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# **The Use of the Conservation Estate in the Settlement of Treaty of Waitangi Claims**

**A Thesis  
Presented in Partial Fulfillment of the Requirements  
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# 1 Abstract

The effect of the Treaty of Waitangi on New Zealand's conservation estate through the settlement of Treaty of Waitangi claims, and the Department of Conservation's requirement under the Conservation Act 1987 to have regard for the principles of the Treaty of Waitangi is introduced. The importance of the Treaty of Waitangi Settlement process and the controversy surrounding the role of the conservation estate in this process is also discussed.

A background to the Treaty of Waitangi settlement process is presented and three major land claims and their resulting settlements are examined as case studies. These are the Tainui-Waikato *raupatu* claim, the Whakatohea claim, and the Ngai Tahu claim.

The potential impact of each of these settlements on the ownership and management of New Zealand's conservation estate is discussed and compared with the impact of the Department of Conservation's current commitment to the Treaty of Waitangi through its *Kaupapa Atawhai Strategy* on the management of the conservation estate.

It was found that the settlement of Treaty of Waitangi claims has had little impact on New Zealand's conservation estate. Only very small areas of the conservation estate have had ownership transferred to claimants, and the area of land managed by the Department of Conservation has increased as a result of Treaty settlements. Treaty of Waitangi settlements have also had little impact on the management of New Zealand's conservation estate, as many of the redress instruments included in settlements are similar to the objectives and policies included in the Department of Conservation's *Kaupapa Atawhai Strategy*.

Future Treaty of Waitangi settlements are also unlikely to have a significant impact on New Zealand's conservation estate, and are likely to become more effective through improved consultation with the public and conservation interest groups and the closer involvement of the Department of Conservation's *Kaupapa Atawhai* section in the settlement process.

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### 3 Introduction

#### 3.1 The Conservation Estate and the Treaty of Waitangi

Since the National Government began a process of attempting to settle all outstanding Treaty of Waitangi claims in 1991, the role of the conservation estate in the settlement of Treaty of Waitangi claims has become a highly controversial issue. This controversy has highlighted the important implications that the Treaty of Waitangi has for the ownership and management of New Zealand's conservation estate.

The Treaty of Waitangi affects the conservation estate in two main ways. The first impact is through the requirement of Section 4 of the Conservation Act 1987 that this Act is to "be interpreted and administered as to give effect to the principle of the Treaty of Waitangi". The Treaty of Waitangi also affects the conservation estate through the settlement of Treaty of Waitangi claims that have implications for the conservation estate (Department of Conservation, 1997).

The requirement laid out in various pieces of legislation, such as the Conservation Act 1987, for various Government agencies, including the Department of Conservation, to have regard for the principles of the Treaty of Waitangi can be the subject of some confusion (Department of Conservation, 1997; Kenderdine, 1989). This is largely as a result of the requirement to have regard for the principle of the Treaty rather than the letter of the Treaty (Department of Conservation, 1997; Kenderdine, 1989).

However the Waitangi Tribunal and a number of court rulings, most notably the 1987 Court of Appeal ruling on *New Zealand Maori Council vs Attorney General*, have to a certain extent served to define the principles contained within the Treaty of Waitangi (Department of Conservation, 1997; Kenderdine, 1989).

The Department of Conservation has taken the principles of the Treaty of Waitangi to include;

- The Essential Bargain; meaning that the basic terms of the bargain were that the Queen was to govern and the Maoris were to be her subjects, in return their chieftainships and possessions were to be protected, but sales of land to the Crown could be negotiated.
- The Treaty relationship; that the Treaty implies a partnership to be exercised with the utmost good faith
- Rangatiratanga; meaning that the Maori were guaranteed possession of lands, forests, fisheries and other possessions, promised Crown protection and granted the rights of British subjects
- Active protection; which implies that the duty of the Crown is not merely passive but extends to active protection of Maori people in the use of their lands and waters to the fullest extent practicable
- Duty to be informed: defined by the court of appeal as the responsibility of one treaty partner to act in good faith fairly and reasonably towards the other puts the onus on a partner, here the Crown, when acting within its sphere to make an informed decision. (Department of Conservation, 1995d)

The Department of Conservation's response to the requirement to have regard for these principles was the establishment of the Kaupapa Atawhai Strategy, and the establishment of a number of Kaupapa Atawhai staff throughout the country responsible for the liaison between the department and with iwi (Department of Conservation, 1997; Mansfield, 1997).

The 1997 *Kaupapa Atawhai Strategy* outlines eight goals aimed at ensuring that "the department, Maori and the community at large are working co-operatively to conserve the natural and historic heritage of New Zealand for present and future generations" (Department of Conservation, 1997).

These eight Kaupapa Atawhai goals were;

- To interpret and administer conservation legislation so as to give effect to the principle of the Treaty of Waitangi.
- To advise Government on conservation issues relating to the resolution of Treaty grievances and to implement settlements reached.
- To develop a relationship with Maori consistent with the status of the Crown and Maori as co-signatories of the Treaty of Waitangi.
- To work with Maori in the conservation of their cultural heritage on lands administered by the department.
- To work with Maori in the provision of services to visitors on department managed lands.
- To increase public awareness of the involvement of Maori in conservation raise Maori Awareness of current conservation issues and the department's role, and foster dialogue between Maori and other stakeholders in conservation.
- To reflect through staff the department's commitment to biculturalism and relationships with Maori (Department of Conservation, 1997).

The implementation of these goals has the potential to have a significant impact on the management of the conservation estate by the Department of Conservation.

The Treaty of Waitangi also has significant implications for the management of the conservation estate through the settlement of Maori grievances. These claims can have significant implications for both the ownership and the management of the conservation estate.

A number of claims to the Waitangi Tribunal concern specific areas of the conservation estate. For example the 1989 claim by the Ngati Koata *iwi* for the return of Stephens Islands (Stone, 1995a; Stone, 1995b)

Other Treaty of Waitangi claims, such as the claim for the return of confiscated land by various Taranaki *iwi* (Waitangi Tribunal, 1996), can also include significant areas of the conservation estate. This situation is compounded by the fact that only Crown owned land is available for the use in Treaty Settlements. In many cases the largest,



or sometimes the only, block of Crown owned land in an area is the conservation estate (Department of Conservation, 1997).

This situation largely resulted from the transfer of large areas of Crown owned land to State owned Enterprises, or the disposal of Crown land in other ways, since 1987.

This process meant that significant amounts of land became unavailable for use in the settlement of Treaty claims, and a large proportion of land that remained in Crown ownership was protected as part of the conservation estate (Department of Conservation, 1997).

Various issues relating to the management of the conservation estate are also the subject of a number of Treaty of Waitangi claims. These can include claims for traditional harvesting rights, to claims for a greater role in management of various area, and also objections to various management practices such as the culling of species, the use of 1080 poison (Land Information New Zealand, 1996), or the management of specific areas, such as the Urewera National Park (O'Malley, 1998).

The conservation estate is also highly valued by both the Maori and *Pakeha* communities for the scenic, historic and cultural values it contains (Alexander, 1994; O'Regan, 1994). As a result the debate on the impact of Treaty of Waitangi settlements on the conservation estate is a heated and emotional one, generating a great deal of controversy and complicating an already difficult settlement process.

In many cases Department of Conservation is also responsible for bearing the brunt of "demands for settlement, or frustration and protest at the lack of a settlement" (Department of Conservation, 1997), as it is the agency responsible for the management of a significant proportion of the land subject to the claim (Department of Conservation, 1997). The impacts of the Treaty of Waitangi on the Department of Conservation and the conservation estate are also compounded by the fact that in many areas the Department of Conservation is "one of the few government departments present in [the] local community" (Department of Conservation, 1997).



### 3.2 The Settlement of Treaty of Waitangi Claims

The Government's current commitment to the settling of Treaty of Waitangi claims is a continuation of the dispute that has surrounded the Treaty since it was signed on the 6<sup>th</sup> of February 1840. Today Maori/*Pakeha* race relations, and Treaty issues are perceived as one of the most important issues facing the country, and were a significant issue at the last election (Barr, 1996).

The controversy that has surrounded the Treaty of Waitangi since its signing largely stem from differences between the English and Maori translations of the each of three Articles which comprise the Treaty (Moon, 1994; Orange, 1987; Walker, 1989).

In first Article of the English version of the Treaty of Waitangi Maori cede sovereignty over their lands to the British Crown. However, in the Maori translation of the Treaty Maori cede *kawanatanga*, which can be translated as governorship (Orange, 1987; Walker, 1989).

The second Article of the Treaty guarantees Maori full and undisturbed possession, or *rangatiratanga* in the Maori version, of all their lands, estates, forests, fisheries, and other properties, which are translated as *taonga*. However *rangatiratanga* is often translated as chieftanship or sovereignty, and *taonga* as treasured possessions, giving the Maori translation of the Treaty a much broader meaning than the English text (Orange, 1987; Walker, 1989).

The distinction between sovereignty/*rangatiratanga* and governorship/*kawanatanga* and the definition of these terms has been the source of much controversy. For example *rangatiratanga* is often take to mean the right to self-determination, or the right of Maori to manage their own resources and affairs and *kawanatanga* as the right of the Crown to govern the country.

The result of these differences in the translations was that Maori believed that they were permitting the British Crown the right to govern *Pakeha* in New Zealand in exchange for the privileges and protection afforded to British subjects while retaining

their right to self rule. However the British believed that they had gained sovereignty over the whole of New Zealand (Orange, 1987; Walker, 1989).

Article III of the Treaty of Waitangi gives Maori all the rights and privileges of British subjects (Orange, 1987; Walker, 1989).

Following the signing of the Treaty Maori began to claim that various actions by the Crown, including questionable land sales, confiscations, and the passing of various pieces of legislation, were violations of their rights as set out in the Treaty of Waitangi. The Crown refused to acknowledge the standing of the Treaty (Walker, 1989), and in 1847 the Supreme Court ruled that the Treaty of Waitangi was invalid and had no legal standing. This decision was followed by an 1877 ruling that the Treaty was a legal nullity (Walker, 1989).

Despite these rulings Maori continued to claim that they were guaranteed rights under the Treaty and sent several delegations to England, as well as petitions to the New Zealand parliament, all of which met with little success (Walker, 1989). What did result from this continued pressure were numerous investigations and various commissions of inquiry by the Government, which were later to be described by the Waitangi Tribunal as “a story of seemingly endless delay and procrastination” (Waitangi Tribunal, 1991).

These investigations included an 1872 inquiry by the Middle Island Native Affairs Committee, the Smith Nairn Royal Commission in 1879 (AJHR, 1881) and the 1926 the Sim Commission (AJHR, 1928), which eventually lead to some limited compensation to Maori. This compensation was detailed in acts such as 1944 Ngai Tahu Claim Settlement Act, and Taranaki Maori Claims Settlement Act 1944 (Waitangi Tribunal, 1991; Waitangi Tribunal, 1996).

While the Crown saw this compensation as a settlement of many of Maori grievances, Maori did not regard these settlements as full and final in any way (Waitangi Tribunal, 1991; Waitangi Tribunal, 1996). In some cases settlements were reached with little or no consultation with the *iwi* involved and compensation was “insultingly inadequate” (Nga Iwi o Taranaki, 1995),

Legal recognition of the Treaty of Waitangi finally came in 1975 with the passing of the Treaty of Waitangi Act. This Act established the Waitangi Tribunal which was directed to “consider claims where any Maori claims that he, or she, or any group of Maoris of which he or she is a member, is or is likely to be prejudicially affected” by some action of the Crown (Treaty of Waitangi Act 1975).

The 1975 Act empowered the Tribunal to consider only those claims arising from the Crown’s actions after 1975. As a result few claims were initially lodged with the Waitangi Tribunal (Temm, 1990).

However a number of landmark reports in the early 1980’s began to raise the Waitangi Tribunal’s profile. These reports included the Tribunal finding on the Motunui claim by the Te Atiawa *iwi* (Waitangi Tribunal, 1989) and the Kaituna River report on a claim by Ngati Pikiao. These reports highlighted the duty of the Crown to protect Maori interest (Oliver, 1991; Temm, 1990). The Tribunal’s report on a claim affecting the Manakau harbour (Waitangi Tribunal, 1989) was also significant, as this was the first time the Tribunal examined historical evidence (Temm, 1990).

The impact of these reports, combined with the Treaty of Waitangi Amendment Act 1985 which gave the Tribunal the jurisdiction to investigate historical Maori grievances, “opened the way for a flood of claims” (Temm, 1990) to be lodged with the Waitangi Tribunal.

To date well in excess of 600 claims are registered with the Waitangi Tribunal, including historical land claims resulting from the Crown’s past actions, contemporary and conceptual claims (Waitangi Tribunal, 1996). Contemporary claims result from the Crown’s current actions. This includes claims involving Maori language, intellectual property rights, and the impact of a range of laws and regulations (Durie, 1995). Conceptual claims arise from issues associated with the ownership of natural resources, and can include claims for a Maori interest in the use and development of rivers, lakes, minerals and geothermal resources (Durie, 1995).

In 1991 the National Government embarked on a process of attempting to settle all

outstanding Treaty of Waitangi claims. The major step in this process was the settlement of a claim by Maori for half of New Zealand's fisheries. The result of this settlement was a 50% share in a major fishing company and a guarantee of 10% of all fishing quota going to Maori. The Government also passed legislation to prevent any future claims for a greater share of this resource (Treaty of Waitangi (Fisheries Claims) Settlement Act 1992). The negotiation process for this settlement stirred up a great deal of discontent within Maoridom (Mutu, 1996).

This discontent arose from a number of issues. The first was that the negotiator for Maori were appointed by the Government, and many Maori felt that they did not have enough of a mandate from the various *iwi* to be able to agree on a settlement. This resulted in a feeling that Maori had been sold out by some of their elders and this resentment became stronger as the government passed legislation to prevent any future claims (Mutu, 1996).

The controversy over this settlement and customary fishing rights continues to be a significant issue. The fisheries settlement is currently being challenged in the High Court by urban Maori groups who feel they are excluded by a settlement aimed solely at traditional *iwi*. Customary fisheries rights are in the media spotlight at present with the Confederation of Chiefs of the United Tribes of New Zealand claiming customary fishing rights allow them to fish without a quota (Quaintance, 1998). The government's moves to clearly define Maori customary fishing rights has also met with controversy, with some groups such as the New Zealand Maori Council claiming this amounts to the Crown telling *iwi* what their traditions are.

The Crown then began negotiations for the settlement of Tainui's *raupatu* claim. During the process of negotiating the settlement of this claim the Government felt that it was necessary to establish general principles for the settlement of Treaty claim to ensure that the settlement process was consistent and fair across settlements (Crown Cabinet Papers 1993; Thomas *pers comm*).

### 3.3 The Crown's Proposals for the Settlement of Treaty Claims

On December 8th 1994, the government released the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* booklets outlining their proposals for the settlement of Treaty of Waitangi claims. These proposals were later to become known as the “fiscal envelope” (Gardiner, 1996).

As part of the Crown’s proposals for the settlement of Treaty claims a number of key “Settlement Principles” were set out which were to form the basis for the development of wider proposals for the settlement of Treaty claims (Office of Treaty Settlements, 1994a). These settlement principles included that;

- The Crown explicitly acknowledges historical injustices,
- In attempting to resolve outstanding claims the Crown should not create further injustices,
- The Crown has a duty to act in the best interest of all New Zealanders,
- As settlements are to be durable, they must be fair, sustainable and remove the sense of grievance,
- The resolution process is consistent and equitable between claimant groups,
- Nothing in the settlements will remove restrict or replace Maori rights under Article III of the Treaty, including Maori access to mainstream government programmes,
- Settlements will take into account fiscal and economic constraints and the ability of the Crown to pay compensation (Office of Treaty Settlements, 1994a).

The result of the application of these principles was that “the conservation estate in not readily available for the settlement of Treaty claims and should be considered only in certain circumstances.” (Office of Treaty Settlements, 1994a).

These proposals were unanimously rejected by *iwi* present at a national *hui* in late January 1995, and then again at a number of *hui* which followed though out the country (Gardiner, 1996; Mutu, 1996). Many Maori found the governments proposals both “oppressive and divisive”, and outrage over these proposals provided the catalyst for numerous actions by Maori “radicals”, including the disruption of

1995 Waitangi Day celebrations, and the occupations of various sites throughout the country, including Motua Gardens and Waikato University (Mutu, 1996).

Of major concern to Maori was the limit of \$1 billion on all assets to be returned including the expenses associated with lodging a claim and reaching a settlement. Out of this \$1 billion was also to come the cost of the 1992 fisheries settlement. The result was that almost as soon as the proposals were released the pool available for settlements had been significantly reduced (Gardiner, 1996; Mutu, 1996).

Despite these concerns and controversy the Government pushed ahead with its negotiations for the settlement of Treaty claims. The first major land claim to be settled was a claim by the Tainui tribes of the Waikato for injustices committed as a result of war with the Crown in 1863, including the confiscation of 1.22 million acres of land. The preliminary settlement agreement between the Crown and Tainui included an apology from the Crown and a \$170 million package including 35,000 acres of land (Fox, 1995; Te Maori News, 1995a; Te Maori News, 1995b).

Despite the rejection of the fiscal envelope, many of the principles outlined in the Crown's proposals continue to form the basis for future settlements. This included the principle that the conservation estate was not generally available for use in the settlement of Treaty of Waitangi claims (Te Koha *pers comm*).

### **3.4 The Use of the Conservation Estate in the Settlement of Treaty Claims**

The 1994 *Crown Proposals for the Settlement of Treaty of Waitangi Claims* also addressed the issue of the role of the conservation estate in the settlement of Treaty of Waitangi claims. A number of principles for settlements affecting the conservation estate were outlined, including that;

- The conservation estate is held by the Crown on behalf of all New Zealanders. However the Crown may have to consider competing interests in fulfilling its obligations to the public under Article I of the Treaty;



- The existing legal protection provided to the natural and historic values of the conservation estate will not be diminished, except where there are beneficial conservation effects;
- A change in management of the estate will not be approved if it results in a loss of protection to the natural and historic values;
- Existing public access and recreation rights will not be reduced (except to protect the natural and historic values);
- The existing property rights of third parties (lessees, administering bodies) granted under conservation legislation will continue;
- The potential interests of existing concessionaires in future uses, and the needs of sectorial interests (eg, the tourism industry), will be considered.

These principles were claimed to mean that “the conservation estate is not readily available for the settlement of Treaty claims and should be considered only in certain circumstances” (Office of Treaty Settlement, 1994a)

However the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* also outlined circumstances under which certain areas of the conservation estate could be used in the settlement of Treaty of Waitangi claims. Areas that could be considered for use in a settlement included;

- Discrete sites of special historical, cultural or spiritual significance to Maori, (eg burial sites, sacred shrines, pa sites), that the Crown believes are an essential part of a settlement;
- Other sites which have special importance to Maori (eg, lake beds, river beds, mountains and land required for access to *pounamu*);
- Discrete parcels of land where the overall management of conservation values will be maintained or enhanced as a result of their use in claim settlement.

As a result the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* failed to assure various public interest groups, such as Forest and Bird and the Federated Mountain Clubs, that the conservation estate would not be used a part of Treaty of Waitangi settlements. These groups hold a “passionate belief in the public

ownership and control of New Zealand's conservation estate" (Smith, 1994b), and feel that the "assertion of private property rights" (Smith, 1994b) over these lands is "contrary to the ideals that have led to their protection" (Smith, 1994b). The impact of the Treaty of Waitangi settlements on management issues, such as cultural harvesting, was also of concern.

It was felt that the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* offered few guarantees that the conservation estate would not be widely used in the settlement of Treaty claims. This concern was heightened by the belief that use of the conservation estate in Treaty Settlements appealed to the Crown as the conservation estate was "free" (Archie, 1995; Smith, 1994b).

While these organisations express concern over the possible impact of Treaty settlement on the conservation estate they do not dispute that Maori have and strong connection to the natural environment, or that past injustices from land sales and confiscations need to be addressed. Neither do they deny that there are major advantages from having Maori involved in conservation in the form of policy development, protection initiatives and hands-on conservation work (Archie, 1995; Smith, 1994b).

Maori also had concerns with the crown's proposals for the use of the conservation estate in the settlement of Treaty of Waitangi claims. Some felt that to exclude the use of conservation estate in settlements from the outset was a slight on their *mana*, and violated the principles of Article Two of the Treaty of Waitangi, which guaranteed to Maori the right to own and manage their *taonga*, or treasured possessions (Melbourne, 1995; Mutu, 1996).

Conservationists also fear that Maori may be allowed the right to a cultural harvest of native species, in particular kereru, or native woodpigeon. They feel that the harvesting of species such as kereru is not sustainable and places greater stress on already endangered species (Atkinson, 1993; Smith, 1994a).



### 3.5 Summary

Treaty of Waitangi and race relation issues in general have been highlighted as one of the most important issues facing New Zealand at present, and the use of the conservation lands to settle Treaty of Waitangi claims has been an issue of particular concern.

Although the Department of Conservation is required to take the principles of the Treaty of Waitangi into account in its management, the potential impact on the conservation estate of the settlement of Treaty claims has generated a great deal of controversy. These concerns were particularly apparent in the negotiations for the settlement of Ngai Tahu's claims. Of concern are not only ownership issues, but also management issues. The *Crown Proposals for the Settlement of Treaty of Waitangi Claims*, while stating that the conservation estate is not generally available for use in the settlement of claims, has not served to quell this controversy.

This study aims to compare the impact of the Treaty of Waitangi settlements on the conservation estate with the Department of Conservation's current commitment to the Treaty of Waitangi. This will be done by an assessment of the likely impact of both the Department of Conservation's *Kaupapa Atawhai Strategy* and a number of Treaty of Waitangi settlements on the management objectives of the relevant conservancies. This comparison will demonstrate whether the settlement of Treaty of Waitangi claims has a significant impact on both the ownership and the management of the conservation estate.

## **4 Methods**

### **4.1 Introduction**

This section discusses the research methods for assessing the impact of Treaty of Waitangi settlements on the conservation estate. The rationale behind the methodology is discussed, as is the selection of case studies. The methods used to analyse the data are also presented.

### **4.2 Study Design and Development**

Preparation for this study began in 1996 with a preliminary investigation into the various issues involved in the impact of the Treaty of Waitangi and the settlement of Treaty claims on the conservation estate.

As a part of this preliminary investigation various individuals who had played a significant role in the negotiation process for the settlement of each of the major Treaty claims were interviewed. The aim of these interviews was to establish and understanding of the negotiation process behind the settlement of Treaty of Waitangi claims affecting the conservation estate.

The preliminary investigation also examined a number of methods of assessing the impact of the settlement of Treaty claims on the conservation estate to determine which was the most appropriate to use as part of this study.

Initial options for research methodology included a comparison of the area of the conservation estate subject to a claim with the area of the conservation estate used in the settlement of that particular claim. An examination of the area of the conservation estate affected by a claim with the area affected by the various redress instruments used in a settlement was also considered. However both of these methodologies were found to be impractical for a number of reasons.

A comparison of the area of the conservation estate included in a claim with the area actually used in the settlement of that claim would have provided little relevant data as very little of the conservation estate had actually been used in the settlement of Treaty of Waitangi claims to date. Any comparison which focused solely on the return of land would also ignore the impact that the various Treaty settlements may have had on areas of the conservation estate which were not returned to Maori a part of a settlement. This includes the impact of redress instruments such as *Topuni* reserve status, or Statutory Acknowledgements.

As a result it was felt that any study which compared the area of land returned to what was included within a claim would have been an over-simplification of the issues involved. These issues also made extremely difficult any direct comparison of individual settlements by examining the area of land returned.

A direct comparison between settlements would have also been difficult due to differences in the issues involved within different claims. For example Tainui and Whakatohea claims were *raupatu* (confiscation) claims which focused mainly on land ownership issues. In contrast the Ngai Tahu claim included issues such as *mahinga kai*, and as a result had significant implication for the management of the conservation estate as well as the ownership. These differences also mean that a comparison of the area of conservation land returned would not have provided a clear indication of the impact of a particular settlement.

An assessment of the impact of Treaty settlements on the conservation estate by a comparison of the area of the conservation estate included in a claim with the areas affected by the redress instruments included in a settlement, was also found to ignore a significant number of important issues, and was an over-simplification. For example any assessment which used these criteria would ignore issues such as the management of rivers, harbours and wetlands, as well as the management of particular species, which were significant issues within each of the settlements.

A direct comparison between settlements and conservancy was also impractical with this method. While it was possible to do this comparison for a particular conservancy,

difference in the way conservancies kept details of land each held meant that it was not possible to directly compare the effect that different settlements had. This was also compounded by the fact that settlements differed widely in the scale of land affected. Figure 1 shows the Department of Conservation's conservancies affected by each of the case studies.

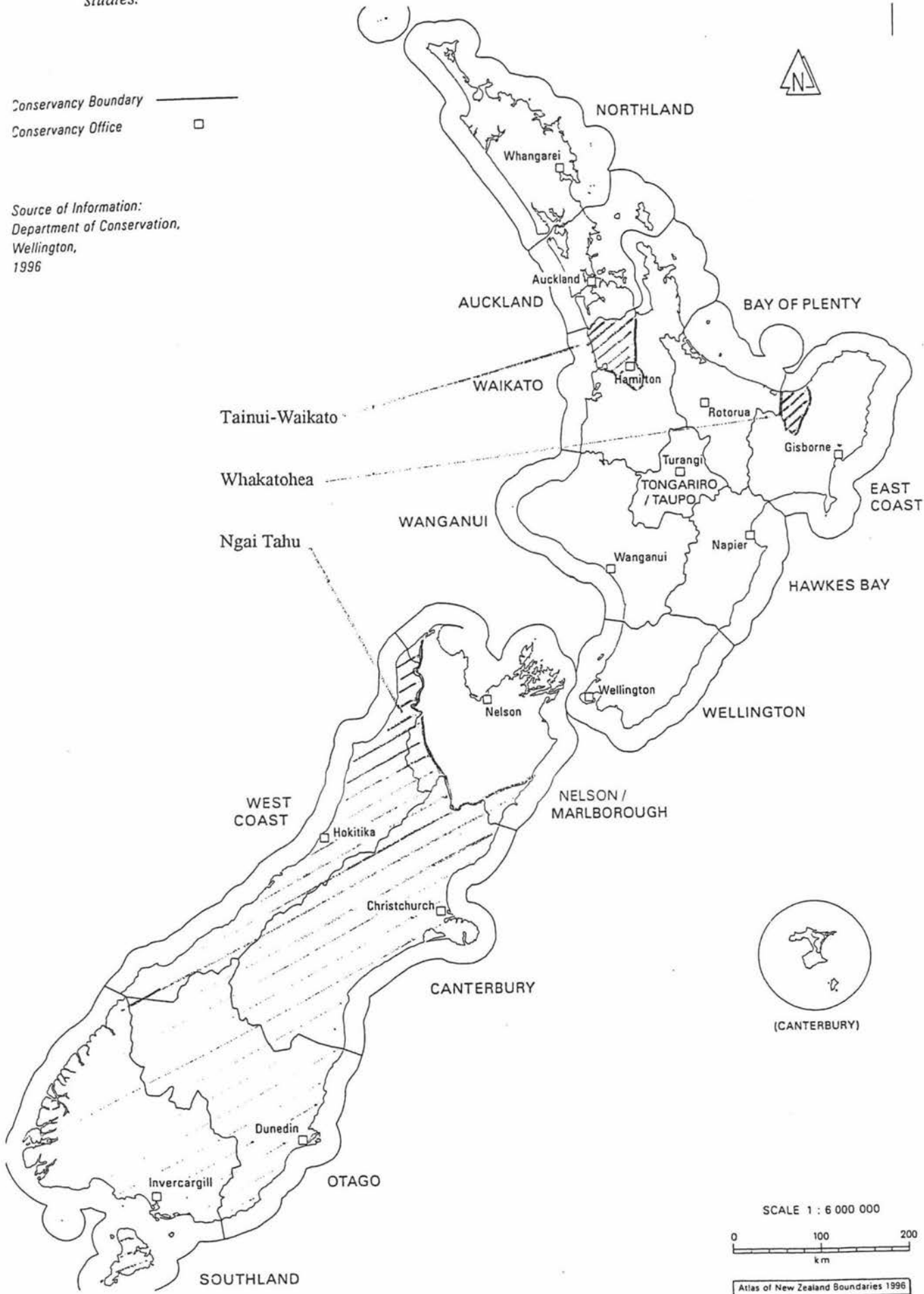
The manner in which redress instruments were used within a settlement also meant that an examination of the effect on the conservation estate in this manner was not practical. For example *Topuni* status was applied to specific areas within the conservation estate in the Ngai Tahu settlement, however the Whakatohea settlement provided for a number of *Topuni* which were to be applied to sites to be selected by the *iwi*. This meant that land affected by a settlement could not be directly compared between settlements.

It was therefore decided that the most appropriate means of assess the impact of the settlement of Treaty of Waitangi claims on the conservation estate was an examination of the effect of settlements on the Department of Conservation's management. It was felt that this method gave a means of comparison between conservancies and settlements, and that it took into account a significant number of the issues related to the involvement of the conservation estate in the settlement of Treaty claims.

### 4.3 Selection of Case Studies

A preliminary examination showed that, with the possible exception of sub Antarctic islands and the Kermadecs, there was no area of New Zealand's conservation estate that was not affected by at least one of the 600+ claims lodged with the Waitangi Tribunal. In many cases areas of the conservation estate were subject to several overlapping claims (Land Information New Zealand, 1996).

Figure 1. The Department of Conservation's regional conservancies affected by each of the case studies.



It was also found that Treaty of Waitangi claims did not only hold significance for the issue of ownership of Department of Conservation lands, but that many claims included issues directly related to the management of the conservation estate.

As a result, the investigation into the effect of Treaty settlements on the conservation estate was to be through the examination of three major Treaty of Waitangi claims and their settlements as case studies. The case studies selected were the Tainui-Waikato, Ngai Tahu and Whakatohea claims and their resulting settlements.

A benefit of using case studies to assess the management of the conservation estate was that it was possible to discuss the backgrounds of each of the claims. This was important to illustrate the different issues involved in each of the claims and how these differences impacted on the settlement itself, and as a result the conservation estate.

The Tainui settlement was important to examine as a case study, as this was the first major land claim to be settled. The fact that many of the policies determining how Treaty settlements are dealt with at present were developed as a result of the Tainui negotiations was also an important factor in the selection of this claim as a case study.

Ngai Tahu's Treaty claim and the resulting settlement was used as a case study as this was the largest land claim lodged with the Waitangi Tribunal, and included more of the conservation estate than any other claim. It was also the claim and settlement that became the main focus of the concern that various interest groups such as Forest and Bird held that the conservation estate was at risk in the Treaty settlement process.

The Ngai Tahu claim and settlement were also important as a case study as they dealt with a number of issues that differed from other claims. These included issues such as *mahinga kai*, and Ngai Tahu's role in conservation management, and the fact that the claim concerned the actions of the Crown surrounding various land purchases rather than confiscations.

The settlement of the Whakatohea *iwi*'s Treaty of Waitangi claim was also important as a case study in examining the impact of Treaty settlements on the conservation estate, as there were a number of significant differences to the other case studies selected. For example issues surrounding overlapping tribal boundaries and differences at *hapu* level were a much more significant issues in this case as was the issue of the negotiators mandate. The difference in scale between the Whakatohea claim and the other case studies was also significant.

#### 4.4 Research Methods

An assessment of the impact of the settlement of Treaty of Waitangi claims on the conservation estate was done through a comparison of each of the settlements with the objectives contained within the affected Department of Conservation Conservancies' Conservation Management Strategies.

For the Tainui/Waikato settlement the *Waikato Conservation Management Strategy* was examined. The Whakatohea settlement related to the *Draft Conservation Management Strategy: East Coast Conservancy*. The Ngai Tahu settlement had implications for every south island conservancy and as a result the Conservation Management Strategies, or Draft Conservation Management Strategies for the Nelson Marlborough, West Coast, Canterbury, Otago, Mainland Southland/West Otago and Stewart Island conservancies were all examined in the present study.

Objectives relating to specific areas were excluded from the present study. These objectives differed widely between areas, and the detail in which they were presented in the various management strategies also differed significantly. As a result these objectives left little scope for comparison between conservancies and their inclusion in the study may have biased results from conservancies with detailed area objectives when compared with conservancies with less detail in their management plans.

Objectives listed for specific areas were also included in some form within the more general functional or strategic objectives listed in the relevant management plan. As a



result the exclusion of these did not significantly affect the assessment of the impact of the settlement on the management of the conservation estate.

It was recognized that the Department of Conservation is required by legislation to have regard for the principles of the Treaty of Waitangi and as a result the management of the conservation estate is affected, regardless of a Treaty settlement, by the principles of the Treaty of Waitangi.

The Department of Conservation's *Kaupapa Atawhai Strategy* is the Department's method of addressing the principles of the Treaty of Waitangi in the management of the conservation estate.

The objectives listed in the Department of Conservation's *Kaupapa Atawhai Strategy* were listed and compared the management objectives listed in each of the relevant conservancies management plans. The number of management objectives directly affected, or resulting from the *Kaupapa Atawhai Strategy* was taken to be a measure of the department's commitment to the Treaty of Waitangi and the degree to which this influences management of the conservation estate.

These were then examined in the context of each of the settlements, and the number of objectives affected was assessed.

Each of the conservancy's management plans was examined within the context of the Department of Conservation's *Kaupapa Atawhai Strategy*. This was taken to be a base-line for assessing the degree of impact on management that DoC is required to have with regard to the Treaty of Waitangi.

The redress instruments included in each of the settlement were then compared to the objectives listed in the relevant management plans. The number of objectives that were directly affected by the redress instruments contained in a settlement was taken to be an indication of the degree of impact that a settlement would have on the management of the conservation estate.



The number of objectives affected by the *Kaupapa Atawhai Strategy* was then compared to the number of objectives affected by the various settlements, in order to determine whether or not the settlements would result in a greater impact than the Department of Conservation's current commitment to the Treaty of Waitangi.

## 5 The Treaty of Waitangi Claims Process

### 5.1 The Waitangi Tribunal

The process of settling Maori grievances begins with a claim being lodged with the Waitangi Tribunal. The Tribunal was established in 1975 by the Treaty of Waitangi Act to “consider claims where any Maori claims that he, or she, or any group of Maoris of which he or she is a member, is or is likely to be prejudicially affected” by some action of the Crown (Treaty of Waitangi Act 1975).

Initially the Tribunal was empowered to consider only those claims arising from the Crown’s actions after 1975. However in 1985 the Treaty of Waitangi Amendment Act gave the Tribunal the jurisdiction to investigate historical Maori grievances.

The structure of the Waitangi Tribunal, and its methods of hearing and investigating claims, are based on lessons learned from overseas experiences of settling indigenous people’s grievances (Durie, 1995). The Claims Court in the United States has shown that an adversary system of claims settlement can be “slower, more costly and not exhaustive on native issues and disempowering of the people aggrieved” (Durie, 1995), while in Canada there has been criticism that the court system is not sufficiently “representative to handle native perspective’s and that the legal discipline is overly restrictive of historical and anthropological opinion” (Durie, 1995). As a result the Waitangi Tribunal is bicultural and inter-disciplinary, and is an inquisitorial process (Durie, 1995).

The Waitangi Tribunal hears a wide variety of claims. As well as historical land claims resulting from the Crown’s past actions, there are contemporary and conceptual claims. Contemporary claims result from the Crown’s current actions. This includes claims involving the Maori language, intellectual property rights, and the impact of a range of laws and regulations. Conceptual claims arise from issues associated with the ownership of natural resources, and can include claims for a Maori

interest in the use and development of rivers, lakes, minerals and geothermal resources (Durie, 1995).

