Australian National University

Te Hononga: The Relational Governance Connection of Hapū with Iwi within Contemporary Māori Communities in Aotearoa, New Zealand.

Mylene Michelle Davis Rakena

February 2025

thesis submitted for the degree of Doctor of Philosophy of
The Australian National University

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Declaration

The thesis contains such component parts, and I hereby state that the whole of the Introduction, Conceptual Framework, Thematic Overviews and Conclusion have been newly written for the thesis and are entirely based on my original PhD research and fieldwork. In respect to all newly written thesis chapters, the relevant bibliographical references have been placed collectively, at the end of the overall thesis.

Mylene MD Rakena

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Mylene MD Rakena 2025

Abstract

Te Hononga: The relational governance connection of Hapū with Iwi within Māori Contemporary Communities in Aotearoa New Zealand.

Māori are an Indigenous culture of relationships and connections. Consequently, Māori social structures hapū and iwi share lineage connectivity with each other, both historically and today. Hapū and iwi also operate as complex and dynamic forms of Māori governance units. An analysis of the historical self-governance unit hapū, its significance as a governance model in contemporary Māori society, and the evolving governance relationship with its symbiotic counterpart iwi are investigated and analysed. Furthermore, iwi have been elevated by New Zealand Governments through multiple interventions, and legislation through a policy of dealing only with large natural groupings in Treaty of Waitangi settlements which has led to the creation of iwi authorities mandated to represent iwi and govern through westernised governance structures. This policy has demonstrated preferential treatment towards iwi authorities superseding hapū governance roles which was held traditionally. It has invoked hapū to reassert their primacy. This investigation will be conducted through the lens of a Kaupapa Māori research methodology standpoint. The thesis calls for the design of an intercultural conceptual framework to account for change, adaptation, innovation and resilience in Māori governance. Māori value-based principles are highlighted in the exercise of Māori governance. Semi-qualitative interviews were undertaken with participants who act in governance roles across hapū and iwi. Strategies to manage tensions, governance tips and implications for the future of Māori governance are explored in the rich primary evidence presented. The complex dynamics of contemporary Māori ways of governing is seen through two case studies of governance in action. In addition, Māori governance is viewed through four epochs: adaptation, stagnation, revolution, and transformation. These epochs are coupled with interview participants' opinions' of where their organisation sits within these epochs. Finally, this paper will present formative thoughts to respond to the phenomenon being studied. *Ngā mihi*.

Ngā Mihi

Tēnā koutou katoa

Ka tū ake au i roto tōku whare o Ngāti Hine

Ko te putanga mātauranga o wōku tūpuna

Mātakitaki whakawaho ki te Ao

E maioha mai nei i a koutou mai i wīwī, mai i wāwā

Nau mai, haere mai, whakatau mai ki e tēnei puna mātauranga

E te kura wānanga

E wōku rau rangātira

Tēnā koutou, tēnā koutou, tēnā koutou katoa.

Greetings and Salutations to All

I stand inside my house of Ngāti Hine

The repository of knowledge of my ancestors

Looking outwardly to the world

Welcoming you from the far reaches

Greetings, welcome to this well of knowledge, this collection of learning

To this stately gathering, acknowledgements, salutations, and greetings.

Greetings and Salutations to All.

Acknowledgements

Tēnā koutou katoa
Te mea tuatahi māku
E whakawhetai ana ki to mātou Matua i Te Rangi
Kia tapu tana ingoa
Ko Ngatokimatawhaorua te waka
Ko Motatau te Maunga
Ko Hikurangi te Awa
Ko Tau Henare te Marae
Te Taha o toku papa John Taite Davis no Ngāti Kahungungu
Te Taha o toku mama Moetu Tipene no Te Orewai, Te Rararawa, Ngāti Hine, me Ngapuhi
Ko Mylene Michelle Davis Rakena taku ingoa.

Greetings and Salutations to all
I acknowledge God who is the author of all things
How sacred is his name
Ngatokimatawhaorua is the waka that brought us here from Hawaiiki Nui
Motatau is my sacred mountain
Hikurangi is my river
Tau Henare is my marae
On my father's genealogy, I belong to Ngāti Kahungunu
On my mother's genealogy, I belong to Te Orewai, Te Rarawa, Ngāti Hine, and Ngāpuhi
My name is Mylene Davis Rakena

The above mihi[1] and pepeha highlights my connection to the whenua at the top of the North Island of Aotearoa New Zealand. Within my whakapapa, there is a rich vein of history, knowledge and understanding.

On attending my first orientation week as a first-year law student, two pearls of wisdom were shared by lecturers which still reverberate with me today. First, the only obstacle in completing your degree is life; and secondly, the achievement of academia is an individual pursuit. These truisms marry with a final word of counsel I received when I completed my Master of Management, my supervisor stated, and I paraphrase; "Mylene, when you are ready to complete a Ph.D., choose a topic which gives you passion. You will need the passion to carry you through long and lonely days and nights sitting at your computer with only books to keep

[1] In this context, a formal greeting identifying the speaker at the start of a presentation.

you company. You will need passion to deal with multiple feedback received from your supervisors. You will need passion to cope with the administrative journey that runs alongside your thesis one, and you will need passion to keep going, when the going gets tough. When you have that passion, come see me."

Before I thank many people, I wish to acknowledge many of my family who supported me in this individual pursuit in multiple ways, and who passed away during my candidature, especially my mother Moetu Tipene Davis and my mother-in-law Mingo June Rakena. Aue! Aue! Aue! E tangi, e tangi, e tangi. (Alas! Alas! Alas! I cry, I cry, I cry). Aue, taukiri e!

I want to acknowledge and thank the following and I sincerely apologise if I have missed anyone out,

- The Australian National University for their provision of a scholarship which contributed to sustaining my family/whānau in my candidature;
- The Centre for Aboriginal Economic Policy Research of Australian National University (now called the Centre for Indigenous Policy) which umbrellas my thesis;
- The Centre and College Administration for their speedy and helpful assistance;
- My supervisory Panel: Dr Diane E Smith, Australian National University, Dr Carwyn Jones, Te Wānanga o Raukawa, New Zealand and Dr Robert Joseph, University of Waikato, New Zealand. Tena koutou katoa;
- Dr Diane Smith as my primary supervisor for her expertise, experience, stewardship, and encouragement, and who met with me consistently once a fortnight for four (4 years). Tēnā koe Diane, kanui te mihi ki a koe;
- Grayson Clements Ltd (Law Firm) NZ Director Michael Grayson for his resources, support, and encouragement. Tena koe Michael;
- The Māori leaders who generously agreed to be interview participants, for their time, expertise, and consent to use their names in this research: Pita Tipene, Marsha Davis, Wikitana Popata, Anne Kendall, Kyla Ngawairau, Maui Hudson, Moko Tauariki and Julian Williams. Nga mihi kia koutou;
- My father John Taite Davis, my siblings (Duane Davis, Priscilla Davis- Ngatai, Wynyard Davis and Ramsay Davis), and the Davis and Ngatai Whānau children; and
- Finally, to my sweetheart and husband Dr. Blaine H Rakena with our whānau.

On this page is a photo of my whānau representing up to four generations with my father, husband, brothers, sister, our children and their children. Fifteen of our whānau are not captured in this whānau photo.

Figure I: Davis, Ngatai and Rakena Whānau 2023

Source Rakena (2023)

No reira, *Tēnā koutou, tēnā koutou, tēnā koutou katoa*. Tihei mauri ora!

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Table of Acronyms

AGM	Annual General Meeting
ANU	The Australian National University
CMT	Customary Marine Title
CR	Customary Rights
EBM	Ecosystem-based Management
EU	European Union
KMR	Kaupapa Māori Research
LNG	Large Natural Groupings
MACA	Marine and Coastal (Takutai Moana) Act 2011
MP	Member of Parliament in NZ. Elected to represent the people in Government.
NZMC	New Zealand Māori Council
NTTCT	Ngāti Turangitukua Charitable Trust

NZ	New Zealand
PSGE	Post Settlement Governance Entity
QC	Queen's Counsel
RMA	Resource Management Act 1991
SOE	State Owned Enterprise
TRAION	Te Rūnanga A-Iwi-O-Ngāpuhi
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

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Glossary of Māori Terms[2]

The following terms are provided to help non-speakers of Māori to better understand the multiple meanings of many Māori words used in the thesis.

aroha	love
atua	God/gods
waiata	Song; to sing
āe	Yes;
ahi kā	Keep the home fires burning through visible occupation and use of land.
ao	World
Aotearoa	Land of the long dawning. New Zealand
ariā	form
awa	River, stream, creek, canal, gully, gorge, groove, furrow.
e Tama	Son/boy (as a salutation)
ea	State of equilibrium
Gani	Grandparent or Great grandparent
hapū	Māori kin community; groupings of whānau. groupings of whānau (extended families)
hapū rangātiratanga	Hapū Māori governance
hara	Wrongs; sin; grievance
Hawaiki	Traditional homeland of Māori; migrated from in East Pacific
He Whakaputanga	Declaration of Independence
Hikoi	Step, march, hike, trek, tramp, trip, journey,
hui	Gathering, meeting, assembly, seminar, conference.

[2] All interpretations and definitions are taken from a multiple sources. Firstly, from my Gani Winiata (My Grandfather)where English was a second language. Moetu Tipene Davis (My mother who is fully licensed interpreter for Māori where English was her second language; Reed, A. W . (1948)Concise Maori Dictionary Liverpool, London and Prescott Tinling & Co Ltd; Reed, A.W. (1964) Concise Māori dictionary: Māori-English, English Māori Wellington: A.H. & A.W. Reed and Te Aka Māori Dictionary (online) <www.maoridictionary.co.nz>.

Iwi	Māori nation/people; tribe
ka pai	Good
kai	Food, to eat, consume, feed (oneself), partake, devour.
kaimoana	Seafood
kāinga	Home, address, residence, village, settlement, habitation, habitat, dwelling.
kaitiaki	Trustee, minder, guard, custodian, guardian, caregiver, keeper, steward.
kaitiakitanga	Caring for creation including natural resources, inherited treasures, other forms of wealth and communities, including Māori as a people
kanohi ki te kanohi	Face to face meetings
karakia	Prayer/incantation
karanga	To call, call out, shout, summon.
katoa	All
kauhanga	Passageway
kaumātua	Elder
kaupapa	Principle/foundation
kaupapa tuku iho	Inherited values
Kawakawa	Is a township in the Northland Region of the North Island of Aotearoa, New Zealand.
kāwanatanga	Governorship
kawaneta	Covenant
kei te pai	Good; satisfactory
kete	Basket
kia tūpato	Take care, be safe; warnings, to be cautious
koha	Give a contribution. It can be in form of service, time, food, money
Kōhanga	A nest
Kōhanga reo	A language nest. Preschool where the language taught is te Reo.
Korero	Speak, talk, discuss
kōrero rangātira	Chiefly discussion
Koroua	Respected elder male.
Korowai	Cloak in modern Māori this is sometimes used as a general term for cloaks made of *muka* (New Zealand flax fibre).
kotahitanga	Unity
Kuia	Grandmother/female elder
kura	School, sacred, divine law, philosophy,
mahi	Work
mana	Spiritually sanctioned authority; absolute and paramount and authority derived from the atua.

mana motuhake	Self determination
mana whenua	Ultimate and paramount power and authority derived originally from the atua in respect of land.
manaakitanga	Hospitality, enhancing the mana of others especially through sharing, caring, generosity and hospitality to the fullest extent that honour requires
Manu Koroki	Manu Koroki is the wharenui (large house or meeting place) at Motatau Marae, North Island, Aotearoa, named after a tupuna.
marae	Central community space/complex
Mātauranga Māori	Māori knowledge systems added to and handed down from generation to generation
Matawaia	Is a township in the Northland Region of the North Island of Aotearoa, New Zealand
mauri	Life force
moana	Sea
Motatau	Is a locality in the Northland Region of the North Island of Aotearoa, New Zealand
Motu	Island, country, land, nation.
motuhake	Special, distinct
muru	Ritualised confiscation of property; a recompensation raid
noa	Profane/everyday/flipside of tapu
Opahi	Is a township in the Northland Region of the North Island of Aotearoa, New Zealand.
ora	Wellbeing
Paepae	Front space and threshold of the meeting house
Pākehā	New Zealander of European descent
Pāpā	Father/dad
Papakura	Is a suburb of South Auckland in the North Island of Aotearoa, New Zealand.
pāua	Abalone
pepe	A baby
pepeha	Formal statement of my genealogy and connection to land, and people, tribal saying, tribal motto, proverb (especially about a tribe), set form of words, formulaic expression, saying of the ancestors, figure of speech, motto, slogan - set sayings known for their economy of words and metaphor and encapsulating many Māori values and human characteristics.
Pihinga	Pihanga is a significant cultural landmark (mountain) in Turangi with a rich history and is home to the beautiful Lake Rotopounamu.
Pipiwai	Is a small village in the Te Horo Valley in Northland, New Zealand.

Pokapu	Is a township in the Northland Region of the North Island of Aotearoa, New Zealand.
pou	Post or pillar that stands tall
pōwhiri	Welcome ceremony
pukengatanga	Technology; expertise
pūrākau	Storytelling/traditional narrative form; myth, ancient legend, story.
putea	Usually money; finance
rangātahi	Learners; young people
rangātira	Chief/leader
rangātiratanga	Is the exercise of mana (absolute and paramount power and authority derived originally from the atua).
Reo	Means "voice" or "sound", but it is commonly used as a noun to refer to a "language", "dialect", or "speech."
rohe	Territory; boundaries
rōpū	Company; crowd
rūnaka (South Island Māori)	A tribal council, assembly, board or boardroom
rūnanga	A tribal council, assembly, board or boardroom
taihoa	By and by, wait
take	Cause of action
takahi	Stomp
takiwa	Territory; region; area.
tamāhine	Niece, girl, daughter
tamaiti	Child, son, nephew
tāne	Man, male, husband
Tānemahuta	One of the atua (One of the Māori Gods)
Taniko	A traditional Māori weaving technique that uses coloured threads to create geometric patterns
tangata	Man; woman (Plural: tāngata); person
tangi	Bereavement; cry
Tangaroa	Tangaroa is the God of the sea, rivers, lakes, streams and creek while also being the guardian of all the creatures who live in these waters.
Tangata	Person
tāngata whenua	People of the land
taonga	Treasured possession, gift
tapu	Sacred spiritual character of all things
tātou	We – three or more people, inclusive of speaker and addressee(s)
tautoko	Support
tawhito	Ancient (noun or adjective)
te ao Māori	The Māori world
Te Kohanga Reo	“Language nest” (Māori language pre-school movement)

Te Orewai	Hapū of Ngāti Hine
Te Reo	The Māori Language essential to their survival as a people, used to articulate Māori understanding of the world
Te Tiriti o Waitangi 1860	Te Tiriti o Waitangi 1840; founding document of New Zealand. The treaty between Māori rangatira of hapū and the British Crown' of 1840.
Tikanga	Law, the correct way to do things, which is included as a kaupapa is law.
tikanga Māori	Customary law and practices
tino rangātiratanga	Self-determination/chiefly authority/absolute rangātiratanga;
titiro	To look at, inspect, examine, observe, survey, view.
Tohunga	Experts in different areas of knowledge
tuahine	Sister
tuakana	Eldest
tuara	Back; backbone, to assist, help, support, maintain.
Tuaropaki	A small village near in the central area of the North Island of New Zealand; Māori Land Trust
tūhono	To join, bond, attach, connect
Tuhoronuku	Tuhoronuku, the kite of Rahiri (a great Ngāpuhi ancestor) also serves as a metaphor of dreams and aspirations of the Ngāpuhi nation
tuku iho	Inherited (e.g. taonga tuku iho, inherited values)
tūpuna	Ancestor/forefathers
ture	Law
Tūturu	Something that is permanent, true or original. commitment, dedication, devotion.
uri	Descendants
urupā	Cemetery
utu	Reciprocity
waahi tapu	Sacred places
wahine	Woman
waiata	Song, sing
wairua	Spirit
wāhi tapu	Sacred places
waka	Canoe; a vehicle for travelling; boat
Waka Umanga	Vehicle for community undertaking
whakahaere	Management
whakapapa	Way of analysing and synthesising fundamental connectivity (as in genealogy) that highlights inter-relationships between people, between people and their heritage, and between people and the world around them.
whakatauki	Māori proverb

whānau	Extended family
whanaunga	Relation
whanaungatanga	Expressing relationships built on common ancestry and featuring interdependence, reciprocal obligations, support and guidance within rōpū tuku iho.
whare wānanga	Traditional university/sacred house of learning
whawhai	Dispute; fight; altercation
whenua	Land

CHAPTER ONE

Introduction

'Whāia te iti kahurangi; ki te tūohu koe me maunga teitei. [3]

Seek that which is most precious; if you have to bow down, then let it be before a lofty mountain.'

The whakatauki[4] above urges us to follow the pursuit of excellence and only turn from it before something great. The pursuit of recognition and realisation or internal self-determination for the Māori people is a lofty mountain to traverse.

Tekna koutou katoa,[5]

Map 1: Aotearoa New Zealand

Source <www.d-maps.com>

1.1 A brief introduction to Aotearoa New Zealand[6]

> Bishop Manuhuia Bennett was often asked the question, "What did Māori call New Zealand before the arrival of the Pākehā?'[7] After a deliberate pause, he would simply utter: 'Ours.'[8]

Aotearoa New Zealand constitutes two large islands Te Ika-a-Maui (the North Island) and Te Waipounamu (the South Island), a smaller island Rakiura (Stewart Island) and over 700 small islets. The total area is 269,055 square kilometres.[9] Aotearoa is a mountainous landscape teeming with birds, fresh and saltwater fish. It was first discovered and peopled by Māori groups around the early 12th Century,[10] whereupon Māori then became tāngata whenua.[11] Many hapū settled in Aotearoa and based their identity from the environment they chose to place roots in and inhabit. Most of the population live in the North Island prior to the arrival of the Europeans. Māori history records that everything belonged to Māori; and Māori had strong relationships

[3] "Whāia te iti kahurangi" (2025) Kupu o te Rā <www.kupu.maori.nz>.
[4] Whakatauki are Māori poetic expressions representing the guiding wisdom of Māori culture and are often used in both formal speeches and everyday conversation.
[5] Greetings and salutations to all.
[6] "New Zealand"; <www.d-maps.com>.
[7] Person of European descent.
[8] Sykes, A., (2010). "The Tide is Turning: Foreshore and Seabed Presentation" (Unpublished Paper, 9th Annual Māori Legal Forum, Wellington Townhall, 21 July) at 1.
[9] "New Zealand" (2025) National Geographic Kids <www kids.nationalgeographic.com>.
[10] Hiroa, T. (1958). The Coming of the Māori Wellington: Whitcombe and Tombs at 5.
[11] People of the land.

and cultural connections to the land. Their property rights seen through a western worldview existed over all areas of land and natural resources of Aotearoa New Zealand.

Upon arrival in Aotearoa New Zealand in the early 12th Century CE,[12] Māori began to exercise power, jurisdiction and mana motuhake.[13] These core principles defined their self-governance and self-determination. Academic Linda Te Aho explains the founding principle of mana motuhake as, 'encompassing the authority of distinctive and dynamic tribal groups to make their own choices and determine their own destiny.'[14] In other words, Māori exercised their own system of self-government and sovereignty through traditional Māori socio-political structures.

1.2 Research Focus

The thesis presents new evidence and an analytical focus on the historical self-governance unit hapū, its significance as a self-governance model in contemporary Māori society, and the evolving governance relationship with its symbiotic counterpart iwi. Iwi have been elevated and shown preferential treatment by New Zealand ("NZ") Governments through multiple interventions, legislation, and through a policy of dealing only with large natural groupings in Treaty settlements. As a result, tensions have arisen between hapū and iwi.

In recent years there has been a growing international recognition of Indigenous governance structures, and the foundational priority Indigenous nations give to incorporating their cultural values and principles into their contemporary governance practices (see for example, Cornell 1993;[15] Begay and Cornell 2003;[16] and Hunt et al 2008).[17] In the context of Aotearoa New Zealand, Māori governance has emerged as such a field of cultural and political practice and

[12] Hiroa (1958) at 5.
[13] Self-determination; self-autonomy.
[14] Te Aho, L. (2006) "Contemporary Issues in Māori Law and Society: Mana Motuhake, Mana Whenua" Waikato Law Review: Taumauri 14 pp. 102–119 at Abstract.
[15] Cornell, S. (1993). "Accountability, legitimacy and the foundations of native self-governance" Malcolm Wiener Center for Social Policy and Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University, Harvard.
[16] Begay, M., and Cornell, S. (2003). "What is cultural match and why is it so important? Lessons from 14 years of the Harvard Project" paper presented to the Building Effective Indigenous Governance conference, 4–7 November, Jabiru Northern Territory.
[17] Hunt, J., Smith, DE., Garling, S., and Sanders, W., eds. (2008). Contested Governance:Culture, Power and Institutions in Indigenous Australia Canberra: CAEPR Research Monograph No. 29, ANU EPress

research study (see for example, Joseph et al, 2019;[18] Mutu 2020;[19] Warren 2009).[20] In this introductory chapter, I will present a brief overview of how Māori social structures are used in Māori ways of governing. These are examined in greater detail and in different contexts throughout the following thesis chapters. Before doing so, I will first lay out the thesis hypothesis and the associated set of research questions that will explore the complex dynamics described above.

1.3 Research Hypothesis and Questions

I propose a hypothesis which leads to a set of interrelated research questions, employed to explore complex issues, to collate and analyse evidence, and to enable the hypothesis to be fully tested. Historical colonial conditions and successive interventions by NZ Governments upon Māori society have privileged iwi over the historical self-governance unit hapū. This has led to debilitating impacts on the authority and legitimacy of hapū as a core Māori governance mechanism and is generating contestable tensions in the relationship between hapū and iwi, and hapū and the Crown. Consequently, as Māori now rebuild and reclaim their own governance arrangements, there are hapū who seek to reassert their primacy; relative to iwi to exercise their own authority in contemporary Māori self-governance. Additional critical factors to be considered are the extent to which Māori modes of cultural legitimacy and subsidiarity are embedded into contemporary governance frameworks.

