



**Mahaanui
Kurataiao Ltd**
Manawhenua Environmental Services

Wāhi Tapu me Wāhi Taonga in the Waimakariri & Rakahuri Catchments of the Takiwā of Te Ngāi Tūāhuriri Rūnanga

*A Report and Recommendations for the Waimakariri Zone Committee,
the Waimakariri District Council and Canterbury Regional Council
(Environment Canterbury)*

June 2017

This report is funded by Environment Canterbury

This page has been deliberately left blank

INTRODUCTION

Ngāi Tahu and their ancestors are tangata whenua within Canterbury and specific whānau and hapū hold mana whenua over areas or takiwā. Ngāi Tahu are a Treaty Partner of the Crown. Te Ngāi Tūāhuriri Rūnanga is the modern day assemblage of Ngāi Tūāhuriri, one of the five primary hapū of Ngāi Tahu, and mana whenua within the area known today as the Waimakariri District. Councils have statutory obligations to consult with mana whenua and to recognize and provide for sites and issues of value and significance to mana whenua, in carrying out their functions under the Resource Management Act 1991 (RMA) and the Local Government Act 2002.

The objectives of this report are to:

- Explain the contemporary structure of Ngāi Tahu and their relationship with the natural environment;
- Outline Ngāi Tūāhuriri's whakapapa and values within the Waimakariri and Rakahuri/Ashley catchments and describe wāhi taonga me wāhi tapu within this context;
- Describe current statutes, plans and provisions for recognising and protecting wāhi tapu me wāhi taonga in these catchments;
- Analyse statutory and non-statutory approaches to recognise and protect wāhi tapu me wāhi taonga; and
- Make recommendations on the most appropriate approaches to recognise and protect wāhi tapu me wāhi taonga in the Waimakariri District.

Te Ngāi Tūāhuriri Position

Te Ngāi Tūāhuriri Rūnanga does not agree that control of wāhi tapu me wāhi taonga has been relinquished to the Crown through Te Tiriti o Waitangi/Treaty of Waitangi. Te Ngāi Tūāhuriri Rūnanga would prefer to create its own legislation and policy in relation to the management of wāhi tapu me wāhi taonga for the Crown and its agents to follow (Te Marie Tau, pers. comm).

Te Ngāi Tūāhuriri Rūnanga have not embraced the identification and inclusion of wāhi tapu me wāhi taonga in district and regional plans prepared under the RMA to date. Ngāi Tūāhuriri are concerned that identifying specific wāhi tapu me wāhi taonga sites in plans may be misinterpreted as meaning these are the only areas within the takiwā of interest to nga rūnanga. Te Ngāi Tūāhuriri Rūnanga believe that councils and other parties should be consulting with Ngāi Tūāhuriri in relation to any proposal for the development, use or protection of natural or physical resources within the Ngāi Tūāhuriri takiwā. The information and recommendations in this report are provided in the context of acknowledging the preferred position of Te Ngāi Tūāhuriri Rūnanga.

It is anticipated that the information from this report will be utilised by the Waimakariri Zone Committee in completing its Zone Implementation Programme (ZIP) Addendum; and that aspects of this report will be used and expanded to inform a review of the Waimakariri District Plan and the Waimakariri Section of the Canterbury Land and Water Regional Plan (CLWRP) in due course.

CONTENTS

| | |
|--|----|
| Introduction..... | 3 |
| • Te Ngāi Tūāhuriri Position..... | 3 |
| Contemporary Structure of Ngāi Tahu and Ngāi Tūāhuriri | 5 |
| Te Ao Māori – Ngāi Tahu World View..... | 7 |
| Ngāi Tūāhuriri – Mana Whenua..... | 10 |
| Wāhi Tapu me Wāhi Taonga | |
| • Definitions..... | 12 |
| • Mapping | 12 |
| • Waimakariri & Rakahuri/Ashley Catchments..... | 13 |
| Current Framework for Protecting Wāhi Tapu me Wāhi Taonga | |
| • Legislative Framework..... | 15 |
| • Iwi Planning Documents..... | 17 |
| • Statutory Planning Documents..... | 19 |
| Approaches to Managing Wāhi Tapu me Wāhi Taonga | |
| • Statutory Approaches..... | 24 |
| • Non-Statutory Approaches..... | 24 |
| Report Recommendations..... | 36 |

NGĀI TAHU AND NGĀI TŪĀHURIRI – CONTEMPORARY STRUCTURE

Ngāi Tahu is the collective representation of whānau and hapū who share a common ancestry and are tāngata whenua of Canterbury (and most of the South Island). They hold ancestral and contemporary relationships with the land, water, sites and resources of Canterbury. Mana whenua are hapū or whānau who hold customary authority over the resources of an area or takiwā. Mana whenua is established through whakapapa (ancestral links) to an area and maintained through ahi kā (continuous occupation). With mana whenua status comes the rights and duties of rangatiratanga and kaitiakitanga.

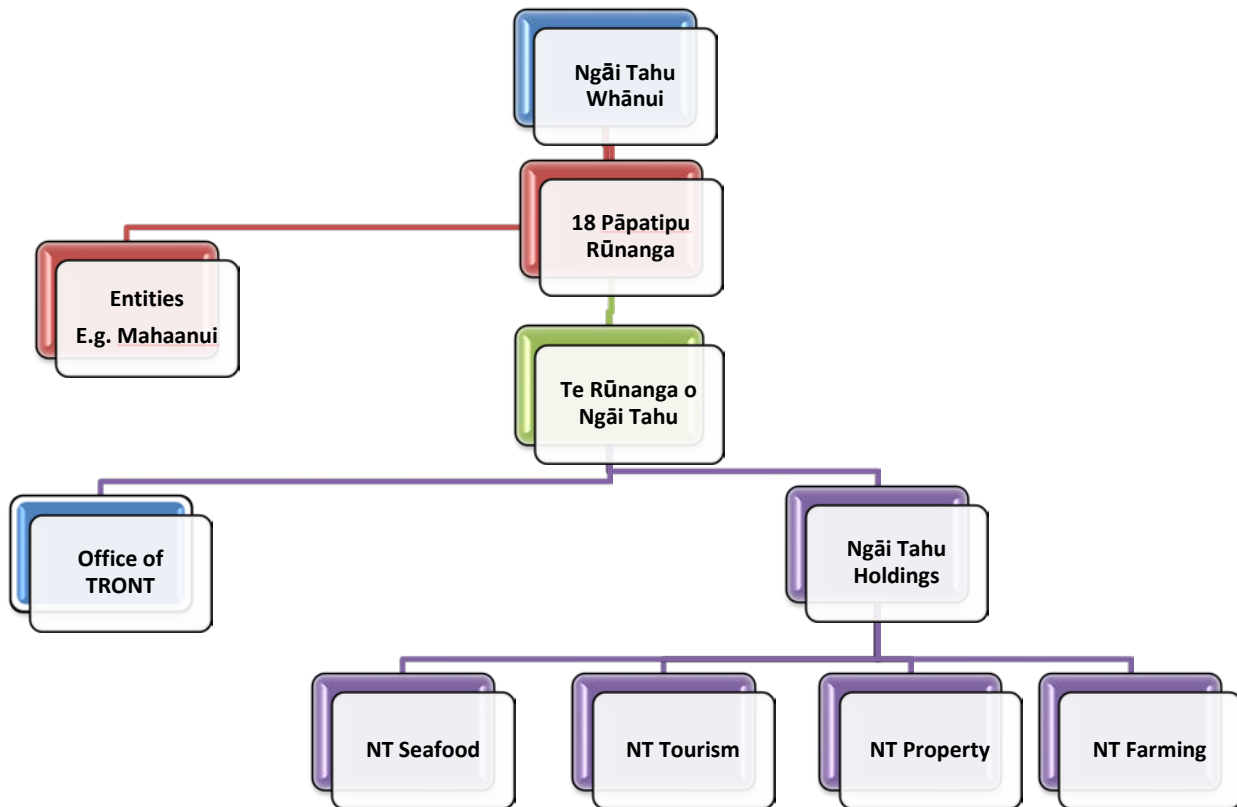
The Waimakariri and Rakahuri/Ashley catchments fall within the takiwā of Ngāi Tūāhuriri, one of the five primary hapū of Ngāi Tahu. Te Ngāi Tūāhuriri Rūnanga is the modern day assemblage and representation of the hapū, Ngāi Tūāhuriri. The takiwā of Te Ngāi Tūāhuriri Rūnanga is described in the Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001 as centering on *“...Tūāhiwi and extends from the Hurunui to Hakatere, sharing an interest with Arowhenua Rūnanga northwards to Rakaia, and thence inland to the Main Divide”*.

Te Ngai Tūāhuriri Rūnanga represents those who hold mana whenua over the lands and natural resources of the Waimakariri District and should be the initial point of contact for councils and other agencies seeking to consult or discuss matters with mana whenua within the Ngāi Tūāhuriri takiwā.

The contemporary structure of Ngāi Tahu is set down in the Te Rūnanga o Ngāi Tahu Act 1996 and shown in Figure One below. That Act establishes Te Rūnanga o Ngāi Tahu as the iwi authority over much of the South Island. Te Rūnanga o Ngāi Tahu is composed of the papatipu rūnanga of Ngāi Tahu; 18 of whom have representation on the Te Rūnanga o Ngāi Tahu Board. Papatipu rūnanga are legal entities that represent those who hold mana whenua over an area or takiwā. Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001 sets out the papatipu rūnanga and their respective takiwā.

Te Rūnanga o Ngāi Tahu Act 1996 declares Te Rūnanga O Ngāi Tahu as the iwi authority, but in forming any view on any matter it must consult with papatipu rūnanga (s15). In practice, Te Rūnanga encourages councils, other Crown agencies and private individuals to consult directly with the relevant papatipu rūnanga. Te Rūnanga supports ngā rūnanga when requested; and represents Ngāi Tahu in tribal issues and matters with the Crown.

Figure One: Contemporary Structure of Ngāi Tahu



Ngāi Tahu Holdings Company manages the commercial arm of Ngāi Tahu. This includes Ngāi Tahu Property Ltd and Ngāi Tahu Farming Ltd which owns and operates Te Whenua Hou – the Ngāi Tahu farms at Eyrewell. Mana whenua are involved in the governance of Ngāi Tahu’s commercial operations either through membership on various Boards or mana whenua advisory groups; and Ngāi Tahu’s companies may make submissions on RMA plans and other processes as an interested or affected party from time to time. However mana whenua are represented by Te Ngāi Tūāhuriri Rūnanga and when councils, other agencies, or other parties need to consult or engage with mana whenua, that engagement should be with Te Ngāi Tūāhuriri Rūnanga within their takiwā.

TE AO MĀORI - NGĀI TAHU WORLD VIEW

Ngāi Tahu whānui consider themselves not only dependent upon but an inseparable part of the natural world. Mana whenua whakapapa to the mountains, lakes and rivers of their takiwā. Ngāi Tahu whānui introduce themselves and their positions on matters by reference to the creation kōrero because it is essential to defining who Ngāi Tahu are and to understanding their relationship with and perspectives on the natural environment.

In Ngāi Tahu creation kōrero mountains are considered ancestors (tupuna) and the gateway to atua (Gods). Wai (water) is recognised and valued as the essence of all life and an essential link between the spiritual and metaphysical world. Consequently all wai is wāhi taonga - treasured. Ngāi Tūāhuriri recognise different types of water: waiora (sacred and the most purest form); waimāori (water used for day to day activities including drinking and mahinga kai); waitohi (water used for cleansing), waimate (dead water) and waitai (coastal waters). Tikanga exists around how different forms of wai (water) are managed and is the basis for rūnanga policies around the management of wai/water.

