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Planning to develop land returned under Treaty
settlement in Waikato, Aotearoa New Zealand:
An institutional ethnography

A thesis presented in partial fulfilment of the requirements for the degree
of
Doctor of Philosophy
in
Health

at Massey University, SHORE & Whāriki Research Centre,
Aotearoa New Zealand

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2017

Abstract

This research investigates planning to develop land returned as settlement for breaches of Te Tiriti o Waitangi (the Treaty of Waitangi). Using institutional ethnography methodology, I explore a case study of the relationship between an iwi authority, Te Whakakitenga o Waikato, and a local authority, Hamilton City Council. In 1995, significant areas of land were returned to Waikato-Tainui through Treaty settlement. This research focuses on processes to develop planning regulation for land owned by Waikato-Tainui at Te Rapa, site of 'The Base' retail development and Te Awa shopping mall, and Ruakura where an inland port and associated activities are proposed.

Iwi planning documents describe a vision to develop land returned under Treaty settlement. Commercial property development to regain 'economic sovereignty' is a critical element in the 'integrated development agenda' for Waikato-Tainui. However, critical discourse analysis and intertextual analysis illustrate that this vision is not well-reflected in local government planning documents.

Relations between Hamilton City Council and Waikato-Tainui have changed from generally adversarial in 2009 during planning processes to restrict development at Te Rapa through *Variation 21*, to more collaborative during planning processes to approve the *Ruakura Plan Change* in 2014. Complementing data from interviewing practitioners with analysis of texts created through these planning processes, I consider control, timing, and trust as key factors in this changing relationship.

This research provides evidence for dual planning traditions in Aotearoa New Zealand. Communal ownership of land and inalienability are characteristics of land returned under Treaty settlement which have influenced development decisions made by Waikato-Tainui.

Planners and the planning profession can 'transform' planning practices to create new relationships between local government and iwi authorities. Interviews suggest that cross-cultural planning can be a challenging and emotional experience. Iwi planning documents articulate a vision for future relationships based on mana whakahaere (affirming Māori authority) and mātauranga Māori (valuing Māori knowledge). In response, I highlight the need for changes to the New Zealand Planning Institute *Code of Ethics* to support planners working to decolonise planning. I conclude by 'mapping' the institution of planning for Treaty settlement land, and identifying levers which planners can use to support Māori goals for land development and economic self-determination.

Dedication

This work is dedicated to the memory of my mother, Janet McCallum (1947-2015).

My mother was born in Calcutta, India in the months before Indian Independence. She was a student in Paris, France, in 1968 during the Student Revolution. She was a protestor against apartheid in South Africa in Wellington, Aotearoa New Zealand in 1981. She researched and wrote about the lives of women in power, in politics and in the press. These events were important in defining her identity, shaping her commitment to both diversity and democracy, and strengthening her resolve to explore untold stories from the 'other' side of history.

These events were also critical in the development of the theories which shape this thesis. Postcolonial theory emerged from post-independence India, from thinkers who were contemporaries of my mother but born as colonised, not coloniser. Disparate and anarchic critical theories were proposed by those who saw the great narratives of capital and labour disintegrate on the streets of Paris. Pākehā, like my mother, turned to decolonisation theories after the success of the Springbok Tour protests, challenged by Māori to turn their anger against racism at home. Feminist theory drew strength from the stories of women, past and present, making their own terms with a world in which they could see the possibility of equality and a better life.

JM, thank you for all that you shared with us.

Moe mai rā
Dieu ait son âme
Rest in peace

Acknowledgements

I would like to acknowledge the thoughtful and always-accessible support of my supervisors, Karen Witten and Helen Moewaka Barnes. Your encouragement, trust, and counsel made all the difference. Jan, Lisa, Caroline, Stephanie and Ellen solved my administrative and technical problems with skill and elegance. The SHORE and Whāriki Research Centre provided physical and intellectual space and shelter for this research. I thank you for welcoming me in.

I would also like to acknowledge Philippa Howden-Chapman, who encouraged me to begin research; and my tuakana in the Taone Tupu Ora strand of Resilient Urban Futures - Keriatu Stuart, Anaru Waa, John Ryks and Jono Kilgour. I have valued the opportunity to work closely with each of you on different aspects of this research programme. I thank you all for your generosity creating opportunities for emerging researchers.

I offer my gratitude to the interviewees who contributed their time and knowledge to this research. I am humbled by your willingness to sit down with me and talk about your experiences and your reflections. I also thank Sarah-Jane Tiakiwai at Waikato-Tainui College of Research and Development, Tim Manukau at Waikato Raupatu Lands Trust, and Paula Rolfe at Hamilton City Council, who provided on-going review and guided me to carry out research that could be practically applied in Waikato. I am grateful to staff at the High Court in Hamilton and at Hamilton City Council who provided access to documents.

I am indebted to Amy Howden-Chapman and Jane Kuhnt for laying out images and creating diagrams; Lara Taylor for introducing me to postcolonial theory and literature; Ray Nairn, Mitzi Nairn, Ingrid Huygens and others for articulating Pākehā perspectives; Alex Hotere-Barnes for your enthusiasm for institutional ethnography; and Elinor Chisholm for your empathy and encouragement in the last months of this work. Thanks to Ngā Aho for inviting me into the whānau, and for grounding me in the realities of our dual planning traditions.

My family has provided constant support: my father Chris Livesey and aunties Heather McCallum and Mary Waymouth discussed our family histories; my sister Anna shared her children with me, fed me, and reviewed the draft thesis; my brother Harry asked thoughtful questions, as always! I thank Jym Clark for his calm belief that I should carry out this inquiry, his planning expertise and professional empathy, and his loving help to make this research reality.

With the company of all these people, I have never felt lonely in this work. I hope I can support you when you need my help. Thank you, thank you, thank you.

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Glossary

Most of the following definitions are adapted from the glossary provided in *Tai Tumu Tai Pari Tai Ao* Environmental Plan (Waikato-Tainui Te Kauhanganui Incorporated, 2013 pp258-263). Definitions for words not included in the *Tai Tumu Tai Pari Tai Ao* glossary have been sourced from Stuart & Thompson-Fawcett (2010) or Ngata Dictionary. These definitions are marked with a * or # respectively.

Hapū	Sub-tribe, usually containing a number of whaanau and marae with a common ancestor or ancestors
Hīkoi	March [#]
Hui	Gathering, meeting*
Iwi	Extended kinship group, tribe, nation, people, nationality, race - often refers to a large group of people descended from a common ancestor.
Kāinga	A home place, usually used for a village*
Kaitiaki	Caregiver, caretaker, the role of protecting and nurturing the mauri of all living things and the surrounding inanimate environment
Kawa	Underlying principles that govern behaviour
Kaumatua	Elders (male or female)
Koroneihana	Coronation [#]
Māori	Indigenous people of Aotearoa New Zealand
Mana	Authority, spiritual authority, protective power and prestige
Mana whakahaere	The exercise of rights and responsibilities to ensure that the balance and mauri (life force) of the rohe is maintained. It is based in recognition that if we care for the environment, the environment will continue to sustain the people. In customary terms mana whakahaere is the exercise of control, access to, and management of resources within the Waikato-Tainui rohe in accordance with tikanga.
Mana whenua	The taangata whenua group or groups with primary mana whakahaere over an area.
Manaaki	Help, care for [#]
Marae	Traditional and contemporary gathering places that may contain a whare nui (meeting house), wharekai (dining room), whareiti (ablution blocks), whare (other houses or structures). May also include a papakāinga.
Mātauranga Māori	Traditional and contemporary Māori knowledge, knowledge systems, and knowledge bases. This includes the body of knowledge originating from Māori ancestors, including the Māori worldview and perspectives, Māori creativity, and cultural and spiritual practices. As an organic and living knowledge base, mātauranga Māori is ever growing and expanding.

Mauri	Life force. Some hold the view that both animate (living) and inanimate (non-living – e.g. rocks) objects have mauri. Waikato-Tainui is intrinsically linked to the environment and so the mauri of the environment effects and is affected by the mauri of Waikato-Tainui. Having an effect on the environment’s mauri has a corresponding effect on the mauri of Waikato-Tainui.
Pākehā	New Zealander of European descent*
Papakāinga	Communities, places where Waikato-Tainui live primarily clustered around marae and other places of significance. ‘Papakāinga’ also means contemporary or ancient marae or paa sites with or without accompanying residences or buildings.
Poukai	An annual circuit of visits by the Māori King to marae affiliated to the Kingitanga (Papa and Meredith, 2012)
Rangatiratanga	Sovereignty, chieftainship, leadership, self-determination (from rangatira, a chief)*
Raupatu	Confiscation. In the case of Waikato-Tainui, the confiscation of lands in the Waikato-Tainui raupatu rohe, and includes the related invasion, hostilities, war, loss of life, destruction of taonga and property, and the consequent suffering, distress, and deprivation suffered by Waikato-Tainui.
Rohe	Tribal region, including the rohe of constituent marae and hapū.
Tangata whenua	Māori and their whānau, marae, hapū and iwi that whakapapa, or have genealogical connections, back to the land by virtue of first or primary occupation of the land by ancestor(s) through a variety of mechanisms such as maintaining ahi kā roa (long term occupation) or conquest.
Te ao Māori	The Māori world [#]
Tino Rangatiratanga	Independence [#] ; self-determination
Te reo Māori	The Māori language.
Tikanga	Values, ethics governing conduct
Tūpuna	Ancestors
Wāhi tapu	To Waikato-Tainui, means those sites of significance that are highly prized
Waka	Canoe; also used to describe a group of iwi who trace their descent to a single waka which was part of settlement*
Whānau	Family unit, not always of immediate family, and may include those that are family by marriage, adoption, fostering, or other close relationship.
Whāngai	Adopt [#]

Note on orthography

In this thesis I employ Massey University standard orthography for the Māori language, which uses a macron to indicate a long vowel. However, I respect that the Waikato-Tainui people use a double vowel in place of a macron. In citations from material prepared by Waikato-Tainui and where requested by interviewees, I retain the double vowel.

Chapter One - Colonial histories and (post)colonial futures: Planning in Aotearoa New Zealand

The Treaty provided a basis for the evolution of a dual environmental planning tradition, one grounded in indigenous Maori traditions, philosophies, principles and practices, and the other in the imported and evolving traditions and practices of an introduced 'Western' planning tradition... Aotearoa/New Zealand has a dual planning heritage which needs to form the basis for a new paradigm of environmental planning (Matunga, 2000a, p38)

Introduction

Across the world, indigenous people have been stripped of their resources through the processes of colonisation. Colonising military forces confiscated land and destroyed communities; colonising governments suppressed language and imposed colonial legislation and regulation; and colonising settlers founded towns named after colonial ancestors. As a result of the activities of surveying, planning, design and development, people from all over the world live together in cities built in places once owned, managed, and occupied by indigenous peoples.

'Sustainable urban development' promises improved social, cultural, environmental, and economic outcomes for people living in cities. In urban areas, indigenous people are working to reassert their planning knowledge and authority in environments built without regard to indigenous presence. Within their own communities, indigenous peoples are building housing, fostering economic development, and continuing to practise planning traditions passed down by their ancestors, based in their own worldview and language. Slowly, through processes of reconciliation, some resources are being returned from colonial to indigenous ownership, management, and occupation.

Visible, active, and well-resourced indigenous populations in urban areas challenge the profession of planning. Planning, as practised by planners through planning systems administered by local and central government around the world, struggles to address indigenous issues or deliver outcomes for indigenous communities. Indigenous rights to protect, use and develop resources continue to be constrained by colonial planning practices. Planning processes are a site of cross-cultural contest in settler-colonial countries, such as Aotearoa New Zealand, and in 2010 Australian academic Libby Porter asked:

How should we understand... the nature and importance of the claims Indigenous people make upon Western state-based planning? To ask a practitioner-oriented question: how should planning respond? (Porter, 2010, pp1-2)

These themes of indigenous planning, indigenous development, local government response and professional decolonisation are present in contemporary planning in Aotearoa New Zealand. At the 2016 conference of the New Zealand Planning Institute/Te Kokiringa Taumata, Professor of Māori and Indigenous Development Hirini Matunga delivered a keynote address reflecting on twenty-five years since the passage of the *Resource Management Act (1991)*, a comprehensive piece of legislation governing planning in Aotearoa New Zealand. The *Resource Management Act* provides for iwi authorities to create 'iwi planning documents' which are recognised as part of the framework for planning. Iwi planning documents are developed by iwi and hapū to articulate their interests in resource management. These documents, also known as iwi management plans, are powerful tools intended to assist iwi members to carry out their roles and responsibilities as kaitiaki, as well as providing information required by local government to develop plans or assess resource consents. Matunga estimated that in 1991, just two iwi had developed iwi planning documents. By 2016, approximately 70 iwi planning documents had been created (Matunga, 2016).

Simultaneously, iwi and hapū have been settling claims with the New Zealand government (known in this context as 'the Crown') (Hayward, 1998) for breaches of Te Tiriti o Waitangi (the Treaty of Waitangi), the founding document of Aotearoa New Zealand. Iwi and hapū have fought for generations to achieve recognition and redress for breaches of Te Tiriti o Waitangi, signed in 1840. These breaches include invasion, confiscation of land and destruction of resources. Ownership of land by Māori dropped 95% from 66,400,000 acres in 1840, to 3,000,000 acres in 1975 (Toataua & Stuart, 1991). The process to settle a Treaty claim includes the Crown acknowledging that it has committed breaches, apologising for those breaches, and providing commercial and cultural redress in the form of cash, land, and relationship agreements. Among other outcomes, settling Treaty claims allows iwi and hapū to focus on development to rebuild the economic resources of their people. In 1991, 13 'Treaty settlements' had been completed. In 2016, there are 58 completed settlements, and rising. "We have been busy" observed Professor Matunga. "We have been really really busy" (Matunga, 2016).

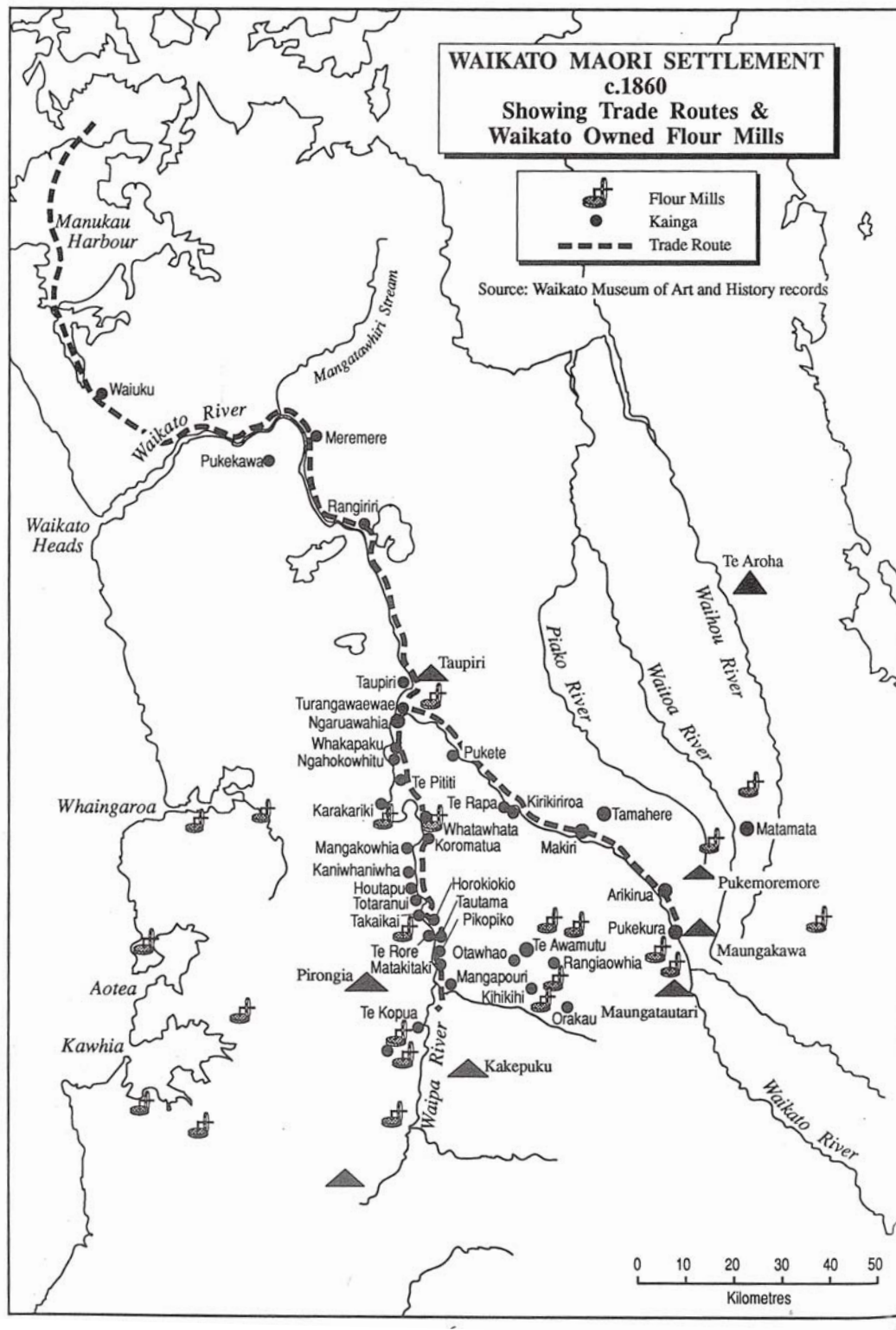
Aim of this research

Increasing numbers of both iwi planning documents and Treaty settlements are indicative of major changes in the planning and political landscape of Aotearoa New Zealand. In this thesis, I aim to investigate the changing relationships between local government and iwi with regard to planning to develop land returned to Māori through Treaty settlement legislation. This research focusses on a single case study of a relationship, which evolves through the processes of developing planning regulation to develop two embedded physical case sites. Using institutional ethnography methodology, I analyse planning documents produced by iwi and



1. (Top) Aerial photograph of Te Awa mall, including part of The Base retail centre at Te Rapa, 2012. 'Te Awa', which can be translated as 'the river', refers to the Waikato River which runs to the west of Te Rapa. The curve of the Waikato River is reflected in the curved form of the building. Source: Tainui Group Holdings

(Bottom) Artist's impression of the proposed development at Ruakura, viewed from the north-east. The inland part and associated logistics and industrial activities are proposed for the southern end of the site (to the right of this image), while the northern end of the site will mainly be used for housing. The proposed Waikato Expressways runs down the eastern edge of the development, and Hamilton Central Business District is visible across the Waikato River. Image by Build Media. Source: Boffa Miskell.



2. A map of Waikato Maori Settlement circa 1860. The city of Hamilton was founded in 1864 by members of the colonial militia, around the 'abandoned' settlements of Te Rapa and Kirikiriroa. Sources indicate that the settlements were only 'abandoned' as colonial forces advanced up the Waikato River in 1864 (Hamilton City Council, 2007). The abundance of flour mills and presence of trade routes north to Auckland indicates the fertility and prosperity of the Waikato-Tainui rohe before raupatu. Map drawn by Max Olton, Department of Geography, University of Waikato, from records in the Waikato Museum of Art and History. Source: Toataua & Stuart (1991, p6).

local government, and the ways in which Māori rights, authority and planning knowledge are acknowledged in these document and in the 'everyday work' of planners.

My interest in this topic originates in my own experiences working as a planner in central and local government. Over the last nine years I have been involved in writing policy documents and planning regulations that attempt to engage with, and support, the activities of Māori organisations in urban areas in Aotearoa New Zealand. This research has allowed me to take a step back from working as a planner, to consider how the return of land under Treaty settlements is changing resource management, and the implications of those changes for planning and urban development in Aotearoa New Zealand. I consider this work as part of my personal responsibilities as a Pākehā planner working in a (post)colonial country.

Introduction to case study and case sites

This research investigates the relationship between Te Whakakitenga o Waikato (Waikato-Tainui) - an iwi authority - and Hamilton City Council (Council) - a local authority over the time period 1995 - 2015. In this chapter, I set the context for this research, tracing the colonial history of New Zealand and the emergence of 'postcolonial' Aotearoa New Zealand. I outline the basic premise of institutional ethnography, and draw on my own experiences to identify a 'problematic' for the research. Building on this problematic, I introduce aims, objectives and research questions.

The research examines the planning processes to develop two significant blocks of land owned by Waikato-Tainui: one at Te Rapa¹, site of 'The Base' retail centre and Te Awa shopping mall; and the other at Ruakura,² where a major development including an inland port, commercial and residential development is proposed. Development of these sites is regulated through a 'district plan' developed under the *Resource Management Act (1991)*, known as the *Hamilton District Plan*. Under the *Hamilton District Plan*, Te Rapa is zoned for Commercial Services and Industrial activities (Hamilton City Council, 2012b). Ruakura is zoned for Rural activities, but covered by an Urban Expansion Policy Area that prohibits urban development. In order to achieve planning regulation that will allow the development they propose for these sites, Waikato-Tainui have had recourse to both the High Court of New Zealand and the national Environmental Protection Authority.

Waikato-Tainui were the first iwi to settle a major claim with the Crown in the (post)colonial era. Both sites were returned to Waikato-Tainui under a Treaty settlement, legislated through the *Waikato Raupatu Claims Settlement Act (1995)*. Both sites are located on the outskirts of the existing urban area of Hamilton City, and planning processes to develop both sites

¹ It should be noted that although this northern part of Hamilton is now known as 'Te Rapa', the pā historically known as Te Rapa was located south of Hamilton city where Cobham Drive now runs, near the Waikato Hospital (NaMTOK Consultancy Ltd, 2011)

² According to a Cultural Impact Assessment prepared for the *Ruakura Plan Change*, the name 'Ruakura' (literally translated as 'pit in the red') refers to the fact that water running off the peat soils in this area turns a dull red (Pene, 2011)

generated conflict between Waikato-Tainui and Hamilton City Council. In particular, Hamilton City Council raised concerns over Waikato-Tainui plans to develop retail (shopping malls and large-format retail or ‘big box’ development) on parts of these sites. Retail development outside the central city is seen by Hamilton City Council to undermine the Central Business District as the primary shopping area in Hamilton City.

Hamilton City Council have attempted to use the planning system to address their concerns. In 2009, Hamilton City Council created a variation³ to the *Hamilton District Plan* (known as ‘*Variation 21*’) which restricted further retail development at Te Rapa. Although required by Schedule 1 of the *Resource Management Act (1991)* to consult with iwi authorities when varying a district plan, Hamilton City Council chose not to consult with Waikato-Tainui in developing this plan variation. Waikato-Tainui appealed for a judicial review and *Variation 21* was quashed by the High Court in May 2010. In contrast, Hamilton City Council and Waikato-Tainui worked closely from 2009 - 2013 to develop a planning framework for Ruakura. In 2012, Waikato-Tainui subsidiary Tainui Group Holdings applied to change the *Hamilton District Plan* to allow development at Ruakura to begin. However, this application was declined by Hamilton City Council. Tainui Group Holdings subsequently submitted the *Ruakura Plan Change* to the Minister for the Environment to consider as a ‘proposal of national significance’. The private plan change was accepted, and heard by a Board of Inquiry appointed by the Environmental Protection Authority. The *Ruakura Plan Change* was approved in September 2014.

The timeline below illustrates Waikato-Tainui and Hamilton City Council’s journey to negotiate planning regulation for The Base and Ruakura in the period of inquiry from 1995 to 2015.

1995	Waikato-Tainui and Crown agree settlement of raupatu claims, including transfer of land through <i>Waikato Raupatu Claims Settlement Act</i>
2004	Hamilton City Council grant first resource consent and Tainui Group Holdings begin to develop ‘The Base’ at Te Rapa
2009	Hamilton City Council notify <i>Variation 21</i> to restrict further retail development at ‘The Base’
2010	Waikato-Tainui win High Court case against Hamilton City Council over <i>Variation 21</i>
2013	Hamilton City Council decline <i>Ruakura Plan Change</i> to accelerate development at Ruakura
2014	At request of Waikato-Tainui, <i>Ruakura Plan Change</i> heard by an Environmental Protection Authority Board of Inquiry, rather than through Hamilton City Council processes. <i>Ruakura Plan Change</i> approved.

³ Planning terminology in Aotearoa New Zealand distinguishes between a ‘change’ made to a plan which is already ‘operative’; and a ‘variation’ made to a plan which is only ‘proposed’. *Variation 21* ‘varied’ the *Proposed Hamilton District Plan*, while the *Ruakura Plan Change* proposed a ‘change’ to the operative *Hamilton District Plan*.

Context for this research

This case study takes place within a broader contemporary context for planning in Aotearoa New Zealand⁴, including Māori planning initiatives and government and professional responses. A brief description of New Zealand's colonial origins at the signing of Te Tiriti o Waitangi is followed by a discussion of the emergence of Aotearoa New Zealand as a (post)colonial nation. Introducing the Waitangi Tribunal, the process of Treaty settlements and the strengthening Māori voice in design and development professions provides context for the ways in which contemporary planning legislation recognises Māori relationships with the environment. This background also introduces the responses of local government and the planning profession to the imperative of recognising Māori authority and knowledge in planning - the 'decolonisation' of planning.

Colonial New Zealand - Māori, Pākehā, and Te Tiriti

The colony known as 'New Zealand' was created on 6 February 1840, when a representative of the British Queen signed Te Tiriti o Waitangi⁵ with rangatira gathered at Waitangi, in the Bay of Islands in the north of the North Island of New Zealand. Te Tiriti was written in te reo Māori. Copies of Te Tiriti were taken around the new colony to collect signatures from rangatira. Te Tiriti was brought to Waikato, and signings are recorded at Manukau Harbour, Kawhia, and the Waikato Heads (Ministry for Culture and Heritage, 2015). Te Tiriti o Waitangi followed an earlier document signed by rangatira in 1835, *He Wakaputanga o te Rangatiratanga o Nu Tireni* known as the 'Declaration of Independence' (Murphy, Healy & Huygens, 2012). *He Wakaputanga* contained four articles which 'asserted the independence of Nu Tirene (New Zealand) under the rule of the 'United Tribes of New Zealand'' (Ministry for Culture and Heritage, 2016a). By 1839, 52 rangatira had signed the Declaration, including "Te Werowero nō Ngāti Mahuta", the Waikato leader who would soon become the head of the Kingitanga, the Māori King Movement (Murphy et al., 2012, p90).

Building on *He Wakaputanga*, Te Tiriti o Waitangi formed an agreement between the Queen of England and "nga rangatira me ngā hapū o Nu Tirani" ('the native chiefs and tribes of New Zealand') (1995, p1-2). European sealers and traders had been living in Aotearoa since the

⁴ Although the official name of this country is 'New Zealand', I use the bilingual name 'Aotearoa New Zealand' as a 'working title' to signal our postcolonial status. 'Aotearoa' is one of a number of Māori language names used to describe 'New Zealand' or parts of New Zealand (Taonui, 2012).

⁵ This treaty is commonly referred to in popular discourse and government documents as the 'Treaty of Waitangi'. However, Huygens and others legitimate the Māori text, arguing for its pre-eminence based on 'the document under discussion by Maori during 1840, the number of signatures, the contra proferentum principle in international law (a rule of contractual interpretation that goes against the proffering party), and the link with terminology from the 1835 He Whakaputanga declaration' (Huygens, 2011, p70). I follow Huygens in using the phrase 'Te Tiriti o Waitangi' throughout this research to remind readers of the primacy of the Māori text. This distinction is important because of the conflicts which have arisen over the different interpretations of the English and Māori language versions of the Treaty - namely, the difference between 'kāwanatanga' (translated as 'governance') and 'sovereignty'; and the importance of the central concept of 'tino rangatiratanga' (Walker, 2004a).

1700s, and whalers and missionaries arrived in the early 1800s (Walker, 2004a). These 'strangers' became known in the Māori language as 'Pākehā', while the indigenous peoples began to name themselves collectively as 'Māori' (Walker, 2004a, p94). Legally, Te Tiriti is between the Crown and Māori (Hayward, 1998), but is commonly understood to be a treaty between Māori and Pākehā, setting the foundation for the peoples represented by Queen Victoria and for the descendants of the rangatira who signed Te Tiriti to live together in Aotearoa New Zealand (Te Papa Tongarewa Museum of New Zealand, 2006b).

Te Tiriti comprised three articles: Article One provided for the Queen of England to govern; Article Two promised to protect the ownership and management of resources by rangatira, and required land, if sold, to be sold to the Queen; and Article Three extended the rights of British citizens to Māori. A fourth Article, stating that the Governor would protect religious freedom, was not included in the written text of Te Tiriti but is considered by some commentators to form part of the agreement (Te Papa Tongarewa Museum of New Zealand, 2006a).

In the years following the signing of Te Tiriti o Waitangi, the promises made under Articles Two and Three were repeatedly broken as the Crown assumed 'sovereignty' rather than 'governance'. The Crown took ownership of resources; invaded and destroyed Māori communities; and confiscated land as punishment for Māori 'rebellion' (Deed of Settlement, 1995). Te Tiriti was forgotten by colonial government and Pākehā society. Within parts of the country that became 'urban', such as Auckland, Hamilton and Wellington, Māori communities lost all or nearly all of their land (Waitangi Tribunal, 1989; Waitangi Tribunal, 1991; Waitangi Tribunal, 2003). Māori existed on the small areas of land remaining, or became tenants on land owned by Pākehā (Stuart & Mellish, 2015). In areas of the country that became known as 'rural', many Māori communities struggled to survive because access to resources such as cultivations was lost, and important fisheries destroyed. As a result, large numbers of Māori from areas distant to Pākehā settlements migrated to towns and cities. The Māori peoples are now one of the most urbanised populations in the world, with 84% of people of Māori descent living in urban areas (Meredith, 2015).

It is important to note that, unlike treaties signed in the United States or Canada, Te Tiriti o Waitangi did not reserve indigenous lands from the planning jurisdiction of local government. While indigenous peoples in Canada and the United States may manage their own reserve lands and make their own planning laws⁶, planning legislation in Aotearoa New Zealand applies equally to land owned by Māori and land owned by non-Māori. All statutory decision-making powers over planning regulation and consent are held by local or central government. Local government planning documents define the issues, and set the objectives, policies and rules

⁶ For example, Stephenson notes that under the *First Nations Land Management Act (1999)* on Canadian Indian reserve lands, the First Nation 'assumes full responsibility for the day-to-day management of its lands. This includes power to make laws on land use and possession, planning, development, zoning, environment, conservation, protection, management, dispute resolution, surveys, natural resources, construction and building standards, waste disposal, local and public works and enforcement' (Stephenson, 2011, p114-115)

used to approve or decline any development proposal. Consequently, iwi authorities can only influence planning regulation through engaging with local and central government, or applying to the courts. It is also important to note that many of the statutory limitations on alienating indigenous lands in the United States, Canada and Australia are not in force in Aotearoa New Zealand.⁷ 'Māori land' held under *Te Ture Whenua Māori Act (1993)* can only be alienated through the Māori Land Court, but land returned to Māori ownership through Treaty settlement can generally be alienated as easily as any freehold title. Finally, indigenous reserve lands in the United States and Canada are large, discrete blocks of land, often isolated from urban areas. Land returned to iwi and hapū through the Treaty settlement process comprises blocks of 'surplus Crown land' of various sizes which are scattered across and around rural and urban areas of Aotearoa New Zealand.

(Post)colonial Aotearoa New Zealand

Colonisation has significantly affected Aotearoa New Zealand, changing the distribution of power and resources as well as settlement patterns. To consider Aotearoa as a (post)colonial country means to acknowledge the history and legacy of British colonisation, and to engage with and contest the enduring dominance of colonial authority, discourse, and privilege to move towards decolonisation.

Professor Ranginui Walker identified two moments when 'colonial' New Zealand shifted into the 'postcolonial' era. In September 1984, the Rūnanga Whakawhanaunga i ngā Haahi (Māori Ecumenical Council of Churches) called a pan-tribal hui at Tūrangawaewae marae in Ngāruawāhia, the cultural heart of the Kīngitanga and the Waikato-Tainui tribe. The topic for discussion was the return of land to Māori through the work of the Waitangi Tribunal, a permanent commission of inquiry established by the third Labour Government in 1975 to make "recommendations on claims brought by Māori relating to actions or omissions of the Crown that potentially breach the promises made in the Treaty of Waitangi" (Ministry of Justice, 2016). However, the *Treaty of Waitangi Act (1975)* restricted the Tribunal to hearing claims relating to breaches that occurred after 1975. With this restriction, the Tribunal could not consider or address historical land confiscations through which Māori lost over 95% of their land (Ministry for Culture and Heritage, 2016b). Concerned by this restriction:

The hui, attended by over a thousand people, passed a resolution for the Waitangi Tribunal to be made retrospective to 1840. The Labour Government... introduced the necessary amendment in the Waitangi Act and steered it through the House late in 1985 (Walker, 2004b, p61)

⁷ For example, Stephenson records that land covered by the *Indian Act (1985)* in Canada can only be sold to members of the indigenous community; while selling or leasing Indian land in the United States must be approved by the federal government under the *Indian Non-Intercourse and Trade Act (1834)* (Stephenson, 2011)

According to Walker, the expanded mandate of the Waitangi Tribunal “opened up the colonial past for interrogation” and “pitched New Zealand irrevocably into the postcolonial era” (2004b, p61).

Walker identifies a second shift towards a postcolonial status five years later, on 3 October 1989, when “five judges in the Court of Appeal issued a unanimous decision in favour of Robert Te Kotahi Mahuta and the Tainui Trust Board against the Crown and its agent Coalcorp” (2004a, p288). In February 1989, Waikato-Tainui had entered into formal negotiations with the Crown to settle their Treaty claims, led by Robert Mahuta and the Tainui Trust Board (McCan, 2001). Possible redress included the return of land owned by the Crown in the Waikato region. Proposals by the Crown to sell land in Waikato held by the state-owned Coalcorp were seen by Waikato-Tainui to undermine the settlement negotiations process by selling land that could otherwise have been returned to Waikato-Tainui. The Court of Appeal agreed, ruling that “the inclusion of the 'principles' of the Treaty [of Waitangi] in section 9 of the State Owned Enterprises Act had the effect of a constitutional guarantee... the advent of legislation invoking 'the principles of the Treaty' meant that the Treaty could no longer be ignored” (Walker, 2004b, p68).

In summary, the postcolonial status of Aotearoa New Zealand emerges from the Crown recognising the need to understand and redress the injustices in our colonial history; and from the Court of Appeal confirming the place of Te Tiriti o Waitangi in our country’s constitution (Walker, 2004b). Other commentators, both Māori and Pākehā, have also identified Aotearoa New Zealand as an emerging ‘postcolonial’ nation (Fleras & Spoonley, 1999; Hokowhitu & Page, 2011; Matunga, 2000b). These same commentators emphasise that shifting towards a ‘post’ colonial country does not mean that the effects of colonisation and attitudes of colonialism do not endure. I acknowledge that Māori scholars including Professor Linda Tuhiwai Smith have criticised the term ‘postcolonial’, suggesting that ‘[n]aming the world as ‘post-colonial’ is, from indigenous perspectives, to name colonialism as finished business’ (Smith, 2012, p101). Declaring the end of colonialism is premature when, as she points out, ‘the institutions and legacy of colonialism have remained’ (Smith, 2012, p101). Responding to similar critiques, Australian academic Libby Porter uses parentheses around the prefix ‘post’ to acknowledge that to “be 'post' colonial is to be always and forever implicated, though in constantly shifting ways, in colonialism's enduring philosophies” (2010, p16). Within this thesis, I use (post)colonial as a statement of intention to move towards decolonisation. This research considers planning practises within this (post)colonial context.

The challenge to Pākehā planning

Contesting colonial power and knowledge to move towards (post)colonial planning practices requires asserting indigenous power and knowledge. Historically, Māori authority and Māori knowledge have been excluded from Pākehā planning practises. During the ‘colonial era’:

The guarantees and privileges accorded to Maori in the Treaty of Waitangi signed in 1840, including ownership rights to land and water resources, and participation in

management decisions, were often overlooked or deliberately ignored in the growing apparatus of legislation and related instruments for resource allocation and management (Memon and Cullen 1996 as cited in M. B. Lane & Hibbard, 2005, p179)

The (post)colonial imperative to recognise our colonial history and to 'relocate' Te Tiriti o Waitangi to a central place in the constitution of Aotearoa New Zealand has had significant implications for planning legislation (Matunga, 2000a). A Treaty claim regarding the Manukau Harbour on the west coast of the North Island, illustrates Māori challenges to Pākehā planning practice. In 1981, Nganeko Minhinnick of Ngāti Te Ata, a tribe with affiliations to Waikato-Tainui, appealed to the Planning Tribunal to overturn a decision to grant a steel company the right to use water from the Waikato River for the operations of a steel mill, and to discharge that water back into the Manukau Harbour. Minhinnick's challenge was:

...predicated on Māori spiritual values. She argued that the Waikato River as an ecosystem in its own right had its own mauri (life force). The Manukau as a separate ecosystem also had its own mauri and it was inimical to the life force of the Manukau to discharge water into it from the Waikato River (Walker, 2004b, p63)

However, the judge of the Planning Tribunal ruled that "the law had no provision to take into account metaphysical concerns" (Walker, 2004b, p63). The Planning Tribunal dismissed the case. Minhinnick, with the support of Ngāti Te Ata and wider Waikato-Tainui iwi, subsequently submitted a claim to the Waitangi Tribunal in 1982. Known as the 'Manukau claim', Ngāti Te Ata stated, among other issues, that:

...the use and enjoyment of their land has been severely limited by compulsory acquisitions, the effects of growth and development and a failure to recognise or give proper consideration to tribal occupational rights (1989, p3)

The report produced by the Waitangi Tribunal⁸ included substantial evidence of historical breaches of Te Tiriti, including land confiscation, as background to the concerns of Ngāti Te Ata about contemporary planning issues - water pollution, loss of traditional fisheries, and the destruction of wāhi tapu (Waitangi Tribunal, 1989).

⁸ Members of the Tribunal for the Manukau claim comprised Chief Judge Edward Taihakurei Durie, Justice Paul Temm (1931-1997) and Sir Graham Latimer (1926-2016).

Thirty years have passed and the claim over the Manukau Harbour is yet to be settled. However, the issues highlighted in the Manukau claim provided a catalyst for debate around how Māori interests were recognised in planning decisions. The influence of Minhinnick's challenge is visible in the *Resource Management Act (1991)* which included specific provisions recognising Māori interests in resource management:

- Section 6e which requires decision makers to “recognise and provide for...the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga” as a “matter of national importance”;⁹
- Section 7a, which requires decision makers to have “particular regard for...kaitiakitanga”; and
- Section 8 which requires decision makers to “...take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)” (1991)

Further, the *Act* requires “any planning document recognised by an iwi authority” to be “taken into account” by a local authority “when preparing or changing regional policy statements and regional and district plans” (ss61(2A)(a),66(2A)(a), and 74(2A)). Schedule 1 of the *Act* also requires that local authorities consult with iwi authorities in the preparation, change, and review of policy statements and plans¹⁰ (Schedule 1 s3b).

Matunga argues that sections 6, 7 and 8 of the *Resource Management Act(1991)* “shows that another planning tradition is implied though not fully understood or acknowledged... The net effect is a tacit recognition that a Maori planning system exists and that iwi are planning institutions with their own practices and approaches. In other words the Act acknowledges that there is another planning system” (2000a, p46). Following Matunga (2000a), this research emphasises these legislative links between Māori and Pākehā planning traditions, comparing the ‘experienced reality’ of planning processes for Te Rapa and Ruakura with the ‘institutional reality’ of the plan development process set out in Schedule 1 of the *Resource Management Act (1991)*.

⁹ A version of this clause was originally included in the *Town and Country Planning Act* in 1977. Matunga related in 2016 how this clause was included in the Act as a result of the work of the Auckland District Māori Council and New Zealand Māori Council, including a late-night telephone call between Ranginui Walker and the Prime Minister at the time, Robert Muldoon (Matunga, pers. comm. 12 December 2016)

¹⁰ Schedule 1 of the *Resource Management Act (1991)* states: ‘For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

(a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and

(b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and

(c) consults with those iwi authorities; and

(d) enables those iwi authorities to identify resource management issues of concern to them; and

(e) indicates how those issues have been or are to be addressed’ (Resource Management Act, , s3b).

Responses from the planning profession

In the early 1990s, in response to increasing awareness within the profession of Māori interests in resource management, the New Zealand Planning Institute prepared a report on biculturalism. Elected members of the New Zealand Planning Institute council participated in a Treaty education workshop¹¹, which resulted in a decision that:

...the New Zealand Planning Institute would adopt a Maori name (later determined to be Te Kokiringa Taumata), and that the Treaty of Waitangi would be referred to in the definition of planning and would form part of the Code of Ethics (Miller, 2007, p154)

In 2001, the Institute established a 'Special Interest Group' named 'Papa Pounamu' focussing on the "role of Māori and Pacific peoples in the New Zealand planning framework, and the integration of Māori perspectives in resource management planning and decision-making" (New Zealand Planning Institute, 2016b). After a period of inactivity, Papa Pounamu was mandated in 2011 and launched at the New Zealand Planning Institute annual conference in 2012. In 2016, Papa Pounamu had 74 registered members, and holds annual hui alongside the New Zealand Planning Institute conference to bring planners together to discuss Māori planning issues.

Māori working within other design and development professions have also formed a collective. Ngā Aho, a national network of Māori design professionals, which includes environmental and urban planners, was established in 2007. Ngā Aho aims to apply "design skills to achieve Māori aspirations in envisaging, designing and realizing a future Aotearoa" (Whaanga-Schollum, 2016, p63). In 2016, Ngā Aho had approximately 150 members and was working to establish relationships to support Māori practitioners within professional organisations such as the New Zealand Planning Institute, New Zealand Institute of Architects, and New Zealand Institute of Landscape Architects. Alongside these professional organisations, leaders from iwi and hapū come together to discuss issues of common concern through forums such as the New Zealand Māori Council, established by statute in 1962, and the Iwi Chairs Forum, active since 2005. These strengthening voices assert the rights and roles of Māori as planners.

Responses from local and central government

Although the Waitangi Tribunal must focus on the actions of the Crown, and cannot make findings on the acts or omissions of local government (Hemi, 2003)¹², the Treaty settlement process has also encouraged some local authorities to work to understand their relationship to

¹¹ Assuming this workshop was similar to others held by Waitangi Consultancy Group and other Treaty education groups at the time, the workshop would have been intended as a 'hard-hitting intervention', intended to catalyse change within the New Zealand Planning Institute. The content of the session would have focussed mainly on the history of the planning sector, and the effects of colonisation on Māori (Huygens, pers. comm. 13 June 2016)

¹² Hemi notes that under the *Treaty of Waitangi Act (1975)*, '...the Tribunal can investigate claims against the Crown of its agents, but there is some question as to who that involves. In particular, local government is not considered an agent of the Crown for the purposes of the Act' (Hemi, 2003, p56)

iwi authorities under Te Tiriti o Waitangi. For example, the report on the Manukau claim triggered the local authority, Manukau City Council, to consider the responsibilities of local government to acknowledge and redress the injustices experienced by Ngāti Te Ata (Oaks, 2000).

Formal representation of Māori communities in local government is a contentious issue. The *Local Government Act (2002)* provides for local government to create Māori wards where Māori representatives can be elected as councillors to represent Māori constituents. However, only two out of seventy-eight local governments - Bay of Plenty Regional Council and Waikato Regional Council - have chosen to create Māori wards (Department of Internal Affairs, 2016a). Other local governments, such as Nelson City Council and New Plymouth District Council, proposed establishing Māori wards but these proposals were rejected by voters. Andrew Judd, mayor of the small city of New Plymouth in the Taranaki region on the west coast of the North Island, recently announced he will not seek re-election in the 2016 local body elections after “being spat at and abused in the street over his failed attempt to introduce a Māori ward in New Plymouth...He said he was told things such as ‘Māori don't need special treatment, they just need to be more like us’, that he was a bigot, a separatist, and had supported apartheid” (Radio New Zealand, 2016).

Central government is considering further changes to recognise Māori authority and knowledge through proposals to reform planning practices and legislation. During 2015-2016, the fifth National Government released proposals to amend the *Resource Management Act (1991)*. In parallel, Local Government New Zealand and the Productivity Commission respectively released a ‘blue skies’ discussion document on Aotearoa New Zealand’s resource management system, and an issues paper considering ‘Better Urban Planning’ (Local Government New Zealand, 2015; Productivity Commission, 2015). Both acknowledge the need for improved involvement of Māori communities in planning, with Local Government New Zealand noting that:

The Treaty claim settlement process, and the financial and cultural redress that comes with it, will continue to shift the political and economic landscape in New Zealand with iwi taking a more significant role in both spheres as capacity grows. This will place pressure on the resource management system to be able to apply a Māori world view and develop new structures of governance and planning to manage resources (Local Government New Zealand, 2015, p14)

Central government has also released proposals to reform *Te Ture Whenua Māori Act (1993)* that governs the ownership and management of Māori land. Statements by central government regarding the reform of *Te Ture Whenua Māori Act (1993)* and the return of land through Treaty settlement, emphasise the potential for economic development of resources, contributing to the re-emerging ‘Māori economy’¹³.

¹³ The ‘Māori economy’ has been defined as ‘...the assets owned and income earned by Māori – including collectively-owned trusts and incorporations, Māori-owned businesses (e.g. tourism,

Overview of institutional ethnography and approach to research

The examples above illustrate a growing understanding that planners, the planning profession, and local authorities have a responsibility to engage with the (post)colonial realities of Aotearoa New Zealand. This research examines how these responsibilities have been responded to, in a particular time and place where Māori and Pākehā planning traditions, ownership regimes, and visions for the future have been brought together through the process of planning for Treaty settlement land. To conclude this chapter, I will introduce my approach to this research, provide an overview of the research aim, objectives and questions, and outline the remainder of the thesis.

I have undertaken this research using a 'mode of inquiry' called 'institutional ethnography'. Institutional ethnography has been developed through the scholarship of Canadian sociologist Dorothy Smith, and refers to the "empirical investigation of linkages among local settings of everyday life, organizations, and translocal processes of administration and governance" (DeVault and McCoy 2003, p.79). Institutional ethnography is based in feminist philosophies of making 'invisible' social relationships visible for critique, and linking research with activism and social change. I encountered institutional ethnography in the writings of Marjorie DeVault and Liza McCoy (2002), who explained that institutional ethnography inquiries focus on relationships and experiences of processes, investigating the connections between participants and texts that make up 'institutions'. 'Institution' is a technical term within institutional ethnography. An institution comprises "clusters of text-mediated relations" which are organised around specific functions carried out by state and community organisations, such as providing education or - in this case - planning to develop urban areas (DeVault & McCoy, 2003, p371). 'Local' relations refer to the interactions between people and texts (such as planning documents) in carrying out their 'everyday' work; 'translocal' relations refer to the way in which texts associated with governance or administration (for instance, legislation or a code of ethics) influence how people understand and use texts in a specific setting (Bisaillon, 2012). Texts carry 'discourses' which are produced by participants within an institution and reproduced through their everyday work.

I recognised the potential of institutional ethnography to assist me in understanding the changing relationship between Hamilton City Council and Waikato-Tainui, to identify the influences on decisions made by each authority within the planning processes, and to situate these decisions within a broader 'institution' of 'planning for land returned under Treaty settlement'. This institution of planning includes local government, iwi authorities and the planning profession. The focus of this research is the particular corner of the specific

broadcasting, and the self-employed), service providers (especially in health and education), and the housing owned by Māori. The wages and salaries earned by Māori workers are also part of this definition' (New Zealand Institute of Economic Research, 2003a as cited in G. H. Smith, Tinirau, Gillies, & Warriner, 2015). Gross Domestic Product from the Māori economy totalled \$11 billion in 2013, which represented 5.6% of overall GDP from the New Zealand economy (Nana, Khan, & Schulze, 2015). Māori contribution to the GDP is dominated by primary industries (\$1.8 billion); manufacturing (\$1.3 billion); and hire and property rental (\$1.3 billion) (Nana et al., 2015).

institutional complex of planning processes that relate to development at The Base and the proposed development at Ruakura. Through this research, I make visible the connections between the decisions made by Hamilton City Council and Waikato-Tainui about developing these sites, and the influence of local and translocal social relations. I examine the discourses employed within the institution of planning, and identify levers which planners can use to effect social change in the planning profession.

Starting an institutional ethnographic inquiry - identifying a problematic and a standpoint

Institutional ethnography inquiries begin by determining the focus for research - referred to as the 'problematic'. A problematic has been described as a 'puzzle' - a situation in which things do not happen as the person involved in the process expects; and where the answers to that puzzle cannot be found in the local setting (M. Campbell & Gregor, 2004). Articulating a problematic requires the researcher to develop questions that arise from the identified disjuncture between their expectations, and their experiences of how things 'actually work' within an institutional process. Although the researcher identifies the problematic through discussion with people who work within an 'institution', the research 'problematic':

...is not the problem that needs to be understood as an informant might tell it, or as a member of an activist group might explain it. It is not the formal research question either (M. Campbell & Gregor, 2004, p47)

The concept of a 'problematic' requires the researcher to think reflexively about their connection to the research topic, and to identify a standpoint from which the inquiry will be undertaken. To contribute to social change, inquiries are "always framed from the perspective of those who need to know" (M. Campbell & Gregor, 2004, p48). As a critical methodology, institutional ethnography inquiries must also be undertaken with an awareness of the imbalance of power between participants within institutions. Institutional ethnography inquiries aim to build knowledge about how relationships operate to prioritise or subordinate the interests of one participant over another. Dorothy Smith (2005) calls this combination of power and discourse the 'ruling relations' within an institution.

To identify a problematic, I initially drew on my experiences working as a planner in central and local government in Aotearoa New Zealand, including engaging with representatives of Waikato-Tainui during my work on the *Draft Auckland Unitary Plan*. I observed that elected councillors and planners were uncertain about the implications of the Treaty settlement process for our work. This uncertainty emerged during discussions with councillors about recognising both cultural and commercial redress provided through Treaty settlement, discussions with colleagues about appropriate planning for commercial redress land, and discussions with iwi and hapū about how to connect and align the process to settle Treaty claims, which are controlled by central government, with the process to prepare resource management plans which are controlled by local government. More broadly, my experiences echoed experiences reported by social service professionals of 'dissonance', described by Huygens as "the inconsistency between, for instance, beliefs about how things ought to be for

Māori and the actual experiences in the organisation” (2007, p211). These experiences often related to a disjuncture between an organisation's policies and ‘actual’ processes (Huygens, 2007).

In preliminary conversations with Hamilton City Council and Waikato-Tainui, representatives expressed frustration at how planning processes for Te Rapa and Ruakura had unfolded. In a meeting with Waikato-Tainui representatives, one person asked: ‘How do we change government behaviour to make it easier for us to operate - how do we change their willingness to hear and understand?’. Based on these conversations, I confirmed a problematic which asks:

Why are local authorities reluctant to enable Māori aspirations for commercial development on land returned under Treaty settlement?

Institutional ethnography inquiries must be undertaken from an explicit standpoint, within the institution under investigation. The concept of ‘ruling relations’ does not imply that one group of participants ‘rule’ while another ‘are ruled’. Instead, all participants in an institution are ‘ruled’ by local and translocal social relations - the dominant discourses and structural power dynamics of the society in which we work. By carrying out inquiries from the perspective of people who work within institutions, institutional ethnography “takes the standpoint of those who are being ruled” (M. Campbell & Gregor, 2004, p16).

The standpoint taken within this inquiry is that of a Pākehā local government planner struggling to draft appropriate planning regulation to develop land returned under Treaty settlement. This standpoint accords with the emphasis placed by Waikato-Tainui within their environmental plan *Tai Tumu Tai Pari Tai Ao* on the importance of planners “understanding Waikato-Tainui perspectives” and working towards “alignment with Waikato-Tainui perspectives” (Waikato-Tainui Te Kauhanganui Incorporated, 2013, pp44-45).

Research aims, objectives and questions

In this inquiry, I present an account of the events leading up to both the judicial review of the decision to notify Variation 21 to restrict development at The Base; and the Board of Inquiry decision on the Ruakura plan change, accompanied by a series of ‘maps’ of the social relations created and activated through these planning processes. This research explores dual Māori and Pākehā planning traditions as they are brought into contact through the institution of ‘planning for land returned under Treaty settlement’.

Postcolonial theory has been applied to planning relationships between colonial and indigenous groups with regard to natural resource management, and - to a limited extent - to urban development (Coombes, Johnson, & Howitt, 2012; Matunga, 2000a; Porter, 2010; Taylor, 2015). Through an in-depth case study of a (post)colonial relationship, focussing on resource management in urban areas, this research contributes empirical data which I trust will support further theoretical and applied scholarship in this area.

Considering the roles played by Waikato-Tainui in the planning process as planner, landowner, developer, and iwi authority, my practical aim for this research is to provide an insight into how knowledge employed within Waikato-Tainui planning documents is acknowledged and responded to by Hamilton City Council. Considering the roles played by Hamilton City Council as planner, regulator, and local authority, I aim to identify 'levers' which can be used by planners in both Hamilton City Council and Waikato-Tainui to move towards a Treaty-based relationship.

The four objectives below relate to different parts of the research, focusing on deconstructing discourse; describing development; rethinking relationships; and the ethics of (post)colonial planning. The objectives are supported by research questions.

Objective #1 - Deconstructing development discourse: To record Waikato-Tainui discourses on developing Treaty settlement land; and to analyse local government understanding and response to these discourses.

Research questions

1. What are the key discourses in planning documents created by Waikato-Tainui, relevant to developing land returned under Treaty settlement?
2. To what extent are these discourses reflected in local government planning documents relating to The Base and Ruakura?

Objective #2: Re-thinking relationships - To critically assess relationships between Waikato-Tainui and Hamilton City Council at the time of the Base development; and at the time of the Ruakura development, and to consider how this relationship has changed.

Research questions

3. How has the relationship between Waikato-Tainui and Hamilton City Council changed between The Base development, and the Ruakura proposal, and why?
4. What are the opportunities for, and constraints on, transforming relationships?

Objective #3 - Describing development: To investigate local and translocal influences on decisions about commercial development on Treaty settlement land.

Research questions:

5. What is the vision of Waikato-Tainui for developing land acquired under Treaty settlement?
6. What are the legal, market, and technical factors which need to be considered by practitioners when planning for Treaty settlement land?

Objective #4: Decolonising disciplines - To consider how Treaty settlements may challenge the planning profession, and how the planning profession may need to change to respond to these challenges.

7. What challenges do Treaty settlements, and the return of land as commercial redress, raise for planning professionals?
8. What visions for a future relationship are held by Waikato-Tainui and Hamilton City Council?

Outline of thesis

In this chapter, I have outlined the context for planning for Treaty settlement land: introducing the history of Māori-Pākehā relationships; explaining how the term '(post)colonial' applies to Aotearoa New Zealand; and briefly discussing (post)colonial challenges to planning. I introduced the methodology of institutional ethnography and provided an overview of the research design. From preliminary analysis of the relationship between Hamilton City Council and Waikato-Tainui emerged research questions that focus on the vision held by Waikato-Tainui for development; the changing relationship between Hamilton City Council and Waikato-Tainui; the challenges presented by the nature of land returned under Treaty settlement; and the experiences of planners in planning to develop land returned under Treaty settlement.

In the next chapter, I introduce the central organisations in this inquiry into the institution of planning for land returned under Treaty settlement - Waikato-Tainui and Hamilton City Council - and their key planning texts. I give an overview of planning processes at Te Rapa and Ruakura, and conclude by introducing myself and the relationships which have supported this research.

Chapter Three sets out the theoretical framework for the research, encompassing critical collaborative planning theory, postcolonial theory, and local decolonisation theory.

Chapter Four provides an overview of literature relevant to this research, including emerging literature on the reassertion of 'indigenous planning', and commentary about Treaty settlements, focussing on the potential for achieving 'economic justice' through redress. Returning to the practice of planning, I consider literature which complicates the concept of 'collaborative planning' by recognising the enduring power dynamic between 'colonial' and 'indigenous' authorities. Finally, I briefly cover research into the ethics of planning, focussing on the potential of encouraging socially-just planning practices through debate around professional codes of ethics.

Chapter Five sets out the key concepts in institutional ethnography and draws connections between the aims and methods of institutional ethnography and the concerns addressed in

the theoretical framework. Chapter Five concludes with a step-by-step explanation of the methods used to collect and analyse data for this research.

Chapters Six, Seven, Eight and Nine provide findings from the research, and a short discussion of the contribution of these findings towards the research objectives identified in Chapter Two.

Chapter Six 'deconstructs development discourse' by presenting my understanding of the vision held by Waikato-Tainui for developing their land returned under Treaty settlement. I then 'map' this discourse, tracing its origins back to tūpuna, and its 'translation' into planning documents created by local government.

Chapter Seven critically assesses relationships between Waikato-Tainui and Hamilton City Council through 'snapshots' in 2009 and 2014. An account of the planning process for both *Variation 21* and the *Ruakura Plan Change* is provided, and mapped as a 'chain of action' against the plan development processes set out in the *Resource Management Act (1991)*.

Moving from 'mapping' social relations towards identifying "levers" for social change (DeVault & McCoy, 2003, p372), Chapter Eight provides a practical insight into the challenges of bringing together two planning traditions, exploring the implications of communal and inalienable land ownership for planning and land development. Having considered the planning decisions made by Hamilton City Council, I focus on the decisions made by Waikato-Tainui about development at Te Rapa and Ruakura. Implications of the roles played by Waikato-Tainui of iwi authority, commercial property developer and large landowner are explored, with commentary on the ways in which existing provisions in the *Resource Management Act (1991)* can be used to advance Māori development.

Chapter Nine draws together reflections by planners working with Māori communities to consider the journey of the planning profession in Aotearoa New Zealand towards decolonisation. Comparison with a theory of social change and analysis of the New Zealand Planning Institute *Code of Ethics* provides suggested 'levers' to strengthen 'transformative' planning practices in Aotearoa New Zealand.

Finally, Chapter Ten brings together conclusions from the research. Analyses from the previous chapters build to create a 'map' of the institution of planning for land returned under Treaty settlement. This map assists in understanding possible connections between the dual planning traditions operating in Aotearoa New Zealand, and possibilities for a shared vision.

An epilogue sets out the ways in which this research has contributed to existing planning and policy processes.

Chapter Two - Context and research design

Maori geography is another way of viewing the world, another dimension, another perspective on New Zealand geography. But – kia tupato, Pakeha. Be careful Pakeha. Tread warily. This is not your history or geography. Do not expect all to be revealed to you... The detached academic stance of a Pakeha researcher is often irrelevant (Stokes, 1987, p121)

Introduction

In this chapter, I describe the geographical and political context for this case study, and introduce the two central organisations in this research, Waikato-Tainui and Hamilton City Council. Each organisation is introduced in words from their own websites to allow the reader to view the 'official' histories of each organisation, from their own perspectives. I provide a brief history of the relationship between Hamilton City Council and Waikato-Tainui, relevant legislation, and an overview of planning processes for developing the two sites within the case study - Te Rapa and Ruakura. I also introduce the key planning texts created by each organisation. I consider my position as a Pākehā planner, offering my histories to explain my connection to the research, my accountability, and my personal motivations for this work. I conclude by acknowledging the relationships that have supported this research.

This case study can be located within the two geographies of Aotearoa New Zealand. In one geography, this research takes place within the rohe of the tribe known as Waikato-Tainui, which is marked by the Waikato River, the mountains of Pirongia, Maungatautari, Maungakawa, and Taupiri, and the harbours of Whaingaroa, Aotea, Kāwhia, and Manukau (Waikato-Tainui Te Kauhanganui Incorporated, 2013). In another geography, this research is located within the Hamilton district, which nests within the Waikato region, on the western side of the North Island of New Zealand. The eastern edge of Hamilton city is marked by the route of the proposed Waikato Expressway; and the western edge by the ridge lines of the Rotokauri hills.

Waikato-Tainui

The people of Waikato-Tainui descend from the Tainui waka, and share their name with the Waikato river which runs through the Waikato region of Aotearoa New Zealand (Muru-Lanning, 2011). The 'tribe' (as they refer to themselves in their iwi planning documents) comprises hapū, marae and whanau with ancestral links to the Waikato-Tainui rohe. In 2016, 64,500 people were registered as members of Waikato-Tainui (Waikato-Tainui Te Kauhanganui Incorporated, 2016a).

The people of Waikato-Tainui also form the heart of the Kīngitanga movement. In the words of Waikato-Tainui:

The Kīngitanga – a movement to create a unified Māori nation – was formed after consultation among the tribes of Aotearoa. In 1858 Pootatau Te Wherowhero, ariki of Waikato, was chosen by the tribes of Aotearoa to become the first Māori king. Kiingi Pootatau, like many chiefs of his time, became convinced that unity under the umbrella of the Kīngitanga was the most effective way to protect Māori lands and to help protect tribal structures and customs from the impact of Paakeha practices and beliefs. In 1860 Kiingi Pootatau died and was succeeded by his son, Matutaera Pootatau Te Wherowhero – more commonly known as Tawhiao. His reign lasted 34 years and would see the most turbulent era of Māori-European relations (Waikato-Tainui Te Kauhanganui Incorporated, 2016a)

From Pōtatau and Tawhiao, the title of Māori King has been passed down through Waikato-Tainui. The current Māori King is King Tuheitia, who succeeded the throne in 2006 after the death of his mother, the first Māori Queen, Te Arikini Dame Te Atairangikaahu (Office of the King, 2013b). The Māori King is the head of the Kīngitanga movement, and hosts events such as the annual Koroneihana celebrations and Tūrangawaewae Regatta in Ngāruawāhia, attends poukai throughout the country, and represents the Kīngitanga at national and international events (Office of the King, 2013a).

Waikato-Tainui are formally governed by the entity known as Te Whakakitenga o Waikato.¹⁴ Te Whakakitenga o Waikato comprises members elected from each of the 68 Waikato-Tainui marae. Three members are elected from each marae, for a three year term. Current representatives were elected in 2014 and will hold office until 2017. Te Whakakitenga chooses an executive body called Te Arataura, which employs a Chief Executive Officer and supporting staff. Te Arataura control four subsidiary organisations - the Waikato-Tainui College of Research and Development; Waikato River Raupatu Settlement Trust; Waikato Raupatu Lands Settlement Trust; and Tainui Group Holdings (Waikato-Tainui Te Kauhanganui, 2016). The Waikato-Tainui hapū of Ngāti Māhanga, Ngāti Wairere, Ngāti Haua, and Ngāti Korokī Kahukura have mana whenua within the boundaries of Hamilton City (Environment Manager - Waikato Tainui, 2015).

Waikato Raupatu Claims Settlement Act (1995)

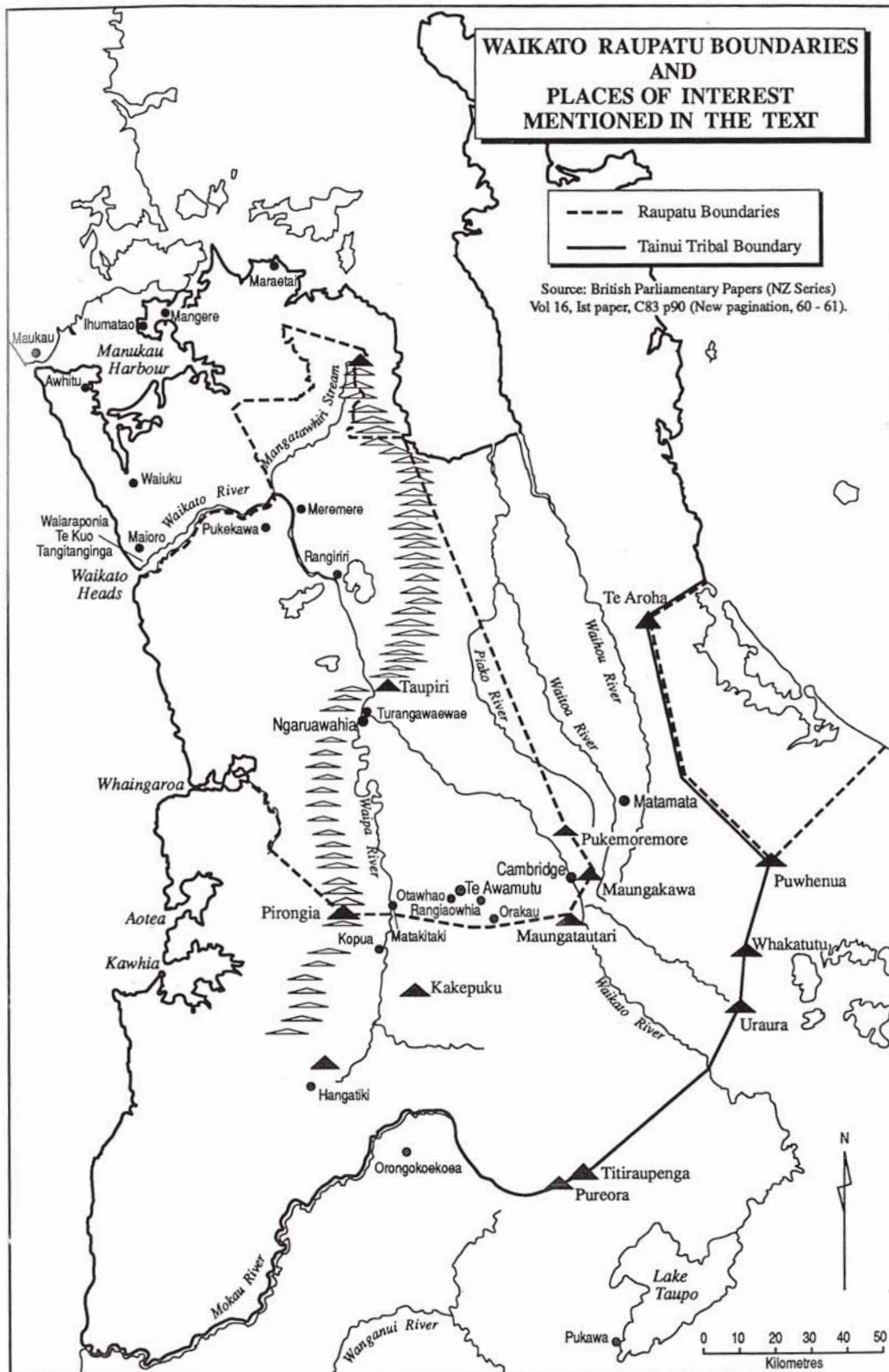
The website of Te Whakakitenga o Waikato provides a history of the events which form the basis of Waikato-Tainui claims of breaches of Te Tiriti o Waitangi:

During the reign of Kiingi Tawhiao, the New Zealand Settlements Act 1863 was passed, which provided for military settlements to be established on confiscated land. Following enactment of this law, British troops crossed the Mangataawhiri Stream and

¹⁴ 'Te Whakakitenga o Waikato' was known until February 2016 as 'Waikato-Tainui Te Kauhanganui'. The name was changed after a governance and representation review (Waikato-Tainui Te Kauhanganui Incorporated, 2016b)



3. A map showing part of the region of Waikato, which centres on the city of Hamilton. Hamilton City is the fourth-largest urban population in Aotearoa New Zealand, but one of the smallest territorial authorities by land area. Hamilton is connected by State Highway 1 north to Auckland, and south to the Central and Lower North Island. Source: new-zealand-map.blogspot.com.



4. A map of the boundaries of the Tainui tribes, and the extent of the confiscation of land through raupatu. The map also marks significant sites during the 1863-1864 invasion. The region of the Waikato peoples is encapsulated in the saying: 'Ko Mōkau ki runga, Ko Tāmaki ki raro, Ko Mangatoatoa ki waenganui. Pare Hauraki, Pare Waikato, Te Kaokoaroa-o-Pātetere'. This can be translated as: 'Mōkau is above, Tāmaki is below, Mangatoatoa is between. The boundaries of Hauraki, the boundaries of Waikato, To the place called 'the long armpit of Pātetere' (Royal, 2012). The Mōkau river is visible at the bottom of this map; and Tāmaki refers to the settlements up to the Tāmaki River, which now form part of the city of Auckland. Source: Toataua & Stuart (1991, p13).

advanced into the Waikato provoking war. This invasion triggered the confiscation, known as raupatu, of more than 1.2 million acres of Waikato land and caused catastrophic economic, social and cultural loss to Waikato (Waikato-Tainui Te Kauhanganui Incorporated, 2016a)

On 22 May 1995, the Māori Queen Te Arikini Dame Te Atairangikaahu (on behalf of Waikato claimants) and Prime Minister Jim Bolger (on behalf of Her Majesty the Queen of New Zealand) signed a deed to settle claims brought by Waikato regarding raupatu¹⁵. This *Deed of Settlement* was passed into law through the *Waikato Raupatu Claims Settlement Act (1995)*. The *Act* included an apology from the Crown to Waikato for “among other things, sending its forces across the Mangatawhiri river in July 1863, unfairly labelling Waikato as rebels, and subsequently confiscating their land” (1995, p3). The *Act* also provided for the transfer of land, at an agreed price, from Crown ownership to Waikato; and for the transfer of a sum of money. The properties transferred included the sites at Te Rapa and Ruakura. The *Deed of Settlement* notes that “Waikato have pursued compensation on the basis of the principle of ‘land for land’ - ‘i riro whenua atu, me hoki whenua hoki mai’ (as land was taken land must be returned) and ‘ko te moni hei utu mo te hara’ (the money is the acknowledgement by the Crown of their crime)” (1995, p4). The *Deed* discusses the Crown’s provision of land and money - termed ‘redress’ - to Waikato to “atone for the wrong done to Waikato by the raupatu, in recognition of the mana of the Kiingitanga and to discharge the Crown’s obligations to Waikato in respect of the Raupatu Claims” (1995, p7). This settlement has contributed to significant advances in Waikato-Tainui development over the last twenty years.

Hamilton City Council

Hamilton City Council is a local authority with jurisdiction over the Hamilton district of Aotearoa New Zealand. The 2013 census recorded 141,615 people usually resident within Hamilton city (Department of Internal Affairs, 2016c). 71% recorded themselves as ‘European’ or ‘New Zealander’, and 21.3% as ‘Māori’ (Statistics New Zealand, 2014).

The city of Hamilton was established in 1864 by the 4th Waikato militia as a military town around redoubts on both sides of the Waikato River. The Waikato militia were part of the colonial forces which invaded Waikato in 1863-4 to suppress the Kīngitanga, which was seen to impede Pākehā settlement by opposing land sales and supporting Māori to “keep Māori land in Māori hands” (Mahuta, 2008, p175). The invasion of the Waikato was “one of the major campaigns of the New Zealand Wars and involved over 12,000 British & Colonial forces against Māori forces unlikely to have numbered more than 2000 at any one time” (Hamilton City Council, 2014a). Māori settlements existed on the site where Hamilton now stands, including

¹⁵ A second settlement for claims relating to the Waikato River was signed in 2009, and legislated through the *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act (2010)*.

the “...abandoned Māori village of Kirikiriroa, on the west bank. Remains of other villages on both banks confirm this stretch of river had been well-occupied” (Swarbrick, 2015, p7).

Local government in Aotearoa New Zealand has its origins in “responsible settler government” established under the *Constitution Act (1852)*. This Act created six provinces, and over time, each province created a number of boroughs (Derby, 2012). Hamilton East and Hamilton West boroughs united in 1877, to form the first Hamilton Borough Council. In 2016 Hamilton City Council comprised an elected governance body of twelve councillors and a mayor, and an executive organisation which, in 2015, employed 901 staff (Department of Internal Affairs, 2016c). Julie Hardaker was elected as mayor in 2010 and re-elected in 2013. Hamilton City Council owns three council-controlled organisations: Hamilton Properties Limited; Local Authority Shared Services Ltd; and Waikato Regional Airport Ltd.

Resource Management Act (1991) and Local Government Act (2002)

Local government in Aotearoa New Zealand is given jurisdiction through the *Local Government Act (2003)*. Local government planning functions and powers are legislated through the *Resource Management Act (1991)*, as well as other legislation relating to specific issues such as the *Public Works Act (1981)*, *Land Transport Management Act (2003)*, and the *Marine and Coastal Areas Act (2011)*. As a local authority, Hamilton City Council holds responsibilities for: sustainable district well-being; provision of local infrastructure (water, sewerage, stormwater, roads); and controlling the effects of land use (including hazardous substances, natural hazards and indigenous biodiversity), noise, and the effects of activities on the surface of lakes and rivers (Department of Internal Affairs, 2016b). Hamilton City Council sits within the jurisdiction of Waikato Regional Council, which has responsibilities for matters including: sustainable regional well-being; managing the effects of using freshwater, land, air and coastal waters; managing rivers, mitigating soil erosion and flood control; regional land transport planning and contracting passenger services (Department of Internal Affairs, 2016b).

Histories of conflict and coexistence

Waikato-Tainui and Hamilton City Council coexist as dual authorities in Hamilton City. Their histories are intertwined, but infrequently acknowledged. Beginning in 2013, commemorations were held to mark the major battles of the 1863-1864 invasion. Initiated by the local community and Waikato-Tainui, the commemorations began at Mangatāwhiri on 12 July 2013 with a dawn ceremony. Further commemorations were held at Rangiriri (20 November 2013); Waiari/Paterangi (14 February 2014); Rangiaowhia /Hairini (21 February 2014); Orakau (1 April 2014); and Waipa (25 April 2014) (Ministry for Culture and Heritage, 2013b).¹⁶

¹⁶ Unfortunately, these efforts were eclipsed by the focus in 2015 on commemorating the centenary of ‘the birth of the nation’ at ANZAC Cove, in Gallipoli. Only one Member of Parliament attended the raupatu commemorations, which were supported with approximately \$250,000 of government funding.

Tom Roa, Chair of Te Arataura remarked that:

The importance of commemorating the events of 1863–1864 for all New Zealanders is that it marks a moment in history that was fraught with conflict and tension. The gateway at Rangiriri still wears the upside down British flag, an historic symbolic gesture. Today it's a reminder of our past and our ongoing work to keep building our future...We want to promote the themes of reconciliation and transformation which we believe will resonate with all New Zealanders (Ministry for Culture and Heritage, 2013a)

In August 2014, Hamilton City Council celebrated 150 years since the settlement of Hamilton. The Council website recorded that August 2014:

...was the anniversary of the landing of the first British settlers in Hamilton/Kirikiroa and the establishment of the first militia settlement... [T]his date is recognised as the birth of the city of Hamilton as we know it today (Hamilton City Council, 2014a)

Placing these histories side by side highlights that the “birth of the city of Hamilton” also marked the death of many Waikato-Tainui and colonial soldiers, and the eventual confiscation of the site of the city of Hamilton from Waikato-Tainui. These histories form the background to this case study. In this research, I consider how these histories influence contemporary relationships between Waikato-Tainui and Hamilton City Council, as revealed through analysis of key planning texts and interviews with case study participants.

Relationships between Waikato-Tainui and Hamilton City Council

The following provides a brief history of the relationship between Waikato-Tainui and Hamilton City Council, at the political/governance level, and at the technical/operational level. In this research, I take care to differentiate between councillors and tribal representatives elected by the community; and planners employed by the local or iwi authority. Decisions made by elected members are critical to the narrative of this case study, but my focus is on the planners – their professional relationships, and their ‘everyday work’ (or, in the language of institutional ethnography ‘routine organizational actions’ (M. Campbell & Gregor, 2004)) within the institution of planning.

Historically, relationships have not been positive between Waikato-Tainui and Hamilton City Council. Local government planning documents, known as ‘district schemes’, were introduced to New Zealand through the first planning legislation, the *Town and Country Planning Act (1926)*. Since that time, Māori communities have been excluded from processes to develop local government planning documents, including in Waikato (Matunga, 2000a). In 1983, Robert Mahuta and Ken Egan carried out a survey to assess the resources that the Tainui canoe federation “possesses in its people, its land and other assets” (Egan, 1983, p6). The

In comparison, \$25 million was spent by the New Zealand government on commemorating soldiers who fought in the First World War (O'Malley, 2015).

resulting *Tainui Report* comments on the minimal involvement of Māori communities in the review of district schemes in Waikato in the 1980s, despite the importance of these schemes for recognising and supporting Māori intentions to develop their land:

Given the importance of the issue a question on the [District] Schemes was included in the Marae survey. In terms of knowledge of the Review Schemes, only 29% of the Marae knew about them while 71% had no knowledge. In terms of participation, only 15% had participated as against 85% who had not. Irrespective of where the blame may lie on this issue, it is clear that Maaori view [sic] are not being heard in these reviews (Egan, 1983, p51).

