



Wāhi Tuawhā

Part 4

NGĀI TAHU ME NGĀ RAWA TAIAO
NGĀI TAHU AND RESOURCE MANAGEMENT

NGĀI TAHU ME NGĀ RAWA TAI AO

4.1 He Kupu Whakataki Introduction

There is a distinctive cultural context to the way that Papatipu Rūnanga think about and respond to resource management issues in the takiwā. This cultural context informs the issues and policies in this plan, and is a reflection of:

- ▶ A body of knowledge about the land, water and resources that was developed over more than 40 generations of collective experience in Te Waipounamu;
- ▶ The relationship between tāngata whenua and the environment, and a worldview that sees people as part of the world around them and not masters of it; and
- ▶ The desire to protect key cultural values such as mauri and mahinga kai that are critical to identity, sense of place and cultural well-being.

There is also a historical context to the words in this plan. The dispossession of land that followed the Treaty of Waitangi and the Canterbury and Banks Peninsula land purchases had a profound effect on the spiritual, cultural and traditional relationship between Ngāi Tahu and the environment. As the physical landscape changed, so did the ability of tāngata whenua to access and manage the resources upon which they depended (see Boxes: Sale and Purchase of Ngāi Tahu Land; and Land loss in the 19th century).

The RMA 1991 and the Ngāi Tahu Claims Settlement Act 1998 increased the presence and influence of Ngāi Tahu in resource management processes. While the loss of land will forever stay in the memory of the people, Ngāi Tahu have worked tirelessly to restore taonga such as mahinga kai and water quality, and to fulfill their role as kaitiaki.

This section is divided into three parts:

4.2 The cultural framework: key values and principles that shape Ngāi Tahu views on the environment and resource management

4.3 The legal framework: key statutes that establish the planning framework for tāngata whenua participation in management of natural, physical and historic resources

4.4 Tāngata whenua planning tools: tools used by and for Papatipu Rūnanga to implement Ngāi Tahu values and objectives into resource management processes.

Mō tātou, ā, mō kā uri ā muri ake nei
For us and our children after us

Sale & Purchase of Ngāi Tahu Land

The legitimacy of Ngāi Tahu's mana whenua in the South Island was reiterated through the contracts for sale and purchase of traditional Ngāi Tahu lands to the Crown from 1844 to 1864, including (within the Canterbury region):

The Canterbury Purchase 1848

The Akaroa Purchase 1856

The Port Cooper Purchase 1849

The North Canterbury Purchase 1857

The Port Levy Purchase 1849

The Kaikōura Purchase 1859

In total, the Crown purchased around 34.5 million acres of Ngāi Tahu land (80% of the South Island and more than half of the land mass of NZ) for just over £14,750. While this amounted to less than a penny per acre, it was encumbered with a number of commitments that included setting aside 'adequate' reserves for Ngāi Tahu's present and future needs.

The amount of land reserved was to have equated to approximately 10% of the land sold – that is, nearly 3.5 million acres – however, only 35,757 acres were ever set aside. Ngāi Tahu were left with only about one-thousandth of their ancestral land and over 3.4 million acres short of the land that the Crown had agreed to reserve.

Source: Information prepared by Te Marino Lenihan (2012).

Land loss in the 19th century

Much tribal land was lost in the 19th century. While some tribes willingly released some land, much land was taken against their will and the will of others. The New Zealand wars were followed by land confiscations, and the Native Land Court also facilitated the sale of land by transferring land titles from tribes and putting them into individual names. Iwi (tribes) made many attempts to halt this loss. The felling of forests and loss of land were a catastrophe for their traditional world view. The trees of the forest were a model for the tikanga or behaviour of a people, so their destruction was a calamity. The widespread loss of land meant the loss of foundation and stability, and of the centering, nurturing principle of Papatūānuku.

The desperation felt in the 19th century is captured by Wi Naihera of Ngāi Tahu:

When the waves rolled in upon us from England, first one post was covered, then another till at last the water neared us and we tried to erect barriers to protect ourselves. That is we entered into agreement with those who purchased our lands from the Queen, but when the flood tide from England set in our barriers were cast down, and that is why you find us now, clinging to the tops of these rocks, called Native Reserves, which alone remain above water.

