

**In the Environment Court of New Zealand
Auckland Registry**

**I Te Kooti Taiao O Aotearoa
Tāmaki Makaurau Rohe**

Under the Resource Management Act 1991 (the Act)

In the matter of appeals under clause 14(1), Schedule 1 of the Act

Between **Bay of Islands Maritime Park Incorporated**

ENV-2019-AKL-117

**The Royal Forest and Bird Protection Society of New
Zealand Incorporated**

ENV-2019-AKL-127

Appellants

And **Northland Regional Council**
Respondent

**Statement of evidence of Keir Volkerling on behalf of Ngātiwai Trust
Board**

Dated 14 May 2021

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Statement of evidence of Keir Volkerling

1 Qualifications and experience – my role

- 1.1 My full name is Keir Volkerling.
- 1.2 I am a consultant with over 30 years' experience advising on fisheries and resource management matters. My RMA experience is set out at **Appendix A** to my evidence. However, I give this evidence on behalf of the Ngātiwai Trust Board ('**NTB**') in my role as a contractor. I confirm that I am authorised by NTB to give this evidence.
- 1.3 I am familiar with the matters to which these proceedings relate, being appeals against the Northland Regional Council's ('**Regional Council**') decision on the Proposed Regional Plan for Northland ('**Proposed Plan**'). NTB is a section 274 party to both of the above proceedings ('the **Appeals**').
- 1.4 I want to acknowledge up front that I do not whakapapa to Ngātiwai, nor am I a trustee or board member of NTB. I am self-employed and I contract to NTB. I advise on RMA and environmental management matters that affect NTB and its iwi members. I began working for NTB from the late 1980s under Witi McMath, who led the initial involvement of Ngātiwai in the Fisheries Settlement.
- 1.5 My role includes advising on other matters affecting NTB, such as fisheries management, heritage management and conservation management. This includes engaging in the interface between kaitiakitanga and central government, local government, and other parties.
- 1.6 In 1998 I worked on a restructure of NTB, and became General Manager / CEO from 1998 to 2003. From 1998 onwards I represented NTB in matters relevant to the Fisheries Settlement with other iwi, Te Ohu Kai Moana and the Crown up to the passing of the Māori Fisheries Act in 2004. As part of this I worked on negotiations for coastline agreements with neighbouring iwi following the statute's enactment. This resulted in 2008 in a coastline agreement with Ngāpuhi for the allocation of inshore quota stocks to Ngātiwai.
- 1.7 In my consultant role I have supported and advised on relevant RMA issues. By way of example, on behalf of Ngātiwai I advocated for and successfully supported inclusion of a Treaty provision in the Whangārei District Plan (in appeal mediation)¹. Other work has included advocating on behalf of Ngātiwai in the Environment Court

¹ This was the original WDC Plan notified after the 1991 enactment of the RMA. NTB / WDC mediation was between 1998 and 2000

on a Whangārei District Plan appeal for a site-specific development within the rohe of Ngātiwai,² promoting Ngātiwai's interests under heritage legislation, addressing Regional Council planning matters, and developing planning tools for cultural impact assessments for Ngātiwai. I have also worked on behalf of Ngātiwai at the Iwi Leaders' Forum on changes proposed to the RMA in 2010. In addition, I was contracted by the Regional Council to develop the tangata whenua provisions in the current proposed Northern Regional Council Regional Plan.

- 1.8 I was an advisor from 2000 to 2012 to Laly Haddon while he was a tangata whenua member of the Hauraki Gulf Forum, a statutory body created to progress integrated management of the Hauraki Gulf catchments. For six years Laly served two terms as Chair of the Forum. Membership of the Forum included the Department of Conservation and the then Ministry of Fisheries.³
- 1.9 I was a member of a group convened by Te Ohu Kai Moana to analyse issues relating to aquaculture, resulting in the publication of a report *He Maara Mataitai – Ngangaru Ana* of the Aquaculture Steering Group. This fed directly into developing a guide for iwi on implementation of the Aquaculture Management Area ('**AMA**') regime, which was published by Te Puni Kōkiri. I was a member of a government technical advisory group reviewing the AMA regime. I was subsequently a member of an advisory group with the Ministry of Fisheries developing legislative amendments for the aquaculture settlement when the AMA regime was repealed.
- 1.10 My experience with the Aquaculture Steering Group led to my role as writer for Te Ope Mana A Tai. This was a national iwi collective responding to foreshore and seabed issues prior to the 2004 legislation. The work included preparing submissions, discussion documents, policy proposals, and publicity material. My writing role was undertaken along with my role as the NTB representative.
- 1.11 My fishing experience is in the area of fisheries policy and its implementation. This has in practice included responses to proposals for total allowable catch ('**TAC**') changes, other policy initiatives, submissions to Select Committees etc. My role as a technical advisor to Laly Haddon included being a member of the advisory team with officials from councils and government departments. The Hauraki Gulf Forum work included responses to fisheries management issues in its general work and in state of the environment reporting.

² *J B Harrison v Whangarei District Council* (EnvC Whangarei W034/2005, 30 March 2005)

³ Now Ministry for Primary Industries.

- 1.12 As a result of the work I have carried out for Ngātiwai I have direct knowledge of their engagement in fisheries and resource management matters.

2 Scope of evidence

- 2.1 In my evidence, I focus on:
- a The significance of the moana to Ngātiwai as an iwi;
 - b NTB's fisheries role and the background to the allocation of settlement quota to NTB;
 - c NTB's other roles in relation to fisheries and coastline resources;
 - d NTB's involvement in current fishing restrictions;
 - e Consultation with NTB on the Northland Regional Plan; and
 - f How the proposed restrictions would affect the fishing activities of those who NTB represents.
- 2.2 The background to the establishment of NTB, and the scope of its mandate and role is covered in the evidence of **Mr Edwards**. I concur with that evidence.

3 Executive summary

- 3.1 The marine protection areas proposed by the Appellants and Te Uri o Hikihiki are within NTB's rohe moana and coastline areas. Ngātiwai views itself as a kaitiaki over fishing resources under the Fisheries Settlement. In addition the NTB resource management unit has had a kaitiaki role in relation to the RMA.
- 3.2 As an organisation, NTB has always advocated on behalf of Ngātiwai members for issues of importance and interest to beneficiaries, including cultural, environmental, spiritual and educational development.
- 3.3 NTB does not completely oppose the substance of the controls, or the intention of preserving and maintaining biodiversity. However, NTB has questions about the extent and scope of the proposed controls, and whether they are justified on the evidence available.
- 3.4 The evidence submitted has included elements of what would be required in a section 32 RMA assessment but there are areas that are not addressed. I consider a more comprehensive report fully addressing all of the section 32 requirements is needed for better understanding the intent and basis of the appeal.

- 3.5 There has been no prior consultation by the Appellants or Te Uri o Hikihiki with NTB on these proposals, before or after the appeals were lodged. As the controls are being developed through an appeal process, NTB has largely been excluded from the process along with other hapū with an interest in the relevant area. Some of these hapū have asked NTB to represent their interests in this appeal.
- 3.6 NTB also does not consider the proposed controls adequately take account of the collective fishing interests of Ngātiwai members or the potential effects of these controls for the value of the Fisheries Settlement.
- 3.7 The relief sought by Te Uri o Hikihiki includes a requirement for a resource consent for fishing activities in a very wide area. A resource consent application/ process would take up significant time and be costly. This would place an unfair burden on recreational and customary fishers in particular which would result in the effective closure of fishing in the relevant areas to all but commercial fishers.
- 3.8 The proposed provisions may also affect the utilisation of ACE in FMA 1. To maintain current levels of utilisation, fishers / ACE holders would have to fish in other areas, which will create pressure on other areas, including the rohe moana of other hapū.
- 3.9 These proceedings may also set a precedent for future applications of this type. There are other Significant Ecological Areas ('SEAs') that could end up being subject to similar constraints. The collective result of multiple restrictions would be a significant impact on the Fisheries Settlement and NTB's income from fisheries assets (which in turn has implications for the charitable work that NTB is able to undertake).

4 Significance of the moana to Ngātiwai as iwi

- 4.1 My role with Ngātiwai frequently requires me to put forward a Ngātiwai view on environmental matters. I often speak to Ngātiwai, speak about Ngātiwai, but only speak *for* Ngātiwai when specifically authorised to do so (as I have been in this case).
- 4.2 Ngātiwai is a coastal iwi and connections between hapū and whanau were always maintained across the moana. The moana provides the pathways between the hapu, is the source of kai for whanau and manuhiri, and is central to identity.
- 4.3 Consequently, Ngātiwai has always been concerned about protecting its relationship to its moana. Historically, the moana was Ngātiwai's primary means of travel and communication that enabled it to exist as an iwi. This was particularly

important for hapū relationships, which depend on the network of waterways across the land and the ocean. In other words, the relationship with the moana is important not just at the hapū level, but also at the iwi (inter-hapū) level.

- 4.4 By way of example, one of the hapū that usually identify with Whananaki is Ngāti Rehua. Ngāti Rehua is also the hapū on Aotea / Great Barrier. Historically if you wanted to travel from Whananaki to Aotea then you would travel down the coast and across the water to Aotea. An annual voyage to maintain those connections between hapū on Aotea (Great Barrier Island) and the mainland hapū from Mahurangi to Bay of Islands was continued into the 1950s.
- 4.5 The practice was put on hold after drownings occurred during a storm in the late 1950s. Then the urban migration happened, and this regular contact was not continued. There has been a single re-creation of the event – the Tukaiaia Voyage. At that event, Ngātiwai celebrated its relationship with the moana by voyaging through the Bay of Islands, and learning traditional kōrero in relation to Motu Kōkako (The Hole in the Rock), Tawhiti Rahi and Aorangi (The Poor Knights), Marotere and Taranga (The Hen and Chicks), Hauturu (Little Barrier) and Aotea (Great Barrier Island).

5 Role of NTB in relation to commercial fisheries

- 5.1 It is true to say that NTB holds and manages fisheries assets on behalf of Ngātiwai. However, it is important to note that NTB is not just a fisheries entity. As explained in the evidence of **Mr Edwards**, its role is much broader than that. NTB in fact predates the fisheries settlement. Its predecessor was the Whangaruru-Ngātiwai Trust Board, which was incorporated on 22 November 1966. Its name was changed to Ngātiwai Trust Board on 7 December 1984, well before the issues that led to the 1992 Fisheries Settlement. As an organisation, NTB has always advocated on behalf of Ngātiwai members for issues of importance and interest to beneficiaries, including cultural, environmental, spiritual and educational development.
- 5.2 Ngātiwai's rohe spans from Rākaumangamanga (Cape Brett) in the north to Mahurangi in the south, across to Aotea (Great Barrier Island) and including the islands between. A map of this area is shown as **Appendix B**.⁴ NTB recognises that Ngātiwai shares parts of its rohe with other iwi. In relation to fisheries interests for example, NTB has signed a coastline agreement with Ngāpuhi. This agreement allocates all settlement quota for an area of coastline shared between Ngātiwai and Ngāpuhi according to agreed shared coastline points - from Rākaumangamanga (Cape Brett) to Manaia (Bream Head). It allocates quota management stocks at an

⁴ I have provided this from: <http://www.ngatiwai.iwi.nz/ng257tiwai-rohe.html>.

agreed percentage – 15% to Ngāpuhi and 85% to Ngātiwai. The coastline agreement also acknowledges that Ngātiwai does not claim interests north of Rākaumangamanga for commercial fisheries rights, but retains an interest into the Bay of Islands to Tapeka Point for other issues such as conservation management and RMA consents and planning. A map showing this area is attached to my evidence as **Appendix C**.

- 5.3 Responses to managing issues in the shared coastline area have always been pragmatic while respecting the mana of each of the iwi and the many relevant hapū. Traditional boundaries allow an overlap of the coastline area to reflect the patchwork of customary rights and interests that underlie the coastline agreement. If there are RMA issues which need to be addressed in the shared area the two iwi will collaborate in the response or agree that one iwi will take the lead. This has not been a problem in 12 years since the boundaries were determined.
- 5.4 In the early years prior to 2004 and the allocation of quota assets to iwi, quota were leased from Te Ohu Kai Moana ('**TOKM**') to iwi. During this period NTB invested 75% of the annual surplus from fisheries operations into purchase of strategic quota assets. This has enabled leverage in the lease market while increasing the asset base. Other non-fisheries assets have also been able to be purchased. Since NTB has received its allocation of settlement quota following the enactment of the Māori Fisheries Act 2004 it has had increased returns from its fishing activities to the benefit of its members.
- 5.5 Furthermore, NTB is a mandated iwi organisation ('**MIO**') under the Māori Fisheries Act 2004.⁵ That statute (along with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992) provided full and final settlement for the fisheries claim. Only those iwi who are recognised are able to have status under the Act. A consequence of that status is the requirement to protect the value of the settlement, both for commercial and non-commercial fisheries, so that future generations can also benefit from the fisheries settlement. As the owner of settlement assets, NTB needs to engage in legal challenges to their value. In practical terms, NTB submits to formal processes of fisheries management and resource management relevant to fishing activities. NTB needs to have similar responses to maintain the value of non-commercial fishing for its beneficiaries. NTB therefore has an interest in the appropriateness of the proposed fisheries activities restrictions of the appeals.
- 5.6 Both the proposed Te Mana o Tangaroa and Te Au o Morunga protection areas are within NTB's rohe moana and coastline areas. NTB does not outright oppose

⁵ Māori Fisheries Act 2004, Schedule 4.

the substance of the controls, or the intention of preserving and maintaining biodiversity. However, NTB has questions about the extent and scope of the controls being sought in the appeals. Further, as these controls are being developed through an appeal process, that has largely excluded NTB and some hapū who have interests in the area. In addition, NTB does not consider the proposed controls to adequately balance the collective fishing interests held by NTB members and the potentially diminished value of the Fisheries Settlement.

6 NTB's other roles in relation to fisheries and coastline resources

6.1 The overall aim of NTB is the wellbeing of its beneficiaries, along with support for its marae, whānau and hapū.

6.2 NTB has always asserted rangatiratanga over fisheries and coastline resources. Ngātiwai sees itself as a kaitiaki over fishing resources under the fisheries settlement. Similarly, under the RMA NTB has a kaitiaki role. This is part of the day to day work of its Resource Management Unit which is discussed in the evidence of **Mr Edwards**.⁶ At times this has involved significant issues with substantive results. For instance:

- a NTB challenged the extinguishing of customary rights with the creation of the Poor Knights Islands Marine Reserve. NTB won that case against the Department of Conservation ('DoC') so the customary rights remain intact.⁷
- b NTB challenged the extinguishing of customary its rights in the Sealords Deal legislation.⁸
- c NTB negotiated a royalty per cubic metre of sand extracted off the coast from Pakiri. This was formalised in a side agreement with the applicant for a resource consent application. NTB consistently opposed the Crown's presumptive ownership of the foreshore and seabed for many years before it became a national issue.
- d When DoC suggested a marine reserve at the north-east of Aotea (Great Barrier Island),⁹ NTB had hui with Ngāti Rehua, the hapū on Aotea. They were not concerned about the proposed restrictions as the area was not usually considered safe for smaller vessels and was not fished much by locals. That support was conveyed to DoC. However, when DoC later proposed the

⁶ Edwards EIC, 14 May 2021, para 8.6.

⁷ *Ngātiwai Trust Board & Haddon v Minister of Conservation* HC Whangārei CP39/98 at 24.

⁸ This court action was lost as the settlement had become law. NTB has always been able to say that their customary rights were taken, not ceded.