In the last ten years, however, efforts by Hamilton City Council, and other local governments, to engage and involve Waikato-Tainui in planning processes have increased. The *Resource Management Act (1991)* provides for local government to recognise 'iwi authorities' as representatives of their community for notification, consultation and engagement on resource consents and plan development. With recognition from local government, iwi authorities can assert their right to participate in consultation under Schedule 1B of the *Resource Management Act (1991)*¹⁷. Hamilton City Council recognises Te Whakakitenga o Waikato as the iwi authority within Hamilton City, and works with the Waikato Raupatu Lands Trust and Waikato Raupatu River Trust on resource management matters. At a hapū level, Hamilton City Council holds service agreements with Te Haa o Te Whenua o Kirikiriroa, a trust representing the five hapū within Hamilton, to provide "advice on matters from 'tangata whenua' for statutory processes (generally related to Resource Management Act matters such as resource consent applications), and support for ceremonial functions such as powhiri" (Hamilton City Council, 2014a, p152).

Waikato-Tainui have been involved in processes to develop local government planning documents in a number of ways, including submissions, collaboration, and appeals. The *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act*, signed in 2010, introduced new elements into the relationship between Waikato-Tainui and Hamilton City Council. Following the settlement, a *Joint Management Agreement* for the Waikato River was signed between Waikato-Tainui and Hamilton City Council in 2012 (Waikato Raupatu River Trust and Hamilton City Council, 2012). Among other things, the *Joint Management Agreement* required Hamilton City Council and Waikato-Tainui to work together on the review of the *Hamilton District Plan*. Waikato-Tainui were subsequently involved in developing the *Proposed Hamilton*

¹⁷ Although the term 'iwi authority' implies a specific scale of social organisation (ie. an 'iwi'), the legal definition of an 'iwi authority' within the *Resource Management Act (1991)* leaves it open to 'iwi' to mandate any organisation to represent them: 'Iwi authority means the authority which represents an iwi and which is recognised by that iwi as having authority to do so' (Part 1 section 2). As a result, 'iwi authorities' may represent Māori organisations who, in other contexts, may consider themselves waka confederations, post-settlement governance entities, hapū, or other groups.



5. (Top) Te Arikinui Dame Te Atairangikaahu and Prime Minister Jim Bolger sign the Waikato-Tainui Deed of Settlement at Turangawaewae Marae, Ngāruawāhia, in May 1995. Born in Taranaki, Jim Bolger farmed near Te Kuiti, in an area known as the 'King Country' to the south of the Waikato region. Twenty years after the Waikato-Tainui settlement, Bolger reflected that '...we absolutely must teach an honest history of the settlement period of New Zealand. That's the only way you can get acceptance of what still has to be done to correct some of those errors of the past. It wasn't this generation that caused them, I know. But it's this generation that has the responsibility and the obligation to resolve them. It can't be handed on to another generation' (Harawira, 2016). Source: Radio New Zealand.

(Bottom) Commemoration of battle at Rangiriri, 21 November 2013. King Tawhiao was present in the pā when the colonial forces attacked. Around 70 colonial and Māori soldiers were killed. The commemoration at Rangiriri included blessing a pou, a memorial service to the fallen, and laying a wreath on the mass burial ground. The commemoration was attended by members of the armed services as well as Waikato-Tainui descendants. Source: Peter Drury / Fairfax NZ.



6. (Top) A view of the Waikato River from the site of Miropiko pā, on the eastern side of the Waikato River. Miropiko pā is now a reserve with public access. The pā site is commemorated by a pou, and a carved structure bearing an interpretation panel. Source: Author.

(Bottom) Tukoroirangi Morgan, chairman of Te Arataura, and Julie Hardaker, Mayor of Hamilton City, sign the *Joint Management Agreement* between Hamilton City and Waikato-Tainui in February 2012. Source: Ben Curran / Waikato Times.

*District Plan*¹⁸, through input from both the ‘Tangata Whenua Group on the District Plan Review’ and Tainui Group Holdings.

Following a review in 2013 of Hamilton City Council’s ‘Partnership with Māori’, internal ‘Māori Relationships Advisor’ and ‘Kaumatua’ roles were created within the council (Hamilton City Council, 2014a). A report to the Hamilton City Council Finance Committee in April 2014 noted that the appointment to the Kaumatua role was endorsed by King Tuheitia. On its website, Hamilton City Council acknowledges the importance of Māori in Hamilton’s history and future. The relationship with Waikato-Tainui is described as a developing ‘partnership’. The website outlines the *Waikato Raupatu Claims Settlement Act (1995)* and *Waikato River Deed of Settlement* noting that ‘components in this [Waikato Raupatu Claims Settlement] Act which are of significance to the Council’ include the return of lands, and right of first refusal (Hamilton City Council, no date).

Overview of planning processes for developing The Base at Te Rapa (2004-2010)

Te Rapa is located on the outskirts of Hamilton’s urban area, six kilometres north of the Central Business District. In 2004, when the first resource consent for development was issued by Hamilton City Council, the *Hamilton District Plan* provided for retail development at Te Rapa as a ‘controlled activity’. Half the site at Te Rapa was zoned as Commercial Services, and half as Industrial. Under the *Resource Management Act*, any application for resource consent for a ‘controlled activity’ must be granted, although conditions can be imposed. A series of resource consents were granted for development at The Base, with conditions on issues such as roading, traffic management, parking, safety audits, signage, construction noise, staff amenities and reserve contributions (for example, see Hamilton City Council, 2011). By late 2009, the first stage of the retail development at The Base had opened, and stages two and three had been granted resource consent (Tainui Group Holdings, 2010). Tainui Group Holdings began planning towards “the ultimate vision - to turn The Base into a town centre” (The Base, 2015).

However, Hamilton City Council had concerns about the permissive planning framework for ‘out-of-centre’ retail development in Commercial Services and Industrial zones in the *Hamilton District Plan*. Because industrial activities generally yield less profit than commercial and retail activities, the value of land zoned ‘Industrial’ is lower than land zoned for ‘Commercial Services’. In locations with good transport links and easy access for customers, landowners often request the local authority to provide for higher-value commercial and retail activities. However, Industrial zoning must be located in areas where industrial activities will have

¹⁸ Planning terminology in Aotearoa New Zealand distinguishes between ‘operative’ planning documents which have completed the plan development process set out in Schedule 1 of the *Resource Management Act (1991)*, including consultation processes; and ‘proposed’ planning documents which are still passing through consultation processes (Quality Planning, 2016c).

minimal effects on neighbours, and easy access for freight. Council argued that retail development in industrial zones squanders industrial land, increases traffic levels, and introduces activities which will potentially conflict with industrial uses in industrial areas. Increased retail development outside the Central Business District can result in reducing population densities in the central city to support the viability of the public transport network, and unforeseen expenses to provide infrastructure for increased traffic outside the central city (*Affidavit of Murray Kivell* 2010; General Manager - City Planning and Environmental Services, 2009).

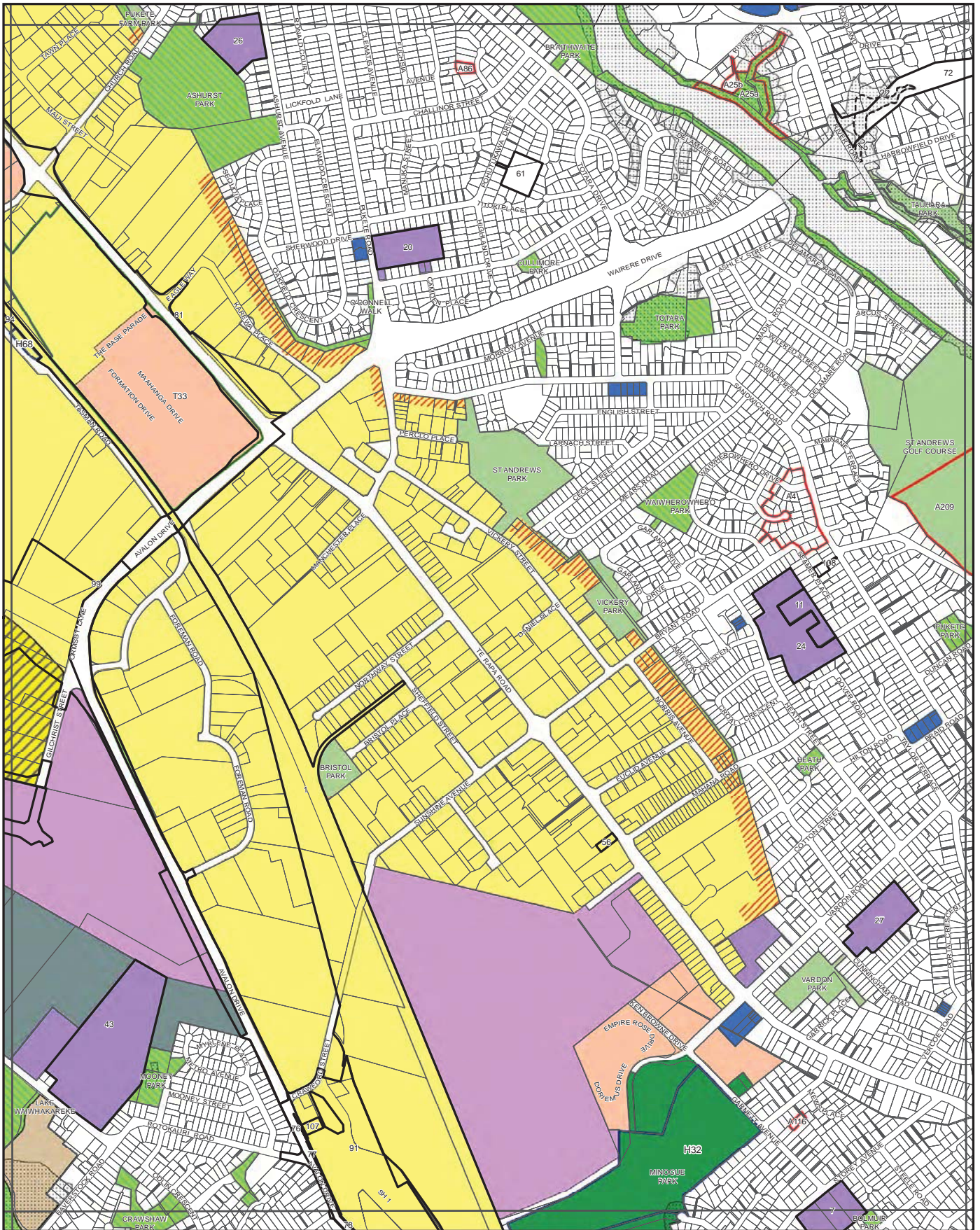
Hamilton City Council's concerns were reflected in a shift in strategic planning direction, through the *Future Proof Growth Strategy* (2009) and *Hamilton Urban Growth Strategy* (2010), to encourage retail development in the Central Business District and discourage 'out-of-centre' retailing. *Hamilton Urban Growth Strategy* and *Future Proof* introduced a 'hierarchy of commercial centres' which emphasised the primary role of the Central Business District. *Future Proof* identified The Base as "a major commercial node", but also noted that "[g]iven the high level of existing development capacity within established commercial centres, there is no need in the short to medium term to plan for any major new retail centre anywhere around the city beyond the provision for retailing in new growth cells" (*Future Proof Joint Committee*, 2009, p64). The *Hamilton Urban Growth Strategy* did not identify further development at Te Rapa, and warned that:

Over recent years, Hamilton's growth has predominantly occurred in the north of the city - continuing this trend may not necessarily provide for future social or cultural needs of all our residents...We need to challenge the current approach to city growth and determine the best future for Hamilton as a whole (*Hamilton City Council*, 2010, p15)

Considering these statements, it is clear that the major retail development envisaged by Tainui Group Holdings at The Base was not anticipated in the strategic planning documents produced by local government. However planners and councillors were aware that, as plans not developed under the *Resource Management Act (1991)*, *Hamilton Urban Growth Strategy* and *Future Proof* carried little statutory weight in resource management decisions. To enforce the 'hierarchy of commercial centres', Hamilton City Council needed to translate the strategic directions set in *Hamilton Urban Growth Strategy* and *Future Proof* into planning regulation by incorporating the centres hierarchy into the *Hamilton District Plan*. A 'centres hierarchy' was introduced through a variation to the *Hamilton District Plan*, known as '*Variation 21*'.

Variation 21 limited the development of retail activities in Commercial Services and Industrial zones, changing retail development from a 'controlled' activity to a 'discretionary'¹⁹ activity in

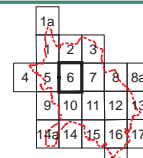
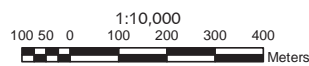
¹⁹ A discretionary activity requires a resource consent before it can be carried out. The consent authority can exercise full discretion as to whether or not to grant consent and as to what conditions to impose on the consent if granted (*Environment Foundation*, 2015).



Hamilton City
Operative District Plan
July 2012

Zoning Map

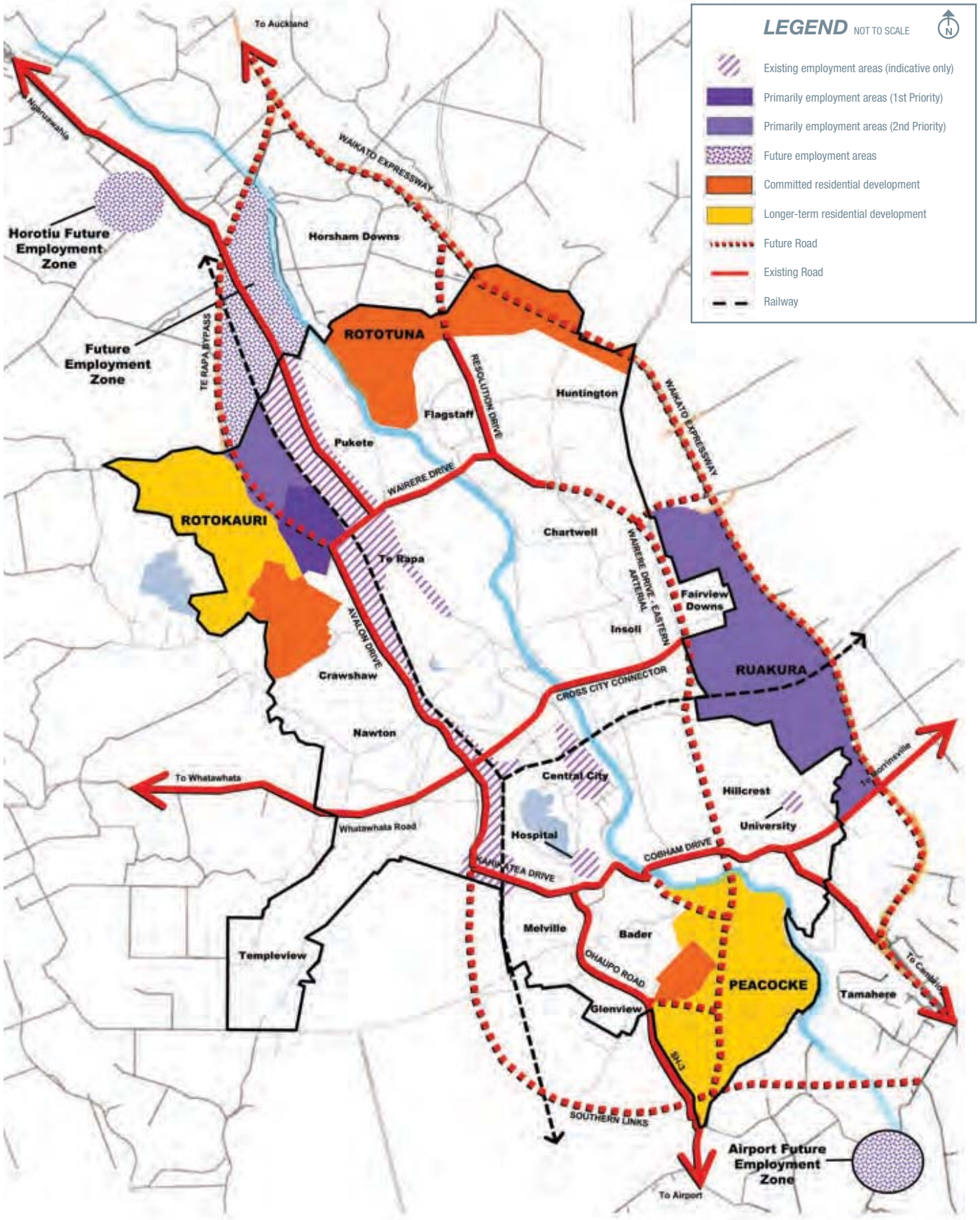
Disclaimer: Hamilton City Council can not guarantee that the data shown on this map is 100% correct. Cadastral information derived from LINZ Digital Cadastral Database: CROWN COPYRIGHT RESERVED



Map No
6

Last Updated December 2013
Map produced by
Hamilton City Council
Te Kaitiaki a Hīkoiwa

7. Zoning map for Te Rapa and surrounding area in *Hamilton District Plan*. The Base site is visible in the north-western side of the map. The northern half of the land owned by Tainui Group Holdings is zoned 'Industrial' (shown in yellow), while the southern half is zoned 'Commercial Services' (shown in peach). Source: Hamilton City Council (2012).



8. Map illustrating growth approaches in *Hamilton Urban Growth Strategy*. The site at Te Rapa is marked as an 'Existing employment area', and the site at Ruakura is marked as 'Primarily employment area (2nd Priority)'. Source: Hamilton City Council (2010, p13).

the Commercial Service zone; and from a ‘controlled’ activity to a ‘non-complying²⁰’ activity in Industrial zones (*Affadavit of Murray Kivell* 2010). These changes were perceived by Tainui Group Holdings to create a “major resource consent hurdle” to further developing The Base (*Affadavit of Vernon Warren* 2009, p72). Tainui Group Holdings appealed to the High Court for a judicial review of *Variation 21*. In evidence to the High Court, Tainui Group Holdings acknowledged their involvement in the *Future Proof* strategy, which prioritised development in the Central Business District, but stated that it had not been their understanding that the primacy of the Central Business District would require restricting development at The Base (Pohio, 2014). *Variation 21* was declared unlawful, and quashed.

Overview of planning processes for developing an inland port and associated activities at Ruakura (2009-2015)

Unlike at Te Rapa, significant development was envisaged at Ruakura by both Waikato-Tainui and Hamilton City Council. When the land at Ruakura was returned to Waikato-Tainui, the boundary of Hamilton City Council ran adjacent to the Hamilton neighbourhoods of Fairview Downs, Enderley, and Claudelands, placing Ruakura in the largely rural Waikato District. In the early 2000s, Waikato District Council and Hamilton City Council began discussions to transfer the area to the west of the Waikato Expressway, known as the R1 area, from Waikato District to Hamilton City, to allow the urban area to expand. The local authorities agreed that the transfer would happen at the time when the Waikato Expressway was completed, or in 2035, whichever came earlier. However, on 23 September 2009, Waikato District Council and Hamilton City Council signed a new Ruakura *Strategic Development Agreement* with Tainui Group Holdings and their development partners, Chedworth Properties Limited. The *Strategic Development Agreement* recognised Tainui Group Holdings’ aspirations to develop Ruakura and agreed that “best endeavours” would be made to transfer the R1 land to Hamilton City Council by 30 June 2010 (although in reality the transfer did not take place until 1 July 2011).

The site at Ruakura was identified as a growth area in *Future Proof* and as an innovation employment growth area in the *Hamilton Urban Growth Strategy*. Subsequently, the strategic directions within these plans were translated into the *Waikato Regional Policy Statement* (2012)²¹, and the district plans of local authorities. The proposed *Regional Policy Statement* included a specific policy to adopt the land use pattern agreed through *Future Proof* (2012,

²⁰ A non-complying activity requires a resource consent before it can be carried out. A resource consent can be granted for a non-complying activity, but first the applicant must establish that the adverse effects of the activity on the environment will be minor or that the activity will not be contrary to the objectives of the relevant plan or proposed plan (the ‘threshold test’). Non-complying activity status is a way for a council to signal that activities will be subject to a greater degree of scrutiny and indicates to the community areas where some activities are unlikely to be appropriate (Environment Foundation, 2015).

²¹ Under the *Resource Management Act*, each regional council must develop a Regional Policy Statement, which set out an ‘overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region’ (1991, s59).

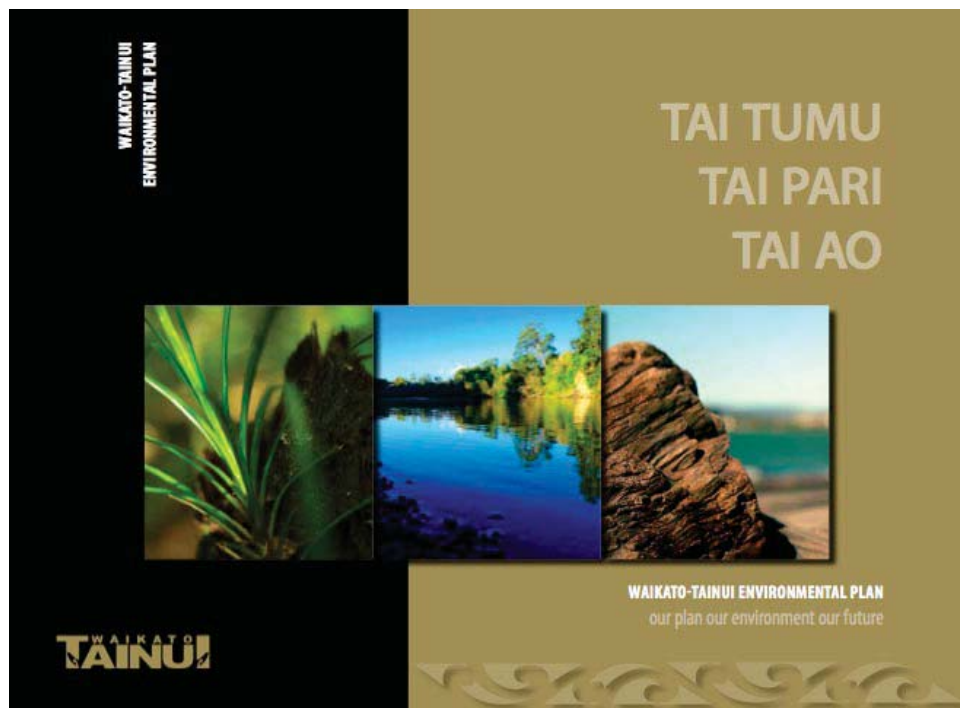
policy 6.13). As well as setting out the “hierarchy of major commercial centres” (2012, table 6-3), this policy included a table showing the allocation of industrial land across “strategic industrial nodes” where new industrial development should “predominantly be located” (2012, table 6-22). When first notified in 2010, this table allocated only 130 hectares of industrial development at Ruakura until 2061. Through a process of negotiation, a further 275 hectares was added, allowing sufficient industrial development to meet Tainui Group Holding’s proposed development timeframe (Waikato Regional Council, 2012).

Despite strong strategic support for urbanising Ruakura in the *Hamilton Urban Growth Strategy*, *Future Proof* and the proposed *Regional Policy Statement*, developing the land at Ruakura was regulated by the operative *Waikato District Plan*. Under this plan, Ruakura was zoned rural and the R1 area was also covered by an ‘Urban Expansion Policy Overlay’ that prohibited non-rural activities, preventing infrastructure work to prepare for urban development. The *Strategic Development Agreement* recorded that the provisions within the *Waikato District Plan* relating to the R1 area would become part of the *Hamilton District Plan*, and that Hamilton City Council would then change the *Hamilton District Plan* to incorporate any changes to planning rules that “it considers necessary as soon as practicable but within two years” (Webb, 2014, Appendix A, para 7.1). Hamilton City Council also undertook to “commence a structure planning process within 2 years of the completion of the boundary adjustment” but could not guarantee that any appeals to a new structure plan²² would be able to be resolved within that timeframe. The structure plan would be incorporated into the *Proposed Hamilton District Plan*. Throughout the process to develop the *Ruakura Structure Plan* and subsequent *Ruakura Plan Change*, Hamilton City Council emphasised the primacy of the Central Business District. The Ruakura proposal was controversial because of the amount of retail space planned, and the size of retail outlets possible.

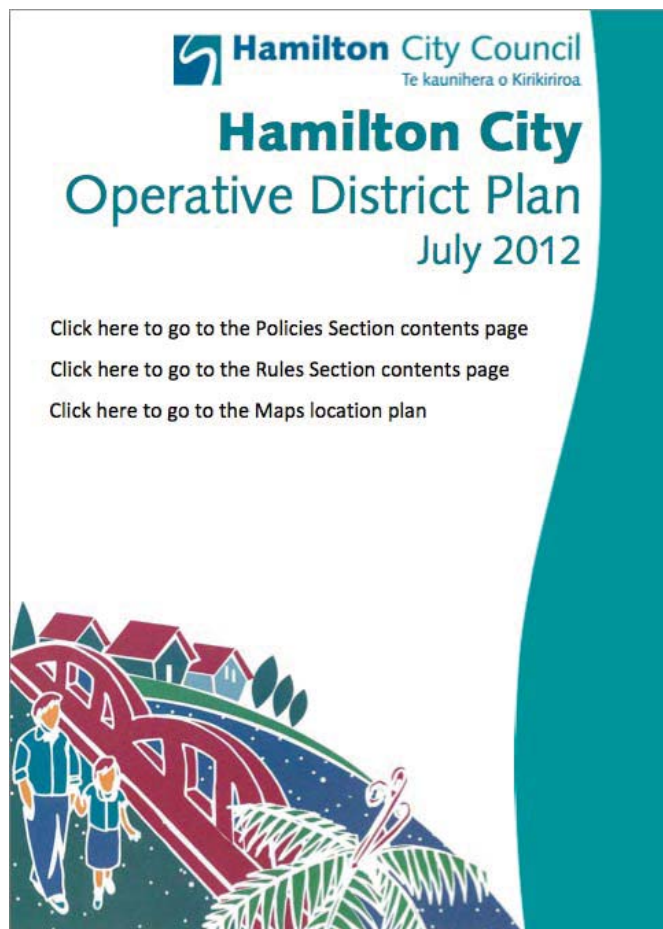
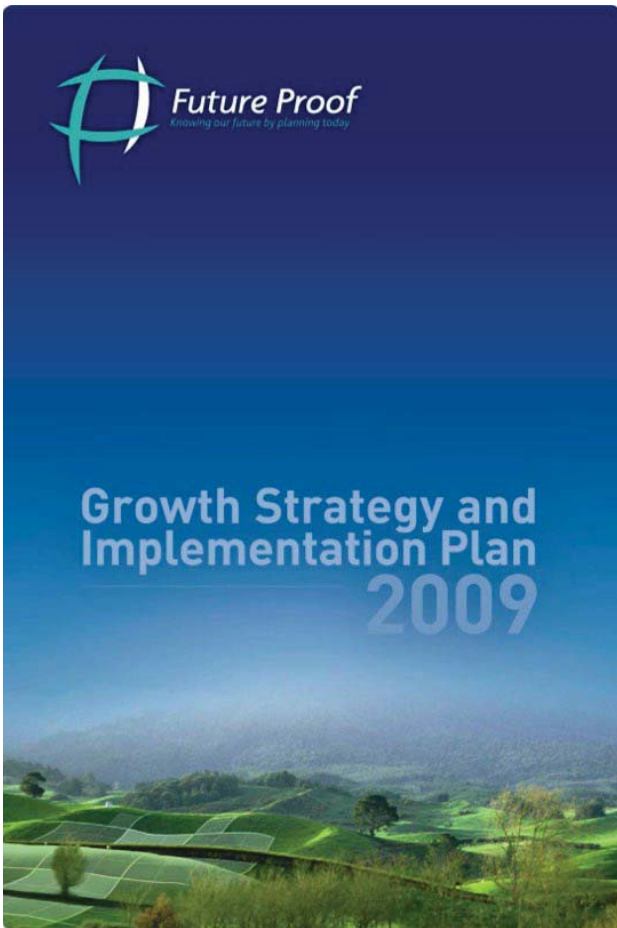
Five key texts

Analysis of texts, and the ways in which they are created and used, is central to institutional ethnography. Social relations are “accomplished textually, through the production, deployment, and uptake of documents...” (DeVault, 2013, p333). Within institutional ethnography, the “text processes become the focal point of ethnographic study, rather than people themselves” (Gruner, 2012, p78). This inquiry focuses on the creation and activation of five texts. Two texts are iwi planning documents created by Waikato-Tainui, two are local government planning documents created by Hamilton City Council, and one - the *Future Proof Strategy* - was developed through a collaborative process in which both Waikato-Tainui and Hamilton City Council were involved.

²² A structure plan is a ‘framework to guide the development or redevelopment of an area by defining the future development and land use patterns, areas of open space, the layout and nature of infrastructure (including transportation links), and other key features and constraints that influence how the effects of development are to be managed...The maps or plans in structure plans do not typically go into such detail as to define individual lot boundaries or the physical form of buildings and structures’ (Quality Planning, 2016b)



9. Cover pages of key planning documents produced by Waikato-Tainui. (Top) The strategic plan *Whakatupuranga Waikato-Tainui 2050*, produced by Waikato-Tainui Te Kauhanganui in 2007. (Bottom) The environmental plan *Tai Tumu Tai Pari Tai Ao*, published by Waikato-Tainui in 2013. *Tai Tumu Tai Pari Tai Ao* includes the entire *Whakatupuranga Waikato-Tainui 2050* strategy as a chapter, and is recognised as an iwi planning document under the Resource Management Act (1991).



10. Cover pages of key planning documents produced by Hamilton City Council and local government in the Waikato region. (Top left) *Future Proof Growth Strategy* developed collaboratively by local government, central government and tangata whenua. (Top right) *The Hamilton Urban Growth Strategy*, 2010. (Bottom) *The Hamilton City District Plan*, notified in 1999 and made operative in 2012.

The two iwi planning documents produced by Waikato-Tainui are *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*. *Whakatupuranga Waikato-Tainui 2050* is a strategic planning document produced by Waikato-Tainui Te Kauhanganui (the predecessor to Te Whakakitenga o Waikato) in 2007. The document is introduced by Te Arataura as “the blueprint for cultural, social and economic advancement for our people” (Te Kauhanganui o Waikato Inc., 2007, p2). *Whakatupuranga Waikato-Tainui 2050* includes a vision, mission, principles and a set of strategic objectives. *Tai Tumu Tai Pari Tai Ao* is an environmental plan developed by Waikato-Tainui Te Kauhanganui, and released in 2013. *Tai Tumu Tai Pari Tai Ao* includes and updates *Whakatupuranga Waikato-Tainui 2050*. The plan creates a vision for the environmental health of the Waikato-Tainui rohe. It sets the context for developing Treaty settlement land, and articulates Waikato-Tainui expectations for outcomes of Treaty settlements (for example, see p219 in Waikato-Tainui Te Kauhanganui Incorporated (2013).

The two planning documents created by Hamilton City Council are the *Hamilton Urban Growth Strategy*, and the *Hamilton Operative District Plan*.²³ The *Hamilton Urban Growth Strategy* is a non-statutory document developed by Hamilton City Council in 2010. The Strategy identifies five key areas for urban growth in Hamilton City. The Strategy was informed by a “thorough, city-wide consultation process” in 2008. *Hamilton District Plan* is a resource management plan initially produced by Hamilton City Council in 1999, and finalised in 2012. The *Hamilton District Plan* identifies resource management issues and includes objectives, policies and rules to manage land use and activities. Between 1999 and 2012, the plan was altered through a public submission process, including a number of appeals to the Environment Court. In 2016 Hamilton City Council were finalising the *Hamilton Proposed District Plan*, which will replace the *Hamilton District Plan*. The *Hamilton Proposed District Plan* will pass through the last stages of development in 2016. The *Hamilton Proposed District Plan* is not analysed in this inquiry.

Finally, the *Future Proof Growth Strategy* is a non-statutory document developed by a working group comprising five partner councils and tāngata whenua. *Future Proof* sets out a strategy for developing part of the Waikato region encompassing Hamilton City, Waikato District, and parts of Waipa District. The directions in the Strategy are based on feedback from the ‘Future Proof community’ on three scenarios for development. Both Hamilton City Council and Waikato-Tainui have been strongly involved in the process to develop *Future Proof*. *Future Proof* is presented as a document produced and implemented collaboratively.

²³ In this inquiry, I focus on local government plans relating to resource management. However, one interviewee pointed out the possibility of analysing other local government planning documents, noting - for example - the similarities between the *Hamilton City Council Long-Term Plan* (which sets community outcomes and funding priorities), and *Whakatupuranga Waikato-Tainui 2050* (Environment Manager - Waikato Tainui, 2015).

Waikato-Tainui made a submission to the *Hamilton District Plan*, and also appealed aspects of the plan through the Environment Court²⁴. Although I found no evidence of Waikato-Tainui involvement in the *Hamilton Urban Growth Strategy*, the *Future Proof* strategy employed, and continues to employ, a range of mechanisms to involve both local government and tangata whenua in collaboratively developing and implementing the Strategy. Waikato-Tainui were involved through a purpose-formed group named 'Ngā Karu Atua o te Waka', as well as being represented on the *Future Proof* Project Management Group, *Future Proof* Joint Committee, and the Chief Executives Advisory Group. A broader grouping of iwi, the Tainui Waka Alliance, was also represented on the *Future Proof* Joint Committee and Chief Executives Advisory Group.

Analysis of these five key texts, grounded in interviews with participants who created and activate these texts, is central to this research inquiry.

Who are you? Turning the inside outwards²⁵

Within this research, and within much of my professional work, I work closely with both Pākehā and Māori organisations. My identity as a Pākehā planner shapes these interactions and this inquiry can be understood, in part, as cross-cultural research (a concept which is further explored in Chapter Five). Sharing my identity is a prerequisite to developing a research inquiry with integrity, and allows the reader to take account of researcher subjectivity (b. m. campbell, 2005; H. Moewaka Barnes, McCreanor, & Huakau, 2008). Canadian indigenous academics Kathy Absolon and Cam Willett ask researchers - "So what does this have to do with you? Why are you doing this? ... How are you invested in your research?" (2005, p104). I respond that there are many ways to explain and define my identity and motivations; in the context of this research, I feel that the most appropriate approach is to define myself in relation to the history of urban planning, and to the history of Aotearoa New Zealand.

My history and the history of urban planning

On both sides of my family, I descend from ancestors who lived and worked in the industrializing cities of England. On my father's side, the Liveseys lived in Blackburn, Lancashire; and the Owens in Clapham, London. The industrial age changed the nature of life in English towns and cities. Discussing life for my Owen ancestors in the 1880s, Bean relates that:

Parts of London had long been unattractive places to live or raise families and in decade after decade, as the city spread to accommodate its growing population,

²⁴ The Environment Court of New Zealand primarily deals with appeals about the contents of regional and district plans and appeals arising out of applications for resource consents under the *Resource Management Act (1991)*.

²⁵ Ruwhiu 1999, as cited in campbell, 2005, p54

surrounding villages, including the once fashionable Clapham to the south-west, were not immune from radical change. At least two generations of Owens had lived and worked in Clapham from the 1840s and saw the agricultural estates and grand houses of the area taken over and replaced by cheaply built, unattractive terrace housing, and respectable streets decay into dingy and overcrowded passages (2015, p1)

On my mother's side, the Wragg and McCallum families lived in Sheffield, Manchester, Nottingham and surrounding towns. The McNamara family, including my great-grandmother Bridget Candon, after whom I am named, had emigrated from Dublin, Ireland. My great-uncle Arthur Wragg described his father's life, at around the same time my Owen ancestors left Clapham:

My father's youth was divided between the worst of two worlds, industrial city slum and the poverty-stricken countryside. When he was nine years old his father – my grandfather – was killed while working in the Vickers factory in Sheffield, and from then he earned his living one way or another' (Brook, 2001, p11)

My mother's and father's ancestors emigrated to New Zealand seeking a less industrial life. The first Livesey ancestor, Thomas Livesey arrived with his wife and children sometime after 1871 and settled in Wakefield, in the Nelson region of the South Island. His son, my great-grandfather William Watson Livesey, worked as an agricultural worker on the Thorpe estate around Motueka, as did my grandfather Henry Livesey as a young man. My father tells me that my grandfather ploughed paddocks where the clock tower now stands on the site of the old Rothman's cigarette factory in Motueka.

My granny's father, Llewellyn Owen, arrived in New Zealand as a small boy with members of his family in 1879. The family settled in Christchurch, but Llewellyn moved to Ashburton in 1890. He married Phoebe Kate Prowse Bell, whose father John Charles Bell had come to New Zealand in 1864 as a young man. John Charles Bell held the position of clerk on several Road Boards, and was extensively employed by local authorities in the Canterbury province of the South Island. By the time my father, Christopher Hamilton Livesey, was born in 1948 to Llewellyn's daughter Miriel, his family owned a farm near St Andrews in South Canterbury. The farm was named 'Feniscoles' after their ancestral 'Feniscowles Hall' in Lancashire. The road to Feniscoles farm became known as 'Livesey Road'.

My mother, Janet Mary Candon McCallum, arrived in New Zealand in 1948 as a ten month-old with her parents, who had served during the partition of India and Pakistan in the British Army and Women's Royal Naval Service respectively. On discharge, servicemen were asked to choose where in the world they would like to be relocated. My grandpa Angus McCallum, until then a captain in the military police in the British Army, determined that he "didn't want to live in a city again" and would "work on the land" (McCallum, 1991, p2; McCallum, 1991, p66). Along with my grandma, Patricia McCallum, and my mother, he emigrated to New Zealand,

where he could pursue his interests in becoming a farmer on land in the Ruamahanga valley in Wairarapa in the lower North Island.

British colonists arriving in New Zealand, like my ancestors, brought planning ideals that emphasised separating land uses, open spaces, and large lot sizes. These ideals were the antithesis of the industrial environments they left behind (Porter, 2010). Following the closure of coal mines in the 1980s, the cities my ancestors escaped from in the north of England became symbols of urban decline; and the focus for planning theory and practice into urban sustainability and regeneration in the United Kingdom²⁶.

The other side of Absolon and Willett's question regarding researcher accountability is, "What do you have to lose if the research isn't completed or is poorly executed?". Kaupapa Māori Research theory emphasises the importance of existing connections between researcher and 'research subject', and personal accountability (H. Moewaka Barnes, McCreanor, Edwards, & Borell, 2009). The personal nature of research is illustrated by a reflection from scholar Helen Moewaka Barnes and colleagues that:

Tribal linkages carry with them generations of accountability and connections that cannot be ignored. When researchers acknowledge these connections they acknowledge these accountabilities, thereby bringing an added dimension to the issue of trust (2011, p371)

I acknowledge this dynamic of relationship within Te Ao Māori. As a Pākehā, I can hold "kaupapa whanau"²⁷ links with Māori communities (Lawson-Te Aho, 2010), but my genealogy links me to local government. Possibly unlike other Pākehā (for example, McHugh (2004)), I see the people who work in central and local government as 'my people'. In John Charles Bell, I have an ancestor who worked in local government in Aotearoa New Zealand 150 years ago. My mother, father, brother and sister all worked for central or local government at some point in their careers, as have many of my aunties, uncles and cousins. One of my aunties has held the office of Mayor. Ultimately, while my accountability to Waikato-Tainui is professional, my accountability to Hamilton City Council and the wider community of planners working in local government is personal.

My history and the (post)colonial history of Aotearoa New Zealand

My full name is Brigid Te Ao McCallum Livesey. My name brings together my Irish great-grandmother, my mother's family, and my father's family. My middle name - Te Ao -

²⁶ For example, Healey describes the challenges of planning for Lancashire, where planners work '...to redistribute opportunity from the more affluent west to the eastern parts of the country which suffered from industrial decline, to promote development in the core of the country and to protect the areas values landscape and high quality farmland' (2006, p80)

²⁷ 'Kaupapa whānau' refers to a group of people who usually share a common mission and act towards each other as if they were whānau (Lawson-Te Aho, 2010). For example, my involvement with Ngā Aho Māori Designers' Network is as a 'kaupapa whānau' member.

was chosen for me, on my parents' request, by their friend Te Aniwaniwa Hona (Ngā Puhi, Ngāti Ruamohoe, Ngāti Kahu, Te Aupouri, Te Rarawa) at the time my twin brother and I were born in Whangarei, in the north of the North Island. I understand that this name recognises the fact that, although my origins lie elsewhere, I was born in Aotearoa New Zealand and I have a connection here.

I was introduced to some of the many Māori worlds through my parents, through language, and through work. While studying at Victoria University, my parents were members of the Te Reo Māori Club, and helped gather signatures for the 1972 Te Reo Māori petition to Parliament. They marked the beginning of their relationship from a Te Reo Māori Club field trip led by Te Kapunga (Koro) Dewes to Rāhui marae in Tikitiki, on the East Coast of the North Island. With the encouragement of my parents, I studied Te Reo Māori at Wellington High School, at Victoria University, at Te Kura Reo o Waimārama, and through other organisations. I have been taught by many teachers from different iwi and hapū and I appreciate the support these teachers have given me, as a Pākehā student, finding a place in a world that is not my own. My education focused on language but also included the histories, politics, and worldviews which are anchored in and expressed through Te Reo Māori. My work as a planner and researcher has brought me into contact with leaders like Rau Hoskins, Victoria Kingi, Dean Flavell, Tame Te Rangi, Nganeko Minhinnick, Desna Whaanga-Schollum and many others. Through working with these leaders, I have begun to understand the connections between the history we had learnt at university, the realities of our urban areas, and the intentions of iwi and hapū to assert tino rangatiratanga through reclaiming and developing their lands.

Through reading the reports of the Waitangi Tribunal, I have come to understand that the land farmed by my father's ancestors in Canterbury was part of the Kemp block, purchased in 1848 and part of the claims settled between the iwi of Ngāi Tahu and the Crown in 1997 (Lovell-Smith, 2012). The land farmed by my mother's parents was likely part of the lands bought from Rangitane before the first Pākehā settlers arrived at Kopuaranga in April 1872 (Schrader, 2012). In August 2016, Rangitane o Wairarapa signed a Deed of Settlement with the Crown to settle their claims of breaches of Te Tiriti o Waitangi, including the rapid acquisition of land in the 1800s which left them virtually landless (Office of Treaty Settlements, 2016). As I have undertaken this thesis, I have increased my understanding of the history of the places inhabited by my ancestors and my family, and the consequences of our industrial, colonial past for our (post)colonial future.

Research relationships

I have been privileged to be supported in my research by two groups of researchers, as well as my supervisors Helen Moewaka Barnes and Karen Witten. My involvement with the researchers within the Taone Tupu Ora strand of the Resilient Urban Futures programme - Keriata Stuart, Anaru Waa, John Ryks and Jonathan Kilgour - has taught me to rethink my understanding of te ao Māori through their emphasis on recognising and respecting the diversity of Māori organisations working in urban areas. In addition, shortly after beginning my

research, I was invited to join a group of researchers working on topics relating to Te Tiriti o Waitangi and decolonisation. This group, which included Mitzi Nairn, Ray Nairn, Ingrid Huygens, Rose Black, Jenny Rankine, Susan Nemeč, and Alex McConville, met monthly and reviewed our works-in-progress. This group grounded me in my Pākehā positionality, as well as providing advice on how to create useful anti-racism research.

My motivation to carry out this research also stems from my contact with Waikato-Tainui. During 2011-2013 I worked with representatives from Waikato-Tainui as part of my role as a planner drafting provisions for the *Auckland Unitary Plan*. My initial contact with Waikato-Tainui as a potential research partner was through an email passed to me from a colleague which stated that Tainui Group Holdings had heard about my proposed research into planning for developing land returned under Treaty settlement, and would like to talk to me²⁸. Following this contact, the leader of the Resilient Urban Futures programme, my supervisors, and I met representatives of the Waikato-Tainui College of Research and Development, and Tainui Group Holdings. At the conclusion of this conversation - which focused on the broader Resilient Urban Futures programme as well as my proposed research - I agreed to develop draft research questions and to send these to Waikato-Tainui for review. Feedback received from Waikato-Tainui highlighted several requirements: to ensure the research considered cultural as well as commercial benefits from development on Treaty settlement land; to broaden the focus of my research from solely the development at Ruakura, to include the development at The Base; and to ensure the research had a positive application. A letter was also sent from Resilient Urban Futures to Waikato-Tainui College for Research and Development, outlining “our commitment to producing research that is relevant and useful to us both”, and possible areas for collaboration, including this research inquiry (Howden-Chapman, 2014).

During the period of research, I attended where possible seminars held as part of the Te Taarere a Taawhaki seminar series at the Waikato-Tainui College for Research and Development. Listening to the speakers helped me to deepen my understanding of the discourses employed by Waikato-Tainui, and the priority issues being addressed by the tribe. 2015 marked twenty years since the signing of the *Waikato Raupatu Claims Settlement Act*. Attending the seminar series was also an opportunity for me to catch up with research participants, share updates, and arrange future meetings.

Conclusion

In this chapter, I have introduced both Waikato-Tainui and Hamilton City Council, examining their histories and their interactions both past and present. Through providing my own histories, and my connection to the case study, I have invited the reader to understand my specific perspective on planning for land returned under Treaty settlement, and presented the ways in which I am accountable for the research to research participants, as well as to the wider community of Pākehā planners.

²⁸ Smitheram, pers. comm. 30 August 2013

Chapter Three – Knowledge, power and relationships

If Indigenous people were planned into oppression, equally they can be planned out of it. In the distant and recent past, as well as continuing present, colonial planning and the planning profession has been a willing subaltern; its complicity with the colonial project has contributed significantly to Indigenous people's oppression and their continued material and ideological marginalization. Therefore, it has a critical role and ethical responsibility to support the recovery of Indigenous communities and to facilitate the restitution of Indigenous materiality and memory across spaces and places that once were theirs (Matunga, 2013, p31)

Introduction

In this chapter, I outline the theoretical framework for the research. I begin with a brief explanation of the 'theory of knowledge' which proposes that society is constructed through our actions and interactions with each other. This 'theory of knowledge', termed 'social constructionism', underlies my approach to this research inquiry. Viewing planning processes to develop land returned under Treaty settlement through the lens of social constructionism, I found two bodies of theory both illuminating and instructive. In this chapter, I discuss critical planning theory, and more specifically, collaborative planning theory; and then explore postcolonial theory and associated theories of decolonisation.

The shared concerns, and to some extent, shared genealogy of critical planning theory and postcolonial theory suggest that they can be used together to illuminate the particular issues that arise from collaborative planning in a postcolonial society. Both bodies of theory have emerged since the 1960s, and reflect the fracturing of 'grand narratives' into distinct perspectives characterised by difference rather than unity. Both exist in the space between Marxist or structuralist understandings of the world as shaped by economic and political forces; and social constructionist or post-structuralist understandings of the world as constructed through social interaction and dialogue. Accordingly, both bodies of theory define the structures within which individuals and societies operate, and ascribe agency to people acting within the constraints of those structures. Through these theories, the world is understood to comprise connected systems of power and knowledge, which have been characterised by influential French sociologist Michel Foucault as an "apparatus" (Foucault & Gordon, 1980, p196), and subsequently by Dorothy Smith as an 'institution' (D. E. Smith, 2005). Critical planning theory focuses on the 'web' nature of the institution (everything is connected) (Healey, 2006) while postcolonial theory highlights the enduring 'binary' enforced through the institution (everything reinforces the separation of colonial 'Self' and indigenous 'Other') (Bhabha, 1994)). Institutional ethnography provides a methodology to map institutions and illustrate both phenomena. In addition, 'transformative planning' theory and local

decolonisation theory, which inform the final chapters of this thesis, share their origins in ideas of 'transformational learning theory', as promoted by American sociologist Jack Mezirow (Fischer & Mandell, 2012; Huygens, 2007). Brought together, these theories have provided a useful framework for designing the research, interpreting the results of analysis and the knowledge shared through interviews, and considering possible conclusions and implications for practice.

In the following section, I set out the key concepts from each body of theory relevant to this research. Each concept is introduced, and discussed in detail as necessary to support analysis within Chapters Six to Nine. Within critical planning theory, these concepts include the shift from understanding planning as a technical-rational discipline to a critical communicative practice; the role of politics and power in planning; concepts of collaboration and capacity; and the role of agency and activism in moving towards 'transformative' planning. Within postcolonial theory, I focus on the ideas of dominant and subordinated knowledge; discourses of essentialism and hybridity; and the transformative potential of initiatives generated in the 'third space' between colonial and indigenous worlds. Finally, I turn to concepts of decolonisation to consider specifically the response of individuals and authorities to expressions of indigenous agency, and the tasks necessary to support transformative, decolonising planning practices.

Social constructionist epistemology

By naming my 'theory of knowledge', I make clear the assumptions in this research that underpin my methodology, how I ensure that information is valid, the scope of the research, and how I distinguish between 'justified belief' and 'opinion'. 'Social constructionism' rests on four key principles: knowledge is created and maintained by social processes; the 'traditional' way of looking at the world needs to be challenged; the world is understood as culturally and temporally positioned; and knowledge and social action are integrally connected (Gergen 1985 as cited in b. m. campbell, 2005). Below, I briefly explain these four principles, drawing on the interpretation of social constructionist concepts by psychologists bronwen campbell and Ingrid Huygens, both of whom have carefully applied these ideas within research on bicultural/post-colonial/decolonising Aotearoa New Zealand.

Principle 1: Knowledge is created and maintained by social processes

Social constructionism centres on the belief that meaning - of words, actions, and ideas - is jointly constructed by dialogue. A shared understanding of the meaning of a particular object can only emerge through our relationships with other people, and meaning "is embedded not within individual minds but within interpretive or communal traditions" (Gergen, 2009, p88). The importance of social relationships influences the focus of research - for example, introducing her study of 'bicultural' psychologists in Aotearoa New Zealand, bronwyn campbell notes that "[f]or social constructionism the individual is not the unit of study. Instead we are interested in the shared matrix of social and cultural understanding" (2005, p4). The collective

creation of meaning through language is encapsulated in the concept of 'discourse'. Social psychologist Stephanie Taylor describes the "all-enveloping nature" of discourse as:

...a fluid, shifting medium in which meaning is created and contested. The language user is not a detached communicator, sending out and receiving information, but is always located, immersed in this medium... (Wetherell, Taylor, & Yates, 2001, p9)

The discourses we employ in our everyday language reveal our wider understandings of the society around us.

Principle 2: The traditional way of looking at the world needs to be challenged

The 'Western'²⁹ scientific way of looking at the world, which forms the basis of many Pākehā worldviews and academic traditions (Black, 2010), is exemplified by positivist theories of knowledge that assert that research can uncover and promote a 'single truth', independent of the researcher's standpoint. However, in a world understood to be socially constructed, no knowledge is neutral. Social constructionism challenges the 'traditional' way of thinking by asserting that truth is subjective. American scholar Kenneth Gergen contends that:

...virtually all authoritative accounts of the world contain implicit values. All carry an ideology, that is, implicit ideas of what the political or social order should be like. Whether a scientist, scholar, supreme court judge, or news commentator, all are subject to ideological critique, that is, critique aimed at revealing the interests, values, doctrines, or myths that seem to underlie seemingly neutral claims to truth (2009, p15)

There are many different kinds of knowledge, which are valued and used differently by different people.

Principle 3: The world is understood as culturally and temporally positioned

Social reality, as each individual or collective constructs it, reflects our understanding of our position and identity within specific cultures, and our understanding of our position within history. Through research which contributes to "understanding scientific claims as human constructions, lodged in a cultural tradition as opposed to an objective unlocking of nature's secrets, we open spaces for dialogue in which all people can voice the truths and values of their traditions" (Gergen, 2009, p23). For example, exploring the implications of subjective truths, and the different positions that individuals or collectives may hold, Huygens (2007) reflects on different understandings of New Zealand history in Māori and Pākehā cultures. She relates that:

For most Pakeha the focus on the Treaty in the late 20th century came out of the blue. Many of us had never heard of it, some knew it as an old document signed a long time

²⁹ I acknowledge that the term 'Western' poorly describes the cultural and intellectual traditions of Pākehā communities who may or may not have roots in 'Western Europe'. In this thesis, I follow Matunga (2000a) and Porter (2010) in referring to a 'Western' planning tradition.

ago, and others had vague recollections of some copper-plate writing behind glass hanging in a school corridor (2007, p5)

Placing Te Tiriti within a Māori history, however, she suggests that:

...the resuscitation was not, in fact, a miracle. The present-day focus on the Treaty of Waitangi has traceable antecedents in a Maori critique of colonisation and in a recent, but significant, Pakeha response to the Maori experience (2007, p7).

Knowledge is cultural, not universal. Our background, identity, and position influence the knowledge we have access to and understand.

Principle 4: Knowledge and social action are integrally connected

Acknowledging that the world is a 'socially constructed' reality, researchers can access tools to 'deconstruct' the way in which we understand the society we live in. Challenging positivist theories of knowledge includes recognising that our society allow some 'truths' to become dominant, while other 'truths' are subordinated. This dynamic may be invisible to those whose knowledge dominates, but inescapably obvious to those whose knowledge is subordinated (Ahmed, 2004). Canadian scholar Mehmoona Moosa-Mitha explains that, within the social constructivist paradigm, "[r]esearchers engage in the research process so as to deconstruct dominant or mainstream 'constructions' of reality and expose the interests that these constructions serve both historically and contemporaneously within specific socio-cultural contexts" (2005, p50).

Researchers analysing the way in which society is constructed have a responsibility to use research to support individuals and collectives to change their realities. Drawing on the work of Brazilian educator Paulo Freire, social constructionist researchers understand that knowledge is not abstract but "holds the potential for 'liberatory' practice because 'knowing' things differently results in acting differently" (Freire, 1967 as cited in Moosa-Mitha, 2005, p67). This responsibility is conceptualised as "praxis"³⁰ (Moosa-Mitha, 2005, p67).

Planning Theory

The concepts of 'knowledge' and 'power' and the way knowledge and power work together within 'institutions', are central to critical planning theory. Critical planning theory focuses on the distribution of power within planning processes, and the ways knowledge contributed to the planning process is considered 'valid' or invalid. Using ideas from critical planning, collaborative planning theory considers how, given inequalities in power and knowledge, collaborative planning can work in the everyday world to resolve conflicts within and between groups (Healey, 2006). This research inquiry, which investigates changing relationships around

³⁰ Collaborative planning theorists Innes and Booher describe 'praxis' as 'practice interwoven with theory and theory informed by experience in the spirit of pragmatism' (2010, p89).

planning processes, draws on the theoretical basis for collaborative planning created through the work of British scholar Patsy Healey and American scholar Judith Innes. Healey and Innes emphasise the diversity of perspectives on planning issues held by different participants in the planning process. Building on concepts such as 'communicative rationality', they theorise how multiple participants can be brought together through dialogue to create planning decisions which value local knowledge, build collective capacity, and offer enduring solutions.

Planning knowledge: From technical-rational science to critical-communicative practice

Applying critical theory to professional planning practice destabilises the 'positivist' assumption of planning as a technical-rational activity carried out for the universal common good. Healey describes the tradition of critical planning theory in the United States, tracing its origins to philosopher John Dewey and other thinkers in the early 1900s who rejected the concept that public policy could be developed based on predetermined principles of objective 'natural law' (2009, p278). Further challenges to characterising planning as an 'objective' practice included Marxist critique by scholars such as David Harvey in the 1980s (1985 as cited in Allmendinger, 2009), which highlighted the way in which the forces of capitalism structure how power is distributed, with planning decisions favouring the interests of landowners over the wider community. Following the emergence of postmodern and critical critique, Healey notes that planning theory has expanded to encompass "ideas about the significance of the micropolitics of embedded discourses and situated practices (drawing on the work of Foucault), about the power of agency and its relation to structuring dynamics (drawing on Giddens), and about the cultural shaping of embedded practices (via feminist inquiry, especially Iris Marion Young and Seyla Benhabib)" (2009, p283).

These new understandings of the plural realities shaping and shaped by planning, and the "fallibility" of the planning process (Allmendinger, 2009, p33) encouraged planning theorists to begin to consider the possibilities of planning processes that brought together disparate views. Healey, Innes, American scholar John Forester and others explored the importance of dialogue and debate as a basis for decision-making in planning practice (for example, see Forester, 1999; Healey, 2006; Innes & Booher, 2010). Their work was influenced by German sociologist Jurgen Habermas who attempted to reclaim from 'science' the term 'rational' by emphasising the validity of decisions reached through conversation and consensus, a concept he named 'communicative rationality' (Healey, 2006). Habermas also promoted the value of including different forms of knowledge in discussion, arguing that "the appeal to science, the appeal to moral value, and the appeal to emotional response should be given equivalent status in the debate, rather than privileging one sphere of reasoning - that is, the rational-technical sphere" (Healey, 2006, p52).

The increasing emphasis on diversity, debate and dialogue in planning practice has been termed the 'communicative turn' in planning theory (Healey, 2009). The communicative approach acknowledges that planning is a social process "through which ways of thinking, ways of valuing and ways of acting are actively constructed by participants" (Healey, 2006, p30).

Communicative planning “becomes a process of interactive collective reasoning, carried out in the medium of language, in discourse” (Healey, 2006, p53). Theorists acknowledge that the profession of planning has its own discourses, symbols and metaphors which are apparent in planning documents. Both the content and form of discourse “indicates how planners conceive of politics, society, and the problems of the city. That is, not only the words spoken or written by professionals but also the languages and styles they employ inform us about how they see the processes in which they are involved and the role they play in them” (Fischler, 1995, p14). The principles of the communicative approach underlie collaborative and participatory planning practices which have emerged as part of a wider shift towards ‘deliberative democracy’ (eg. Forester, 1999).

Within this research, I consider the extent to which the ‘technical-rational’ tradition still operates within planning processes in Aotearoa New Zealand, and the extent to which the ‘critical-communicative’ paradigm has resulted in increasing collaboration between planners and communities. Both the *Resource Management Act (1991)* and *Local Government Act (2002)* have been described as “cooperative planning mandates” for local government (Memon & Thomas, 2006, p141).

Planning power: Working with politics and process

Power is a central concept in critical planning theory, and there is no question that the planning process, from developing a plan to decision-making, involves the exercise of power. American planning theorist David Perry advises that “when we think of planning we should think of it as part of the production and reproduction of the social relations of power” (Perry, 1995, p213). In order to assess where power is produced and reproduced, it is important to have an understanding of what ‘power’ is, in planning terms (Forester, 1988). Bryson and Crosby (1993 as cited in Innes & Booher, 2010) have explored multiple dimensions of power operating within the planning system. Firstly, they identify the power of “deep structure – the power of the economic and political dimensions of society, such as capitalism and market structure... This tacit power exists in the background. No one holds it, and it does not take human form, though it constrains what actions can be taken in practice. This structure comes with norms which can be in themselves powerful...” (Innes & Booher, 2010, p109). In their analysis of ‘*The British Planning System in Practice*’, for example, Healey et al. found through a range of case studies that planning processes systematically privileged specific groups and interests, identifying a number of specific interests and groups as more powerful than others in planning processes:

- The agricultural industry
- The mineral extraction industry
- Some industrial firms
- Knowledgeable property developers
- All land and property owners interested in the appreciation of their property holdings

- Well-organised community and environmental pressure groups (1988 as cited in Allmendinger, 2009, p99).

The second kind of power identified by Bryson and Crosby could be termed “political power” (Healey, 2006, p213), the power “of individuals to make decisions at the margin, the kind of power that legislators, public officials, and corporate leaders hold” (Innes & Booher, 2010, p109). Bent Flyvbjerg’s expose of the political influence over decision-making around the siting of a bus interchange in the city of Aalborg, Denmark, illustrates the complicated interaction of structural, organisational, and individual power in justifying planning decisions, as well as the role of ego and competition (Flyvbjerg, 1998).

Planners themselves hold a third kind of power:

Mediating between these two sorts of power, one tacit and in the background and one explicit and in the foreground, is the power to produce ideas, rules, modes of doing things, methods of inquiry and discussion. This is the sort of power that professionals, bureaucrats, and scholars hold. It is not the power to make a particular thing happen, but the power to direct attention and even action in one way versus another (Forester 1989) or the power to determine who participates, according to what agendas, and under what rules (Innes & Booher, 2010, p109-110).

This ‘mediating’ power is the kind of power that I examine in this research inquiry, in the everyday work of planners within the institution of planning to develop land returned under Treaty settlement.

Planning practice: Collaboration and capacity

Responding to the ‘communicative turn’ in planning theory, planning theorists and practitioners have turned towards collaboration as a tool for working with communities. Collaborative planning aims to guide participants towards identifying “the reciprocal nature of their interests” (Innes & Booher, 2010, p37), “mutual gain solutions” (Innes & Booher, 2010, p28), and if possible, consensus on appropriate actions (Healey, 2006). Collaborative planning is seen to result in better planning and implementation, based in local knowledge and enabling local agency (Lane, 2003).

Successful collaborative planning initiatives result in new or strengthened relationships, and enduring ‘institutional capacity’ which communities can use to collectively consider new planning challenges as they arise. Both Innes and Healey emphasise the transformative potential of collaborative working arrangements, noting that:

...collaborative processes can lead to changes in the larger system that help make our institutions more effective and adaptive and make the system itself more resilient. These processes do not just produce immediate outcomes like agreements and joint activities, but participants’ experiences with them often lead to collaboration in other contexts. Participants learn more deeply about issues and other interests which they

transfer to their organisations. They develop new skills. They build new networks that they use to get new sorts of things done that they could not otherwise have considered (Innes & Booher, 2010, p10)

This research examines the changing relationships between Waikato-Tainui and Hamilton City Council, considering how relationships can shift between 'adversarial' and 'collaborative' over time.

Transformative planning practice: Agency and activism

Acknowledging the changing values around planning knowledge, planning power, and collaboration, contemporary planning theorists accept that planning has transformed; and that planning can transform. As an activity embedded in social relations, planning has changed as the world around it has changed. Perry observes that "the history of planning can be viewed as sets of practises that have participated in the changes from mercantile to industrial and ultimately postindustrial" societies (1995, p214).

Planning is perceived as a political act, not separate from politics but actually part of political processes (Allmendinger, 2009, p50). Accordingly, critical planning theorists emphasise that planners must identify and work explicitly with power, including political power. Power is not as something to be avoided but to be understood, as Canadian scholar Raphael Fischler observes:

...there is an understanding of power as a necessity of political action, as a natural component of interaction between people with diverging interests. According to this view, planners too exercise power; they cannot avoid doing so (1995, p50)

Healey et al. consider that the issue to be challenged is "not that planning favours landowners or developers... but that such biases are hidden behind a front that purports to be evenhanded" (1988 as cited in Allmendinger, 2009, p100). Within the technical-rational tradition, planners are viewed as "merely a technician of means committed to the values of scientifically-based and rationally-deduced policy choices, but neutral as regards ends" (Healey, 2006). In 1965, however, American planner Paul Davidoff confronted this perception of neutrality, arguing:

...it was impossible for the planner to be entirely value-free as regards ends, since planners as people had values... They should instead become value-conscious, declare their values and make themselves available to clients who wished to pursue such values (Healey, 2006, p25)

Accepting planning as political, critical planning theory explores ideas of collective action and social change. Many planners are motivated by "a sense of making a difference to people and places" (Grange, 2013, p225). Using the terms developed by British sociologist Antony Giddens

(Giddens, 1984), Healey emphasises the “active agency” of planners which interacts with the “constraining structures” of the planning system (2006, p35).

Planners may reproduce power relations, but:

...they also have the choice to change them. Thus the practice of planning, even in the details, involves delicate day-to-day choices about whether to 'follow the rules', or whether to change them, to transform the structure (Healey, 2006, p47)

Theories of ‘transformative planning’ build on concepts of ‘radical planning’ (Friedmann, 1987) ‘equity planning’ (Krumholz & Forester, 1990), ‘insurgent planning’ (Sandercock, 1998) and ‘collaborative planning’ (Healey, 2006) to propose planning paradigms which transform the relationships between ‘planner’ and ‘community’; and, as a consequence, contribute to transforming wider relationships between different groups in society. As Lane explains, referring to the work of John Friedmann (1987):

Transformative planning is the process of identifying and implementing strategies for transforming the structures of oppression (Lane & Hibbard, 2005, p174)

Drawing on the work of Jack Mezirow, political scientist Frank Fischer and adult learning scholar Alan Mandell have conceptualised planning for social justice as a “transformative social learning” process, manifesting as “a change in thinking, perception, and attitude” (2012, p344). Fischer and Mandell highlight the need for planning and policy practitioners to understand community histories and local knowledge; to work with emotion as a complement to reason; and to become ‘facilitators’ of social learning through collaborative planning processes.

Transformative planning theory has implications for both power and knowledge within planning processes. Transformative planning emphasises both reflecting on planners’ personal position within the institution, and building new relationships between collectives which change the power relations between participants in the institution of planning. Within the work of Donald Schon, ‘reflective’ planning involves reconsidering the ‘expertise’ of the planner, and the need for relationships with communities based on dialogue rather than a “superior-subordinate relationship between experts and clients” (Fischer & Mandell, 2012, p347). Planning is understood to necessitate technical analysis, but also emotional engagement. Planners working within a transformative paradigm are aiming for:

...transformations of relationships and responsibilities, of networks and competence, of collective memory and memberships (Forester, 1999, p115)

Transformative planning theorists emphasise the importance of changed outcomes for ‘oppressed’ participants from planning processes (Fischer & Mandell, 2012).

In summary, critical collaborative planning theory articulates an understanding of the conflicts that can arise between groups with diverse interests in the local environment. Based on a critical awareness of the dynamics of power and knowledge, collaborative planning theorists offer an approach based on communication to reach consensus. Concepts of critical planning have been extended beyond critique of existing planning practises to theorise how planning - and planners - can transform how collectives relate to each other through planning practice. The challenge - and the potential - for transformative planning in Aotearoa New Zealand is highlighted through postcolonial theory, explored in the next section.

Postcolonial Theory

Postcolonial theory explores the ideas of nation, culture, and ethnicity, within the political context of colonialism (Christiansen, 2010). The task of defining the concepts of 'Self' and 'Other', and the relationship between the colonising 'actor' and the colonised 'subject' are central to postcolonial thinking (Bhabha, 1994; Said, 2003). Postcolonial critique focuses on the practise within colonial discourse to separate 'Self' and 'Other', suggesting that the relationship between coloniser and colonised is more complicated than simple dominance and subordination (Huddart, 2005). Through focussing on contradictions and complexities of the coloniser/colonised relationship, theoretical approaches based in postcolonial theory attempt to "disrupt the dominant discourse of colonial power" (Christiansen, 2010). Postcolonial analyses emphasise the power of language, and the centrality of texts in coloniser-indigenous relations. Postcolonial analysis has expanded from a focus on literature, to writings on law, anthropology, philosophy, and more recently, urban planning (for example, see Porter (2010) and contributions to Jojola, Walker, & Natcher (2013)).

Important contributions to postcolonial theory have been made by Palestinian-American theorist Edward Said, Parsi cultural theorist Homi K. Bhabha, and Indian theorist and critic Gayatri Spivak. Work by these theorists engages with "the discursive forms, representations, and practises of contemporary racism, together with their relation to the colonial past" (Young as cited in Moore-Gilbert, 1997, p1). Discussions of power in postcolonial theory draw on French social theorist Michel Foucault, and the Italian Marxist theorist/politician Antonio Gramsci (Moore-Gilbert, 1997). While Foucault viewed power as an anonymous force, Gramsci understood power as a force that divides different classes in society. Gramsci coined the term 'cultural hegemony' to describe the systems of power which are created by the dominant group and, through the support of legitimising norms and discourses, maintained through the compliance of the oppressed. The concept of cultural hegemony was applied by Said to postcolonial contexts, to name the coloniser as the dominant group, and the colonised as the oppressed (Moore-Gilbert, 1997).

Focussing on the relationship between a (colonial) local authority and an (indigenous) iwi authority, I have found the work of Homi K. Bhabha particularly helpful. Bhabha's writings on concepts such as hybridity, mimicry, difference and ambivalence "describe ways in which colonised peoples have resisted the power of the coloniser, a power that is never as secure as

it seems to be” (Huddart, 2005, p1). Bhabha draws on ideas from psychoanalysis , borrowing terms usually used to describe individual states of mind to describe the psychic state of communities (Huddart, 2005). Scholar Paul Meredith, among others, has considered the relevance of Bhabha’s theories to (post)colonial Aotearoa New Zealand, stating that:

The concepts of hybridity and the third space have considerable implications for any future reinventing of Aotearoa/New Zealand and any reconstructed sense of nationhood and identity. They offer the possibility of a cultural politics that avoids a ‘politics of polarity’ (Bhabha 1994) between Maori and Pakeha. Instead, they are centered on the adaptation and transformation of culture and identity predicated within a new inclusive postcolonial Aotearoa/New Zealand community that seeks to reconcile and overcome the embeddedness of past antagonisms (1998, p4).

In this research inquiry, I generally substitute the word ‘indigenous’ for terms such as ‘colonised’, ‘subaltern’ or ‘oppressed’, to reflect the fundamental indigenous-settler/Māori-Pākehā relationship in Aotearoa New Zealand.

Postcolonial knowledge: Knowledge production and text/context

Postcolonial theory links resisting colonial domination to rejecting the universal applicability of Western knowledge. The origins of postcolonial theory in literary criticism reflect the understanding that culture mediates power, and that power relations can be explicated through analysis of texts and other works produced by a culture. In his book *Orientalism* (1978), Edward Said asserted “a direct and material relationship between the political processes and structures of (neo-)colonialism on the one hand, and on the other, Western regimes of knowledge and modes of cultural representation” (Moore-Gilbert, 1997, p22). The ‘regimes’ of knowledge encompass “access to the *means* of knowledge and also equal participation in the *making* of knowledge”, as well as the power to validate and apply knowledge (Gandhi, 1998, p43).

Postcolonial theorists argue that indigenous knowledges, histories and experiences have been devalued and displaced through the process of colonisation (Said, 2003). Through expelling indigenous people from their lands, indigenous knowledge has literally been “violently ‘deterritorialised’ by major or dominant knowledge systems” (Deleuze and Guattari 1986 as cited in Gandhi, 1998, p43). Colonial discourse promotes colonial cultural hegemony. Within colonial discourse, indigenous knowledge is visible only as it is represented through colonial eyes. Bhabha describes representation of indigenous knowledge as a:

...strategy of containment where the Other text is forever the exegetical³¹ horizon of difference, never the active agent of articulation. The Other is cited, quoted, framed, illuminated... The Other loses its power to signify, to negate, to initiate its historic

³¹ ‘Exegesis’ is defined as ‘critical explanation or interpretation of a text, especially of scripture (Oxford English Dictionary)

desire, to establish its own institutional and oppositional discourse (Bhabha, 1994, p31).

Postcolonial theorists recognise the power of alternative 'knowledges' as a tool for decolonisation. Alternative knowledge suppressed by colonial discourse includes the histories and experiences of indigenous people in settler-colonial countries, such as Aotearoa New Zealand. Indigenous histories of authority and knowledge exist alongside colonial histories of civilisation and colonisation but are subordinated. Accordingly, postcolonial critique is directed against "the cultural hegemony of European knowledges in an attempt to reassert the epistemological value and agency of the non-European world" (Gandhi, 1998, p44). Control of knowledge and language is understood to have physical and material consequences (Moore-Gilbert, 1997).

Within this research inquiry, I focus on indigenous planning traditions articulated within iwi planning documents as a parallel source of planning knowledge and power within the institution of land returned under Treaty settlement.

Postcolonial discourse: The discourse of essentialism and the discourse of hybridity

The concept of 'essentialism' was introduced by Said to illustrate the stereotypical and romantic ways in which the people of 'the Orient' – countries in the Middle East and Asia colonised by the British – are depicted by 'the West'. The attitudes or practises that Said named 'Orientalism' can be considered a discourse – "an enormous system or inter-textual network of rules and procedures which regulate anything that might be thought, written, or imagined about the Orient" (Gandhi, 1998, p76). Characteristics of Orientalist discourse include "a tendency to *dichotomise* the relationship between the 'Occident' and the 'Orient' into an us-them contrast, and then, to *essentialise* the resultant 'Other'; to speak, that is, in a generalising way about the Oriental 'character', 'mind' and so on" (Clifford 1998 as cited in Gandhi, 1998, p76). According to feminist theorist Diana Fuss, 'essentialism' is understood broadly "as a belief in the real, true essence of things, the invariable and fixed properties which define the 'whatness' of a given entity" (1989, pxi).

Viewed through a postcolonial analysis, essentialising peoples simplifies and reinforces the relationship between 'Self' and 'Other', a feature of colonial discourse that "typically rationalises itself through rigid oppositions such as maturity/immaturity, civilisation/barbarism, developed/developing, progressive/primitive" (Gandhi, 1998, p32). Essentialised characterisations of indigenous people often emphasise the 'traditional' nature of indigenous culture, ignoring and excluding the possibility of change and development within indigenous society (Said, 2003). By defining and containing 'Other' beliefs and values, essentialist discourses are seen to allow the dominant culture to exist without questioning its own beliefs or values. The tendency to 'essentialise' is visible in Pākehā discourse about Māori in Aotearoa New Zealand (McCreanor, 2005).

Bhabha identifies the possibility of changing colonial-indigenous dynamics through actions and discourses that emerge from a conceptual 'third-space'. In their discussions of essentialism and the stereotype, both Said and Bhabha recognise the limits of colonial discourse - that is, the inability of colonial language to acknowledge realities outside a world defined by colonial dominance and indigenous subordination (Bhabha, 1994; Said, 2003). Bhabha also acknowledges the boundaries of the indigenous world, which has its own worldview, logics, and discourses. Between these two worlds, outside the limits of colonial discourse and beyond the boundaries of the indigenous world, Bhabha identifies a 'third space' where hybridisation between the two worlds can occur. Within this space, both coloniser and colonised can move outside colonial discourse to articulate or 'enunciate' their culture without reference to the binary of coloniser/colonised or dominant/subordinate. Bhabha emphasises the 'authenticity' of hybrid processes and outcomes, insisting that:

The representation of difference must not be hastily read as the reflection of pre-given ethnic or cultural traits set in the fixed tablet of tradition. The social articulation of difference, from the minority perspective, is a complex, on-going negotiation that seeks to authorise cultural hybridities that emerge in moments of historical transformation (1994, p2).

Colonial discourse ascribes active power and knowledge to the coloniser; and passive acceptance by the colonised. By emphasising indigenous agency, the counter-hegemonic discourse of hybridity disrupts this dichotomy, introducing the possibility of active change and challenge by the colonised subject. Within a settler-colonial country such as Aotearoa New Zealand, assertions of indigenous agency disrupt the colonial discourse of unity (McCreanor, 2005). This discourse is visible in the words of Governor Hobson, as he signed Te Tiriti o Waitangi in 1840 - 'He iwi tahi tātou' ('We are one people') (Consedine, 2012). Through linking discourse and experience in this research inquiry, I demonstrate the practical implications of colonial discourse for planning decisions made about development on indigenous land.

Postcolonial responses: Ambivalence and anxiety

The response of the coloniser to the actions of the colonised - acts of indigenous agency - is a key theme within the writings of Bhabha. According to Bhabha, acts of indigenous agency unsettle the colonial identity by simultaneously proving and disproving the assumptions of colonial superiority and indigenous inferiority. On one hand, the adoption of a colonial practise by indigenous peoples can be seen as affirming the superiority of Western knowledge; on the other hand, the fact that the expression of that practise is 'the same but not quite' underscores that indigenous peoples will never be fully assimilated into colonial discourse. Ambivalent attitudes - 'the state of having mixed feelings or contradictory ideas' (Oxford English Dictionary) - towards indigenous people visible within colonial discourse arises from simultaneous "recognition and disavowal of racial/cultural/historical difference" (Bhabha, 1994, p70). Bhabha describes how indigenous authorities are "at once an 'other' and yet entirely knowable and visible" (1994, p71).

The result of the 'ambivalence' felt by colonial authorities towards expressions of indigenous agency is a profound anxiety within colonial discourse about identity. Within this anxious state, acts of indigenous agency cannot be clearly conceptualised by the colonial authority who:

...repeatedly turns from [understanding indigenous agency as] mimicry - a difference that is almost nothing but not quite - to [understanding indigenous agency as] menace - a difference that is almost total but not quite (Bhabha, 1994, p91)

Interactions within the 'third space' are shaped by these colonial responses. Despite the emphasis on moving outside or beyond colonial/indigenous worldviews, the third-space is not an a-historical space or a space to forget the injustices of the colonial-indigenous relationship. The culture of the past is 'translated' into the culture of the present, and as Bhabha describes, work within the third-space "does not merely recall the past as social cause...The 'past-present' becomes part of the necessity, not the nostalgia, of living" (1994, p7). Because the processes of hybridisation within the third-space take place outside the colonial discourse of dominant/subordinate, hybrid results are unlikely to fit comfortably with either culture (acknowledging that 'cultures' themselves are not fixed but are in constant flux). As a result, the third-space is not necessarily a space of consensus but may be a place of historical and contemporary conflict, or in Bhabha's words, a space of "cultural dissensus and alterity, where non-consensual terms of affiliation may be established on the grounds of historical trauma" (1994, p12).

