

Part Two: Treaty of Waitangi Relationships

2.1 GIVING EFFECT TO THE PRINCIPLES OF THE TREATY OF WAITANGI

Under section 4 of the Conservation Act 1987, the Department of Conservation is required to interpret and administer the National Parks Act 1980 to give effect to the principles of the Treaty of Waitangi. Where there is clearly an inconsistency between the provisions of the National Parks Act 1980 and the principles of the Treaty, the provisions of the National Parks Act will prevail. This is reflected in the primary objectives for Fiordland National Park.

Chapter 2 of the General Policy for National Parks 2005 provides guidance on Treaty of Waitangi responsibilities in relation to national parks.

2.1.1 Kaitiakitanga

Te Rūnanga o Ngāi Tahu, through the Te Rūnanga o Ngāi Tahu Act 1996 is recognised as the iwi authority over the area of Fiordland National Park. The Crown has also formally acknowledged the Ngāi Tahu status in the Ngāi Tahu Claims Settlement Act 1998. Ngāi Tahu are those people who, by whakapapa (genealogical descent), derive their status as mana whenua from their ancestors who held the customary title and aboriginal rights to the land at the time of signing the Treaty of Waitangi in 1840.

The concept of kaitiakitanga (guardianship) is central to Ngāi Tahu and is key to their role as mana whenua. Ngāi Tahu as mana whenua are linked with the land physically, spiritually and culturally through whakapapa. Mana whenua status carries with it an obligation to be kaitiaki. Kaitiakitanga is the means by which the mauri (life force) of resources is restored, maintained and enhanced for present and future generations. It is therefore important to establish and maintain a close relationship with Ngāi Tahu and ensure that their views are heard and carefully considered. Consultation from the early stages of any proposed undertaking, which may affect Ngāi Tahu interests, and full consideration of their views, is essential.

The Settlement Act recognises that the Department of Conservation and Ngāi Tahu have similar objectives in environmental and conservation management: protecting and enhancing what is special about New Zealand for future generations.

Ngāi Tahu are governed by a “tribal council”, Te Rūnanga o Ngāi Tahu, which is made up of 18 papatipu rūnanga (traditional local Māori

councils) who hold the rights and responsibilities to defined areas of land and waters within the takiwā (area) of Ngāi Tahu. These rights are founded on traditional occupations and whakapapa from ancient times to the present day. The Te Rūnanga o Ngāi Tahu Act 1996 states that where consultation is required with iwi within the takiwā of Ngāi Tahu then that consultation should occur with Te Rūnanga o Ngāi Tahu. Te Rūnanga o Ngāi Tahu acknowledge that consultation over local matters will be principally with papatipu rūnanga; however where the consultation is regarding Settlement Act matters (see section 2.2), the Department of Conservation must also consult with Te Rūnanga o Ngāi Tahu.

There are four Murihiku (Southland) papatipu rūnanga. They are:

- Te Rūnanga o Ōraka Aparima
- Hokonui Rūnanga
- Waihopai Rūnanga
- Te Rūnanga o Awarua

These rūnanga are the principal mana whenua and kaitiaki for most of Fiordland National Park. The mana whenua and kaitiaki for the area north of Milford Sound / Piopiotahi is Te Rūnanga o Makaawhio based on the West Coast.

References to papatipu rūnanga in this plan relate to these five rūnanga. In Southland the Department of Conservation and Ngāi Tahu have established Kaitiaki Roopu as a forum to build the relationship between the two organisations and provide a mechanism to aid consultation. Kaitiaki Roopu is a group that meets regularly with the Department of Conservation to discuss management issues. It comprises one Ngāi Tahu representative from each of the four Murihiku rūnanga and the two Ngāi Tahu nominees on the Southland Conservation Board.

Objective

1. To give effect to the principles of the Treaty of Waitangi to the extent that they are compatible with the provisions of the National Parks Act 1980, and in accordance with the General Policy for National Parks 2005.

Implementation

1. Actively consult and work with papatipu rūnanga and also, where required or appropriate, with Te Rūnanga o Ngāi Tahu from the early stages of proposed undertakings that may affect Ngāi Tahu values.
2. Recognise the role of Ngāi Tahu as kaitiaki of Fiordland National Park.

3. Support Kaitiaki Roopu as a forum to assist effective communication between papatipu rūnanga and the Department of Conservation.
4. Ensure that consultation on conservation issues is early, ongoing and informed.
5. Explore with Ngāi Tahu the means whereby customary Ngāi Tahu conservation practices such as rāhui (restrictions on the use of resources) may be used and supported to achieve shared conservation goals.

2.2 RESPONSIBILITIES UNDER THE NGĀI TAHU CLAIMS SETTLEMENT ACT 1998

The Ngāi Tahu Claims Settlement Act 1998 affects the way the Department of Conservation manages Fiordland National Park as summarised below. This is not a comprehensive account of all the provisions of the Act and for more complete information the Act itself should be consulted.