⁹ Letter from Randall Bess, Ministry of Fisheries to Bruce Davies, Chair – Ngāti Rehua o Aotea Ngātiwai Trust Board regarding Aotea (Great Barrier Island) marine reserve application (13 June 2008)

reserve the protected area was far larger and covered many fishing grounds commonly used by locals. DoC had not consulted on the changes to the original proposal. Marine reserves require concurrence from the Minister of Fisheries. NTB held a series of hui and reported to the Ministry of Fisheries. As a result, the proposal was declined and the Ngāti Rehua fisheries were retained. Ngāti Rehua is far more dependent on fisheries than mainland hapū. All costs such as groceries and fuel are far higher on Aotea than on the mainland.

- e NTB worked with 40 other iwi to develop alternatives to the original Te Ohu Kai Moana original proposals for the Māori Fisheries Act.
- f NTB took an active national role with Te Ope Mana a Tai in seeking positive resolution of the Foreshore and Seabed issues in 2003 / 2004.
- g NTB developed an Aquaculture Management Plan to be taken into account in RMA planning. This was used in submission to regional plan changes and in appeals to the Environment Court for the Regional Council aquaculture plan change ('**Plan Change 4**').¹⁰

6.3 The Resource Management Unit has also prepared a series of Iwi Management Plans since 1991 for use by councils and resource consent applicants. I have attached a copy of this as **Appendix D**. This Iwi Management Plan is currently under review. In summary, and as demonstrated by the endeavours described above, the NTB has a mana whenua and kaitiaki function in relation to the rohe moana which is separate from and additional to that of its constituent hapū.

7 Existing Fishing restrictions – and NTB's role

- 7.1 I note that there are a large number of existing restrictions in the Bay of Islands and Mimiwhangata areas already under in place, under the Fisheries Act and related legislation. I have read a draft of the evidence prepared by Thomas Charles Clark, which summarises these in some detail, and I generally agree with that summary.
- 7.2 In a number of cases NTB has had an active role in developing or administering these. For example, the evidence of **Mr Edwards** discusses NTB's role in relation to different rāhui tapu.¹¹

¹⁰ *Moturoa Island Ltd v Northland Regional Council* [2013] NZEnvC 227.

¹¹ Edwards EIC, 14 May 2021, para 8.10.

- 7.3 NTB has been concerned that the principal mechanism of kaitiakitanga for fisheries – rāhui – has no empowerment in existing law. Approximate proxies can be found in fisheries regulations (for example temporary closures under section 186A of the Fisheries Act, which are sometimes informally referred to as a “rāhui”) but these lack the flexibility and tikanga basis of rāhui. For example, marine reserves impose an indefinite set of restrictions, which is inconsistent with most rāhui.
- 7.4 Inclusion of such provisions in a regional plan would be valid for a ten year period, and would not enable tikanga interventions (without engaging in costly plan change processes). Legislation is therefore needed to empower tikanga based rāhui. However, the current mechanisms under the Fisheries Act provide a pragmatic option.

8 NTB’s concerns with the substance and process of these proceedings

- 8.1 I wish to make some general comments by way of background to these current proceedings. I have read the summary of the progress of the proposals provided in the evidence of Mr James Griffin.¹² In its proposed Regional Plan the Northland Regional Council identified a number of inshore coastal areas with high biodiversity values. Some of these areas are within the Ngātiwai rohe.
- 8.2 Until recently, regional councils were not considered to have Resource Management Act jurisdiction over fisheries activities regulated by the Fisheries Act. However, I understand the Courts have now clarified that regional councils have some limited rights to restrict the catching of fish. This decision was released following the notification of the NRC Regional Plan. The notified plan did not therefore include any such provisions.
- 8.3 The notices of appeal to the NRC Regional Plan (and the more detailed relief that has since been circulated) propose potentially wide-ranging restrictions on fisheries activities for the protection of biodiversity. NTB supports in principle the protection of biodiversity values, and restricting some fishing activities within some of the areas identified in the appellants and other parties’ evidence would seem to be appropriate. However, the parties are proposing extensive fishing restrictions.¹³
- 8.4 NTB’s concern is with both the substance and the process for progressing the restrictions. In terms of **process**:

¹² Griffin EIC, 16 April 2021, paras 14-29.

¹³ For example, the relief in the Forest and Bird appeal referred to controls out to 12 nautical miles, Notice of appeal, dated 17 June 2019, para 8(a).

- a NTB typically engages with NRC in plan preparation processes. The relationship between NTB and NRC is generally positive. NRC consults on plan changes as required by the Schedule 1 of the RMA. This results in the plan provisions being prepared in a way which takes into account their impact on NTB and recognises the kaitiaki function of NTB. This consultation has not happened here, because the proposed restrictions have only been developed at the appeal stage of the Regional Plan.
- b The Schedule 1 processes of the RMA require engagement with iwi in advance of a plan being notified, and provide opportunities for submission. We have not had an opportunity for an equivalent engagement in the preparation of these appeal proposals. The provisions of the NZ Coastal Policy Statement identify further requirements for tangata whenua engagement in issues affecting the coast. We have seen no processes in the preparation of these appeals that reflect those requirements.
- c For any plan content NRC would be required to prepare a section 32 Assessment Report, which evaluates the costs and benefits of the provisions proposed, as well as assessing alternative options which had been considered to achieve the outcomes sought. A comprehensive report addressing all of the section 32 requirements would be needed in order to fully understand the impacts of the proposed restrictions, and the trade-offs which they represent.
- d The effects of the provisions on iwi and hapū would typically be addressed in this report. For proposed plan changes NTB frequently reviews section 32 reports to ensure these assessments are adequate. However, neither the NRC nor the appellants prepared a section 32 assessment of the restrictions which are now sought. The evidence submitted has included some elements of what would be required in a section 32 assessment, but the evidence does not provide alternatives to the provisions proposed for inclusion in the regional plan.
- e I have reviewed many section 32 reports on behalf of iwi, and have also prepared section 32 reports in my work as a consultant to councils. I observe that the evidence on section 32 matters provided by the Appellants (and council planning evidence) is not as comprehensive as the reports I have previously come across or been required to produce.
- f NTB typically reviews proposed planning documents and takes part in RMA Schedule 1 processes. Those processes would have included iwi and other consultations, written submissions and further submissions, and oral

submissions following receipt of RMA section 42A reports. NTB's experience is that plan provisions benefit from robust discussion and debate in a public forum.

- g There was no prior consultation by the appellants with NTB before the appeals were lodged, or indeed since. For NTB, this process has not been satisfactory.
- h The first time we became aware of the appeals was when I was rung by an NRC staff member soon after lodgement. We then sought the relevant information, analysed it, and applied under section 274 RMA to join the appeal.
- i The relief sought in the Forest and Bird notice of appeal (lodged in June 2019) was not specific. The notice sought "the inclusion of policies and rules to provide for marine protection"¹⁴ without actually specifying the proposed rules. This lack of specificity has made it difficult for NTB to understand the effect of what is sought, until the evidence exchange stage of these appeals. It has also hampered efforts by NTB to engage with hapū and whānau to understand their views. Progressing these rules through the Environment Court has prevented the preferred internal tikanga led process of resolution being possible.
- j The proposals by Te Uri o Hikihiki for the Mimiwhangata area are equivalent to the restrictions which would apply within a marine reserve (i.e. comprehensive no take) but without associated processes under the Marine Reserves Act 1971 ('MRA'). NTB is familiar with those processes and has consistently engaged in them for past proposals. These MRA processes include the Department of Conservation being required to give effect to the principles of the Treaty,¹⁵ community and iwi consultation¹⁶ and the fact that the Minister of Fisheries must concur with the proposal.¹⁷ Without the availability of those processes, adequate tangata whenua and public scrutiny of the proposals has not been possible for the proposed equivalent to a marine reserve.

8.5 NTB's concerns in terms of the substance of the appeals include the following:

¹⁴ Royal Forest & Bird notice of appeal, para 6

¹⁵ Conservation Act 1987, section 4.

¹⁶ Marine Reserves Act 1971, section 5(c)(v).

¹⁷ Marine Reserves Act 1971, section 5(6).

- a The relief sought by Te Uri o Hikihiki includes a requirement for a resource consent for fishing activities in a very wide area. That would require significant time and costs. It is possible that applications would be publicly notified, adding even more to time and cost to the process. While commercial fishers may be willing to pay the costs of seeking consent, the process and costs are beyond the capacity of those fishing in the recreational and customary sectors. Nor would going out beyond the offshore limit of the proposed restriction area be practical for most of the small craft used by locals. The result would be effectively closure of fishing to all but commercial interests. As a result hapū in the area from Mimiwhangata to Rākaumangamanga would be denied use of traditional fishing sites which have been used for centuries.
- b The Forest and Bird relief (particularly the Sub-Area C) would mainly affect commercial fishing. The extent of the need for constraints must be determined through the ecological evidence. If the relief sought is more extensive than required for the protection of biodiversity values in the identified areas (eg SEAs) that could impact on the value of NTB quota and income received in ACE leases. While the economic effect from the constraints in the single area between Rākaumangamanga and Mimiwhangata may not be large, I expect it will nonetheless affect the utilisation of ACE in FMA 1. To maintain current levels of utilisation, fishers/ACE holders would have to fish in other areas, which will mean the immediate impact is to create pressure on other areas, including the rohe moana of other hapū. An example of this impact on other areas is provided at paragraph 10.1 of my evidence.
- c In addition, this appeal can have precedential consequences. There are other SEAs in Northland that could be subject to similar constraints. The collective result of multiple restrictions could have significant impact on NTB's income from its fisheries assets.

9 How the proposed restrictions would affect NTB non-commercial fishing activities

- 9.1 The Te Au o Morunga (Sub-Area C), where it is proposed a resource consent will be required for almost all fishing activities relevant to non-commercial fishers is of key importance to Whananaki. Fishers from Whananaki report regularly in that area species including snapper, kingfish, crayfish and maomao. If this area was effectively closed to the fishers (who are unwilling or unable to apply for a resource consent) the alternative equivalent area would be to the south of Whananaki. For many it would involve increased costs for travel on the water and / or on land to

reach more distant areas. Fishers have described the proposed constraints as making a “big difference” to what they can do.

- 9.2 However this area to the south of Whananaki is the Tutukaka Coast. Unlike the Au o Morunga area the Tutukaka Coast is heavily populated with many boat launching opportunities. The pressure on fishing resources is consequently greater. Displacement of fishing from the Au o Morunga area would exacerbate this situation.

10 Response to other witnesses

- 10.1 I have read the evidence of Dr Tim Denne, Peter Reaburn, Dr Mark Bellingham, Diane Lucas and James Griffin. Where they have commented on matters relevant to my evidence I comment on this as follows:

- a Dr Tim Denne suggests that costs of the proposed marine protection areas for recreational fishers would not be expected to be significant if there are nearby substitute sites where the same activities can be pursued.¹⁸ I cover some of the costs of the proposed marine protection areas to recreational fishers above at para 10.1.
- b The evidence of Peter Reaburn¹⁹ and Dr Mark Bellingham both comment on a section 32/ 32AA RMA assessment.²⁰ My evidence responds to these and discusses the matters that NTB would expect to see covered in a section 32 assessment above at para 8.4.

11 Conclusions

- 11.1 While NTB does not completely oppose the substance of controls, it does have concerns about the extent and scope of the proposed controls.
- 11.2 There has been no prior consultation by the Appellants and Te Uri o Hikihiki with NTB before, or since the appeals were lodged. NTB has largely been excluded from the process along with many other hapū with an interest in the relevant area.

¹⁸ Denne EIC, 19 March 2021, paras 22-27.

¹⁹ Reaburn EIC, 19 March 2021, sections 6-7.

²⁰ Bellingham EIC, 7 April 2021, section 5.

11.3 NTB's position is that it would be more appropriate to instead explore what controls on fishing may be appropriate above and beyond those that already exist under the Fisheries Act and related legislation.

Keir Volkerling

14 May 2021

Appendix A RMA experience

RMA Experience

[Note: "Ngātiwai" refers to "the Ngātiwai Trust Board".]

1) RMA development pre-enactment

During the development period of the RMA legislation I attended a number of hui and was in frequent contact with officials in the Ministry for the Environment.

Before the RMA enactment in 1991 I developed the original Ngāti Hine environmental plan in anticipation of the RMA and designed to inform RMA decision making.

2) The Whangārei District Plan

When working for Ngātiwai I became aware of the critical need for input into RMA planning. The plans largely determine how resource consent decisions are made, and input into plan development can result in more effective engagement at the consent application stage.

Ngātiwai proposed a Treaty provision in the WDC plan, which was opposed by the WDC and not included in the proposed version. Ngātiwai appealed this, as well as many other points of appeal. In mediation we reached agreement with WDC for the inclusion of the Treaty provision, which remains in the plan to this day.

In the plan there was a provision for a site specific development in a location adjacent to Māori land within the rohe of Ngātiwai. We appealed the provision, and the appeal went to the Environment Court. In court I represented Ngātiwai (pretending to be a planner and a lawyer). Our principal concerns were with potential impacts on heritage values. In the Court we won a precedent for heritage protection which was noted at the time in RMA literature.

No other tangata whenua entities were parties in the appeals to the WDC Plan.

3) Heritage management

The experience from the WDC plan, and our general concern about impacts on pre-European archaeology, was often expressed in our dissatisfaction with the implementation of the then Historic Places Act. In mediation discussion with the WDC they asked for more detail. I responded that was more than required from a mediation, and amounted to expert advice. WDC agreed. Consequently I wrote a paper on behalf of Ngātiwai, paid for by WDC. Until the repeal of the Historic Places Act it was still on the WDC website.

4) Initial NRC Regional Planning

We were a party in the appeals to the original NRC Regional Plans. Ngātiwai were the only tangata whenua party in the appeal and its formal mediation process. This placed an implicit obligation to try to represent those iwi with rohe outside the Ngātiwai area of concern, an obligation we tried to meet.

5) Cultural impact assessment

I became aware of the potential importance of cultural impact analysis in the resource consent decision process. I developed a format for Ngātiwai. This was to ensure that not only the iwi issues were addressed in their own terms, but that constructive proposals for RMA decision making were included.

At a later date I included this type of analysis when working with a group developing content for the *Quality Planning*¹ website on cultural impact assessment.

6) Hauraki Gulf Forum

This is a statutory body which advises on the integrated management of the Hauraki Gulf. Its members are representatives of the councils with catchments on the Gulf, the Department of Conservation, and the Ministry for Primary Industries (formerly the Ministry of Fisheries). There are also six tangata whenua members. From the inception of the Forum Laly Haddon, the then Chair of Ngātiwai, was a tangata whenua member of the Forum. For several years he was the Forum Chair. I was his advisor during this period of about ten years. In my role I worked with the advisors from the councils and government departments on agenda items. I worked on three state of environment reports. During the time I also wrote papers on behalf of Laly / Ngātiwai for the Forum agendas.

7) Aquaculture

In the period prior to 2004 there were many debates on the regulation of and the Treaty relevance of aquaculture activities. I was a member of a group convened by Te Ohu Kai Moana (TOKM) analysing issues. One of the issues involved was the then presumptive Crown ownership of the foreshore and seabed. Our findings were published by TOKM (*He Maara Mataitai – Ngangaru Ana* of the Aquaculture Steering Group). This fed

¹ This website is a partnership is backed by the Ministry for the Environment, New Zealand Planning Institute, Resource Management Law Association, New Zealand Institute of Surveyors, Local Government New Zealand and New Zealand Institute of Architects

directly into the work of Te Ope Mana a Tai.