In this inquiry, I draw on theorising by Treaty educators in Aotearoa New Zealand that confirms anger and fear as common responses from Pākehā confronted with acts of Māori agency:

Absorbing hegemonic education, the Pakeha person learns to perceive the colonised as a threat to be resisted. Pakeha were theorised as angry about Maori seeming to have special privileges, and threatened by Maori aspirations which appeared to leave Pakeha without a clear place and identity in New Zealand (Huygens, 2007, p184)

These emotions are an important element in understanding Pākehā actions towards Māori.

Postcolonial power: Non-indigenous agency in decolonisation

In most literature, 'decolonisation' refers to a "process by which colonial powers... left, whether voluntarily or by force, from their overseas possessions..." (Le Sueur, 2003, p2). Decolonisation struggles are initiated by subordinated indigenous peoples against the dominant 'metropolitan' colonial power (Le Sueur, 2003, p2). Decolonisation is conceptualised as a process which a country passes through, moving from a colonised state, through the achievement of independence, to a 'postcolonial' state. However, in a settler colonial country such as Aotearoa New Zealand, the colonisers 'have not left'³². Instead, descendants of colonial and indigenous

³² Linda Smith suggests that the contradiction in 'post colonialism' was 'best articulated by Aborigine activist Bobbi Sykes, who asked at an academic conference on post-colonialism, 'What? Post-colonialism? Have they left?' (L. T. Smith, 2012, p25)

ancestors co-exist in a state variously described as neocolonial, postcolonial, postsettler³³ or decolonising.

In our context, theorists encourage the concept that colonialism (and postcolonialism) and decolonisation exist in dialogue with each other (Le Sueur, 2003). Ingrid Huygens highlights the work of French-Algerian decolonisation theorist, Albert Memmi, who states that “the essential feature of the colonial situation is “the relationship between one group of people and another”. He theorised that the colonial situation “manufactures colonialists just as it manufactures the colonised” (Memmi 1957 as cited in Huygens, 2007, p38). Similarly, by emphasising the “transactive/transcultural aspect” of relationships between the coloniser and the colonised, Bhabha’s notion of hybridity reconceptualises decolonisation as “as an interactive, dialogic, two-way process rather than a simple active-passive one; as a process involving complex negotiation and exchange” (Trivedi 1993 as cited in Gandhi, 1998, p125). As a mixed product of colonial/indigenous initiative, and colonial/indigenous response, a (post)colonial society “derives its genealogy from both narratives” (Gandhi, 1998, p22).

Seeking to move past the paralysis³⁴ of ambivalence and anxiety, Pākehā decolonisation theorists working in Aotearoa New Zealand have focussed on the role of the coloniser in decolonisation work, recognising that “the descendants of the colonisers have different decolonisation tasks from the descendants of the colonised” (M. Nairn, 2001, p203). Extending theory developed by Friere, Gramsci, Memmi and others, Huygens theorised four change processes that Pākehā may traverse towards decolonisation:

- Relearning a history of the Pakeha-Maori relationship
- Responding emotionally to a shift in worldview about the colonial relationship
- Developing a conscious collectivity and anti-racism strategy as Pakeha
- Preparing for a differently-constituted relationship between Maori and Pakeha (Huygens, 2007, p200)

Within this theory of dominant group change, preparing for new relationships between Māori and Pākehā outside the colonial binary of dominance and subordination, echoes the concept of the ‘third-space’. Working in the ‘third-space’ creates the possibility of establishing a “common ground” of a relationship agreed between Pākehā and Māori through negotiation (Huygens 2004, p.10; Huygens, 2007, p186). Indeed, Bhabha highlights this possibility, stating that “[p]olitical empowerment... come[s] from posing questions of solidarity and community from the interstitial perspective” (1994, p3). Advocates of Pākehā change speak of ‘developing a

³³ Lane provides the following definitions: 'A settler state is one formed through colonial processes. A post- settler state is one in which residents no longer consider themselves migrants from the colonial power but instead 'natives' of the newly formed state. The term is usually applied to countries such as Australia, USA, Canada, and New Zealand in which indigenous peoples form a minority of the population and where the majority no longer regard themselves as colonizers' (Marcus B. Lane, 2006, p386)

³⁴ Ethics researcher Martin Tolich uses the phrase ‘Pākehā paralysis’ to acknowledge the difficulties Pākehā can face when attempting to engage with the perceived ‘political minefield’ of Māori experience (Tolich, 2002)

sense of connected destiny with Māori' (Huygens, 2007, p186). Within this research inquiry, I consider the possibilities of future relationships between Māori and Pākehā within a (post)colonial 'hybrid' planning institution.

Conclusion

The theoretical framework I have chosen for this research suggests that undertaking collaborative planning processes in a postcolonial or decolonising context requires careful attention to the interaction of knowledge and power within the institution of planning, and understanding of the agency of different participants. The focus of this research inquiry is on relationships - past, present, and future. This focus is supported by the three theoretical traditions of critical planning, postcolonialism, and decolonisation which critically analyse the relationship between government and community; the relationship between colonising power and indigenous authority; and the relationship between Pākehā and Māori respectively. The emphasis in critical collaborative planning theory and decolonisation theory on 'institutions'; and the importance placed on texts and discourse by postcolonial theory underlies my use of institutional ethnography as a methodology.

Postcolonial theory identifies acts of anti-colonial resistance carried out by indigenous groups, which include asserting the value of indigenous knowledge, promoting the counter-hegemonic discourse of hybridity, and subverting colonial discourses to 'clear space'³⁵ for diverse expressions of indigenous identity and power. These acts can be considered part of the process of decolonisation, and a shift towards a postcolonial society in which the colonial legacy of dominant-subordinate relations is transcended.

Both transformative planning theory and decolonisation theory have their roots in the concept of 'transformational learning' (Fischer & Mandell, 2012), and reinforce the collective nature of transformative processes. Transformative planning practice is conceptualised as "collective self-empowerment [concerned with the] continuing and permanent struggle for the equalization of access to the bases of social power" (Friedmann 1987 as cited in Lane & Hibbard, 2005, p174).

In the following review of literature, I will return to the specific (post)colonial context of Aotearoa-New Zealand to illustrate assertions of indigenous knowledge through indigenous planning, explain the power relationships established through the return of land through Treaty settlement; explore the way in which collaborative planning with indigenous people has unfolded in postcolonial contexts; and to consider further the moral, ethical, and emotional frameworks within which planners conduct their 'everyday work'.

³⁵ Kwame Anthony Appiah has suggested that 'the post in postcolonial, like the post in postmodern is the post of a space clearing gesture...' (Appiah 1992 as cited in Gandhi, 1998, p54).

Chapter Four – Themes in contemporary scholarship

I see planning as an always unfinished social project whose task is managing our coexistence in the shared spaces of cities and neighborhoods in such a way as to enrich human life and to work for social, cultural, and environmental justice
(Sandercock, 2004, p134)

Introduction

In this chapter, I review literature to identify the key themes emerging in contemporary scholarship about indigenous planning, colonial planning, and indigenous-colonial relations. I begin with literature from other settler-colonial countries - Australia, United States, and Canada - then consider the relevance of these themes to research undertaken in Aotearoa New Zealand. Beginning with the reassertion of indigenous planning, I explore indigenous aims to reclaim sovereignty over resource management through developing indigenous planning documents. I then outline commentary around the Treaty settlement process in Aotearoa New Zealand, focussing on the potential of Treaty settlements to deliver ‘redress’ and ‘economic sovereignty’ for Māori, and the importance of land use planning to enable the development of land returned to indigenous ownership.

Treaty settlements change relationships between iwi and local government, and local and Māori authorities are increasingly working together through planning processes. Literature documents indigenous people participating in collaborative planning processes, and the limits and opportunities of collaborative planning for advancing indigenous issues. Recent work in settler-colonial countries highlights the colonial origins of planning and the tasks required to decolonise planning. I present local literature which explores the processes of decolonisation in Aotearoa New Zealand, focussing on the response of Pākehā individuals and collectives to assertions of Māori sovereignty. Finally, I consider the challenges that recognising a parallel tradition of indigenous planning poses for planners working within a Western planning tradition, and the possibility of ‘transforming’ planning culture through developing an ethic of (post)colonial planning.

Theme One: Reasserting indigenous planning and development

There is a small but growing body of literature documenting the efforts of indigenous peoples to reassert indigenous planning traditions in settler colonial countries. This literature provides background for the discussion of iwi planning documents developed by Waikato-Tainui in Chapter Six. ‘Indigenous planning’ can be considered as the strategies and actions of indigenous people “to transform the political and material conditions of their lives” (Lane & Hibbard, 2005, p175). Indigenous planning asserts the value of indigenous knowledge and

literally 're-territorialises' indigenous knowledge relating to people and place. The act of naming 'indigenous planning' recognises that:

...planning is not solely concerned with the codified knowledge of formally [Western] trained professionals but also with the knowledge of communities, social movements, and individuals (Lane & Hibbard, 2005, p175)

Indigenous planning documents bring together indigenous knowledge and the format of Western planning texts to support the expression of sovereignty (Barry, 2012). The work of the Confederated Tribes of Warm Springs, Oregon, for example, illustrates how an indigenous community experimenting with "planning processes that affirm their communities' distinct cultural, historical, and environmental qualities ...has taken control of its own planning to strengthen its sovereignty"(Sandercock, Hibbard, Lane, Porter, & Beneria-Surkin, 2004, p101). The first iterations of the Warm Springs plan were created by consultants, but later versions have been created through participatory processes. Hibbard and Lane note that "[e]ngaging the membership and Tribal officials in every aspect of the planning process demonstrates an explicit concern with tribal and community control of the process—with sovereignty" (Sandercock et al., 2004, p102).

As written expressions of indigenous knowledge, indigenous planning documents respond to the text-based nature of Western planning, and "the recognition that expressions of Indigenous self-determination and its attendant social, economic, cultural, political and environmental aspirations needed to be more explicitly codified" to gain influence in Western planning processes (Matunga, 2013, p14). Indigenous planning is seen as a way in which indigenous communities can 'reclaim' control of the processes that shape indigenous lives (Jojola et al., 2013).

Indigenous planning documents in Aotearoa New Zealand

In Aotearoa New Zealand, Matunga suggests that iwi planning documents are "the modern articulators of the Maori planning tradition" (2000a, p36). Iwi planning documents have been described as an expression of 'rangatiratanga' (Taylor, 2015). Iwi planning documents have both an internal and external focus, helping to advance "the dual process of internal self-definition and expression, and external advocacy within the settler state and its planning systems" (Matunga, 2013, p13). Nick Roberts has written of the value of iwi management plans from a planner's perspective, noting that:

Well-drafted comprehensive management plans are of significant value not only to the community, but to planners as it allows for the early identification of tangata whenua priorities in management and provides a basis for early consultation to be established (Roberts, 2002, p223).

'Iwi planning documents' are recognised in the *Resource Management Act (1991)*, and provide a statutory mechanism for Māori planning knowledge to influence planning documents developed by local government. However, critics comment that in practice iwi planning documents are under-utilised, and have little effect on local government plans (Taylor, 2015). Angelika Schoder assessed the extent to which iwi planning documents influenced the South-West Christchurch Area Plan (2013). She found "no indication" that the three iwi planning documents prepared by Te Rūnanga o Ngāi Tahu directly influenced the preparation of the plan (Schoder, 2013, p32). Matunga also recognises the limited influence of iwi management plans on local government documents, noting that:

Many authorities have found these Maori documents to be too hard to deal with, too radical, too insurgent, too general, too vague, too brief, too long or too ultra vires. Consequently most have treated them as fringe plans and banished them to the margins of their own planning processes (2000a, p45)

Theme Two: Collaborative planning processes, indigenous rights, and indigenous interests

As well as creating planning documents, indigenous communities also participate in planning processes run by government planning authorities. Communities are not "the passive recipients of plans and other interventions. Instead communities are resilient, and actively resist, interpret, negotiate and therefore refashion these plans in important, albeit often subtle ways..." (Lane & Hibbard, 2005, p175). When indigenous people participate in government planning processes "the aim of their participation is to ensure that planning outcomes reflect, at least in part, indigenous priorities" (Lane, 2006, p386). Government planning authorities "seek to 'include' Indigenous people in various ways, such as through representation on boards or decision-making committees, through increased opportunity for consultation or participation, or through employment schemes" (Porter, 2010, p42). These efforts towards 'inclusion' can be seen in the context of a broader shift in local government towards collaborative planning (Howitt, 2010; Webster, 2009). Below, I explore literature regarding the response of planning authorities to indigenous assertions of rights, the move towards 'inclusive' or 'collaborative' planning, and the risks for indigenous communities entering into collaborative planning relationships. This discussion provides context for findings regarding the involvement of Waikato-Tainui in planning processes run by Hamilton City Council, which will be explored in Chapter Seven.

Uncritically, collaborative planning is seen to improve relationships between government planning authorities and indigenous people by increasing indigenous participation in planning processes (Webster, 2009; Sandercock et al., 2004; Lane & Hibbard, 2005). However, critical planning scholars argue that the historical power imbalance between colonial and indigenous authorities may limit the extent to which indigenous interests can be advanced within a collaborative planning process in a settler-colonial society (Sandercock et al., 2004).

Reflecting on her work with indigenous peoples in Western Victoria, Australia, Porter considers that:

Indigeneity makes such a difference... that collaborative or deliberative planning models become highly suspect in (post)colonial contexts when they do not include a sufficiently deconstructive stance towards historical relations of dispossession and racism (2010, p126)

For example, Indigenous groups are often characterised as one 'stakeholder' within a 'multi-stakeholder' process (Barry, 2012), in which their voices carry equal weight with other participants. When indigenous communities assert their right to participate in a planning process as 'partners', rather than 'stakeholders', these assertions are seen as "anti-democratic", and a challenge to "the assumption of modern states that governance should be uniform for all citizens" (Lane & Hibbard, 2005, pp173-174). Collaborative planning processes often strive towards consensus and in these 'equal' forums indigenous voices can be lost, particularly if indigenous perspectives are not aligned with interests or values held by other parties (Barry, 2012; Taylor, 2015). Geographer Brad Coombes and colleagues state that, within a Crown-Indigenous forum, theories of communicative rationality "fail to account for power relations and overstate the likelihood of consensus" (2012, p814).

Accordingly, scholars agree that indigenous communities continue to be marginalised in planning, and planning processes can be seen as a site of complex cultural conflict (Sandercock et al., 2004). Lane (2003) reviewed the experience of indigenous groups in collaborative planning processes in Australia. He found that although the participation of "civil society" (including citizens and non-governmental organisations) expanded the "spaces of democracy" (Friedmann 1998), the planning process was dominated by "interest group politics" (Lane, 2003, p361). Collaborative planning practices can "reproduce rather than transform" power relations, and instead of collaborative planning providing a:

...civil process of mutual learning that has the potential to transform the political economy of nature resource use, Australian indigenous organizations are engaged in bitter policy contests that are partisan and unforgiving (Lane, 2003, p369)

As well as marginalising indigenous authority, literature suggests that Western planning paradigms minimise the value and relevance of indigenous knowledge to contemporary planning. Planning frameworks employ discourses which essentialise indigenous knowledge, limiting the perceived relevance of indigenous knowledge to planning processes. In their work examining 120 government planning documents in Canada and Australia, Barry and Porter (2012) identify the significance of discourses relating to urban planning and recognition of indigenous rights in defining the grounds on which the government will engage with indigenous people in planning process. In government discourse, indigenous values are not believed to be able to survive modern development. Within urban areas, the connection between indigenous people and their resources is considered erased because the landscape

has been modified and built on. Consequently, indigenous values are not considered to be relevant to urban development. These kinds of discourse have practical implications for how the rights of indigenous people are considered in planning processes.

Collaborative planning and indigenous interests in Aotearoa New Zealand

Similar themes of unequal power and undervalued knowledge are apparent in Aotearoa New Zealand, where several scholars have researched collaborative resource management with Māori communities. Specific requirements in both the *Resource Management Act (1991)* and *Local Government Act (2002)* to consult with Māori³⁶ can be seen as part of a wider planning movement to make planning 'more inclusive' of diverse voices within the community (Memon & Thomas, 2006). However, research confirms that collaborative processes are unlikely to be able to overcome existing "fraught relationships" between local authorities and Māori communities (Memon & Thomas, 2006, p140).

New Zealand's colonial histories are ever-present in planning processes. Matunga has stated that "racism against Maori in the city has not just been about people but an even more insidious privileging of colonial institutions, culture, places, sites, names, icons, even biota" (2000b, p68). Memon and Thomas note that councils are "working hard to improve their relationships with Māori but some have deep and long- standing issues to work through before meaningful relationships can develop while others have an attitude of indifference to improving relationships with Māori" (2006, p140). Coombes reflects that it "is ahistorical to suggest that those on either side of the colonial encounter, who have seldom rehearsed open negotiations in the past, will come together for one moment and resolve their differences" (2012, p814). Indeed, many Māori feel that neither the *Resource Management Act (1991)* nor the *Local Government Act (2002)* have delivered on promises to improve Māori participation in planning processes (Holm & Enright, 2013).

The perceived conflict between 'indigenous rights' and 'democracy' is also apparent in Aotearoa New Zealand. As Durie observed:

Recognition of special rights on the basis of long-standing occupation seem[s] to clash with the equal rights of all citizens in a democracy (2003, p242)

Resisting the categorisation of Māori communities as a 'stakeholder' in planning processes, Māori commentators Maria Bargh and Wayne Rumbles (2012; 1999) confirm that "sovereignty and rights are the real issues, not inclusion and participation" (Sandercock et al., 2004, p95). Research by Māori resource and environmental planning scholar April Bennett with the Manawatū River Forum, in the lower North Island, provides an example of how power inequalities marginalise the contribution of iwi to participatory planning processes (Bennett, 2015). Using a theoretical framework based on the work of French sociologist Pierre Bourdieu,

³⁶ The *Resource Management Act (1991)* requires consultation with 'iwi authorities' (Schedule 1 clause 31); while the *Local Government Act (2002)* requires consultation with 'Māori' (s81).

and the concepts of field, capitals and habitus, Bennett identified the forces which structure the 'field' of resource management planning as:

...the legacy of resource dispossession that Māori have experienced in the colonisation process. Through the acquisition of water and other resources, the Crown stripped Māori of an economic base and vested this base in itself and others, such as local authorities, corporates, and settlers (2015, p257)

Participants in the collaborative Manawatū River forum excluded Māori through their "ways of acting, feeling, thinking, and being" (Bennett, 2015, p250). Bennett observed that "[e]lected officials express racist attitudes towards Māori, and Pākehā stakeholders subvert Māori strategies to advance their aspirations by dismissing Māori for various reasons" (2015, p257). Research by Karen Webster also confirmed the perseverance of negative attitudes towards Māori in local government planning processes, finding that "[g]iving Māori effective voice was still seen as fundamentally a threatening model" (2009, p333). She considers that this finding "may be attributed to the age cohort of Pākehā elected members" and could be perceived as a "generational issue" (2009, p333).

Māori knowledge is recognised, but not necessarily valued within the planning framework in Aotearoa New Zealand. Jackson (2008) examined the process for Kati Huirapa Runanga ki Puketeraki to gain government approval to create a taiāpure management area under the *Māori Fisheries Act (1989)*. The application for a taiāpure management area requires attempting to articulate "a Māori world view" within the parameters of a government application process (Jackson, 2008, p12). She notes that:

...in order to be successful, applicants must subscribe to the institutional discourse, and to the process. However, the notion of institutional discourse is at fundamental odds with indigenous knowledge.... (2008, p12-13).

These examples highlight that an analysis of power and knowledge is critical to understanding how indigenous interests are considered in collaborative planning processes.

Collaborative planning and institutional change

Despite evidence that specific planning processes continue to marginalise indigenous power and minimise indigenous knowledge, literature also suggests collaborative planning processes have potential to catalyse longer-term institutional changes in relationships between indigenous communities and planning authorities. Janice Barry proposes that:

...collaborative processes not only support the production of individual land use plans and planning agreements, they have the potential to... generate many second and third-order effects, including changes in planning practice and stakeholder relationships, as well as the promotion of new norms and discourses (2012, p214)

Reviewing the evolution of a collaborative planning relationship between provincial government and First Nations people in coastal British Columbia (termed 'government-to-government', or 'G2G' planning), Barry identifies two major changes in institutional practice, centring around "developing a long-term governance arrangement through the signing of multiple strategic land use agreements, rather than a single strategic land use plan" and recognising "the need to attend to the professional and political aspects of the G2G relationship through the development of a multi-level institutional structure" (2012, p220). Collaborative planning processes change the participant, as well as the process. Barry describes the changing capacity of provincial government and First Nations organisations to work together. Over time, she reports, the President and Executive Director of the First Nations organisation:

...were learning to speak the language of provincial resource planning and were becoming increasingly adept at working with established resource management tools. For the provincial planners, they had become 'kind of like the professional body that we could relate to' (2012, p224)

Other researchers, however, continue to offer evidence that planning authorities are not ready to undertake institutional change. Porter interviewed park managers involved in preparing a management plan for Gariwerd national park in Victoria, Australia. Interviewees "talked frankly about real resistance from within the state bureaucracy" (2010, p128), noting the struggle that their colleagues had with the idea of 'partnering' with indigenous communities. Despite common use of the term 'partnership' to describe relationships with local authorities, managers in the state agency were nervous about the implications of sharing a "50-50 equal say" with an indigenous authority. As one interviewee observed to Porter, "Put 'Indigenous' in front of it, and its paranoia" (2010 p128). Communication and capacity of both local government and indigenous organisations have been identified as barriers to participatory planning (Barry, 2012), as have a lack of resources and limited familiarity between indigenous and non-indigenous organisations regarding each others' planning and decision-making processes (Lane, 2003).

Collaboration and institutional change in Aotearoa New Zealand

Again, similar themes of institutional change, capacity, and resistance have emerged in Aotearoa New Zealand. Capability - comprising both 'commitment' and 'capacity' - has been found to be a "significant determinant of how well central and local government fulfilled their statutory responsibilities under the [Resource Management Act]" (Memon & Thomas, 2006, p142). In 2014, Lara Taylor (2015) examined a collaborative planning process initiated by Ngāti Whātua o Kaipara hapū in the north of the North Island. Taylor found that the hapū used the 'multi-stakeholder platform' of the Integrated Kaipara Harbour Management Group to advance their interests. Building on relationship agreements within their Treaty settlement, the hapū created strong relationships with local farmers and government planners, in an attempt to force central government agencies to commit adequate resources to support implementing integrated catchment management.

Ngāti Whātua hapū initiated the collaborative group, in the absence of action from central government. Through their leadership, the hapū have gained support from other stakeholders to exercise their rangatiratanga. Taylor (2015) provides evidence that through this collaborative process, both Māori and Pākehā individuals developed their capacity to act as 'boundary agents', mediating across cultures as part of an evolving bicultural practice. However, she concluded that 'institutional inertia' and the failure of local and central government to respond to hapū initiatives undermined efforts to establish a bicultural collaboration.

Theme Three: Pursuing economic justice through Treaty settlements

In addition to the questions of sovereignty and collaboration encountered in colonial-indigenous collaborative planning, the concepts of justice and 'economic sovereignty' also arise from the Treaty settlement process (Bargh, 2007). This section of the literature review explores these issues, setting the context for findings regarding the vision of Waikato-Tainui for their land returned under Treaty settlement, and the response from local government to this vision, discussed in Chapter Six. The literature explored in this chapter also provides background for discussion of the nature of development on land returned under Treaty settlement, which is the focus of Chapter Eight.

Vision for Treaty settlements

The vision of Treaty settlements providing 'redress' for breaches of Te Tiriti is complicated by the political nature of the Treaty settlement process, and by negative discourses around Treaty settlements in Aotearoa New Zealand. Treaty settlements are a political process controlled by the Crown (Rumbles, 1999). No statute governs the negotiation or settlement of claims for breaches of Te Tiriti, requiring "a pragmatic approach by both parties" (Harris, 2011, p11). From the perspective of the Crown, the aim of settling Treaty claims is "to provide 'redress in recognition' of the claimant group's grievances, to 'restore' its relationship with the group, and to 'contribut[e]' to its economic development" (Wheen & Hayward, 2012, p14). Settlements are envisaged to improve social and economic conditions for both Māori and Pākehā.

The Crown approach to Treaty settlements is characterised by an emphasis on ending grievance. Wheen and Hayward note that "[p]olitically, morally, and even economically, the Crown needs the perception of closure and certainty that Treaty settlements bring" (2012, p14). Elected in 1990, the fourth National Government promoted a policy to settle all major Treaty claims by 2000, and sought to formalise a process to settle (and contain) claims through a set of *Crown Proposals*, presented to Māori communities through hui around New Zealand in 1994. The Crown proposals were overwhelmingly rejected. Public servant Wira Gardiner chronicled the series of hui, recording that:

...the rejection of the Crown's proposals was symbolic of a number of more deeply seated concerns felt by Maori. These included frustration at the slowness of resolving grievances through the Waitangi Tribunal, the failure of Crown policies such as the

protection mechanism to provide Maori with a fair process for acquiring surplus Crown lands, and the drastic impact of economic reforms and long term unemployment on Maori communities (1996, p12)

Despite progress made since 1994, Treaty settlements continue to be an issue for political debate. All major political parties have developed a policy on Treaty settlements and “all these policies advocate an early end to Treaty grievances” (Wheen & Hayward, 2012, p14). During the 2008 election campaign, the National Party - now the fifth National government - repeated a revised promise to settle all historical Treaty claims by 2014 (Wheen & Hayward, 2012, p14). A public servant with extensive experience at the Waitangi Tribunal and Office of Treaty Settlements, Dean Cowie, has written that nominating “an end date is important to assure Māori waiting to negotiate that their time will come sooner rather than later. Just as importantly, it assures non-Māori that the process of making, negotiating, and settling claims is finite” (2012, p48).

Cowie’s words reflect the reality that recognising and redressing ‘Māori grievances’ is a contentious issue within Pākehā society. Significant research has been carried out into discourse around Māori-Pākehā relationships (McCreanor, 2005; R. Nairn & McCreanor, 1991; Wetherell & Potter, 1992). Through analysis of portrayals of Māori and Pākehā within the media, researchers have identified ‘themes’ - such as ‘Māori privilege’ - which are repeated as discourses over time (A. Moewaka Barnes et al., 2012; R. Nairn et al., 2012; Rankine et al., 2008). Tim McCreanor (1997) traced the origins of ‘anti-Māori’ discourse to the arrival of colonists in Aotearoa New Zealand, and researchers have documented the persistence of these discourses in diverse fields such as public health (Came, 2014) and psychology (R. Nairn, 2012). Research into Pākehā perspectives on Treaty settlements reports that:

For some, the motivation to resolve claims was pragmatic - an attempt to stop ‘pouring money into the Māori Affairs Portfolio, never to be seen again’. Others were motivated by ‘ordinary human considerations’ - the long-term scars of unemployment and the sense of alienation suffered by Māori (Archie, 1995 as cited in Webster, 2009)

Pākehā express a wide range of views on Treaty settlements, ranging from “total disregard” to “respect for the Treaty as New Zealand’s founding document” (Webster, 2009, p268). Some Pākehā view Treaty settlements as simply “a device for Māori to gain control of a share of the economy” (Archie, 1995 as cited in Webster, 2009, p268). Using data from a survey of Pākehā students, Sibley and Liu emphasise the difference in Pākehā attitudes towards promoting “biculturalism in principle” (general acceptance of a partnership between Māori and Pākehā) and implementing “resource-specific biculturalism” (support for policies to redistribute resources in favour of Māori, such as the return of land under Treaty settlement) (2004, p88). Sibley and Liu note that “although there is support for some of the general principles of biculturalism from both government and the general populace, there is also a realistic concern that this might mean special privileges that advantage Maori at the expense of other New Zealanders at the level of resource allocations” (2004, p89). More specifically, results indicated

that Pākehā supported the principle of biculturalism but were opposed to the concept of redistributing resources which was considered a ‘threat’ to Pākehā competing “for scarce resources such as land, power, or jobs” (Sibley & Liu, 2004, p89).

Despite these negative discourses, the Crown intends Treaty settlements to allow citizens of Aotearoa New Zealand to move beyond ‘division’ and ‘competition’ between Māori and Pākehā, to a shared project of ‘nation building’. The *Crown Proposals* circulated in 1994 stated that the settlement of historical claims was hoped to encourage “Maori and the wider community [to] shift their focus away from grievances towards the growth and development of Maori potential” (Te Puni Kōkiri, 1994, p50). Cowie proposed that:

...the settlement process is not just about spending money and reaching settlements. Loftier nation-building outcomes are being realised. The process restores the honour, or moral legitimacy of the Crown to govern on behalf of all New Zealanders. It also affords to Māori the opportunity to take real ownership of a future that is different to their past. These intangible benefits of reaching settlements - international respect, a truly post-colonial government, tribes with economic power and sound governance that instil pride and confidence in their people - could yet prove to be the most significant legacies of the Treaty settlements process (2012, p64)

However, responses from Māori commentators reflect skepticism that the ‘completion’ of Treaty claims, the shift from ‘grievance’ to ‘development’, and increased economic certainty can bring an end to the “disparities of colonialism” (Kohn & McBride, 2011, p3; Rumbles, 1999). Indeed, Cowie accepts that the Crown assertion that Treaty settlements are ‘full and final’ is controversial, noting that:

It is rare for Māori leaders to promote the settlement offer as one they could consider to be fair and just. Instead, they tend to describe the offer as the best available at the time, which is better than the uncertainty of a litigated outcome, and an opportunity for the tribe to build its economic, cultural and social base (2012, p54)

By 2009, 2034 claims had been registered with the Waitangi Tribunal (Waitangi Tribunal, 2009). In 2014, the National government repeated a revised promise that “...all willing iwi should have deeds of settlement” by 2017 (National Party of New Zealand, 2014).

Commercial redress and economic development

The Crown promotes Treaty settlements as a form of distributive justice. Where settlements have been reached, the Crown holds high expectations of the impact of redress on Māori society. The return of land and resources to support Māori to “rebuild their economic strength, be self-sufficient and grow their wealth over time” (Cowie, 2012, p60) is seen as critical to enable Māori to achieve equality with Pākehā. The Crown “seeks to improve the economic position of Maori through economic development, assuming that this will ultimately improve social and political conditions for Maori” (Bargh, 2012, p166).

The Crown's rhetoric linking commercial redress and economic development is connected to the emergence of a movement of "positive Māori development - the attainment of economic and social well-being and the tools to participate fully in society and the economy" (Durie, 2003, p244). This "new movement", which Professor Sir Mason Durie traces to a gathering of Māori leaders called the 'Hui Taumata' in 1984, encouraged Māori organisations "to adopt a business approach to Māori progress and to gain experience in a commercial world that had been largely hidden from Māori eyes" (2003, p243). To date, Māori economic development has mainly been based on developing resources. The Treaty settlements process has resulted in Māori communities regaining ownership of significant natural resources, and the "development and management of these resources is a major item on the Maori socio-economic agenda" (Matunga, 2000a, p37).

Despite the fact that only a small proportion of what was taken has been returned, both Pākehā and Māori commentators have remarked on the success of commercial redress in increasing the wealth of Māori organisations (Durie, 2009; Stone, 2012; Ward, 2009). Harris relates that:

Land already transferred is being put to a range of uses, including commercial, cultural, educational, recreational and administrative purposes. Other settlement assets, such as commercial forests, provide a regular and periodically reviewable income through licence fees and rentals (2011, p11)

Historian Alan Ward pointed out that, while the Treaty settlement process has unfolded:

...Maori have done a great deal more, on their own account. The Maori entrepreneurial spirit, evident before 1860 but largely buried during the period of Treaty breaches has clearly re-emerged and is remarked upon by economic analysts as one of the dynamic features of the economy today (2009, no page number).

For most iwi and hapū, Treaty settlements have not resulted in a distribution of cash to individual members but have been invested as part of a collective approach to development (Durie, 2009). Land returned to post-settlement governance entities³⁷ is often held in communal title, and many post-settlement governance entities have commercial subsidiaries tasked with developing resources returned under Treaty settlement. The focus of post-settlement governance entities on economic development has sometimes been controversial. Matunga notes that the environmental sector, an important ally of Māori in the 1970s and 80s "is increasingly sceptical of Maori aspirations as rather too focused on acquiring private property and on promoting development" (2000a, p37). However, as Durie suggests, the nature of Māori businesses is "less about either being true to the past or being swept up in the tide of change but more about a process that can combine the several pathways that Māori

³⁷ A 'post-settlement governance entity' is the entity that receives the redress negotiated by a claimant group as part of a Treaty settlement (Office of Treaty Settlements, 2012, p4)

must confront in modern times” (2003, p241). Considering resource development more generally, Coombes and colleagues warn against viewing:

Indigenous aspirations and social projects in wholly negative or positive terms.
Indigenous peoples are framed as either heroes and champions of avant-garde politics or vulnerable casualties of colonial pasts and environmentally destructive futures.
Neither caricature provides an adequate representation of the complex material, political and cultural characteristics of emergent Indigenous geographies (2012, p697)

For many iwi and hapū, economic development is a mechanism to achieve wider social, cultural and environmental goals. Durie considered that the Hui Taumata generated an understanding that for Māori, “economic goals were linked to self-sufficiency and envisaged the creation of new businesses and the commercialisation of Māori assets such as land” (2003, p243).

Planning for land returned under Treaty settlement

Despite the successes some Māori communities have achieved in economic development, the fact remains that Māori authorities do not have sovereignty over resource management processes. Legal academic Margot Salomon links sovereignty over natural resources with the concept of “economic self-determination”, both of which she considers to be “third generation human rights” (2013, p44). Matunga states clearly that Treaty settlements must:

...compensate for 150 years of 'delayed' economic development. The current state of Maori underdevelopment needs therefore to be seen historically. Returning resources alone is not enough. Restoration of planning authority and development rights is also required (2000a, p39-40)

However, the right to develop land returned as commercial redress is not guaranteed through the Treaty settlement process. Instead, as discussed in Chapter One, developing land is governed by the *Resource Management Act (1991)* and local authority planning documents which permit and restrict activities such as urban development through planning and consenting processes.

This reality highlights the importance of findings in international literature that where land is returned to indigenous owners, developing appropriate planning regulation is critical to enable indigenous owners to utilise that land (Lane, 2006). Planning to develop land owned by indigenous people requires recognising indigenous ownership models and development motivations. For example, many indigenous communities insist on development that does not compromise their ability to retain traditional landholdings. A review by Australian academic Margaret Stephenson of models of indigenous land tenure in Canada, the United States, and Australia highlighted the importance of preserving “communal underlying title to indigenous lands” and “collective decision-making powers” (2011, p111).

Retaining ownership has implications for the nature of development that is possible on land communally owned by indigenous communities. Mechanisms used internationally to preserve underlying communal title include certificates of possession, the legal coexistence of both individual and collective titles, and leasing arrangements (Stephenson, 2011). Stephenson notes that “[l]ong term leases allow for economic development while preserving the reversionary interest – the underlying communal title – for the traditional owners” (2011, p120). In Canada, long term leases have been used successfully for commercial development, such as shopping centres, on indigenous lands (Stephenson, 2011, p117). The public sector also provides many examples of leasing land for development, for residential and commercial development (Bourassa & Hong, 2003). The viability of using leases in a property development depends on the market acceptability of leasehold title both to funders as security for a loan, and to potential lessees or renters who are concerned with the security of their tenure (Wilkinson & Reed, 2008). However, leases often favour owners’ interests over tenants’ interests, because the owner controls the period of time the lease may run, the frequency of rent reviews, and arrangements concerning maintenance and repair of assets (MacLaran, 2003).

Developing land which cannot be sold, and therefore cannot be easily liquidated to pay debts, affects banks’ willingness to accept land as security for loans (for examples in Aotearoa New Zealand see Linkhorn (2006) and Hitchcock (2008)). Considering economic development on the settlement lands returned to the Metis people in Alberta, Canada, Stephenson reports that:

...obtaining conventional loans on settlement lands has proved problematic and this has made commencing a business on settlement lands difficult (2011, p124)

However, other commentators have reconceptualised the returns that are possible from inalienable land. In a report on the Māori economy, Nana and co-authors noted that:

The focus now must be on the income (and/or wellbeing) that arises from Māori ownership and control of these assets. After all, in strict business terms, the financial dollar value of an asset is only of interest to a business when it is needed to leverage additional funds, or if the asset is to be sold. For assets or taonga that are inter-generational neither of these reasons is very applicable (Nana et al., 2015)

These findings indicate the importance of collectively developing communal landholdings.

Theme Four: Moving towards Treaty-based relationships through decolonisation practices

In Aotearoa New Zealand, the colonial relationship between the Crown and Māori provides critical context for transforming collaborative planning relationships between Māori and local government. Local government is established through colonial legislation; and planning has

colonial origins. Decolonising planning requires changing the culture of planning to work transformatively with Māori communities to plan for developing Treaty settlement land.

This section of the literature review sets the context for findings regarding the experiences of planners working with Māori organisations to develop land returned under Treaty settlement. The following literature provides an introduction to my analysis of the New Zealand Planning Institute *Code of Ethics*, transformation of the planning profession, and the possibilities for future relationships discussed in Chapters Nine and Ten.

Local government and Te Tiriti

Broadly, scholars in Aotearoa New Zealand focus on “Treaty-based relationships” as a goal for decolonisation (Huygens, 2007, p137). This goal implies a relationship between local government and Māori organisations originating in the complementary concepts of rangatiratanga and kawanatanga enshrined in Te Tiriti (Nikora, 2001). Psychologist Linda Waimarie Nikora explains:

The term Rangatiratanga implies autonomy and independence, suggesting the right to an identity, both individually and in the group, and the right to express that identity without being impeded in any way. Kawanatanga invokes the idea of protection; it is the concession Maori made in the treaty to allow government to govern. So Rangatiratanga guarantees Maori autonomy within the minimum parameters necessary for the operation of Kawanatanga. Today, in delegating responsibilities to other bodies, the Crown must do so in terms that ensure its treaty duty of active protection is fully realised (2001, p377)

According to Nikora and others, a Treaty-based relationship forms the framework for relationships between local government and Māori. Section 8 of the *Resource Management Act (1991)* required decision-makers to “take into account” the “principles of the Treaty of Waitangi (te Tiriti o Waitangi)” (s.8). In 2002, the new *Local Government Act* included a “Treaty clause”, which “served to clarify that the Treaty obligations referred to under the LGA were the Crown’s obligations to Māori, which were passed on to local authorities’ (Local Government New Zealand, 2003 cited in Webster, 2009, p135). Hayward has stated that the effect of these clauses is to transfer “aspects of central government’s (the Crown’s) Treaty obligations and authority regarding resource management to local and regional authorities”, a statement which has been repeated by Chen, Mutu and others (Hayward, 1998, p161; Chen, Palmer, Caddie, & Rikys, 1999; Mutu, 2002).

Despite this advice, the extent to which local government holds constitutional Treaty roles and responsibilities is debated. A common belief persists in local government that any and all Treaty obligations held by local government are determined through legislation, rather than a ‘Treaty responsibility’ (Boast, 2003; Hayward, 1999). Even where Treaty obligations are statutorily stipulated, local authorities appear to remain unclear about what these requirements mean in practical terms for plan development (Boast, 2003; Matunga, 2000a).

From a legal perspective, Boast highlighted the lack of “a coherent body of law clarifying the responsibilities of local government under the Treaty of Waitangi” (Boast, 2003, p157). Parliamentary and juridical attention has focussed largely on the relationship between Māori and central government. Boast considers that the implication of Treaty principles for local government should be explored, arguing that the principles of ‘protection’ and ‘active partnership’

...are definitely not meaningless at the level of local government, at least theoretically. Why not view local government as a 'partnership' between local authorities and Maori organisations? And why not say that local government, too, is under a duty of 'active protection'? (Boast, 2003, p160)

However, reporting on a survey of iwi and hapū representatives, Backhurst et al. found that iwi and hapū generally perceived understanding of kaitiakitanga and Te Tiriti to be “low” among council planning staff (2004, p11).

Local government responses to Treaty settlements

Other scholarship on relationships between local government and post-settlement iwi places less emphasis on statutory obligations, and more on ethical responsibilities. Local government are not generally involved in negotiating Treaty settlements, and early settlement legislation such as the *Waikato Raupatu Claims Settlement Act (1995)* provided little direction to local government (Boast, 2003). However, resource management lawyers Rob Holm and Vivien Enright encourage proactive local government responses to Treaty settlements, stating that “[t]he fact that a particular settlement does not provide for some form of redress does not preclude a local authority from taking the initiative and putting it in place itself” (2013, p6). For example, the steps taken by Manukau City Council in the 1990s to “change and respond to Te Tiriti o Waitangi” illustrate a proactive response by a local authority to the Treaty settlement process (Oaks, 2000). In 1986, the Waitangi Tribunal released its findings on the Manukau claim. As discussed in Chapter One, the claim focussed on the degradation of the Manukau harbour, and the loss of land and resources from Ngāti Te Ata and other iwi and hapū. Although “none of the recommendations of the Tribunal related specifically to the Manukau City Council, it voluntarily chose to play a role in addressing several of the issues” (Oaks, 2000). Manukau City Council aimed to create a new Treaty-based relationship with Ngāti Te Ata, supported by a decolonisation programme emphasising both ‘education’ and ‘action’ for staff.

More recent Treaty settlement legislation establishes permanent mechanisms for engagement between Māori organisations and local government, some of which involve elected members as well as planning practitioners. These measures are:

...designed to ensure that iwi and hapū are more closely involved in decision making. These range from the establishment of new joint committees and advisory boards through to extensive new planning documents for resources of special significance to

claimant groups.... Rather than simply requiring consultation with iwi, many of the settlements will involve active and on-going collaboration (Holm & Enright, 2013, p1)

Treaty settlements may also be a “game-changing strategy” for iwi to restructure power relations within the planning process, and to “improve their position in it” (Bennett, 2015, p246). Bargh identifies the Paepae Rangatira Accord incorporated into the Ngā Rauru Kītahi settlement signed in 2003 as an example of the kind of “rangatira-to-rangatira interactions that many iwi have envisaged as part of a post-settlement future” (2012, p178). In addition to formal relationship agreements, Bennett suggests that iwi who have been able to increase their “economic capital and certain forms of cultural capital” (for example, relationships with the wider community) may be able to engage more effectively in collaborative planning processes (2015, p250).

New relationships include changing the nature of interests recognised by local government as ‘Māori interests’ to encompass interests relating to economic development and significant land holdings (Webster, 2009). Bennett documents the potential for increased understanding that iwi are “vital to the economic stability and growth of the region” (Bennett, 2015, p252). Holm and Enright consider that

the impact of settlements on [Resource Management Act] decision making is not limited to the changes made by natural resource management redress. The increased economic clout of settled iwi and hapū will also affect the way planners interact with them. Rather than focussing on collaboration designed to restore or protect natural resources, planners will also need to think about collaborating on development (2013, p4).

Emphasising collaboration challenges local government to find new ways of working with Māori organisations as developers.

Decolonising planning

While local government struggles with its Treaty obligations, and Treaty settlements create new collaborative relationships, the planning profession must also confront the responsibilities of decolonisation. Planning, as practised by local government in Aotearoa New Zealand, is a cultural practise grounded in colonial traditions (Porter, 2010). These traditions include “the early practices of spatial ordering, or planning: surveying and selection, mapping, (re)naming, town building, and the various and widespread intricacies of land policy” (Porter, 2010, p76). Colonial planning practices suppressed and supplanted indigenous planning cultures in Aotearoa New Zealand, as Matunga describes:

...the materiality (i.e., physical quality, presence, and structure) and memory (i.e., recall of experience, even existence) of Indigenous communities has generally been erased. In the cities it was replaced with imperial monuments, colonial buildings, colonial cathedrals, colonial gardens, and colonial city patterns modelled on the 'old world' and the mother country.... The aim was to remove any material evidence/reminder and

memory of Indigenous communities, their places, sites, resources and villages, and replace it with a new colonial order (2013, p9)

The reassertion of indigenous planning traditions challenges the Western planning system because:

...Indigenous people present different ontological and epistemological understandings of place, and differently oriented spatial practices. As expressions of a different source of sovereignty in place, they challenge at least the ability of planning processes to deal with Indigenous interests as one of many other interest groups. At most, they challenge the very authority and power of modern planning systems (Porter, 2010, p42).

To address these challenges, planners must come to terms with the implications of critical planning theorising that planning is not universal, neutral, or unbiased (Sandercock, 2000). Planners must recognise that their own professional practices are culturally embedded (Porter, 2010), and be prepared to question implicit assumptions within planning (Sandercock, 2000). Planners must also acknowledge the fact that planning processes can be used to advance xenophobic or racist agendas. Sue Jackson has chronicled the “oppressive consequences” for Aboriginal people of “the pretence of rationality, superior technical knowledge and objectivity” in the Australian planning system (S. Jackson, 2012, pp221-226), while Vanessa Watson (2013) discussed the complicity of the planning profession in physically segregating populations in apartheid South Africa. In the United States, academic attention on issues associated with the civil rights movement in the 1960s resulted in “heightened sensitivity to race [which] transformed urban planning, pushing practitioners and scholars to consider issues of justice and equity, and forcing the evolution of social, advocacy, and equity planning” (Manning Thomas 1996, p176). Practices of ‘equity planning’ or ‘advocacy planning’ emerged as mainstream urban planning responded to political change. Focussing on projects such as improving public transport and preventing the destruction of minority-race neighbourhoods, equity planning aimed to “be neither particularly optimistic nor pessimistic nor uncritical, but to clarify institutional and political possibilities, to encourage an articulate, activist, equity-oriented planning practice” (Krumholz & Forester, 1990, p211).

Decolonising planning in Aotearoa New Zealand

Echoing the call for Treaty-based relationships between local government and Māori, Te Tiriti o Waitangi has also been proposed as a framework for decolonising planning within Aotearoa New Zealand. In his 2000 paper ‘Decolonising Planning: The Treaty of Waitangi, the Environment and a Dual Planning Tradition’, Matunga proposed that:

...the environmental planning system needs to relocate the Treaty of Waitangi to its centre (as was originally intended) rather than continuing to view it as a peripheral and perennial nuisance (2000a, p38)

Matunga suggests five propositions as a basis for work to decolonise planning in Aotearoa New Zealand:

- Maori (iwi and hapu) have an environmental planning tradition that predates, and was affirmed by, the Treaty of Waitangi.
- A contemporary Maori planning paradigm exists which is grounded in indigenous Maori tradition. It is evolving and is being reshaped by Maori responses to colonialism.
- The Treaty provided a basis for the evolution of a dual environmental planning tradition, one grounded in indigenous Maori traditions, philosophies, principles and practices, and the other in the imported and evolving traditions and practices of an introduced 'Western' planning tradition.
- The current 'mainstream' environmental planning system has its roots in a colonial discourse which continues to exclude Maori and rejects both the primacy of the relationship between Maori and the Crown and the redistribution of power.
- Aotearoa/New Zealand has a dual planning heritage which needs to form the basis for a new paradigm of environmental planning (2000a, p38)

From a Pākehā standpoint, advancing these propositions requires 'clearing space' for Māori planning practises within a (post)colonial institution of planning (Gandhi, 1998); asserting the importance of history to the planning profession; and considering how to support planning practices which aim both to create a hybrid (post)colonial planning institution, and to transform relations between iwi authorities and local authorities into a Treaty-based relationship.

Clearing space for indigenous planning paradigms requires recognising the validity of indigenous knowledge, and the centrality of indigenous authority. However, as Lane recognises, the 'technical-rational' tradition of planning has been "particularly hostile to tradition and to authority based on custom or faith" (Lane, 2006, p387). In Aotearoa New Zealand, commentators argue that "Māori advice, priorities and concerns have in many cases been outweighed by the majority Pākehā view, trivialised, distorted or commodified" (Cooper & Brooking, 2002, p197). Examples include the debate over the spiritual and cultural significance of a site at Ngawha, in Te Tai Tokerau, where local iwi opposition to a proposed prison was dismissed (Kawharu, 2002).

To move towards decolonisation, planners must know and understand the history of the communities, settlements and environments that they work in (Matunga, 2000a). It is also important for planners to know the history of the planning profession, and its complicity with colonialism (Porter, 2010). However, many Pākehā are unaware of the histories of Aotearoa New Zealand beyond the stories of Pākehā settlement. Pākehā are especially unaware of how Pākehā and Māori histories intersect.

Avril Bell suggests that Pākehā history is intentionally ignored by Pākehā because knowing our history undermines the sense of Pākehā as ‘New Zealanders’ with the same rights as everyone else:

Not only do Māori and Pākehā have their own versions of their shared history but, at the time of meeting, the peoples who became ‘Māori’ and ‘Pākehā’ each had their own prior histories... Pākehā seek to ‘forget’ theirs, an annoying reminder that they are not truly natives of New Zealand (2009, p186)

Despite the discomfort, planners cannot escape the colonial origins of planning, but need to recognise the ongoing colonial power of our profession. To refuse to acknowledge the colonial origins of planning is to risk repeating the dispossession and disempowerment of indigenous people through planning processes (Howitt, 2010, p112). To move towards (post)colonial practice, planners must be able to connect our histories with our actions in the contemporary world.

Ethics for transformative planning

Emphasising the importance of history and re-centring indigenous planning knowledge and authority implies changes in the fundamental assumptions of the planning profession, and the ethics which guide everyday work. Echoing Bhabha’s concept of the ‘third-space’, where history is always present, Porter asserts that “any kind of contemporary planning activity in settler states must be analytically cognisant of, and ethically oriented towards, that history-as-present” (2010, p151).

To progress towards a (post)colonial planning profession, indigenous agency must be complemented by transformation at an individual level, and by transformation at an ‘institutional’ level (Lane, 2006). Critical-communicative planning theory offers thoughts on the possibility of personal and professional transformation (Forester, 1999; Friedmann, 1987). However, postcolonial theory suggests that, in cross-cultural planning situations, neither “reflexivity and the qualities of personal interaction” (Sandercock et al., 2004, p105) nor consensus decisionmaking are “necessarily (or even intended to be) transformative” (Sandercock, 2000, p23). Instead, transformative planning in a (post)colonial context must be intentionally driven by a collective ethic of social justice. Literature suggests that the motivation to ‘make a difference’ through planning has not yet resulted in a planning culture committed to work towards concepts of justice, or decolonisation in settler-colonial countries (Manning Thomas, 2008; Howitt, 2010). In Australia and Malaysia, Howitt and Lunkapis observe that many planning practitioners do not engage with (post)colonial realities because they are too complicated:

...the complex political and legal circumstances created by persistent Indigenous rights, and the political and legal complexity created by uneven recognition, protection and acceptance of those rights within and between various jurisdictions and planning

systems, has been taken as excusing professional planners from addressing the challenges of coexistence (2010, p124)

Decolonising planning is a challenge that involves changing the culture of planning (Porter, 2010). Social values are reflected in the ethics of professional practice, and planning cultures are reflected in planning ethics. Planning theorist Leonie Sandercock describes how:

...the norms and values of the dominant culture are not only embedded in the legislative framework of planning, but are also embodied in the attitudes, behaviour, and practices of actual flesh-and-blood planners (2000, p16)

Codes of ethics encapsulate political norms, as well as offering technical guidance. Literature illustrates that “codes, both procedurally and substantively, are clearly affected by the ideology or world-view of the people who create them” (Hendler, 2005, p64). Codes of ethics are often conservative and sit uneasily with ‘alternative worldviews’ in planning (for example see Hendler’s (2005) possible feminist approach to planning ethics). Changing the content of codes of ethics holds a potential key to changing professional culture. Thacher points out the importance of codes of ethics to the planning profession, stating that:

Like other professions, planning is a compact by its practitioners to accomplish particular goals related to the public interest. It has to be a compact because some of the goals are inherently collective; an isolated professional can’t accomplish them unilaterally without cooperation from the others.... At their best, codes of professional ethics are the mechanism that professionals use to make this kind of shared commitment. If a practitioner takes a merely personal stand against pressure from other public officials to do what he considers wrong, they may replace him with someone more compliant. But if he is part of a profession whose members have collectively bound themselves to the relevant ethical principles, he can respond to this kind of pressure by pointing out that he has a duty to resist it and that every other member of his profession who might replace or compete against him does too (Thacher, 2013, pp169-170)

The ability of a Code of Ethics to contribute to a ‘transformational’ planning practice depends on the content of the Code of Ethics. For example, June Manning Thomas discusses the “social justice” agenda of the Code of Ethics developed by the American Institute of Certified Planners. Planners subscribing to the Code are bound to strive for a “just city” through their obligations to:

...plan for the disadvantaged and promote integration, as well as ‘urge the alteration of policies, institutions, and decisions that oppose such needs’ (AICP, 2005a as cited in Manning Thomas, 2008, p232).

In a (post)colonial context, planners must be empowered to:

...focus on moments within institutional rules and parameters where real and lasting change can be achieved. It is about influencing and shaping the institutions and rules within which planners work. For Indigenous nations, this means using state-based systems (and that is where planners can help) to find strategic moments of opportunity that can result in recognition of Indigenous rights and responsibilities and the material privileges that should ultimately flow (Sandercock et al., 2004, p109)

However, despite the potential of Codes of Ethics to provide guidance to planners on “the tough questions of the values and duties of planners” (Hendler, 2005, p464), many Codes of Ethics do not address “the more political side of planning” (Hendler, 2005, p62).

Conclusion

In this chapter, I reviewed literature relevant to planning for developing land returned under Treaty settlement. There are many examples of indigenous communities exercising agency within the institution of planning, both creating their own planning documents and participating in government planning processes. Indigenous communities around the world, and specifically Māori communities in Aotearoa New Zealand, are working to develop their land for the benefit of their people, without compromising indigenous “philosophies, principles and practices” (Matunga, 2000a). Treaty settlements contribute to indigenous development, but do not guarantee increased involvement in planning processes for developing land in indigenous ownership.

The concept of (post)colonial ‘hybridity’ described by Homi K. Bhabha is expressed within planning documents created by indigenous communities. Cross-cultural relationships created through planning processes can be considered to evolve within a third-space where interactions are commonly characterised by dissensus, rather than the consensus expected by collaborative planning theorists.

Te Tiriti o Waitangi guaranteed Māori rights in planning. Treaty settlements have returned the ownership of some resources, and raised expectations of new relationships. However, local government responses to these expectations – including meeting both their legal obligations under Te Tiriti and their ethical responsibilities to ‘implement’ the intended outcomes of Treaty settlements – are limited.

In order to move past ambivalence and ‘paralysis’, planners within local government must engage with their own culture and norms, ‘decentring’ Western planning traditions to centre indigenous authority and value indigenous knowledge.

Matunga places the responsibility for transforming the planning profession on the shoulders of the institution of Western planning, and extends the responsibility for personal transformation to non-indigenous planners, stating:

Indigenous planning is as much an ethic and philosophy as it is a planning framework with a set of approaches and methods. It is highly collaborative but with an unambiguous focus on Indigenous peoples' self-determination. Being 'grounded' in the Indigenous community of interest and a commitment to historical redress and recovery of these communities is critical. Therefore, Indigenous and non-Indigenous planners equipped with the ethical fortitude, desire, and skill to navigate the parallel planning worlds of Indigeneity and colonialism are an essential part of Indigenous planning as an ongoing project' (2013, p31)

My responsibilities as a non-indigenous planner have informed this research inquiry.

Chapter Five – An institutional ethnography inquiry

Institutional ethnographers believe that people and events are actually tied together in ways that make sense of such abstractions as power, knowledge, capitalism, patriarchy, race, the economy, the state, policy, culture, and so on (M. Campbell & Gregor, 2004, p17)

Introduction

In Chapter One, I introduced institutional ethnography, a research methodology which focuses on 'social relations' within 'institutions'. I identified a 'problematic' to guide my research, and articulated my standpoint within the institution of planning for land returned under Treaty settlement. In this chapter, I explore the concepts of ruling relations, discursive organisation, text mediation, experience and activism. There are strong links between the concerns of institutional ethnography, and the concerns of both critical planning theory and postcolonial/decolonisation theory. In the following section, I outline some of these shared concerns, building an understanding of institutional ethnography as a methodology that can be used to achieve research that contributes to transformation, as understood within both critical planning and postcolonial theory. I conclude by describing the methods used in this research inquiry.

Key concepts in institutional ethnography

Institutional ethnography and ruling relations

Institutional ethnography aims to discover how "knowledge and power come together in the everyday world to organize what happens to people" (M. Campbell & Gregor, 2004, p12). The term 'ruling relations' was first employed by Campbell and Manicom in 1995 to move away from the impersonal concepts of 'power and state' towards "a language evoking and embodying human action and coordination" (Bisaillon, 2012, p618). Used extensively in writings by Dorothy Smith, the concept of 'ruling relations' has been used in other institutional ethnography inquiries into planning to describe the "constitutive work of lawyers, planners, engineers, and clerks" (Turner, 2005, p246). This 'work' translates a place in the real world - a place that may be someone's home or someone's tūrangawaewae - into a 'development site' with characteristics that can be described in technical language in planning reports and 'inserted' into an extended 'planning process' (Turner, 2005).

Institutional ethnography "does not study people as such. Instead, it studies activities and how they are organized, and relations often crystallized in texts" (M. Campbell & Gregor, 2004, p57). As explained in Chapter One, the concept of 'ruling relations' does not imply that one group of participants 'rule' while another 'are ruled' - instead, all participants in an institution are 'ruled' by translocal social relations which perpetuate the dominant discourses and structural power

dynamics of the society in which we work. However, as a result of 'ruling relations', institutional processes subordinate the interests of one participant to the interests of another. Institutional ethnography assumes that these relations of power are generally not visible to people acting within an institutional setting, and that the invisibility of ruling relations allows hegemony to continue, unchallenged.

Within this methodology, planning documents are considered as 'social constructions', or in the words of Fischer, "discursively created sociopolitical agreements that set out courses of action that rest on understandings based on normative and empirical beliefs" (Fischer & Mandell, 2012). Fischer and Mandell argue for the critical analysis of planning documents, noting that "policies and plans can always be seen to be doing two things at once: they attempt to effectively solve a problem and, at the same time, they seek to do it in ways that reproduce the norms and values of particular societal arrangements and the politics supporting them" (2012, p348)

Institutional ethnography: Social relations are organised through discourse

Institutions comprise a 'web' of social relations which are shaped by discourse. The concept of 'discourse' is specifically defined within institutional ethnography, as:

...a field of relations that includes not only texts and their intertextual conversation, but the activities of people in actual sites who produce them and use them and take up the conceptual frames they circulate (DeVault & McCoy, 2002, p772)

Discourses - "language-in-action" - (McCreanor, 2005, p54) have histories, and are connected to other discourses. Texts, such as planning documents, contain discourses which can be traced back to other documents outside the 'local' setting which in this inquiry comprises the planning documents and texts created by Hamilton City Council and Waikato-Tainui. Existing texts provide discourses which can be employed within new texts; and establish processes which with new texts must comply. Because of these connections, texts are considered to exist as points within the 'textual architecture' of the institution, linked by explicit or implicit cross-referencing. 'Translocal' texts are understood to influence local documents through 'ruling relations'. Examples of 'translocal' texts include legislation passed by central government, the requirements of the banking system, or accountability documents within an organisation such as a trust deed or charter.

To understand the influence of these 'intertextual connections' and the discourses they carry, inquiries focus on texts that form part of social relations within an institution. Texts are understood to present and organise discourse in ways "that relate people purposively to each other, and to events, organisations, and resources" (M. Campbell & Gregor, 2004, p41).

Institutional ethnography: 'Sites of ruling' occur through activating texts

Texts - as physical, fixed, movable statements of position or process - are conceptualised as 'coordinating' actions across multiple sites, and between diverse participants. Texts are 'activated' through people handling and using them (D. E. Smith, 2005). Institutional ethnography considers the activation of a 'text' as a critical moment within the operation of a ruling relation. These moments are termed 'sites of ruling' where power operates to subordinate one set of interests or discourse to another. 'Ruling' occurs through 'text-mediation', a process in which the interests of the non-ruling participant are 'objectified'. Within the planning profession, "[p]eople routinely conduct their work through texts, forms, and reports... Texts are likely to be important and taken-for-granted instruments for the work" (M. Campbell & Gregor, 2004, p33). Within a planning process such as an application for a plan change, 'objectification' involves a planner identifying those aspects of the non-ruling participant's interests that are 'relevant' to the decision to approve or decline the plan change. Objective texts isolate 'relevant' information from the real-world circumstances of the participant, and allow the planner to present the option to approve or decline an application as a purely technical decision (M. Campbell & Gregor, 2004).

Text-mediated accounts are central to bureaucratic decision-making, and are useful to both planners and decisionmakers "especially under conditions where tough decisions have to be made" (M. Campbell & Gregor, 2004, p37). However, text-mediation hides from decisions makers "the whole question of whose interests are being met and whose interests are being subjugated by a ruling practice. While text-based decisions may appear objective they are not necessarily disinterested or fair" (M. Campbell & Gregor, 2004, p38). In practice, text-mediation facilitates the interests of the 'ruling' organisation to dominate the interests of the non-organisational participant.

Institutional ethnography: Ethnographic analysis of 'everyday work'

Institutional ethnographic analysis of discourse within texts is complemented by interviews with practitioners who 'create' and 'activate' those texts, to ensure that analysis "never loses the presence of the subject who activates the text in any local moments of its use" (DeVault & McCoy, 2002, p772). Participants' experiences are a key source of data in an institutional ethnography inquiry. Critical planning theorists, such as American theorists Donald Schon and John Forester, also emphasise the importance of planners' personal experiences in understanding planning decisions and assisting planners to developing more reflexive and politically aware planning practices. The 'ethnographic' nature of institutional ethnography emphasises talking to people about their experience of 'work processes' within an institution:

It is people's experience of and in what they do - their 'work' - and the knowledge based in their work that are the ethnographer's major resource (D. E. Smith, 2005, p125)

Institutional ethnography centres on the value of 'everyday experience' and 'work knowledge'. Institutional ethnography emphasises the value of recognising the diversity of participants' specific perspectives. Campbell and Gregor explain that:

...each participant is located in the social relations of the setting, but positioned differently. Each person will know the setting from participating differently in its social relations... (2004, p65)

Within an institutional ethnography inquiry, the researcher builds up a series of related experiences from different perspectives within an institution. This series of experiences can help the researcher to identify and map a 'chain of action' which links these experiences together. Data from different perspectives is not "treated as a collection of individual accounts; it is assembled into sequences or other socially organized forms" (D. E. Smith, 2005, p211). Examples of ethnographic data collected may include participants' description of their understanding of the requirements of particular piece of legislation, their use of a particular template, or their knowledge of the influences on the words and phrases used within a specific document.

Institutional ethnography: Focus on institutions

Institutional ethnography, critical planning theory (Healey, 2006), and decolonisation theory (Huygens, 2007) each emphasise the importance of focussing on 'institutions' as a level of analysis. Healey reflects that institutions such as planning:

...operate in routinised and taken-for-granted ways, as we use them in the flow of daily life. They thus seem to have the quality of engineering and managerial techniques, abstracted from the flow of social relations through which we make our lives. Yet each element of such structures has at some time been actively made by human agency, and many are routinely remade, in the social relations of the classroom, the television station, the courtroom or the planning office. All engineering and organisational 'black boxes' have at some time been actively created by particular groups of people (Latour, 1987). As a result, they embody not merely technique, but modes of thought and sets of values (2006, p45)

Recognising that the 'work' of participants within an institution is controlled by discourse and coordinated by text, institutional ethnography inquiries do not aim to blame individual participants for perpetuating ruling relations, but to analyse the discourses and practices which make "sites of ruling' possible (M. Campbell & Gregor, 2004, p101). Discussing planners' work, Jackson acknowledges the "political realities" of the world in which they work (2012, p226), while Thompson-Fawcett and Stocker (2014) identify the possibilities of hegemonic relationships between local government planners and councillors. Institutional ethnography inquiries recognise that participating in ruling relations can be disempowering for both parties, because "[p]eople positioned on either side of the relation can participate in ruling practises without their knowledge or consent" (M. Campbell & Gregor, 2004, p39).

Institutional ethnography: Finding levers for institutional change

Through the description and explication of 'ruling relations', institutional ethnography inquiries aim to orientate participants and activists within institutions to enable them to change those institutions. Dorothy Smith offers her experience that:

...institutional ethnographies produce a kind of knowledge that makes visible to activists or others directly involved the order they both participate in and confront. Because the research is ethnographic, it describes and analyzes how things work, how they're put together, it is invaluable for those who often have to struggle in the dark (D. E. Smith, 2005, p32)

Research can help activists to determine an effective direction for their efforts through specifying "possible 'levers' or targets for activist intervention" (DeVault & McCoy, 2003, p372). Institutional ethnography inquiries bring together theory and practise to achieve two aims:

One is to produce for people what might be called 'maps' of the ruling relations and specifically the institutional complexes in which they participate in whatever fashion... Like the map of the underground mall, with its arrow pointing to a particular spot accompanied by the words YOU ARE HERE!, institutional ethnographies are designed to enable people to relate the locus of their experience to where they may want to go.

The second aim is to build knowledge and methods of discovering the institutions and, more generally, the ruling relations of contemporary Western society (D. E. Smith, 2005, p51)

'Sites of ruling' pinpoint the disjunctures between personal and institutional experiences. These 'sites of ruling' mark where possible 'transformation' can occur, through changes to discourses, practices or processes which support participants to counter the inequalities inherent in ruling relations. For example, decolonisation theorists emphasise the importance of examining the complicity of discourses in maintaining the status quo, and the potential of discourse to result in transformational social change, because "language provides frameworks for constituting and reconstituting maori-pakeha relations" (b. m. campbell, 2005, p. 14).

Critical cross-cultural research

In designing and undertaking this research, I have been aware that hegemony also exists in research relationships between Pākehā and Māori, at both personal and institutional levels (H. Moewaka Barnes et al., 2009; L. T. Smith, 2012, p10). This research is funded by central government; is associated with the 'Māori-focussed' strand of a wider 'mainstream' research group; and is carried out by a member of the dominant Pākehā group with both Pākehā and Māori organisations.

In working with Waikato-Tainui, I have been guided by literature regarding the ethics of working with Māori organisations, and Māori information. The following reflections from Ngāti

Awa scholar Hirini Moko Mead have been a critical benchmark against which to test my intentions and actions:

Processes, procedures and consultation need to be correct so that in the end everyone who is connected with the research project is enriched, empowered, enlightened and glad to have been a part of it (2003 as cited in Pipi et al., 2004, p141).

I have attempted to carry out research which contributes to a broader decolonisation agenda. Throughout this research, I have returned to the language used within the documents produced by Waikato-Tainui as often as possible. I have also carefully considered specific ethical issues in working with Māori communities in urban areas. In 2014, I worked with my colleagues in the Tāone Tupu Ora strand of Resilient Urban Futures to develop a set of guidelines for researchers engaging with Māori communities. These guidelines built on earlier work in health research (for example Hudson, 2007) to consider the ethics around engaging with Māori communities about urban issues. The final guidelines (attached as Appendix One) included eight principles of engagement with Māori communities:

1. Acknowledging the Treaty as context for all our work
2. Taking opportunities to make research relevant to Māori
3. Undertaking meaningful engagement which values the time and knowledge of people in Māori organisations
4. Recognising diversity within Māori
5. Working in ways which respect Māori values
6. Maintaining positive, mutually beneficial relationships through reciprocity and feedback
7. Building capacity and connecting people
8. Partnering with Māori organisations where possible

Although I hope that my insistence on the value of Māori planning traditions adds another Pākehā voice to ongoing assertions by Māori of the legitimacy and validity of being Māori, I do not claim that this research is Kaupapa Māori research nor part of an indigenous research agenda (L. T. Smith, 2012).

Method

An institutional ethnography inquiry into the relationship between Hamilton City Council and Waikato-Tainui

I use institutional ethnography methodology combining critical discourse analysis and intertextual analysis to create a 'map' of the social relations within the institution of planning for land returned under Treaty settlement. These social relations both constitute the relationship between Hamilton City Council and Waikato-Tainui (the 'local relations') and provide a legal, political and economic context for this relationship (the 'translocal relations'). I

have chosen to study this relationship through the social relations which crystallise around two planning processes, 'moments' which are snapshots of a relationship in flux. These social relations are visible in the discourses employed in the planning texts created by Hamilton City Council and Waikato-Tainui, and in the ways these texts are activated by planners and other participants as the planning processes unfold. My analysis, which comprises mapping social relations, texts and discourse, is complemented by thematic analysis of interview data.

Creating a case study of a relationship

This research focusses on a single case study, with two embedded case sites. According to Robert Yin, an American researcher specialising in case study methodology, a case study is "an empirical inquiry that investigates a contemporary phenomenon (the 'case') in depth and within its real-world context" (2014, p16). A case study approach is appropriate because this research focuses on investigating changing relationships, in the social-political-historical context of Hamilton in 1995 – 2015. The primary unit of analysis is the relationship between Waikato-Tainui and Hamilton City Council. The secondary units of analysis are specific development projects on land owned by Waikato-Tainui as a result of Treaty settlement located at Te Rapa and Ruakura.

This single-case study draws on multiple data sources (Yin, 2014), including:

- Planning documents produced by a local authority and an iwi authority
- Affidavits presented to the High Court as part of the judicial review of Variation 21
- Evidence presented to the Environmental Protection Authority Board of Inquiry as part of the hearing for the Ruakura Plan Change
- Decisions of both the High Court and Board of Inquiry hearings
- Agenda and minutes of local authority meetings
- Interviews with 'Case Study Participants' who have been involved in planning processes for development at Te Rapa and Ruakura

Many of these documents were publicly available on websites. I was able to obtain copies of evidence presented to the High Court from the High Court in Hamilton, and a copy of the comprehensive resource consent for The Base from the Planning Guidance Unit at Hamilton City Council. Interviewees provided me with additional documents including a *Users Guide to the Waikato Raupatu Claims Settlement Act*, and an original copy of the cover of the masterplan developed for Ruakura.

I gained additional context for the case study through:

- Review and analysis of Treaty settlement legislation and supporting documents
- Discussion of themes with 'Key Informants' who were not employed by either Hamilton City Council, or Tainui Group Holdings and had not directly been involved in planning processes for either Te Rapa or Ruakura
- Personal observation of public hearings and seminars
- Papers and presentations shared by interviewees

As outlined in Chapter Two, this inquiry aims to address the following objectives and questions:

Objective #1 - Deconstructing development discourse: To record Waikato-Tainui discourses on developing Treaty settlement land; and local government understanding and response to these discourses.

Research questions

1. What are the key discourses in planning documents created by Waikato-Tainui, relevant to developing land returned under Treaty settlement?
2. To what extent are these discourses reflected in local government planning documents relating to The Base and Ruakura?

Objective #2: Re-thinking relationships - To critically assess relationships between Waikato-Tainui and Hamilton City Council at the time of the Base development; and at the time of the Ruakura development, and to consider how this relationship has changed.

Research questions

3. How has the relationship between Waikato-Tainui and Hamilton City Council changed between The Base development, and the Ruakura proposal, and why?
4. What are the opportunities for, and constraints on, transforming relationships?

Objective #3 - Describing development: To investigate resource management processes and outcomes around property development on Treaty settlement land

Research questions:

5. What is the vision of Waikato-Tainui for developing land acquired under Treaty settlement?
6. What are the technical, legal, and political factors which need to be considered by practitioners when planning for Treaty settlement land?

Objective #4: Decolonising disciplines - To consider how Treaty settlements may challenge the planning profession, and to consider how the planning profession may need to change to respond to these challenges

7. What challenges do Treaty settlements, and the return of land as commercial redress, raise for planning professionals?
8. What visions for a future relationship are held by Waikato-Tainui and Hamilton City Council?

I used a range of methods to address these objectives, including critical discourse analysis, interviews, and thematic analysis as well as intertextual analysis and mapping grounded in institutional ethnography methodology.

Method - Postcolonial critical discourse analysis of key texts

Critical analysis of discourses provides an understanding of the historical and 'translocal' influences on discourse, as well as revealing connections between different participants, texts, and places. According to linguist Norman Fairclough, the objective of critical discourse analysis is:

...to show how language figures in social processes. It is critical in the sense that it aims to show non-obvious ways in which language is involved in social relations of power and domination, and in ideology (2001, p229)

Data collection

In this inquiry, I focussed critical discourse analysis on texts identified as key planning documents, or significant influences on planning processes. Interviewees identified *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao* as the key texts articulating the vision and aspirations of Waikato-Tainui; and *Future Proof Growth Strategy* and the *Hamilton Urban Growth Strategy* as the key statements of the vision and aspirations of Hamilton City Council. These texts are intended by their creators to coordinate action - specifically, urban development and indigenous development initiatives - across the Waikato-Tainui rohe; Waikato-Waipā sub-region; and Hamilton City respectively. The *Hamilton District Plan* has been the key site of tension between Hamilton City Council and Waikato-Tainui. Both *Variation 21* and the *Ruakura Plan Change* were attempts to change the *Hamilton District Plan*, to restrict development at The Base and enable development at Ruakura respectively. The *Deed of Settlement* which preceded the *Waikato Raupatu Claims Settlement Act (1995)* was also identified as a key document for guiding relationships between Waikato-Tainui, the Crown, and - implicitly - Hamilton City Council. I extended critical discourse analysis, using the same guidelines, to the New Zealand Planning Institute *Code of Ethics*.

Critical discourse analysis

I began by reviewing iwi planning documents *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*, as well as affidavits and evidence presented to hearings processes, to identify themes within these documents. These themes were discussed and confirmed through interviews with Waikato-Tainui. My analysis was guided by a 'master table' which required me to analyse the text at different levels - 'text level', 'textual level', 'sentence level', and 'word and phrase level' (Paltridge, 2012). I then explored the explanations and possible interpretations of discursive themes, noting - among other things - the social, political, physical and cultural context for the text, the positioning of the author, and the implicit statements of value within the text (Wetherell et al., 2001).

Intertextual analysis - mapping discourse

Comparing discourse analysis of texts provides useful insights into how concepts are transferred from one document to another. After identifying discourses within key texts, I turned my attention to considering how discourses relating to developing land returned under Treaty settlements within Waikato-Tainui texts were reflected in texts created by Hamilton City

Council. My choice to centre Waikato-Tainui discourses for this analysis consciously imitated the 'everyday work' of planners within local authorities. Whether drafting a plan or assessing resource consents, planners constantly work between documents, drawing out the intention of one document and comparing and contrasting one document with another. However, this analysis inverted the usual hegemony in planning processes where local authority planning documents hold the centre, and Māori planning documents are consulted to contribute, corroborate, or resist local government discourse through submissions, appeals and other avenues.

Focussing specifically on the themes of 'economic sovereignty', 'collective benefit' and 'social delivery', I searched my analyses of local government documents for discourses which complemented or contrasted with the themes promoted by Waikato-Tainui. This search focussed on links, similarities and differences between the texts, including which discourses, phrases, metaphors or representations are shared, and which are not. I also searched for examples of words, phrases or discourses repeated in different texts produced by the same organisation. Postcolonial theory suggests that the ways in which language is used illustrate power relations, and mapping how discourse is translated between texts can reveal the extent to which these interests are acknowledged, 'assimilated' or subordinated (Moore-Gilbert, 1997). Following Turner (2006), I created a map which shows how these discourses are 'translated' between different texts. This map is provided as Figure 1 in Chapter Six.

Method - Using interviews to establish intertextual relationships

The challenge set by institutional ethnography to explore an institutional process through connecting experiences requires the researcher to interview participants in the planning process from a range of different positions within the 'institution' of planning. I used interviews with planning practitioners to reflect the importance of situating discourse within the institution, and linking discourse with experience.

Data collection

Focussing on relationships, discourse, and the ways in which texts are created and activated implies a specific population to interview - those people involved in the work processes that make up the institution - and a specific frame for interviewing. To gather qualitative data from a range of perspectives, I carried out nine interviews with seven people directly involved with the planning processes for either of the case study sites ('Case Study Participants'). Two interviewees, who had been directly involved in both The Base and Ruakura planning processes, were interviewed twice. Case Study Participants were nominated by the Chief Executive of Hamilton City Council, and the Chief Executive of Tainui Group Holdings, in collaboration with the researcher. Both organisations gave consent for their nominees to participate in this research. These interviewees were able to provide perspectives from inside the organisation, as well as their experiences working with other interviewees to develop planning documents. I carried out semi-structured interviews which lasted from 45 - 90 minutes.

