of the Kaupapa Taiao Manager is to provide liaison between Iwi and the Councils. This will include liaison between individual Councils and/or their staff. The Manager's role is also to provide liaison between individual Runanga.
- 7.5.3 Working Parties - Working parties may be established, by mutual agreement of the Councils and the tangata whenua, to facilitate Iwi input into the preparation and review of the Councils' RMA and LGA policies and plans and into the local authority decision-making processes.

## **8 Consultation**

- 8.1 During the preparation, withdrawal, change or review of any proposed policy, Policy Statement, or Plan under the RMA or Section 82, LGA, the Councils have a duty to consult with Māori. The tangata whenua have a reciprocal duty to respond. However, the level of resourcing provided affects how the Councils and the tangata whenua are able to carry out these duties. The Councils need resources to facilitate consultation. The tangata whenua need resources to make a meaningful response. Both the Councils and the tangata whenua benefit if the process is as efficient and effective as possible.
- 8.2 Consultation involves:
- A genuine invitation to give advice and a genuine consideration of that advice.
  - The provision of sufficient information and time for the consulted party to be adequately informed, to appraise the information and make useful responses.
  - The party obliged to consult, keeping its mind open, being ready to change and where feasible, seek consensus.
- 8.3 Consultation is not simply informing the tangata whenua of impending actions. The duty is an active one. The Councils must consult early and in good faith, as is implied in the partnership principle and in terms of the Councils' Consultation Policies. The Councils will continue to consult with the tangata whenua on various matters, particularly at all stages of the preparation and review of policies and plans, and with regard to resource consents as required.
- 8.4 To facilitate consultation the Councils will:
- Acknowledge that, in the framework of the relevant legislation the tangata whenua and Māori have status as Treaty Partner, distinct to that of other interest groups and the general public.
  - Liaise with Te Ao Mārama Inc (which represents members of the Iwi authority) via the Kaupapa Taiao Manager.
  - Take into account environmental management plans prepared by the Iwi authority and consider the need to support the tangata whenua and Māori in the preparation and review of RMA and LGA policies and plans.

- Provide reasonable and appropriate access to relevant information,
- Encourage the presentation of views to the Councils who will receive them with an open mind, and following due consideration, provide to the persons presenting those views, information concerning the relevant decision and the reasons for the decisions.

8.5 The Councils will, with regard to consultation over resource consents, and subject to the time constraints contained in the RMA:

- Ensure that sufficient information is provided by a resource consent applicant on any potential impacts on the tangata whenua.
- Encourage applicants to consult with the tangata whenua as part of the assessment of effects, by directing them to Te Ao Mārama Inc.
- Develop a procedure for referral of all resource consent applications to Te Ao Mārama Inc so that they may assess which are of concern to them.

8.6 The tangata whenua will endeavour to:

- Use the consultation provisions in a positive and pro-active way.
- Provide, where resources and time allow, clarification on matters of significance to Iwi relevant to the particular proposal or issue.
- Identify appropriate contact persons within Iwi who will gather information to ensure that the Councils are kept adequately informed.
- Comply with the time constraints which govern the resource consent application process.
- Endeavour to respond to LGA consultation processes in a timely manner.

## **9 Conflict Resolution**

9.1 There may be situations where the Councils' Kawanatanga powers and responsibilities conflict with the Rangatiratanga interests of tangata whenua and/or Māori. In such instances, the parties should endeavour to reconcile differences in a non-adversarial manner through dialogue, mediation and negotiation. In the event of an independent facilitator or mediator being required, Te Roopu Taiao will maintain a list of appropriately qualified, acceptable, mediators. Litigation should always be seen as a last resort.

## **10 Resources**

10.1 In recognition of the partnership, consultation and active protection principles the Councils will provide resources to the tangata whenua and Māori capacity to facilitate their involvement and contribution in resource management and local authority decision-making. Resources in the context of this Charter may include the provision of technical advice, expertise, information and financial support. Resourcing will be mutually agreed and within accountability requirements including those of quality and timeliness.

10.2 The Councils and the tangata whenua recognise the limitations and constraints on each partner in respect of resources. Frequently, the tangata whenua do not have the resources, either financial or human, to respond

adequately to consultation requirements. For their part, the Councils' resources, derived primarily from ratepayers, are limited. Councils must set priorities and demonstrate accountability.