In the hypothesis, I chose the term ‘tension’ deliberately for the image it invokes in hapū/iwi/Crown relationships. It conjures multiple intriguing characteristics that warrant thorough deconstruction and examination. The governance formations of hapū and iwi can be characterised as interwoven by the multiple threads of diverse tensions. Threads can be taut or

[18] Joseph, et al. (2019). The Treaty, Tikanga Māori, ecosystem-based management, mainstream law and power sharing for environmental integrity in Aotearoa New Zealand – possible ways forward. Hamilton: Te Mata Hautū Taketake – The Māori and Indigenous Governance Centre, Te Piringa, Faculty of Law, University of Waikato.

[19] Mutu, M. (2020). “Mana Māori Motuhake: Māori concepts and practices of sovereignty” In Routledge handbook of critical Indigenous studies Routledge, pp. 269-282.

[20] Warren, TR. (2009). “Constructing 'traditional' concepts: The case of Māori governance. Centre for Indigenous Governance and Development, Massey University, Palmerston North, New Zealand.

loose; emergent or dormant; seamless or entangled. How and why? I was curious to discover whether and how governance tensions were generated and managed in complex relationships.

Etymologically, the noun "tension" derives from the Latin word "tendere," meaning a condition or feeling of being stretched or strained. Tension can manifest when something is stretched either physically or emotionally. On the one hand, the term "tension" in the context of a relationship denotes 'a state of latent hostility or opposition between individuals or groups.'[21] In the context of a governance relationship between hapū and iwi; tension can refer to an underlying strain or unease that exists due to conflicting interests, competing perspectives, or opposing interests and emotions. Tension can imply a sense of discord, apprehension, disagreement or imbalance. On the other hand, tension can be healthy when approached and managed constructively. For example, some structural mechanisms (such as bridges) require tension in their construction in order to function safely. In the governance role; healthy tensions can manifest through the diversity of viewpoints, needs, or goals. Such 'constructive tension' can serve as a prerequisite for growth, deeper understanding, enhanced trust and mutual reciprocity between social units.

The concept of "tension" emphasises the dynamic nature of governance, highlighting the coexistence of multiple perspectives and strategies at play. Similarly, Māori governance relationships are not linear or uniform; instead, "constructive tensions" are socially and politically managed, leading to innovative governance solutions and effective realignments. The contemporary challenge for Māori is to assess whether these innovations, developed in response to imposed changes, are culturally credible. Will these relational realignments earn the mandate and support of the Māori community, or will they be perceived as culturally destructive and untrustworthy, resulting in contested misalignment?

The analogy of a "tug of war" aptly illustrates the dynamic tensions inherent in governance relationships. In this metaphor, different stakeholders pull in opposing directions, each striving to influence decisions and assert their interests. This constant push and pull prevent any single entity from dominating, fostering a balance that encourages negotiation, compromise, and

[21] "Merriam Webster Dictionary" (2025) Merriam-Webster <www.dmerriam-webster.com/dictionary/tension>.

adaptability within the governance framework. Navigating these tensions can lead to a stronger bond or, if left unaddressed, a potential unravelling of the relationship.

Author Erin Ryan's work *Federalism and the Tug of War Within*, delves into these complexities, examining how constitutional interpreters navigate the competing values underpinning American federalism. Ryan discusses the "tug of war" between principles such as checks and balances, accountable governance, local autonomy, and interjurisdictional synergy, highlighting the challenges in achieving a harmonious balance among them.[22]

By conceptualising governance as a tug of war, I acknowledge the inherent tensions and recognise that these forces, while opposing, are essential in maintaining equilibrium. This perspective underscores the importance of continuous dialogue and negotiation among governance leaders to ensure a responsive and resilient governance system.

With these tensions in mind, my thesis investigation of the hypothesis is to be guided by a core set of research questions, approved as part of my ethics application. The thesis questions will be investigated through two case studies, and semi-structured interviews which I conducted with several Māori leaders engaged in governing roles with iwi and hapū.

Six research questions were the drivers to investigate and test the hypothesis. Namely,

1. Define the concept of ‘governance’ as understood by Māori in historical times and in contemporary times?
2. What is the meaning, role and relationship of whānau, hapū, and iwi in Māori ways of governing, yesterday and today?
3. What Māori value-based principles (“kaupapa”) and mechanisms are practiced in the hapū and iwi governance role?
4. To what extent and how have NZ Governments shown preferential treatment to iwi?
5. Identify whether and what tensions in the internal governing relationship between hapū and iwi exist? How are these tensions being managed and with what ongoing consequences?

[22] Ryan, E., (2011). Federalism and the tug of war within. Oxford University Press.

6. Where is your entity/organisation situated in the governance epochs of adaption, stagnation, revolution and transformation?

In summary, these questions set the stage for the thesis research by defining what is to be explored. The hypotheses offers specific predictions that will be tested within the research framework. Both elements work together to ensure that the research is focused, systematic, and capable of yielding meaningful results.

1.4 Māori social structures used for governing

In this introductory chapter I present an overview of the Māori social structures engaged in Māori ways of governing.

At the heart of Māori ways of self-governance is the building block of whānau. The Māori social structure whānau was traditionally made up of three to four generations comprising grandchildren, their parents, the siblings of the parents, and the grandparents.[23] The whānau is the foundation from which other social structures become aggregated at larger scales. Clusters of interrelated whānau are connected through whakapapa[24] to an eponymous ancestor. Together, they form a hapū. Clusters of hapū in turn come together to form an iwi. According to historian Angela Ballara, these structures historically played a central role in the organisation and governance of Māori lives.[25]

In her seminal 1998 work, *Iwi: The Dynamics of Māori Tribal Organisation from c.1769 to c.1945*, historian Angela Ballara discusses the traditional roles of hapū and iwi in Māori society. She explains that iwi and hapū exercised their own leadership and autonomy. Ballara notes that hapū were the primary functioning political units, responsible for the day-to-day management of resources and social affairs. Iwi provided a broader identity and could unite hapū for larger collective endeavours. This structure allowed for flexibility and resilience in Māori social organisation.[26]

[23] Ballara, A. (1998). Iwi: The dynamics of Māori tribal organisation from c. 1769 to c. 1945. Wellington: Victoria University Press, at. 19.

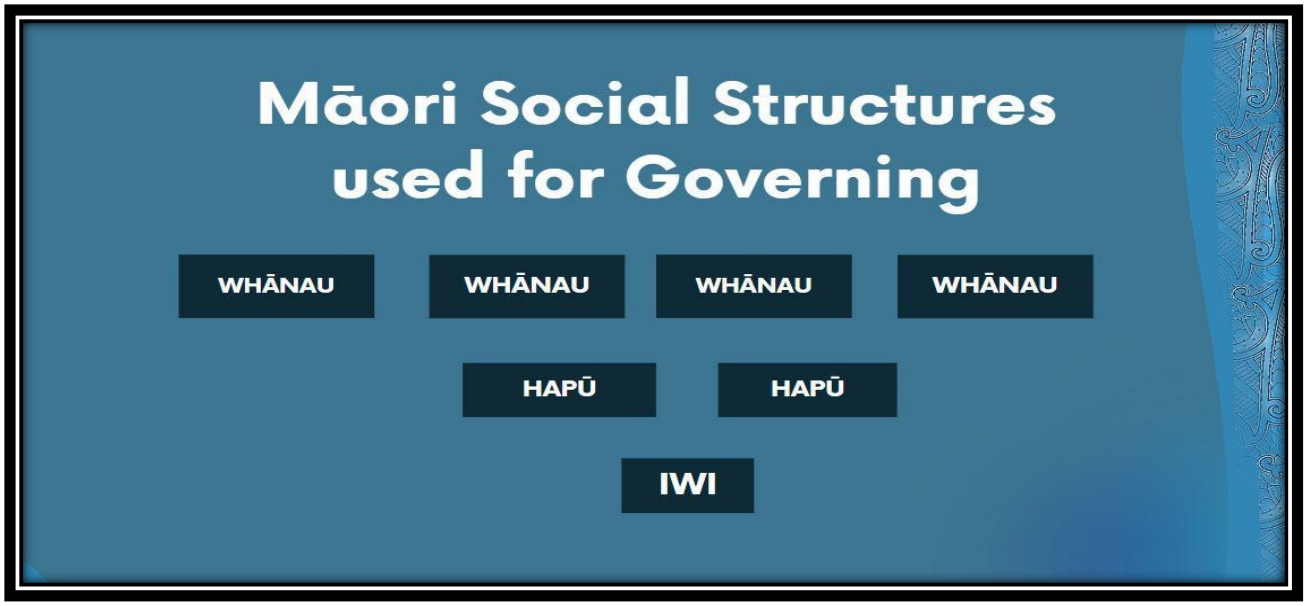
[24] Family history; genealogical connection; lineage.

[25] Ballara (1998).

[26] Ballara (1998).

The following table illustrates Māori Social Structures used for governing in the cultural and political arena for Māori.

Figure 2: Māori Social Structures for Governing



Source: Rakena (2024).

Anthropologist Steven Webster's article*, Māori Hapū as a Whole Way of Struggle: 1840s–50s Before the Land Wars*, affirms with Ballara the dynamic nature of hapū during the pre-colonial and early colonial periods in New Zealand. Webster discusses how hapū were foundational social units that adapted to changing circumstances, including trade and external influences, leading to the formation of alliances and intermixing among different hapū across various regions. Webster emphasises that these social structures evolved over time in response to specific needs and situations.[27]

As well, hapū operated according to a system of cultural subsidiarity where governing roles and responsibilities were distributed across the layers of whānau, hapū and iwi. The larger-scale agency of iwi was very much an emergent phenomenon, dependent on the situational need of hapū to get important things done at a larger demographic scale.

In the same vein co-authors Richard Boast et al, of *Māori Land Law,* explain traditionally the terms whānau, iwi, and hapū could be used interchangeably[28] without specific references to

[27] Webster, S. (1988). Māori hapū as struggle: 1840s-50s Before the Land Wars Oceania 69 (1): 4-35.

[28] Boast, R., Erueti A., McPhail D. and Smith F (1999). Māori Land Law. Wellington: Butterworths.

their scale and genealogical depth.[29] In the eighteenth century, hapū exhibited a range of shapes and sizes, often containing smaller hapū within them. This complex interplay of hapū size and structure was influenced by political dynamics, economic circumstances and fluctuating spheres of influence that waxed and waned across generations.

Therefore, Māori social and political structures were characterised by the dynamic nature of hapū, which continually evolved and adapted through processes of production, division, and reformation. This fluidity and organic development of hapū reflected the complex and ever-changing nature of traditional Māori socio-political systems. But it also revealed the core role of hapū as constituting the basis of a complex self-organising social and political system, and as the foundation structure for traditional modes of self-government. Hapū were capable of responding to changing circumstances and needs, to enable responsive changes of scale, at the same time as reproducing valued interdependent, relational polities with enduring associations between people and the land. Whānau, hapū and iwi were dynamic and intertwined relational formations of social, economic and political organisation and agency. The next section looks at the role of hapū governance.

1.4.1 Hapū Governance

Traditionally, hapū were considered the engine room that drove local Māori governance, politics, and economic wealth for their extended whānau. Hapū exercised systems of control and management according to the principles derived from tikanga Māori or value-based principles. Hapū alliances allowed for large-scale projects to be undertaken such as major resource allocation, warfare, trade and increasing human capacity and population through marriage. The iwi formation was activated as a clustering of related hapū, for strategic purposes to perform the same functions but at larger scales that required more substantial coordination and resources. Iwi performed these larger scale functions, and then dispersed back into discrete hapū once the collective purpose was achieved. In other words, traditionally, iwi were very much situational and emergent formations in their role and presence.

I now introduce hapū leadership in the following section.

[29] Boast, et al (1999) at 38.

1.4.2 Hapū Leadership

Before the arrival of European settlers, Māori society operated under these political and social structures governed by rangātira.[30] These leaders held authority through their whakapapa[31] experience and knowledge. Decision-making was often based on consensus-building and collective discussion, ensuring the involvement and representation of all members of clusters of hapū.

Hapū leadership within Māori society was governed by the mana[32] of a rangātira. An essential aspect of mana was its dynamic practical nature. It fluctuated in response to the decisions and accomplishments of the rangātira. The authority and power of a rangātira can be likened to that of a political leader in present-day New Zealand, who holds sway over their own political party and caucus. The Waitangi Tribunal,[33] drawing on the insights of Sir Hugh Kawharu, highlighted accountability as an important aspect of the ongoing mandate of hapū leadership; namely, that a chief who consistently disregarded the majority opinion of their hapū risked undermining his/her own political standing and effectiveness.[34] This could be seen as a form of political suicide within the hapū context. It suggests respected leadership had to continue to be earned, accountable and proven. The persuasive power of a rangātira relied on his/her ability to navigate the intricate dynamics of hapū governance processes, to mobilise consensus and ensure that their decisions aligned with the interests and aspirations of their hapū members. More importantly, the authority of rangātira operated within layers of leadership in which each whānau had their own extended family elders who worked together in the interests of their families and hapū.

1.4.3 Hapū Resilience today

The traditional Māori social structure hapū demonstrated remarkable resilience in the face of colonisation. Historically, as the primary political and social unit within Māori society, hapū were responsible for decision-making, land and resource management, and maintaining social

[30]Chiefs.
[31] Genealogy; lineage; bloodlines.
[32]Mana is the ultimate and paramount power and authority derived originally from the atua.
[33] The Waitangi Tribunal is a standing commission of inquiry enacted under the Treaty of Waitangi Act 1975, tasked with determining whether Crown actions or omissions are in breach of Waitangi Treaty principles.
[34] Palmer, M. S. R. (2008). The Treaty of Waitangi in New Zealand's Law and Constitution Wellington: Astra Print, at 34.

order. Despite the disruptive impacts of colonisation, land alienation, the imposition of Western legal frameworks, and the undermining of traditional authority, hapū structures persisted and adapted.

Ballara and author Kwen Fee Lian, both emphasise that hapū were the fundamental political and social groupings in traditional Māori society. They note that hapū not only provided the primary base of collective identity but also exercised authority over land, resources, and kinship responsibilities. This central role meant that hapū autonomy and decision-making power lay at the heart of Māori governance and community life.[35]

Professor Mason Durie comments on hapū, and explains that hapū were the central units of Māori society, exercising authority over both land and people. Despite the disruptive effects of colonisation, hapū have continued to play a significant role, adapting to changing circumstances while remaining at the heart of Māori governance structures.[36] Further, the hapū has remained a cornerstone of Māori identity and governance, providing a sense of belonging and continuity through its connection to whenua,[37] whakapapa and tikanga Māori. This enduring significance is reflected in the way hapū continue to contest their rights and responsibilities in both local and national contexts and, modern legal and political systems.

In contemporary times, academic Margaret Mutu (2011) argues that hapū have long been and continue to be foundational to Māori society, overseeing resource management, political decision-making, and social order. She notes that their role and autonomy have endured, even under colonial pressures and evolving political structures.[38]

Further, academic Robert Joseph affirms and highlights that hapū were the primary political and social units of Māori society, integral to the exercise of rangatiratanga and the organisation of social order. He notes that despite the ongoing impacts of colonisation, hapū have shown resilience, adapting to contemporary governance contexts while continuing to assert their autonomy.[39]

[35]Ballara (1998).
[36] Durie, M. (2003). Ngā Kāhui Pou: Launching Māori Futures. Wellington: Huia Publishers, at 136.
[37] Land.
[38] Mutu, M. (2011). The State of Māori Rights. Wellington: Huia Publishers.
[39] Joseph, R. (2014). Indigenous Peoples' Good Governance, Human Rights and Self-Determination in the Second Decade of the New Millennium – A Māori Perspective Māori Law Review, December.

Maori Academics Durie, Mutu and Joseph emphasise the enduring significance and pivotal role of hapū in the face of ongoing challenges. The thesis investigates the relational balance and cultural subsidiarity between hapū and iwi, in respect to their governing roles, powers and responsibilities. The thesis hypothesis proposes that the relational balance between the hapū and iwi is vulnerable to New Zealand Governments interventions since the signing of Te Tiriti Waitangi ("Te Tiriti")1840.

Today, the social structure iwi can now be elevated to the status of 'iwi authorities' by the New Zealand Government which is achieved through its use of governmental tools such as policies and legislation designed to empower and formalise iwi as westernised governance structures. A major intervention that triggers legislated iwi authorities occurs through a NZ Government policy of dealing only with so-called 'large natural groupings' of Māori. This policy has demonstrated preferential treatment towards iwi, with the consequence of often superseding hapū's traditional governance role. The policy will discussed in Chapter Six – Part II.[40]

1.5 Research Context of Indigenous self-governance and self- determination

The United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") 2007 has been a source of rhetorical support and soft law for the rights of Indigenous peoples to achieve self-determination for more than a decade. The concept of self-determination, as defined in UNDRIP is based on the principle that all individuals, including Indigenous peoples, are equally entitled to exert control over their own cultural heritage.[41] An aspect of this right is the freedom for Indigenous Peoples to determine their political status and actively pursue their economic, social, and cultural development.[42]

However, the practical implementation of these rights presents a complex labyrinth of multiple challenges on different levels. It reveals a range of contentious issues that often serve as measures employed through government policy and jurisdiction. These interventions are exercised globally, and are aimed at stripping away Indigenous cultures resolve to self-govern. While at the same time governments continue to emboss their way of governing frameworks. These imposed governmental measures stifle the aspirations of Indigenous peoples in their

[40] See Chapter Six: The New Zealand Government Interventions through Legislation and its institutional Arm.

[41] United Nations Declarations on the Rights of Indigenous People [UNDRIP] 2007 Article 31.1.

[42] UNDRIP Article 3, 61/295.

quest to uphold their cultural identity for self-rule and exercise of self-governance. One ongoing challenge is implementing Indigenous governance in the context of western sovereignty.

Indigenous governance refers to the ability of Indigenous groups to govern themselves and make decisions that affect their own affairs and to be self-determining. First Nations Academic Taiaiake Alfred argues that for Indigenous peoples, self-determination is not merely a political principle but a cultural and spiritual necessity. It encompasses the ability to make decisions about their own lives, territories, and governance systems free from external control.[43]

Indigenous governance encompasses unique political structures, traditional knowledge systems, and cultural practices that have been integral and practiced in Indigenous communities for generations. One example of Indigenous governance can be found amongst Māori. Māori have a history of self-governance, which has played a vital role in their efforts to reassert their rights, and to exercise self-governance and self-government. This governance history is considered in Chapter 8 as being a series of epochs.

In this context, the thesis will investigate how NZ Governments uses governmental tools (such as policy, legislation, regulatory frameworks, negotiation and agreement-making approaches) to fetter Māori self-governance. These government practices are examined in chapter Six in greater detail.

In this Introduction, I will provide a brief overview of some governmental tools by successive NZ Governments used to wrest Māori land, entrench settler sovereignty and erode the traditional Māori governance unit of hapū from the time that the British Crown claimed illegal sovereignty with the signing of Te Tiriti o Waitangi 1840. Three influential governmental legal principles are discussed; Ius Gentium, Aboriginal Title, and the pre-emptive right of the Crown Historically all principles impacted on Māori governance.

[43]Alfred, T. (2005). Wasáse: Indigenous Pathways of Action and Freedom. Toronto: University of Toronto Press, at 45.

1.6 Governmental Tools

1.6.1 Austinian Sovereignty and Its Application to New Zealand

Austinian Sovereignty is based on the concept of absolute, indivisible authority. According to legal scholar John Austin, sovereignty resides in a supreme law-making body that commands obedience and is not subject to any higher authority.[44]

In the context of British colonisation, the Crown imposed Austinian sovereignty over New Zealand through the Treaty of Waitangi (1840) not Te Tiriti O Waitangi and subsequent legal proclamations. This assumed sovereignty was to be centralised under the British Crown, disregarding the distributed and relational nature of Māori governance, which was exercised at the hapū level through rangātiratanga.

Austinian sovereignty clashed with Māori conceptions of authority, as Māori governance was decentralized and based on kinship networks rather than a singular, commanding entity. The British, adhering to Austin's theory, viewed sovereignty as a "zero-sum" concept, either the Crown held sovereignty or Māori did. This legal fiction was used to justify the assertion of Crown authority over Māori land and governance, despite continued Māori resistance.[45]

1.6.2 Doctrine of Discovery

The doctrine of discovery was a principle developed in the 15th century, granting European nations the right to claim sovereignty over non-Christian lands upon "discovery." This doctrine provided a legal and moral justification for European colonial expansion, often disregarding the rights and sovereignty of Indigenous peoples.

In the context of Aotearoa New Zealand, the application of the Doctrine of Discovery is a subject of debate among scholars. Some argue that it influenced British colonial policies, leading to the marginalisation of Māori hapū and iwi. Professor Margaret Mutu contends that the Crown used the doctrine to rationalise withholding lands, resources, and rights from Māori.[46]

Author Paul Moon argues that the *Doctrine of Discovery* underpinned British colonisation of New Zealand by providing a justification for asserting sovereignty over Māori despite their

[44] Austin, J. (1832). The Province of Jurisprudence Determined. London: John Murray.

[45] Austin (1832).

[46] Mutu (2020).

established political systems.[47] Rather than a clear legal rule, it functioned as an ideological framework that allowed the Crown to subordinate Māori land tenure to English law. This rationale was reinforced through the Crown's pre-emptive right of purchase and early case law such as *R v Symonds* [48](1847), which recognised Crown sovereignty while leaving Māori "native title" vulnerable. Moon contends that Discovery entrenched European superiority within the colonial legal order, effectively erasing Māori political autonomy.