After the 2004 reforms to aquaculture regulation I proposed developing an iwi planning document² for Ngātiwai specific to issues anticipated in regional planning to give effect to these reforms. This was supported by the Ministry for the Environment as a pilot for “second generation” iwi planning documents.

From this work, and from subsequent work on regional planning, I was asked by Te Puni Kokiri to develop a guide for iwi on the implementation of the Aquaculture Management Area (AMA) regime. This was published by Te Puni Kokiri. I was also included as a presenter in a national series of hui convened by Te Puni Kokiri addressing the issues.

In 2011 I was included in a government technical advisory group (chaired by Doug Kidd) reviewing the AMA regime and proposing changes. We recommended scrapping the AMA regime. We noted that one of the consequences of this was that the mechanisms for the 2004 aquaculture settlement, which depended on AMAs, would need to be reworked.

The following year I was a member of a technical advisory group appointed by the national Iwi Leaders Forum and convened by the Ministry of Fisheries tasked with developing new mechanisms for delivery of the aquaculture settlement. At the final stages this group had four working members, including myself. We drafted new legislative provisions for aquaculture settlement, and corresponding provisions for the RMA. Those have now been enacted.

I then facilitated the Taitokerau MIO process for determining the details of the regional aquaculture settlement.

8) Plan Change 4 – NRC Coastal Plan

This plan change for aquaculture development was the NRC response to the repeal of the AMA regime. I prepared the submission, appeared at hearing, and later represented Ngātiwai in appeal in the Environment Court.

The RMA requirement is that iwi planning documents will be taken into account in relevant planning decisions. Included in the Ngātiwai Aquaculture Plan I developed were provisions for non-commercial “marae” aquaculture. These are marine farms designed to put kai on the marae table, are small scale, and are able to be developed in some areas where commercial aquaculture development is prohibited. The proposal for such marine farms came from a Ngātiwai marae during consultation on the Ngātiwai

² Often referred to as “iwi plans”, “iwi environmental plans” and other terms, “iwi planning document” is the term used in the RMA.a

Aquaculture Plan, and was then supported on other marae. The Environment Court supported the provisions in the then Coastal Plan. They have been retained, and are not appealed, in the new NRC Regional Plan.

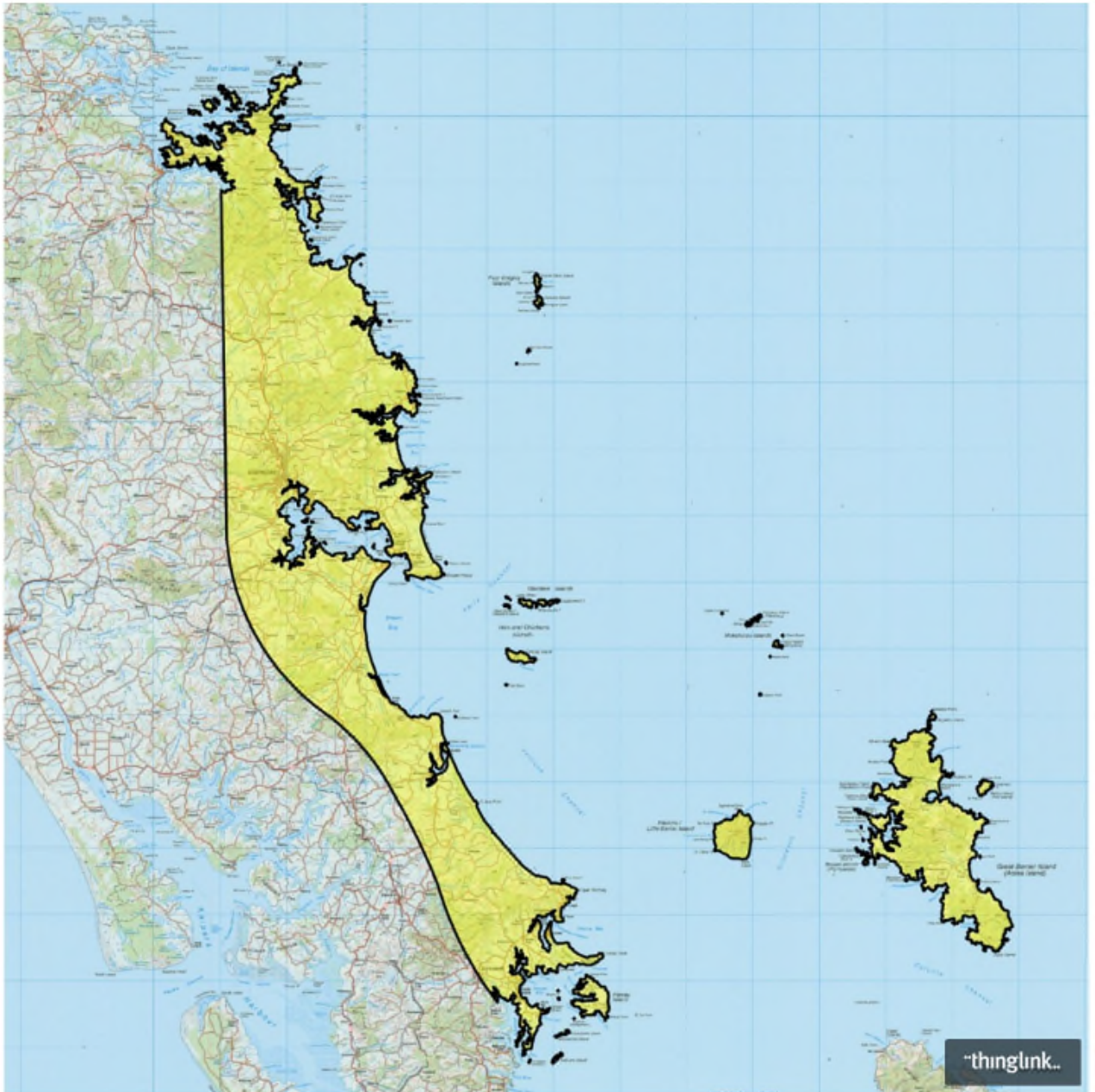
9) Iwi Leaders

The previous government proposed fundamental changes to the RMA. I wrote an analysis of the general effects of the changes and of the specific impacts on tangata whenua. Ngātiwai put the paper on the national iwi leaders agenda. It got unanimous and positive support. The next day the Māori Party attended the hui, and took a copy with them. They then later opposed the proposed changes which were then dropped. I am not saying it was the Ngātiwai paper which unilaterally changed the situation, but it must have contributed.

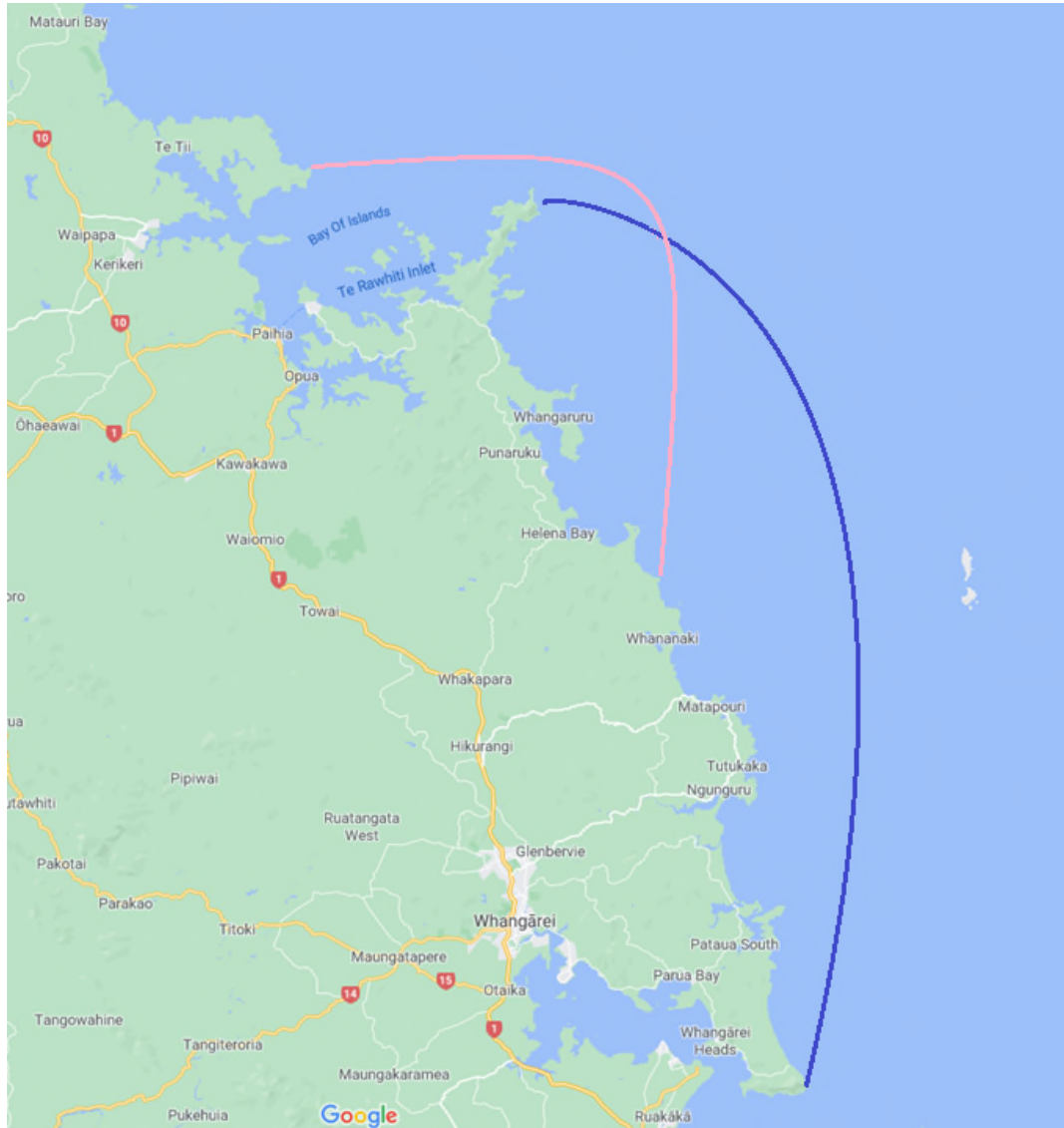
10) Recent RMA experience


- External consultant for tangata whenua natural resource issues for the development of the Auckland Unitary Plan
- Written and oral submission for seven Taitokerau iwi to the revised NRC Regional Policy Statement
- Review of the tangata whenua provisions of the Far North District Council District Plan
- Development of the tangata whenua provisions for the NRC Regional Plan
- Enquiry and report on tangata whenua freshwater values in Northland


Appendix B Ngatiwai rohe moana



Appendix C Ngātiwai shared coastline and extent of proposed restrictions



 Diagrammatic illustration of the proposed protection areas

 Ngāpuhi and Ngātiwai shared coastline extent

NB: This map has been prepared to illustrate relevant points on the coastline rather than the whole offshore area

Appendix D Ngātiwai Iwi Management Plan



Te Iwi o Ngatiwai Iwi Environmental Policy Document



2007



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Resource Management Unit
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Aotearoa New Zealand**

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He mihi hoki ki ngā kaumatua, ngā kuia, me ngā tāngata i awhi, i tautoko mai hoki i tēnei pepa whai mana.

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1. Whakatauki

**I te tangi o Tukaiaia i te moana
Kei te moana a Ngatiwai e haere ana
Ina tangi a Tukaiaia ki uta
Kei te whenua a Ngatiwai e haere ana**

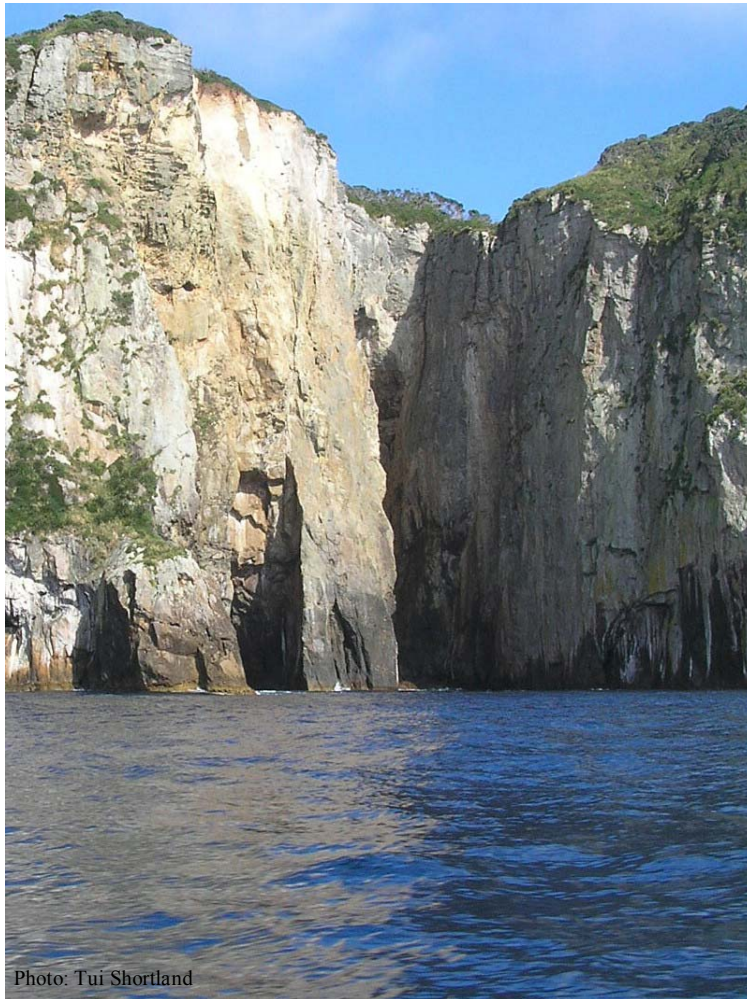


Photo: Tui Shortland

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3. Statement of Identity

The Ngatiwai Trust Board, based in Whangarei, is the mandated authority for Te Iwi o Ngatiwai. Te Iwi o Ngatiwai exercises mana whenua and mana moana over its rohe or region of responsibility, which extends from Tapeka Point in the Bay of Islands to Takatu Point, south Omaha and encompasses the eastern seaboard and all off-shore islands, including Tawhiti Rahi and Aorangi (Poor Knights), Taranga and Marotere (Hen and Chickens Islands), Aotea (Great Barrier Island) and Hauturu (Little Barrier Island).

Ngatiwai are unified by their descent from Maui-Tikitiki, Toi te Huatahi and Manaia. Five generations after the second Manaia, came Te Rangi Hokaia who lived approximately twelve generations ago. Te Rangi Hokaia begat Rehua, Repo, Te Ao o te Rangi, Haua, and Hikihiki. His children's names became the names of the hapu. These hapu combined make up Ngatiwai.

The rohe of Te Iwi o Ngatiwai encompasses part of the jurisdictional area of five district councils (Far North, Whangarei, Kaipara, Rodney, Auckland City) and two regional councils (Northland and Auckland).



4. Purpose of this Document



*Unuhia te rito o te harakeke,
kei hea te kōmako e kō
whakataerangitia rere ki uta, rere ki tai
uia mai kī ahau
he aha te mea nui?
māku e kī atu
he tangata, he tangata, he tangata*

The purpose of this document is to state the core values of Te Iwi o Ngatiwai, from an iwi perspective, around generic environmental issues. This document is also to assist Ngatiwai hapu and whanau to produce documents that identify and state their own specific local environmental issues.