Source: Te Ahukaramū Charles Royal. 'Papatūānuku – the land - Loss of land', Te Ara - the Encyclopedia of New Zealand, updated 1-Mar-09 URL: <http://www.TeAra.govt.nz/en/papatuanuku-the-land/9>

4.2 The cultural framework

There a number of key values, principles and practices that shape Ngāi Tahu view on the environment and resource management. While these are embedded throughout this IMP, a brief overview is provided here:¹

Whakapapa

Whakapapa (genealogy) is the central pillar of Ngāi Tahu's framework for managing resources, setting out and effectively explaining the relationships between the various elements of the world around us, including human beings.

Manawhenua

Manawhenua is the right to exercise authority over a particular area, its resources and its people. Manawhenua is passed on by way of whakapapa and is protected and secured through the on-going exercise of one's rights to resources in a manner consistent with tikanga. Inevitably, with mana comes responsibility.

Kaitiaki

Traditionally, kaitiaki were the non-human guardians of the environment (e.g. birds, animals, fish and reptiles) which, in effect, communicated the relative health and vitality of their respective environments to local tohunga and rangatira who were responsible for interpreting the 'signs' and making decisions accordingly. In essence, there is no real difference to scientific practices of today, which continue to use specific indicator species and observe their behaviours to measure the state of the environment.

Kaitiakitanga

Kaitiakitanga is fundamental to the relationship of Ngāi Tahu and the environment. The responsibility of kaitiakitanga is twofold: first, there is the ultimate aim of protecting mauri and, second, there is the duty to pass the environment to future generations in a state which is as good as, or better than, the current state. To Ngāi Tahu, kaitiakitanga is not a passive custodianship, nor is it simply the exercise of traditional property rights, but entails an active exercise of responsibility in a manner beneficial to the resource.

Mauri

Mauri is often described as the 'life force' or 'life principle' of any given place or being. It can also be understood as a measure or an expression of the health and vitality of that place or being. The notion embodies the Ngāi Tahu understanding that there are both physical and

metaphysical elements to life, and that both are essential to overall well-being. It also associates the human condition with the state of the world around it. Mauri, therefore, is central to kaitiakitanga; that is, the processes and practices of active protection and responsibility by Manawhenua for the natural and physical resources of the takiwā.

Mauri can change either naturally or through intervention and Ngāi Tahu use both physical and spiritual indicators to assess its relative strength. Physical indicators include, but are not limited to, the presence and abundance of mahinga kai fit for consumption or cultural purpose. Spiritual indicators include the kaitiaki referred to above. They are often recalled in kōrero pūrākau to explain the intrinsic connection between the physical and metaphysical realms of our world.

Wāhi tapu and wāhi taonga

Wāhi tapu are places of particular significance that have been imbued with an element of sacredness or restriction (tapu) following a certain event or circumstance. Wāhi tapu sites are treated according to tikanga and kawa that seek to ensure that the tapu nature of those sites is respected. Of all wāhi tapu, urupā are considered to be the most significant.

Wāhi taonga are "places treasured" due to their high intrinsic values and critical role they have in maintaining a balanced and robust ecosystem (e.g. spawning grounds for fish, nesting areas for birds and freshwater springs). They are prized because of their capacity to shape and sustain the quality of life experience and provide for the needs of present and future generations, and as places that connect and bind current generations to their ancestral land and practices.

Ki Uta Ki Tai

The principle of Ki Uta Ki Tai reflects the holistic nature of traditional resource management, particularly the interdependent nature and function of the various elements of the environment within a catchment.

Mahinga kai

The Ngāi Tahu Claims Settlement Act 1998 describes mahinga kai as "the customary gathering of food and natural materials and the places where those resources are gathered." Mahinga kai are central to Ngāi Tahu's culture, identity and relationship with landscapes and waterways of Te Waipounamu.

Manaakitanga

Manaakitanga is the custom of being aware of and caring for the needs of your guests. In turn, the mana of the tāngata whenua is both upheld and enhanced. The loss of the ability of tāngata whenua to provide for guests in this way can also be seen as a loss of mana.

Tikanga-based management tools

A rāhui is a prohibition placed on an area or resource as either (a) a conservation measure, or (b) a means of social and political control. With respect to the former, a rāhui will effectively separate people from any 'polluted' area of land or water, preventing the ability to harvest potentially contaminated products from these areas. Rāhui are initiated by someone of rank and were placed and lifted with appropriate karakia by a tohunga .

