

Chapter 5

MATTERS OF SIGNIFICANCE TO POUTINI NGAI TAHU

PREAMBLE

Poutini Ngai Tahu are the tangata whenua of Te Tai Poutini (the West Coast). Under section 9 of the Te Runanga O Ngai Tahu Act 1996 the two runanga who hold such status on the West Coast are Te Runaka O Katiwaewae and Te Runanga O Makawhio.

The Act recognises that the principles of the Treaty of Waitangi (Te Tiriti O Waitangi) and Maori values are an integral part of promoting the sustainable management of natural and physical resources. Apart from a general requirement under section 5(2) which provides for managing the use, development and protection of natural and physical resources in a way or at a rate which enables communities to provide for their social, economic and *cultural* well being, the Act specifically requires in achieving its purpose:

... all persons exercising functions and powers under (the Act) shall recognise and provide for the following matters of national importance...(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. (Section 6 (e)); and

*...all persons exercising functions and powers under (the Act) shall have particular regard to-
Kaitiakitanga. (Section 7 (a))*

*A regional policy statement shall state - ...
(b) Matters of resource management significance to iwi authorities. (Section 62)(1) (b); and*

...when preparing or changing a regional policy statement, the regional council shall have regard to ...

- (a) any...*
- (ii) relevant planning document recognised by an iwi authority affected by the regional policy statement; and.*
- (iii) regulations relating to the conservation or management of taiapure or fisheries. (Section 61 (2)(a)(ii) and (iii).*

In order to meet these statutory requirements, the Regional Council recognises the need to consult with Poutini Ngai Tahu - and to provide appropriate opportunities for resource management participation.

Clause 3(d) of Part I of the First Schedule of the Act requires the Regional Council to consult with Poutini Ngai Tahu through iwi authorities and tribal runanga in terms of preparation of this RPS and regional plans.

Poutini Ngai Tahu have indicated that there are a number of cultural and spiritual values which are matters of resource management significance to

iwi authorities. Their views include:

- ?? *The connection between the natural world and Poutini Ngai Tahu through whakapapa, where people are descended from Papatuanuku, the ancestral earth mother and Ranginuiatea the ancestral sky father. The care of natural resources is an act of whanaungatanga (caring for the family) which recognises that people are dependent on resources and have reciprocal obligations to care for, conserve and protect them.*
- ?? *The need for integrated environmental management of and between all resources,*
- ?? *The obligation to compensate and restore where environmental degradation has occurred,*
- ?? *The need to use resources to sustain the community,*
- ?? *The obligation to preserve the environmental integrity of the natural world for future generations,*
- ?? *The wise and efficient allocation and use of non-mineral resources within their capacity to regenerate themselves, and having regard to the effects of the use.*

This chapter deals with two issues of significance to Poutini Ngai Tahu.

ISSUE 5.1 Taking into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi) in the sustainable management of the natural and physical resources of the West Coast Region.

The Act gives the Regional Council the statutory function to exercise certain laws and regulations in respect of the management of the region's natural and physical resources. The Regional Council recognises that under the Act, through Section 8 it has a statutory responsibility to protect the rangatiratanga of Poutini Ngai Tahu.

In this context, the Regional Council also recognises that the Treaty affords Poutini Ngai Tahu a status distinct from other interest groups or members of the public. The Regional Council recognises its obligation to consult with Poutini Ngai Tahu.

The full text of the Treaty of Waitangi is in Appendix 3.

OBJECTIVE 5.1: To take into account the principles of the Treaty of Waitangi in the exercise of functions and powers under the Resource Management Act.

The term "principles of the Treaty of Waitangi" originates from the Treaty of Waitangi Act 1975. The Court of Appeal has emphasised that it is the principles of the Treaty which are to be applied, not the literal words. The

Privy Council characterised the Treaty principles as a dynamic force in that they reflect the intent of the Treaty as a whole and include, but are not confined to, the express terms of the Treaty. With the passage of time the principles which underlie the Treaty have become more important than its precise terms.

Although specific implementation of Treaty principles has to be enunciated through legislation, it is generally accepted that the Treaty is the founding document of New Zealand. Because it creates a relationship akin to a partnership there is a duty for the Treaty partners to act in good faith toward one another.

In this context the Regional Council's responsibility is to take into account the principles of the Treaty as defined by the Act and clarified by the courts.