Historical land claims can be classed as either major claims, concerning large tribal losses, or as specific claims for particular losses. The Waitangi Tribunal generally groups historical claims together by districts for inquiry, and one inquiry and resulting report may involve more than 30 claims (Durie, 1995). This can involve investigating a number of issues including pre-treaty purchases, Crown and private purchase from 1840 onwards, confiscations and expropriations (for townships, scenic reserves, public works, rates, survey costs, taxes and duties), title arrangements and land development under the Native Land Court system, and tribal autonomy (Durie, 1995).

Once a claim has been lodged the Tribunal can commission any person, or fund the claimants to commission any person, to conduct research into the claim. Completed research reports are made available to each of the parties involved, the claimants, the Crown, and in some cases private interest groups (Durie, 1995).

After the prerequisite research has been completed the Tribunal holds a series of hearings examining the claim. A report is then issued outlining the Tribunal's findings and making various recommendations for action (Durie, 1995). Generally the Tribunal's recommendations are non binding to the Crown, although the Tribunal does have the power to issue binding recommendations with regard to certain types of Crown land (Durie, 1995). In these cases this "has affected the process requiring a higher evidential standard, loss quantification and more legal arguments when substantial Crown assets are in jeopardy" (Durie, 1995).

Often the Waitangi Tribunal process and the resulting report are, in themselves, immensely valuable for the claimants. In many cases this may be the first time that an accurate account of the events surrounding the claim has been compiled (Temm, 1990).

## **5.2 Direct Negotiations**

Direct negotiations between the Crown and the claimants for the settlement of a Treaty claim can begin following a recommendation by the Waitangi Tribunal. Alternatively direct negotiations can start at the request of the claimants at any stage of the Waitangi Tribunal process, providing that both the claimants and the Crown agree that the claim can be resolved by direct negotiations without a Tribunal hearing (Office of Treaty Settlements, 1994b). At any point both the claimants and the Crown have the right to terminate negotiations and return to the Waitangi Tribunal if they feel that satisfactory progress is not being made (Office of Treaty Settlements, 1994b). Figure 2 summaries this settlement process.

Direct negotiations are conducted by the Office of Treaty Settlements (formerly the Treaty of Waitangi Policy Unit). The Office of Treaty Settlements is part of the Department of Justice, but reports directly to The Minister in Charge of Treaty Negotiations, Doug Graham, on matters of policy and substance.

Once the claimants and the Crown agree to enter into direct negotiations the Office of Treaty Settlements begins “exploratory discussions” with the claimants (Office of Treaty Settlements, 1994b), and prepares a Crown Negotiating Brief for consideration by Cabinet. The Crown Negotiating Brief outlines the nature of the claim and the claimant’s expectations for redress.

The decision to proceed with direct negotiations from this point is made by the Cabinet Committee on Treaty of Waitangi Issues, which takes into account a number of issues (Office of Treaty Settlements 1994b). For example the Crown must be satisfied that that there is a historical basis for the claim, that the correct claimant group has been identified, and that the claimant negotiators have been properly mandated by the claimant group. To assist with this the claimants must submit a Deed of Mandate to the Crown defining the claimant group and the claim, as well as naming the claimants mandated representatives and providing a description of how this mandate was obtained.

Claims and issues of concern may also differ between the *hapu* and *whanau* within an *iwi*. In these cases the Crown prefers to negotiate with *iwi*, or groups of *iwi*, rather than at *hapu* or *whanau* level, and this must also be taken into account when the decision to proceed with negotiations is made (Te Koha, *pers comm*).

Before negotiations can proceed the claimants must agree to negotiate a settlement covering all of their known claims, to negotiate knowing that the Crown's offer of redress will be based on the Crown's stated position on the nature of the breach, to waive all other avenues of redress that may be available to them while in negotiations, and that if a settlement is reached, it will be acknowledged as a final settlement of their claims (Office of Treaty Settlements 1994b).

Once the Crown has developed an official position on the claim, and is satisfied that these issues have been addressed Cabinet approval to proceed is given, and direct negotiations between the claimants and the Office of Treaty Settlements begin. These negotiations are based on a number of principles, which were initially outlined in the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* booklets released by the Office of Treaty Settlements in 1994. These are that;

- The Crown explicitly acknowledges historical injustices;
- In attempting to resolve outstanding claims the Crown should not create further injustices;
- The Crown has a duty to act in the best interests of all New Zealanders;
- As settlements are to be durable, they must be fair, sustainable, and remove the sense of grievances;
- The resolution process is consistent and equitable between claimant groups;

- Nothing in the settlements will remove, restrict or replace Maori rights under Article III of the Treaty, including Maori access to mainstream government programs;
- Settlements will take into account fiscal and economic constraints and the ability of the Crown to pay compensation.

Although these principles, and in particular the \$1 billion limit on settlements, were rejected by Maori at a number of *hui* held throughout the country in 1996 they still form the general basis for present settlement negotiations (Te Koha, *pers comm*). For example although the \$1 billion cap has been scrapped the principle of settlements being fiscally responsible still applies (Te Koha, *pers comm*).

During the negotiation process the Office of Treaty Settlements liaises with a number of different organisations. These include other government departments that are affected by the settlement process such as the Treasury, Te Puni Kokiri, the Department of Conservation, and any other government departments that may hold land in the affected area. Where negotiations concern the conservation estate the Department of Conservation may have a representative present on the Crown's negotiating team (Te Koha, *pers comm*). Private interest groups may also be consulted as part of the settlement negotiations

Talks are also held with other *iwi* whose own Treaty claims may overlap with the claim currently under negotiation. This does not necessarily mean that an *iwi* with an overlapping claim has to be at the same level as the claimants in terms of mandate. Instead the Office of Treaty Settlements may organize a number of *hui* between the affected *iwi* with the hope of resolving the issue. Failing this the Office of Treaty Settlements may look to mediation, expert arbitration or have the *iwi* concerned refer their disputes to the Maori Land Court (Te Koha, *pers comm*).

The details of the negotiation process, and the criteria used to decide whether or not negotiations should take place, will differ slightly for each claim. The exact details will depend on issues such as time-frame constraints, the claimants redress

expectations and the details of the claim, and any lesson learnt from previous settlements (Te Koha, *pers comm*)

### 5.3 The Conservation Estate

A large number of the claims to the Waitangi Tribunal include land that is part of the conservation estate. The conservation estate is land that is administered by the Department of Conservation, and includes lands held under the Conservation Act, the Reserves Act, The National Parks Act and the Wildlife Act (Office of Treaty Settlements 1994a).

In the Office of Treaty Settlements' 1994 *Crown Proposals for the Settlement of Treaty of Waitangi Claims* booklets, a set of principles are outlined to guide the development of settlements for claims affecting the conservation estate. These were that;

- The conservation estate is held by the Crown on behalf of all New Zealanders; however, the Crown may have to consider competing interest in fulfilling its obligations to the public under Article I of the Treaty.
- The existing nature and degree of legal protection provided to the natural and historic values (including *wahi tapu* sites) of the conservation estate will not be diminished, except where a reduction in legal protection is appropriate, given the nature of those values, or there are other beneficial conservation effects.
- Any change in management of the estate will be agreed to only if it will not result in the loss of protection to the natural and historic values (including *wahi tapu* sites).
- Existing public access and recreation rights will not be reduced except to protect the natural and historic values (including *wahi tapu* sites).

- The potential interest of existing concessionaires concerning future use beyond the period of their occupation rights, and the need of sectorial interests (for example, the tourism industry) will be considered.

These principles essentially mean that “the conservation estate is not readily available for the settlement of Treaty claims and should be considered only in certain circumstances” (Office of Treaty Settlements, 1994a).

However the Crown does consider that there are some categories of land that may be used, in various ways, in the settlement of Treaty of Waitangi claims. These areas include specific sites of such significance to Maori that the Crown believes are essential to a settlement, for example, burial sites, sacred shrines, certain pa sites, other sites of special importance to Maori, and land required for access to *pounamu*. This also includes specific pieces of land where conservation management would be improved or maintained if the land was used in a settlement (Office of Treaty Settlements, 1994a).

## 5.4 Options For Redress

The 1994 *Crown Proposals for the Settlement of Treaty of Waitangi Claims* outlines three possible ways the conservation estate may be used in the settlement of Treaty claims. These are that;

- Ownership of the land could be returned to claimants with conditions attached to maintain conservation values and public access. This would be considered in relation to small pieces of land of special significance to Maori.
- Land could also be vested with claimants under the Reserves Act of by special legislation. This would allow continued Crown involvement with the land. If the conditions were breached the land could then revert back to the Crown.
- Continued Crown ownership, but Maori could take on a significant role in managing the land.



As the settlement process has evolved the Crown has also developed a number of generic instruments for redress that apply to the conservation estate (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996). These include;

- Acknowledgement of *mana* of site. This includes name changes and the erection of signs, interpretation makers and other methods of signifying the claimant's interest in the site (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996).
- Deed of Recognition. This would provide government recognition of *mana* and *tangata whenua* status, and would not create any property rights (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996; (Office of Treaty Settlements, 1996).
- Statutory Acknowledgement. This would ensure that the claimants have standing to challenge applications under the Resource management Act within the areas to which the statutory Acknowledgement applies. It would also mean that the claimants would be a person “directly affected” for the purposes of sections 14 and 20 of the Historic Places Act 1993 for particular sites (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996; Office of Treaty Settlements, 1996).
- Transfer of title with control and management vested in Minister. Under this instrument ownership of an area is returned to the claimants on the condition that the land is managed and controlled by the Minister of Conservation in perpetuity as a reserve (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996).
- Topuni special area or reserve. This would entail the creation of a separate statutory ‘overlay’ classification over land administered under the Conservation, National Parks or Reserves Acts, and will acknowledge the cultural, spiritual, historic of traditional values of the site. This would require the claimants and the

Department of Conservation to agree on what actions by DoC would harm or diminish those values and DoC would be required to determine, from the advice of the claimants, what behaviours are appropriate and inappropriate on the site and how to publicise those (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996; Office of Treaty Settlements, 1996).

- Statutory Adviser. This involves the claimants being appointed adviser to the Minister of Conservation in relation to specific sites. This would require the Minister to recognise and take into account the advice received from the claimants but would create no binding obligation to follow this advice (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996).
- Representation on Conservation Boards. Claimants may be guaranteed, by legislation, seats on conservation boards within their *rohe*. These seats may be dedicated to the claimants or to a representative selected to represent the interests of all the *iwi* present in that conservancy (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996; Te Koha, *pers comm*).
- Establish protocols with the Department of Conservation for involving the claimants in management. This may also include establishing protocols for traditional harvesting or collection of various flora and fauna and other *taonga*, such as whale bone (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996; Office of Treaty Settlements, 1996).
- Vesting of Reserve. Under the Reserves Act a number of reserves can be controlled and managed by an administering body (the claimants) without title being vested in the body. If the area is not managed appropriately within the Reserves Act the Crown would be able to reclaim its interest (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996).
- Establish entitlements for customary freshwater fishing. This may include entitlements to temporarily use exclusively a portion of lake or riverbed for the purpose of customary fishing and the gathering of other natural resources. This

may also include the *nohoanga* entitlements for the claimants exclusive camping for limited periods for the purpose of customary fishing (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996).

Not all of these redress instruments may be used in any given settlement. A number of these instruments were only developed as a result of the Ngai Tahu negotiations, and may not be applicable to other claims (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1996). Other redress options may also be developed in the future. For example there has yet to be a settlement of major claims relating to the ownership/management of a river, and negotiations for the settlement of claims such as those relating to the Wanganui or Waikato rivers may require new redress instruments (Thomas, *pers comm*).

## 5.5 Deeds of Settlement and Implementation

Once an agreement between the Crown and the claimants has been reached on how a claim should be settled a Draft Deed of Settlement is prepared. The negotiators for the claimants take this back to their *iwi* to be ratified, and the Office of Treaty Settlements refers this to the Government for approval (Office of Treaty Settlements, 1994b).

In order for the Crown to approve the settlement it must be satisfied that there is public support for the settlement, and that the claimants have established a legal body, with a suitable governance structure, to receive the settlement resources.

Once the Crown is satisfied that these conditions have been met a final Deed of Settlement is signed, and various pieces of legislation are then passed through Parliament to give effect to the settlement. It is then the responsibility of the claimants to inform the Waitangi Tribunal that a settlement has been reached and withdraw their claims

The Office of Treaty Settlements is also responsible for the implementation of the Deed of Settlement. This involves overseeing the transfer of resources, and in the

case of the conservation estate this may mean initiating discussion between the claimants and the Department of Conservation, and working with the Department of Conservation to ensure that terms of the settlement are followed.

## 6 Case Study 1: The Tainui-Waikato Settlement

### 6.1 Introduction

The first major land claim to be settled by the Crown was the Tainui-Waikato settlement in 1994. This settlement forms an important case study as during the negotiations for this settlement many of the principles outlined in the Crown's *Crown Proposals for the Settlement of Treaty of Waitangi Claims*, were developed (Fox, 1995; Te Maori News, 1995; Thomas, *pers comm*). Many of these principles still form the basis for current negotiations (Thomas, *pers comm*).

This section discusses the background behind the Tainui-Waikato claim, and outlines the conservation issues affected by the Tainui-Waikato Settlement. This is followed by a summary of the Tainui-Waikato Settlement and an examination of the place of the conservation estate and various conservation and environmental issues in the negotiation process and the final settlement.

The term Tainui can be used to refer to a number of different *iwi*, including Waikato, Maniapoto, Ngati Haua, Ngati Raukawa, and Hauraki, who are descended from the Tainui *waka* that made the legendary journey from Hawaiki to Aotearoa. However in the context of this claim Tainui refers to the 33 *hapu* represented by the Tainui Maori Trust Board (Waikato Raupatu Claims Settlement Act 1995). These are all the Tainui *hapu* which were subject to land confiscation (*raupatu*), and essentially form the Waikato *iwi* (Moke, *pers comm*).

As well as representing these 33 *hapu* the Tainui Maori Trust Board also lists over 60 *marae* as beneficiaries. These are *poukai marae*, or *marae* linked to the Maori King Movement (*Kingitanga*), and come from various *hapu* and *iwi* (Moke, *pers comm*).

This is an important differentiation to make. This settlement settles the claims from the 33 *hapu* represented by the Tainui Maori Trust Board. Other Tainui *iwi* all have individual claims lodged with the Waitangi Tribunal and this is not a settlement of

their claims. However the *poukai marae*, which are from various *iwi*, may benefit from the settlement through their links to the *Kingitanga* movement but their claims may not necessarily be addressed by this settlement (Moke, *pers comm*; Solomon, 1995).

## 6.2 Background to the Tainui Claim

During the 1850's increasing Maori concern over increasingly aggressive land purchases by the Crown lead to a number of national, pan tribal *hui*. From these *hui* the principles of *pupuro whenua* (withholding land from sale) and *kotahitanga* (unity). The principle of *kotahitanga* eventually developed into the Maori King Movement, or *Kingitanga*, culminating with the coronation of the Waikato *rangatira* Potatau Te Wherowhero in 1857 (Walker, 1989). The King Movement's power base lay with the various Tainui *iwi* from the Waikato region, but *iwi* throughout the country lent their support as a means of protest at the Crown's land purchasing (Belich, 1986; Walker 1989).

In March of 1860 the Colonial Government attacked Wiremu Kingi's *pa* at Waitara in North Taranaki as the result of a disputed land sale. This attack led to war between *Pakeha* and Maori throughout the Taranaki region (Waitangi Tribunal, 1996).

Various Taranaki *iwi* sent delegations to the Waikato to elicit *Kingitanga* support for the war. Although reluctant to become directly involved in the war, the Tainui tribes and the King Movement eventually lent tentative support to the Taranaki *iwi* after a delegation from Taranaki swore allegiance to King Potatau on 16 April 1860 (Belich, 1986). A *taua* (war party) of Maniapoto returned to Taranaki with this delegation and were subsequently attacked by British troops (Belich, 1986; Waitangi Tribunal, 1996).

This attack, the battle of Puketakauere, served to strengthen the *Kingitanga* commitment to the Taranaki war, and between April 1860 and March 1861 an estimated 1500 *Kingitanga* warriors fought in Taranaki at one time or another (Belich, 1986). However the King Movement was careful to limit it's involvement in the

Taranaki War and only around a third of the *Kingitanga* warriors ever fought in Taranaki at any one time, with these warriors being rotated back to the Waikato regularly to be replaced by fresh forces (Belich, 1986). The King Movement was also careful to limit the scope of the war to Taranaki and prevent it from spreading into other districts, and was also involved in negotiating for peace on behalf of the Taranaki iwi. In March of 1861 a truce was declared in Taranaki (Waitangi Tribunal, 1996).

By this time the support for the Maori King Movement had grown significantly as a result of general Maori support of the war and Governor Browne realized that there could not be any more seizures of land like that at Waitara, or any more *ad hoc* attempts to impose British law beyond the European settlements while the King Movement retained such power and influence. As a result preparations were made for an invasion of the Waikato (Belich, 1986).

However before this invasion could be launched, Browne was replaced as Governor by George Grey in September of 1861, largely as a result of Browne's failure to win a decisive victory in Taranaki (Belich, 1986; Waitangi Tribunal, 1996).

Despite orders from the British Government to "effect peace and good understanding between the races" and that the "armed forces should not be used for the mere purpose of extracting from the Maoris a verbal renunciation of the so-called Maori King", (Belich, 1986), Grey continued with plans for an invasion of the Waikato. Troops numbers were gradually increased by exaggerating the threat to Auckland from the Waikato, and in December of 1861 construction began of a road from Auckland to the borders of the Kingite territory that was to supply an invasion (Cowan, 1922; Belich, 1986).

In July of 1863, after alleging Kingite instigation of the Oakura ambush, which restarted the Taranaki War, and a bloodthirsty plot to attack Auckland, Grey began the invasion of the Waikato (Cowan, 1922; Belich, 1986). This campaign was "one of the best prepared and best organised ever undertaken by the British army" (Belich, 1986) and aimed to seize the economic base of the core Kingite tribes in the Upper Waikato. In response to this invasion, of the 26 major *iwi* groupings in the North



Island at the time more than 15 sent *taua* of various sizes to fight in the Waikato (Belich, 1986).

After a series of bloody battles during 1863 and 1864, King Tawhiao and the remaining *Kingitanga* supporters were forced to withdraw into Maniapoto territory, (later to become known as the King Country), marking out an *aukati* (boundary) that *pakeha* were warned not to cross (Belich, 1986; Cowan, 1922; Simpson, 1979). Behind the *aukati* the *Kingitanga* forces began to consolidate and prepare to continue their resistance to the invasion (Belich, 1986; Cowan, 1922; Simpson, 1979).

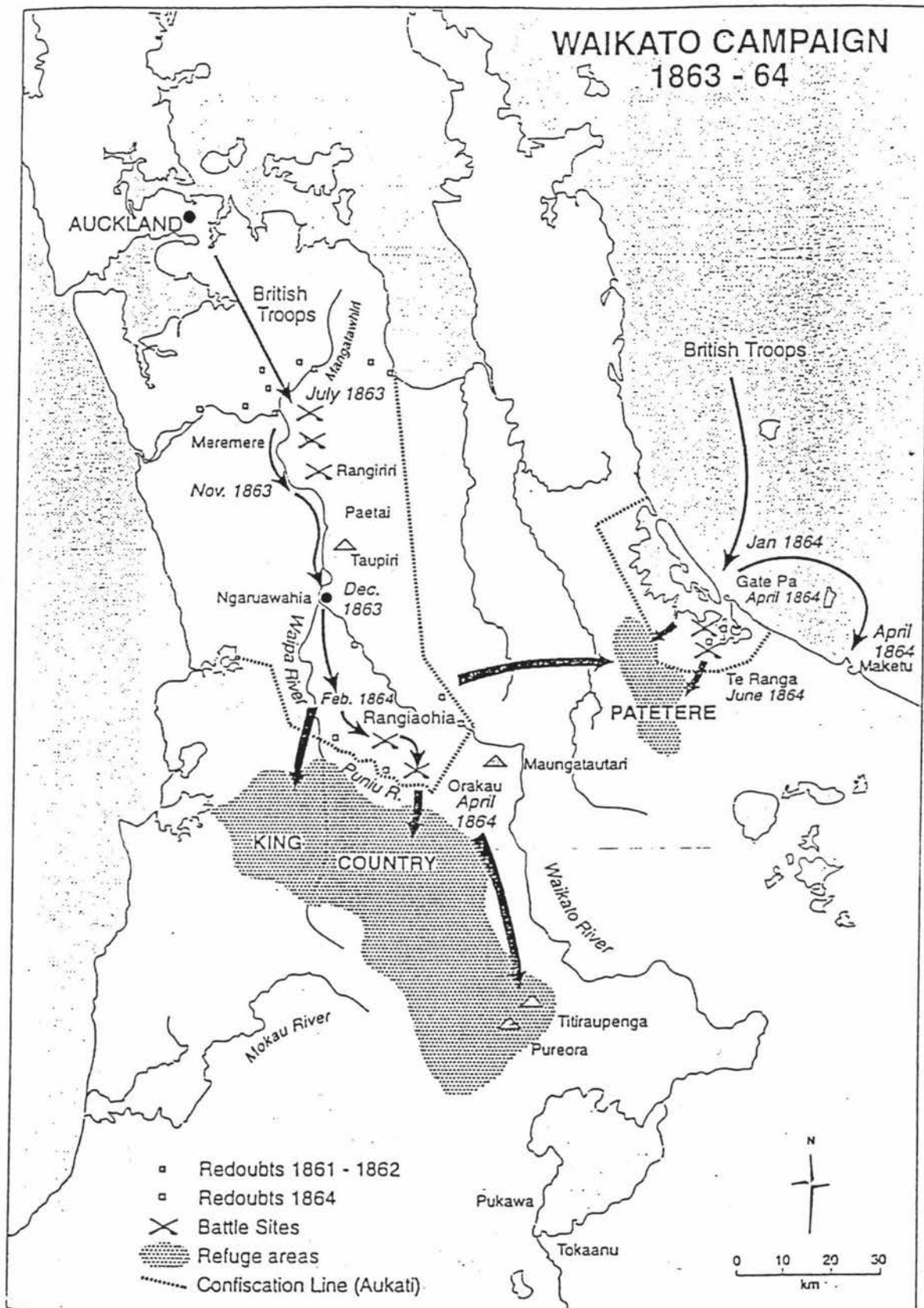
In April of 1864, with the war in Taranaki escalating and fighting erupting in Tauranga, the main British striking force was withdrawn, leaving the bulk of the British forces holding their conquests in central Waikato (Belich, 1986). This effectively saw the end of the war in the Waikato.

In response to the wars in Taranaki and Waikato the New Zealand Settlement Act was passed in 1863 (Waitangi Tribunal, 1996). This Act provided for the confiscation of “eligible sites for settlements for colonisation” from Maori who were “engaged in rebellion against her Majesty’s authority” (New Zealand Settlements Act 1863). The purpose of these sites was to establish a large body of military settlers in hostile areas in order to prevent “further insurrection or rebellion and for the establishment and maintenance of Her Majesty’s authority and of Law and Order” (New Zealand Settlements Act 1863). This land was also intended to play a significant role in financing the Crown’s role in the conflicts in Taranaki and Waikato (Belich, 1986; Waitangi Tribunal, 1996).

Under the New Zealand Settlement Act 1863 1.2 million acres of land in the Waikato was confiscated (Figure 3). The Waikato and Ngati Haua *iwi* bore the brunt of this confiscation with all the lands of the Waikato *iwi* and over a third of Ngati Haua’s lands being subject to *raupatu* (AJHR, 1928; Ward, 1997).

312 262 acres were eventually returned over time, only to further alienated by the action of institutions such as the Maori Land Court, which individualized Maori titles and made purchases by the Crown easier (Ward, 1997).

Figure 3. The invasion of the Waikato, showing the extent of land confiscations. Taken from Stokes, 1995.



Despite the *raupatu* the King Movement remained a major force in Maori politics from behind the *aukati* in Maniapoto territory. It was not until 1881, when Tawhiao eventually made peace with the Crown and vowed that Waikato-Tainui would never take up arms again, that the King Country gradually came under *Pakeha* control (Belich, 1986; Simpson, 1979).

In 1884 Tawhiao led a delegation of Maori to England to petition the Queen for the return of confiscated lands. They were refused an audience with the Queen and were told that their concerns were an issue for the Colonial Government in New Zealand to address (Walker, 1989).

In 1894 Mahuta became the third Maori King, and began trying to have the *raupatu* issue dealt with through Parliament. This was also unsuccessful. In 1914 Te Rata became the fourth Maori King and led a second delegation to England calling for redress for the *raupatu* and other issues. This time an audience with King George was granted but again these issues were refereed back to the New Zealand Government (Walker, 1989).

At the same time the New Zealand Government was recruiting for the Maori battalion to fight in the First World War. Tainui refused to send warriors to fight due to Tawhiao's 1881 pledge not to take up arms. As a result Waikato was the only region in the country where conscription was imposed (Simpson, 1979).

After the end of the First World War Te Puea, who had become prominent in the anti-conscription protests, began construction of Turangawaewae *marae* at Ngaruawahia as a focal point and a new beginning for the King Movement and the Tainui people (King, 1977).

In 1926 the Sim Commission, a Royal Commission of inquiry into land confiscations, found that "the confiscations were excessive", and was critical of the fact that the Waikato *iwi* suffered the most from the confiscations while other *iwi* involved in the war were not subject to confiscations at all. The Commission did agree with the Crown in that Tainui were in "rebellion" and that some form of confiscation was

appropriate. The Commission then went on to recommend an annual payment of 3000 pounds in compensation to Waikato-Tainui (AJHR, 1928).

During the 1930's negotiations began with the government based on the Sim Commission's findings. These negotiations were suspended with the outbreak of the Second World War and recommenced in 1946. In April of that year the Prime Minister, Peter Fraser, offer 6000 pounds per annum for 50 years and 5000 pounds annually after that as compensation for the *raupatu*. At the urging of Te Puea this was accepted as a part-settlement of Tainui's claims. As a result of this settlement the Tainui Maori Trust Board was established to represent the 33 Tainui hapu who had suffered *raupatu* (King, 1977).

In 1966 the current head of the *Kingitanga*, Te Atairangikaahu, became the first Maori Queen.

On the 16th of March 1987 Robert Mahuta lodged a claim with the Waitangi Tribunal on behalf of himself, Waikato-Tainui the Tainui Maori Trust Board, and Nga Marae Topu. This claim (Wai 30) related to the confiscation of Tainui lands. Various individuals later filed a number of other claims with the Waitangi Tribunal relating to the *raupatu* of Tainui lands. These claims affected lands within the confiscation boundary, as shown in Figure 3, and the Manakau, Kawhia, Aotea and Raglan Harbours.

### 6.3 The Conservation Estate

The Tainui-Waikato *raupatu* claim affected significant parts of the conservation estate within the Department of Conservation's Waikato Conservancy. In particular the Tainui-Waikato *raupatu* claim included large sections of the Raglan-Kawhia and the Waikato Lowlands management planning units. Also affected by the Tainui-Waikato claim was the Manakau harbour, which is managed by the Department of Conservation's Auckland Conservancy (Department of Conservation, 1996b).

The Raglan-Kawhia management-planning unit, shown in Figure 4, has largely been modified for farming, and is characterised by low population densities and many areas are inaccessible to the public (Department of Conservation, 1996b).

Included in this area are three large estuarine harbours of high conservation value, Kawhia, Aotea and Raglan. Aotea Harbour is one of the least modified harbours on the West Coast of the North Island, and both Aotea and Kawhia Harbours are considered wetlands of international importance. Threats to the harbours include siltation, pollution, over-fishing and the spread of weed species (Department of Conservation, 1996b).

The Raglan-Kawhia management-planning unit also includes significant areas of high quality native forests, many of which are on Maori land, as well as important coastal and dune systems (Department of Conservation, 1996b).

The Waikato Lowland management planning area, shown in Figure 5, is characterised by intensive farming, very high rural population levels, and a high urban population centre (Hamilton). The significant conservation values in the area are wetlands, lakes river and their associated flora and fauna. All these areas are affected by impacts on the water cycle, and in particular the lowering of the water table, and water quality.

As a result the major conservation issues in the region are the protection and re-establishment of wetlands and aquatic habitats, and the management of water quality (Department of Conservation, 1996b).

Within the Waikato Conservancy the Department of Conservation has a commitment to act within the Principles of the Treaty of Waitangi, and as a result aims to enable sustainable use of cultural material by *tangata whenua* in accord with legislation. However this is limited by the Wildlife Act 1953 which gives absolute protection to most species of wildlife, and as a result the taking of animals for cultural purposes is not general possible. The taking of plant material is not as restrictive, but is subject to the Department of Conservation's commitment to ensure that this does not endanger their existence (Department of Conservation, 1996b).









## 6.4 The Tainui-Waikato Negotiations

Negotiations for the settlement of the Tainui-Waikato claim began as a result of legal action by the Tainui Maori Trust Board in 1989 after the Government attempted to sell CoalCorp. The Tainui Maori Trust Board maintained that coal mining licences included in the CoalCorp sale were and interest in land and therefore subject to their *raupatu* claim. In 1989 an Appeal Court hearing agreed with Tainui and an injunction was placed on the CoalCorp sale. As a result of the Appeal Court ruling the Crown and the Tainui Maori Trust Board began direct negotiations for the settlement of the Tainui-Waikato *raupatu* claims.

Tainui-Waikato were represented by a negotiating committee under the Tainui Maori Trust Board. The core of the negotiating committee for Tainui was Tom Moke, Shane Solomon, and John Te Mahu with Robert Mahuta being chief negotiator. Under each of these people was a team of consultants and advisers (Moke, *pers comm*).

Throughout the negotiations Tainui took the stance that *i riro whenua atu, me hoki whenua mai* (as land was taken, so land should be returned). Also underlying Tainui's negotiation was the principle that *ko to moni hei utu mo te hara* (the money is an acknowledgement of the Crown's crimes) (Fox, 1995).

The Treaty of Waitangi Policy Unit (TOWPU) within the Department of Justice was the Crown's lead agency in the negotiations. This Unit was later to become the Office of Treaty Settlements. The Treaty of Waitangi Policy Unit was responsible for taking the lead role in negotiations and for the development of policy relating to the settlement of Treaty of Waitangi claims (Thomas, *pers comm*).

TOWPU requested and received input from a number of other Government Departments, including the Department of Conservation. The major input into the negotiation process from the Department of Conservation was in response to a request from TOWPU that the Department of Conservation, and all other Government Departments with land holdings, provide a schedule of all lands that it held in the claim area, and details of lands that were surplus to their requirements and could be used in a settlement package (Thomas, *pers comm*).

The Department of Conservation was able to provide information on land holdings over 10 hectares in size, but was unable to provide the Treaty of Waitangi Policy Unit with details of their land holdings under 10 hectares. Various pieces of land were regarded by the Department of Conservation as being surplus to their requirements and were in the process of disposing of. Some of this surplus land was used as part of the settlement package (Thomas, *pers comm*).

The Department of Conservation took the stance that, with the exception of areas surplus to requirements, any areas of the conservation estate should not be used in the settlement of Tainui's claims. This was in direct conflict with the Tainui position of *i riro whenua atu, me hoki whenua mai* (as land was taken, so land should be returned). As a result there was a great deal of debate within the Crown's negotiating team over whether or not the conservation estate should be used in the settlement (Thomas, *pers comm*).

It was argued within the Crown's negotiating team that the conservation estate is managed for the benefit of all New Zealanders and should not be used in a settlement. On the other side of the argument there was the view that the conservation estate could be ranked into various classes and that there were areas that did not have a great deal of conservation value associated with them that may be used in a settlement. These included areas such as local purpose reserves, which was land that had been gazetted for conservation purposes but were under-leased to local authorities. This ranking of the conservation estate was never undertaken, for a number of reasons, and the conservation estate was excluded from use in a settlement (Thomas, *pers comm*).

Time constraints played a significant role in this exclusion. With an election in the near future there was political pressure to finalise a settlement, and as a number of the areas of the conservation estate were small blocks on which the Department of Conservation had little information, the time consuming process of examining and ranking individual blocks of the conservation estate was not regarded as significant priority (Thomas, *pers comm*).

Another factor leading to the exclusion of the conservation estate was that the Crown was, at the time, attempting to develop a number of generic principles, and a consistent policy position, for the settlement of Treaty of Waitangi claims. As a result the Crown and was attempting to use the Tainui-Waikato negotiations to clarify its position on a number of issues. One of these was the fate of the conservation estate (Thomas, *pers comm*). It was seen that, in general, the conservation estate should not be used in the settlement of Treaty of Waitangi claims (Cabinet Papers, 1993). This attempt to establish broad policy objectives also played a role in the decision to exclude conservation lands from the settlement.

Tainui were critical of this principle of excluding the conservation estate from the settlement negotiations. Especially offensive was the argument that the conservation estate belonged to all New Zealanders, as Tainui felt that land subject to *raupatu* was still wrongful taken, regardless of whether or not it is currently being managed by the Department of Conservation (Fox, 1995). Also of concern to Tainui was the impression that as negotiations went on the amount of land available for use in a settlement was decreasing as Crown land in the Waikato was being moved to State-Owned Enterprises and the Department of Conservation (Fox, 1995).

However while Tainui was concerned at the principle of excluding the conservation estate from settlements, they were content not to force the issue. This “heartbreaking” (Moke, *pers comm*) decision was made on the basis of an analysis of the yearly expenditures of the Department of Conservation in the Waikato Conservancy. As a result of this analysis Tainui came to the conclusion that if they were to seek the return of the conservation estate, and wished to manage it properly, it would cost them approximately 14 million dollars annually, and Tainui felt that this was money that could be better spent in other areas (Moke, *pers comm*).

Despite the exclusion of the conservation estate, Tainui are confident that if they had actively sought the return of areas of the conservation estate during negotiations, these areas would have been included in the settlement (Moke, *pers comm*).

There were also various issues that were excluded from the negotiations and, as a result, the settlement. Excluded from the settlement were any claims by Waikato to

the rives and harbours within the Waikato *rohe*, claims to the Wairoa and Waiuku blocks in the north of the claim area, and claims by individual *hapu* of Waikato to non-*raupatu* lands outside the Waikato claim area (Solomon, 1995; Waikato Raupatu Claims Settlement Act 1995).

Tainui wished to have these various issues excluded from the negotiation process for a number of reasons. For example, the Wairoa and Waiuku blocks were part of the *raupatu* claim but were excluded from the settlement by Tainui as part of a deliberate strategy to ensure that the settlement would not to be full and final (Moke, *pers comm*).

Tainui also agreed that claims relating to the ownership and management of the rivers and harbours should be excluded from the negotiations. This was largely because Tainui felt that while they were in a strong position to begin to negotiate the *raupatu* claim they were not yet sufficiently prepared to begin negotiations over the rivers and harbours (Moke, *pers comm*; Solomon, 1995).

The Crown was also content to see the issue of the rivers and harbours excluded from the negotiation process as they regarded them as being in the ‘too hard basket’, and felt that they were also not ready to begin negotiations on these issues at the time (Thomas, *pers comm*).

In December of 1994 a Heads of Agreement for the settlement of Waikato-Tainui’s *raupatu* claim was signed between the Crown and Tainui. This was followed in May of 1995 with the signing of a Deed of Settlement. The Waikato Raupatu Claims Settlement Act 1995 was then passed giving effect to the Deed of Settlement (Te Maori News, 1995).

