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**A BICULTURAL PARTNERSHIP
FOR TE WAIHORA (LAKE ELLESMERE):
A CASE STUDY IN
MANAGEMENT PLANNING**

by

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PREFACE

Effective conservation management of Te Waihora (Lake Ellesmere) depends, at one level, on cultural understanding and cultural cooperation. What is defined as a resource and as worthy of conservation depends on cultural understanding of what is valuable or useful. These ideas in turn guide the way that resources are used to sustain community life.

In New Zealand, the institutions and practices concerned with natural resource management strongly reflect the values and interests of Pakeha culture. Those who control natural resource management decisions, whether in central, regional and local government, or in business and private industry, are predominantly Pakeha. Legislation governing resource management has similarly reflected Pakeha concerns and priorities.

The world view and aspirations of Maori people have been significantly underrepresented. Their values concerning the conservation and protection of natural resources have not been recognised; nor have tribal interests in natural resource management been addressed. However, the dominance of Pakeha values in natural resource management is increasingly being challenged by the forceful expression of Maori claims over land, water and other resources.

The Department of Conservation is concerned to develop a greater understanding of Maori environmental values and to work in partnership with iwi to achieve its own conservation objectives. Not only does the Department have a statutory requirement to give effect to the Treaty of Waitangi in its policy and operation; consultation is also imperative for pragmatic reasons of avoiding conflict and ensuring effective administration.

This report focuses on some central issues arising from cultural differences in natural resource management practices and explores forms of decision-making appropriate to partnership in resource management.

**A BICULTURAL PARTNERSHIP FOR
TE WAIHORA (LAKE ELLESMERE):**

A CASE STUDY IN MANAGEMENT PLANNING

by

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ABSTRACT

A partnership between the Department of Conservation and the Ngai Tahu is required to facilitate planning and management of Te Waihora (Lake Ellesmere). The Waitangi Tribunal's recommendations on ownership and joint management have emphasised the need for consultation. The Crown and iwi have two rather different perspectives on the resource, and different definitions of the meaning of partnership. The history of Maori use, and how current use impacts on Ngai Tahu, set the context within which a bicultural partnership needs to operate. Understanding the resource management perspective of the local iwi, and incorporating it into planning for Te Waihora is important for success, and for meeting the Department's statutory responsibilities to the Treaty. Other lake users have different agendas which can conflict, and the management partnership must find ways to consider these interests. The process of partnership is analysed in terms of: agenda, who, when, and where consultation should take place, and what resources will be needed. Some preparations have already been made by the Department and by the iwi. As consultation proceeds, pressures will arise, and conflicts will need to be resolved. Partnership offers opportunities for an increased pool of knowledge and resources, important openings for tribal development, and a more unified approach to planning and management. Recommended moves for the Department to help it realise an effective partnership with Ngai Tahu indicate the more critical areas where action is needed.

1 INTRODUCTION

The development of partnership between the Department of Conservation's Canterbury Conservancy and Ngai Tahu² runanga with traditional authority over Te Waihora (Lake Ellesmere) is the subject of this report. The Canterbury Conservancy was concerned to use appropriate processes in developing a working relationship with the runanga. Planning staff were aware that, in the past, there has been little involvement of iwi in management planning (James 1990), and asked the author to undertake the study. The need for partnership has been further highlighted by the Waitangi Tribunal's recent recommendations concerning the Ngai Tahu claim. These specifically called for the return of Te Waihora to Ngai Tahu ownership, and outlined options for joint management.

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² **A glossary of Maori terms is provided in Appendix 1.**

Management of Te Waihora involves values of vital concern to both the Department of Conservation and to Ngai Tahu. The Department has identified the lake and surrounding wetland areas as a nationally outstanding wildlife habitat. It has an abundance of wildlife and a diverse number of species, including far more bird species than any other wetland area in New Zealand. Several threatened and endangered bird species use the lake. Parts of the lake margin are of national importance botanically. Furthermore, Te Waihora is of international significance, meeting all eight criteria for Wetland of International Importance status.

To Ngai Tahu, Te Waihora has significant spiritual, cultural and economic values. Associated with these is Ngai Tahu's continuing concern with ecological protection, sustainable resource management, and rangatiratanga.

The obligation of government departments to develop partnership with iwi in decision-making, planning and implementation, is expressed in legislation and policy. However, the mechanisms to achieve partnership, and the understandings of partnership that inform such processes, are often far less apparent.

In the past, iwi involvement in decisions about the management of Te Waihora has depended on the awareness of government departments regarding the need for consultation. One of the Department of Conservation's parent agencies, the Department of Lands and Survey managed the lake and shore areas from a land development perspective, until the early 1980s. A shift in focus, to protection of the area, was evident in a departmental publication which also included a section on Maori cultural values of the lake and recommended that the local Maori community be fully involved in discussion of the lake's management (Palmer 1982: 24). That publication included the results of consultation with Riki Ellison (former Upoko of the Taumutu runanga), who made an oral submission to the document. Since the establishment of the Department of Conservation in 1987, consultation with runanga (local tribal committees) has evolved slowly. Any apparent lack of consultation reflects the slow progress on management planning within the Canterbury Conservancy, rather than a lack of commitment to consultation.

2 HISTORY OF MAORI USE OF TE WAIHORA

For Ngai Tahu, Te Waihora has always been a highly valued food source, evident by its name Te kete ika a Rakaihautu (the fishing basket of Rakaihautu). In former times, the lake and surrounding areas were traditionally renowned for an abundance of fish, waterfowl, plants (including medicinal plants), and special muds used for dyeing (Palmer and Goodall 1989: 14). Kaitorete Spit is also important. In the past it was a thoroughfare from Banks Peninsula to the south. Archaeological evidence of many camp sites and urupa is found along the spit (Tau *et al.* 1990: 5-48). The area is also of national importance as the site of the largest pingao plantation in the country (Waitangi Tribunal 1991: 155). The area is also of botanical significance; it has the largest populations of the threatened shrub *Muehlenbeckia astonii*.

The water of Te Waihora and its many resources were central to a whole way of life, forming the basis of the tribe's social and economic structure. Individual and collective identification, welfare and mana were dependent on water and its resources (Palmer and Goodall 1989). In particular, Ngai Tahu relied on foods derived from water because of the climate which prevented easy or extensive cultivation of crops in many areas (Tau *et al.* 1990: 4-12).

The food and other resources of Te Waihora were not simply exploited on an ad hoc basis. Natural resource management was practised. It involved a set of beliefs about the relationship of humans to the natural world, knowledge of the natural environment and application of that knowledge and beliefs through laws and customs to control the community's relationship with the environment.

2.1 Beliefs

The beliefs focused on a set of principles which informed knowledge and guided behaviour (Marsden 1989). Those principles included a holistic world view in which humans are integrated with nature; the need for sustainability of resources; guardianship of resources for successive generations; and a spiritual understanding of the natural environment.

Water has important spiritual and physical values to Maori which are often expressed in 'non-negotiable' beliefs (Sharp 1990: 146). Such beliefs include the idea that water may become spiritually polluted through the mixing of water from different sources (Tau *et al.* 1990: 4-15). Similarly, taniwha, or spiritual creatures are believed to exist in waterways. If they are not protected, they may cause ill-fortune (Douglas 1984: 5). Maori people expect policy and its implementation to be consistent with such beliefs.

Tau *et al.* (1990: 4-12) describe water as of 'pivotal importance' to Ngai Tahu, because '... the welfare of the life that it contains determines the welfare of the people reliant on those resources'. As a substantial body of water which was traditionally famous for water fowl, eels and other valued resources, Te Waihora's management is of crucial importance to Ngai Tahu. The beliefs and values associated with the lake are not easily compromised or overridden.

2.2 Management customs and practices

Customs and practices determined who had access to resources and how those were to be managed. They worked in the same way as European controls exerted through legislation, regulation, and formal management procedures.

Traditional knowledge and skills concerning water and its resources were held by Ngai Tahu tribal experts and handed down to chosen individuals. Certain people had extensive knowledge of fish and were able to locate fishing grounds by using stars and sea currents (Tau *et al.* 1990: 3-13). Others knew ways of manipulating the populations of shellfish. For example, shellfish beds were seeded by using logs of wood or kelp containers which were filled with shellfish spat. Often stock was brought from other areas with which the people

had connections. Population control of shellfish beds was also practised by introducing a particular whelk which ate the weak specimens (Korako n.d.: 4-7, Tau n.d.: 10). Other management practices included taking young birds and fish, so as to leave the breeding stock. Such practices were based on observations of the breeding cycles and characteristics of plants and animals (Tau *et al.* 1990: 3-2, 3-3).