The Regional Council will endeavour to:

- (a) Ensure that its understanding of the interpretation of the principles of the Treaty is consistent with the current interpretation of the courts;
- (b) Take into account the following principles which have been identified;
 - act reasonably and in good faith;
 - make informed decisions;
 - consider whether active steps are needed to protect Maori interests;
 - not take actions which would prevent the redress of claims, and
 - recognise that the government must be able to govern.

POUTINI NGAI TAHU POLICIES 5.1

POLICY 5.1.1 The principles of the Treaty of Waitangi will be taken into account in the sustainable management of natural and physical resources in the West Coast Region.

METHODS

- 5.1.1 Provide for consultation with Poutini Ngai Tahu in a way which is timely, practicable, meaningful and continuous as provided by the Te Runanga O Ngai Tahu Act 1996. As far as practicable this will be in accordance with Poutini Ngai Tahu tikanga through hui and workshops. The Regional Council will provide information, technical, administrative and other support to facilitate participation of Poutini Ngai Tahu in the resource management of the region through an iwi liaison officer or such other means as agreed by Poutini Ngai Tahu.
- 5.1.2 Consider providing opportunities for the transfer of resource management functions or powers to *iwi authorities* as provided for under section 33 of the Act.

**Cross reference
policy 5.1
to other policies in
this RPS**

5.1.3 Provide for Poutini Ngai Tahu tikanga in the resource consents process by holding pre-hearing meetings and hearings on marae or other places as may be appropriate.

EXPLANATION

All those exercising functions and powers under the Act are required by section 8 to take into account the principles of the Treaty of Waitangi. The Regional Council therefore has a responsibility to consult with Poutini Ngai Tahu, and provide for their participation in the management of the region's natural and physical resources. The Te Runanga O Ngai Tahu Act 1996 determines Poutini Ngai Tahu representation.

The Regional Council will provide for Poutini Ngai Tahu participation in resource management through the development of regional plans and in the resource consent process. It will also support Poutini Ngai Tahu initiatives to articulate their resource management values and methods through *iwi management plans*, and also consider opportunities for the transfer of functions to iwi authorities under section 33 of the Act.

Section 39 (2) of the Act provides that in determining an appropriate hearing procedure the local authority, consent authority or person authorised to conduct hearings shall avoid unnecessary formality and recognise tikanga Maori where appropriate, and receive evidence written or spoken in Maori.

Section 42 of the Act provides for a local authority to exclude the public from the whole or any part of any hearing or prohibit or restrict publication of material. This applies to when a local authority is satisfied such action is necessary to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of *waahi tapu*, if the interest in avoiding offence or preventing disclosure outweighs the public interest in making the information available.

Additional hui or workshops may be held from time to time on specific resource management issues or plans. The Regional Council will assist in the facilitation of consultation.

ANTICIPATED ENVIRONMENTAL RESULT

5.1.1 Increased recognition and understanding of the principles of the Treaty of Waitangi, including resource management decisions which take these principles into account.

ISSUE 5.2

(a) Recognition and provision for the relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga as a matter of national importance.

(b) The role of kaitiakitanga in resource management on the West Coast.

The Regional Council is responsible for the protection of waahi tapu through regional plans and the resource consents process. As district councils have particular responsibility for the use, development and protection of land, they have particular responsibility for waahi tapu protection within each district.

Maori view the preservation of waahi tapu as of paramount importance.

Waahi tapu are sacred places of spiritual and cultural significance to Maori for reasons related to their associations with their tupuna (ancestors) and historical events. There is no definition of waahi tapu in the Act.

The deep spiritual value of waahi tapu is inadequately described and suffers in translation as “sacred place”. In this region waahi tapu link Poutini Ngai Tahu to their tupuna, and to the land, with bonds which are not broken by the passage of time.

Waahi tapu can include urupa (burial sites) ana tupapaku (burial caves) tauranga waka (canoe landing sites), battleground’s, mountains, rivers and lakes, symbolic and legendary landscape features, places from which important taonga are sourced (for example *waahi pounamu* or *taonga raranga*) or places associated with religious ritual.