Spirituality is a cornerstone of Ngāi Tahu culture, including a belief that all things have mauri or 'life force' – the status of which is indicative of the health of the resource: land, water, ecosystems. The health and vitality of land and water is very important to Ngāi Tahu; as is recognising and respecting sites and places where people have been slain or buried. Ngāi Tūāhuriri's kōiwi or ancestors are a taonga, control of which has never been relinquished through the Treaty of Waitangi. Te Ngāi Tūāhuriri Rūnanga object to the management of kōiwi as an historic artefact under Heritage New Zealand Pouhere Taonga Act 2014 (Te Marie Tau, pers. comm).

The migrations of Māori to Aotearoa originated from Eastern Polynesia where the warmer climate supports a wide variety of food sources. After arriving in Te Waipounamu approximately 1200 years ago, there was careful observation of the land and its variable climate that eventually led to advanced knowledge of fish, plants and bird habitat and lifecycles (**te whakatau**).

Mahinga kai is the food and fibre that is gathered, the places it is gathered and associated social practices that sustain Ngāi Tahu whānui. Mahinga kai is a source of mana and an integral part of Ngāi Tahu culture; and was guaranteed to Ngāi Tahu in Kemp's purchase of Canterbury. Therefore mahinga kai formed a substantial part of Te Kerēme - Ngāi Tahu's Treaty claim. Ngāi Tahu whānui developed sophisticated lore to manage the harvest and use of indigenous flora and fauna to sustain mahinga kai. Our modern day view of conservation as protecting indigenous flora and fauna species by preventing any take or use is at odds with Ngāi Tahu's customary practices of mahinga kai and the exercise of kaitiakitanga.

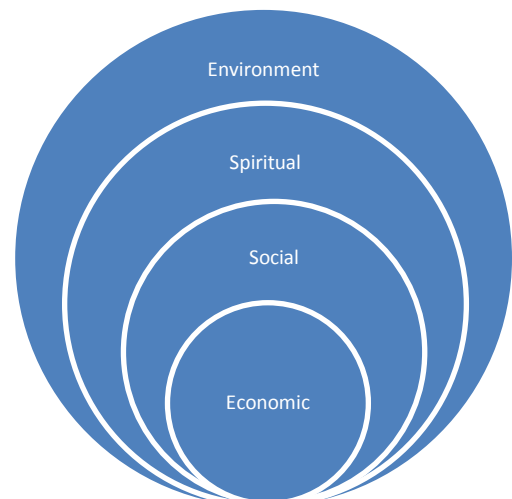
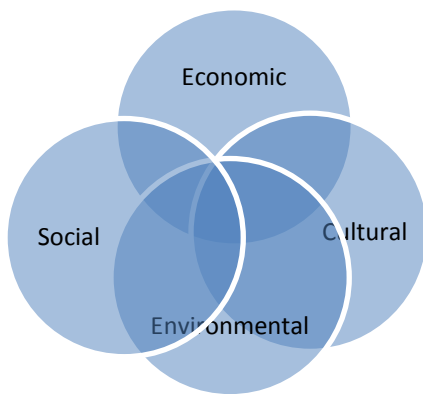
Concepts such as sustainable development or in New Zealand sustainable management are integral to modern environmental and resource management. These concepts are depicted as recognising the interconnection between environmental, economic and social systems (eg

Brundtland Report 1987). In New Zealand we tend to add a fourth system – cultural. Both the purpose of the RMA (s5(2)) and the principles in the Local Government Act 2002 (s14) refer to: economic, social and cultural well-being, and the quality of the environment.

For Ngāi Tahu whānui, there are no separate environmental, economic, social and cultural systems or well-beings. The natural environment is the system - within which all economic, social and spiritual activity is centred. The connections with the natural environment determine social, spiritual and economic well-being. Figure Two provides a pictorial representation of the two different perspectives. Te Ngāi Tūāhuriri Rūnanga kaitiaki Hoana (Aunty Joan) Burgman believes the references to economic, social, cultural well-being and the quality of the environment in the RMA (s5(2)) and LGA (s14) referred to above are *‘in the wrong order. Buildings are beautiful and serve a purpose but rivers and lakes give life’* (Joan Burgman, pers comm).

Figure Two: Sustainable Management

Te Ao Māori



Some councils, when discharging duties to managed land, water and ecosystems, take a view that Ngāi Tahu values are ecological values; and if an ecologist determines any effects on ecosystems will be minor, Ngāi Tahu are not an affected party. While mana whenua will be interested in the ecological state of an area, Ngāi Tahu’s values, interests and issues are much broader and not wholly covered by western scientific measures of ecosystem health.

Separating the management of various aspects of the natural environment between regional and district councils under the RMA does not fit easily with the Ngāi Tahu ethic of *ki uta ki tai*. For example, district councils manage activities on the surface of water, heritage and cultural sites and indigenous biodiversity, while regional councils manage water quality, flow, and activities in beds of lakes and rivers. In tē ao Māori everything is connected and relates to whakapapa, not just people but land, water, air, flora and fauna.

From this perspective it is easier to understand the link between the state of the natural environment (including wāhi tapu me wāhi taonga) and the health and well-being of tangata whenua. This linkage extends to missed opportunities to strengthen leadership and decision-making, and recognising that mana whenua success relies on their capacity to lead, influence and make positive choices for themselves; exercising rangatiratanga and kaitiakitanga. Potential impacts on cultural health include the effects on Ngāi Tahu whānui sense of wellbeing and opportunities for social and economic development.

The natural resources of a takiwā – land, water (waterways, waipuna (springs), groundwater and wetlands), air and indigenous ecosystems are all taonga to mana whenua. These taonga are integral to the cultural identity of mana whenua and they have a kaitiaki responsibility to protect them. There are also special sites or areas within a takiwā which have extra significance due to their characteristics, their historic or contemporary use, or their association with a particular episode or event. Those sites or areas are still an integral part of the broader takiwā or landscape which Ngāi Tahu and their ancestors have occupied and by which they have been sustained, for more than 47 generations. That is why it can be difficult for mana whenua to single out specific sites or areas of interest to them. As Hoana (Aunty Joan) Burgman explained in her cultural evidence at a hearing of a recent resource consent application for quarrying;

“If I use a city as a comparison, there may be buildings such as a museum, town hall, or cathedral which are very special because of their architecture or the activities that occur there. But the Council has an interest in all parts of the city. It is the same for ngā rūnanga in relation to activities within their takiwā” (Burgman, 2016, p.38).

When preparing plans, planners often regard wāhi tapu me wahi taonga as sites to be pinpointed on planning maps in the same way as archaeological or heritage sites. Planners look for some form of archaeological or written evidence to indicate occupation, and preferably some physical remnants to protect. People often assume that if there is no written record or physical evidence of Ngāi Tahu occupation of a site, there is no association with it.

Ngāi Tahu whānui have a relationship with their entire takiwā. While Kaiapoi Pā was the centre of the Ngāi Tūāhuriri takiwā, Ngāi Tūāhuriri and their ancestors had a semi-nomadic existence travelling constantly throughout their takiwā in seasonal cycles of mahinga kai, as well as visiting whānau and hapū to maintain ahi kā and mana whenua status. Rather than wāhi tapu me wāhi taonga sites being dots on a European landscape, an alternative is to think of European settlement as footprints on Ngāi Tūāhuriri’s landscape.

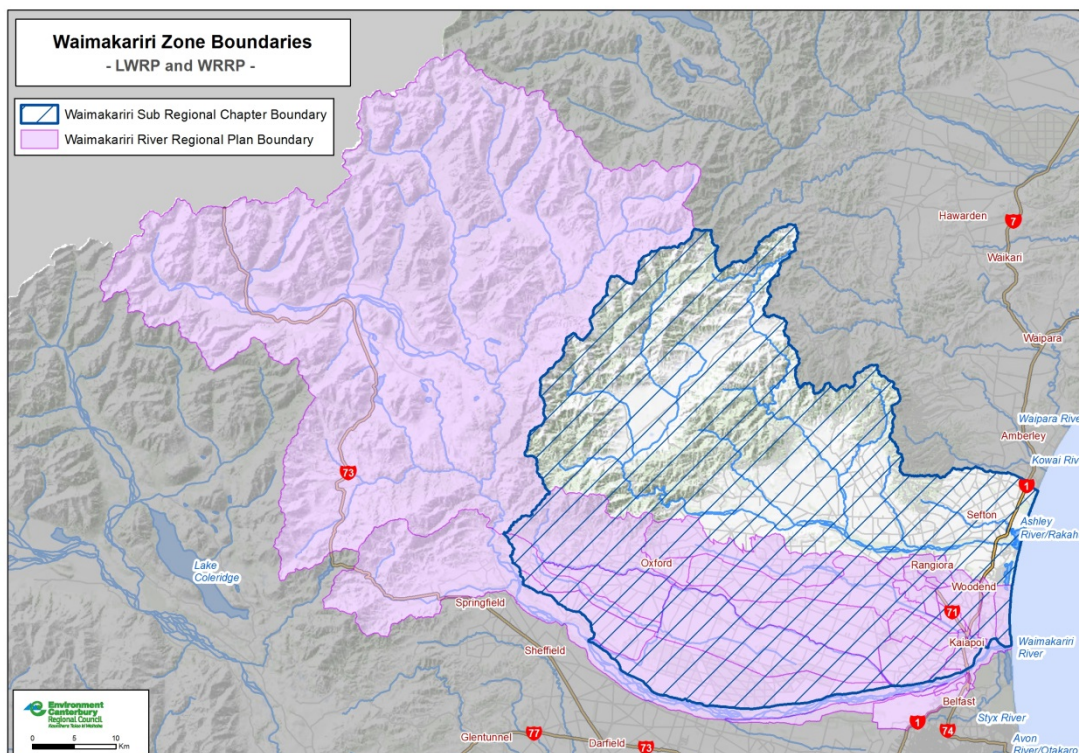
NGĀI TŪĀHURIRI – MANA WHENUA

Ko Maungatere te maunga ki runga,
Ko Waimakariri te awa
Ko Tūāhuriri te tangata
Mt Grey is the mountain
Waimakariri is the river
Tūāhuriri are the people

The takiwā of Ngāi Tūāhuriri extends from the Hurunui River in the north to Hakatere (Ashburton) River in the south; with shared interests over some areas with Taumutu and Arowhenua. The takiwā includes Ōtautahi – Christchurch City. The Waimakariri District is at the heart of Ngāi Tūāhuriri's takiwā; with Ngāi Tūāhuriri's principal pā originally sited near Kaiapoi and another important pā site at Rakahuri. The area connecting these pā sites is very significant. Today Ngāi Tūāhuriri's central settlement is at Tūāhiwi.

The catchment area and the boundaries of the Waimakariri District Council and Zone Committee are shown in Figure Three. The District Council and Zone Committee boundaries do not cover the entire Waimakariri Catchment, and include the Rakahuri catchment.

Figure Three: Waimakariri Catchment (purple) and District Council and Zone Committee Boundaries (hatched).



The ancestral occupation of and interaction with the region known today as Canterbury occurred initially by Waitaha then Ngāi Mamoe, who, in turn, were succeeded by the settling of the hapū, Ngāi Tūhaitara and the sons of Tū-āhu-riri: Taane-Tiki, Moki and Tūrakautahi. Ngāi Tūhaitara would later become known as Ngāi Tūāhuriri after the fall of Kaiapoi Pā. The waka (canoe) that brought them to the region was the Makawhiua, whose captain was the rangatira (chief), Moki.

Once Tūrakautahi of Ngāi Tūhaitara had established Kaiapoi Pā as their principal fort, the leading chiefs such as Maka, Huikai, Turakipō, Te Ake, Hika-tūtae, Te Rakiwhakaputa, Whakuku, Makō and Te Ruahikihiki established the mana (authority) of Ngāi Tūhaitara to the land by occupation and intermarriage. The main areas of Ngāi Tūhaitara occupation in North Canterbury and Te Pātaka o Rakaihautū/Banks Peninsula were at Kaiapoi, Akaroa, Wairewa (Little River), Rāpaki, Taumutu and Koukourārāta (Port Levy).