I developed a technique of beginning interviews with Case Study participants by asking them to identify how they were involved in either Te Rapa or Ruakura planning processes, and asking them to tell me ‘the story’ of either The Base or Ruakura. Following this introduction, interviews with Case Study Participants focussed on the vision for development, and the creation of key planning documents, including the participation of other organisations and the influence of ‘translocal’ texts. I also asked about practical planning implications for land returned under Treaty settlement, key planning decisions for Te Rapa and Ruakura, and the nature of the relationship between Hamilton City Council and Waikato-Tainui. Interviews closed with an invitation for interviewees to reflect on future relationships between local government and iwi authorities.

	Case study participants nominated by organisation
Hamilton City Council	4 interviewees
Waikato-Tainui and Tainui Group Holdings	3 interviewees

Table 1: Number of case study participants interviewed from each organisation

I recruited interviewees either in person if we met at an event (such as the Board of Inquiry hearing for the *Ruakura Plan Change*), or by email. Potential interviewees were sent an information sheet, the signed consent form from their organisation (if applicable) and a consent form. In order to make my position as a researcher clear, I introduced myself on the Information Sheet and/or verbally (as appropriate), describing my background and identity in English and Te Reo Māori. Interviewees were asked whether they would like to receive six-monthly email updates about the research. Updates were distributed to 11 participants in April 2015, November 2015, and June 2016. These updates are attached as Appendix Five.

Interviews were transcribed using F5 transcription software. Where requested, a copy of the transcript was returned to the interviewee for their review, and any changes made by the interviewee were accepted for the final version. Interviewees were also sent a copy of any quotes which I proposed to use verbatim within this research, for their approval.

Intertextual analysis - mapping interview data

Within an institutional ethnography inquiry, texts cannot be treated as “transparent” (Smith 1975 as cited in M. Campbell & Gregor, 2004, p25), and the ontology of texts cannot be assumed to be ‘neutral’. The relationships between texts should be “known experientially, talked about, or appear in textual data” (M. Campbell & Gregor, 2004, p86). In order to maintain links between discourse, text, and experience, I did not code interview transcripts but mapped them (Taber, 2010). Focussing on the relationships between texts, and between participants, I translated each transcribed interview³⁸ into a diagram which shows the key

³⁸ I mapped all interviews with Case Study Participants. I also mapped interviews with Key Informants if Key informants shared experiences connected to planning processes for development at Te Rapa or Ruakura.

documents, participants, and geographical locations. For each interview, I drew connections between these points where connections were identified by the interviewee. I annotated these connections with notes from the transcript that suggest the nature of the relationship. I later used some of these quotes to make or illustrate points within this thesis. These maps illustrated the context within which texts were created, the legal and formal relationships between texts, and interviewee's perceptions of how texts are related to one another, and to their work. Complementing interview data with information from the key texts themselves, I determined how the text was initiated, identifying the authors, examining the processes set up to produce the first draft, to consult on that draft, and to finalise the text.

These interview maps provided the data to compile maps of Hamilton City Council and Waikato-Tainui planning paradigms. I reviewed each interview map, systematically highlighting any people, organisations or documents that the interviewee had directly linked to any of the five key planning documents. These clusters of participants and texts established the centre and peripheries of each planning paradigm. These maps are provided as Figure 2 in Chapter Six.

Method: Creating a chain of action to identify 'sites of ruling'

Institutional ethnographic inquiries investigate 'everyday' work processes through "following a chain of action, typically organised around and through a set of documents" (DeVault & McCoy, 2003, p374).

Data collection

In interviews, I asked Case Study Participants specifically about their 'everyday work' within processes to plan for The Base and Ruakura - for example, their decision about how to fill out a template, or align a proposal with legislative requirements. Drawing on interview data, as well as a review of evidence submitted to the High Court and Board of Inquiry processes, I also identified additional texts which were created or activated as part of these planning processes.

Analysis - identifying 'sites of ruling'

Following Turner (2006), I created maps of specific instances of the institution in operation, identifying texts and discourses directly linked to key 'moments' within the planning processes for The Base and Ruakura. These 'chains of action' highlight the way in which text-mediation influences decisions through creating 'sites of ruling'. For The Base, this key moment was the decision of Hamilton City Council to notify *Variation 21* without consultation with Waikato-Tainui in September 2009; for Ruakura, this key moment was the decision by Hamilton City Council to reject the Ruakura Private Plan Change for processing in April 2013. Both chains of action are mapped against Schedule 1 of the Resource Management Act, which provides the "textual architecture of routine organisational action" by prescribing the steps for local government to prepare, change, or review policy statements and plans (M. Campbell & Gregor, 2004, p24). These maps are included as Figures 3 and 4 in Chapter Seven.

Method: Thematic analysis of interview transcripts to identify levers for social change

Data collection - Interviews with key informants

I also carried out interviews with selected 'Key Informants', a number of whom were suggested initially by my key contacts at Waikato-Tainui and Hamilton City Council. 'Key Informants' were not employed by either Hamilton City Council, or Tainui Group Holdings. Some Key Informants had not directly been involved in planning processes for either The Base or Ruakura. Further 'Key Informants' were identified by participants during the research. A total of six Key Informants were interviewed.

Interviews with Key Informants explored themes emerging from the case study, including the effects of Treaty settlements on planning, the value of the New Zealand Planning Institute *Code of Ethics*, and the role of the planner working in a (post)colonial society. A number of Key Informants had been involved in drafting key texts, and I used interviews with these Key Informants to test my draft analysis of discourses from *Whakatupuranga Waikato-Tainui 2050*, *Tai Tumu Tai Pari Tai Ao*, and *Future Proof*.

Thematic analysis

I reviewed transcripts from interviewees with Key Informants (and from Case Study Participants where applicable) for data relating to the role of the planner, and the ethics of planning in a (post)colonial society. I have used verbatim quotes from these interviews, complemented with data from other texts created and activated during the planning processes (eg. council reports, evidence and affidavits), to deepen discussion of findings within Chapters Five, Six, Seven and Eight.

Mapping the institution of planning

Institutional ethnography relies on identifying connections between texts, grounded in experience, to map out the social relations and delimit the boundaries of the institution. In this inquiry, 'mapping the institution' provided a framework to bring together the 'dual traditions' within the institution of planning for land returned under Treaty settlement - in this case, the planning paradigms of Hamilton City Council and Waikato-Tainui. In the conclusion to this thesis, I pick up Hirini Matunga's challenge to both affirm Māori planning traditions, and to identify links with Pākehā planning traditions to illustrate the parallel existence of two planning traditions (2000a). By considering these two traditions as two parts of a single institution, I intend this research to work towards a clearer vision of a transformative, Treaty-based planning paradigm.

Data collection

To establish the boundaries of the institution of 'planning for land returned under Treaty settlement', I reviewed the maps of interview transcripts I had created for each interviewee. From these maps, I extracted the six key documents and all the texts and participants which interviewees had mentioned as connected to these six key documents.

Intertextual analysis - mapping the institution

Initially, I mapped the context for each of the key texts in the relationship between Hamilton City Council and Waikato-Tainui. For example, I was able to create a map of the 'context' within which *Whakatupuranga Waikato-Tainui 2050* sits, by systematically reviewing each map and creating a composite map which contained every text or participant that interviewees had identified as directly connected to *Whakatupuranga 2050*. I combined the maps of the texts created by Waikato-Tainui with the maps of the texts created by Hamilton City Council, to create an image of the entire bicultural institutional complex of planning for Treaty settlement land. This map, presented as Figure 5 in Chapter 10, assisted me to identify the connections between the Waikato-Tainui planning paradigm and Hamilton City Council planning paradigm.

In the following four chapters, I address the four objectives of this research inquiry, using the methods described above. In Chapter Six, I deconstruct discourse around developing Treaty settlement land using critical discourse analysis of key planning documents, mapping discourse and intertextual relationships to describe Waikato-Tainui and Hamilton City Council planning paradigms.

In Chapter Seven, I consider the changing relationship between Waikato-Tainui and Hamilton City Council drawing on interviews to build up 'chains of action' leading to key decisions in planning processes for Te Rapa and Ruakura.

In Chapter Eight, I draw on interview data and texts created as part of planning processes to identify local and translocal influences on development decisions made by Waikato-Tainui, including the norms and tikanga of Pākehā and Māori planning traditions.

In Chapter Nine, I identify levers for transforming the planning institution through thematic analysis of interviews. I also use critical discourse analysis to consider the possibilities of the New Zealand Planning Institute *Code of Ethics* to support transformative decolonising practice.

In the final chapter, I bring together maps of the planning paradigms of Hamilton City Council and Waikato-Tainui to illustrate a possible (post)colonial institution of planning.

Chapter Six – A vision for economic sovereignty: Linking discourse and development

Māori interests in the environment are that of kaitiaki, resource user and developer. While Māori have traditionally been focused on protection of resources under the Resource Management Act, Māori are now also increasingly involved in managing and developing resources (Majurey, Atkins, Morrison, & Hovell, 2010, p280)

Introduction

In the first of four chapters focussing on research findings, I analyse key texts and draw on interviews with case study participants and key informants to explore the vision held by Waikato-Tainui for developing their land. Using discourse analysis, complemented with data from interviews, I trace the antecedents of this vision as encapsulated in iwi planning documents *Whakatupuranga Waikato-Tainui 2050* (2007) and *Tai Tumu Tai Pari Tai Ao* (2013), back through the *Deed of Settlement* (1995), the *Tainui Report* (1983), the work of Te Puea Herangi in the 1920s, and the words of King Tawhiao in the 1860s and 1870s. Four themes emerge which shape Waikato-Tainui discourse around developing land returned under Treaty settlements: economic sovereignty, social delivery, collective benefit, and environmental enhancement. Together, these themes illustrate the ‘integrated approach to development’ promoted by Waikato-Tainui.

This discourse links the development of Treaty settlement land with the development of Waikato-Tainui people. I outline the creation of Tainui Group Holdings, the development company tasked with being the ‘intergenerational investor’ for Waikato-Tainui, and developer of The Base and Ruakura. The mandate of Tainui Group Holdings echoes the themes identified in *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*.

Waikato-Tainui expect their vision, as articulated in their iwi planning documents, to be reflected in local government planning documents (Environment Manager - Waikato Tainui, 2014). Focussing on documents created by Hamilton City Council, I consider the ways in the discourse of ‘economic sovereignty’ - central to the topic of this thesis - is responded to within the three key texts created by local government. Bringing together critical discourse analysis with practitioners’ reflections, I map the evolution of discourse around Treaty settlements and ‘economic sovereignty’ as new documents are created within the planning institution. I find that the discourse of ‘economic sovereignty’ is countered by discourses of ‘silence’, ‘essentialism’ and ‘Māori privilege’. These discourses have their origins in colonial histories. Finally, I present a map of the complex of social relations that make up the paradigm of planning from a Hamilton City Council and Waikato-Tainui perspective. The limited overlap between these paradigms helps to explain responses to the discourse of ‘economic sovereignty’.

A genealogy of texts: The origins of *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*

Waikato-Tainui interviewees offered insights into the origins of their planning documents. Waikato-Tainui have been strategically planning to develop their rohe, and the recovery of their people, since the Kīngitanga began in the 1850s, inspired by the work and words of their ancestors. In recent times, aspirations for the tribe have been recorded in iwi planning documents such as *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*. These documents are critical in guiding intentions for developing Treaty settlement land.

Whakatupuranga Waikato-Tainui 2050 and *Tai Tumu Tai Pari Tai Ao* are part of a tradition of planning based in tribal knowledge and research. An advisor to Tainui Māori Trust Board in the 1990s, Shane Solomon, recalled that throughout the negotiation of the raupatu settlement, “[t]here had always been a strategic plan”, principally championed by Sir Robert Mahuta (Interviewee - Waikato-Tainui, 2014). This strategic plan was based around a vision of balancing “social delivery and commercial delivery” (Interviewee - Waikato-Tainui, 2014). Early discussions of a ‘strategic plan’ can be seen in the *Tainui Report* (1983). The report states plainly that “for the vast majority of Maaori people, their present poor socio-economic condition affects all facets of their lives - education, health, business activity, cultural identity and job opportunities and aspirations” (Egan, 1983, p63). To address the contemporary situation for Māori in Waikato, diagnosed as ‘underdevelopment’, Mahuta and his co-author Ken Egan proposed a “comprehensive socio-economic development programme”. The programme was guided by ten principles, including that development must “harmonise with the tenets of Maaori culture”; “emphasise the creation and testing of realistic models of development which can be copied or modified by Tainui and other Maaori tribal groups”; and “encourage genuine multi-culturalism in which Maaori participate at all levels of New Zealand society and Maaori culture and values are understood and expressed in all areas of government” (Egan, 1983, p69).

After the raupatu settlement was completed in 1995, the Tainui Māori Trust Board decided to formalise a strategic plan to manage the returned lands. Solomon suggested that this strategic plan - which emerged as *Whakatupuranga Waikato-Tainui 2050* - was influenced both by the Hui Taumata in 1984, by the *Tainui Report*, and by the First Schedule to the Deed for the newly established Waikato Raupatu Lands Trust which set out the charitable purposes of the organisation, including establishing the Waikato-Tainui College for Research and Development and granting funds for education scholarships and marae development (Interviewee - Waikato-Tainui, 2014). The document *Whakatupuranga Waikato Tainui 2050* was created by the Board with input from members of Waikato-Tainui through “a lot of workshops and hui in the early 2000s” (Interviewee - Waikato-Tainui, 2014). *Whakatupuranga Waikato-Tainui 2050* was subsequently published by Waikato-Tainui Te Kauhanganui in 2007.

Whakatupuranga Waikato-Tainui 2050 states that the mission for Waikato-Tainui is ‘Kia tupu, kia hua, kia puawai’ - To grow, prosper, and survive. Speaking at a conference in 2014 which

commemorated 30 years since the 1984 Hui Taumata, Waikato-Tainui Te Kauhanganui Chief Executive Parekawhia McLean credited Waikato leader Te Puea Herangi (1883 - 1952) with this mission, noting that:

Our plan draws upon the inspirational words and actions of many, none more so than Te Puea for our mission... A formidable leader... She dedicated her life to pulling our people out of poverty and loss. She took a national stand when she opposed the government's World War One conscription policy. She built Tuurangawaewae. She was an astute business woman, with successful farming, saw-milling and entertainment interests, all aimed at raising funds to benefit her people. She built relationships at the highest levels of government, and re-established strong connections with iwi. And, she also found time to whaangai many tamariki still with us today, whom she doted on. Our purpose is to grow a prosperous, healthy, vibrant, innovative and culturally strong iwi (Chief Executive, 2014)

Whakatupuranga Waikato-Tainui 2050 contains a strategic objective to “grow our tribal estate and manage our natural resources” (Te Kauhanganui o Waikato Inc., 2007, p4). This strategic objective directed Waikato-Tainui to develop the *Tai Tumu Tai Pari Tai Ao Environment Plan* which was launched in 2013 (Environment Manager - Waikato Tainui, 2014). *Tai Tumu Tai Pari Tai Ao* is lodged with Hamilton City Council as an iwi planning document under the *Resource Management Act (1991)*. Originally a separate document, *Whakatupuranga Waikato-Tainui 2050* was included as a chapter in *Tai Tumu Tai Pari Tai Ao*. Waikato Raupatu Lands Trust Environment Manager Tim Manukau noted that the outcomes within *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao* are the “measure of success” for Waikato-Tainui activities (Environment Manager - Waikato Tainui, 2015).

‘The intergenerational investor’: The origins of Tainui Group Holdings

Following the settlement in 1995, Waikato-Tainui also established new entities to manage and develop tribal assets. The Tainui Māori Trust Board³⁹ had negotiated settlement of the raupatu claim. However, the Board was a “creature of statute under the Maori Trust Boards Act, and the accountability was not back to the tribe, but to the Minister of Maori Affairs” (Interviewee - Waikato-Tainui, 2014). The Trust was seen to have completed the task of settling the raupatu claim, and it was decided to replace the Trust with new entities, accountable to the wider tribe.

As part of the settlement legislation, the Tainui Māori Trust Board was dissolved, and replaced in its duty as landholder by a trust to manage the returned lands (Waikato Raupatu Claims Settlement Act, schedule 4). This trust became known as the Waikato Raupatu Lands Trust⁴⁰. Te Whakakitenga o Waikato is the sole trustee of the Waikato Raupatu Lands Trust. In 1998, Tainui Group Holdings was set up as a holding company for various subsidiary companies, including Tainui Development Limited, Te Rapa 2002 Limited, and The Base Te Rapa Limited

³⁹ The Tainui Māori Trust Board was established in 1946 to manage the annual compensation negotiated between Te Puea Herangi and Peter Fraser (Prime Minister of the First Labour government).

⁴⁰ The Waikato Raupatu River Trust was established in 2008.

(*Affadavit of Tukoroirangi Morgan* 2010). Waikato Raupatu Lands Trust is the sole shareholder of Tainui Group Holdings. Tainui Group Holding's role is to "own and operate commercial assets for the benefit of Waikato-Tainui" (*Affadavit of Michael Pohio* 2009). As Chief Executive from 2004 - 2014, Mike Pohio stated, "We are the intergenerational investor for Waikato-Tainui" (Chief Executive - Tainui Group Holdings, 2015).

According to both Solomon and McLean, one of the purposes of *Whakatupuranga Waikato-Tainui 2050* is for Te Whakakitenga o Waikato to guide subsidiary entities such as Tainui Group Holdings. Solomon commented that *Whakatupuranga Waikato-Tainui 2050* aimed to ensure that "our corporate arm, Tainui Group Holdings, could understand the philosophy for the tribe and accordingly connect their strategic goals or... commercial goals to *Whakatupuranga*" (Interviewee - Waikato-Tainui, 2014). Interviewees from Waikato-Tainui saw a clear link between the commercial activities of Tainui Group Holdings and *Whakatupuranga Waikato-Tainui 2050* (Chief Executive - Tainui Group Holdings, 2015). Profits returned by Tainui Group Holdings are seen to provide the "fuel to drive *Whakatupuranga 2050*" (Environment Manager - Waikato Tainui, 2014). Tainui Group Holdings help to "give effect" to the aspirations in *Whakatupuranga Waikato-Tainui 2050* – through "the provision of the dividend, the generation of income and wealth to be able to undertake all those actions in *Whakatupuranga*" (Environment Manager - Waikato Tainui, 2014). In his evidence to the High Court during The Base case, Waikato-Tainui leader the Honourable Koro Wetere also linked the mission within *Whakatupuranga Waikato-Tainui 2050* with the activities of Tainui Group Holdings, stating that "to grow, prosper, and survive" "is the objective for all Tainui corporate structures which have been set up to safeguard, manage, develop and maximise the asset wealth of the tribe" (*Affadavit of the Honourable Koro Wetere*, 2009, p9).

Findings: Identifying key themes in *Whakatupuranga Waikato-Tainui 2050* and the *Tai Tumu Tai Pari Tai Ao* Environment Plan

Iwi planning documents created by Waikato-Tainui include local government planners as an audience. The following analysis is presented from my perspective as a researcher/planner carrying out a professional skill of searching for and interpreting themes within planning documents. Aspects of these themes were discussed with interviewees involved in creating these planning documents, but the interpretation remains specific to my standpoint and purpose. From my perspective, the key themes visible in *Whakatupuranga Waikato-Tainui 2050* relevant to understanding the vision for developing Treaty settlement land are: economic sovereignty; social delivery; and the notion of 'collective benefit' for all members of Waikato-Tainui. These themes are expanded by the addition of a fourth theme of environmental enhancement articulated in *Tai Tumu Tai Pari Tai Ao*. Together, these themes illustrate the 'integrated development agenda' (Chief Executive, 2014) to be implemented through the developing Treaty settlement land. Although the theme of environmental enhancement is central to the vision held by Waikato-Tainui, comprehensively examining this theme would require expanding my analysis beyond Te Rapa and Ruakura to encompass the Waikato-Tainui Raupatu Claims (Waikato River) Act, resource management plans created by the Waikato

Regional Council, and other initiatives. Instead, I have chosen to focus below on the themes of economic sovereignty, social delivery, and collective benefit, which have shaped the decisions made by Waikato-Tainui about appropriate uses and activities on land returned under Treaty settlement.

Theme of economic sovereignty

It is widely accepted that the Crown's actions during colonisation destroyed the Māori economy. Accordingly, the Crown acknowledges that a main aim of Treaty settlements is to provide "financial and commercial redress, in recognition of breaches by the Crown of the Treaty of Waitangi and its principles, which can be used to build an economic base for the claimant group" (2002, p84; Wheen & Hayward, 2012). The *Tainui Report* reminds us of the loss of economic sovereignty among Tainui as a result of Treaty breaches:

For the Tainui the major loss was the confiscation of their lands following the Land Wars... This loss of land, land which is now some of the most economically productive in New Zealand, has led to an almost landless proletariat... (Egan, 1983, p26).

The impacts of this loss were acknowledged within the Preamble of the *Waikato Raupatu Claims Settlement Act (1995)*, a text which was intensely negotiated between Waikato-Tainui representatives and the Crown (Fisher, 2015). The Preamble reads:

Widespread suffering, distress and deprivation were caused to the Waikato iwi (both North and South of the Mangatawhiri river) as a result of the war waged against them, the loss of life, the destruction of taonga and property, and the confiscations of their lands, and the effects of the Raupatu have lasted for generations (1995, p11)

A *Users Guide to the Act* developed in 1995 to assist tribal members to understand the recent settlement, explained that the purpose of this paragraph in the Preamble was:

...to clearly show that the Raupatu was more than the land confiscation; it was the war, the killing, the destruction of property and that the effects of the Raupatu have been felt through the generations. It was not an event that had effects only in the past. The purpose was to show that the current state of the tribe is caused by the loss of lands and the economic security (Solomon, 1995, p7)

Within *Whakatupuranga Waikato-Tainui 2050* a discourse emerges which I have termed, using a phrase offered by one interviewee, "economic sovereignty" (Interviewee - Waikato-Tainui, 2014). The discourse of economic sovereignty has its origins in the words of the second Māori King, King Tawhiao. King Tawhiao held the leadership of the Kingitanga through the invasion of Waikato by colonial troops in 1863, and during the subsequent raupatu. He lived in exile outside the Waikato-Tainui rohe for twenty years, during which time he uttered the words which form the vision for *Whakatupuranga Waikato-Tainui 2050*:

Maaku anoo e hanga i tooku nei whare
Ko ngaa pou oo roto he maahoe, he patete
Ko te taahuhu, he hiinau
Me whakatupu ki te hua o te rengarenga
Me whakapakari ki te hua o te kawariki
I shall fashion my own house
The support posts shall be of maahoe, patete
The ridgepole of hiinau
The inhabitants shall be raised on rengarenga and nurtured on kawariki
(Te Kauhanganui o Waikato Inc., 2007, p3)

Parekawhia McLean explained that:

This tongii has become a rallying call, particularly when despite the hardships suffered by Tawhiao and our tuupuna, they dedicated themselves to rebuild our whare, even if they had to use the lesser trees in the forest. We will not allow raupatu to solely define us as a people, or our iwi. To me, it's about taking control of our destiny, being resourceful and resilient (Chief Executive, 2014)

Reinforcing this message, “self-determination for economic independence” is identified within *Whakatupuranga Waikato-Tainui 2050* as “fundamental to equipping our generations with the capacity to shape their own future” (Te Kauhanganui o Waikato Inc., 2007, p.2). Solomon described “self determination for economic independence” as:

...tied to Tawhiao, and tied to pre-raupatu, where Waikato-Tainui's economic sovereignty was quite clear. We refer to those as the Golden Years, when we were in charge of our own resources, exporting overseas, feeding Auckland.... I think that's where we want to be - well, personally, I think that's where I'd like to be – [to] see the tribe today (Interviewee - Waikato-Tainui, 2014)

Expressing ‘self-determination’ has been a stated goal of Māori organisations since the signing of Te Tiriti o Waitangi in 1840, which guaranteed ‘tino rangatiratanga’ over lands, fisheries and other taonga controlled by Māori (Awatere, 1984; Durie, 1998; 2012). More recently, Article 3 of the *United Nations Declaration on the Rights of Indigenous Peoples* has affirmed that indigenous peoples have the right to ‘self-determination’, by virtue of which “they freely determine their political status and freely pursue their economic, social and cultural development” (“United Nations Declaration on the Rights of Indigenous Peoples,” 2008, p4). The concept of self-determination is reinforced by language within *Whakatupuranga Waikato-Tainui 2050* which references leadership, or rangatiratanga - “equipping our generations with the capacity to shape their own future”; and “growing leaders” to “advance the social development of our people” and “to develop and sustain our economic capacity” (Te Kauhanganui o Waikato Inc., 2007, p2-4). *Whakatupuranga Waikato-Tainui 2050* clearly links economic capacity with tribal identity and tribal independence.

Iwi planning documents envisage that tribal members will grow, prosper and survive as Waikato-Tainui (Te Kauhanganui o Waikato Inc., 2007, p2). Within *Tai Tumu Tai Pari Tai Ao*, the discourse I have identified as 'economic sovereignty' explicitly links land development with Treaty settlements. *Tai Tumu Tai Pari Tai Ao* articulates Waikato-Tainui aspirations for land use and development in the context of historic difficulties in developing Māori land. The plan aims for:

...credible development on Waikato-Tainui land that achieves land use and development aspirations... This includes the use and development of land owned under Te Ture Whenua Māori Act 1993, land returned as part of Treaty of Waitangi settlement redress, and land purchased by Waikato-Tainui entities on a purely commercial basis (Waikato-Tainui Te Kauhanganui Incorporated, 2013, p219)

Tai Tumu Tai Pari Tai Ao also emphasises the importance of developing Treaty settlement land, noting that:

...Waikato-Tainui have land development proposals that are indicative of the contribution and inherent interest that Waikato-Tainui has in sustainable and enhancing development within its rohe (Waikato-Tainui Te Kauhanganui Incorporated, 2013, p219-220)

Within the vision of development held by Waikato-Tainui, retaining land is linked with economic success, and strengthening tribal identity. I also observed the discourse of economic sovereignty in other texts created by Waikato-Tainui. The Preamble to the *Deed of Settlement* notes that in 1858 "Potatau Te Wherowhero was raised up as King to unite the iwi, and preserve their rangatiratanga and their economic and cultural integrity..." (Solomon, 1995, p5). These words were repeated in the objects of Te Kauhanganui (the predecessor to Te Whakakitenga o Waikato), which included "to uphold, support, strengthen and protect the Kiingitanga (which incorporates the principles of unity, the retention of the tribal base in collective ownership and co-operation amongst peoples)" (Waikato-Tainui Te Kauhanganui, 2011, p1).

Theme of social delivery

Economic development is seen as a way to deliver social benefits to Waikato-Tainui people. The *Tainui Report* emphasises the intention of Tainui to provide benefits to their own people, linking Māori social and economic development to creating a fairer New Zealand (Egan, 1983). Waikato-Tainui aims to actively deliver social services to their people. McLean saw Te Kauhanganui as an organisation "charged with empowering others, building capability, improving the health and wellbeing of our whaanau..." (Chief Executive, 2014). The strong link between commercial delivery and social delivery is repeated in *Tai Tumu Tai Pari Tai Ao*, which states that "[t]he link between the economic and commercial success of Waikato-Tainui and their cultural and social success cannot be overstated" (Waikato-Tainui Te Kauhanganui Incorporated, 2013).

In their submissions and representations to hearings, Waikato-Tainui consistently remind local and central government of their social responsibilities to 64,000 tribal members and 68 raupatu marae and that dividends from commercial property development are distributed for marae development and educational grants (for example, see Wetere, 2014). The constant reminder of these responsibilities also emphasises the numerical importance of Waikato-Tainui to the region – Waikato-Tainui has a jurisdiction of 64,000, of whom 14,136 or 22% of whom live in Hamilton City (Ryks, Pearson, & Waa, 2016). In total, Hamilton City Council administers the city for 156,800 residents, approximately 10% of whom affiliate to Waikato-Tainui.

Theme of collective benefit

Underpinning economic development and social delivery, the principle of ‘collective benefit’ is a key part of the vision of Waikato-Tainui for developing land returned under Treaty settlement. Solomon explains that at the time of the raupatu settlement:

There was a lot of tribal members.. who said, Well, what am I going to get out of this one-seventy mil? And [Sir Robert Mahuta] said, Well, firstly it's not money or cash - the bulk of it is land. And if you want to divide up the cash, you'll probably get about 500 bucks each.... Once we got through that, people understood that collective benefit was the way to go (Interviewee - Waikato-Tainui, 2014)

The ‘collective benefit’ approach has significantly influenced the management of resources returned under the raupatu settlement (Fisher, 2015; McCan, 2001). When the Hopuhopu Military Base, near Ngāruawāhia, and Air Force Base at Te Rapa were returned, the ownership of the land was vested by the Māori Land Court, on the request of Waikato-Tainui, in the name of the first Māori King, Pōtatau Te Wherowhero. The land was vested because the lands “are for the benefit of ALL Waikato and not one individual hapuu... ownership is collective” (Solomon, 1995, p12). The *Users Guide* justifies the collective ownership of land by the Post-Settlement Governance Entity as in the spirit of the Kingitanga (Solomon, 1995). The importance of pursuing collective benefit arose from Waikato-Tainui leaders realising that, although supposedly ‘full and final’, the settlement would only provide compensation for 1-2% of the value of the economic loss experienced by Waikato-Tainui (Chief Executive - Tainui Group Holdings, 2015). Indeed, the *Deed of Settlement* states that:

As the Crown now only holds a small proportion of the land originally confiscated and the land now held cannot be evenly distributed among the 33 Hapuu affected by the Raupatu, the restitution provided for in the deed of settlement is to be for the benefit of all Waikato collectively, under the mana of the Kingitanga (1995, p12)

Acknowledgement of collective loss requires striving for collective benefit (Solomon, 1995, p15). *Tai Tumu Tai Pari Tai Ao* explicitly emphasises the need to view land development by Waikato-Tainui as part of a region-wide picture of collective benefit: “Ultimately the commercial benefit of any Waikato-Tainui development remains within the rohe and for the

benefit of Waikato-Tainui tribal members and the wider community” (Waikato-Tainui Te Kauhanganui Incorporated, 2013, p219).

Iwi planning documents are an expression of sovereignty

Through this brief analysis of *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*, supported by reference to the *Tainui Report, Deed of Settlement, Waikato Raupatu Claims Settlement Act (1995)* and associated documents, I have provided my understanding of the vision held by Waikato-Tainui for developing land returned under Treaty settlement. Discourse within these iwi planning documents, which form part of a contemporary Waikato-Tainui planning paradigm, emphasise the need to actively develop resources held by Waikato-Tainui to achieve an ‘integrated development agenda’ supported by ‘economic sovereignty’. The words of King Tawhiao and Te Puea Herangi emphasise the interdependence of social, economic, cultural, and environmental wellbeing which is reflected in Waikato-Tainui planning documents. *Whakatupuranga Waikato-Tainui 2050* is described as an intergenerational tribal plan with an “integrated development agenda” (Chief Executive, 2014). “*Whakatupuranga 2050... is our blueprint of social, cultural and environmental - and economic – advancement*” (Chief Executive, 2014). The emphasis on ‘development’ recognises the resources held by Waikato-Tainui, and the potential for these resources to be used for the benefit of the tribe.

These iwi planning documents add evidence to Matunga’s claim of a ‘parallel tradition’ of indigenous planning, based on mātauranga Māori, or more specifically in this case, mātauranga Waikato-Tainui (Matunga, 2013). The act of producing strategic planning documents, and ‘taking control’ of planning, can be seen as an expression of sovereignty in itself (Barry, 2012; Sandercock et al., 2004). In contrast to 1983, when Mahuta observed “a powerlessness derived from underdevelopment which is expressed in the lack of control over resources, information, decision making and relationships with key people” (Egan, 1983, p.71), the discourse of contemporary Waikato-Tainui leaders evokes an agenda of empowerment and authority.

Findings: Searching for Te Tiriti and ‘economic sovereignty’ in local government planning documents

The *Resource Management Act (1991)* requires local authorities to “take into account” the principles of Te Tiriti (s8); and to “take into account” iwi planning documents when preparing resource management plans (ss61(2A)(a),66(2A)(a), and 74(2A)). Accordingly, Waikato-Tainui expect Te Tiriti, their Treaty settlements, and their iwi planning documents to be acknowledged within local government planning documents (Environment Manager - Waikato Tainui, 2014; McLean 2013 as cited in Board of Inquiry, 2014, p30). According to Tim Manukau, Waikato-Tainui expect local government to align with *Whakatupuranga Waikato-Tainui 2050*, to “give effect” to the aspirations and actions within the document (Environment Manager - Waikato Tainui, 2014). Manukau sees similarities between the holistic vision of *Whakatupuranga Waikato-Tainui 2050* and the obligations of local government to their communities.

In the following analysis, I firstly use critical discourse analysis to investigate how planning documents created by Hamilton City Council - the *Hamilton District Plan* and *Hamilton Urban Growth Strategy* discuss Te Tiriti o Waitangi and Treaty settlements. I also analyse *Future Proof*, which was created by a collaborative group including both Hamilton City Council and Waikato-Tainui. I note whether each planning document mentions the case study sites of Te Rapa and Ruakura, and the status of the land as Treaty settlement land. Critical discourse analysis provides a useful tool for identifying underlying assumptions, values and beliefs held by local government. Combining postcolonial theory with critical discourse analysis allows me to explore the expression of colonial power in the way knowledge about or belonging to Waikato-Tainui is presented or represented.⁴¹

Secondly, I consider how these local government planning documents acknowledge the discourse of 'economic sovereignty' I have identified within *Whakatupuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao*. It is important to note that the five key texts under analysis were developed at different times between 1999 and 2010. The creation and review of planning documents is ongoing - in 2016, Hamilton City Council were currently completing a process to replace the *Hamilton District Plan* with a new *Proposed Hamilton District Plan*; and Waikato-Tainui were reviewing *Whakatupuranga Waikato-Tainui 2050*. It would therefore be impossible for all these documents to explicitly reference each other. However, the concept of 'discourse' emphasises the notion that 'discursive resources' (values, ideas, phrases, and assumptions) to discuss a topic such as 'Te Tiriti' are constantly circulating in society (Wetherell & Potter, 1992). A wide range of 'discursive resources' are available to the writers and readers of planning documents (or, in the language of institutional ethnography, the creators and activators of texts). Tim Manukau clarified that alignment between iwi planning documents and local government planning may be thematic, rather than explicit: "when we talk about *Whakatupuranga*, we don't necessarily talk about the document per se - it's about the content and the substance of what it's trying to achieve" (Environment Manager - Waikato Tainui, 2014). The aim of this analysis is to look for continuities, including local and translocal influences.

I conclude by considering how decolonising discourses - such as economic sovereignty - can be shared between iwi and local government planning documents.

⁴¹ I note that this methodology is complicated by the fact that the text in local government planning documents relating to Māori issues may be supplied, at least as raw material, by representatives of Māori organisations within the community either as part of the drafting process, or as part of the submission process. In this analysis, I assume that through being included in the local authority planning document, this content can be considered part of local government discourse and can be critically analysed to provide an insight into local authority assumptions, values and beliefs.

Recognition of Te Tiriti and Treaty settlements in local government plans

The baseline data for this analysis is not encouraging. In 1983, Mahuta and Egan reviewed a number of “district review scheme documents” and found that:

The inclusion of Maaori issues in the documents varied from no mention at all to quite lengthy statements on the history of the local Maaori people and certain aspects of their culture. At the same time they gave no evidence that a different culture may mean different development values and that these would have to be accounted for (Egan, 1983, p51)

Surprisingly, given the emphasis on the principles of Te Tiriti in the *Resource Management Act (1991)*, and the time that has elapsed since the *Waikato Raupatu Claims Settlement Act* in 1995, one of the three local government plans I reviewed does not mention Te Tiriti o Waitangi, or the Treaty of Waitangi. The *Hamilton Urban Growth Strategy*, which “provides the strategic blueprint for future urban development of Hamilton City” (Hamilton City Council, 2010, p18), does not even include the words ‘Māori’, ‘iwi’, or ‘hapū’. The strategy does not mention the word ‘raupatu’; nor refer to the confiscations of land in the 1860s. No link is made between colonisation and contemporary planning issues such as social and economic inequality, environmental degradation, and the loss of cultural heritage.

Two local government plans offer some acknowledgement of Te Tiriti and Treaty settlements. The *Hamilton District Plan*, which sets out objectives, policies and rules to regulate resource use and activities, notes Treaty settlement “negotiations regarding the ownership of Crown assets”, which resulted in the “returning to Tainui of land such as University of Waikato, Waikato Polytechnic, the Hamilton High Court, and Housing Corporation lands” (Hamilton City Council, 2012a, p22). The *Future Proof Growth Strategy* also acknowledges the return of land to Māori through Treaty settlements. *Future Proof* states that iwi authorities “have negotiated and settled claims on behalf of their constituents/beneficiaries and are charged with the governance and management of postsettlement assets and resources on behalf of their beneficiaries” (Future Proof Joint Committee, 2009, p160). The Treaty settlement process is linked to new Māori “social, political, environmental, and economic structures” (Future Proof Joint Committee, 2009, p160).

Theme of economic sovereignty in local government plans

My analysis of local government documents suggests that, within planning documents created by Hamilton City Council, Waikato-Tainui are seen as ‘wealthy’ but not as having a mission for economic sovereignty. The *Hamilton District Plan* approaches economic sovereignty as a historical fact, detailing the resources of Māori in Hamilton before raupatu, including “rich agricultural resources”; “control of the Waikato river system”; “waahi tapu, burial sites, and sites of religious importance”; and “former favoured settlements along the Waikato river” (Hamilton City Council, 2012a, p21). Places associated with Māori occupation and use are named as villages, pā sites, traditional gardens, agricultural features, and river pā. The *Hamilton District Plan* refers to the financial implications of the Treaty settlement process, but does not employ the discourse of economic sovereignty. Rather than being an economic base

for the iwi to achieve their aspirations, the wealth of Waikato-Tainui is conceptualised in terms of the contribution of the tribe to local government finances and property development. The *Plan* states that “[t]he Waikato tribe is now one of the largest contributors to city rates and urban and commercial developments” (Hamilton City Council, 2012a, p22).

Waikato-Tainui economic sovereignty does not feature in the *Hamilton Urban Growth Strategy* (Hamilton City Council, 2010). The strategy does not mention The Base or Te Rapa, although developing the land at Ruakura is identified as part of “Growth Approach 4”. The text states that “we are proposing to develop an innovation and employment precinct in the Ruakura area of the city, specialising in research, innovation and high-technology businesses” (Hamilton City Council, 2010, p14). No mention is made of the fact that the land is owned by Waikato-Tainui. The pronoun ‘we’ used throughout the document could be argued to include Waikato-Tainui, given that the strategy is based on a “thorough city-wide consultation process undertaken in November and December 2008” (Hamilton City Council, 2010, p2). However, I found no indication, either from the text itself or from interviewees, that Waikato-Tainui were involved in the Enquiry by Design process to create the *Hamilton Urban Growth Strategy*.

The *Future Proof Growth Strategy* comes closest to acknowledging the theme of economic sovereignty. The strategy states that:

Ongoing capacity and capability building of tāngata whenua, supported by the settlement of outstanding claims...means that tāngata whenua will be a leading economic influence in the sub-region by 2061 (Future Proof Joint Committee, 2009, p19)

Like *Whakatapuranga Waikato-Tainui 2050* and *Tai Tumu Tai Pari Tai Ao, Future Proof* specifically identifies “post-settlement assets”, and links the governance and management of these assets with benefits for members of the iwi authority (Future Proof Joint Committee, 2009). ‘The Base’ is recognised as a ‘major commercial node’, alongside Chartwell (Future Proof Joint Committee, 2009, p64). The settlement pattern for the growth area of Hamilton City identifies Ruakura as a future greenfield area destined to become “a high technology innovation precinct and a more general employment area” (Future Proof Joint Committee, 2009, p55). However, *Future Proof* does not identify that these pieces of land are owned by Waikato-Tainui. The strategy does not discuss the implications of the return of land to Waikato-Tainui on the strategic direction for future urban growth in the sub-region.

Although the return of land is acknowledged, this analysis suggests that these local government planning documents do not recognise the economic outcomes or growth implications of the Treaty settlement process, with some limited exceptions in *Future Proof* (Future Proof Joint Committee, 2009, p19). I discuss these findings below.

Discussion: Difficulties engaging with iwi planning documents

My analysis of the extent to which discourse within iwi planning documents is reflected in planning documents produced by local government reflects literature that suggests iwi management plans are seen as difficult for local authorities to understand and translate into local government planning documents (Matunga, 2000a). Waikato-Tainui use statutory recognition within the *Resource Management Act (1991)* strategically to reinforce the importance of iwi planning documents to local government, without compromising their own agency in creating and using iwi planning documents. Acknowledging that *Whakatupuranga Waikato-Tainui 2050* had not been lodged officially with local government as an 'iwi planning document', Waikato-Tainui decided to create a chapter within *Tai Tumu Tai Pari Tai Ao* which inserted *Whakatupuranga Waikato-Tainui 2050* into the 'iwi planning document', which was then lodged with Hamilton City Council. Inserting *Whakatupuranga 2050* into the statutorily recognised *Tai Tumu Tai Pari Tai Ao* plan requires local government to "take into account" both documents under the *Resource Management Act (1991)*. The completed environmental plan *Tai Tumu Tai Pari Tai Ao* was presented to planning commissioners on the day of the first hearing for the *Proposed Hamilton District Plan* (Project Manager - Hamilton City Council, 2015). However, Manukau is clear that *Tai Tumu Tai Pari Tai Ao* originates from within *Whakatupuranga Waikato-Tainui 2050* and was created to meet the needs of the tribe, not because the *Resource Management Act (1991)* allows iwi to develop iwi planning documents. *Tai Tumu Tai Pari Tai Ao* clearly identifies Waikato-Tainui kaitiaki as a specific audience for the environment plan (Waikato-Tainui Te Kauhanganui Incorporated, 2013, p30).

Inserting *Whakatupuranga Waikato-Tainui 2050* into *Tai Tumu Tai Pari Tai Ao* reflects the broad interests of Waikato-Tainui in resource management. However, iwi planning documents are considered by local government to properly focus on environmental issues. For example, the Quality Planning website which provides 'good practice' guidance to planners using the *Resource Management Act (1991)*, warns that iwi planning documents "are often holistic documents that cover more than resource management issues under the Resource Management Act 1991 (RMA). Some [iwi planning documents] will address economic, social, political and cultural issues in addition to environmental and resource management issues" (Quality Planning, 2016a). Tim Manukau recalled councils questioning the inclusion of *Whakatupuranga Waikato-Tainui 2050* in *Tai Tumu Tai Pari Tai Ao*:

We put our plan out for comment, and we got a few comments back [mostly from councils] questioning why *Whakatupuranga* was in our environmental plan, because it's not an environmental issue. But we say yes it is, based on our interpretation of an environment. It is relevant to our document, because it covers our tribal area. Our tribal area is our environment... (Environment Manager - Waikato Tainui, 2014)

Responses to consultation on *Tai Tumu Tai Pari Tai Ao* illustrate the limits of local government discourse, and the extent to which local government sees itself as defined by regulatory frames such as the *Resource Management Act*. I interpret the dismissal by councils of Waikato-Tainui perspectives of 'the environment' as an example of what Coombes et al. termed 'failure to

recognise and incorporate ontological pluralism' (2012, p814). The link between 'tangata' and 'whenua' is central to Waikato-Tainui ontology, and Manukau explains that:

We don't look at it from a *Resource Management Act* perspective, we look at it from a holistic perspective. For *Whakatupuranga*, the people are connected to the environment and the environment is connected to the people. So, if the people are prosperous, they will look after the environment and the environment will be prosperous... Our environment encompasses our people, and the welfare of our people, and the prosperity of our people (Environment Manager - Waikato Tainui, 2015).

Interviewees suggested that issues with capacity may explain the difficulties experienced by local government attempting to engage with iwi planning documents (Interviewee - Future Proof, 2014). For example, iwi planning documents are not seen to speak in 'planning language'. In her research into local government and Māori concepts of sustainability, Karen Webster noted that interviewees identified a gap "in the ability of Māori to articulate outcomes in a way that the system could understand. This was matched by a corresponding gap in the capacity of Government to respond appropriately to Māori initiatives" (Webster, 2009, p320). *Future Proof* consultant Steven Wilson confirmed a "dual capacity issue" when working between Māori and Pākehā planning traditions. To illustrate, he noted that tāngata whenua may write a submission as part of a planning process requesting that an application for resource consent be declined because the proposed activity "impacts on our mauri" (Interviewee - Future Proof, 2014). The local authority receiving such a submission needs to have a sophisticated understanding of the concept of mauri, and be able to ask questions which allow the tāngata whenua submitters to provide more detail of the effects of the proposed activity on mauri. The local authority must then seek to engage tāngata whenua in discussion about how to avoid, remedy or mitigate the effects on mauri. As Wilson observes, both participants are challenged to articulate themselves in a way that is understandable within a different worldview "and work it all through - it's incredibly difficult" (Interviewee - Future Proof, 2014).

Despite these challenges, this research provides some evidence of local authorities attempting to "take account of" iwi planning documents. It is common practise for iwi management plans to be named within local government planning documents. In 1999, the *Hamilton District Plan* noted that "there are no management documents recognised or produced by local iwi for the area contained within the city" (Hamilton City Council, 2012a, p11). By 2010, *Whakatupuranga Waikato-Tainui 2050* is recognised as a "strategic document" within *Future Proof*, and 'iwi management plans' are included in a list of "Other strategies and plans" within the *Proposed Hamilton District Plan* (Hamilton City Council, 2014b, p1-6). Manukau noted that generic recognition of 'iwi management plans' in local government planning documents covers any future planning documents that hapū or marae may prepare (Environment Manager - Waikato Tainui, 2015). Connections between texts are sometimes more explicit. Despite the fact that *Future Proof* was developed under the *Local Government Act (2002)* rather than the

THE TAINUI REPORT



**A Survey of Human
and Natural Resources**



University of Waikato

1983

11. Cover page of the *Tainui Report* researched and written in 1983 by the Department of Maori Studies at Waikato University, headed by Sir Robert Mahuta. The report was '...based on a survey which assessed the resources this canoe federation possesses in its people, its land and other assets, so that a comprehensive plan could be proposed to develop these resources socially, economically, and culturally' (Egan, 1983, p6). Source: Egan (1983).



Figure 1. Map of discourses translated across planning documents. This map introduces a colour language which is used throughout this thesis. Black indicates central government and the judiciary; red indicates the iwi authority; and blue indicates local government. The map is composed of quotes from key planning documents and associated texts, arranged in roughly chronological order from left to right. These quotes illustrate the key discourses within these texts, with regard to developing land returned under Treaty settlement.

Resource Management Act (1991), and does not have a statutory requirement to “take account of” iwi planning documents, *Future Proof* contains an action to “[d]etermine which actions in tāngata whenua documents or noted in the Future Proof strategy can be implemented or facilitated via Future Proof, structure plans, statutory and non statutory instruments” (Future Proof Joint Committee, 2009, p163). One interviewee considered that further iterations of *Future Proof* could include a “test of alignment” between the two documents, so that users could see that “this part of *Future Proof* gives effect to this part of *Whakatapuranga 2050*. Or *Whakatapuranga 2050* informs this part of *Future Proof*. If [*Future Proof*] were to be done again, that would be another level of analysis ...How are you giving effect to *Whakatapuranga 2050*?” (Interviewee - Future Proof, 2014).

Analysis: Mapping the discourse of ‘economic sovereignty’

Analysing planning documents - what DeVault describes as the “complex web of texts that carry broader discourses” - provides insights into how discourses are transferred from one document to another (2013, p335). In Figure 1, I offer key phrases from each of the key texts which relate to the discourse of ‘economic sovereignty’. This simple map offers a representation of how discourses appear in a series of texts created by central government, local authorities, and iwi authorities over time. This sequence of texts illustrates the way in which the Treaty settlement and economic development aspirations held by Waikato-Tainui are acknowledged through a series of documents. This map suggests the importance of the *Deed of Settlement* in acknowledging the distress associated with raupatu. Within iwi planning documents, discourse focuses on the future of the iwi, and the outcomes of developing land returned under Treaty settlement. By the time the discourse is translated into local government planning documents, the depiction of Waikato-Tainui has changed from a people suffering from “the crippling effects of Raupatu” (Deed of Settlement, 1995, p5) to “one of the largest contributors to city rates and urban and commercial developments” (Hamilton City Council, 2012b) and “a leading economic influence” (Future Proof Joint Committee, 2009, p160). The High Court and Board of Inquiry, however, recognise the significance of the land as returned under Treaty settlement, terming The Base “the jewel in the settlement crown for Tainui” (“*Waikato Tainui Te Kauhanganui Inc v Hamilton City Council*,” 2010, para 88). I discuss these findings below.

Discussion: The discourse of essentialism and the counter-discourse of hybridity

Planning frameworks can ‘essentialise’ indigenous people and their knowledge, romanticising the connection between indigenous people, nature, and land (Porter, 2010), and indigenous interests are often assumed to focus on resource protection and conservation (Coombes et al., 2012; Porter, 2010). I interpret my analysis to show that essentialist discourse is visible in local government planning documents. The raupatu settlement process is acknowledged to a limited extent in local government planning documents, as are the outcomes of the *Waikato Raupatu Claims Settlement Act*. However, within the same planning documents, Waikato-Tainui interests are largely confined to environmental and cultural concerns. For example, the

Hamilton District Plan emphasises the ‘traditional’ nature of the holistic Māori worldview and its application to environmental issues. Within *Future Proof*, Māori content is primarily contained within a ‘Tangata Whenua’ section which includes actions focussing on engagement and participation, cultural heritage, and papakāinga development, but does not include actions relating to economic interests. I argue that essentialist discourses employed within these planning documents have implications for the interests that Māori are expected to advance through planning processes. Critically for this research inquiry, my analysis of discourse in local government documents indicates that economic development is not considered a “core Māori value” (Interviewee - Future Proof, 2014). I suggest that the limited extent to which local government planning documents acknowledge the economic interests of Waikato-Tainui reflects a wider failure of local government in Aotearoa New Zealand to recognise tāngata whenua as resource ‘developers’ as well as resource ‘protectors’ (Holm & Enright, 2013; Majurey et al., 2010).

Essentialist discourses achieve a separation between the commercial activities of Tainui Group Holdings and the overall vision of Te Whakakitenga o Waikato, allowing local government to differentiate between Tainui Group Holdings - who are considered a ‘commercial property developer’ - and Waikato-Tainui - as the ‘iwi authority’. Economist Ernie Jowsey defines a commercial property developer as “an entrepreneur who provides the organisation and capital required to make buildings available in anticipation of the requirements of the market in return for profit” (2011, p142). The term ‘commercial property developer’ emphasises the profit motive of Tainui Group Holdings. In contrast, the discourse of ‘economic sovereignty’ employed in Waikato-Tainui planning documents confronts essentialised concepts of Māori values and Māori development. By continuing to emphasise the integrated nature of development, and the centrality of economic development to realising social and cultural goals, the ‘hybrid’ discourse of economic sovereignty breaks the dichotomy between the ‘developer’ and ‘protector’ of resources (Majurey et al., 2010).

Discussion: The discourse of silence

Absence is an important part of discourse, and the ‘discourse of silence’ is a common response by colonial authorities to reminders of Treaty obligations or responsibilities (McCreanor, 2012). Through research by Janine Hayward into evolving understandings of the nature of ‘the Crown’, it is possible to trace the historical origins of the ‘discourse of silence’ employed by local government back to “the apparent uninterest and dishonour of settler governments with regard to Maori rights under Article II of the Treaty...” in the 1860s (1998, p156). Discourse has practical implications for the decisions made in planning processes. To illustrate this, I offer examples from planning processes for land returned at Te Rapa and Ruakura where I consider that local government ‘silence’ around Te Tiriti has influenced planning decisions. I believe that this ‘discourse of silence’ emerges from the fundamental ambivalence of Hamilton City Council towards an iwi authority who is also a ‘commercial property developer’.

As described in Chapter Two, in December 2012 Tainui Group Holdings applied to Hamilton City Council to adopt a change to the *Hamilton District Plan* to allow development at Ruakura to

begin. However, Hamilton City Council was concerned about the impact of the Ruakura development on residents, and in April 2013 voted to reject the plan change on the grounds that to accept it would not be “sound resource management” (Hamilton City Council, 2013b). Tainui Group Holdings applied to the Minister of the Environment to have the plan change heard by a Board of Inquiry, as a “matter of national significance”. The Minister for the Environment approved the application, and a Board of Inquiry was set up by the Environmental Protection Authority to begin hearings for the plan change in May 2014.

My analysis of evidence presented to the Board of Inquiry reinforces findings from my analysis of local government planning documents that recognition by Hamilton City Council of the relevance of Te Tiriti, or Treaty settlements, to the activities of Tainui Group Holdings was limited. From the perspective of Waikato-Tainui, the link between Treaty settlements and development is clear. At the hearing, Waikato-Tainui leader the Honourable Koro Wetere provided an introduction to the Ruakura case, setting out the Preamble to the *Deed of Settlement* and describing the broader interests of Waikato-Tainui and the importance of developing the Ruakura land (Wetere, 2014). The lawyer representing Tainui Group Holdings also mentioned the 1995 settlement and spoke briefly of the relevance of section 6e of the *Resource Management Act (1991)* which recognises the “relationship of Māori and their culture and traditions with their ancestral land” (*Transcript of Proceedings - Day Three, 2014*). Ruakura was described as “the last remaining development opportunity in respect of the Raupatu settlement lands” (*Transcript of Proceedings - Day One, 2014*). Parekawhia McLean submitted that the “proposed development represents a key part of the economic development strategy for Waikato-Tainui. The effects of such investments on the wellbeing of Iwi are considered significant, given the scale of the development and the timeframes over which the development will take place” (McLean, 2014, para 24).

Hamilton City Council lawyers and planners played a significant role in the Board of Inquiry process, delivering substantive opening and closing statements as well as presenting nine expert witnesses to provide evidence on many topics considered during the six-week hearing (Hamilton City Council, 2013d). However, based on my attendance during a significant period of hearing and my review of transcripts, the status of the land as returned under Treaty settlement was not acknowledged by Hamilton City Council lawyers or planners in the rest of hearing, until Judge Harland underlined the significance of Ruakura as Treaty settlement land in her decision to approve the *Ruakura Plan Change* in September 2014. The Board found that “[u]sing the land for the purposes proposed in the plan change accords with it having been returned as redress in the Settlement Act”, and accepted the importance of the plan change to “develop the site to provide a future income stream for the tribe” (Board of Inquiry, 2014, p34).

The ‘silence’ on the status of Ruakura as land returned under Treaty settlement in the hearing for the *Ruakura Plan Change* echoes the ‘silence’ in local government planning documents on the need for Waikato-Tainui to develop land returned under Treaty settlement. The ‘discourse of silence’ reinforces the perceived separation between Tainui Group Holdings and Waikato-Tainui. By remaining silent on the fact that the land at Ruakura has been returned under Treaty

settlement, Hamilton City Council acknowledges no alternative to the assertion that Tainui Group Holdings are simply 'mainstream' commercial property developers.

Discussion: The discourse of 'public interest' and 'Māori privilege'

In Chapter Four, I identified a theme in literature that attempts by indigenous communities to participate as 'partners' rather than 'stakeholders' in planning processes can be viewed as 'anti-democratic' (for example, see Lane & Hibbard 2005, pp173-174). In addition to the discourses of 'essentialism' and 'silence' employed in local government texts, I suggest that a third discourse based in concepts of 'public interest' and 'Māori privilege' further complicates local government engagement with Waikato-Tainui aspirations for economic development.

Historian Peter Meihana has explored the concept of 'Māori privilege', identifying expressions of both 'official privilege' (legislation and policy that 'purportedly protects Māori rights and interests') and corresponding 'populist' discourses that depict Māori rights guaranteed under Te Tiriti as 'privileges' granted by a benevolent Crown (Meihana, 2015, p5). The Waitangi Tribunal, Treaty settlements and successful court challenges are examples of 'official privileges' which have given rise to criticism "that Māori were being privileged over other New Zealanders" (Meihana, 2015, p239). Within this discourse, Te Tiriti itself "became a symbol... of Māori privilege" (Meihana, 2015, p233). The discourse of 'Māori privilege' separates 'Māori interests' from 'public interests' and "implies advantages and special treatment for Maori" (McCreanor, 2005, p58).

From my standpoint, the discourse of Māori privilege is visible in statements by the Mayor of Hamilton City in 2010, Bob Simcock, to the High Court during the judicial review of *Variation 21*. Defending the decision by Hamilton City Council to not consult with Waikato-Tainui in developing *Variation 21* as statutorily required, Mayor Simcock emphasised that "Variation 21 has not been prepared and notified by Hamilton City Council in a vacuum" (*Affidavit of Robert Simcock* 2010). Mayor Simcock cited the *Hamilton Urban Growth Strategy* and *Future Proof* as examples of public consultation, and implied that these public consultation processes gave legitimacy to *Variation 21*. As a contrast, Mayor Simcock presented Tainui Group Holdings' involvement in collaboratively developing the *Future Proof* strategy as self-interested, highlighting the focus of Waikato-Tainui on "preserving and promoting its commercial opportunities at emerging centres" (*Affidavit of Robert Simcock* 2010). Mayor Simcock asserted that:

It is fair to say that the submissions made by Waikato Tainui representatives and the focus of Waikato Tainui's contribution to decision making was largely directed at protecting Waikato Tainui's development opportunities at its major commercial development sites (*Affidavit of Robert Simcock* 2010)

I interpret the Mayor's comments on consultation and participation as drawing on the discourse of 'Māori privilege', and reinforcing the concept of Tainui Group Holdings solely as a 'commercial property developer'. Simcock implicitly questions the integrity of Waikato-Tainui

claims to be included as an iwi authority in a collaborative planning process. Dudas (2008) reports similar use of discourse in the United States, where indigenous tribes are questioned as to their 'authenticity' when making applications for casino development on tribal land. An interviewee recalled how planners at Hamilton City Council questioned whether Tainui Group Holdings, as an organisation owned by an iwi authority, could be included in the *Resource Management Act (1991)* definition of 'mana whenua'⁴² (Consultant Planner - Hamilton City Council, 2015).

Interviewees confirmed that the dual roles played by Waikato-Tainui as iwi authority and commercial property developer also caused consternation in the collaborative process to develop *Future Proof*. Representatives from Waikato-Tainui on the influential Chief Executives Advisory Group have changed over time. Steven Wilson reported that initially Hemi Rau, the Chief Executive of Waikato-Tainui Te Kauhanganui, agreed to be the representative on the Group. However, when Rau left in 2009, his position was filled by Mike Pohio, the Chief Executive of Tainui Group Holdings. Wilson reflects that Pohio's presence:

...created some tensions of course, in terms of councils struggling with the concept that a property developer would be in the room with them. This was a council planning document... it wasn't for developers to come in and have their say and have their way. The converse argument is that tāngata whenua are not there to 'brown up' the conversation - they've got a quadruple bottom line aspirations and goals - this is, at the end of the day, a planning document about infrastructure and... spatial planning. As councils and the New Zealand Transport Agency did in developing and implementing *Future Proof*, so tāngata whenua sought to ensure the best fit possible with the capability of people sitting at various levels of the *Future Proof* infrastructure. Mike Pohio was eminently qualified and experienced to sit at the Chief Executives' table while receiving quadruple bottom line advice from tāngata whenua staff and advisors (Interviewee - Future Proof, 2014)

Other interviewees implied that Hamilton City Council's characterisation of the dual roles played by Waikato-Tainui as iwi authority and developer as a 'conflict' is hypocritical, given that Hamilton City Council is also a significant landowner:

To say that Hamilton City Council are disinterested in development and commercial opportunity is just ridiculous. One of the other key players in the town is Māori, through Waikato-Tainui. To say Waikato-Tainui are disinterested in property development is ridiculous. Then to sit there and say that we're [all] now doing things for the best of the sub-region [is unrealistic]... the reality is that everybody is conflicted (Interviewee - Future Proof, 2014)

⁴² The *Resource Management Act (1991)* defines 'mana whenua' as 'customary authority exercised by an iwi or hapu in an identified area' (Part 1, section 2). However, the phrase 'mana whenua' is increasingly used to describe iwi and hapū organisations themselves.

Employing the discourse of ‘public interest’ undermines the Te Tiriti relationship between Hamilton City Council as a local authority and Waikato-Tainui as an iwi authority. Again, this discourse can be traced back in time through Hayward’s work to a sense among Māori as early as the 1850s that “settler government seemed to be representing interests which were opposed to those of the Māori people and which could not easily be reconciled with the terms of the Treaty” (1998, p158). The accompanying discourse of ‘Māori privilege’ neglects the discourse of ‘economic sovereignty’ visible in Waikato-Tainui planning documents. I argue that the colonial discourses of ‘Māori privilege’ and ‘public interest’ underpin the continued dismissal by local government of their legal obligations and ethical responsibilities under Te Tiriti.

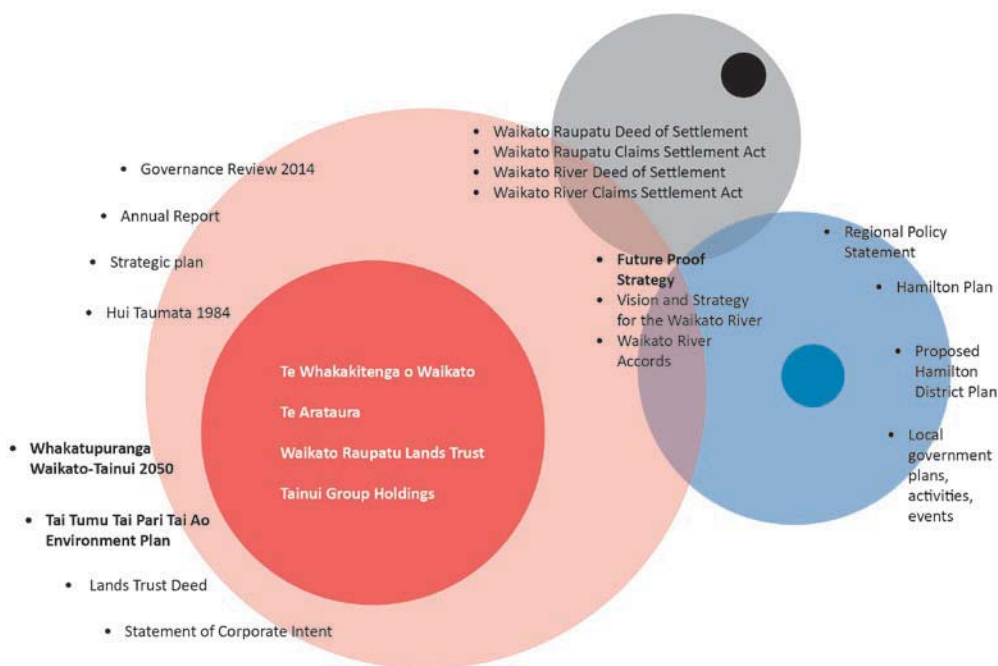
Analysis: Understanding the dual nature of discourse through mapping planning paradigms

The examples of ‘language-in-action’ provided above illustrate the intertextual connections within and between planning documents produced by local and iwi authorities, as well as texts created by central government. Each participant within an institution draws on discourses which emerge from their own standpoint within the institution of planning, and which reflect their own planning traditions. Reviewing the findings in this chapter, I observe that Waikato-Tainui and Hamilton City Council each have their own planning paradigms, but that these paradigms are operating in parallel with few shared discourses. Postcolonial analysis encourages researchers to place texts within a new context and to ‘map out’ connections from them; a technique referred within institutional ethnography as ‘intertextual analysis’. Gayatri Spivak called this kind of mapping a way to “reconstellate” texts within colonial histories, producing “politically useful” insights (Moore-Gilbert, 1997, p96).

In Figure 2, I present the key texts and participants in each planning paradigm, as identified by interviewees. The two maps shown illustrate the complex of intertextual and organisational relationships which provide the context for key planning documents developed by Waikato-Tainui and Hamilton City Council. Both Hamilton City Council and Waikato-Tainui have created planning documents which interviewees perceived as linked through time and across space to a number of previous texts. Both Hamilton City Council and Waikato-Tainui have decision-making bodies, complex organisations, and lines of accountability back to constituents. Placed together, these maps describe an institution comprised of legislation; of strategic documents; of meetings and minutes; of texts and reports sent back and forth between developer, planner, and councillor; of small and big decisions.

These maps highlight the central place that texts relating to Treaty settlements hold in the planning paradigm of Waikato-Tainui; and the more peripheral place that these same texts hold in the planning paradigm of Hamilton City Council. Within the Waikato-Tainui paradigm, the relationship with the Crown, the *Deeds of Settlement* and the *Claims Settlement Acts* are key reference points. However, with the exception of the *Waikato River Claims Settlement Act*, which directly affected Hamilton City Council by establishing a Joint Management Agreement

WAIKATO-TAINUI PLANNING PARADIGM



HAMILTON CITY COUNCIL PLANNING PARADIGM

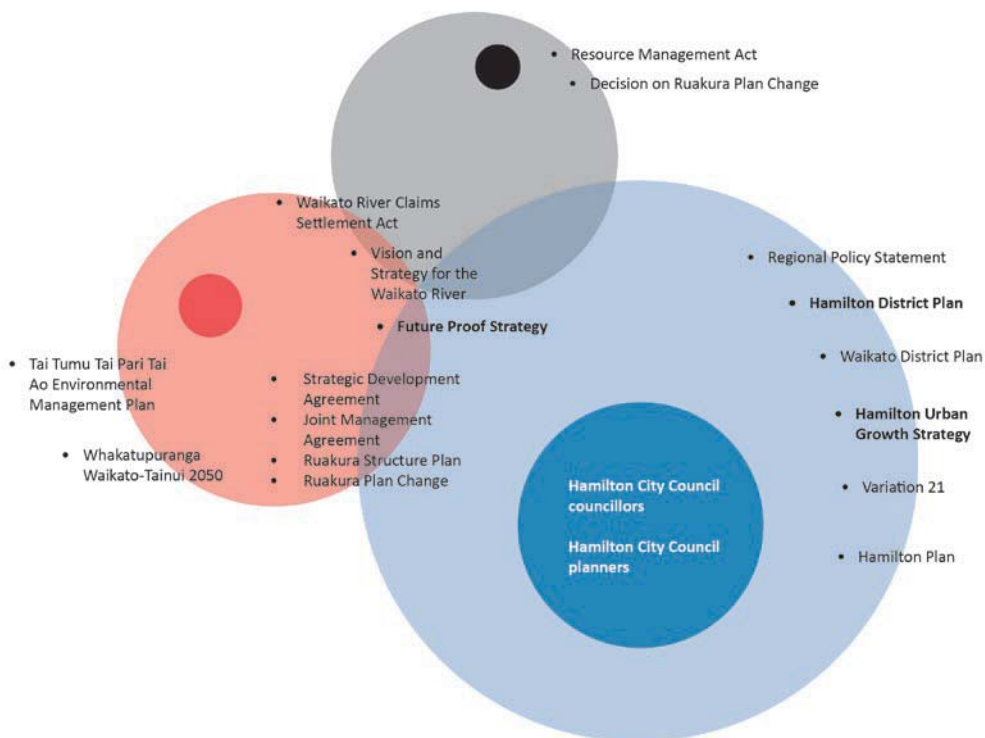


Figure 2. Maps of the boundaries of planning paradigms. Based on intertextual analysis of interview data, these maps place people, organisations, and texts within the paradigm of Waikato-Tainui (red), Hamilton City Council (blue), or central government and the judiciary (black). Participants are located at the centre of the paradigm, and texts which influenced or formed part of the planning process for Te Rapa or Ruakura are located in the outer area of the paradigm. Texts placed in the overlapping area between paradigms were created and implemented collaboratively. Key planning texts are **bolded**. (Top) The boundaries of the paradigm described by interviewees from Waikato-Tainui when discussing planning processes for land returned under Treaty settlement. (Bottom) The boundaries of the paradigm described by interviewees from Hamilton City Council when discussing planning processes for land returned under Treaty settlement.

Message: Future Proof Partners

Creating a strong and sustainable future for the Future Proof sub-region has been the focus of the Future Proof strategy development.

This Strategy looks out 50 years and has been worked on jointly by partner councils – Hamilton, Waikato and Waipa Districts, and Environment Waikato – and by tāngata whenua. The New Zealand Transport Agency and Matamata-Piako District Council have been supporters of and involved in the development of the strategy.

Future Proof is a significant milestone for the sub-region as we work together to map out how we manage future growth. Growth is exciting as we see development happening and are exposed to a greater range of options, but growth also brings with it challenges that we need to be mindful of as we plan the future.

Development of Future Proof began as a result of concerns about the lack of collaboration and leadership in the management of growth across territorial boundaries. The partners came together to consider some of the complex issues associated with growth, including future urban and rural land-use, natural and cultural resources, roads, and other essential infrastructure.

Community feedback late last year told us very clearly that the current approach of Business as Usual is not sustainable for the future. We agree. This Strategy takes a long-term approach to how we address the key issues facing the sub-region in a more integrated way.

The new direction does mean some changes for some people but we believe that the long-term affect of sound leadership and strong growth management means the betterment of the sub-region as a whole.

The ongoing challenge for us all is to ensure we continue to talk and work together in deciding a co-ordinated future. Let us look forward, continue to work with our communities to create the kind of region we all love to live, work and play in. Many thanks to all of those who have had input into strategy development.



Doug Arcus

Independent Chair: Future Proof Joint Committee



Tukuroirangi Morgan

Tainui Waka Alliance



Peter Buckley

Chair: Environment Waikato



Bob Simcock

Mayor: Hamilton City



Peter Harris

Mayor: Waikato District



Alan Livingston

Mayor: Waipa District

12. Page from the *Future Proof Growth Strategy*. The intention to recognise the equal status of tangata whenua representatives alongside local government is reflected in the picture of Tukuroirangi Morgan, Chairman of the Tainui Waka Alliance, appearing alongside the portraits of the mayors of local and regional councils. Source: Future Proof Joint Committee (2009, p3).

with Waikato-Tainui, these texts are not part of the complex of relations considered to influence Hamilton City Council planning documents. These maps provide further evidence for Matunga's claim that connections need to be strengthened between Māori and Pākehā planning traditions to support the emergence of a (post)colonial Treaty-based planning institution in Aotearoa New Zealand (Matunga 2000a).

Conclusion

In this chapter, I have presented an analysis of discourse relating to developing land returned under Treaty settlement, and how this discourse is responded to by local government. I have also mapped out the two planning paradigms co-existing within the Waikato-Tainui rohe, or Hamilton district.

My analysis of planning documents created by Waikato-Tainui identified a discourse of 'economic sovereignty' which links developing land returned under Treaty settlement to an 'integrated development agenda' for Waikato-Tainui people. Iwi planning documents are considered as an expression of tino rangatiratanga. These planning documents draw on the words and work of tūpuna, and aim to provide a future for coming generations. Within evidence presented to hearings, Waikato-Tainui clearly link developing Treaty settlement land with the concept of redress for breaches of Te Tiriti o Waitangi. The significance of Treaty settlement land to 'rebuilding an economic base for the iwi' is recognised by the High Court and Board of Inquiry.

Hamilton City Council planning documents acknowledge the existence of Māori planning documents. Documents are sometimes named but there is little explicit analysis of the content of Māori planning documents or illustration of alignment between local government and Māori visions. There is limited recognition of broad iwi roles and responsibilities. Interviewees identify challenges in local government and iwi capacity, and in matching the scope and scale of iwi interests with local government jurisdiction and responsibilities. Hamilton City Council's struggle to engage meaningfully with iwi planning documents, specifically around the discourse of 'economic sovereignty', has implications for how local government understands the broad interests and aspirations of Māori communities.

In her review of submissions from local authorities on local government reform in 1990, Hayward comments that "a large number of authorities rejected responsibilities under the Treaty. They did so in three ways: by failing to respond to issues involving the Treaty (usually by stating 'non-applicable' or 'rejected'); by rejecting the notion of 'special treatment' of Maori by councils; and finally, by rejecting the notion of local government as a Treaty partner" (Hayward, 1999). This research suggests that these discourses remain in effective use in local government. The discourse of economic sovereignty is generally absent from local government texts, which are largely silent on Te Tiriti and Treaty settlements and focus on the 'cultural' interests of Waikato-Tainui. Ambivalent discourses towards Treaty responsibilities and Māori interests are visible and influential in planning decisions made by local authorities.

The limited recognition of Waikato-Tainui interests can be explained as originating in a colonial discourses which 'essentialises' Māori interests as cultural rather than economic; and separate 'Māori' interests from the public. Discourses which marginalise Māori interests to 'culture' and 'environment' allow planners to create local government planning documents that don't engaging with the realities of redress and Māori aspirations for development. Essentialised understandings of Waikato-Tainui interests allowed Hamilton City Council to question the integrity of Waikato-Tainui as an iwi authority and cast Tainui Group Holdings solely as a 'commercial property developer'.

Analysis based in institutional ethnography methodology suggests that the disconnection between Waikato-Tainui and Hamilton City Council planning documents could be due to the emergence of these documents from within distinct planning traditions. The maps provided in Figure 2 make visible the social relations within each paradigm which are activated as Waikato-Tainui presents a picture of economic development based on redress; and Hamilton City Council portrays the situation as 'Waikato-Tainui versus the public'.

In the next chapter, I document the changing relationship between Waikato-Tainui and Hamilton City Council, providing context for 'snapshots' of the relationship at the time of The Base and Ruakura developments. These snapshots will be situated back into the social relations and discourses explored in this chapter.

Chapter Seven - 'Ruling relations' and Realising New Relationships

Tangata Whenua and Local Authorities must together paddle the waka of development (Future Proof Joint Committee, 2009, p2)

Introduction

Following analysis of Hamilton City Council and Waikato-Tainui planning paradigms, and the discursive and textual context for developing Treaty settlement land, I now turn to an analysis of the planning processes for development at Te Rapa and Ruakura. In this chapter I explore the nature of relations between Waikato-Tainui, Tainui Group Holdings, and Hamilton City Council, investigating how this relationship is conducted through 'everyday' work practices within the institution of planning. I describe specific issues which arose during planning processes for Te Rapa and Ruakura which I consider affected the relationship between Hamilton City Council and Waikato-Tainui. In general, this relationship moves from being adversarial and litigious at the time of *Variation 21* to being more collaborative as the *Ruakura Plan Change* is progressed. Drawing on collaborative planning theory, I argue that *Variation 21* reflects a 'positivist' approach to planning, but to some extent Ruakura can be considered a 'collaborative planning process'.

Participants' actions within an institution are controlled by discourse, and coordinated through texts. In Chapter Five, I explored the discourses of 'silence', 'essentialism', 'public interest' and 'Māori privilege' which I propose shaped the response of Hamilton City Council to development proposed by Waikato-Tainui on Treaty settlement land. In this chapter, I map a 'chain of action' for each site which focuses on the work of planners and councillors to 'activate' key planning texts at critical moments within the planning processes for Te Rapa and Ruakura. These 'sites of ruling' where the interests of Hamilton City Council and the interests of Waikato-Tainui are perceived to compete, make visible the 'ruling relations' which I suggest influenced the outcomes of the decision-making process.

Relationships between Hamilton City Council and Waikato-Tainui during planning for development at Te Rapa and Ruakura

In the following section, I draw on interviews with case study participants and key informants, as well as written data from evidence to the High Court and the Environmental Protection Authority Board of Inquiry, to create a 'snapshot' of the relationship between Waikato-Tainui and Hamilton City Council at the time of two critical decisions by the elected councillors of Hamilton City Council. These critical decisions are the decision to notify *Variation 21* in September 2009, and the decision to reject the *Ruakura Plan Change* in April 2013. Both

decisions centre around attempts by Hamilton City Council and Tainui Group Holdings respectively, to change the zones in the *Hamilton District Plan* applied to the case study sites at Te Rapa and Ruakura. Both of these ‘snapshots’ depict moments which are part of bigger changes in social relations within the institution of planning for land returned under Treaty settlement. This analysis illustrates wider issues – such as timing, control, and trust – which have influenced the relationship over time.

