Waitangi Tribunal

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Ko Aotearoa Tēnei – Factsheet 5

Conservation

"For Māori, [this is about]... the survival of their own identity. Without the mātauranga Māori [Māori traditional knowledge] that lives in the DOC estate, kaitiakitanga is lost. Without kaitiakitanga, Māori are themselves lost."

– Ko Aotearoa Tēnei: Taumata Tuarua, Chapter 4.

Ko Aotearoa Tēnei is the Waitangi Tribunal's report into the claim known as Wai 262, which concerns the place of Māori culture, identity and traditional knowledge in contemporary New Zealand law, policy and practice. Chapter 4 relates to taonga controlled by the Department of Conservation (DOC). This factsheet provides a brief overview of that chapter.

Key points

Māori are obliged to act as kaitiaki (cultural guardians) towards taonga (treasured things) in the environment, such as significant places, waterways, and species of flora and fauna. These kaitiaki relationships are vital to the ongoing expression of Māori culture and identity.

Despite considerable effort by DOC, current conservation and wildlife laws and policies do not support these kaitiaki relationships to the degree required by the Treaty.

Supporting kaitiaki relationships will harness Māori knowledge, resources and values, strengthening conservation of precious habitats and species. This is not only positive for Māori culture and identity but can also improve environmental outcomes.

Why the conservation estate matters to Māori

Relationships with the environment are fundamental to Māori culture. Every iwi and hapū sees itself as related through whakapapa to the landforms, waterways, flora, fauna and other parts of the environment within their tribal areas. These parts of the environment are taonga, for which iwi and hapū are obliged to act as kaitiaki. They have inherited knowledge relating to these taonga, explaining their whakapapa relationship and their kaitiaki obligations. Kaitiakitanga is a form of law, controlling relationships between people and the environment. Kaitiaki relationships are also important sources of iwi and hapū identity. Kaitiakitanga includes obligations to nurture and care for taonga, and also rules for careful harvest and use – for example, having access to pingao (golden sedge) and harakeke (flax) for weaving, rivers to catch tuna (eels), feathers for garments such as a korowai (feather cloaks), and whale bone for carving.

In a very practical sense, relationships with taonga in the environment created Māori culture. It was through interaction with the environment that early Polynesian settlers became Māori, acquiring among other things knowledge and technology (for example, relating to food, clothing, shelter, and medicine), systems of law and social control, systems of value exchange, and inspiration for forms of expression and cultural works such as mōteatea (song-poetry), carving, and the ubiquitous 'koru' or 'pitau' form. The exercise of kaitiaki relationships with taonga in the environment is therefore vital to the continued expression of Māori culture itself.

Of New Zealand's environment, the conservation estate is particularly important to Māori because it is only there that many examples of the

original Aotearoa environment survive, so only there can iwi and hapū exercise their kaitiaki obligations. The importance of the conservation estate to Māori is recognised in the Conservation Act, which requires DOC to interpret all of its conservation responsibilities in such a way as to 'give effect to the principles of the Treaty of Waitangi'. This is one of the strongest Treaty provisions on New Zealand's statute books.

What the Treaty requires

The Treaty gives the Crown the right to govern, but in return requires the Crown to protect the tino rangatiratanga (full authority) of iwi and hapū in relation to their 'taonga katoa' (all that they treasure). The courts have characterised this exchange of rights and obligations as a partnership.

In this context, the Treaty allows the Crown to put in place laws and policies for conservation of the environment and wildlife. But in doing so the Crown must to the greatest extent practicable protect the authority of iwi and hapū in relation to taonga such as land, waterways, natural features, and flora and fauna, so that they can fulfil their obligations as kaitiaki.

What the Tribunal has found

The parts of the environment under DOC control are so important to Māori culture that partnership should be the standard approach. This partnership should seek to bring together Māori cultural values and the 'preservationist' approach to conservation, creating a new approach which the Tribunal has called 'kaitiaki conservation'.

This partnership should be based on two principles: first and foremost, that the survival and recovery of the environment is paramount; and, secondly, that iwi have a right to exercise kaitiakitanga and maintain their culture.

This partnership has potential to harness Māori knowledge, resources, and values and so strengthen conservation of precious habitats and species. This will not only strengthen Māori culture and identity but also improve environmental outcomes for places and species that are of national importance.

In spite of considerable effort by DOC and tangata whenua, current approaches fall short of this partnership standard. Instead, in general, laws and policies reserve ownership and control over the environment and protected wildlife for the Crown. This leaves iwi and hapū unable to exercise their kaitiaki obligations, and so deprives them of a core aspect of their culture.

To remedy this, the Tribunal has recommended the establishment of new national and regional partnership structures to give Māori an equal voice with the New Zealand Conservation Authority and regional conservation boards in setting conservation objectives and priorities. Within this overall partnership framework, decisions should be made case by case about the management of individual taonga, by fairly and transparently balancing kaitiaki interests alongside other interests.

Decision-making about customary use of taonga (that is, the harvesting and use of plants or resources from wildlife for traditional uses such as weaving, carving, and ceremonial uses) should also be shared, but at a local level between tangata whenua and DOC conservancies. Again, decisions should be based on the principles that the survival of the species is paramount, but that iwi have a right to exercise kaitiakitanga and maintain their culture.

The Tribunal has also recommended amendments to the Wildlife Act to provide that management of protected wildlife be shared between the Crown and Māori, and that no one 'owns' protected wildlife (currently, the Crown owns protected wildlife).

The Tribunal found that DOC should develop policies for consultation with tangata whenua when the department is awarding concessions and commercial contracts in the conservation estate. It also found that tangata whenua interests in taonga are entitled to a reasonable degree of preference when DOC awards those concessions and contracts. This would allow kaitiaki relationships to be strengthened through work (for example, pest control, research, and heritage preservation) or business opportunities (for example, historical or botanical tours).

See *Ko Aotearoa Tēnei* chapter 4 for full details of the Tribunal's findings and recommendations.