## 6.5 The Tainui-Waikato Settlement

The Tainui-Waikato settlement relates to “all claims arising out of, or relating to, the Raupatu or any aspects of the Raupatu”. This includes “all claims arising from the loss of land and interests in land in the Waikato claim area by confiscation”. Also

included are “all claims to coal, other mineral, and forests within the Waikato claim area”. In particular the settlement affects claims Wai 306, Wai 494, Wai 530, Wai 537, and the majority of claim Wai 30, which have been lodged with the Waitangi Tribunal since 1987 (Solomon, 1995; Waikato Raupatu Claims Settlement Act, 1995).

Excluded from the settlement are “any claims by Waikato to the rivers and harbours within the Waikato rohe”. This includes the Waikato river and the Kawhia, Aotea and Raglan Harbours. Also excluded are claims to the Wairoa and the Waiuku blocks and claims to lands outside the *raupatu* area (Solomon, 1995; Waikato Raupatu Claims Settlement Act, 1995). This means that the settlement is not a full and final one. This was important to Tainui as they did not want to be seen to be signing away future generation’s rights to seek redress for various issues (Moke, *pers comm*; Solomon, 1995).

No areas of the conservation estate were transferred to Tainui ownership under the settlement, although various other lands, including State Forests were. However the settlement does place a caveat on the conservation estate. This means that if land is no longer needed for conservation purposes it is to be returned to Tainui (Solomon, 1995).

With the exception of some commercial properties, the majority of the land returned to Tainui, and any future land acquisitions, is to be place under Te Wherowhero title. This places land in a tribal estate, under the name of the first Maori King, Potatau Te Wherowhero, and it can not be sold or mortgaged. Any land returned to Tainui is to be managed by the Waikato Raupatu Lands Trust (Solomon, 1995).

As part of the settlement Tainui gifted the conservation estate in the claim area to all New Zealanders. Tainui felt that this was important as it was a recognition of their *mana whenua* (land rights) over the conservation estate, and that it also provide added protection so that the Crown were not able to dispose of parts of the conservation estate (Moke, *pers comm*).

Tainui also received a seat on the Waikato Conservation Board for the head of the Kaahui Ariki (the head of the *Kingitanga*) or her nominee (Solomon, 1995; Waikato Raupatu Settlement Act 1995). Tainui feel that this seat, combined with the Reserves Act and the Resource Management Act, gives them enough power to wield a significant amount of influence over the management of the conservation estate (Moke, *pers comm*). Tainui also have the stated aim that in the future they intend that all members of the Conservation Board will be Tainui (Solomon, 1995).

At present Tainui do not have any significant issues of concern with the current management of the conservation estate, and are more focused on environmental issues, such as water rights. To take into account their environmental interests Tainui have established two groups with the aim of monitoring environmental issues. These are Huakina Development Limited and Nga Manga Topu. Tainui feel that these organizations give them an effective means of monitoring environmental issues in their *rohe* (Moke, *pers comm*).

## 6.6 The Rivers and Harbours

The West Coast Harbours, Kawhia, Raglan, Aotea and Manakau, and the rivers in the claim area, in particular the Waikato river, are extremely important to both Tainui and the Department of Conservation. The main focus of DoC's Raglan Kawhia management planning unit is the protection and restoration of the harbours, while in the Waikato Lowlands management planning unit the rivers and water quality issues in general form the basis of DoC's management (Department of Conservation, 1996b).

For Tainui the harbours and rivers are enormously important, both for their spiritual values and for their resources. The harbours have been valued resources and fought over for centuries, and also link Tainui to their history. For example, Kawhia Harbour was the final landing place of the Tainui *waka*, and it is buried on the shores of the harbour. The Waikato River is regarded as a *tipuna* (ancestor) by Tainui as well as a valued resource.

The ownership and management of the rivers and the West Coast harbours were deliberately left out of the negotiation process and the settlement. The settlement of these issues was to be negotiated at a later date (Moke, *pers comm*; Solomon, 1995; Thomas, *pers comm*).

At present Tainui is blocking water right consent for water users of the Waikato River. Tainui fully expect this process will progress to the Environment Court and then to the Court of Appeal some time in the near future (Moke, *pers comm*). Tainui now feel that they are now in a strong position, and are able to negotiations for the settlement of their claims to the rivers and the West Coast harbours. The Environment Court and the Court of Appeal process is aimed at forcing the Crown to re-order its priorities and begin direct negotiations on these issues (Moke, *pers comm*).

Tainui feel that the harbours and rivers were taken by *raupatu* along with the land. As the Crown has acknowledged the injustice of the *raupatu* with the current settlement, Tainui feel they have a strong case for seeking the return of these resources. Unlike the conservation estate in the *raupatu* settlement, in any future negotiations for the settlement of the claims to the rivers and harbours Tainui will be actively seeking the return of these resources (Moke, *pers comm*).



## 7 Case Study 2: The Whakatohea Settlement

### 7.1 Introduction

On the 1st of October 1996 the Government and representatives from the Whakatohea *iwi* signed a Draft Deed of Settlement aimed at settling Whakatohea's grievance dating back over 130 years (Barlow, 1996).

This Draft Deed of Settlement came as a result of Whakatohea opting for a process of direct negotiations rather than going through the Waitangi Tribunal process. It is acknowledged by both the Crown and Whakatohea that this process was rushed as a result of a desire on both sides to achieve a settlement before the 1996 General Election (Taia, *pers comm*; Te Koha, *pers comm*).

The negotiations for the settlement of Whakatohea's claims and the resulting Draft Deed of Settlement are valuable as a case study examining the general settlement process for a number of reasons.

The Whakatohea *iwi* is a relatively small *iwi* centred around Opotiki on the East Coast of the North Island, and within the Department of Conservation's East Coast Conservancy. There are also as many as 16 other *iwi* represented within the East Coast Conservancy, some of which have Treaty of Waitangi claims which overlap with the Whakatohea claim (Department of Conservation, 1995d). As a result issues such as overlapping claims and providing representation for a large number of *iwi* within a conservancy are dealt with in the Whakatohea settlement.

To a large extent these issues have been avoided in previous settlements, such as the Tainui-Waikato, and Ngai Tahu settlements. This is a result of these groups having well defined boundaries and being large enough to justify representation at a conservancy level. However future settlements are likely to be with *iwi* who are in a similar position to Whakatohea with regard to size and issues such as overlapping

claims and representation. Because of this an examination of the Wakatohea settlement is extremely valuable.

The Whakatohea settlement is also the first major settlement that has been in danger of not being accepted by the *iwi* concerned. While this may be largely due to issues such as the Whakatohea Negotiating Committee's mandate, the added controversy has also served to highlight concerns with various redress instruments in a way that other settlements have not.

## 7.2 Background to Whakatohea's Claim

Prior to 1840 Whakatohea had been engaged, on and off, in inter-tribal war with their various neighbours, Ngati Porou to the west, and the Arawa confederation to the east, and as a result were widely dispersed throughout their *rohe*. After the arrival of the missionaries in 1840, and under strong leadership from a number of notable *rangatira*, Whakatohea gradually began to return to their lands, and by the 1860 Whakatohea had established widespread cultivations, and trade with the Pakeha settlements such as Auckland was flourishing (Clark, 1973; Lyall, 1979).

In 1861 Carl Sylvius Volkner was appointed by the Church Mission Society as a missionary to Opotiki, as the region had been without a priest for a number of years. Volkner immediately began the construction of a church in Opotiki and was quickly accepted by Whakatohea as one of their own (Clark, 1973).

Whakatohea's peace ended when war broke out in Taranaki and then in the Waikato, and by 1863 Whakatohea were struggling to remain neutral while coming under increasing pressure from their Ngati Porou neighbours, and also from various envoys from the Waikato, to become actively involved in the war. Adding to this pressure was the presence of the pro-British Arawa on Whakatohea's eastern boundary. By 1864 repeated Waikato requests for support, combined with increasing inter-tribal animosity between Whakatohea and Arawa, had pushed Whakatohea into open support of the Maori King Movement's role in the land wars (Clark, 1973).

In January and February of 1864 a *taua* of between 700 and 800 warriors drawn from various East Coast *iwi*, including Whakatohea, Ngati Porou, Tuhoe, Ngati Awa and Whanau-a-Apanui, began assembling to travel to the Waikato. However to reach the Waikato this *taua* had to first pass through Arawa territory, and on the 7<sup>th</sup> of April 1864 were attacked by a party of Arawa warriors and forced to retreat. After regrouping the *taua* tried again to reach the Waikato in late April and was again attacked, this time by a combined force of British troops and Arawa warriors (Clark, 1973; Lyall, 1979).

During this fighting the Whakatohea *rangatira* Aporotanga was captured in this fighting and was killed as *utu* for the Arawa casualties. Aporotanga was the last of the old Whakatohea *rangatira* and his death left Whakatohea without strong leadership (Clark, 1973).

As well as the fighting with the Arawa, disease also took a heavy toll on Whakatohea with over 200 dying between mid 1864 and January of 1865. Whakatohea were also experiencing a serious economic decline, with trade to Auckland being suspended as a result of their support for the Maori King, and supplies being diverted to support the fighting in Waikato. These events effectively crippled the Whakatohea *iwi* (Clark, 1973; Lyall, 1979).

At the same time the *Pai Marire* (good and peaceful) religion was gaining in popularity with the Maori fighting the Waikato, largely as a result of the Maori King, Tawhiao, becoming a convert in November of 1864 (Clark, 1973).

The *Pai Marire*, or *Hauhau*, religion had been founded in Taranaki in 1861 by the prophet Te Ua Haumere and gradually spread through out the country. *Pai Marire* converts were to become associated with some of the worst Maori atrocities of the Taranaki and Waikato wars and as a result *Pai Marire* was feared and loathed by the European population at the time (Belich, 1996; Belich, 1986; Clark, 1973).

By 1865 emissaries of the *Pai Marire* movement began travelling the country with the support of the Maori King, and in February 1865 a group of *Pai Marire* emissaries

arrived in Opotiki. This group was led by Patara Raukauri and Kereopa Te Rau, and had instruction from Te Ua to go carefully and to inoculate the *Hauhau* faith as they went, but not to interfere with the *Pakeha* (Clark, 1973).

Despite these instructions the presence of the *Pai Marire* emissaries acted as a catalyst for anti-*Pakeha* sentiments in Opotiki. In particular these feelings were directed at the local missionary Carl Volkner, who had been discovered passing information to the Colonial Government concerning Whakatohea's involvement in the war. At the time of the arrival of the *Pai Marire* emissaries in Opotiki Volker was taking his wife to safety in Auckland, and had been warned by Whakatohea *rangatira* not to return to Opotiki, as he was regarded as a Government spy by Whakatohea (Clark, 1973; Roderick, 1993).

Volkner failed to heed these warnings and returned to Opotiki on the 2nd of March 1865. Once his ship had docked at Opotiki it was seized by *Pai Marire* converts, and Volkner was taken prisoner. Later that day Volkner was hung and then decapitated, his head preserved, and his blood drunk. Kereopa was also accused of eating Volkner's eyes (AJHR, 1865; Clark, 1973).

The news of Volkner's death caused outrage in the European communities, with each report growing more gruesome than the last. Martial law was declared in the Opotiki province on the 5th of September 1865, and troops were dispatched to Opotiki to arrest those responsible for the murder (AJHR, 1865).

British troops landed in the District on the 8th of September 1865, and captured the *Hauhau* fortifications at Opotiki two days later. After a series of skirmishes and battles at Te Tarata and Te Puia, various sections of Whakatohea surrendered to the Government. Other factions of Whakatohea withdrew from the Opotiki plains into the mountains. Skirmishing and guerrilla warfare was to continue through 1866 and 1867, with the pro-Crown Arawa joining government forces in the area in 1867 (Belich, 1986; Cowan, 1922).

In 1869 Te Kooti, a Maori prophet who had been fighting in Poverty Bay, had retreated into the Urewera Mountains. Some sections of Whakatohea joined Te Kooti

and were involved in a number of raids in the Opotiki district. Whakatohea Maori were also enlisted to fight against Te Kooti, and tensions in the area continued until 1870 (Belich, 1986; Cowan, 1922).

In May of 1870 the Crown again attempted to capture the remaining Hauhau adherents living in the mountains, and in June of 1870 fighting ended with the surrender of Hira Te Popo (Belich, 1986; Cowan, 1922).

As a result of the murder of Volkner and the fighting in the area a number of Whakatohea leaders were arrested. 32 were eventually given various sentences. These included the death sentence for the prominent *rangatira* Te Mokomoko, despite eyewitness testimony that he had no role in the murder (Roderick, 1993).

173 000 acres of Whakatohea land, as well as land from other East Coast *iwi*, was confiscated under the New Zealand Settlement Act 1863 as a result of the fighting. As in other parts of the country various other lands were also alienated through the actions of the Maori Land Court and the acquisition of land for public works. By 1908 35 449 acres of land within Whakatohea's 491,000 acre *rohe* remained in Maori ownership (Ward, 1997).

Various petitions were made to parliament by Whakatohea seeking compensation and the return of confiscated lands. In 1926 a Royal Commission of Inquiry, the Sim Commission, was established to examine Maori grievances relating to land confiscation in Taranaki, Waikato, Tauranga and the East Coast. This commission found that the confiscation from the Whakatohea *iwi* were "excessive" and recommended an annual payment of 300 pounds as compensation (AJHR, 1928). In 1946 compensation was paid to Whakatohea under the Finance Act 1946.

However, this was never considered a full and final settlement by Whakatohea and claims for redress continued (Taia, *pers comm*), and in 1989 the Whakatohea Maori Trust Board lodged a claim with the Waitangi Tribunal (Land Information New Zealand, 1996).

### 7.3 The Conservation Estate

The Whakatohea *rohe* includes a significant proportion of the Department of Conservation's East Coast Conservancy. Within this Conservancy the Whakatohea claims includes mainly land in the Waiokea sub region, as well as a large section of the Western Coast sub-region.

#### 7.3.1 *Western Coast*

The Western Coast sub-region, shown in Figure 6, "retains a larger proportion of indigenous ecosystems in its modern landscape than most other segments of New Zealand's coast" (Department of Conservation, 1995d). Much of the area around Opotiki has been "grazed under Crown leasehold tenure in the past, but latterly administered as conservation areas, and grazing is being phased out" (Department of Conservation, 1995d). "The forested areas are almost entirely Maori land. A small proportion are protected in Maori reserves under the Maori Affairs Act or the Te Ture Whenua Maori Act, but most are unprotected" (Department of Conservation, 1995d).

Conservation issues in this sub-region included retaining coastal forest. This region is seen as having a rare chance to protect sizeable coastal forest areas linking interior hill country forests right to the sea. Marine issues are also significant in the area, as are issues concerning increasing visitor pressure (Department of Conservation, 1995d).

Many of the conservation values on the area remain unprotected by the Department of Conservation and as a result conservation advocacy and partnerships are a high priority for DoC. This includes the use of mechanisms such as Nga Whenua Rahui covenants on Maori land (Department of Conservation, 1995d).



Figure 6. The Western Coast sub-region. Taken from Department of Conservation, 1995d.





### 7.3.2 *Waioeka*

The Waioeka sub-region, Figure 7, consists of alluvial flood plains around the Waiotahi, Waiau and Waioeka rivers in the north. These lands have largely been developed for farming, and in recent times for exotic forestry. To the south of the sub-region the land becomes much more mountainous and is predominately covered in heavy forest or scrub. Approximately 75% of the region is managed by the Department of Conservation (Department of Conservation, 1995d).

Various threatened species are found in the Waioeka sub-region including; “North Island Kokako, short tailed bats, North Island brown kiwi, whio (blue duck), long tailed bats, Hochsetter’s frog, North island weka and kaka, and kaeaea (falcon)” (Department of Conservation, 1995d).

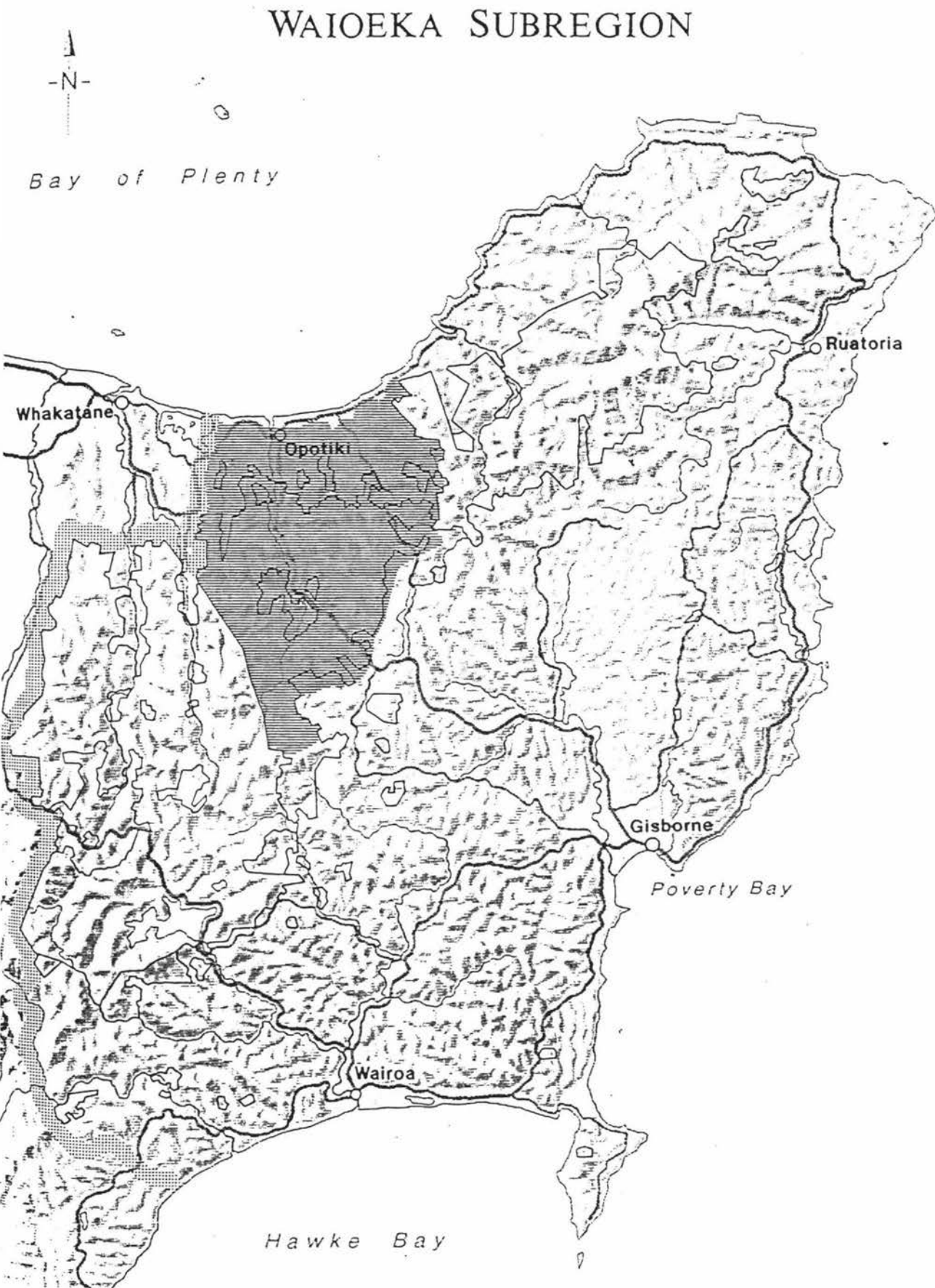
Issues for management in the Waioeka sub-region highlighted by the Department of Conservation include the survey and monitoring of the conservation values present as there is little known at present about the values and threats to them in a number of reserves as well as the impact of increasing visitor numbers (Department of Conservation, 1995d).

Many of the sub-regions protected areas are easily accessible and as a result fire prevention is a key issue for the Department of Conservation, as well as “unauthorised camping and associated littering, cannabis cultivation and timber thefts”. Pest control is also a priority for the Department of Conservation (Department of Conservation, 1995d).

### 7.3.3 *The Principles of the Treaty of Waitangi*

Within the East Coast Conservancy the department of Conservation expresses the Management objective “to give effect to the principle of the Treaty of Waitangi throughout the development of an effective working partnership between Te Papa Atawhai and Tangata Whenua in the protection and conservation of conservation resources” (Department of Conservation, 1995d).

Figure 7. The Waioeka sub-region. Taken from Department of Conservation, 1995d.



To this end the Department of Conservation “will continues to identify and recognize iwi/hapu/whanau with mana whenua and/or mana moana within specific areas of the conservancy, in processing requests for traditional take of taonga from land administered by the Conservancy” (Department of Conservation, 1995d). The Department of Conservation also acknowledges the connections that “iwi and hapu have to certain places and therefore, mana whenua is recognized in terms of customary resources such as kaimona, rongo and whai tapu” (Department of Conservation, 1995d).

The Department of Conservation recognises that upward of 90% of the rural population, and 50% of the urban population in the conservancy are *tangata whenua* (Department of Conservation, 1995d). As a result DoC feels that this “highlights the importance of Te Papa Atawhai’s responsibilities to give effect to the principle of the Treaty in the conservancy” (Department of Conservation, 1995d).

DoC also recognise that Treaty of Waitangi claims are significant issues in the area, and “will provided timely and high quality advice to the Minister and the Crown, and will assist with research on issues related to treaty claims as directed by the minister” (Department of Conservation, 1995d) and “will continue to value open and honest exchange with iwi and hapu as a valuable means of contributing to Treaty Claims resolution” (Department of Conservation, 1995d).

## 7.4 The Whakatohea Settlement

On the 2nd of October 1996 the Government and Whakatohea signed a Draft Deed of Settlement for a full and final settlement of Whakatohea’s claims (Barlow, 1996).

Included in the Draft Deed of Settlement was an apology to Whakatohea from the Crown for any breaches of the Treaty of Waitangi, and an offer of \$40 million in compensation. Conservation matters also make up a significant part of the Draft Deed of Settlement.

After the signing, the Draft Deed of Settlement was passed to the Whakatohea *iwi* for ratification. At a series of *hui* during 1996 and 1997 the Whakatohea *iwi* expressed their concern and frustration at the proposed settlement. This concern centered on the settlement being a full and final one of all of Whakatohea's claims (Taia, *pers comm*; NZPA, 1997d).

It was felt that the Negotiating Committee had been charged solely with negotiating for a settlement to Whakatohea's *raupatu* claim, but began to negotiate a full and final settlement as a result of pressure from the Crown. However the Negotiation Committee was thought to have no mandate to negotiate a full and final settlement. Within Whakatohea it was felt that a full and final settlement was not possible, as while the *raupatu* claim had been intensely investigated, research on a number of other issues had not even begun (Taia, *pers comm*; NZPA, 1997d).

Conservation issues within the Draft Deed of Settlement were also of concern to the Whakatohea *iwi*. It was felt that the Deed of Settlement provided little in terms of conservation matters, that Whakatohea did not already have. There was also general mistrust with the Department of Conservation and its role in any partnership, especially as it was pushing for the establishment of Nga Whenua Rahui covenants but appeared to be unwilling to allow greater Maori access to land managed by DoC (Taia, *pers comm*).

These issues came to a head with at a *hui-a-iwi* held by the Whakatohea Maori Trust Board in following the signing of the Draft Deed of Settlement. After debating the Settlement package it was then voted to reject the settlement. The Whakatohea Maori Trust Board then followed this *hui* with a postal ballot on whether or not to accept the Settlement. The Draft Deed was once again rejected. △ △ △ △ △ △ △ △ △

However the Whakatohea negotiating Committee disputes that the Settlement has been rejected and claims that the Whakatohea Maori Trust Board has no role in determining if the Settlement should be accepted or not. As a result the Negotiating Committee does not accept the result of the postal ballot or the *hui-a-iwi* (NZPA, 1997d).

The controversy surrounding the Whakatohea settlement looks set to continue, with even some of the Crown negotiators conceding that the Draft Deed is likely to be rejected.

## 7.5 Conservation Matters

“Conservation Matters” are addressed under Section 10 of the Draft Deed of Settlement. No areas of the conservation estate are returned to Whakatohea ownership, instead issues to do with the management of the conservation estate are addressed.

As part of the Whakatohea Settlement the Crown promises to “initiate discussions with Whakatohea, and other relevant iwi whose rohe extends in the area of the East Coast Conservation Board, on a process for providing dedicated iwi representation on that Board” (Deed of Settlement, 1996).

Within the Draft Deed of Settlement the Crown also agrees to, “through the Department of Conservation, initiate discussions with Whakatohea leading to Protocols for Whakatohea to access kiekie, totara (in accordance with any statutory requirements), and nga rongā Maori (to be specified in the Settlement Legislation or Protocols) for cultural, traditional or medicinal purposes on land administered by the Department of Conservation within the Whakatohea Claim area” (Deed of Settlement, 1996), and to “initiate discussions with Whakatohea leading to a Protocol defining the respective roles of Whakatohea and the Department of Conservation in the disposal of skeletal remains of whales within the Whakatohea Claim Area” (Deed of Settlement, 1996).

As a part of this process the Crown also agrees to acknowledge “that whalebone within the Whakatohea Claim area is a traditional taonga of Whakatohea” (Deed of Settlement, 1996) and the “significance to Whakatohea of kiekie, totara, and nga rongā Maori (to be specified in the legislation) within the Whakatohea Claim Area” (Deed of Settlement, 1996).

The Draft Deed of Settlement also allows for Whakatohea to “nominate identified sites of special significance that are within the Whakatohea Claim Area and that are within land administered by the Department of Conservation and the Department of Conservation will enter into discussions with Whakatohea with a view to providing special recognition for those site” (Deed of Settlement, 1996). This recognition was to be by “provision in the Settlement legislation establishing Topuni Special Area or Reserves for not more that 3 identified sites” (Deed of Settlement, 1996). For not more than 6 identified sites recognition was to be provided by Statutory Acknowledgement in the settlement legislation or by Deeds of Recognition (Deed of Settlement, 1996).

Whakatohea were also able to “notify the Crown of their desire for a Deed of Recognition in respect of those parts of not more than 6 River Beds in the Whakatohea Claim Area that are owned by the Crown” (Deed of Settlement, 1996).

Topuni Special Areas or Reserves are defined as sites “which;

- (a) the Crown acknowledges the mana and tangata whenua status of Whakatohea in relation to the site, and its cultural, spiritual, historic or traditional values in relation to Whakatohea, as identified on the basis of Whakatohea’s advice;
- (b) the Department of Conservation and Whakatohea have agreed on those activities, uses and management practices which would diminish or harm those values;
- (c) the Department of Conservation will acknowledge the values of the site referred to in paragraph (a) of this definition in the management of the area.”  
(Deed of Settlement, 1996)

Statutory Acknowledgement was defined in the Draft Deed as “legislation that;

- (a) describes the essence of the relationship of Whakatohea to the site; and



- (b) ensures that Whakatohea have standing under the Resource Management Act 1991 in respect of any applications that relate to the site (including applications made by the Crown); and
- (c) provides that Whakatohea is a person “directly affected” for the purposes of sections 14 and 20 of the Historic Places Act 1993 in respect of that site” (Deed of Settlement, 1996).

Deeds of Recognition are deeds “entered into between the Crown and Whakatohea that includes provision to the following effect;

- (a) details of the history of the land or River Bed to which the deed relates, Whakatohea’s grievance or claim against the Crown (if any) in respect of the land of River Bed and the resolution of any such grievance of claim;
- (b) Crown recognition of Whakatohea’s mana and tangata whenua status;
- (c) Whakatohea’s role in respect of the management of those parts of the land or River Bed that are administered by the Department of Conservation or (to the extent that the Crown so agrees) by another Government Department, which role will be established in accordance with the principles of the Treaty of Waitangi” (Deed of Settlement, 1996).

As part of the Settlement the Crown also promises to “initiate discussions between representatives of the Department of Conservation, the Ministry for the Environment, Whakatohea, other relevant iwi, and the Bay of Plenty Regional Council on the role of the iwi in the management of the Ohiwa Harbour” (Deed of Settlement, 1996). Ohiwa Harbour is important to a number of *iwi* in the region both as a valuable resource and as a *taonga*, and is the subject of a number of Treaty of Waitangi Claims.

The Draft Deed of Settlement also required that a process of consultation take place “with other Maori in respect of those Protocols, legislation, and Deeds of Recognition which relate to the parts of the Whakatohea Claim Area that are subject to



Overlapping Claims” (Deed of Settlement, 1996).

## 8 Case Study 3: The Ngai Tahu Claim

### 8.1 Introduction

On the 23 of September 1997 the Crown presented Ngai Tahu with its offer for the settlement of Ngai Tahu's 150-year-old land claim. This \$170 million settlement package included cash, land, and significant concessions in the management of the conservation estate (Bell, 1997; Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1997).

The Ngai Tahu land claim is the largest Treaty of Waitangi land claim, and affects the more of the conservation estate than any other claim. Ngai Tahu's grievances, and the resulting settlement, include most areas of the South Island and have implications for every South Island Conservancy, as well as for conservation management at a national level. The negotiation process for the settlement of this claim also became the focus mistrust by various conservation organisations at the Crown's settlement policies in relation to the conservation estate and generated a great deal on controversy. For these reasons the Ngai Tahu claim and settlement are extremely important as a case study.

This chapter discusses the background behind the Ngai Tahu claim, and the resulting settlement. This is followed by a summary of the Ngai Tahu Settlement and a discussion of the various redress instruments that have implications for the conservation estate and other environmental issues.

### 8.2 Background to the Claim

Ngai Tahu's land claim is the result of the Crown's land purchases throughout the South Island from 1844 to 1864, and the Crown's actions following these purchases (Tau and Te Runanga o Ngai Tahu, 1987; Waitangi Tribunal, 1991). Ngai Tahu's claim is centred on the principle of the "nine tall trees" (Goodall, 1991). The "nine

tall trees” represent the nine major issues under which Ngai Tahu allege the Crown was in breach of the Treaty of Waitangi. These are;

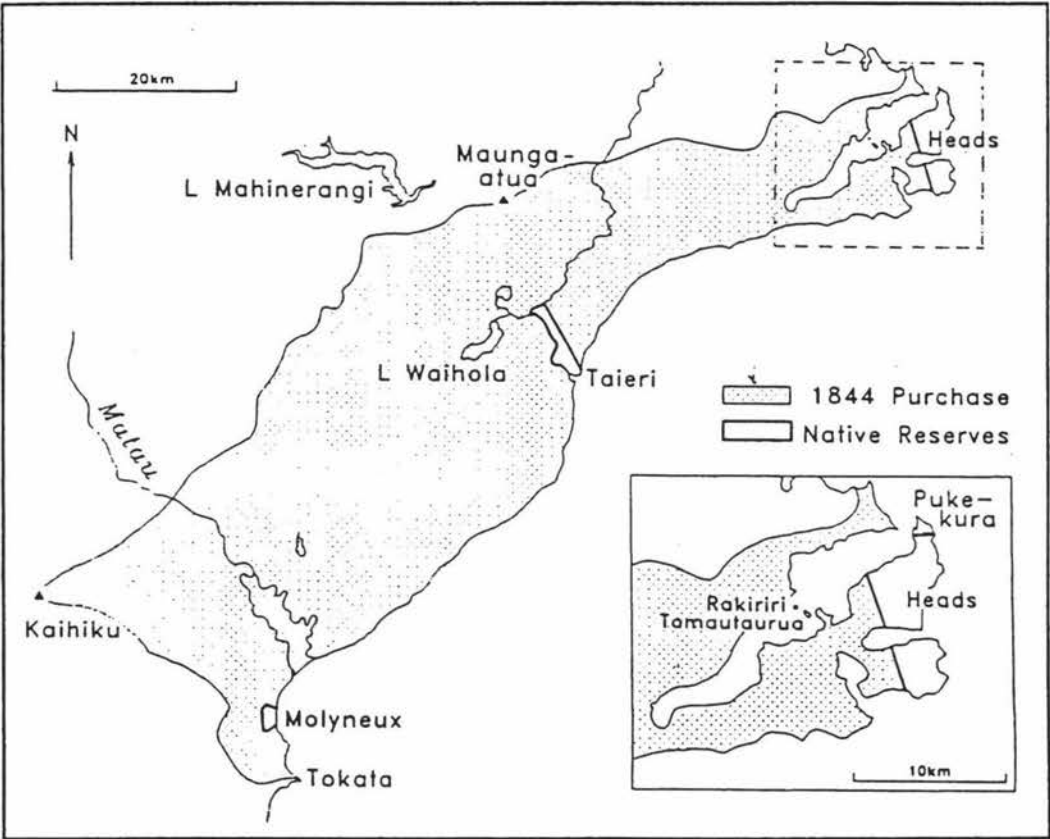
- The Otakou purchase;
- Kemps purchase;
- Banks peninsula purchases;
- The Murihiku Purchase;
- The North Canterbury Purchase;
- The Kaikoura Purchase;
- The Arahura Purchase;
- The Rakiura Purchase, and;
- *Mahinga Kai* issues; (Waitangi Tribunal, 1991)

### *8.2.1 The Otakou Purchase*

The first major land purchase from Ngai Tahu was by the Otakou (Otago) Purchase by the New Zealand Company on the 31 July 1844 (Evison, 1993; Waitangi Tribunal, 1991). After several weeks of discussions with Ngai Tahu the New Zealand Company purchased an estimated 534,000 acres of land from the Otakou branch of Ngai Tahu for 2400 pounds, with three pieces of land totalling 9,600 acres being excluded from the sale as requested by Ngai Tahu (Figure 8). Governor Fitz-Roy had waved the Crown’s right to pre-emption, allowing the New Zealand Company to purchase directly from Ngai Tahu. Fitz-Roy was also to later wave pre-emption more generally, allowing settlers to directly purchase from Maori (Waitangi Tribunal, 1991).

Previous purchases in other parts of the country by the New Zealand Company had employed a “tenths” scheme to ensure a low purchase price. This scheme involved the New Zealand Company paying very little initially for a piece of land, then once the land was surveyed it would be allocated to investors by ballot with every 10th or 11th section going to Maori. The New Zealand Company would then hold the title of the sections allocated to Maori in trust (Waitangi Tribunal, 1991).

Figure 8. The Otakou purchase showing the reserves at the Otakou Heads, Taieri, and Molyneux. Taken from Waitangi Tribunal, 1991



It was thought that the increasing value of this land would offset the small initial purchase price and benefit Maori in the long term. However by the time of the Otakou purchase in 1844 this scheme had run into a number of problems, including confusion over what was included in purchases, and a reluctance by Maori to move from their established settlements to randomly allocated blocks (Waitangi Tribunal, 1991).