In his evidence to the Waitangi Tribunal on WAI 1040, Moana Jackson contended that Māori did not cede sovereignty through Te Tiriti o Waitangi but instead, expected the Crown to exercise only limited kawanatanga, a delegated form of governance, while hapū and iwi retained their inherent mana and tino rangatiratanga. He emphasised that hapū saw Te Tiriti as affirming their ongoing authority, not as transferring it, and that their consent was given on the basis of mutual respect and preservation of autonomy.[49]

In her evidence to the Waitangi Tribunal's Mana Wāhine Inquiry Tina Ngata argues that the doctrine of discovery, originating in fifteenth-century Papal Bulls, authorised the conquest of non-Christian lands and dismissed Indigenous sovereignty.[50] It imposed the "Great Chain of Being,**"** ranking humanity so that white, male, Christian Europeans were most sacred, while Indigenous peoples and women were relegated to the lowest, disposable tier. This displaced Māori concepts of tapu and mana with a foreign hierarchy of superiority. During the Enlightenment, ideas of civilisation and "scientific racism" secularised the doctrine, embedding its hierarchies into colonial law and policy. As both legal instrument and cultural ideology, the doctrine entrenched racialised and gendered inequality.

1.6.3 Ius Gentium

Ius Gentium was the rules or the law of Nations governing the ways nations (gentes) interacted with each other. These nations were viewed as 'civilised' nations who claimed the right to civilised others. Ius Gentium emerged around the 3rd century BC in Roman law, and evolved to form the basis of western international law by the early modern period spanning roughly from

[47] Moon, P. (2022). 'The Historicity of the Doctrine of Discovery in New Zealand's Colonisation,' Te Kaharoa,15(1).
[48] R v Symonds (1847) NZPCC 388.
[49]Jackson, M. (2012). Brief of Evidence of Moana Jackson to the Waitangi Tribunal, Te Paparahi o Te Raki Inquiry (WAI 104, 2012). Waitangi Tribunal, Wellington.
[50]Ngata, T. (2025). Brief of Evidence of Tina Ngata to the Waitangi Tribunal, Mana Wāhine Inquiry: Mana Wāhine and the Doctrine of Discovery. Waitangi Tribunal, Wellington.

the late 15th Century to the late 18th Century. Ius Gentium influenced the development of international law, particularly the principles of sovereignty, self-determination, and the recognition of states. Ius Gentium laid the groundwork for treaties, diplomatic relations, and the treatment of Indigenous peoples. Ius Gentium often justified colonial expansion while simultaneously creating a framework for acknowledging and subjugating Indigenous rights within international legal discourse.

Scholar Paul McHugh discusses how ius gentium was applied in colonial contexts, in ways which often ignored or undermined Indigenous governance structures. McHugh states, '…colonial law ignored the complexities of Māori political structures.'[51] McHugh explains in the New Zealand context, ius gentium provided a legal framework that marginalised Māori hapū and iwi. Ius Gentium replaced their complex governance systems with simplified colonial models that failed to acknowledge the sovereignty and autonomy of Māori communities.

Scholar Margaret Mutu (2010) identifies *Ius Gentium* as a colonial construct designed to legitimise European sovereignty over Indigenous peoples.[52] She argues that its application in Aotearoa allowed the Crown to deny mana Māori motuhake and misinterpret Te Tiriti o Waitangi, reducing it to a tool of subjugation rather than recognising Māori sovereignty. Mutu quotes, "The ius gentium provided the supposed legal basis for the Crown to override *Te Tiriti o Waitangi* and deny Māori their inherent sovereignty, or *mana Māori Motuhake."*[53]

Similarly, constitutional lawyer Moana Jackson argues in his evidence to the Waitangi Tribunal (*Wai 1040*) that Ius Gentium created a racialised hierarchy that stripped Indigenous peoples of sovereignty, replacing their own laws with European authority. Jackson states, "The ius gentium was part of the legal armoury that normalised colonisation and denied the validity of Indigenous law."[54] Ius Gentium was used to legitimise the erosion of Māori self-governance. Jackson continues this legal imposition disrupted traditional hapū and iwi structures, leading to a significant loss of Māori autonomy and authority within their own lands. It affected Māori governance by undermining traditional hapū and iwi structures. Together, both scholars (Mutu

[51] McHugh, P.G. (1991). The Māori Magna Carta: New Zealand Law and the Treaty of Waitangi. Oxford University Press at 114.
[52] Mutu, M. (2010). 'Mana Māori Motuhake: Māori concepts and practices of sovereignty.' In M. Mulholland & V. Tawhai (eds.), Weeping waters: The Treaty of Waitangi and constitutional change (pp. 53–69). Wellington: Huia Publishers.
[53] Mutu (2010) at 16.
[54] Jackson, M., (2012). Brief of Evidence of Moana Jackson, Wai 1040, Waitangi Tribunal at 5.

and Jackson) expose how the doctrine was used to rationalise the Crown's assertion of sovereignty over Māori.

1.6.4 The Doctrine of Aboriginal Title

Aboriginal title is a legal doctrine that recognises Indigenous peoples' land rights that existed prior to colonisation. Canadian Kent McNeil explores how this title acknowledges Indigenous sovereignty over land. McNeil argues, "Aboriginal title is a pre-existing right, rooted in Indigenous peoples' original occupancy.*"*[55] This doctrine significantly impacted on land claims and governance, reinforcing Indigenous rights to land and resources against state encroachments. Further, McNeil expands the argument with doctrinal/legal analysis.[56] established that In essence, aboriginal title is a pre-existing right, rooted in Indigenous peoples' original occupancy rather than Crown recognition, affirming that sovereignty did not extinguish Indigenous rights to land.

Academic Paul McHugh's *Aboriginal Title: The Modern Jurisprudence of Tribal Land Rights,*[57] explicitly frames Aboriginal title as a doctrine that reinforced Indigenous claims (including Māori) by recognising their rights as rooted in ancestral occupation, and thereby destabilising colonial/state-imposed land tenure systems. McHugh notes that, "The common law doctrine of aboriginal title gave recognition to the survival of tribal rights in land, in direct challenge to state allocation systems.*"*[58] McHugh also makes the point in relation to Māori, "In New Zealand, the recognition of aboriginal title reinforced Māori claims to ancestral lands and exposed the tenuousness of Crown-imposed land tenure regimes."

McHugh situates aboriginal title within New Zealand jurisprudence, showing how it reinforced Māori claims to ancestral lands and destabilised Crown-imposed tenure systems. He highlights *R v Symonds*[59] where the Supreme Court acknowledged the validity of Māori customary title, and *Te Weehi v Regional Fisheries Officer* ,[60] which extended recognition of customary rights into fisheries. For McHugh, these cases demonstrate the resilience of

[55] McNeil, K. (1989). Common Law Aboriginal Title Oxford, United Kingdom: Clarendon Press, 1989, at. 7-8.
[56] Mc Neil (1989) at 135.
[57] McHugh, P.G. (2011). Aboriginal Title: The Modern Jurisprudence of Tribal Land Rights. Oxford: Oxford University Press.
[58] McHugh (2011) at 9.
[59] R v Symonds (1847) NZPCC 388.
[60] Te Weehi v Regional Fisheries Officer [1986] 1 NZLR 680.

aboriginal title in New Zealand law, exposing the tension between Indigenous legal continuity and Crown assertions of ownership. Together, McNeil's doctrinal framing and McHugh's jurisprudential analysis show that aboriginal title functions both as a principle affirming Indigenous authority and as a case-based legal force unsettling colonial sovereignty.

1.6.5 The Pre-Emptive Right of the Crown to annex Māori Land

Mason Durie discusses Crown pre-emption where he notes,[61]

> 'A Māori identity is secured by land; land binds human relationships, and in turn people learn to bond with the land. Loss of land is loss of life, or at least loss of that part of life which depends on the connections between the past and the present and present with the future. "Whatu ngaro-ngaro te tangata, toitū te whenua. People perish but the land is permanent.'

The pre-emptive right of the Crown was established under the implied doctrine of discovery in the Te Tiriti o Waitangi. It granted the British Crown the exclusive authority to purchase Māori land before it could be sold to others. Intended as a protective measure, it often resulted in extensive land loss for Māori, undermining their sovereignty and traditional land ownership.

In *Te Kooti Tango Whenua: The Native Land Court, 1864–1909*, academic David V. Williams directly analyses the pre-emptive right of the Crown under the Treaty and subsequent legislation. Williams shows how it was not simply a legal mechanism, but a deliberate instrument of alienation, designed to secure land for European settlement while systematically eroding Māori authority over their own whenua. Williams writes, "The Crown's pre-emptive right was less a shield for Māori than a sword, functioning as a tool of land alienation, undermining rangatiratanga and facilitating large-scale land acquisition for settlers."[62] (

In *Buying the Land, Selling the Land: Governments and Māori Land in the North Island 1865–1921*, historian Richard Boast carefully examines the operation of the Crown's pre-emptive right.[63] Boast explains that while the doctrine was presented as a safeguard to protect Māori from exploitation by private buyers, , in practice it functioned as a chief structural mechanism for alienation, allowing the Crown to monopolise land purchases on terms that overwhelmingly

[61] Durie, M. (1998). Te Mana, Te Kāwanatanga: The Politics of Māori Self-Determination. Auckland: Oxford University Press, at 125.

[62] Williams, D. V., (1999). Te Kooti Tango Whenua: The Native Land Court, 1864–1909. Wellington: Huia Publishers, at 50.

[63] Boast, R.,(2008). Buying the Land, Selling the Land: Governments and Māori Land in the North Island 1865–1921. Wellington: Victoria University Press.

advantaged settlers. Vast areas of land were transferred to the Crown, often at prices far below their value. The Crown's monopoly on land purchases enabled it to dictate terms and prices, resulting in the erosion of the Māori land base and contributing to socio-economic disparities.

Durie[64] discusses the Crown's pre-emptive right as a central mechanism for Māori land loss, noting that while it was framed as a safeguard under Te Tiriti o Waitangi, it quickly became a tool to restrict Māori autonomy in land dealings. By monopolising transactions, the Crown limited Māori authority over their own resources, facilitated large-scale alienation, undermining both economic self-sufficiency and mana Māori motuhake.

Jackson critiques the Crown's pre-emptive right as a manifestation of colonial deceit, arguing it transformed Te Tiriti o Waitangi from a partnership into an instrument of dispossession.[65] He explains that by monopolising land transactions, the Crown imposed foreign legal concepts over Māori law, effectively denying tino rangatiratanga and using the doctrine of pre-emption to legitimise large-scale land acquisition at the expense of Māori authority.

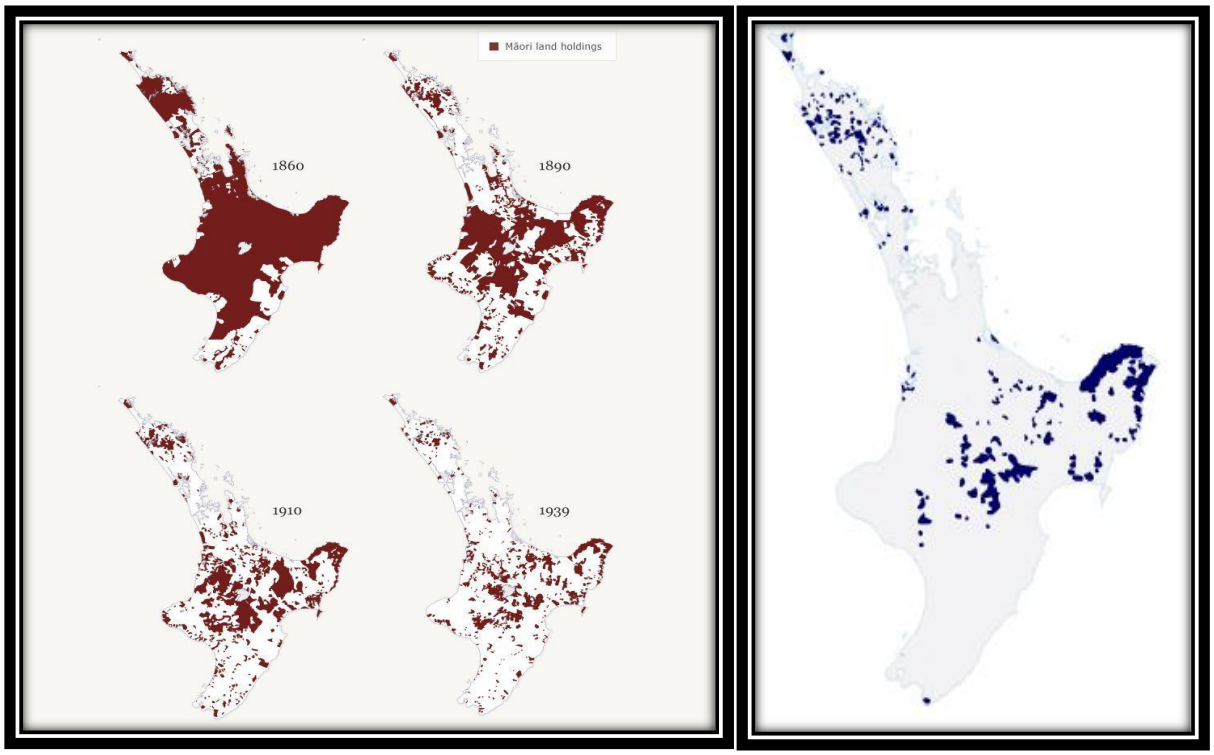
To conclude, Durie highlights that the Crown's pre-emptive right curtailed Māori control over land dealings, weakening mana Māori motuhake and economic self-sufficiency.[66] Williams underscores that it functioned as a deliberate tool of alienation, designed to facilitate large-scale acquisition for settlers while eroding Māori sovereignty.[67] Boast explains that although framed as a safeguard, in practice it became the machinery for massive transfers of Māori land on inequitable terms. [68] Jackson situates pre-emption within the colonising philosophy that distorted Te Tiriti o Waitangi into an instrument of dispossession, legitimising Crown dominance and denying tino rangatiratanga.[69] Together, these scholars show that pre-emption entrenched Crown authority and systematised Māori land loss.

The following map illustrates the accelerated erosion of Māori ownership from 1860-2000. Maps chart the Māori land loss and the extent of alienation of Māori land in the North Island after the signing of the Treaty of Waitangi1840.[70] The Crown and the New Zealand Company

[64] Durie (1998).
[65] Jackson, M.,(1992). The Treaty and the Word: The Colonization of Māori Philosophy. In: G. Oddie and R. Perrett, eds. Justice, Ethics, and New Zealand Society. Auckland: Oxford University Press, pp. 1–10
[66] Durie (1998).
[67] Williams (1999).
[68] Boast (2008).
[69] Jackson (1992).
[70] "New Zealand History" (2025) NZ History <www.nzhistory.govt.nz>.

'purchased' 99% of the South Island by 1865, only 25 years after the signing of the Treaty of Waitangi 1840.

Map 2: Māori land loss 1860-1939 -2000[71]



1860-1939 2000

Source: "Māori land Loss" <www.nzhistory.govt.nz>

The Māori land loss from 1860 to 1939 (the brown shade) severely impacted hapū governance by eroding their authority, autonomy and connection. As hapū lost land as their economic base, the ability to sustain traditional governance structures weakened, leading to disrupted social and political cohesion. The fragmentation of landholdings and loss of communal ownership undermined collective decision-making and leadership within hapū.

Durie states,[72]

> 'The alienation of land from Māori was sanctioned in laws passed by the settler government and was effected through three mechanisms: confiscation, Crown land purchases, and Māori Land Court decisions. Together, they resulted in the loss of most of the land held by Māori.'

[71] Māori land Loss 1860-2000" (2025) NZ History <www.nzhistory.nz>.

[72] Durie (1998) at 124.

The economic decline caused by land loss also reduced the capacity of hapū to maintain cultural practices, further weakening their political power. This period saw a shift towards more centralised iwi structures, partly due to colonial policies, which diluted traditional hapū governance. Additionally, increased dependency on the colonial state further eroded the authority of hapū leaders, transferring decision-making power to state institutions and centralised iwi leaders.[73]

We will be now discuss the significance of a Māori worldview has a foundation for Māori Governance.

1.7 Māori Worldview

Reverend Māori Marsden notes,[74]

> 'Cultures pattern perceptions of reality into conceptualisations of what they perceive reality to be; of what is to be regarded as actual, probable, possible or impossible. These conceptualisations form what is termed the 'world view' of a culture. The worldview is the central systematisation of conceptions of reality to which members of its culture assent and from which stems their value system. The world view lies at the very heart of the culture, touching, interacting with and strongly influencing every aspect of the culture.'

Marsden's definition draws the link between a worldview and values. Marsden's insight emphasises how cultures construct their understanding of reality through specific perceptions. He argues these perceptions are systematically organised into a "worldview," which serves as the core framework, central to the culture, while influencing and shaping all facets of life. Marsden's perspective also underscores the integral role of worldview in maintaining cultural coherence within a Māori context. Similarly, Joseph et al., state, 'One must see the world through Māori eyes, and assess Māori values within a Māori worldview. A culture cannot be understood fully in terms of the worldview of another.' [75]

The Māori worldview is deeply rooted in relational and collective principles and contrasts Western legal and governance frameworks. It advocates for a governance model that

[73] Mikaere, A. (2011). Colonising myths-Maori realities: He rukuruku whakaaro. Wellington: Huia Publishers.
[74] Marsden, M. And Royal T.A.C ed (2003). The Woven Universe: Selected Writings of Rev. Māori Marsden. (Masterton, The Estate of Rev. Māori Marsden).
[75] Joseph et al., (2019) at 11.

prioritises the interconnectedness of all entities, both human and environmental, challenging the individualistic and hierarchical tendencies that characterise Western norms.

The thesis will discuss and locate Māori governance through a Māori i worldview. The following section will explore at the research standpoint of the thesis.

1.8 Research Standpoint

Academic Linda Smith argues that Indigenous research agendas, when defined by Indigenous priorities, are inherently decolonial and transformative because they centre Indigenous knowledge systems and worldviews. Smith notes, "Indigenous research agendas are framed by the needs and aspirations of Indigenous communities, and are part of the wider project of decolonisation."[76] In the context of Māori-led research, Smith argues for research approaches that privilege Indigenous ways of knowing and being. The thesis is designed to reclaim Māori governance practices and principles by positioning them at the centre of this research. The concept of 'governance' is heavily invested with a Māori-centric worldview.

In addition, historian Hirini Mead explains that Māori governance and leadership are grounded in tikanga values such as whānaungatanga,[77] manaakitanga,[78] and rangatiratanga.[79] These values are not only guiding principles but also the cultural foundations for decision-making and the exercise of authority in Māori communities while the approach centres Māori perspectives in the governance discourse.[80]

Jackson too argues that the Māori worldview, is grounded in relationships, whanaungatanga, and collective responsibility, and offers a constitutional framework distinct from Western legal systems that prioritise individualism.[81] For him, genuine transformation requires restoring rangatiratanga by reasserting the interconnectedness of people, communities, and the natural

[76] Smith, LT. 2nd ed (2012). Decolonizing Methodologies: Research and Indigenous Peoples, London Zed Books, at 185.
[77] Expressing relationships built on common ancestry and featuring interdependence, reciprocal obligations, support and guidance within rōpū tuku iho.
[78] Hospitality, enhancing the mana of others especially through sharing, caring, generosity and hospitality to the fullest extent that honour requires
[79] Is the exercise of mana (absolute and paramount power and authority derived originally from the atua).
[80] Mead, H.M (2003). Tikanga Māori: Living by Māori Values. Wellington: Huia Publishers 28-34.
[81] Jackson, M., (2017). Restoring Rangātiratanga: Theoretical Arguments for Constitutional Transformation. In: He Whakaaro Here Whakaumu Mō Aotearoa. Wellington: Te Puni Kōkiri.

world. Jackson notes, "Māori society was based on relationships, not things, and on the responsibility to care for one another and the whenua."[82]

The following Māori concepts will provide a deeper context and pathway into the context of Māori ways of governing.

1. *Mātauranga Māori:* Māori knowledge systems which have been accumulated and passed on from generation to generation.
2. *Tikanga Māori:* Māori customary law, and Māori value-based principles that control social behaviour of the individual and the collective. Today, tikanga Māori principles still operate among Māori communities.

1.8.1 T*he power of Maori language concepts and meanings*

Māori words convey connections to people, nature, ancestry, spirituality, and the land by their very meanings. Māori words transcend the limitations of this dominant academic language (English), to provide a more holistic and interconnected Māori perspective.

Linda Smith reminds us that, *"*To name the world is to exert power over it.*"*[83] Smith stresses that in Indigenous contexts, naming and defining are never neutral. Words like hapū are not mere labels but carry deep meanings, histories, and relational ties that are central to the Māori worldview.

Lawyer Ani Mikaere argues that colonial narratives have reframed Māori structures such as hapū through Western categories, reducing complex Indigenous institutions to simplistic labels. Mikaere explains that this process has *"*Stripped Māori concepts of their depth and richness, leaving only distorted shadows of their true meaning*"*[84] More broadly, Mikaere critiques how colonial law and scholarship imposed a Western lens on hapū and iwi, misrepresenting their cultural depth and significance.[85]

Today, educator Te Ahukaramū Charles Royal, advocates for the revitalisation and application of Indigenous knowledge, including the roles and responsibilities of hapū.[86] Royal believes that

[82] Jackson, M., (2017). Restoring Rangātiratanga: Theoretical Arguments for Constitutional Transformation. Auckland University Law Review, 23, p. xx.
[83] Smith (2012) at 157.
[84] Mikaere, A., (2011). Colonising Myths – Māori Realities: He Rukuruku Whakaaro. Wellington: Huia Publishers.
[85] Mikaere (2011) at 122.
[86] Royal, T.A.C. (2005). Exploring Indigenous Knowledge. Wellington: Mauriora-ki-te-Ao / The

reconnecting with hapū identities and functions can lead to a deeper understanding of one's genealogy, associated stories, and traditions. This reconnection not only strengthens individual and collective identities but also informs modern applications of traditional knowledge system. Royal's insights suggest that by embracing the traditional roles of hapū and integrating them into contemporary society, Māori communities can foster cultural revitalisation and environmental sustainability.