Resource use was controlled through customs limiting access. Rights of access to the resources of Te Waihora and surrounding areas were granted through whakapapa (genealogy). Each whanau (family group) had use rights to their own well defined areas known as wakawaka (Tau *et al.* 1990: 3-12). Hunting and gathering food and other materials occurred on a seasonal basis. Frequently considerable distances were covered to take advantage of the times that particular resources were available (Tau n.d.: 13).

In addition to controlling access, it was sometimes necessary to prohibit the taking of resources within a particular area for a period. This was done through a rahui, or law which forbade access and sanctioned those who flouted the law. Over time, the regeneration of the resource would be monitored, and it was restored to use when appropriate (Marsden 1989: 25). Rahui were strictly reinforced through fear of physical and/or spiritual retribution. For example, a protective taniwha preserved the food resources of Te Waihora and was believed to deal with any breach of respect (Palmer and Goodall 1989: 14).

Knowledge of the natural environment and associated resource management practices aimed to ensure both resource sustainability and the vitality of Ngai Tahu culture. Resource management reinforced ties between kin groups, provided a communal expression of traditions and values, and established a framework of laws and controls. The integrated use and care of resources was essential for the expression of the group's identity. Active use of an area defined a group's manawhenua (authority over the area) in the eyes of others. Giving gifts of food and other resources was also an overt statement of rights to use the area, and in turn reinforced the connections between groups (Tau *et al.* 1990: 3-11).

2.3 Dissolution of traditional management practices

Ngai Tahu resource management practices which maintained ecological balance while allowing resource use, were largely destroyed by the arrival of European settlers and their pastoral economy. Access to traditional areas and resources was curtailed, primarily through the Crown's acquisition of Ngai Tahu lands for an extremely cheap price. Kemp's purchase of 1848 signed away territory from Kaiapoi to Otakou for payment of around 17 shillings per tribal member and promises to set aside reserves (Evison 1986: 22). However, only 317 acres were set aside and survival of the iwi was threatened by the Crown's failure to ensure sufficient areas to Ngai Tahu for their mahinga kai and settlement areas. Furthermore, European farmers prevented Maori from going on to their land to hunt for food (Waitangi Tribunal 1991: 844). Ngai Tahu were only too well aware of the disastrous effects of European settlement on their way of life, and in the 1860s commenced petitioning Parliament about the loss of mahinga kai.

The iwi had neither capital assets (land and money) to enter the European pastoral and commercial economies, nor access to their food sources to sustain them in the traditional way. Maori communities in Canterbury were, more than those in Kaikoura and Murihiku, especially disrupted by European pastoralism which required reclamation and drainage of wetlands, and the development of primary industry such as timber milling which polluted waterways (Waitangi Tribunal 1991: 934). Te Waihora was particularly affected. In the mid nineteenth century the lake was much larger than it is now and included extensive wetlands. It has been estimated that 81% of the lake's area has been lost through reclamation for agriculture since land surrounding the lake was converted into large farming runs in the early 1850s (Palmer 1982: 12, 45).

European demands for land settlement won out over the traditional economy of Ngai Tahu. The effects of the Crown's actions were to isolate Ngai Tahu, restricting them to small land holdings inadequate for survival (Waitangi Tribunal 1991: 77). The inevitable consequences were poverty, and the break up of communities as people were forced to move away in search of work in order to survive (Evison 1988: 47-49). Lack of access to and ownership of land threatened the very culture itself. The Waitangi Tribunal (1991: 70) considered that the Crown's failure to provide adequate resources for Ngai Tahu has resulted in serious detriment to the culture which continues to the present day.

The historical dominance of a particular European approach to resource management has also resulted in serious detriment to the natural environment of Te Waihora. This approach, which treats the environment in a piecemeal way, is contrary to Maori values emphasising the interconnectedness and interdependency of human communities and the natural environment. The piecemeal approach has been criticised by the Parliamentary Commissioner for the Environment (1988: 23) for precipitating ecological disaster.

3 CURRENT USES AND THEIR IMPACTS ON NGAI TAHU

In addition to the significant values Ngai Tahu place on Te Waihora, the lake is the focus of a considerable range of interests. The most notable are agriculture, commercial fishing, recreational activities and habitat and wildlife protection. (See Table 1). Some of these may be seen as conflicting with Ngai Tahu interests. Each is now discussed in relation to their concerns.

3.1 Agriculture

Most of the land surrounding the lake is now in private individualised ownership. Of the lake edge wetlands, approximately one third is in private ownership, one third is Department of Conservation land, and one third is endowment land. Because of natural fluctuations in lake level, some of the wetland freehold land is underwater for much of the time, other than at extremely low lake levels. This affects public access to the lake and has implications for water management. There are 80 to 100 private land owners around the lake, and about 10 farmers lease land for grazing from the Department of Conservation.

Table 1 Agencies, organisations, and communities of interest involved in the use and management of Te Waihora.

Entity	Activity
Department of Conservation	Responsibility for administration of lake bed, conservation areas (stewardship land), and reserves, including six wildlife sanctuaries, three scientific reserves and six other reserves. Responsibility for conservation of indigenous species, including indigenous wildlife and fisheries. Protection of recreational fisheries. Habitat protection.
Minister of Agriculture and Fisheries	Responsible for commercial fisheries, freshwater aquaculture. Issues commercial fishing licences.
Canterbury Regional Council	Resource Management Act responsibilities. Water management plan activities and lake control activities including drainage, lake level control, water rights applications.
Selwyn District Council	Resource Management Act responsibilities. Legal requirement to prepare District Scheme. Control and management of lakeside Domain (land vested in Crown).
Banks Peninsula District Council	Resource Management Act responsibilities. Legal requirement to prepare District Scheme. Endowment land on lake edge.
North Canterbury Fish and Game Council	Management of sports fish and game. Owns game farm. Issues recreational fishing and game bird licenses. Manages one DOC wildlife reserve.
Commercial fishers	Eel, flounder and mullet fisheries.
Farmers and land owners	Stop banking, drainage schemes, land reclamation. Considerable lake edge farming.
Hut users	Forty to fifty hut settlement leases. Over 200 huts around the lake.
Recreational users	Including game bird shooting, trout fishing, boating, sailing, canoeing, off-road vehicles, horse riding, walking, picnicking, photography, bird watching.

A variety of activities are carried out on the land around Te Waihora including dairy farming, sheep and cattle grazing, and mixed cropping. Some land reclamation for agricultural purposes has occurred, using drains, stopbanks and pumps. Maintenance of lake edge farming is a key issue, and the Lake Settlers' Association, a group representing farmers, has supported periodic lowering of the lake level so that productive agricultural land may be maintained.

Although a variety of attitudes towards the lake's wetlands are held among the lake edge farming community, in general, farmers assess the lake's wildlife and ecological values in relation to their interests in agricultural development (Palmer 1982: 52). Consequently they have tended not to support protection moves like the Water Conservation Order and Wetland of International Importance status (Palmer 1984).

From Ngai Tahu's viewpoint, wetland drainage and land reclamation for farming has, perhaps more than any other activity, depleted food resources. Lowered water levels have destroyed breeding areas and feeding grounds for birds, eel, and shellfish. Ngai Tahu consider that past legislation concerning lake management has, above all, promoted agricultural interests in drainage and reclamation. Such legislation is regarded as a breach of the Treaty because it denies their authority over resources:

'In the case of Te Waihora, the tangata-whenua have had their most valued resource dramatically affected by legislation which did not consult or consider their position.'
(Tau *et al.* 1990: 5-51).

3.2 Commercial fishing

Commercial fishing dates back to the 1860s when flounder were caught for the Christchurch markets (Jackson 1983: 45). Now, the lake supports eel, flounder and yellow-eyed mullet fisheries, although the flounder and yellow-eyed mullet fisheries are nowhere as important as the eel fishery. Catches of both flounder and mullet have fluctuated, and there has not been a great market demand for the latter fish (Glova and Todd 1987: 4).

The commercial eel fishery, with which Ngai Tahu are most concerned, began in 1942. But it was not until the 1970/71 season that it expanded dramatically. Over the next few years the fishery went through a classic 'boom and bust' cycle (Town 1985: 11). Demand for live eels in Japan and Europe during the 1970s resulted in a peak in 1976 when eel comprised 56% of the national commercial catch. At that time the fishery was uncontrolled, and over-exploited. This resulted in a 'total allowable catch' and license restrictions being introduced in 1978. Currently the quota is 136.5 tonnes per year, and 11 licences operate. The majority of fishers are local, living around Doyleston, Taumutu, Leeston, Southbridge, and Little River. Two licence holders live in Christchurch.