Since settlement, Ngāi Tahu have also established a number of customary fisheries protection areas (i.e. mātaimai and taiāpure) under the Fisheries Act 1996 and the Fisheries (South Island Customary Fishing) Regulations 1999. The intent of these legislative mechanisms is to give effect to the obligations stated in the Treaty of Waitangi Fisheries Claims Settlement Act 1992 and enable Tangata Tiaki (i.e. local Ngāi Tahu fisheries managers) to exercise greater rangatiratanga over customary fishing grounds.

Toitū te marae a Tāne

Toitū te marae a Tangaroa

Toitū te iwi

If the world of Tāne (all living things on land) endures

If the marae of Tangaroa (the lakes, rivers and sea) endures

The people endure

4.3 The legal framework

There are a number of key statutes that establish the planning framework for tāngata whenua participation in management of natural, physical and historic resources, including the recognition of Iwi Management Plans.

Te Tiriti o Waitangi / the Treaty of Waitangi

Te Tiriti of Waitangi is the basis for the rights and responsibilities of the Crown and Māori. The Crown first recognised and provided for Ngāi Tahu's mana whenua in 1840 with the signing of Te Tiriti o Waitangi. Article II of the Te Tiriti confirms the right to exercise authority over natural resources:

English Text

"Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof **the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties** which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession..." (emphasis added).

Māori Text

"Ko te Kuini o Ingarani ka wakarite ka wakaee ki nga Rangitira ki nga hapu – ki nga tangata katoa o Nu Tirani **te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa...**" (same emphasis added).

Translation

"The Queen of England agrees to protect the chiefs, the sub-tribes and all the people of New Zealand in **the unqualified exercise of their chieftainship over their lands, villages and all their treasures...**" (same emphasis added).

Te Rūnanga o Ngāi Tahu Act 1996

The TRoNT Act identifies Te Rūnanga o Ngāi Tahu as the legal representative of Ngāi Tahu Whānui, and iwi authority for all resource management matters requiring consultation under the RMA 1991. The Act also gives recognition to the status of Papatipu Rūnanga as kaitiaki and manawhenua of the natural resources within their takiwā boundaries.

Section 15 (1) states that:

Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as representative of Ngāi Tahu Whānui.

Section 15 (2) states that:

Where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngāi Tahu Whānui, be held with Te Rūnanga o Ngāi Tahu.

Section 15 (3) states that:

Te Rūnanga o Ngāi Tahu in carrying out consultation under subsection 2 of this section, shall seek the views of such Papatipu Rūnanga of Ngāi Tahu Whānui and such hapū as in the opinion of Te Rūnanga o Ngāi Tahu may have views that they wish to express in relation to the matter.

The **Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001** lists the Papatipu Rūnanga that make up Te Rūnanga o Ngāi Tahu, and their respective takiwā. It is acknowledged practice that consultation is through

hapū and the Papatipu Rūnanga for matters relating to individual takiwā.

Ngāi Tahu Claims Settlement Act 1998

In 1998 the NTCSA was passed to achieve full and final settlement of historical Ngāi Tahu claims against the Crown. The Act records the apology given by the Crown to Ngāi Tahu, for injustices suffered by the Crown's actions in purchasing Ngāi Tahu land, and gives effect to the provisions of the 1997 Ngāi Tahu Deed of Settlement 1997, signed by Ngāi Tahu and the Crown.

The provisions of the Settlement are aimed at recognising the mana of Ngāi Tahu and restoring the ability of Ngāi Tahu to give practical effect to kaitiaki responsibilities. These provisions include:

Ownership and control of pounamu, and a number of specific sites and wāhi taonga. There are 10 sites that were transferred to Ngāi Tahu ownership and control in the takiwā covered by this IMP (see Appendix 1);

Statutory acknowledgements as recorded statements of the association of Ngāi Tahu with a particular area, designed to implement Deed of Settlement provisions such as resource consent notification. There are 11 SA sites in the takiwā covered by this IMP (see Appendix 1 and 7).

Deeds of recognition, applying to the same areas as SAs and complementing them by providing for Ngāi Tahu input into the decision making processes of the Crown body responsible for the administration of these areas;

Tōpuni as public symbols of Ngāi Tahu mana and rangatiratanga over specific areas of land managed by the Department of Conservation. There are two Tōpuni in the takiwā covered by this IMP (see Appendix 1);

Dual place names as tangible reminders of Ngāi Tahu history in Te Waipounamu. The settlement provided for 88 place names in the Ngāi Tahu takiwā to be changed to dual place names; 12 of these are in the takiwā covered by this IMP (see Appendix 1);

Nohoanga, or temporary campsites, established adjacent to lakes and rivers to facilitate customary fishing and the gathering of other natural resources. There are 6 nohoanga sites in the takiwā covered by this IMP (see Appendix 1);

Customary fisheries provisions to enable Ngāi Tahu greater access to customary fisheries of importance and improved input into fisheries management;

Taonga species management provisions that recognise the cultural, spiritual, historic and traditional relationship between Ngāi Tahu and a number of species, and provide

Ngāi Tahu with membership in groups involved with species management, including species recovery groups managed by the Department of Conservation.