Next, Dr Nin Tomas examines how Māori hapū and iwi have reasserted traditional governance structures rooted in Māori custom law, emphasising the importance of hapū autonomy, and the exercise of mana whenua. Tomas contrasts these grassroots governance models with top-down approaches, highlighting the latter's failure to accommodate foundational principles of tikanga and rangātiratanga. [87]

As well, Professor Maria Bargh's scholarship aligns closely in relation to Māori governance, hapū autonomy, and the limitations of imposed structures. Bargh argues that Māori governance is most effective when it is rooted in hapū and iwi-level decision-making, rather than centralised, top-down models that fail to accommodate foundational Māori values such as tikanga and rangātiratanga. Bargh highlights the necessity of governance systems that reflect the relational and collective nature of Māori society, emphasising the enduring role of mana whenua in self-determination.[88]

Academics Smith, Mead, Jackson, Mikaere, Royal, Tomas, and Bargh all highlight the autonomy and significance of hapū as primary political entities, rather than subordinate subdivisions. [89]

Defining hapū as a "sub-tribe" is both inaccurate and reductive. From a Māori research standpoint, I contest this colonial framing, arguing that the English term fails to capture the depth of hapū as a dynamic entity grounded in whakapapa, authority, and relational obligations as explained by Smith. The description "sub-tribe" should be discarded or significantly revised to reflect the true nature of hapū. As Moana Jackson reminds us, "Hapū were never sub-tribes;

New Zealand Institute for Māori Studies and Research.

[87] Tomas, N. (2021). "Coming Ready or not!" The Emergence of Māori Hapū and Iwi as a Unique Order of Governance in New Zealand. In Waking the Taniwha: Māori Governance in the 21st Century Joseph R and Benton R eds. Auckland: Thomson Reuters.

[88] Bargh, M. (2013). 'Multiple sites of Māori political participation', Australian Journal of Political Science, 48(4), pp. 445–455.

[89] Royal TAC (2005).

they were the primary political and social unit of Māori society, exercising rangatiratanga in their own right."[90]

To conclude, Western definitions of hapū, particularly the label "sub-tribe," impose a hierarchical model that distorts Māori governance traditions. As Joseph notes, such interpretations emerged from colonial legal frameworks that "Centralised authority at the iwi level for administrative convenience."[91] This sidelined the autonomy of hapū, which Durie affirms were, "The primary political, economic and social units, exercising authority over land, resources and collective decision-making."[92] Jackson reinforces this, emphasising that hapū were never "sub-tribes" but the fundamental political authority of Māori society.[93] This research therefore privileges Māori language concepts and meanings, critically examining the tensions between hapū, iwi authorities, and Crown interventions that continue to reshape Māori governance relationships.

1.9 Thesis Chapter Outlines

The outline below of thesis chapter shows the structuring of my thesis evidence and argument, the focus and scope of each chapter, and how chapters are crafted to test out the research questions being investigated.

Chapter 1 Introduction

This introductory chapter outlines the research topic, its significance, and the objectives framed by key research questions and hypotheses. It situates the study within its broader context, establishes the rationale for the chosen methodology, and affirms the Māori standpoint underpinning the research. The chapter also introduces the Māori worldview and the central governance formations of whānau, hapū, and iwi, alongside the interventional role of successive New Zealand governments. Finally, it provides an overview of the thesis structure, offering a preview of the chapters that follow.

[90] Jackson, M., (2012). Brief of Evidence of Moana Jackson, Wai 1040, Waitangi Tribunal, at 9.
[91] Joseph, R., (2008). Re-Creating Legal Space for the First Law of Aotearoa-New Zealand. Doctoral thesis. University of Waikato, Hamilton at 171.
[92] Durie (1998) at 124.
[93] Jackson (2012) at 9.

Chapter 2 The Conceptual Framework

The conceptual framework provides the roadmap for this research. It is structured around three core concepts: first, the meaning and role of Māori governance; second, the identification of Māori concepts of political and cultural subsidiarity; and third, the extent to which tikanga Māori, expressed through value-based principles, inform and guide contemporary practices of Māori governance.

Chapter 3 Methodologies and Methods

The methodological standpoint and methods employed in this research are grounded in a Kaupapa Māori research methodology, which provides both the lens and the purpose for the study.

Chapter 4 Primary Interview Evidence

Primary evidence for this study is drawn from semi-structured qualitative interviews with Māori leaders. These interviews explore concepts of Māori governance and their relationship with the Crown, while also examining participants' strategies for managing tensions, their governance insights, and their aspirations for the future. The perspectives of these leaders are significant, as they bring lived authority and insider understandings that illuminate the realities of Māori governance.

Chapter 5 Hapū as seen through the eyes of interview participants

This chapter presents primary evidence on the governing roles and responsibilities of hapū, as articulated by interview participants. It addresses the central research question: How are hapū perceived in the governance context? This question is significant because it engages directly with the contested place of hapū in contemporary governance and their relationship with iwi authorities and the Crown.

Chapter 6 NZ Government Interventions through Legislation and its institutional Arm

This chapter examines the specific legislation and institutions employed by successive New Zealand governments to shape Māori governance structures. It concludes that governments have consistently privileged iwi by elevating their political and legal status as iwi authorities.

Chapter 7 Governance in Action – Case Studies

Part I, examines the complex dynamics of contemporary Māori governance through a case study of internal contestation between Te Rūnanga-ā-Iwi-o Ngāpuhi (a Charitable Trust) and Te Kotahitanga (an alliance of Ngāpuhi hapū).

Part II turns to the external intercultural interface of Māori environmental governance, analysing how it engages with the New Zealand Government's framework of ecosystem-based management.

Chapter 8 Governance Epochs

This chapter traces the journey and shaping of Māori governance through an analytic framework of four epochs: adaptation, stagnation, revolution, and transformation. Insights are drawn from participants' reflections on where they situate their hapū, and iwi, within these epochs, offering an informative perspective on contemporary governance trajectories.

Chapter 9 Formative Conclusions

The conclusion provides a big-picture account of Māori governance by addressing the central research questions of the thesis. It examines how hapū and iwi exercise governance within the shifting space between Māori concepts of authority and Crown-imposed structures, highlighting the tensions that arise in navigating these dual frameworks.

Next, I will discuss my approach to the format of each chapter.

1.10 Format for each Chapter

First, a whakatauki[94] or pertinent quote or proverb will be employed to start with a unique Māori perspective, position, and tone for the reader. By integrating these expressions, I respect and showcase the breadth and depth of Te Reo Māori,[95] its culture and mātauranga Māori.[96] Whakatauki have been chosen to provide a pathway into Māori understandings of distinct aspects of governance. Other pertinent quotes will also introduce the chapter.

Second, my professional training and practice as a legal practitioner demands the thesis integrate a selection of legal concepts, common law principles, statutory interpretations, contextual analyses, and reasoning within the jurisdiction of Aotearoa, New Zealand.

Lastly, I interweave Māori words within all chapters as a means to infuse a Māori moral relational connection and insight into the content and analysis provided. I respect the rich linguistic and cultural heritage of my Māori upbringing and aim to imbue the thesis with a more informed understanding of a Māori worldview about how hapū and iwi are facing Maori governance challenges

The referencing style for this PhD thesis will be the Harvard System. I will then adapt the Harvard system for subsequent references.

1.11 Conclusion

Chapter One has established the foundation for examining the internal and complex governance relationship between hapū, and iwi as represented through iwi authorities. Chapters Two and Three discuss the conceptual framework used, and Methodology and methods respectively. Chapters Four to Eight investigate the tensions and conflicts within this relationship, while also highlighting the preferential treatment extended by successive New Zealand governments to iwi authorities through legislative and policy tools. Case studies provide illustrations of governance in action, alongside a historical account that traces

[94] A Māori proverb.
[95] The Māori language.
[96] Māori knowledge Systems.

governance epochs. Collectively, these analyses show how Māori governance has been reshaped in response to contemporary circumstances.

Chapter Two now defines the conceptual framework, setting out the roadmap for the key concepts that guide this investigation..

CHAPTER TWO

A Conceptual Framework to Connect with Methodologies

> 'I do want to create a resource that expands people's ideas of what the recipe is for research because too often it is seen as a recipe rather than as a conceptual framework and the conceptual framework that you work in is more important than the methodologies or tools that you use. You've got to have the conceptual stuff first. You cannot just buy a box of food when you don't know what you are going to be cooking.'[97]

Professor Linda Smith challenges the simplistic view of research as a step-by-step recipe, arguing that a robust conceptual framework must be established before selecting methodologies or tools. It stresses that without a clear conceptual direction, even the best tools or methods are ineffective, much like attempting to prepare a meal without knowing the dish you are aiming to create.

Tēnā koutou katoa,

2.1 A definition of a conceptual framework

A conceptual framework is a set of interconnected concepts, ideas, and theories used to guide research. It can provide a structured and organised approach to explore a particular phenomenon and help identify key variables relevant to the research questions being studied. Academics Tonette Rocco and Maria Plakhotnik state, "The goal of a conceptual framework is to categorise and describe concepts relevant to the study and map relationships among them."[98] Therefore, the building blocks of this conceptual framework are identified variables and concepts to be used to identify relationships and connections.

Stephen Kent in his PhD thesis, 'The Connected space of Māori Governance: towards an Indigenous Conceptual Understanding,' describes how concepts evolve over time to become

[97] Smith, L.T., Bell, L, Findlay L.M. (2002). 'An interview with Linda Tuhiwai Te Rina Smith' Canadian Journal of Native Education. 26(2) at 174.

[98] Rocco, T.S. and Plakhotnik, M.S., (2009). Literature reviews, conceptual frameworks, and theoretical frameworks: Terms, functions, and distinctions. Human Resource Development Review, 8(1), pp.120–130 at 122.

refined and resilient. Kent provides a wide spectrum of multiple usages for concepts when he articulates,[99]

> 'Concepts are ideas or notions that have been refined and developed over time. This aging process gives it depth, strength and resilience, allowing it to be adaptable and survive. A concept is also a guiding principle that helps determine how people act, and their perception of phenomena. Concepts thus affect perception and behaviour. They help us understand how the holder of that concept views the world and can be conveyed in multiple ways, including visually, orally and through writing such as the thesis. Concepts therefore strongly link to the formation of theory.'

Kent argues that concepts mature through ongoing refinement, critique, and application across diverse contexts, gaining depth, clarity, and resilience. As they are tested against new evidence and societal change, concepts evolve into more comprehensive and adaptable frameworks, offering a robust foundation for understanding complex phenomena and informing both scholarship and practice.

Next, in his seminal text, *Tikanga Māori: Living by Māori Values*, Professor Hirini Moko Mead discusses the holistic nature of Māori conceptual frameworks which adopt a holistic perspective and emphasise the interconnectedness between people, land, and spirituality.[100] Such an approach offers a striking contrast to the compartmentalized nature of Western models, emphasising the value of relational thinking, and the necessity of cultural sustainability in guiding decision-making processes.

The late Māori jurist Moana Jackson's work algins with Mead providing a critical lens for understanding Māori conceptual frameworks, which emphasise their foundation in tikanga Māori, which governs the relationships between people, the land, and the spiritual world. Jackson argues that these frameworks are inherently relational, prioritising collective well-being and interdependence over individualism. By situating decision-making within the broader context of relationships and obligations, Jackson's analysis underscores the importance of Māori worldviews in fostering sustainable and inclusive governance practices.[101]

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[99]Kent, S. L . (2011). The Connected space of Māori governance: towards an indigenous conceptual understanding (Doctoral dissertation, Lincoln University) at 40.

[100] Mead (2003).

[101] Jackson, M. (2017) "Where to Next? Decolonisation and the Stories in the Land". E-Tangata.

Taken together, these scholars highlight that Māori conceptual frameworks are dynamic, relational, and deeply embedded in culture, reinforcing Māori autonomy in knowledge. The next section turns to Māori language itself, considering key linguistic expressions to illustrate both the culturally grounded nature of these frameworks and the power of words in shaping understanding.

2.2 The linguistic variations of the Māori language to consider

Linguistics is the scientific study of language, encompassing its structure, use, and psychological aspects. Australian linguists Christopher Moseley and Lucia T Kuntz state, [102]

> 'Each language is a uniquely structured world of thought, with its own associations, metaphors, ways of thinking, vocabulary, sound system and grammar all working together in a marvellous architectural structure.'

There are unique Māori dialectal identifiers and nuances of the Māori language across Aotearoa New Zealand. This research involves interview participants from different Māori hapū and iwi across the motu.[103]

In this chapter, I primarily draw on the Ngāpuhi dialect, reflecting my whakapapa connections to the iwi. Ngāpuhi possesses distinctive linguistic features central to the Northland region at the top of Te Ika-a-Māui (the North Island of Aotearoa New Zealand). Although the published literature from Ngāpuhi writers remains sparse, a seminal work commissioned by Ngāpuhi kuia and kaumātua, *Ngāpuhi Speaks*, provides valuable insights into select Māori concepts of tikanga that inform this study.[104]

Kent argues how Indigenous People are not new at interpreting and telling their own stories in their own way:[105]

> 'However, it is not new for [I]ndigenous people to interpret and tell their own stories and histories within their own environments using their own epistemologies. This is in fact how any peoples' traditions, stories and knowledge are passed on to subsequent generations. The academic environment is now merely the forum for the portrayal and theorising. Academia is catching up to how it has always been for [I]ndigenous peoples.

[102] Moseley, C., and Kuntz L. I. (2009). "Each language is a unique world of thought" at 4 cited in Kent (2011) at 212.
[103] Island, country, land, nation.
[104] Independent Panel, (2012). Ngāpuhi Speaks: He Wakaputanga and Te Tiriti o Waitangi – Independent Report on Ngāpuhi Nui Tonu Claim. Kaikohe: Network Waitangi Whangarei.
[105] Kent (2011) at 47.

> Previously the academic environment was a domain of non-[I]ndigenous people, telling [I]ndigenous peoples' stories.'

While most interpretations of Māori terminology share similarities across Aotearoa New Zealand, there are subtle shades of meaning in pronunciation, vocabulary, and usage among different hapū and iwi. These nuances are deeply embedded in the cultural and historical contexts of each Māori hapū and iwi. Therefore, the thesis will carefully consider these variations especially when interpreting, referencing and applying Māori concepts.

I draw heavily on Sir Hirini Moko Mead's seminal book Tikanga (revised edition): Living by Māori values.[106] His writings are easy reading and provide context to big concepts to shed light on the meaning of Māori value-based principles known as tikanga Māori. I acknowledge the wealth of detail and content in his work.

Another factor to consider is the use of macrons. The use of macrons has been set as the standard practice for writing in Māori by the Māori Language Commission and the Ministry of Education in New Zealand. For example, keke and kēkē- cake and armpit. Macrons are used in the Māori language to indicate a lengthened vowel sound which may make a radical difference to the meaning of the word. However, macrons are not always used in different Māori dialects across Aotearoa, New Zealand. Macrons will be utilised for correct pronunciation, accurate representation and meaning of the language. Another word that will appear frequently is Māori which is used to spell the word and pronounce it. Instead of 'Maaori' (another orthographic convention) I use the macron for the word 'Māori,' similar to 'Ngaapuhi' as 'Ngāpuhi.'

This is not a Māori language lesson, rather it is to inform the reader and be respectful of the Māori language as taught to me by my mother. My mother's[107] first language was Māori; which she spoke fluently as a child and then as an adult. Her whānau is Te Orewai, her hapū/iwi is Ngāti Hine and Ngāpuhi. She held a full interpreter's licence to interpret Māori with the English language. She said with authority, "Macrons have their place."

[106] Mead, H. M. (2016). Tikanga Maori (revised edition): Living by Maori values (Huia publishers, Wellington).

[107] Moetu Tipene Davis (1944-2022) is my mother.

Additionally, there are interpretative differences between a Māori Dictionary and a Māori author's interpretation of Māori concepts. The contextual meaning of Māori words by a Māori author's narrative offer invaluable insights that go beyond the confines of a dictionary's precision. These narratives weave the cultural, historical, and social tapestries that imbue words with life, reflecting the lived experiences and epistemologies of the community, which a mere lexical compilation cannot encapsulate.[108]

Finally, the thesis will be littered with Māori words. A glossary and reference of Māori terms will be available in the thesis.[109] In the first instance, a primary meaning (not necessarily the only one) will be noted in the footnotes below. The Māori concepts are not listed alphabetically, but they are in the glossary.

Primarily, tikanga Māori is the umbrella that envelopes all Māori concepts, then other concepts will follow. All concepts are interpreted in some length and context. They are holistic and determine human behaviour at all levels of engagement with people.

2.3 Governance principles

Governance is a western term that emerged much earlier in the United States and Canada for state recognised governments, and for many Indigenous groups from the rights movements and intellectual debates of the 1970s onwards. It evolved from relative obscurity to widespread usage, gaining prominence in multiple disciplines. Despite its growth spurt, there remains a diversity of interpretations and challenges surrounding the concept of governance.

Scholar Mark Bevir states,[110]

> 'Governance refers, therefore, to all processes of governing, whether undertaken by a government, market, or network, whether over a family, tribe, formal or informal organisation, or territory, and whether through laws, norms, power or language.

[108] Here are authors whose work is respected when defining Māori words. See Reed, A.W. (1964).Concise Māori dictionary: Māori-English, English Māori. Wellington: Auckland; Barlow, C. (1991) Tikanga whakaaro. Oxford: University Press; Williams, B.H.W. (1921).A dictionary of the Māori language. Marcus F. Marks, Government Printer. The 1921 edition of the Williams Dictionary was attributed to HW Williams; it was a reprint of the 5th edition, published in 1917. The Seventh Edition (also attributed to HW Williams) was published by the Government Printer, Wellington, in1971; "Te Aka Māori Online Dictionary" (2025) Te Ako Maori Dictionary<www.maoridictionary.co.nz>.

[109] Glossary at xv.

[110] Bevir, M. (2010). Governance: A very short introduction (Oxford University Press) at preface.

> Governance differs from government in that it focuses less on the state and its institutions and more on social practices and activities.'

Bevir argues governance refers to "the coordination of social action" and highlights the role of both formal and informal mechanisms in shaping governance processes. Bevir posits for a clear separation between the term governance and government. Bevir's concept of governance, however, does not accommodate Indigenous Peoples such as Māori and many others. Māori exercised both concepts of governance and self-government in their hapū and iwi as a sovereign nation prior to entering into a Treaty with the British colonists. To Māori, governance is a social activity, and forms a foundation of Māori nationhood. Governance was part of the authority exercised for over 500 years as the Indigenous People of Aotearoa New Zealand.[111]

In another vein, political scientist Jon Pierre asserts that governance is "the exercise of economic, political, and administrative authority to manage a nation's affairs at all levels."[112] This is a political subsidiarity concept. Pierre emphasises the importance of authority and the interplay between different domains of power in governance.

2.4 Indigenous governance principles

Professor Stephen Cornell identifies several essential key concepts for Indigenous governance, emphasising the importance of cultural match, legitimacy, and accountability in the governance structures of Indigenous communities.[113] A core idea in Cornell's work is that governance systems must align with the cultural values, traditions, and social norms of the people they are meant to serve, a concept he refers to as "cultural match." Cornell's approach ensures that the governance system resonates with the community's identity and fosters legitimacy.

Cornell also highlights the necessity of accountability, not just to external authorities but primarily to the community members themselves. Effective Indigenous governance, according

[111] Hiroa (1958).
[112] Pierre, J. (2000). Debating governance: Authority, steering, and democracy. Oxford University Press, at 3.
[113] Cornell, S. (2005). "Indigenous peoples, poverty and self-determination in Australia, New Zealand, Canada and the United States." (2005) Indigenous peoples and poverty: an international perspective.

to Cornell, rests on the ability to balance traditional governance principles with contemporary challenges, ensuring both self-determination and adaptability in modern contexts.

Cornell's work examines the journey of Indigenous communities in Canada, Australia, Aotearoa/New Zealand, and the United States toward self-governance, and he states, [114]

> 'Ours is a time of resurgent nations. Particularly in the CANZUS states (Canada, Australia, Aotearoa New Zealand and the United States), numerous Indigenous Peoples are claiming self-government as an Indigenous right and practice. In multiple ways and however they describe themselves – as nations, peoples, tribes, iwi, hapū, communities – they are moving to take control of the decisions that most affect their lives and to do so in ways of their own choosing. This is the case even where settler states fail to recognise the rights that Indigenous peoples claim, place obstacles in their path or otherwise attempt to limit their powers. Even in these situations the Indigenous effort remains clear: to accompany claimed rights with their practical enactment. In other words: to govern.'

Self-determination and self-government are key drivers for Indigenous People.[115] Historically, Indigenous peoples governed their communities and resources, developing complex laws and systems of governance that were displaced through European colonialism. Eventually, the latter half of the twentieth century marked a shift as Indigenous movements for rights and self-determination gained momentum, challenging colonial legacies and advocating for autonomy and governance on their own terms.

Fast forward to 2005; the then Minister for Māori Affairs, Honourable Parekura Horomia in his opening address at the Hui Taumata conference talks about governance where he states,'[116]

> 'Effective governance will be vital. We know governance for many Māori collectives is complex because of the inability of members to trade out of their membership, the communal nature of ownership and the role of kaitiaki for future generations.
>
> We know from international studies that governance structures that are culturally attuned are more likely to achieve success. We want Māori collectives to have access to governance structures that enable Māori to succeed as Māori.'

[114] Cornell, S. (2021) "Foreword" in Joseph R and Benton R, Waking the taniwha: Māori governance in the 21st century. (Thomson Reuters, Auckland) at ix.

[115] "Stephen Cornell, PHD" (2025) Native Nations Institute <www.igp.arizona.edu>.

[116] Horomia P "Learning holds key to Maori future." (2 March 2005) The New Zealand Herald <www.nzherald.co.nz> cited in Kent (2011) at 136.

Applying Cornell's Harvard principles of Indigenous governance to Māori Governance highlights the importance of cultural match and legitimacy in governance structures. The focus on accountability aligns also with the responsibility of Māori collectives to safeguard (kaitiaki) their cultural and communal assets for future generations.

The following are examples of Indigenous governance principles being exercised internationally in Indigenous communities.

1) Heiltsuk Nation, Canada – Ratifying Their Own Constitution[117]

The Heiltsuk Nation in British Columbia ratified a historic constitution affirming their sovereignty, cultural governance, and stewardship systems, embedding hereditary leadership, election mechanisms, land and sea stewardship, and language preservation without needing external validation.

2) Indigenous Data Sovereignty & CARE Principles[118]

Indigenous scientists across North America are pushing for control over their own data, using frameworks like the CARE Principles, which prioritise collective authority, data sovereignty, and ethical stewardship in managing cultural, environmental, and health information.