2.2.1 Tōpuni

The concept of Tōpuni derives from the traditional Ngāi Tahu tikanga (customary values and practices) of persons of rangatira (chiefly) status extending their mana and protection over a person or area by placing their cloak over them or it. In its new application a Tōpuni confirms and places an overlay of Ngāi Tahu values in relation to specific pieces of land managed by the Department of Conservation. A Tōpuni does not over-ride or alter the existing land status (e.g. national park), but ensures that Ngāi Tahu values in relation to Tōpuni are also recognised, acknowledged and provided for.

A Tōpuni has been placed over Mt Tūtoko in Fiordland National Park (see map 16 and Tōpuni value statement in appendices B and C). A Tōpuni involves three levels of information:

- A statement of the Ngāi Tahu values in relation to the area.
- A set of principles aimed at ensuring that the Department of Conservation avoids harming or diminishing those values.
- Specific actions which the Director-General of Conservation has agreed to undertake to give effect to those principles.

The Department of Conservation, the Southland Conservation Board and the New Zealand Conservation Authority must have particular regard for these values and principles when developing any policy, strategy or plan. They must also consult with Te Rūnanga o Ngāi Tahu and have particular regard to its views as to the effect of that policy, strategy or plan on the Ngāi Tahu values.

For Ngāi Tahu, mountains such as Tūtoko are connected through whakapapa to the gods. As such they provide a link between the physical and spiritual world through their mauri (life force). All elements of the natural environment possess a life force, and all forms of life are related through whakapapa. Because, in the case of Mt Tūtoko, the genealogical link is so close to the gods the protection of the mountain mauri through kaitiakitanga is of paramount importance. The relationship of Ngāi Tahu with Tūtoko is similar to the iwi's relationship with Aoraki/Mt Cook (see section 1.2.1). The summits of both peaks are considered tapu (sacred).

2.2.2 Deed of Recognition

A Deed of Recognition provides for Ngāi Tahu input into the decision-making processes of the Crown body responsible for the administration of each named area. A Deed of Recognition recognises Ngāi Tahu's historic, spiritual, cultural and traditional relationship with each area. A Deed of Recognition obliges the Department of Conservation to consult with Te Rūnanga o Ngāi Tahu and to have particular regard to its views in relation to the management of each area.

There are five places in Fiordland National Park which have a Deed of Recognition. They are:

- Lake Manapōuri
- Lake Te Anau
- Lake Hauroko
- Waiau River
- Mt Tūtoko

Lakes Manapōuri, Te Anau and Hauroko and the Waiau River derive much of their significance to Ngāi Tahu from the historic association the iwi had with them over centuries. Their waterways were important, both as major travelling routes to other mahinga kai areas and to the West Coast and as sources of mahinga kai in their own right. In tradition Lakes Manapōuri and Te Anau were dug by the great rangatira (chief) Rakaihautu. The Waiau river mouth was the place where the waka Takitimu under the command of the rangatira Tamatea was wrecked. Lake Hauroko is strongly associated with many urupā (cemeteries) in the immediate vicinity. Urupā are the resting places of Ngāi Tahu ancestors. As such they hold the memories, traditions, victories and defeats of the ancestors and are vitally important to the identity of the iwi (also see section 1.2.1).

The full statements of Ngāi Tahu values associated with these areas, as outlined in the Settlement Act, are included in the appendices. There is a similar statement of Ngāi Tahu values outlined for the Fiordland coastal marine area called Te Mimi o Tū Te Rakiwhānoa.

2.2.3 Place Name Changes

The following place names in Fiordland National Park have been officially changed to dual names in recognition of the Ngāi Tahu relationship with the landscape:

- Doubtful Sound / Patea
- Hollyford River / Whakatipu Kā Tuka
- Milford Sound / Piopiotahi
- Lake McKerrow / Whakatipu Waitai

- Harris Saddle / Tarahaka Whakatipu
- Lake Alabaster / Wāwāhi Waka.

2.2.4 Taonga Species Management

Through section 288 of the Ngāi Tahu Claims Settlement Act 1998 the Crown acknowledges the cultural, spiritual, historic and traditional association of Ngāi Tahu with the taonga (treasured) species listed in that Act for the purposes of sections 293 and 294 of that Act only. Those species include 49 indigenous birds, 58 plants, seven fish, five shellfish and six marine mammal species. The list is contained in the appendices. The list of taonga species includes many endangered species, which the Department of Conservation is currently actively managing. The Act provides for greater Ngāi Tahu participation in consultation processes connected with the Minister of Conservation's or the Director-General of Conservation's decision over the management of certain taonga species, and for Ngāi Tahu participation in some species recovery groups. For example Ngāi Tahu has a representative on the kiwi and takahē recovery groups, which advise on the management of those species within Fiordland National Park and beyond.

2.2.5 Department of Conservation and Ngāi Tahu Protocols

Through the Ngāi Tahu Claims Settlement Act 1998 the Minister of Conservation has issued protocols in relation to how the Department of Conservation and Ngāi Tahu will work together on specified matters of cultural importance to Ngāi Tahu.