Only Poutini Ngai Tahu can define the nature and extent of waahi tapu in the West Coast region. As *kaitiaki* of waahi tapu, Poutini Ngai Tahu have the prerogative to choose how much information they wish to disclose to local authorities. It is vital that Poutini Ngai Tahu retain access to waahi tapu to maintain their special relationship with these places, and to enable them to perform their obligations under kaitiakitanga.

Section 2 of the Act defines kaitiakitanga as:

the exercise of guardianship; and in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself.

The statutory interpretation of kaitiakitanga can only be understood in the context of the holistic approach Maori hold in terms of natural and physical resources including elements of guardianship, custodial protection, advocacy and indicators of the wellbeing of resources. Kaitiaki may be human or non-human. Poutini, the *taniwha* which according to tradition protects the people and *mauri* or spiritual essence of pounamu, is an example of an important local kaitiaki.

The human realm of kaitiakitanga relates to obligations of care for the natural environment to protect the mauri of resources themselves, and to protect the ability of future generations of people to utilise the resources to sustain themselves. The role of Poutini Ngai Tahu as kaitiaki is an integral part of the special relationship Poutini Ngai Tahu have with their land and all living things.

Further explanation of kaitiakitanga is provided in the Report and Recommendations of the Board of Inquiry into the New Zealand Coastal

OBJECTIVE 5.2: (a) Recognise and provide for the relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga within the West Coast Region.

(b) To have particular regard to kaitiakitanga in the management of the use, development and protection of natural and physical resources in the West Coast Region.

POUTINI NGAI TAHU POLICIES 5.2

POLICY 5.2.1 Provide for the protection of ancestral land, waahi tapu water, sites and other taonga in consultation with Poutini Ngai Tahu.

POLICY 5.2.2 Promote resource management decisions and practices which accommodate the economic, cultural and spiritual values which are the basis for the special relationship between Poutini Ngai Tahu and their taonga.

POLICY 5.2.3 Recognise the role of kaitiakitanga in the management of natural and physical resources on the West Coast.

Cross reference policies 5.2.1 - 5.2.3 to other policies in this RPS.

METHODS

- 5.2.1 Consult Poutini Ngai Tahu over the meaning of kaitiakitanga and to establish a process for the identification of ancestral lands, water, sites, waahi tapu and other taonga, in order to determine appropriate ways of protecting them.
- 5.2.2 The Regional Council, on the recommendation of an iwi authority will consider giving notice of a requirement for a heritage order.
- 5.2.3 Provide access to waahi tapu for Poutini Ngai Tahu on land owned or administered by the Regional Council, and encourage other land holders to permit access to waahi tapu on their land.
- 5.2.4 Encourage Poutini Ngai Tahu participation in the planning and implementation of environmental monitoring. Resource development levies may be applied to contract the services of Poutini Ngai Tahu for this purpose.
- 5.2.5 Consider developing opportunities for using traditional Maori resource management methods as an alternative means of achieving sustainable management or protecting taonga and incorporate such methods in regional plans and resource consent conditions - where appropriate and in accord with Poutini Ngai Tahu and their tikanga.

EXPLANATION

Poutini Ngai Tahu retain the knowledge of their cultural and spiritual values. They have the right and responsibility to articulate them in a way

that will enable the Regional Council to carry out its obligation under the Act to recognise and provide for the relationship of Poutini Ngai Tahu, their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. A similar right and responsibility exists to give guidance to other resource managers in the region.

The Regional Council is reliant on information from Poutini Ngai Tahu about waahi tapu and appropriate means of protection, and can only provide for the culturally appropriate protection of waahi tapu in regional plans and through the resource consents process by consultation with Poutini Ngai Tahu.

As heritage protection authorities may incur costs relating to the protection of sites, iwi authorities may, as provided under section 188 of the Act, prefer instead that the Regional council become such an authority.

The policies and methods recognise that the meaning of kaitiakitanga and the role of tribal kaitiaki can only be given regard to properly by the West Coast Regional Council through consultation with Poutini Ngai Tahu on a resource specific basis.

ANTICIPATED ENVIRONMENTAL RESULTS

- 5.2.1 Maintenance and enhancement of the relationship of Poutini Ngai Tahu and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga within the West Coast region.
- 5.2.2 Identification and protection of waahi tapu in the West Coast region.
- 5.2.3 Increased understanding of the meaning of kaitiakitanga in the West Coast context.
- 5.2.4 Resource management decisions which reflect the philosophy of kaitiakitanga.