3) Global Study – Indigenous Stewardship Slows Deforestation[119]

A Nature journal study of 19 Apurinã territories in Brazil's Amazon showed that Indigenous governance, leadership, and land-based stewardship significantly help prevent deforestation, even amid high external pressures. Their model reflects a governance system rooted in ecological and relational worldviews.

4) Northern Territory, Australia – Community Control of Town Lease[120]

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[117] Cecco L“ An Indigenous nation in Canada hails historical constitution: We’re now the architects of certainly for ourselves”(15 June 2025) The Guardian www.theguardian.com.

[118] Funes Y “Indigenous scientists are fighting to protect their data and their culture” (10 September 2012) The Verge <www.theverge.com>.

[119] Virtanen, P.K., Gonzaga Roa, A., Fernández-Llamazares, Á., Apurinã, F. and Facundes, S., (2025). Indigenous governance and relationality have effectively avoided forest loss in the Southwest Amazon. Communications Earth & Environment,6(1) at 289;

[120] “Gunyangara town lease a model for economic independence” (30 Dec 2024) The Australian <www.the australian.com>.

The Aboriginal community of Gunyangara secured control of their own 99-year town lease, creating a model for economic independence. They repaid a Commonwealth loan early and used the lease to build infrastructure like housing, a school, and a timber mill, demonstrating land governance rooted in self-determination.

2.5 Māori governance principles

Māori governance literature spans multiple sources to include theses, books, journal articles, public and private sector commissioned reports, conference proceedings, rules, constitutions, agreements and legislation, to name but a few. This section focusses on governance literature in the context of Māori social structures, hapū and iwi.

Associate Professor Robert Joseph explains,[121]

> 'The need for governance existed at all times where a group of people come together to achieve a purpose. Indeed, governance is as old as humanity and is reflective of multiple societies and cultures across the world.
>
> Its ontological roots can be traced to the original Latin terms, 'gubernare' or 'gubernator: an apt allusion for some Indigenous peoples to the navigation of a ship or captain.
>
> *Fundamentally*,[Emphasis added] governance is about power, relationships and accountability, who has influence, who decides, and how decision-makers are held accountable which applies to nation state Governments and Indigenous Peoples' institutions.'

Like Pierre,[122] Joseph reinforces the concepts of power, relationships, and accountability seemingly forming a 'golden triangle' of governance. Dr Nin Tomas shares another view where she opines, [123]

> 'In 2005, a national gathering of Chief Executives of Māori organisations met in Whanganui – a-Tara (Wellington) to discuss Māori governance for the following 20 years. They identified four aspects of governance as being important: the inclusion of Māori governance values, flexibility of structure to accommodate those values, possession of relevant skills and accountability.
>
> The participants in the 2005 Hui Taumata, [124] all agreed that modern Pākehā-based management systems and processes of accountability are important tools for Māori to

[121] Joseph, R. (2016). Te Mata Hautū Taketake Māori and Indigenous Governance Centre Training (Waikato Print) at 23.
[122] Pierre (2000).
[123] Tomas, N. (2021) at 864.
[124] "Hui Taumata" are held annually to discuss shared issues of importance to Māori and what is a way forward. Tomas states " These points are taken from a discussion amongst Chief Executive Officers of Māori organisation to debate the question "What do we need to do to build effective Māori

> adapt and use in implementing Māori governance, to ensure that finite resources are not lost through mismanagement and lack of accountability by individuals acting in responsible positions.
>
> The more difficult task for them, however, was working out the strategic direction that the group should take. Not only did it require the inclusion of unique Māori values and principles but they had to be durable enough to serve the collective, inter-generational needs of the group rather than being simply short-term and profit-orientated."

Professor Mason Durie adds,[125]

> 'Governance at local or national levels requires a level of organisation which incorporates both customary Māori practices and the application of democratic principles. The two are not incompatible, nor should their juxtaposition be discounted. Māori can be strengthened by the past and can learn from it. But the challenges of tomorrow will require a canopy of skills and wisdom, many of which will come from other cultures and nations.'

Māori entities incorporate tikanga Māori principles for a long-term vision to meet the intergenerational needs of their communities; while being coupled with westernised governance principles. Cultural subsidiarity ensures that governance strategies and development are communicated effectively across all levels. Both statements by Tomas and Durie identify a cultural match for governance unique to Māori organisations.

Researcher Garth Harmsworth notes, [126]

> 'Māori organisations, such as trust boards, Rūnanga, and incorporations, are often born out of a cultural and legislative context that embodies politics, issues, history, tradition, governance, inheritance, values, custom, relationships, and responsibility. The strategic direction, purpose and function of these organisations is commonly influenced by their history, governance, politics, and ancestral links, that determine lines of business and service, and usually reflects the expectations of the constituency they represent.'

Harmsworth posits that Māori culture and historical context shape the organisation's worldviews. The worldview permeates through its governance, products, business sectors, its marketing edge, daily operations and those communities they represent.[127] Such an approach bears weight to the self-determining vision of Māori organisations, where Harmsworth continues ,"Many Māori organisations wish to demonstrate their values so they can guide their own destiny and create for themselves a sustainable competitive advantage". More

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Governance by 2025?" at the National Hui Taumata held in Wellington in 2005.

[125] Durie (1998) at 219.

[126] Harmsworth, G.(2005). Report on the incorporation of traditional values/tikanga into contemporary Māori business organisation and process" (Palmerston North: Landcare Research,) at 16 cited in Kent (2011) at 112.

[127]Harmsworth (2005) at 113.

importantly, Harmsworth views Māori governance as an unique governance form where "the culture is the governance."[128]

Journalist Liam Rātana highlights a similar view in his article "Bringing tikanga to the board table: an indigenous approach to governance."[129] Rātana highlights comments about a hybrid governance approach of westernised governance imbued with Māori ways of governing. Executive Director of Te Pūtea Whakatupu Trust Te Pūoho Katene, was interviewed in the article where he states,"[130]

> 'Before colonisation, tikanga was the supreme system of governance in Aotearoa. Māori had a sense of identity and connection with our culture and we operate autonomously in kinship groups. If leaders were challenged, problems were often solved transparently, with input from the collective."

In the same article, New Zealand activist for Māori land and women rights Eva Rickard recounts the tikanga Māori approach to governing when she stated,[131]

> 'Somewhere in my past is my destiny. Now, as tikanga Māori guides us towards a strong, uniquely "New Zealand" future, this decades-old whakatauki still rings true. With the Māori economy moving from strength to strength, tikanga and mātauranga Māori are beginning to find their way into boardrooms that historically have not held space for them and more organisations are now realising the benefits of a tikanga Māori approach to governance.'

Tikanga Māori governed Aotearoa prior colonialism, it was the first law of Aotearoa NZ. It fostered cultural identity, cultural and political subsidiarity, while it resolved disputes transparently within Māori social structures.

Today, a resurgence of tikanga Māori is shaping a uniquely Aotearoa New Zealand future with Māori incorporated entities; integrating Māori values and knowledge systems into their governance models.

Joseph provides a number of key core concepts and potential problems or tensions of governing to be considered with Māori organisations. Joseph notes,[132]

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[128]Harmsworth (2005) at 113.

[129] Ratana L. (2022). "Bringing tikanga to the board table: an Indigenous approach to governance" (13 June 2022) The Spinoff www.thespinoff.co.nz.

[130]Ratana (2022).

[131]Ratana (2022).

[132] Te Mata Hautu Taketake Māori and Indigenous Governance Centre. (2012) "Governance

- Mixed and evolving social, economic, cultural and political objectives;
- The place of tikanga;
- A long term view of their future, 25 years or more;
- Unique board appointments and dynamics;
- Owner involvement in decision-making;
- Restricted legislation for use of commercial assets;
- Inclusion of the principles of the Treaty of Waitangi and Māori words in charters;
- Business failure and public relations;
- Appropriate customary, levels and institutional representation;
- Rebuilding communities of interest or in some cases creating them anew;
- Dissipated membership/s and lack of clarity over who represents whom;
- Uncertainty over who has rights to draw on collective resources and what members' reciprocal obligations might be;
- Managing Urban memberships and participation[133];
- Promoting and maintaining internal and external investor confidence;
- Lack of clarity amongst vertical relationships between whānau, hapū and iwi;
- Evolving notions of the appropriate relationships between members and trustees, and lack of participant by individual members in governance;
- Inadequate legal vehicles for collective organisation; and
- Appropriate depoliticised dispute resolution fora and processes.

Joseph's checklist illustrates a large ambit of challenges which include cultural and political subsidiarity in the vertical relationships in Māori social structures. Here are some thoughts to be considered with Joseph's list. First, there is a chasm being created to distance the Māori entity from Māori social structures they are legislated to represent. Whānau and hapū are replaced with terminology used to reinforce constructed westernised terms who are now being identified as beneficiaries or shareholders. These challenges are displayed on a wide spectrum where the uneasy and unstable fusion of both Māori and westernised governance exist.

Essentials Training Handbook". Hamilton: The University of Waikato, at 42.

[133] Scattered away from marae and even overseas.

e Aka Matua o te Ture Law Commission, is an independent Crown Entity which focusses on "Better law for Aotearoa New Zealand through independent review."[134] The Law Commission comments the issue of corporatisation of iwi can be "avoided" through the creation of appropriate tikanga Māori frameworks. The approach builds on earlier work done by the New Zealand Law Commission and the apathy of the NZ Government where they note,[135]

> 'In 2002, the Law Commission's study paper, Treaty of Waitangi Claims: Addressing the Post Settlement Phase 1 recommended that a new model settlement entity be created by statute to receive Māori settlement assets, as the Commission found significant deficiencies with the legal models currently available to Māori. This recommendation was well received by Government, but not taken up.'

Māori governance operates on dynamic and sophisticated levels. The essence of their success was and is built on relationships, and their inherent connectivity with each other. New Zealand Governments have continued to retain their policy of preferential treatment with "large natural groupings" to legitimate westernised governance models and impose cultural and political subsidiarity to juridify Māori ways of governing. The retention of such governance policies pose challenges as articulated by Joseph.[136]

A Māori governance approach was critiqued by author Martin Devlin of "Governance - Kiwi Style?", where he states that the integration of Māori governance principles into New Zealand's corporate and public sectors highlight a significant departure from traditional Western practices, which emphasise a unique and culturally inclusive approach.[137] Māori governance, deeply embedded in Tikanga Māori, offer a framework that prioritises community, sustainability, and long-term strategic planning over the Western focus on short-term gains and maximising shareholder wealth.

Māori governance emphasises collective decision-making, community involvement, and the integration of cultural values into business practices. This approach contrasts sharply with the Western model, which often prioritises efficiency, profitability, and hierarchical decision-

[134] "Te Aka Matua o Te Ture Law Commission" (2025) Te Aka Matua o Te Ture/Law Commission <www.lawcom.govt.nz>.
[135] New Zealand Law Commission. (2006). Waka Umanga: a Proposed Law for Māori Governance Entities: Also Published as Parliamentary Paper E3192. New Zealand. Law Commission cited in Kent (2011) at 115.
[136] Te Mata Hautu Taketake Māori and Indigenous Governance Centre (2012) at 42.
[137] Devlin, M. (2004) "Viewpoint; Governance Kiwi Style?, Is there any such thing as corporate governance – Kiwi style? New Zealanders, business people include, do seem to be heavily influenced by what is considered as "best practice" management and governance" Trade Journal. Auckland, New Zealand: Adrenalin Publishing at 22-24

making. Māori governance fosters a more holistic view of success, balancing economic outcomes with social and environmental responsibilities.

In a similar view, Professor Ralph Love of Victoria University and Rob McLeod, Chairperson of PriceWaterhouseCoopers, argue that Māori management and governance practices are characterised by caution, creativity, consultation, and a strong community commitment. Consequently, Māori governance offers advantages over traditional Western methods which Love acknowledges when he notes, [138]

> 'The fundamental difference between a Māori firm and a 'random' [presumably non-Māori] business is that Māori ones tend to have a long-term strategy and a particular ability to innovate.'

McLeod concurs, when Love highlights the wider vision of Māori businesspeople, who balance multiple influences, prioritise sustainable development, family needs over shareholders; and wealth maximisation.

The Government's mandate to include Māori representation on public sector boards is a testament to the unique Māori influence on New Zealand governance. Māori representation on public sector boards reflects the Crown's obligation under Te Tiriti o Waitangi to honour Māori tino rangatiratanga and ensure genuine partnership in governance. Legislative frameworks such as the Resource Management Act 1991 and the Māori Fisheries Act 2004 mandate Māori involvement in decision-making, particularly where ancestral lands, waters, and taonga are at stake. Beyond statutory duties, Māori participation addresses equity by embedding perspectives shaped by tikanga, whakapapa, and collective responsibility into policy arenas like health, education, and justice, where Māori are disproportionately affected. Such inclusion strengthens legitimacy, trust, and accountability in governance, while also recognising that Māori knowledge systems enhance decision-making for the wider public good. As the Waitangi Tribunal has affirmed in reports such as Wai 262,[139] Māori voices must be structurally embedded within governance institutions, not as token additions but as integral to achieving fair and culturally grounded outcomes. This requirement ensures Māori perspectives are integrated into decision-making processes, aligning governance practices

[138] Devlin (2004) at 24.

[139] The Waitangi Tribunal Ko Aotearoa Tenei Report (Wai 262, 1991).

with the Treaty of Waitangi principles. The inclusion of Māori customs in governance can potentially transform the way boards operate, promoting a governance style that is more inclusive, representative, and culturally sensitive.

While traditional Western governance models focussed heavily on compliance and regulatory adherence, the Māori approach promotes innovation and strategic vision. However, as noted by Devlin,[140] there is a tension between these two governance styles, with concerns that political correctness and social engineering could complicate governance effectiveness by focusing too much on compliance rather than innovation and strategic vision.

I now address in a brief section the impact of colonisation on Māori governance.

2.6 Influence of colonialism on Māori governance

My view of colonialism is the shifting of sites of power regarding governance, language, resources and land, to name a few, from the colonised to the coloniser. However, a grittier definition is provided by Strack and Goodwin, who observe,[141]

> "[Colonisation]...entails a complex system of racial, cultural and political domination that establishes a hierarchical arrangement between the coloniser and the colonised. The process of colonialism exploits indigenous peoples, destroys their national society, and displaces aboriginal cultures."

It cannot be overstated or forgotten the damage and displacement of Māori cultural identity and wellbeing echoed throughout the thesis. Yet, Māori are still here, being adaptive and resilient as they continue to exercise a small degree but growing self-determination in governance.

Author Hauraki Greenland in his 2001 New Zealand Treasury draft paper, acknowledges the influence of colonisation on Māori governance and how this process led to the near eradication of traditional Māori forms of governance, he comments,[142]

> 'The fundamental element of colonisation and modernisation was a confrontation with Māori forms of governance....That process resulted in the virtual obliteration of Māori

[140] Devlin (2004) at 23.
[141] Strack, M., and Goodwin, D. (2017). "More than a Mere Shadow: The Colonial Agenda of Recent Treaty Settlements" Hamilton: Waikato Law Review 25 at 50.
[142] Greenland, H. (2001). Building the Inclusive Economy: Māori Governance (New Zealand Treasury draft paper,) at 1 cited in Kent (2011) at 127.

> forms of governance…The damage to Māori forms of governance had implications for notions of ethnicity and identity.'

Greenland examines governance on cultural and political subsidiarity levels, and advocates for a national institution to adequately represent Māori interests. He implies that the decline of formal organisational Māori structures signify the erosion of Māori governance.

I now refer to a core concept for the thesis the principle of subsidiarity.

2.7 Subsidiarity

Subsidiarity is a principle which advocates for decisions to be made at the most immediate, or local level possible before escalating to higher authorities. The principle of subsidiarity was articulated by Jacques Delors on European governance, he notes, "Never entrust to a bigger unit anything that is best done by a smaller one.'[143] Delors' belief in leaving responsibilities to the most local or immediate level capable of handling them, thereby ensuring that larger governing bodies only intervene when necessary. Researcher Patrick Sullivan adds,[144]

> 'Recognition of subsidiarity is useful here. It allows for relative autonomy within wider governance systems and differs from the concept of devolution in that it recognises rights inherently lying at the local level, rather than conceded from above.'

The rationale behind subsidiarity is that such authorities are closer to the issues and the people affected by them, thereby enabling more effective and responsive decision-making and engagement at all levels involved.

In the modern context, subsidiarity has been incorporated into the legal and institutional framework of the European Union("EU"). It guides the allocation of responsibilities and powers between the EU and its member states and governs the exercise of EU activities. EU defines subsidiarity as:[145]

> '[T]o guarantee a degree of independence for a lower authority in relation to a higher body or local authority in relation to central government. It therefore involves the sharing of powers between several levels of authority, a principle which forms the institutional basis for federal states.'

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[143] Delors, J. (1992). "Our Europe: The Community and National Development." London; New York: Verso Books.

[144] Sullivan, P. (2007). "Indigenous governance: The Harvard Project, Australian aboriginal organisations and cultural subsidiarity") Alice Springs, Australia: Desert Knowledge CRC at 13.

[145] "The principle of subsidiarity | Fact Sheets on the European Union (2025)" European Parliament <www.europarl.europa.eu>.

Here, subsidiarity aims to ensure that decisions are made as closely as possible to the citizens they affect, enhancing efficiency, accountability, and democratic legitimacy. Subsidiarity supports independence and local autonomy with the minimal necessary intervention of higher authorities.

The principle of subsidiarity, which insists that decisions be made at the most local competent level, resonates with mana whenua, yet its compatibility hinges on interpretation. Research Academic Mason Durie, discusses Māori self-determination rooted in autonomy and Māori–Crown dynamics.[146] Academic Joseph, argues for legal space wherein tikanga can shape governance, reinforcing decentralisation that reflects whakapapa-based authority.[147] The Waitangi Tribunal's Ngāpuhi Mandate Inquiry (WAI 2490, 2015) underscores that Crown-defined mandates risk undermining hapū rangatiratanga, urging decision-making to remain at the hapū level unless authority is willingly delegated.[148] However, Moana Jackson cautions that Western doctrines like subsidiarity may distort Māori concepts by reframing them through Crown frameworks rather than tikanga-informed understanding.[149] Consequently, subsidiarity aligns with mana whenua when grounded in tikanga, but risks subordination if imposed through colonial legal structures.

2.7.1 Subsidiarity for Māori

Subsidiarity, when reframed within a Māori worldview, cannot be understood as devolved power from above but rather as the structural recognition of mana whenua who are the inherent authority of whānau and hapū, derived from atua and whakapapa. Mason Durie reminds us, "Whānau, hapū, and iwi are the primary source of authority and identity, and the transfer of power upwards should not diminish their role in governance."[150] This is consistent with the Waitangi Tribunal's conclusion in that rangatira "did not cede their sovereignty" but agreed instead to share power with the Crown.[151] A Māori-based conception of subsidiarity,

[146] Durie, M. (1998).
[147] Joseph, R. (2005). 'Re-Creating Legal Space for the First Law of Aotearoa-New Zealand,' Waikato Law Review 13: 74–103.
[148] Waitangi Tribunal. (2015). The Ngāpuhi Mandate Inquiry Report (WAI 2490). Wellington: Legislation Direct.
[149] Jackson, M. (1992).
[150] Durie, M., (2005). Ngā Tai Matatū: Tides of Māori Endurance (Oxford University Press, Melbourne, 2005) at 8.
[151] The Waitangi Tribunal He Whakaputanga me te Tiriti (Wai 1040, 2014, p. xxi).

therefore, affirms tino rangatiratanga at the hapū level, requiring higher governance structures to respect, support, and resource this authority rather than override it.

Legal Scholar and practitioner Benjamen F Gussen, asserts that the application of subsidiarity is a constitutional principle in New Zealand and "subsidiarity placed a constitutional responsibility on higher levels of government not only to enable the autonomy of lower levels, but to provide these lower levels with necessary support."[152] Gussen's work emphasises how the Treaty of Waitangi embodied this principle and highlights the Treaty's importance in New Zealand's constitutional framework. Furthermore, Gussen illustrates how the effective application of subsidiarity can lead to a more dynamic and responsive governance system to address all levels of local and national challenges.

In the context of Māori self-determination, Dominic O'Sullivan[153] argues that subsidiarity is crucial for Māori self-determination. O'Sullivan suggests iwi should have central roles in ensuring the well-being of their people without undue state interference. He observed the state's policies have historically undermined iwi's effectiveness, thereby hindering their ability to contribute to the common good when he adds,[154]:

> 'Subsidiarity protects the Māori opportunity to contribute to their own wellbeing because it ensures that iwi, hapū (sub-tribal groups), whānau (families), and individuals are not subjected to negative or unnecessary state influence.'

O'Sullivan notes that while the bicultural paradigm offers some opportunities for Māori self-determination, it was limited by political pragmatism and shifting political climates. An example of 'limiting' was illustrated by 'The Nationhood speech' by National Party Leader Don Brash in 2004 where he addressed race relations; in particular, the status of Māori where he asserts,[155]

> 'Over the last 20 years, the Treaty has been wrenched out of its 1840s context and become the plaything of those who would divide New Zealanders from one another, not unite us. In parallel with the Treaty process and the associated grievance industry, there

[152] Gussen, B.F. (2014). "Subsidiarity as a Constitutional Principle in New Zealand New Zealand, Journal of Public and International Law 12 (1): 123-144 at 126.
[153] O'Sullivan D (2005)."Māori Self-Determination: In the Modern Political Context." AlterNative: An International Journal of Indigenous Peoples. 1(1) at 48-63.
[154] O'Sullivan (2005) at 51.
[155] Brash, D. (2004) "Nationhood: An address to the Orewa Rotary Club" (2004) <www.national.org.nz>.

> has been a divisive trend to embody racial distinctions into large parts of our legislation, extending recently to local body politics. In both education and healthcare, government funding is now influenced not just by need as it should be but also by the ethnicity of the recipient.
>
> ... There are a few radicals who claim that sovereignty never properly passed from Māori into the hands of the Crown, and thus ultimately into the hands of all New Zealanders, Māori and non-Māori. They are living in a fantasy world. These claims come from the more radical Māori end of the spectrum. They can be seen for what they really are: a negotiating position.'