Section 281 of the Act states:

“...the term protocol means a statement in writing, issued by the Crown through the Minister of Conservation to Te Rūnanga o Ngāi Tahu, which sets out:

- (a) How the Department of Conservation will exercise its functions, powers, and duties in relation to specified matters within the Ngāi Tahu claim area; and*
- (b) How the Department of Conservation will, on a continuing basis, interact with Te Rūnanga o Ngāi Tahu and provide for Te Rūnanga o Ngāi Tahu input into its decision-making process.”*

The protocols cover cultural materials, historic resources, freshwater fisheries, culling of species, visitor and public information and Resource Management Act advocacy. The protocols make general statements about how the Department of Conservation should conduct work with Ngāi Tahu in these areas. The protocols have been quoted where relevant in this plan and are included in the appendices.

Objective

1. To give effect to the provisions of the Ngāi Tahu Claims Settlement Act 1998 as they relate to Fiordland National Park.

Implementation

1. Consult and work with Te Rūnanga o Ngāi Tahu and papatipu rūnanga about:
 - a) Implementation of the specific principles and actions relating to the Tūtoko Tōpuni area (see appendices)
 - b) Development of a set of protocols to be followed in the event of an accident or death on Mt Tūtoko.
 - c) Preparation of any statutory or non-statutory plans, strategies or programmes for lakes Te Anau, Manapōuri and Hauroko and the Waiau River and Mt Tūtoko that relate to:
 - Programmes to identify and protect wildlife and indigenous plants or to eradicate and control pests/introduced species;
 - Surveys to assess current and future visitor activities or to identify the number and type of concessions which may be appropriate; and
 - The construction, location and relocation of any structures; and in the case of Mt Tūtoko, huts, signs and tracks.
 - d) Making of policy decisions concerning the protection, management or conservation of taonga species, including the transfer of taonga species into or out of the park. The Department of Conservation will seek opportunities to provide for the active involvement of Ngāi Tahu in taonga species management projects.
2. Except in emergency situations, aircraft landings should not be permitted within the Tūtoko Tōpuni area because of the conflict with Ngāi Tahu values.

Refer also to sections 4.3 Preservation of Indigenous Species and Habitats, 4.12 Historic Resource Management, 5.9 Interpretation and Education 6.10 Ngāi Tahu Customary Use.

2.3 GIVING EFFECT TO THE NGĀI TAHU (POUNAMU VESTING) ACT 1997

The overall Ngāi Tahu claims settlement includes the Ngāi Tahu (Pounamu Vesting) Act 1997 (“the Act”). The Act vested in Te Rūnanga o Ngāi Tahu all pounamu (otherwise known as greenstone, including all nephrite, semi nephrite, bowenite and specific serpentine resources) in its natural condition within the takiwa (tribal area) of Ngāi Tahu Whanui to Te Rūnanga o Ngāi Tahu.

The removal of pounamu from public conservation land is governed by the Crown Minerals Act 1991(CMA).

There is uncertainty about the application of the minimum impact activity provisions of the CMA to activities associated with pounamu on public conservation lands which have minimal or no effect on national park values. This uncertainty remains unresolved. Despite this, and following consultation with Te Rūnanga o Ngāi Tahu, it is intended to adopt the minimum impact activity provisions of the CMA but to substitute the term “customary and cultural collection” for the term “minimum impact activity” with the intent, therefore, that where the removal of pounamu has minimal or no effect on national park values, it may be authorised by the grant to Te Rūnanga o Ngāi Tahu of a customary and cultural permit issued by the Minister of Conservation.

All other access and removal of pounamu will require an access arrangement and may only be permitted in those circumstances described under section 61B of the CMA.

Pounamu is managed by Te Rūnanga o Ngāi Tahu in accordance with the Ngāi Tahu Pounamu Resource Management plan administered by Te Rūnanga o Ngāi Tahu. No member of the public can knowingly disturb, remove or recover pounamu from public conservation land without the consent of Te Rūnanga o Ngāi Tahu.

Where any pounamu is discovered, the occurrence should be notified to Te Rūnanga o Ngāi Tahu. Te Rūnanga o Ngāi Tahu should also be contacted, in the first instance, about all other enquiries and matters relating to pounamu.

Objective

1. To recognise Te Rūnanga o Ngāi Tahu ownership of pounamu.
2. To ensure that the relevant parts of the Ngāi Tahu (Pounamu Vesting) Act and the Crown Minerals Act 1991 are given effect to when activities associated with pounamu occur within Fiordland National Park.

Implementation

1. Require any customary and cultural collection of pounamu by Te Rūnanga o Ngāi Tahu to be undertaken in accordance with

any customary and cultural collection permit granted by the Minister of Conservation.

2. Require any other mining activity by Te Rūnanga o Ngāi Tahu relating to pounamu to be undertaken in accordance with any access arrangement granted by the Minister of Conservation under section 61B of the Crown Minerals Act 1991.
3. Advise Te Rūnanga o Ngāi Tahu of any non-Te Rūnanga o Ngāi Tahu application received for accessing pounamu in or on public conservation lands
4. Ensure Department staff are aware of the provisions of the Ngāi Tahu Pounamu Resource Management Plan.
5. Help ensure the protection of pounamu by alerting concessionaires and the public that pounamu belongs to Ngāi Tahu