Eel catches in recent years (1986-1989) have fluctuated from 82 to 114 tonnes (MAF statistics). The large majority of eels caught have been shortfin eels. The decline in the eel fishery is largely attributed to commercial over-exploitation, although poor water quality may also be a factor (Glova and Todd 1987). The Ministry of Agriculture and Fisheries is undertaking a review of management of the commercial eel fishery in 1991.

Only a small area of the lake is prohibited to commercial fishers. This is the south arm of water near Taumutu. Local Maori people attempted to have this area declared a Maori fishery, but this was rejected in favour of a non-commercial fishery designation. (Glova and Todd 1987: 5).

The major concern of Ngai Tahu is their exclusion from the eel fishery. Exclusion has taken two forms; difficulty in entering the commercial eel fishery and difficulty in satisfying their eel requirements for customary and subsistence purposes.

3.2.1 The commercial eel fishery. Maori people have been excluded from the lake's commercial fishery because legislative controls imposed in an effort to sustain the eel stock

were not sensitive to customary practices. In 1984 a review of eel fishing licenses required that holders must derive 80% of their income from fishing. Maori fishers did not meet this criterion because they tended to fish part time, combining it with seasonal work. They also tended to dispose of part of their catch through traditional gifting arrangements to kin (Jull 1989: 40). Now, not one of the 11 commercial licence holders is Ngai Tahu.

Since 1954 the Taumutu runanga has consistently argued against the commercialisation of the eel fishery (Palmer and Goodall 1989: 22). Local people consider that decline in quantity and quality of eel stocks has been due to a lack of control in the fishery. Furthermore, they criticise the practice of taking the big eels. This is antithetical to traditional Ngai Tahu practice of taking younger stock and leaving the adult breeding population (Tau *et al.* 1990: 5-55).

3.2.2 Eel fishing for customary purposes. Many Ngai Tahu people associated with Te Waihora have attempted to follow the traditional seasonal cycle of food gathering, although in a modified way (Tau n.d.: 24). Employment in seasonal industries such as meat processing, shearing, and forestry has been fitted in with journeys to customary mahinga kai. People can remember in their childhood how traditional kai formed the basis of their diet, to be supplemented by bought food. But many food sources, threatened by pollution, have now disappeared.

It is not just that special foods are missed, but people are also concerned about the loss of opportunities to hand down values, customs, and practices to their children through teaching them the traditional ways of hunting and gathering food. Moreover, traditional foods have higher social value than bought foods. They are sought after to feed guests at hui, thus enabling the hosts to display their mana and identity (Jull 1989: 39). Te Waihora is of particular concern to Ngai Tahu because its food resources have been severely depleted, and they believe this is having a detrimental effect on their culture (Palmer and Goodall 1989: 32).

3.2.3 Crown management of eel. Ngai Tahu are also greatly concerned with the division of administrative and managerial responsibilities for the lake's eel stocks between the Department of Conservation and the Ministry of Agriculture and Fisheries. The Department is responsible for the eel as an indigenous species which may be fished non-commercially, and for its habitat, while MAF is responsible for managing the commercial eel fishery. To Ngai Tahu, this division frustrates sound management of the resource as a sustainable mahinga kai. It is an example where a holistic approach to resource management is needed.

Ngai Tahu have tended to seek help from DOC officers on all aspects of the eel fishery. In part, this is due to the proximity of DOC staff dealing with Te Waihora, as the MAF office with management responsibilities for the lake is in Dunedin. It also appears that local Maori expect the Department to take the lead in the lake management, including advocating to MAF in the interests of a sustainable eel fishery. One runanga member commented that such action by the Department would be much respected by the iwi.

3.2.4 Taiapure. One approach that local runanga may consider for the management of all aspects of Te Waihora's eel fishery is through the implementation of a taiapure. Taiapure are local fisheries provided for under the Maori Fisheries Act 1989. The Act recognises traditional fishing grounds that have customarily been of special significance to iwi. Its objective is to ensure better recognition of tribal rangatiratanga under Article II of the Treaty of Waitangi. This would enable an iwi management committee to decide matters concerning the lake's fisheries, including commercial fishing.

While proposals for taiapure must be agreed to by the Minister of Fisheries, the Department of Conservation has an interest in any taiapure proposal for Te Waihora. Such a management regime may affect, or be affected by, conservation objectives concerning the ecosystem and habitats of indigenous fish and birds of the lake. Consequently, a taiapure proposal may be considered as one of the joint management issues for Te Waihora.

3.3 Recreation

Te Waihora is well placed to provide a wide variety of recreational opportunities for the population of Christchurch and surrounding areas. The lake and its shores are used for walking, picnicking, horse riding, bird watching, photography, off-road vehicle sport, land yachting, and a range of boating and water sports (Ure and Greenaway 1987: 16). In addition, there are a number of recreational huts, mainly owned by shooters and anglers. Over 200 huts are located around the lake (Palmer 1982: 49).

The most well known recreational activities are fishing and game bird shooting. Together with the Selwyn River, the brown trout fishery of Te Waihora is regarded as the most important in Canterbury (Palmer 1982: 47). However, brown trout numbers are steadily declining (Glova and Todd 1987: 5). Te Waihora is also the most important game bird shooting area in the region.

Management of the recreational fish and game resource is the responsibility of the North Canterbury Fish and Game Council (formerly Acclimatisation Society). The Council has considerable financial interests in Te Waihora; it owns land which it runs as a game farm, and receives income from licence fees. A Department of Conservation reserve area, Yarr's Flat, is also administered by the Council.

In general, Ngai Tahu do not support recreational and sporting activities on the lake. Instead they are concerned to maintain and enhance the area's historical significance as a fish farm³. Evidence given at the Waitangi Tribunal showed that the Fish and Game Council and Ngai Tahu have quite different views on lake management.

In the nineteenth century, Acclimatisation Societies (forerunners of the Fish and Game Councils) introduced animals to satisfy settlers' desire for familiar food and sport, although they now see their role as habitat conservators (Waitangi Tribunal 1991: 891). Ngai Tahu consider that introduced fish have had detrimental impacts on native species, although

³ From Minutes of hui at Ngati Moki Marae, Taumutu, concerning Lake Waihora. 19–21 December 1986.

scientific research generally concludes that the decline in native species is mainly due to land development, rather than competition from introduced fish (Waitangi Tribunal 1991: 893). However, Ngai Tahu have also had their access to traditional foods restricted by legislation to protect introduced game, such as trout. Eel fishing has been prohibited in certain areas at certain times (Palmer and Goodall 1989: 7). In summary, the Tribunal (1991: 892) said that the activities of the former Acclimatisation Society have been at expense of the food resources of Ngai Tahu.

The potentially conflicting interests of the Fish and Game Council and Ngai Tahu are highlighted in the former Acclimatisation Society's submission to the Waitangi Tribunal. The Society commented on Maori 'non-participation' in conservation matters. It was noted that their records since 1864 show no Maori interest in the management of fish and game until 1986 when the Ngai Tahu Trust Board invited the Acclimatisation Society to attend a hui at Taumutu about Te Waihora (Clark n.d.: 4). Yet the Society believed it had provided the public with adequate opportunity for involvement in a wide range of management matters over the years.

Since Maori people have been greatly under-represented in political activity at all levels, it is most unlikely that Ngai Tahu would have been active through the channels offered by the Society for people to have their say. Ngai Tahu experience and perceptions of the impacts of introduced species on mahinga kai would not have encouraged them to look to the Society as an ally in dealing with concerns over the management of Te Waihora. Furthermore, Ngai Tahu have been far from inactive. In their own way they have advocated conservation of the lake for generations.

Despite these differences, Ngai Tahu and the Fish and Game Council have some common concerns. For example, the Acclimatisation Society's submission noted that they have objected to proposals to discharge sewage effluent into waterways entering Te Waihora, and that they are concerned about the adverse effects of lake shore erosion on wildlife (Clark n.d.: 4-6).

3.4 Habitat and wildlife protection

On the surface, it would appear that environmental management agencies and Ngai Tahu have similar interests in caring for the environment. However, while they may have common goals within the Canterbury region, such as the improvement of water quality and conservation of habitats and native species, some actions by government agencies have been perceived by Ngai Tahu as insensitive to their values. In particular, those actions have prevented Ngai Tahu from exercising rangatiratanga over treasured resources. For example, over the years, several Ngai Tahu fishing reserves in the Canterbury region have been designated wildlife sanctuaries. This has prevented members of Ngai Tahu from continuing to hunt fish and birds in those areas (Palmer and Goodall 1989: 8). While this has not been a problem for Te Waihora, it nevertheless illustrates how wildlife protection directly conflicted with iwi interests in mahinga kai.