Since settling in North Canterbury, the people of Tūāhuriri have established and continue to maintain a strong relationship with the land and water of the takiwā, including the Waimakariri and Rakahuri catchments. Wāhi tapu me wāhi taonga have both an historical basis and a contemporary value to Ngāi Tūāhuriri; and are vital components of the relationship of mana whenua with the Waimakariri District.

Kaitiakitanga is the ethic through which mana whenua discharge their obligations in respect of the natural environment. Kaitiaki were originally spiritual figures the presence of whom was considered indicative of the state of the environment. Today the responsibility for kaitiakitanga falls on tangata tūātaki – particular people within the rūnanga who have inherited the duty or responsibility to ensure the natural resources of the takiwā are maintained in a healthy state. It is not a choice.

Kaitiakitanga is defined in the RMA as – *“The exercise of guardianship by the tangata whenua of an area in accordance with Tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship”*.

This definition is narrower than mana whenua understand kaitiakitanga. For mana whenua kaitiakitanga is sustainable management – it embodies both actions or duties and outcomes or state of the environment.

Wāhi ingoa are place names, which provide an understanding of local traditions and relationships to landscapes. Landscape features are used by Māori to identify and express relationships with ancestors and the land. By relating these features to Māori history, they become cultural landscapes where forests, mountains, waterways and coastlines are valued for their physical and spiritual significance to mana whenua.

Recording Wāhi Tapu me Wāhi Taonga

Definitions

The definitions of wāhi tapu me wāhi taonga vary between various published sources including planning documents; and between whānau and hapū. Mahaanui Iwi Management Plan (2013) has the following definitions:

***Wāhi Tapu:** 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 (e.g. death). Wāhi tapu sites are treated according to local customs (tikanga & kawa) that seek to ensure that the tapu nature of those sites is respected. Of all wāhi tapu, urupā (burial sites) are considered to be the most significant.*

***Wāhi Taonga:** 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 fresh water 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.*

Wāhi tapu me wāhi taonga values are more complex than a succinct definition can cover. Generally speaking, the term wāhi tapu is used for sacred sites or areas held in reverence according to local tribal custom and history. Some wāhi tapu sites are important to the whole of Ngāi Tahu, while others are important to individual whānau or hapū. Wāhi tapu may be associated with creation stories (kōrero) of tangata whenua, particular events, such as battles or ceremonies; sacred locations, such as where whenua or placenta is buried; or other valued sites, such as where a particular taonga is found. Wāhi tapu include kōiwi tangata (human remains), urupā (burial sites), waiwhakaheke tūpāpaku (water burial sites), historic pā, buried whakairo (carvings) tuhituhi o neherā (archaeological and rock art sites), tohu (“markers” such as landmarks, mountains, mountain ranges and some trees), ana (caves), and tauranga waka (canoe landing sites). Wāhi taonga are treasured places and can include important landmarks, waterways, mahinga kai or other taonga.

Wāhi tapu me wāhi taonga values are not confined to the physical boundaries of individual sites or the artefacts they contain. Mātauranga Māori (the Māori framework of knowledge) defines the significance of a site or places based on its historical and contemporary relationship to its surroundings and community.

Mapping

In the Post-European contact period of Aotearoa/New Zealand history, Ngāi Tahu whānui have been long involved in the mapping of sites and areas of ownership or interest; commencing with the mapping of Māori reserves by Crown officials in relation to the eight historic land purchases around the Ngāi Tahu takiwā in 1848. The launch of Te Kerēme/The Ngāi Tahu claim in 1849 and various commissions of enquiry including the Smith/Nairn Commission of 1879 sequestered the mapping of areas of historical and cultural interest to Ngāi Tahu.

In more recent times, the publication of Te Whakatau Kaupapa and Te Whakatau Kaupapa o Murihiku in 1990 and 1997 respectively, saw the mapping of sites or areas of concern largely for environmental management and cultural heritage purposes (e.g. the use of Silent File to identify areas within which wāhi tapu me wāhi taonga may be located for the purposes of district planning under the RMA, but not revealing the precise location of sites to protect them from fossicking).

The explicit provisions for protecting wahi tāpu me wāhi taonga under the RMA and the associated district plan and resource consent processes have resulted in the development of a significant written record of sites and values. This record includes the collation of existing published and unpublished material and the recording of oral knowledge from kaumātua where appropriate. In addition several rūnanga have produced Iwi Management Plans including Te Ngāi Tūāhuriri Rūnanga.

Cultural Values Reports, Cultural Impact Assessments & Cultural Values Statements

More recent development proposals for activities involving land or water under the RMA often include Cultural Values Reports (CVRs) or Cultural Impact Assessments (CIAs) as part of the proposals. A CVR describes Ngāi Tūāhuriri's association with and values of a site or area generally. It is useful as a starting point when a developer has a raft of proposals or options, to help inform the short-listing of preferred options.

Cultural Impact Assessments analyse the effects of a specific proposal, in detail, on the cultural values associated with the site or area. The assessment usual includes recommendations as to whether the proposal should proceed and any mitigating measures. Cultural Impact Assessments are most useful once a short-list of one or two preferred options has been finalised or a resource consent application for a specific activity is being prepared.

Cultural Values Statements are prepared as part of applications for archaeological authorities to disturb or damage archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014.

Once a resource consent application is made for a particular proposal, nga rūnanga may make a submission opposing a development which is not consistent with Ngāi Tūāhuriri values in their takiwā. In some instances, cultural evidence is prepared on the values of the site or area and the impact of the proposal. Cultural Values Reports, CIAs and cultural evidence are prepared relying on a combination of published and unpublished written material, oral archives, knowledge held by kaumātua or tūātaki and mātauranga Māori. These documents then contribute to the collective written record of Ngāi Tūāhuriri information on the takiwā, but they are specific to individual proposals. Cultural Values Reports, CIAs and CVs may be publicly available if they form part of a resource consent or archaeological authority application, but they are purchased by and remain the property of the applicant or agent who commissioned them. They should not be used for other purposes. Cultural evidence prepared on behalf of ngā rūnanga remains the work of the cultural witness, but may be publicly available as part of the hearing process.

These information sources along with the New Zealand Archaeological Association dataset, research as part of the Ngāi Tahu Cultural Mapping Project, and mapped lands and sites returned via the Cultural Redress component of the Ngāi Tahu Claims Settlement; all assist papatipu rūnanga to identify sites and areas of cultural significance and provide supporting information to justify their inclusion in plans with appropriate provisions.

Wāhi Tapu me Wāhi Taonga in Waimakariri & Rakahuri Catchments

All of the Waimakariri and Rakahuri catchments are of interest and significance to Ngāi Tūāhuriri as part of their takiwā. Within these catchments there are sites and places which have been identified by mana whenua as wāhi tapu me wāhi taonga. A cluster of interconnected sites of wāhi tapu me wāhi taonga lie between Rakahuri and Kaiapoi, and form what could be considered a cultural

landscape. Many wāhi tapu me wāhi taonga which have been reduced, damaged or destroyed through settlement of the catchment or the drainage of land for farming.

The following is not an exhaustive list of wāhi tapu me wāhi taonga, but a description of some sites and areas which hold these values within the Waimakariri District. The identification and classification of specific sites for inclusion in relevant regional and district plans may be provided in due course, depending on the decision Te Ngāi Tūāhuriri Rūnanga reach on their preferred approach to managing wāhi tapu me wāhi taonga in these plans. This decision will be made as part of engagement with each council under the First Schedule to the RMA.

When considering the land, mana whenua will include and acknowledge the resources that would be used to feed, house, clothe and equip their whānau. These include; mahinga kai sources such as creeks for eeling, cabbage trees for ti-kauru and flax for weaving, along with places that are associated with atua (gods) and the lives of tupuna (ancestors).

Ruataniwha/Cam River was an important mahinga kai. There were several kāinga established along Ruataniwha/Cam River, including Tūāhiwi. Traditional mahinga kai in Ruataniwha/Cam River included waikoura, pātiki (flounder), waikakahi (freshwater mussel), marearea, tuna, inanga, kanakana and waituere (Tau T, et al, 1990). Mana whenua have recalled an abundance of mahinga kai species such as koura (freshwater crayfish) in the Ruataniwha/Cam River however, these species are now only present in small pockets of suitable habitat (Lenihan, 2014).

The Rakahuri/Ashley catchment has been a source of mahinga kai, settlement and tupuna heritage for hundreds of years (Tau et al, 1990 & Mahaanui IMP 2013). The wetlands that were historically fed by the Rakahuri/Ashley River were a key reason why the area was settled by Ngāi Tūāhuriri and their ancestors. The wetlands have highly significant wāhi tapu me wāhi taonga values.

The mouth of the Rakahuri/Ashley, also known as Te Akaaka was a source of pipi and cockles that were seeded to maintain the populations. The lower reaches of the Rakahuri/Ashley sustained several bird species and are important spawning habitats for inanga, waikoura, eel and other fish species. Historically, freshwater shellfish were collected from the river, however this resource has significantly declined over the years (Tau et al, 1990).

Silent files 14 and 17 are located within the Rakahuri/Ashley catchment with silent file 11 extending into the southern part of the catchment. Silent files are areas within which there are contained wāhi tapu sites at undisclosed locations. The location of these silent files highlights the cultural and physical connections between Kaiapoi Pā and Rakahuri, although the whole of the Rakahuri is significant to manawhenua (Mahaanui IMP, 2013).

Tūtaepatu Lagoon near Woodend is another valued habitat and mahinga kai. The interlinked wetlands of the lagoon were historically self-sustaining and a waimoinga - an environmental site that sustains eels until they move to a more suitable habitat (Tau, H.R, 1998). Tūtaepatu Lagoon was used by local Ngāi Tahu for recreation activities and eel fishing up until the 1970s (Tau H.R, 1998). The eel population in the lagoon has declined and is no longer used as a source of mahinga kai.

Tūrakautahi planned a pā that centered on a lagoon of the Rakahuri/Ashley that provided ample eel and birds to the people. The pā was later named Kaiapoi. The position of the pā near the coast and

overland trails made it a convenient and well used trading post. There are claims that Tūtaepatu Lagoon was the site of the old pā and the urupā of Tūrakautahi (Tau, H.R. 1998). The lagoon area lies within silent file 13 (Mahaanui IMP, 2013).

Taerutu is a lagoon that once provided canoe access to the pā. It has since been drained for farmland. The site is also recognised as a wāhi tapu and urupā site with a history of being a rich source of mahinga kai.

The tributaries of the Waimakariri River are all wāhi taonga. The lowland, spring fed streams Ruataniwha/Cam, Pūharakekenui/Styx, Otukaikino and Kaiapoi are considered to be particularly culturally significant with mahinga kai and wāhi tapu values (Mahaanui IMP, 2013).

The Waimakariri River provided trails to the West Coast for Ngāi Tahu trading and war parties but was more often used to access mahinga kai sites such as Lake Lyndon (Moana) and Lake Pearson (Moana Rua). Along the river are permanent and seasonal occupation sites and urupā (Tau H.R, 1998). The river was another important food source for Ngāi Tūāhuriri.

Rakahuri Estuary, Saltwater Creek, Taranaki Stream, Taerutu stream and lagoon, Tūtaepatu lagoon, Kaiapoi Pā, Waimakariri and the physical and cultural connections between these places are specifically identified in the IMP as cultural landscapes with significant historical, traditional, cultural and contemporary values (Tau T, et al, 1990).