This document is specifically focussed on the responsibilities that district and regional councils have under a range of legislation, primarily the Resource Management Act 1991. This document is designed for any parties proposing development within Ngatiwai territory. It shows procedures for developers and consent authorities. Ngatiwai Resource Management Unit must be the first place that all parties approach at their project design stage. This document does not specifically focus on matters dealt with by our Treaty partners, such as the Department of Conservation. Such policies will be produced in the near future.

In 2003 the Resource Management Act went through a major amendment process. Today, Sections 66 and 74 of the Act states that district and regional councils must “take into account any relevant planning document recognised by an iwi authority and lodged with the council” in the preparation of their own planning documents. Taking into account means that the iwi or hapu documents must be shown to have influenced the planning process and to have been incorporated into the council’s decision making.

Ngatiwai Resource Management Unit has produced Guidelines for an open, transparent, accountable and collectively agreed upon process for Whangarei District Council to take into account the iwi and hapu documents lodged with them. These Guideline was developed with Whangarei District Council and other local Tāngata Whenua environmental practitioners. The Guidelines were given to the Whangarei District Council’s Maori Liaison Subcommittee for their comment and then to the Whangarei councillors for their consideration and response. One reason Whangarei District Council was chosen first is because the majority of Ngatiwai marae are within the Whangarei District Council area. The other councils will be approached to adopt the same guidelines once the Whangarei District Council process is complete. These Guidelines can be found at Appendix 11.1.

5. Policy Design

This environmental policy document has been set out according to the genealogical sequences of Ngatiwai. The sections have been positioned into the stages of creation. Te Unaunahi Tuatahi are the minerals and substances which make up the earth and sky; Te Unaunahi Tuarua are the flora and fauna which cloak the earth; Te Unaunahi Tuatoru are those of the animal world; Te Unaunahi Tuawha are the human related elements.



Photos: Tui Shortland

In its draft form this policy document was given to Ngatiwai kaumatua and kuia, Ngatiwai Trust Board trustees and Ngatiwai hapu resource management units for comment and feedback. It has also gone out to various key district and regional council staff, and to the project funder, the Ministry for the Environment. A lot of positive and informed feedback has been obtained. All feedback has been considered, and has contributed to this document.

6. Policy Recognition

This document has been formally recognised as Ngatiwai iwi environmental policy by the Ngatiwai Trust Board trustees at their Board Meeting of April 2007.



Photo: Tui Shoreland

7. Review of this Document

Ngatiwai Resource Management Unit will facilitate the review of this policy document on an as needed basis in collaboration with the hapu, marae and whanau of Ngatiwai, by resolution of the Board.

8. Ngatiwai Trust Board Resource Management Unit

The Resource Management Unit is the environmental department of the Ngatiwai Trust Board. The Unit's role is to develop the resource management capacity of Te Iwi o Ngatiwai, ensuring the sustainable management of the natural, physical and cultural resources of the iwi. Fulfilling that kaitiaki responsibility means seeing that any human interaction with the environment is managed in a sustainable way, and that protection of the mauri of the natural, physical and cultural resources occurs.

The Resource Management Unit has been operational since the late 1980s. The Unit has developed knowledge, skills and expertise in a wide range of contemporary kaitiakitanga skills. Some of these include:

- Ngatiwai archaeological assessments
- Ngatiwai Impact Assessments
- Biosecurity surveillance
- Fresh waterways health profiling using the Macroinvertebrate Community Index
- Wetland restoration
- Oil spill response representation, in association with Northland and Auckland Regional Councils.
- Recovering resources from dead stranded marine mammals for customary and scientific purposes
- Ngatiwai offshore islands management
- Endangered species recovery programmes
- Native bird island surveys and transfers
- Kiore, kuri (*Canis familiaris*) and ti pore (*Cordyline fructicosa*) mitochondrial DNA research
- Recovering resources from dead native birds for customary and scientific purposes
- Maintaining a Ngatiwai storehouse of customary resources
- Inshore fisheries research projects
- Managing kiore populations on offshore Ngatiwai islands

Iwi resource management for Ngatiwai is about maintaining the cultural and spiritual integrity of Te Whakaputanga o nga Rangatira o Niu Tireni (The Declaration of Independence) and Te Tiriti o Waitangi as the founding political documents for governance in Aotearoa New Zealand. It is about weighing up the principles and values of Ngatiwai for the environment with those of the Crown in a meaningful and positive way to ensure the sustainability of its resources for future generations.

9. Te Unaunahi i whakapiripiri ki te Ika nui a Mauitikitiki-a-Taranga

9.1 Te Unaunahi Tuatahi

9.1.1 Minerals Issues for the Ngatiwai rohe

- The use of minerals or geothermal resources under the Crown Minerals Act 1991 gives precedence to economic factors and does not assess the environmental, cultural or social impacts when permitting mining related activities. As a result the mauri of mineral and geothermal resources contained within the rohe of Ngatiwai is being destroyed or lost and there is potential for detrimental environmental, cultural and social effects.

Explanation

The rohe of Ngatiwai is rich in extractable mineral resources such as sand (both onshore and offshore), scoria, gold, mercury, limestone, clays and gravels. Geothermal areas also exist throughout the rohe, particularly on Aotea (Great Barrier Island).

- The lack of direct and effective Ngatiwai involvement, as the kaitiaki, in the sustainable management of their ancestral taonga, mineral and geothermal resources.



Photo: Celia Witchira

Minerals Objectives for Ngatiwai rohe

- The sustainable extraction and management of mineral and geothermal resources without adverse impacts upon the earth.
- The mauri of mineral and geothermal resources is protected and enhanced in ways that enable Tāngata Whenua to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn.
- Tāngata Whenua are acknowledged as the kaitiaki of mineral and geothermal resources within their rohe.
- The relationship of Tāngata Whenua and their culture and traditions with their ancestral taonga, mineral and geothermal resources, is recognised and provided for as a matter of national importance by councils.
- There is an increased Tāngata Whenua involvement in the management and monitoring of mineral and geothermal resources.
- Tāngata Whenua traditional environmental knowledge in relation to mineral and geothermal resources is appropriately acknowledged and utilised.

Minerals Policies for Ngatiwai rohe

1. Prospecting, exploration and mining activities under the Crown Minerals Act are not permitted in areas significant to Tāngata Whenua. Areas significant to Tāngata Whenua include wāhi tapu, fresh waterways, mahinga kai and other places, as identified by Tāngata Whenua.

Explanation

Some quarries were created more than 150 years ago when there was no legislation to protect sensitive sites. One such quarry within Ngatiwai territory is on what is known today as Tutukaka hill. Its name is Pukearanga a sacred maunga to local Tāngata Whenua who cite the pepeha, “Ko Pukearanga te maunga, ko Ngunguru te awa, ko Ngatitakapari te hapu, ko Paratene te Manu te marae”.

2. Tāngata Whenua promote innovative, sustainable management practices concerning mining, including restoration and rehabilitation programmes.
3. Tāngata Whenua are the kaitiaki of mineral and geothermal resources in their rohe.
4. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting mineral or geothermal resources, including applications for sand relocation for beach renourishment, because of their special relationship with these taonga.
5. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around mineral and geothermal resources.
6. Whenever Tāngata Whenua are involved in setting conditions for consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.

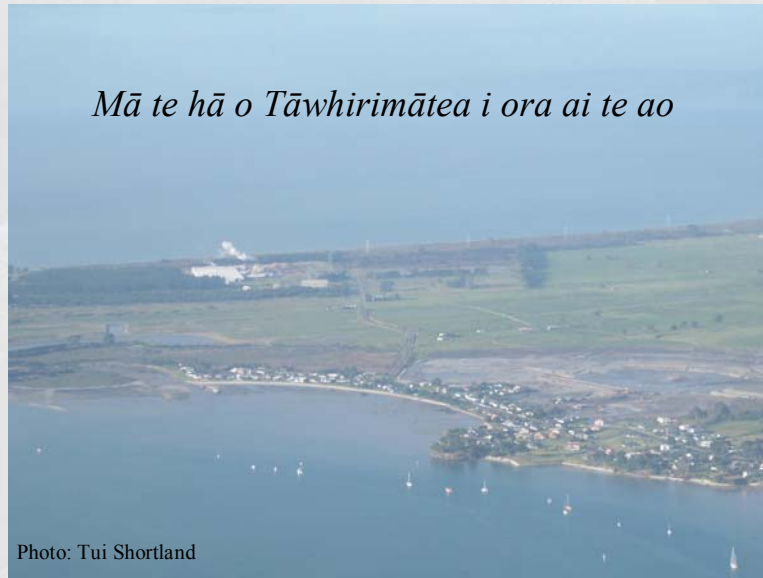


Photo: Celia Witehira

Minerals Methods for Ngatiwai rohe

1. The review of the Crown Minerals Act to include factors of environmental, cultural and social effects.
2. The review of the Crown Minerals Act to ensure that permit applications are sent to the relevant councils to ensure that they are aware of upcoming resource consent applications.
3. Restoration and rehabilitation programmes will be planned and initiated by both Tāngata Whenua and permit holders, with the costs being met by permit holders.
4. Permits for mining activities must not include areas identified as significant by Tāngata Whenua.
5. Councils will require permit holders to prepare and implement a mining or quarrying closure management plan.
6. Tāngata whenua will be notified by the relevant council of any resource consent application concerning or potentially affecting mineral or geothermal resources.
7. Councils will actively promote to consent applicants pre-application engagement with Tāngata Whenua as being best practice.
8. All resource consent applications concerning or potentially affecting mineral or geothermal resources will be lodged with an impact assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
9. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.
10. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge throughout their strategies and plans.
11. Where there is agreement from Tāngata Whenua that a mineral resource can be extracted, a benefit back to them (in the form of a royalty) will be payable.

9.1.2 Air Quality Issues for Ngatiwai rohe



- The mauri of air within the territory of Ngatiwai is being destroyed or lost through ignorance, oversight, misuse, exploitation, contamination and abuse.

Explanation

Pepeha: Tihei mauri ora!

To hongī is to impart your breath of life to someone else.

The quality of the air within the rohe of Ngatiwai, and thus the wellbeing of tāngata whenua and the surrounding environment, is being negatively impacted upon by emissions of contaminants from vehicles, industrial processes and procedures (sandblasting, spray painting, smoke emissions), pollen drift from pine plantations, agricultural and horticultural spraying and spray drift, smoke from large burn-offs, noise pollution from industrial areas (fork hoist backing beepers), dust (unsealed roads, quarrying activities, earthworks, woodchips), smoke from home fires in winter and flue stack emissions from the Marsden Point Oil Refinery.

Motor vehicles and domestic fires, particularly open fires, are two larger sources of air pollution within Ngatiwai territory. These activities have cumulative adverse effects on air quality and respiratory wellness.

- The lack of direct and effective Ngatiwai involvement, as the kaitiaki, in the sustainable management of their ancestral taonga, air.

Air Quality Objectives for Ngatiwai rohe

- The mauri of air is protected and enhanced in ways which enable Tāngata Whenua to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn.
- The life supporting capacity of air enables optimum health and wellness for all Tāngata Whenua; those they host within their rohe; their plants, animals and other whanaunga; and their waterways and moana.
- Tāngata Whenua are acknowledged as the kaitiaki of air within their rohe.
- The relationship of Tāngata Whenua and their culture and traditions with their ancestral taonga, air, is recognised and provided for as a matter of national importance by councils.
- There is an increased Tāngata Whenua involvement in the management and monitoring of air quality.
- Tāngata Whenua traditional environmental knowledge in relation to air is appropriately acknowledged and utilised.

Air Quality Policies for Ngatiwai rohe

1. Air is a sacred resource to Tāngata Whenua, to be given the highest level of protection.
2. Tāngata Whenua promote innovative, sustainable management practices concerning air quality.
3. The discharge of contaminants into the air will be progressively reduced by the active promotion and adoption of energy efficient methods.
4. Tāngata Whenua are the kaitiaki of air in their rohe.
5. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting air quality, because of their special relationship with this taonga.
6. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around air.
7. Whenever Tāngata Whenua are involved in setting conditions for consent, they then are responsible or jointly responsible for monitoring compliance with those conditions.



Air Quality Methods for Ngatiwai rohe

1. New or retro fitted domestic solid fuel burning fire emissions in urban areas will achieve a particulate emission rate of 4.0 g/kg of fuel burned for appliances without catalytic combustors and 2.25 g/kg for appliances with catalytic combustors.
2. Vehicles with clean fuel-efficient technology, that are appropriately maintained, will be actively promoted.
3. Energy efficient public transport systems will be promoted to reduce private vehicle use.
4. Used imported vehicles and vehicles currently in use will have emission control equipment fitted.
5. Alternative forms of heating houses, such as solar power, will be promoted, through education, subsidies and or environmental benefits.
6. Spray free zones will be actively promoted near schools, kohanga reo, public gathering places, marae, and public halls.
7. Tāngata Whenua will be notified by the relevant council of any resource consent application concerning or potentially affecting air quality.
8. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice.
9. All resource consent applications concerning or potentially affecting air quality must be lodged with an impact assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
10. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.
11. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge in their strategies and plans.

9.1.3 Water Issues for Ngatiwai rohe



- The mauri of water (creeks, streams, water bodies, wet areas, wetlands, swamps, springs, dune lakes, aquifers, thermal waters, estuarine waters and coastal waters) and soil and their associated ecosystems within The rohe of Ngatiwai is being destroyed or lost through ignorance, oversight, misuse, exploitation, contamination and abuse.

Explanation

The rohe of Ngatiwai is located on part of the eastern coast of what is known today as Te Tai Tokerau. The majority of water catchments within the rohe flow out to the eastern seaboard, are small and steep in area, and have rivers and streams which are short in length, in comparison to other areas within New Zealand. A lot of rain within a very short space of time, sometimes over a localised area, is a reasonably frequent event.

An example of the damage to the mauri of water within the rohe of Ngatiwai is Whangarei Terenga Paraoa Harbour. Prior to European contact the harbour boasted numerous annual visits of marine mammals. Now it has been turned into a dumping ground for fertilizer run-off, stock wastes and sediment coming from farming operations; sediment from forestry activities and subdivision development; city storm water run off; and raw sewage from non-functioning pumping stations, and broken down and out of date pipe lines. The Whangarei Town Basin - within the central city area of the harbour - requires regular dredging to maintain depth for visiting yachts. The dredged spoil then requires disposal. This is another concern to Tāngata Whenua.

The ability to put kaimoana on the table for manuhiri and whanau at tangi, hui and other events on Ngatiwai marae, and to feed Ngatiwai whanau and hapu on a regular, sustained basis, is being increasingly compromised by damage to the mauri of water.

Water Issues for Ngatiwai rohe continued

- Impacts on the mauri of a resource create negative flow-on impacts on other resources, and cause opportunity losses for Ngatiwai people.

Explanation

To Ngatiwai water, soil and air are all integral elements of the life-supporting nature of the natural and physical environment. Water, soil and air must be considered in conjunction with all living things, as everything is interconnected. Tāngata whenua recognise that the quality of the water, soil and air is the fundamental basis for the quality of the environment; therefore it is imperative that these elements are sustainably managed. It is important to reiterate that water, soil and air must be seen in the context of the whole environment, not just as separate elements.

- The lack of direct and effective Ngatiwai involvement, as the kaitiaki, in the sustainable management of their ancestral taonga, water.

Explanation

Ngatiwai are of people of the water (wai). We are a coastal people who live close to water and have a special relationship with water. Ngatiwai history, strength and mana stems from water – water is a sacred resource and a taonga.