Findings: ‘Snapshot’ 2009 - Relationship between Waikato-Tainui and Hamilton City Council over Variation 21

Relations between Waikato-Tainui and Hamilton City Council in 2009 centred around a number of processes and projects. The *Future Proof* strategy was launched on 9 September 2009, at an event attended by Prime Minister John Key and King Tuheitia. The collaborative approach is visible through the Mihi/Foreword from King Tuheitia. The King encourages local government and Māori to work together, drawing on the knowledge and power held by each party:

E hari ana te ngakau i te kotahitanga o te whakaaro o nga tangata katoa e whai panga ana ki tenei kaupapa...Tangata Whenua have an intimate knowledge of the natural resources of the region as kaitiaki or caretakers. Councils set policy and plans in an effort to administer the needs of residents throughout the area. Only with a combined effort and a sharing of ideas can any vision come to fruition. Tangata Whenua and Local Authorities must together paddle the waka of development (Future Proof Joint Committee, 2009)

Two weeks later on 23 September 2009 representatives from Hamilton City Council and Tainui Group Holdings met to negotiate and agree a Strategic Development Agreement for the transfer of land, including the site of the future Ruakura development, into the urban area of Hamilton City (City Planning Manager - Hamilton City Council, 2016). Representatives from Hamilton City Council and Waikato-Tainui also worked together as part of a collaborative Joint Committee developing the *Future Proof Growth Strategy*. The Joint Committee comprised two representatives from each of the partner councils, two tāngata whenua representatives (one from Tainui Waka Alliance; the other from Nga Karu Atua o Te Waka), a representative from the New Zealand Transport Agency, and an independent Chairman. Hamilton City Council and Waikato-Tainui also had a relationship around their shared ownership interest in the Novotel and Ibis hotels in the Central Business District⁴³ of Hamilton City (*Affadavit of Michael Pohio* 2009; Chief Executive - Tainui Group Holdings, 2015).

However, evidence from the judicial review of *Variation 21* demonstrates that *Variation 21* was developed outside these relationships. Hamilton City Council was concerned that retail development at The Base was undermining the vitality of the Central Business District. Waikato-Tainui was unaware that Hamilton City Council was developing a variation to the

⁴³ This shared ownership has since been dissolved, and Tainui Group Holdings now own 100% of both Novotel Tainui and Ibis Tainui hotels.

Hamilton District Plan that would significantly restrict their proposals for further development at Te Rapa.

Variation 21 was notified by Hamilton City Council on 29 September 2009, without consultation. This decision, which will be further explored later in this chapter was strongly challenged by Waikato-Tainui. Reports of meetings between representatives of Waikato-Tainui and Hamilton City Council in the months between when *Variation 21* was notified, and when Waikato-Tainui filed their application for judicial review on 21 December 2009, illuminate the nature of the relationship at this time. Describing a meeting held nine days after *Variation 21* was notified, Mike Pohio related to the High Court:

Because of my concerns about Variation 21, [Tainui Group Holdings Limited (TGHL)] requested a meeting with the Chief Executive Officer [of Hamilton City Council].... On Wednesday 7 October 2009 John Spencer, the Chairman of TGHL, Nathan York, the General Manager - Property of TGHL, Hemi Rau, the Chief Executive Officer of Te Kauhanganui, and I met with Michael Redman, the CEO of Hamilton City Council and Brian Croad, the Council's Manager of City Planning and Environmental Services. The TGHL representatives expressed our concern about what had been done and how it had been done and in particular that the variation had come out of the blue and that we had not been consulted. We queried how this was related to *Future Proof* and the subsequent *Hamilton Urban Growth Strategy* which had given no indication of any such restrictions. Mr Redman responded that there were matters of urgency which the Future Proof partners needed to progress and that this was one in respect of Hamilton City Council. We challenged the lack of disclosure... Mr Redman openly admitted there had been no consultation with anyone at all in respect of the proposed variation (*Affidavit of Michael Pohio 2009*)

Pohio described three further meetings, in which the Hamilton City Council Chief Executive Officer asked for more time to consider issues discussed (18 November 2009); presented a letter marked "without prejudice" which stated Council's response (25 November 2009); and a final "short meeting at which it was confirmed that no resolution could be arrived at" (7 December 2009) (Pohio, 2010, p2).

On 21 December 2009, Waikato-Tainui filed a *Statement of Claim* with the High Court, claiming that "Waikato-Tainui are prejudiced by the fact that [*Variation 21*] effectively precludes application now being made for further developments on The Base site" (*Affidavit of Michael Pohio 2009*, para 16). Waikato-Tainui requested a judicial review "in relation to the exercise of powers under Schedule 1 of the Resource Management Act 1991 by the Hamilton City Council" (*Statement of Claim between Waikato Tainui Te Kauhanganui Incorporated and Hamilton City Council*, 2009, p1).

In the following section, I draw on interviews with case study participants to explore factors which influenced the state of relationships between Waikato-Tainui and Hamilton City Council in 2009.

Timing of Variation 21

During meetings with Waikato-Tainui, and subsequently in the High Court, Hamilton City Council argued that its decision to notify *Variation 21* without consultation was a “deliberate strategy” driven by timing (*Affidavit of Tukoroirangi Morgan* 2010). An amendment to the *Resource Management Act (1991)* had been passed on 22 September 2009⁴⁴ and would become law on 1 October 2009. Under the *Act* before amendment, a plan variation had legal effect as soon as it was notified – that is, while consultation was being undertaken, provisions in both the operative plan and the plan variation would apply. This mechanism, termed ‘immediate legal effect’, is intended to allow local government to protect resources threatened by imminent degradation or destruction⁴⁵. The amendment to the *Act* restricted this mechanism, meaning that most provisions within a plan variation have no legal effect until the variation has passed through the process of ‘plan development’ stipulated in Schedule 1 of the *Resource Management Act (1991)* to become part of the operative plan.

This amendment to the legislation made the timing of notifying the plan variation critical. Hamilton City Council was aware that, unless it notified *Variation 21* before the *Resource Management Amendment Act (2009)* came into law, the proposed variation would carry no legal effect. Tainui Group Holdings and other developers could continue to apply for resource consent under the existing *Hamilton District Plan* until the Schedule 1 process was complete. Accordingly, Hamilton City Council chose not to consult Waikato-Tainui in developing *Variation 21*, because they were concerned that Tainui Group Holdings would apply for resource consents for additional development at Te Rapa under the existing permissive planning rules before the more restrictive plan variation came into effect (*Affidavit of Evidence of Robert Hodges* 2010). One interviewee noted that drafting *Variation 21* “was a challenge, done in a very short time and circumstance” (Consultant Planner - Hamilton City Council, 2015).

Trust and mistrust in Variation 21

Interviewees also identified mistrust between Hamilton City Council and Waikato-Tainui as a factor in relationships in 2009. It was suggested that this mistrust may have its origins prior to 2009, as the scale of development planned for Te Rapa changed from a ‘regional shopping centre environment’ encompassing large format retail and offices to a ‘town centre’ based around an enclosed mall development (General Manager - Hamilton City Council, 2014; Consultant Planner - Hamilton City Council, 2015). Rather than providing new retail development that would complement existing retail areas, an enclosed mall was seen to compete directly with existing malls and other retail in the Central Business District. Although there were other retail developments happening in areas zoned for ‘Commercial Service’ around Hamilton City, Hamilton City Council “saw the decline of the Central Business District being totally related to the increasing development of The Base” (General Manager - Hamilton City Council).

⁴⁴ *Resource Management (Simplifying and Streamlining) Amendment Act 2009*

⁴⁵ This mechanism still applies for notified provisions relating to cultural and historic heritage, and some other matters.

I trace this mistrust back to earlier decisions about zoning for land at Te Rapa. In 2002, the commercial development arm of Waikato-Tainui at that time, Tainui Development Limited appealed, with three other developers, to the Environment Court to vary the *Hamilton District Plan* to apply a Commercial Services zone over the southern part of The Base site ("Kiwi Property Management Ltd v Hamilton City Council 9 ELRNZ 249," 2003). Hamilton City Council had previously turned down a similar proposal when developing the *Hamilton District Plan*. During the Environment Court hearing, Hamilton City Council changed its position to support the zoning proposed by Tainui Development Limited, and called Robert Speer, "a planning consultant specialising in market research and development planning for retail business", to give evidence on its behalf in support of the zoning change. The Environment Court accepted Speer's testimony that "the possibility of a Chartwell type development [ie. an enclosed mall]...is more theoretical than real" in the proposed Commercial Services zone ("Kiwi Property Management Ltd v Hamilton City Council 9 ELRNZ 249," 2003, p45). A masterplan was subsequently developed which did not include a mall development. Based on Speer's evidence, and the masterplan, Hamilton City Council did not expect a mall to be developed at Te Rapa. However, in April 2009 Tainui Group Holdings "announced that Farmers Trading would become the anchor tenant of a new 26,000 square metre mall development, and would build an 8,000 square metre flagship store as the first step. The mall will have a substantial retail, food, hospitality and leisure focus and over 800 underground car parks" (The Base, 2015).

Considering interviewees' comments, and as discussed in Chapter Six, it is clear that by September 2009 Hamilton City Council did not trust Waikato-Tainui to engage in consultation on planning regulation for Te Rapa without using the opportunity to extend their commercial interests (*Affadavit of Robert Simcock* 2010). Hamilton City Council feared that, if they consulted with Waikato-Tainui as an iwi authority as required under Schedule 1 of the *Resource Management Act*, Waikato-Tainui would pass the draft plan variation to Tainui Group Holdings. Tainui Group Holdings would then make applications for resource consent under the existing plan (*Affadavit of Evidence of Michael Redman*, 2010).

Control as a factor in Variation 21

Interviewees suggested that Hamilton City Council's perception of its ability (or inability) to control development at Te Rapa was also a factor in the decision to notify *Variation 21* without consulting with Waikato-Tainui. Even before the *Resource Management Amendment Act (2009)* was announced, Hamilton City Council felt that its power to control development at The Base was limited because of the nature of the existing Commercial Services zone. Commercial Services and Industrial zones within the *Hamilton District Plan* provided for retail and office developments as 'permitted' or 'controlled' activities (*Affadavit of Murray Kivell* 2010). Under the *Resource Management Act (1991)*, activities which are 'permitted' in a district plan may take place without requiring a resource consent to be granted by the local authority. Activities which are 'controlled' require resource consent, but this resource consent must be granted as long as certain limited conditions are met - for example, creating a traffic plan. The certainty

provided by 'permitted' and 'controlled' activities assists developers who want to ensure their development will be approved, while seeking "the maximum possible flexibility in the planning conditions in order to meet the requirements of prospective purchasers or tenants" (Jowsey, 2011, p144).

These permissive planning rules had been advocated by Tainui Group Holdings and other property developers through the Environment Court in 2002. Since the Environment Court decision in 2003 to apply Commercial Services zoning, development at The Base had been carried out through a series of resource consents for 'controlled activities' within the Commercial Services zone. Presenting evidence to the High Court, the planner contracted by Hamilton City Council to process the resource consent applications for development at The Base submitted that these applications had been 'incremental', implying that he had not been able to consider the cumulative effect of development in granting consent (*Affadavit of Murray Kivell* 2010; Consultant Planner - Hamilton City Council, 2015).

Indeed, given the status of retail and office development as 'controlled activities' within the *Hamilton District Plan*, Hamilton City Council was unable to decline resource consent for continuing retail development at The Base. According to one interviewee, *Variation 21* "was a sign of extreme frustration by the Council of the inability to manage the effects of very concerning development that was occurring because of the limitations that the Resource Management Act placed on the Council to manage the city's infrastructure and growth" (General Manager - Hamilton City Council). Another interviewee recalled "strong groups of competing interest on Council that just didn't know what to do with the evidence that decentralisation was occurring. And the plan was totally ineffective" (Consultant Planner - Hamilton City Council, 2015). The Base was the key focus of concern. *Variation 21* changed the status of retail activities to discretionary in the Commercial Services zone, and non-complying in the Industrial zone (*Affadavit of Murray Kivell* 2010).

Tainui Group Holdings opposed the perception that development at The Base was out of control. In his evidence to the High Court, Mike Pohio emphasised that Tainui Group Holdings had applied for, and been granted, resource consent for each of the stages of The Base (Pohio, 2014). Interviewees noted that these consents gave development at The Base legitimacy (Interviewee - Future Proof, 2014; Chief Executive - Tainui Group Holdings, 2015). Mike Pohio described clearly the reason why Waikato-Tainui appealed Council's decision to the High Court:

What we were doing was lawful. What the council did was unlawful. And that is exactly the reason why we had a very clear decision from the judge. There were no grounds on which Council could possibly stand, on which *Variation 21* could or even should have been brought to life... (Chief Executive - Tainui Group Holdings, 2015)

In 2009, I characterise the relationship between Tainui Group Holdings and Hamilton City Council as combative rather than collaborative. One interviewee recalled that as an outcome of *Variation 21* "the parties just no longer talked. Council couldn't understand, Tainui couldn't

understand... there was a basis of distrust” (Consultant Planner - Hamilton City Council, 2015). The adversarial nature of the relationship at this time was described by Mike Pohio as “toxic” (Chief Executive - Tainui Group Holdings, 2015). The period from September 2009 – May 2010, when the High Court released its decision to quash *Variation 21*, marked a low point in the relationship between Hamilton City Council and Tainui Group Holdings.

Findings: Snapshot 2014 - Relationship between Waikato-Tainui and Hamilton City Council over the Ruakura Plan Change

By 2014, relationships between Waikato-Tainui and Hamilton City Council appeared to have improved. Hamilton City Council, Waikato-Tainui and Tainui Group Holdings were heavily involved in both implementing the *Future Proof* strategy, and developing the *Regional Policy Statement*. The *Strategic Development Agreement* signed in 2009 had recognised that planning regulation over the land at Ruakura which currently prohibited urbanisation - known as the Urban Expansion Policy Area - would need to change. The *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act* was signed in 2010, and the *Joint Management Agreement* later signed with Waikato-Tainui in 2012 also agreed that Waikato-Tainui and Hamilton City Council would work together on a review of the *Hamilton District Plan* (Waikato Raupatu River Trust and Hamilton City Council, 2012). Interviewees reported that some of the engagement mechanisms initiated by *Future Proof* were carried into the process to develop the new *Proposed Hamilton District Plan* (Project Manager - Hamilton City Council, 2015).

Following the transfer of the R1 land, including the Ruakura site, from Waikato District to Hamilton City Council in 2011, staff from Hamilton City Council and Tainui Group Holdings worked together to develop the existing masterplan created by Chedworth Properties and Tainui Group Holdings into a structure plan for Ruakura (General Manager - Hamilton City Council, 2014). Interviewees felt that the process to develop the Ruakura Structure Plan was “collaborative” in contrast to standard practice at Hamilton City Council (Project Manager - Hamilton City Council, 2015). A Ruakura working group was established with expertise in planning, traffic design and other skills. A second working group dealt with environmental issues such as stormwater and water. Hamilton City Council adopted the *Ruakura Structure Plan*, which was subsequently included in *Proposed Hamilton District Plan* notified on 10 December 2012.

However, Tainui Group Holdings were aware that it had taken thirteen years for the *Hamilton District Plan*, notified in 1999, to become operative.⁴⁶ They were concerned that the process to make the provisions operative as part of the new *Proposed Hamilton District Plan*, could take a long time (Chief Executive - Tainui Group Holdings, 2015; City Planning Manager - Hamilton City Council, 2016; Planner, 2015b). Accordingly, shortly after the *Proposed Hamilton District Plan* was notified, on 20 December 2012 Tainui Group Holdings proposed a private plan change that

⁴⁶ The *Proposed Hamilton District Plan* notified for consultation in 1999 became operative on 28 July 2012, just five months before the new *Proposed Hamilton District Plan* was notified (Hamilton City Council, 2012b).

requested the removal of the Urban Expansion Policy Area from the operative *Hamilton District Plan*, and provided for five to ten years of development (Hamilton City Council, 2013c). This plan change was relatively minor, described variously by planners as largely “administrative” (City Planning Manager - Hamilton City Council, 2016), “quite straightforward” (Interviewee - Future Proof, 2014), and “very simple” (Project Manager - Hamilton City Council, 2015).

As described in Chapter Six, the private plan change was debated by Hamilton City Council in February 2013 and ultimately rejected in April 2013. On 2 May 2013, Tainui Group Holdings and their development partners Chedworth Property Limited appealed Hamilton City Council’s decision to reject the private plan change to the Environment Court.⁴⁷ Six weeks later, on 24 June 2013, Tainui Group Holdings submitted an application to the Environmental Protection Authority for the *Ruakura Plan Change* to be heard by a Board of Inquiry.

Control in the Ruakura Plan Change

The collaboration between Hamilton City Council and Tainui Group Holdings to develop the Ruakura Structure Plan required a change in relations between Hamilton City Council as a ‘planning regulator’ and Tainui Group Holdings as ‘the applicant’. Interviewees suggested that this change was visible during the process to develop the *Ruakura Structure Plan*, when representatives of Tainui Group Holdings presented directly to councillors in workshops, a role which is normally reserved for staff or consultants (Project Manager - Hamilton City Council, 2015). A shift in power was also visible in the extent to which Tainui Group Holdings contributed to the plan development process. Interviewees described how Tainui Group Holdings “provided a lot of resource into the process...they did a lot of the writing. They did a lot of the background work, they paid for a lot of the technical reports that were required” (Project Manager - Hamilton City Council, 2015). These drafts and reports were reviewed by local government planners (Project Manager - Hamilton City Council, 2015).

Ultimately, however, Hamilton City Council exercised its statutory power as a planning regulator under the *Resource Management Act (1991)* by rejecting the private plan change presented by Tainui Group Holdings and Chedworth Property in April 2013, on the grounds that to accept the *Ruakura Plan Change* for notification would not be “sound resource management”. This decision will be discussed in more detail later in this chapter. The Council’s decision to reject the *Ruakura Plan Change* was against the advice of council planners and consultants (McLauchlan, 2014, para 24; Consultant Planner - Hamilton City Council, 2016).

Hamilton City Council justified its decision by highlighting residents’ concerns about development at Ruakura. Minutes from the meeting on 4 April record discussion among councillors about possible grounds for rejecting the private plan change. Members of the

⁴⁷ On the same day, Hamilton City Council and Waikato Tainui jointly presented to the annual New Zealand Planning Institute Conference, which was being held in Hamilton, on the topic of *The Collaborative Planning Process For Ruakura - Lessons Learned* (Rolfe, Pohio, & Stickney, 2013). The presentation identified ‘key planning ingredients for success’, including ‘a shared vision; ‘open dialogue’; ‘unwavering political alignment’; and ‘expediting the process’ (Rolfe et al., 2013).

public were excluded from the meeting for seventy minutes while the Council took legal advice. Seven councillors voted for the motion to reject the plan change for processing; four councillors and the Mayor voted for a proposed amendment to accept the plan change for notification. The meeting minutes do not record this legal advice, nor record any specific reason for rejecting the plan change (Hamilton City Council, 2013b). However, interviewees reported that councillors who voted against accepting the private plan change for notification were concerned that “the community was quite upset... there’s an enclave of them there that’s got their homes there and... they didn’t want it to go ahead” (Project Manager - Hamilton City Council, 2015). It was also reported that other councillors noted that the *Ruakura Structure Plan* had already been included in the *Proposed Hamilton District Plan*, and felt that Tainui Group Holdings “can wait until we’ve sorted out the plan” (Project Manager - Hamilton City Council, 2015)

From the perspective of Tainui Group Holdings and Chedworth Properties, Hamilton City Council had given in to “lobbying from residents” (McLauchlan, 2014, para 24), instead of fulfilling their obligations under the *Strategic Development Agreement* to review the planning regulation for the Ruakura site within two years (Chief Executive - Tainui Group Holdings, 2015). Frustration is evident in Mike Pohio’s submission to the Public Forum held as part of the Hamilton City Council meeting on 4 April 2013, as recorded in the minutes:

Mr Pohoi [sic], speaking to item 5 ‘Tainui Group Holdings/Chedworth [Private Plan Change]’, noted that the matter before Council today was not a debate about the future of Ruakura but an [Resource Management Act] decision on whether to accept or reject the plan change... Mr Pohoi noted that the matter being considered ought to be dealt with by a hearing under the [Resource Management Act]. Mr Pohoi referenced an agreement between Waikato District Council, Hamilton City Council and [Tainui Group Holdings]/Chedworth in relation to the transfer of Ruakura land between the two authorities noting that in his view accepting or adopting the [Private Plan Change] was a necessary requirement of that agreement. In conclusion, Mr Pohoi recommended that Council adopt the [Private Plan Change] as its own plan change to the District Plan (Hamilton City Council, 2013b, p2)

In response to Hamilton City Council exercising its agency as a ‘local authority’, Tainui Group Holdings exercised its agency as an ‘applicant’ by applying to the Minister of the Environment to declare Ruakura a project of ‘national significance’. The Minister for the Environment accepted the *Ruakura Plan Change* as part of a ‘project of national significance’, and directed the Environmental Protection Authority to advance the *Ruakura Plan Change* independent of Hamilton City Council planning processes.

The Minister’s decision significantly changed relations again between Waikato-Tainui and Hamilton City Council. Once the *Ruakura Plan Change* was referred to a Board of Inquiry, Hamilton City Council could only participate as a submitter. Their power as a planning regulator was removed.

One interviewee remarked that:

...we spent nearly two years working together with Tainui Group Holdings to prepare a plan change and then - out of the blue - they lodged an application to the Environmental Protection Authority with no consultation with the Council whatsoever. This felt like tit for tat for Variation 21 (General Manager - Hamilton City Council, 2014)

Another characterised this turn of events as Tainui Group Holdings “getting its own back” on Hamilton City Council (Consultant Planner - Hamilton City Council, 2015), while a third interviewee perceived that Tainui Group Holdings “over-rode” Hamilton City Council, taking planning for Ruakura “out of our hands” (Interviewee - Hamilton City Council, 2015).

As a result of this struggle over power, interviewees felt that relationships between Hamilton City Council and Tainui Group Holdings at the beginning of the Board of Inquiry process in 2014 were poor. This poor relationship was illustrated in the adversarial approach in Hamilton City Council’s initial submissions to the Board of Inquiry. Presenting to the Board of Inquiry, Tainui Group Holdings also minimised their role in collaboratively developing the earlier *Ruakura Structure Plan*, charging that Hamilton City Council was “very much in control of the final version...All decisions as to the final form and content of the Ruakura Structure Plan were therefore made by [Hamilton City Council]’s District Plan Steering Committee” (McLauchlan, 2014, para 12).

Timing in the Ruakura Plan Change

Interviewees identified timing as a second critical factor in Tainui Group Holding’s decision to apply to the Minister for the Environment. Under the *Resource Management Act (1991)*, a Board of Inquiry convened by the Environmental Protection Authority must make a decision and produce a written report no later than nine months after a proposal is referred by the Minister (s149R2a). Following Hamilton City Council’s decision in April 2013, McLauchlan explains that Tainui Group Holdings felt that:

...[Hamilton City Council]’s refusal to accept this Plan Change request left [Tainui Group Holdings] and [Chedworth Properties Limited] with few options to advance the project in a way that would allow construction to commence as planned in 2015 (McLauchlan, 2014, para 26)

Tainui Group Holdings was aware that market conditions were changing, and considered that it was important to begin developing the inland port and logistics activities “sooner rather than later” (Planner, 2015b). Both Tainui Group Holdings and Hamilton City Council were aware of other, competing proposals for smaller-scale inland port projects, at nearby locations (City Planning Manager - Hamilton City Council, 2016).

The Board of Inquiry process:

...offered a nine-month 'from go to whoa' consenting process as opposed to [the *Proposed Hamilton District Plan* process] which would have had the risk of appeal and therefore a much longer planning process (Planner, 2015b)

Another interviewee reflected that:

We recognised under the usual planning processes that we could have been here for another five years - continuing to write cheques, to do the right thing - and to see this economic opportunity effectively fade...we didn't want to lose momentum in the market place (Chief Executive - Tainui Group Holdings, 2015)

Importantly for a developer seeking certainty, a decision by the Board of Inquiry can also only be appealed on points of law (City Planning Manager - Hamilton City Council, 2016).

From the perspective of Hamilton City Council, the existence of a plan change for Ruakura, either privately promoted by Tainui Group Holdings, or developed through the Board of Inquiry, significantly complicated the process to finalise the *Proposed Hamilton District Plan* (City Planning Manager - Hamilton City Council, 2016). Planners from Hamilton City Council had a "strong desire to make sure that [the *Ruakura Plan Change*] was consistent at a policy and regulatory level" with the *Proposed Hamilton District Plan* (Consultant Planner - Hamilton City Council, 2016). Hamilton City Council knew that the *Ruakura Plan Change* would come into effect as soon as it was approved by the Board of Inquiry. Tainui Group Holdings and Chedworth Properties would be able to lodge applications for resource consent to begin development. The Council would not be able to change the provisions until the *Proposed Hamilton District Plan* became operative⁴⁸ (Consultant Planner - Hamilton City Council, 2016). Concerned about duplicating processes, Hamilton City Council changed the schedule of hearings for the *Proposed Hamilton District Plan* to align with the Environmental Protection Authority process (Environmental Protection Authority, 2013). While the bulk of the *Proposed Hamilton District Plan* hearings commenced as planned in September 2013, submissions and hearings relating to the *Ruakura Structure Plan* within the *Proposed Hamilton District Plan* were deferred until after the Board of Inquiry decision was released (City Planning Manager - Hamilton City Council, 2016; Environmental Protection Authority, 2013).

Legacy of mistrust and the Ruakura Plan Change

Interviewees described a lack of trust between Waikato-Tainui and Hamilton City Council over the development at Ruakura, at least initially, and suggested that 'tension' between Tainui

⁴⁸ The time required to vary the *Proposed Hamilton District Plan* provided Tainui Group Holdings with an opportunity to lodge an application for resource consent under the *Ruakura Plan Change* approved by the Board of Inquiry. Tainui Group Holdings took this opportunity in September 2015, and resource consents were granted in March 2016 (Tainui Group Holdings, 2016a).

Group Holdings and Hamilton City Council over development at The Base continued to influence the relationship over the Ruakura development.

Similar to The Base case, Hamilton City Council appears to have mistrusted the integrity of Tainui Group Holdings' long-term intentions for development. Reading the early evidence presented to the Board of Inquiry suggests that Hamilton City Council were concerned that Tainui Group Holdings would attempt to develop industrial activities to provide a commercial return without developing the expensive infrastructure required for the inland port (Hamilton City Council, 2013d). An interviewee confirmed that one of Hamilton City Council's "worst fears" was that industrial land would be developed for logistics and non-industrial activities, but that the inland port itself would never be built, noting "that was definitely a concern of the City... that the whole planning basis for this logistics and growth area is the inland port. Unless we make the inland port happen, how do we justify the rest of it?" (Planner, 2015b). Planners suggested that Hamilton City Council also had fundamental concerns with the effect of the proposed retail development at Ruakura on the Central Business District. These concerns were linked to their previous experience at The Base (Consultant Planner - Hamilton City Council, 2016).

Conversely, an interviewee suggested that Tainui Group Holdings, given their experiences with *Variation 21* and the protracted process to change planning regulation for Ruakura, could not trust Hamilton City Council to consider the *Ruakura Plan Change* fairly (Interviewee - Future Proof, 2014). Interviewees also alluded to the possibility for the group of residents opposing the development to gain further political attention through campaigning for local government elections, which were due to be held in September-October 2013.

Return to collaboration through Board of Inquiry process

The Board of Inquiry process provided an opportunity for the two organisations to resume a collaborative relationship. As mentioned in Chapter Six, although Hamilton City Council was 'only a submitter' in the Board of Inquiry process, council lawyers and planners were central participants in the process, presenting expert witnesses to provide evidence during the hearing in May and June 2014 (Hamilton City Council, 2013d). According to a planner involved in the Board of Inquiry process, the return to a more collaborative relationship occurred as a result of "a daily working relationship with the right people in the council" (Planner, 2015b). The Board of Inquiry hearing established a "very limited process which starts now and ends at the end of the hearing... With a general willingness, then it was a case of working very hard at a technical level with all of the right officers... in a real pressure cooker environment, to reach solutions on things" (Planner, 2015b).

Before the Board of Inquiry hearing began, planners worked together in expert witness conferences to try to resolve issues raised by the *Ruakura Plan Change* (City Planning Manager - Hamilton City Council, 2016; Consultant Planner - Hamilton City Council, 2015; Planner, 2015b). As hearings began in May 2014, two issues had not been resolved – the acceptable

level of noise the inland port could produce at night; and the scale of the retail activities to be developed within the 'Knowledge Centre'. Although noise levels were a technical issue resolved simply by the Board setting a rule limiting noise and requiring a noise management plan (Board of Inquiry into the Proposed Ruakura Development Plan Change, 2014), retail development remained "a very hot topic" and "the really tough part of that discussion only got resolved at the eleventh hour" (Planner, 2015b).

Outside the formal Board of Inquiry hearing sessions, planners continued to collaborate informally to try to reach compromise on the contentious issue of retail development (City Planning Manager - Hamilton City Council, 2016; Consultant Planner - Hamilton City Council, 2015; Planner, 2015b). One interviewee noted that it was critical for planners from Tainui Group Holdings to agree the Ruakura retail area provisions with the planners from the council, because if the provisions were not agreed at the conclusion of the hearing, then "the Council was going to seriously oppose that part of the variation" (Planner, 2015b). Another described "fairly vigorous discussions about the merits of the plan change and the planning provisions" (Consultant Planner - Hamilton City Council, 2016).

Within these discussions, the 'retail hierarchy' developed through the *Hamilton Urban Growth Strategy*, *Future Proof*, and the *Regional Policy Statement* (discussed in Chapter Two) was invoked as a key strategic direction. Planners representing Hamilton City Council were concerned that the "plan change as lodged had a substantial commercial core anchored within Ruakura, which we felt was not aligned with the strategic business hierarchy of the city" (Consultant Planner - Hamilton City Council, 2016). Another planner felt that the proposed retail development was "directly at odds with the strategic direction of the City" (City Planning Manager - Hamilton City Council, 2016). Planners stated that the *Regional Policy Statement* included "very directive guidance to the city around the location and the distribution of offices and retail activities" (City Planning Manager - Hamilton City Council, 2016), and noted "a huge amount of evidence" that the dispersal of retail and office development through Hamilton City has had "a direct social and economic effect on the city. And anything that was going to further worsen that situation - and we thought that was going to be the case at notification - ...was vehemently resisted" (City Planning Manager - Hamilton City Council, 2016).

Developing large-format retail at Ruakura was important to Tainui Group Holdings because of the opportunity to capitalise on demand for retail in the east of the city. Planners representing Tainui Group Holdings and other interests worked "very closely" with planners from Hamilton City Council and "got to a point where we agreed [the retail area] could include at least one retail, big box component in the form of a supermarket or building products store" (Planner, 2015b). An interviewee from Hamilton City Council explained that the retail issue was resolved "through expert caucusing until we got to a point where the evidence suggested what the appropriate floor space could be, without affecting the Central Business District, in terms of servicing that catchment..." (City Planning Manager - Hamilton City Council, 2016). The agreed quantum of floor space was then translated into a rule in the planning framework, with

requirements for further information required if Tainui Group Holdings wished to exceed that quantum (City Planning Manager - Hamilton City Council, 2016).

The collaborative effort was perceived to strengthen the quality of the *Ruakura Plan Change*. The Board's decision commented that "the changes have vastly improved the notified version, which, had we been required to determine it, would have been declined" (Board of Inquiry into the Proposed Ruakura Development Plan Change, 2014, p10). Three iterations of the plan change were prepared (dated 5 May 2014; 26 May 2014; 11 June 2014), incorporating the agreements reached by expert witnesses in conferencing (Board of Inquiry into the Proposed Ruakura Development Plan Change, 2014). An interviewee from Tainui Group Holdings offered that the perceived high quality of the joint planning effort "shows that the relationship with Hamilton City has lifted. And we haven't done it through a *Variation 21* pathway, which was all very public and argy-bargy" (Chief Executive - Tainui Group Holdings, 2015).

From the perspective of Tainui Group Holdings, the Board of Inquiry hearing was identified as a point of change in the relationship between Hamilton City Council and Tainui Group Holdings:

...we were engaging with Hamilton City in a very professional manner and there was a very professional response. I think there was a level of respect... for the way in which we undertook business... [Hamilton City Council staff were] able to, through that process, see more about what Ruakura was, and what it could be. And through that better understanding, that has changed the relationship much for the better (Chief Executive - Tainui Group Holdings, 2015)

Interviewees from Hamilton City Council felt that the final *Ruakura Plan Change* produced by the Board of Inquiry process was "valuable", but also that the relationship between Hamilton City Council and Tainui Group Holdings improved. As one interviewee stated, "We were able to change the nature of the conversation" (City Planning Manager - Hamilton City Council, 2016). In summary, by 2014, planners from Hamilton City Council and Tainui Group Holdings had developed a culture of collaboration. Although the events leading up to the Board of Inquiry were complicated by issues of control, trust, and the imperatives of time, the Board of Inquiry process allowed people to "grow together" (Interviewee - Future Proof, 2014).

Discussion: From 'positivist' planning to collaborative partnerships

As discussed in Chapter Four, planning theorists have chronicled the shift over time from planning as a 'technical-rational' discipline, which attempts to 'fix' planning problems through developing principles and creating rules which can be applied with predictable consequences, to collaborative planning which recognises the diversity of perspectives from which planning 'problems' may be defined and 'solved'.

Based on my interpretation of the planning processes described above, I suggest that *Variation 21* emerged from a 'positivist' planning approach. *Variation 21* was a response to a 'problem'

identified by councillors and planners, characterised as ‘the decline of the Central Business District’. This decline was attributed to the success of The Base, and to a limited extent, the dispersed distribution of other retail around Hamilton City including the mall at Chartwell. The ‘technical fix’ promoted to solve this problem was introducing the principle of a retail hierarchy which prioritised development in the Central Business District and restricted further retail development in Commercial Services and Industrial zones, such as the site at Te Rapa (*Affadavit of Murray Kivell* 2010). By enforcing a retail hierarchy, implemented through rules preventing development not in accordance with that principle, Hamilton City Council aimed to stop the loss of retail activity from the Central Business District.

Hamilton City Council linked developing *Variation 21* to strategic directions agreed in the *Hamilton Urban Growth Strategy* and *Future Proof*, implying that consultation had already been undertaken. However, the decision to consult with neither the Minister for the Environment nor Waikato-Tainui as statutorily required, but to notify the Variation, which would be effective immediately, characterises *Variation 21* as a ‘Decide, Announce, Defend’ approach typical of ‘positivist’ planning (Innes & Booher, 2010). Interviewees from Hamilton City Council noted that they were aware of the risks of this approach, and considered *Variation 21* a “political stop-gap measure” (Consultant Planner - Hamilton City Council, 2015). In response, Waikato-Tainui reacted antagonistically to a process that they saw as undermining their rights. Although a number of owners of land outside the Central Business District opposed *Variation 21*, only Waikato-Tainui had a statutory right to be consulted; and only Waikato-Tainui could use this statutory right to request a judicial review. I conclude that Waikato-Tainui were aware of the power they held as an iwi authority, and used this power to influence the planning process.

In contrast, based on interviewees’ comments, I propose that, to some extent, the *Ruakura Plan Change* process can be considered as a “collaborative planning process” between Hamilton City Council and Waikato-Tainui (General Manager - Hamilton City Council, 2014; Project Manager - Hamilton City Council, 2015; see also McLauchlan, 2014). The *Ruakura Plan Change* (in its various iterations) builds on the collaborative relationships initiated to develop the *Strategic Development Agreement*, the *Future Proof* strategy, and through the *Joint Management Agreement*. These multiple agreements, which operated on both political and practitioner levels within the institution of planning, can be considered significant institutional changes (Barry, 2012). For example, several interviewees highlighted the *Joint Management Agreement* signed in 2009 as a “change in the wind” (Interviewee - Waikato-Tainui, 2014), and “the first [agreement], of substance, you know, that got down to detail about how we would work together – it had great potential” (General Manager - Hamilton City Council, 2014). Another interviewee felt that relationships had improved through the ongoing *Future Proof* process, which provided a forum for Waikato-Tainui and local government to discuss difficult issues and learn how to work together (Interviewee - Future Proof, 2014). Indeed, Hamilton City Council’s on-going engagement with Waikato-Tainui, Tainui Group Holdings, and Ngā Karu Atua o Te Waka to develop the *Proposed Hamilton District Plan* signals increasingly sophisticated relations with Māori organisations.

One interviewee reflected that:

...maybe these things have reached critical mass where we're ready for a more mature conversation as a community around tāngata whenua rights, interests, perspectives in relation to - in this case - tāngata whenua urban or community planning (Interviewee - Future Proof, 2014).

Despite difficulties, one interviewee felt that, given the high level of council involvement in the planning process, the delivery of the Ruakura development could be considered an agreed “partnership” (Consultant Planner - Hamilton City Council, 2016). Interviewees supported collaborative working relationships, which were seen to be encouraged by the *Local Government Act (2002)* (Project Manager - Hamilton City Council, 2015). This principle of collaboration is reflected in a policy on ‘partnerships’ included by Hamilton City Council in the *Proposed Hamilton District Plan* (Hamilton City Council, 2014c). However, the findings in this chapter suggest that the collaborative working relationship between Hamilton City Council and Tainui Group Holdings planners was limited by the decisions made by councillors.

The Ruakura planning process also illustrates the power of Waikato-Tainui as an iwi authority. In response to Hamilton City Council’s repeated refusal to accelerate planning processes for Ruakura, Tainui Group Holdings chose to apply to have the *Ruakura Plan Change* considered as a ‘project of national significance’. I argue that, in doing so, Tainui Group Holdings levered off their status as a company owned by an iwi authority. In deciding whether a project is of national significance or not, the Minister may have regard to whether the matter “is or is likely to be significant” in terms of section 8 of the *Resource Management Act (1991)*. Section 8 requires decision makers to “take into account” the principles of Te Tiriti o Waitangi. In her decision that Ruakura met the criteria for a project of national significance, the Minister noted that the “plan change request and master development proposal, if enabled, will contribute to housing affordability; assist in economic growth, including unlocking the potential of the Māori economy; and potentially create 11,000 new fulltime jobs once fully developed” (Minister for the Environment, 2013).⁴⁹

The planning process for the site at Ruakura offers insights into the possibilities of collaborative planning partnerships. Collaborative planning is based on the value of bringing different perspectives together to work towards an agreed approach to planning (Healey, 2009; Innes & Booher, 2010), and acknowledges the power and knowledge held by each participant. The ‘partnership’ developed during the *Ruakura Plan Change* process was fragile, and threatened by both organisations making decisions which were perceived by the other to be unilateral. However, these attempts at collaborative planning have built institutional capacity to continue to work together over time (Innes & Booher, 2010). Continuing collaboration will continue to

⁴⁹ I note, however, that the Ministerial direction doesn’t explicitly reference the relevance of s142.3a.vii, that a proposal ‘is or is likely to be significant in terms of section 8’ of the *Resource Management Act (1991)*, but instead refers to s142.3a.viii that a proposal ‘will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions’ (Resource Management Act).



13. (Top) Newspaper headline during the hearing for the Ruakura Plan Change, May 2014. Source: Author. (Bottom) A view looking east along the East Coast Main Trunk Line, where it cuts through the Ruakura site, March 2014. The East Coast Main Trunk Line provides critical rail infrastructure for the proposed inland port. Source: Author.

Hamilton City Council to notify Ruakura variation to proposed District Plan

AARON LEAMAN

Last updated 11:54, November 1 2015



CHRISTEL YARDLEY

Hamilton Mayor Julie Hardaker said it was "interesting" elected members focused on the make-up of a panel to hear submissions on the Ruakura variation to the proposed District Plan.

Independent commissioners will hear submissions on the Ruakura variation to Hamilton's proposed District Plan.

City councillors voted 9-3 on Thursday to notify the variation for public consultation following a two-hour debate on the possible make-up of the hearings panel to hear submissions.



FAIRFAX NZ

City councillor Martin Gallagher said he wanted to maximise the power of residents to have their voice heard during the public consultation process.

Tainui Group Holdings, the commercial arm of Waikato-Tainui iwi, and Chedworth Property Ltd have proposed a \$3.3 billion transport hub on 600 hectares of land at Ruakura.

Two commissioners will be appointed to hear submissions and make decisions on the proposed plan variation.

The purpose of the variation is to rezone about 822 hectares of land in Ruakura, providing for a mix of residential zonings, a knowledge zone, and an extensive open space network which includes a green belt.

In June 2013, Tainui Group Holdings and Chedworth Properties submitted a private plan change request to the operative District Plan to the Environmental Protection Authority.

The plan change was declared to be part of a project of national significance by the Environment Minister who in turn requested

14. Report published by the Waikato Times in November 2015. The report quoted councillors who felt that, as elected representatives, they were more accountable to their community and more likely to give weight to community views than independent commissioners. Source: Leaman (2015).

build resilience despite the sometimes uncomfortable 'dissensus' of the third space and the enduring presence of colonial-indigenous 'ruling relations'.

Discussion: The power of land ownership

Hamilton City Council and Waikato-Tainui hold different kinds of power, which I believe underlie some of the struggles described in the planning processes for The Base and Ruakura. I have already described the power of Hamilton City Council as 'local authority' and 'planning regulator', and the power of Waikato-Tainui as 'iwi authority' and 'applicant'. Within these planning processes for development at Te Rapa and Ruakura, Waikato-Tainui also holds the significant power of a large landowner (Healey et al., 1988 as cited in Allmendinger, 2009, p99). United States academic Timothy Chapin has carried out research investigating the impact of large landowners on planning processes (Chapin, 2009). Some of the issues identified by Chapin illuminate this aspect of the relationship between Waikato-Tainui and Hamilton City Council.

Developers are often unwilling to share long-term plans which presents a challenge for local authorities working with large landowners (Chapin, 2009). My findings in this chapter illustrate that mistrust over the long-term intentions of Tainui Group Holdings has negatively affected relationships between Waikato-Tainui and Hamilton City Council through planning processes for development at both The Base and Ruakura. Hamilton City Council consistently expressed surprise at the size and scale of development at The Base. Planners interviewed spoke of a "grand plan" of which the Council were unaware (Consultant Planner - Hamilton City Council, 2015). However, Tainui Group Holdings disputed that they were unwilling to share information about their intentions. Pohio (2010) related to the High Court that Tainui Group Holdings had sent successive copies of their *Annual Report* to Council, which included intentions for further developing The Base and Te Awa. The Base website clearly states that the "ultimate vision" for Te Rapa is:

...to turn The Base into a town centre. This will include a business park with commercial offices, a comprehensive health facility, hotel accommodation collectively covering approximately 100,000 square metres, as well as a range of public amenities, serving both the public and the workforce at The Base (The Base, 2015)⁵⁰

Similarly, the process to transfer the Ruakura site to Hamilton City, agree a structure plan, and translate that structure plan into planning regulation through the *Regional Policy Statement* and *Hamilton District Plan* required open communication between Tainui Group Holdings, Hamilton City Council, Waikato District Council, and other parties to the *Hamilton Urban Growth Strategy* and *Future Proof*. Despite this, interviewees indicated that Hamilton City Council remained wary of Tainui Group Holdings' commitment to build the inland port.

⁵⁰ A comprehensive consent was granted in 2011 which provided for the development of office, retail, healthcare ('whanau ora'), and parking facilities (Hamilton City Council, 2011)

Development interests can strongly influence planning processes, and Chapin suggests that a large landowner may co-opt or take control of the planning process to advance their own interests over the interests of the general public (Chapin, 2009). Large landowners can have high levels of “access and influence with state and local political and business leaders” (Chapin, 2009, p160) and enjoy strong political support. Interviewees suggested complex power relations in planning processes in Hamilton city. Several interviewees implied that property developers and business owners have a high level of influence over Hamilton City Council (Chief Executive - Tainui Group Holdings, 2015; Interviewee - Future Proof, 2014), while another suggested that Tainui Group Holdings themselves “command a lot of power politically” (Consultant Planner - Hamilton City Council, 2015).

In contrast to Chapin’s suggestion of ‘co-option’, I interpret my analysis to indicate that Waikato-Tainui and Tainui Group Holdings met with more resistance than support from councillors at Hamilton City Council. The decisions to notify *Variation 21* and reject the *Ruakura Plan Change* were made by a majority of councillors. I propose that councillors felt that they had lost control over development at Te Rapa, and were adamant that Hamilton City Council should remain in control of the planning process at Ruakura. Despite the Board of Inquiry process, councillors’ determination to be seen to be in control was still visible in debates in November 2015 over whether a variation to the *Proposed Hamilton District Plan*, which will align the district plan with the plan change approved by the Board of Inquiry, should be heard by councillors or independent commissioners.

Discussion: Hybrid identities in a (post)colonial relationship

My analysis indicates that Waikato-Tainui appear to embrace their ‘hybrid’ identity as a commercial property developer and iwi authority, as a way to implement their ‘integrated development agenda’. Accordingly, Waikato-Tainui did not choose to deny that Waikato-Tainui Te Kauhanganui would have shared documents relating to the drafting of *Variation 21* with Tainui Group Holdings, but instead emphasised the Treaty principles of good faith and partnership and the links between developing at The Base and tribal well-being. One interviewee, reflecting on how planning processes unfolded at The Base, noted that the purpose of the *Resource Management Act (1991)* is to provide for “the social and economic wellbeing of people and communities”, and that social and economic development are inextricably linked (Interviewee - Future Proof, 2014). Ultimately, Judge Allan of the High Court agreed, ruling that “the interests of the plaintiff in its capacity as a significant landholders affected by Variation 21, and its iwi authority interests are closely related, and are largely inseparable” (“Waikato Tainui Te Kauhanganui Inc v Hamilton City Council,” 2010).

In Chapter Six, I discussed my perception of the ambivalence of local authorities towards iwi authorities who are also commercial property developers. Interviewees gave similarly ambivalent answers as to whether land returned under Treaty settlement should be treated differently than other land. One interviewee opposed the idea that land returned under Treaty settlement should be treated differently to any other land, stating: “from my point of view, [the

status of the land as Treaty settlement land] hasn't had an effect. Treat it like any other - I've felt like I work through the process as if it was any other development" (Project Manager - Hamilton City Council, 2015). Another planner justified his support of the Ruakura project as a matter of equality, asserting "Why not? I'd do it for anyone else" (Interviewee - Future Proof, 2014).

Considering the discourses of 'public interest' and 'Māori privilege', I suggest that these planners were pre-empting a charge of 'special' treatment for Māori landowners, a discourse which is commonly employed around development on indigenous lands in the United States (Dudas, 2008). Asserting that Māori are 'the same as everyone else' avoids debate on the extent to which 'different' relationships with different sectors of society can be considered appropriate.

Although some interviewees were firm in their attitude that they did not give Tainui Group Holdings 'special treatment', others referred to their relationship with Waikato-Tainui or Tainui Group Holdings as 'different' or 'special', on account of their size as a major landowner (General Manager - Hamilton City Council, 2014), their connection to land as indigenous people (General Manager - Hamilton City Council, 2014), the potential for development to achieve social justice (Interviewee - Future Proof, 2014); or because of their role as an iwi authority:

They are a bit special, for us, because of their size. They are the biggest developer. And because largely, they are here, they're not going away. They're not transient in the sense that a lot of developers do a development, they flog it off, they make their money, they go onto the next one... (Interviewee - Future Proof, 2014).

Another interviewee commented:

Council has a special relationship with Tainui and is an integral part of Tainui. Tainui Group Holdings will always have a presence, because of their affiliation and relationship to land. So we see Tainui as a major stakeholder of the Council, and Tainui Group Holdings is a part of that relationship (General Manager - Hamilton City Council).

These findings provide an insight into social relations between Hamilton City Council and Waikato-Tainui which provides context for the decisions explored below.

Chain of action and sites of ruling

Institutional ethnography encourages the researcher to piece together 'chains of action', which bring together texts and actions illustrating the 'text-talk-text' nature of institutional processes. Turner (2006) suggests 'mapping' these chains of action against the 'official' steps which comprise the 'official version' of the planning process. Analysis of the resulting 'chains of action' allows the researcher to identify 'sites of ruling' where the interests of participants are

subordinated to 'ruling' interests, and to make visible how these 'disjunctures' occur. In this inquiry, the 'official' processes for plan development are set out in Schedule 1 of the *Resource Management Act (1991)*, entitled "Preparation, change, and review of policy statements and plans". In the case of Te Rapa, the steps to develop a plan variation - such as *Variation 21* - are prescribed by the *Resource Management Act* Schedule 1, Part 1 - "Preparation and change of policy statements and plans by local authorities"⁵¹. *Variation 21* was a plan variation prepared by a local authority; in contrast, the *Ruakura Plan Change* was a private plan change requested by an applicant (Tainui Group Holdings). For Ruakura, the relevant steps are prescribed by the *Resource Management Act* Schedule 1, Part 2 - "Requests for changes to policy statements and plans of local authorities and requests to prepare regional plans"⁵².

Institutional ethnography methodology places emphasis on the way in which texts, such as forms and templates, are 'activated' by actors. Within these prescribed processes, planners carry out their actual 'work' to develop a set of planning provisions, and present this to decision-makers. Decision-makers determine whether the planning provisions should be presented to the public for consultation, and - eventually - become part of the regulatory framework. This "textually standardised sequence of actions and outcomes" is supported and documented by texts - draft planning provisions, staff reports, meeting minutes, submissions, evidence and so on. Text-mediated decision making "will reflect organizational interests that are ruling interests" (Campbell & Gregor, 2004, p37).

Identifying the 'site of ruling' - The Base

Figure 3 illustrates the chain of action that led to the decision by the High Court to quash *Variation 21*. The chain of action sets out the 'official steps' in the plan development process, and maps the 'actual' process as experienced by Hamilton City Council and Waikato-Tainui below. Within this chain of action, a clear 'site of ruling' can be identified in the council report prepared by staff for a meeting held on 25 September 2009⁵³ to consider whether to adopt a 'variation' to the *Hamilton District Plan* (General Manager - City Planning and Environmental Services, 2009).

⁵¹ The sequential steps set out in Schedule 1, Part 1 include: Preparation of proposed policy statement or plan (s.2); Consultation (s.3); Consultation with iwi authorities (s.3b); Previous consultation under other enactments (3C); Public notice and provision of document to public bodies (s.5); Making of submissions (s.6); and further steps. Because a judicial review of *Variation 21* was requested after notification of the plan variation, submissions were received but no hearing was ever held for *Variation 21* (s.8b), and *Variation 21* was never made operative (s.20) (*Resource Management Act*).

⁵² The sequential steps set out in Schedule 1, Part 2 include the process by which a plan change can be requested by any individual (s.20); the ability of the local government to require further information (s.23); and the local authority considering the request, and the criteria on which a request may be refused (s.25). If the plan change request is adopted or accepted, the plan change then goes through the plan development process outlined in Part 1 (s.29) (*Resource Management Act*).

⁵³ This report was appended to an affidavit prepared by Michael Pohio for the High Court in December 2009. The council report was provided as part of a response from Hamilton City Council to a request from Tainui Group Holding's solicitors under the *Local Government Official Information and Meetings Act (1987)* for information relating to 'the decision to publicly notify Variation 21' (*Affadavit of Michael Pohio 2009*).



To: Chief Executive
 From: General Manager City Planning & Environmental Services
 Subject: **FUTUREPROOF IMPLEMENTATION REPORT: HAMILTON CENTRAL BUSINESS DISTRICT – STRATEGIC ALIGNMENT WITH FUTUREPROOF AND HAMILTON URBAN GROWTH STRATEGY – PROPOSED VARIATION 21 TO HAMILTON CITY PROPOSED DISTRICT PLAN**
 Committee: Extraordinary Council
 Meeting Date: 25 September 2009
 File Reference:

- 1.0 Executive Summary**
- 1.1 Purpose of the Report**
- 1.1.1 The purpose of this report is to seek Council adoption of a variation to the Proposed District Plan to achieve two outcomes:
1. Align the District Plan policy with the strategic framework of Future Proof and HUGS to affirm the pre-eminence of the CBD as the focal point for the City and sub-region; and
 2. Amend the present permissive Plan rules to better manage the scope for retail, office and related activities seeking to establish outside the CBD to maintain and enhance the diversity, vibrancy and vitality of the CBD and promote more efficient use of resources and public investment, and protect industrial land for industrial purposes.
- 1.2 Summary of Key Points**
- 1.2.1 The CBD represents the concentration of long-standing, significant public and private investment in physical resources that provide for the social and economic well-being of the sub-region's communities and has a particular role in meeting the needs of the residents of Hamilton City.
- 1.2.2 The CBD is a complex and diverse environment that relies heavily on the scale, intensity and interaction of activity to sustain its role as the primary multi-functional centre and focal point for the City and sub-region. The area is sustained by significant public investment.
- 1.2.3 The resource management issues addressed by the variation concern:
- Maintaining and enhancing the diversity, vitality and vibrancy of the CBD;
 - Accommodating future sub-regional population, employment and promoting sustainable urban development and inner city living;

SUPPORTING INFORMATION

1. Consistency with existing policy The variation seeks to strengthen District Plan policy in relation to promoting the pre-eminence of the Hamilton CBD.
2. Consultation a) General Consultation The issues addressed in this variation were extensively discussed and consulted on as part of the FutureProof and Hamilton Urban Growth Strategies. b) Consultation with Maori Specific consultation with Maori and the parties identified under Clause 3 of Schedule 1 to the Resource Management Act will be undertaken following notification. 3. Decision-Making Approval is sought from Council to proceed with notification of the variation. 4. Legal Implications The proposed variation has been generally prepared in accordance with the Resource Management Act 1991. The consultation required under Clause 3 of Schedule 1 to the Act however has not been carried out. 5. LTCCP/Annual Plan reference and long term financial impact The development of the variation is being funded out of the FutureProof implementation budget (L-TP Ref. 888). In the long term the variation is likely to be beneficial in terms of the returns on Council's investments in the central area of Hamilton. 6. Reporting Officer/Contact Robert Hodges - City Planning Manager 7. Strategic Fit – A. City Strategic Framework The variation supports Future Proof and the Hamilton Urban Growth Strategy (HUGS) by strengthening Plan recognition of the CBD as being a city and sub regional centre. B. Community Outcomes The Community Outcome that the proposed variation primarily relates to is <ul style="list-style-type: none"> ▪ Vibrant and Creative ▪ Unique Identity 8. Treaty of Waitangi considerations Not relevant

15. Two pages from the council report prepared by Hamilton City Council staff for councillors to notify Variation 21 in September 2005. Although retail development was also occurring in other parts of Hamilton, The Base is the only location specifically identified in the report. The identity of the owners of The Base is not mentioned. 'Supporting Information' required by the council report template includes 'Treaty of Waitangi considerations'. Source: *Affadavit of Michael Pohio* (2009).

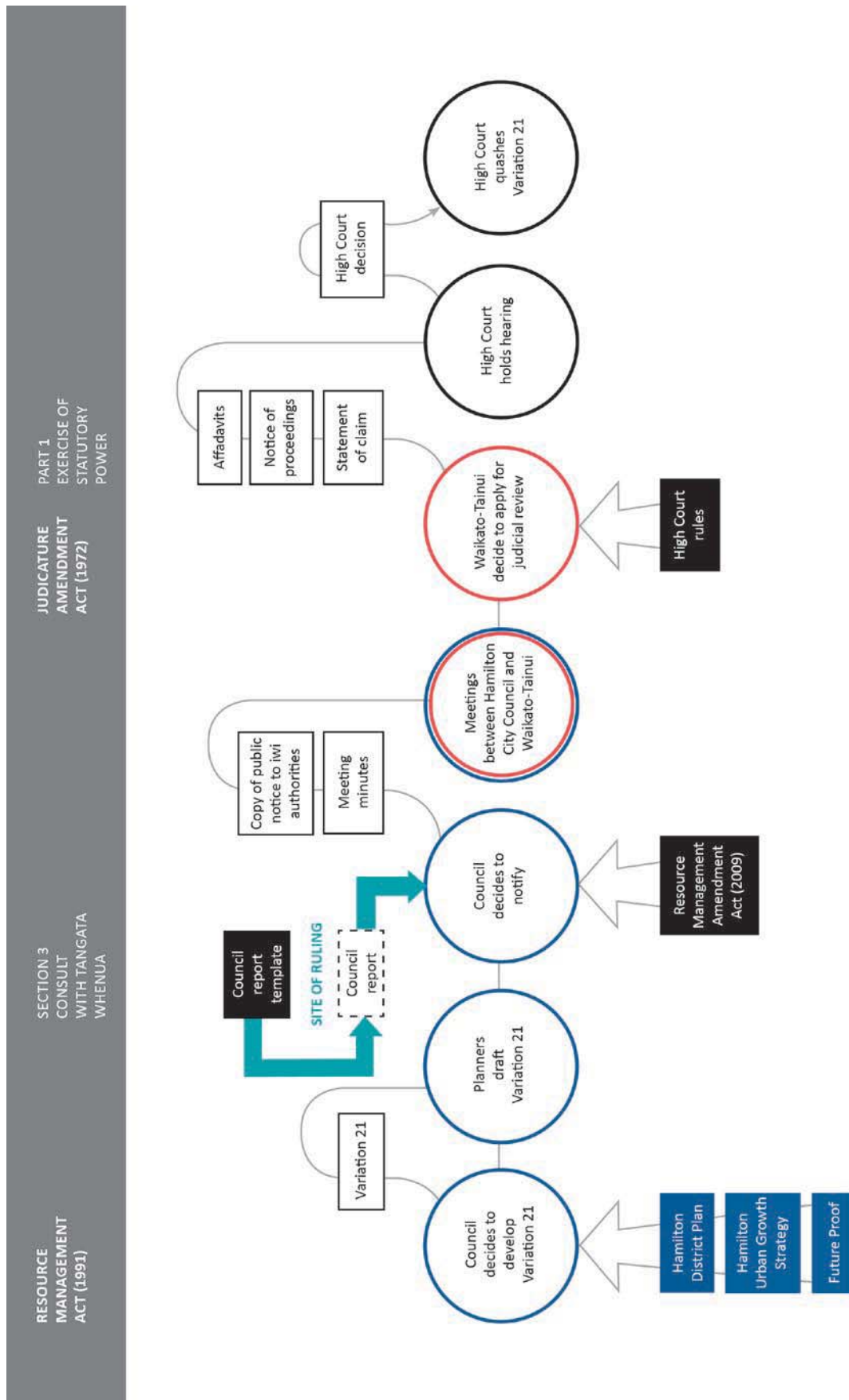


Figure 3. A map of the ‘chain of action’ leading from the decision of Hamilton City Council to develop Variation 21, to the decision of the High Court to quash Variation 21. Solid boxes indicate existing texts; hollow documents indicate texts created as part of the planning process. The ‘official steps’ of the plan development process set out in Schedule 1 of the Resource Management Act (1991) are displayed along the top of the figure. Councillors decided to draft Variation 21 based on the strategic directions in local government planning documents. Planners activated the ‘Staff report template’ to create a ‘council report’ which recommended notifying Variation 21 despite consultation requirements under Section 3 of the Resource Management Act (1991) not being met. The council report also did not acknowledge any ‘Treaty of Waitangi considerations’ relevant to notifying Variation 21. The council report is a ‘site of ruling’ where the interests of Waikato-Tainui were subjugated to the interests of Hamilton City Council.

The purpose of the council report was to:

...seek Council adoption of a variation to the Proposed District Plan to achieve two outcomes:

1. Align the District Plan policy with the strategic framework of Future Proof and [the Hamilton Urban Growth Strategy] to affirm the pre-eminence of the [Central Business District] as the focal point for the City and sub-region; and
2. Amend the present permissive Plan rules to better manage the scope for retail, office and related activities seeking to establish outside the [Central Business District] to maintain and enhance the diversity, vibrancy and vitality of the [Central Business District] and promote more efficient use of resources and public investment, and protect industrial land for industrial purposes (General Manager - City Planning and Environmental Services, 2009, p1)

The purpose of *Variation 21* was to address:

...the underlying issue which is the potential for weakening the diversity and intensity of activity occurring in the [Central Business District] as retail, office and other intensive activities may choose to relocate to suburban locations such as The Base and locations in the Industrial area. Significant changes to Zone rules regarding the status of these activities are necessary (General Manager - City Planning and Environmental Services, 2009, p2)

Reports prepared by planners at Hamilton City Council follow a template which provides headings to be populated by the author. This template includes two specific headings of interest – ‘Consultation’ and ‘Supporting Information’. Under ‘Consultation’, the report states that the issues addressed in the proposed variation were:

... extensively discussed and consulted on as part of the *Future Proof* and *Hamilton Urban Growth Strategies*. To this extent, the aim of maintaining the vitality and vibrancy of the [Central Business District] is reflected in the *Future Proof* strategy. Councillors should note that Clause 3 of Schedule 1 to the *Resource Management Act* requires specific consultation to have been undertaken during the preparation of the proposed variation - this includes consultation with the Minister for the Environment and tangata whenua of the area. This requirement has not been met (General Manager - City Planning and Environmental Services, 2009, p5).

Under ‘Supporting Information’, the report notes that “Specific consultation with Māori and the parties identified under Clause 3 of Schedule 1 of the Resource Management Act will be undertaken following notification” (General Manager - City Planning and Environmental Services, 2009, p6). The last item under ‘Supporting Information’ - ‘Treaty of Waitangi considerations’ - is marked “Not relevant”.

I interviewed the author of the report who explained that, in his opinion, there were no Treaty of Waitangi considerations relevant to the notification of *Variation 21*. As discussed in Chapter

3, there is considerable debate in local government about whether Treaty obligations on local government must be stipulated in legislation (Boast, 2003). The information under the 'Treaty of Waitangi considerations' heading within the council report on *Variation 21* clearly illustrates the practical effects of this lack of clarity. Neither the *Resource Management Act (1991)* nor the *Waikato Raupatu Claims Settlement Act (1995)* included explicit direction to local government generally nor Hamilton City Council specifically to consider the relevance of Treaty settlements to resource management. Therefore, according to the author of the report, there are no relevant Treaty of Waitangi considerations (General Manager - Hamilton City Council, 2014), despite the fact that the land has been returned to Waikato-Tainui as redress through Treaty settlement. The interviewee noted that, from his perspective, there would be "very few areas where you would be in breach of [Treaty obligations]". The template for the council report which asks for 'Treaty of Waitangi considerations' is "a high-level list of things to run down". Outlining 'Treaty of Waitangi considerations' was felt to be a generic requirement of "limited value" for council planners, and more specific direction would be required to guide council planners on how to consider the 'Treaty of Waitangi' in the context of planning and development (General Manager - Hamilton City Council). Under the *Judicature Amendment Act (1972)*, any person may apply to the High Court for "judicial review of the exercise of or failure to exercise a statutory power" (Part 1). Waikato-Tainui applied for a judicial review of Hamilton City Council's decision to notify *Variation 21* without consultation. As documented in the 'chain of action' (Figure 3) Waikato-Tainui lodged a Statement of Claim; the High Court issued Hamilton City Council with a Notice of Proceedings; and both the claimant and the defendant provided affidavits. The High Court released their decision in May 2010 to quash *Variation 21*.

As illustrated in Figure 3, I identify this council report - and more specifically, the content under the 'Treaty of Waitangi considerations' heading - as a 'site of ruling'. Institutional ethnography explains that the content of this council report has become an "ideological account", constructed in accordance with 'ruling relations' (Smith 1990s, 32-45). The report reflects discourse that separates local government, Te Tiriti, and Treaty settlements; and subordinates the 'right of tāngata whenua to be consulted' to 'public interest in notifying the plan change'. An ideological account has a "ruling conceptual structure that makes it especially useful for organizational decisions" (Campbell & Gregor, 2004, p38). In this case, the ideological account assists with decision-making by stating authoritatively that, notwithstanding the fact that land affected by the plan change had been returned under Treaty settlement; and that the report recommended the Council breach a statutory right to consult with iwi authorities there were no relevant 'Treaty of Waitangi considerations' (General Manager - City Planning and Environmental Services, 2009).

Identifying the 'site of ruling' - Ruakura

I identify a similar 'site of ruling', also based on interpretation of requirements under Schedule 1 of the *Resource Management Act (1991)* in the planning process for Ruakura. As discussed in Chapter Six, a meeting of Hamilton City councillors considered a council report entitled 'Tainui

Extraordinary Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 4 April 2013 at 2.00pm.

PRESENT

Chairperson	Her Worship the Mayor Ms J Hardaker
Deputy Chairperson	Cr G Chesterman
Members	Cr D Bell
	Cr P Bos
	Cr M Forsyth
	Cr M Gallagher
	Cr J Gower
	Cr R Hennebray
	Cr D Macpherson
	Cr A O'Leary
	Cr M Westphal
	Cr E Wilson

In Attendance:

Chief Executive, General Manager City Environments, General Manager Organisational Development, General Manager Events and Economic Development and City Planning Policy Team Leader.

Lachlan Muldowney – City Solicitor (Tompkins Wake)
Murray Kivell – Planning Consultant (Environmental Management Services Ltd)

Committee Advisor
Mrs J C Pani, Mr J S Quinn

1. Apologies

Resolved: (Her Worship the Mayor Hardaker/Cr Hennebray)
That the apology from Councillor Mahood be received and accepted.

2. Confirmation of Agenda

Resolved: (Her Worship the Mayor Hardaker/Cr Hennebray)
The Council to confirm the agenda.

Motion (Crs Wilson/Macpherson)

That:

- a) the report be received, and
- b) Council resolve to reject the PPC for processing and notification pursuant to clause 25(2)(b) of the First Schedule to the RMA; noting the following reasons:
 - i. 25(4)(c) - the request or part of the request is not in accordance with sound resource management practice, and
 - ii. 25(4)(e) - in the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.

Amendment: (Crs Bos/Chesterman)

That:

- a) the report be received, and
- b) Council resolve to accept the PPC for processing and notification pursuant to clause 25(2)(b) of the First Schedule to the RMA; and Appoint independent commissioners, Bill Wasley and Dorothy Wakeling to hear, determine and make decisions on the PPC.

Those for the Amendment:

Her Worship the Mayor Hardaker,
Councillors Bell, Bos, Chesterman and Westphal.

Those against the Amendment:

Councillors Forsyth, Gallagher, Gower, Hennebray, Macpherson, O'Leary and Wilson.

The Amendment was declared lost.

The Motion, as moved by Councillor Wilson and seconded by Councillor Macpherson, was then put.

Those for the Motion:

Councillors Forsyth, Gallagher, Gower, Hennebray, Macpherson, O'Leary and Wilson.

Those against the Motion:

Her Worship the Mayor Hardaker,
Councillors Bell, Bos, Chesterman and Westphal.

The Motion was declared carried.

The meeting was declared closed at 4.25pm

16. Two pages from the minutes of the Extraordinary Council meeting held by Hamilton City Council staff to consider, among other matters, the Ruakura Plan Change in April 2013. Although some councillors were in favour of accepting the plan change, the plan change was rejected by a majority of 7-5. Source: Hamilton City Council (2013).

22. Two pages from the minutes of the Extraordinary Council meeting held by Hamilton City Council staff to consider, among other matters, the Ruakura Plan Change in April 2013. Although some councillors were in favour of accepting the plan change, the plan change was rejected by a majority of 7-5 (Hamilton City Council, 2013).

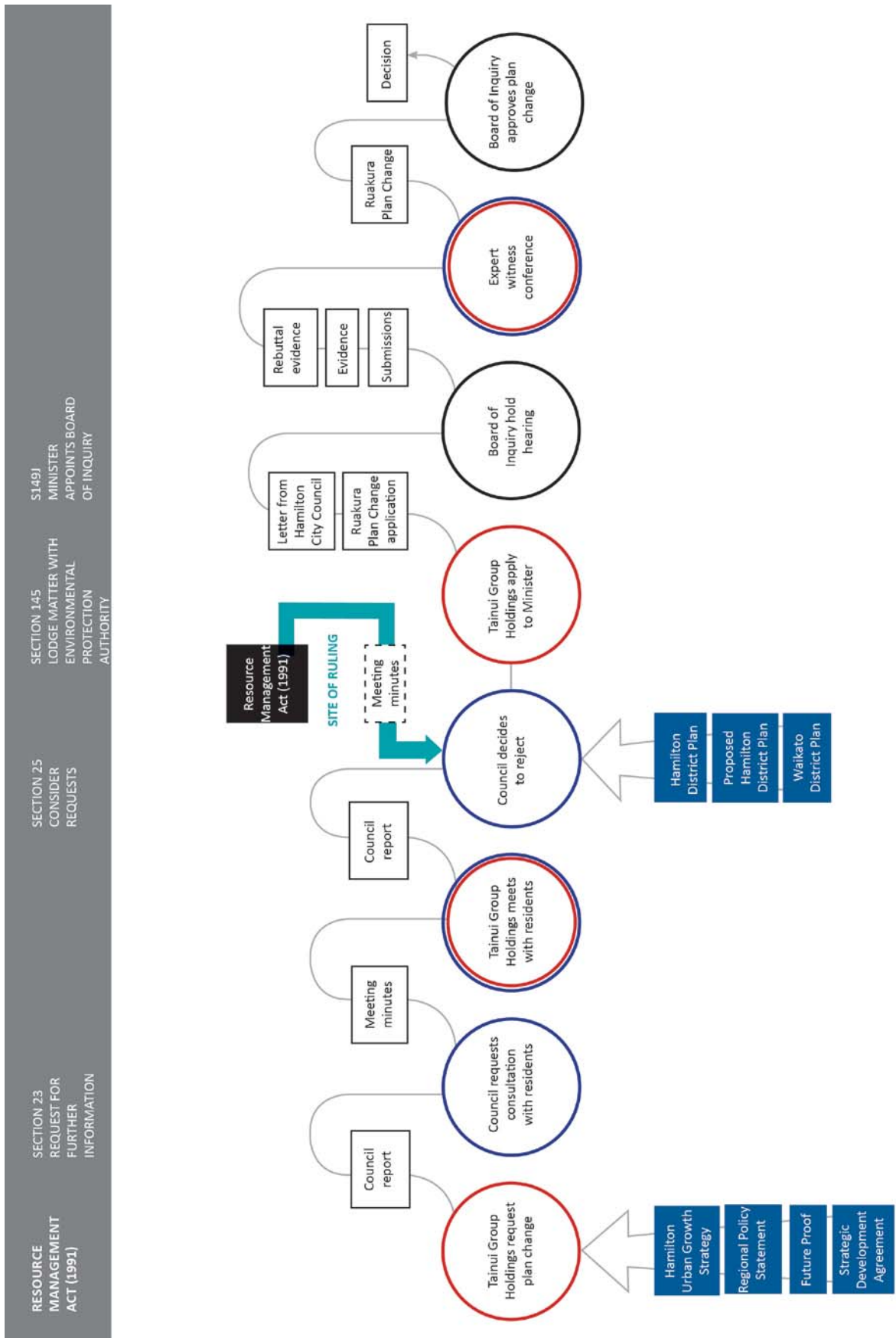


Figure 4. A map of the 'chain of action' leading from the decision of Tainui Group Holdings to request a plan change to the *Hamilton District Plan*, to the decision of the Environmental Protection Authority to approve the *Ruakura Plan Change*. Solid boxes indicate existing texts; hollow documents indicate texts created as part of the planning process. The 'official steps' of the plan development process set out in Schedule 1 of the *Resource Management Act* are displayed along the top of the figure. Although the council report recommended that Hamilton City Council accept the *Ruakura Plan Change*, councillors activated the *Resource Management Act (1991)* to reject the *Ruakura Plan Change*. The minutes of the council meeting are a 'site of ruling' where the decision of Hamilton City Council is justified against the criteria for rejecting a plan change in the *Resource Management Act (1991)*, despite the requirement to consider interests of Waikato-Tainui as a matter of national importance under the same legislation.

Holdings/Chedworth Plan Change Request' on 4 April 2013 (Hamilton City Council, 2013a). The purpose of the report was to provide information back to councillors regarding their direction in February 2013 to Tainui Group Holdings and Chedworth Properties to consult with concerned residents living on Percival and Ryburn Rds. The consultation had been undertaken as requested, and the report recommended that the Council resolve to:

Accept the private plan change for processing and notification pursuant to clause 25(2)(b) of the First Schedule of the RMA; and

Appoint independent commissioners... to hear, determine and make decisions on the private plan change (Hamilton City Council, 2013a,p5)

The meeting on 4 April was the third meeting in five months to consider whether to accept or reject the *Ruakura Plan Change*, and minutes of the meeting offer some insight into the nature of discussion. Senior planning and legal staff are recorded as making a number of comments to councillors. The last comment recorded from the City Solicitor notes that:

The grounds for rejection are clearly set out in clause 25 of the First Schedule. For a rejection to be lawful it must be based on these grounds. Under clause 25(4)(e) the fact that the plan provisions have been operative for less than two years is not of itself sufficient basis for rejection. Discretion to reject must be properly exercised based on an [*Resource Management Act*] reason (Hamilton City Council, 2013b)

The meeting minutes also record that:

Questions and discussions then moved on to what would constitute that proper basis, and the question of what constituted 'sound resource management practice'. Questions focussed on whether this was a basis for rejection. The Chair then recommended that the meeting consider moving into public excluded to receive legal advice on these issues and a number of related questions (Hamilton City Council, 2013b)

When the public meeting resumed a motion was put that:

Council resolve to reject the [Private Plan Change] for processing and notification... noting the following reasons:

- i) 25(4)(c) - the request or part of the request is not in accordance with sound resource management practice; and
- ii) 25(4)(e) - in the case of the proposed change to a policy statement or plan, the policy statement has been operative for less than 2 years (Hamilton City Council, 2013b)

An amended motion was then put, recommending that the Council accept the plan change. This amendment was voted on and lost 5-7. The original motion was voted on, and carried by a majority of 7-5 (Hamilton City Council, 2013b). As documented in the 'chain of action' (Figure 4), Waikato-Tainui then applied to the Minister for the Environment to have the

Ruakura Plan Change considered as a ‘project of national significance’. This application was supported by a letter from the Chief Executive of Hamilton City Council. Hamilton City Council, Waikato-Tainui and Tainui Group Holdings all provided submissions, evidence, and rebuttal; participated in expert witness conferences; and collaborated in developing the final *Ruakura Plan Change* which was approved by the Board of Inquiry in their decision in September 2014.

Considering this chain of action, I propose that these meeting minutes document a ‘site of ruling’ - specifically, the majority decision by councillors that the private plan change is “not in accordance with sound resource management practice” (Hamilton City Council, 2013b). I believe that councillors drew on the discourse of silence, and the discourse of ‘Māori privilege’ to again set the ‘public interest’ against the interests of Waikato-Tainui. The fact that councillors could reject the *Ruakura Plan Change* based on a general objection with no reference to section 6e or section 8 of the *Resource Management Act (1991)* enabled councillors to again separate the Te Tiriti and Treaty settlements from the activities of Tainui Group Holdings and Waikato-Tainui. This decision went against planners’ advice, which noted that:

There are no inherent flaws in the plan change as lodged, nor is there any lack of detail or requirement for further information, and nor is in the private plan change in conflict with the RMA (Hamilton City Council, 2013a, p17)

In making this decision, the majority of councillors decided that council’s interests in being seen to support residents who opposed the development outweighed the council’s interests in supporting Tainui Group Holdings to advance the development.⁵⁴

Conclusion

These ‘chains of action’ depict the ‘talk-text-talk’ nature of planning processes, and highlight the importance of ‘text-mediation’ in perpetuating ‘ruling’ relations. ‘Ruling relations’ activated in planning processes for The Base centred around the hybrid nature of Māori organisations and the requirement to consult, including with iwi authorities with commercial interests; and interpretation of local government’s Treaty of Waitangi obligations; while ‘ruling relations’ activated in planning processes for Ruakura centred around the extent to which the decisions on ‘sound resource management practice’ need to take section 6e and 8 of the *Resource Management Act (1991)* into account. In both of these decisions - the decision to notify *Variation 21* and the decision to reject the *Ruakura Plan Change*, Hamilton City Council interpreted the legislative requirements of Schedule 1 of the *Resource Management Act (1991)* to prioritise their organisational interests. In both cases, through texts which separated their

⁵⁴ Under Schedule 1, Part 2 of the *Resource Management Act (1991)*, Tainui Group Holdings had no legal obligation to consult with residents before submitting the *Ruakura Plan Change* to either Hamilton City Council or the Board of Inquiry. However, local authorities can request that an applicant supply further information regarding ‘the nature of any consultation undertaken or required to be undertaken’ (Schedule 1, s23.1.d)

status as an iwi authority from their interests in commercial development, Waikato-Tainui interests were subordinated to the 'ruling' interests of Hamilton City Council.

In general, the relationship between Waikato-Tainui and Hamilton City Council has moved from being adversarial and litigious at the time of The Base development, to being more collaborative as the Ruakura development is planned and progressed. Engagement mechanisms established through *Future Proof*, and the *Joint Management Agreement* resulting from the Waikato River settlement have built engagement capacity and relationships within and between both Waikato-Tainui and Hamilton City Council. Comparing the two planning processes, one planner observed that Ruakura "was a very satisfying process... very hard but satisfying. *Variation 21* was professionally very dissatisfying, partly because there was no ability for the consensus building, either with Tainui or indeed with councillors" (Consultant Planner - Hamilton City Council, 2015).