Māori Reserve 873

The modern history of Tūāhiwi began in 1848 when Māori Reserve 873 was set aside as kāinga nohoanga. Before this, the people of Tūāhiwi had been living at nearby kāinga at Waituere, Mairaki and Tioriori as Kaiapoi Pā was considered highly tapu (Evison H, 1993, Mahaanui IMP, 2013).

The reserve has a number of historic and culturally significant sites within its boundaries. These include; Pakiaka, a former outpost for mahinga kai of Kaiapoi Pā, Piki Tū Roa, identified by Silent File 12 and Waituere, an unmarked and unfenced urupā on the banks of the Ruataniwha/Cam River (Lenihan, 2014).

Statutory Provisions to Protect Wāhi Tapu me Wāhi Taonga

Recognising and protecting wāhi tapu me wāhi taonga from inappropriate disturbance or damage is very important to Te Ngāi Tūāhuriri. It is also a requirement for district and regional councils when discharging their duties under the RMA. This section looks at the current statutory framework and plan provisions for protecting wāhi tapu me wāhi taonga. The subsequent section describes and assesses statutory and non-statutory tools and approaches for recognising and protecting wahi tapu me wāhi taonga.

Legislative Framework

Te Tiriti o Waitangi/ Treaty of Waitangi

Mana whenua believe that tino rangatiratanga over wāhi tapu me wāhi taonga is provided for in Article II of Te Tiriti o Waitangi/Treaty of Waitangi. Therefore the Government and crown agencies who have statutory duties relating to the Treaty, have a statutory duty to enable mana whenua to protect wāhi tapu me wāhi taonga. This includes the Department of Conservation managing land under the Conservation Act 1987 and regional and district councils discharging duties under the RMA.

Resource Management Act 1991

The RMA is the primary legislation for managing natural and physical resources, including land (outside of the Conservation Estate), freshwater, air, ecosystems and the coast in New Zealand. The Act has a purpose – *to promote the sustainable management of natural and physical resources*. All management under the RMA is to achieve the purpose of the Act.

Sustainable management is defined in s5(2) and includes “...*enabling people and communities to provide for their economic, social and cultural well-being...*” There are additional matters listed in sections 6 to 8 of the Act which must be addressed as part of achieving the purpose of the Act. They include:

- Recognising and protecting, as a matter of national importance, the relationship of Māori and their customs and traditions with their ancestral lands, water, sites, **wāhi tapu and other taonga** (s6(e)) (emphasis added);
- Recognising and protecting as a matter of national importance, historic heritage from inappropriate subdivision, use or development (s6(f));
- Having particular regard to kaitiakitanga (s7(a)); and
- Taking into account the principles of the Treaty of Waitangi (s8).

Regional and district councils have specific functions under the RMA and are required to produce planning documents to assist them in carrying out those functions to achieve the purpose of the Act. Regional councils must produce a regional policy statement and a regional coastal plan and may produce other regional plans. Each territorial local authority (district or city council) must produce a district plan. To be protected under the RMA wāhi tapu me wāhi taonga needs to be identified in the relevant regional or district plans with associated provisions, including any rules or other appropriate methods to manage potential effects of activities on them.

Heritage New Zealand Pouhere Taonga Act 2014

Heritage New Zealand Pouhere Taonga Act 2014 manages heritage and archaeological sites in New Zealand. An archaeological site is defined in s6 of the Act as *‘any place in New Zealand, including any buildings or structure (or part of a building or structure) that was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel that occurred before 1900; and provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand.’*

Some wāhi tapu sites will fall within the definition of an archaeological site if they contain archaeological evidence of human occupation or settlement. It is an offence to modify or destroy or cause to be modified or destroyed any archaeological site in New Zealand without an archaeological authority (s42). This protection applies irrespective of whether the site is registered (s42(2)).

This legislation works well in situations where an archaeological site is accidentally uncovered (work must cease until the site is assessed); or there is a known likelihood of an archaeological site being disturbed and people apply for an archaeological authority before undertaking an activity.

For sites of interest to Māori, the iwi authority must give consent to any application for a scientific investigation of the site. However the decision to allow an archaeological site to be modified or destroyed is made by Heritage New Zealand Pouhere Taonga. In considering its decision, Heritage New Zealand Pouhere Taonga must consider the matters set out in s49-52 of the Act which include the historical and cultural values of the site, and the extent to which protection of the site restricts existing or future reasonable use of the site for a lawful purpose (s59).

The Act protects archaeological sites from damage or disturbance but not from activities in proximity to the sites which may be culturally inappropriate but do not physically damage the site, eg picnic facilities adjoining an urupā; nor does it manage the connections between wāhi tapu me wāhi taonga sites or links between the site and the surrounding environment. Not all wāhi tapu me wāhi taonga sites will meet the definition of an archaeological site.

Heritage New Zealand can register wāhi tapu, and wāhi tupuna areas on its publicly available list for information purposes, but any further protection needs to be made through provisions in district or regional plans under the RMA.

Iwi Planning Documents

Several rūnanga have prepared management plans over the last 20 years. These plans outline ngā rūnanga's values, interests and issues in relation to a variety of environmental, social, and economic issues – depending on the topics covered. Mahaanui Iwi Management Plan (2013) identifies issues, policies and strategies in relation to managing the natural environment prepared on behalf of six papatipu rūnanga in Canterbury including Te Ngāi Tūāhuriri Rūnanga. Te Rūnanga o Ngāi Tahu as the iwi authority has also produced policy statements and documents; eg Ngāi Tahu Freshwater Policy and Te Whakatau Kaupapa (as the Ngāi Tahu Trust Board). Local authorities are required to take into account the provisions of any relevant planning documents recognised by the iwi authority when preparing district and regional plans under the RMA (s67 & 74).

Iwi management plans are not necessarily comprehensive of all relevant issues, and are not a substitute for consulting with mana whenua. They are written by rūnanga for rūnanga and whānau as a record of their issues, interests and strategies to address issues. Iwi management plans can provide some guidance for organisations working with ngā rūnanga on some matters. Iwi management plans are not plans prepared under the RMA, and as such may not follow the format of a plan prepared under that Act.

Mahaanui Iwi Management Plan (2013)

The Mahaanui Iwi Management Plan (IMP) defines wāhi tapu me wāhi taonga as places that are culturally and spiritually significant to mana whenua history and identity. This includes sites such as urupā, pā, umu and midden, and places where taonga have been found. The IMP recognises coastal wetlands, hāpua (lagoons) and the sea as wāhi taonga. The IMP has several policies that are relevant to and highlight the significance of wāhi tapu me wāhi taonga to ngā rūnanga. Although acknowledged throughout chapters in the plan, the majority of these policies are found in section 5.8 'Ngā Tūtohu Whenua' and relate to the recognition and protection of wāhi tapu (including silent files), wāhi taonga and mahinga kai.

Ngā Take (issues) with wāhi tapu me wāhi taonga identified in Mahaanui IMP (Section 5.8, p.64) include:

- The focus on outstanding landscapes in plans which means cultural landscapes are not always recognised.
- The need for culturally appropriate tools to identify and express the relationship of tangata whenua with places.
- The need to enhance or restore some cultural landscapes.

Ngā Paetae (Objectives) for Ngā Tūtohu Whenua in Mahaanui IMP (Section 5.8, p.163) include:

- Protecting wāhi tapu me wāhi taonga from inappropriate subdivision, use or development.
- Ensuring Ngāi Tahu have access to sites of cultural significance in the takiwā.
- Using cultural landscapes and cultural mapping as tools to identify and protect wāhi tapu me wāhi taonga in their spatial context and the relationship of tangata whenua to them.
- Maintaining good working relationships with other agencies involved in protecting wāhi tapu me wāhi taonga.

Mahaanui IMP has a series of policies for managing wāhi tapu me wāhi taonga. They include:

- Recognising the right of Ngāi Tahu to identify and determine the most appropriate methods to manage wāhi tapu me wāhi taonga at their discretion;
- A range of methods that can be used to manage wāhi tapu me wāhi taonga; and
- Tools to be used to assess impacts of proposals on sites depending on the degree of risk.

These tools will provide guidance for Ngāi Tūāhuriri in determining whether any sites will be identified and managed through provisions in a district or regional plan and if so, the nature of the provisions.

Te Whakatau Kaupapa(1990)

Te Whakatau Kaupapa was the first modern iwi planning document prepared by the Ngāi Tahu Trust Board to document some silent files and wāhi tapu. Te Whakatau Kaupapa highlights the significance of urupā and their wāhi tapu status. The document suggests wāhi tapu me wāhi taonga could have the equivalent level of protection as an Outstanding Natural Landscape or Outstanding Natural Feature. This would not restrict all activities but would allow for some protection and tikanga to be observed. Te Whakatau Kaupapa and Mahaanui IMP should be read in conjunction.

Ngāi Tahu Freshwater Policy

The Ngāi Tahu Freshwater Policy has an objective and policies to identify and protect waters that are of particular significance to Ngāi Tahu; and seeks agreement with resource management agencies on objectives, policies and methods for protecting wāhi tapu. The policy suggests the use

of rāhui as a technique to recognise and protect wāhi tapu. A rāhui is defined in the policy statement as 'restrictions or controls that are put in place by tangata tiaki to manage a resource or area in accordance with tikanga.'

Rāhui is defined in '*Tikanga Māori, Living by Māori Values*' by Hirini Moko Mead as *ritual prohibition either placed on a place, or part of a river, part of the foreshore or on certain resources.*

Rāhui is a traditional management tool to protect waterways that are considered wāhi tapu. The use of rāhui within the regulatory framework of the RMA would need to be reconciled with the powers, functions and duties of the council and the requirements for legal certainty. However there is potential for its use as part of agreed management protocols between rūnanga and landholders or resource consent holders. It also has a potential legal equivalent within s329 of the RMA.

Statutory Plans

Under the RMA the relevant policy statements and plans that apply within the Waimakariri District and deal with wāhi tapu me wāhi taonga are identified below.

National Policy Statements

Currently there are no national policy statements or national standards that specifically address wāhi tapu me wāhi taonga. The New Zealand Coastal Policy Statement (2010) and the National Policy Statement for Freshwater (NPSF) 2014 both have objectives and policies relating to the role of tangata whenua in natural resource management and providing for tangata whenua values. Regional and district plans must give effect to national policy statements under the RMA (s67(3) and s75(3)).

Objective 3 of the New Zealand Coastal Policy Statement (2010) requires the principles of the Treaty of Waitangi be taken into account, recognition of the role of tangata whenua as kaitiaki, and to provide for tangata whenua involvement in management of the coastal environment (p.9). Policy 2 explores in more detail these matters, including recognising the inter-generational association of tangata whenua with the coastal environment; and requiring involvement in decision-making that enables the exercise of kaitiakitanga and tikanga.

Objective D and Policy D1 of the National Policy Statement for Freshwater 2014 provide for the involvement of tangata whenua in decision-making around freshwater management and ensuring their values and interests are identified and reflected in freshwater management and associated ecosystems (p.18).

Canterbury Regional Policy Statement

The Canterbury Regional Policy Statement (CRPS) provides for an overview of the resource management issues of a region and methods to achieve the integrated management of the natural and physical resources of the region as a whole (s59). There are no rules in a regional policy statement but it can direct regional and district councils to provide for matters in regional and district plans. Regional and district plans must give effect to regional policy statements under the RMA (s67(3) and 75(3)).

The CRPS has introductory material that recognises Ngāi Tahu whānau as mana whenua and describes key concepts and issues. Recognition and provision for Ngāi Tahu sites and values are provided for throughout relevant chapters of the CRPS as they apply to each topic, such as freshwater, coast, landscapes, indigenous biodiversity and heritage.