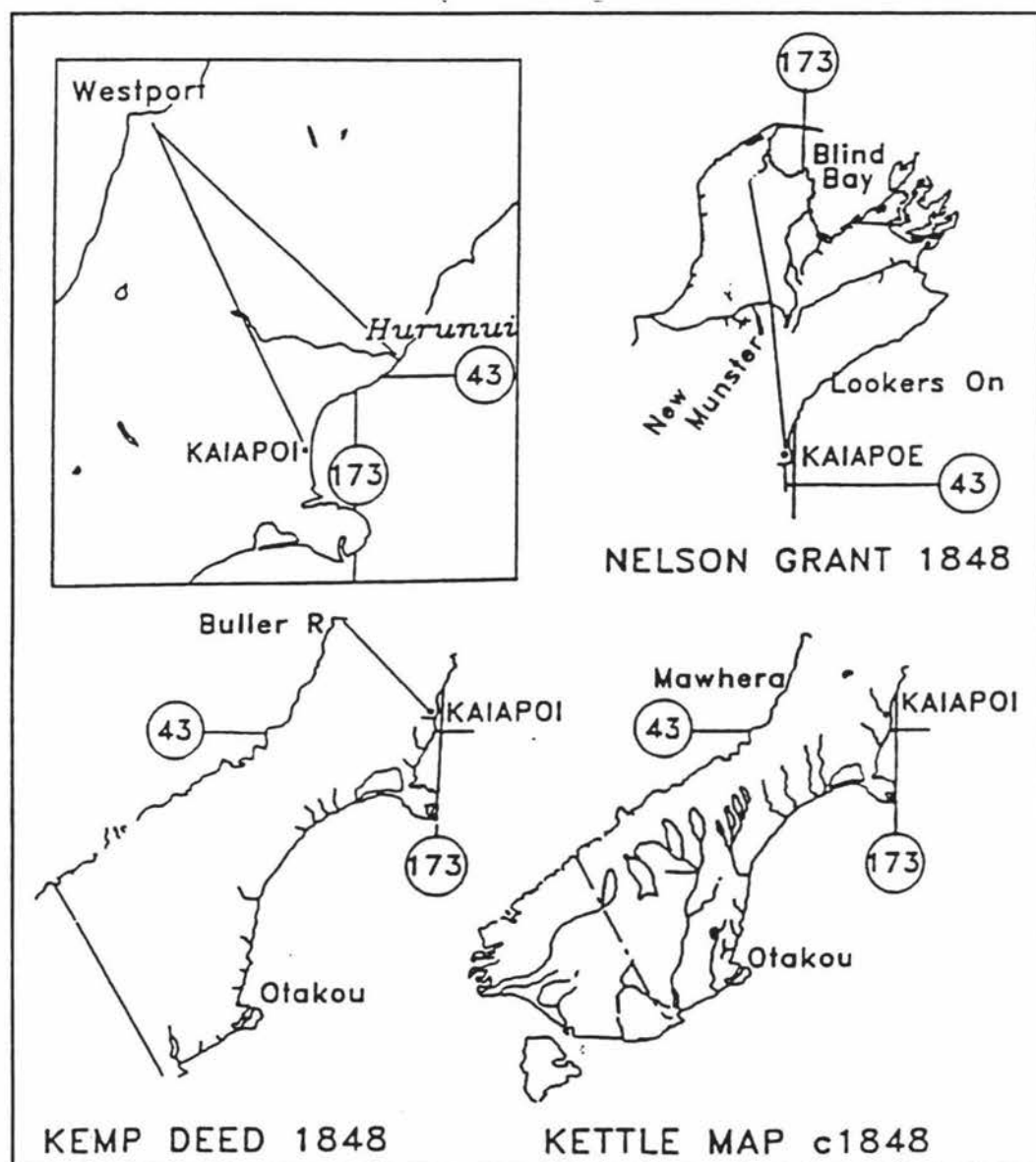
When George Grey became Governor in 1845, the Crown's right of pre-emption in any land sales was immediately re-imposed. Grey then granted the whole of the Otakou purchase to the New Zealand Company, with the sole reserves for Ngai Tahu being the three blocks of land that had been excluded from the sale (Waitangi Tribunal, 1991).

However Ngai Tahu alleged that the Otakou purchase was subject to the New Zealand Company's "tenths" scheme and therefore claimed a right to 1/10 of the Otakou purchase, in addition to the three blocks set aside as reserves for Ngai Tahu (Tau and Te Runanga o Ngai Tahu, 1987; Waitangi Tribunal, 1991).

### **8.2.2 *Kemps purchase***

In 1847 Governor Grey purchased the Wairau block (Marlborough) from the Te Rauparaha led Ngati Toa *iwi* (Evison, 1993; Waitangi Tribunal, 1991). The southern boundary of this block was set as Kaiapoi. However both Ngai Tahu and Ngati Toa claimed ownership to this area, and, in the past, it had been the scene of violent clashes between Ngai Tahu and Ngati Toa. To add to the confusion Grey believed that Kaiapoi was on the 43rd parallel, or on the banks of the Hurunui River, which was some 40 miles north of its actual location, as shown in Figure 9 (Waitangi Tribunal, 1991).

Figure 9. Comparing the location of Kaiapoi in relation to the 43<sup>rd</sup> parallel showing the common but erroneous belief that Kaiapoi was located above the 43<sup>rd</sup> parallel, rather than further south at the mouth of the Rakahuri (Ashley) River. Taken from Waitangi Tribunal, 1991.



Once his negotiations with Ngati Toa had been completed Grey began negotiations for the purchase of the remaining land between the Wairau and the Otakou purchases from Ngai Tahu (Evison, 1993; Waitangi Tribunal, 1991). In February of 1848 Grey met with Ngai Tahu *rangitira* and gained their preliminary agreement to part with land between the Wairau and Otakou purchases, extending back to the central range of mountains, in return for reserves for Ngai Tahu's present and reasonable future needs. Grey then returned to Auckland and Henry Kemp was dispatched to complete the purchase (Evison, 1993; Waitangi Tribunal, 1991).

Kemp's instructions included orders to survey any reserves for Ngai Tahu before the deed was signed. This was not done, and the deed of purchase was signed on the 12 June 1848 with promises from Kemp that Ngai Tahu would retain substantial reserves of their villages, cultivations and other lands (Waitangi Tribunal, 1991).

Kemp departed soon after the sale had been completed and the implementation of the terms of sale was left to Walter Mantell, who had been appointed Crown Commissioner. Mantell was not present at the signing of the deed and insisted on a narrow definition of the terms of purchase (Waitangi Tribunal, 1991). This included, contrary to Kemp's promises, the reduction off reserves, leaving Ngai Tahu with 6359 acres out of the 20 million sold, and a refusal to recognise rights to *mahinga kai*. As a result Ngai Tahu claimed that Mantell had allocated insufficient reserves for their present and future needs, as had been requested, and that their *mahinga kai* rights were not protected (Waitangi Tribunal, 1991).

The northern boundary of the purchase was also strongly disputed by Ngai Tahu. It was felt that in setting the southern boundary of the Wairau purchase at Kaiapoi this effectively granted Ngati Toa rights as far down the South Island as Ngai Tahu's *pa* at Kaiapoi, and that this exerted undue pressure on them to sell Kems Block in order to assert their rights to the area (Waitangi Tribunal, 1991).

Also in dispute was the western boundary of Kems purchase. Ngai Tahu felt that the sale extended only as far as the foothills of the Southern Alps, not across to the West Coast. However the understanding of the Crown at the time was that they had



purchased the rights to all the land between the Wairau and the Otakou purchase, including the Southern Alps and extending to the West Coast. Ngai Tahu also claimed that they had requested as reserve extending from coast to coast as shown in Figure 10 (Waitangi Tribunal, 1991).

The eastern boundary of the Purchase was also in dispute. The Crown assumed that Waihora and Kaitorete Spit were included in Kemps Purchase. Ngai Tahu felt that the boundary of the land that they agreed to sell ran from Taumutu to a spur and Mount Halswell, and then on to Kaiapoi, as shown in Figure 11 (Waitangi Tribunal, 1991).

### **8.2.3 *Banks Peninsula Purchase***

The first purchase of land on Banks Peninsula took place in 1838 when a Frenchman, Jean Francois Langlois, bought land from the local branch of Ngai Tahu. Langlois then sold what were claimed to be the rights to the whole of Banks Peninsula to the Nato-Bordelian Company, the French equivalent of the New Zealand Company. However Ngai Tahu maintained that they never sold the whole of Banks Peninsula, and that at most, only small blocks of land were sold to Langlois (Evison, 1993; Waitangi Tribunal, 1991).

In 1840 British sovereignty was declared in New Zealand and private land purchases from Maori were banned. At this time the French were aware of a number of weaknesses in Langlois deeds and, despite the British Crown's right to pre-emption, the French entered into negotiations with Ngai Tahu aimed at consolidating the Langlois purchases (Waitangi Tribunal, 1991). The first of these deeds was signed on 11 August 1840. As a result of this deed the French claimed title to the whole of Banks Peninsula and much of North Canterbury. Maori on the other hand understood the sale to include a limited number of areas including Port Cooper, Port Levy, Pigeon Bay and Akaroa. These deeds were then back-dated by Langlois to before the ban on private land purchases. Later another back-dated deed was prepared aimed at satisfying the British as to the French right to land on the Peninsula (Waitangi Tribunal, 1991).

Figure 10. The boundary between Banks Peninsula and the Kemp purchase showing areas Ngai Tahu claimed were not sold. Taken from Waitangi Tribunal, 1991.

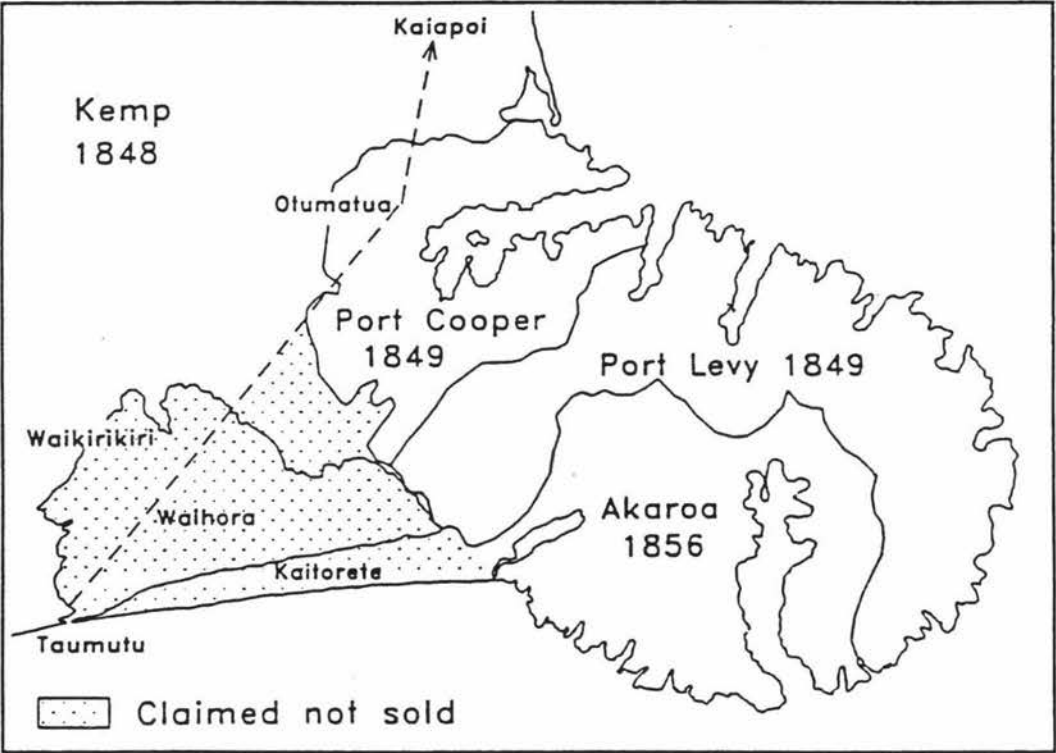
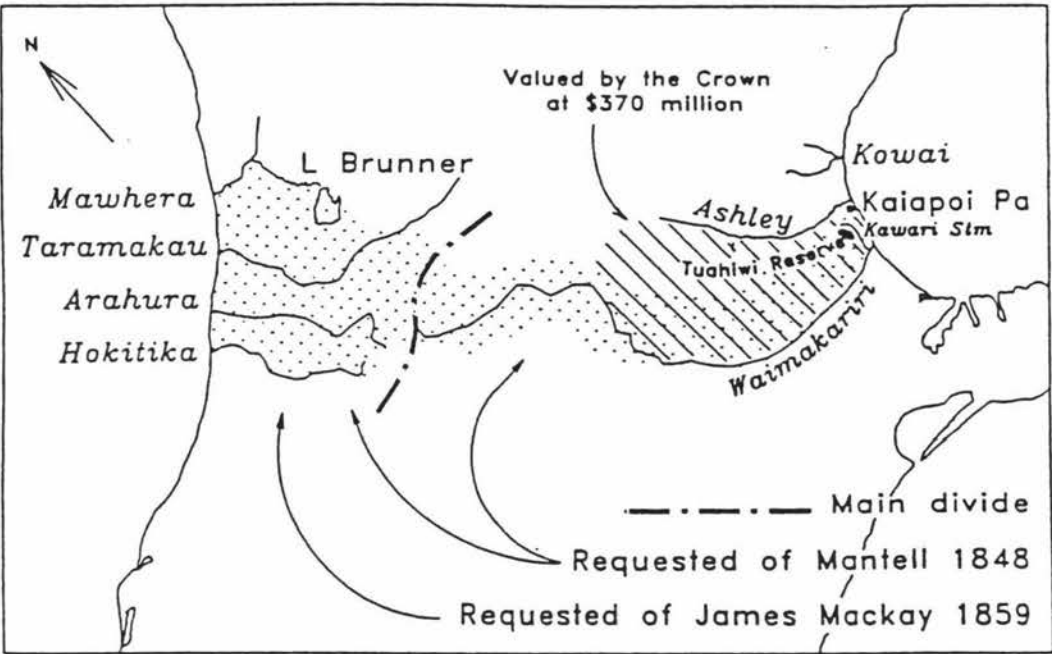


Figure 11. The possible area of the land Ngai Tahu wished to exclude from the Kemp Purchase. Taken from Waitangi Tribunal, 1991



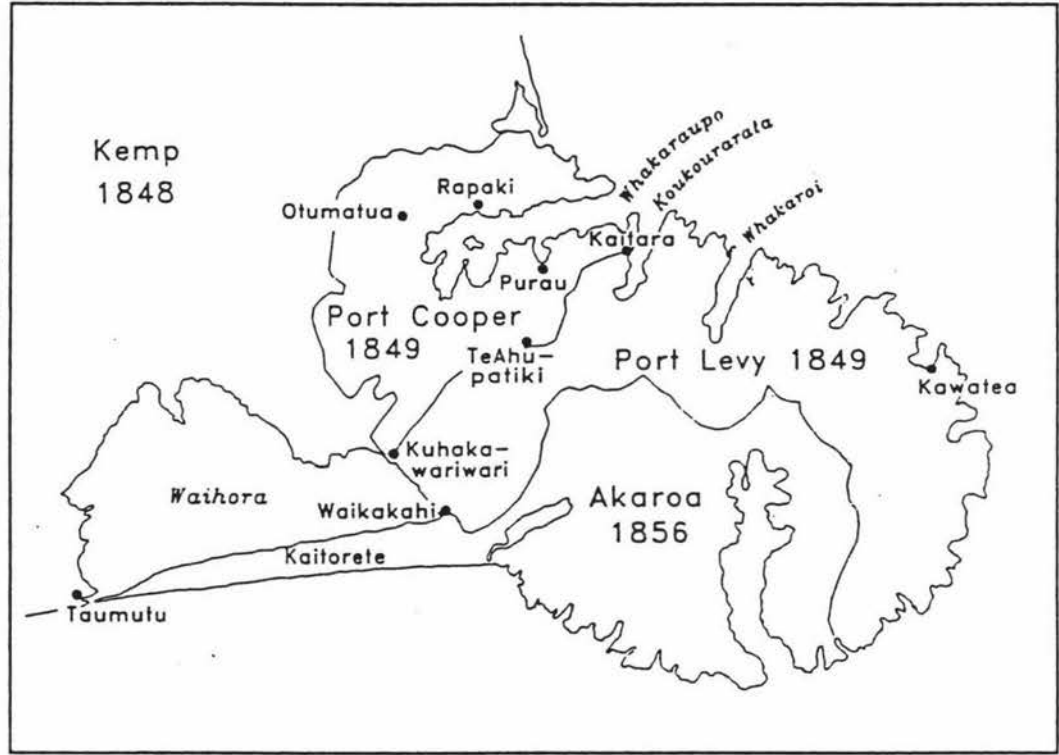
Based on these deeds, and despite a Land Claims Commission finding in 1843 that the only legitimate sale was for small pieces of land of between 400 and 1700 acres at Akaroa, the British Government agreed to award the Nato-Bordelian Company four acres for every pound spent up to the 30,00 acres. The French believed that this was the whole of the peninsula, when in fact the area of Banks Peninsula was actually closer to 250,00 acres (Waitangi Tribunal, 1991). In 1849 the rights of the Nato-Bordelian Company for Banks Peninsula were passed over to the New Zealand Company. Ngai Tahu claimed that the British Government had no right to award title of land on Banks Peninsula to the French, and that no payment had been received for any land, nor had any reserves been set aside (Waitangi Tribunal, 1991).

In April 1849 Governor Grey was informed that there was some confusion as to whether or not Banks Peninsula had been purchased, and Walter Mantell was dispatched to settle Ngai Tahu's claims on Banks Peninsula (Figure 12) (Waitangi Tribunal, 1991).

Mantell's first purchase was 59,000 acres at Port Cooper on 10 August 1849 for 200 pounds. However Ngai Tahu alleged that reserves were surveyed without their consent and Mantell insisted that he had the sole right to determine the reserves and payment (Waitangi Tribunal, 1991).

The next purchase was at Port Levy. Mantel insisted that the government already owned the land at Port Levy and that he was willing to offer 300 pounds and small reserves, despite Ngai Tahu wanting \$1000 and substantial reserves. Some of the Ngai Tahu *rangatira* then left the negotiations and the deed for the sale of 104,00 acres with 1361 acres of reserve, was signed on 25 September 1849 without their consent. Mantell then moved on to Akaroa where he offered Ngai Tahu a deal consisting of 1880 acres of reserves and 150 pounds, which was refused by Ngai Tahu (Waitangi Tribunal, 1991).

Figure 12. The Banks Peninsula purchases. Taken from Waitangi Tribunal, 1991.



In 1850 the Canterbury Association Lands Settlement Act was passed, giving the association the power to sell approximately 2.5 million acres in Canterbury, including the whole of Banks Peninsula. This gave the association power over land, which should have been reserved for Ngai Tahu, as well as land that had not been sold (Waitangi Tribunal, 1991).

#### **8.2.4 *The Murihiku Purchase***

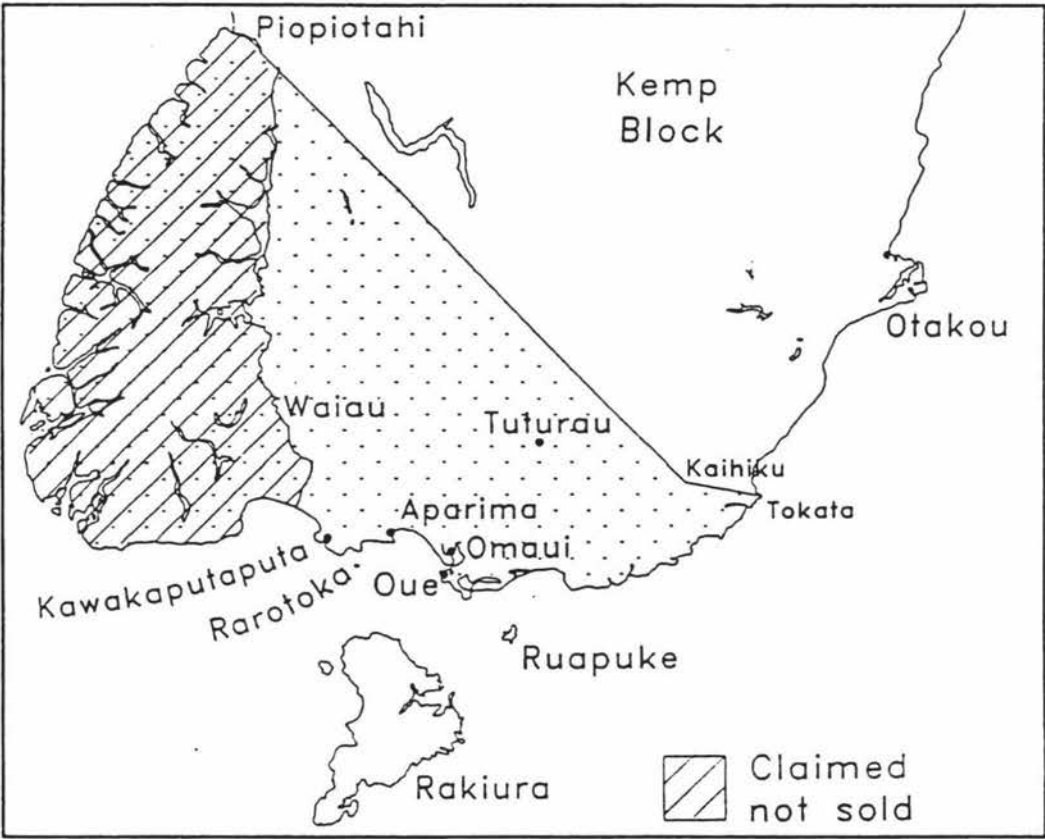
In 1851 Mantell was sent to purchase remaining Ngai Tahu lands in the south. After 10 weeks of discussions in various parts of the country Mantell secured the purchase of 7 million acres for 2600 pounds and 4875 of reserves (Figure 13) (Evison, 1993; Waitangi Tribunal, 1991).

Ngai Tahu claimed that the Crown limited the amount of land that could be set aside as reserves, that land Ngai Tahu requested Mantell reserve for them was not set aside, that land west of the Waiau River, including all of Fiordland was not included in the sale. It was also claimed that not all of the Murihiku Ngai Tahu were included in negotiations, and that the Crown failed to ensure that Ngai Tahu were left with sufficient lands to preserve an economic base (Waitangi Tribunal, 1991).

#### **8.2.5 *The North Canterbury Purchase***

Ngai Tahu's grievances in North Canterbury were based largely around the inclusion of land as far south as Kaiapoi in the Wairau purchase and the placing of the northern boundary of Kemps purchase at Kaiapoi. Ngai Tahu claimed that this essentially dispossessed them of their rights to any lands in North Canterbury and Kaikoura. By the time that Ngai Tahu's concerns were addressed in 1857 much of their land had been given over to the Canterbury Association and was in the possession of European run holders (Waitangi Tribunal, 1991).

Figure 13. The Murihiku Purchase, showing the land west of the Waiau River that Ngai Tahu claimed was not sold. Taken from Waitangi Tribunal, 1991.





### 8.2.6 *The Kaikoura Purchase.*

Ngai Tahu's grievances surrounding this purchase were essentially the same as the North Canterbury Purchase. This included claims that the inclusion of land as far south as Kaiapoi in the Wairau purchase exerted undue pressure on Ngai Tahu to part with the Kaikoura block on unfavourable terms, and that reserves were not allocated as land had already been sold to European runholders (Waitangi Tribunal, 1991).

### 8.2.7 *The Arahura Purchase*

Between 1853 and 1856 a number of iwi including Ngati Toa, Te Atiawa, Ngati Tama, Ngati Rarua and Rangitane sold land on the West Coast of the South Island, and in 1859 Mackay began negotiations with Ngai Tahu for the sale of their land on the West Coast (Evison, 1993; Waitangi Tribunal, 1991).

Ngai Tahu refused an initial offer of 200 pounds and 800 acres of reserves, and finally settled for 300 pounds and 12,000 acres of reserves. The reserves included 2000 acres alongside the Arahura River and the riverbed to its sources. Once surveyed, if the Arahura reserve did not extend to Mount Tuhua, Ngai Tahu were also given the right of pre-emption to allow them to purchase land between the reserve and the mountain. However this land was to be purchased at 10 shillings per acre, 12,000 times the purchase price paid by the Crown (Figure 14) (Waitangi Tribunal, 1991).

Ngai Tahu claimed that previous sales were used to exert pressure on Ngai Tahu to part with land on unfair terms, and that the Crown failed to exclude land requested from the sale. It was also claimed that a purchase price was imposed on land that Ngai Tahu wished to retain, and that the Crown failed to protect Ngai Tahu's rights to *pounamu* (greenstone) (Waitangi Tribunal, 1991).

Figure 14. The Arahura River showing the reserve requested by Ngai Tahu and the lesser area granted as reserves. Taken from Waitangi Tribunal, 1991

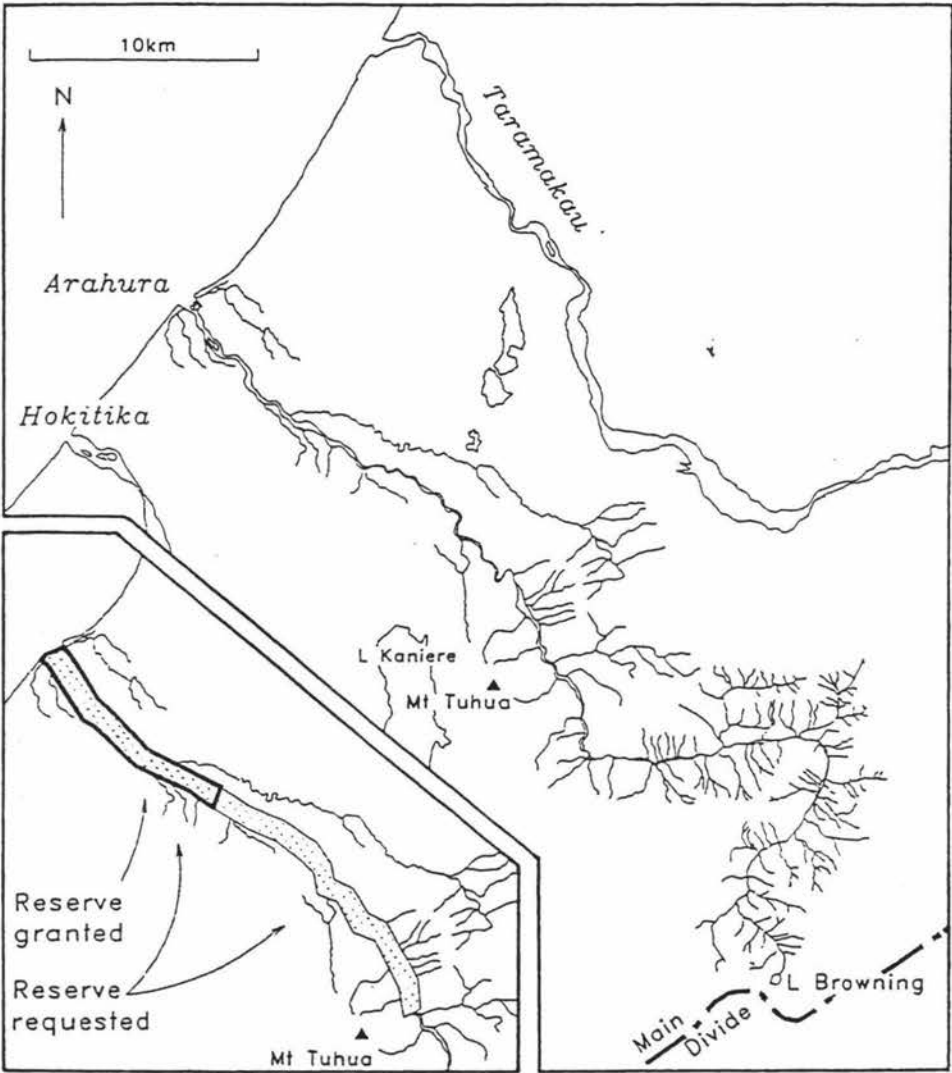
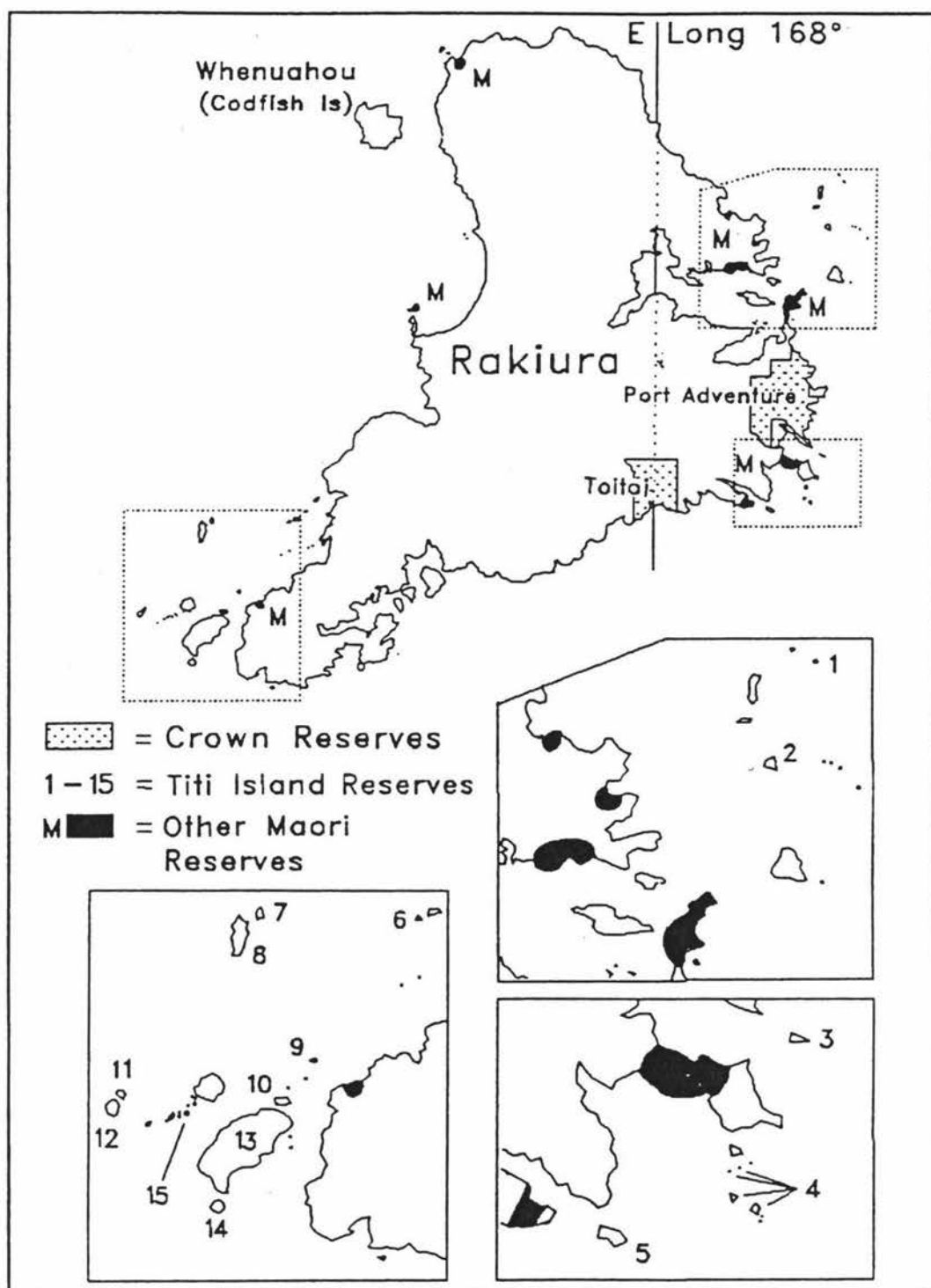


Figure 15. Rakiura (Stewart Island) showing Whenua Hou (Codfish Island), the Titi Islands and Maori Reserves. Taken from Waitangi Tribunal, 1991.



### 8.2.8 *The Rakiura Purchase.*

The last major land purchase by the Crown from Ngai Tahu was that of Rakiura (Stewart Island), by Henry Clarke on 29 May 1864 for 6000 pounds (Evison, 1993; Waitangi Tribunal, 1991). Reserved from the sale were 21 of the Titi islands (or Beneficial Titi Islands), a valuable food source for Ngai Tahu. The remainder of the islands along the coast of Rakiura went to the Crown (as the Crown Titi Islands), as did Whenua Hou (Codfish Island) which was not mentioned specifically in the deed as a reserve. Nine other reserves totalling 935 acres were also excluded, as was land for “half castes” (Figure 16) (Waitangi Tribunal, 1991).

Ngai Tahu claimed that they had been deprived of the full administration of the Titi Islands and that they had requested that Whenua Hou (Codfish Island) be excluded from the sale (Waitangi Tribunal, 1991).

### 8.2.9 *Mahinga Kai*

*Mahinga kai* relates to those places where food was produced, or procured, by Ngai Tahu. Ngai Tahu claimed that they had been dispossessed of *mahinga kai* and that the Crown failed to provide reserves for *mahinga kai*, and that this accentuated the effect of landlessness on Ngai Tahu. It was also claimed that Ngai Tahu have been denied effective participation in the management and conservation of *mahinga kai* resources (Tau and Te Runanga o Ngai Tahu, 1987; Waitangi Tribunal, 1991).

## 8.3 The Waitangi Tribunal

In 1986 Ngai Tahu lodged a claim with the Waitangi Tribunal, with a number of auxiliary claims being lodged later. The Waitangi Tribunal held a series of hearings were held between 1987 and 1989 to investigate the Ngai Tahu claim. These hearings resulted in the publication of a 3-volume report on Ngai Tahu’s land claims in February of 1991, which included a number of findings and recommendations as outlined below.

### 8.3.1 *The Otakou Purchase*

In relation to the Otakou Purchase the Waitangi Tribunal found that the Crown was in breach of the Treaty of Waitangi when it failed to allocate 1/10 of the Otakou purchase to Ngai Tahu. It was found that Governor Fitz-Roy was committed to the 1/10 policy at the time and that insufficient land was reserved for Ngai Tahu (Waitangi Tribunal, 1991).

### 8.3.2 *Kemps purchase*

Mantell's actions in implementing Kemps purchase were also found to be in breach of the Treaty of Waitangi. Among their findings the Waitangi Tribunal ruled that land running from coast to coast should have been reserved for Ngai Tahu to maintain their access to *mahinga kai*, and that failed to "honour the contractual obligations under Kemp's deed to reserve to Ngai Tahu their mahinga kai" (Waitangi Tribunal, 1991).

However while the Tribunal found that the Treaty had been breached in relation to inadequate reserves being put aside for Ngai Tahu and other Crown actions, such as the passing of the Canterbury Association Land Settlement Act 1850, Ngai Tahu's claim that the western boundary of the purchase did not include the Southern Alps was rejected (Waitangi Tribunal, 1991).

### 8.3.3 *Banks Peninsula Purchase*

The Waitangi Tribunal found that a maximum of 1700 acres on Banks Peninsula had been sold to the French, leaving 28,000 acres, which were taken with no compensation to Ngai Tahu (Waitangi Tribunal, 1991).

The Waitangi Tribunal's findings on the Banks Peninsula were also highly critical of Mantell's actions in these negotiations and labelled them a clear breach of Article II of the Treaty of Waitangi. Mantell refused to negotiate the terms of the deed and continued with the purchase when a significant number of Ngai Tahu had withdrawn from negotiations. The Waitangi Tribunal therefore upheld Ngai Tahu's grievances relating to these purchases (Waitangi Tribunal, 1991).

The Waitangi Tribunal also found that the Canterbury Association Lands Settlement Act 1850, which gave the Canterbury Association power over Ngai Tahu land, was again a clear breach of Article II of the Treaty of Waitangi by the Crown (Waitangi Tribunal, 1991).

The reserves that were set aside for Ngai Tahu on Banks Peninsula, 3540 acres out of 230,000 were found to be insufficient for their present and future needs, and the Tribunal stated that “a clear duty now rests on the Crown to repair, so far as may be possible, the grave harm done to Ngai Tahu by the serious and numerous breaches of the Treaty and its principles” (Waitangi Tribunal, 1991).

#### **8.3.4 *The Murihiku Purchase***

The Waitangi Tribunal found that the Crown was in again in breach of the Treaty of Waitangi in relation to the Murihiku purchase. In particular the Crown failed to reserve some lands requested by Ngai Tahu, including land at Aparima, Kawakaputaputa, Waimatuku, Opuaki and Centre Island. The Tribunal also found that the Crown was in breach of Article II of the Treaty of Waitangi when it failed to ensure Ngai Tahu retained an economic base for the future, and sufficient land to preserve reasonable access to *mahinga kai* (Waitangi Tribunal, 1991).