Despite the existence of functioning relationships in 2009, *Variation 21* was developed outside of these relationships. It appears that Hamilton City Council felt pressure to implement a solution quickly, to regain control over development at Te Rapa. Hamilton City Council did not trust Waikato-Tainui to engage with *Variation 21* without using the consultation process to advance their commercial interests. Ultimately, this positivist approach to planning was unsuccessful.

In contrast to the process to develop *Variation 21*, Tainui Group Holdings and Hamilton City Council planners collaborated closely on developing the *Ruakura Plan Change*, including drafting a structure plan. The timing of processes such as reviewing the *Hamilton District Plan*, and building the Waikato Expressway created urgency to determine planning provisions. However, issues of control and trust also complicated this relationship. Eventually, councillors voted against their planners' advice to accelerate the planning process for the Ruakura area, citing residents' concerns about the project. This decision by Hamilton City Council, and the subsequent decision by Tainui Group Holdings to submit the proposal to the Environmental Protection Authority, was seen to set back the collaborative relationship. Working together to address practical issues during the Board of Inquiry process, planners reported that this relationship improved, and again took on a collaborative nature.

Concerns generated during The Base case, particularly about the scale of retail development, appeared to continue to haunt staff and councillors through the Ruakura planning process. These issues are common in relationships between local government and large landowners, and are exemplified by the frustration felt by Hamilton City Council over Tainui Group Holding's alleged reluctance to share long-term plans for The Base, and by the possible perception of Tainui Group Holdings 'co-opting' the development process at Ruakura.

Tainui Group Holdings have strategically asserted their status as a development company owned by an iwi authority, to request judicial review, to lever off the joint management agreement, and to emphasise the contribution of the Ruakura development to the Māori

economy. In response, throughout both planning processes, Hamilton City Council appears troubled by the dual or 'hybrid' role of Waikato-Tainui (including Tainui Group Holdings) as both an iwi authority, with statutory rights as mana whenua, and as a commercial developer. Contradictory (colonial) discourses relating to 'Māori privilege' were employed to marginalise the concept of an integrated development agenda and minimise the perceived strength of the relationship between the activities of Tainui Group Holdings and Waikato-Tainui.

These discourses have practical implications for relations between Hamilton City Council and Waikato-Tainui. Comparing the process to develop planning regulation for The Base and Ruakura with the official planning processes set out in Schedule One of the *Resource Management Act (1991)* I identified two 'sites of ruling'. These sites pinpoint a time and place where Waikato-Tainui interests were subordinated to Hamilton City Council interests through a process of text activation. 'Ideological' decisions made by Hamilton City Council in these sites of ruling contrasted with the open processes of collaborative negotiation illustrated within the *Ruakura Plan Change*.

This case study of the relationship between Hamilton City Council and Waikato-Tainui illustrates that Māori and the judiciary continue to believe that local government has obligations to Māori under Te Tiriti. Both the High Court and the Environmental Protection Authority emphasised the status of Te Rapa and Ruakura respectively as Treaty settlement land, allocating comment in their discussions. However, identifying the exact moment in planning processes where Māori interests are subordinated to local government interests also identifies a site where change can occur. Porter describes such sites as "strategic moments of opportunity that can result in recognition of Indigenous rights and responsibilities" (Sandercock et al., 2004, p109). These opportunities will be further explored in Chapter Eight.

Chapter Eight – The practical possibilities of hybrid planning

An important activity ...is the juxtaposition of Maori and Pakeha [practices] to find where affinity and contrast occur and how the tension between them in turn produces their hybridity. This hybridity and the emergent hybrid identities who have recognised and celebrated their hybridity in their self-definition have a significant and positive contribution to make in growing that knowledge capacity and negotiating that divide (Meredith, 1998, p4)

Introduction

In this chapter, I begin to explore the possibilities of a hybrid institution of planning for Aotearoa New Zealand, and the practical implications of bringing together Māori and Pākehā planning traditions. I propose that innovative planning practises emerging from ‘third space’ between these two paradigms illustrate how we can move the institution of planning beyond practices influenced by silence, essentialist ideas of ‘culture’, and the separation between public interests and Māori rights, to encompass ‘economic sovereignty’, and new understandings of the relevance of Te Tiriti, Treaty principles, and Treaty relationships for planning.

Chapter Seven focussed on local government decision making and ‘ruling relations’. I now shift my focus to decisions made by Waikato-Tainui and their exercise of counter-hegemonic agency. Focussing first on Te Rapa, and then on Ruakura, I describe the acquisition of the land through Treaty settlement, the vision held by Tainui Group Holdings for development on each site, the characteristics of the sites, and the influences on decisions made by Waikato-Tainui about developing the land. I draw on my analysis of planning documents created as part of planning processes for The Base and Ruakura, as well as interviews with case study participants and key informants.

Conceptualising these planning processes as a ‘third space’ bringing together the traditions of Māori and Pākehā planning, I document specific challenges faced by Tainui Group Holdings and Hamilton City Council in determining appropriate activities and planning provisions for this land. Decisions were made with regard to ‘translocal’ influences of tikanga Māori around communal landownership and collective benefit; the norms of Pākehā planning practises; and the realities of the capitalist market economy. These decisions reinforce my argument that Tainui Group Holdings, the ‘intergenerational investor’ for Waikato-Tainui, is not simply a ‘commercial property developer’.

Finally, I discuss the challenges for planning in (post)colonial contexts, where local government retains statutory planning authority but iwi are increasingly realising their power as developers, landowners, and planners. Bringing together my findings with Waikato-Tainui perspectives on Treaty settlement land, as articulated in *Tai Tumu Tai Pari Tai Ao*, highlights issues around

different interpretations of the *Resource Management Act (1991)* and the Treaty relationship. Building on the 'sites of ruling' identified in the previous chapter, I begin to identify possible 'levers' for change within the institution of planning in Aotearoa New Zealand.

Acquiring land through Treaty settlement

As explained in Chapter Two, the land at Te Rapa and Ruakura was acquired by Waikato-Tainui through the *Waikato Raupatu Claims Settlement Act* in 1995. Negotiating the claim, Waikato-Tainui representatives held to two principles:

- I riro whenua atu, me hoki whenua mai: As land was taken, land must be returned; and
- Ko te moni hei utu mo te hara: The money is the acknowledgement by the Crown of the crime (*Deed of Settlement*, 1995, p4)

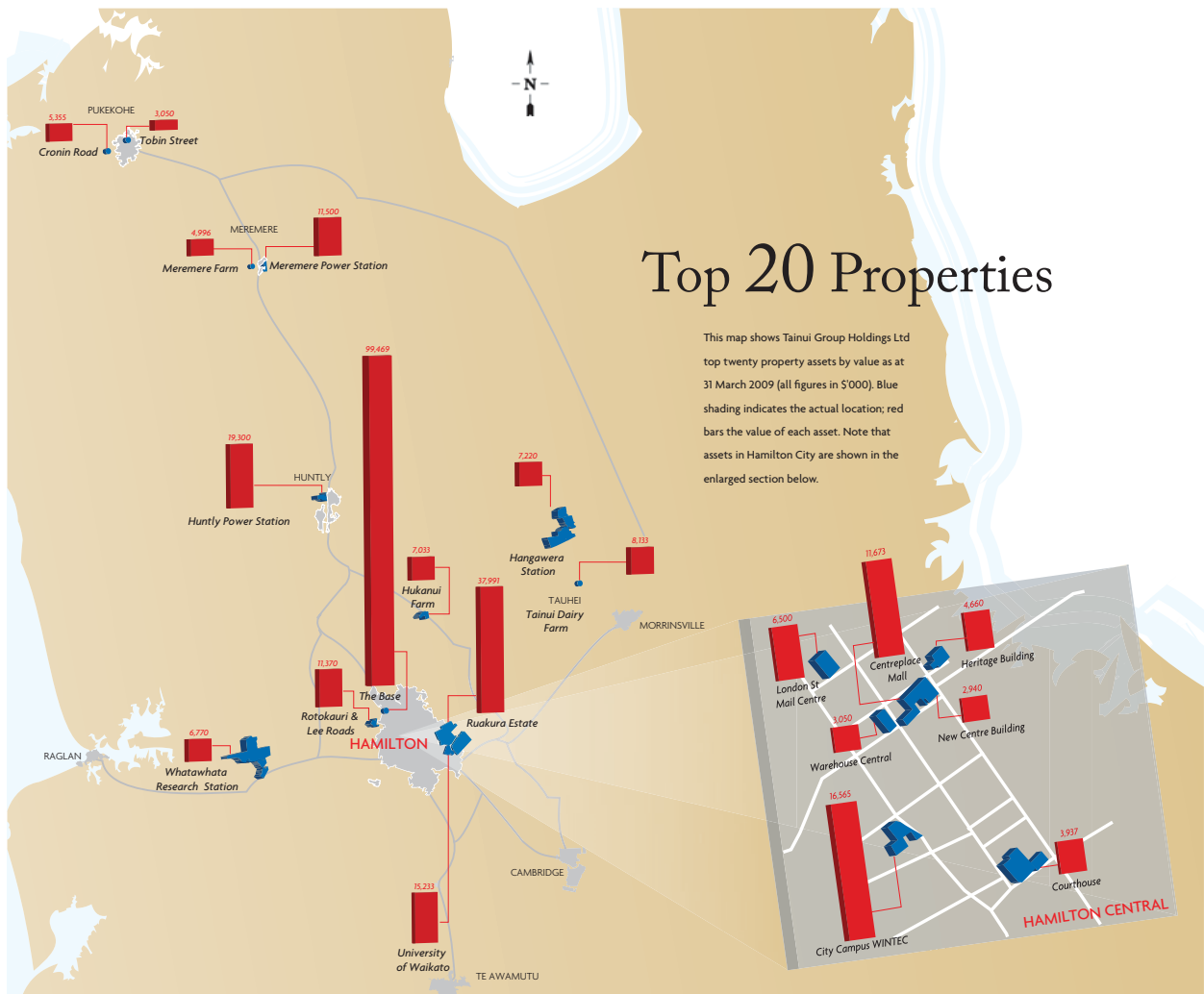
As redress for breaches of Te Tiriti, the Crown undertook to return land within the Waikato-Tainui rohe. Unlike commercial property developers who survey the market for available land, considering the profitability of different land uses and bidding for land they consider most commercially viable (Jowsey, 2011),⁵⁵ the Tainui Māori Trust Board operated a philosophy of 'land-for-land'. Solomon recalls:

We wanted everything. Everything. It could be a railway siding, it could be a forest. It didn't matter whether it had value or not, or potential commercial return. It was just a philosophy of land-for-land.... we took everything that was on offer. We didn't reject anything (Interviewee - Waikato-Tainui, 2014)

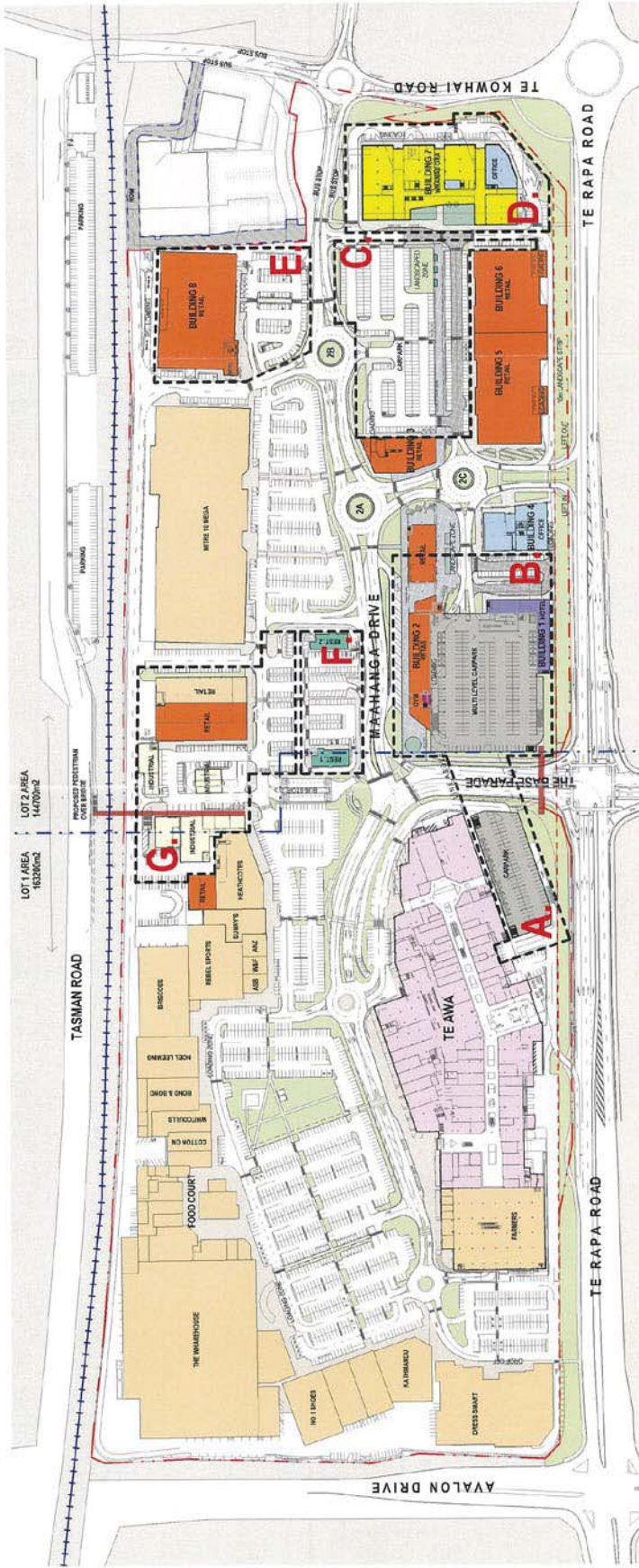
The 'land-for-land' philosophy resulted in Waikato-Tainui accepting a diverse range of approximately 1800 properties, of low and high value across the Waikato and Auckland regions including land formerly owned by state-owned enterprises Coal Corporation, Railways Corporation, and Housing New Zealand Corporation, among others (Solomon, 1995). The total value of the land returned was approximately \$100 million (Interviewee - Waikato-Tainui, 2014). Te Rapa and Ruakura are the highest-value properties within the Waikato-Tainui portfolio (Chief Executive - Tainui Group Holdings, 2015).

Before 1864, land at Te Rapa and Ruakura was held under the mana of the Kīngitanga. After confiscation, land ownership was transferred to Pākehā settlers. The site at Te Rapa was compulsorily acquired by the Crown in the 1930s for use as an air force base, which closed in 1992. The land acquired by Waikato-Tainui included the base campus and "a long strip of

⁵⁵ Jowsey describes how commercial property developers '... choose the scheme which will produce the maximum net return subject to the constraints involved: for example, the availability of finance, planning and building requirements and legal restrictions in the title or use of the land. His [sic] initial assessment will cover the physical nature of the site (soil-bearing, drainage, slope), the availability locally of adequate construction capability, and if residential, social amenities (schools, shops, health services and so on) and environmental aspects (open spaces, trees, compatible land uses nearby)' (Jowsey, 2011, p143)



17. Map of top twenty property assets owned by Tainui Group Holdings in 2009. *The Deed of Settlement* includes a list of properties that were returned to Waikato-Tainui. These properties include farms, power stations, and Crown facilities such as a courthouse, research stations, and education sites, as well as many single dwellings on 'quarter acre' sections in small towns like Huntly, Meremere, and Rotowaro. Larger pieces of land returned under the settlement - including Te Rapa, Ruakura, the University of Waikato site, and land within the Rotokauri growth cell - ring the city of Hamilton. Waikato Tainui also has land-holdings returned in the Central Business District. Source: Tainui Group Holdings (2009).



FINAL APPROVED
 RESOURCE CONSENT PLANS
 File # 010-2012-6723-001
 Date of Consent 19/12/2012

PLANNING GUIDANCE
 19 NOV 2012
 TIME.....AM/PM

COMPREHENSIVE DEVELOPMENT PLAN
 SCHEDULES
 PARKING ZONE REFERENCE PLAN

0137-039
 Date 20/02/12
 Drawn by
 Scale @ 1:1000
 Project



18. Comprehensive Development Plan for The Base submitted as part of a resource consent application approved by Hamilton City Council in 2012. A site visit in June 2016 confirmed that developed envisaged as part of stages A - F had not yet been completed. Source: Hamilton City Council (2011).

grass” which comprised the railway reserve (Interviewee - Waikato-Tainui, 2014). Shane Solomon commented:

When we first got [the land at Te Rapa] back, it was an old airforce base. It was falling down, it was just empty warehouses. It was crap. So, to grow, prosper and survive, [the question] was - How do we develop The Base into something that had a commercial return? (Interviewee - Waikato-Tainui, 2014)

The land at Te Rapa is 29 hectares (72 acres), and is located six kilometres north of the Hamilton Central Business District.

Like the site at Te Rapa, the site at Ruakura had been in the ownership of the Crown for around eighty years at the time of the raupatu settlement in 1995 (City Planning Manager - Hamilton City Council, 2016). The Ruakura Agricultural Research Centre was established in the southern portion of the site in the 1920s (NaMTOK Consultancy Ltd, 2011). Since then, that part of the land has been used for intensive farming research, while the rest of the site has been farmed privately (NaMTOK Consultancy Ltd, 2011). After the raupatu settlement, the land acquired by Waikato-Tainui at Ruakura was subsequently leased back to the Crown (Fisher, 2015), and AgResearch retains a 99 year lease. The entire site covered by the *Ruakura Plan Change* comprises over 800 hectares (1976 acres), of which Waikato-Tainui own 480 hectares (1186 acres). The remainder is owned by Chedworth Properties Limited. The land lies to the east of the Waikato River, and is located three kilometres east of the Central Business District. The site is bounded on the west by Wairere Drive, and on the east by land designated for the Waikato Expressway.

The developments proposed by Waikato-Tainui at both Te Rapa and Ruakura can be classed as ‘commercial property development’. Commercial property developments comprise mainly retail, office and industrial activities⁵⁶. Commercial property developers often retain ownership of the land and buildings, and negotiate leases with tenants (Jowsey, 2011).

Vision for The Base - ‘Financial independence and social self-reliance’

The vision held by Waikato-Tainui for the land at Te Rapa is clearly linked to the notions of economic sovereignty and integrated development within *Whakatupuranga Waikato-Tainui 2050*. In his evidence to the High Court in 2010, the Honourable Koro Wetere emphasised the contribution of income from Te Rapa to the tribe’s wellbeing, stating that The Base:

...is a unique investment opportunity for Waikato-Tainui. It is a springboard of opportunity that will enable us to develop a strong economic base that is capable of providing growth, financial independence and social self-reliance. Waikato-Tainui will continue to own the land in perpetuity and through the development of the site, will

⁵⁶ For example, ‘shop units; retail warehouses and parks; shopping centres; offices and business parks; industrial and distribution warehouses; leisure parks; hotels, restaurants and inns’ (Jowsey, 2011, p378)

provide a future income stream for the tribe. The profit from this investment is and will continue to be returned to the Marae and Waikato-Tainui members... (*Affidavit of the Honourable Koro Wetere, 2009*)

In addition to income from dividends, The Base was envisaged to deliver social benefits to Waikato-Tainui people through employment and training. Solomon related that:

The idea of The Base... was to give our people employment, so that was the social outcome... We didn't just want people cleaning up, emptying rubbish bins and stuff. We wanted them to be in positions of management (Interviewee - Waikato-Tainui, 2014)

The Base, therefore, represents both an opportunity for and a symbol of economic development.

Specific challenges in developing The Base

Decisions made by Waikato-Tainui about developing land at Te Rapa included addressing challenges relating to the communal ownership of the land, which affected how roadways would be provided and the land subdivided, as well as limiting which activities were considered suitable for development. As the first major development by Tainui Group Holdings following a period of financial crisis within Waikato-Tainui, it was also very important that The Base prove to the tribe and to outsiders, the commercial viability of development on Treaty settlement land (Chief Executive - Tainui Group Holdings, 2015).

Communal ownership of land

The land at Te Rapa is held in communal title, under the name of Pōtatau Te Wherowhero, the first Māori King (Chief Executive - Tainui Group Holdings, 2015; Fisher, 2015). Wetere recalled in his evidence to the High Court:

In December 1992 orders were made by the Maaori Land Court on the application of the Crown vesting the lands in Pootatau Te Wherowhero as tupuna (or ancestor) on behalf of Tainui for the benefit of all Tainui (*Affidavit of the Honourable Koro Wetere, 2009*)

This form of communal ownership was intended as a “safe title” - “where the lands can never be sold or lost again by Waikato” (Solomon, 1995, p26-27). The *Users' Guide* reassured readers that the lands:

...will not be owned by the [Tainui Māori Trust] Board. They will not be owned by [the Māori Queen] Te Arikinui or Robert Mahuta. They will be owned by the tribe; me, you, our children and our grandchildren. They will be owned by us through a dead man. A man who died 135 years ago - the first King - Pootatau Te Wherowhero. Some critics

have said - 'why put the lands in a dead man? What good is that?' The answer is easy. A dead man cannot sell lands (Solomon, 1995, p26-27)

Lands at Te Rapa transferred to Waikato-Tainui were placed in the name of Te Wherowhero. Legally, the lands cannot be sold while they are held by Te Wherowhero, and a certificate would be required from the trustees of the Te Wherowhero trust to transfer land out of Te Wherowhero title before it could be sold (Solomon, 1995, p28). Sir Robert Mahuta considered that:

The settlement established a new title so that Waikato could hold lands collectively and in perpetuity...This restores customary title. By lodging ancestral lands in this way they become unalienable; never again can the tribe be divided by stealth and devious means, or by appeals to personal greed, avarice or gain for or from land (McCan, 2001, p331)

At the time, Waikato-Tainui negotiators assumed that placing the land at Te Rapa under "Te Wherowhero title" would limit its commercial value - "that people would not want to invest in land that you can't sell, or you can't mortgage" (Interviewee - Waikato-Tainui, 2014).

Decision to develop retail at The Base

In practice, the inalienability of the land title has not proved to be a barrier to commercial development. As early as the late 1990s, Tainui Group Holdings made the decision to develop retail activities at Te Rapa (Chief Executive - Tainui Group Holdings, 2015). Mike Pohio related that Waikato-Tainui observed that "the retail sector was changing across the world, and that the high street was in...decline. And that the emergence of the larger format store, on greenfield site, would be the way of the future" (Chief Executive - Tainui Group Holdings, 2015). According to the Te Awa website, which includes a history of the wider development at The Base:

From the earliest days of the settlement process the site was identified for commercial re-development – being within the growing area of Hamilton, adjacent to the main trunk railway, and at the intersection of State Highway One and the main east and west arterial routes. Planning began in 1998 and a huge amount of preliminary design work was undertaken to determine the best approach (The Base, 2015)

A concept plan was developed, the first consent for development at The Base was granted in 2004, and construction work began the same year. The decision to develop retail was also driven by the need for Tainui Group Holdings to show to the tribe, and the wider community, that it could successfully implement a development of scale (Chief Executive - Tainui Group Holdings, 2015). A previous Waikato-Tainui commercial enterprise had defaulted on loans, gone into receivership, and had to cede control of some of its assets, which had lowered tribal confidence in its commercial arm (Chief Executive - Tainui Group Holdings, 2015). Following a restructure in which control of the commercial entity was separated from tribal management,

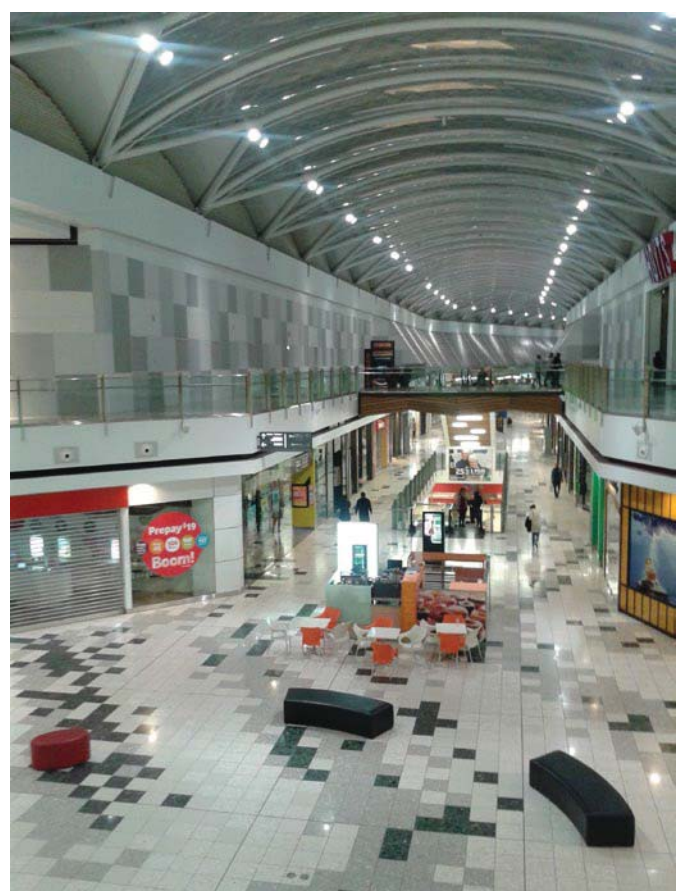
the land at Te Rapa “represented an opportunity for Tainui Group Holdings to show that it could masterplan, and execute a masterplan, and develop a set of working relationships, fruitful relationships with those variety of people - experts ranging from architects to engineers to construction companies... all the way through to tenants” (Chief Executive - Tainui Group Holdings, 2015).

Roadways, leasing and subdivision on inalienable land

However, the inalienability of the land title has challenged council processes, requiring Tainui Group Holdings and Hamilton City Council to negotiate a specific arrangement to provide and maintain roads (Consultant Planner - Hamilton City Council, 2015). In Aotearoa New Zealand, the standard practice when creating a new development is to vest ownership of the roads and open spaces in the local authority. This practice transfers the responsibility for maintenance of public spaces to the local authority. However, to vest the land under the roadways at The Base in Hamilton City Council would have required the approval of the Te Wherowhero trustees to transfer the land out of Te Wherowhero title. It is likely that the Māori Land Court would also need to play a significant role in vesting the land in Hamilton City Council, in its role as administrator of *Te Ture Whenua Māori Act (1993)*.⁵⁷ A planner recalled a discussion between Tainui Group Holdings and Hamilton City Council planners over “the definition of roads within the landholding, and whether they were to be public and therefore part of the city roading hierarchy and therefore part of the city maintenance costs, or not” (Consultant Planner - Hamilton City Council, 2015). Ultimately an easement was created over the land and a ‘public road’ (Maahanga Drive) runs through The Base.

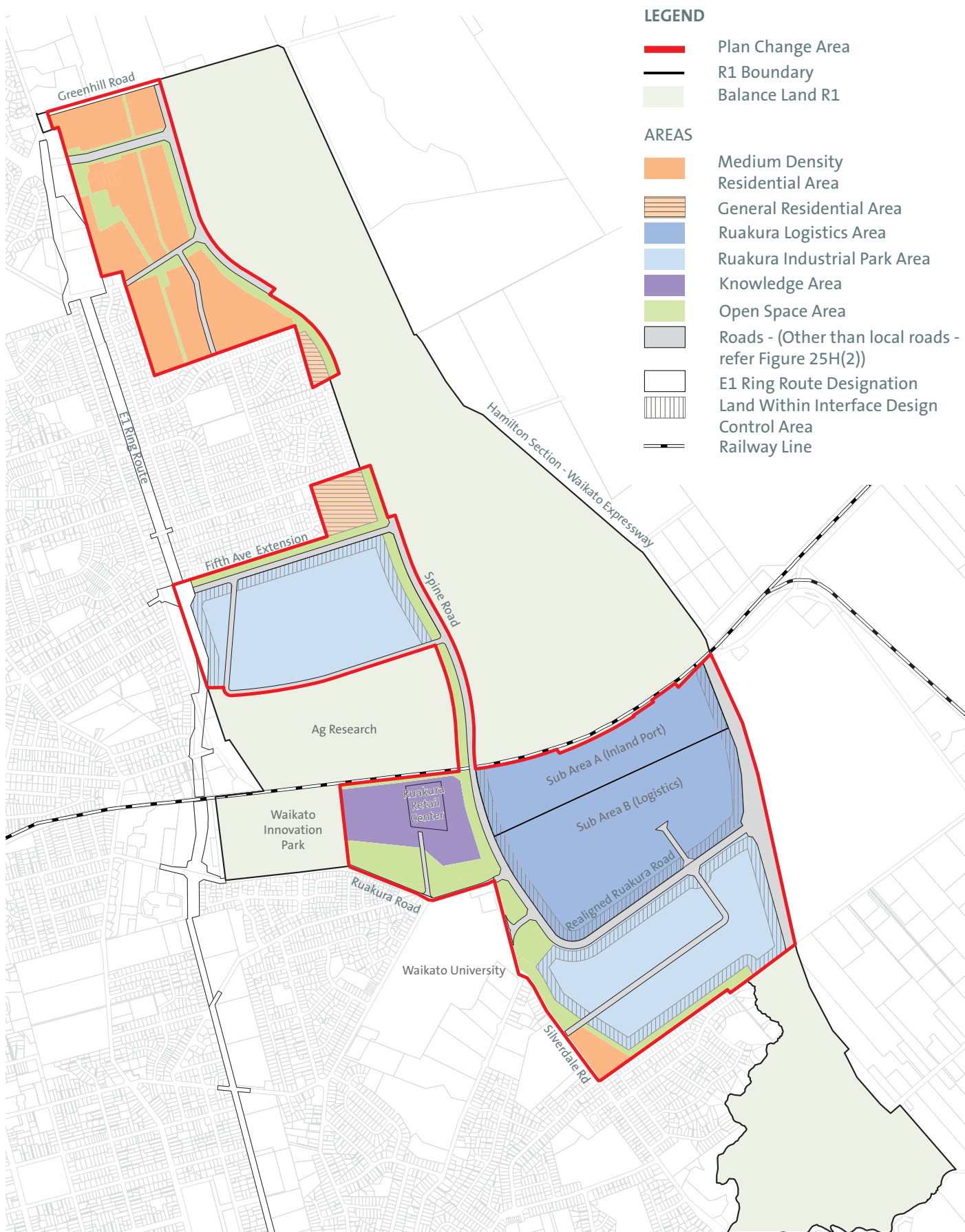
The requirement to not alienate the land also meant that the land would not be subdivided, and development plans needed to cover the entire footprint of The Base site (Consultant Planner - Hamilton City Council, 2015). Again, standard practice for development in Aotearoa New Zealand is to lay out a plan of activities for the land, and then to subdivide the land so that each investor owns both the building and the underlying land. The building is then leased for activities. In contrast, a series of lease agreements were required to lease building space to retailers at The Base, without triggering the requirement for approval from the Te Wherowhero trustees, and to meet the requirement for security from the bank. Pohio explained that, in the case of The Base, the land at Te Rapa was held “in the shareholder’s balance sheet; [then we] put in place a lease between the shareholder and Tainui Group Holdings; and a lease between Tainui Group Holdings and a subsidiary” (Chief Executive - Tainui Group Holdings, 2015). The subsidiary company - The Base Ltd - undertook the development. The subsidiary company holds leasehold interests in the development, which were used as security for loans from banks

⁵⁷ As an indication of the process potential involved, Western Bay of Plenty Council outlines the following process for vesting a road on Māori land in council ownership, as follows: ‘Council makes application to the Court to vest Maori Road in Council; Maori Land Court may ‘lay out’ land for road in accordance with Part IXV, S316 MLA 1993. (This occurs in accordance with S317, Required Consents); Maori Land Court must make recommendation to Ministry of Transport (S320(2) MLA); Maori Land Court required to obtain consent from Territorial Authority and Transit New Zealand S320(2) MLA); Gov-General declares land (as laid out as road) by MLC as road or street by proclamation S320(1) MLA); Road may then vest in Council 320(5) MLA) (Western Bay of Plenty District Council, 2012)



19. Photographs of the site at Te Rapa, May 2014 and June 2016. (Top left) A view from outside Te Awa looking south-west towards shops which form part of The Base retail development. Bilingual signage is used through Te Awa and The Base. (Top right) A playground and seating provided for customers at The Base. (Bottom left) One entrance to Te Awa mall, which faces Te Rapa Road. The main entrance faces The Base, and is marked with a pou. (Bottom right) An interior view of Te Awa mall. The roof of the mall is patterned with the niho taniwha pattern (Ignite Architects, 2012). Source: Author.

Figure 25H(1) Ruakura Schedule Area



20. Map of the R1 area, including the area covered by the Ruakura Plan Change (outlined in red). The proposal for an inland port capitalises on the location of the Ruakura site at the intersection of the East Coast Main Trunk railway line and the proposed Hamilton Section of the Waikato Expressway.

(Chief Executive - Tainui Group Holdings, 2015). Using a subsidiary also enabled Tainui Group Holdings to use “non-recourse loans” from the bank to isolate development at The Base from the overall financial profile of Waikato-Tainui, restricting the ability of the bank to recall debt from the wider organisation and further protecting the inalienability of land (Jowsey, 2011, p387).

Following a succession of incremental consents for retail development as a ‘controlled activity’, a ‘comprehensive consent’ for development at The Base was granted in 2011⁵⁸. A resource consent for a controlled activity or land use can be made specific to the site by attaching ‘consent conditions’. According to the planner involved, “the conditions we needed to put on required that to be reflected - that it was not going to be able to be subdivided and that leaseholds were going to sit on top of leasehold land. So, a lot of that work required involving counsel for the Council - legal advice” (Consultant Planner - Hamilton City Council, 2015).

Partnering for experience and skills

Partnerships are commonly used in commercial property development to bring together land owners with development and property management skills (Jowsey, 2011). Partnerships with private companies have enabled Tainui Group Holdings to access skills to undertake developments. At The Base, “the first masterplan for the retail centre saw the need to be able to work with commercial partners... just because of the scale of it” (Chief Executive - Tainui Group Holdings, 2015). In 2002, Tainui Group Holdings entered into a fifty-fifty joint venture with The Warehouse Group, a New Zealand-owned retail company with experience in developing and operating large format retail stores. Investing directly in commercial property development requires high initial investment in developing buildings, and continued management of the building is required “for example, finding suitable tenants, negotiating lease terms, reviewing rents and arranging for repairs” (Jowsey, 2011, p378). The Warehouse Group also became the first ‘anchor tenant’ for The Base development. This partnership was framed as an opportunity for Tainui Group Holdings to learn from The Warehouse Group “an understanding of the dynamics of retail, forging relationships with key contractors and coming to grips with the statutory requirements and mechanics of constructing and managing leases with retail tenants...” (The Base, 2015).

In summary, The Base provides an example of commercially viable development on communally-owned land. Through novel arrangements around road ownership and maintenance, subdivision, and financing, Tainui Group Holdings avoided alienating land held in Pōtatau Te Wherowhero title, but met the requirements of the local authority and financial sector.

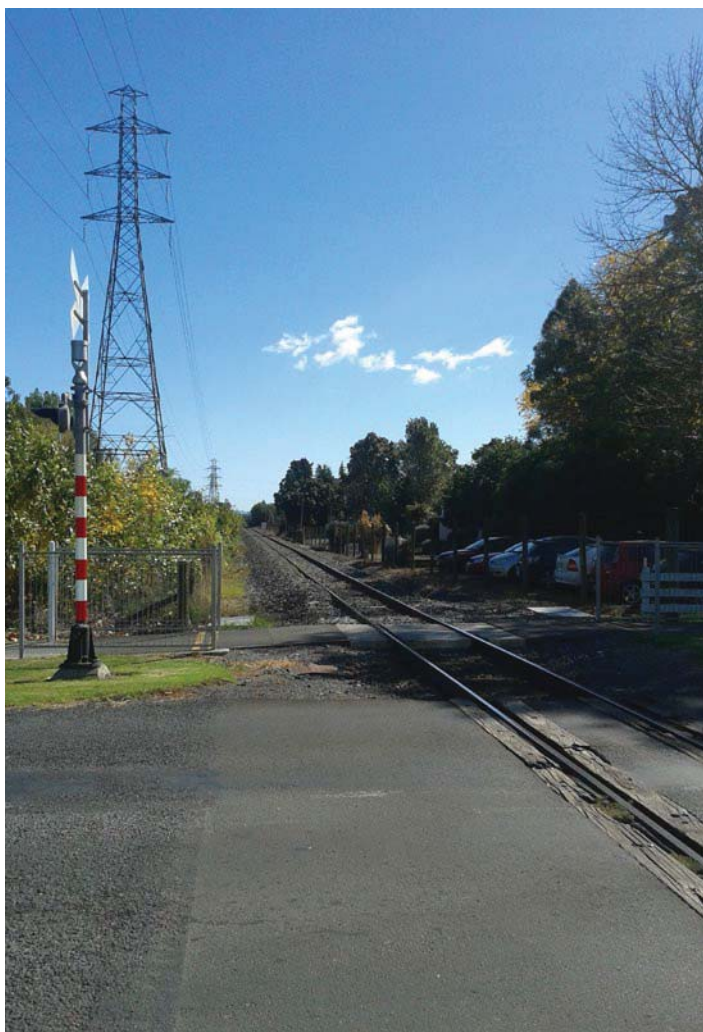
⁵⁸ The stage approved by this resource consent has not yet been built, as of July 2016.

Vision for Ruakura: A sustained return for coming generations

The vision for Ruakura is also linked to the economic sovereignty of Waikato-Tainui, and integrated development. Ruakura is a long-term development, which is not anticipated to be complete until approximately 2060. Waikato-Tainui emphasised the long-term nature of the inland port development as a critical factor in their decision to propose industrial uses for the land. During the Board of Inquiry hearing for the *Ruakura Plan Change*, Parekawhia McLean submitted that the “proposed development represents a key part of the economic development strategy for Waikato-Tainui. The effects of such investments on the wellbeing of Iwi are considered significant, given the scale of the development and the timeframes over which the development will take place” (McLean, 2014, para 24). ‘*Whakatupuranga Waikato-Tainui 2050*’ can be literally translated as ‘Waikato-Tainui Generation 2050’ and Pohio describes Tainui Group Holdings as the “intergenerational investor” for Waikato-Tainui (Chief Executive - Tainui Group Holdings, 2015).

This long-term perspective highlights the importance of the Ruakura land as the only asset within the Waikato-Tainui property portfolio that will still be under development in 50-100 years. McLean noted that investment in the Ruakura development will “assist in diversifying our asset base [and] will also provide a stable cash flow to the shareholders for distribution” (McLean, 2014, para 34). A planner working on the *Ruakura Plan Change* noted that he understood that “[t]he big long-term outcome is to provide ongoing and sustained return” to Waikato-Tainui shareholders (Planner, 2015b). Development of the land will be staged over the longterm, spanning some fifty years (Planner, 2015b). The importance placed by Waikato-Tainui on economic development of land returned as commercial redress reflects an understanding that “Treaty settlement land... has an enduring quality, and has an ability to provide commercial redress beyond the date of it being awarded the status of commercial redress land” (Planner, 2015b).

Like at The Base, the need to create employment in Hamilton for Waikato-Tainui members was also a factor in Tainui Group Holding’s decision to develop industrial activities at Ruakura. Tim Manukau stated that “[h]aving our people involved once it’s in full operation - that is key, from a tribal development perspective” (Environment Manager - Waikato Tainui, 2015). Cultural impact assessments commissioned for the *Ruakura Plan Change* recommended that “Local hapu should be included in all considerations for employment opportunities as part of the development of Ruakura” (NaMTOK Consultancy Ltd, 2011, p18), and emphasised the objective of the development to promote “sustainable employment initiatives for the future generations of Waikato-Tainui and the community of Hamilton” (Pene, 2011, p18). There are currently a number of freight and logistics companies based in South Auckland (for example at Otāhuhu and Highbrook), but interviewees felt that many companies would recognise the benefits of moving operations to Hamilton, to escape traffic congestion in Auckland. The attractiveness of Hamilton as a centre for freight logistics has been highlighted by a recent decision by Ports of Auckland to purchase land to build a second ‘inland port’ at Northgate, to the north of Hamilton city (Biddle, 2016). Mike Pohio noted that “the concept was to bring employment to



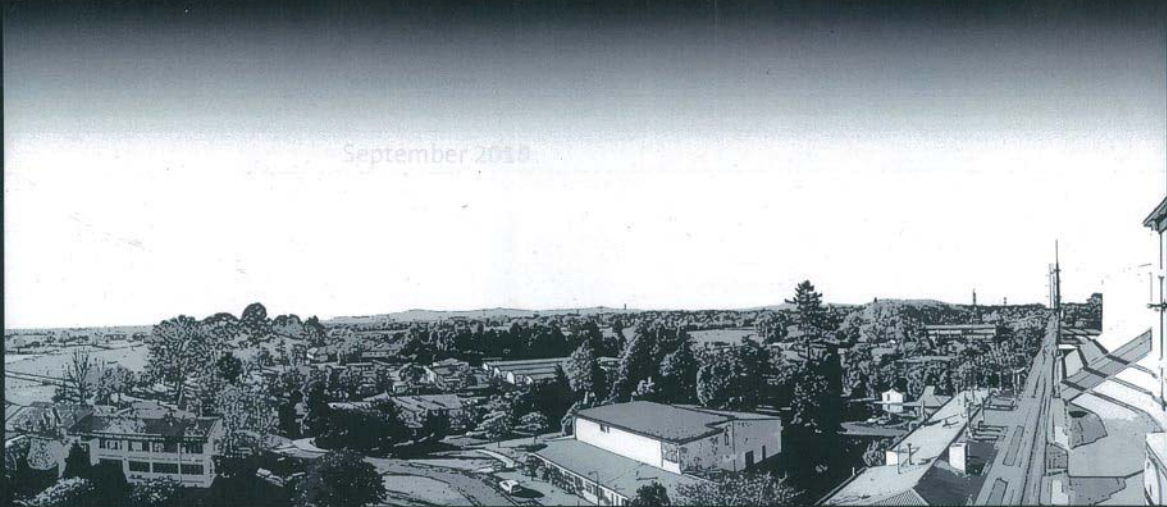
21. Photographs of the site at Ruakura, March 2014. (Top) View looking west from Percival Rd across paddocks towards the AgResearch facility. (Centre) Preparatory roadworks to extend Fifth Avenue east of Wairere Drive. (Bottom) View of the East Coast Main Trunk line looking west. Source: Author.

Ruakura Estate

Strategic Directions and Master Planning Report

Prepared for Tainui Group Holdings and Chedworth Park Limited

September 2010



Hamilton, rather than Waikato-Tainui effectively migrating to where the jobs were in Auckland” (Chief Executive - Tainui Group Holdings, 2015). The Ruakura development is anticipated to potentially create 11,000 new full-time jobs once fully developed in 2060 (Minister for the Environment, 2013).

The location of the large, flat Ruakura site - within the urban area of Hamilton and at the intersection of the proposed Waikato Expressway and the East Coast Main Trunk line - is seen as highly strategic (Planner, 2015b). Both Tainui Group Holdings and Hamilton City Council emphasise the need for development in the east of Hamilton City, and the benefits of comprehensive development in greenfield areas. Ruakura will provide employment on the eastern side of Hamilton city, balancing current employment areas in the centre and north of the city (Project Manager - Hamilton City Council, 2015). Developing residential and open space areas, alongside the potential for the development to provide jobs, mean that the proposal fits the “live-work-play”⁵⁹ development concept promoted in *Hamilton Urban Growth Strategy* and *Future Proof* (Planner, 2015b). Furthermore, large-scale development offers the opportunity to reserve significant areas of land for public facilities and environmental protection (Planner, 2015b). Ruakura is seen to set high environmental standards for development (Environment Manager - Waikato Tainui, 2015).

As part of the Ruakura development, Waikato-Tainui established a Tāngata Whenua working group to oversee the implementation of recommendations within the two Cultural Impact Assessments (Environment Manager - Waikato Tainui, 2015). The purpose of the working group, which includes representatives from Waikato-Tainui hapū Ngāti Wairere, Ngāti Māhanga, Ngāti Korokī-Kahukura, and Ngāti Haua, is to “provide local tangata whenua the opportunity to engage with Tainui Group Holdings (TGH) and the Waikato Raupatu River Trust (WRRT) to successfully develop and operate the Ruakura Commercial Zone” (Tainui Group Holdings, 2015, p1). The Tāngata Whenua Working Group will also recommend road and reserve names within the Ruakura development.

Specific challenges related to Treaty settlement status of land in the Ruakura development

The process to achieve planning regulation for Ruakura has also required Tainui Group Holdings to carefully consider the best ways to develop collectively-owned land to achieve social and commercial returns. The large size of the Ruakura site has required Tainui Group Holdings to work with local government over a number of years to manoeuvre the Ruakura land into Hamilton City. In 2016, decisions around how infrastructure will be funded and provided continued to be a point of discussion. These challenges are discussed below.

⁵⁹ ‘Live-work-play’ implies the development of employment, housing, and amenities in close proximity to each other to minimise travel time and costs.

Communal ownership – Roadways and subdivision

The land at Ruakura is owned collectively by Waikato-Tainui, but is not vested in Pōtatau Te Wherowhero. In 1995, the *Users Guide* explained that “some lands will not go into Te Wherowhero title... They will still be owned by the tribe but they will not scare off the banks who wish to invest in this tribe” (Solomon, 1995, p28). Under the *Ruakura Plan Change* approved by the Board of Inquiry in 2014 the land at Ruakura will be subdivided into large land parcels. A Land Development Plan⁶⁰ must be “approved for large blocks of land before they are able to be developed for individual activities” (Board of Inquiry into the Proposed Ruakura Development Plan Change, 2014, p46). The roads will be vested in Hamilton City Council, while the large land parcels will be retained in Waikato-Tainui ownership (Planner, 2015b). The open spaces may also be vested in Hamilton City Council. Traditional relationships with the Ruakura site are recognised through the Tāngata Whenua working group established by Waikato-Tainui.

Chedworth Properties Limited, owners of land adjacent to the northern boundary of the Ruakura site approached Tainui Group Holdings in the early 2000s to propose a joint venture to research and plan a comprehensive development at Ruakura. Land owned by Chedworth Properties will be developed as housing. According to Mike Pohio, the land at Ruakura was also envisaged to be a residential subdivision when he became CEO in 2004. Tainui Group Holdings had recently completed a residential development at Huntington. However, Pohio noted the proximity of the East Coast Main Trunk Line, as well as the proposed Waikato Expressway and considered “it didn’t make sense to me, that having a residential subdivision with those pieces of infrastructure, was the best use” of the Ruakura site (Chief Executive - Tainui Group Holdings, 2015). Commercial properties also tend to be leased for longer periods than residential property, and consequently provide more reliable income for owners (Jowsey, 2011, p379). For this reason, insurance companies and pension funds often invest in commercial property (Jowsey, 2011).

Tainui Group Holdings and Chedworth Properties Limited formed a joint venture to develop a comprehensive development proposal. This proposal was submitted to the review of the *Waikato District Plan* in 2003. The proposal was declined during hearings in 2005, and Tainui Group Holdings and Chedworth Properties lodged an appeal to the Environment Court (Webb, 2014). In 2008, the National Party campaigned on an election promise to bring forward the construction of the Waikato Expressway from 2028 to 2018, and won power as the fifth National Government of New Zealand. Pohio remarks that the change in timing for the Waikato Expressway “accelerated not only the opportunity but the challenge to get through the regulatory process” (Chief Executive - Tainui Group Holdings, 2015). The completion of the Waikato Expressway is considered to be a “huge stimulant for demand for land along that corridor” (Chief Executive - Tainui Group Holdings, 2015). In 2008, Boffa Miskell prepared a

⁶⁰ A Land Development Plan was described by one interviewee as ‘...controls that put in place below-ground work in an area, before any above-ground activity can occur’ (Consultant Planner - Hamilton City Council, 2016). Below-ground works include roading infrastructure, stormwater infrastructure, and ecological corridors.

revised proposal for the land, including for the first time the proposal of an inland port (Webb, 2014).

Like at The Base, the land owned by Waikato-Tainui at Ruakura will be developed with industrial and retail activities which allow Waikato-Tainui to lease the land to users, rather than selling the land. An interviewee confirmed that the activities to be developed on the land were also shaped by the requirement to retain the underlying land in Waikato-Tainui ownership (Chief Executive - Tainui Group Holdings, 2015). Mike Pohio noted that a “resounding message from the tribe” was “it’s taken us 140 years to get our land back. We don’t want to go and sell it” (Chief Executive - Tainui Group Holdings, 2015). Accordingly, Tainui Group Holdings needed to create a ‘develop-and-hold’ model rather than a ‘develop-and-sell’ model. Pohio felt that a retail development, similar to The Base, would not be possible:

...there was never going to be a second Base in Hamilton, and even if there was, that’s only 30 hectares when we’ve got 500. So, how can we turn that 500 hectares basically into an industrial development? And how can we enhance the economic prosperity, not just for Waikato-Tainui but for Hamilton and the Waikato region? (Chief Executive - Tainui Group Holdings, 2015)

Aside from the principle of avoiding land alienation, retaining a completed development provides Tainui Group Holdings with an asset to use as security for future borrowing, and a steady rental income. On the other hand, as with The Base, retaining the development requires Tainui Group Holdings to manage the property, becoming “in part a property company” (Jowsey, 2011, p145). As a development model, leasing has some risks. The success of leasehold will depend on “the market’s ability or willingness to take up land that will be leasehold, and the underlying ownership is retained elsewhere” (Planner, 2015b).

In summary, Ruakura provides an example of a proposal for long-term commercial development on communally-owned land. Although there are no legal restrictions on land alienation, Tainui Group Holdings has created a plan for development which retains land ownership.

Discussion: Hybrid planning in the ‘third space’ - bringing together two systems of planning

Analysis of the decisions made by Waikato-Tainui around appropriate development for the land at The Base and Ruakura illustrates the confluence of two planning traditions, including two systems of land ownership, and two models of development. The concepts of ‘power’ and ‘knowledge’ central to both critical planning theory and postcolonial theory have interesting parallels in the language used by Waikato-Tainui in the *Tai Tumu Tai Pari Tai Ao* environmental management plan. *Tai Tumu Tai Pari Tai Ao* sets expectations for the application and use of their knowledge encapsulated within the environmental plan, and the guardianship and control of that knowledge by iwi, hapū, marae or whanau as appropriate. In *Tai Tumu Tai Pari Tai Ao*,

the key concepts are mātauranga Māori - the knowledge of Waikato-Tainui, exercised in accordance with kawa and tikanga; and mana whakahaere - authority, rights, and responsibilities (Waikato-Tainui Te Kauhanganui Incorporated, 2013).

Apparently minor differences between planning traditions - differences which could be characterised as the norms of Pākehā planning meeting the tikanga of Māori planning - have long histories which highlight potential tensions within a (post)colonial institution of planning for Treaty settlement land. I explore these tensions below, and propose that working creatively to reconcile these differences - creating 'hybrid solutions in the third space' - is central to creating transformative (post)colonial planning practices.

Developing a hybrid land tenure and avoiding subdivision of communally-owned land

This case study adds further evidence to the importance of maintaining communal ownership of indigenous land, and supports the argument that communally-owned land can be viably developed for commercial return (Stephenson, 2011). Waikato-Tainui leader Sir Robert Mahuta characterised Te Wherowhero title as a "modern" way to "restore customary title" (McCan, 2001, p331). The determination by the Tainui Māori Trust Board to hold land returned under Treaty settlement in communal title to ensure its retention was clear during the negotiation of *Deed of Settlement* in 1995 (Fisher, 2015). Historian Martin Fisher notes that although Minister in Charge of Treaty Negotiations Doug Graham "had rejected the suggestion of placing the land being returned to Waikato-Tainui in a form of tribal or customary title, [lawyer Denese] Henare and Waikato-Tainui legal advisor Shane Solomon still sought ways to instil into the proposed legislation the special spirit and intent of this particular transfer of land from the Crown" (2015, p202).

I suggest that this determination stemmed from colonial experiences of land confiscation, and "massive land alienation" through the process of the Native Land Court to individualise land title (Boast, 2011, p145). Ensuring lands are inalienable removes indigenous lands from the risk of loss "through sale, bankruptcy, corporate takeovers, corporate failure and ...mortgage defaults" (Stephenson, 2011, p131). Retaining some land in Pōtatau Te Wherowhero title, and allowing some land to be held in freehold title means that Waikato-Tainui maintain a mixed portfolio of landholdings which is important for "promoting an economically successful future for indigenous communities while at the same time preserving traditional customary title, a land base" (Stephenson, 2011, p134). Methods used by planners to avoid alienation included: masterplanning at The Base; comprehensive development planning through the *Ruakura Structure Plan* developed by Hamilton City Council and Tainui Group Holdings for Ruakura; and the Land Development Plans required for development in the final *Ruakura Plan Change* approved by the Board of Inquiry.

Creating Te Wherowhero title to hold land returned under Treaty settlement is an important innovation. Stephenson suggests that "it is the indigenous communities who should decide whether their indigenous land should be held collectively or individually. Indeed, this process should never be imposed by a paternalistic government" (2011, p133). Mahuta emphasised

the fact that the nature of the Pōtatau Te Wherowhero title was defined by Waikato-Tainui, although it was implemented by the Māori Land Court (Fisher, 2015). This form of title can be considered 'communal' rather than 'collective' landownership, because ownership of the land is held by the iwi authority, rather than a collective of iwi members. Management of communal titles is "relatively simple to implement, as decisions regarding leasing and development are made by a single owner, the tribe" (Stephenson, 2011, p127).

Negotiating a hybrid model for roading on inalienable land

Developing inalienable land requires new arrangements between local authorities and iwi authorities. Negotiation was required to agree a solution to provide roading at The Base, acceptable to both the imperative for Waikato-Tainui to retain land ownership, and the need for Hamilton City Council to gain certainty around road maintenance. Again, I suggest that these negotiations have their origins in historical conflict between local authorities and iwi and hapū over compulsory acquisition of land for public works, such as roading.

The 'standard practice' within the Pākehā planning tradition of vesting land in the local authority recognises the public benefit of providing roads, and the private benefit of road access to development sites. Costs of infrastructure which will increase the value of privately-owned land are often shared between local authorities and private developers, and discussions over funding infrastructure for Ruakura have also focussed on balancing 'private good' with 'public gain' (Consultant Planner - Hamilton City Council, 2016; Jowsey, 2011). However, exactly where iwi authorities are positioned on the spectrum of 'public' to 'private' organisations is unclear (Webster, 2009). Waikato-Tainui did not seek to retain ownership of the land underlying the roads at The Base for private commercial gain, but in accordance with the fundamental principle of retaining the land. The purpose of the customary title under which the land is held in the name of Pōtatau Te Wherowhero excludes the possibility of alienating land for public roading or public parks. One interviewee suggested that the possibility of iwi eventually co-managing open space with councils means that land designated as open space could be thought of as "vested back, but not lost for ever more" (Planner, 2015b).

Commercial development on leasehold land

These case sites also demonstrate that leasing is a key tool to develop communally-owned land. One planner interviewed questioned the effect of the requirement to develop land through leasehold on property value. In a report on owner aspirations for developing Māori land, Dewes and colleagues (2011) noted hesitancy in some Māori communities about leasing, and gave examples of experiences of losing control of land through perpetual leases at peppercorn rates. However, Stephenson's analysis of contemporary leasing models on indigenous reserves lands in Canada highlights the control which can be held by First Nations over the leasing process, noting that "First Nations directly control to whom their lands are leased, the purpose of the lease and what business will be conducted on their traditional lands" (2011, p120). In contrast to leasing models in colonial New Zealand, the First Nations

organisation also directly receives all profits and benefits from the leasing arrangement, and is “free to renegotiate the lease” (Stephenson, 2011, p120).

Again, the differences between Māori and Pākehā planning traditions were clear during the settlement negotiations. Fisher reports that “[d]uring a February 1995 meeting with Waikato-Tainui advisors, Crown officials expressed their concern that if certain lands were rendered inalienable, it would affect the iwi’s commercial flexibility following settlement. Waikato-Tainui financial advisors countered that although it would not be possible to mortgage inalienable land, the income from valuable leases could still be mortgaged. Waikato-Tainui advisors stated that the inalienable status of the land provided comfort to the people that the returned lands would remain in the ownership of the people” (2015, p202-203)

Leasehold titles are not uncommon in the commercial property development market, and the use of leasehold titles at The Base continues to be profitable for Waikato-Tainui (Jowsey, 2011). When The Base was opened, Tainui Group Holdings and The Warehouse Group owned the land and buildings, and leased space to tenants. In April 2016, Tainui Group Holdings announced that a 50 per cent stake in The Base shopping centre had been sold to Kiwi Property Limited for \$192.5 million. The sale included 120 year ground leases but not the underlying land. A statement by Rahui Papa, Chairman of Te Arataura, emphasised that the partial sale:

‘...meets the tribe’s financial objectives in order to support its social, cultural and environment development goals. It will also protect tribal ownership of the underlying land, and preserve the unique Waikato-Tainui cultural elements within The Base shopping centre...No tribal land will change hands. Waikato-Tainui ownership of the underlying land continues to be protected under Pootatau Te Wherowhero title. Kiwi Property, along with [Tainui Group Holdings] will also protect unique cultural elements such as the Pou (tribal markers), and bi-lingual signage,’ Mr Papa said. ‘At the end of the long-term lease, ownership of The Base shopping centre will return to Waikato-Tainui at no cost’ (Tainui Group Holdings, 2016b)

Interpreting legislative requirements under the RMA

Despite the fact that Waikato-Tainui do not control the planning process for land at The Base and Ruakura, the tribe expresses significant agency in its decisions around development in accordance with the vision of ‘self-determination for economic self-sufficiency’. These decisions are based in the strategic direction of *Whakatupuranga Waikato-Tainui 2050* to ‘grow the tribal estate’ and on the principle of retaining land. United States academic Stephen Cornell argues strongly for the link between decision-making, economic development, and sovereignty:

The first key to economic development is sovereignty. ‘De facto’ sovereignty, meaning genuine decision-making control over affairs, is a prerequisite for economic development. Who is really deciding the economic strategy? Who is deciding how many trees will be cut? Who is deciding whether the joint venture agreement with an outside investor will go forward? Who is deciding how the housing money will be spent

in Indian Country? When the answer to these questions is 'the tribe' we have de facto sovereignty – sovereignty in fact and practice (Cornell 1997 as cited in Stephenson, 2011, p129)

I propose that the case sites of Te Rapa and Ruakura show evidence of Waikato-Tainui moving towards sovereignty, within the parameters granted within the *Resource Management Act (1991)*. Working between Māori and Pākehā planning traditions, Tainui Group Holdings have created practical 'hybrid' responses to challenges. However, findings from Chapters Six and Seven indicate that iwi planning documents are under-utilised and the discourse of 'economic sovereignty' is not recognised by Hamilton City Council, despite requirements under the *Resource Management Act (1991)* to "recognise and provide for the relationship of Māori with their resources" (s6e), "take into account" the principles of Te Tiriti o Waitangi (s8), and "take into account" iwi planning documents (ss61(2A)(a),66(2A)(a), and 74(2A)). To conclude this chapter, I discuss existing legal requirements as potential levers to increase recognition of Waikato-Tainui authority and knowledge.

As discussed in Chapter Seven, perceived constraints within the Pākehā planning paradigm to recognising Treaty settlements include that the *Resource Management Act (1991)* does not explicitly mention Treaty settlements; and that Treaty settlement legislation does not articulate any responsibilities for local government. Within the Māori planning paradigm however, as articulated through iwi planning documents, the nature of the Treaty relationship, the relevance of Te Tiriti and the importance of Treaty settlements to planning processes is clear.

Based on this research, I suggest that engaging with mātauranga Māori - in the form of iwi planning documents - is critical to understanding the aspirations of Māori organisations to develop their land. In creating *Whakatupuranga Waikato-Tainui 2050*, the Tainui Māori Trust Board aimed to create an accessible strategic plan so that "the tribe can read it, and outsiders - people external to the tribe - understand what our vision and strategy is" (Interviewee - Waikato-Tainui, 2014). Accordingly, Waikato-Tainui hold an expectation that, although *Whakatupuranga Waikato-Tainui 2050* was developed for the members of Waikato-Tainui, "everyone in the community is an audience. Although its for the tribe, its implementation can be undertaken by anyone and everyone" (Environment Manager - Waikato Tainui, 2014). Similarly, *Tai Tumu Tai Pari Tai Ao* "is designed to enhance Waikato-Tainui participation in resource and environmental management" (Waikato-Tainui Te Kauhanganui Incorporated, 2013, pp13-14). Tim Manukau explained that "we want to manaaki our people starting to get into environmental science and resource management" (Environment Manager - Waikato Tainui, 2015).

Waikato-Tainui intend the plan to "provide clear high-level guidance on Waikato-Tainui objectives and policies with respect to the environment to resource managers, users and activity operators, and those regulating such activities, within the Waikato-Tainui rohe" (Waikato-Tainui Te Kauhanganui Incorporated, 2013, pp13-14). *Tai Tumu Tai Pari Tai Ao* states clearly that Waikato-Tainui expect their planning documents to be considered as an equivalent

text to a regional or district plan “as part of considering any resource management, use or activity” (Waikato-Tainui Te Kauhanganui Incorporated, 2013, s.5.4.3). Waikato-Tainui believes that tāngata whenua knowledge “needs to be considered and weighted in the same way as other subject matter or technical expertise” (Waikato-Tainui Te Kauhanganui Incorporated, 2013, s6.3.1).

Tai Tumu Tai Pari Tai Ao clearly sets out the concept of ‘mana whakahaere’, which provides a pre-Treaty basis for tāngata whenua jurisdiction, power and authority within the sub-region. Mana whakahaere specifically acknowledges the different levels of organisation within the iwi of Waikato-Tainui - hapū, marae, and whānau - and the right of each of these levels to represent their own interests in resource management.

Providing for relationship with Treaty settlement land - s.6e

Tai Tumu Tai Pari Tai Ao also clarifies the relationship between Waikato-Tainui and their Treaty settlement land, from a Waikato-Tainui perspective. Many local government plans around Aotearoa New Zealand contain targetted provisions to promote development on land held under *Te Ture Whenua Māori Act (1993)* but limited or no recognition of the status of land acquired under Treaty settlement. Local government differentiates between land held under *Te Ture Whenua Māori Act (1993)*, and land acquired under Treaty settlement. In contrast, *Tai Tumu Tai Pari Tai Ao* considers all land owned by Waikato-Tainui together (Waikato-Tainui Te Kauhanganui Incorporated, 2013).

In accordance with the position taken by Waikato-Tainui, both the High Court and the Environmental Protection Authority have emphasised the status of The Base and Ruakura respectively as Treaty settlement land, allocating comment in their discussions. These decisions are the latest iteration in our evolving understanding of the significance of the requirement to recognise the relationship of Māori with their land. A version of this clause was originally included in the *Town and Country Planning Act (1977)*, and subsequent court decisions have supported the broad identification of ancestral land, as follows:

Section 3(1)(g) of the Town and Country Planning Act 1977, required local authorities, in the administration of their planning schemes, to recognise and provide for: ‘(g) The relationship of the Māori people and their culture and traditions with their ancestral land’. For more than a decade, a line of Planning Tribunal cases held that land was not ‘ancestral land’ if it was no longer in Māori ownership. This narrow approach was eventually overturned by the High Court, which held that the appropriate interpretation was land which was owned by Māori ancestors, and went on to state that it was the nature of the relationship with the land that was important (MfE, 2010 p.287)

Land returned to Waikato-Tainui under Treaty settlement is within the rohe of Waikato-Tainui, and therefore can be considered ‘ancestral land’. A planner involved in the Ruakura development considers that section 6e of the *Resource Management Act (1991)* “most

definitely puts the obligation on council to provide for Treaty settlement land in a similar way” to land held under *Te Ture Whenua Māori Act (1993)* (Planner, 2015b). Several interviewees emphasised the “national interest” of Treaty settlements (Interviewee - Future Proof, 2014) and confirmed that section 6e should apply to land returned under Treaty settlement (Planner, 2015b).

Furthermore, it is arguable that section 6e of the *Resource Management Act (1991)* echoes Article 2 of Te Tiriti o Waitangi. Article Two of Te Tiriti guaranteed to Māori “te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa”, which can be translated as “absolute authority over their lands, their homes, and everything which they value” (2012, p197-203). Matunga has stated that Article Two “is an affirmation of Maori chieftainship, management authority and, importantly for environmental planning, the right of Maori to plan and be their own planning agents” (2000a, p38). Drawing this argument to its logical conclusion, the ‘relationship between Māori and their taonga’ to be considered as a ‘matter of national importance’ is in fact the ‘tino rangatiratanga’ guaranteed under Article 2. Viewed in this way, section 6e offers an acknowledgement of the dual planning system operating in Aotearoa New Zealand, and creates a ‘lever’ for planners to work creatively with Māori concepts of rights, ‘ownership’ and jurisdiction - in other words, with mātauranga Māori.

Taking into account Treaty principles - section 8

Waikato-Tainui aim to “forge a partnership with the Crown”; to “reaffirm our Treaty relationship with the Crown”; and to “co-manage with government agencies the allocation and delivery of resources and services in our rohe” (Te Kauhanganui o Waikato Inc., 2007, p4, p7). *Tai Tumu Tai Pari Tai Ao* also provides a Waikato-Tainui view on the Treaty responsibilities held by local government, linking the relationship with local government back to Te Tiriti o Waitangi. Waikato-Tainui promote a vision for future relationships which are enduring, equal, and focussed on outcomes. These relationships will be underpinned by tikanga, good faith, transparency, patience, and understanding.

Treaty principles developed by the courts for incorporation into resource management include “Partnership; Mutual obligations to act reasonably and in good faith; Active protection; Mutual benefit; Development; and Rangatiratanga” (Majurey et al., 2010, p297). These principles set out the parameters for engagement between Māori and the Crown, including Māori and local government. It seems reasonable to expect that the requirement to “act in accordance with Treaty principles” must result in some recognition of the Treaty settlement process and outcomes. However, enabling “Māori economic, social and cultural aspirations is an important aspect of the Treaty principles that has not received much attention in the [*Resource Management Act*] context to date” (Majurey et al., 2010, p298). As Hayward comments, “[a]s long as these issues remain unclear, local authorities’ commitment to Treaty issues is highly subjective and open to interpretation by individual authorities” (, 1999, p191). Based on the findings of this research, our understanding of the relevance of section 8 needs to continue to be challenged, discussed and re-defined.

Conclusion

Land was acquired through the Treaty settlement process on the principle of “i riro whenua atu, hoki whenua mai” (‘as land was taken, land must be returned’). Waikato-Tainui accepted all properties that were offered by the Crown as redress in 1995, and assessment of commercial development options began after the land was returned to Waikato-Tainui ownership. I find that planning for Treaty settlement land brings together two planning traditions. Importantly, communal ownership of land affects the activities which are considered viable on Treaty settlement land. There is strong resistance to selling land for development, and methods employed by Tainui Group Holdings to avoid subdivision include comprehensive development planning and the use of leaseholds to develop retail at Te Rapa; and to facilitate retail and industrial activities at Ruakura. Through leasehold, the ownership of the land is separated from the ownership and operation of the activities. Waikato-Tainui and Hamilton City Council worked together to develop innovative models of road maintenance at The Base which allowed Waikato-Tainui to retain ownership. At Ruakura, roadways and public space are likely to be vested in the ownership of Hamilton City Council. Tainui Group Holdings has partnered with existing development companies to access commercial development skills.

These three examples - a hybrid model for road ownership and maintenance; using leaseholds to retain land ownership while achieving a commercial return; and creating partnerships to advance development - illustrate the innovative ways that Waikato-Tainui and Hamilton City Council are working together in the ‘third-space’ between Māori and Pākehā planning traditions. The history of relationships between the local authority and the iwi authority are always present, and act as ‘translocal’ influences on decisions. Hamilton City Council has struggled with the hybrid nature of ‘capitalist development’ on ‘communally-owned customary land’. Waikato-Tainui has grappled with the imperative to create developments at The Base and Ruakura which are neither solely ‘commercial’ nor ‘cultural’, but build towards a strategic goal of ‘economic self-determination’.

Waikato-Tainui planning documents emphasise the relationship of Waikato-Tainui to their land, and the significance of land returned under Treaty settlement to tribal development. Decisions by the High Court and the Board of Inquiry refer to the relationship between Māori and Treaty settlement land as a ‘matter of national importance’ under section 6e of the *Resource Management Act (1991)*. Analysis in Chapter Seven highlighted the importance of the interpretation of the *Resource Management Act (1991)* in identifying ‘strategic moments’ to transform the relationship between local authorities and iwi authorities, reconciling the ‘dissonance’ between expectations of Treaty-based relationships and ‘actual’ everyday practice. Interpretation of existing legislative requirements is critical to developing planning regulation for Treaty settlement land which takes into account wider social, cultural, and economic benefits for iwi, hapū, whānau, and the wider community. In the next chapter, I consider the ‘transformative’ work required to support planners working within the institution of planning to use these levers to effect social change and move towards a Treaty-based relationship and planning paradigm.

Chapter Nine – Treaty responsibilities and transformation: An ethic of (post)colonial planning

Ethical theory is 'not as a matter of philosophical knowledge, but as a way to think about, interpret, and assess questions of value, significance, obligation and right. Planning is fundamentally a value-laden, value-permeated, value-driven profession' (Krumholz & Forester, 1990, p254)

Introduction

In Chapter Six, I explored the discourses of 'economic sovereignty' and 'integrated development' promoted by Waikato-Tainui as context for developing Treaty settlement land, and the response of local government to these discourses. In Chapter Seven, I created a 'chain of action' which revealed how the actions of planners working for both Hamilton City Council and Waikato-Tainui are coordinated through texts, and controlled by discourses originating in legislation and planning documents. In Chapter Eight, I examined acts of agency by Waikato-Tainui in creating 'hybrid' planning practices which retain communal land ownership as well as meeting the requirements of Western planning, development and financial systems. At the end of Chapter Seven, I identified 'levers' for transforming the institution of planning arising from interpretation of Treaty obligations under planning legislation, recognising Māori authority (mana whakahaere), and valuing Māori knowledge (mātauranga Māori).

In this final chapter on findings, I turn my attention to the question raised by Libby Porter - "How should planning respond?" (2010, p2). Drawing on data from interviews, I consider the challenges described by interviewees when considering the issues of Treaty obligations, anti-Māori discourse, and social relations between Māori and Pākehā in the context of planning for developing land returned as Treaty settlement, and when working cross-culturally⁶¹ with Māori communities more generally. Although the reflections offered in this chapter are those of individual planners, the focus of this research is on the institution of planning which includes local government, iwi authorities and the planning profession. Using Huygens' theory of dominant group change as a framework, I consider the ways in which the planning profession as a whole might be considered to be moving towards creating new 'Treaty-based' relationships with Māori communities.

New relationships are central to the aim of decolonisation in Aotearoa New Zealand, and ethics underlie new relationships. Campbell and Gregor highlight that "ruling relations are more than

⁶¹ Although interviewees were not asked to identify as Māori or Pākehā, most of the planners I interviewed all worked within the Pākehā planning system, often as an employee of or consultant to local government. In this context, I use 'cross-cultural' to mean working between Māori and Pākehā planning traditions.

imposition of rules. They rely on people knowing how to take them up and act in the appropriate manner” (2004, p33). I identify the New Zealand Planning Institute *Code of Ethics* as a possible vehicle for ‘collective consciousness’ around dominant group change, and assess the usefulness of the current Code in assisting planners to deal with the issues identified in this research. I argue that, aside from statutory Treaty ‘obligations’, planners hold ethical Treaty ‘responsibilities’. Considering how to act on these responsibilities can guide us towards the transformative planning practices required in a (post)colonial planning institution.

Findings: Decolonisation in practise

In Chapter Three, I introduced Huygens’ theory of dominant group change. The four change processes that Huygens and other Treaty educators theorised that Pākehā may traverse on their journey towards decolonisation are:

- Relearning a history of the Pakeha-Maori relationship
- Responding emotionally to a shift in worldview about the colonial relationship
- Developing a conscious collectivity and anti-racism strategy as Pakeha
- Preparing for a differently-constituted relationship between Maori and Pakeha (Huygens, 2007, p200)

As discussed in Chapter Four, this research involved interviews with both case study participants and key informants. A number of interviewees were planners. Initially, the interviews focused mainly on relationships, however in the course of conversation interviewees often discussed their personal and professional change as a result of working with Māori communities on projects including but not limited to The Base and Ruakura. I interviewed further key informants from around the country to gather additional perspectives. All quotes from interviewees in this section have been attributed anonymously to reflect the personal nature of interviewees’ comments. In the following section, I group interviewees’ reflections on their experiences planning with Māori communities under the four ‘change processes’ described above. This analysis assesses the ways in which planning processes, coupled with Treaty settlements, provide opportunities for planners to engage in decolonization practices. This chapter draws on my own experiences and reflects my own standpoint as a Pākehā planner working towards decolonisation.

Relearning a history of the Māori-Pākehā relationship

Transformative planning “begins with the development of a consciousness of oppressed futures and the possibilities of emancipation” (Lane & Hibbard, 2005, p174). To progress towards (post)colonial planning practices, indigenous agency must be complemented by transformation of individual planners, and by transformation of the planning institution (Lane, 2006). Huygens considers Pākehā transformation to result from Pākehā revisiting our history in this country - “critiquing those aspects of yesterday’s tradition and culture which will not serve

today” (2011, p75). For Pākehā, relearning history often means learning more about Māori experiences of the Pākehā-Māori relationship (Bell, 2009).

Māori and Pākehā have very different relationships to the history of Aotearoa New Zealand, as Bell argues:

Pākehā are always ‘becoming’, but never ‘are’. They do not know themselves as a people with a shared history that shapes their identity in the present, cements their relation to place and offers them direction for the future. Instead, history is a site of anxiety and blocked desire that results in the neurotic inability to either confront it or let it go. Māori, on the other hand, ‘work’ on their pre- and post-settlement histories, caring for them and keeping them alive down the generations. These histories are sources for the forging of dynamic contemporary Māori identities and communities and political projects for the future (2009, p185).

In our interviews, planners did not explicitly link historical landloss through colonisation with their work planning to develop land returned under Treaty settlement. However, their knowledge of the historical context for the return of land was visible when interviewees linked the developing commercial redress land with the “economic and social wellbeing of people and communities” (Planner, 2014c). One planner referred to land returned under Treaty settlement as sourced from “raupatu lands” (Planner, 2015d).

As described in Chapter One, the history of Māori-Pākehā relationships with regard to land ownership and resource management is a history of dispossession, marginalisation, and destruction. It is my experience that, during consultation on planning processes, Māori communities often link historical events with contemporary planning issues. For planners working within the Pākehā planning tradition, engaging with history can involve “challenging internalized self-attributions of decency and fairness” (Huygens, 2007, p198). Assertions by Māori of historical disadvantages caused by Pākehā planning practices challenges planners’ assumptions of planning as a progressive profession that improves life for everyone (Allmendinger, 2009; Grange, 2013). Accordingly, planners can find it difficult when asked to consider how contemporary planning processes can address historical grievances. One interviewee felt that “None of it is a surprise anymore, but it doesn’t mean it’s any easier to work with iwi on matters” (Planner, 2015d).

Several planners reported the importance of visiting marae, walking on the land, and engaging in face-to-face interaction with Māori communities to deepen their understanding of the importance of history in planning (Planner, 2014c; Planner, 2015c). One planner recalled a project in Kāpiti, on the west coast of the lower North Island, during which the management team for a project stayed on the marae of a hapū who opposed the project. The team spent:

...a very cold winter’s weekend walking around the area, and having the story of the area told to us... And that was because... how do I explain this? You were told the story in written terms - you know, Environment Court decision and all that sort of stuff - but

when you actually started talking to the key representatives, you sort of realise that there's a whole depth of history and significance that the written description doesn't really give you (Planner, 2015c)

The planners I interviewed were aware of Treaty settlements, and knew the details of settlements within the area in which they live and work. One planner considered that although early claims to the Waitangi Tribunal, such as the Manukau Harbour claim directly addressed planning, the return of substantial pieces of land motivated planners to attempt to understand the implications of Treaty settlements:

I don't think awareness and full understanding of what the Treaty settlement process could mean for planners and planning really occurred until the early 2000s, when you got significant Treaty settlements that involved land, which involved - like Ruakura - ... high potential for change (Planner, 2015c)

Planners offered different perspectives on the relevance of Treaty settlements to the practice of planning. One interviewee stated that he is "acutely aware" of Treaty settlements when developing planning documents (Planner, 2014c). Drawing on the language of section 6e in the *Resource Management Act (1991)*, he felt that Treaty settlements are "matters of national interest", and should be recognised as such in planning documents (Planner, 2014c). Another interviewee called for planners to "enable Māori to make the best of their settlements" (Planner, 2015c); while a third interviewee felt that local government should engage proactively with Māori communities through the review of district planning documents, especially when Māori groups own strategic pieces of land within the district (Planner, 2015a).