Brash believes in a 'one rule for all.' Again, the interpretation of the Te Tiriti is in question. His speech was criticised for having a perceived political intent, to reduce the political space for Māori to pursue self-determination while aligning with broader assimilationist objectives and recycled colonisation.

Research by Cornell[156] highlights that political subsidiarity can empower Indigenous communities to make decisions about matters that directly impact their culture, language, and traditions. By devolving political authority to these communities, they can enact policies that align with their cultural values and aspirations, and foster self-determination and community well-being. Similarly, Patrick Sullivan's work underscores how political subsidiarity can complement cultural subsidiarity by enabling Indigenous groups to govern themselves in ways that are culturally appropriate and respectful of their unique identities.[157]

2.7.2 Juridification

Juridification in governance refers to the process by which social relationships and organisational practices increasingly come under the influence or control of legal norms, procedures, and institutions. Such a transformation often leads to the formalisation and regulation of various aspects of governance through legal frameworks, emphasising adherence to legal rules and judicial processes that can impact the flexibility and autonomy of governance practices, making them more structured and law-centric.

[156] Cornell, S. (2019). "Cultural Subsidiarity and Indigenous Self-Determination") Indigenous Policy Journal 30, no. 2 at 45-58.

[157] Sullivan, Patrick. (2007). Indigenous governance: The Harvard Project, Australian aboriginal organisations and cultural subsidiarity" Alice Springs, Australia: Desert Knowledge CRC.

In the context of Indigenous peoples, juridification refers to the formalisation of Indigenous social relations through legal structures, potentially overshadowing informal, culturally embedded practices, and values. Accordingly, David Martin argues how juridification seeps into the Indigenous context,[158]

> 'The more that attempts are made to reflect the complexities and subtleties of the values and practices of Indigenous people in formal corporate structures and processes, for example, regarding such matters as authority and decision-making, or the various forms of the typically label Indigenous groupings and sub-groupings, the more there is the risk that over time the formal corporate structures and processes will supplant the informal Indigenous ones a process of the 'juridification' of social relations. While ... the engagement of Indigenous and non-Indigenous people can best be understood in intercultural terms, 'juridification' takes this a step further, raising the problem of the underlying social relations being distorted or dominated by the legally enforceable expression of the same relations.'

In the context of Māori ways of governing, the juridification processes risks replacing Māori informal social relations and tikanga with formal corporate structures, potentially distorting underlying social structures and tikanga. There is a need to balance legal enforceability with preserving Māori cultural practices, tikanga and subsidiarity in intercultural engagements. The following section explores select kaupapa tuku iho[159] of Māori concepts, which will be tested in participants' interviews.

2.8 Kaupapa Tuku Iho – Inherited values and principles

2.8.1 Mātauranga Māori

Mātauranga Māori encompasses the traditional knowledge, cultural practices, and worldviews of the Māori people, serving as the foundation for tikanga Māori. Mead emphasises this intrinsic connection when he opined, "[160]

> '"In point of fact tikanga Māori cannot be understood without making use of mātauranga Māori. All tikanga Māori are firmly embedded in mātauranga Māori, which might be seen as Māori philosophy as well as Māori knowledge ... Tikanga Māori might

[158] Martin, D. F. (2003). Rethinking the Design of Indigenous Organisations: The need for strategic engagement. Centre for Aboriginal Economic Policy Research, The Australian National University, Canberra (CAEPR Discussion Paper 248) cited in Sullivan (2007) at 14.

[159] A legacy, heritage.

[160] Mead, H. M. (2016). Tikanga Māori: Living by Māori values (Revised ed.). Wellington, New Zealand: Huia Publishers. at 7.

> be described as Māori philosophy in practice and as the practical face of Māori knowledge."

Mead explains that tikanga Māori is inseparable from mātauranga Māori, describing it as Māori philosophy in practice and the practical expression of Māori knowledge.

According to Professor Whatarangi Winiata, mātauranga Māori is an ever-evolving body of knowledge that seeks to explain the world by building on concepts passed down through generations of Māori. It has neither a beginning nor an end, continually growing and being refined with each generation contributing their unique insights. This collection of theories, values, and practices, are rooted in Māori origins, and continue to expand as long as the whakapapa of mātauranga Māori remains unbroken.[161]

2.8.2 Tikanga Māori

Mead explains that tikanga is inseparable from mātauranga Māori, reflecting the collective wisdom accumulated over generations and serving as Māori philosophy in practice. As a living expression of ethical principles and customary laws, tikanga provides a framework for regulating the behaviour of whānau, hapū, and iwi, shaping not only cultural and ritual practices but also extending into social, legal, and economic life. In this way, tikanga represents the practical application of Māori intellectual heritage, embedding values that continue to influence relationships and decision-making within Māori society.[162]

Mead continues,[163]

> 'Tikanga are tools of thought and understanding. They are packages of ideas which help or organise behaviour and provide some predictability in how certain activities are carried out. They provide templates and frameworks to guide our action and help steer us through some tense moments in our ceremonial life. They help us to differentiate between right and wrong in this sense, and have built-in ethical rules that must be observed. Sometimes tikanga help us survive.'

[161] Winiata, W. (2005). The Survival of Māori as a People: An Unresolved Issue. Wellington: Victoria University of Wellington.

[162] Mead (2016).

[163] Mead (2000). "The Nature of Tikanga (Unpublished Manuscript Paper presented to Mai I te Ata Hāpara Conference, Te Wānanga o Raukawa, Otake, 11-13 August 2000) at 3-4 cited in Joseph R et al., (2020) Stemming the Colonial Environmental Tide: Share Māori Governance Jurisdiction and Ecosystem-Based Management over the Marine and Coastal Seascape In Aotearoa New Zealand - possible ways forward (Report) (2020) (Sustainable Seas Challenge) at 51.

The book "*Ngāpuhi Speaks* explains that there was a well-established system of Māori law broadly referred to as tikanga (law, correct way of doing things).[164] Historian Nuku Aldridge explained that there was law in common which applied across all tribal groups, as well as tikanga operating at the levels of whānau, hapū and iwi, Aldridge notes,[165]

> 'Just as the English use "jurisprudence' to mean the philosophy of law, in Māori everyone talked about the principles of tikanga. I understand tikanga to be the science and philosophy of law in Māoridom. It was the guiding commandments underlying behaviour which had existed over many millennia. It contained a number of key principles guiding the formalities and practices in Māori society.'
>
> '…With principles in common, it [tikanga] also evolved uniquely in each region.'
>
> 'Tikanga were therefore constructs that they uniquely developed in their land. They share with other iwi and hapū a common philosophical and values based but they also had specific variations that were often as subtle but as real as differences in dialect.'

Practices of tikanga were described as being tapu (sacred).[166] Tikanga has been identified as a benchmark against which all relationships, known or potential, could be measured.[167] Moana Jackson explains,[168]

> 'The normative guidelines it contained formed part of a values-laden jurisprudence upon which decisions were made to settle disputes, regulate trade, ensure peace after war and reconcile all of the competing interests of human existence.'

Bishop Manuhuia Bennett [169] provided a contemporary definition of the philosophy of tikanga, when he asserted,[170]

> 'Tikanga indicates the obligation to do things in the 'right' way: doing the right thing for no other reason than because it is the right thing to do. Tikanga draws from many seeds, it has many shades and many applications.'

The following sections explain principles of tikanga Māori which embody core values and principles of the traditional and contemporary Māori jural order. The word 'tika' is interpreted to do what is right, correct, appropriate in a social and legal context. I will now analyse the key tikanga Māori principles which include: Mātauranga Māori, Manaakitanga, Whanau, Te Hono, Tikanga Māori, Mana, Koha, Pepeha, Kaitiakitanga, Hapū, Waka, Whakapapa, Iwi, Marae, and Rangātira.

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[164] Independent Panel. (2012) at 32.
[165] Independent Panel (2012) at 32.
[166] Independent Panel (2012) at 33.
[167] Independent Panel 2012)at 33.
[168] Independent Panel, (2012) at 33.
[169] Bishop Manuhuia Bennett (1916-2001).
[170] Rakena, M. (2021) " Maori Environmental Governance and Ecosystem Management in Aotearoa New Zealand cited in Joseph and Benton (2021) at 904.

2.8.3 Manaakitanga

Manaakitanga is a core Māori value that embodies hospitality, care, and respect for others. It emphasises nurturing relationships and ensuring the well-being of individuals and communities by acting with generosity, kindness, and reciprocity.

Mead states,[171]

> "All Tikanga are underpinned by the high value placed upon manaakitanga – nurturing relationships, looking after people, and being very careful about how others are treated. Thus in the tikanga of muru[172]... for the groups of people who come to take away the heirlooms, goods products of the land, sea and forest, the animals and in fact, anything moveable, the value of manaakitanga still holds that is, the principle or standard of behaviour must remain in place. These people are given a meal and are allowed to have in peace. The practice of muru is carefully managed because the values placed on whānaungatanga and manaakitanga must be maintained.'

2.8.3 Kaitiakitanga

Kaitiakitanga is the Māori concept of guardianship over the environment. It is the responsibility to protect resources for future generations. Grounded in tikanga and whakapapa, it reflects a reciprocal relationship with nature, ensuring balance and sustainability.

Selwyn Hayes of Ngāi Tai[173] and Whakatōhea[174] explains, [175]

> 'The kaitiaki therefore acts as both benefactor and beneficiary, in the sense that they protect the resource from harm while still reaping the benefits of the resource. An intrinsic part of this concept is the recognition that each generation has an inherited responsibility to protect and care for the natural world. Kaitiakitanga carried with it an obligation not only to care for the natural world, but also for each successive generation, by ensuring that a viable livelihood is passed on.' Hayes continues,[176]
>
> 'Concern remains, however, in regard to the use of the words 'guardianship' and 'stewardship' to define kaitiakitanga. Both terms tend to cloak the concept of katiakitanga in Pākehā[177] terms of lesser importance and entirely different origins. The role of kaitiakitanga is considerably more significant than simply that of a guardian or

[171] Mead (2003) at 33.
[172] A recompensation raid.
[173] Ngāi Tai is one of his tribal affiliations in Bay of Plenty and Auckland too.
[174] Whakatōhea is in the eastern Bay of Plenty in the North Island of Aotearoa, New Zealand
[175] Hayes, S. 1(998). "Defining Kaitiakitanga and the Resource Management Act 1991. Auckland University Law Review vol 8, no 3 at. 894.
[176] Hayes (1998) at 898.
[177] Person of European descent.

steward. It is a vital component in the spiritual and cultural relationship of tangata whenua[178] with their land.'

2.8.4 Whakapapa

Whakapapa is a fundamental concept in Māori culture, referring to familial relationships, genealogy or lineage. It represents an interconnected relationship between people, ancestors, the natural world, and the spiritual realm. Whakapapa is more than a family tree; it provides a framework to understand identity, belonging, and the responsibilities that connect Māori to people and to the land. Whakapapa determines relationships and connectivity to prior and future generations. Kent expands and reiterates the importance of whakapapa when he remarks,[179]

> 'Whakapapa is the Māori theoretical and methodological basis for understanding relationships, interconnectedness, the natural world and environment, of the present back to the beginning of life itself and of the present to the future. Whakapapa has been described as "a traditional method for expressing and maintaining relationships." Within Māori thinking, the present or future does not exist without the past.'

Academic Linda Smith shares her thoughts,[180]

> 'I guess the first notion is simply that our genealogies and those more political genealogies are both like maps. They are a map of our history, they are a map of our identity, they are a map of our landscape.'

The concept of whakapapa in Māori society relates to cultural subsidiarity by emphasising the layered, interconnected nature of knowledge and governance. Cultural subsidiarity supports the autonomy and authority of local, culturally specific structures, akin to how whakapapa layers build upon each other, respecting and incorporating ancestral knowledge and traditions to guide present and future generations.

2.8.5 Pepeha

In a formal setting, Māori introduce themselves to others through a pepeha. A pepeha is a traditional Māori oral introduction to identify oneself and show his/her whakapapa[181] to a hapū, iwi, and the land they or their family come from. It is a way to establish kinship, and a way to connect to their people. A pepeha typically includes the person giving their name, the name of their mountain or river, their hapū or iwi they affiliate to, and any significant ancestors

[178] People of this land.
[179] Kent (2011) at 23.
[180] Smith, Bell, Findlay (2002) at 169.
[181] Genealogy; lineage.

or landmarks they associate with their whakapapa. It is an important cultural practice that recognises the cultural centrality of connections to Māori heritage, identity and land.

2.8.6 Waka- based pepeha

Māori when introducing themselves can include the name of the waka[182] their ancestors travelled on when migrating to Aotearoa New Zealand. There were seven well known waka known by the general public; however, there a lot more waka and Iwi can be named after these intrepid explorers.

2.8.7 Whānau unit

A whānau is the foundational social unit in Māori culture, often described as an extended family or kinship group that encompasses multiple generations.

Mead states,[183]

> 'The Māori world is full of social groups that call themselves whānau. Some are household units and some are large extended families numbering up to several thousand members. This is the basic building block of the whole social system.
> ...A key characteristic of the group called a whānau is that members are born into it and that member are all relatives (although there are looser uses of the term...).'[184]

Here we see, the importance and centrality of whānau in maintaining Māori cultural integrity and identity. For the whānau to identify as a hapū, they must establish a marae ,[185] as well as being able to resource the project and actually complete it."[186]

2.8.8 Hapū unit

A hapū is traditionally formed by several *whānau* (extended families) connected through a common eponymous ancestor. Mead notes,[187]

> 'The primary thing to say about a hapū is that it consists generally of more than one whānau and the unit with it are bound as before by strong kinship ties and by the whakapapa principle. Hapū number several hundred people who are all whānaunga[188] except for marriage partners brought in from other hapū, other and cross-cultural marriages.
>
> However, it would be incorrect to assert that the hapū was like an independent nation and it stood alone against all odds. This is not true. Hapū did not stand alone and could

[182] A canoe used for travelling long distances; a ship.
[183]Mead (2016) at 224.
[184]Mead (2016) at 225.
[185]Mead (2016) at 226-227.
[186]Mead (2016) at 226.
[187]Mead (2016) at 227.
[188] Connected through a common ancestor.

not survive on their own. Each depended on alliances and always on kin-related groups such as other hapū of the iwi. A badly behaved hapū could find itself subject to or detached from the rest of the iwi or banished altogether and forced to give up its land.'

2.8.9 Iwi unit

Iwi is the largest traditional social unit in Māori society, comprising multiple hapū and whānau. Historically, iwi served as political and military alliances, often uniting for defence, trade, or other significant undertakings. Mead notes, [189]

> 'The iwi is logically larger than a hapū, far more numerous, rich in resources and occupies a far larger area of land. Characteristically the iwi embraces many hapū whose members acknowledge descent from a common ancestor.
>
> "The iwi is a political entity that maintains an alliance of hapū which can be difficult to hold in place as each hapū is also engaged in arranging alliances of its own.' [190]
>
> 'The iwi unit was very much a self-contained entity that took care of its affairs with as much diplomacy as was necessary and with the threat of resorting to warfare when diplomacy failed. The iwi acted like an independent nation that was jealous of its mana and was prepared to fight its neighbours. There is no question that at this level of operation, the hapū was a part of the collective and that the hapū was not an autonomous unit that could do as it pleased.'[191]

2.8.10 Marae

A marae is the visible and physical manifestation of Māori culture, relationship connections and identity. Hirini Mead explains what marae in his book is.[192] Traditionally, the marae was a courtyard or village plaza where Māori would meet. Ceremonies and social purposes were and are still performed here at their fullest. Such ceremonies include welcoming visitors, social events, holding wānanga,[193] and farewelling the dead and being the focal meeting place of the community.

Today, Marae is a site that is fenced in, containing all buildings of a complex. The buildings can include a whare tupuna[194] where people meet and congregate, a whare kai to eat in,[195] a kohanga reo which is a preschool taught in the Māori language[196] and a huge courtyard for

[189]Mead (2016) at 232.
[190]Mead (2016) at 233.
[191] Mead (2016) at 235.
[192] Mead (2016) at 395.
[193] Learning sessions where Māori can come to the Marae as a learning space.
[194] A large meeting or ancestral home.
[195] A eating hall.
[196] A preschool where infants are taught in the Māori language.

children to run and play on. All buildings are named after a well-known ancestor or an important event where whānau can trace a genealogical link to that ancestor.

My marae is named Tau Henare after my great-grandfather's older brother who was a member of the NZ parliament (1914-1938). Tau Henare Marae is located in the valley of Pipiwai, Whangarei, New Zealand. Our marae complex consist of a Whare Tupuna,[197] Wharekai,[198] a kohanga reo,[199] ablution blocks and a huge courtyard. The following photo is a picture of my Marae where a gala was held.

Figure 3: Tau Henare Marae, Pipiwai, North Island, New Zealand[200]

Source. "Tau Henare – Pipiwai – Te Orewai;" <www.facebook.com>.

2.8.11 Rangātira

Mead articulates his understanding of rangātira as,[201]

> 'The leader of the hapū was the chief, its rangātira or ariki (high chief). The primary function of the leader was to ensure that the group survived and that its land base and resources were protected and defended.'

[197] A meeting hall which can accommodate 200-300 people.
[198] A place to feed the people.
[199] A pre-school where the Māori language is the teaching tool to educate infants.
[200] "Tau Henare – Pipiwai – Te Orewai" (2025) Facebook <www.facebook.com>.
[201] Mead (2016) at 229.

The Independent Panel of Ngapuhi Speaks adds,[202]

> 'The source of the mana is still with the people and cannot be taken away. It is simply held by the rangātira or tohunga for as long as the people support that person.'

2.8.12 Te Hononga

Hononga Taiohi, a youth development organisation states,[203]

> 'Hononga is about joining and connection. Linked to whakapapa, it is about connection to people, land/whenua, resources, spirituality, the digital world and the environment.'

2.8.13 Mana

The text Ngāpuhi Speaks discusses the authority exercised through mana by Ngāpuhi iwi, [204]

> 'The understanding and exercise of mana (authority) by Ngāpuhi was integral to He Wakaputanga and later, Te Tiriti.
>
> The Ngāpuhi evidence established their authority in the land, and showed how mana was exercised to maintain the rangātiratanga (sovereign authority) of hapū (nations, kin groups). The theme also introduced the tradition among Ngāpuhi Nui Tonu of forming multiple relationships and alliances between hapū. To even contemplate giving away mana would have been legally impossible, politically untenable, and culturally incomprehensible.'

2.8.14 Koha

A koha is a gift or offering, often given as a gesture of respect, gratitude, or reciprocity. It is deeply rooted in manaakitanga and whānaungatanga and typically reflects the giver's acknowledgment of the occasion, the host, or the relationship being nurtured.

Mead states,[205]

> 'It is a term that has wider implications and connotations than its common contemporary meaning of a gift of money. The notion of koha has become a very common but often misunderstood term. In traditional times koha was not given in the form of money. Rather individuals made a contribution, say to a tangihanga.[206] They gave food, or lent taonga for display, or went out to the sea to gather shellfish, or gave their time in support of the bereaved whānau.'

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[202] Independent Panel (2012) at 30.

[203] "Hononga Taiohi: the mana young people have" (2025) Ara Taiohi Peak Body for Youth Development <www.arataioji.org.nz>.

[204] Independent Panel (2012) at 34.

[205] Mead (2016) at 199.

[206] This is a funeral where the deceased person is laid in state at the Marae for a specific time.

2.9 Conclusion

My thesis research and analysis is founded on Māori understandings and practice; unpacking and using these concepts and practices in the context of how Māori govern themselves. Māori ways of governing have had to find a social and political space of operation within the wider NZ society and westernised governance system.

The situation calls for the design of an intercultural conceptual framework to account for change, adaptation and innovation in Māori governance. The conceptual framework serves as a roadmap for the research process. It makes the case for why my focus of study is important, and details how the selected concepts noted above will enable me to investigate and answer the research questions.

CHAPTER THREE

Methodologies and Methods

‘Nāu te rourou, nāku te rourou, ka ora ai te iwi.’
‘With your food basket and my food basket, the people will thrive.’

The fusion of an intercultural framework with a variety of methods provides a canopy for collaboration, sharing knowledge and working together to test and analyse the research questions.

Tēnā koutou katoa,

3.1 Introduction

Methodologies and methods serve as indispensable instruments in a researcher's arsenal. They provide a coherent and systematic standpoint and tools to test and analyse research questions. Methodologies include overarching strategies and rationales used to guide the research design, while methods are the specific techniques and procedures used for data collection and evidence to analyse.

The research study employs a Kaupapa Māori Research (“KMR”) standpoint as the methodological framework and foundation. A mixed method approach utilises archival information, literature reviews, case studies, and semi-qualitative interviews. Pilot testing helps refine the interview process, and iron out any ‘wrinkles’ that did appear. The approach is customised, being specifically developed for my thesis testing and analysis.

First, I look at the purpose of research methodological approaches introducing paradigms and worldviews. Next, an introduction into Māori methodologies and methods in research follows. The chapter then explores a KMR standpoint. I talk about methodology grounded in Māori cultural values, and principles. The case study method is then discussed as my thesis involves an analysis of two case studies highlighting governance in action in Chapter 7.

Next, I provide a comprehensive reflection on pilot testing in preparation to conduct interviews with participants. The thematic conceptual approach is discussed in how to analyse the

interviews. Researcher analyses are interspersed throughout this chapter. Finally, I provide formative conclusions based on exploration of these methodologies and methods.

3.2 Importance of a paradigm

A paradigm is a framework of beliefs, values, and practices that shape how individuals or communities understand and interpret reality. In research, a paradigm refers to the philosophical and theoretical approach that guides how knowledge is generated. Coauthors Donna Wilson, Anaru Mikaherekailson and Juanita Sherwoood continue,[207]

> 'A paradigm is not simply a methodological choice, but a worldview: it frames what we see as legitimate knowledge, and in global contexts it determines whose voices and knowledges are heard or silenced.'

Scholar Donna Mertens underscores the importance of recognising multiple paradigms in research methodology.[208] Mertens identifies four major paradigms: postpositivist, constructivist, transformative, and pragmatic—each linked to distinct traditions of evaluation and methodological choice. In *Transformative Research and Evaluation*, Mertens introduces the transformative paradigm, which embraces multiple realities and integrates diverse philosophical assumptions into research and evaluation.