- The use, allocation, flow, and quantity management of water within Ngatiwai territory has had negative impacts of those waters and their related ecosystems.

Water Objectives for Ngatiwai rohe

- The mauri of water and soil is protected and enhanced in ways which enable Tāngata Whenua to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn.
- The life-supporting capacity of creeks, streams, water bodies, wetlands, swamps, springs, aquifers, thermal waters, estuarine waters and coastal waters enables optimum health and wellness for all Tāngata Whenua; those they host within their rohe; their plants, animals and other whanaunga.
- The sustainable management of water, soil and air in a collaborative manner considering all flow on effects.
- The relationship of Tāngata Whenua and their culture and traditions with their ancestral waters is recognised and provided for as a matter of national importance by councils.
- Tāngata Whenua are acknowledged as the kaitiaki of creeks, streams, water bodies, wetlands, swamps, springs, aquifers, thermal waters, estuarine waters and coastal waters within their rohe.
- There is an increased Tāngata Whenua involvement in the management and monitoring of water.
- Tāngata Whenua traditional environmental knowledge in relation to water resources is appropriately acknowledged and utilised.
- Water use, allocation, and flow will be sustainably managed within Ngatiwai territory.
- Water use, allocation, and flow management will enable Tāngata Whenua to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn.
- Tāngata Whenua, because of their special relationship with their waters, will be involved in water allocation planning for consumption from their streams, rivers and groundwater resources.



Photo: Celia Witehira

Water Policies for Ngatiwai rohe

1. Tāngata Whenua promote innovative, sustainable management practices concerning water. All natural water has value and sustains some form of natural life in the environment. Water is a sacred resource to Tāngata Whenua, to be given the highest level of protection.
2. No hierarchical values will be placed on water bodies within any council's planning documents to decide differing levels of protection.
3. All regional councils will have an integrated catchment riparian management and implementation strategy.
4. All aquifers will be protected from salt water and nitrate / nitrite intrusion, limited replenishment, and sewage contamination.

Explanation

Aquifers are the last bastion especially for communities or off-shore islands where there are no running streams. Many of the aquifers in Ngatiwai coastal community areas have become polluted from septic tanks, and nitrates and nitrites from non-point source pollution, while others have started to fill with salt water, making them brackish.

5. All puna will be protected from inappropriate use and development.

Explanation

Most of the puna or springs today have dried up because of the removal of the forest and draining of the land for farms. Significant puna were named, some were tapu, some were associated with pa, and some were associated with gardens.

6. Earthworks provided for as a permitted activity in council plans will be subject to stringent environmental performance standards.
7. Integrated earthworks management plans (detailing how erosion, sediment control, possible archaeological sites and revegetation are to be managed, and how risks will be identified and minimised) are mandatory for any type of consent involving an earthworks component.
8. The application or removal of anti-fouling to vessels will occur in a designated contained place on a hard surface away from a waterway, so anti-fouling and unwanted exotic marine organisms are not permitted to enter waterways. Anti-fouling scrapings will be gathered up and disposed of at an appropriate land site.

Explanation

To date around 148 exotic marine organisms have been introduced accidentally to New Zealand – 70 % of which probably arrived as fouling.

Water Policies for Ngatiwai rohe continued

9. Water must be seen and managed in an integrated, holistic way as per its cycle, and as an element of the life supporting the natural and physical environment. Water should not be viewed just as a running stream, a lake, or an aquifer, with no relationship to the other resources within its environment.
10. All activities concerning or potentially affecting creeks, streams, water bodies, wetlands, swamps, springs, aquifers, thermal waters, estuarine waters and coastal waters within a water catchment will be managed in an integrated way on a catchment basis.



Photo: Celia Witchira

11. Regional and district plans and strategies will promote and provide incentives for the planting of riparian margins from the headwaters of a catchment through to its outfall into the moana.

Water Policies for Ngatiwai rohe continued

12. Regional and district plans and strategies will promote and provide incentives for the rehabilitation, enhancement and protection of existing river banks and riparian margins, and their further extension along the margins and beds of water bodies.

Explanation

The key to improving water quality and restoring ecological diversity is connectedness. Rehabilitation of waterways is most successful when planting of riparian margins begins from the headwaters and progresses through the catchment to produce a long, continuous buffer.

Riparian margins control non-point source discharges (microbial and fertilizer-enriched water runoff from land or leachate), erosion, stop sediment reaching streams and waterways, filter agrochemicals, maintain and improve water quality and provide habitats for native fauna.

13. Tāngata Whenua are the kaitiaki of water in their rohe.
14. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting water use, allocation, flow, quality, or quantity because of their special relationship with this taonga.
15. Use will be made of all relevant forms of knowledge and practises, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around water.
16. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.
17. Minimum flows will be set for all watercourses.
18. Maximum water take will be dependent on the baseline (minimum) flow, rather than on a predetermined set amount.
19. Councils and Tāngata Whenua will together jointly develop mechanisms for the allocation of rights to water.

Water Methods for Ngatiwai rohe

1. Payment of a bond is mandatory for all types of consent, large or small, which involve earthworks.
2. Repo (swamps) of any size will not be transformed into wetland sewage systems. There is no objection to such uses for man-made wetlands however, as long as they are sited appropriately.

Explanation

The mauri of the repo is a very special mauri. The repo has a very special spiritual quality as well as its cultural and traditional significance. The ancestral links of Tāngata Whenua with repo vary. Such links could be an abode of a taniwha, a burial place, or a place utilised for its resources. Swamps and wetlands contain kai (tuna, kawai, taro, watercress), dyes (paru – black mud which is fed decaying leaves for dyeing flax fibre) and weaving materials (raupo, harakeke, kōrari, kuta).

3. Drainage of natural wet areas or wetlands of any size is prohibited, unless decided otherwise by Tāngata Whenua. This includes by directly draining the wetland itself, or by nearby land drainage activities, which then impact the wetland.
4. The deliberate introduction of exotic species to creeks, streams, water bodies, wetlands, springs, aquifers, thermal waters, estuarine waters and coastal waters, without prior effective engagement with affected Tāngata Whenua, is prohibited, unless decided otherwise by Tāngata Whenua.
5. The use of chemical pesticides, fertilisers or any other contaminant in a manner where they can enter, affect or potentially affect any waterway is prohibited, unless decided otherwise by Tāngata Whenua.
6. Discharges from hospitals and funeral parlours, or discharges of human body fluids will not be combined with other wastes such as stormwater, and treated together.
7. Consent conditions which allow any possible emergency discharge (if the discharge is unforeseen, intermittent, infrequent, or from a technical failure) of untreated sewage from sewage pumping stations into creeks, streams, water bodies, wetlands, waters, estuarine waters and coastal waters are prohibited, unless decided otherwise by Tāngata Whenua.



Photo: Tui Shortland

Water Methods for Ngatiwai rohe continued

8. No liquid waste will be discharged directly, or indirectly (through stormwater drains, artificial watercourses, subsurface field drainage or open drains), to creeks, streams, water bodies, springs, thermal waters, estuarine waters or coastal waters. Instead it will be diverted back onto land for treatment that removes all bacteria, viruses and protozoa dangerous to health. Only then will it be permitted to enter receiving waters. This includes stormwater, sewage, farm dairy waste, effluent, contaminants, animal effluent and non-point source discharges.

Explanation

The word 'waste' is used here and in other places within this document solely for clarity by the reading audience. However to Ngatiwai, waste is a material or substance that can be used for some other purpose. It would be more proper to see it as a resource and to treat it accordingly, rather than to call it waste.

9. Different types of liquid wastes (eg sewage and stormwater) will not be combined and treated together.

Explanation

The mixing of different mauri by human intervention is offensive to Tāngata Whenua.

10. Artificially injecting freshwater into thermal waters is prohibited, unless decided otherwise by Tāngata Whenua.
11. Manmade waterways or structures will not be constructed through or alongside tapu areas.
12. Siting a landfill over an aquifer or near any water supply, or near a Wāhi tapu area is prohibited, unless decided otherwise by Tāngata Whenua.
13. Small rural coastal communities will have communal land based treatment facilities that remove all bacteria, viruses and protozoa dangerous to health before discharge to receiving waters.
14. All new septic tank installations will treat sewage to a very advanced standard (remove all bacteria, viruses and protozoa dangerous to health) before discharge to a soakage field.
15. Unrestricted stock access to the sides, the beds or the banks of natural creeks, streams, water bodies, wetlands, springs, and estuarine waters is prohibited, unless decided otherwise by Tāngata Whenua.
16. Stock bridges will be constructed over creeks, streams or waterways that are used as stock crossing areas and effluent deposited on the bridge will be channelled to land for disposal.

Water Methods for Ngatiwai rohe continued

17. Councils will impose nitrogen caps on farm properties. Stock loading rates per hectare will be capped to reduce nitrogen loss to waterways.

Explanation

A big issue facing dairy farmers particularly is nitrogen loss and nitrate leaching into waterways as a result of herd intensification, or a switch to dairying from other types of farming.

18. Marine farming equipment is prohibited from being transferred from one marine area to another without thorough cleaning. Cleaning will occur in a designated contained place on a hard surface away from a waterway, so unwanted exotic marine organisms are not permitted to enter new areas of water. Cleaned off material will be gathered up and disposed of at an appropriate land site.

19. New urban roading stormwater systems will be connected to rain gardens so stormwater is filtered prior to entering a waterway.

Explanation

Rain gardens contain sand, crushed shell and gravel which act as filters during rain. Certain species of plants also have a cleansing role. Rain gardens have been installed by Mark Cromie Holden Whangarei and the Whangarei Aquatic Centre, in both cases to filter car park run-off.



Photo: Tui Shortland

Water Methods for Ngatiwai rohe continued

20. All proposed consent works in or within the riparian margin alongside creeks, streams, water bodies, wet areas, wetlands, swamps, springs, dune lakes, thermal waters, estuarine waters and coastal waters will be preceded by a comprehensive biological audit to identify indigenous animal and plant species in that area, as well as a Tāngata Whenua Impact Assessment to assess the mauri of the resource / area, prior to development commencing. Consent conditions will stipulate continued regular assessment of the cultural health of the resource / area, and Macroinvertebrate testing and monitoring. If it is noted that Macroinvertebrate numbers fall below 100 then activities must cease.
21. Earthworks activities will be limited to the summer months (1 October – 30 April) to protect the environment from sediment run-off and erosion. Stabilisation must have occurred by 30 April.
22. Earthworks provided for as a permitted activity in council plans (with certain exceptions) will still be required to notify the appropriate council and Tāngata Whenua.
23. Erosion and sediment control measures will be implemented and maintained while soil is exposed, and revegetation must be completed (to an 80% ground cover) within a three month period. Where the operation is not finished but will need to stop for a period of time (such as in the winter), any bare area must be sown over with a temporary cover to stabilise the area.



Water Methods for Ngatiwai rohe continued

24. All vessels (regardless of size or carrying capacity) within the Ngatiwai territory, from the land to Hawaiki, are banned from discharging ballast water and engine cooling water or other possible contaminated substances directly into the sea.

Explanation

A bulk cargo carrier can deliver products to Japan and Korea and return with 50,000 tonnes of ballast water used for stability. This water is taken aboard while ships are in port before departure. This ballast water can contain harbour sediment and any organisms, particularly from shallow water or water disturbed by dredging or bad weather.

25. All vessels (including small vessels) will have mandatory waste holding facilities on board and their disposal must be more proactively managed by councils. Marinas must hold contained reception facilities for oil wastes, sewage, rubbish and ballast water. Contained reception facilities must also be installed at all other ports, wharves and jetties. These reception facilities must be monitored by councils.
26. Riparian margin size will be as wide as possible - its width is determined by the amount of slope to the stream, the type and size of diffuse discharge in the area, and the predominant land use.
27. When manmade structures are placed in creeks, streams, water bodies, wetlands, estuarine waters or coastal waters, the loss of in-stream aquatic habitats will be addressed, and appropriate provision will be made for indigenous migratory species, for example, tuna passage to their spawning areas.

Explanation

Until recently, culverts were simply concrete pipes that replaced in-stream habitats. They also presented challenges for native fish to swim through. New, innovative fish passage solutions consist of custom-made baffles designed as moulded plastic sheets that are bolted to the culvert floor. To recreate aquatic habitats inside culverts, every fourth baffle sheet is used to create a rock weir. The baffles are filled with rock, rubble, and sand and stream mud, causing pools to form behind and creating riffles by the stream flowing over the stones. These techniques are currently being trailed on four culverts under the ALPURT B2 alignment (SH1 Northern motorway extension).

28. All creeks, streams, water bodies, wetlands, swamps, springs, estuarine and coastal waters will have fenced or hotwired riparian margins planted in locally sourced indigenous plants.
29. Esplanade reserves or esplanade strips are required for every new subdivision or boundary adjustment adjacent to creeks, streams, water bodies, wet areas, wetlands, swamps, springs, dune lakes, thermal waters, estuarine waters and coastal waters.

Water Methods for Ngatiwai rohe continued

30. Councils will offer information, educational material, technical advice, incentives (such as rates rebates), and the preparation of individual riparian management plans to promote the creation, rehabilitation, enhancement and protection of riparian margins.
31. Regional councils will provide individual riparian management plans for farms as a free service, and the provision of suitable native plants and trees, at cost.

Explanation

This is being done in Taranaki as a geographical extension to the Dairying and Clean Streams Accord signed in May 2003. The Taranaki District Council contracts with local nurseries to supply in bulk suitable indigenous plants and passes on the savings to landowners implementing their riparian management plans. As of June 2005 in Taranaki around 50% of dairy farms have riparian management plans. Around 55% of stream banks covered by management plans are fenced (or hotwired as necessary) and 39% of stream banks have vegetation present (not all of it has been planted).

32. Councils and Tāngata Whenua will together jointly develop catchment management strategies for all creeks, streams, water bodies, wetlands, swamps, springs, aquifers, thermal waters, estuarine waters and coastal waters.
33. Councils will actively promote to consent applicants pre-application engagement with Tāngata Whenua as being best practice.
34. All resource consent applications concerning or potentially affecting water quality must be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
35. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.
36. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge in their strategies and plans.
37. All water abstractions (both permitted abstractions and those for which consent must be applied) must allow 100 % of the 1 in 5 year low flow to remain in streams and waterways, to ensure that there is no possibility of extra concentration of effluent or pollution.
38. Tāngata Whenua will be notified of any resource consent application concerning or potentially affecting water use, allocation, flow, level, and quantity.
39. All resource consent applications concerning or potentially affecting water use, allocation, flow, level, or quantity must be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.

9.2 Te Unaunahi Tuarua

9.2.1 Indigenous Flora Issues for Ngatiwai rohe

- Within the rohe of Ngatiwai the life-supporting capacity of indigenous flora is being negatively impacted by farming, subdivision, forestry practices and development. This can lead to biodiversity losses.

Explanation

Te Tai Tokerau has the highest number of threatened indigenous plant and animal species in Aotearoa New Zealand (more than 100 according to the Northland Regional Council's 2002 State of the Environment Report).

High percentages of our indigenous species are endemic; they are found nowhere else on earth.

To Ngatiwai, indigenous plants are whanau and taonga, to be looked after for future generations.

Indigenous plants have positive effects on the environment. These include cleansing the air of pollutants and returning oxygen to it; acting as weather shields and noise buffers; acting as environmental indicators; providing kai and other resources for birds and other animals; reducing erosion, water run-off and instability; providing a recreational and tourism role, and having customary, historic, landscape and visual amenity values to communities.

- Bioprospecting or the taking of natural resources to derive products from them that might be of potential commercial use is intensifying worldwide.