However the Waitangi Tribunal also reported that it was unable to uphold claims that reserves at Omaui and Oue, and reserves on the Waiau and Mataura Rivers were not provided. Nor could the Waitangi Tribunal uphold Ngai Tahu’s claim that land west of the Waiau River, including Fiordland, had been wrongfully included in the sale, or that significant numbers of Murihiku *rangitira* did not consent to the sale (Waitangi Tribunal, 1991).

#### **8.3.5 *The North Canterbury Purchase***

The Waitangi Tribunal had no doubt that “inclusion of Kaiapoi pa in the Wairau purchase and the Crown’s acquiescence in recognition the boundary of Kemps purchase at this point did exert unfair pressure on Ngai Tahu to part with the North

Canterbury block on unfavourable terms, and that they had never been adequately compensated for the sale” (Waitangi Tribunal, 1991).

At the Waitangi Tribunal hearing the Crown did not dispute that it failed to allow Ngai Tahu the reserves that were requested, and this grievance was also upheld by the Waitangi Tribunal as being in violation of Article II of the Treaty of Waitangi (Waitangi Tribunal, 1991).

### **8.3.6 *The Kaikoura Purchase.***

Again the Waitangi Tribunal had no hesitation in upholding Ngai Tahu’s claims that that the inclusion of land as far south as Kaiapoi in the Wairau purchase exerted undue pressure on Ngai Tahu to part with the Kaikoura block on unfavourable terms. The Waitangi Tribunal also found that reserves were not allocated as land had already been sold to European runholders (Waitangi Tribunal, 1991).

### **8.3.7 *The Arahura Purchase***

The Waitangi tribunal was unable to uphold Ngai Tahu’s grievances that previous sales had been used to exert undue pressure on Ngai Tahu. However the Tribunal did find that the price paid was “nominal compared with that paid to other tribes and with the 2600 pounds earlier paid to Ngai Tahu for Murihiku, involving a similar area” (Waitangi Tribunal, 1991) and that the “crowning insult was Mackay’s promise, having purchased the land a penny per 100 acres, to sell back to Ngai Tahu land they had strongly urged to be reserved from the sale, at 10 shillings per acre.” (Waitangi Tribunal, 1991) The Tribunal therefore upheld the grievances that the Crown failed to exclude land from the sale and that a purchase price was place on land to be reserved, and concluded that the Crown failed to act with the degree of good faith required of one Treaty partner to the other (Waitangi Tribunal, 1991).

The Tribunal also found that Ngai Tahu wished to retain possession and control of all *pounamu* in not only the Arahura block but in all other blocks sold. As a result the Crown was found to be in breach of the Treaty principle requiring it to protect Ngai Tahu’s right to retain this *taonga* and further failed to respect the *tino rangatiratanga*



of Ngai Tahu over their *taonga*, contrary to Article II of the Treaty. The Tribunal went on to recommend that all *pounamu* owned by the Crown should be returned to Ngai Tahu (Waitangi Tribunal, 1991).

### 8.3.8 *The Rakiura Purchase.*

The Tribunal found in 1991 that the management of the Titi islands at the time, by the Department of Conservation, with Maori having representation of a committee making recommendations on issues concerning the islands, was a good compromise between Ngai Tahu's access to titi and the conservation of endangered species. The Tribunal also felt that the Crown's issuing of regulations governing the administration of the islands was not in breach of Treaty principles (Waitangi Tribunal, 1991).

The Tribunal also recommended that the vesting of beneficial ownership of the Crown islands in the appropriate Ngai Tahu would do much to recognize Ngai Tahu *rangatiratanga* and reflect the actual situation that at present exists (Waitangi Tribunal, 1991).

In relation to Whenua Hou, the Tribunal ruled that it could not uphold this grievance due to a lack of evidence but recommend that "subject to prior notification, free access should be given to Rakiura Maori, consistent with the security of the wildlife", and supported the involvement of Ngai Tahu in the Management of the island (Waitangi Tribunal, 1991).

### 8.3.9 *Mahinga Kai*

During the Waitangi Tribunal hearings the Crown argued that the term *mahinga kai* related to only cultivation and that Ngai Tahu, and had abandoned or were abandoning traditional resources and were voluntarily moving into a changing society in the 19th Century. The Waitangi Tribunal failed to accept this argument and found that *mahinga kai* had a much broader meaning (Waitangi Tribunal, 1991).

The Tribunal also found that *mahinga kai* should have been protected and that the Crown failed to make specific reserves too preserve and protect *mahinga kai*, and in

particular the food resources of Waihora and eel resources at Wairewa should have been reserved for Ngai Tahu (Waitangi Tribunal, 1991).

The Tribunal also found that there were four areas of action that need to be taken to improve Maori involvement in environmental matters. These were;

- amendment to statutes to ensure that Maori values are made part of the criteria of assessment before the tribunal of authority involved;
- proper and effective consultation with Maori before action is taken by legislation or decision by any tribunal or authority;
- representation of Maori on territorial authorities and national bodies;
- representation of Maori before tribunal and authorities making planning and environmental changes. (Waitangi Tribunal, 1991)

The Tribunal emphasised that the most significant area for change was in the field of consultation with Ngai Tahu over *mahinga kai* resources (Waitangi Tribunal, 1991).

## 8.4 Attempts at Settlement

Almost immediately follow the various purchases Ngai Tahu began to protest the Crown's actions. These concerns resulted in Native Land Court hearings in 1868, in which Ngai Tahu's reserves were increased by 5000 acres and their rights to a small number of fisheries were recognised. This failed to significantly address Ngai Tahu's grievances (Waitangi Tribunal, 1991).

In 1872 the Middle Island Native Affairs Committee of the House of Representatives made a government inquiry into Ngai Tahu's claims. On the recommendations of this committee further inquiries took place in 1879 by Chief Judge Fenton, and in 1879 by the Smith Nairn Royal Commission. More inquiries were to follow, and the Waitangi Tribunal cited "at least 17 inquiries" (Waitangi Tribunal, 1991) into Ngai Tahu's

grievances between 1872 and 1920, and found this to be “a story of seemingly endless delay and procrastination” (Waitangi Tribunal, 1991).

In 1944 the Ngai Tahu Claim Settlement Act was passed, based on the recommendations of the 1920 Native Land Claims commission report, awarding Ngai Tahu 10,000 pounds pre annum for 30 years as a full and final settlement for their grievances. However there was little or no consultation with Ngai Tahu before this act was passed, with the Waitangi Tribunal finding that any consultation with Ngai Tahu took place after the passage of the Act. The Waitangi Tribunal also ruled that the Ngai Tahu Settlement Act 1944 was in no way a full and final settlement of Ngai Tahu’s claims, and did not address issues such as *mahinga kai* (Waitangi Tribunal, 1991).

On the 26 August 1986 Ngai Tahu’s claims were lodged with the Waitangi Tribunal by Henare Rakihia Tau and the Ngai Tahu Maori Trust Board, as the representative of the Ngai Tahu *iwi* (Land Information New Zealand, 1996). A number of amendments were subsequently added to this claim, as were a number of auxiliary claims which dealt with more specific alleged breaches of various agreements with the Crown (Waitangi Tribunal, 1991).

## 8.5 Negotiations for a Full and Final Settlement

Negotiations for the full and final settlement of Ngai Tahu’s claims began in September of 1991 (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1997). The Office of Treaty Settlements represented the Crown as the lead agency in the negotiations. Other Crown agencies were also involved in the negotiation process. These included Treasury, the Crown Law Office, and the Department of Conservation. Other agencies such as the Ministry for the Environment and the Ministry of Fisheries also participated in the negotiations. Cabinet also closely oversaw the negotiation process (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1997).

A negotiation team headed by Sir Tipene O'Regan represented Ngai Tahu. This team was comprised of senior Ngai Tahu leaders, staff from Te Runanga o Ngai Tahu and a number of financial and legal advisors (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1997).

The negotiation process continued until 1994 when negotiations stalled until 1996. During 1996 the Te Runanga o Ngai Tahu Act 1996 was passed, recognising Te Runanga o Ngai Tahu as the representative of Ngai Tahu. Then in June of 1996 a interim settlement was signed as an act of good faith, followed in October by the signing of a Heads of Agreement between the Crown and Ngai Tahu. The Crown Settlement Offer to Ngai Tahu was then presented on 23 September 1997 (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1997).

The Crown's Settlement offer must now required to be ratified by the Ngai Tahu *iwi*, and it is expected that this will happen with few problems. Once Ngai Tahu have accepted the offer then it is signed by both parties as a full and final settlement of Ngai Tahu's claims and various pieces of legislation are introduced to Parliament to enact the settlement (Office of the Minister in Charge of Treaty of Waitangi Negotiations, 1997).

The negotiation process for the settlement of the Ngai Tahu claims resulted in a great deal of controversy surrounded the role of the conservation estate in any settlement.

Concern was expressed by a number of organisations such as Forest and Bird, and the Federated Mountain Clubs that the ownership of areas of high conservation value, including sections of a number of National Parks, would be transferred to Ngai Tahu as a part of a settlement (Ansley, 1997; Dunbar, 1996; Mackenzie, 1996; NZPA, 1996c; Williams, 1996). These groups also feared that a settlement would result in restricted public access to areas such as Mount Cook (Williams, 1996).

These fears were heightened by the confidential nature of much of the Ngai Tahu negotiations (Ansley, 1997), and assurances within the Crown Proposals for the Settlement of Treaty of Waitangi Claims and statements by Doug Graham, the

Minister in Charge of Treaty of Waitangi Negotiations, (NZPA, 1996b; Williams, 1996), failed to address these concerns (Ansley, 1997; Barr, 1995).

However the release of the Crown's settlement offer to Ngai Tahu in September 1997 failed to justify these concerns.

## 8.6 The Ngai Tahu Settlement

The first part of the Crown's settlement offer to Ngai Tahu is an apology by the Crown for its past actions. This includes an acknowledgement that the Crown "acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealing with Ngai Tahu in the purchases of Ngai Tahu land" (Deed of Settlement, 1997). The Crown also acknowledged that "it failed in most material respects to honour its obligations to Ngai Tahu as its Treaty partner" (Deed of Settlement, 1997).

The remainder of the Crown's settlement offer aims to "atone for these acknowledged injustices" (Deed of Settlement, 1997) and to "begin the process of healing and to enter a new age of co-operation with Ngai Tahu" (Deed of Settlement, 1997) through;

- Redressing the economic loss suffered by Ngai Tahu
- Completing the Crown's commitments relating to the various purchases
- Restoring Ngai Tahu's *mahinga kai* rights
- Recognising the role of Ngai Tahu within the claim area
- Recognising Ngai Tahu's rights to *pounamu*

These aims, and the redress instruments employed in the settlement, have a number of implications for the conservation estate.

### 8.6.1 Redressing Ngai Tahu's Economic Loss

The Crown's settlement offer includes a commitment to pay \$170 million, plus interest incurred since the signing of the Heads of Agreement in October 1996, to

Ngai Tahu. This money, plus \$80 million of Ngai Tahu's own money, can be used to purchase land and other Crown assets from an agreed list (Deed of Settlement, 1997).

Included in this list Crown assets are three high country stations, the Routeburn, Elfin Bay, and Greenstone. These stations include areas of high conservation values as well as areas that are highly prized by the public for recreational purposes (Deed of Settlement, 1997).

Ngai Tahu will gift back to the Crown title to the peaks and surrounding areas included within these stations. Ngai Tahu will also lease back to the Crown, at a peppercorn rental, any areas of high conservation value within the station. This results in an increase of approximately 35,000 hectares to the area managed by the Department of Conservation. Public access to these areas is also to be guaranteed within the Settlement legislation (Deed of Settlement, 1997).

#### ***8.6.2 Completing the Crown's Commitments***

The Crown's settlement offer also aims to complete commitments made by the crown to Ngai Tahu late last century and early this century. These commitments include the allocation of land under the South Island Landless Natives Act 1906 to Ngai Tahu which was never transferred, and land in each of the purchases that the Crown had agreed to keep in Ngai Tahu ownership but had not (Deed of Settlement, 1997).

The redress of these concerns includes the return of a number of small sections throughout the south island, and includes some areas managed by the department of conservation. Land currently managed by the Department of Conservation will be returned with covenants and/or other forms of agreement with Ngai Tahu for continued protection of any conservation values (Deed of Settlement, 1997).

#### ***8.6.3 Mahinga Kai Rights***

A number of redress instruments are used within the Crown's settlement offer aimed at addressing Ngai Tahu's claims concerning their mahinga kai rights. These redress instruments include the creation of 72 *nohoanga* sites. These sites are to be "created

for the purpose of permitting members of Ngai Tahu Whanui to temporarily occupy land close to the Waterways on a non-commercial basis, so as to have access to the Waterways for lawful fishing and gathering of other natural resources" (Deed of Settlement, 1997). Ngai Tahu will have the right to occupy the various *nohoanga* sites for up to 210 days a year.

The 72 *nohoanga* entitlements are to be approximately 1 hectare in size, and on Crown owned land, except "land in a national park, a marginal strip, a nature reserve, an esplanade reserve, a scientific reserve or that part of a road reserve within 20 meters of a Waterway". The *nohoanga* entitlements shall not "unreasonably exclude public access to any Waterway", and the sites must be left "in substantially the same condition". Any failure of Ngai Tahu to comply with the terms of the *nohoanga* entitlements may result in the entitlement being revoked (Deed of Settlement, 1997).

Six Fenton Reserves are also to be established on 100-meter strips of land adjacent to rivers or lakes in Canterbury to allow Ngai Tahu access to traditional resources. These reserves are a continuation of reserves which were created in 1868 by the Maori Land Court for the same purpose but have become valueless as a result of pollution or drainage and watercourse changes. These reserves give the Ngai Tahu descendants of the owners of the original reserves a temporary right to use a specific portion of riverbed near the reserve for non-commercial customary fishing. This entitlement is valid for 210 days a year (Deed of Settlement, 1997).

The settlement legislation to be passed as a result of the settlement of Ngai Tahu's claims will also "contain an acknowledgement by the Crown of the cultural, spiritual historic and/or traditional association of Ngai Tahu with each of the taonga species" (Deed of Settlement, 1997). A Ngai Tahu advisory committee will be established to "provide advice to DOC on taonga species", and the Crown is required to have "particular regard for the views of Ngai Tahu in relation to these species when making policy decisions" (Deed of Settlement, 1997).

Included in the *taonga* species are a number of fresh water fish, and specific protocols will be established for the relationship between DoC and Ngai Tahu with regard to these. Customary fisheries regulation, which are to be developed by a joint



“DoC/Ngai Tahu working group”, are to be introduced in the South Island to replace sections of the Conservation Act which allows for the customary taking of fish. This change is aimed at clarifying what is permitted with regard to customary takes (Deed of Settlement, 1997).

The ownership of the Crown Titi Islands is to be also to be transferred to Ngai Tahu and will have the status of conservation area removed. An Administering Body, consisting of up to nine Rakiura Maori selected by Rakiura Maori and one Rakiura Maori selected by Te Runanga will be established to control and manage the Crown and Titi Islands as if they were a nature reserve (Deed of Settlement, 1997).

The administration of the Titi Islands will be required to conform to a number of terms and conditions contained within the Settlement Offer. These conditions include the preparation of a management plan to be approved by the Minister of Conservation. The Administering Body and the Minister of Conservation are also required to agree on a work programme for each year. This work programme may include the protection, maintenance, restoration or enhancement of the islands, establishing, re-establishing, maintaining or managing threatened species or the “monitoring and assessing of the titi population and ensuring the continuing sustainable harvest of titi. Any work programme will also be subject to any relevant management plan or any relevant species recovery plans (Deed of Settlement, 1997).

#### *8.6.4 The Role of Ngai Tahu Within the Claim Area*

The Crown’s offer of settlement also contains provisions that recognise and protect Ngai Tahu’s historical, cultural and spiritual links to specific places and sites owned by the Crown throughout the Ngai Tahu district. The intention of these provisions is to allow the Crown and Ngai Tahu to jointly protect and enhance conservation values in the Ngai Tahu tribal area (Deed of Settlement, 1997).

These provisions include the vesting of the title to Aoraki/Mount Cook to Ngai Tahu. Ngai Tahu by the resulting settlement legislation. Within the same piece of legislation Ngai Tahu will then gift Aoraki/Mount Cook back to the Crown. The name

Mount Cook will be officially changed to Aoraki/Mount Cook and Mount Cook National Park will become Aoraki National Park (Deed of Settlement, 1997).

The settlement will also see a Statutory Acknowledgement, a Deed of Recognition, and Topuni Reserve status being created for Aoraki/Mount Cook. Ngai Tahu will also become Statutory Advisors to the Minister of Conservation in relation to Aoraki/Mount Cook (Deed of Settlement, 1997).

A number of other areas are also to be covered by Statutory Acknowledgements or Deeds of as a result of the settlement. These include Acknowledgements for 54 lakes, rivers and wetlands as well as 10 specific site and 5 coastal areas. The importance of a number of plant and animal species to Ngai Tahu is also to be expressed through Statutory Acknowledgements (Deed of Settlement, 1997).

The purpose of these Statutory Acknowledgements is to “enable Te Runanga and any member of Ngai Tahu Whanui to cite Statutory Acknowledgements as evidence of the association of Ngai Tahu to the Statutory Areas” (Deed of Settlement, 1997). The practical application and the rights these acknowledgements convey are as yet unknown by both the Department of Conservation and the office of Treaty Settlements.

As well as Aoraki/Mount Cook, the Crown’s settlement offer also includes a number of other areas where Ngai Tahu will have the right to appoint a Statutory Advisor (Deed of Settlement, 1997).

A Statutory Advisor will “provide advice directly to the Minister of Conservation in respect of any site when the minister is considering any Draft Conservation Management Plan or Conservation Management Strategy under the Conservation Act 1987 or any National Park Management Plan under the National Parks Act 1980, and when the Minister is making written recommendations to the New Zealand Conservation Authority in respect of that Site” (Deed of Settlement, 1997). As a result the Minister of Conservation “must have particular regard to the advice given by Te Runanga” (Deed of Settlement, 1997).

The Crown's settlement offer also provides for the creation of 14 *Topuni* Reserves. *Topuni* Reserve status to be applied to various areas of the conservation estate. This status will overlay the current reserve status of the areas affected.

The Deed of Settlement defines the term *topuni* as meaning "both a type of Dogskin cloak and the associated custom of placing such a cloak over an object of an individual so as to confer the rangatiratanga of the cloak's owner upon those things" (Deed of Settlement, 1997). *Topuni* is also taken to mean "that of confirming and placing an 'overlay' of Ngai Tahu values upon a piece of land owned and/or managed by the Crown while not overriding the powers and obligations of the Crown to manage that land for the purpose for which it is held from time to time" (Deed of Settlement, 1997).

The *Topuni* reserves status will require that the Crown and Ngai Tahu must agree "upon specific principles which are directed at the Minister of Conservation avoiding harm to or the diminishing of the Ngai Tahu values related to an area in which a *Topuni* is located" (Deed of Settlement, 1997). The New Zealand conservation Authority and any conservation board is required to "have particular regard" to these principles and the Ngai Tahu values of the *Topuni* when "approving or to otherwise considering any general policy, conservation management strategy, conservation management plan or national park management plan in respect of a *topuni*" (Deed of Settlement, 1997).

The settlement of Ngai Tahu's claim will also provide for the appointment of a Ngai Tahu representative to a number of Statutory Boards. These appointments include;

- A Ngai Tahu representative on The New Zealand Conservation Authority,
- Two Ngai Tahu representatives on each of the Conservation Boards wholly within the Ngai Tahu claim area. These are the North Canterbury Conservation Board, West Coast Conservation Board, Aoraki Conservation Board, Otago conservation Board and Southland Conservation Board,

- A Ngai Tahu representative on each of the Conservation Boards partly within the Ngai Tahu claim area. These are the Nelson Conservation Board and The Marlborough Conservation Board,
- At least one Ngai Tahu representative appointed to the Guardians of Lakes Manapouri, Monowai, Te Anau, and Wanaka,
- A representative on the New Zealand Geographical Board. (Deed of Settlement, 1997).

In addition to these appointments the Crown will also recommend to the New Zealand Fish and Game Councils that a Ngai Tahu representative be added to each of the councils within the Ngai Tahu claim area. The Deed of Settlement also aim to make Te Runanga a Statutory Advisor to the each of the Fish and Game Councils within the Ngai Tahu claim area and provides that each council must have “particular regard to the advice given” (Deed of Settlement, 1997) by Ngai Tahu.

The Crown’s settlement offer also includes 87 place names which are to have an official Maori name added to them. With the exception of Murdering Beach in Otago, which will become Whareakeake, and Mount Cook, which will become Aoraki/Mount Cook, the Maori name will follow the English name (Deed of Settlement, 1997).

As a result of the settlement Ngai Tahu will also have the right to erect a *pou whenua*, or boundary marker, within the Kahurangi National Park.

The title to the Beds of Lakes Ellesmere/Te Waihora, Coopers lagoon, Tutaepatu Lagoon and Lake Mahinapua will also be transferred Ngai Tahu as a result of the settlement of Ngai Tahu’s claims.

Small area of land will also be transferred to Ngai Tahu. Various agreements and covenants will be placed on these areas to ensure the continued protection of the values they contain.

Ngai Tahu are also to receive title to Rarotoka (Centre Island) and Whenua Hou (Codfish Island). Rarotoka will be transferred to Ngai Tahu as Maori freehold land and will be given “fisheries management rights over the Fisheries Area” surrounding the island.

The ownership of Whenua Hou is also to be vested to Ngai Tahu. Whenua Hou will continue to be managed as a nature reserve, with the name of the reserve being changed from Codfish Island Nature Reserve to Whenua Hou Nature Reserve. A Committee will be established consisting of “one representative of each of the four Southland Papatipu Runanga” and “four members of the Southland Conservation Board” to “advise the Southland Conservation Board, the New Zealand Conservation Authority and the Minister on all matters relating to the control and management of Whenua Hou”. A Deed of Recognition and a Statutory Acknowledgement are also to be made in relation to Whenua Hou.

Protocols are also to be established outlining “how the Department of Conservation will exercise its functions, powers and duties in relation to specified matters within the Ngai Tahu Claim Area, and how the Department of Conservation will, on a continuing basis, interact with Te Runanga and provide for Te Runanga’s input into its decision-making process” (Deed of Settlement, 1997).

The issues to be covered by protocols include;

- Cultural materials,
- Freshwater fisheries,
- The culling of species of interest to Ngai Tahu,
- Historic resources,
- Resource Management Act involvement,
- Visitor and public information.

Cultural material are “plants or materials derived from, plants, animals or birds that DoC is responsible for and that are culturally important to Ngai Tahu” (Deed of Settlement, 1997). Protocols will outline the way in which DoC will consult with

Ngai Tahu over the use of cultural materials and considers requests for access to cultural materials.

Protocols for freshwater fisheries will cover the development of regulations mentioned earlier, and also guidelines to “cover monitoring, compliance and information sharing” (Deed of Settlement, 1997). Under the protocols the culling of a protected species by DoC will also involve consultation with Ngai Tahu.

Other protocols will include the protection of Ngai Tahu historic values and ensuring that concessionaires and visitors also respect the Ngai Tahu values associated with an area. DoC and Ngai Tahu will consult on the provision of interpretative material at sites of significance to Ngai Tahu, which will include Ngai Tahu perspectives. DoC will also work to “raise the public awareness of positive conservation partnerships between Ngai Tahu, DoC and other groups” (Deed of Settlement, 1997), and provide Ngai Tahu with information to “assist in improving their effectiveness under the Resource Management Act” (Deed of Settlement, 1997).

#### **8.6.5 Ngai Tahu’s Pounamu Rights**

The ownership of all Crown owned *pounamu* will be transferred to Ngai Tahu. Land in the Arahura Valley on the West Coast will also be returned to Ngai Tahu, and be classified as a reserve, to provide access to *pounamu* and in recognition of the historical importance of the area to Ngai Tahu (Deed of Settlement, 1997).

## 9 Treaty of Waitangi Settlements and the *Kaupapa Atawhai Strategy*

### 9.1 Introduction

This section summarizes and compares the impact that the Treaty of Waitangi has had on the management of the conservation estate through both the Department of Conservation's *Kaupapa Atawhai Strategy*, and the settlement of Treaty of Waitangi claims.

The number of the Waikato Conservancy's management objectives affected by the Tainui-Waikato settlement will be assessed. This will be compared with the number of management objectives affected by the *Kaupapa Atawhai Strategy*. This comparison will also be done for each of the South Island conservancies affected by the Ngai Tahu settlement, and the East Coast conservancy affected by the Whakatohea settlement.

This assessment examines only the strategic management contained within each Conservation Management Strategy, and excludes objectives relating to specific areas. These objectives differed widely between areas, and the detail in which they were presented in the various management strategies also differed significantly. As a result these objectives left little scope for comparison between conservancies and their inclusion in the study may have biased results from conservancies with detailed area objectives when compared with conservancies with less detail in their management plans.

### 9.2 Tainui-Waikato

The Tainui-Waikato settlement addressed the confiscation of land in the Waikato under the New Zealand Settlement Act 1863. This was not a full and final settlement



of all claims by Tainui *iwi*, and mainly related to *iwi* and *hapu* closely associated with the *Kingitanga* movement. A number of issues, such as the West Coast Harbours and the rivers, were excluded from the negotiation and settlement. A number of claims lodged with the Waitangi Tribunal by various *iwi* from the Waikato region were not addressed by this settlement.

The Tainui-Waikato settlement was achieved without the use of any land administered by the Department of Conservation. This was despite the firm stance of the Tainui-Waikato negotiators that *i riro whenua atu, me hoki whenua mai* (as land was taken, so should land be returned), and a view on the part of some of the Crown negotiation team that areas of low conservation value could be used in a settlement.

A number of factors played a significant role in the exclusion of the conservation estate from use in the Tainui-Waikato settlement. This included a decision by the Tainui-Waikato negotiators that they would not actively press for the return of conservation land if the Crown excluded it from use in the settlement. This decision was based on an analysis of the cost of managing this land.

The Crown's decision to exclude the conservation estate from being used in this settlement was a result of the creation of general principles for the settlement of Treaty claims. However time constraints also played a significant role as this meant that areas of low conservation value that may have been suitable for use in a settlement could not be assessed.

The Tainui-Waikato Settlement also includes the creation of a dedicated seat on the Waikato Conservation Board for the *Kaahui Ariki* (the head of the *Kingitanga* movement) or her nominee.

The Department of Conservation's 1996 Waikato Conservation Management Strategy lists 7 management objectives. Only 1 management objective included within this Strategy is directly affected the *Kaupapa Atawhai Strategy*. There are no management objectives that are directly affected by the settlement of the Tainui-Waikato *raupatu* claim.

This is largely because the Tainui-Waikato settlement excluded the issues of the rivers and the West Coast Harbours from the negotiations. The management of these areas is the one of the most significant conservation/environmental issues for both the Crown and Tainui-Waikato, and negotiations for the settlement of claims relating to these areas continue. Any future settlement is likely to have a greater impact on the Waikato Conservancy's management of the conservation estate than the current *raupatu* claim settlement has had.

The only redress instrument that does have immediate implications for the conservation estate is the creation of a dedicated Tainui seat on the Waikato Conservancy Board. However this is not a significant change in the management of the conservation estate as each of the Conservation Boards throughout the country currently have seats dedicated to Maori representation as a matter of policy.

This comparison indicates that the Settlement of the Tainui-Waikato claims has not had a significant impact on the management of the conservation estate.

### 9.3 The Whakatohea Settlement

The claim by the Whakatohea *iwi* for the return of confiscated land included a significant proportion of land managed by the East Coast Conservancy of the Department of Conservation. The claim arises from the Crown's confiscation of land on the East Coast in retaliation for the murder of Karl Volkner in 1865.

The settlement negotiations for this claim were rushed as a result of the impending 1996 general election and a Draft Deed of Settlement was signed between the Crown and Whakatohea representatives in October 1996.

This Draft Deed resulted in a great deal of criticism from various members of the Whakatohea *iwi*. It was claimed that the Whakatohea negotiators did not have the mandate to negotiate a full and final settlement of this claim. As a result the process of having the Draft Deed of Settlement ratified by Whakatohea has been extremely difficult and the terms of the Draft Deed have been rejected at a number of *hui*. As

well as concern over mandate issues, the manner in which conservation issues were dealt with was also a cause of controversy.

Whakatohea were actively seeking the return of land confiscated by the Crown, including the conservation estate (Delamere, 1996; NZPA, 1996a). However, largely as a result of the principle that “the conservation estate is not readily available for the settlement of Treaty claims” (Office of Treaty Settlements, 1994), the Draft Deed of Settlement proposed that no areas of the conservation estate were to be transferred to Whakatohea ownership in a settlement.

Despite this principle the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* also states that discrete sites of special significance may be used in a settlement. However the vesting of discrete sites of special significance was not included within the Draft Deed of Settlement. This is likely to be a result of the rushed nature of the negotiations and confusion over representation and mandate issue, as Whakatohea did not go through a process of highlighting sites of special significance. Instead Whakatohea were actively seeking the return of land in general, and the conservation estate was not available for use in these circumstances.

The Whakatohea Draft Deed of Settlement did address a number of issues affecting the management of the conservation estate. These included commitments to;

- Initiate discussions with Whakatohea and other relevant *iwi* on a process for providing dedicated *iwi* representation on the East Coast Conservation Board;
- Initiate discussions with Whakatohea on protocols for access to traditional resources;
- Initiate discussions with Whakatohea, other relevant *iwi* and organizations on the management of Ohiwa Harbour;
- Establish a process of consultation with other Maori with overlapping claims;
- Provide recognition for sites of special significance through 3 *Topuni* Reserves and 6 Statutory Acknowledgements of Deeds of Recognition;
- Create Deeds of Recognition for 6 River Beds

However the Department of Conservation's current commitment to the Treaty of Waitangi through the *Kaupapa Atawahi Strategy* already includes a number of these redress instruments.

For example although the Draft Deed promises to establish a "process for providing dedicated *iwi* representation" on the East Coast Conservancy Board at present each of the Conservation Boards throughout the country, including the East Coast conservancy, have seats dedicated to Maori representation as a matter of policy. As a result this will not be a significant change in the management of the conservation estate as Maori representation is already provided for, but rather a change in the way this representation is provided.

Although creating a process for providing dedicated *iwi* representation on the East Coast Conservancy Board may guarantee that Whakatohea have some degree of representation at Conservancy level, this fails to provide Whakatohea with any direct input into the management of the conservation estate within their *rohe*.

17 distinct *iwi* are recognised as having *rohe* that extend into the East Coast Conservancy. As a result it is impractical to provide seats dedicated to individual *iwi*, as has happened in other settlements. However there is a danger that the views of individual *iwi*, with concerns over specific areas, are likely to be lost in the process of providing Maori representation on the East Coast Conservancy Board, and this is of concern to Whakatohea. It is also likely that this problem will become compounded under proposed changes to the Department of Conservation's Conservancies, which would see the East Coast and Hawkes Bay Conservancies merge.

Provisions within the Draft Deed of Settlement addressing the use of traditional resources such as whalebone, *kiekie*, *totara* and *nga ronga Maori* may also not result in any significant change in the current management of the conservation estate. At present there are already "a range of legal provisions, policies and protocols in place for customary use of resources, including whalebone, feathers, plants, timber, freshwater fish, eels, mutton birds, shellfish and whitebait". The Department of Conservation's *Kaupapa Atawhai Strategy* states that the Department will "work with Maori to develop protocols where Maori values are clearly articulated" and, will

“work with Maori to facilitate access to traditional materials within the terms of conservation legislation”.

While the creation of a new set of protocols would provide Whakatohea with a chance to have their unique views taken into account, there is unlikely to be any significant change in the details of these protocols. Any new protocols which may be established as a result of the settlement would still be bound by the same legislative framework, and reflect the same limitations, in relation to issues such as sustainability for example, under which the current protocols were established.

There is also concern within Whakatohea over the use of *Topuni* Special Reserves, Statutory Acknowledgements, and Deeds of Recognition in the Draft Deed of Settlement. These mechanisms will recognise and protect Whakatohea’s interests in up to 9 specific sites, and 6 river beds. However the only criteria that these numbers were based on was that they were to be easily divisible by the number of major *hapu* within the Whakatohea *iwi*, and as a result, they are not in any way a reflection of the number of sites of special significance to Whakatohea. Within Whakatohea there is the view that the number of sites of special significance suitable for *Topuni* Reserves or Statutory Acknowledgements could be measured in the hundreds.

While providing Whakatohea with a greater degree of recognition in regard to 9 sites and 6 rivers these provisions are also unlikely to result in any practical changes in the current management of the conservation estate. At present, the Department of Conservation has in place a number of processes for recognising sites of special significance to Maori, for example through *wahi tapu*.

Wahi tapu are “taonga (treasures) of tangata whenua which provide a unique category of historical and cultural heritage”. *Wahi Tapu* can include a wide range of sites from burial grounds to places where significant events in an *iwi*’s history took place.

Within the East Coast conservancy the Department of Conservation acknowledges that it has “an obligation to actively protect *wahi tapu* on land which it controls” and that it is necessary for “the Department to be in close partnership with *iwi* concerning the management of them”.

Other issues addressed within the Draft Deed of Settlement, such a consultation over Ohiwa Harbour, are also of concern to other organisations involved with environmental issues, such as Regional Councils. Legislation such as the Resource Management Act requires consultation with Maori, but does not provide guidance as to determining the appropriate Maori representatives to consult. In the case of areas such as Ohiwa Harbour where there are competing claims from a number of *iwi*, consultation is likely to be extremely difficult. This settlement would address these issues.

For Whakatohea these redress instruments would provide a process by which they are guaranteed input into the management of the conservation estate and other environmental issues of importance to them. At present, despite consultation being required, Whakatohea do not have a guaranteed input into the management of various resources and may be in danger of being left out of the decision making processes as a result of mandate and tribal boundary issues.

The establishment of a formal consultative process would also provide Whakatohea with a well-defined set of procedures for addressing any problems or concerns they may have with the management of various resources.

These instruments would also provide greater transparency in the consultation and decision making processes. For example at present Maori representation is provided on Conservancy Boards as a matter of policy. As these representatives are, at present, appointed by the Minister of Conservation rather than by *iwi* this has created a view within Whakatohea that they are not represented as a result. A formal process of selecting a representative with defined roles for each *iwi* would alleviate some of this confusion.

This would also apply to other issues addressed in the Draft Deed such as access to traditional resources. Although there are already in place various protocols relating to the use of traditional resources, at present there is an element of resentment and mistrust within Whakatohea over the way the Department of Conservation administers the use of traditional resources. The involvement of Whakatohea in the establishment of a new set of protocols may lead to these protocols being seen as a



compromise between DoC and Whakatohea rather than as a set of rules imposed by DoC. As a result, this part of the settlement may improve the current relationship between Whakatohea and the Department of Conservation.

The establishment of *Topuni* Special Reserves, and the creation of Statutory Acknowledgement or Deeds of Recognition provide Whakatohea with official acknowledgement, in legislation, of Whakatohea's *mana whenua*, and defines their role in the management of various parts of the conservation estate. This serves to guarantee and protect Whakatohea's rights and role in certain areas to a degree that is not provided under the present management.

However while these redress instruments may clearly define, and guarantee Whakatohea's role in the management of the conservation estate and other environmental issues, they do not result in a significant increase in Whakatohea's input into conservation management.