These insights underscore the necessity for researchers to be aware of and deliberate in their selection of paradigms and methodologies, ensuring that their research approaches are aligned with their objectives and the communities they engage with.

Building on the previous discourse, the next section examines both the transformative paradigm and how the Māori worldview connects with this paradigm.

3.2.1 A Transformative paradigm

Donna Mertens' work prioritises the viewpoints of marginalised groups and interrogating systemic power structures through mixed methods for social justice and human rights.[209] The transformative paradigm in research emphasises the integration of social justice principles,

[207] Wilson, D., Mikahere-Hall, A., & Sherwood, J. (2021). Using indigenous kaupapa Māori research methodology with constructivist grounded theory: generating a theoretical explanation of Indigenous women's realities. International Journal of Social Research Methodology, 24(5), 601–615 at 603.
[208] Mertens, D. M. (2009). Transformative research and evaluation. New York: Guilford Press.
[209] Mertens (2009).

aiming to address power imbalances, and advocate for marginalised communities. It challenges researchers to critically assess their positionality and the societal impact of their work, fostering a commitment to transformative change.

Aligning the transformative paradigm with a Māori worldview reveals significant synergies. Both perspectives emphasise interconnectedness, community well-being, and the importance of contextually grounded knowledge. The transformative paradigm's focus on social justice resonates with Māori principles of manaakitanga and whānaungatanga central to Māori ways of knowing and being. Māori scholars highlight the transformative potential of Indigenous methodologies in challenging dominant paradigms. For instance, research on pūrākau[210]demonstrates how Indigenous storytelling can serve as a powerful tool for redefining research.

In summary, the transformative paradigm's emphasis on social justice and inclusivity aligns closely with Māori worldviews that prioritise community, relationships, and holistic well-being. This alignment offers a robust framework for conducting research that is both ethically safe and culturally resonant, paving the way for methodologies that honour and uplift Māori perspectives.

3.2.2 A Māori worldview (“Te Ao Māori”)

Te Ao Māori is a holistic framework that integrates spiritual, physical, and relational dimensions, shaping how Māori perceive and interact with the world. It is deeply rooted in mātauranga Maori[211] and tikanga Māori concepts. Te Ao Māori acknowledges the interconnectedness of all things, people, land ancestors, and the spiritual realm to guide Māori ways of thinking, being, and governing.

Further, Te Ao Māori is fundamentally relational, with an emphasis on reciprocity, collective responsibility, and balance. Te Ao Māori differs from Western perspectives, which often prioritise individualism and compartmentalisation. Instead, Te Ao Māori sees knowledge,

[210] Story Telling.

[211] Maori Knowledge systems added to and handed down from generation to generation.

governance, and well-being as interconnected elements of a larger, living system. In this respect and to highlight the importance of a worldview, Reverend Māori Marsden opines,[212]

> 'Cultures pattern perceptions of reality into conceptualisations of what they perceive reality to be; of what is to be regarded as actual, probable, possible or impossible. These conceptualisations form what is termed the 'world view' of a culture. The worldview is the central systematisation of conceptions of reality to which members of its culture assent and from which stems their value system. The world view lies at the very heart of the culture, touching, interacting with and strongly influencing every aspect of the culture.'

Marsden explains how cultures shape how people perceive reality, and they organise these perceptions into a 'worldview.' This worldview forms the core beliefs about what is real and possible, therefore, influencing the culture's values and all aspects of life. A worldview deeply impacts members' interpretations, behaviours, and interactions within the culture. Concisely, Marsden continues,[213]

> 'The Māori worldview sees all things as interconnected, where human beings are inextricably linked with the environment, ancestors, and future generations, creating a foundation for Māori governance systems that reflect this interconnectedness.'

Professor Mason Durie adds, [214]

> 'Governance within a Māori context is not merely about authority; it is about nurturing relationships, maintaining balance, and ensuring the well-being of the collective.'

Durie's statement aligns with Marsden's assertion that Te Ao Māori guides cultural practices and values, including governance. There is a consistent emphasis on the holistic, interconnected, and relational nature of Te Ao Māori and reinforces its applicability to Māori governance and decision-making frameworks. Te Ao Māori can ensure that their governance systems value Māori knowledge, traditions and practices, environmental stewardship, and sustainable development. This approach enhances cultural resilience, strengthens community cohesion and self-determination.

Analysis

[212] Marsden, M. And Royal T.A.C (ed) (2003). The Woven Universe: Selected Writings of Rev. Māori Marsden. (Masterton, The Estate of Rev. Māori Marsden).

[213] Marsden and Royal (2003) at 35.

[214] Durie (1998) at 57.

I fully support a transformational worldview merging with Te Ao Māori which sheds light on the governance roles and responsibilities experienced by Māori in their quest for being self-determining. The Māori governance environment is adapting while being susceptible to the harsh winds of political change.

A Kaupapa Māori Research ("KMR") standpoint is also political, as Māori researchers seek to decolonise pre-existing notions and perceptions. KMR permeates with a focus to reclaim and uphold the Māori worldview, mātauranga Māori and tikanga Māori.

Furthermore, while Te Ao Māori and Kaupapa Māori Research are intimately related, they are not necessarily the same thing. The Te Ao Māori worldview is how I can view the world, how I reason, how I am informed, and can inform others. KMR, to me, is grounded and informed by Te Ao Māori, like a heartbeat regulating the tempo and rhythm of KMR, which is invisible to the eye. Kaupapa Māori Research, however, is a uniquely customised research approach designed to empower Māori researchers; and to incentivise Indigenous researchers to establish their unique research approaches.

We will now discuss why a methodology is a foundational key in research as noted by several authorities.

3.3 Defining methodology

Academic John Creswell posits that research methodology is underpinned by philosophical assumptions that frame the researcher's worldview, shaping the conceptualisation of inquiry, the selection of strategies and methods, and the interpretation of data within a coherent design.[215] Building upon this, academic, Alan Bryman conceptualises methodology as the overarching strategic framework that connects theoretical perspectives and research questions to the selection and application of methods, thereby ensuring coherence between approach and outcome.[216] This aligns with another academic Michael Crotty's seminal definition of methodology as "the strategy, plan of action, process or design lying behind the choice and use of particular methods and linking the choice and use of methods to the desired outcomes,"

[215] Creswell, J.W. (2014). Research Design: Qualitative, Quantitative, and Mixed Methods Approaches. 4th edn. Thousand Oaks, CA: Sage Publications.

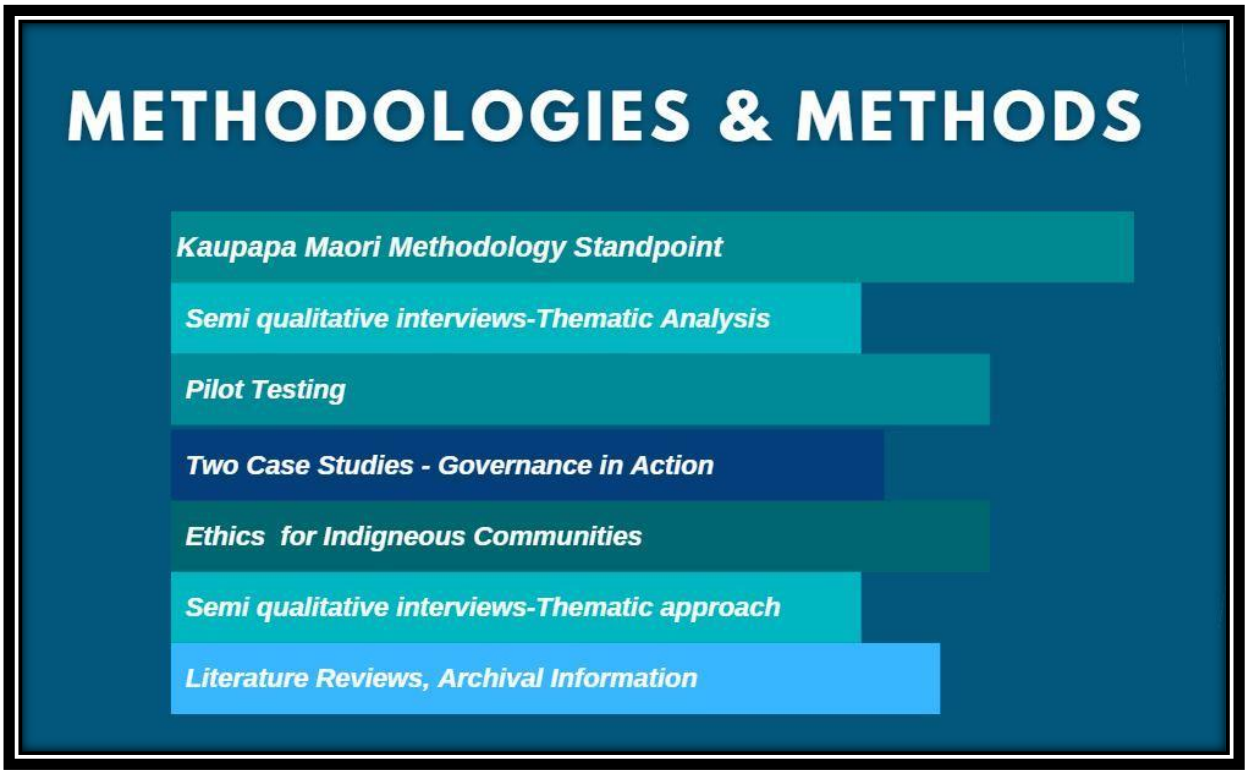
[216] Bryman, A. (2016). Social Research Methods. 5th edn. Oxford: Oxford University Press.

emphasising that methodology extends beyond method selection to the philosophical and theoretical rationale underpinning research design.[217]

Together, Crotty, Bryman, and Creswell underscore that methodology functions as the intellectual architecture of research, integrating philosophical assumptions, theoretical perspectives, and practical methods into a coherent and purposeful framework of inquiry.

The following figure illustrates the methodology and methods to be discussed and used in this research and well as introducing KMR methodology.

Figure 4: Methodology and Methods



Source: Rakena (2024)

[217]Crotty, M. ((1998). The Foundations of Social Research: Meaning and Perspective in the Research Process. St Leonards, NSW: Allen & Unwin at 3.

3.4 Kaupapa Māori Research

Methodology Kaupapa Māori Research ("KMR") is a research paradigm grounded in Māori worldviews, values, and principles. Defined as "research by Māori, for Māori, and with Māori," it seeks to empower Māori communities by ensuring that inquiry is conducted in accordance with their cultural practices, aspirations, and priorities.[218] KMR challenges conventional Western research paradigms by asserting Indigenous knowledge systems and methodologies that privilege Māori perspectives and reaffirm the centrality of Māori self-determination in the research process.

A primary architect of KMR Linda Tuhiwai Smith, describes Kaupapa Māori Research as a 'theory and practice of research that is rooted in Māori ways of knowing and being.'[219] Smith notes,[220]

> 'The term 'Kaupapa Māori' and my use of it comes from my involvement in the establishment of Kura Kaupapa Māori and the on-going struggle to define and control a term which was meaningful for us as a group.'

Smith emphasises that it is a decolonising methodology aimed to reclaim control over Māori knowledge production and ensures research benefits Māori communities. Smith emphasises the shift in research dynamics as Indigenous communities, such as Māori, move from being subjects of research to becoming active researchers themselves.

Historically, research has served to legitimise Western knowledge systems while marginalising Indigenous worldviews and reinforcing colonial power structures. In response, Kaupapa Māori Research (KMR) emerged as a transformative approach enabling Māori to reclaim authority over research processes. It validates Indigenous knowledge systems and challenges Western dominance, affirming the legitimacy of Māori knowledge, language, and culture within research paradigms.

3.4.1 Mātauranga Māori and tikanga Māori

A Kaupapa Māori Research ("KMR") methodological framework upholds both mātauranga Māori and tikanga Māori, enabling Māori communities to maintain their cultural identity while engaging with Western research contexts. Its principal architects, Māori scholars and educators

[218] Smith, L. T. (1999) Decolonizing Methodologies: Research and Indigenous Peoples. London: Zed Books at 183.

[219] Smith (2012) at 188.

[220] Smith (2012) at 47.

challenged dominant Western paradigms by developing research frameworks grounded in Māori knowledge, values, and aspirations for self-determination. Professor Graham Hingangaroa Smith states,[221]

> 'Kaupapa Māori is about asserting a position that validates Māori cultural understandings and practices, and in doing so, provides the basis for a research agenda that challenges and resists the domination of Western frameworks.'

This statement encapsulates Kaupapa Māori as both an epistemological and political stance, affirming Māori cultural validity while actively resisting the dominance of Western research traditions and their epistemic authority. Professor Linda Smith adds another dimension,[222]

> 'Kaupapa Māori research is a framework which positions Māori at the center of the research process, ensuring that the research respects and aligns with Māori values, aspirations, and needs, while challenging the ongoing impacts of colonialism.'

Kaupapa Māori Research constitutes a transformative and decolonising framework that repositions Māori as the authorities of knowledge creation. It not only ensures alignment with Māori values and aspirations but also actively resists colonial research paradigms, asserting Māori epistemological sovereignty and reshaping the power relations that underpin research practice.

Scholar Russell Bishop asserts that Kaupapa Māori Research emphasises power-sharing between researchers and participants, ensuring research reflects Māori cultural protocols and mutual accountability. His work on culturally responsive pedagogy repositions Māori as active contributors in research and education, demonstrating how KMR transforms traditional Western hierarchies through relationships grounded in whanaungatanga, manaakitanga, and collective benefit.[223]

[221] Smith, G.H. (1997) The Development of Kaupapa Māori: Theory and Praxis. PhD thesis. University of Auckland, at 36.

[222] Smith, L.T. (1999) Decolonizing Methodologies: Research and Indigenous Peoples. London: Zed Books at 185.

[223] Bishop, R. (1998). Freeing Ourselves from Neocolonial Domination in Research: A Māori Approach to Creating Knowledge. International Journal of Qualitative Studies in Education, 11(2), 199–219.

The following scholars, through their work, have collectively shaped KMR into a robust framework that centres Māori values, promotes self-determination, while it critiques colonial influences and be considered contemporary advocates for KMR.

A key requirement of KMR is the positioning of Te Ao Māori as the default position. In affirmation with this approach, senior research Fellow Leonie Pihama and others suggest that: “The term Kaupapa Māori captures Māori desires to affirm Māori cultural philosophies and practices.”[224]

An important distinction for a KMR approach is it can be used as both a form of resistance and a methodological strategy. Leonie Pihama’s "Kaupapa Māori Theory: Transforming Theory in Aotearoa" work centres around the potential of Kaupapa Māori theory to challenge and transform dominant Western theoretical standpoints by centring Māori knowledge, values, and perspectives.[225] Pihama emphasises the importance of culturally appropriate practices, and encourages the development of more inclusive, relevant, and empowering policies and standpoints. As well Pihama offers an insightful examination of KMR as a standpoint to explore and provide meaningful explanations of ordinary Māori experiences in Aotearoa New Zealand. Pihama’s main focus argues that KMR serves as a powerful tool for centring Māori voices and experiences, fostering a deeper understanding of the diverse realities faced by Māori communities.

Scholar Jenny Lee's "Decolonising Māori Narratives: Pūrākau as a Method," which explores the potential of Pūrākau (Māori storytelling) as a method for decolonising Māori narratives and reclaiming Indigenous knowledge systems.[226] Lee argues Pūrākau as a method to a Māori storytelling approach that focusses on Indigenous narratives, perspectives, and knowledge systems. Pūrākau also serves as a method for understanding, interpreting, and representing

[224] Pihama et al, (2002) Creating methodological space: A literature review of Kaupapa Māori research. Canadian Journal of Native Education, 26(1), at 30–43.
[225] Pihama, L. (2010). “Kaupapa Māori theory: transforming theory in Aotearoa” He Pukenga Kōrero. 9(2):5-14.
[226] Lee, J. (2017). Decolonising Māori narratives: Pūrākau as a method. In Critical Conversations in Kaupapa Māori (ed, TK Hoskins and A Jones), 158-172. Wellington: Huia Publishers.

Māori experiences and worldviews, which have often been marginalised or misrepresented by colonial narratives.

Another useful reference is the Te Ara Tika Guidelines for Māori Research Ethics ("Te Ara Tika") framework for researchers and ethic committee members,[227] which forms part of a well-considered set of ethical, social and cultural considerations enshrined within Kaupapa Māori research methodology. Te Ara Tika underpins the importance of benefit-sharing and the reciprocal connection between the researcher and the community.

The thesis research will be informed by the set of principles and understandings outlined above, but will also draw heavily on Māori principles and attributes set by Professor Ngahuia Te Awekotuku for research undertaken in Māori communities which include,[228]

1. Aroha ki te tangāta; (employ a respect for people).
2. Kanohi kitea; (the seen face, which is to present yourself to people, face to face).
3. Titiro, whakarongo, kōrero; (observe, listen, talk).
4. Manaaki ki te tangata; (share and people, be generous).
5. Kia tūpato (be cautious); and
6. Kaua e takahi te mana o te tangata; (do not trample over the mana of people).

3.4.2 Kaupapa Māori Research Challenges

KMR, while widely recognised for its strengths and contributions to Indigenous scholarship, is not without its challenges. It is essential to critically examine these challenges to ensure the continued growth and improvement of this research approach. Some of these challenges are considered below. Professor Linda Smith notes,[229]

> 'One of the main challenges of Kaupapa Māori Research is resisting the pressure to conform to Western research paradigms while maintaining credibility and validity in academic settings.'

[227] Hudson et al. (2010) "Te Ara Tika: Guidelines for Māori research ethics: A framework for researchers and ethics committee members" Auckland: Health Research Council of New Zealand.

[228] Ngahuia Te Awekotuku is a New Zealand Emeritus Professor at the University of Waikato focussing on tikanga Māori ethics and methodology in Indigenous Research.

[229] Smith (2012) at 199.

The challenge of essentialising Māori culture and homogenising diverse Māori perspectives is to be secure, confident and genuine in Te Ao Māori. According to Bishop[230] the risk of reducing Māori experiences to a singular, monolithic entity arises when attempting to create a unified approach for research which can overlook the complexities, variations, and individuality within Māori communities.

Another challenge relates to the potential for power imbalances and unequal partnerships between Māori researchers and non-Māori researchers. Bishop notes collaborative research efforts can inadvertently perpetuate colonisation and tokenism if not approached with sensitivity, and a commitment to genuine collaboration.[231]

Furthermore, KMR may face challenges in its application beyond the Māori context. According to Professor Linda Smith,[232] adapting this approach to other Indigenous or cultural contexts requires careful consideration of cultural specificities, potentially limiting its generalisability.

To summarise, the KMR approaches discussed by various authors demonstrate the value of centring Indigenous knowledge and perspectives in research. The literature serves as valuable resources for researchers seeking to better understand and employ KMR in their research with Indigenous communities. Moreover, the authors have contributed to the broader discourse on decolonising methodologies and advancing Indigenous knowledge production.

Analysis

I am of Māori descent, my cultural identity is Māori, and I am a Māori researcher. A Kaupapa Māori Research standpoint resonates with me, and it operates to keep the Māori research participants culturally safe and respected.

One of my interviews with a Māori participant, exposed how I forgot to follow tikanga Māori protocols embedded in the KMR. The participant kindly requested before commencing the interview that he would first recite his pepeha to show his connection to the land and to his people. I was embarrassed; I had been taught better by my mother. I apologised that I had

[230] Bishop (1998). "Freeing ourselves from neocolonial domination in research: A Kaupapa Māori approach to creating knowledge" The SAGE handbook of qualitative research 3rd ed. Thousand Oaks" SAGE Publications) at 191-215.

[231] Bishop (1998).

[232] Smith (1999).

forgotten such an important part of our tikanga Māori. Such an error reminded me that Māori protocols matter. There were formalities to be followed and shared, and all participants recited their pepeha in their interviews.

In other examples, a participant requested a karakia[233] before our interview commenced. The participant was very traditional in following protocols. Another participant was appreciative of this protocol and said he was relaxed by engaging with me following the karakia and by adhering to tikanga Māori prior to commencing the interview.

The following section will now explore the methods that will be used to support the Kaupapa Māori Research methodology.

3.5 Archival Information

Co-authors Joan M. Schwartz and Terry Cook provide a seminal critique of the traditional perception of archives as neutral or passive repositories. In their article they argue, "Archives, then, are not passive storehouses of old stuff, but active sites where social power is negotiated, contested, confirmed."[234]Their analysis reframes archival practice as a dynamic process through which societal power relations are constructed and sustained. By positioning archives as instruments of power rather than objective custodians of the past, Schwartz and Cook illuminate how archival decisions, what to preserve, how to describe, and what to exclude, shape collective memory and historical understanding. This perspective is particularly relevant to Indigenous contexts, where archives often reflect colonial frameworks of authority and representation, necessitating critical approaches that reassert Indigenous control over their own historical narratives and knowledge systems.

Sources for archival information that I used, include:

- Alexander Turnbull Library (part of The National Library of New Zealand, Wellington);[235]
- Māori Land Court Records; and
- The Waitangi Tribunal Reports.

[233] Prayer.

[234]Schwartz, J.M. and Cook, T. (2002) 'Archives, records, and power: The making of modern memory', Archival Science, 2(1–2), 1–19 at 1.

[235] "Our services for researchers"(2025) National Library NZ <www.natlib.govt.nz>.

3.6 Case Study

John Creswell and Cheryl Poth in *Qualitative Inquiry & Research Design: Choosing Among Five Approaches* provide a comprehensive guide to qualitative research, outlining five key approaches to inquiry: narrative, phenomenology, grounded theory, ethnography, and case study.[236] In chapter 4, Creswell and Poth define case study research as "a qualitative approach in which the investigator explores a real-life, contemporary bounded system (a case) or multiple bounded systems (cases) over time, through detailed, in-depth data collection involving multiple sources of information".[237]

Robert K. Yin's *Case Study Research: Design and Methods* is a seminal text in the field of qualitative research.[238] It offers comprehensive guidance on designing and conducting case studies. Yin emphasises the importance of a systematic approach, including the development of a case study protocol, the use of multiple sources of evidence, and the maintenance of a chain of evidence to enhance the study's construct validity, internal validity, external validity, and reliability. Yin states, "The book provides a workable technical definition of the case study as a research method and its differentiation from other social science research methods."[239] His methodology is widely recognised for its rigor and has been extensively applied across various disciplines.