The CRPS recognises the requirement for wāhi tapu sites to be protected from inappropriate activities and that there should be continued access to these sites for Ngāi Tahu (2.2.8, p.15). It also recognises the need to improve the diversity and quality of mahinga kai (2.2.7, p.15). The CRPS has provisions throughout relating to the management of wāhi tapu me wāhi taonga within the broader context of Te Ao Māori and tikanga including:

- Management of freshwater considering ki uta ki tai (Objective 7.2.4, p.56)
- Management of riparian margins and associated Ngāi Tahu values (Policy 7.3.3, p.59)
- Supporting customary uses (Policy 7.3.4, p.60) and the exercise of kaitiakitanga in accordance with tikanga in relation to freshwater (Policy 7.3.13, p.69)
- Recognition of the cultural values of the coast (Objective 8.2.4, p.77) and enhancing the ability of Ngāi Tahu to access kaimoana and exercise tikanga (Objective 8.2.5, p.77)
- The need to identify and protect culturally significant sites within the coastal environment in consultation with Ngāi Tahu (Policy 8.3.3 p.79 and 8.3.5 p.82)
- Safeguarding the mauri of indigenous flora and fauna (Objective 9.2.1 p. 89)
- Ensuring Ngāi Tahu access to lakes and rivers and engaging Ngāi Tahu over council activities within river beds (Policy 10.3.5, p.107)
- Recognising tangata whenua values when identifying outstanding natural landscapes and features (Objective 12.2.2 & Policy 12.3.4, p.129);
- Recognising and providing for heritage and cultural landscapes (Policy 12.3.3, p.129, policies 13.3.1 and 13.3.2, pp135-136).

Overall, the CRPS provides a good platform for district and regional plans to recognise and provide for the management of wāhi tapu me wāhi taonga within the context of kaitiakitanga and tikanga, and the definitions of wāhi tapu and wāhi taonga align with those in the IMP.

Canterbury Land and Water Regional Plan

The Canterbury Land and Water Regional Plan (LWRP) definitions of wāhi tapu me wāhi taonga are the same as the Mahaanui IMP. The LWRP has policies and rules relating to wāhi tapu me wāhi taonga, in the Selwyn Te Waihora Sub-Region as a result of Plan Change 1. There is also detail on wāhi tapu me wāhi taonga in the Areas of Statutory Acknowledgement listed in schedule 19 to the LWRP. Other than this, there are few provisions that are specific around wāhi tapu me wāhi taonga.

Objective 3.1 of the LWRP seeks integrated management of resources recognizing and enabling Ngāi Tahu traditions, customary uses and relationships with land and water. Objective 3.2 supports ki uta ki tai in freshwater management.

There are general policies in the LWRP to recognise and manage the effects of some activities on Ngāi Tahu values, eg Policy 4.5 managing freshwater to support customary uses, Policy 14.14B for discharges, Policy 4.21 for burning of hill and high country, Policy 4.24 for hazardous substances, Policy 4.44 for damming, Policy 4.55 for gravel, and Policy 4.71A for transfer of water between catchments. However these policies are only able to be affected if the rules in the plan require resource consents for these activities and the consent authority maintains discretion to consider

effects on Ngāi Tahu values. In some rules this has occurred, but in others it has been omitted. For example, Rules 5.93 and 5.94 for stormwater discharges, Rule 5.125A for other discharges, and Rule 5.169 for vegetation clearance in riparian margins all have provision to consider effects on Ngāi Tahu or tangata whenua values. There is no similar provision in Rule 5.176 for earthworks over an unconfined aquifer or Rule 5.173 for burning in hill and high country, despite the provision in Policy 4.21.

There are also provisions to manage some activities within the beds of lakes and rivers (Policy 4.86) and inanga spawning areas Policy 4.86A. Plan Change 4 to the LWRP increased the number of inanga spawning areas identified in the LWRP including tributaries of the upper Waimakairi and Rakahuri catchments (above Lees Valley Rd). However it weakened Policy 4.86A from avoiding effects of activities on inanga spawning sites in the first instance or otherwise using best practicable options to manage effects, to having regard to Ngāi Tahu values. The planning maps are difficult to read on-line, but it appears that lowland streams in the Waimakairi and Rakahuri catchments may not have been identified as inanga spawning sites in Plan Change 4, though they were included in the original schedule 17 in the LWRP. This may be because the Council was anticipating these areas would be identified as part of the Waimakariri sub-regional planning process.

In the Selwyn Te Waihora Sub-Region section of the LWRP, there are policies that affect the protection of wāhi tapu me wāhi taonga. For example:

- Policy 11.4.3 Establish and maintain a Cultural Landscape/Values Management Area that encompasses Te Waihora, its margins, wetlands, springs and tributaries to:
 - (a) recognise the nature, concentration, networks and significance to Ngāi Tahu of sites and values within the Area; and
 - (b) provide for the relationship of Ngāi Tahu with Te Waihora/Lake Ellesmere.

- Policy 11.4.4 Manage the Cultural Landscape/Values Management Area:
 - (a) as one integrated freshwater mahinga kai system with outstanding values;
 - (b) to protect mahinga kai, wāhi tapu and wāhi taonga;
 - (c) to restore the health of Te Waihora/Lake Ellesmere; and
 - (d) to recognise the cultural and ecological sensitivity of the Area to discharges of contaminants and the taking and use of freshwater.

The Selwyn Te Waihora Sub-Region section includes rules that have an additional matter of discretion not applied to the region-wide rules: *'Any adverse effects on mahinga kai, wāhi tapu or wāhi taonga within the Cultural Landscape/Values Management Area.'* This amended rule applies to a number of activities including:

- On-site wastewater
- Taking and using of surface water from a river, lake or wetland or groundwater
- Offal pits, silage pits and compost
- Stock holding areas and effluent

- Silage pits and compost
- Stormwater discharge
- Sediment removal from rivers

The consent authority retains control or discretion over effects on mahinga kai, wāhi tapu me wāhi taonga, the management of waterways and drains in Farm Environment Plans, and the cultural and ecological effects of discharges of contaminants from farming within the Cultural Landscape/Values Management Area, where farming does not meet the rules for a permitted activity.

Waimakariri River Regional Plan

The Waimakariri River Regional Plan (WRRP) identifies objectives, policies and methods for resolving issues that apply to wāhi tapu me wāhi taonga. The WRRP defines wāhi tapu me wāhi taonga as;

- Wāhi Taonga: Places (wahi) of special value.
- Wāhi Tapu: Places of sacred and extreme importance.

The plan identifies as an issue, activities within the beds of rivers and lakes in the Waimakariri River Catchment that may damage wāhi tapu me wāhi taonga. Objectives 5.1, 6.1 and 7.1 in the WRRP include provisions for mahinga kai and protecting wāhi tapu me wāhi taonga. The plan identifies a number of waterways that have mahinga kai values including Otūkaikino Creek and Styx River, including Kaputone Creek which are significant wāhi taonga; and includes provisions in the objectives to safe-guard waterways for mahinga kai.

These objectives and policies are implemented by rules and a Code of Practice that was developed by Environment Canterbury for river control, drainage and other river work activities. An example is Rule 5.169 for vegetation clearance and earthworks within specified distances from lakes or rivers. This rule includes a matter of discretion that considers effects on mahinga kai and sites of importance to tangata whenua. The code of practice states that iwi concerns in regard to mahinga kai will be incorporated, and Environment Canterbury will consult with rūnanga where wāhi tapu or wāhi taonga are concerned, or are uncovered in the course of carrying out river works.

Wāhi tapu me wāhi taonga values are implemented in the WRRP through Rules 7.1-7.5. Rule 7.4 identifies activities that are discretionary, therefore the protection of wāhi tapu me wāhi taonga can be considered. The plan also identifies a number of activities that are prohibited to protect river beds in the Waimakariri Catchment.

Waimakariri District Plan

The Waimakariri District Plan (WDP) defines wāhi tapu me wāhi taonga as:

- *Wāhi Tapu: The term wahi tapu is referred to in sections 6(e) and 58(b) of the Resource Management Act 1991. However, it is not defined. Subtle differences to its meaning occur between the various hapu and tribes that make up the Maori world. Wahi taonga is the word that Ngāi Tūāhuriri substitute to convey the meaning and intent of wahi tapu.*

- **Wāhi Taonga:** *Wahi taonga is the word that Ngāi Tūāhuriri substitute to convey the meaning and intent of wahi tapu. To Ngāi Tūāhuriri the term taonga refers to the whakapapa tree (genealogy) of the natural resources of our world. Wahi taonga are the various parts of it – the branches of that tree. Wahi taonga is defined as all those resources that sustain life, that are culturally, spiritually, physically and historically important to Ngāi Tūāhuriri and Ngai Tahu whānui.*

The WDC definitions of wāhi tapu me wāhi taonga reflect the age of the plan and should be updated when the plan is reviewed to make them consistent with the definitions in Mahaanui IMP and other plans.

Earthworks and Development

The WDP has a number of objectives and policies around recognition and protection of wāhi tapu. Policy 2.1.3.6 is specifically on the development and occupation of Pegasus Township, and its effects on cultural values, wāhi tapu me wāhi taonga.

Wāhi tapu, wāhi taonga and urupā have protection under Rule 23.1.1.12 where it states that a representative of Te Ngāi Tūāhuriri Rūnanga shall be present during significant earthworks to act as an advisor on identification or protection of wāhi tapu, wāhi taonga, urupā or other Māori culture. This rule also requires that any person involved in the earthworks shall have received appropriate training and be aware of the requirement to monitor earthworks. These rules apply to all earthworks in Silent File areas and other areas that are identified as culturally significant areas.

The wording in the WDP appears base on a premise that development will proceed and effects on wāhi tapu me wāhi taonga will be mitigated. Te Whakatau Kaupapa, the Mahaanui IMP and the duties under s6(e) and (f) of the RMA require recognition and protection of wahi tapu me wahi taonga from “inappropriate development.” Considering the recent increase in demand for housing in the Waimakariri District it may be appropriate to review the policy and rules around wāhi tapu me wāhi taonga.

Silent Files & Cultural Landscapes

The WDP includes some silent files and cultural sites, but it is not comprehensive. The plan acknowledges cultural sites in some objectives but has no further provisions for the recognition and protection of culturally sensitive areas. Again this reflects the age of the plan. The Plan contains a Māori chapter (Chapter 2) with identified objectives and policies but has no rules to implement the objectives and policies. It is recommended that methods be included in the WDP review, including rules where appropriate, to implement the objectives and policies outlined in the plan.

In many of the iwi planning documents there is recognition of Tūhaitara Coastal Reserve (including Tutaepatu Lagoon) and Waikuku Beach Reserves. These culturally significant areas are located within a Silent File and hold strong cultural significance as wāhi taonga and mahinga kai. This area could be incorporated into a Cultural Landscape Management Area or similar, with provisions for greater recognition and more targeted management and protection of wāhi tapu me wāhi taonga sites.

Mahinga Kai

Wetlands and riparian margins are wāhi taonga that provide important cultural and environmental benefits, including mahinga kai habitats, the maintenance and improvement of water quality, and natural flood protection. The WDP has good provisions around the protection of wetlands however, it needs provisions for riparian margins.

The WDC Plan has some policies around avoiding adverse effects of activities on mahinga kai resources, wāhi taonga and mauri. Examples of these policies include 3.2.1.1 and 6.1.1.1. Mahinga kai values and protection or maintenance of mahinga kai sites could be added to plan provisions to increase awareness of the value of riparian margins.

Approaches to Managing Wāhi Tapu and Wāhi Taonga

Statutory Approaches

Statutory approaches describe approaches to managing wāhi tapu me wāhi taonga that involve provisions which have the effect of regulations in statute; that is they are legally binding and can be enforced by way of prosecution through criminal proceedings in a district court. The usual mechanism is through provisions – objectives, policies and rules, in district or regional plans prepared under the RMA. Four statutory planning approaches are described and analyzed in this section:

- (i) The traditional planning approach of identifying wāhi tapu me wāhi taonga sites and values;
- (ii) A contemporary wāhi tapu me wāhi taonga classification system;
- (iii) No specific identification of sites or areas but relying on general rules in the plan to assess impacts of activities on wāhi tapu me wāhi taonga values;
- (iv) Managing wāhi tapu me wāhi taonga within the broader context of Te Ao Māori and kaitiakitanga.