Explanation

Bioprospecting is not regulated or managed in a truly sustainable way, the end result may be the loss of that species. A classic example is the huia.



Photo: Tui Shortland

Indigenous Flora Objectives for Ngatiwai rohe

- The maintenance and restoration of natural species, habitats and ecosystems.
- The enhancement of endemic and endangered indigenous species and habitat.
- The mauri of indigenous ecosystems is protected and enhanced in ways which enable Tāngata Whenua to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn.
- The life-supporting capacity of indigenous ecosystems enables optimum health and wellness for all Tāngata Whenua; those they host within their rohe; their plants, animals and other whanaunga; and their waterways and moana.
- Tāngata Whenua are acknowledged as the kaitiaki of all indigenous flora and their associated ecosystems within their rohe.
- There is an increased Tāngata Whenua involvement in the management of their indigenous flora.
- Tāngata Whenua traditional environmental knowledge in relation to indigenous flora is appropriately acknowledged and utilised.
- Bioprospecting within Ngatiwai territory is managed appropriately.



Indigenous Flora Policies for Ngatiwai rohe

1. All proposed land based activities which result in the modification of existing trees and vegetation will be preceded by a comprehensive biological audit to identify indigenous plant species in that area. This includes permitted activities for which certificates of compliance have been applied for.
2. No hierarchical values will be placed on indigenous flora within any council's planning documents to decide differing levels of protection.
3. All councils will adhere to the 1992 United Nations Convention on Biological Diversity (CBD) adopted at the Earth Summit in Rio de Janeiro and ratified by the New Zealand Government.
4. All councils will adhere to and implement the New Zealand Biodiversity Strategy.

Explanation

The New Zealand Biodiversity Strategy was written to implement the Convention on Biological Diversity within Aotearoa New Zealand.

5. Indigenous flora are taonga tuku iho to Tāngata Whenua.
6. Tāngata Whenua are the kaitiaki of their indigenous flora.
7. Ngatiwai kaitiakitanga will be recognised as a viable management approach with respect to its indigenous flora.
8. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially impacting indigenous biodiversity, because of their special relationship with these taonga.
9. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around indigenous flora.
10. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.
11. Only after appropriate effective engagement and adequate remediation or mitigation, or safety or security reasons, will Tāngata Whenua support any negative or destructive impacts on their indigenous flora.
12. Bioprospecting will only be carried out within Ngatiwai territory with the appropriate agreement from Tāngata Whenua.
13. Government regulation of bioprospecting is reviewed and increased.

Indigenous Flora Methods for Ngatiwai rohe

1. No cats, dogs or mustelids will be permitted on subdivided properties zoned or partially zoned Outstanding or Notable Landscape areas, or directly abutting those zones.

Explanation

This is consistent with the resource consent decision by Whangarei District Council on the Neverlands Investments Ltd.

2. Councils and Tāngata Whenua will promote the use of locally sourced seeds and plants for revegetation landscaping projects.
3. Rates relief will be offered by councils as an incentive and a method of compensation for those land owners who covenant land with indigenous fauna and flora on it meeting covenanting body requirements.
4. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice.
5. Tāngata Whenua will be notified of any resource consent application concerning or potentially affecting indigenous plants or animals.
6. All resource consent applications concerning or potentially affecting indigenous plants and animals must be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
7. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.
8. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge in their strategies and plans.
9. Councils and Tāngata Whenua will together jointly develop catchment management strategies.
10. Councils will transfer powers associated with the protection of indigenous vegetation on council owned land to Tāngata Whenua, upon a viable application being made under Section 33 of the Resource Management Act.
11. Bioprospectors will form appropriate agreements with Ngatiwai and the appropriate Tāngata Whenua before carrying out any bioprospecting activities.
12. Bioprospecting management criteria will be produced and adhered to during these activities, such as, intensive field work and laboratory monitoring and reporting to Ngatiwai and the appropriate Tāngata Whenua.

9.2.2 Indigenous Trees Issues for Ngatiwai rohe

- Several councils exercising functions within Ngatiwai territory do not have a native tree management plan and therefore indigenous trees are continually damaged and destroyed. These indigenous trees are a taonga to Ngatiwai whanau, hapu and iwi.

Explanation

Since 1850, 80% of Te Tai Tokerau's indigenous vegetation has been destroyed.

Mature indigenous trees are very vulnerable to damage or destruction during subdivision development, when they are seen as expendable if they are in the way of a house site, or an accessway; or they impede a spectacular view, which adds a considerable monetary value to a property.

Some trees within The rohe of Ngatiwai are sacred due to their particular customary use or by an incident which occurred on or near it. There is for example a karaka tree at Kiripaka that is sacred to descendants of Rangitukiwaho, tupuna of the Ngatitaka hapu of Ngunguru. The name of that tree is Te Whangai Mokopuna, meaning food for my grandchildren. That tree is the last tree standing of what was a karaka tree orchard that was planted by that tupuna. Because of this history that tree was made tapu by Ngatitaka kaumatua. There are numerous others of this type of tree in the Ngatiwai rohe.



Photo: Tui Shortland

Indigenous Trees Objectives for Ngatiwai rohe

- All indigenous trees over a certain height or trunk girth are protected from damage or destruction, except where those trees may have spread beyond their normal expected area or if they are required for Tāngata Whenua customary purposes, such as, for medicines or weaving.
- Trees made sacred are fully protected from damage or destruction.



Photo: Tui Shortland

Indigenous Trees Policies for Ngatiwai rohe

1. No subdivision, use or development will result in damage to or destruction of any indigenous trees without an appropriate assessment being made of how those trees impact a proposed development.
2. All indigenous wetlands trees (such as kahikatea) will be protected from damage or destruction, unless Tāngata Whenua give their written approval.
3. All indigenous tidal trees, such as manawa (mangrove), will be protected from damage or destruction, unless Tāngata Whenua give their written approval.
4. All coastal pohutukawa will be protected from damage or destruction, unless Tāngata Whenua give their written approval.

Explanation

Pohutukawa are an icon of the northern coasts of Aotearoa New Zealand. There are numerous pohutukawa on the Ngatiwai coast that are more than 200 years old.

5. No hierarchical values will be placed on indigenous trees within any council's planning documents, eg a STEM (Standard Tree Evaluation Method) evaluation to decide differing levels of protection.
6. Mature stands of manuka or kanuka on publicly owned lands are prohibited from being cut for sale as firewood.

Explanation

These trees act as pioneer species to support the growth of other native species.

7. Tāngata Whenua are the kaitiaki of indigenous trees in their rohe.
8. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting indigenous trees, because of their special relationship with these taonga.
9. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around indigenous trees.
10. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.
11. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.

Indigenous Trees Methods for Ngatiwai rohe

1. All indigenous trees more than three metres in height or with a trunk girth greater than 150 mm (where the trunk is measured 0.8 metres from the ground) will be protected from damage or destruction. The exception to this is manawa, in certain overgrowth situations. In the case of a tree with multiple trunks (such as pohutukawa) the girth measurement shall be the aggregate or collective measurement of all trunks which have a girth of 250 mm or more. These figures have been obtained from Auckland City Council's District Plan.
2. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge in their strategies and plans.
3. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice.
4. Tāngata Whenua will be notified of any resource consent application concerning or potentially affecting indigenous trees.
5. All resource consent applications concerning or potentially affecting indigenous trees must be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
6. Only after appropriate effective engagement and adequate remediation or mitigation, or for safety, infectious disease, possible damage to property, or overgrowth reasons will Tāngata Whenua support the destruction of any indigenous trees over three metres in height or 150 mm in girth, measured 0.8 metres from the ground. These figures have been obtained from Auckland City Council's District Plan.
7. Where indigenous trees are to be cut down the tree is to be provided to Tāngata Whenua to be used for customary purposes, such as propagation, carving etc.
8. Trees identified as tapu by Tāngata Whenua are not permitted to have work done around the base of them (other than grass trimming) out to a three metre circumference past the drip line.

Explanation

This will ensure the cultural and spiritual integrity of their status is maintained. No excavation, deposition of material, construction, earthworks for services or the storage of materials may occur.

Indigenous Trees Methods for Ngatiwai rohe continued

9. Rates relief will be offered by councils as an incentive and a method of compensation for those land owners who covenant land with indigenous trees or trees made sacred by tupuna on it meeting covenanting body requirements.
10. Councils will transfer powers associated with the protection of specific indigenous trees on council owned land to Tāngata Whenua, upon a viable application being made under Section 33 of the Resource Management Act.
11. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.



Photo: Tui Shortland

9.3 Te Unaunahi Tuatoru:

9.3.1 Indigenous Fauna Issues for Ngatiwai rohe

- Within the rohe of Ngatiwai the life-supporting capacity of indigenous fauna is being negatively impacted by farming, subdivision, forestry practices and development. This can lead to biodiversity losses.

Explanation

Te Tai Tokerau has the highest number of threatened indigenous plant and animal species in Aotearoa New Zealand (more than 100 according to the Northland Regional Council's 2002 State of the Environment Report).

High percentages of our indigenous species are endemic; they are found nowhere else on earth.

To Ngatiwai, indigenous fauna are whanau and taonga, to be looked after for future generations.

Indigenous fauna have positive environmental effects. They are kaitiaki of their habitats and people; they are indicators of the health of their surrounding environment; they provide signs of events to come; they are kai for other animals and for humans; they have a recreational and tourism role, and they also have customary, historic, landscape and visual amenity values to communities.



Photo: Tui Shortland

Indigenous Fauna Objectives for Ngatiwai rohe

- The maintenance and restoration of natural species.
- The enhancement of endemic and endangered indigenous animals.
- Tāngata Whenua are acknowledged as the kaitiaki of all indigenous animals and their associated ecosystems within their rohe.
- There is an increased Tāngata Whenua involvement in the management of indigenous animals.
- Tāngata Whenua traditional environmental knowledge in relation to animals is appropriately acknowledged and utilised.



Photo: Tui Shortland

Indigenous Fauna Policies for Ngatiwai rohe

1. All proposed land based activities which result in the modification of existing trees and vegetation will be preceded by a comprehensive biological audit to identify indigenous animal and plant species in that area. This includes permitted activities for which certificates of compliance have been applied for.
2. No hierarchical values will be placed on indigenous fauna within any council's planning documents to decide differing levels of protection.
3. All councils will adhere to the 1992 United Nations Convention on Biological Diversity (CBD) adopted at the Earth Summit in Rio de Janeiro and ratified by the New Zealand Government.
4. All councils will adhere to and implement the New Zealand Biodiversity Strategy.

Explanation

The New Zealand Biodiversity Strategy was written to implement the Convention on Biological Diversity within Aotearoa New Zealand.

5. Indigenous fauna are taonga tuku iho to Tāngata Whenua.
6. Tāngata Whenua are the kaitiaki of their indigenous fauna.
7. Ngatiwai kaitiakitanga will be recognised as a viable management approach with respect to its indigenous fauna.
8. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially impacting indigenous biodiversity, because of their special relationship with these taonga.
9. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around indigenous fauna.
10. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.
11. Only after appropriate effective engagement and adequate remediation or mitigation, or safety or security reasons, will Tāngata Whenua support any negative or destructive impacts on their indigenous fauna.

Indigenous Fauna Methods for Ngatiwai rohe

1. All resource consent applications concerning or potentially affecting indigenous plants and animals must be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
2. Tāngata Whenua will be notified of any resource consent application concerning or potentially affecting indigenous plants or animals.



Photo: Tui Shortland



9.4 Te Unaunahi Tuawha:

9.4.1 Engagement Issues for the Ngatiwai rohe

- The lack of direct and effective Ngatiwai involvement, as the kaitiaki, in the sustainable management of their ancestral taonga, mineral and geothermal resources.

Engagement Objectives for Ngatiwai rohe

- Tāngata Whenua are acknowledged as the kaitiaki of their rohe.
- The relationship of Tāngata Whenua and their culture and traditions with their ancestral taonga, is recognised and provided for as a matter of national importance by councils.
- There is an increased Tāngata Whenua involvement in the management and monitoring of environmental resources.

Engagement Policies for Ngatiwai rohe

1. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting environmental resources, because of their special relationship with these taonga.
2. Whenever Tāngata Whenua are involved in setting conditions for consent, they will then be resourced appropriately by the applicants or council to monitor compliance of those conditions.

Engagement Methods for Ngatiwai rohe

1. Tāngata whenua will be notified by the relevant council of any resource consent application concerning or potentially affecting environmental resources.
2. Councils will actively promote to consent applicants pre-application engagement with Tāngata Whenua as being best practice.
3. All resource consent applications concerning or potentially affecting environmental resources will be lodged with an impact assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
4. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge throughout their strategies and plans.

9.5 Te Aho Tapu:

9.5.1 Matauranga Ngatiwai Issues for Ngatiwai rohe

- The misappropriation or misuse of Ngatiwai indigenous knowledge and the cultural, genetic or biological resources and practices to which that knowledge relates, without the prior informed consent of Ngatiwai.

Explanation

The matauranga of Ngatiwai and the cultural, genetic or biological resources and practices to which that knowledge relates, is the intellectual property of Ngatiwai and must not be used in any way without prior written consent.

Matauranga reflects the wisdom of our tupuna and is a taonga to Ngatiwai. Ngatiwai have a responsibility to guard, protect and control the dissemination of this knowledge for the benefit of future generations.

Misappropriation refers to the wrongful taking or copying of cultural, genetic or biological resources and practices, and the matauranga Ngatiwai surrounding them. It also relates to the gaining of proprietary rights over such material. Misuse refers to the inappropriate use of cultural, genetic or biological resources and practices and the matauranga Ngatiwai surrounding them, but does not imply that any proprietary rights have been gained by the person or entity using the resource. The sharing or explaining of Ngatiwai matauranga, tikanga or kaupapa does not automatically lead to the recipient's rightful use or exploitation of that knowledge.

*An example of the misappropriation of a Ngatiwai resource is the widespread cultivation, through garden centres, of one of its off-shore island plants, raupo taranga. This plant is also known as the Poor Knights Lily (*Xeronema callistemon*). Raupo taranga is found naturally only on Tawhiti Rahi and Aorangi (Poor Knights) and on Taranga within the Hen and Chickens group. Raupo taranga was unknown apparently to Pakeha until about the early 1920s, when William Fraser, the Whangarei Harbour Board's engineer became aware of it. In 1924 a Dominion Museum expedition to the Poor Knights headed by WRB Oliver collected the first specimens. No benefits to Ngatiwai have resulted.*

Te Iwi o Ngatiwai, through the Ngatiwai Trust Board, is one of the claimants to Waitangi Tribunal claim 262. The Wai 262 claim is being progressed on behalf of all iwi Maori. Since the original claim was lodged in 1991, an amended statement of claim has been made. It now encompasses the following issues: Maori cultural and intellectual property rights; retention and protection of matauranga Maori; environmental, resource and conservation management, and ownership claims to base resources and species; and tino rangatiratanga o nga taonga katoa.

Ngatiwai Trust Board support the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples made in 1993 at Whakatāne, Aotearoa New Zealand. The Mataatua Declaration preamble states that indigenous peoples of the world must be recognised as the exclusive owners of their cultural and intellectual property.

Matauranga Ngatiwai Objectives for Ngatiwai rohe

- The matauranga of Ngatiwai (Ngatiwai knowledge base and knowledge systems), and the cultural, genetic or biological resources and practices to which that knowledge relates, are to be used for the betterment of Ngatiwai now, and into the future.