When asked directly, planners were uncertain how Treaty settlements had affected planning or planning practice (Planner, 2015a; Planner 2015c), or felt that planners' understandings of the implications of Treaty settlements was "not good" (Planner, 2014c). A planner noted reports of active resistance from councillors in local governments around the country to change as a result of Treaty settlements (Planner, 2015a), and considered that understanding Treaty settlements is a low priority for many planners:

...my feeling is that a lot of people are still quite apathetic ... They just don't know, aren't aware, it's not a priority (Planner, 2015a)

In general, it was felt that there is little understanding of Treaty settlements in the planning profession (Planner, 2015c; Planner, 2014c; Interviewee - Hamilton City Council, 2015).

Responding emotionally to a shift in worldview

Participating in discourse around Māori-Pākehā relationships is an emotional activity (Wetherell, McCreanor, McConville, Moewaka Barnes, & le Grice, 2015). Responding emotionally to new knowledge, such as the history of Māori and Pākehā relations, is an important part of social change and of transformative learning (Fischer & Mandell, 2012).

Critical planning theorists such as John Forester have highlighted the emotional complexity for planners mediating and negotiating “in historically contentious, plural, public settings” (Forester, 2013, p14; Forester, 2005). Theorist Leonie Sandercock also urges planners to recognise “the need for a language and a process of emotional involvement, of embodiment. This means not only allowing the ‘whole person’ to be present in negotiations and deliberations, but being prepared to acknowledge and deal with the powerful emotions that underpin many planning issues” (2004, p139).

Emotions commonly associated with Pākehā ‘conscientisation’ include “anger and blame at how much has been hidden, grief at loss of innocence, and shame... Pākehā are also likely to feel responsibility and guilt, denial and defensiveness” (Huygens, 2007). Moving beyond “Pākehā paralysis” can be difficult (Tolich, 2001). Discussing responses to decolonization, Huygens reports that while people often express the “fear that they will lose property, ...at a subconscious level that fear is probably more about losing known worldview” (2007, p181). Change requires “letting go of old, familiar knowledge and old relationships and embracing new passions and new values”, a process is accompanied by “discomfort, vagueness and tenderness” as new worldviews are formed (Huygens, 2007, p178).

The planners I interviewed did not specifically articulate emotions about their personal and professional responses to learning new knowledge about our colonial history. However, interviewees’ body language and their voices showed me their discomfort when confronted during the course of their work with the evidence of planning’s past mistakes. One interviewee described his distress at witnessing degradation of environmental and cultural resources important to a Māori community in the Western Bay of Plenty:

I’ve watched, at one of the maraes, all the wastewater going through the paepae and... the contaminated shellfish beds... You don’t know where to go, given what’s happened in the past (Planner, 2014c)

In a profession such as planning, discomfort comes from feeling that professional training and experience, regulation and legislation, and ethical codes do not provide practitioners with sufficient guidance to make a reasonable decision. Reflecting on a planning process which was later challenged by iwi, one planner asked himself:

And did I know, professionally, that it wasn’t the right position? I didn’t know. There was nothing we felt we could rely on (Planner, 2015d)

Developing a collective strategy for transforming planning

Transformative planning aims to move beyond the binary of colonial discourse. Discourses such as ‘essentialism’ and ‘Māori privilege’ “need to be recognised as cultural and as collectively maintained – hence the need for deliberately collective processes to change them” (Huygens, 2011, p76). Strategies for collective transformation must recognise that racism

exists in institutions, and develop collective strategies to counter the hegemony of Pākehā power and knowledge at a professional and institutional level (Huygens, 2011).

Interviewees reported encountering attitudes among planners and councillors which they identified as “racist” (Planner, 2014c). In general, these racist attitudes reflected discourses about Māori privilege and ‘special rights’ discussed in Chapter Six, characterised by one planner as “Those bloody Maoris, how dare they!?! They’re getting far too much” (Planner, 2014c). A strong personal sense of responsibility to Māori (either personally or collectively) was clear from some interviewees. However, few interviewees acknowledged the Western/colonial origins of the planning system they worked within, or articulated a collective identity for ‘Pākehā planners’.

Many interviewees commented on the “willingness” of planners to “do what was best”, but felt that planners were unsure about how they should engage with Māori communities and, more specifically, respond to Treaty settlements. Interviewees described the difficulties for planners in achieving a practical understanding of the relevance of Te Tiriti o Waitangi to their work, the need for more Māori planners, and the need for better representation of Māori on local government (Interviewee - Hamilton City Council, 2015; Planner, 2015c). The *Resource Management Act (1991)* was acknowledged to have introduced new concepts and obligations but it was felt that planners have little time to consider the implications of these requirements for their everyday work (Planner, 2015c). One planner felt that “generally, there’s probably a lack of understanding from a lot of people about what we could do. And a sense of frustration in trying to figure out what more the profession could be doing to address it” (Planner, 2015c). Another planner stated that “I’m aware of what we shouldn’t be doing. I’ve got that far... I certainly haven’t started from what we ‘must do’, because I don’t know enough about that. I can’t see it” (Planner, 2014c).

The planners I interviewed were aware of the limitations of their knowledge; and the help that they needed to understand Māori aspirations and intentions in planning (Planner, 2014c). Interviewees were clear that Māori worldviews are different to Pākehā worldviews; and that Māori organisations are different to Pākehā organisations. One interviewee noted that, as a recent arrival in Aotearoa New Zealand, he recognised the importance of learning about the area where he works:

Because if you’re not from a place, and you’re working there - and especially if you are working in a public sector role - to have any kind of credibility you need to have some understanding of the history and cultural place you are working in. So, it’s something that I’ve really tried to learn (Planner, 2016)

Being able to understand the interests held by Māori organisations was considered critical. One planner reported that:

...you know, iwi aren’t all about... just focussed on looking after the environment. They are also looking at growing their asset base, equally so, and being economic

contributors. However, ...how they do business is generally with those environmental values in mind, because that's who they are (Planner, 2015a)

To discover these interests, planners working for local government need to “actually engage with iwi proactively, through their district plan review process” (Planner, 2015a). Planners also need to be familiar with “any Treaty settlements that apply to their district or region” (Planner, 2015a). However, a number of interviewees reported their surprise at how little planners still know about Te Tiriti or concepts such as kaitiakitanga, topics which were described as “a critical part of your professional understanding and operation” (Planner, 2015c), (Planner, 2015a). Another interviewee stated clearly that “all white New Zealanders have got a challenge in understanding more about Māoridom” (Interviewee - Hamilton City Council, 2015).

Preparing for a differently-constituted relationship

Both Matunga (2007) and Huygens (2009) assert that transformed relationships between Māori and Pākehā must have Te Tiriti o Waitangi at the centre. Huygens explains that “[t]he position taken by Maori in asserting their Tiriti-guaranteed authority calls for a response from Pakeha, for a reply to the invitation to develop a non-colonising relationship according to the Treaty agreement” (2007, p243). Non-colonising relationships include affirming Māori authority through becoming accountable to Māori. Clarifying the accountability of the planning profession to Māori organisations “could be termed ‘transformative’ in that it reverses the usual flow of power by making the Pakeha practitioner accountable to relevant Maori authority, and maximises the potential for new outcomes and new learning for all parties” (Huygens, 1999, p1).

Planners interviewed were very aware of the importance of relationships with Māori when considering Māori issues; and the need to think carefully about those relationships. Although no interviewees explicitly mentioned engaging in a ‘Treaty-based relationship’, a number of planners described feeling individually accountable to Māori organizations. This accountability was linked to personal relationships developed with Māori professionals, Māori organisations, and the wider Māori world. One interviewee stated clearly that “If you build a personal relationship, things work” (Interviewee - Hamilton City Council, 2015). Considering ‘consultation’ with Māori organisations, another interviewee suggested that the planning profession now has a strong understanding that consultation:

...is not the same as engagement and participation... I think there's a general understanding in the profession that it's not just normal stakeholder consultation. It has to be much more meaningful than that, on-going and a two-way process (Planner, 2015c).

Planners suggested creating new governance and management arrangements, and sharing the authorship of planning documents with Māori organisations, as steps towards affirming Māori authority. Māori organisations were reported to be increasingly drafting and contributing text

for local government planning documents (Planner, 2015a), as part of an overall trend towards “active involvement” in the planning process. New relationships were envisaged:

...actively involving iwi in the management process, either through the committee structures of councils or much stronger engagement processes than just relying on the ‘Iwi Liaison Officer’ to do that. And actually having an active role in writing and developing planning policies and the like - actively going there and working with mana whenua on writing policies that actually has meaning to them (Planner, 2015c)

This interviewee felt it is critical for planners to understand why they are engaging with Māori organisations:

That’s part of the lesson, it’s not just understanding the concepts and things like that but actually understanding why iwi need to be more involved and engaged in the process (Planner, 2015c).

For some interviewees, accountability was also connected to a professional sense that supporting Māori development is ‘the right thing to do’. Working with Māori communities was presented as a positive and personally rewarding way to be a planner. Adding accountability to Māori, to acknowledged accountabilities to local government, the planning profession, and the community as a whole was a strategy which enabled the planner to involve all their interests in their everyday work:

I’m very interested in development planning, I’m interested in economic development, I’m interested in grievance redress, I’m interested in social equity - I’ve got all these dots joined up with my work (Planner, 2014c).

Another planner favourably contrasted working with iwi and hapū to create ‘enduring intergenerational wealth’ with working for ‘private’ developers. He felt that working with Māori organisations is:

...extremely satisfying work to do. Because, without question, it’s for the greater good. And you know, a lot of the work that we do [as planners] has a greater good but development that provides returns back to a tribal base which allows them to do all sorts of things, and the intergenerational aspect of that is extremely satisfying to be part of (Planner, 2015b).

Planners felt that iwi and hapū could make very good partners for local government because of their long-term commitment to the area:

They are trying to grow a Māori economy. They are one big landowner. They are not some short-term opportunist. They are there for the long haul (Planner, 2014c).

Realising “mutually agreed” relationships between Pākehā and Māori organisations is skilful work (Huygens, 2007, p200). However, interviewees felt positively that building relationships through negotiation, mediation and leadership is a key planning skill (Planner, 2015d; Planner, 2014c). One interviewee said:

I keep coming back to the relationship and respecting the views of the other parties and always trying to operate with integrity. You may not agree with the message, but you can accept the message and learn to understand the messages that are being brought back to you, in an open way (Planner, 2015d).

Overall, interviewees felt that strengthening relationships will lead to both personal and professional change.

Discussion – Moving towards dominant group change

I believe that my findings above demonstrate that planners are responding in a number of ways to the new institution of planning created by Treaty settlements. Working within this institution - a kind of third-space where history is always present - is neither familiar nor comfortable for planners working within Pākehā traditions. Methodologically, these individual responses cannot be extrapolated to illustrate attitudes in the wider planning profession. Instead, these responses reflect the contemporary attitudes of a group of planners who have all worked closely with Māori communities, either in Waikato or elsewhere in Aotearoa New Zealand.

Reviewing these interviews through the lens of Huygens’ theory of dominant group change suggests that relearning our histories and considering the connections between the past and the present resulted in planners experiencing emotions based first in discomfort, and then in caution. Fischer and Mandell note that emotions are “composites of feelings and beliefs” (2012, p362). Contrasting ‘subjective’ feelings and beliefs with ‘objective’ planning processes which give rise to ‘sites of ruling’, I suggest that these emotional responses are a ‘site for change’. Discomfort is a part of transformation from fear to hope for the future; and caution is part of transformation from doing things as we’ve-always-done-them to doing things in a new way. Transformative planning theorists emphasise that “[l]earning to acknowledge and work within the limits of one’s understanding is a key element of the development of transformative professionals” (Fischer & Mandell, 2012, p366). Planners interviewed demonstrated their awareness of the limits of objectivity, and of their own planning knowledge in relation to Māori planning issues. Individual planners are taking tentative actions towards decolonisation through investing time in learning about history, building relationships, and working with tāngata whenua to develop planning documents. These actions suggest a growing awareness among individual planners of ethical Treaty ‘responsibilities’ outside the legal Treaty ‘obligations’ discussed earlier in this thesis.

Findings in this chapter indicate that planners have access to alternative discursive resources to counter discourses of essentialism and 'Māori privilege'. Interviewed individually, many planners recognised the importance of Māori economic interests to the wellbeing of Māori communities; and the need for local government to better engage with Māori communities as partners in planning processes to reflect the fundamental Māori-Crown relationship. However, Chapters Six, Seven and Eight illustrate that planners are not always able to put these 'counter-discourses' into action. I also found little evidence that the planning profession is employing the decolonising discourse of "Pākeha honouring the Treaty" (Huygens, 2007, pp240-241), nor that the tentative actions above are sufficiently coordinated to support a "coherent counter-hegemonic alternative" to established colonial discourses, nor to collectively 'transform' the planning institution (Huygens, 2007, p242). Huygens emphasises the necessity of "collective transformation" acknowledging that individuals can only be as "emancipated" as the "cultural discourses (or dialogic communities) available to them" (2007, p69).

Building on Huygens' work, alongside the work of Friedmann, Forester, Sandercock, Fischler and Mandell, I propose that a conscious strategy is required for the planning profession to become "facilitators of social learning", moving ourselves and our communities towards decolonisation. By training, planners have the skills to identify and understand diverse interests, and to bring parties together in new relationships. By doing so, we will begin to fulfil our "critical role and ethical responsibility to support the recovery of Indigenous communities and to facilitate the restitution of Indigenous materiality and memory" (Matunga, 2013, p31). I propose that reviewing the New Zealand Planning Institute *Code of Ethics* could be a first step in developing this strategy.

Findings: Planning ethics in practise - New Zealand Planning Institute *Code of Ethics*

The *Code of Ethics* of the New Zealand Planning Institute/Te Taumata Kokiringa is a potential tool to raise the collective consciousness of planners about their ethical Treaty responsibilities, and to utilise the levers identified in this research to advance the planning profession towards decolonisation. The New Zealand Planning Institute/Te Taumata Kokiringa is the professional body for planners in Aotearoa New Zealand. A New Zealand branch of the Royal Town Planning Institute was established in 1949, and became an independent 'New Zealand Planning Institute' in the 1960s (Miller, 2007). The New Zealand Planning Institute delivers "training, networking opportunities, advocacy for its members, up to the minute planning news, accreditation of tertiary planning education in NZ and good practice guidance" (New Zealand Planning Institute, 2016a). Membership of the the New Zealand Planning Institute is voluntary, and members agree to abide by a code of ethics which is included in the New Zealand Planning Institute Constitution (New Zealand Planning Institute, 2011).

Through critical discourse analysis below, I deconstruct some of the assumptions and values within the *Code of Ethics* which could impede or assist planners attempting to decolonise planning practise. I have adapted categories of analysis developed by bronwyn campbell

(2005) in her study into bicultural practise by Pākehā psychologists, which included interrogating the New Zealand Psychologists Association *Code of Ethics*. My analysis focused on:

- How the Code frames Te Tiriti o Waitangi, and articulates the relevance of Te Tiriti to professional planning practice
- Identifying cultural worldview(s) within the Code, and
- Considering whether the Code acknowledges different worldviews and corresponding subjectivity
- How the Code frames Māori communities, and planners' accountability to Māori

I have arranged the results of my analysis below under the central themes of transformative planning practice - Te Tiriti o Waitangi; recognising Māori authority; and valuing Māori knowledge. My analysis indicates that although the *Code of Ethics* includes some recognition of Te Tiriti o Waitangi and the interests of Māori communities, the *Code* could be changed to assist planners to identify transformative planning practices and to legitimate decolonisation as a goal.

Te Tiriti o Waitangi and professional planning practice

Under “The Planner’s Responsibility to the Public”, the *Code of Ethics* states that:

A planner shall maintain an appropriate professional awareness of issues related to the Treaty of Waitangi and to the needs and interests of Tangata Whenua (New Zealand Planning Institute, 2011, clause 8.1.2)

This clause is the first ‘sub-clause’ within the Code, which implies that Te Tiriti is an important part of the institution of planning in Aotearoa New Zealand. However, close analysis of the clause suggests that the relevance of Te Tiriti is perceived as limited. By categorising ‘Tāngata Whenua’ under ‘the Public’, the Code minimises the status that Māori hold as the indigenous people of Aotearoa New Zealand, and diminishes rights under Te Tiriti o Waitangi to ‘needs and interests’.

The Code provides little clarity about planners’ or ethical responsibilities under Te Tiriti o Waitangi. I interpret the use of the word ‘appropriate’ to mandate individual planners to identify a level of awareness appropriate to a specific project, a specific job, or their own identity, as they choose. Clause 8.1.2 refers directly to “the Treaty of Waitangi”, rather than the principles of the Treaty which create Treaty obligations for local government through the *Resource Management Act (1991)* and *Local Government Act (2002)*. As a result, it is unclear whether the *Code of Ethics* implies that planners as a profession, have ethical ‘Treaty of Waitangi’ responsibilities through Te Tiriti itself, or whether the Code is simply reminding planners of their legal obligations under legislation. I also note that clause 8.1.2 refers to ‘the Treaty of Waitangi’, which implies the English language version of Te Tiriti rather than the Māori language version which is argued by Treaty educators to be pre-eminent.

Valuing Māori knowledge

My analysis indicates that the *Code of Ethics* does not support planners to value Māori planning knowledge. Instead, the Code implicitly and explicitly privileges Pākehā planning knowledge and norms. Pākehā scholar Rose Black identified a cultural value held by Pākehā of ‘superiority’, which “operates to secure and maintain privilege through controlling sources of knowledge and what is regarded as important knowledge” (2010, p187). The dominance of Pākehā norms is implicitly signalled through the way in which the *Code of Ethics* name Māori as an ‘Other’, but do not name ‘Pākehā’ as the identity of the dominant group (McCreanor, 2005). For example, ‘Treaty of Waitangi’ issues are associated with ‘Tāngata Whenua needs and interests’, implying that only Māori have an interest in the Treaty. ‘Pākehā’ needs and interests are not mentioned.

The *Code of Ethics* is firmly based in a Western, ‘technical-rational’ worldview, the ‘dominant approach to the way that knowledge is produced and recognised in Pākehā culture’ (Belich 2001 cited in Black, 2010, p189). The *Code* is written entirely in English, except for the words ‘Tangata Whenua’. The Māori name of the New Zealand Planning Institute - He Kokiringa Taumata - does not appear on the *Code of Ethics*. Language within the Code suggests a strong tradition of objective, ‘neutral’ planning in Aotearoa New Zealand, which includes little recognition of the subjective or ‘fallible’ nature of planning practice. For example, clause 8.4.1 states that a planner:

...shall strive to ascertain the appropriate factual situation, and maintain unbiased and object [sic] judgement, and shall not give professional advice or evidence which is other than his/her true professional opinion (New Zealand Planning Institute, 2011, clause 8.4.1)

The use of the word ‘maintain’ implies that planners inherently possess “unbiased and object judgement”. Similarly, the use of the phrase “true professional opinion” implies an ability to determine an essential opinion. The absolute objectivity of this professional opinion is contradicted by the use of the word ‘his/her’, which recognises that the professional opinion is held by an individual who may be subjective (although only in terms of gender). The Code also privileges professional knowledge and limits ‘public’ knowledge (including knowledge held by Māori) to “input and participation” (New Zealand Planning Institute, 2011, clause 8.1.3).

Affirming Māori authority

Finally, I consider that the Code offers little support to planners who wish to affirm Māori authority through planning practises. The Code does not state, implicitly or explicitly, that planners are accountable to Māori, beyond our “responsibility to the public”. The Code is silent on sources of Māori authority, and Māori social and political organisations. For example, discussing the possibility of conflicts of interest, the Code mentions that planners may hold positions on a “local authority, board of directors or the like” but does not mention other roles common in Māori society, such as trustees of land, member of a rūnanga, or shareholders in an

incorporation. The *Code's* emphasis on public "input and participation" is narrower than the range of roles envisaged for 'the public' in collaborative planning practices; and much narrower than the Treaty-based relationship envisaged through decolonisation. Indeed, Clause 8.4 'Planner's Self-Responsibility' reflects the expectation that planners work as individuals, rather than as a collective or in collaboration or partnership with communities.

Changing the New Zealand Planning Institute *Code of Ethics* to support transformative planning practices

There have been many changes within the institution of planning in Aotearoa New Zealand over the last twenty-five years. The *Resource Management Act (1991)* was a catalyst for increased consciousness of decolonisation among some members of the planning profession, who felt "We've got to do more than what we've done" (Planner, 2015c). However my findings above suggests that the current *Code of Ethics*, which was written around the same time as the *Resource Management Act (1991)* became law, does not reflect the changes in discourse around Māori knowledge and authority articulated either by planners working within either the Māori or Pākehā planning traditions; or the principles of collaborative planning which increasingly guide planning practise.

Reflections by individual planners on the changing nature of the planning profession, coupled with analysis of our *Code of Ethics*, suggests that changing the *Code of Ethics* could form part of a collective strategy to move the planning profession towards decolonisation. A revised *Code of Ethics* could centre Te Tiriti o Waitangi, affirm Māori authority, value Māori knowledge, and guide the establishment of new relationships between Māori organisations and the planning profession. Recognising the subjectivity, power and agency of planners suggests that we could reshape our *Code of Ethics* to reflect the challenge of planning in a (post)colonial country, and to legitimate a common goal for planners to decolonise the institution of planning.

Conclusion - Treaty responsibilities and transformational planning

Transformative planning practices in Aotearoa New Zealand must reflect both 'history-as-present' (Porter, 2010) and future partnerships (campbell, 2005). Planners reported that working with Māori communities challenges them to consider how historical grievances may be addressed through contemporary planning. Obstacles to working collaboratively with Māori communities include apathy, and resistance from councillors. Through working with Māori communities, planners relearn the history of their area. This is an emotional process which is discomforting. Working to understand Māori planning issues requires caution. Developing personal relationships and spending time with Māori communities on their land are important strategies for planners. Interviews suggest that individual planners are changing discourses and experiencing transformation through acknowledging the role that emotions play in planning, relearning history, and forming new relationships. Planners are seen to hold skills in

relationship-building and mediation which can support new Treaty-based relationships with Māori organisations.

A revised *Code of Ethics* could support these new relationships by codifying the shifts in thinking required to move through changes to the New Zealand Planning Institute *Code of Ethics*. However, the colonial origins of the dominant Pākehā planning tradition are ever-present. The New Zealand Planning Institute *Code of Ethics* provides little clarity to planners about the implications of te Tiriti and Treaty settlements for resource management. The Code is not 'neutral' or 'universal' but privileges Pākehā knowledge over Māori knowledge. The Code does not require planners to be accountable to Māori authority. The Code does not reflect the influence of collaborative planning, nor acknowledge the existence of dual Māori and Pākehā planning traditions. The Code has potential to become a tool for decolonisation, but this tool is currently under-utilised.

Considering these findings, I have identified four 'levers' within the institution of planning which planners can use to transform 'sites of ruling' to 'sites of change' in relations between iwi and local authorities.

- *Utilise existing requirements within the Resource Management Act (1991)*: Planners can interpret requirements under section 6e and section 8 in a way which recognises Māori relationships with all resources.
- *Value Māori knowledge as mātauranga Māori*: Planners can create space in planning process for the knowledge held by iwi, hapū and whānau, as articulated in iwi planning documents and by Māori themselves.
- *Affirm Māori authority as mana whakahaere*: Planners can create new relationships which affirm authority held by iwi authorities and their subsidiaries as well as hapū, marae, and whānau.
- *Centre Te Tiriti o Waitangi*: Planners are challenged to centre Te Tiriti o Waitangi and consider the relevance of Te Tiriti to all planning processes.

In the concluding chapter of this thesis, I explore the possibility of a (post)colonial planning institution comprising 'transformed' relationships between Māori organisation, local government, and the planning profession.

Chapter Ten – Transforming the institution of planning for land returned under Treaty settlement

The settlement was about a past grievance, but a settlement is also about a future direction (Interviewee - Waikato-Tainui, 2014)

Introduction

The starting point for this research inquiry was a problematic that questioned why local authorities appeared reluctant to enable Māori aspirations for commercial development on land returned under Treaty settlement. My approach to investigating this problematic has been shaped by the argument by Hirini Matunga that: “a framework for dual planning has existed in New Zealand since 1840” (2000a, p36). Accordingly, I have situated the case study of the relationship between Hamilton City Council and Waikato-Tainui within the context of Waikato-Tainui reasserting their role as a landowner, developer, and planner. Waikato-Tainui involvement in urban development was enabled by the Treaty settlement process, but is also part of a longer tradition of Waikato-Tainui planning. The case study of the relationship between Hamilton City Council and Waikato-Tainui offers insights into the opportunities and challenges of working in the ‘third-space’ between Māori and Pākehā planning traditions.

Within this case study, I presented two practical examples of planning processes where the planning paradigms of Hamilton City Council and Waikato-Tainui were brought together - sometimes antagonistically, sometimes collaboratively - to achieve planning regulation to develop land returned under Treaty settlement. From the raupatu settlement in 1995, to the Board of Inquiry decision in 2014, this research traverses nearly twenty years of planning and development, set against a background of 150 years of colonisation. These two authorities have different strategies for the future of Waikato; different constituents; and different access to and expressions of power and knowledge. Broadly, my findings suggest that the tensions in the relationship between Hamilton City Council and Waikato-Tainui arise from the history of colonial-indigenous relationships; and that the possibilities for (post)colonial collaboration emerge from local government accepting the ‘hybrid’ nature of contemporary indigenous development and the dual roles of iwi authority and developer played by Māori organisations. These possibilities need to be supported by planning practices which transform relations between local authorities and iwi authorities.

The purpose of this research was to investigate the changing relationships between local government and iwi, with regard to planning to develop land returned under Treaty settlement.

At the beginning of this thesis, I set out four objectives:

- Objective #1 - Deconstructing development discourse: To record Waikato-Tainui discourses on developing Treaty settlement land; and to analyse local government understanding and response to these discourses.
- Objective #2: Re-thinking relationships - To critically assess relationships between Waikato-Tainui and Hamilton City Council at the time of the Base development; and at the time of the Ruakura development; and to consider how this relationship has changed.
- Objective #3 - Describing development: To investigate planning processes around commercial development on Treaty settlement land
- Objective #4: Decolonising disciplines - To consider how Treaty settlements may challenge the planning profession, and to consider how the planning profession may need to change to respond to these challenges

These aims have been addressed through analysis and findings presented in Chapters Six, Seven, Eight and Nine respectively. In this concluding chapter, I consider the value of institutional ethnography methodology to this research, and identify five themes which emerge from these findings. These themes are: ruling relations and colonial responses; affirming mana whakahaere and asserting mātauranga Māori through 'Māori planning'; Treaty settlements as a catalyst for changing relationships; collaborative planning and the possibilities of partnership; and transforming planning through a Treaty-based relationship.

Value of institutional ethnography

Institutional ethnography theory and methodology has provided a useful and insightful framework for this investigation. The two planning processes I have explored in this research have taken place within an institution comprised of texts created and activated through the everyday work of planners. Analysis of these texts has enabled me to critically observe the exercise of power and knowledge within the institution of planning. Planning processes are text-mediated, and understanding how regulatory texts function has been identified as critical in institutional ethnography inquiries into the planning process. As Turner remarks "[u]nderstanding what the texts 'do' is a practical problem for anyone participating in the planning process" (2005, p235). The concerns of institutions, discourse, power, knowledge and standpoint are shared between institutional ethnography and critical planning theory. Postcolonial theory sharpens these concerns by focussing on the role of texts in perpetuating colonial discourse, and decolonisation theory sets a task to collectively develop new discourses to counter colonial hegemony.

In Chapter Five, mapping the translation of discourses from texts produced by the Crown, Waikato-Tainui, local government and the High Court and Board of Inquiry illustrated how the discourse of an 'integrated development agenda' was countered by employing a discourse which separated economic from cultural interests. Employing this discourse in local

government planning documents enabled Hamilton City Council to treat Tainui Group Holdings solely as a 'commercial property developer'. This analysis of discourse was taken up again in Chapter Nine, where I investigated specific terms within the New Zealand Planning Institute *Code of Ethics*. My analysis linked terms such as 'true professional opinion' to discourses of technical rationality and public interest which dominate in a Pākehā planning tradition. The 'Treaty of Waitangi' clause within the *Code of Ethics* operates to give planners the power to determine the 'appropriate' relevance of 'Treaty of Waitangi' issues to any planning process. This openness of this clause allows the 'ruling' discourses of 'essentialism' and 'Māori privilege' to influence planners and local government interpretations of the *Resource Management Act (1991)*.

Within Chapter Six, I drew on work by Turner (2006) to create a 'chain of action' which mapped the actual experiences of Waikato-Tainui and Hamilton City Council during Te Rapa and Ruakura against the Schedule 1 process to prepare or review a plan under the *Resource Management Act (1991)*. This map of 'extended work processes' allowed me to locate experiences explored through interviews with case study participants in the official plan development process, and to identify exactly where the interests of Waikato-Tainui were subordinated to the interests of Hamilton City Council. Through focussing on 'sites of ruling' in staff reports and meeting minutes, I was able to "to see these textual practices as located in sequences of action that are happening, so the text is made present in a setting, and occurs" (Turner, 2006, p140).

Within Chapter Seven, institutional ethnographic theory drew my focus to 'translocal' influences on both Waikato-Tainui and Hamilton City Council. Within the institution of planning, I perceived that Waikato-Tainui were constrained by the structures and systems of the planning and financial system, as well as by the accountability to their own people, and the Māori Land Court. Hamilton City Council can be seen to work within the constraints of the *Resource Management Act (1991)*, and the dominant discourses around 'Treaty obligations'. From within these constraints, Chapter Seven provides examples of 'hybrid' planning outcomes that represent the negotiations between Waikato-Tainui tikanga relating to ownership and collective benefit, and Hamilton City Council 'standard' planning practices.

Within Chapter Eight, I attempted to situate planners' experiences within the social relations and texts that comprise the institution of land use planning. This analysis completed the theoretical journey of an institutional ethnographic inquiry, allowing planners to speak about the possibilities of change within the institution.

Theme One: Rulings relations and colonial responses

Responses to the assertion of economic sovereignty, Māori knowledge and Māori authority reveal that colonial discourses persevere in local government, and in the *Code of Ethics* promoted by the New Zealand Planning Institute. Local authorities remained silent on Treaty obligations, or separated 'economic development' from 'cultural' interests. Local authorities

drew on discourses of ‘essential’ Māori interests and Māori privilege, while ignoring the broad interests and colonial privilege of local government. In general, I conclude that planning in Aotearoa New Zealand takes place within an ahistorical context, which doesn’t recognise the historical disadvantage to Māori communities created by planning, nor the opportunities for planning to contribute to social justice through decolonisation.

Colonial discourses of ‘essentialism’ and ‘privilege’ underpinned moments of decision-making in planning processes for development at The Base and Ruakura. The text-mediated, ‘bureaucratic’ nature of the ‘sites of ruling’ which I identified in Chapter Six is important in illustrating the ‘everyday’ ways in which power is exercised, and hegemony is perpetuated. The admission that ‘Treaty of Waitangi considerations’ were considered irrelevant to developing planning provisions for The Base; and the sense that councillors scrambled for a reason to reject the private plan change proposed for Ruakura against their planners’ advice, document the difference that the interpretation of a statutory requirement can make to the nature and outcomes of a planning process. By ignoring the status of the land as Treaty settlement land, these decisions objectified the land as separate from the interests of Waikato-Tainui, and councillors were (ostensibly) able to focus on technical planning decisions removed from the historical context of the confiscation of the land, the return of land to Waikato-Tainui, and Waikato-Tainui development aspirations.

The resistance of councillors towards Waikato-Tainui development proposals contradicts findings by critical planning theorists of a strong allegiance between local government and proponents of economic development projects. Within a (post)colonial context, however, this resistance can be explained as the ambivalent response of a colonial authority, anxious about trust and control, towards assertions of indigenous sovereignty. Unlike most literature focussing on indigenous involvement in planning, this research investigates an indigenous participant whose interests are not marginal to the planning process, but whose economic interests are central to, and have catalysed, major development projects. The dual roles played by Waikato-Tainui of ‘iwi authority’ and ‘commercial property developer’ heightened the ambivalence experienced by local government in working with Waikato-Tainui, resulting in significant anxiety about Waikato-Tainui ‘authenticity’ and intentions.

As a result, relationships between Waikato-Tainui and Hamilton City Council at the time of The Base development resembled the “bitter and partisan” relationships described by Lane in Australia (Lane, 2003). New collaborative relationships have led to structural changes in how Hamilton City Council works with Waikato-Tainui and with the local hapū in Hamilton district. However, collaborative planning between Waikato-Tainui and Hamilton City Council still takes place within an institution of planning that is dominated by Pākehā planning traditions, with the iwi authority providing input into planning documents which, in most cases, are ultimately controlled by local government.

This research adds evidence to the argument that planning is political, and that - in local government in Aotearoa New Zealand - these politics are biased against Māori interests.

During planning processes for both The Base and Ruakura, councillors interpreted legislation in a way which met their own interests. Waikato-Tainui challenged the outcomes of these 'sites of ruling' through recourse to the judiciary.

Theme Two: Affirming mana whakahaere and asserting matauranga Māori

This research also provides clear evidence of active indigenous planning traditions, with Waikato-Tainui developing their own planning documents as well as actively engaging with local government planning processes to assert their interests. *Tai Tumu Tai Pari Tai Ao* is available in te reo Māori employing the Waikato-Tainui dialect, as well as in English (Environment Manager - Waikato Tainui, 2015). Waikato-Tainui has developed these planning documents for their own people, but also for a wider audience.

This inclusive approach to sharing mātauranga Waikato-Tainui reflects the understanding held by Waikato-Tainui of their role in developing the Waikato region. Waikato-Tainui see themselves as contributing to developing their rohe, which extends beyond the boundaries of Hamilton City (Interviewee - Waikato-Tainui, 2014). Mike Pohio considered that one of the critical results of Tainui Group Holdings' involvement in the *Future Proof* process was for the *Future Proof* partners to see that Ruakura is:

...much more than just a Tainui Group Holdings project... yes, Tainui Group Holdings owns the land; yes, it's a significant piece; yes, it's a huge opportunity for Tainui Group Holdings to undertake a development. And yes, we've been the ones pushing through the Board of Inquiry process. But Ruakura is not a Tainui Group Holdings project. It's many peoples' project (Chief Executive - Tainui Group Holdings, 2015)

Iwi planning documents are a tool for transforming planning. However, analysis of local government planning documents and the New Zealand Planning Institute *Code of Ethics* highlights that mātauranga Māori is not yet valued as a legitimate form of planning knowledge, with relevance to resource management beyond 'cultural interests'. Reinforcing the findings of previous studies, iwi planning documents are also only used in a limited way by local authorities (Matunga, 2000a; Schoder, 2013). In response to this finding, an interviewee from Waikato-Tainui emphasised the importance of using iwi planning documents as part of a conversation with planners, maintaining the connection between the people and the text:

They know [the iwi planning document] exists, but they haven't had the conversation with us about what it means, and what it means for them (Interviewee - Waikato-Tainui, 2014)

Reflecting on the postcolonial concept of hybridity, I consider the *Tai Tumu Tai Pari Tai Ao* Environment Plan to be a 'hybrid' document that speaks to both Waikato-Tainui and local government (as well as the wider community), presenting mātauranga Māori in a format that is understood by and familiar to planners. In a further hybrid initiative, Waikato-Tainui have

developed their own process to assess planning proposals against *Tai Tumu Tai Pari Tai Ao*. Manukau stated that:

...when someone sends something to us to have a look at, the first thing we say is, 'Have you done an assessment?'. And if they haven't, we just tell them to go away to do the assessment. We don't read anything, except our assessment. So, it's just starting to lock that in as a standard process, standard procedure with anyone. And we always tell them, if they haven't done it the first time, we tell them - next time you contact us on anything, make sure you've reviewed our environmental plan and assessed against our environmental plan (Environment Manager - Waikato Tainui, 2015).

Through hybrid documents such as *Tai Tumu Tai Pari Tai Ao* and associated documents, Waikato-Tainui are strengthening their role in the institution of planning by creating their own 'textual architecture' which must be activated by others (Campbell & Gregor, 2004).

Theme Three: Treaty settlements and changing relationships

The key message in this research is that Treaty settlements have changed the environment for planning in Aotearoa New Zealand, and that both local government and the planning profession must respond. The increasing prosperity of Waikato-Tainui based on resources transferred under the *Waikato Raupatu Claims Settlement Act (1995)* highlights the potential of Treaty settlements to 'rebuild the economic base' of Māori communities. Successful investments and property development have seen Waikato-Tainui emerge as an exemplar within the new Māori economy, based on a holistic "Māori business ethic" (Durie, 2003, p250). However, the experiences of Waikato-Tainui and Tainui Group Holdings with Hamilton City Council reinforce the concept that the 'real work' of the settlement begins again after the settlement is completed. The simple transfer of land from the Crown does not achieve justice for the losses experience by Waikato-Tainui; nor advance economic sovereignty; nor guarantee that Waikato-Tainui rights and interests will be recognised in the planning process.

The institution of planning for land returned under Treaty settlement comprises new social relations both between local government and Tainui Group Holdings as a commercial property developer; and between local government and Waikato-Tainui as joint managers of resources such as the Waikato River. The *Joint Management Agreement* signed as part of the *Waikato Raupatu Claims (Waikato River) Settlement Act (2009)* has catalysed improved relationships, but - like elsewhere in the country - improved relationships have been imposed by central government, rather than initiated by local government. Waikato-Tainui acknowledge that local government have their "own statutory processes to go through, and they have to be seen to be going through that" (Environment Manager - Waikato Tainui, 2015). Importantly, this research suggests that the increased economic power of Waikato-Tainui has been 'game-changing' (Bennett, 2015), in creating new relations with Hamilton City Council.

Development plans for land returned under Treaty settlement have also generated tension. Iwi authorities face commercial realities, and their development companies will act, in many ways, like commercial developers. Waikato-Tainui continually assert the relevance of raupatu and the Treaty settlements to planning to develop land returned under Treaty settlement. Through iwi planning documents, Waikato-Tainui clearly link the return of land under Treaty settlement with economic development, and regaining 'economic sovereignty' for their people. But local government planning decisions do not 'take into account' the contribution of commercial property development to the integrated development agenda of the tribe. There is still little clarity on local government obligations under Te Tiriti o Waitangi, or the relevance of Treaty settlements to the 'everyday work' of planners in local government, despite statements from the High Court and the Board of Inquiry on the significance of land at The Base and Ruakura being returned to Waikato-Tainui under Treaty settlement.

Debate around the nature of the kāwanatanga-rangatiratanga relationship established through Te Tiriti o Waitangi underpins this uncertainty in planning practice. It is clear that the struggles to achieve appropriate planning regulation for developing land at The Base and Ruakura would not have happened in a jurisdiction such as Canada, where indigenous people retain the right to set planning regulation and grant planning consent on their own lands (Stephenson, 2011). It is also clear that the judiciary continue to play an important role in upholding rights under Te Tiriti o Waitangi. In situations of unequal power relations, adversarial mechanisms such as the courts may be more appropriate than collaborative processes to "to redress or protect the rights of those with less power" (Sandercock, 2000, p28). From the Coalcorp case taken by Robert Mahuta in 1989, to the decision by the High Court on The Base case and by the Board of Inquiry on the *Ruakura Plan Change*, Waikato-Tainui have won a succession of important victories over local and central government in the courts.

Theme Four: Collaborative planning and the possibilities of partnership

Creating collaborative planning relationships in a (post)colonial context requires accepting the possibility of creative 'dissensus' rather than 'consensus'. The concept of mana whakahaere echoes the concept of 'working with' cultural difference, where power lies in the agency of each individual or group to articulate their own identity, and to define and describe their own knowledge (Bhabha, 1994). Theorists such as Healey (2006), Sandercock et al. (2004) and Porter (2010) recognises the challenges faced by collaborative planning to meaningfully open itself up to plural perspectives, a challenge which Bhabha complicates by acknowledging the role of colonial power in "democratic" processes (1994, p175). My findings in this research inquiry suggest that planning processes between indigenous and colonial authorities raise issues of timing, control and trust which need to be addressed in collaborative planning arrangements.

Waikato-Tainui engaged with Hamilton City Council, and other local and central government agencies to advance their vision, emphasising the need for cooperation with 'external agencies' and situating themselves within a sophisticated web of agencies with different "mandate[s],

legislation, drivers and motivation” (Waikato-Tainui Te Kauhanganui Incorporated, 2013, p14). Waikato-Tainui expressed their agency through multiple participants working on many levels through the planning processes for The Base and Ruakura. Engagement between Hamilton City Council and Waikato-Tainui has led to increased collaborative capacity through creating new structures through *Future Proof*, developing a *Joint Management Agreement* and *Strategic Development Agreements*, and collaborating in developing the *Ruakura Structure Plan*, *Ruakura Plan Change*, and the *Proposed Hamilton District Plan*.

Waikato-Tainui planning documents set out expectations of relationships as enduring, equal, and focussed on outcomes. Relationships with local government are seen to emerge from, rather than replace the Treaty relationship with the Crown (Interviewee - Waikato-Tainui, 2014). Working with local government, *Tai Tumu Tai Pari Tai Ao* emphasises the importance of tangible outcomes in planning processes:

The key to this relationship is tikanga, transparency, good faith, patience and understanding... Consultation with Waikato-Tainui members is not achieved by merely having a discussion about resource consents, plans, and policies. How the concerns, interests and intentions put forward by Waikato-Tainui are considered should be reflected in any outcomes, plans, conditions and policies produced (Waikato-Tainui Te Kauhanganui Incorporated, 2013, s6.1.3 p49)

A new relationship could provide for “equal, self-governing, and coexisting entities... to work out consensual and mutually binding relations of autonomy and interdependence” (Tully 2000 as cited in Lane & Hibbard, 2005, p174).

Theme Five: Transforming planning through a Treaty-based relationship

The concept that Te Tiriti o Waitangi can be used as a basis for ‘transformative’ planning practices which allow practitioners to move towards decolonising the profession of planning is central to this research inquiry. Local government and iwi undertaking collaborative planning processes can contribute to social change beyond the scope of the specific planning process, using levers to transform ‘sites of ruling’ to ‘sites of change’, and negotiating a new Treaty-based relationship.

Ingrid Huygens suggests that the impetus for transforming Māori-Pākehā relations “usually comes from assertions of tino rangatiratanga by Maori, which become 'disorienting events' for the dominant Pakeha group” (2007, p171). Libby Porter’s work on planning in settler-colonial countries reinforces this theory, substituting the term “unsettling” for ‘disorienting’ (2010, p1). I propose that the return of resources to Māori ownership through settling Treaty claims provides a ‘disorienting’ catalyst to transform the planning profession.

Focussing on ‘everyday work’ and the experience of practitioners has enabled me to understand the challenge that critical pragmatism theorist John Forester describes:

...what actually, in cities, in neighborhoods and in city halls, in community meetings and in community organizing contexts, ‘planners’ and organizers might ‘do practically’—not just in terms of good critical intentions, not just in terms of general aspirations toward equality and autonomy and solidarity and rights to the city and so on, but in terms of practical, and more or less effective, day-to-day work. Faced with power imbalances, in settings of everyday action deeply permeated, staged and structured by relations of power, reputation, and identity, how might oppositional planners, for example, ever ‘get anything done’, ever really act (as theorists put it) ‘counterhegemonically?’ (2012, p12)

The concept of ‘ruling relations’ assists with identifying ‘counter-hegemonic’ actions because, as Taber explains:

Ruling relations interact with people’s everyday lives in complex interconnecting ways. It is not a one-way relationship as people have agency and... people do not passively accept dominant discourses... They are enacted and resisted by people who make regulations... and by people affected by the regulations... who also may be able to affect the regulations (2010, p10)

To transform the ‘ruling relations’ observed in planning processes for The Base and Ruakura, I propose the following levers for social change can be used by planners, like myself, to support Māori goals for development and self-determination.

- Utilising existing legislative requirements in the *Resource Management Act (1991)*
- Affirming Māori planning authority;
- Valuing Māori planning knowledge
- Centring Te Tiriti o Waitangi
- Reviewing the New Zealand Planning Institute *Code of Ethics*

In her study of Pākehā culture, Rose Black noted that “egalitarian beliefs and notions of equality” provide a cultural tradition from which Pākehā can “challenge injustice through political actions and protests” (2010, p175). The intellectual traditions which underpin the Western planning paradigm also empower planners to work for social justice (Fischer & Mandell, 2012). Planners can use these levers in their ‘everyday’ work, as well as promoting ‘counter-hegemonic’ discourses and practices which affirm mana whakahaere, assert mātauranga Māori, and reinforce the relevance of Te Tiriti to planning. A planning institution bringing together Māori and Pākehā planning traditions into dialogue centred around Te Tiriti o Waitangi could be seen as creating a ‘transformative’ third space, outside of the colonial-indigenous relationship of dominance and subordination.

Mapping the institution of (post)colonial planning

The final figure provides a basic map of the entire institution of planning for land returned under Treaty settlement, based on my understanding of the combined perspectives of

participants in this research inquiry. Figure 5 identifies Te Tiriti o Waitangi as the document that defines the relationship between an iwi authority and the Crown. Where a Treaty settlement has been reached, the *Deed of Settlement* recognises the history of breaches of Te Tiriti in the historical relationship, and sets forth the basis for a new relationship. The Crown's Treaty relationship is delegated to local authorities through Treaty obligations in legislation such as the *Resource Management Act (1991)*. These obligations must be reflected in local government planning documents. Iwi authorities and iwi planning documents are recognised as the third participant in the institution of planning. Planners working within local government hold ethical Treaty responsibilities to recognise the planning authority of iwi authorities, and to value the planning knowledge within iwi planning documents. I propose that these Treaty responsibilities should be enshrined in a new *Code of Ethics* for the New Zealand Planning Institute. I offer this map as a contribution towards considering the possibilities of a Treaty-based institution of planning in Aotearoa New Zealand.

Final Reflections

Reconciling dual planning paradigms requires practicing 'in the presence of history'. To support the intended outcomes of Treaty settlements, planners working within Pākehā planning traditions must recognise the possibilities and implications of Māori planning traditions. It is difficult to contain the diverse interests of urban communities within a single model for urban growth. It is particularly difficult to do so when the history of the city includes the dispossession of indigenous people, a century of urban growth, and then the return of land to indigenous owners. However, it is a challenge that we must face. Hirini Matunga concludes that:

...understanding the archaeology of the city and country, 'accepting' its Indigenous and colonial history, and facilitating a more nuanced reading of its multi-layered materiality and memory through architecture, planning, urban design, and environmental management, is arguably the greatest challenge for spatial planners and urban designers today (2013, p9)

Section 3(1)(g) of the *Town and Country Planning Act*, negotiated by Dr Ranginui Walker⁶² in 1977, and sections 6e, 7a and 8 of the *Resource Management Act*, advocated for by Dame Nganeko Minhinnick in 1991, remain the critical levers within planning legislation in Aotearoa New Zealand to enable Māori rights and interests to be recognised. Provision within the *Resource Management Act (1991)* to "take account of" iwi planning documents is also frequently cited as the way ahead for Māori planning. Outside of legislative requirements, collaborative planning between local government and Māori organisations provides a promising forum for creating hybrid planning models. A decolonised planning institution must

⁶² Dr Walker worked alongside the Auckland District Māori Council and New Zealand Māori Council to negotiate this provision (Matunga, pers. comm. 12 December 2016).

INSTITUTION OF (POST)COLONIAL PLANNING FOR LAND RETURNED UNDER TREATY SETTLEMENT

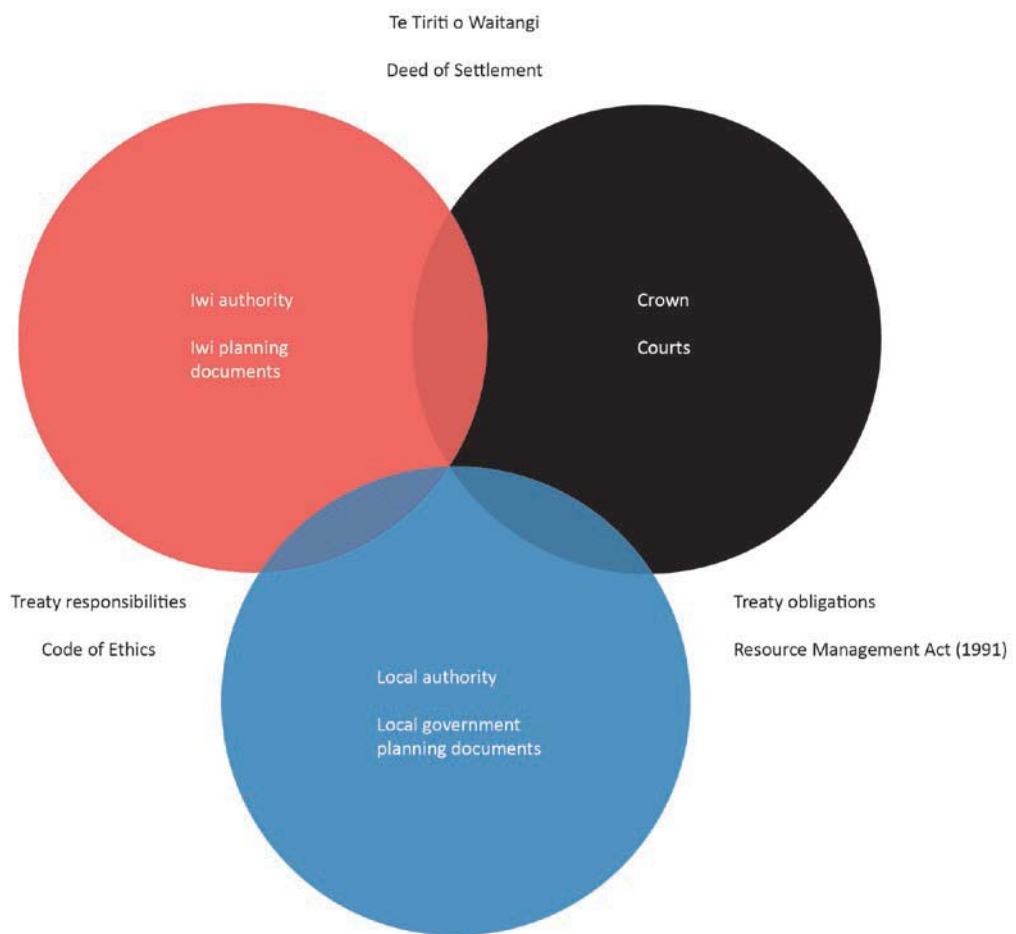


Figure 5. A map of the institution of (post)colonial planning for land returned under Treaty settlement. The map shows the three main participants in the institution of planning, the nature of the relationship between them as established by Te Tiriti, and the key texts which define social relations between participants.



23.(Top) A vacant shop in Garden Place in the Hamilton Central Business District illustrates the ongoing struggle to reinvigorate central Hamilton. Source: Author. (Bottom) Attendees at the Better Urban Planning wānanga held in June 2016 at Te Noho Kotahitanga marae. Source: Ngā Aho/Desna Whanga-Schollum

not assimilate Māori planning into Pākehā planning, but support the parallel and interconnected expression of both planning traditions.

Returning to Waikato, it seems clear that the Central Business District of Hamilton City will remain critical to relationships between Hamilton City Council and Waikato-Tainui. In 2010, the Chairman of Tainui Group Holdings reflected on the planning process for *Variation 21* and concluded:

There is much we have in common with the Council. With our sole Shareholder and most of our major investments in the area, there should be no question of our commitment to Hamilton City... We are one of the region's major economic entities, helping to drive growth and investment now and into the foreseeable future. For our part, we would be enthusiastic contributors to discussions with the Council about how to revitalise the [Central Business District]. We have many ideas to contribute that are the result of nearly a decade of creating an innovative and successful retailing environment (Tainui Group Holdings, 2010 , p8)

Considering The Base, one interviewee reflected that:

I think what happened is that Tainui did all the right things, got all the right consents, and it was all mandated by the Environment Court... But I think the practical reality - once [The Base] was built, the scale of it and the impact on the Central Business District - people got angry with Tainui rather than thinking well, it's been the process that's been a failure here. Tainui have actually got the blame for [the decline of the Central Business District]. But they're doing no more or no less than what was a land use or a property rights entitlement that was conferred on them by the Environment Court (Interviewee - Future Proof, 2014)

Another interviewee remarked:

We need to work with each other. The city is extremely lucky to have an iwi like Tainui in our part of the world... They are fantastic champions for the city and for the region... They are absolutely, fundamentally, 100% committed to Hamilton and Waikato. And equally, Hamilton City is not going away and there will always be some sort of administrative body... that will need to work with Waikato-Tainui. ...there will be disagreements around how to achieve what is best for the city, but I think there's a recognition that in terms of a strategic direction, we're not that far apart (City Planning Manager - Hamilton City Council, 2016)

Changing relationships between Waikato-Tainui and Hamilton City Council reflect changes in the wider institution of planning. In June 2016, Māori professional organisations Ngā Aho and Papa Pounamu partnered with the Productivity Commission to convene a wānanga of Māori planning professionals to discuss 'Better Urban Planning'. The wānanga was held at Te Noho Kotahitanga marae at Unitec in Auckland, and attended by 40 Māori planners and kaitiaki from around the country. Attendees at the wānanga sent a strong message to the Productivity

Commission that the conversation around what ‘better urban planning’ could mean for Māori communities is only just beginning. The findings from this research raise questions for the ongoing reform of planning legislation. The *Resource Legislation Amendment Bill (2015)* focuses on improving consultation with Māori communities, but does not address the dual planning paradigms illustrated in this research, nor acknowledge the increasing role of Māori as landowners, developers, and planners in urban development.

On the same day as the ‘Better Urban Planning’ wānanga was held in Auckland, a hīkoi of over 500 people led by New Plymouth mayor Andrew Judd arrived at Parihaka, centre of the 1880s passive resistance movement against land confiscated by the Crown. Participants had walked from New Plymouth to Parihaka, covering 44 kilometres in three days. The hīkoi was termed a ‘peace march’, which aimed “to promote Pakeha understanding of Maori aspirations in a country where Maori so often face the ‘tyranny of the majority’ whereby Maori views are frequently drowned as a minority in a majority Pakeha vote” (Minto, 2016).

Waikato-Tainui continue to advance their integrated development agenda. By 2015, the value of the tribe’s total assets had risen to \$1.2 billion. During the 2014-2015 financial year, \$22.3 million was distributed by the tribe to fund “social development programmes and activities including the Kīngitanga, education, marae, and kaumaatua health and wellbeing across the region for its people” (Waikato-Tainui Te Kauhanganui, 2015). Other “notable initiatives” identified by the tribe included:

- Introduction of a unique collective marae insurance scheme
- Launch of River Rush, a digital app to engage and educate tamariki in river conservation
- Launch of a dedicated careers website
- \$2.8M invested in education
- Graduation of second MBA cohort from Waikato-Tainui College for Research & Development
- Tai Tumu, Tai Pari, Tai Ao environment strategy awarded NZ Planning Institute Best Practice award for strategic planning and guidance
- Acquisition of shareholdings in Genesis Energy, Go Bus and Waikato Milking Systems (Waikato-Tainui Te Kauhanganui, 2015)

The relationship between Waikato-Tainui and Hamilton City Council continues to improve. August 2016 marked ten years since King Tuheitia came to the throne of Māori King. In the week of celebrations around the annual Koroneihana, Hamilton City Council announced that they would bestow upon King Tuheitia the ‘keys to the city’ of Hamilton. Restricted to 12 living people at any one time, the ‘keys to the city’ ceremony is the city’s highest civic honour. The award recognises the “sustained and significant” contribution by Kingi Tuheitia to the city of Hamilton, during the first ten years of his reign (Akoorie, 2016). In the same week, the Deputy Prime Minister announced that the government acknowledged the need for a national day to commemorate the wars fought between Māori and Pākehā 150 years ago.

Since colonisation, two geographies, two traditions of resource ownership and development, and two planning traditions have existed in Aotearoa New Zealand. The balance between these two paradigms is slowly shifting as Māori reassert their planning knowledge and authority; and as Pākehā work to ‘clear space’ within the institution of planning. Taking three years out from professional practise as a planner has given me the opportunity to consider carefully the responsibilities of our local authorities and our planning profession to respond to the profound changes that are occurring in our society. I belong to a profession which emphasises neutrality, and to a society which emphasises the need to “stop living in the past” (campbell, 2005, p22). But the nature of planning is that we work in landscapes – historical, emotional, indigenous and colonial landscapes. As planners, we need to equip ourselves with the resources to act emotionally, to be motivated by injustice, and to facilitate transformational learning. We need to collectively transform our institution of planning, placing Te Tiriti o Waitangi at the centre of relationships between Māori and Pākehā. We need to work everyday in ways which value both Māori and Pākehā planning knowledge, opening spaces for dialogue about how to better manage our shared resources. Both ‘economic sovereignty’ and ‘sustainable urban development’ are possible. I hope that this thesis will be useful as a resource to Pākehā planners, like me, working with our Māori colleagues to create new ways of planning that acknowledge our shared past and celebrate our shared future. We must work with the resources we have to plan for the future of our people.

Epilogue

In carrying out this research, I have tried to give effect to the following Kaupapa Māori Research principles:

- Aroha ki te tangata - “allowing people to define their own space and to meet on their own terms.
- He kanohi kitea - “the importance of meeting with people face to face.
- Titiro, whakarongo...korero -”the importance of looking and listening so that you develop understandings and find a place from which to speak.
- Manaaki ki te tangata - “taking a collaborative approach to research, research training, and reciprocity.
- Kia tupato - “being politically astute, culturally safe and reflexive about our insider/outsider status.
- Kaua e takahia te Mana o te Tangata - “sounding out ideas with people, about disseminating research findings, and about community feedback that keeps people informed about the research process and the findings” (Pipi et al., 2004, pp146-150)

I have been open to discussion about how to maximise the potential benefits of this research to both Waikato-Tainui, local authorities, and the planning community more broadly. In May 2015 I contributed, on the invitation of Waikato-Tainui, a list of suggestions to be considered in the update of the *Future Proof* strategy. These suggestions focussed on re-centring the Waikato-Tainui vision within the *Future Proof* document. With the permission of Waikato-Tainui, a description of issues surrounding Right of First Refusal was included in a submission by the New Zealand Centre of Sustainable Cities to the Productivity Commission inquiry in ‘Using land for housing’ in July 2015 (Manukau, 2015).

In June - September 2016, I met with representatives from Hamilton City Council and Waikato-Tainui to discuss my draft findings before finalising the thesis. The findings from this research will be offered as a resource for the participants and partners in this research. A draft set of four A4 handouts, outlining the main findings from the research, is attached as Appendix Five. These handouts, developed in response to encouragement from audience members at conferences and presentations, will be presented to research participants at the completion of the research.⁶³

In June 2016, I presented a selection of findings to a public seminar in Hamilton, where audience members included the Mayor of Hamilton and several councillors, the ex-Chief Executive of Tainui Group Holdings, and one case study participant. In September 2016, I presented selected findings to a seminar at Waikato-Tainui College for Research and Development.

Between July 2015 and July 2016, I prepared papers and presented at a number of events and conferences, including Treaty on the Ground (July 2015); Massey University Planning lecture

⁶³ I would like to acknowledge additional funding received from Resilient Urban Futures to design and publish these materials.

series (August 2015); Resource Management Law Association conference (September 2015); Healing Our Spirit Worldwide (November 2015); Urban History Planning History (February 2016); and the Annual Conference of the New Zealand Planning Institute (April 2016). I see these forums as an opportunity to share my evolving understandings with other planners and researchers.

Although this research is undertaken from the standpoint of a Pākehā planner working within local government, I am aware that there are other collectives within the broader community with a 'need to know' more about how the institution of planning works in Aotearoa New Zealand, and possible levers which can be used to change that institution. During the course of the research I also have worked closely with Ngā Aho, the Network of Māori Design Professionals, to organise, document and publicise wānanga which have brought practitioners together to discuss how te ao Māori can influence the design of our cities - a concept named 'Urban Mauri' by Desna Whaanga-Schollum, the chair of Ngā Aho. We have also drawn on elements of this research - for example, the value of iwi planning documents, and the aspiration for a bicultural planning system - in submissions to government processes such as the select committee considering reforms to the *Resource Management Act(1991)* through the *Resource Legislation Amendment Bill (2015)*, the proposed *National Policy Statement on Urban Development (2016)*, and in a wānanga with the Productivity Commission discussing 'Better Urban Planning' (June 2016). Aspects of this research have contributed to the report produced by Ngā Aho and Papa Pounamu to provide 'collective feedback' to the Productivity Commission. Aspects of this research will also be shared with Papa Pounamu to support their evolving relationship with the New Zealand Planning Institute.

References

Affidavits and decisions relating to judicial review of Variation 21

- Statement of Claim between Waikato Tainui Te Kauhanganui Incorporated and Hamilton City Council*, High Court of New Zealand, Hamilton Registry (2009).
- Affidavit of Evidence of Michael Gerard Redman*, High Court of New Zealand, Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2010).
- Affidavit of Evidence of Robert John Luxton Hodges* High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2010).
- Affidavit of Michael Eric Pohio* High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2009).
- Affidavit of Michael Eric Pohio in reply*, High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2010).
- Affidavit of Murray Spencer Kivell* High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2010).
- Affidavit of Robert Malcolm Simcock* High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2010).
- Affidavit of the Honourable Koro Tainui Wetere*, High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2009).
- Affidavit of Tukoroirangi Ben Morgan* High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2010).
- Affidavit of Vernon Richard Cross Warren* High Court of New Zealand Waikato Tainui Te Kauhanganui Incorporated v Hamilton City Council CIV-2009-419-001712 Sess. (2009).
- Waikato Tainui Te Kauhanganui Inc v Hamilton City Council (High Court of New Zealand - Hamilton Registry 2010).

Evidence, transcripts and decisions relating to hearing for Ruakura Plan Change

- Ruakura Development Plan Change Request: Decision of the Board on acceptance/rejection of plan change request (Environment Protection Authority Board of Inquiry 2013).
- Statement of Evidence in Chief of Tony McLauchlan on behalf of Tainui Group Holdings Ltd and Chedworth Properties Ltd*, Environmental Protection Authority (2014).
- Statement of Evidence of Parekawhia McLean on behalf of Tainui Group Holdings Limited*, Environmental Protection Authority (2014).
- Statement of Evidence in Chief of Mike Pohio on behalf of Tainui Group Holdings Ltd* Environmental Protection Authority (2014).
- Statement of Evidence in Chief of Jon Webb on behalf of Chedworth Properties Ltd*, Environmental Protection Authority (2014).
- Statement of Evidence of the Honourable Koro Tainui Wetere on behalf of Tainui Group Holdings Ltd*, Environmental Protection Authority (2014).
- Transcript of Proceedings - Day Three*, Environmental Protection Authority, Hearing at Kingsgate Hotel, Hamilton on 12 May 2014 Sess. (2014).

List of interviewees

- Chief Executive - Tainui Group Holdings (2015, 3 February). [Interview with Mike Pohio, Tainui Group Holdings].
- City Planning Manager - Hamilton City Council (2016, 14 April). [Interview with Luke O'Dwyer, City Planning Manager, Hamilton City Council].
- Consultant Planner - Hamilton City Council (2015, 26 February). [Interview with Murray Kivell, Environmental Management Services].
- Consultant Planner - Hamilton City Council (2016, 3 March). [Interview with Murray Kivell, Environmental Management Services].
- Environment Manager - Waikato Tainui (2014). [Interview with Tim Manukau, Waikato Raupatu Lands Trust].
- Environment Manager - Waikato Tainui (2015). [Interview with Tim Manukau, Waikato Raupatu Lands Trust].
- General Manager - Hamilton City Council (2014, 11 December). [Interview with Brian Croad, General Manager City Environments, Hamilton City Council].
- Interviewee - Future Proof (2014, 19 December). [Interview with Ken Tremaine].
- Interviewee - Future Proof (2014 2 October). [Interview with Steven Wilson, Chief Executive - Maximise Consulting].
- Interviewee - Hamilton City Council (2015, 26 February).
- Interviewee - Waikato-Tainui (2014, 17 October). [Interview with Shane Solomon, Trustee - Waikato-Tainui College for Research and Development,].
- Planner (2015a, 13 August). [Interview with Gina Sweetman, Director - Sweetman Planning Services].
- Planner (2015b, 24 November).
- Planner (2015c, 14 August). [Interview with Robert Schofield, Planner/Partner - Boffa Miskell].
- Project Manager - Hamilton City Council (2015, 11 September 2015). [Interview with Paula Rolfe, Project Manager District Plan Review, Hamilton City Council].

Bibliography

- Absolon, K., & Willett, C. (2005). Putting ourselves forward: Location in Aboriginal research. In L. A. Brown & S. Strega (Eds.), *Research As Resistance : Critical, Indigenous and Anti-oppressive Approaches* (pp. 97-126). Toronto: Canadian Scholars' Press.
- Ahmed, S. (2004). Declarations of Whiteness: The Non-Performativity of Anti-Racism. *borderlands*, 3(2).
- Akoorie, N. (2016, 15 August 2016). Maori King celebrates 10th anniversary, *New Zealand Herald* Retrieved from http://m.nzherald.co.nz/hamilton-news/news/article.cfm?c_id=1503366&objectid=11693763
- Allmendinger, P. (2009). *Planning theory* (2nd ed.): New York: Palgrave Macmillan.
- Awatere, D. (1984). *Maori sovereignty*: Auckland, N.Z. : Broadsheet, 1984.
- Backhurst, M., Day, M., Warren, T., Ericksen, N., Crawford, J., & Jefferies, R. (2004). *Evaluation of Iwi and Hapū Participation in the Resource Consents Processes of Six District Councils*. Waikato, Aotearoa New Zealand.
- Bargh, M. (2007). Māori Development and Neoliberalism. In M. Bargh (Ed.), *Resistance : an indigenous response to neoliberalism*: Wellington, N.Z. : Huia, 2007.
- Bargh, M. (2012). The Post-settlement World (So Far): Impacts for Māori. In N. R. Wheen & J. Hayward (Eds.), *Treaty of Waitangi settlements*. Wellington, New Zealand: Bridget Williams Books with the New Zealand Law Foundation.
- Barry, J. (2012). Indigenous State Planning as Inter-Institutional Capacity Development: The Evolution of "Government-to-Government" Relations in Coastal British Columbia, Canada. *Planning Theory & Practice*, 13(2), 213-231. doi: 10.1080/14649357.2012.677122
- Barry, J., & Porter, L. (2012). Indigenous recognition in state-based planning systems: Understanding textual mediation in the contact zone. *Planning Theory*, 11(2), 170-187. doi: 10.1177/1473095211427285
- Bean, M. (2015). *A passionate affair : Llewellyn Owen and music*. Wellington, Aotearoa New Zealand: Steele Roberts Aotearoa.
- Bell, A. (2009). A conversation through history: towards postcolonial coexistence. *Journal of Intercultural Studies*(2), 173.
- Bennett, A. L. (2015). *The good fight : power and the indigenous struggle for the Manawātū river*. (PhD), Massey University, Manawatu, Aotearoa New Zealand.
- Bhabha, H. K. (1994). *The location of culture*: London ; New York : Routledge, 1994.
- Biddle, D.-L. (2016, 11 February 2016). Ports of Auckland set to develop multimillion dollar freight hub in Waikato, *Stuff*. Retrieved from <http://www.stuff.co.nz/business/76754374/Ports-of-Auckland-set-to-develop-multimillion-dollar-freight-hub-in-Waikato>
- Bisaillon, L. (2012). An Analytic Glossary to Social Inquiry Using Institutional and Political Activist Ethnography. *International Journal of Qualitative Methods*, 11(5), 607-627.
- Black, R. (2010). *Treaty People Recognising and Marking Pākehā culture in Aotearoa New Zealand*. (PhD), The University of Waikato, Hamilton, Waikato.
- Final Report and Decision of the Board of Inquiry into the Proposed Ruakura Development Plan Change (Environmental Protection Authority 2014).
- Boast, R. (2003). The Treaty and Local Government: Emerging Jurisprudence. In J. Hayward (Ed.), *Local government and the Treaty of Waitangi*. Auckland, New Zealand: Oxford University Press.
- Boast, R. (2011). Individualization : an idea whose time came, and went : the New Zealand experience. In L. Godden & M. Tehan (Eds.), *Comparative perspectives on communal lands and individual ownership : sustainable futures*. Abingdon, Oxon ; New York, N.Y., United States of America: Routledge.