Coastal space provisions to ensure that Ngāi Tahu will have access to future Crown allocations of coastal space.

In addition to site and species specific management roles, the Deed of Settlement also provided for a number of additional mechanisms to facilitate input into management processes. These include **Statutory Advisor** roles for Te Rūnanga o Ngāi Tahu, **Dedicated Memberships** on the New Zealand Conservation Authority, Conservation Boards, and the New Zealand Geographic Board; and the **Department of Conservation Protocols**, intended to guide the relationship between the Department and Ngāi Tahu with regards to specific issues of significance to Ngāi Tahu.

Resource Management Act 1991

The purpose of the RMA is to promote the sustainable management of natural and physical resources (Section 5). The RMA contains a number of provisions specific to Māori (recognising that many other provisions are of interest and relate to Māori), and gives statutory recognition to Iwi Management Plans:

Section 6 identifies a number of matters of national importance, including two which relate specifically to Māori:

- (e) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga;
- (f) The protection of historic heritage from inappropriate subdivision, use and development (this includes sites of significance to Māori, including wāhi tapu).

Section 7 requires decision makers to have particular regard to Kaitiakitanga.

Section 8 requires that all persons exercising functions and powers under the Act must take into account the principles of the Treaty of Waitangi.

Section 35A requires local authorities maintain records for each iwi and hapū within their area, including contact details and Iwi Management Plans.

Clause 3A and 3B of the First Schedule (see also Section 60) require local authorities to consult with the tāngata whenua of the area (through iwi authorities) during the preparation of a proposed policy statement or plan, and sets out the criteria for this.

Section 33 states that a local authority that has functions, powers, or duties under the Act may transfer any one or

more of those functions, powers, or duties to another public authority, including an iwi authority.

Sections 36B provides a framework for public authorities and iwi authorities and groups that represent hapū to enter into joint management agreements about natural or physical resources.

Section 88 requires resource consent applicants to undertake an assessment of effects on the environment, including cultural effects.

Statutory recognition for iwi management plans:

Sections 61(2A), 66(2A) and 74(2A) state that regional councils and territorial authorities are required to take into account any relevant planning document recognised by an iwi authority, and lodged with the council, to the extent that its content has a bearing on resource management issues of the region, when preparing or changing a regional policy statement, or regional or district plan.

Section 104 also provides an opportunity for increased recognition of IMP in local authorities' consideration of applications for resource consent.

Local Government Act 2002

The Local Government Act 2002 provides for local authorities to promote the social, economic, environmental and cultural well-being of their communities in a way that is sustainable now and for the future.

Section 4 requires respect for the Crown's responsibility under the Treaty of Waitangi and improvement of opportunities for Māori to contribute to local government decision-making.

Conservation Act 1987

The Department of Conservation Te Papa Atawhai is responsible under the Conservation Act for the management of protected species and ecosystems, providing for the public enjoyment of public conservation land, conserving historic resources in protected areas and promoting the conservation of natural and historic resources generally.

Section 4 of the Conservation Act requires that the Act be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.

Historic Places Act 1993

The Historic Places Act is administered by the New Zealand Historic Places Trust (NZHPT). The primary purpose of the Act is to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand (s.4 (1) of the Act). The Act empowers the NZHPT to keep a register of historic places, historic areas, wāhi tapu, and wāhi taonga areas.

Section 4 states that in achieving the purpose of this Act, all persons exercising functions and powers under it are to recognise the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.

Any person wishing to undertake work that may damage, modify or destroy an archaeological site (as defined by the Act), or to investigate a site by excavation, must first obtain an authority from the NZHPT (ss.10-20 of the Act).

Environmental Protection Authority Act 2011

The Environmental Protection Authority Act establishes the Environmental Protection Authority (EPA) and provides for its functions and operations. The EPA administers applications for major infrastructure projects of national significance, and regulates hazardous substances and new organisms.