Matauranga Ngatiwai Policies for Ngatiwai rohe

1. Any information about Ngatiwai matauranga, and the cultural, genetic or biological resources and practices to which that knowledge relates, obtained from Ngatiwai by councils, government departments, other organisations and private individuals is an intellectual property right of Ngatiwai, and must in no circumstances be alienated from them.
2. Ngatiwai knowledge will be classified as inalienable cultural heritage which is not subject to the laws relevant to public domain.

Matauranga Ngatiwai Methods for Ngatiwai rohe

1. Anyone choosing to engage with or use Ngatiwai information or resources must seek the prior written consent of Ngatiwai to do so.
2. Matauranga Ngatiwai, including historical interpretation, cultural impact assessment information and evidence presented at consent hearings, must be regarded as confidential and owned by Ngatiwai.



Photo: Tui Shortland

9.5.2 Wāhi Tapu Issues for Ngatiwai rohe

- The misunderstanding of what wāhi tapu means to Ngatiwai and the consequent mismanagement of their wāhi tapu by councils and others.

Explanation

The term wāhi tapu is in this case is used to describe a place that is sacred, significant or important.

“The reason why wāhi are tapu is because we are from that soil, and so all land is tapu” (Raukura Robinson, 2007).

Some Wāhi tapu are places other than where a human burial has occurred. Some wāhi tapu have both tangible and intangible values and dimensions.

Wāhi Tapu Objectives for Ngatiwai rohe

- The relationship of Tāngata Whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga is recognised and provided for as a matter of national importance by councils.
- Wāhi tapu within the rohe of Ngatiwai are correctly understood and managed by all who empower themselves under the Resource Management Act.



Photo: Tui Shortland

Wāhi Tapu Policies for Ngatiwai rohe

1. All wāhi tapu are sacrosanct; to be given the highest level of protection.
2. It is inappropriate to apply any value system, practice, or physical modification to a wāhi tapu that may diminish its status. No hierarchical values will be placed on wāhi tapu within any council's planning documents.
3. Tāngata Whenua are the kaitiaki of wāhi tapu, both tangible and intangible, within their rohe.
4. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting wāhi tapu (including archaeological sites), because of their special relationship with these taonga.
5. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning earthworks within a one km landward setback from mean high water springs.

Explanation

Unknown subsurface wāhi tapu can be discovered during earthworks.

6. Only after appropriate effective engagement and adequate remediation or mitigation, or safety or security reasons, will Tāngata Whenua support any negative or destructive impacts on their wāhi tapu.
7. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around wāhi tapu.
8. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.
9. The vesting of wāhi tapu to Ngatiwai is a relevant tool of protection.

Wāhi Tapu Methods for Ngatiwai rohe

1. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice.
2. Tāngata Whenua will be accorded affected party status by the relevant council of any resource consent application within four kilometres of the coastline, or within one kilometre of a recorded archaeological site.
3. All resource consent applications within four kilometres of the coastline or within one kilometre of a recorded archaeological site must be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
4. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.
5. Coastal sand dune areas will be classified as “hazard prone areas” because of skeletal burials.
6. All councils will produce cultural heritage strategies.
7. Councils will transfer powers associated with the protection of specific Wāhi Tapu on council owned land to Ngatiwai, upon a viable application being made under Section 33 of the Resource Management Act.
8. Provisions for an acquisition fund for historic or cultural heritage sites or areas are to be initiated within councils’ long term council community plans.
9. Territorial authorities, regional councils and national government are to work together in a co-ordinated effort to develop a national fund for the protection of Wāhi tapu.
10. Councils will offer rates relief as an incentive and a method of compensation for those land owners who covenant land with wāhi tapu.



Photo: Tui Shortland

9.5.3 Rāhui Issues for Ngatiwai rohe

- The lack of direct and effective Ngatiwai involvement, as the kaitiaki, in the sustainable management of their resources, which at times is due to a lack of understanding and use of rāhui as a contemporary tool for the management of a resource.

Explanation

Ngatiwai kaitiakitanga includes the regulation of resources through the use of rāhui. Rāhui is both a traditional and contemporary form of managing a resource. Rāhui is the temporary prohibition of any natural resource for rejuvenation purposes or the temporary prohibition of access to a place for health and safety purposes. This system recognises the need to balance human requirements with the survival of a species or resource.

Rāhui Objectives for Ngatiwai rohe

- The relationship of Tāngata Whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga is recognised and provided for as a matter of national importance by councils.
- The use of Rāhui is recognised, respected and practised.

Rāhui Policies for Ngatiwai rohe

1. Recognition of and respect for rāhui as a viable tool for managing resources.
2. Recognition of, respect for, and compliance with rāhui will be accorded by all councils to Tāngata Whenua.

Rāhui Methods for Ngatiwai rohe

1. Councils and Crown agencies will give effect to the practise of rāhui by including compliance statements within their plans and operational documents.
2. Rāhui is initiated by kaumatua/kuia and may be put in place and monitored by Iwi, Hapū or Marae.
3. The utilisation of rāhui alongside other management tools, such as abatement notices, infringement notices, daily bag limits, closed seasons.

9.5.4 Taniwhā Issues for Ngatiwai rohe

- The existence of misperceptions by the general public around taniwhā, and the consequent mismanagement of places over which taniwhā reside by councils and others empowered under the relevant legislation.

Explanation

The Taniwhā which this document refers to are those which look after resources and places as kaitiaki. For example, at the foot of the town side of the Onerahi hill in Whangarei is the Waimahanga Stream. Here lives a taniwha named Te Karuwaha, who is particularly significant to the Mahanga people of Ngati Kororā, a Hapū of Ngatiwai.

Taniwhā play a major role in the enforcement of the management of resources and places over which they reside. For example, areas can be designated as wāhi tapu due to the local existence of taniwhā.

Taniwha have featured in the news in recent years. In 2002, Tainui Hapū, Ngati Naho, requested that Transit New Zealand halt construction of 100 metres of State Highway 1 near Meremere after they raised concerns about road work encroaching on the home of taniwhā Karu Tahi. Transit and Ngati Naho jointly agreed to a modification of the road design to preserve most of the site. They also agreed to have a Hapū member present when critical works were taking place to ensure that Ngati Naho's cultural values were protected.

Taniwhā Objectives for Ngatiwai rohe

- Taniwhā are accorded their due respect.
- The relationship of Tāngata Whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga is recognised and provided for as a matter of national importance by councils.

Taniwhā Policies for Ngatiwai rohe

1. Relevant management mechanisms are provided over resources and areas which Taniwhā reside.

Taniwhā Methods for Ngatiwai rohe

1. Any changes to the environment within which a Taniwhā resides is prohibited within the written approval of Tāngata Whenua.
2. Any development which may have flow on effects on the environment within which a Taniwhā resides is prohibited within the written approval of Tāngata Whenua.
3. The legislative requirements in regard to Tāngata Whenua tangible and intangible beliefs including Taniwhā will be reviewed.

9.5.5 Ngatiwai Landscapes Issues for Ngatiwai rohe

- The ongoing damage and destruction to areas or sites of customary value which contribute to or a part of Ngatiwai cultural landscape.

Explanation

At times areas or sites of customary value are afforded a hierarchical status without input from the relevant Tāngata Whenua. Sites such as middens can be considered as a pile of rubbish. Other significant features are weighed against the views or positions of houses.

- Areas or sites of customary value are often limited to western definitions, such as “archaeological”.

Explanation

Under the Historic Places Act 1993 it is an offence to destroy, damage, or modify, or cause to be destroyed, damaged, or modified, the whole or part of any archaeological site, knowing or having reasonable cause to suspect it is an archaeological site. Therefore at times Ngatiwai landscapes cannot be considered in Historic Places Trust authorities for destruction, damage or modification.

- The scope of the Building Act 2004 is focused on the control of building, rather than to addressing any potential customary impacts.



Photo: Tui Shortland

Ngatiwai Landscapes Objectives for Ngatiwai rohe

- The relationship of Tāngata Whenua and their culture and traditions with their ancestral lands, water, sites, Wāhi tapu and other taonga is recognised and provided for as a matter of national importance by councils.
- The protection of areas or sites of customary value.
- All councils implement more appropriate provisions for cultural landscapes under their historical heritage responsibilities, such as the development and implementation of cultural landscape strategies.
- The effective definition of areas and sites of customary value by Ngatiwai.
- Robust forms of linkage mechanisms are established between the Building Act and the Resource Management Act by all district councils, so Ngatiwai landscapes are not accidentally damaged, destroyed or modified.



Photo: Tui Shortland

Ngatiwai Landscapes Policies for Ngatiwai rohe

1. The recording of Ngatiwai landscapes will be supported by councils.
2. Councils must take responsibility for advocating and educating landowners and developers about areas or sites of customary value.

Explanation

Several councils within the Ngatiwai rohe do not have a cultural heritage policy.

3. The areas and sites of customary value which contribute to or a part of Ngatiwai cultural landscape must be defined by Tāngata Whenua.
4. Any decisions made in regard to the definition of areas or sites of customary value to Ngatiwai or within Ngatiwai territory must be made in accordance with Tāngata Whenua.
5. Councils and Tāngata Whenua will jointly develop customary value, cultural landscape and or cultural heritage strategies.
6. All planning provisions in relation to Ngatiwai landscapes must be written in conjunction with Tāngata Whenua.

Explanation

Cultural landscape policy and strategies are currently being developed by councils. These policies and strategies will be more effective if they are consistent with how Tāngata Whenua define and manage them.

7. Tāngata Whenua promote the use of innovative non-destructive, non-intrusive geophysical surveying techniques (e.g. ground penetrating radar, soil resistivity measurement, magnetic field anomalies and disturbances measurement) to reveal the subsurface archaeological landscape, whenever possible, and appropriate.

Explanation

Landowners and developers can use these geophysical tools to swiftly survey areas of land under development consideration.

8. Project Information Memorandum (PIM) must contain any areas or sites of customary value, including those on the NZAA database that may be affected by the proposed building project.

Explanation

A situation arose some years ago at Pataua South, near Whangarei, where additions to an old bach were planned. It was discovered during earthworks that the bach sat on part of a huge midden site spreading over five or six properties. The midden contained moa bone fragments as it was near a sandy peninsular where moa were hunted. Subsequent research revealed the site was not recorded on the PIM.

Ngatiwai Landscapes Methods for Ngatiwai rohe

1. Ngatiwai pā must be protected from cut and fill earthworks for the construction of houses and access ways, and forestry harvesting sky hauler platforms.

Explanation

The landward part of The rohe of Ngatiwai begins right on the coast itself. Residence on the coast gave access to abundant resources. Evidence today can be seen in the large numbers of pā around these areas. Where such pā are located, there is a high occurrence of other relevant features, such as tracks, disposal sites, and wāhi tapu, including burial sites.

Two hundred years of development without the effective engagement and management of Tāngata Whenua has destroyed the surface evidence of these areas and site.

2. Earthworks along ridgelines or within 100 metres of the top of a ridgeline are prohibited, unless express written approval is provided by Tāngata Whenua.
3. Only after appropriate effective engagement and adequate remediation or mitigation, or for safety or security reasons, will Tāngata Whenua support any negative or destructive impacts on their cultural heritage.
4. which contribute to or a part of Ngatiwai cultural landscape Areas or sites of customary value which contribute to or a part of Ngatiwai cultural landscape, must not be impacted upon negatively without the express written approval of Tāngata Whenua.

Explanation

In most circumstances Tāngata Whenua will only carry out maintenance or study that will enhance the conservation of the physical, spiritual, and cultural integrity of their cultural heritage.

5. All archaeological assessments within the rohe of Ngatiwai will be carried out by a suitably qualified Tāngata Whenua resource management unit representative and a qualified archaeologist, recognised by the NZ Historic Places Trust under Section 17 of the Historic Places Act.
6. Where there is sufficient evidence that subsurface areas or sites of cultural significance exist, geophysical surveying methods will be utilised to assess the existence of such areas post development.
7. All applications to the New Zealand Historic Places Trust to modify damage or destroy a site or area will be jointly worked through with Ngatiwai and will be concurrent with the consent application being processed.
8. Tāngata Whenua are acknowledged as the kaitiaki of the areas and sites of customary value within their territory.

Ngatiwai Landscapes Methods for Ngatiwai rohe continued

9. The relationship of Tāngata Whenua and their culture and traditions with their ancestral lands, water, sites, Wāhi tapu and other taonga is recognised and provided for as a matter of national importance by councils.
10. There is an increased Tāngata Whenua involvement in the management and monitoring of their areas and sites of customary value.
11. Tāngata Whenua traditional environmental knowledge in relation to their areas and sites of customary value is appropriately acknowledged and utilised.
12. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around areas and sites of customary value.
13. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge in their strategies and plans.
14. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice, particularly in relation to decisions on the location of lot boundaries, house site building platforms and access ways relative to archaeological sites.
15. Tāngata Whenua will be notified by the relevant council of any resource consent application concerning or potentially affecting areas and sites of customary value.
16. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting areas and sites of customary value, because of their special relationship with these taonga.
17. All resource consent applications concerning or potentially affecting areas and sites of customary value will be lodged with a Tāngata Whenua Impact Assessment written by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
18. Whenever Tāngata Whenua are involved in setting conditions for a consent, they then are responsible or jointly responsible for monitoring compliance with those conditions.
19. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.

Ngatiwai Landscapes Methods for Ngatiwai rohe continued

20. All consents involving earthworks within a four kilometre distance of Mean High Water Spring require an initial soil scrape, monitored by the appropriate Tāngata Whenua, to be undertaken as a standard consent condition. Written notice of the intention to commence earthworks will be given to Tāngata Whenua 15 days working days prior to work commencing. A written report will be provided by Tāngata Whenua to the relevant council at the completion of monitoring.

Explanation

An initial soil strip is a method routinely recommended and used by Tāngata Whenua to identify the existence of any unknown subsurface archaeological sites. A small digger is suitable for such work. The digger blade carefully skims the surface layer of vegetation and topsoil so any sites, should they exist, may be identified. This is a precautionary measure.

21. A training programme for machinery operators is available from Ngatiwai and must be enforced by councils to ensure that during any earthworks, the identification of areas or sites of customary value is increased.
22. All consents involving earthworks within a four kilometre distance of Mean High Water Spring require monitoring by Tāngata Whenua monitors in the event of areas or sites being discovered.
23. Should previously unrecorded subsurface archaeological sites be discovered during earthworks; or koiwi are exposed; or if there is a death on site, then all relevant project operations in the area of the event must cease immediately. The contractor or the person monitoring the earthworks will immediately advise the site manager and Ngatiwai Trust Board, and take steps to secure the area to ensure that it remains undisturbed. The site manager will advise the New Zealand Historic Places Trust (and the NZ Police if appropriate). The site manager will ensure that staff or representatives are available to meet and guide the appropriate Ngatiwai representatives to the site, and assist them with any reasonable requests they may make. In the case of discovery of human remains, Tāngata Whenua and the property owner / developer will jointly seek any necessary approval of the New Zealand Police or the Historic Places Trust so that the remains can be appropriately recovered and buried at a site nominated by the Ngatiwai and Tāngata Whenua representatives. All relevant construction operations or work will remain halted until such measures are decided. All representatives involved in the situation will ensure that they act in a respectful manner, being careful to involve no unnecessary parties or publicity at any time.
24. Where electricity, telecommunications, access ways, pile foundations, road use upgrade and maintenance and effluent disposal systems are to be laid underground, the proposed route for the trenching, thrusting or directional drilling will be assessed, by spear probing, for archaeological sites prior to earthworks starting and will be monitored by Tāngata Whenua.
25. Should taonga tuturu such as adzes, sinkers or carvings be discovered within Ngatiwai territory, they must be passed to the Ngatiwai Trust Board as a registered collector of artefacts under the Antiquities Act 1975.
26. Any museum who knowingly accepts found Tuturu Taonga within Ngatiwai territory must pass such Taonga to the Board until ownership is finalised.
27. Tāngata Whenua will be notified of any building consent application within four kilometres of landward Mean High Water Spring and within one kilometre of a recorded archaeological site.