3.4.1 Water Conservation Order. The Water Conservation Order for Te Waihora is another example where Maori values have been ignored. In 1986 an application for a Water Conservation Order, a legal protection mechanism, arose from the Wildlife Service, (then part of the Department of Internal Affairs; the Wildlife Service's responsibilities and functions are now undertaken by the Department of Conservation). Te Waihora was seen to have outstanding wildlife habitat features which merited protection. The order, which came into force in 1990, restricts lake openings and closings, prohibits damming or draining the lake, and restricts the granting of water rights. In granting the order, the Committee of the National Water and Soil Conservation Authority (1988: 3) decided that:

‘... fisheries and Maori cultural values were not outstanding in the national context, although they were regionally important. . . The committee has concluded that the draft order, by protecting the wildlife habitat values, will also protect these values. Whether these values are outstanding or not is therefore not a major concern.’

Ngai Tahu expressed their disappointment to the Committee, saying that their values and interests in the fishery had been down played (Committee of the National Water and Soil Conservation Authority 1988: 10).

In contrast, the Department's submission on the Water Conservation Order (Department of Conservation n.d. Section 5) noted that the Order should be in harmony with Maori interests, and saw their application as supporting that goal. The Department also expressed the intention to have discussions on all matters which related to Maori interests in the lake.

3.4.2 Wetland of International Importance status. Since the mid 1970s it has also been recommended by the Wildlife Service and Royal Forest and Bird Protection Society that Te Waihora be nominated for the status of a Wetland of International Important (WII). Although this designation has no legal standing, it helps to promote the protection of the site. Ngai Tahu are wary of supporting such a proposal as they consider it may affect access to the lake, and its use as mahinga kai⁴. Head Office of the Department of Conservation is committed to having the lake's WII nomination prepared by the end of the 1991 financial year, while the Canterbury Conservancy Office is concerned that various aspects of partnership over the lake first need to be worked through with the local people. Clearly, runanga will want to be involved in discussing the WII proposal. This would be seen as evidence of the Department's desire to enter into partnership.

3.5 A management plan for Te Waihora

Canterbury Conservancy has sought protection of the lake by developing a management plan, but progress on preparation of the document has been slow, mainly due to lack of staff and

⁴ Designation of an area as a Wetland of International Importance does not prevent its use by the community, so long as use is sustainable and compatible with maintaining the natural ecosystem. Two WII sites in the Waikato (Whangamarino and Kopuatai) have the support of local iwi on the understanding that the status does not threaten any Waitangi claim on the area.

resources. In mid 1990, staff attended hui with two runanga, at Taumutu and Onuku (Wairewa), to discuss formulating that plan. It was envisaged that a series of similar hui would be held with other runanga having interests in the lake. But work on Te Waihora's management plan has been overtaken by other matters deemed more urgent by the conservancy.

In the 1990/91 financial year, although one third of one planning staff member's time was allocated to preparation of a management plan, only a few days were actually devoted to it. In particular, water rights applications lodged by other parties had to be assessed because their actions have implications for conservation⁵. Although the Department's commitments to water management planning in Canterbury have limited its ability to undertake planning for Te Waihora, much of the water right and management planning work has been compatible with the conservation concerns of Ngai Tahu, as well as those of other groups.

The time staff have available to spend on statutory advocacy is less than they consider necessary and consequently decisions have been made to avoid involvement in some actions. In certain instances this has meant that the Department has not commented on applications for sewage discharges which eventually end up in Te Waihora. Such decisions expose the Department to criticism from those who see it as having a major responsibility for protecting the environment. Staff are aware of the detrimental effects that not becoming involved in some water rights cases has on the Department's own credibility, as well as on the environment. However, involvement in water rights can sometimes be deferred. Water rights are granted for a limited term, and can therefore be addressed again in the future, particularly if approval of the water right is not going to have irreversible effects on the environment. Sometimes it is more effective to put effort into developing a management plan for an area, which will address water rights matters in a holistic way, rather than devoting time to individual water rights cases.

Staff are also required under the Conservation Law Reform Act 1990 to produce conservancy management strategies (CMS) for the mainland Canterbury region (including Te Waihora) and the Chatham Islands by 1995. Although the mainland CMS will identify management directions for Te Waihora, it will not include detailed policy and guidelines which specifically address the lake's unique situation and characteristics. The Conservancy has requested Head Office approval for a separate CMS for Te Waihora. Whether this would provide an adequate structure to meet the Waitangi Tribunal's recommendations will need to be considered by all parties.

Urgent matters, particularly ones of a statutory nature and those which are perceived by staff to have adverse effects on the environment, have combined with staffing and financial resource constraints to relegate Te Waihora's management plan to a lower priority. There is a tension between urgent statutory advocacy work and the Department's management

⁵ **The major water rights application considered by the Canterbury Office in 1990 was Electricorp's application for water rights on the Waitaki River. The outcome of involvement in that was of considerable benefit to the Department. Electricorp pledged \$460,000 per year for up to 35 years to the Department for habitat improvement, in addition to a range of other measures.**

planning activities. Though less pressing, the latter are equally important for conservation, and they provide long term direction in achieving departmental objectives. Because of this tension, the management of Te Waihora has not been addressed in a systematic and sustained way through a planning document.

3.6 Conflicting interests

Apart from the traditional significance that Te Waihora has for Ngai Tahu people, interests in and use of the lake span a wide range of activities. Many have a long history involving considerable social and financial investment. Institutional structures and communities have grown up to both sustain, and to be supported by, those interests. But there are substantial conflicts between many of the contemporary uses of Te Waihora and the traditional Maori view of the resource. Traditional Maori management of the lake as a fish farm is antithetical to water sports and current commercial fishing practices. Traditional hunting beliefs and practices are opposed to modern methods of game bird hunting and fishing. Iwi interests in sustaining mahinga kai have been threatened by wildlife protection measures. Traditional Maori views of integrated management conflict with systems of environmental management which divide the lake's ecology into separate administrative components.

The potential for conflict between Maori and Pakeha values and priorities must be addressed. In particular, guidelines provided by the Treaty of Waitangi should be incorporated into management procedures for Te Waihora.

4 A NGAI TAHU RESOURCE MANAGEMENT PERSPECTIVE

Ngai Tahu consider that a plan for the management of Te Waihora is urgently required. One runanga member consulted for this report emphasised that:

"There is a need to improve Waihora. The people to do it, are the people who care for it. . . I have seen the loss of Waihora resources over the last ten years . . . you used to be able to drink the water. . . The main thing Ngai Tahu is saying, is let's get something done. We've listened to organisations that have management responsibility over the lake and resources are still deteriorating."

Ngai Tahu are prepared to provide their skills and what resources they can, to develop a management plan and ensure its implementation. They comment that their ability to manage resources in a sustainable way using modern tools, while still retaining a traditional perspective, is demonstrated by their administration of the Titi Islands (Palmer and Goodall 1989: 30).

4.1 Key concerns about Te Waihora

Ngai Tahu regard the lake's wellbeing as intimately connected to the wellbeing of many other lakes, rivers and underground waterways in the area. Accordingly, they consider that past and present management practices concerning Te Waihora have been contrary to their values (Jull 1989: 36). Management has supported agricultural interests and development above other concerns. This has resulted in: physical degradation of water quality, the ecosystem and

depletion of traditional kai; degradation of the purity and mana of the water according to Maori spiritual concepts; loss of mana whenua and the ability to provide food, and consequently loss of the mana of the people (mana tangata).

Ngai Tahu consider that the key resource management issues for Te Waihora concern water quality and quantity, and commercial fisheries. These problems have been compounded by splitting the management of the lake between various central and local government agencies. This has encouraged the tendency to artificially break up relationships between geographical areas, species and their habitats, and human activities on the lake. A good example is the eel, of great significance to Ngai Tahu, which straddles the statutory boundaries defining the responsibilities of the Department of Conservation and the Ministry of Agriculture and Fisheries. The wellbeing of the eel population is determined by the ability of each agency to take account of the responsibilities of the other, and to develop a coordinated and cooperative approach to eel management.

4.2 The contribution of knowledge and beliefs to management

To Ngai Tahu, the current piecemeal approach to the management of Te Waihora is incompatible with their guiding precepts, which emphasise the interrelationship between living things and their environment. Ngai Tahu consider it is important to examine water and land management together, so that the effects of land use on water quality may be dealt with (Palmer and Goodall 1989: 1). Furthermore, they see the compartmentalisation of management into development or protection as inconsistent. Some resources continue to be exploited, while others are locked away, regardless of the potential to use them in a sustainable manner. This has been typical of the management of Te Waihora, where game birds have been managed, while eels have been overexploited (Jull 1989: 40).

A further consequence of breaking up management into various components is that western scientific and technical knowledge, with its own disciplinary boundaries, is regarded as the most appropriate, while traditional Maori knowledge tends to be undervalued. Information that does not fit into European cultural categories of understanding is rejected in favour of explanations based on the dominant culture's own logic. However, information gained from another cultural perspective often reveals important insights that can be derived from no other source.