I. Traditional Planning Approach

The original and most common approach used to recognise and protect wāhi tapu me wāhi taonga sites in district and regional plans is a two-step process:

- sites are identified on planning maps – usually as a circle or ring; and
- within those circles or rings, rules apply which require a resource consent for activities which may affect the site, eg earthworks, forestry or building (district plans), or taking of water, discharge of contaminants or activities in river beds (regional plans).

The approach requires the physical location of the sites to be identified, including their boundaries, so it is certain where the rules apply. The activity status is usually discretionary or restricted discretionary, and the iwi authority (or in Ngāi Tahu's case the relevant papatipu rūnanga) are identified as an affected party in terms of processing the resource consent application. This approach is most commonly used for terrestrial sites; particularly Māori archaeological sites. Some plans include water bodies; eg the operative Selwyn District Plan recognises the Waikirikiri/Selwyn River as a Wāhi Taonga Management Area. Sometimes the sites have their own schedule and provisions in the plan as culturally significant sites, eg Auckland One Plan. In other plans they are

managed under the provisions for heritage sites, eg proposed Christchurch Replacement District Plan.

Analysis of Approach

This traditional planning approach manages wāhi tapu me wāhi taonga sites in the same way as European archaeological or heritage sites. That is, it assumes the value of the site is historic; that the value is associated with a physical relationship between mana whenua and the area; and that this relationship is evidenced by physical remnants of occupation or settlement of the area which need to be protected from further damage or destruction.

The advantage of this approach is that it is easy for people without a background in tikanga to understand; and it fits easily within the traditional style of statutory plans. However there are disadvantages with this approach.

- (i) Disclosing the location of wahi tapu sites as a way to protect them is the antithesis of tikanga for some mana whenua. Traditionally the best way to protect such sites was not to disclose their location so they could not be desecrated by enemies or in more recent times fossickers and curios. Some kaumātua have resisted this approach to identifying and protecting wāhi tapu me wāhi taonga in plans.
- (ii) Trying to identify the boundaries of these sites is fraught with difficulty. Wāhi tapu me wāhi taonga are managed within the broader relationship of mana whenua to the natural world, expressed through whakapapa and managed through kaitiakitanga. In that context, it is difficult to identify where those connections start and stop, particularly so when considering wāhi taonga sites such as wai (water) and mahinga kai.
- (iii) Archaeological sites are indicators of occupation or activity within an area. They do not express the limits of that occupation or association. If the sole purpose of the classification is to protect the physical remnants of a site this approach may be satisfactory; if it is to acknowledge and manage the site as wāhi tapu, then it is the association of the area with an activity or event that is critical.
- (iv) A site may be wāhi tapu due to an activity or event that occurred there. This concept does not fit easily with the traditional approach of requiring resource consents for earthworks, building etc when landowners cannot see 'anything there to be protected.'
- (v) Resource consent applicants and consenting authorities have been known to take the view that if an area is not identified as a culturally significant site in the plan mana whenua have no interest in the proposal and the site has no cultural significance. As Hoana (Aunty Joan) Burgman explained in her evidence cited above: culturally significant sites for mana whenua are like cathedrals and art galleries of a city.

They're special areas but, just like a council, mana whenua are interested in all matters within their takiwā.

Some of the issues with this traditional approach to identifying and protecting wāhi tapu me wāhi taonga manifested themselves in the proposed Auckland Unitary Plan as notified. In that plan over 3000 sites were identified, often encompassing large areas of land with no physical remnants or features to be protected. For these reasons, ngā rūnanga focus group explored an alternative classification systems for wāhi tāpua me wāhi taonga for the Replacement Christchurch District Plan.

II. Contemporary Classification System

The contemporary classification system discussed in this section has been developed to address two key issues with the traditional planning approach described above: the difficulty with identifying individual sites of wahi tāpu me wāhi taonga divorced from their surrounding environment; and the issue of how to recognise and protect the values associated with those sites when there are no physical remnants on the site, without requiring resource consents for activities.

A key difference between the traditional planning approach described above and the contemporary classification system described here, is that the latter does not rely on one type of site and one set of rules. Rather it recognises there are a variety of sites and areas that are wāhi tapu me wāhi taonga, and that the values associated with those sites and areas will differ. Consequently, each plan should have provisions which are tailored to the nature of the sites and the values that need to be recognised and protected.

For example, in Plan Change 1 (Selwyn/Waihora) to the LWRP rather than having multiple wāhi tapu me wāhi taonga sites around Te Waihora and its tributaries, a Cultural Landscape Management Area was created. This approach reflects the interconnectivity of all these sites and connections to their surroundings. Rather than introducing an entire new set of rules, the plan recognised that most of the activities which are likely to affect wahi tapu me wahi taonga in that area where already managed through rules in the plan. Some additional conditions and matters of discretion were added to those rules.

The ability to designate particular areas as cultural landscapes enables mana whenua to provide for the physical and cultural connections between particular places, sites and resources, rather than "dots on maps". The IMP states that the whole of the Waimakariri District can be identified as a cultural landscape (IMP). Using this method over the whole of the district may not be feasible for consenting authorities but a Cultural Landscape Management Area over areas with a concentration of wāhi tapu me wāhi taonga may be appropriate, eg over the lower Rakahuri-Kaiapoi area.

In submissions on the Replacement Christchurch City Plan, the contemporary classification system was requested to replace the traditional planning approach of identifying Māori archaeological sites as wahi tapu under the heritage section of the plan. The system was tailor-made to reflect the

nature of the sites within the City and Banks Peninsula areas and the activities likely to affect their historic and contemporary values. That system has three tiers:

- Wahi tapu sites – being those sites which contain physical remnants of occupation that should not be damaged or disturbed, eg urupā and pā sites.
- Ngā tūranga tupuna – sites of traditional settlement, occupation, mahinga kai or other significance where there are no physical remnants to be protected but the values of those sites should be recognised and incorporated into the landscape, eg as part of new developments.
- Ngā wai – water bodies which may not be considered outstanding natural features but which have mahinga kai or other cultural significance to Ngāi Tahu, eg Ōtākaro/Avon and Ōpāwaho/Heathcote rivers.

The wāhi tapu sites are identified with clear physical boundaries based on physical features on the land or a specified distance from the physical remnants. There are rules to manage activities that may disturb or damage the physical remnants in wāhi tapu sites such as earthworks and building controls.

Ngā tūranga tupuna are shown on the planning maps as larger ellipses with less defined boundaries. Rather than having additional rules, where activities already require a resource consent such as new residential subdivisions, erection of community facilities or large commercial buildings, developers are encouraged to give consideration to mana whenua association with those areas and its pre-colonial history. This may be through street-names, building design, landscaping etc. There is an earthworks rule for disturbance below areas which have been previously excavated due to the likelihood of archaeological finds at new depths. Examples of ngā tūranga tupuna include areas within central Christchurch that are well known as culturally significant sites to Ngāi Tūāhuriri but which were lost in the original building of Christchurch City.

As with ngā tūranga tupuna, the ngā wai classification is to recognise the historic and in some cases contemporary value of water bodies within Christchurch for mahinga kai or other purposes; and to use opportunities presented with development or rebuild proposals to have their Ngāi Tahu association and values recognised and accommodated. Ngā wai is about to have its first 'test' with the Christchurch City Council proposal for stormwater and sewage overflow disposal into Waikākāriki/Horseshoe Lake. This proposal is a reminder that a statutory planning framework on its own is insufficient to protect wāhi tapu me wāhi taonga and sometimes work is needed to influence the thinking of councils and developers.

Assessment

The contemporary classification system requires input and resourcing at the outset to identify and classify sites and associated provisions suited to the values of the site(s). However the tradeoff for that additional work is a classification system and associated plan provisions that may be more credible with the public because the plan provisions are better tailored to the nature of the various wāhi tapu me wāhi taonga. Including these provisions in the plan as notified provides landholders and other affected parties with the maximum opportunity to consider the proposal and make submissions.

There is also a challenge for planning professionals to move their thinking from wahi tapu me wahi taonga as being the protection of historic heritage to the management of mana whenua relationships with their lands, water and sites. The Te Waihora Cultural Landscape Area took a little introduction to get people to understand the concept. Similarly, in the Christchurch Replacement District Plan hearings, some planners wanted to apply the rules for wāhi tapu to all site classifications, to make it 'fit' the more traditional planning approach.

To date, the contemporary classification system appears to better align with the concept of kaitiakitanga and managing each site according to its values. Recognition of Ngāi Tahu's occupation of the landscape is important for mana whenua and ngā tūranga tupuna and ngā wai in particular offer that recognition without imposing unnecessary rules. Early indications from landowners around Te Waihora and on Banks Peninsula is that once they understand the difference between these classifications and the traditional planning approach, they seem to favour the contemporary classification system. In the case of the Christchurch Replacement District Plan hearings, there were instances of landholders assisting with identifying the location and classification of sites.

There is still the issue that some applicants and consent authorities may assume that if a site is not identified as being culturally significant, mana whenua have no interest in the proposal and there are no effects on cultural values. However the ability to identify sites as ngā tūranga tupuna or ngā wai without a lot of additional rules, means that larger areas of a catchment or district can be recognised for their Ngāi Tahu history and values.

III. No Site Identification

A third option is to not identify any sites or areas of wāhi tapu me wāhi taonga in a plan. Rather where an activity requires a resource consent for other reasons, one of the matters which is considered in deciding on the resource consent application is whether there are any adverse effects on wāhi tapu me wāhi taonga. This is the approach which was taken by Te Rūnanga o Ngāi Tahu in submissions on the proposed Canterbury Land and Water Regional Plan 2012, with the notion that any specific sites or areas could be identified and managed under the sub-regional planning process (as in Plan Change 1 for Selwyn/Waihora).

Assessment

The advantage of this approach is there is no requirement to disclose the location of wāhi tapu me wāhi taonga sites in the plan or to try and map their boundaries. It also avoids creating the misunderstanding that if there is no culturally significant sites in the area of a proposed activity, then mana whenua are not interested in or affected by the proposal. However the approach has disadvantages:

- (i) Only those activities which require resource consents for other purposes will be assessed for their effects on wāhi tapu me wāhi taonga. Land uses are permitted activities under s9 of the RMA unless they require a resource consent under a rule in a plan. Therefore land uses which affect wāhi tapu me wāhi taonga may not require

resource consents under other rules in the plan, in which case there is no trigger to consider effects on wāhi tapu me wāhi taonga.

- (ii) Under the RMA activities involving water, discharges of contaminants, or activities in the beds of lakes and rivers, usually require a resource consent unless a rule in a plan makes them a permitted activity. However as more regional plans are being prepared and rules are introduced creating more permitted and controlled activities, there may be fewer opportunities to consider the effects of these activities on wāhi tapu me wāhi taonga.
- (iii) If specific wāhi tapu me wāhi taonga sites and values are not identified in plans, the provisions to enable an assessment of effects on wāhi tapu me wāhi taonga need to be quite broad or generic in their wording. In the LWRP, Te Rūnanga O Ngāi Tahu made submissions to have the words '*effects on Ngāi Tahu values*' included as a matter of discretion in relevant provisions. The Hearing Commissioners questioned this wording in the hearing as they felt it was too uncertain.
- (iv) If wāhi tapu me wāhi taonga are not identified as part of the planning process, this can lead to skepticism from resource consent applicants as to the existence of these sites and values. It also makes it hard for the applicant and the consent processing officer to identify the potential effects of a proposed activity on wāhi tapu me wāhi taonga, and whether a Cultural Impact Assessment is needed.
- (v) Managing effects on wāhi tapu me wāhi taonga through responding to individual resource consent applications rather than having a framework for management of these sites and values in the relevant regional and district plans, means wāhi tapu me wāhi taonga values may not be managed in an integrated and holistic way; especially if not all activities which affect these sites and values require resource consents.
- (vi) Finally, this approach places the onus on mana whenua through nga rūnanga or their entities to review and respond to all resource consent applications, with respect to potential effects on wāhi tapu me wāhi taonga. This approach creates challenges for nga rūnanga in terms of the timeframes and resources to do this mahi (work).