To recognise and respect the Crown's responsibility to take appropriate account of the Treaty of Waitangi, the Act establishes Ngā Kaihautū Tikanga Taiao (Ngā Kaihautū) as a Māori Advisory Committee to provide advice and assistance to the EPA from a Māori perspective on policy, process and decisions.

Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

In addition to settling claims to commercial fishing, the Treaty of Waitangi (Fisheries Claims) Settlement Act clarified Māori rights to customary fishing. This included the development of regulations to provide for the customary fishing rights of tāngata whenua, the ability of tāngata whenua to exercise rangatiratanga over traditional fisheries, and the relationship between tāngata whenua and those places used for customary food gathering. The Fisheries (South Island Customary Fishing) Regulations 1999 now governs customary food gathering and the management of customary fishing.

4.4 Tāngata whenua planning tools

A number of tools are used by Ngāi Tahu to assist with the exercise of kaitiakitanga, specifically with regard to implementing cultural values and objectives into RMA processes and assessing the cultural health of the takiwā. These tools include:

Cultural Impact Assessment

A Cultural Impact Assessment (CIA) is a professionally prepared assessment of the impacts of a given activity on tāngata whenua values and interests. These assessments identify tāngata whenua values associated with a particular site or area and the actual or potential effects of a proposed activity on these, and provide recommendations for measures to avoid, remedy or mitigate adverse effects. While most often used to provide information for RMA processes (i.e. CIA reports are often part of a resource consent application's Assessment of Environmental Effects), CIA are also used to provide information for applications under the HSNO Act. CIA reports may be requested by tāngata whenua, councils or applicants.

Cultural values reports

Cultural Values Reports (CVR) identify and explain the cultural values associated with a specific area or resource. While a CVR may include broad level information on issues or outcomes associated with an area, resource or proposed activity, generally these reports differ from a CIA in that they do not include a detailed assessment of effects of an activity, or recommendations to avoid, remedy or mitigate effects. Examples include the use of CVRs to identify and prioritise values associated with a catchment or waterway for the purposes of environmental flow review, or as part of the tenure review process.

State of the Takiwā

State of the Takiwā is an environmental monitoring tool developed by Te Rūnanga o Ngāi Tahu to assess and report on the cultural health of natural resources and the environment in the takiwā. The tool uses a specifically designed database and associated monitoring forms to allow tāngata whenua to systematically identify, compile, analyse and report on the cultural health of sites and resources over time. Reports provide assessments of the current and desired states of cultural health of an area, and are used to inform policy and planning. One of the major objectives behind State of the Takiwā is to ensure that tāngata whenua can build robust and defensible information about the health of the environment.²

Cultural monitoring

Cultural monitoring is used by Papatipu Rūnanga to protect and manage wāhi tapu and wāhi taonga in the takiwā. Rūnanga often assign cultural monitors to monitor development activities involving ground disturbance in areas identified as high risk with regard to the potential for accidental discoveries. The use of cultural monitors enables Rūnanga to be proactive in ensuring that all precautions are taken to protect wāhi tapu and wāhi taonga. Cultural monitors oversee excavation activity, and are on site to record sites or information that may be revealed, and direct tikanga for handling cultural materials.

Cultural Opportunity Mapping, Assessment and Responses (COMAR)

COMAR is a tool developed by Gail Tipa (Tipa & Associates) to assist in identifying key attributes required to protect tāngata whenua values. It is used in Canterbury as a methodology for identifying flow and water quality that enables the protection of tāngata whenua values. COMAR enables users to assess the extent to which different environmental conditions afford tāngata whenua opportunities to engage in a cultural practices in specific locations. The results of the COMAR process can assist in the preparation of responsive resource management strategies and plans that deliver cultural outcomes.³

ENDNOTES

- 1 Most of information in this section was prepared by Te Marino Lenihan (2012).
- 2 Pauling, C., 2004. *State of the Takiwā - Cultural Monitoring and Reporting on the Health of our Environment: A scoping document for developing a culturally based environmental monitoring and reporting system*. Te Rūnanga o Ngāi Tahu; and, Pauling, C. and Arnold, J., 2007. *Cultural Health of the Lake*. In: Te Waihora/Lake Ellesmere: State of the lake and future management, Hughey, K. & Taylor, K (eds.), pp. 77 – 82.
- 3 Tipa, G. & Nelson, K. 2008. *Introducing Cultural Opportunities: a Framework for Incorporating Cultural Perspectives in Contemporary Resource Management*. *Journal of Environmental Policy and Planning* 10 (4).