It may be that these issues can be addressed at a later stage, as the Deed of Settlement was not to limit the rights of Whakatohea "to seek recognition of their interest in land administered by the Department of Conservation by means of any Statutory or non-statutory rights or procedures". This may mean that any settlement would not necessarily be full and final with respect to the management of conservation estate.

The Department of Conservation's current commitment to the Treaty of Waitangi through the *Kaupapa Atawhai Strategy* directly affects 15 of the 108 management objectives contained within the *Draft Conservation Management Strategy: East Coast Conservancy; 1995-2005*. This compares with 7 management objectives likely to be directly affected by the Whakatohea Draft Settlement.

A comparison of the impact of the redress instruments contained within the Draft Deed of Settlement with the objectives of the *Kaupapa Atawhai Strategy* shows that the *Kaupapa Atawhai Strategy* has a significantly greater impact on the management of the conservation estate.



## 9.4 The Ngai Tahu Settlement

The Ngai Tahu claim for redress for various breaches of the Treaty of Waitangi during a number of land purchases by the Crown between 1844 and 1864 was settled in September 1997. Ngai Tahu's grievances included general claims, affecting large areas, and specific claims for small discrete sites.

This claim had implications for every South Island conservancy and included a number of National Parks and World Heritage Sites, as well as other areas of high conservation values. The Ngai Tahu claim also had direct implications for the management of the conservation estate through issues such as *mahinga kai*.

The negotiations for the settlement of Ngai Tahu's claims generated a great deal of controversy. Critics of the negotiation process feared that large areas of high conservation value were likely to be vested to Ngai Tahu, or that public access rights to the conservation estate may be affected, by a settlement.

The Settlement of Ngai Tahu's land claims is unique as to date it is the only major Treaty of Waitangi settlement that has resulted in a change in ownership of areas of the conservation estate. However only a very small part of the conservation estate, approximately 930 hectares was used in the settlement.

The areas of the conservation estate that were transferred to Ngai Tahu as a part of this settlement were mainly small, discrete sites, with little or no conservation values associated with them. Any areas of the conservation estate with significant conservation values vested to Ngai Tahu as a result of the settlement are to be subject to various covenants or protected private land agreements to ensure that these values are protected. The areas of the conservation estate that were used in the Ngai Tahu settlement were related to addressing very specific grievances.

To ensure that any impact on conservation values was minor the Office of Treaty Settlements, working in conjunction with the Department of Conservation subjected all the areas that were transferred to Ngai Tahu ownership to a detailed assessment.

The Ngai Tahu settlement also resulted in a number of high country stations being vested to Ngai Tahu. As part of the settlement public access to areas of these stations with high conservation and recreational values was guaranteed, and the peaks included within the stations were gifted back to the Crown. The effect of this that the land area administered by the Department of Conservation was increased by approximately 35 000 hectares, and public access to a number of areas was protected by legislation.

The Ngai Tahu settlement also includes a number of redress instruments that have implications for the management of the conservation estate. These include;

- *Nohoanga* and Fenton reserves to allow access to *mahinga kai*;
- Recognition and a role in the management of *taonga* species;
- A statutory advisory role to the Minister of Conservation;
- Appointment of Ngai Tahu representatives to various Statutory Boards;
- Addition of Maori place names for a number of sites;
- Establishment of *Topuni*, Deeds of Recognition, and Statutory Acknowledgements;
- Creation of protocols for historic resources, the use of customary materials, freshwater fisheries, the culling of species, visitor information, and Resource Management Act advocacy ;

A number of these redress instruments, such as the addition of Maori place names, have little implication for the management of the conservation estate. Others, such as the Fenton reserves, are already existing rights and therefore do not result in a change to the management of the conservation estate. Many of the Statutory Boards that are to have Ngai Tahu representatives appointed to them already have Maori representative as a matter of policy. Therefore this does not result in a significant change in management, although it does protect by legislation Ngai Tahu's right to representatives on these Boards.

The establishment of a number of protocols is also unlikely to result in significant changes in the management of the conservation estate as The Department of Conservation already has a commitment to “work with Maori to develop protocols where Maori values are clearly articulated”. New protocols are unlikely to differ significantly from those currently in place as these would still be bound by the same legislative framework, and reflect the same limitations, such as the issue of sustainability, under which the current protocols were established.

The creation of legal provisions such as *Topuni*, Statutory Advisor, Deeds of Recognition and Statutory Acknowledgements all have implications for the management of the conservation estate. However these redress instruments are also unlikely to result in significant management changes. What these provisions will do is strengthen and formalize the role the Ngai Tahu currently has in the management of the conservation estate through policies such as the *Kaupapa Atawhai Strategy*, and improve the current relationship between Ngai Tahu and the Department of Conservation.

The Department of Conservation’s *Kaupapa Atawhai Strategy* currently affects the management of each of the South Island conservancies included in the Ngai Tahu claim.

The Nelson Conservancy’s *Conservation Management Strategy for Nelson/Marlborough Conservancy; 1996-2006* contains 69 management objectives. The *Kaupapa Atawhai Strategy* directly affects 4 of these management objectives. The Ngai Tahu Settlement is also likely to affect the same 4 management objectives.

Within the Canterbury Conservancy the *Kaupapa Atawhai Strategy* directly affects 11 of the 127 management objectives contained within *Canterbury Conservation Management Strategy: Draft* contains. The Ngai Tahu Settlement is likely to directly affect the same 11 management objectives.

The Department of Conservation’s *West Coast Conservation Management Strategy 1996* contains 79 management objectives. The *Kaupapa Atawhai Strategy* directly

affects 9 of these management objectives. The Ngai Tahu Settlement has the potential to affect the same 9 management objectives of the West Coast Conservancy.

Within the *Otago Conservation Management Strategy: Draft* there are 96 management objectives. The *Kaupapa Atawhai Strategy* directly affects 2 of these management objectives. The Ngai Tahu Settlement is likely to affect the same 2 management objectives.

The Department of Conservation's *Draft Conservation Management Strategy for Mainland Southland/West Otago* and the *Draft Conservation Management Strategy for Stewart Island* contain 158 management objectives. The *Kaupapa Atawhai Strategy* directly affects 5 of these management objectives. The Ngai Tahu Settlement is likely to affect the same 5 management objectives.

A comparison of the impact of the redress instruments contained within the Draft Deed of Settlement with the objectives of the *Kaupapa Atawhai Strategy* shows that both are likely to have a similar impact on the management of the conservation estate in each of the South Island conservancies affected by the Ngai Tahu claim.

## 9.5 Summary

With the exception of the Tainui-Waikato settlement, where significant conservation issues were excluded from negotiations, each of the major Treaty of Waitangi settlements contain a number of redress instruments which have the potential to have a significant impact on the conservation estate. However the Department of Conservation currently has a commitment to the Treaty of Waitangi through its *Kaupapa Atawhai Strategy*.

In the Tainui-Waikato case study the impact on the conservation estate of the Department of Conservation's current commitment to the Treaty of Waitangi was greater than that of the settlement. This was largely due to the exclusion of significant conservation issues from the settlement process.

The redress instruments contained within the Whakatohea settlement offer were likely to have a significantly smaller impact on the management of the conservation estate than the Department of Conservation's current commitment to the Treaty of Waitangi. Many of the redress instruments formalized protocols and consultation process that should already be in place as a result of the *Kaupapa Atawahi Strategy*, and provided no new opportunity for the involvement of Whakatohea in the management of the conservation estate.

As in the Whakatohea settlement, many of the redress instruments contained within the Ngai Tahu settlement were a formalization of protocols and consultation procedures which should already be in place as a result of the *Kaupapa Atawhai Strategy*. The Ngai Tahu settlement does provide for greater consultation with Ngai Tahu over environmental issues through the establishment of seats on a number of statutory boards. However while many of these boards are involved with issues relating to the conservation estate, many may have little input on the actual management of the conservation estate. As a result the redress instruments contained within this settlement, are likely to have a similar effect on the management of the conservation estate as the Department of Conservation's current commitment to the conservation estate.

## **10 Discussion: The Role of the Conservation Estate in the Settlement of Treaty of Waitangi Claims.**

The previous chapters have provided a background to the Tainui-Waikato, Whakatohea and Ngai Tahu Settlements, and discussed the details of each of the settlements. The possible impacts of the settlements have been discussed and compared with the Department of Conservation's current commitment to the Treaty of Waitangi.

This chapter uses the findings of each of the previous case studies to discuss the implications that the Treaty of Waitangi settlement process in general has for the conservation estate. The implications for the ownership and management of the conservation estate will be discussed, as will future role of the Department of Conservation and the conservation estate in the Treaty of Waitangi process.

### **10.1 The Effect of the Settlement of Treaty of Waitangi Claims on the Ownership of the Conservation Estate**

In each of the case studies examined the claimants were seeking the return of significant areas of the conservation estate, although the basis for each of the claims were slightly different.

For example the Tainui-Waikato and the Whakatohea claims arose as a result of *raupatu*, and as a result these groups sought the return of large sections of the conservation estate that were claimed to have been unjustly confiscated. In contrast the Ngai Tahu claim arose as a result of the Crown's failure to adhere to the terms of a number of land purchases. As a result the Ngai Tahu claim included claims for small discrete sites in addition to broad claims for large areas of the conservation estate.

The Crown's position on the use of the conservation estate was stated in the *Crown Proposals for the Settlement of Treaty of Waitangi Claims*. These proposals stated

that areas of the conservation estate could be used in a Treaty of Waitangi settlement only if these areas were;

- Discrete sites of special historical, cultural or spiritual significance to Maori, (eg burial sites, sacred shrines, *pa* sites), that the Crown believes are an essential part of a settlement;
- Other sites which have special importance to Maori (eg, lake beds, river beds, mountains and land required for access to *pounamu*); or
- Discrete parcels of land where the overall management of conservation values will be maintained or enhanced as a result of their use in claim settlement.

The result of these principles was that “the conservation estate is not readily available for the settlement of Treaty claims and should be considered only in certain circumstances” (Office of Treaty Settlement, 1994a).

As a result of the Crown’s position very little of the conservation estate has been vested to Maori ownership in the settlement of Treaty of Waitangi claims. In fact the settlement of Treaty claims has result in an increase in the amount of land managed by the Department of Conservation.

The only conservation land transferred to Maori ownership as a result of a Treaty of Waitangi settlements resulted from the Ngai Tahu claim. The return of land as a result of this settlement closely follows the principles set out within the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* as it was only discrete sites, or sites of special significance which were returned as a result of the Ngai Tahu settlement. Assessments of each of these sites were preformed prior to any settlement and covenants or other agreements were established to ensure that any conservation values present were protected.

The Ngai Tahu claims for the return of large areas that were allegedly not included in various sales did not result in the transfer of ownership of areas of the conservation estate. The conservation land that was returned to Ngai Tahu was subject to much more specific claims. These claims also tended to exist as a result of breaches of



agreements by the Crown, such as promises to reserve land from sale, rather than breaches of the Treaty of Waitangi.

The use of the conservation estate in the Settlement of Treaty of Waitangi claims to date indicates that the conservation estate is more readily available for the settlement of claims which arise out of breaches of post-Treaty agreements or contracts rather than breaches of the Treaty of Waitangi itself.

The importance of a specific site to a particular *iwi* does not appear to significantly affect the availability of the conservation estate for the use in a Treaty Settlement. Rather it appears that the availability of a site is dependent on whether the site is subject to a specific claim, or is included in a much broader claim. This is demonstrated by the fact that the areas of the conservation estate which have been returned to *iwi* to date have only been areas subject to specific claims by Ngai Tahu. The provision in the Whakatohea settlement for a specific number of *Topuni* rather than details of specific sites also supports this.

The Tainui-Waikato settlement did not result in the return of areas of the conservation estate for a number of reasons, including the time constraints involved in completing assessment of each of the areas of the conservation estate included in the claim. Similar time constraints played a role in each of the other settlements, particular the “rushed” Whakatohea settlement, and this may be the reason that specific claims are more likely to result in the return of areas of the conservation estate.

The implication of this for claimants is that areas of special significance need to be subjected to specific claims rather than included in blanket claims for a large area in order to draw the Crown attention to these areas in the negotiation process.

This is also important for critics of the settlement process, such as Forest and Bird. These groups are unsatisfied with the governments assurances that the conservation estate is, in general unavailable for use in the settlement of Treaty of Waitangi claims. However it is likely that it is simply impractical for the Crown to use large areas of the conservation estate in the settlement of Treaty of Waitangi claims due to the time constraints involved in attempting to quickly settle a claim for political reasons.

## 10.2 The Impact of the Settlement of Treaty of Waitangi Claims on the Management of the Conservation Estate.

The settlement of Treaty of Waitangi claims also has significant implications for the management of the conservation estate. In each of the case studies the claimants were seeking a role in the management of the conservation estate and other environmental issues as a result of the settlement of their claim. In the Tainui-Waikato settlement these issues were excluded from negotiations but in the other settlements examined they were addressed through the use of both generic redress instruments and redress instruments specific to individual claims.

Generic redress instruments can include the appointment of *iwi* representatives to Statutory Boards, the involvement of claimants in the management of the conservation estate through the establishment of protocols, and recognition of the claimants role in the management of the conservation estate through *Topuni* and Statutory Acknowledgements. Specific redress instruments address grievance unique to a specific claim and have included instruments such as *nohoanga*.

The Crown's position on the impact of Treaty of Waitangi settlements on the management of the conservation estate is expressed in the *Crown Proposals for the Settlement of Treaty of Waitangi Claims*. These principles include that;

- The existing legal protection provided to the natural and historic values of the conservation estate will not be diminished, except where there are beneficial conservation effects;
- A change in management of the estate will not be approved if it results in a loss of protection to the natural and historic values;
- Existing public access and recreation rights will not be reduced (except to protect the natural and historic values);

These principles appear to have been followed in the settlement of Treaty of Waitangi claims to date. For example the redress instruments contained within Treaty of

Waitangi settlements do not, in general, change the underlying legislation that governs the management of the conservation estate and the management of native flora and fauna. As a result the management of the conservation estate is unlikely to change as the statutory requirements of this management have not changed.

The Department of Conservation is currently required to have particular regard for the Treaty of Waitangi in its management of the conservation estate. As a result many of the redress instruments included within a Treaty of Waitangi settlement are unlikely to have a significant impact on the management of the conservation estate. For example the Department of Conservation's *Kaupapa Atawhai* already gives a commitment to address issues such as the development of protocols, the role of *iwi* in the management of the conservation estate and the recognition of sites of special significance through *wahi tapu*.

Although the redress instruments used for the settlement of Treaty of Waitangi are unlikely to result in significant changes to the Department of Conservation's management of the conservation estate, these redress instruments do offer a number of benefits to both the claimants and the Crown.

The benefit to the claimants of these redress instruments is that their role in the management of the conservation estate, and the Crown's obligations such as consultation, are now defined in legislation rather than as a matter of policy. Although there is not likely to be any practical change in mechanisms such as protocols and recognition of significant sites, the claimants also gain a greater role in the development of these, and this role is again guaranteed as legislation rather than policy.

Various government organizations, such as the Department of Conservation, the Ministry for the Environment and local government organizations, also benefit from these redress instruments. Many of these organizations are required to consult with *iwi* but in many cases are hampered by overlapping claims and issues of mandates, and which is the proper *iwi* authority to consult with.

Many of these redress instruments serve to define process for consultation and *iwi* representation. The result of this is to make the consultation process more effective and ensure that the relevant parties are consulted.

### 10.3 The Future Settlement of Treaty of Waitangi Claims

Changes in the consultation process with Maori over the management of the conservation estate and other environmental issues are also likely to be the most significant impact of future Treaty of Waitangi settlements as significant changes in the ownership or management of the conservation estate are unlikely.

At present the Treaty of Waitangi settlement process has closely followed the principles outlined in the *Crown Proposals for the Settlement of Treaty of Waitangi Claims*. These principles are also likely to be followed in the future as the practical and political considerations, such as time constraints, which have affected settlements to date, are unlikely to change. Future claimants are also likely to be smaller *iwi*, or groups of *iwi*, which do not have the same bargaining power in the negotiation process that Ngai Tahu or Tainui-Waikato may have had, and as a result are unlikely to force greater concessions than those included in current settlements.

As a result the conservation estate will not be widely available for use in the future settlement of Treaty of Waitangi claims and management of the conservation estate is unlikely to differ from DoC's current commitment to the Treaty of Waitangi.

Despite the *Crown Proposals for the Settlement of Treaty of Waitangi Claims* being closely followed in the settlement of Treaty of Waitangi claims the controversy surrounding the role of the conservation estate in future settlements is likely to continue. In the settlements to date the majority of the controversy is a result of the negotiation process. Once details of a settlement have been released the concerns over the role of the conservation estate in a settlement are significantly reduced. As a result it is possible that this controversy may be reduced in future settlement negotiations through improved public consultation, in particular with conservation interest groups and the media.

At present everyone involved in the settlement process, from the Minister in Charge of Treaty Negotiations to staff at both the Office of Treaty Settlements and the Department of Conservation, are extremely approachable and more than willing to discuss aspects of settlement negotiations. However there is a significant amount of confusion about what details of settlement negotiations can be discussed, and as a result the negotiation process has a poor public image, particular with conservation interest groups.

For example staff at the Department of Conservation are unwilling to discuss details of settlement negotiation for fear of jeopardizing a process overseen by the Office of Treaty Settlements. At the same time staff at the Office of Treaty Settlements are unwilling to discuss some aspects of settlement negotiations due to the need for these negotiations to remain confidential. However to some extent the unwillingness of the Office of Treaty Settlements to discuss aspects of the use of the conservation estate in the settlement of treaty of Waitangi claims is because the Office of Treaty settlements views conservation interest groups as being the Department of Conservation constituents. As a result it is reluctant to discuss specific details of settlement negotiations with these groups for fear of treading on the Department of Conservation's toes.

The result of this confusion is that inquires concerning the use of the conservation estate in the settlement of Treaty of Waitangi claims are referred to various staff in both the Department of Conservation and the Office of Treaty Settlements with very few specific details being discussed. To conservation interest groups, who already have concerns about the role of the conservation estate in the settlement of Treaty claims, this can result in a view that these organisations are hiding something. Critics of the negotiation process feel that this is a deliberate attempt to exclude the public from the negotiation process as is shown in Ansley, 1997.

This situation could be addressed through improving consultation over the settlement of Treaty of Waitangi claims in a number of ways. The role of the Office of Treaty Settlements, the Department of Conservation, and other relevant government departments in public consultation and the response to inquires could be better

defined. It may be that specific public relations or media liaison staff need to be appointed to handle inquiries into the settlement process. This may prevent inquiries being passed from one department to another and the impression given in Ansell, 1997, that this is a deliberate tactic.

Controversy surrounding future Treaty of Waitangi settlements may also be generated because future claimants are likely to be smaller *iwi*, or groups of *iwi*, now that the high profile Tainui-Waikato and Ngai Tahu claims have been settled. Issues that were significant in the Whakatohea settlement, such as overlapping claims and mandate issues are likely to also become important issues in future claims. Whakatohea also felt that the settlement offer for their claim did not significantly address conservation issues, as they did not have the same bargaining power of Tainui-Waikato or Ngai Tahu. This view is also likely to become more widespread in future settlements.

The Department of Conservation's *Kaupapa Atawhai Strategy* may have a significant role to play in reducing claimant's concerns surrounding conservation issues included in the settlement of Treaty of Waitangi claims. The *Kaupapa Atawhai Strategy* has a number of similarities to the redress instruments contained within a number of Treaty of Waitangi claims, and the implementation of redress instruments is likely to be preformed by the Department of Conservation's *Kaupapa Atawhai* staff.

This provides an opportunity for the Crown, through the Department of Conservation, to be pro-active in the settlement of a number of *iwi*'s concerns. By addressing management and consultation issues which have been included in previous settlements the Crown would not only be removing significant sources of controversy from the negotiation process but would also be making an important gesture of good faith to claimants who may have concerns over the strength of their negotiation position. Gestures such as this are important to ensure that the result of the negotiation process is a lasting settlement.

However at present the Department of Conservation or the Office of Treaty Settlements have not examined the similarities between Treaty of Waitangi settlements and the role of DoC's *Kaupapa Atawhai Strategy*. These issues may need



to be examined to ensure that future settlements are lasting and are achieved as efficiently as possible.

## 10.4 Conclusion

The role of the conservation estate in the settlement of Treaty of Waitangi claims is an important issue for New Zealand, and will continue to be important in the future. The present settlement negotiations have generated a significant amount of controversy, with critics of the negotiation process concerned that the conservation estate could be widely used in the settlement of Treaty of Waitangi claims.

This has not happened. The current Treaty of Waitangi Settlements have resulted in only a limited number of small discrete areas of the conservation estate being vested to claimants, and the area managed by the Department of Conservation has significantly increased as a result of Treaty of Waitangi settlements. The management of the conservation estate is also largely unchanged as a result of Treaty of Waitangi settlements as the Department of Conservation is already required to have regard for the Treaty of Waitangi in its current management. The current settlements have resulted in the formalization of the claimant's role in the management of the conservation estate and various consultative processes.

While being largely successful, the current settlement process can be significantly improved through better public relations and a closer involvement with the Department of Conservation's *Kaupapa Atawhai Strategy*.



## 11 Glossary

<b>Aukati</b>	barrier (Ryan, 1994); boundary (Simpson, 1979)
<b>Hapu</b>	Sub-tribe (Ryan, 1994)
<b>Hui</b>	gathering, meeting (Ryan, 1994)
<b>I riro whenua atu, me hoki whenua mai</b>	as land was taken, so land so land should be returned (Fox 1995)
<b>Iwi</b>	Tribe (Ryan, 1994)
<b>Kawanatanga</b>	government (Ryan, 1994); governorship (Orange, 1987)
<b>Kingitanga</b>	the Maori King Movement (Belich, 1986)
<b>Ko to moni hei utu mo te hara</b>	the money is an acknowledgement of the crime
<b>Kotahitangi</b>	unity (Walker, 1989)
<b>Mahinga kai</b>	cultivation (Ryan, 1994); food resources, area where food is gathered (Waitangi Tribunal, 1991)
<b>Mana</b>	integrity, charisma, prestige (Ryan, 1994)
<b>Marae</b>	meeting area of whanau or iwi, focal point of settlement (Ryan, 1994)
<b>Nohoanga</b>	campsite entitlements (Deed of Settlement, 1997)
<b>Pai Maraire</b>	Maori religious movement, good and peaceful (Clark, 1973)
<b>Poukai Marae</b>	Marae affiliated with the Maori King movement (King, 1977)
<b>Pounamu</b>	greenstone (Ryan, 1994)
<b>Pupuro whenua</b>	withholding land from sale (Walker, 1989)

<b>Rangatira</b>	chief (Ryan, 1994)
<b>Rangatiratanga</b>	sovereignty (Ryan, 1994)
<b>Raupatu</b>	seize land, confiscate land, conquest (Ryan, 1994)
<b>Rohe</b>	territory (Ryan, 1994)
<b>Tangata whenua</b>	local people (Ryan, 1994)
<b>Taonga</b>	property, treasure (Ryan, 1994)
<b>Tapu</b>	scared, forbidden, confidential, taboo (Ryan, 1994)
<b>Taua</b>	war party, expedition (Ryan, 1994)
<b>Tipuna</b>	ancestor (Ryan, 1994)
<b>Topuni</b>	overlaying of protection (Deed of Settlement, 1997)
<b>Utu</b>	price, revenge (Ryan, 1994)
<b>Wahi Tapu</b>	cemetery, reserve ground (Ryan, 1994); scared site (Department of Conservation, 1997)
<b>Waka</b>	canoe (Ryan, 1994)
<b>Whanau</b>	extended family (Ryan, 1994)

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## 13 Appendix 1

### **Goals of the Department of Conservation's 1997 *Kaupapa Atawhai Strategy***

#### **Principles of the Treaty**

##### *Goal*

To interpret and administer conservation legislation so as to give effect to the principle of the Treaty of Waitangi

##### *Action Statement*

Ensure that its understanding of the principle of the Treaty is consistent with the current interpretation of the courts

Apply the following principles which have been identified by the courts;

- act reasonably and in good faith
- make informed decisions
- consider where active steps are needed to protect Maori interests
- avoid actions which would prevent the redress of claims
- recognise that the Government must be able to govern

#### **Resolution of Treaty Grievances**

##### *Goal*

To advise Government on conservation issues relating to the resolution of Treaty grievances, and to implement settlements reached

##### *Action Statement*

Provide the Government with accurate and timely advice on conservation aspects of claims and the implications of settlement proposals

Ensure there is effective internal co-ordination on all claims matters according to guidelines established by the Director-General

Establish claims teams comprising conservancy and specialist head office staff

Respond to the office of Treaty Settlements and other external agencies through head office

Provide the Office of Treaty Settlements with creative options that will help to address Maori grievances while protecting and enhancing conservation values

Implement and monitor settlements reached between the Crown and iwi as the relate to the responsibilities of the department

## **Relationships with Maori**

### *Goal*

To develop a relationship with Maori consistent with the status of the crown and Maori as co-signatories of the Treaty of Waitangi

### *Action Statements*

Seek to negotiate protocols and agreements with iwi at the conservancy level to provide a framework for relationships

Engage in management partnerships with Maori where appropriate

Protect and manage places special to Maori on department-administered lands having regard to Maori custom and the kaitiaki role of Maori

Ensure through the use of Kaupapa Atawhai core competencies that staff gain an understanding of tikanga Maori and the Treaty of Waitangi to enable them to participate in developing effective relationships with Maori

Consult with Maori whenever a proposed management action involves an identifies Maori interest

## **Biodiversity Conservation**

### *Goal*

To work with Maori in the conservation of New Zealand's indigenous biodiversity

### *Action Statements*

Encourage Maori to apply traditional Maori values and practices to tikanga based projects as a process for reviving Matauranga Maori techniques

Work with Maori to develop protocols where Maori Values are clearly articulated

Involve Maori in the development of the New Zealand Biodiversity Strategy

Work with Maori to facilitate access to traditional materials within the terms of conservation legislation and recognising that many species are severely threatened and cannot currently sustain depletion

Work with Maori to develop and implement appropriate and cost-effective methods of pest control recognising the need for urgent action to prevent forest collapse and species decline

## **Cultural Heritage**

### *Goal*

To work with Maori in the conservation of their cultural heritage on lands administered by the department

### *Action Statements*

Consult with Maori in its historic resources work generally to ensure their interests are recognised

Work with Maori to develop co-operative projects covering a range of options for the management of historic places of significance to them

Work with Maori to develop protocols relating to knowledge of historic places of significance to Maori, and the use of this information by the department

Establish procedures for the management of waahi tapu that acknowledge the traditional and Treaty rights of Maori

## **Visitor Services**

### *Goal*

To work with Maori in the provision of services to visitors on department managed lands

### *Action Statements*

Develop an effective relationship with Maori on the provision of visitor facilities and services, so as to identify issues of concern to them

Respect and protect Maori cultural values placed on department managed areas. In some cases this may involve setting limits of visitor numbers, facilities, services and commercial activity

Remind visitors that there is a Maori cultural component to their visits

Encourage Maori to provide visitor services which add cultural value to the intrinsic natural and historic values of department-managed areas

Involve tangata whenua in reviews of departmental interpretation material on panels, signs and in publication

Encourage Maori to visit department-managed areas

Provide specific opportunities for Maori to provide Maori cultural activities and experiences for visitors to department managed areas

## **Public Awareness**

### *Goal*

To increase public awareness of the involvement of Maori in conservation, raise Maori awareness of current conservation issues and the department's role and foster dialogue between Maori and other stakeholders in conservation

Encourage and facilitate dialogue and co-operation between Maori and other stakeholders at the national, regional and local level

Raise public awareness of the implications of giving effect to the principles of the Treaty for the work of the department

Promote through the media the conservation work undertaken by Maori, and positive conservation partnerships developed between Maori, the department and other stakeholders

Explain the role of the department in the treaty settlement process

Include Maori conservation and cultural perspectives in the departments general conservation information

Raise Maori awareness of the role and work of the department, the opportunities for developing conservation partnerships, and the key conservation issues that need to be addressed

Promote the Nga Whenua Rahui and Tikanga Atawahi programmes

Encourage Maori participation in the departmental activities including the volunteer and conservation events programmes

Work with education authorities to ensure that conservation information is available in Maori for use by kohanga reo and kura kaupapa Maori

Provide regular information to Maori Media

## **Staff issues**

### *Goal*

To reflect through staff the department's commitment to biculturalism and relationships with Maori

### *Action Statements*

Equip employees to interpret and administer conservation legislation so as to give effect to the principle of the Treaty of Waitangi and reflect the partnership between the department and Maori

Improve the recruitment, retention and active participation of Maori at all level within the department

Create an environment in which Maori employees feel comfortable and are able to contribute their full potential to the achievement of conservation outcomes



## 14 Appendix 2

### Management Objectives of Department of Conservation Conservancies Affected by Treaty of Waitangi Settlements

#### 14.1 Tainui Settlement

Taken from *Waikato Conservation Management Strategy 1996*. Department of Conservation.

	Objective	Affected by Kaupapa Atawhai	Affected by Settlement
	To preserve the health and diversity of existing indigenous terrestrial, aquatic and marine ecosystems, and maintain or increase the variety and abundance of indigenous species in their proper habitat		
	To protect significant landscapes, landforms, and geological features by protective management of features on conservation estate and to assist their protection elsewhere by supporting the conservation efforts of community groups and other agencies, to the extent that resources permit. Priority will be given to features of high conservation value that are threatened by damage or destruction and which are unique or highly unusual. Significant landscapes, landforms and geological features include those which have been identified by the New Zealand Earth Science Societies as being of regional, national or international significance. They may also include areas or sites which have been identified as such by a local authority or Iwi.		
	To ensure that a representative range of sites are preserved reflecting the total period and diversity of human settlement, resource exploitation, human interactions and human impacts on the landscape. The aim is to retain the full spectrum of cultural diversity, akin to ecologists who strive to maintain ecological diversity by doing their utmost to preserve rare and endangered species.		
	To strive for long term cost-effective protection of the natural and historic resources on land administered by the Department; to fulfil statutory obligations as efficiently and effectively as possible; and to involve Iwi and the local and regional community in the protection of areas over which they have an interest	Yes	
	To the extent not inconsistent with the conservation		

	of natural and historic resources, to foster public recreational enjoyment of those resources, and allow their use of tourism; and ensure that any non-recreational private or commercial uses are consistent with conservation; provided that, in the case of recreation reserves, recreation shall be the prime management objective.		
	To increase understanding of, support for, and involvement in conservation of the natural and historic heritage of the Waikato Conservancy and other parts of New Zealand		
	To promote the conservation of natural and historic values through statutory planning processes		
<b>Total</b>	<b>7</b>	<b>1</b>	<b>0</b>

## 14.2 Whakatohea Settlement

Taken from *Draft Conservation Management Strategy: East Coast Conservancy. 1995-20005.*  
Department of Conservation

	Objective	Affected by Kaupapa Atawhai	Affected by Settlement
<b>Giving effect to the Principles of the Treaty of Waitangi</b>	To give effect to the principles of the Treaty of Waitangi in all activities carried out under the Conservation Act 1987 and other Acts in the first schedule of the Conservation Act	Yes	Yes
	To give effect to the principles of the Treaty of Waitangi through the development of an effective working partnership between Te Papa Atawhai and Tangata Whenua in the protection and conservation of conservation resources	Yes	Yes
	As required by Government, as directed by the Minister of Conservation and in liaison with tangata whenu and other Crown agencies, to assist with settlement of claims under the Treaty of Waitangi, with a view that this will ensure the ongoing protection of New Zealand's natural and historic resources	Yes	Yes
	To develop and maintain positive consultation networks with tangata whenua of the conservancy and to be responsive to their views on all aspects of the department's work	Yes	Yes
	To assist tangata whenua to protect wahi tapu and		

	other historic taonga in accordance with tikanga Maori, particularly in relation to lands administered by the conservancy	Yes	
	To be responsive to tangata whenua approaches for the establishment of a joint management regime between iwi or hapu and the department in the protection of wahi tapu and historic taonga through consultation and information sharing	Yes	
<b>Conservation of Natural and Historic Resources</b>	To augment the existing network of protected areas by seeking legal and physical protection for the unprotected areas with the most significant ecological, geological, historic, cultural and landscape values, the aim being to attain a protected area network containing as wide a representation as possible of the Conservancy's natural and historic resources, including the commonplace, distinctive and rare		
	To ensure that land is classified and managed under appropriate legislation according to its primary purpose		
	To dispose of areas that do not have significant conservation values		
	To contribute (along with survey and monitoring) to the provision of a sound information base on which to make conservation management decisions		
	To aid the protection of natural and cultural values within the conservancy by ensuring compliance with conservation regulations and laws		
	To promote compliance with conservation laws through increasing public awareness of compliance reasons and requirements		
	To provide an effective and efficient compliance and law enforcement capability		
	To pursue enforcement through prosecution when necessary		
	To ensure integrated management of all areas under the Department's administration		
	To provide opportunities for tangata whenua and the community to be involved in the preparation of any CMP's or management planning guidelines	Yes	
	To ensure that the conservancy's landscape management and interpretation, and its advocacy for landscape quality and values give due cognizance to Maori perspectives on landscapes, and give effect to the principles of the Treaty of Waitangi	Yes	
	To assist other agencies and expert groups to identify the diversity and significance of the conservancy's landscapes, landforms, geological		

	features and soils, and to raise the level of general knowledge of landscape values in the conservancy		
	To assist in protecting outstanding and significant natural and cultural features and landscapes in the conservancy, including unique, representative or culturally significant examples of landscapes, landforms, geological features and soils, through sound landscape management and advocacy		
	To increase public awareness (including staff awareness) and understanding of landscapes, landforms, geological features and soils and the linkages between these and biota		
	To maintain landscape quality and values in areas administered by the conservancy through sound landscape management which emphasises avoidance, minimisation of negative impacts on landscape, and rehabilitation of degraded sites		
	To protect and conserve significant historic resources on areas managed by the conservancy		
	To advocate for the protection and conservation of historic resources of significance which are not in areas managed by the conservancy		
	To manage historic resources of cultural and spiritual significance in partnership with tangata whenua	Yes	
	To allow easements where they will not adversely affect natural or cultural values for conservation (including ecological, historic or public use values), and their purposes cannot reasonably be achieved by other means on private lands		
	To allow Search and Rescue exercises on lands managed by the conservancy where those exercises will be carried out in a manner that will not damage natural and historic values for conservation (including adverse effects on recreation experiences and activities)		
	To provide for defense exercises on lands managed by the Conservancy in a manner which will not damage natural and historic values (including adverse effects on recreation experiences and activities)		
	To provide access agreements for small scale, low impact prospecting and exploration operations, subject to appropriate conditions to protect natural, historic and other values for conservation		
	To ensure that any mineral related activities carried out in areas administered by the conservancy do not threaten natural and historic values and other conservation consideration, without specific provision for mitigation, rehabilitation or compensation for adverse affects		
	To ensure that any power generation, irrigation dam facilities (or similar) on lands or waterways		

	managed by the conservancy do not threaten natural, historic or cultural values for conservation		
	To advocate generally for the protection of areas with significant natural or cultural values for conservation from any adverse effects of power generation or irrigation dam facilities		
	To grant new grazing rights and re-issues existing rights if grazing is performing a conservation or management objective or where the costs of disposal outweigh any gain		
	To allow new sites for telecommunication facilities on lands managed by the conservancy only where they cannot be provided elsewhere, and to ensure the protection of landforms, landscapes and other values for conservation, in this process		
	To allow beehives and other similar proposals for temporary occupation to be sited on land managed by the conservancy where they will not compromise values for conservation, or adversely affect existing legitimate uses		
	To emphasize the desirability of public access to buildings occupying land managed by the department		
	To contribute to national initiatives which give effect to obligations flowing from the International Convention on Biological diversity of similar international agreements		
	To maintain the full diversity of native terrestrial, aquatic and marine ecosystems found in the conservancy, through the integration of whole ecosystem management concepts in all of the conservancy's management activities		
	To develop specific management techniques and systems to achieve this in areas managed by the conservancy, and to advocate their adoption elsewhere		
	To facilitate a programme of whole ecosystem monitoring, research and management trials in the northern Urewera forest tract		
	To establish and maintain integrated information systems on the distribution and state of the conservancy's terrestrial. Freshwater, coastal and marine ecosystems, habitats and species; and to identify the nature and impact of changes and threats facing them, through surveys and monitoring, in order to judge appropriate management responses		
	To establish a network of marine reserves incorporating unique and/or representative marine habitats for the purpose of preserving marine areas in their natural state		
	To establish and administer marine reserves with local support and participation		