9.5.6 Customary Materials Issues for Ngatiwai rohe

- The lack of direct and effective Ngatiwai involvement, as the kaitiaki, in the sustainable management of their customary resources.

Explanation

Customary resources are taonga tuku iho and belong to Tāngata Whenua.

Customary resources include all tangible and intangible resources utilised by Ngatiwai to sustain Hapū and Marae.

- Ngatiwai taonga and their natural environment are being mismanaged and therefore customary resources and provisions sourced from the environment are negatively impacting the cultural diversity of Ngatiwai.

Explanation

Other management regimes, such as managed cultural harvesting, are not being considered as viable management tools.

The customary utilisation of native bird feathers for weaving has increasingly declined due to deforestation and management, such as allocation.

The kiore, are being completely eradicated due to the negative impacts on the environment however these impacts have not been compared appropriately to their customary values.



Photo: Tui Shortland

Customary Materials Objectives for Ngatiwai rohe

- Tāngata Whenua are acknowledged as the kaitiaki of their customary resources within their rohe.
- The relationship of Tāngata Whenua and their culture and traditions with their taonga is recognised and provided for as a matter of national importance by councils.
- There is an increased Tāngata Whenua involvement in the management and monitoring of customary materials.
- Tāngata Whenua traditional environmental knowledge in relation to their customary resources is appropriately acknowledged and utilised.
- An abundance of resources is available for cultural harvesting by Tāngata Whenua.
- The establishment, by Tāngata Whenua, of store houses for Tāngata Whenua use and management of their customary resources.



Customary Materials Policies for Ngatiwai rohe

1. Tāngata Whenua are the kaitiaki of customary resources in their rohe.
2. Customary resources are the property of Tāngata Whenua and therefore should remain in or be returned to their possession.
3. Tāngata Whenua are an affected party to any resource consent application within their rohe concerning or potentially affecting customary resources because of their special relationship with these taonga.
4. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making around customary resources.
5. Whenever Tāngata Whenua are involved in setting conditions for a consent, they will then be resourced appropriately by the applicants or council to monitor compliance with those conditions.



Customary Materials Methods for Ngatiwai rohe

1. Tāngata Whenua will be notified by the relevant council of any resource consent application concerning or potentially affecting customary materials.
2. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice.
3. All resource consent applications concerning or potentially affecting customary resources must be lodged with a Tāngata Whenua Impact Assessment by the relevant Tāngata Whenua. Suggested consent conditions will be included in the assessment.
4. Tāngata Whenua will receive copies of any infringement or abatement notices or Environment Court proceedings issued by a council within Ngatiwai territory.
5. Councils will give effect to respect for Tāngata Whenua traditional environmental knowledge by including that knowledge in their strategies and plans.
6. When customary resources are scarce or endangered, their management must be determined by Tāngata Whenua. This will be recognised and provided for by councils.
7. An abundance of resources is available for cultural harvest by Tāngata Whenua.



Photo: Tui Shortland

9.5.7 Exotic Plantation Forestry Issues for Ngatiwai rohe

- The mauri of water and its associated ecosystems is being damaged through mismanagement of forestry activities.
 - *Explanation*
 - *Physical damage is occurring to indigenous aquatic ecosystems due to forestry activities. Streamside banks and swamps are impacted upon by the felling of trees into and across them. The erection of culverts is contributing to the gradual erosion of stream banks. Sedimentation from forestry road formation and harvesting activities is negatively impacting downstream water users (including those with formal easement arrangements). Cumulative sedimentation is causing effects on shallow estuaries, harbours and kaimoana areas.*
 - *Some logging truck movements are causing negative impacts.*
- Forestry activities have off site negative impacts for neighbouring properties.
- The assumption that properties containing plantation forests could not have unrecorded areas or sites of customary value to Tāngata Whenua.
 - *Explanation*
 - *Recorded and unrecorded Ngatiwai archaeological sites (Wāhi Tapu) within forestry areas are being damaged or destroyed during forestry road formation and harvesting.*

Exotic Plantation Forestry Objectives for Ngatiwai rohe

- The more sustainable extraction and management of forestry resources without adverse impacts upon the aquatic environment.
- The more sustainable use of logging trucks throughout Ngatiwai territory.
- A more effective management of forestry activities will low to nil impacts on neighbouring properties.
- The protection of areas or sites of customary value to Tāngata Whenua.

Exotic Plantation Forestry Policies for Ngatiwai rohe

1. Forestry activities permitted or otherwise must adhere to sustainable management best practises.
2. Truck movements and loads are to be kept at rates that will ensure low to nil impacts.
3. Forestry companies develop and implement (in effective engagement with their surrounding local community) a good neighbour code of practise that recognises the long term relationship forestry companies have entered into with the community around them, and the community goodwill toward the company.
4. An increased Tāngata Whenua involvement in the management and monitoring of exotic forestry resources.
5. Tāngata Whenua traditional environmental knowledge in relation to resources is appropriately acknowledged and utilised.
6. The mauri of water and its associated ecosystems are protected and enhanced in ways which enable Tāngata Whenua to provide for their social, economic and cultural wellbeing; and that of generations as yet unborn.
7. The life-supporting capacity of creeks, streams, water bodies, wetlands, swamps, springs, aquifers, thermal waters, estuarine waters and coastal waters enables optimum health and wellness for all Tāngata Whenua; those they host within their rohe; their plants, animals and other whanaunga; and their waterways and moana.
8. The relationship of Tāngata Whenua and their culture and traditions with their ancestral lands, water, sites, Wāhi tapu and other taonga is recognised and provided for as a matter of national importance by councils.



Photo: Celia Witehira

Exotic Plantation Forestry Methods for Ngatiwai rohe

1. All forestry consent applications will be discretionary, and publicly notified.
2. When establishing an exotic plantation forest, any natural indigenous vegetation of between one and five hectares in area with an average canopy height of at least six metres will be excluded from land clearance and disturbance. (This is a policy of the NZ Forest Accord, signed in 1991)
3. The use of chemical pesticides, fertilisers or any other contaminant in a manner where they can affect or potentially affect any waterway is prohibited, unless decided otherwise by Tāngata Whenua.
4. Exotic plantation harvesting will be preceded by a comprehensive biological audit to identify indigenous animal and plant species in the harvesting area, as well as a cultural health audit to assess the mauri of the resource or area, prior to development commencing. Consent conditions will stipulate continued regular assessment of the cultural health of the resource or area.
5. Wildlife corridors will be planned for within and between plantations. These areas will be mapped and joined by, if necessary, council-managed wildlife corridors. All these corridors will be permanent native bush and will be fenced off.
6. Forestry operations will be channelled into the most appropriate areas by a land use classification system. Forestry development will only be allowed in this designated area.
7. Sky hauler platforms will be sloped in towards the hill or ridge so water run-off does not erode and wash away cut and fill areas.
8. Roads are to be located as far from a stream as possible.
9. Stream crossings must be minimised.
10. Riparian margin planting of indigenous eco-sourced flora must extend to five metres on all waterways.
11. Harvested areas must be replanted with eco-sourced indigenous flora.
12. Organic methods of weed minimisation must be utilised.
13. Road dust from logging trucks is to be minimised by tar seal or speed limits to avoid affecting household water supply, property, stock and horticultural crops during harvesting.
14. Speed limits are to be imposed along school bus routes and where roads are narrow, winding or unsealed.
15. Logging truck vibration and noise is to be kept at a minimum outside of business hours.
16. Develop corporate principles to guide relations (e.g. focus on long-term and reciprocal relationships; build trust; ensure mutual respect; focus on win-win activities; adopt openness, transparency, full disclosure, etc. as working norms), identify people and operations within the company to manage implementation of the principles, create processes to measure progress.

Exotic Plantation Forestry Methods for Ngatiwai rohe continued

17. Forestry companies are to hold regular meetings with communities, outside formal agreements.
18. Forestry companies are to play an active, voluntary role in the communities by, funding community cultural events, schools, curriculum development, Tāngata Whenua history projects; sponsoring extracurricular activities such as teams for Tāngata Whenua games and celebrations; and establishing career days.
19. Planting of pine trees right up to the boundary is prohibited to avoid neighbouring houses and properties to lose their sunlight for years at a time.
20. Tāngata Whenua are an affected party to any forestry activity within a four kilometre distance of Mean High Water Spring.



21. Councils will actively promote to consent applicants pre-application effective engagement with Tāngata Whenua as being best practice.
22. Use will be made of all relevant forms of knowledge and practises and information, including Tāngata Whenua traditional environmental knowledge, in assessments and decision-making.
23. Tāngata Whenua will be notified of any resource consent application concerning earthworks relating to forestry road construction or harvesting.
24. Whenever Tāngata Whenua are involved in setting conditions to consent, they must then be responsible or jointly responsible for monitoring compliance with those conditions.
25. The destruction of Ngatiwai pā located along ridgelines from cut and fill earthworks for the construction of forestry harvesting sky hauler platforms is prohibited without the express written approval of Tāngata Whenua.

Exotic Plantation Forestry Methods for Ngatiwai rohe continued

26. Forestry companies are to identify Tāngata Whenua interests in forest management planning processes by commissioning Tāngata Whenua Impact Assessments and Reports as part of forest management plans and as the basis for further engagement on forest management plans and to mitigate impacts and compensate for damages incorporating traditional ecological knowledge systems into forest management planning processes.
27. Forestry companies are to achieve more equitable participation of Tāngata Whenua in the benefits of forest management e.g. job opportunities, wood supply opportunities.
28. Forestry companies are to incorporate identified concerns in forest management plans by setting aside tracks of land for Tāngata Whenua areas or sites of customary value, recreational hunting and fishing.
29. Implement forest management plans by providing Tāngata Whenua awareness training for employees to cover respect for customary practices and the identification of areas and sites of customary value.
30. Provide advance notice of forestry activities that may impact on Tāngata Whenua e.g. road building and road decommissioning.
31. Tāngata Whenua will monitor any resource consent application concerning earthworks relating to forestry road construction or harvesting in areas significant to them.



9.5.8 Genetically Modified Organisms Issues for Ngatiwai rohe

- The use and development of genetically modified organisms without the approval of Ngatiwai.

Explanation

Ngatiwai are not opposed to the pursuit of knowledge but in general Ngatiwai opposes the introduction of this activity in its rohe.

It is contrary to Ngatiwai whakapapa, it breaches tikanga, it represents untested dangers, and is not generally in any way essential to human well-being.

Genetically Modified Organisms Objectives for Ngatiwai rohe

- Aotearoa New Zealand is free of genetically modified organisms, or products produced from such organisms, except for their use for medical reasons.

Genetically Modified Organisms Policies for Ngatiwai rohe

1. No genetically modified organisms, or products produced from such organisms, will be introduced.
2. The adoption of the precautionary approach by councils to genetically modified organisms, requiring that all risks be fully understood before these organisms are utilised.

Genetically Modified Organisms Methods for Ngatiwai rohe

1. A moratorium is placed on all genetic engineering projects within Ngatiwai territory pending the written approval of Tāngata Whenua.

10. Kupu Taka - Glossary

Animal effluent - Defined in the *Regional Water and Soil Plan for Northland* as effluent from livestock collected or otherwise managed as a point source discharge, and includes sites like feedlots, dairy sheds piggeries and hen houses. It does not include discharges from animals in an unmanaged situation.

Contaminant - Defined in the *Regional Water and Soil Plan for Northland* and the *Resource Management Act 1991* as a contaminant which includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy or heat, that either by itself or in combination with the same, or other substances, energy, or heat, when discharged into water, changes or is likely to change the physical, chemical or biological condition of water.

Convention on Biological Diversity - This convention acknowledges the important role of indigenous peoples in the management and conservation of natural resources and their biodiversity. Article 1 outlines the objectives, which include:

- The conservation of biological diversity;
- The sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including appropriate access to genetic resources and by appropriate transfer of relevant technologies; and
- Taking into account all rights over those resources and technologies.

The CBD was opened for signatures in 1992 at the Rio Earth Summit.

Effluent - Defined in the *Regional Water and Soil Plan for Northland* as any waste or wastewater to be treated and / or disposed of. It does not include solid waste.

Farm dairy waste - Defined in the *Regional Water and Soil Plan for Northland* as all wastes leaving a farm dairy and yard, including animal urine and excreta, wash down water, detergents, soil, sterilizing agents and other residues.

Kaitiaki - guardian

Kaitiakitanga - guardianship

Kaumatua – someone who knows everything about their tribe, and has the support of their tribe

Kaupapa – policy

Mahinga kai – place where food is grown

Manaakitanga – the way we look after each; honouring people as we do the gods, no matter who they are (mena kore pai to manaaki ki te manuhiri, e kore ratou e hoki mai)

Mana moana – because we are children of the sea we have a right to what it provides (mana wai, ahakoa ki uta)

Mana whenua – because we are children of the land we have a right to that place like no other

Manuhiri – visitor

Matauranga – knowledge base and systems

Maunga - mountain

Mauri - spiritual power,
(mana wairua)

Mokopuna – grandchild/children

New Zealand Biodiversity Strategy (NZBS) - The vision of the NZBS is:

- New Zealanders value and better understand biodiversity;
- We all work together to protect, sustain and restore our biodiversity, and enjoy and share in its benefits, as the foundation of a sustainable economy and society;
- Iwi and hapu as kaitiaki are active partners in managing biodiversity;
- The full range of New Zealand’s indigenous ecosystems and species thrive from the mountains to the ocean depths; and
- The genetic resources of our important introduced species are secure, and in turn support our indigenous biodiversity.

The NZBS will be implemented over twenty years from 2000.

Non-point source discharge - Defined in the *Regional Water and Soil Plan for Northland* as any diffuse discharges, such as runoff or leachate from land, onto or into land, air, a water body or the sea.

Paru - black mud found in swamps

Pataka – food store

Puna - spring

Repo - swamp

Rangatiratanga – realm of the chiefs, spiritually and culturally

Riparian zone - The strip of land bordering a stream, lake or estuarine / coastal zone. It is the transitional zone between land and water. It characteristically possesses soil, which re wet and sometimes inundated, is commonly found on floodplains and near the bottom of hill slopes adjoining streams.

Rohe - region of responsibility or area of tribal authority

Tāngata Whenua – people of the land

Taonga tuku iho – something rare or precious handed down (including korero)

Tapu – extremely sacred; there are many types of tapu, used in different ways for different kaupapa; can be restrictive

Tikanga – culture, custom
(kaupapa, era whakaaro mau mai i a tatou)

Te Tiriti o Waitangi – The Treaty of Waitangi the Maori version; the founding document between Maori and Pakeha

Torere – Secret places where bones were laid to rest

Tupuna – Ancestor, whakapapa, where you come from

Urupa – Cemetary, burial ground

Wahi tapu – An extremely sacred place

Waimate - dead water, water that has been contaminated so that it no longer capable of sustaining life

Wet areas - Wet areas are defined by NRC in the *Regional Water and Soil Plan for Northland* (Appendix 13A) as areas of rushes, reeds, stock drinking ponds and manmade drainage channels. A wet area is not considered to be a wetland under this definition.

Whakapapa – genealogy, family history

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