There is potential for traditional knowledge and scientific knowledge to combine. Ngai Tahu acknowledge the usefulness of western scientific research and technical management skills (Palmer and Goodall, 1989: 34). However, those tools will be used within a traditional framework to enhance rather than overwhelm traditional management practices. As one elder taking part in this study commented:

‘We only need the scientific evidence to back up a thousand years of traditional knowledge... We have come to the same conclusions as any academic, but management has to be done our way.’

It is appropriate to apply the benefits of traditional iwi knowledge and management practices to Te Waihora. Evidence brought before the Waitangi Tribunal for the Ngai Tahu claim shows that the tangata whenua actively managed and sustained their resources through a variety of customs and practices. Experience elsewhere also shows that traditional resource management practices can be very effective today. However, for them to work, the indigenous people must have control over land, and traditional customs need to be adapted to modern problems (Berkes 1981: 172; Usher 1981: 68). Customary lore and legal authority may work together to protect the environment.

4.3 Directions for management

Ngai Tahu resource management policy for Te Waihora emphasises the following (Tau *et al.* 1990: 5-55):

- Revegetation of riparian strips, including encouragement of land owners and occupiers to do this
- Protection of mahinga kai areas
- Restocking the lake with native fish
- Granting tangata whenua access to the lake for traditional mahinga kai activities
- No drainage of water burial sites
- Improvement of quality and quantity of waterways
- Creation and expansion of wetlands
- No further reclamation of wetlands
- Prohibitions on agricultural and chemical spraying where it will degrade water quality and affect plants and animals
- Involvement of local runanga in management

In addition, Ngai Tahu have clear views on the lake's commercial fishery, regarding past failure to ensure adequate quantity and size restrictions as devastating the eel fishery and reducing the lake's value as mahinga kai. They would seek to control the fishery and operate it to enhance the mahinga kai resource, above commercial exploitation. Traditional fish management principles, including guidelines for quantity of catch would apply.

With regard to recreational use of the lake, Ngai Tahu would reassess the emphasis on game fish and birds management in the current regime as they see this as detrimental to sustaining mahinga kai (Jull 1989: 54).

4.4 Implications of traditional management for current uses

Overall, Ngai Tahu would manage the lake according to traditional principles. However, they would also need to consider the variety of existing uses and interests in the lake, and how these are to be addressed within a traditional framework. As well as considering such matters as public access for recreational use and commercial possibilities (which include not only fisheries but also tourism), there are also the national conservation values of Te Waihora to consider. Jull (1989: 56) points out that an iwi or hapu based management system which, by definition, has traditionally been concerned with a specific area, would need to take into

account the status of a species nationally or even internationally, if it is threatened in other areas while abundant in the iwi's domain.

In acknowledging the complexity of Te Waihora management, one elder commented that it was naive to think that the lake's environmental problems could be solved simply by establishing joint management between the Crown and Ngai Tahu. Other parties, including farmers, commercial fishers, recreational users, local authorities, and the Fish and Game Council will need to be included in discussion of management. However, before any approach is made to the range of interests by the Canterbury Conservancy, it needs to jointly work out with local runanga management policies and procedures. Public involvement in natural resource decision-making should take place within a framework of partnership between the Crown and iwi.

5 WAITANGI TRIBUNAL RECOMMENDATIONS

5.1 The Ngai Tahu claim

The Ngai Tahu made the following points which are crucial to the Waitangi Tribunal's recommendations concerning Te Waihora.

1. Failure of the Crown to meet contractual obligations under the Treaty and land purchase agreements (O'Regan 1989: 234). Furthermore, the Crown has administered Ngai Tahu fisheries without consultation and without payment (Waitangi Tribunal 1991: 9). Ngai Tahu claim that their rangatiratanga over mahinga kai resources was guaranteed not only under Article II of the Treaty, but also in terms of Kemp's purchase, under which Te Waihora was taken. The Tribunal found that the terms of Kemp's purchase to reserve mahinga kai have not been complied with. In consequence, there has been "... a serious breach of Treaty principles. Serious detriment has continued down to the present day." (Waitangi Tribunal 1991: 70).
2. Dispute over the boundaries of purchased land. Ngai Tahu claim that Kemp's purchase did not include Kaitorete Spit, nor much of Te Waihora (Waitangi Tribunal 1991: 67). The Tribunal (1991: 70) concluded that clearly Ngai Tahu did not intend to part with such a valued resource.
3. Whereas the Treaty allowed only the purchase of areas that Maori wished to sell, Crown agents took the title to the whole of an area and did not keep promises to return certain reserves. (O'Regan 1989: 243). Consequently, a breach of the Treaty occurred. Under the condition of Kemp's purchase, the Crown was required to reserve to the tribe their places of residence, mahinga kai and other ample reserves (Waitangi Tribunal 1991: 499). However, the Crown failed to ensure that the tribe had sufficient for their present and future needs. Tribal members were confined to small, uneconomic areas of land and restricted from free access to mahinga kai. In summary, they could only eke out a frugal existence.

4. Ngai Tahu received a nominal payment for the lands sold and have not been compensated for that payment, as they were given totally inadequate land in place of that sold (Waitangi Tribunal 1991: 503).
5. The Crown has denied Ngai Tahu effective participation in resource management (Waitangi Tribunal 1991: 150).

5.2 Recommendations for Te Waihora

The Waitangi Tribunal recommended the return of Te Waihora to Ngai Tahu ownership. This includes full access to Kaitorete Spit. The Tribunal (1991: 871) suggested that the actual area to be returned is a matter to be negotiated between the Crown and Ngai Tahu. Two options for joint management of Te Waihora have been set out by the Tribunal (1991: 1063). The first is that the Crown returns Te Waihora to Ngai Tahu in freehold ownership and enters into joint management of the lake with the tribe. The second is that the Crown vests beneficial ownership of Te Waihora in Ngai Tahu, but remains as trustee. (This is similar to the Titi Islands regulations.) The Crown, in consultation with the tribe then regulates control and management of the lake.

In both options, the Crown's responsibility to provide financial, technical, managerial, and scientific resources is emphasised. This acknowledges the Crown's past and continuing responsibility for the lake's wellbeing and the political and economic disadvantages experienced by Ngai Tahu. The Tribunal (1991: 872) argues that:

‘There is no advantage in returning ownership if it is not accompanied by significant and committed Crown action to improve the water quality so as to restore the lake as a tribal food resource.’

5.3 Crown's response to previous Tribunal recommendations

It cannot be assumed that the Tribunal's recommendations for Te Waihora will be accepted and implemented by government. Although the Tribunal has the power to investigate Crown actions or omissions which may be contrary to Treaty principles, and to recommend how grievances should be resolved, it has no power of legal enforcement nor of determining the distribution of legal rights and duties (Sharp 1990: 74).

The Parliamentary Commissioner's (1988: 9) assessment of the Crown's response to the Tribunal's recommendations shows that it has varied in its commitment to redressing breaches. Of the 59 Tribunal recommendations to 1988, 13 were fully and nine partially implemented.

Furthermore, the Crown's response to environmental claims has not necessarily ensured that environmental degradation has been halted. For example, the three claims concerning water pollution (Motunui, Kaituna, and Manukau), raise similar issues to claims concerning Te Waihora. These issues focus on the depletion of harvestable species, the degradation of physical and spiritual water values through pollution, threats to ecosystem health and prejudicial effects on tribal fishing rights.

While some recommendations concerning these claims have been implemented, improvements are still needed. For example, the Waitara reefs continue to be polluted (Parliamentary Commissioner for the Environment 1988: 14-15).

Whether the Tribunal's recommendations on Te Waihora are accepted is, as it has been for its previous recommendations, a matter of political will. The definition of Government priorities and the nature of departmental advice to Ministers will influence the course of recommendations. Also crucial is the degree to which politicians may take into account what they perceive as the views and priorities of their electorate (Parliamentary Commissioner for the Environment 1988: 26).

An indication of popular views on the Treaty is provided by a 1989 National Business Review poll. In that, 45% of Labour voters and 30% of National voters said that the Treaty of Waitangi should be honoured. However, when it came to addressing specific grievances, support was considerably less. Only 26% of Labour voters and 9% of National voters believed that land claims were justified (Kelsey 1990: 244). Furthermore, popular conceptions of the Treaty are misinformed about its impacts on private land, and fearful of implications for tax payers (Sharp 1990: 119, Walker 1990: 283). Whether it is in response to a perceived 'Pakeha backlash' or to sustained Treasury critique of the Treaty, both political parties have clearly distanced themselves from the Treaty in the last three years (Kelsey 1990: 260, 267).