	To recognise and provide for the kaitiakitanga status of tangata whenua in the establishment and on-going administration of marine reserves	Yes	
	To recognise and provide for educational, recreational and scientific opportunities compatible with the purpose of marine reserves		
	To recognise the possibility of applications for marine reserves by other agencies, and to support marine protection mechanisms in general		
	To protect natural and historic values for conservation from plant pests and to respond and fulfil statutory requirements for plant pest management		
	To undertake other plant pest control where there is a social or legal obligation to do so		
	To monitor the effectiveness of problem plant programs and operations		
	To protect natural and historic values from animal pest impacts, and to fulfil statutory requirements for animal pest management in areas managed by the conservancy		
	To prevent and minimize fire damage to land managed by the conservancy and other Crown agencies		
	To liaise and cooperate with other fire authorities and rural fire organization to provide an effective rural fire fighting force in the East Coast conservancy		
	To meet the various legislative requirements of a Fire Authority for rural fire suppression as defined by the Forest and Rural fires Act 1977 (plus amendments) and to conform to the Rural Fire Management Code of Practice		
	To use fire as a management tool where appropriate		
	To offer professional advice promoting the sustainable management of natural and physical resources in cases where the Minister of Conservation is the consent authority and, in the case of Regional Coastal Plan, the approving authority		
	To have regard to the status of the tangata whenua as a Treaty partner, in carrying out the East Coast Conservancy's advisory role in coastal management		
	To initiate (in conjunction with coastal management agencies), a comprehensive natural resource audit and monitoring programme in order to provide sound advice to the Minister, and to promote the free dissemination of information between agencies involved in Coastal Resource Management		
	To contribute (in conjunction with other coastal management agencies) towards increasing conservation awareness and support of resource		



	management and conservation issues within the coastal environment		
	To advise Regional Authorities on areas that are sensitive to oil pollution and to be prepared at any time to implement the East Coast Conservancy's role in oiled wildlife response		
	To minimize the need for active ecological restoration efforts by prevention wherever possible the degradation of the natural environment		
	To restore ecologically degraded sites having the Greatest potential over the medium-long term (30+ years) for enhancement of the natural values of the site and of the conservancy		
	To promote sound ecological restoration in the Conservancy generally, and to support appropriate restoration initiatives of land holders, local and regional government, iwi, local communities, schools and others		
	To maintain the full diversity of native terrestrial, aquatic and marine species and communities found in the conservancy		
	To prevent where possible the loss of any threatened species from areas where they currently exist		
	To reduce where possible the threatened status of any species through research and management		
	To control and monitor the manipulation of species or removal of material from areas managed by the conservancy		
	To ensure compliance by the public in all matter concerning the taking, manipulation or keeping of protected species in captivity (in accordance with legislative requirements and current department policy)		
	To assist applicants to obtain material for research, education, and traditional cultural purposes from areas under the Conservancy's administration, in a manner which maintains natural values		
	To maintain links with the Eastern Region Fish and Game Council and support where appropriate their efforts to enhance the Conservancy's sport game resources		
	To ensure that natural values of significant habitats are not unduly compromised in the provision of sports game resources by ERF&GC		
	To provide protection for marine mammals in accordance with the requirements of the Marine mammals Protection Act 1978		
	To encourage increase support for and involvement		



	in conservation generally, through marine mammal conservation opportunities		
	To utilize volunteers to assist in marine mammal rescue and monitoring		
	To encourage increase awareness and support for marine mammal conservation amongst marine users		
	To ensure that commercial tourism operator targeting marine mammals are meeting the requirements of the Marine Mammals Protection regulations 1992		
	To allow for the use of deed marine mammals for conservation science or cultural purposes, in accordance with tikanga maori	Yes	Yes
	To recognize and provide for the status of tangata whenua as treaty partners in the disposal of marine mammals and the distribution of taonga such as whale-bone	Yes	Yes
	To promote the general conservation and sustainable management of marine ecosystems in the East Coast Conservancy through fisheries advocacy		
	To seek to reduce adverse effects of fishing activities in marine environment		
	To maintain, and where possible enhance, a close liaison with all statutory agencies involved in fisheries management and MAF in particular		
	To encourage broad community support for, and involvement in conservation initiatives taken on fisheries management issues		
	To maintain and where possible enhance indigenous freshwater fish stocks through the promotion and implementation of habitat protection measures, and the maintenance of fish passage for migratory species		
	To protect freshwater fish and their habitat as a significant component of the biodiversity of the natural ecosystems in the areas managed by the conservancy		
	To promote the sensitive and equitable use of the freshwater fish resource by the public where this does not interfere unduly with the conservation of the resource		
	To recognize and provide for the status of the tangata whenua as Treaty partner in the management of freshwater fish	Yes	
	To liaise with other agencies with authority for		

	decision making on freshwater fisheries issues (MAF, Eastern Regional Fish and Game Council, Regional Councils)		
	To work towards a significant increase in public awareness of freshwater fish and the conservation issues relating to them		
	To assist Tangata Whenua and other interest groups to protect and enhance native animal and plant resources which are of cultural importance	Yes	Yes
	To facilitate environmentally sustainable, legal use of culturally importance species		
<b>Recreation and Tourism</b>	To provide a range of sustainable recreation opportunities which best reflects and is responsive to patterns of demand throughout the East Coast Conservancy and North Island, and which are consistent with the conservation of natural and historic resources		
	To ensure that the conservancy's partnership obligations are met in all processes involved in management of recreation and tourism in the areas it administers		
	To provide for appropriate access over land administered by the conservancy consistent with the protection of natural and cultural values and the experience of other users		
	To advocate for appropriate access to land administered by the conservancy consistent with the protection of natural and cultural values and the experience of other users		
	To encourage the provision of safe unrestricted foot access to the countryside consistent with s.3 of NZ Walkways Act 1990		
	To ensure a range of facilities including huts, tracks, bridges and signs are provided in appropriate location to enhance visitor experience and to minimize visitor impacts and risk		
	To manage recreation activities on lands and water bodies administered by the conservancy to reduce conflict between incompatible uses, minimize their impact on the environment, minimize health risk, maintain quality of visitor experience		
	To allow wider visitor enjoyment of areas managed by the Department, through authorizing commercial recreation or tourism activities that are compatible with the natural and historic values of them, and the purpose for which the area is administered, and do not significantly affect other recreational users of the area		
	To ensure that visitors are aware of hazards and encourage them to take precautions to minimize		

	risks		
	To ensure that conservation, the conservancy and conservation service are available and well presented to the public, through visitor centre services		
	To enhance visitor experiences and to build support for conservation and the conservancy's work, through the use of interpretation displays at visitor centers		
	To support merchandising of conservation products as a valid means to extend the conservation message and recover some of the costs of providing the service		
<b>Advocating for Conservation in General</b>	To develop understanding of and support for the conservation of natural and historic resources		
	To promote awareness of recreation opportunities in the conservancy		
	To increase public involvement and support in conservation issues of the East Coast conservancy		
	To be involved, where appropriate in the conservation activities of other organization		
	To ensure that public awareness activity gives effect to the principles of the Treaty of Waitangi, primarily through consultation		
	To promote the inclusion in Resource Management Act and Local Government Act planning processes, of policies and rules which provide for the conservation of natural and historic resources on the topics outlined above	Yes	
	To seek the inclusion in planning documents of provisions for conservation of the natural and historic resources of the land managed by the conservancy, and the activities which take place there		
	To promote the careful consideration of conservation matters, and the provision of appropriate conditions protecting the natural and historic values on the East Coast conservancy, in resource consent application processing		
<b>Total</b>	108	17	7

### 14.3 Ngai Tahu Settlement.

Taken from Conservation Management Strategy for Nelson/Marlborough Conservancy. 1996-2006. Department of Conservation.

	Objective	Affected by Kaupapa Atawhai	Affected by Settlement
<b>Tikanga Maori</b>	To give effect to the principle of the Treaty of Waitangi	Yes	Yes
<b>Legal Protection of Natural Areas</b>	To identify areas requiring protection		
	To provide effective legal protection for areas possessing important natural or historic values by the most appropriate and cost-effective mechanism		
	To review the status and classification of areas administered by the department, to achieve the most appropriate statutory and administrative framework for the protection of natural, historic and recreational values.		
	To administer only those areas that possess existing of potential natural, historic and recreational values and to dispose of surplus land in a way that maximizes the net conservation benefits		
	To transfer control of reserve land to appropriate groups where it is primarily used for community purposes and to seek control of reserves where the primary management objective is protection through mutual agreement.		
<b>Legal Protection Responsibilities for Species</b>	To the extent required by legislation to protect native plants and animals from harm and disturbance		
<b>Management of Threatened Species and Communities</b>	To maintain the full diversity of native species and communities found in Nelson and Marlborough		
<b>Historic Resources</b>	To identify, conserve, and where appropriate, interpret historic resources reflecting the human history of the conservancy		
	To ensure that a comprehensive survey for a full range of all historic resources is undertaken and that appropriate records are made		
	To provide for the conservation, protection and		

	management of historic resources to ensure their historic, traditional and spiritual integrity		
<b>Research, Survey and Monitoring</b>	To provide a sound information base on which to make management decisions		
<b>Special Management Considerations</b>	To provide for the particular management requirements imposed by land status or designation where preservation of natural values is not the primary management of the area		
	Where landscaping or restoration is required, to use species and techniques that are compatible with and preserve or enhance the ecosystem of the site		
<b>Threats to Areas Administered by the Department</b>	To protect the intrinsic values of the areas administered by the department and native biota from biological and human-induced threats		
<b>Plant Pests</b>	To eliminate, or minimize the effects of plant pests on native plants, animals and ecosystems, important archaeological and historic sites, and important landscapes		
<b>Animal Pests</b>	To remove the impact of animal pests on native plants and animals where practical and consistent with legislation		
	To use the most suitable and cost-effective methods available to control animal pests		
	To foster recreational and commercial hunting as a means of controlling animal pests		
	To control the holding and movement of potential animal pests to prevent their liberation in areas where they are not already present		
<b>Fire</b>	To minimize the risks to areas administered by the department from fire and to minimize the damage to natural values on them if a fire occurs		
	To ensure the efficient suppression of fire		
	To minimize the likelihood of fire		
	To allow fire to be used as a tool for management, provided the loss in conservation values is minimal		
<b>Environment Pollution</b>	To minimize the threats to biota from environmental pollution and to mitigate its impacts through raising public awareness of the issues		
<b>Compliance</b>	To ensure protection of natural, historic and recreational values and to regulate use of areas administered by the department		
<b>Uses of Areas Administered by the</b>	To allow the use of resources and areas administered by the Department only to the extent		

Department	that it is not inconsistent with the status of an area, and protection of the values for which it is held		
	To allow the taking of cultural materials according to approvals from, and the agreement of, the tangata whenua, where impacts on the population of the species being taken or other natural, historic or recreational values are not significant	Yes	Yes
	To allow the taking of limited amounts of native plant material for commercial purposes where there can be a proven conservation gain	Yes	Yes
	To allow access for sustainable commercial taking of eels in waters of conservation areas while retaining some areas in their natural state		
	Apiary sites may be licensed on conservation areas where the adverse effects on public use of the area and natural values are not significant		
	To allow grazing on reserves and conservation areas, only where it is appropriate to the management objectives for the area and consistent with legislation		
	To remove plantations with commercial value where they conflict with the conservation of natural or historic values unless they protect significant natural values		
	To allow commercial visitor services and facilities that increase the wider enjoyment of areas administered by the department provided that they are not inconsistent with the purposes for which the land is held		
	To allow easements where they do not significantly impact on natural, historic or recreational values or public use and where the purpose of the easement cannot be achieved on areas other than those administered by the department		
	To ensure that mineral related activities occur only where natural, historic and recreational values are adequately protected, restoration is assured and adequate compensation is provided		
	To allow only limited exclusive occupation of public land by buildings used for private or commercial purposes, in keeping with the legislation, and where natural, historic or recreational values will not be adversely affected		
	To allow structures for commercial use and public works only where there is a net conservation benefit of where no other practical site on private land exists for a network utility		
	To allow for a diversity of recreational experiences		

	and visitor opportunities which are compatible with the protection of natural, historic and recreational values on areas administered by the department		
<b>Visitor Access</b>	To encourage foot access generally, and restrict activities and access only where necessary to protect natural values or the enjoyment of others		
	To restrict access only where it is necessary to protect important natural values of threatened species		
	To allow some domestic animals onto designated or gazette areas administered by the department where land status allows, and where natural, historic or recreational values will not be adversely affected		
	To allow the use of aircraft, boats or their vehicles in accordance with land status and the values for which the area is managed		
<b>Visitor Opportunities</b>	To encourage a range of recreational activities within areas administered by the department in a manner consistent with the status of the area and the protection of the values for which it is held		
	To encourage the pursuit of harmful animals for the conservation benefits, and allow the taking of gamebirds and sports fish for recreational purposes and to regulate the whitebait fishery		
	To allow for the taking of small quantities of non-renewable resources by casual visitors where it is compatible with both the status of the land and the values for which the area is held		
	To encourage the protection of sensitive formations and ecosystems through adoption of environmentally sound climbing and caving practices		
	To allow snow sports where the impacts on the environment and other recreational values are acceptable		
	To prevent visitors from staying long term in accommodation facilities provided by the department except in serviced campgrounds		
	To reduce conflicts between large organized groups and other visitors, and to minimize their impact on the environment		
	To ensure that visitors are aware of hazards and that appropriate precautions are taken to minimize risks		
<b>Recreational Facilities</b>	To provide facilities to enhance visitor experience, minimize visitor impacts and to manage visitor numbers		



	To raise visitor awareness of their impacts and to seek ways to minimize adverse effects		
	To reduce the impacts of visitors at vehicle access points and to enhance the visitor experience by providing appropriate facilities		
	To provide opportunities for people to visit rewarding places on foot and to manage visitor impacts		
	To establish and maintain a system of walking tracks over both private and public land for access to the countryside		
	To provide opportunities for overnight and extended stays appropriate of the Recreation Opportunities Spectrum zoning and natural values of the area		
<b>Visitor Information</b>	To enhance visitor experiences by providing information		
	To help route planning by visitors		
	To enhance visitor experience by providing background information that reflects both Maori and pakeha perspectives on our natural and cultural heritage at a site	Yes	Yes
	To provide services at visitor centers which are relevant to conservation and inform the greatest number of people of opportunities in areas administer by the department		
<b>Public Awareness</b>	To create a greater understanding of, and commitment to conservation through raising public awareness of the natural and historic heritage		
	To provide a comprehensive range of high quality conservation information through publications		
	To make use of educational opportunities to produce a personal commitment to natural, historic and recreational values		
	To use all media opportunities effectively to raise awareness of the department and conservation generally		
	To raise participant levels awareness, support and understanding of major conservation issues		
	To involve the public in conservation through volunteer programmes in order to achieve conservation gains and to foster a greater understanding of the departments role		
	To build strong links with the community by		

	encouraging effective input into conservation issues and the management of areas administered by the department		
<b>Planning</b>	To protect natural and historic values through advocacy during statutory process administered by local authorities		
	To interpret management of particular plans and to provide a means for public comment on sustainable issues that may arise from the departments activities and proposals		
<b>Total</b>	<b>69</b>	<b>4</b>	<b>4</b>

Taken from *Canterbury Conservation Management Strategy: Draft*. Department of Conservation.

	<b>Objective</b>	<b>Affected by Kaupapa Atawhai</b>	<b>Affected by Settlement</b>
<b>People Partnership</b>	To recognize the mana whenua of Ngai Tahu and consult with its Papatipu runanga	Yes	Yes
	To recognize and provide for the relationship of Ngai Tahu and their culture and traditions with their ancestral lands, water sites, waahi tapu and other taonga	Yes	Yes
	To manage Department land in a manner which gives effect to the principle of the Treaty of Waitangi and with management practices that, where possible, have regard to local tikanga	Yes	Yes
	To support Ngai Tahu in their interpretation of their traditional relationships and cultural values to visitors	Yes	Yes
	To foster the participation of individuals and community groups in appropriate natural, historic, and recreation projects	Yes	Yes
	To build and enhance relationships with key associates to promote natural and historic values, communicate the Department's priorities and programmes, share viewpoints, and enhance progress to common goals	Yes	Yes
	To increase public understanding, support, and involvement in the protection of natural and historic resources and the Department's mission		
<b>Heritage Conservation</b>	To identify Canterbury's heritage landscapes and heritage landscape values, assess the threat that they are under and seek to sustain these landscapes and		

	values in co-operation with other agencies/landholders		
	To advocate to the Canterbury Regional Council and district councils to identify, maintain, protect and enhance the character, integrity and heritage values of Canterbury's landscapes		
	To manage operations on land managed by the Conservancy to conserve landscape integrity and conform to high standards of environmental design		
	To systematically identify all of Canterbury's land ecosystems by 2010, assess their values for indigenous biodiversity, and to seek to protect a range of areas which vest contribute to maintaining Canterbury's indigenous biodiversity		
	To systematically identify significant landforms, and protect geological features on land managed by the Conservancy		
	To systematically identify the management needs for natural values on land managed by DOC and prioritize management to maintain or enhance Canterbury's indigenous biodiversity and natural processes		
	To negotiate with Crown Pastoral Lessees directly or through tenure review, to protect natural, historic, and recreational values		
	To increase public awareness of the need to protect Canterbury's indigenous biodiversity and promote the most efficient and effective means to protect values and processes		
	To systematically record the Conservancy fencing network, assess its condition, and prioritize new or maintenance fencing to meet indigenous biodiversity and statutory priorities		
	To restore viable natural communities in order to maintain and enhance Canterbury's indigenous biodiversity		
	To protect and enhance the life supporting capacity of Canterbury's freshwater ecosystems for their intrinsic state and for their habitat values for birds, fish and invertebrates		
	To preserves and enhance indigenous freshwater fisheries and habitats, by liaising with MAF, Fish and Games Councils, Canterbury Regional Council, Ngai Tahu, and District Councils	Yes	Yes
	To Recognize Ngai Tahu's existing freshwater fishing rights	Yes	Yes
	To eradicate, contain or control noxious fish in		

	Canterbury freshwaters		
	To ensure appropriate fish passage is provided where structures impede the natural movement of fish in any natural waterbody		
	To prevent the undesirable introduction of new aquatic species to Canterbury freshwaters		
	To restrict access to commercial eeling on rives and lakes managed by the Conservancy to Te Eaihora/Lake Ellesmere		
	To improve public awareness of freshwater ecosystems and freshwater fish, and their associated management		
	To avoid adverse effects of water storage facilities on wild river catchments of significant values for wildlife, fish and recreational values		
	To manage and mitigate the adverse effects of water storage facilities on managed river catchments		
	To protect marine mammals and stimulate public awareness and involvement in their management, particularly the Banks Peninsula Marine Mammal Sanctuary		
	To provide for the use of marine mammals parts by Ngai Tahu and scientific institutions	Yes	Yes
	To identify marine ecosystems, assess their significance and apply to establish suitable areas as marine reserves		
	To ensure effective planning and response capability for the protection of marine wildlife from marine pollution		
	To restore species in imminent danger of extinction to population levels where they can sustain themselves and increase		
	To systematically survey Category A and B species; assess their habitat requirements and threats, and implement management to sustain and enhance their populations		
	To encourage and facilitate community support and involvement in species protection projects		
	To advocate that RMA plans recognize and provide for the protection of significant habitats of threatened indigenous fauna and implement methods that avoid, remedy, or mitigate adverse effects on development		

	To systematically identify and locate historic places and their values and threats on land managed by the Conservancy		
	To prioritize historic management work by actively managing a representative range of Canterbury's historic places that represent a range of cultural diversity and/or are of high historic significance		
	To consult with Ngai Tahu over appropriate tikanga/management of historic sites/waahi tapu	Yes	Yes
	To collaborate with and support the New Zealand Historic Places Trust, museums, historical societies, universities and other agencies to promote, manage, identify, and promote historic places on land managed by the Department		
	To fulfil responsibilities for pest control and maintain good neighbor relationships with all adjoining landlords by fulfilling boundary pest control responsibilities specified in RPMs in a co-operative way		
	To systematically identify significant animal pests on land managed by the Department, assess the risks they pose to natural values, and implement control where it best contributes to indigenous biodiversity and landscape protection		
	To foster appropriate recreational hunting in Canterbury to protect indigenous plants, reduce wild animal densities, provide recreational satisfaction, and reduce management costs		
	To authorize a competitive range of operators for wild animal recovery services to efficiently reduce the adverse effects of wild animals on vegetation, soil, water, and wildlife		
	To permit or prohibit deer farming of certain species of deer based on the presence of feral deer in the area, the impacts of escaped deer on native flora and fauna, and control costs		
	To permit appropriate safari parks where the risks of wild animals escaping can be remedied, avoided or mitigated		
	To maintain good neighbor relationships with adjoining landholders by undertaking boundary control responsibilities in a co-operative way		
	To systematically identify significant weed pests on land managed by the Department, assess the risks they pose to natural values, and implement control where it best contributes to indigenous biodiversity conservation and landscape protection		
	To remove exotic trees in national parks, nature		

	reserves, scientific reserves, historic reserves and S 19(1)(a) Scenic Reserves to protect their indigenous natural and historic values		
	To remove or contain exotic trees in Conservation areas to protect their indigenous natural and historic values		
	To allow exotic plantings on Recreation S 19(1)(b) Scenic, Local Purpose and unclassified reserves and conservation areas in exceptional circumstances where exotic species will not adversely affect indigenous natural or historic values		
	To prevent or minimize fire damage to state areas in the Conservancy		
	To provide an effective rural fire fighting force in Canterbury by undertaking its rural fire control responsibilities in a co-operative way with other fire authorities and rural fire organizations		
	To allow the use of fire as a management tool to maintain or enhance a particular natural community		
	To assist in any nationally co-ordinated research programme or project implemented by the national Rural Fire Authority		
	To advocate that RMA plans avoid, remedy or mitigate the adverse effects of fire on outstanding landscapes, natural features, and areas of significant indigenous vegetation or wildlife habitat		
<b>Visitor Services</b>	To investigate wilderness status for Departmentally managed areas in the upper Rangitata, Rakaia, and Godley valleys and if agreed by the Minister, gazette a wilderness area		
	To establish and manage a range of walkways, generally in close proximity to Timaru and Christchurch, for the benefit for the general public		
	To encourage co-ordination between recreational groups, landowners, and resource management agencies to maintain and enhance the diversity of Canterbury's recreational opportunities		
	To encourage local authorities and landholders to facilitate appropriate public access to land managed by the conservancy and along rivers, lakes, and the coast		
	To systematically identify accurate public access to land managed by the Conservancy, provide this information to the public and enhance public walking access		
	To harmoniously design and construct appropriate facilities to acceptable national standards in		

	locations where high numbers of visitors can benefit from their provision and site impacts can be minimized		
	To ensure all facilities meet statutory requirements and safety standards		
	To manage facilities based on their level of use, recreation or historic importance, environmental compatibility, condition, and associated costs, and to provide a range of quality visitor experience		
	To encourage volunteers to maintain low priority facilities to acceptable standards		
	To focus most future recreational facility provisions on road ends and provide short tracks in front country areas with high visitor use		
	To maintain medium and high priority facilities in backcountry areas, and monitor the condition of low priority facilities		
	To manage a nationally consistent sign systems which provides messages that are easy to areas and understand, and identify the areas, facilitate, and services managed by the department		
	To maintain and enhance the quality of visitor experience by protecting landscape vista and providing appropriate roadside facilities in consultation with affected agencies		
	To raise visitors' awareness of their impacts and encourage them to minimize adverse effects		
	To manage significant visitor impacts on natural and historic resources by applying effective long-term methods and approaches which avoid, mitigate, and minimize adverse impacts		
	To provide safety information for visitors, recognizing they will be primarily responsible for their own safety		
	To protect ground dwelling birds and recreation opportunities from the adverse effects of dogs		
	To provide a range of high quality visitor centers in locations where a significant number of visitors can benefit from natural, historic and recreational information		
	To meet reasonable visitor needs, stimulate their interest and appreciation in natural and historic issues, and to enhance their enjoyment		
	To provide support to a range of appropriate events for visitors which increase public understanding of		



	our natural, cultural and historic heritage, and the Department's roles and responsibilities		
	To provide a series of high quality interpretative facilities that will satisfy visitor expectations, increase their understanding of natural and historic resources, encourage environmentally appropriate behavior and promote visitor safety		
	To authorize appropriate education camps, lodges, club concessionaire huts, and other accommodation – where their adverse effects on natural, historic, and recreational resources can be avoided, remedied, or mitigated		
	To recognize that while aircraft provide access to many visitors they also detract from the general amenity values of quietness and remoteness, and that aircraft access must be managed to ensure other recreation opportunities are maintained and conflicts with other visitors are minimized		
	To authorize a competitive range of aircraft concessions to operate in parts of the Conservancy, subject to the avoidance, mitigation, and remedying of adverse effects on natural, historic, and recreational values		
	To minimize physical impacts by severely restricting built facilities and land modification for aircraft facilities		
	To liaise with the Civil Aviation Authority, aviation operators, recreationists, and local/regional authorities to advocate safe and quiet services to areas managed by the Conservancy		
	To authorize a competitive range of commercial guiding opportunities so that visitors obtain quality experiences and the Department obtains market rentals, consistent with conserving natural and historic resources and retaining free public access		
	To encourage guiding organizations and the guiding industry to maintain and enhance appropriate professional standards of environmental protection, safety and visitor enjoyment		
	To develop user pays monitoring programmes for guiding concessionaires to enable the conservancy to ascertain the environmental impacts of guiding concessions		
	To encourage guiding concessionaires to impart their clients an awareness and understanding of the values and distinction of Canterbury's natural ecosystems and cultural history		
	To consider applications for developments on existing skifields, and applications for new ski		

	areas, to prevent of remedy significant adverse effects on natural or historic values in accordance with the purpose for which the land is held		
	To ensure the Department earns a market rental from skifields and that concessionaires pay for the reasonable costs of the environmental effects of their activities		
	To permit special and sporting events on land managed by the Conservancy where the adverse effects on natural, historic and recreational values can be avoided, remedied, or mitigated to acceptable level		
	To permit other concessions on land managed by the Conservancy where the adverse effects on natural, historic and recreational values can be avoided, remedied or mitigated to acceptable levels		
<b>Commercial and Other Uses</b>	To ensure that any propose mining activity is properly assess, to enable any potential adverse effects to be avoided, remedied or mitigated and to ensure adequate compensation		
	To ensure that any prospecting, exploration or mining activity has minimal adverse effects on the natural historic cultural or recreational values of the areas managed by the Department		
	To protect natural and historic values for inappropriate telecommunications development by avoiding the use of Departmentally managed areas where possible, and allowing installations where the effects on the site and surroundings can be mitigated or remedied		
	To allow public works and associated structures where no other practical site exists or where the effects of the work can be remedied or mitigated and the use is compatible with the purpose for which the land is held		
	To allow the use of apiary sites where they do not significantly impact on the purposes for which the land is held and the adverse effects on natural, historic and recreational values can be avoided, remedied or mitigated		
	To allow easements where they do not significantly impact on the purposes for which the land is held and where no suitable alternative exists on land not managed by the Department		
	To consider the granting and re-issuing of market related grazing rights where natural, historic, and recreational values are not detrimentally affected		
	To dispose of grazing land where the natural or historic values are low		

	To reduce the number of existing private bach sites, and ensure that no new private baches are established, on land managed by the Department		
	To permit the erection of buildings associated with sport or community activities on land managed by the Department where this is consistent with the purpose of the reserve and adverse effects can be remedied, avoided or mitigated		
	To allow military use of lands managed by the Department in accordance with the 1990 Defence Training Agreement		
	To allow commercial filming where adverse effects can be remedied or mitigated to acceptable levels		
	To allow commercial landscapes painting and photography		
	To allow the non-commercial taking of materials for cultural purposes by Ngai Tahu where species populations and habitats are not adversely affected	Yes	Yes
<b>Departmental Management</b>	To systematically locate, describe, and upgrade the natural, historic, recreation, administrative details and management issues of all land managed by the Department (as partially completed in Volume II, Schedule 2)		
	To manage land for the purposes outlined in the legislation under which it is held		
	To prioritize statutory management work to maximize gains in the protection of a broad range of Canterbury's indigenous biodiversity		
	To seek to rationalize the amount of land managed by the Department by realizing net gains to natural, historic, and recreational values in the sale or swap of land		
	To acquire land of high natural, historic and recreational values for management by the Department		
	To seek status/classification changes that are appropriate to the natural, historic, and recreational values of land managed by the department where resources permit		
	To reduce administrative involvement in reserves managed by local authorities under the Reserves Act 1977		
	To rationalize administrative units and land status for groupings of land managed by the Department		

	To investigate the increase protection of land managed by the Conservancy in the Ohau, Rangitata, Rakaia, Waimakariri/Ashley Foothills and Hawkdun areas		
	To encourage voluntary public compliance with statutes administered by the Department		
	To systematically gather intelligence, detect offences, and initiate prosecution of offences under legislation administered by DOC in a professional and efficient manner		
	To complete archeological survey for all of Canterbury		
	To systematically identify values, threats and potential management action on all land units managed by the conservancy		
	To ensure that natural, historic and recreational information is collected, updated, stored and utilized to best enable the prioritization of management and advocacy decisions		
	To consider application for appropriate research on land or species managed by the conservancy where adverse effects can be avoided, mitigated or remedied		
	To provide support to researchers where the research is of benefit to major management and advocacy priorities		
	To develop contractual arrangements with researchers where the research is commercial oriented, either in whole or in part		
	To provide research priorities to universities and other institutions		
	To implement research findings which benefit management		
	To require the preparation of an appropriate EIA to support applications for consents to identify mitigate remedy and avoid adverse effects on natural historic and recreational values		
	To maintain, review, and amend management plans for Mt Cook National Park, Arthur's Pass National Park and Loch Katrine Recreation Reserve to integrate management of those areas		
	To withdraw or revoke all other CMPs prepared by agencies dis-established on the formation of the Department for land managed by the Department		
	To prepare, review and amend other management		

	plans where the conservation of significant natural and historic resources require a CMP to be prepared		
	To prepare, maintain and review Conservancy functional strategies to provide strategic direction in functional areas and to provide a focus for management and advocacy		
<b>Totals</b>	<b>127</b>	<b>11</b>	<b>11</b>

Taken from *West Coast Conservation Management Strategy*. Department of Conservation.