IV. Te Ao Māori and Kaitiakitanga

As part of achieving the purpose of the RMA, councils have specific statutory duties around recognising and providing for the relationship of Māori and their customs and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (s6(e)); kaitiakitanga (s7(a)); and the principles of the Treaty of Waitangi (s8).

To date, the expression of these duties in most regional and district plans has been around identifying and protecting culturally significant sites (wāhi tapu me wāhi taonga) using the traditional planning approach discussed above. The approach has been to discharge these duties to the extent

practicable within a town planning or resource management framework based on a post-colonial European approach to land ownership and management of natural and physical resources.

When developing plans, often little attention is given to the underlying ideologies and assumptions that drive planning legislation and practices in New Zealand; nor recognition that those assumptions are based on understandings or perspectives about the relationship between people and the environment, and theories around managing natural resources and delivering policy and regulation, that are not universal 'truths' and are not Te Ao Māori. A simple example is the presumption that you can manage environmental issues under the RMA without managing issues of ownership and access to resources. In Te Ao Māori rangatiratanga is a precursor to kaitiakitanga.

A more complex example is the notion that conservation/protection and development/use of natural resources are opposing concepts. Therefore as mana whenua often advocate for protection of the natural environment such as wai and taonga species, planners assume they must be opposed to resource use or development. However mana whenua manage their environment using tikanga-based tools to ensure the long-term availability of resources for use. Notions such as protecting all indigenous vegetation from any use, or preventing occupation of the coastal environment to protect its natural character, can frustrate duties to mana whenua under s6(e), 7(a) and 8 of the RMA.

A fourth planning approach is to introduce some of the principles of Te Ao Māori into planning frameworks, and to allow for the exercise of kaitiakitanga over the lands and waters of the entire catchment or district, rather than confining mana whenua interests to culturally significant sites identified on a planning map. Wāhi tāpu me wāhi taonga sites are managed within this broader context. This sort of approach is an opportunity to give effect to the broader duties to enable tangata whenua to exercise kaitiakitanga and tikanga in planning, which are provided for in the New Zealand Coastal Policy Statement (2010) and the NPS Freshwater (2014). Below are some of the concepts that are being developed and promoted within regional and district planning.

Treaty Partners & Co-Governance

One of the most important factors for mana whenua is recognition of Ngāi Tahu as the Crown's Treaty Partner and the special relationship that ensues. In terms of regional and district planning this means Ngāi Tahu as represented by ngā rūnanga are not just a stakeholder or interest group in the planning process, but are working in partnership with the council. This partnership includes governance and decision-making around the planning process; and content of the planning documents.

A formal agreement exists between Environment Canterbury and Te Rūnanga o Ngāi Tahu in relation to co-governance in the Selwyn-Waihora catchment. The result of this partnership included a greater role for ngā rūnanga in drafting Plan Change 1 to the LWRP; and the co-governance group being briefed and consulted on key steps in the planning process prior to it being endorsed by the Regional Council. All decision-making relating to plan content and process remained with the Regional Council, but ngā rūnanga involvement was greater than for any other planning process to date. In other planning processes in the takiwā, other local authorities are also looking at greater roles for Ngāi Tahu in governance and plan drafting.

Mana Whenua and Te Ao Māori

Ngā rūnanga seek introductory sections in regional and district plans that explain the relationship between ngā rūnanga and the natural environment. This content helps people to understand why ngā rūnanga may consider themselves and their values affected by activities and the outcomes they are seeking.

Te Ao Māori explains the fundamental relationship of Ngāi Tahu as descended from and part of the natural world, rather than separate from but interacting with it. It explains: whakapāpā – the connection of all things; the attribution of both physical and metaphysical (spiritual) elements to all things which gives rise to the concept of mauri; and the role of water as a medium connecting the physical and metaphysical realms. From this point explanations can be given about the different forms of water; eg waiora and waimāori, and the tikanga around the mixing of water. Within this broader context the tikanga for managing wāhi tapu me wāhi taonga (including water) can be understood.

If a regional or district plan includes strategic directions or other high order objectives around the relationship between people and natural resources, ngā rūnanga may also seek objectives and policies that recognise Te Ao Māori and a Ngāi Tahu perspective on management of the appropriate resources. This was sought in the Strategic Directions chapter of the Replacement Christchurch District Plan. A similar overall objective was sought in Plan Change 1 to the LWRP for Te Waihora/Selwyn catchment but was rejected by the Hearing Commissioners who did not want to add additional objectives to the LWRP for specific catchments.

Introductory material is also sought to explain the role of nga rūnanga as mana whenua and their whakapāpā to the relevant catchment or district. For ngā rūnanga this is part of the process of acknowledging the Crown's Treaty Partner and affirming their right to exercise kaitiakitanga. It is an opportunity to explain the traditional, seasonal nomadic lifestyle of mana whenua, and to illustrate the point that kaitiakitanga responsibilities extend over the entire catchment or district; they are not confined to isolated sites of 'cultural significance.' The introductory sections of the Selwyn Area Management Plan project referred to townships and settlements being footprints within a Ngāi Tahu landscape, rather than culturally significant sites being footprints in a European landscape.

The Waimakariri district and catchment is home to the main pa of Ngāi Tūāhuriri; one of the founding hapū of Ngāi Tahu. The mana whenua status of Ngāi Tūāhuriri and the whakapapa to this catchment is particularly significant to planning documents in this district.

Kaitiakitanga in Resource Development and Use

Councils tend to discharge their duties under section 6(e) and 7(a) of the RMA through encouraging ngā rūnanga to provide a list of wāhi tapu me wāhi taonga sites to be identified and protected in plans. As discussed in this paper, recognising and providing for the relationship of Māori with their ancestral lands, water, sites and other taonga (s6(e)), having particular regard to kaitiakitanga

(s7(a)), and taking into account the principles of the Treaty (s8), is about enabling the use, development and protection of natural resources in accordance with tikanga.

Ngā rūnanga with the assistance of Mahaanui Kurataiao Ltd and Te Rūnanga o Ngāi Tahu have been promoting the need for district and regional plans to enable Ngāi Tahu whānau to provide for their economic and social, and therefore cultural well-being; and doing so in accordance with tikanga, which enables a more authentic expression of kaitiakitanga. An example of how this may be done is the provision of a mahinga kai allocation in the Waitaki Catchment Flow and Allocation Plan (Plan Change 3). Initially this allocation was proposed to enhance in-stream flows. As a result of evidence from ngā rūnanga, the Hearing Commissioners were satisfied that a true expression of mahinga kai enhancement may mean the use of that water for a variety of in-stream or out-of-stream purposes. This approach makes the resource available via the water allocation regime in the plan, but does not determine its uses beyond the concept of maintaining or enhancing mahinga kai values. Ngā rūnanga may identify and obtain appropriate consents for taking water for projects they prioritise as part of exercising kaitiakitanga.

Provision has been made in some district plans in New Zealand for papakāinga housing; recognising the traditional town planning approach of allowing of one house per Certificate of Title does not work for the development of land held in tribal ownership. In the Replacement Christchurch District Plan, ngā rūnanga advanced the concept of kāinga nohoanga – entire zones which provide for economic, social and community activities and facilities as well as housing; the notion being that a better expression of s6(e) is to enable people to return to their ancestral lands to live, work and play. In an expression of kaitiakitanga, the provisions have very few controls or restrictions, other than rules to protect the privacy and amenity of neighbouring landholders. Developments within the papakāinga/kāinga nohoanga zones are driven by tikanga principles.

Ki uta ki tai

The Ngāi Tahu concept of ki uta ki tai – from the mountains to the sea, is a concept for integrated management of the natural environment. It includes recognising the interconnectivity of surface water and groundwater; freshwater and coastal hāpua; water quality and flow; and water and land. The concept of ki uta ki tai is recognised in Objective 7.3.3 of the Canterbury Regional Policy Statement (CRPS) and Objective 3.2 of the LWRP.

The RMA does not always lend itself to integrated management especially between land and water: functions are split between regional and district councils; water bodies are split between beds, water flow or level and quality, surface of the water and the banks. While regional councils manage fresh water bodies, district councils manage access to them and activities on their surface. The Zone Committee is a joint committee of both district and regional councils and is ideally placed to advocate for ki uta ki tai. The ZIP Addendum is an ideal document to discuss the interconnectedness of land, water and other taonga in the catchment without being restricted by scope and functions as with statutory plans prepared under the RMA.

In the current period of regional plans and district plan reviews, ngā rūnanga have been encouraging regional and district councils to think about interconnectivity in district and regional

planning. This includes recognising the demand which urban growth places on the need for water supply, sewerage and stormwater disposal in district planning – rather than simply taking the view they are matters for the regional council to resolve. Regional councils are encouraged to plan for water flow and quality together and over entire catchments. This approach may prove a challenge for the Waimakariri Catchment which is managed across three zone committees.

Tikanga

Tikanga is a body of traditional Māori lore and practices. Tikanga includes tools and practices that are used to manage natural resources and human interactions with the environment. For example a rāhui is a temporary prohibition on the use or exploitation of a natural resource to allow it to recover from an event or condition.

Tikanga-based tools are effective in environmental management because they can be imposed quickly and are adaptive to the changing conditions of biodynamic systems. Our statutory planning tools are relatively slow to implement, hard to change, assume planners and decision-makers have perfect information to make the best decision, and that the receiving environment is static and any outcome will remain appropriate in the future. Some consent authorities use adaptive management conditions on consents; the most common being the use of minimum flow and partial restriction conditions on surface water takes. More recently Environment Canterbury has explored the use of adaptive management conditions on some groundwater consents. However the use of adaptive management conditions has to tie in with the need to provide certainty for consent holders as to how their consent conditions work, and providing information on changing environmental conditions and therefore consent conditions in ‘real time.’

An option ngā rūnanga is exploring with Mahaanui Kurataiao Ltd is how to work more closely with landholders and other relevant parties to encourage adoption of tikanga as part of good management practices. Ngā rūnanga are keen to foster an environmental management system which sees people who adopt these practices as being subject to less regulation. The Ngāi Tahu Rock Art Trust is considering how provisions could be included in relevant plans which recognise when an activity is occurring in accordance with agreed protocols between nga rūnanga and landholders for the management of tuhituhi neherā (rock art) sites.

Mātauranga

Mātauranga refers to customary knowledge or information about people, events and places which are handed down from generation to generation. Mātauranga is based on a combination of inter-generational observation and experience that is handed down, orally by tradition. It includes the knowledge mana whenua hold about the state of water bodies and other taonga, local climate and weather patterns, and other knowledge based on inter-generational observations and recording. Mātauranga has not been recognised and used in statutory planning processes to date because our planning and judicial systems give greater weight to peer-reviewed academic research and scientific modeling by qualified experts; even if the results rely on short data sets, big assumptions and have large margins of error. Experts are generally recognised as those with formal tertiary academic qualifications in the subject matter; though increasingly cultural witnesses are being regarded as expert witnesses by some Hearings Commissioners.

Ngā rūnanga are strong advocates for increasing recognition of mātauranga Māori in environmental planning; and supporting community-based initiatives to manage the natural environment. COMAR is a system for assessing the health of water bodies based on mātauranga Māori which has been developed by Gail Tipa (Tipa Associates) and is increasingly used as part of establishing water management frameworks in Canterbury and Otago.