Nevertheless, the Tribunal, along with the courts, has been influential. Claims against the Government have been upheld in the courts, and the Government's narrow interpretation of the Crown's treaty obligation has been rejected. Judges have also ordered the Government to negotiate when it has refused to do so (Kelsey 1990: 236-237). Increasingly, the Tribunal is being consulted by the courts as a source of expert evidence. In some cases it is the only source of knowledge available (Sharp 1990: 84).

Essentially, the Tribunal's recommendations for Te Waihora will be assessed on two grounds. The first is whether a breach has actually occurred, and therefore whether the Crown is obliged to provide redress. The second is whether the Tribunal's recommendations are appropriate and affordable (Parliamentary Commissioner for the Environment 1988: 24). It appears from the evidence provided to the Tribunal that the dispossession of mahinga kai is a breach of Article II of the Treaty (Waitangi Tribunal 1991: 911). The extent to which recommendations for remedies are seen by the Crown as appropriate and affordable will eventually become apparent. In the meantime, the Department must address the question of partnership for joint management, whatever is decided about ownership of the lake.

6 THE PROCESS OF PARTNERSHIP

Ngai Tahu access to and management of the resources of Te Waihora has been transformed from something based on kinship connections and regulated by customary practices, to something determined by legislation and bureaucratic decision-making procedures which are anchored in a Pakeha culture and value system. Consequently, Maori people and Maori ways

of decision-making have played an insignificant part in resource management. This has often resulted in frustration:

‘Successive mono-cultural, imposed legislation has denied Kai Tahu the use of their traditional resources, removed their authority to regulate those resources and their own tribal members, and outlawed parts of their customary lifestyle. The current decision-making process also ignores the traditional Maori method of discussing important issues. . . This sense of alienation is accentuated by the array of procedural requirements, time-frames, and operating boundaries which appear to be different for each institution. . . The frustration caused by lack of consultation and exclusion from administrative functions must be seen against the Crown protection and partnership principles which Kai Tahu believed they were securing through signing the Treaty of Waitangi.’ (Palmer and Goodall 1989: 6)

Major concerns about ecological protection include the need for improvements in water quantity and quality, for revegetation of the lake margins and expansion of wetland areas. These are essential for the sustainable management of the lake's food resources (mahinga kai). But if Ngai Tahu is to implement its own policies and management concerning the lake, then the tribe must be part of the decision-making process.

Members of Ngai Tahu say that they have been systematically excluded by the Crown's denial of their rangatiratanga over Te Waihora. They believe that their rights of ownership and authority over resources is guaranteed by Article II of the Treaty of Waitangi. In confirmation of this, the Waitangi Tribunal (1991: 165) report on the Ngai Tahu claim emphasised that ‘the most significant area for change is in the field of consultation”.

To Ngai Tahu, the primary requirement of a decision-making process for Te Waihora is that it must acknowledge their rangatiratanga. This should be achieved not only in the actual development of resource management policy, but also through their involvement as equal partner in designing the decision-making procedures. Even before any decisions are made about particular resources, there are initial choices to be made about who should be involved, what will be on the agenda, and the methods of decision-making. All these choices determine the balance of power, and so it is imperative that Ngai Tahu be involved in defining the mechanics of partnership.

6.1 Who should be involved

Decisions need to be made about who may speak for, or represent, a group of people with common interests. Ideally, representatives are individuals who are able to accurately convey the views, needs and aspirations of their group. They are authorised to convey those views and are held accountable by the group. It is also generally expected that representatives replicate their constituency in terms of important social characteristics.

In reality, representation of Pakeha or Maori communities is often difficult to achieve. A spokesperson may not be widely supported by the group, or may fail to reliably communicate collective views. Furthermore, leaders are typically of higher social and economic status than

those they purport to represent, so are hardly socially representative. It takes time to define a broadly based, clearly identified community which can be represented. Within Maori society the layers of affiliation, to whanau, hapu, iwi and waka may be linked in various ways for the purposes of political activity (Pearson 1990: 209-210).

Conservancy staff may be faced with choosing whether to talk to local or regional representatives, leaders, or the "grassroots". In some cases it may be helpful to seek out information from various sources. However, it is also important that iwi members decide for themselves who is able to fairly represent their views. They are aware of the political divisions within their own communities which may inhibit representation. It may also be that for different issues, and in differing locations, representation changes. Marsden (1989: 3) suggests that consultation must take into account the "needs and potential of each iwi within their territories".

Tribal runanga are the basic social and political units crucial for the management of Te Waihora. The runanga system was established in the mid nineteenth century as a response to the Treaty of Waitangi's two principles of rangatiratanga and democratic rule by the Crown (kawanatanga). The runanga replaced traditional leadership by inheritance with the election of representatives (Waitangi Tribunal 1991: xvii). The spokesperson for each runanga is called the Upoko Runanga. Runanga are centred on marae, and include several hapu (kin groups). Five runanga have traditional authority over the lake: Rapaki, Port Levy, Ngai Tahu, Wairewa, and Taumutu (Tau *et al.* 1990: 5-50). It is generally accepted by the other four runanga that the Taumutu runanga on the lake shore should take the lead in lake management.

While it is clear that five runanga have a long and close association with Te Waihora, the Waitangi Tribunal (1991: 155) recommends that ownership of the lake be returned to Ngai Tahu, presumably meaning the tribe as a whole. There will need to be further negotiation among Ngai Tahu members as to the details of who is involved in decision-making.

There are also two specific governmental responses to partnership which need to be assessed in deciding who participates. These are the kaupapa atawhai manager position in the Canterbury Conservancy, and iwi representation on the North Canterbury Conservation Board.

Kaupapa atawhai managers in conservancies act as front line contacts with iwi in their particular areas. As such they are important disseminators of information for each party. Having both the experience of government organisations, and the mana or standing with iwi, they are instrumental in overcoming problems of cross-cultural communication. But, however much kaupapa atawhai managers are knowledgeable about the values and concerns of tangata whenua, they should not be seen as representatives of tribal interests. It is not their job to represent iwi in that way. They are employed to contribute to conservation policy from a Maori perspective and to foster effective communication with tangata whenua. They have not been chosen by iwi to negotiate on specific issues or to make decisions on their behalf. Consequently, it is both inappropriate and insufficient for conservancy managers to

assume that discussion of an issue with a kaupapa atawhai manager constitutes consultation with iwi. To do so is tokenism. The use of iwi members on Conservation Boards may also be tokenism, if they alone are expected to comment on an issue, without direct contact also being made with iwi organisations.

6.2 Setting the Agenda

Because of the dominance of Pakeha values and practices in environmental management, Maori people have been obliged to express their concerns within a foreign cultural framework. This has resulted in their concerns being inadequately considered, or only addressed when they fit in with the established way of doing things (Parliamentary Commissioner for the Environment 1988: 23).

The management of Te Waihora has reflected the predominance of a Pakeha agenda. In discussing this matter with members of Ngai Tahu, they said that they have felt restricted in expressing their concerns about Te Waihora. They commented:

“We are asked to respond to the wrong things.”

“We are being asked to respond to other people's concerns.”

“The agenda was set before consulting.”

Each culture brings to a management issue its own views of what is important, relevant, or a problem. In general, Pakeha people tend to narrowly define the topic of discussion and expect everyone to keep to the point. This is reinforced in formal meeting procedure by the written agenda of business, and the practice of ruling other issues out of order. Maori people approach meetings a different way, seeing them as an opportunity for wide ranging discussion, including much that may not be explicitly on the agenda (Metge and Kinlock 1978: 32).

For Ngai Tahu, the all-embracing reference point in discussing aspects of Te Waihora is mahinga kai. In the nineteenth century Crown agents defined mahinga kai in a narrow sense as cultivations or plantations. In contrast, tribal members see mahinga kai as all food gathering activities, encompassing “the whole resource chain from mountain top to the ocean floor” (Tau *et al.* 1990: 4–22). This interpretation shows a concern with ecosystem inter-relationships, and consequently a broad range of issues will be brought to bear on any discussion of Te Waihora.

Ngai Tahu has reacted to the predominance of Pakeha values in setting the agenda by developing a resource management strategy for the Canterbury Region (Tau *et al.* 1990). The strategy, an application of Ngai Tahu beliefs and values to resource management, raises issues of importance to iwi and proposes culturally appropriate management practices. This document could provide a useful basis for consultation between the tribe and the Department.

6.3 When to consult

Ngai Tahu people who contributed to this study emphasised that tangata whenua should be involved right from the preliminary stage of planning. Comments included:

'It's no good having representation and consultation after the fact.'

'We need to have input right from the start, before the draft is done. That's not partnership if you're not involved in policy.'