- Bourassa, S. C., & Hong, Y. H. (2003). Why Public Leasehold? Issues and Concepts. In S. C. Bourassa & Y. H. Hong (Eds.), *Leasing public land: policy debates and international experience* (Vol. 1, pp. 3-36). Massachusetts: Lincoln Institute of Land Policy.
- Brook, J. (2001). *Arthur Wragg - 20th century artist, prophet and jester*. Bristol, United Kingdom: Sansom & Company Ltd.
- Came, H. (2014). Sites of institutional racism in public health policy making in New Zealand. *Social Science & Medicine*, 106, 214-220. doi: 10.1016/j.socscimed.2014.01.055
- campbell, b. m. (2005). *Negotiating Biculturalism: Deconstructing Pakeha Subjectivity*. (PhD), Massey University, Turitea Campus, Aotearoa New Zealand.
- Campbell, M., & Gregor, F. (2004). *Mapping Social Relations - A Primer in Doing Institutional Ethnography* California, United States AltaMira Press.
- Chapin, T. (2009). Large Landowners as Plan Makers: St. Joe and the Future of the Florida Panhandle. In R. W. Bostic (Ed.), *The Impact of Large Landowners on Land Markets* (pp. 137-163). Cambridge, Massachusetts: Lincoln Institute of Land Policy.
- Chen, M., Palmer, G. W. R., Caddie, A., & Rikys, P. (1999). *He waka taurua: local government and the Treaty of Waitangi*: Wellington, Aotearoa New Zealand: Local Government New Zealand.
- Chief Executive, Waikato-Tainui Te Kauhanganui (2014). *An Integrated Development Agenda: Balancing Quadruple Aims*. Paper presented at the Te Pae Roa 2040: Hui Taumata Commemoration Conference Massey University, Auckland, Aotearoa New Zealand [https://http://www.massey.ac.nz/massey/fms/Maori Students/sound-files/Te pae roa/Te Pae Roa 2040 - Parekawhia McLean 1.mp3?9F7D94197788B9B0617D604F71500966](https://http://www.massey.ac.nz/massey/fms/Maori%20Students/sound-files/Te%20pae%20roa/Te%20Pae%20Roa%202040%20-%20Parekawhia%20McLean%201.mp3?9F7D94197788B9B0617D604F71500966)
- Christiansen, S. (2010). Postcolonial Theory: Research Starters: Sociology (Online Edition).
- Considine, R. (2012, 13 July). 'Anti-racism and Treaty of Waitangi activism - Early attitudes and anti-racism'. Retrieved 1 August 2016, from <http://www.TeAra.govt.nz/en/anti-racism-and-treaty-of-waitangi-activism/page-1>
- Coombes, B., Johnson, J. T., & Howitt, R. (2012). Indigenous geographies I: Mere resource conflicts? The complexities in Indigenous land and environmental claims. *Progress in Human Geography*, 36(6), 810-821. doi: 10.1177/0309132511431410
- Cooper, R., & Brooking, R. (2002). Ways Through Complexity. In M. Kawharu (Ed.), *Whenua: managing our resources*: Auckland, Aotearoa New Zealand: Reed Books.
- Cowie, D. (2012). The Treaty Settlement Process In N. R. Wheen & J. Hayward (Eds.), *Treaty of Waitangi Settlements* Wellington, Aotearoa New Zealand: Bridget Williams Books with the New Zealand Law Foundation.
- DeVault, M. (2013). Institutional ethnography: a feminist sociology of institutional power. *Contemporary Sociology*, 42(3), 332.
- DeVault, M., & McCoy, L. (2002). Institutional Ethnography: Using Interviews to Investigate Ruling Relations In J. F. Gubrium & J. A. Holstein (Eds.), *Handbook of Interview Research* (pp. 751-776). Thousand Oaks, California, United States Sage Publications.
- DeVault, M., & McCoy, L. (2003). Institutional Ethnography - Using interviews to investigate ruling relations. In J. A. Holstein & J. F. Gubrium (Eds.), *Inside interviewing : new lenses, new concerns*. Thousand Oaks, California: Sage Publications, c2003.
- Deed of Settlement. (1995). *Deed of Settlement between Her Majesty the Queen in right of New Zealand and Waikato*. Wellington, New Zealand: New Zealand Government.
- Department of Internal Affairs. (2016a). Local Government in New Zealand: About Local Government. Retrieved 21 June, 2016, from http://www.localcouncils.govt.nz/lqip.nsf/wpg_url/About-Local-Government-Local-Government-in-New-Zealand-Index
- Department of Internal Affairs. (2016b). Local Government In New Zealand: Councils' roles and functions. Retrieved 31 May, 2016, from

- http://www.localcouncils.govt.nz/lqip.nsf/wpg_url/About-Local-Government-Local-Government-In-New-Zealand-Councils-roles-and-functions
- Department of Internal Affairs. (2016c). Local Government in New Zealand: Local Councils - Hamilton City Council. Retrieved 31 May, 2016, from http://www.localcouncils.govt.nz/lqip.nsf/wpg_url/Profiles-Councils-Hamilton-City-Council-main
- Derby, M. (2012, 13 July). 'Local and regional government - Early forms of local government'. Retrieved 1 June 2016, from <http://www.TeAra.govt.nz/en/local-and-regional-government/page-2>
- Dewes, W., Walzl, T., & Martin, D. (2011). *Ko Ngā Tumanako o Ngā Tāngata Whai Whenua Māori - Owner Aspirations Regarding the Utilisation of Māori Land*. Wellington, Aotearoa New Zealand: Te Puni Kōkiri - Ministry of Māori Development.
- Dudas, J. R. (2008). *The cultivation of resentment: Treaty rights and the new right*. Palo Alto, California: Stanford University Press.
- Durie, M. (1998). *Te Mana, Te Kāwanatanga - The Politics of Māori Self-Determination*. Victoria, Australia: Oxford University Press.
- Durie, M. (2003). *Ngā kāhui pou : launching Māori futures*: Wellington, Aotearoa New Zealand: Huia.
- Durie, M. (2009). *Pae Matatū - Sustaining the Māori Estate* The Paerangi Lectures - Maori Horizons 2020 and Beyond. Massey University - Te Mata o Te Tau Lecture Series 2009. Retrieved from [http://www.hauora.co.nz/assets/files/Maori/Pae Matatu - Sustaining the Maori Estate.pdf](http://www.hauora.co.nz/assets/files/Maori/Pae_Matatu_-_Sustaining_the_Maori_Estate.pdf)
- Egan, K. & Mahuta, R. (1983). *The Tainui Report* Hamilton, New Zealand University of Waikato, Centre for Maori Studies and Research
- Environment Foundation (2016). Resource consents and processes. Retrieved 24 February 2017 from <http://www.environmentguide.org.nz/rma/resource-consents-and-processes/>
- Fairclough, N. (2001). The Discourse of New Labour: Critical Discourse Analysis. In M. Wetherell, S. Taylor & S. Yates (Eds.), *Discourse as Data: A Guide for Analysis* (pp. 229-266). Milton Keynes, United Kingdom: The Open University.
- Fischer, F., & Mandell, A. (2012). Transformative Learning in Planning and Policy Deliberation. In F. Fischer & H. Gottweis (Eds.), *The Argumentative Turn Revisited: Public Policy as Communicative Practice* (pp. 343 - 370). Durham, United States of America: Duke University Press.
- Fischler, R. (1995). Strategy and History in Professional Practice - Planning as World Making. In H. Liggett & D. Perry (Eds.), *Spatial Practices* (pp. 13-58). California: Sage Publications.
- Fisher, M. (2015). *Balancing rangatiratanga and kawanatanga: Waikato-Tainui and Ngai Tahu's Treaty settlement negotiations with the Crown*. (PhD), Victoria University of Wellington, Wellington, Aotearoa New Zealand.
- Fleras, A., & Spoonley, P. (1999). *Recalling Aotearoa : indigenous politics and ethnic relations in New Zealand*. Melbourne, Australia: Oxford University Press.
- Flyvbjerg, B. (1998). *Rationality and power : democracy in practice / Bent Flyvbjerg ; translated by Steven Sampson*: Chicago : University of Chicago Press, 1998.
- Forester, J. (1988). *Planning in the face of power*: Berkeley: University of California Press.
- Forester, J. (1999). *The deliberative practitioner: encouraging participatory planning processes*: Cambridge, MA: MIT Press.
- Forester, J. (2012). Learning to Improve Practice: Lessons from Practice Stories and Practitioners' Own Discourse Analyses (or Why Only the Loons Show Up). *Planning Theory & Practice*, 13(1), 11-26. doi: 10.1080/14649357.2012.649905
- Forester, J. (2013). On the theory and practice of critical pragmatism: Deliberative practice and creative negotiations. *Planning Theory*, 12(1), 5-22. doi: 10.1177/1473095212448750

- Foucault, M., & Gordon, C. (1980). *Power/knowledge : selected interviews and other writings, 1972-1977*: New York: Harvester Wheatsheaf.
- Friedmann, J. (1987). *Planning in the public domain : from knowledge to action*: Princeton, N.J. : Princeton University Press.
- Fuss, D. (1989). *Essentially speaking : feminism, nature & difference*. New York, United States of America: Routledge.
- Future Proof Joint Committee. (2009). *Future Proof Growth Strategy and Implementation Plan*. Hamilton, New Zealand: Hamilton City Council.
- Gandhi, L. (1998). *Postcolonial theory : a critical introduction*: St Leonards, N.S.W., Australia: Allen & Unwin.
- Gardiner, W. (1996). *Return to sender : what really happened at the fiscal envelope hui / Wira Gardiner*: Auckland, N.Z. : Reed, 1996.
- General Manager - City Planning and Environmental Services. (2009). *Future Proof Implementation Report: Hamilton Central Business District - Strategic Alignment with Future Proof and Hamilton Urban Growth Strategy - Proposed Variation 21 to Hamilton City Proposed District Plan*. Hamilton, New Zealand
- Gergen, K. J. (2009). *An invitation to social construction* (2 ed.). Los Angeles: SAGE.
- Giddens, A. (1984). *The constitution of society : outline of the theory of structuration*: Cambridge, UK: Polity Press.
- Grange, K. (2013). Shaping acting space: In search of a new political awareness among local authority planners. *Planning Theory*, 12(3), 225-243. doi: 10.1177/1473095212459740
- Gruner, S. (2012). *Learning, Land and Life: An institutional ethnography of land use planning and development in a Northern Ontario First Nation*. (PhD), University of Toronto, Toronto, Canada.
- Hamilton City Council. (2007). Miropiko Pa Interpretation Panel. Hamilton, New Zealand: Panel was unveiled by His Worship, the Mayor of Hamilton City Mr Bob Simcock and Mr Hare Puke, Chairman of Nga Mana Toopu o Kirikiriroa on 1 December 2007.
- Hamilton City Council. (2010). *Hamilton Urban Growth Strategy*. Hamilton, New Zealand
- Hamilton City Council. (2011). Resource Consent - Establish new buildings, undertake additions and associated works at 'The Base', Maahanga Drive Hamilton, Aotearoa New Zealand.
- Hamilton City Council. (2012a). *Hamilton City Operative District Plan* Hamilton, New Zealand
- Hamilton City Council. (2012b). *Operative District Plan* Hamilton, Aotearoa New Zealand: Hamilton City Council. Retrieved from <http://www.hamilton.govt.nz/our-council/council-publications/operativedistrictplan/Pages/default.aspx>
- Hamilton City Council. (2013a). Extraordinary Council - Open Agenda for 4 April 2013. Hamilton, New Zealand: Hamilton City Council.
- Hamilton City Council. (2013b). Extraordinary Council - Open Minutes for 4 April 2013. Hamilton, New Zealand: Hamilton City Council.
- Hamilton City Council. (2013c). Strategy and Policy Committee - Agenda for 19 February 2013. Hamilton, Aotearoa New Zealand: Hamilton City Council.
- Hamilton City Council. (2013d). Submission by Hamilton City Council on Ruakura Development Plan Change: Environmental Protection Authority.
- Hamilton City Council. (2014a). Finance Committee - Open Agenda for 3 April 2014. Hamilton, Aotearoa New Zealand: Hamilton City Council.
- Hamilton City Council. (2014b). Hamilton City Proposed District Plan - Decisions version (Decisions version ed.). Hamilton, Aotearoa New Zealand: Hamilton City Council.
- Hamilton City Council. (2014c). *Hamilton Proposed District Plan - Decisions Report* Hamilton, Aotearoa New Zealand: Hamilton City Council
- Hamilton City Council. (no date). Council Partnership with Māori. Retrieved 9 March 2016, 2016, from <http://www.hamilton.govt.nz/our-council/consultation-and-public-notice/councilpartnershipwithmaori/Pages/default.aspx>

- Harawira, W. (2016). Jim Bolger: Maybe the Urewera owns itself. *E-Tangata*.
- Harris, C. (2011). *Restitution of state land in New Zealand - Offer back of public works land and return of land to indigenous people through Treaty claims settlements*. Paper presented at the FIG Working Week - Bridging The Gap Between Cultures, Marrakesh, Morocco.
- Hayward, J. (1998). The Treaty of Waitangi, Maori and the evolving Crown. *Political Science*, 49(2), 153-172.
- Hayward, J. (1999). Local government and Maori: Talking Treaty? *Political Science*, 50(2), 182-194.
- Healey, P. (2006). *Collaborative planning : shaping places in fragmented societies* (2nd ed.). Basingstoke, Hampshire, UK: Palgrave Macmillan.
- Healey, P. (2009). The Pragmatic Tradition in Planning Thought. *Journal of Planning Education & Research*, 28(3), 277-292. doi: 10.1177/0739456X08325175
- Hemi, M. (2003). Local Government and the Waitangi Tribunal. In J. Hayward (Ed.), *Local government and the Treaty of Waitangi*. Auckland, New Zealand: Oxford University Press.
- Hendler, S. (2005). Towards a Feminist Code of Planning Ethics. *Planning Theory & Practice*, 6(1), 53-69. doi: 10.1080/1464935042000334967
- Hitchcock, J. (2008). Financing Maori Land Development: The Difficulties Faced by Owners of Maori Land in Accessing Finance for Development and a Framework for the Solution. *Auckland University Law Review*, 14, 217-243.
- Hokowhitu, B., & Page, T. (2011). Postcolonial peace. *Junctures (Online)*, July(14), 13-25.
- Holm, V., & Enright, R. (2013). *Collaboration with Iwi in the Post-Treaty Settlements Era*. Paper presented at the Stop, Collaborate and Listen, New Zealand Planning Institute Annual Conference, Hamilton, Aotearoa New Zealand.
- Howden-Chapman, P. (2014). *Letter outlining joint working relationship between Resilient Urban Futures researchers and Waikato-Tainui*. Wellington, Aotearoa New Zealand
- Howitt, R. L., Gaim James; . (2010). Coexistence: Planning and the Challenge of Indigenous Rights. In J. H. Hillier, P (Ed.), *Ashgate Research Companion to Planning Theory* (pp. 109-133). Farnham: Ashgate.
- Huddart, D. (2005). *Homi K. Bhabha*: New York, N.Y.: Routledge.
- Hudson, M. (2007). *Te ara tika : guidelines for Māori research ethics : a framework for researchers and ethics committee members*: Auckland, Aotearoa New Zealand: Health Research Council of New Zealand on behalf of the Pūtaiora Writing Group.
- Huygens, I. (1999, 26 August). *An Accountability model for Pakeha practitioners*. Paper presented at the Maori and psychology: research and practice, Hamilton, Aotearoa New Zealand.
- Huygens, I. (2007). *Processes of Pakeha change in response to the Treaty of Waitangi* (PhD), University of Waikato, Hamilton, Aotearoa New Zealand.
- Huygens, I. (2011). Developing a Decolonisation Practice for Settler Colonisers: A Case Study from Aotearoa New Zealand. *Settler Colonial Studies* 1(2), 53-81.
- Ignite Architects. (2012). Te Awa Shopping Centre. Retrieved 27 August, 2016, from <http://www.ignitearchitects.com/te-awa-shopping-centre/>
- Innes, J. E., & Booher, D. E. (2010). *Planning with complexity : an introduction to collaborative rationality for public policy*. Milton Park, Abingdon, Oxon UK: Routledge.
- Jackson, A.-M. (2008). Towards understanding indigenous knowledge in environmental management practise: A discursive analysis of the East Otago taiapure proposal. *MAI Review*(1), 15.
- Jackson, S. (2012). A Disturbing Story. *Australian Planner*, 49(3), 274-282.
- Jojola, T. S., Walker, R. C., & Natcher, D. C. (2013). *Reclaiming Indigenous Planning*. Montreal: MQUP.

- Jowsey, E. (2011). *Real Estate Economics*. Basingstoke, United Kingdom: Palgrave Macmillan.
- Judicature Amendment Act No. 130 (1972)
- Kawharu, M. (2002). *Whenua: managing our resources*. Auckland, Aotearoa New Zealand: Reed Books.
- Kiwi Property Management Ltd v Hamilton City Council 9 ELRNZ 249 (Environment Court of New Zealand 2003).
- Kohn, M., & McBride, K. D. (2011). *Political theories of decolonization: postcolonialism and the problem of foundations*. New York: Oxford University Press.
- Krumholz, N., & Forester, J. (1990). *Making equity planning work: leadership in the public sector*. Philadelphia Temple University Press.
- Lane, M. B. (2003). Participation, decentralization, and civil society: indigenous rights and democracy in environmental planning. *Journal of Planning Education & Research*, 22(4), 360 - 372.
- Lane, M. B. (2006). The role of planning in achieving indigenous land justice and community goals. *Land Use Policy*, 23, 385-394. doi: 10.1016/j.landusepol.2005.05.001
- Lane, M. B., & Hibbard, M. (2005). Doing it for themselves: Transformative planning by indigenous peoples. *Journal of Planning Education & Research*, 25(2), 172 - 183.
- Lawson-Te Aho, K. (2010). *Definitions of whānau : a review of selected literature*. Wellington, Aotearoa New Zealand: Families Commission.
- Leaman, A. (2015, 1 November). Hamilton City Council to notify Ruakura variation to proposed District Plan, *Stuff.co.nz*. Retrieved from <http://www.stuff.co.nz/business/industries/73510925/Hamilton-City-Council-to-notify-Ruakura-variation-to-proposed-District-Plan>
- Le Sueur, J. D. (2003). *The decolonization reader*. London: Routledge.
- Linkhorn, C. (2006). *Maori Land and Development Finance*. Canberra: Centre for Aboriginal Economic Policy Research, Australian National University. Retrieved from http://www.anu.edu.au/caepr/Publications/DP/2006_DP284.pdf
- Local Government Act, No. 84 (2002).
- Local Government New Zealand. (2015). *A 'blue skies' discussion about New Zealand's resource management system - A discussion document prepared for LGNZ by MartinJenkins*. Wellington, Aotearoa New Zealand: Local Government New Zealand. Retrieved from <http://www.lgnz.co.nz/assets/Uploads/LGNZ-blue-skies-thinkpiece-Dec-2015.pdf>
- Lovell-Smith, M. (2012, 14 November). 'Early mapping - Māori and maps of colonisation'. Retrieved 1 June, 2016, from <http://www.TeAra.govt.nz/en/map/10800/land-purchased-from-ngai-tahu>
- MacLaran, A. (2003). Masters of space: the property development sector. In A. MacLaran (Ed.), *Making space : property development and urban planning*: London: Distributed in the United States of America by Oxford University Press, 2003.
- Majurey, P. F., Atkins, H., Morrison, V., & Hovell, T. (2010). *Maori Values Supplement*. Wellington: New Zealand Government
- Manukau, T. (2015, 30 July 2015). [Opportunity to raise awareness about Right of First Refusal].
- Manning Thomas, J. (1996). Educating Planners: Unified Diversity for Social Action. *Journal of Planning Education & Research*, 15(3), 171-182. doi: 10.1177/0739456X9601500302
- Manning Thomas, J. (2008). The minority-race planner in the quest for a just city. *Planning Theory*, 7(3), 227-247. doi: 10.1177/1473095208094822
- Matunga, H. (2000a). Decolonising Planning: The Treaty of Waitangi, the Environment and a Dual Planning Tradition. In P. A. Memon & H. C. Perkins (Eds.), *Environmental planning and management in New Zealand*. Palmerston North, Aotearoa New Zealand: Dunmore Press.
- Matunga, H. (2000b). *Urban ecology, tangata whenua and the colonial city*. Paper presented at the Urban Biodiversity and Ecology as a basis for Holistic planning and Design :

- Proceedings of a workshop held at Lincoln University, 28-29 October 2000 Lincoln University, Christchurch
- Matunga, H. (2013). Theorising Indigenous Planning. In T. S. Jojola, R. C. Walker & D. C. Natcher (Eds.), *Reclaiming Indigenous Planning*. Montreal: MQUP.
- Matunga, H. (2016). *I Nga Wa o Mua : A retrospective on the RMA & Maori*. Paper presented at the New Zealand Planning Institute Annual Conference 2016, Dunedin, Aotearoa New Zealand
https://http://www.planning.org.nz/Attachment?Action=Download&Attachment_id=3820
- McCallum, A. (1991). *Army Days – The Autobiography of Angus McCallum* (Vol. Two, from Training in the UK to the Royal Military Police in India, 1945 – 1948). Perrymead, Kopuaranga: Published by Angus McCallum.
- McCallum, A. (1991). *To Be a Kiwi – The Autobiography of Angus McCallum* (Vol. One, His childhood and schooldays in United Kingdom, 1926 – 1944). Perrymead, Kopuaranga Published by Angus McCallum.
- McCan, D. (2001). *Whatiwhatihoe: the Waikato Raupatu Claim*. Wellington, Aotearoa New Zealand: Huia Publishers.
- McCreanor, T. (1997). When racism stepped ashore: Antecedents of anti-Maori discourse in Aotearoa. *NEW ZEALAND JOURNAL OF PSYCHOLOGY*, 26(1), 36-44.
- McCreanor, T. (2005). 'Sticks and stones may break my bones...': Talking Pakeha Identities. In J. H. Liu (Ed.), *New Zealand identities : departures and destinations*. Wellington, Aotearoa New Zealand: Victoria University Press.
- McCreanor, T. (2012). Challenging and countering anti-Māori discourse: practices for decolonisation. In R. Nairn (Ed.), *Ka tū, ka oho : visions of a bicultural partnership in psychology : invited keynotes : revisiting the past to reset the future*. Wellington, Aotearoa New Zealand: New Zealand Psychological Society.
- McHugh, P. G. (2004). Living with Rights Aboriginally: Constitutionalism and Maori in the 1990s. In M. Belgrave, M. Kawharu & D. V. Williams (Eds.), *Waitangi revisited : perspectives on the Treaty of Waitangi* (2nd ed.). Auckland, Aotearoa New Zealand: Oxford University Press.
- Meihana, P. (2015) *The Paradox of Maori Privilege : Historical Constructions of Maori Privilege Circa 1769 to 1940'* (PhD). Massey University, Manawatu, Aotearoa New Zealand.
- Memon, A., & Thomas, G. (2006). New Zealand's New Local Government Act: A Paradigm for Participatory Planning or Business as Usual? *Urban Policy & Research*, 24(1), 135-144.
- Meredith, P. (1998). *Hybridity in the Third Space: Rethinking Bicultural Politics in Aotearoa/New Zealand*. Paper presented at the Te Oru Rangahau Maori Research and Development Conference Massey University. <http://lianz.waikato.ac.nz/PAPERS/paul/hybridity.pdf>
- Meredith, P. (2015, 7 December). 'Urban Māori - Urbanisation'. Retrieved 21 June 2016, from <http://www.TeAra.govt.nz/en/urban-maori/page-1>
- Miller, C. L. (2007). *The unsung profession : a history of the New Zealand Planning Institute 1946-2002*. Wellington, Aotearoa New Zealand: Dunmore Publishing.
- Minister for the Environment. (2013). Ministerial Direction referring the Ruakura Development Plan Change Request to a board of inquiry. Wellington, New Zealand: Environmental Protection Authority.
- Ministry for Culture and Heritage. (2013a). 150 years since pivotal battle in New Zealand wars Retrieved 21 June, 2016, from <http://www.mch.govt.nz/news-events/press-releases/150-years-pivotal-battle-new-zealand-wars>
- Ministry for Culture and Heritage. (2013b). Waikato Land Wars Commemorations Begin. Retrieved 21 June, 2016, from <http://www.mch.govt.nz/news-events/news/waikato-land-wars-commemorations-begin>

- Ministry for Culture and Heritage. (2015, 29 October). 'Treaty sheets and signing locations' Retrieved 21 June, 2016, from <http://www.nzhistory.net.nz/politics/treaty/making-the-treaty/treaty-of-waitangi-signing-locations>
- Ministry for Culture and Heritage. (2016a, 16 May). 'The 1835 Declaration of Independence'. Retrieved 12 July, 2016, from <http://www.nzhistory.net.nz/media/interactive/the-declaration-of-independence>
- Ministry for Culture and Heritage. (2016b, 17 June). 'Maori land loss, 1860-2000'. Retrieved 21 June, 2016, from <http://www.nzhistory.net.nz/media/interactive/maori-land-1860-2000>
- Ministry of Justice. (2016). Waitangi Tribunal. Retrieved 21 June, 2016, from <http://www.justice.govt.nz/tribunals/waitangi-tribunal>
- Minto, J. (2016). Should Maori representation in local government be decided by Maori – or by Pakeha? Retrieved 27 June 2016, from <http://thedailyblog.co.nz/2016/06/20/should-maori-representation-in-local-government-be-decided-by-maori-or-by-pakeha/>
- Moewaka Barnes, A., Borell, B., Taiapa, K., Rankine, J., Nairn, R., & McCreanor, T. (2012). Anti-Maori themes in New Zealand journalism--toward alternative practice. *Pacific Journalism Review*, 18(1), 195 - 216.
- Moewaka Barnes, H., Henwood, W., Kerr, S., McManus, V., & McCreanor, T. (2011). Knowledge Translation and Indigenous Research. In E. Banister, B. Leadbeater & A. Marshall (Eds.), *Knowledge Translation in Context: indigenous, policy and community settings* (pp. 361-385). Toronto: University of Toronto Press.
- Moewaka Barnes, H., McCreanor, T., Edwards, S., & Borell, B. (2009). Epistemological Domination - Social Science Research Ethics in Aotearoa. In D. M. Mertens & P. E. Ginsberg (Eds.), *The Handbook of Social Research Ethics* (pp. 442-457). Los Angeles: Sage Publications.
- Moewaka Barnes, H., McCreanor, T., & Huakau, J. (2008). Maori and the New Zealand values survey: The importance of research relationships. *Kotuitui: New Zealand Journal of Social Sciences Online*, 3(2), 135-147.
- Moore-Gilbert, B. J. (1997). *Postcolonial theory : contexts, practices, politics*. London: Verso.
- Moosa-Mitha, M. (2005). Situating anti-oppressive theories within critical and difference-centred perspectives. In L. Brown & S. Strega (Eds.), *Research as Resistance: critical, indigenous and anti-oppressive approaches*. Toronto, Ontario: Canadian Scholars' Press.
- Murphy, T., Healy, S., & Huygens, I. (2012). *Ngāpuhi speaks : He Wakaputanga o te rangatiratanga o Nu Tireni and Te Tiriti o Waitangi = independent report, Ngāpuhi Nui Tonu claim*. Kaitaia, Aotearoa New Zealand: Te Kawariki & Network Waitangi Whangarei.
- Muru-Lanning, M. (2011). The analogous boundaries of Ngaati Mahuta, Waikato-Tainui and Kiingitanga. *The Journal of the Polynesian Society*(1).
- Mutu, M. (2002). Barriers to Tangata Whenua Participation in Resource Management. In M. Kawharu (Ed.), *Whenua : managing our resources*: Auckland, N.Z. : Reed Books, 2002
- Nairn, M. (2001). Decolonisation for Pakeha. In J. Margaret (Ed.), *Pakeha Treaty work - Unpublished Material* (2002 ed.). Manukau, New Zealand: Manukau Institute of Technology Treaty Unit.
- Nairn, R. G. (2012). *Ka tū, ka oho: visions of a bicultural partnership in psychology - Invited keynotes: revisiting the past to reset the future*. Wellington, Aotearoa New Zealand: New Zealand Psychological Society.
- Nairn, R. G., Barnes, A. M., Borell, B., Rankine, J., Gregory, A., & McCreanor, T. (2012). Maori news is bad news: that's certainly so on television. *MAI Journal: A New Zealand Journal of Indigenous Scholarship, Spring* (1), 38-49.

- Nairn, R. G., & McCreanor, T. N. (1991). Race talk and common sense: Patterns in Pakeha discourse on Maori/Pakeha relations in New Zealand. *Journal of Language and Social Psychology, 10*(4), 245-262. doi: 10.1177/0261927X911104002
- NaMTOK Consultancy Ltd. (2011). *An assessment of the potential impact that any expansion and development of the Ruakura estate might have on cultural values and manawhenua* (A report prepared for Tainui Group Holdings and Chedworth Park Ltd).
- Nana, G., Khan, M., & Schulze, H. (2015). *Te Ōhanga Māori 2013 - Māori Economy Report 2013*. Wellington, Aotearoa New Zealand: Te Puni Kōkiri
- National Party of New Zealand. (2014). Policy 2014 - Treaty of Waitangi Negotiations.
- New Zealand Planning Institute. (2011). Code of Ethics
- New Zealand Planning Institute. (2016a). About Us. Retrieved 21 June 2016, from https://http://www.planning.org.nz/Category?Action=View&Category_id=604
- New Zealand Planning Institute. (2016b). Papa Pounamu. Retrieved 11 September, 2016, from https://http://www.planning.org.nz/Category?Action=View&Category_id=624
- Ngata Dictionary. (Ed.) Ngata Online.
- Nikora, L. W. (2001). Rangatiratanga-Kawanatanga: Dealing with rhetoric. *Feminism & Psychology, 11*(3), 377-385. doi: 10.1177/0959353501011003008
- O'Malley, V. (2015, 23 April). Historical amnesia over New Zealand's own wars, Opinion, *Dominion Post*. Retrieved from <http://www.stuff.co.nz/dominion-post/comment/67944795/Historical-amnesia-over-New-Zealands-own-wars>
- Oaks, C. (2000). *An Approach to Organisational Change: Case study of Manukau City Council and the Treaty of Waitangi*. Paper presented at the Proceedings of the Treaty Conference 2000, Sacred Heart College, Glen Innes, Tamaki Makaurau/Auckland, 6-8 July, 2000, Tamaki Makaurau/Auckland Aotearoa New Zealand.
- Office of the King. (2013a). About the King. Retrieved 21 June, 2016, from <http://www.kiingitanga.com/about-the-king/>
- Office of the King. (2013b). History. *Website of the Kiingitanga*. Retrieved 13 November, 2015, from <http://www.kiingitanga.com/history/>
- Office of Treaty Settlements. (2002). *Healing the past, building a future : a guide to Treaty of Waitangi claims and negotiations with the Crown = Ka tika ā muri, ka tika ā mua : he tohutohu whakamārama i ngā whakataunga kerēme e pā ana ki te Tiriti o Waitangi me ngā whakaritenga ki te Karauna* (Non-fiction No. 0478180004). Wellington, Aotearoa New Zealand: Office of Treaty Settlements.
- Office of Treaty Settlements. (2012). *Post-Settlement Governance Entities: A Guide*. Wellington, Aotearoa New Zealand: Office of Treaty Settlements,. Retrieved from <http://www.nz01.2day.terabyte.co.nz/ots/DocumentLibrary%5CPost-settlementgovernanceentities-aguide.pdf>
- Office of Treaty Settlements. (2016). *Summary of Deed of Settlement - Rangitāne o Wairarapa and Rangitāne o Tamaki nui-ā-Rua*. Wellington, Aotearoa New Zealand
- Oxford English Dictionary. (Ed.) Oxford English Dictionary Online.
- Paltridge, B. (2012). *Discourse analysis: an introduction* (2nd ed.). London: Bloomsbury Academic.
- Papa, R. and Meredith, P. (2012, 20 June) 'Kīngitanga – the Māori King movement - Te Ātairangikaahu, 1966–2006, and Tūheitia, 2006–', Retrieved 24 February 2017, from <http://www.TeAra.govt.nz/en/map/37884/poukai-marae>
- Pene, M. (2011). *Cultural Impact Assessment Report - Ruakura Estate* (Report prepared on behalf of Te Kotuku Whenua Consultancy, the Environmental Agency for Ngati Wairere for Tainui Group Holdings).

- Perry, D. C. (1995). Making Space - Planning as a Mode of Thought. In H. Liggett & D. C. Perry (Eds.), *Spatial Practices: Critical explorations in social/spatial theory* (pp. 209-242). California: Sage Publications.
- Pipi, K., Cram, F., Hawke, R., Hawke, S., Huriwai, T. M., Mataki, T., . . . Tuuta, C. (2004). A research ethic for studying Maori and iwi provider success. *Social Policy Journal of New Zealand, December*(23), 141 - 153.
- Porter, L. (2010). *Unlearning the colonial cultures of planning*. Farnham, England: Ashgate.
- Productivity Commission. (2015). *Better Urban Planning*. Wellington, Aotearoa New Zealand: Productivity Commission. Retrieved from <http://www.productivity.govt.nz/sites/default/files/better-urban-planning-issues-paper.pdf>
- Quality Planning. (2016a). Frequently asked questions on Iwi Management Plans. Retrieved 11 September, 2016, from <http://www.qualityplanning.org.nz/index.php/supporting-components/faq-s-on-iwi-management-plans>
- Quality Planning. (2016b). Structure Planning. Retrieved 16 September, 2016, from <http://www.qualityplanning.org.nz/index.php/planning-tools/structure-planning>
- Quality Planning. (2016c). What can be made operative? . Retrieved 16 September, 2016, from <http://www.qualityplanning.org.nz/index.php/plan-steps/making-plan-operative/what-can-be-made-operative>
- Radio New Zealand. (2016). Judd felt force of anti-Maori racism. 10 May. Retrieved 30 May 2016, from <http://www.radionz.co.nz/news/national/303537/judd-felt-force-of-anti-maori-racism>
- Radio New Zealand. (2016b). Pākehā needed to lead hikoi - councillor. 18 June. Retrieved 27 June, from <http://www.radionz.co.nz/news/regional/306699/pakeha-needed-to-lead-hikoi-councillor>
- Rankine, J., Nairn, R., Moewaka Barnes, A., Gregory, M., Kaiwai, H., Borell, B., & McCreanor, T. (2008). *Media & Te Tiriti o Waitangi: Auckland [N.Z.] : Kupu Taea, Media and Te Tiriti Project*. Resource Management Act. No. 69 (1991).
- Roberts, N. (2002). Planning and Tangata Whenua Issues. In M. Kawharu (Ed.), *Whenua: managing our resources*. Auckland, Aotearoa New Zealand: Reed Books.
- Rolfe, P., Pohio, M., & Stickney, P. (2013). *The Collaborative Planning Process For Ruakura - Lessons Learned*. Paper presented at the Stop, Collaborate, and Listen, Hamilton, Aotearoa New Zealand. http://www.planning.org.nz/Folder?Action=ViewFile&Folder_id=265&File=POHIO_STICKNEY_ROLFE.pdf
- Royal, T. C. (2012, 22 September). 'Waikato tribes - Waikato landmarks'. Retrieved 5 November, 2015, from <http://www.TeAra.govt.nz/en/waikato-tribes/page-2>
- Rumbles, W. (1999). *Treaty of Waitangi settlement process: New relationship or new mask?* Paper presented at the Compr(om)ising Post/Colonial Conference, Wollongong, Australia.
- Ryks, J. L., Pearson, A., & Waa, A. (2016). Mapping urban Māori: A population-based study of Māori heterogeneity. *New Zealand Geographer, 72*(1), 28-40.
- Said, E. W. (2003). *Orientalism*. Harmondsworth, UK: Penguin.
- Salomon, M. E. (2013). From NIEO to now and the unfinished story of economic justice. *International and Comparative Law Quarterly, January*(1), 31-54.
- Sandercock, L. (1998). *Towards cosmopolis: planning for multicultural cities*. Chichester, England: J. Wiley.
- Sandercock, L. (2000). When Strangers Become Neighbours: Managing Cities of Difference. *Planning Theory & Practice, 1*(1), 13-30.
- Sandercock, L. (2004). Towards a Planning Imagination for the 21st Century. *Journal of the American Planning Association, 70*(2), 133-141.

- Sandercock, L., Hibbard, M., Lane, M. B., Porter, L., & Beneria-Surkin, J. (2004). Interface. *Planning Theory & Practice*, 5(1), 95-124. doi: 10.1080/1464935042000185080
- Schoder, A. (2013). Indigenous planning in New Zealand: an analysis of the recent developments and their theoretical context. *Lincoln Planning Review*, 4(2).
- Schrader, B. (2012, 13 July). 'Wairarapa region - European settlement'. Retrieved 1 June, 2016, from <http://www.TeAra.govt.nz/en/wairarapa-region/page-6>
- Sibley, C. G., & Liu, J. H. (2004). Attitudes towards biculturalism in New Zealand : social dominance and pakeha attitudes towards the general principles and resource-specific aspects of bicultural policy. *New Zealand Journal of Psychology*, 33(2), 88-99.
- Smith, D. E. (2005). *Institutional ethnography : a sociology for people*. Walnut Creek, CA: AltaMira Press.
- Smith, G. H., Tinirau, R., Gillies, A., & Warriner, V. (2015). *He Mangopare Amohia - Strategies for Maori economic development*. Whakatane: Te Whare Wānanga o Awanuiārangi.
- Smith, L. T. (2012). *Decolonizing methodologies : research and indigenous peoples* (2nd ed.). Dunedin, Aotearoa New Zealand: Otago University Press.
- Solomon, S. (1995). *The Waikato Raupatu Claims Settlement Act: A Draft Users Guide to the Act as at 28 October 1995* Waikato, Aotearoa New Zealand Tainui Trust Board.
- Statistics New Zealand. (2014). 2013 Census QuickStats about a place: Hamilton City. Retrieved 22 June 2016, from http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/quickstats-about-a-place.aspx?request_value=13702&tabname=Culturaldiversity
- Stephenson, M. (2011). You can't always get what you want - economic development on indigenous individual and collective titles in North America: Which land tenures are relevant to Australia? . In L. Godden & M. Tehan (Eds.), *Comparative perspectives on communal lands and individual ownership : sustainable futures*. Abingdon, Oxon, UK: Routledge.
- Stocker, N., & Thompson-Fawcett, M. (2014). It's Not Like Never-the-Twain-Shall-Meet': Politician-Staff Relationship Structures in Local Government. *Local Government Studies*, 40(5), 791-808.
- Stokes, E. (1987). Maori geography or geography of Maoris. *New Zealand Geographer*, 43(3), 118-123.
- Stone, D. (2012). Financial and Commercial Dimensions of Settlements. In J. Hayward & N. R. Wheen (Eds.), *Treaty of Waitangi Settlements* (pp. 138 - 150). Wellington, N.Z.: Bridget Williams Books with the New Zealand Law Foundation.
- Stuart, K., & Mellish, L. (2015). *Tūrangawaewae, time and meaning: two urban Māori icons*. Paper presented at the Urban History Planning History, Gold Coast, Australia.
- Stuart, K., & Thompson-Fawcett, M. (2010). *Tāone tupu ora : indigenous knowledge and sustainable urban design*. Wellington, Aotearoa New Zealand Steele Roberts.
- Swarbrick, N. (2015, 3 June). Waikato places - Hamilton. Retrieved 5 November, 2015, from <http://www.TeAra.govt.nz/en/waikato-places/page-7>
- Taber, N. (2010). Institutional ethnography, autoethnography, and narrative: an argument for incorporating multiple methodologies. *Qualitative Research*, 10(1), 5-25.
- Tainui Group Holdings. (2009, 31 March 2009). Top Twenty Properties. Retrieved 27 August 2016, from <http://www.tgh.co.nz/wp-content/uploads/top20properties.pdf>
- Tainui Group Holdings. (2010). *Annual Report 2010*. Hamilton, New Zealand
- Tainui Group Holdings. (2015). Tangata Whenua Working Group - Terms of Reference. Hamilton, Aotearoa New Zealand.
- Tainui Group Holdings. (2016a). Ruakura - Timeline. Retrieved 16 September, 2016, from <http://www.ruakura.co.nz/timeline/>

- Tainui Group Holdings. (2016b). TGH confirms partial sale of The Base Shopping Centre. Retrieved 9 June, 2016, from <http://www.waikatotainui.com/tgh-confirms-partial-sale-of-the-base-shopping-centre/>
- Taonui, R. (2012, 22 September). 'Tapa whenua – naming places: Exploration and naming'. Retrieved 21 June, 2016, from <http://www.TeAra.govt.nz/en/tapa-whenua-naming-places/page-1>
- Taylor, L. B. (2015). *He waka hourua, he waka eke noa: evolving management and governance for Kaipara Moana*. (Masters), The University of Auckland, Auckland, Aotearoa New Zealand Retrieved from <http://hdl.handle.net/2292/28798>
- Te Kauhanganui o Waikato Inc. (2007). Whakatupuranga Waikato-Tainui 2050. Waikato, New Zealand.
- Te Papa Tongarewa Museum of New Zealand. (2006a). Treaty 2U - The content of the Treaty. Retrieved 28 August, 2016, from <http://www.treaty2u.govt.nz/the-treaty-up-close/the-content-of-the-treaty/index.htm>
- Te Papa Tongarewa Museum of New Zealand. (2006b). Treaty 2U - The Treaty Today. Retrieved 21 June 2016, from <http://www.treaty2u.govt.nz/the-treaty-today/index.htm>
- Te Puni Kōkiri. (1994). *Crown proposals for the settlement of Treaty of Waitangi claims : consultation with Māori*: Wellington [N.Z.] : Te Puni Kōkiri, [1994].
- Thacher, D. (2013). The Professional Association's Role. *Cities*, 32, 169-170. doi: 10.1016/j.cities.2013.04.004
- The Base. (2015). Home/Info/History. Retrieved 13 November, 2015, from <http://www.the-base.co.nz/info/history/>
- Toataua, H., & Stuart, M. (1991). *Tainui and the Treaty of Waitangi - Tainui me Te Tiriti*. Kirikiriroa, Aotearoa New Zealand: Kirikiriroa 1990 Community Committee.
- Tolich, M. (2001). *Research ethics in Aotearoa New Zealand : concepts, practice, critique*. Auckland, Aotearoa New Zealand Longman.
- Tolich, M. (2002). Pākehā 'paralysis' : cultural safety for those researching the general population of Aotearoa. *Social Policy Journal of New Zealand / Te Puna Whakaaro*, December(19), 164-178.
- Turner, S. M. (2005). Rendering the Site Developable: Texts and Local Government Decision Making in Land Use Planning. In M. Campbell & A. Manicom (Eds.), *Knowledge, Experience, and Ruling Relations: Studies in Social Organization of Knowledge*. Toronto: University of Toronto Press.
- Turner, S. M. (2006). Mapping Institutions as Work and Texts. In D. E. Smith (Ed.), *Institutional Ethnography as Practice*. Maryland, United States of America: Rowman and Littlefield Publishers.
- United Nations Declaration on the Rights of Indigenous Peoples, 61/295 C.F.R. (2008).
- Waikato Raupatu Claims Settlement Act, No. 58 (1995).
- Waikato Raupatu River Trust and Hamilton City Council. (2012). Joint Management Agreement. Hamilton, Aotearoa New Zealand.
- Waikato Regional Council. (2012). *Proposed Waikato Regional Policy Statement* Hamilton, Aotearoa New Zealand.
- Waikato-Tainui Te Kauhanganui. (2011). Waikato-Tainui Te Kauhanganui Incorporated - Rules. Waikato, Aotearoa New Zealand.
- Waikato-Tainui Te Kauhanganui. (2015). Waikato-Tainui reports a solid year of performance. Retrieved 27 June, 2016, from <http://www.waikatotainui.com/waikato-tainui-reports-a-solid-year-of-performance/>
- Waikato-Tainui Te Kauhanganui. (2016). Te Whakakitenga o Waikato. Retrieved 21 June, 2016, from <http://www.waikatotainui.com/about-us/governance-2/te-whakakitenga-o-waikato/>

- Waikato-Tainui Te Kauhanganui Incorporated. (2013). *Tai Tumu Tai Pari Tai Ao - Waikato Tainui Environmental Plan* Waikato, New Zealand
- Waikato-Tainui Te Kauhanganui Incorporated. (2016a). About us - History Retrieved 31 May 2016, from <http://www.waikatotainui.com/about-us/history/>
- Waikato-Tainui Te Kauhanganui Incorporated. (2016b, February 9 2016). Closure of governance review ushers in a new way and a new name. Retrieved 21 June, 2016, from <http://www.waikatotainui.com/closure-of-governance-review-ushers-in-a-new-way-and-a-new-name/>
- Waitangi Tribunal. (1989). *Report of the Waitangi Tribunal on the Manukau claim (Wai 8)* (Non-fiction No. 0908810067). Wellington, Aotearoa New Zealand: The Tribunal, 2nd ed. Retrieved from https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68495207/WAI008.PDF
- Waitangi Tribunal. (1991). *Report of the Waitangi Tribunal on the Orakei claim (Wai-9)*. Wellington, Aotearoa New Zealand Brooker & Friend. Retrieved from https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68494556
- Waitangi Tribunal. (2003). *Te Whanganui a Tara me ona takiwa : report on the Wellington District (Wai 145)*. Wellington, Aotearoa New Zealand. Retrieved from https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68452530
- Waitangi Tribunal. (2009). Frequently Asked Questions. Retrieved 22 June, 2016, from <http://www.justice.govt.nz/tribunals/waitangi-tribunal/about/frequently-asked-questions> - 16
- Walker, R. (2004a). *Ka Whawhai Tonu Matou: Struggle Without End* (Vol. Revised). Auckland, New Zealand: Penguin Books.
- Walker, R. (2004b). The Treaty of Waitangi in the Postcolonial Era. In M. Belgrave, M. Kawharu & D. V. Williams (Eds.), *Waitangi revisited : perspectives on the Treaty of Waitangi* (2nd ed.). Auckland, Aotearoa New Zealand: Oxford University Press.
- Ward, A. (2009). Unity in law, duality in mana *Waitangi Rua Rautau Lecture* Radio New Zealand.
- Watson, V. (2013). Commentary: The ethics of planners and their professional bodies: Response to Flyvbjerg. *Cities*, 32, 167-168. doi: 10.1016/j.cities.2013.04.003
- Webster, K. (2009). *Whakapiri tātou, hei manaaki tāngata, hei manaaki whenua - Effective governance for urban sustainability*. (PhD), Auckland University of Technology, Auckland.
- Western Bay of Plenty District Council. (2012). *Council Policy - Maori Roadways*. Tauranga, Aotearoa New Zealand: Western Bay of Plenty District Council. Retrieved from <http://www.westernbay.govt.nz/our-services/transport/road-facts-stats/Documents/Maori Roadways Policy 2012.pdf>
- Wetherell, M., McCreanor, T., McConville, A., Moewaka Barnes, H., & le Grice, J. (2015). Settling space and covering the nation: Some conceptual considerations in analysing affect and discourse. *Emotion, Space and Society*, 16, 56-64. doi: 10.1016/j.emospa.2015.07.005
- Wetherell, M., & Potter, J. (1992). *Mapping the language of racism : discourse and the legitimation of exploitation*. New York: Harvester Wheatsheaf.
- Wetherell, M., Taylor, S., & Yates, S. (2001). *Discourse as data : a guide for analysis*: London : SAGE, 2001.
- Whaanga-Schollum, D. (2016). *Taipōrutu, Taonga Tuku Iho*. Thesis submitted for Master of Science Communication. Centre for Sustainability University of Otago.
- Wheen, N. R., & Hayward, J. (2012). *Treaty of Waitangi settlements*. Wellington, Aotearoa New Zealand: Bridget Williams Books with the New Zealand Law Foundation.
- Wilkinson, S., & Reed, R. (2008). *Property Development* (Vol. 5). Oxon, UK: Routledge.

Yin, R. K. (2014). *Case study research: design and methods* (5th ed.). Los Angeles: SAGE.

Appendices

Appendix One: Resilient Urban Futures Guidelines for Engagement with Māori Communities

Resilient Urban Futures – Guidelines for engagement with Māori communities

The Resilient Urban Futures programme is committed to meaningfully engaging with Māori communities, and generating evidence to aid Māori development in urban areas. Engagement is necessary for researchers to consider the implications of their research for Māori communities, including considering the Treaty of Waitangi context for research, equity issues, and possible effects on policy development affecting Māori. In order to coordinate research, minimise burden, and maintain the integrity of existing relationships with Māori communities (and their representative organisations), it's important to identify whether other researchers within Resilient Urban Futures have any existing contacts or relationships with the communities you may be interested in working with. The following guidelines have been prepared to support research strands to engage with Māori. These guidelines are to promote discussion and common understanding, and are not intended to be prescriptive or over-ride existing work already completed within research strands.

Purpose of guidelines:

1. To provide opportunities for researchers to engage with Māori communities as part of the Resilient Urban Futures programme, building on existing relationships, and recognising that several research strands have already begun engagement.
2. To assist researchers engaging with Māori communities (iwi; hapū; marae; Māori organisations) to design and carry out research which meets Treaty of Waitangi obligations and actively seeks to reduce inequalities
3. To assist researchers engaging with Māori communities to coordinate engagement to:
 - Minimise the burden of engagement on Māori communities
 - Promote collaboration and efficient resource use between research strands
4. To help meet requirements for Resilient Urban Futures reporting to Ministry of Business, Innovation and Employment on progress against Vision Mātauranga

Resilient Urban Futures objectives for engagement with Māori communities:

- Meet expectations to unlock Māori potential through research, as set out in Vision Mātauranga (see www.msi.govt.nz/get-connected/unlocking-maori-potential) by:
 - Facilitating Māori participation in research
 - Creating mutually beneficial relationships with Māori communities
 - Employing strategies for building Māori research capability
- Actively seek to address inequalities
- Employ methods that work in true partnership with participating Maori communities, including reciprocity throughout the different stages of the research process
- Explicitly acknowledge Māori interests, and how these interests will be supported and protected through the research process
- Consider who will 'own' the research, and ensure this understanding is shared with research participants verbally or through Memoranda of Understanding

For ideas, see tables 4.2 and 4.3 in Tuhiwai Smith (2000) 'On Tricky Ground'

www.corwin.com/upm-data/5316_Denzin_and_Lincoln_Chapter_4.pdf

To achieve these objectives, eight principles of engaging with Māori communities are recommended:

1. **Acknowledging the Treaty as context for all our work**
2. **Taking opportunities to make research relevant to Māori**
3. **Undertaking meaningful engagement which values the time and knowledge of people in Māori communities**
4. **Recognising diversity within Māori**
5. **Working in ways which respect Māori values**
6. **Maintaining positive, mutually beneficial relationships through reciprocity and feedback**
7. **Building capacity and connecting people**
8. **Partnering with Māori organisations where possible**

A checklist for engaging with Māori communities:

If you are initiating a relationship with a Māori community or organisation, consider the following:

1. Opportunities for involvement

- How will Māori be engaged in your research project?

For ideas, see International Association for Public Participation 'Public Participation Spectrum'

www.iap2.org.au/documents/item/84

- Development of research questions?
- Participation in research teams or partnerships to deliver research?
- Research participants?
- Use of findings?
- What contribution do you expect from Māori?
- What will the benefit of your research be for Māori?
- What is the best way to approach these communities/organisations?
 - Do you have an existing contact? Who else could you contact?
 - Do you intend to meet face-to-face, or via email, telephone, survey etc.?
- 2. Opportunities for collaboration** – when planning engagement, such as a meeting, please share the following with the wider RUF team:
 - Who would you like to work with (eg. iwi, hapū, Maori organisation?)
 - Which locations are you interested in?
 - Who else in Resilient Urban Futures may be interested in your engagement?
 - Are there opportunities to collaborate with other RUF strands?
 - Can you build on existing relationships?
 - If other research strands are interested:
 - Invite other relevant RUF members, and agree who should lead discussion
 - Ensure everyone is clear on what their interest is in working with Māori, and how their research may be relevant to the Māori organisation
- 3. Acknowledging the mana of the community/organisation**
 - You may need to consider:
 - Where is the meeting being held? Will it be formal or casual?
 - Will you need to be supported by a speaker and waiata? Do you need to give koha?
 - How will you maintain the relationship after the meeting?
 - Is it necessary to agree a Memoranda of Understanding, initiate catch-ups, etc.?

Resources available:

There is significant literature available on research involving Māori. When reviewing this literature, it's important to note that, as a whole, Resilient Urban Futures is not based within a kaupapa Māori research framework. However, some aspects of kaupapa Māori research can inform research undertaken within the Resilient Urban Futures framework.

The Health Research Council has produced a comprehensive guideline for researchers on health research involving Māori, which is available here:

[http://www.hrc.govt.nz/sites/default/files/Guidelines%20for%20HR%20on%20Maori-%20Jul10%20revised%20for%20Te%20Ara%20Tika%20v2%20FINAL\[1\].pdf](http://www.hrc.govt.nz/sites/default/files/Guidelines%20for%20HR%20on%20Maori-%20Jul10%20revised%20for%20Te%20Ara%20Tika%20v2%20FINAL[1].pdf)

Further resources include the following:

- Bell, A. (2008). RECOGNITION OR ETHICS? *Cultural Studies*, 22(6), 850-869.
- Cunningham, C. (2000). A framework for addressing Māori knowledge in research, science and technology. *Pacific Health Dialog*, 7(1), 62-69.
- Denzin, N. K., Lincoln, Y. S., & Smith, L. T. (2008). *Handbook of critical and indigenous methodologies / edited by Norman K. Denzin, Yvonna S. Lincoln, Linda Tuhiwai Smith*: Los Angeles : Sage.
- Health Research Council of New Zealand, (2010). Guidelines for Researchers on Health Research Involving Māori (Version 2 ed.). Auckland, New Zealand: Health Research Council of New Zealand.
- Hudson, M. (2007). *Te ara tika : guidelines for Māori research ethics : a framework for researchers and ethics committee members / the Pūtaiora Writing Group ; Maui Hudson ... [et al.]*: Auckland, N.Z. : Health Research Council of New Zealand on behalf of the Pūtaiora Writing Group [2010].
- Hudson, M., & Russell, K. (2009). The Treaty of Waitangi and Research Ethics in Aotearoa. *Bioethical Inquiry*, 6, 61-68.
- Huygens, I. (1999). *An Accountability model for Pakeha practitioners*, Hamilton.
- Jones, A., & Jenkins, K. (2008). Rethinking collaboration - Working the Indigene-Colonizer Hyphen. In N. K. Denzin, Y. S. Lincoln & L. T. Smith (Eds.), *Handbook of critical and indigenous methodologies* (pp. 471-486). Los Angeles: Sage.
- Moewaka Barnes, H., Henwood, W., Kerr, S., Mcmanus, V., & McCreanor, T. (2011). Knowledge Translation and Indigenous Research. In E. Banister, B. Leadbeater, & A. Marshall (Eds.), *Knowledge Translation in Context: indigenous, policy and community settings* (pp. 361-385). Toronto: University of Toronto Press.
- Moewaka Barnes, H., McCreanor, T., Edwards, S., & Borell, B. (2009). Epistemological Domination - Social Science Research Ethics in Aotearoa. In D. M. Mertens & P. E. Ginsberg (Eds.), *The Handbook of Social Research Ethics* (pp. 442-457). Los Angeles: Sage Publications.
- Moewaka Barnes, H., McCreanor, T., & Huakau, J. (2008). Maori and the New Zealand values survey: The importance of research relationships. *Kotuitui: New Zealand Journal of Social Sciences Online*, 3(2), 135-147.
- Pipi, K., Cram, F., Hawke, R., Hawke, S., Huriwai, T. M., Mataki, T., . . . Tuuta, C. (2004). A research ethic for studying Maori and iwi provider success. *Social Policy Journal of New Zealand* (23), 141.
- Smith, L. T. (2012). *Decolonizing methodologies : research and indigenous peoples / Linda Tuhiwai Smith*: Dunedin, N.Z. : Otago University Press, 2012. 2nd ed.

These guidelines were developed by the Resilient Urban Futures programme and approved at the Annual Meeting of Resilient Urban Futures in Te Whanganui-a-Tara / Wellington, December 2014.

Appendix Two: Interview Guidelines

Interview Guidelines

Interviews with Case Study Participants and Key informants were structured around the following topics, as appropriate:

- Understanding planning for developing The Base and *Variation 21*
- Understanding planning for developing Ruakura and the *Ruakura Plan Change*
- Vision for development
- Understanding iwi planning documents
- Strategic documents – Waikato Tainui
- Understanding local government planning documents
- Strategic documents – Hamilton City Council
- Acknowledgement of Te Tiriti in local government planning documents
- Waikato-Tainui input into local government planning documents
- Role of the planner
- Relationships between Hamilton City Council and Waikato-Tainui
- Effect of Treaty settlements on planning
- Future relationships

Appendix Three: Massey University Human Ethics Committee Approval



MASSEY UNIVERSITY
ALBANY

29 May 2014

Brigid Livesey
Shore/Whariki Research Centre
Massey University
Albany

Dear Brigid

HUMAN ETHICS APPROVAL APPLICATION – MUHECN 14/019
Planning and development of Treaty redress land in urban areas

Thank you for your application. It has been fully considered, and approved by the Massey University Human Ethics Committee: Northern.

Approval is for three years. If this project has not been completed within three years from the date of this letter, a reapproval must be requested.

If the nature, content, location, procedures or personnel of your approved application change, please advise the Secretary of the Committee.

Yours sincerely

Dr Lily George
Acting Chair
Human Ethics Committee: Northern

cc Dr K Witten, Prof H Moewakabarnes
SHORE/Whariki Research Centre

Appendix Four: Information Sheets



Planning and development of urban land acquired under Treaty settlement:

A case study in Waikato, Aotearoa-New Zealand

INFORMATION SHEET for CASE STUDY PARTICIPANTS

Tēnā koe

Ko wai ahau? / Who am I?

He Pākehā au. I whānau mai au i te Tai Tokerau, i te tāone o Whangarei, a i tupu ake au i te taha o Te Whanganui a Tara. I ēnei rā e noho ana au ki Tāmaki Makaurau. Ko tōku ingoa ko Brigid Te Ao McCallum Livesey, arā ko Biddy.

I am a Pākehā student at Massey University, based in the SHORE and Whāriki Research Centre. I have experience working for central and local government on urban and te Tiriti o Waitangi/Treaty of Waitangi issues. I have previously completed research on housing development on Māori land, the recognition of Māori land in growth strategies, and housing affordability for Māori. This doctoral research is part of the Resilient Urban Futures programme led by the New Zealand Centre for Sustainable Cities, and funded by the Ministry of Business, Innovation and Employment.

He aha te kaupapa o tēnei mahi? / What is the topic of this proposed research?

I am undertaking a research project to investigate the planning and development of land acquired through Treaty settlement. As part of this project, I am interested in a case study focussing on land restored to Waikato-Tainui under the 1995 Waikato Raupatu Claims Settlement Act. I propose to document the planning processes and development of 'The Base' and the proposed Ruakura development as case study sites. I am also interested in exploring links between the strategic visions of Waikato-Tainui and local government, and the relationship between Waikato-Tainui and local government in the Hamilton area, relating to Treaty Settlement land. I intend to complete this research in 2016.

He tono tēnei kia whakauru mai koe / You are invited to participate

I would like to invite you to be interviewed about your experiences and reflections on these research topics. The interview will be conducted by me. You will only have to contribute as much as you wish to, and at any time of the discussion you will have the right to end the interview. I am happy to travel to a location that suits you, at a time when you are available.

He aha te tikanga o tō tāua kōrero? / What will happen during the interview?

At the interview, I will ask for your permission to audio tape and then transcribe the interview. The audio recording equipment can be turned off at any time or you will be able to withdraw parts or all of your information up to three weeks after the interview takes place. A copy of the transcript will be provided to you for checking, if you wish. I can also arrange for the interview to be video recorded, if you would find a video recording useful for your organisation's archives.

He kōrero huna tēnei? / Will my interview be anonymous?

At the interview, I will also ask you if you agree to be identified, with your name and position, in a list of interviewees at the end of the research thesis. If you do not agree to be identified, your name will not be listed within the research, and no personal identifiers will be used. However, given the nature and size of the professional community in New Zealand, it is possible that your identity may be known or deduced by a third party.

Hei aha taku kōrero? / What will happen to my information?

I am interviewing Case Study Participants from a range of organisations in an initial round of interviews during September - October 2014. I plan to carry out a second round of interviews in August – September 2015. All interviews will be transcribed, and analysed for themes. The results of the research will be written up into a thesis, and may be also published in papers or presented to interested audiences. Digital recordings and transcripts will be securely stored at SHORE and Whāriki Research Centre. You can request your information at any time.

If you choose, I will keep you informed on the progress of the research, and any related publications or presentations, via email updates.

All data collected from representatives of your organisation will be made available to your organisation following the completion of this research project. I will also send you a summary of the research findings.

Whakapā mai / Contacts

For any queries regarding this project, please contact Bidy, Helen, or Karen.

Researcher:
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Kua whakaaetia tēnei e te Komiti Matatika / Ethics Committee Approval Statement

This project has been reviewed and approved by the Massey University Human Ethics Committee: Northern, Application 14/019. If you have any concerns about the conduct of this research, please contact Dr Lily George, Acting Chair, Massey University Human Ethics Committee: Northern, telephone 09 414 0800 x 43279 email humanethicsnorth@massey.ac.nz



***Planning and development of urban land acquired
under Treaty settlement:
A case study in Waikato, Aotearoa-New Zealand***

INFORMATION SHEET for KEY INFORMANTS

Tēnā koe

Ko wai ahau? / Who am I?

He Pākehā au. I whānau mai au i te Tai Tokerau, i te tāone o Whangarei, a i tupu ake au i te taha o Te Whanganui a Tara. I ēnei rā e noho ana au ki Tāmaki Makaurau. Ko tōku ingoa ko Brigid Te Ao McCallum Livesey, arā ko Biddy.

I am a Pākehā student at Massey University, based in the SHORE and Whāriki Research Centre. I have experience working for central and local government on urban and te Tiriti o Waitangi/Treaty of Waitangi issues. I have previously completed research on housing development on Māori land, the recognition of Māori land in growth strategies, and housing affordability for Māori. This doctoral research is part of the Resilient Urban Futures programme led by the New Zealand Centre for Sustainable Cities, and funded by the Ministry of Business, Innovation and Employment.

He aha te kaupapa o tēnei mahi? / What is the topic of this proposed research?

I am undertaking a research project to investigate the planning and development of land acquired through Treaty settlement. As part of this project, I am interested in a case study focussing on land restored to Waikato-Tainui under the 1995 Waikato Raupatu Claims Settlement Act. I propose to document the planning processes and development of 'The Base' and the proposed Ruakura development as case study sites. I am also interested in exploring links between the strategic visions of Waikato-Tainui and local government, and the relationship between Waikato-Tainui and local government in the Hamilton area, relating to Treaty Settlement land. I intend to complete this research in 2016.

He tono tēnei kia whakauru mai koe / You are invited to participate

I would like to invite you to be interviewed about your reflections on the planning and development of land acquired through Treaty settlement. The interview will be conducted by me. You will only have to contribute as much as you wish to, and at any time of the discussion you will have the right to end the interview. I am happy to travel to a location that suits you, at a time when you are available.

He aha te tikanga o tō tāua kōrero? / What will happen during the interview?

At the interview, I will ask for your permission to audio tape and then transcribe the interview. The audio recording equipment can be turned off at any time or you will be able to withdraw parts or all of your information up to three weeks after the interview takes place. A copy of the transcript will be provided to you for checking, if you wish. I can also arrange for the interview to be video recorded, if you would find a video recording useful for your organisation's archives.

He kōrero huna tēnei? / Will my interview be anonymous?

At the interview, I will also ask you if you agree to be identified, with your name and position, in a list of interviewees at the end of the research thesis. If you do not agree to be identified, your name will not be listed within the research, and no personal identifiers will be used. However, given the nature and size of the professional community in New Zealand, it is possible that your identity may be known or deduced by a third party.

Hei aha taku kōrero? / What will happen to my information?

I am interviewing a range of Key Informants during November - December 2014. I plan to carry out a second round of interviews in August – September 2015. All interviews will be transcribed, and analysed for themes. The results of the research will be written up into a thesis, and may also be published in papers or presented to interested audiences. Digital recordings and transcripts will be securely stored at SHORE and Whāriki Research Centre. You can request your information at any time.

If you choose, I will keep you informed on the progress of the research, and any related publications or presentations, via email updates.

All data collected from representatives of your organisation will be made available to your organisation following the completion of this research project. I will also send you a summary of the research findings.

Whakapā mai / Contacts

For any queries regarding this project, please contact Bidy, Helen, or Karen.

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Kua whakaaetia tēnei e te Komiti Matatika / Ethics Committee Approval Statement

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Appendix Five: Research Updates



Planning and development of urban land acquired under Treaty settlement: A case study in Waikato, Aotearoa-New Zealand

UPDATE – APRIL 2015

Tēnā koe

Many thanks again for contributing your time and thoughts to this research project.

What's happening with this research? The research project is currently just over half complete – I began in August 2013 and aim to complete the research in July 2016. To date, fieldwork has comprised:

- Compiling and reviewing documents relating to resource management in Hamilton district;
- Attending the Environmental Protection Authority hearing in Hamilton for the proposed Ruakura development;
- Undertaking interviews with case study participants relating to The Base; and
- Undertaking interview with key informants in Waikato, Auckland and Wellington.

I've now completed my fieldwork on The Base. I'll spend the next few months consolidating this information and then will begin compiling and reviewing documents relating to the proposed development at Ruakura. I plan to begin a second round of interviews in August 2015.

What else has been happening? In the last month I've been involved in National Science Challenge 11, helping to develop a proposal for research funding to build 'better homes, towns and cities' over the next ten years (read more here: www.mbie.govt.nz/what-we-do/national-science-challenges). I also attended the New Zealand Planning Institute conference in Auckland last week. In the next few months I'll be speaking to students at the School of People, Environment and Planning (Massey University) about this research topic; and also to students at the School of Architecture and Planning (University of Auckland) relating to my previous work on Auckland Unitary Plan. I'll also be participating in the Resource Management Law Association conference in Tauranga in September.

And what other things are exciting? I'm excited about a new journal launched by Victoria University called *Landscape* which aims to 'share ideas about opportunities and benefits of landscapes, and what they mean to people'. The journal is based in Wellington, and is welcoming submissions of design/research projects to review – see: www.landscape.org.nz. An online presence has also been launched for a project I'm supporting called 'Urban Mauri' which connects Māori creative agents of change. Check it out here: www.facebook.com/urbanmauri

Please feel free to contact me, or my supervisors Helen Moewaka Barnes and Karen Witten if you'd like to discuss this research, or any other projects I'm currently involved in.

Nāku iti noa
nā Biddy Livesey
biddylivesey@gmail.com / 022 100 2386

Planning and development of urban land acquired under Treaty settlement: A case study in Waikato, Aotearoa-New Zealand



UPDATE – NOVEMBER 2015

Tēnā koe

Many thanks again for contributing your time and thoughts to this research project.

What's happening with this research? The research project is currently two-thirds complete – I began in August 2013 and aim to complete the research in July 2016. To date, fieldwork has comprised:

- Compiling and reviewing documents relating to resource management in Hamilton district;
- Attending the Environmental Protection Authority hearing in Hamilton for the proposed Ruakura development;
- Undertaking interviews with case study participants relating to The Base and Ruakura; and
- Undertaking interview with key informants in Waikato, Auckland and Wellington.

Once I've completed my fieldwork, I'll spend the next few months consolidating this information and organising material into chapters. I plan to have a full draft of the body of the thesis early next year, and to submit the final thesis in July 2016.

What else has been happening? In the last few months I've spoken at the *Treaty on the Ground* colloquium held by Massey University to mark 175 years since the Treaty of Waitangi. Based on document analysis, I developed a list of suggestions to be considered in the update of the Future Proof sub-regional strategy, to better reflect the Waikato-Tainui Environmental Plan. I also shared some early findings from the research with students and staff at the School of People, Environment and Planning (Massey University) about this research topic. A poster describing this research was exhibited at the Resource Management Law Association conference in Tauranga in September. Please contact me if you would like a copy of these papers, or the poster.

And what other things are exciting? As part of a collective of researchers, called 'Urban Mauri' we've developed guidance for the Auckland Design Manual, relating to the use of wānanga in the design process. The guidance builds on the Te Aranga Māori Design Principles adopted by Auckland Council (see www.aucklanddesignmanual.co.nz/design-thinking/maori-design/te_aranga_principles). We have also published an article through the Landscape Foundation journal (see www.landscape.org.nz/regenerating-urban-mauri.html), and presented a workshop at the *Healing Our Spirit Worldwide* conference in Hamilton in November.

Please feel free to contact me, or my supervisors Helen Moewaka Barnes and Karen Witten if you'd like to discuss this research, or any other projects I'm currently involved in.

Nāku iti noa
nā Biddy Livesey
biddylivesey@gmail.com / 022 100 2386



Planning and development of urban land acquired under Treaty settlement: A case study in Waikato, Aotearoa-New Zealand

UPDATE – JUNE 2016

Tēnā koe

Many thanks again for contributing your time and thoughts to this research project.

How's the research progressing? I've completed a first draft of the main chapters of the research, and am working with my supervisors to finalise the shape and scope of the research. Once I've completed a full draft, I will contact research participants to ask for your permission to use any verbatim quotes in the final research, or in any associated papers or presentations. I aim to complete the research later in 2016.

Where have I talked about this research so far? In February I travelled to the Gold Coast with my colleague Keriatu Stuart to present a paper at the *Urban History Planning History* annual conference. The Resilient Urban Futures programme, through which my research is funded, has published a book entitled *Drivers of Urban Change*, which draw upon interviews with over 90 stakeholders in the policy-making process and a nationwide opinion poll to delve behind the scenes into questions about planning, development, governance and public engagement. I presented preliminary findings from this research at a 'Drivers of Urban Change' event held in Wellington in February, and will present again at an upcoming event in Hamilton in June. You can download a copy of the report [here](#). I also offered a paper at the New Zealand Planning Institute conference in Dunedin in April, which was well-received. Please contact me if you would like a copy of these papers or presentations.

It's important to me to share the completed research with people who will find it useful. I'm very happy to discuss any opportunities to meet with interested people or to present findings to groups. When the thesis is completed, I will develop some brief hand-outs which capture practical elements of the research. These hand-outs will be available in hardcopy and online.

And what else is keeping me busy?

Recently, I've been working with Ngā Aho, the network of Māori design professionals, to develop submissions on the proposed [National Policy Statement on Urban Development](#), and [Resource Legislation Amendment Bill](#). In partnership with Papa Pounamu (New Zealand Planning Institute Special Interest Group for Māori and Pacific Peoples in Planning), we are holding a wānanga to facilitate input into the '[Better Urban Planning](#)' draft report currently being consulted on by the Productivity Commission. The wānanga will be held on Friday 17 June at Te Noho Kotahitanga, Unitec, Tāmaki Makaurau.

Please feel free to contact me, or my supervisors Helen Moewaka Barnes and Karen Witten if you'd like to discuss this research, or any other projects I'm currently involved in.

Nāku iti noa

nā Biddy Livesey

biddylivesey@gmail.com / 022 100 2386

Appendix Six: Research Findings Handouts

Planning to develop land returned under Treaty settlement

Results of research in Waikato, Aotearoa New Zealand

NGĀ HUA MATUA // KEY FINDINGS

- Waikato-Tainui planning documents promote a theme of 'integrated development' for the tribe, linking economic development with social delivery, collective benefit, and environmental enhancement. Waikato-Tainui clearly link the development of land returned under Treaty settlement with the concept of redress for breaches of Te Tiriti o Waitangi.
- Local government planning documents acknowledge the existence of Waikato-Tainui planning documents. However, there is little explicit analysis of the content of Waikato-Tainui planning documents. There is limited recognition of the breadth of roles and responsibilities held by iwi.
- Hamilton City Council recognises the importance of Treaty settlements. Local government documents consider Waikato-Tainui control over resources as a historical fact, in financial terms, or as a future aspiration. Few planning documents mention raupatu. The contemporary development of Treaty settlement land is rarely linked with historical land confiscation, redress, or iwi development.
- Both Hamilton City Council and Waikato-Tainui have decision-making bodies, complex organisations, and lines of accountability back to constituents. Waikato-Tainui have identified similarities between their vision for the city, and the vision of Hamilton City Council. There is some recognition by Hamilton City Council of shared interests and the potential for a shared vision.
- The significance of Treaty settlement land to 'rebuilding an economic base for the iwi' has been recognised by the High Court and Board of Inquiry. Section 6e and section 8 of the Resource Management Act provide a critical link between Māori and the local government planning documents. These sections can be used by planners to support provision in local government planning documents for the development of Treaty settlement land.



HEI MAHI... // IDEAS FOR PRACTICE...

- Acknowledge breaches of Te Tiriti o Waitangi and the return of land under Treaty settlements in planning documents as context for resource management
- Identify a shared vision for the district, region and rohe that recognises Māori and local government interests, roles and responsibilities
- Utilise Part 2 of the Resource Management Act to support enabling provisions to develop land returned under Treaty settlement

Aerial photograph of Te Awa mall. Source: Tainui Group Holdings

Planning to develop land returned under Treaty settlement

Results of research in Waikato, Aotearoa New Zealand

NGĀ HUA MATUA // KEY FINDINGS

- In general, the relationship between Waikato-Tainui and Hamilton City Council changed from being adversarial and litigious at the time of The Base development in 2009, to being more collaborative as the Ruakura development was planned and progressed in 2014.
- Engagement mechanisms established through the Future Proof strategy, and the Joint Management Agreement resulting from the Waikato River settlement have built organisations' capacity to engage and strengthened relationships between Waikato-Tainui and Hamilton City Council.
- In 2009, Variation 21 to the Hamilton District Plan was developed outside existing strategic and operational relationships. Hamilton City Council felt pressure to act quickly to regain control over development that they perceived to be out of control at The Base. Hamilton City Council chose not to consult with Waikato-Tainui before notification because they did not trust Waikato-Tainui to engage with Variation 21 without using the consultation process to advance their economic interests.
- In contrast, Tainui Group Holdings and Hamilton City Council planners collaborated closely on the development of the Ruakura Plan Change including drafting a structure plan. However, issues of control and trust also complicated this relationship. Eventually, councillors voted against their planners' advice to accelerate the planning process for the Ruakura area, citing residents' concerns about the development.
- This decision by Hamilton City Council, and the subsequent decision by Tainui Group Holdings to submit the Ruakura plan change to the Environmental Protection Authority to be considered as a matter of national significance, was seen to set back the collaborative relationship. During the subsequent Board of Inquiry process, planners reported that this relationship improved, and again took on a collaborative nature.
- Throughout both planning processes, Hamilton City Council appears troubled by the dual role of Waikato-Tainui as both an iwi authority with statutory rights as mana whenua, and as a commercial developer acting through Tainui Group Holdings.

HEI MAHI... // IDEAS FOR PRACTICE...

- Use mechanisms established through Treaty settlements to build wider relationships between local government and iwi/hapū
- Accept that iwi/hapū economic interests are inseparable from cultural, social and environmental interests
- Discuss the roles and responsibilities of local government to support the outcomes of Treaty settlements including enabling development on land returned as commercial redress.

Looking east along the East Coast Main Trunk Line at Ruakura, 2014. Source: Brigid Livesey



Planning to develop land returned under Treaty settlement

Results of research in Waikato, Aotearoa New Zealand

NGĀ HUA MATUA // KEY FINDINGS

- Land was acquired through the Treaty settlement process on the principle of 'i riro whenua atu, hoki whenua mai' ('as land was taken, land must be returned'). Waikato-Tainui accepted all properties that were offered by the Crown as redress in 1995. Assessment of commercial development options began after the land was returned to Waikato-Tainui ownership.
- Collective ownership of land affects the activities which are considered viable on Treaty settlement land. There is strong resistance to selling land for development. Methods employed by Tainui Group Holdings to avoid subdivision include comprehensive development planning and the use of leaseholds to develop retail at Te Rapa and industrial activities at Ruakura. Through leasehold, the ownership of the land is separate from the ownership and operation of the activities.
- Waikato-Tainui and Hamilton City Council worked together to develop innovative models of road maintenance at The Base which allowed Waikato-Tainui to retain ownership. At Ruakura, roadways and public space are likely to be vested in the ownership of Hamilton City Council.
- Although Waikato-Tainui were involved in developing the Future Proof growth strategy, their involvement did not translate to uncritical support of subsequent changes to the Hamilton District Plan. Using their power as an iwi authority, Waikato-Tainui successfully challenged Variation 21 which restricted development at The Base.
- Land returned at Ruakura was initially outside the urban area. The planning process has involved working across jurisdictions, influencing a range of planning documents, and coordinating with major infrastructure projects such as the Waikato Expressway. How a 'centres hierarchy' was applied to the Ruakura development was a point of contention between Tainui Group Holdings and Hamilton City Council.
- For Hamilton City Council, opportunities of working with a large landowner included the ability to plan at scale, and to trial new ways of working. Challenges included concerns about sharing long-term plans, and the risk of perceived co-option of the planning process.
- Development on land returned under Treaty settlement brings together tikanga Māori and the norms of Pākehā planning.

HEI MAHI... // IDEAS FOR PRACTICE...

- Support leasing arrangements and infrastructure agreements which do not require land to be alienated from Māori ownership
- Use comprehensive development planning to avoid subdivision
- Value the opportunity to work with a large landowner who is committed to the region
- Consider the location of land returned under Treaty settlement when developing strategies and plans

Proposed development at Ruakura. Image by Build Media. Source: Boffa Miskell.



Planning to develop land returned under Treaty settlement

Results of research in Waikato, Aotearoa New Zealand

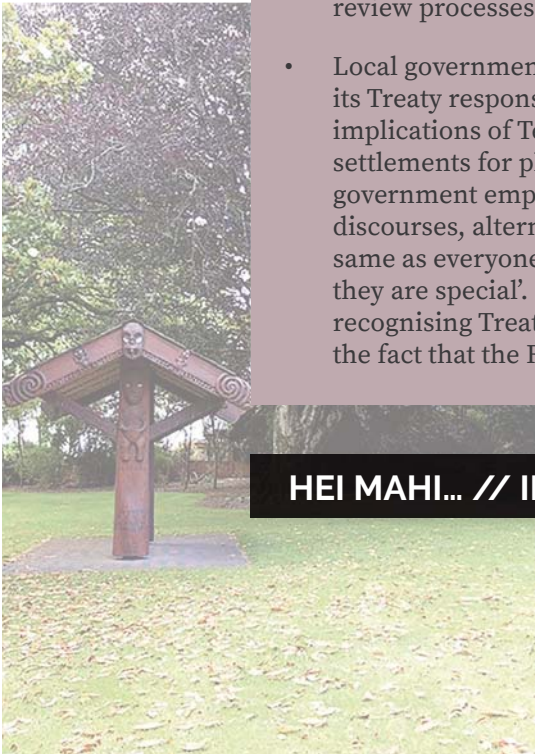
NGĀ HUA MATUA // KEY FINDINGS

- During interviews around Aotearoa New Zealand, planners reported that working with Māori communities challenges them to consider how historical grievances may be addressed through contemporary planning. Obstacles to working collaboratively with Māori communities include apathy from colleagues, and resistance from councillors.
- Through working with Māori communities, planners relearn the history of their area. This is an emotional process which is discomfoting. Working to understand Māori planning issues requires caution. Developing personal relationships and spending time with Māori communities on their land are important strategies for planners.
- Planners need to work to understand the breadth of ambitions held by iwi, hapū and whānau. Planners need to work proactively with Māori during plan review processes.
- Local government is uncertain about its Treaty responsibilities, and the implications of Te Tiriti and Treaty settlements for planning. Local government employs conflicting discourses, alternatively 'treating iwi the same as everyone else', and 'recognising they are special'. Perceived constraints to recognising Treaty settlements include the fact that the Resource Management Act does not explicitly mention Treaty settlements; that Treaty settlement legislation does not articulate any responsibilities for local government, and that planners do not want to be seen to be providing 'special treatment' for iwi.
- The New Zealand Planning Institute Code of Ethics provides little clarity to planners about the implications of Te Tiriti and Treaty settlements for resource management. The Code frames 'the Treaty' as a 'tangata whenua issue', and fails to acknowledge the value of Māori resource management knowledge.
- Planners are challenged to develop a collective conciousness and to transform planning practice in Aotearoa New Zealand by creating new relationships which affirm Māori authority. The current Code does not require planners to be accountable to Māori.
- Waikato-Tainui promote a vision for future relationships which are enduring, equal, and focussed on outcomes. These relationships will be underpinned by tikanga, good faith, transparency, patience, and understanding. Concepts of 'mana whakahaere' (Māori planning authority) and 'mātauranga' (Māori planning knowledge) are central to the future of planning in Aotearoa New Zealand.

HEI MAHI... // IDEAS FOR PRACTICE...

- Read Waitangi Tribunal reports and Deeds of Settlement to understand the history of Māori-Crown relationships in your area.
- Review and discuss iwi planning documents to understand contemporary expressions of iwi and hapū values
- Consider your personal and professional commitment to working with Māori communities to advance Māori development

Carved shelter at Miropiko Pa, Hamilton, 2015. Source: Brigid Livesey.



He kaupapa rangahau // Overview of research

This research investigates planning to develop land returned as settlement for breaches of Te Tiriti o Waitangi (the Treaty of Waitangi). I explore a case study of the relationship between an iwi authority, Te Whakakitenga o Waikato, and a local authority, Hamilton City Council. In 1995, significant areas of land were returned to Waikato-Tainui through Treaty settlement. This research focuses on processes to develop planning regulation for land owned by Waikato-Tainui at Te Rapa, site of 'The Base' retail development and Te Awa shopping mall, and Ruakura where an inland port and associated activities are proposed.

Iwi planning documents describe a vision to develop land returned under Treaty settlement. Commercial property development to regain 'economic sovereignty' is a critical element in the 'integrated development agenda' for Waikato-Tainui. However, this vision is not well-reflected in local government planning documents.

Relations between Hamilton City Council and Waikato-Tainui have changed from generally adversarial in 2009 during planning processes to restrict development at Te Rapa, to more collaborative during planning processes to approve a plan change for Ruakura in 2014. Control, timing, and trust are key factors in this changing relationship.

This research provides evidence for dual planning traditions in Aotearoa New Zealand. Communal ownership of land and inalienability are characteristics of land returned under Treaty settlement which have influenced development decisions made by Waikato-Tainui.

Planners and the planning profession can transform planning practices to create new relationships between local government and with iwi authorities. Cross-cultural planning can be a challenging and emotional experience. Iwi planning documents articulate a vision for future relationships based on mana whakahaere (affirming Māori authority) and mātauranga Māori (valuing Māori knowledge). I highlight the need for changes to planning ethics to support planners working with Māori communities. I conclude by identifying levers which planners can use to support Māori goals for land development and economic self-determination.

Na wai i rangahau te kaupapa nei?

//Who is the researcher?

- I am a Pākehā policy advisor, researcher and planner. I was motivated to do this research through my experiences working for central and local government on urban and Te Tiriti o Waitangi/Treaty of Waitangi issues. This research was undertaken from the perspective of a planner working within local government.
- This research summary is based on my doctoral thesis entitled 'Planning to develop land returned under Treaty settlement in Waikato, Aotearoa New Zealand: An institutional ethnography' (Brigid Livesey, 2017). The full thesis is available online at Massey Research Online <http://mro.massey.ac.nz/>
- Further publications are available at <http://sustainablecities.org.nz/members/biddy-livesey/>

Design by Ellen Kelsey

He mihi //

Acknowledgements:

I would like to acknowledge the support and assistance of the New Zealand Centre for Sustainable Cities, Waikato-Tainui College for Research and Development, Hamilton City Council, and Waikato Raupatu Lands Trust. I would also like to thank all the people who participated in this research, and my supervisors Professor Karen Witten and Professor Helen Moewaka Barnes at SHORE & Whāriki Research Centre, Massey University. This research was funded by the New Zealand Ministry for Business, Innovation and Employment through the Resilient Urban Futures programme.

Whakapā mai //

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