Non-Statutory Approaches

Non-statutory approaches refer to activities and actions which are undertaken that are either not required by statute or which do not have the force of regulations in statute, so are not legally binding. Non-statutory approaches are often used to refer to methods in regional or district plans that do not involve writing rules, such as the provision of information and education, or works on the ground. It can also refer to activities that are not part of any formal statutory planning process such as initiatives by individual landholders or community groups.

An example of a non-statutory approach is the riparian planting and fencing along Waikuku Stream undertaken by a local farmer which is being attributed as the reason for the higher than average count of salmon and salmon spawning nests found in the stream where it runs through the farm. More formal community initiatives including the Greening Waipara project – a combined initiative from vineyard owners and Dr Steve Wratten (Lincoln University) to try and reduce chemical use in vineyards by increasing biodiversity and therefore natural predator control in the Waipara Valley.

There are a number of non-statutory initiatives that are being undertaken between Ngāi Tahu representatives and councils to increase knowledge of Ngāi Tahu values and issues, and the involvement of ngā rūnanga, in council mahi (work). Examples include staff from various councils undertaking the Iwi Management training courses run by Mahaanui Kurataiao Ltd; rūnanga representation on all Zone Committees in the Canterbury Water Management Strategy; various council-rūnanga committees such as Tuia - Te Paiherenga with Environment Canterbury and representation on District Plan Committees for district plan reviews in Hurunui (now completed) and Selwyn. There is a Co-Governance Agreement between Te Rūnanga, Environment Canterbury and Selwyn District Council for the Waihora catchment.

There are not any non-statutory approaches specifically based on protecting wāhi tapu me wāhi taonga in the Waimakariri Catchment. However there are examples of initiatives being developed in other areas which could be applied to the Waimakariri Catchment. Examples include the following:

- Mahaanui Kurataiao Ltd is currently developing a training course for people working with infrastructure and other works that may affect wāhi tapu me wāhi taonga.
- On behalf of Ngāti Kurī, Mahaanui Kurataiao Ltd has developed a series of guidelines and tips for landowners and contractors undertaking earthquake recovery work in the Hurunui-Kaikoura area to minimise impacts on wāhi tapu me wāhi taonga.

- Mahaanui Kurataiao Ltd in conjunction with other parties is exploring the feasibility of initiatives to recognise and celebrate the work which landholders and others do which protect wāhi tapu me wāhi taonga.

Ngāi Tūāhuriri Rūnanga supports initiatives by landholders and other groups to protect or enhance biodiversity, freshwater, cultural sites and other values. Much can be gained by working together to help landholders to maintain and where practicable enhance mahinga kai and indigenous biodiversity through practical measures on the ground such as pest and weed management, planting and monitoring. These outcomes are not usually achieved by rules in a plan, but by building partnerships with willing landholders.

Recommendations

The purpose of this report is to provide information on issues relating to wāhi tāpu me wāhi taonga in the Waimakariri Catchment for the Zone Implementation Programme (ZIP) Addendum, and to inform the plan preparation processes for the Waimakariri Sub-regional Plan and the Waimakariri District Plan review. The brief was not to include specific plan provisions. Hence the recommendations do not include specific sites or values of wāhi tapu me wāhi taonga to be recognised and protected in this catchment or accompanying plan provisions. This mahi (work) will occur in partnership with the relevant planning authorities (councils) in due course. However the report does include some recommendations relating to the inclusion of content and processes which can be incorporated into planning processes and the ZIP Addendum. These recommendations and any associated text for inclusion in the ZIP Addendum or other planning documents are subject to endorsement by Te Ngāi Tūāhuriri Rūnanga.

Recommendation 1: Governance

- Acknowledge Ngāi Tahu as the Crown's Treaty Partner and that the Waimakariri Catchment lies within the takiwā of Ngāi Tūāhuriri one of the principal hapū of Ngāi Tahu.
- Acknowledge how the Treaty Partnership is given effect to though the relevant management or planning processes, including the principles of rangatiratanga and kaitiakitanga.

Recommendation 2: Mana Whenua

- Include a section outlining the whakapapa of Ngāi Tūāhuriri with the Waimakariri and Rakahuri catchments and their relationship with their ancestral lands, water, sites and other taonga in these catchments.
- Explain that the duty of kaitiakitanga extends over all natural resources of the catchment and that Ngāi Tūāhuriri's interest in the catchment is not limited to areas or sites identified in plans as wāhi tapu me wāhi taonga.

Recommendation 3: Te Ao Māori

- Include a section acknowledging the assumptions made in the planning process about the relationship between people and the natural environment and how that differs from Te Ao Māori.
- Explain the fundamental relationship Ngāi Tahu have as being descended from and part of the natural world, rather than separate from but interacting with it; and the context that provides for understanding concepts such as mauri, and the tikanga around managing wāhi tāpu me wāhi taonga including wai (water).

Recommendation 4: Mātauranga

- The ZIP Addendum should acknowledge Mātauranga Māori from the 47 generations of Ngāi Tūāhuriri and their ancestors who have lived among and are sustained by the water bodies and land of this catchment, as a valid source of knowledge that sits alongside ecological and hydrological studies and modeling.
- The use of COMAR studies should be supported or where they have already been undertaken acknowledged particularly on water bodies which are mahinga kai.
- The traditional sites, values and purposes of wai and other taonga in the catchment should be acknowledged. While it will not always be practicable to restore these taonga to the full extent of their customary value or use, acknowledging this history is an important step in acknowledging Ngāi Tūāhuriri and in identifying opportunities for restoration or enhancement of wāhi taonga.
- Include a Ngāi Tahu based map of the Waimakariri District and catchment in the ZIP Addendum, showing Ngāi Tūāhuriri kāinga, mahinga kai, wāhi tapu, wāhi taonga and wāhi ingoa.

Recommendation 5: Ki Uta Ki Tai

- Recommend the management of this catchment in a holistic fashion in accordance with the principle of ki uta ki tai. The ZIP Addendum should identify the interconnections between ground and surface water; freshwater and the coastal environment; water quality and flow; and land and freshwater.
- The ZIP Addendum should identify particular issues where holistic management is important in the Waimakariri and Rakahuri catchments, including: managing the cumulative effects of rural lifestyle subdivision on demand for water; urban growth and demand for stormwater and sewage disposal; and the cumulative effects of water flow, quality, gravel extraction and flood protection works on the mauri of rivers such as Rakahuri/Ashley.

Recommendation 6: Kaitiakitanga

- The ZIP Addendum acknowledges that duties under the RMA extend to enabling Ngāi Tūāhuriri access and opportunities for socio-economic development of its ancestral lands, water and sites and that the expression of kaitiakitanga is enabling that use in a long-term sustainable fashion in accordance with tikanga.
- The ZIP Addendum should identify opportunities to extend kaitiakitanga in accordance with tikanga, for example on tribal properties at Tūāhiwi and Te Whenua Hou and in areas identified as Cultural Landscape Management Areas; in supporting landholder-ngā rūnanga based partnerships to manage water and indigenous biodiversity; and in encouraging landholders and developers to liaise directly with Ngāi Tūāhuriri at the outset of their proposals

Recommendation 7: Wāhi Tapu me Wāhi Taonga

- Include a section explaining wāhi tāpu me wāhi taonga and provide examples of areas within the Waimakariri and Rakahuri catchments that are wāhi tapu me wāhi taonga; acknowledging that the opportunity for Ngāi Tūāhuriri to present a comprehensive list of sites and associated provisions needs to be made in the relevant regional or district planning processes.
- Explain the tikanga around managing those sites and how they can be affected by different activities.
- Use the contemporary classification system approach for identifying and managing wāhi tapu me wāhi taonga rather than the traditional approach, should Ngāi Tūāhuriri wish to identify specific sites.
- Acknowledge the issue of access to wāhi tapu me wāhi taonga sites.
- Explore the option of identifying Cultural Landscape Management Areas to recognise areas of intensive and interconnected Ngāi Tahu settlement, use and values, such as the lower Rakahuri-Kaiapoi areas.
- Recommend any relevant district or regional plan take a kaitiakitanga approach (Option IV as discussed in this report) recognizing Te Ao Māori and providing opportunities to manage the natural environment in accordance with principle of kaitiakitanga and recognising Ngāi Tahu concepts and tikanga, wherever appropriate.

Recommendation 8: Tikanga

- Acknowledge the use of tikanga tools for managing the natural environment such as rāhui.
- Promote the use of tikanga tools to manage the natural environment where they may be more effective than rules in a plan.
- Regional and district plans should recognise when people are managing wāhi tapu me wāhi taonga sites in accordance with agreed protocols with ngā rūnanga, and provide an easier regulatory pathway in those cases.

Mahaanui Kurataiao and its staff are available to discuss this report further, or assist in direct engagement with rūnanga if desired.

Report Prepared by: Mahaanui Kurataiao Ltd

Report Reviewed By: Hoana (Aunty Joan) Burgman and Dr Te Maire Tau (Te Ngāi Tūāhuriri Runanga)

Approved for release by: Te Ngāi Tuahuriri Rūnanga Kaitiaki Committee at the Kaitiaki Portfolio Committee meeting held on Thursday 15th June 2017.

References

Burgman H. (2016). *Brief of Evidence of Hoana (Joan) Burgman on behalf of Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga in the matter of resource consent applications CRC 155160-CRC 255169 and RMA 92028401, RMA 92028406-RMA92028410 and RMA92028412-RMA 92028414 by Canterbury Aggregate Producers' Group*, Christchurch: Canterbury Regional Council.

Evison H. (1993). *Te Wai Pounamu The Greenstone Island: A History of the Southern Māori During the European Colonialization of New Zealand*, Wellington: Aoraki Press.

Lenihan S. T.M. (2014). *Brief of evidence of Shaun Te Marino Matthew Lenihan for Te Runanga O Ngāi Tahu, Ngā Runanga and Ngāi Tahu Property Ltd. Proposed Christchurch Replacement Plan (Chapter 3: Strategic Directions)*, Independent Hearings Panel: Christchurch.

Mead, H.M (2016) *Tikanga Māori, Living by Māori Values*, University of Hawaii Press: Hawaii.

Ngā Papatipu Rūnanga Working Group & D Jolly(2013). *Mahaanui Iwi Management Plan*. Christchurch, New Zealand: Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke, Te Rūnanga o Koukourārata, Ōnuku Rūnanga, Wairewa Rūnanga and Te Taumutu Rūnanga.

Tau H. R. (1998). *Brief of evidence of Henare Rakihia Tau. Plan Change by Pegasus Bay Coastal Estates Limited*, Rangiora: Waimakariri District Council:

Tau, T, Goodall A, Palmer D. & Tau H. R. (1990). *Te Whakatau Kaupapa*. Wellington, New Zealand: Aoraki Press.

Statutory Planning Documents

| | |
|------------------------------------|--|
| Canterbury Regional Council (2004) | <i>Waimakariri River Regional Plan</i> , Canterbury Regional Council. Christchurch |
| Canterbury Regional Council (2013) | <i>Canterbury Regional Policy Statement</i> , Canterbury Regional Council, Christchurch. |
| New Zealand Government (2010) | <i>New Zealand Coastal Policy Statement</i> , Department of Conservation, Wellington |
| New Zealand Government (2014) | <i>National Policy Statement for Freshwater</i> , Ministry for the Environment, Wellington |
| Waimakariri District Council () | <i>Waimakariri District Plan</i> , Waimakariri District Council, Rangiora. |

Statutes

Conservation Act 1987

Local Government Act 2002

Ngāi Tahu Claims Settlement Act 1998

Resource Management Act 1991

Te Rūnanga o Ngāi Tahu Act 1996