In general, government agencies are not known for involving iwi at the early stages when policy is formed and options developed (Henare and Douglas 1988: 187). However, it makes sense to involve iwi from the outset, not only so that possible conflicts may be worked out, but also to benefit from their knowledge.

The time allowed for decision-making is also important. Maori people often consider that the time is inadequate for debate and for individuals to make their views known to representatives. They like to ensure that there is opportunity for a consensus to emerge, a process that requires ample time and plenty of discussion. If it is difficult to achieve consensus, this does not mean that action cannot be taken. Maori culture provides procedures for conflict resolution and ways of expressing dissent.

6.4 Where to consult

The choice of venue for consultation is important in encouraging or discouraging people to participate. Sometimes the venue serves to reinforce the dominance of one party, by making others feel constrained in their involvement. Conversely, the meeting environment may encourage participation. For these reasons the use of the marae, the traditional forum for discussion, can be very effective in fostering partnership.

In the view of the Waitangi Tribunal (1991: 915), consultation in a Maori context is more important to Maori people than representation on Pakeha organisations. Meetings held in non-Maori venues could incorporate Maori protocol to set people at ease. It should be ensured that sufficient time is spent on a formal welcome to introduce the participants and to state the purposes of the meeting. One of the major cultural differences between Maori and Pakeha gatherings is that Pakeha tend to run meetings with a minimum of time devoted to formalities, getting on to business as quickly as possible. This appears rude to many Maori, as if people are devalued in favour of business (Metge and Kinlock 1978: 17).

6.5 Information exchange

Giving and receiving information is crucial for effective and worthwhile participation in decision-making. To set a particular management issue in context, iwi members need to understand the Department's statutory role and responsibilities, relevant policies, any operating constraints and the conservancy's own objectives for management.

Information is also required about the relationship of the different central and local government agencies which have various administrative responsibilities. Frequently iwi are frustrated by apparent conflicts of interest in the different management regimes of agencies. As Woods (1989: 38) observes for Te Waihora, the Crown has many faces, so that '... the notion of one 'Crown partner' in the context of the lake is somewhat simplistic'.

People also need to be informed about their opportunity to participate. Sometimes Pakeha officials comment that Maori do not attend hearings to present evidence, or that they do not make submissions. From their perspective, it seems like the organisation has made an effort to seek public comment, but there is still no involvement. Research on public participation processes shows that Maori are vastly under-represented (James 1990: 34). Even the use of apparently innovative participation techniques such as information kits and freephones will not necessarily secure Maori input (Kelsey 1990: 194).

A significant reason for the lack of Maori involvement is the use of many participation techniques that have originated in western societies, and are based on different understandings about how people participate. In particular, the use of indirect means for informing people about the opportunity to comment, and the system of submissions and formal hearings are off-putting to many people, both Maori and Pakeha. Even many of those who make submissions through the conventional process see this as only partially effective, and recommend additional means, such as direct consultation between departmental staff and interested groups (James 1990: 23, von Dadelszen and Wylie 1991). Personal networks formed through direct contact with clubs and groups, departmental staff, friends, or colleagues are very important for letting people know about opportunities to participate (James 1990: 9). In Maori circles, the trust board, marae committee, or runanga structure ensure that people are informed. Kin networks operate the same way.

For Maori people the opportunity to explore the issues through debate, and to provide oral evidence is particularly important. While Pakeha people may expect to receive information from reports, pamphlets, or newspaper articles, Maori people are more likely to want to hear issues explained in person by the ones who are most involved: the managers, planners, scientists and so on. This is not only to hear their assessment of the issue, but also to judge their motives and sincerity (Metge and Kinlock 1978: 26). As one person I spoke to said: "The Maori looks for the wairua".

6.6 Resources for partnership

Despite inadequate resources, Maori people have been active in advising central, regional, and local government. They are committed to being involved in decision-making about resource management, because for them it is a matter of survival. It is about regaining an economic and social basis for iwi development. Maori people have given a considerable amount of unpaid labour, or 'koha time' which generally goes unacknowledged. However, it is very difficult to sustain such involvement if resources are restricted.

Runanga members who were part of this study highlighted the need for government to provide assistance if a working partnership is to be established that is not simply a superficial gesture towards iwi consultation:

'It's very difficult to speak without resources - that's a rangatiratanga issue.'

"The Tribunal decision is good, but it's another load on people with no time and resources . . . we have demands not only from DOC, but from MAF and the Regional Council to make comment. Everyone is seeking our input."

The issue of payment and exchange must be resolved as part of partnership. Iwi offer services and expertise which have been undervalued. The need for assistance is becoming particularly acute for iwi whose future wellbeing depends on their response to a spate of new legislation and policy directions. The report on the Ngai Tahu claim emphasises that Crown assistance in providing resources is basic to a viable partnership:

"It is the Crown's responsibility to remedy its past failures and ensure resources are provided to involve Ngai Tahu in future consultation processes. There has to be a positive and substantial Crown commitment of resources."
(Waitangi Tribunal 1991: 915)

Ngai Tahu would use financial assistance for such activities as research into resource values and management options, to provide informed comment and to ensure that information on issues was made available to the wider community. Funding would also enable the tribe to make an input into hearings (Palmer and Goodall 1989: 33-34.)

6.7 Participation procedures to support rangatiratanga

The procedures employed to develop partnership in management should recognise the special relationship between tangata whenua and the Crown that is derived from the Treaty of Waitangi. In particular, they should actively support the ability of iwi to achieve authority and self-determination.

If consultation procedures are simply undertaken to fulfil certain requirements, and are narrow in the opportunities allowed for involvement, then they do not constitute partnership. In the past Maori experiences of participation with government agencies have been on a less than equal footing. Involvement has not always guaranteed an equal say, especially where decisions about who may represent, and the method of representation have been solely defined by the government. In this way representation may be used as a tool to both control and reward groups. The extent to which individuals or organisations are able to effectively represent the views and aspirations of their constituents comes to be largely determined by government interests. (Paine 1985).

For Maori, partnership is about sharing power and resources as well as responsibility. It means a shift away from the dependence that characterises much of their relationship with the State. There are examples of genuine attempts to transfer authority, responsibility and resources to the Maori partner. These include Te Ohu Whakatupu in the Ministry of Women's Affairs, Maori Access, Kohanga Reo, Matua Whangai, and Maori women's refuges. There are also models for partnership in resource management, such as a joint iwi authority and local authority management committee for Orakei reserves (Parliamentary Commissioner for the Environment 1988: 20).

In the Department of Conservation, several partnership initiatives are emerging. The Bay of Plenty Conservancy and Ngati Whare are together assessing requests for totara to be used for

ceremonial canoes and meeting houses. In the East Coast Conservancy, Mt Hikurangi has been returned to Ngati Porou ownership, although the Department will still be involved in management of a covenanted area. In the same conservancy marine reserve proposals are proceeding with substantial input from local iwi.

Obviously, the details of joint management must be tailored to each situation. A range of bicultural responses is already apparent, from modification of Pakeha institutions and processes to represent Maori values and concerns, to the development of specifically Maori institutions with authority as defined by the Treaty of Waitangi (Sharp 1990: 235). Although it is creditable for Pakeha to learn something of Maori language and customs, and to experience the marae, these are insufficient to meet the requirements of partnership. Ultimately, institutional change is required and iwi organisations will need to be recognised in law if they are to influence the management of natural resources (Parliamentary Commissioner for the Environment 1988: 20).

7 PARTNERSHIP OPPORTUNITIES

The definition of partnership, and its implications for government activities, is still evolving. Its meaning has been variously, and ambiguously interpreted by government departments, *see* Responsiveness Unit, State Services Commission (1989), The Treasury (1987: Ch.5), Henare and Douglas (1988: 112-122). In contrast, Maori people have been consistently emphatic in their expression of partnership as "... sharing power, and sharing control over New Zealand's progress". (Henare and Douglas 1988: 111). For them, partnership is about the exercise of tino rangatiratanga. These differences in perspective reflect fundamental tensions between the Crown's exercise of the power to govern and Maori interests in self-determination.

Some would argue that such tensions must be resolved through partnership if conservation is to be ensured. For example, the Parliamentary Commissioner for the Environment (1988: 1) considers that for improvements in environmental management to be achieved, there must be a greater share in decision-making for Maori, and greater acknowledgement of Maori values.

Te Waihora presents an ideal opportunity for the Department of Conservation to develop partnership with Ngai Tahu. In many respects the time is right for partnership. The need to address the lake's ecological problems is pressing. The Waitangi Tribunal's recommendations provide direction on how the relationship between Ngai Tahu and the Crown may proceed. The iwi is keen to take management responsibility and the Department acknowledges both its obligations to recognise the rangatiratanga of the tangata whenua, and the conservation concerns it has in common with them. There are, however, both problems and opportunities to consider.

