

13. Te Tiriti o Waitangi and co-governance arrangements

This section sets out how te Tiriti o Waitangi / the Treaty of Waitangi applies to the council in a governance context and also discusses the co-governance arrangements, where the council shares governance of resources or assets with another entity. Many of these arrangements have arisen out of Tiriti / Treaty settlements.

13.1 Te Tiriti o Waitangi / the Treaty of Waitangi

- a. Te Tiriti o Waitangi / the Treaty of Waitangi is New Zealand's founding document and is one source of our constitution. It is an enduring and living document which laid the foundation for an ongoing and sustainable partnership between Māori and the Crown.
- b. Various courts have recognised the principles of te Tiriti / the Treaty as including:
 - rangatiratanga (chieftainship)
 - reciprocity
 - partnership
 - active protection
 - options
 - mutual benefit
 - the right of development
 - redress
- c. The Crown is the primary Tiriti / Treaty partner responsible for the Tiriti / Treaty relationship. However, under various statutes, Parliament has directed the council to give effect to certain principles and follow particular processes when making decisions that affect Māori. In particular, the principles and requirements in Parts 2 and 6 of the Local Government Act are intended to facilitate participation by Māori in council decision-making [1]. For further information see Section 10: How council decisions are made.
- d. The council is committed to operating in a manner that recognises and respects the significance of te Tiriti / the Treaty. This commitment is set out in the Auckland Plan. To honour this commitment, the principles of te Tiriti / the Treaty should be used as a

guide to inform the council's approach when making decisions about matters affecting Māori.

13.2 Auckland Council obligations

The council has developed the following responses to meet its commitment to te Tiriti / the Treaty and its statutory obligations:

- a. Whiria Te Muka Tangata – the Māori Responsiveness Framework
 - This was signalled in the Auckland Plan. It enhances and guides the council family's responsiveness to Māori. One of the goals of the framework is to achieve effective Māori participation in democracy, placing emphasis on the council's democratic structures and decision-making processes. For more information, on the Māori Responsiveness Framework, see Māori Responsiveness Framework on Auckland Council's website [1].
- b. Māori impact statements in council decision-making reports
 - Reports for the Governing Body, local boards and their committees must include a Māori impact statement. This is so that decision-makers can take into account any impact on Māori in their decision-making. Māori impact statements should address:
 - i) whether the issue requires communication or engagement with Māori and, if so, who was involved, what they said and the result
 - ii) whether the issue relates to Māori wellbeing and, if so, the statement should explain the situation and the actions underway or intended and the expected outcomes
 - iii) whether the issue provides or has the potential to contribute to the development of Māori capacity and, if so, the statement should explain the situation and the actions underway or intended and the expected outcomes
 - iv) whether the matter has benefits or adverse effects for Māori
- c. Relationship agreements with Tāmaki Makaurau iwi
 - These will provide iwi greater opportunity to contribute to and influence the council's decision-making.

13.3 Co-governance arrangements with Māori

13.3.1 Statutory co-governance arrangements

- a. Māori throughout Tāmaki Makaurau have made claims against the Crown under the Treaty of Waitangi Act 1975. The Crown is in the process of negotiating settlements for the historical aspects of these claims.
- b. While claims are against the Crown, certain parts of the settlement redress may impose responsibilities on, or require action by, Auckland Council. Some Tiriti/Treaty settlements have included the establishment of co-governance structures as:
 - Ngāti Whātua Orākei Reserves Board
 - Te Poari o Kaipātiki ki Kaipara
 - Tūpuna Maunga o Tāmaki Makaurau Authority
- c. These partnership arrangements can enhance quality of life for all Aucklanders. They can include active mana whenua involvement in the co-governance of maunga (volcanic cones), wahapū (harbours), motu (islands) and kaitiakitanga (guardianship) of land and marine resources.
- d. The co-governance model represents a natural progression from the Tiriti/Treaty settlement era and a maturing of the relationship between the council and Māori. Three co-governance entities are discussed below.

13.3.2 Ngāti Whātua Orākei Reserves Board

- a. The reserves board was established under the Ngāti Whātua Orākei Claims Settlement Act 2012 [1].
- b. The reserves board governs Pourewa Creek Recreation Reserve and the whenua rangatira [2]. It was set up as a part of the return of land to Ngāti Whātua on the basis that the reserve land referred is for the common use and benefit of Ngāti Whātua and the people of Auckland.
- c. The reserves board has the powers of an administering body and a local authority under the Reserves Act 1977 (for further information see the Department of Conservation's Reserves Act page). It consists of three members appointed by Ngāti Whātua and three members appointed by Auckland Council. The council is required to meet the board's costs [3].

13.3.3 Te Poari o Kaipātiki ki Kaipara

- a. Te Poari o Kaipātiki ki Kaipara (officially known as the Parakai Recreation Reserves Board) was established under the Ngāti Whātua o Kaipara Claims Settlement Act 2013, following the signing of a deed of settlement [1].
- b. Te Poari has the powers of an administering body and a local authority under the Reserves Act 1977. It governs Kaipātiki (formerly the Parakai Recreation Reserve) [2].
- c. Te Poari consists of three members appointed by Ngā Maunga Whakahii o Kaipara Development Trust and three members appointed by Auckland Council [3].