- 10.3 Appropriate areas where the Councils may agree with the tangata whenua on the provision of resources, for Iwi input are:
  - 10.3.1 Preparation and review of RMA and LGA policies and plans.
  - 10.3.2 Provision of administrative servicing, travel and meeting allowances for the meetings of the Iwi/Council Representative Group.
  - 10.3.3 Provision of technical assistance and advice in the preparation and review of Iwi environmental management plans.
  - 10.3.4 General provision of information and advice, and assistance in interpreting and using that information.
  - 10.3.5 General provisions for capacity building such as training.
- 10.4 In some circumstances, the Councils and the tangata whenua may see contracting as appropriate. The normal rules of contract and performance criteria would apply. In the case of a dispute, a group made up of tangata whenua and Council nominees would seek resolution. Parties should avoid recourse to legal processes to resolve conflict.

## **11 Consent Hearings and Pre-hearing Meetings**

- 11.1 A hearing is a quasi-judicial process which operates under certain constraints. The Councils will encourage consultation before hearings so that a more flexible approach is possible. The Councils will ensure the following are provided for in RMA consent hearings:
  - 11.1.1 Recognition and provision for tikanga Māori and te reo Māori, where appropriate.
  - 11.1.2 Appointment of Māori as Hearing Commissioners, where appropriate.
  - 11.1.3 Protection of information relating to hearings proceedings that is considered sensitive and confidential by the tangata whenua. The information to be protected may go beyond that presented at the hearing.
  - 11.1.4 Provision of interpreters where necessary (with five working days advance notice).
- 11.2 Councils will promote the use of pre-hearing meetings to address issues of concern to the tangata whenua, and the use of venues, such as Marae, which provide for tikanga Māori.
- 11.3 In deliberations and hearings that may be held under the LGA, the Councils will make every effort in terms of venue, resources, and time to ensure that Māori issues are fully canvassed, prior to a decision being made.

## **12 Transfer of Powers**

- 12.1 The Councils are able to transfer powers under the RMA to other statutory authorities. In these circumstances the duties with respect to tangata whenua are also transferred and the authorised organisation must meet those responsibilities. The Councils recognise their responsibility to monitor whether the transfer of power is exercised in the appropriate manner.
- 12.2 The RMA also provides for the transfer of powers to Iwi Authorities. It is one of the few mechanisms available to Councils to recognise Rangatiratanga and Kaitiakitanga.
- 12.3 In the course of preparing, withdrawing, changing or reviewing Policy Statements or Plans, the Councils will actively consider, in assessing possible methods of plan implementation, the option of transfer of powers to the Iwi Authority.
- 12.4 Where the tangata whenua request the transfer of powers to the Iwi Authority, the Councils will take into account, along with all other relevant matters:
  - 12.4.1 Their duties under the RMA, concerning Māori values and interests;  
and
  - 12.4.2 The need to assess applications on the grounds of the appropriate community of interest, efficiency and capability (S. 33(4)(c) of the RMA).
- 12.5 The tangata whenua and the Councils may wish to investigate opportunities under the RMA and LGA for joint management of resources as an application of the partnership principle.

### **13 Protection of Sensitive Information**

- 13.1 From time to time the tangata whenua may provide the Councils with sensitive and confidential information, e.g. concerning waahi tapu or other sites of significance, or aspects of tikanga Māori. The Councils will undertake to protect such information in its care and restrict access to it, in accordance with the Local Government Official Information and Meetings Act 1987 (S.7) and the RMA (S.42(1)(a)), or the LGA.
- 13.2 The Councils will give due respect and recognition to “silent files” or plans held by the tangata whenua.
- 13.3 The tangata whenua will undertake to protect any sensitive or confidential information, including restriction of access to it that the Councils may give to them.

### **14 Agreement**

- 14.1 This Charter is freely entered into by all parties in a spirit of goodwill in accordance of the Goals and Objectives stated in Clause 4. The parties recognise the benefits of the Charter to themselves, to the regional community, the region’s environment, and the effective operation of local government. The Charter is a statement of good intention. Accordingly, the parties do not intend that this Charter should create legally binding rights and obligations. The Charter is intended to form the basis of a meaningful long-term relationship and may be further amended or expanded by agreement between the parties as required.

**Signed** on behalf of

*Environment Southland*

**Signed** on behalf of the  
**Invercargill City Council**

**Signed** on behalf of the  
**Southland District Council**

**Signed** on behalf of the  
**Gore District Council**

**Signed** on behalf of  
**Te Ao Mārama Incorporated**  
by representatives of

**Te Runaka O Awarua**

**Hokonui Runanga**

**Oraka/Aparima Runaka**

**Waihopai Runaka**

Endorsed on behalf of  
**Te Runanga o Ngāi Tahu**

**Date:**   /   /