	Objectives	Affected by Kaupapa Atawhai	Affected by Settlement
<b>Treaty of Waitangi</b>	To give effect to the principles of the Treaty of Waitangi in all activities carried out under the Conservation Act 1987 and other Acts in the first schedule of the Conservation Act	Yes	Yes
	To develop an effective working relationship between Te Papa Atawhai and tangata whenua in the protection and conservation of resources	Yes	Yes
	To develop and maintain positive consultation networks with iwi and papatipu runanga of the conservancy and to be responsive to their views on all aspects of the Departments work	Yes	Yes
	To work with Poutini-Ngai Tahu to ensure that the taking of plants, animals and other natural materials for traditional Maori purposed is in accordance with applicable legislative provisions	Yes	Yes
<b>Natural Diversity</b>	To identify and seek protection for key gaps in the protected area network		
	To maintain an up-to-date database and assessment of indigenous species habitats, ecosystems and process and the nature and severity of the threats they face		
	To prioritize natural diversity values and conservation lands on the basis of the defined criteria and manage them according to these priorities		
	To protect indigenous ecosystems, natural landscapes and their constituent species incorporating a range of environmental gradients linking mountains to the sea		
	To protect remnant habitats that retain natural values, or could have enhanced natural value		

	through the restoration of linkages or processes		
	To protect important landforms from inappropriate use or development		
	To preserve the diversity of freshwater/wetland ecosystems and maintain their life-supporting capacity for indigenous flora and fauna		
	To maintain and enhance the West Coast whitebait fishery the species that make it up and their habitats		
	To ensure all types of aquatic ecosystems are adequately represented and preserved in the protected area network		
	To preserve all indigenous freshwater fish species and enhance their habitats, but particular attention will be given to nationally vulnerable species, including Short jawed kokpu, Giant kokopu and Brown mudfish		
	To increase public awareness about the importance of freshwater/wetland ecosystems threats to fish habitats and vulnerability of species		
	To achieve formal protection of significance representative marine habitats, including coastal lagoon systems, on the West Coast, where possible in areas where marine protection will complement protection and use of adjacent areas		
	To achieve effective protection of marine mammals both in the sea and on land		
	To contribute to the recovery of nationally and regionally threatened species present on the West Coast where necessary, through intensive management		
	To protect and restore habitats critical of the continued survival of all threatened indigenous species		
	Prevent the invasion and establishment of significant new conservation plant pests into ecologically important areas		
	To undertake the control or eradication of plant pests where necessary to protect significant natural and historic resources		
	Meet agreed obligations to control plant pests arising out of National or Regional Pest Management Strategies established under the Biosecurity Act 1993		
	To undertake integrated control of wild animals where they constitute a significant threat to natural		

	values, or where required to do so by statute		
	Prevent of minimize fire damage to natural and historic resources		
	To restore selected mainland Habitat Islands to a condition where natural processes can occur free from the detrimental effects of introduced plants, animals and human activities, where New Zealand's plant and animals can persist without threat of extinction and where people can enjoy the full splendor of natural New Zealand		
	To integrate conservation management within Mainland Habitat Islands where possible		
	To provide answers of specific management problems and increase understanding of the dynamics of ecological systems and their component parts		
	To assemble accurate information on the distribution, status, condition and trends of natural diversity and the effectiveness of management actions		
	To manage the West Coast's natural diversity in partnership with Poutini Ngai Tahu	Yes	Yes
	To achieve an effective working relationship for the benefit of conservation with other agencies organizations and people		
<b>Historic Resources</b>	To effectively assess all historic resources on lands managed by the West Coast Conservancy to attain sufficient understanding of the values of those resources and the threats they face		
	To update an inventory of historic resources on a regular basis		
	To develop a Conservancy protection plan for all historic resources on land managed by the department		
	To identify a representative range of historic resources meriting active management on lands managed by the department, with priorities being decided according to significance and threats		
	To protect historic places of significance to Poutini Ngai-Tahu in partnership with them	Yes	Yes
	To achieve co-operative iwi-based management of historic resources of significance to them, giving effect to the principles of the Treaty of Waitangi	Yes	Yes
	To support tangata whenua initiatives to achieve protect of historic place and artifacts of significance	Yes	Yes



	to them		
	To provide effective protection of all historic resources on lands managed by the West Coast Conservancy		
	To provide active protection of all actively managed historic places on land managed by the west Coast Conservancy		
	To effectively manage historic place identified in the Register of Actively managed Historic places		
	To preserve and protect all actively managed historic places to ensure that inherent values are maintained		
	To acquire a more comprehensive archive of historical resources within the Conservancy		
	To facilitate access to archival material and in particular ensure that adequate opportunities exists of staff and public to access information on historic resources		
	To maintain effective working relationships to achieve mutual goals with all associates involved in historic resource conservation		
	To develop a working partnership with resource management agencies to ensure effective provision is made for protection of historic resources in plans and resource consents, and, where appropriate, to use legal protective mechanisms to achieve these ends		
	To encourage and support active public involvement in historic resource conservation, and the development of strong community historical groups		
<b>Visitors</b>	To identify a range of recreational opportunities on lands managed by the Department for both local people and visitors to the region to appreciate and enjoy the full diversity of the West Coast's natural and historic heritage		
	To ensure that the opportunity for wilderness recreation remains available and undiminished in some of the more remote areas of the West Coast back-country		
	To provide formal protection for wilderness on the West Coast by gazetting as wilderness areas deemed appropriate for such status after full public consultation		
	To ensure that protection and maintenance of wild and remote places, without facilities, by managing areas as remote experience areas		

	To provide buffers to core wilderness areas		
	To foster appropriate forms of outdoor recreation on West Coast by facilitating access to a broad range of back-country areas through the maintenance of an adequate network of tracks, butts, bridges etc		
	To maintain a range of back-country opportunities which provide or easy tracks suitable for users with limited experiences; to areas where much greater experience and self sufficiency is needed for visitors to travel them safely		
	To ensure that any development of visitor facilities associated with back-country recreation is consistent with the character the back country setting in question		
	To maintain a range of facilities in the front country throughout the Conservancy in order to foster public use and enjoyment of significant visitor attractions on lands managed by the department		
	In consultation with district and regional councils, Transit New Zealand and other interested agencies the Department will seek to ensure the protection and enhancement of the west Coast scenic and heritage highways. This includes protection of roadside vegetation, wetlands general landscape integrity and the over-all natural character of the West Coast highways and byways		
	In co-operation with these other agencies the Department will enhance visitor experiences by providing appropriate, high quality roadside facilities at key scenic attractions and planning a network of visitor service nodes which best meet visitor requirements without compromising conservation objectives		
	To manage "intense interest sites" in a way that protects their natural and historic values as well as the opportunity for visitors to experience and appreciate these values in an inspirational natural setting		
	To work closely with agencies and others to ensure that any use and development associated with intense interest areas is compatible with their natural character and protected status – both in terms of physical and social impacts		
	To allow free public access to lands managed by the department subject to limitations necessary to protect natural and historic resources, or avoid remedy or mitigate the adverse effects of one activity on another		

	To foster access to lands managed by the Department for those members of the public for whom such access would not otherwise be freely available especially the disabled the elderly and the very young		
	To carefully control the extent to which domestic animals and vehicles (including mountain bikes) may be permitted on those areas of conservation lands where such use is not prohibited by statute general policy any relevant management plans or provisions of this CMS		
	To protect indigenous animals of special visitor interest from harassment by ensuring that opportunities provided for human observation and interaction do not impact adversely on them or their habitat or cause changes to their behavior or distribution		
	To provide for (and where appropriate foster) recreational hunting and gamebird shooting on land managed by the Department on the west Coast where it does not conflict with the protection of protected species natural or historic resources or the experiences of other visitors		
	To encourage recreational and professional hunting in areas where natural and historic values are most threatened by game animals		
	To protect the physical and social environment of lands managed by the Department from adverse visitor impacts		
	To recognize that while aircraft provide access to significant numbers of visitors, they also detract from the general amenity values of quietness and remoteness, and that aircraft access must accordingly be carefully managed to ensure that the values for which conservation lands have been set aside are not seriously eroded		
	To allow a range of aircraft concessions to operate in the conservancy subject to the avoidance mitigation and remedying of adverse effects on natural and historic resources the protection of natural quiet and the quality of experience of other visitors		
	To work with regulator agencies (especially the Civil Aviation Authority and territorial local authorities) and the air transport industry to maintain places free from the adverse effects of aircraft over flights in order to protect wildlife and provide opportunities for people to experience nature without the intrusion of mechanized noise		
	To manage the South-West New Zealand (Te Wāhipounamu) World Heritage Area primarily to		

	protect its natural landscapes, biodiversity and ecological integrity		
	To provide an appropriate range of visitor facilities and services – in particular facilities and service that enable visitors to experience and appreciate the kind of landscapes, natural features and cultural values that have resulted in South-West New Zealand (Te Wahipounamu) being granted World Heritage status		
	To provide a range of facilities and services for visitors which are appropriate in terms of conservation objectives and present and predicted visitor patterns of use, and which are adequately funded, well constructed and adequately maintained		
	To ensure that comprehensive, high quality information is available to the public at key locations, interpreting the historic and natural resources of the region and the range of recreational opportunities available		
	To provide a basic level of signage throughout the conservancy adequate to meet visitor needs, identify visitor opportunities and alert visitors to potential hazards		
	To maintaining a close involvement with other visitor centers where this opportunities, interpret natural and historic resources and advocate conservation issues, objectives and actions		
	To ensure that visitors have available to then a range of publications which adequately describe the natural and historic resources of the West Coast and the opportunities these provide for the visitor use and enjoyment		
	To work in close association with Potini Ngai Tahu statutory and tourism associates recreation and conservation groups and the public in general to evolve a shared ethic on appropriate forms and levels of visitor use and enjoyment of lands managed by the department and to ensure that all important planning decisions relating to these lands are co-ordinated and in keeping with this ethic	Yes	Yes
	To ensure that all those involved in the provision of visitor facilities and services related to use and enjoyment of conservation lands act in a way that is consistent with the statutory requirements for the protection of natural and historic resources on these lands and the opportunities they provide others for solitude, appreciation and re-creation		
	To ensure that the public is closely involved in all important planning processes relating to visitor use of protection public land on the West Coast		
<b>Total</b>	<b>79</b>	<b>9</b>	<b>9</b>

Taken from *Otago Conservation Management Strategy: Draft*. Department of Conservation.

	Objective	Affected by Kaupapa Atawahi	Affected by Settlement
<b>Kaupapa Atawahi</b>	To give effect to the principles of the Treaty of Waitangi, and to establish and implement a cooperative relationship between the department and Kai Tahu ki Otago, in terms of the above memorandum of understanding	Yes	Yes
<b>Landscape Conservation</b>	Outside the Special Places where landscape protection is an objective in Volume II, awareness and appreciation of the distinctive indigenous character attributes of Otago landscapes will be promoted, and communities will be encouraged to adopt their own protective measures		
<b>Ecosystem Conservation</b>	Ensure that intact, viable and well buffered examples of all indigenous ecosystems in Otago are thriving under appropriate conservation management		
	To allow natural successional processes to continue, for their intrinsic worth and for the purposes of scientific study, except where special indigenous communities or indigenous species are placed under threat of local or global extinction and it is practicable to preserve them in conflict areas while allowing that successional process to continue elsewhere		
<b>Indigenous Species</b>	Prevent the extinction of any known bird, plant or reptile indigenous species in the conservation and maintain the full known diversity of such indigenous species and communities in Otago Conservancy		
	Maintain viable breeding populations of such indigenous species in their appropriate habitat where possible, and in particular improve the status of threatened species of taxa		
	Improve the departments knowledge of the ecology of such indigenous species		
	Increase public awareness of the lesser known threatened species their conservation requirements and opportunities for community involvement in surveying monitoring support and management		
	Preservation as far as is practicable of all indigenous freshwater fisheries in Otago Conservancy		

	Improvement in both freshwater and marine habitats of indigenous freshwater fish		
	Improvement of knowledge about the distribution and habitat of indigenous freshwater fish		
	Increase public awareness of indigenous freshwater fish species, their conservation requirements and opportunities for community involvement in support and management		
	To deal fairly and in accordance with government policy to request by tangata whenua to gather kai moana and manage mahinga kai	Yes	Yes
	To protect the invertebrate contribution to Otago's biodiversity		
<b>Historic Resources</b>	For other sites on land administered by the department, historic resources will be protect and managed effectively in accordance with their significance		
<b>Legal Protection</b>	To seek the formal protection of specific areas in Otago having regard to the purposes of the Conservation Act 1987, the reserves Act 1977, the National Parks Act 1980 and other relevant objective of this CMS		
<b>Marine Habitat Conservation</b>	Establishment and successful management of a network of marine reserves to represent the range of marine habitats and to protect outstanding areas which exist around the coastline of the conservancy		
	Prevent or mitigate the effects of marine pollution on marine flora and fauna and marine habitats		
<b>Statutory Advocacy</b>	To seek planning instruments and decisions under the Resource Management Act and other relevant Acts which will provide for the protection of natural and historic resources (including distinctive landscapes), valued recreational opportunities, the preservation of the natural character of the coastal environment and protection of freshwater fish habitats, and their appropriate management		
<b>Fire Risk Management</b>	Appropriate management of the risk of fire in each State area		
	Rapid suppression of fire in State areas		
<b>Animal Pest Control</b>	To identify and keep under review the prime natural resources of high nature conservation value in the conservancy that are at risk from animal pests, in particular, having regard to the objectives established in chapters 6 to 10 of this CMS		
	To encourage integration and coordination between		



	all user groups, authorities and agencies with an interest in the management of animal pests and/or their impacts		
	To control and where possible eradicate animal pests using the most efficient and effective acceptable methods, in priority areas identified under the first objective		
	To meet legal obligation relating to animal pest control		
<b>Plant Pest Control</b>	Protection of the most valuable and most vulnerable areas managed by the department, or parts of those areas, from those species of plant pests posing the greatest threat to the areas natural and historic resources and sustainability		
	Fulfillment of the legal requirements for plant pest control to annual plant pest control operations		
	In general for the department to be a “good neighbor” in relation to plant pests on land it administers		
<b>Restoration</b>	Prepare and implement a restoration strategy for the next 10 years that will help to set priorities for the whole conservancy for restoration work		
	To continue with the implementation of existing restoration projects until the vegetation communities have adequately stabilized		
<b>Land Administration</b>	To carry out land administration under the legislation for the purpose of achieving the best long-term net conservation benefits available including minimizing departmental involvement in matters away from its priority functions		
<b>Research Survey Monitoring and Information Management</b>	Initiate or support research to identify and ameliorate those factors and processes causing degradation of natural and historic resources		
	Initiate or support research to improve the efficiency and effectiveness of natural and historic resource management Otago Conservancy		
	Survey natural and historic resources within the conservancy where desirable or where current information is considered inadequate for management purposes. The long-term objective is to establish an inventory of conservation assets and threats in order to drive priority setting		
	Monitor changes in status and conditions of those natural and historic resources considered most at risk		



	Monitor impacts of resource use on natural and historic values, eg, ski fields, recreation concessions		
	Monitor the effectiveness of management of natural and historic resources and recreational facilities in Otago Conservancy		
	A long-term objective will be monitor conservation assets and threats for condition, status and the improvement of management effectiveness		
	Provide and improve information management systems so that all information necessary of the functioning of the conservancy is gathered, stored, easily accessible and appropriate staff are make aware of its existence		
	Share information on natural and historic resources with local government and other organizations involved in conservation of those resources		
<b>Management Planning</b>	To ensure integrated management of all areas managed by the department in Otago Conservancy (including areas that become subject to departmental management in the future) through appropriate planning documents prepared with the assistance of public involvement, with the CMS as the principal planning document		
<b>Private or Commercial Uses of Areas Managed by the Department</b>	To authorize grazing where indigenous nature conservation values are low and the land should be but cannot readily be disposed of, for up to the maximum term permitted in the legislation		
	To authorize grazing of land acquired by the department under pastoral lease tenure review or through any other negotiated method, where necessary to conclude negotiations provided natural and historic resource and recreational opportunities are safeguarded. In such cases long term licenses may be issued for up to the maximum term permitted in the legislation		
	To honour lease and licenses according to their terms		
	To allow limited exclusive occupation of areas managed by the department of buildings used for private and commercial purposes where there is a commitment from a parent department where natural and historic values are not detrimentally affected, where there are management benefits for the department or where their facility is available for public use enjoyment. In the case of private use, the limit will be the lifetime of the principle occupies		
	To remove buildings where conservation values are detrimentally affected and where disposal of the		

	land is impractical		
	To only allow buildings, structures or easements for commercial use and public and local works where a net conservation benefit accrues or where no other practical site of the conservation estate exists and there is no significant adverse effect on natural or historic resources or recreational opportunities		
	To allow military use of lands administered by the department in accordance with the 1990 Defence Training agreement		
	To identify the affects of any prospecting, exploration or mining proposals on natural and historic resources and recreational opportunities, in relation to the objective and other provisions of this CMS in the context of section 61 of the Crown Minerals Act 1991		
	Ensure that any prospecting, exploration or mining activity on areas administered by the department which may be considered appropriate; retains, resources of fully compensates for any adverse effects on natural and historic resources		
	Ensure that any proposed mining activity on other areas is assessed to enable any potential adverse effects to be avoided, remedied or mitigated through Resource Management Act processes		
	To allow for the management for commercial purposes of discreet areas of standing exotic forest or of areas suitable of exotic forest planting here natural and historic resources are of little to no intrinsic value and where it is uneconomic, impractical or inappropriate to dispose of the land		
	To grant easements or authorizations for various purposes across or in relation to land administered by the department where the adverse impact on natural and historic resources, and recreation opportunities is minimal or temporary and where the public use of the estate is not significantly affected		
	To establish and apply residual criteria for dealing with requests for the use of land administered by the department or for the use of resources in relation to it		
<b>Visitors</b>	Enhance the range of recreation opportunities on areas managed by the department compatible with the protection of natural and historic resources		
	Provide facilities and services to enhance visitor experience		
	Advocate the provision of recreational services facilities and access to other public lands and		

	private land where this is compatible with its current or future use and which adds to the range of recreational opportunities available		
	Improve or maintain the quality of recreation opportunities and improve the efficiency of recreation management		
	Minimize or eliminate where possible, any conflicts between different activities or between groups of people with contrasting expectations		
	Improve the supply and quality of short to medium length walking paths or tracks in natural settings (mainly rural natural remnant and back country) so as to better match demand		
	To protect the environment and quality of experience on Otago's high profile tramping tracks (Routeburn, Greenstone, Caples, Dart/Rees, Gillespie Pass Circuit, West Matukituki, Cascade Saddle, part Mavora walkway)		
	To match demand for new tramping facilities with supply and with the department's limited ability to resource new track developments		
	To enrich visitor experience by providing a range of interpretation facilities with an emphasis on interpretation on site		
	To ensure that visitor experiences are enhanced by the provision of accurate, up to date, comprehensive and accessible information on natural and historic resources and recreation opportunities		
	To provide an appropriate range of walks and associated facilities in Otago that are wheelchair accessible		
	To limit adverse affects and improve visitor enjoyment at roadend or roadside locations adjacent to land administered by the department		
	To facilitate the provision of a full range of recreation opportunities in the natural settings Otago has to offer, while recognizing that it is not always necessary or desirable for the department to acquire the land		
	To facilitate the provision and maintenance of a full range of recreational opportunities in Otago by involving institutions and individual in material support		
	To improve public access to appropriate parts of Otago's coastline which are currently not accessible as of right, where this will no unduly compromise natural or historic resources		

	To make improved provision for mountain biking in rural and back country settings in Otago including on land administered by the department provided adverse affects on natural and historic resources and other recreational opportunities are avoided or minimized		
	Providing dog exercise and limited horse riding opportunities on land administered by the department where natural resources and the enjoyment of recreational opportunities by other are not adversely affected		
	To encourage off road vehicle users to remain (where permitted by landholders) on formed (alveir still rough and/or wet) tracks not on land administered by the department or to confine their activities to specified roads or tracks on land administered by the department where the adverse affects on natural resources and other recreational opportunities is avoided or minimized		
	Meet part of the public demand for opportunities for recreational gold panning and other non-mechanized techniques where the is some prospect of obtaining "colour".		
	To provide for alpine sports appropriate to Otago's terrain and seasonal conditions while safeguarding natural and historic resources and the quality of recreational experiences		
	Develop a comprehensive understanding of visitors, their characteristics, needs, experiences and levels of satisfaction as an aid to improved services		
	To mänge recreation impacts to protect natural and historic resources and maintain the quality and range of recreation opportunities on areas managed by the department		
	Raise visitor's awareness to their impacts on areas managed by the department and seek to minimize adverse effects through self-help		
	Endeavor to ensure visitors are aware of hazards and encourage them to take appropriate precautions to minimize risks		
	Provide quality recreation information to visitors to areas managed by the department and the community		
	To allow for aerial access for recreational purposes to lands administered by the department where appropriate, while avoiding or minimizing aircraft disturbance to certain recreational opportunities on such lands		

	To ensure that recreation and tourism concessions including concession for special events) bring benefits in terms of opportunities to enjoy natural and historic resources, without causing undue adverse affects on those resources or on the enjoyment of them by other people		
<b>Public Awareness</b>	To ensure that the wider public, particularly the public of Otago have access to information on current conservation issues and the opportunity of experiencing at first hand Otago's natural and historic resources and contributing to their management, either by involvement in public submission process and/or in a conservation volunteer project		
	To ensure that the public is informed on conservation issues, departmental activity and the reasons for it, and have access to accurate information relating to conservation		
	To ensure visitors to the lands administered by the department have access to the knowledge that will enable them to act in a responsible and non-destructive manner and have access to facilities and opportunities that allow them to experience the natural estate to the full		
	To ensure that all such events and projects are prioritized with regard to relevance to conservation issues in Otago and our level of involvement planned accordingly		
	To encourage local NGO and community groups to assist with the department in the planning of it's events or initiate and plan their own involvement in 'Green Day' events		
	To provide encouragement and support for a wide range of community conservation projects		
	To build cooperative relationships with agencies and institutions involved in conservation		
	To provide the public and in particular the public of Otago with a range of opportunities to both learn about, experience and contribute to the conservation of the natural heritage of Otago and in doing so develop a caring attitude to its future management		
	To ensure that the development of a volunteer programme in Otago utilizes the skills of staff, has the full support of staff and does not undermine any paid staff position		
<b>Compliance and Law Enforcement</b>	Ensure the public are aware of and comply with legislation, bylaws and regulations administered and enforced by the department		

	Maintain a co-ordinagted and effective compliance and law enforcement response capaility, including trained community volunteers as will as department staff		
	Enforce all legislation the department has a responsibility for but at the same time, deal fairly; and consistently with suspects and offenders		
Implementation Review and Monitoring	Ensure that the CMS is incorporated into the annual business planning processes, and implemented accordingly		
	Consult with Otago conservation Board on implementation of the CMS		
	Ensure this CMS remains an effective planning document through ongoing monitoring, and subsequent reviews and amendments		
Total	96	2	2

Taken from *Draft Conservation Management Strategy for Mainland Southland/West Otago*.  
Department of Conservation, and *Draft Conservation Management Strategy for Stewart Island*.  
Department of Conservation.

	Objective	Affected by Kaupapa Atawhai	Affected by Settlement
Mainland Southland			
Ecological Management	To identify natural resources of high value, by representative areas in terms of biodiversity which are at risk form animal pests		
	To eradicate animal pests where possible and practical. Where eradication is not possible or practical at present, to control them		
	To identify those islands where eradication of pests is possible, practical and sustainable without re-invasion and undertake appropriate operations to eradicate pests		
	To encourage integration and coordination between user groups, authorities, and agencies with an interest in the management of animal pests and/or their impacts, and to develop and awareness of the threats that animal pests pose to lands administered by the Department		
	To prevent the spread of plant pests into weed free		



	areas		
	To give priority for plant pest control to those ecosystems which are actively or potentially threatened, especially those susceptible to irreversible change		
	To give priority for plant pest control to communities which are highly representative of a particular area or ecological district and communities which are locally uncommon		
	To ensure that the source of the weed problem is treated, not just the symptom		
	To liaise with local authorities and the community to ensure effective coordination of weed control operations across boundaries, and to develop an awareness of the threats weeds pose to lands administered by the Department		
	To prevent or minimize fire damage to lands administered by the Department and to other significant natural values in Mainland Southland/West Otago		
	To increase community and visitor awareness of fire danger		
	To support research into the use of fire as a management tool to maintain or enhance a particular ecosystem		
	To prevent further fragmentation and degradation of natural areas by investigate linking the lands administered by the Department with natural areas or intervening private land; where there are biodiversity benefits, this method will be used for restoration goals putting back vital elements (eg planting with local genetic seed stock, manipulating water tables, introducing indigenous fauna) to restore biotic communities and ecological processes		
	To restore ecological processes and biotic communities that maintain the biological diversity and ecological integrity of Mainland Southland/West Otago, including islands		
	To involve local authorities, iwi and local communities in the planning implementation and maintenance of restored ecosystems	Yes	Yes
	To identify the most significant habitats and ecosystems requiring protection within Mainland Southland/West Otago, and advocate for their protection. For those already protected, to ensure that their status adequately protects them		
	To dispose of areas which do not possess existing		



	or potential natural historic or recreational (including public access) values.		
	To promote the exchange of those areas with no real value to conservation for land where protection is desirable		
	To maximize the benefit to conservation in any disposal or exchange of surplus land		
	To achieve protection of significant and/or representative coastal and marine habitats along the Mainland Southland/West Otago coast, through a variety of methods, including marine reserves, mechanisms under the Resource Management Act and public awareness		
	To obtain a greater knowledge on the biological processes involved in the marine and coastal environment		
	To ensure continued liaison with the general public, other organizations and interested parties who have a management role in coastal and marine management		
	To encourage the integrated management of land and sea		
	To maintain natural biodiversity by preventing, where possible the further loss of indigenous species from areas where they are currently known to exist		
	To retain biodiversity in such condition that all ecosystems are self-sustaining with minimal management input		
	To set priorities for threatened species management having regard for national priorities, requirements of species recovery plans, and locally identified threats and priorities, and to keep these priorities under review		
	To protect, conserve and manage marine mammals		
	To increase the Department's and the public's understanding of marine mammal behavior, ecology and the effects of human activities on them		
	To protect indigenous freshwater fish and their habitats including fish passage and the marine interface		
	To restore wherever possible freshwater fish habitats		
	To improve knowledge on the distribution and habitat requirements of indigenous freshwater fish		

	in this CMS area		
	To raise awareness of the importance of freshwater fish and their habitats with local communities		
	To manage, or advocate for the management of the coastal islands to ensure that their significant natural values are maintained		
	To build and maintaining an inventory that identifies: the indigenous communities and species found within this CMS area, and their status; threats to the indigenous ecosystems, including potential threats; and key ecological processes which sustain indigenous ecosystems		
	To assess the effectiveness of management operations and whether conservation objectives are being realized		
	To monitor changes in status and condition of ecosystems and species		
	To allow appropriate facilities and access for ecological management purposes		
	To attain an understanding sufficient for management purposes of the values of historic resources on lands managed by the Department, and the threats they face		
	To protect historic resources on lands managed by the Department from injurious human actions		
	To identify and actively manage on lands managed by the Department, historic places which are of high significance and provide the best possible balanced representation of the history of those lands		
	To advocate for the protection of historic resources on land not administered by the Department		
<b>Recreation and Tourism</b>	To ensure that recreation development does not cause irreversible damage to the natural or cultural resource		
	To provide facilities to both enhance visitor experience and minimize visitor impact		
	To ensure that all recreation developments conform with recreation opportunity objectives as set out for each Landscape unit (refer Part 6) or the Fiordland National Park Management Plan		
	Encourage the involvement of recreation user groups and community and tourism interests in the planning, development and maintenance of		

	recreation facilities		
	To provide an enhance range of appropriate, high quality visitor services through the granting of concessions compatible with the recreation opportunities an implementation provisions applying to each landscape unit and with the protection of natural and historic resources		
	To ensure that sporting and other organized events are in accord with the recreation opportunity setting and so not detract unduly from other visitors' enjoyment of land managed by the Department		
	To protect marine mammals from harassment by ensuring no human interactions with marine mammals impact upon or cause changes to the distribution, behavior or demographic patterns of viewed marine mammal populations		
	To increase the Departments knowledge of the effects of human activities on marine mammals behavior		
	To maintain and where required, develop appropriate picnic and camping facilities		
	To protect sensitive areas from the impact of camping		
	To provide for vehicle use only in areas where their use will not compromise natural and historic values or the recreation opportunities described for each zone		
	To allow the use of bicycles only on formed roads and on designated tracks where their use can by undertaken to acceptable levels of ecological, social and physical impact		
	To recognize that while aircraft access provides access to many visitors, it also detracts from the general amenity values of quietness and remoteness, and that aircraft access must be managed to ensure other recreation opportunities are maintained and conflicts with other visitors minimized		
	To provide recreation hunting opportunities on land administered by the Department		
	To ensure that the presence of domestic animals within areas of land administered by the Department does not conflict with natural or recreational values		
	To seek to prohibit the taking of domestic animals onto land administered by the Department where the natural or recreational values of the area are likely to be compromised		

	To allow for the placement and provision of appropriate signs (commercial or otherwise) on land administered by the Department where necessary for visitor information		
	To enhance visitor enjoyment through the provision of interpretive facilities and services that will enrich their understanding and knowledge of natural values and human history		
	To ensure that all reasonable precautions are taken for the safety and welfare of visitors		
<b>Resource and Estate Uses</b>	To ensure that the taking of plants, animals and other natural material for appropriate purposes in accord with the general aim of protecting those resources	Yes	Yes
	To maintain and enhance the whitebait fishery		
	To provide for the appreciation and sensitive and equitable use of the whitebait fishery by the public, where this does not interfere with conservation of the resource		
	To protect naturally sustainable populations of eels and other native fish as part of the indigenous freshwater fisheries on lands administered by the Department		
	To protect the ecological values of wetlands on land administered by the Department of Conservation		
	To grant new grazing rights and renew existing rights only if it is an acceptable method of management and the values for which the land is administered are not threatened		
	To manage these grazing rights in a cost effective manner and to ensure that management provides a benefit to conservation		
	To permit the siting of beehives on lands administered by the Department under the Reserves Act and the Conservation Act, only where natural values are not compromised and the presence of hives will not cause inconvenience to the public or to management activities		
	To prevent water resource uses from adversely impacting on the waterways, ecology and other natural features of land administered by the Department		
	To prevent hydro-electric power developments from further adversely impacting on the waterways and other natural features on lands administered by the Department		

	To ensure that any mineral prospecting or exploration activity will be acceptable and the purpose for which the land is held will not be compromised		
	To ensure that any proposed mining activity is properly assessed, to enable any potential adverse impacts on natural, cultural historical and recreational values of lands administered by the Department are avoided, remedied or mitigated, and to ensure adequate compensation		
	To enable suitable local aggregate materials to be used for the maintenance of tracks and roads on lands administered by the Department which are provided for in this CMS and for other tracks and roads that run through those lands		
	To minimize impacts of telecommunications facilities on landscape features and other natural values and avoid impacts on recreational, cultural and historic values		
	To restrict the use of private huts on lands administered by the Department		
	To allow military use of lands administered by the Department in accordance with the 1990 Defence Training Agreement		
	To maintain the lands administered by the Department as free as possible from adverse impacts of roading and vehicle use, or other land transport, on natural and historic values and visitor use opportunities as prescribed in Part Six of this CMS		
	To allow land uses or activities requiring easements only where they will not significantly compromise natural values or public use, and their purposes cannot be reasonably achieved by other means on private land		
<b>Stewart Island</b>			
<b>Ecological Management</b>	To identify natural resources of high value, by representative areas, in terms of biodiversity which are at risk from animal pests within Stewart Island		
	To eradicate animal pests where possible and practical. Where eradication is not possible or practical, to control them to a level that allows replacement of the canopy and subcanopy of forest ecosystems		
	To identify those islands where eradication of pests is possible, practical and sustainable without re-invasion and undertake appropriate operations to eradicate pests		

	To liaise with the community and Regional council to ensure effective coordination of pest control operations, and to develop an awareness of the threats that animal pests pose to lands administered by the Department		
	To prevent the spread of plant pests into weed free areas		
	To give priority to plant pest control in those ecosystems which are actively or potentially threatened , especially those susceptible to irreversible change		
	To give priority to plant pest control in communities which are highly representative of a particular area or ecological district and communities which are locally uncommon		
	To ensure that the source of the seed problem is treated, not just the symptom		
	To liaise with the Regional Council and the community to ensure effective coordination of weed control operations across boundaries, and to develop an awareness of threats weed pose to lands administered by the Department		
	To prevent fire damage to lands administered by the department and other significant natural values on Stewart Island		
	To increase community and visitor awareness of fire danger		
	To support research into the use of fire as a management tool to maintain or enhance a particular ecosystem		
	To restore ecological processes and biotic communities that maintain the biological diversity and ecological integrity of Stewart island and the surrounding islands		
	To involve iwi and local communities in the planning, implementation and maintenance of restored ecosystems	Yes	Yes
	To review the land status of lands administered by the Department in accordance with legislative procedures		
	To identify the most significant habitats and ecosystems still requiring protection within Stewart Island and advocate for their protection		
	To dispose of areas which do not possess existing or potential natural historic and recreational values		

	To promote the exchange of those areas with no real value to conservation for land where protection is desirable		
	To maximize the benefit to conservation in any disposal or exchange of surplus land		
	To investigate and advocate the protection of coastal and marine communities around Stewart Island and its surrounding islands		
	To obtain a greater knowledge of the biological processes involved in the marine and coastal environment so as to act as baseline measures of change		
	To ensure liaison with the general public and other organizations and interested parties who have a management role in coastal and marine management	Yes	Yes
	To encourage the integrated management of land and sea		
	To maintain natural biodiversity by preventing where possible the further loss of indigenous species and their habitats from areas where they are currently known to exist		
	To retain biodiversity in such a condition that all ecosystems are self-sustaining with minimal management input		
	To set priorities for threatened species management having regard to national priorities, requirements of species recovery plans, and locally identified threats and priorities, and keep these priorities under review		
	To protect conserve and manage marine mammals		
	To increase the Departments and the public's understanding of marine mammal behavior ecology and the effects of human activities on them		
	To ensure that the freshwater systems on Stewart Island maintaining their unique, intact nature through active management and advocacy		
	To improve knowledge on the distribution and habitat requirements of indigenous freshwater fish on Stewart Island		
	To raise awareness of the importance of freshwater fish and their habitats with local communities		
	To manage or advocate for the management of islands in this CMS area to ensure that the significant natural values are maintained		



	To build up and maintaining an inventory that identifies: the indigenous communities and species found within this CMS area, and their status; the threats to indigenous ecosystems, including potential threats key ecological processes which sustain indigenous ecosystems		
	To assess the effect of management operation and whether conservation objectives are being realized		
	To monitor changes in status and condition of ecosystems and species		
	To allow appropriate facilities and access for ecological management purposes		
<b>Historic Resource Conservation</b>	To attain an understanding sufficient for management purposes of the values of historic resources on lands administered by the Department and the threats they face		
	To protect historic resources on lands administered by the Department from injurious human actions		
	To identify and actively manage on lands managed by the Department, historic places which are of high significance and provide the best possible balance representation of the history of those lands		
	To advocate for the protection of historic resources on land not administered by the Department		
<b>Recreation and Tourism Management</b>	To ensure that recreation development does not cause irreversible damage to natural or historic resources		
	To provide and maintain facilities to both enhance visitor experience and minimize visitor impact		
	To ensure that all recreation developments conform with recreation opportunity objectives that all recreation developments conform with recreation opportunity objectives as set for each recreation zone		
	To encourage the involvement of recreation user groups and community and tourism interest in the planning, development and maintenance of recreation facilities		
	To enable an enhance range of appropriate, high quality visitor services to be provided through the granting of concessions compatible with the recreation opportunities identified for each zone and not likely to adversely affect natural or historic resources		
	To protect marine mammals from harassment by		

	ensuring no human interactions with marine mammals impact upon or cause changes to distribution, behavior, or demographic patterns of viewed marine mammal populations		
	To increase the knowledge of the effect of human activity on marine mammals' behavior		
	To minimize the effect of camping on the environment		
	To raise visitors' awareness of their potential impacts on natural and historic resources and seek to minimize adverse effects		
	To manage recreational facilities and use of land administered by the Department to reduce conflicts between users		
	To provide for recreation hunting opportunities on Stewart Island		
	To provide information through a range of media, and interpretive facilities and services that will enrich visitors understanding and knowledge of Stewart Island, its natural values and human history		
	To protect vulnerable wildlife species and the significant natural values of lands administered by the Department by keeping them as free as possible of domestic animals		
	To provide for vehicle use only in areas where their use will not compromise natural and historic values or the recreation opportunities described for each zone		
	To ensure that all reasonable precautions are taken for the safety and welfare of visitors		
	To allow for the placement and provision of appropriate signs (concessionaire or otherwise) on land administered by the Department where necessary for visitor information		
	To provide opportunities for visitors to Stewart Island to gain an appreciation of Stewart island with reasonable ease, comfort and safety		
	To ensure that future growth in visitor numbers does not erode the backcountry opportunities and isolated and tranquil atmosphere of Stewart Island		
	To provide easy day walking opportunities for visitors to gain an introduction to the natural environment and cultural history of Stewart Island		
<b>Resource and Estate Uses</b>	To ensure that the taking of plants, animals and other natural materials for appropriate purposes is		

	in accord with the general aim of protecting those resources		
	To ensure that that the harvest of titi species takes place in ways that will sustain the resources and ensure the survival of the species on the Beneficial Titi Islands and Crown Islands	Yes	Yes
	To ensure that the ecology of the islands is not damaged by impacts of harvesting or human occupation		
	To maintain and enhance the whitebait fishery		
	To provide for the appreciation and sensitive and equitable use of the whitebait fishery by the public, where this does not interfere with conservation of the resource		
	To ensure the freshwater ecosystems on Stewart Island retain their unique, intact nature		
	To protect freshwater fish and their habitats		
	To protect the ecological values of wetlands on land administered by the Department of conservation		
	To protect the significant natural values of Stewart island from further modification by stock grazing		
	To permit the siting of beehives on lands administered by the Department under the Reserves Act and the Conservation Act only where Natural values are not compromised and the presence of hives will not inconvenience to the public or management activities		
	To prevent water resource uses, including any proposed hydro-electric power developments from adversely impacting on the waterways, ecology and other natural features of land administered by the Department		
	To prevent waste disposal from adversely impacting natural values		
	To ensure that any mineral prospecting or exploration activity will be acceptable and the purpose for which the land is held will not be compromised		
	To ensure that any proposed mining activity is properly assessed, to enable any potential adverse impacts on natural, cultural historic and recreational values of lands administered by the Department are avoided, remedied or mitigated, and to ensure adequate compensation		
	To enable track and road maintenance to be carried		

	out using suitable local materials where appropriate		
	To minimize impacts of telecommunications facilities on landscape features and other natural and recreational values and avoid impacts on cultural and historic values		
	To restrict the use of lands administered by the Department for private huts		
	To allow military use of lands administered by the Department in accordance with the 1990 Defence Training Agreement		
	To maintain the lands administered by the Department are free as possible from the impacts of roading and vehicle use		
	To allow land uses or activities requiring easements, including access requirements, only where they will not significantly compromise natural values or public use, and their purposes cannot be reasonably achieved by other means on private land		
	To allow appropriate administrative and residential uses of land administered by the Department at Oban		
<b>Total</b>	<b>158</b>	<b>5</b>	<b>5</b>