13.3.4 Tūpuna Maunga o Tāmaki Makaurau Authority

- a. The Tūpuna Maunga o Tāmaki Makaurau Authority (or maunga authority) is established under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014. The authority had its inaugural meeting on 15 September 2014.
- b. A Deed of Settlement was signed on 8 September 2012 between the Crown and a collective (known as the Tāmaki Collective) representing the iwi of Tāmaki Makaurau. The Act implements the Deed. The Deed recognises the rights of the iwi in regard to maunga (mountains), motu (islands) and other land.
- c. The Tāmaki Collective represents:
 - Ngāi Tai ki Tāmaki
 - Ngāti Maru
 - Ngāti Pāoa
 - Ngāti Tamaoho
 - Ngāti Tamaterā
 - Ngāti Te Ata
 - Ngāti Whanaunga
 - Ngāti Whātua o Kaipara
 - Ngāti Whātua Ōrākei
 - Te Ākitai Waiohua
 - Te Kawerau ā Maki
 - Te Patukirikiri
 - Ngāti Whātua hapū (other than Ngāti Whātua o Kaipara and Ngāti Whātua Ōrākei) whose members are beneficiaries of Te Rūnanga o Ngāti Whātua, including Te Taoū not descended from Tuperiri.
- d. The maunga authority membership consists of six members appointed by iwi, six members appointed by Auckland Council and one member appointed by the Minister for Arts, Culture and Heritage.
- e. The maunga authority has the powers of an administering body and local authority under the Reserves Act 1977 and has responsibility for certain maunga and administered lands:
 - Matukutūruru/Wiri Mountain

- Maungakiekie/One Tree Hill
- Maungakiekie / One Tree northern land
- Maungarei/Mount Wellington
- Maungauika/North Head
- Maungawhau/Mount Eden
- Ōhinerau/Mount Hobson
- Ōhūiarangi/Pigeon Mountain
- Ōtāhuhu/Mount Richmond
- Ōwairaka/Te Ahi Kā a Rakataura/Mt Albert
- Pukewīwī/Puketāpapa/Mt Roskill
- Takarunga/Mount Victoria
- Te Ara Pueru/Te Pane o Mataaho/Māngere Mountain
- Te Kōpuke/Tītīkōpuke/Mt St John
- Te Tātua-a-Riukiuta/Big King

13.3.5 Non-statutory co-governance and co-management arrangements

- a. The council has other non-statutory co-governance and co-management arrangements with Māori within Tāmaki Makaurau.
- b. These include separate entities or local boards committees established to oversee a park or facility to which iwi may be appointed.
- c. One example is the Mutukaroa (Hamlins Hill) Management Trust, which was settled in 1996 by the Minister of Lands and trustees representing the former Auckland City Council, former Auckland Regional Council, Ngāti Pāoa, Ngāti Whātua, Tainui, and the member of parliament for the area. Auckland Council has assumed the responsibilities of Auckland City Council and Auckland Regional Council.
- d. The intent was to set aside Mutukaroa/Hamlins Hill as a regional park until treaty claims were finalised. This is achieved by the Crown leasing the area to the trust and the trust subleasing it to Auckland Council to operate as a regional park. The trust meets about four times a year to receive reports on park operations and to provide advice on matters of significance to trustees.

13.4 Footnotes

13.1 Te Tiriti o Waitangi / the Treaty of Waitangi

[1] Local Government Act 2002, s4.

13.2 Auckland Council Obligations

[1] http://www.aucklandcouncil.govt.nz/Plans/LongTermPlan/VolumeOne/section_1341865502973.html.

13.3.2 Ngāti Whātua Orākei Reserves Board

[1] Ngāti Whātua Orākei Claims Settlement Act 2012, ss 13 and 13A.

[2] Ngāti Whātua Orākei Claims Settlement Act 2012, ss 66 and 67.

[3] Ngāti Whātua Orākei Claims Settlement Act 2012, s 4, 46(7) and 69.

13.3.3 Te Poari o Kaipātiki ki Kaipara

[1] Ngāti Whātua o Kaipara Claims Settlement Act 2013, s 14.

[2] Ngāti Whātua o Kaipara Claims Settlement Act 2013, s 46.

[3] Ngāti Whātua o Kaipara Claims Settlement Act 2013, s 2

Key Documents

Appointment and Remuneration Policy for Boards Members of Council Organisation

Civil Defence Emergency Management Act 2002

Code of Conduct

Code of conduct for elected members

Interpretation Act 1999

[Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014](#)

Ngāti Whātua Orākei Claims Settlement Act 2012

Ngāti Whātua o Kaipara Claims Settlement Act 2013

Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008

Local Boards Standing Orders

Local Electoral Act 2001

Local Government Act 2002

Local Government (Rating) Act 2002

Auckland Council Governance Manual

Local Government (Auckland Council) Act 2009

Local Government Official Information and Meetings Act 1987

Public Audit Act 2001

Standing Orders