As a preliminary to developing partnership in the management of Te Waihora, both the Department of Conservation and Ngai Tahu need to work on some matters of their own.

7.1 The Department's preparations

The Department acknowledged in 1989 that the iwi expect a management plan to be written for Te Waihora and that they will be centrally involved. Ngai Tahu regard the need for a plan and its implementation with some urgency, given the environmental degradation of the lake that has occurred. Their concerns reflect a general Maori distrust of the way that successive governments have made decisions about the environment. Consequently, as the Parliamentary Commissioner for the Environment (1988: 23) notes, it will be deeds, not talk, which demonstrate whether the Crown should be trusted and respected.

The Department needs to establish its credibility with Ngai Tahu by demonstrating its ability to address the lake's ecological problems. Members of local runanga think that neither the Tribunal's recommendations that the lake be returned to Ngai Tahu, nor lack of departmental resources are valid reasons for the Department to consider putting off the plan.

"Once in, DOC can't withdraw. It's got to provide the resources. Ngai Tahu won't take kindly to postponement. DoC needs to show good faith and get on with it."

The Tribunal report doesn't change Ngai Tahu perception of management of the lake. We know what we want."

DOC needs to talk to the runanga about its lack of staff. Ask the runanga how they can help. This should be part of the whole process. We can't stop because of a lack of resources."

"When do DOC and us start sitting around the table and getting the strategy going? We will judge you [DOC] on what action is taken. After three years of consultation, we're still talking."

As the agency with major responsibility for protection of the lake and its wildlife, habitat, and other resources, the Department needs to work out its response to the Waitangi Tribunal's recommendations. Central issues to decide are:

- Which of the two management options outlined by the Tribunal would the Department prefer?
- What extent of land and lake areas the Department would consider appropriate to be returned to Ngai Tahu?

Presumably these decisions would be based on ecological criteria and conservation objectives.

The Department needs to negotiate with other central, regional, and local government agencies in order to agree on a coordinated Crown approach to management of the lake. The need for effective coordination over the management of Te Waihora is not a unique problem. Most environmental management decisions when considered in the light of the Treaty of Waitangi and Waitangi Tribunal recommendations implicate more than one department (Parliamentary Commissioner for the Environment 1988: 25). Coordination of planning and implementation is essential if the requirements of treaty principles are to be addressed. Mechanisms are available to assist coordination through the Crown taskforce, consisting of

representatives from the Treaty of Waitangi unit in the Justice Department, the Standing Committee on Treaty Issues, and the Cabinet Committee on Treaty Issues.

7.2 The iwi's preparations

For the iwi, there are also several internal interests which need to be identified and coordinated. In particular, the respective management roles of the Ngai Tahu Maori Trust Board and the runanga with interests in the lake need to be agreed.

While Ngai Tahu have some of the administrative and managerial skills for resource management and the necessary tribal political infrastructure, it is nevertheless acknowledged that an administrative structure needs to be developed to cope with diverse management issues such as those raised by Te Waihora, and to enter into a cooperative relationship with government (O'Regan 1989: 259-260). Resource requirements need to be addressed so that Ngai Tahu is able to effectively engage in decision-making and management.

7.3 Pressures arising from partnership

Both parties may experience additional pressures due to the challenge of partnership. Working out the best ways to consult and negotiate takes time, resources and commitment. For the Conservancy, it is inevitable that involving iwi more closely in decision-making will place additional demands on staff time and financial resources. This may raise questions about the relative priorities of different conservation objectives, the type of contact required with tangata whenua, and whether public participation activities may be affected by resources going into partnership with iwi. Ngai Tahu will also experience problems of resources. They strongly assert that government assistance is needed if effective partnership is to be established.

Other pressures may arise from potential conflicts between departmental and iwi interests. For example, the Department's organisational structure and corporate planning which breaks up management into separate components such as recreational access, eel habitat, grazing licences, pingao protection and so on, sits uneasily with the holistic Maori approach. The new CMS planning approach is designed to integrate these various components. Nevertheless, underlying philosophies and beliefs about conservation, sustainability and development will need to be made explicit, and common ground identified.

Finally, both parties must together define how their partnership will consider the needs and interests of others who depend on the lake in a variety of ways. Those include land owners and occupiers of the area, members of local communities, recreational users, and commercial fishers. How might joint management of the lake affect the relationship of those people to the resource?

7.4 Opportunities presented by partnership

Despite the pressures identified above, partnership in the management of Te Waihora offers many opportunities for the Department and Ngai Tahu. To the benefit of both is the increased pool of resources able to be devoted to improving and protecting the lake environment. Partnership will combine the stock of knowledge that both parties have about the lake and bring together a range of administrative, managerial, and analytical skills.

Separate benefits are also likely. The iwi is able to develop a management strategy for Te Waihora that is already outlined in *Te Whakatau Kaupapa*, and to demonstrate their rangatiratanga over the lake through the implementation of alternative approaches to management.

Involvement in the management of Te Waihora also provides important opportunities for tribal economic development through runanga businesses. Both tourism and commercial fishing opportunities may eventually be compatible with conservation and sustainable resource management practices. Social and cultural development is also possible, for example, through the involvement of young people in traditional mahinga kai activities, in conservation activities, and in tribal development projects centred on Te Waihora.

For the Department of Conservation, there will be advantages in working with iwi to achieve a management plan. It will be completed more quickly than if the Department were working on its own. The document will assist the Department in responding to future impacts on the lake in a consistent way. It will also be of benefit in developing the mainland Canterbury CMS. Finally, consultation and decision-making procedures developed in the context of Te Waihora's management will be useful in liaising with iwi over other conservation matters in the region.

8 SUMMARY AND CONCLUSIONS

The Department must effectively protect and mediate between the many values of Te Waihora, including its outstanding ecological and wildlife values, its traditional significance as a mahinga kai, its other cultural and spiritual values to the tangata whenua, and its recreational opportunities.

The Department must gain the support and cooperation of many key groups with interests in the lake. Especially, it must work out its response to the Waitangi Tribunal's recommendations concerning Te Waihora, and secure the involvement of Ngai Tahu runanga, the lake's traditional custodians. This is necessary to fulfil the Department's responsibilities to the Treaty of Waitangi as set out in the Conservation Act 1987.

Problems arise in developing partnership with iwi because of the various interpretations concerning the meaning of partnership and how it may be implemented. To achieve successful partnership, several issues need to be resolved:

- The Department and Ngai Tahu must agree on the procedures and mechanics of partnership, before any discussion of management issues occurs.
- The Department needs to consult with Ngai Tahu over the resources required to effectively engage in partnership, and assist in obtaining such resources for both parties.
- The formal acknowledgement of the iwi's authority to make decisions concerning the lake needs to be established through legislative and/or institutional arrangements.
- The Department of Conservation needs to work with other central, regional, and local government agencies so that a coordinated Crown approach to the lake's management may be agreed upon.

Partnership is not just about securing desired conservation outcomes; the processes involved in developing partnership to achieve those outcomes are equally important in influencing the success of conservation efforts.

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E nga mana, e nga reo, e nga maunga, e nga awaawa, e nga pataka o nga taonga tuku ihu, ka nui te mihi atu ki a koutou katoa.

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APPENDIX 1
GLOSSARY OF MAORI TERMS

hapu - sub tribe

iwi - tribe; people

kawanatanga - governorship; the authority and obligation to govern

koha - gift; donation. Given as part of exchange relationship.

kohanga reo - 'language nest'. Movement to teach young Maori children their language and culture.

mahinga kai - food and other resources, and the areas they derive from.

mana - influence, power, authority, prestige. **manatanga** - authority, standing, prestige of the people.

manawhenua - authority that a tribe holds over the land in a particular district.

Matua Whangai - A programme to keep young Maori out of Justice and Social Welfare institutions, based on the care and responsibility of the extended family.

Ngai Tahu - also Kai Tahu in Ngai Tahu dialect. Tribal group holding mana whenua to the majority of southwards (Tau et al 1990: 7-6).

Pakeha - New Zealander of European descent.

rahui - restriction on the use of a resource.

runanga - local representative groups of Ngai Tahu. Centred on marae, they include several hapu. They are the basic social and political units of the tribe. (Woods 1989: 41-42).

taiapure - a patch, or circumscribed area of the coast. In the context of the Maori Fisheries Act 1989, it refers to a local fishery.

tangata whenua - 'people of the land'. People who hold the manawhenua in an area.

Te Waihora - 'water spread out'.

tino rangatiratanga - full chieftainship and authority.

wairua - spirit

waka - canoe

wakawaka - well defined areas of either land or sea, in which tribal members have exclusive resource rights (Tau *et al.* 1990: 7-13).

whakapapa - genealogy

whanau - family group