Reflection

As a researcher in the Sustainable Seas Challenge of New Zealand, I worked alongside Dr. Robert Joseph to examine Māori governance models in marine resource governance.

The first case study, *Whaia te Mana Māori Whakahaere Tōtika ki Tangaroa*, focussed on developing 21st-century Māori governance models for Ecosystem-based Management ("EBM").[240] It explored co-governance structures that align tikanga Māori with New Zealand law, reinforcing Māori self-determination over marine resources.

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[236] Creswell, J.W. and Poth, C.N., (2016). Qualitative inquiry and research design: Choosing among five approaches. Sage publications.
[237] Creswell and Poth (2016) at 96.
[238] Yin, R.K. (2009). Case Study Research: Design and Methods (4th ed.). Thousand Oaks, CA: SAGE Publications at ix of the preface.
[239] Yin (2009) at ix.
[240] Joseph et al., (2020).

The second case study, *Tūhonohono: Tikanga Māori me te Ture Pākehā ki Takutai Moana*,[241] examined the intersection of Māori customary law and state legal frameworks regarding coastal and marine areas which aimed to understand the relationship between mātauranga, tikanga Māori and New Zealand law, and how to apply both so that they are mutually beneficial.

Next, the role of ethics in safeguarding research participants will be examined.

3.7 Ethics

Co-authors Martyn Hammersley and Anna Traianou emphasise, that ethical qualitative research requires balancing the pursuit of authentic understanding with the responsibility to protect participants from harm, intrusion, or misrepresentation, highlighting the continual negotiation between research integrity and participant wellbeing.[242]

The ethics of involving human participants is also provided by the ANU Human Research Ethics Committee (HREC) in accordance with 2007 *National* Statement on Ethical Conduct in Human Research (National Statement). This research interviews a cross-section of Māori leadership who have been elected to govern across Aotearoa New Zealand. The interviews were conducted in an ethically, culturally safe and respectful manner.

Further, there are ethical standards within tikanga Māori. Tikanga embodies a normative system of values and practices that guide behaviour. Kaupapa tuku iho[243] such as manaakitanga, whanaungatanga, tapu and noa, and rangatiratanga provide ethical boundaries that shape decision-making and conduct. These standards are not abstract rules but living practices grounded in whakapapa and collective wellbeing, that ensure that actions are measured not only by individual intent but by their impact on the wider whānau, hapū, and iwi.

The next section will discuss interviews.

3.8 Interviews

Qualitative interviews serve as powerful tools of gathering first-hand perspectives, experiences, insights and worldviews from participants. Interviews are a robust way to elicit primary

[241] Joseph, et al., (2018).

[242] Hammersley. M. and Traianou. A. (2012). Ethics in Qualitative Research: Controversies and Contexts. (Sage Publications).

[243] Inherited values, and principles.

evidence to test out the research questions. The thesis employs semi-structured interviews with participants who possess relevant knowledge, expertise, or lived experiences related to Māori ways of governing. Co-authors Steinar Kvale and Svend Brinkman explain,[244]

> 'The qualitative research interview attempts to understand the world from the subjects' points of view, to unfold the meaning of their experiences, and to uncover their lived world prior to scientific explanations.'

Interviews can reveal participant insights into human behaviour, perceptions, and experiences that are unique to the research context and subject.

In her thesis, Annie Te One states, :[245]

> "Through the guiding principle of "he kanohi kitea" research. ... Semi-structured interviews were used to collect insights from the participants in this research by using open-ended questions, which allowed for a reflexive interviewing process. Unlike structured interviews, which involve a strict adherence to predetermined questions, a semi-structured interview may follow some set themes and questions that have already been provided to the participant but allows for deviation if necessary In this way, during my interviews, all participants were provided in advance with a set of guiding questions, but the nature of open-ended questions meant that as interviews progressed I was able to inquire into ideas that were guided by the participant's answers".

The interviews were conducted in an ethical and culturally appropriate manner with Maori tikanga protocols. I obtained consent to have participants names identified. The collected data will be analysed thematically into core themes.

3.9 Interview Challenges

Research interviews, particularly in qualitative studies, present several challenges that can affect the reliability, validity, and ethical integrity of the data collected. These challenges include issues related to power dynamics, participant bias, and interviewer influence.

One challenge in the methodology of interviews lies in its subjectivity. Linda Smith articulates the potential issue of 'othering' that can arise in interviews.[246] Smith notes that the interviewee's

[244] Kvale, S and Brinkmann S.(2012). Doing Interviews. Sage Publications, at 8.
[245] Te One, A.S.E., (2018).Mana whenua, mātaawaka, and local government—An examination of relationships between Māori and local government in Wellington and the Hutt Valley (Doctoral dissertation, Doctoral thesis, Australian National University]. Open Research. http://hdl. handle. net/1885/164254).
[246] Smith (2012).

perspective can be unintentionally distorted or misunderstood due to cultural, linguistic, or experiential differences between the interviewer and interviewee, which can lead to misrepresentation and an inaccurate portrayal of the research subject, affecting the validity of the research outcomes.

To mitigate this challenge, academic Dr Leonie Pihama provides insight into this issue in the context of Kaupapa Māori research methodology. [247] She posits that it is important for researchers to comprehend the cultural norms, practices, and language of Māori people to avoid misinterpretations. Such an approach emphasises the importance of cultural sensitivity in research, and illustrates how a thorough understanding of the cultural context can help overcome challenges associated with subjectivity in interviews.

A further challenge is the power dynamics and participant comfort. Power imbalances between the researcher and participant can shape responses. Interviewees can feel pressured to conform to perceived expectations, affecting the authenticity of their narratives. This is particularly relevant in Indigenous research, where historical power disparities must be carefully navigated. Co-authors Andrea Fontana and James H. Frey state, "The interview situation is never neutral; it is always shaped by social, cultural, and historical factors that influence how knowledge is produced." [248]

Another challenge is memory and recall bias. Participants may struggle to accurately recall past events, leading to inconsistencies in responses, which is a common issue in retrospective interviews. Co-Authors Martyn Hammersley and Paul Atkinson note, "Memory is not a passive retrieval of past experiences but an active process of reconstruction, shaped by present concerns and social influences." [249]

Furthermore, the researcher's tone, wording, or non-verbal cues can unintentionally shape participant responses. Leading questions can compromise the validity of the data. Co-authors Steinar Brinkmann and Svend Kvale posit that interviewers must be conscious of their own

[247] Pihama, L. (2001). Tihei mauri ora: Honouring our voices. Mana wahine as a kaupapa Māori: Theoretical framework. PhD Thesis, University of Auckland.

[248] Fontana, A., & Frey, J. H. (2005). The interview: From neutral stance to political involvement in Denzin, N.K. and Lincoln, Y.S. eds.(2011).The Sage handbook of qualitative research. Sage at 695.

[249] Hammersley, M., & Atkinson, P. (2019). Ethnography: Principles in practice . Routledge at 119.

biases and the ways in which their presence and questioning can frame the responses they receive.[250]

Finally, to ensure anonymity and managing sensitive topics that can be challenging, particularly in small communities where participants may be identifiable despite anonymisation efforts. Authors Rose Wiles, Sue Heath, Graham Crow, and Vicky Charles argue that ethical dilemmas in interviews often arise when researchers must balance the need for rich data with the responsibility to protect participants.[251]

3.9.1 Reflections

As Maori are a relational people, Māori governance is also relational, and my whakapapa connections facilitated participant engagement. My Grand Uncle, a respected kaumatua, introduced me to the Chair of Te Rūnanga O Ngāpuhi. My son-in-law and sister-in-law connected me with governance participants and became participants themselves. My cousin is vice-chair of Ngāti Hine. I personally contacted all parties who agreed to be interviewed and interviews were scheduled upon ANU's ethical approval.

Coordinating suitable times was a significant administrative task.

My approach used a KMR framework, where tikanga Māori protocols such as mihi, karakia, and pepeha preceded interviews. Housekeeping rules were addressed to ensure verbal consent was given for the interview and for their names to be being used in my thesis. I let participants know that recording was taking place (through ZOOM) , and I would forward participant transcripts and welcome their feedback. I tried to demonstrate respect, even when interviewing participants I knew well. To mitigate power dynamics, participants received interview questions and an information sheet beforehand. This preparation enabled them to shape the conversation and contribute additional insights. While participants had the right to halt interviews, this did not occur.

Interviews occurred during the height of Covid-19 pandemic via ZOOM, enabling albeit virtual kanohi-ki-te-kanohi interactions. Technological glitches, such as unstable internet connections

[250] Brinkmann, S., & Kvale, S. (2018**).** Doing Interviews (2nd ed.). London: Sage at Chapter 7 (33-35 and 1253-125.

[251] Wiles, R., Heath, S., Crow, G., & Charles, V. (2008). Anonymity and confidentiality. Qualitative Research, 6(3), 283–299 at 284.

and audio disruptions, occasionally interrupted discussions, requiring my patience and adaptability as well as that of the participant. Pilot testing helped refine the approach for formal interviews. A flexible, conversational approach replaced rigid questioning, allowing participants to guide discussions. Interviews provided rich, vibrant firsthand insights into Māori governance and participants' voices actively shaped the korero rather than serving as mere subjects. Their perspectives were integrated throughout the thesis, reinforcing Te Ao Māori as central to the thesis. By weaving their narratives into key themes, the research upheld a Māori-centred approach, ensuring authenticity and cultural integrity. This participatory method honoured Māori ways of engagement.

3.10 Literature Reviews

Literature reviews synthesise existing knowledge, identify gaps and establish a foundation for recent studies. They let us know what is on the literature landscape. Literature reviews can provide critical analyses of previous work, highlight trends, and contextualise current research within the broader academic narrative. By evaluating methodologies and findings, literature reviews can help refine research questions and methodologies, which ensure scholarly rigor and relevance.

3.11 Pilot Testing of the Interview Process

Pilot testing is a crucial step in the research process that involves conducting a trial run of a study or experiment to identify potential problems and make necessary adjustments before the actual research is conducted. The primary objective of pilot testing is to assess and refine the formatting and focus of questions, and identify and address any issues that may arise during the research process. These issues may include problems with data collection instruments, terminology used in the questions, difficulties in recruiting participants, or ethical concerns. Creswell argues that a pilot test is a small-scale version of the study to ensure that the procedures, measures, and techniques are effective and to make improvements before the full-scale study.'[252]

[252] Creswell (2014) at 165.

Co-authors Edwin R. van Teijlingen and Vanora Hundley emphasise that pilot studies are an essential component of robust research design, providing a critical testing phase for surveys, interviews, and experimental procedures. They argue that pilot studies enable researchers to identify methodological weaknesses and refine instruments or processes before full-scale implementation, thereby enhancing the validity and reliability of the overall study.[253]

Author Yujin Kim argues that pilot testing contributes to research credibility by reducing methodological weaknesses that could compromise findings. This is especially relevant in research involving Indigenous knowledge systems, where pilot studies help bridge Western academic methods with culturally grounded methodologies. [254]

Pilot testing is relevant to this research within KMR. Pilot testing study ensured research questions and methodologies aligned with Māori values and expectations. In summary, pilot testing is integral to robust research design. Academics like *Creswell*; Van Teijlingen and Hundley*;* Kim all argue that pilot testing enhances research credibility by refining one's methodology, addressing feasibility concerns, and ensuring cultural appropriateness.

3.11.1 Reflection on pilot testing

Pilot testing revealed several procedural gaps, prompting me to refine and strengthen my interview protocols. Guided by my primary supervisor's emphasis on reflection and best-practice strategies, I undertook a road trip to pilot my approach in practice, ensuring that the process was both meaningful and informative.

First, I piloted my methodology with surrogate Māori governance leaders, my family. This approach eliminated the need to establish new relationships and allowed for an adaptable, accessible testing cohort. While kanohi-ki-te-kanohi interviews were my initial method, Zoom quickly became the preferred platform in light of Covid 19 pandemic. My family participants appreciated the convenience, time and the ability to be interviewed from their own homes

[253] Van Teijlingen, E. R., & Hundley, V. (2001). "The importance of pilot studies." Social Research Update, (35), 1-4.

[254] Kim, Y. (2010). The pilot study in qualitative inquiry: Identifying issues and learning lessons for culturally competent research. Qualitative Social Work, 10(2), 190-206 at 193.

without disrupting their work and family commitments. Providing interview sheets beforehand help my participants prepare, and reduce surprises.

Second, cultural appropriateness was paramount. I incorporated tikanga Māori, including mihi, karakia, and whakawhanaungatanga, to mirror what I would do in a 'real' interview. While the interview was the focus, the whakawhanaungatanga component established trust and warmth. At times, when I forgot formal Māori protocols, but my family reminded me, reinforcing the need to refine my practice.

Third, pilot testing enabled me to refine my interview questions for both cultural appropriateness and clarity. During this process, my questions were scrutinised for grammatical accuracy (for which I apologised) and restructured to improve flow and coherence. I recognised and removed irrelevant questions and learned the value of patience when participants' thoughts diverged before returning to the main topic. A key lesson that emerged was the importance of silence. Initially, I tended to fill pauses with conversation, but I soon realised that allowing silence created reflective space, enabling participants to process their thoughts and offer deeper, more meaningful responses.

Reflecting on my thesis hypothesis, I learned the importance of simplifying complex ideas into clear, focused questions. A colleague's advice to "articulate your thesis simply in one or two sentences" proved invaluable, guiding me to reduce thirty preliminary questions to seven core ones aligned with my research concepts. This process required multiple iterations and continual refinement to maintain conceptual integrity.

Fourth, I initially overlooked the need for clear instructions on my consent form, such as confirming participation and consent to use their names. I promptly corrected this to ensure greater clarity and ethical transparency in subsequent interviews. I also noted that interview duration varied according to participants' governance roles, typically lasting between 60 and 90 minutes. Additionally, I became more mindful of my tone—ensuring it conveyed genuine enthusiasm, respect, and engagement throughout each interview.

Lastly, preparing technology in advance became essential. Technical issues wasted time and caused frustration. Seeking my husband's assistance led to self-sufficiency in troubleshooting, ensuring smooth interview execution.

In summary, pilot testing proved invaluable in refining my interviewing skills, question structure, and overall research design. It reduced potential errors, ethical risks, and procedural inefficiencies, ultimately strengthening both the integrity and effectiveness of my interview approach.

3.12 Transcribing Interviews

Following the completion of interviews, the next phase involved transcribing the recorded discussions to produce an accurate and comprehensive account of participants' perspectives. More than 200 pages of primary evidence were generated. The transcripts were systematically reviewed and analysed, allowing key thematic patterns to emerge from the data. These themes were subsequently grouped and aligned with the overarching research questions to ensure coherence between participants' narratives and the study's conceptual framework.

To maintain ethical rigour and uphold the integrity of participants' voices, the transcripts were returned to interviewees for review and feedback within a specified timeframe. This process enabled participants to verify the accuracy of their statements, clarify meaning where necessary, and reaffirm their consent for inclusion in the thesis. Such an iterative approach ensured that the research process remained participatory, culturally grounded, and responsive to the principles of relational accountability.

3.13 Thematic Approach to Interviews

To make sense of the extensive data collected through the case studies and interviews, a thematic analysis was employed. This approach involves identifying, organising, and interpreting patterns or themes that emerge from the data. By systematically applying thematic analysis, the research sought to uncover recurring ideas, concepts, and factors that are integral to testing the study's conceptual assumptions and addressing its central research questions.

A thematic approach to qualitative research provides a rich and in-depth exploration of data. Author Richard E. Boyatzis argues that thematic analysis enables both the identification and interpretation of themes within data, offering clarity and deeper insight into complex

phenomena.[255] This method affords researchers the flexibility to interpret data beyond predefined categories, allowing for a nuanced understanding of underlying meanings and patterns of experience. Through systematic coding and analysis, thematic approaches

In contrast, there are also challenges associated with thematic analysis, particularly when applied to Indigenous contexts. Indigenous scholar Dawn Martin-Hill cautions that Western thematic approaches can inadvertently constrain Indigenous knowledge systems by forcing them into predefined analytical categories.[256] This process risks diminishing the unique perspectives, epistemologies, and complexities inherent within Indigenous worldviews. When conducting research within a Māori context, it is therefore essential to recognise and respect the community's cultural and epistemic norms, remaining attentive to themes prioritised and articulated by Māori themselves.

Upon reflection, a thematic approach was employed to analyse the data collected through the interviews and case studies. As the interviews progressed, I began to observe recurring patterns and themes emerging organically from participants' kōrero. These insights provided sharp learnings and generated rich data, deepening my curiosity about the relational dynamics and interconnectedness between hapū and iwi governance structures.

Analysis

A key challenge I considered when employing thematic analysis in interviews was the potential for researcher subjectivity and bias. My selection of topics and interpretation of data could have been shaped by my own experiences and positionality as a researcher, and as a member of my whānau, hapū, and iwi. It was therefore essential to continually acknowledge and reflect on these biases throughout the analytical process. This reflexive practice, together with the strength and clarity of participants' evidence, helped to mitigate the risk of undue researcher influence and ensured that the findings remained authentic to the participants' voices.

[255] Boyatzis R, E. (1998). Transforming qualitative information: Thematic Analysis and code development. Sage.

[256] Martin-Hill, D. (2009).Traditional medicine in contemporary contexts: protecting and respecting Indigenous knowledge and medicine" National Aboriginal Health Organization.

3.14 Formative Conclusions

I adopted a Kaupapa Māori Research ("KMR") standpoint for this thesis. While several of the research methods employed, such as the literature review, semi-structured interviews, case studies, and the analysis of legislation and court decisions, originate from Western research traditions, they were applied through the lens of KMR. This approach centres Māori ways of knowing and being; it is research *for Māori, by Māori, and with Māori*, and it reflects who I am. Within this framework, these methods served as tools to generate a robust evidence base to test key concepts and respond to the research questions. Specifically, the study examined the evolving nature and relevance of Māori governance relationships between hapū, iwi, and the New Zealand Government.

In the next chapter I explain the interview process and criteria to obtain primary evidence.

CHAPTER FOUR – PART I

Primary Evidence obtained from Interviewing Participants

'It's a rare thing for me to be interviewed on topics like this. So it's important that not only I share my experiences, but more importantly, for me, at least, is to reflect on some of the things that I do, because I don't get asked the question, and really have to reflect on some of the roles and ideas and principles that I have, so thank you, thank you for the opportunity.'[257]

Pita Tipene appreciated being interviewed as a rare opportunity to share, self-reflect, help, explore, and clarify his perspectives in his governance roles.

I acknowledge the Māori leaders who generously agreed to be interview participants, for their time, expertise, and consent to use their names in this research: Pita Tipene (Ngāti Hine, Ngāti Te Tarawa), Marsha Davis (Ngāti Manu, Ngāti Rahiri), Wikitana Popata (Ngāti Kuri, no Ngāti Kahu, no nga iwi katoa o te ika), Anne Kendall (Raukawa ki Waikato), Kyla Ngawairau (Ngāti Maniapoto, Ngāti Kahungunu, Ngāti Tūwharetoa, Ngāti Turangitukua), Maui Hudson (Te Whakatohea, Ngāruahine, Te Mahurehure), Moko Tauariki (Ngāti Naho, Ngaati Hauaa, Ngāti Mahuta, Ngāti Wairere, Ngāti Māhanga ngā hapu), and Julian Williams (Ngāti Makirangi, Waikato). Kanui te mihi. Tēnā koutou ,Tēnā koutou, Tēnā koutou katoa.

Tēnā koutou katoa,

4.1 Introduction

Getting to the heart of the matter goes to the core value of interviews in this chapter. It represents the essence of the interview process to cut through layers to reach the crux of an issue; and uncover deeper insights lying beneath.

The interviews provide direct access to primary sources of evidence to both test and analyse the research questions and thesis hypotheses. This direct engagement reveals real-world data which interweaves threads of the conceptual framework into the fabric of the qualitative semi-structured interviews. The complexities of the participants' experiences and perceptions can result in an abundance of data and an enriched thesis. Consequently, these interviews serve

[257] Transcript of Pita Tipene (2023) at 4.

as direct conduits to primary data experienced at the 'coal face'; from participants who are participating in Māori governance roles.

4.2 Separating Interviews into two sections

For the purpose of presenting the rich interview evidence and my analytic synthesis of that evidence into core themes, the chapter is divided into two parts. I wanted to be respectful of the narratives, experiences and wealth of knowledge that participants shared with me. I considered the participants' time spent on preparing for our interviews, providing their time and intellectual contributions to the interviews invaluable. I could not dilute the transcripts without losing participants' context. Accordingly, I have chosen to privilege their voices in sometimes extensive verbatim quotes. These are embedded in the sections below as pathways into my analysis of emerging issues, and then common/diverse insights.

The natural split will occur between Chapter Four Part I to include participants' responses to the first two questions about the big concepts of Māori social structures and governance; (themes 4.9-4.11). Part II presents evidence and analysis in respect to the remaining questions (themes 4.12-4.16). Both Parts I and II end with a conclusion. I would like readers to enjoy what I have crafted as I present Chapter 4 – Part I and II as a feast of words, rather than a lean banquet. It is important that every participant's voice is heard in the multiple themes presented.

I present governance profiles of the individual Māori leaders who accepted my invitation to be interviewed, and the profiles are attached in Appendix A. Individual quotes from participants are followed by an analysis of their insights, collated under the core themes. Next, I discuss how participants were selected for the interviews.

4.3 Selection of participants

The criteria I adopted are connected to the principles of tikanga Māori. Initially I considered potential interviewees via my own relationships, those connected to iwi/hapū I affiliate to and family networks. I then personally approached these people. This approach ensured a level of trust and shared purpose. It established a familiarity so when interviews commenced, free-flowing conversations could occur between the participant with me. I conducted interviews with eight participants.

All the participants are individuals who have participated in Māori governance roles, either in historical or contemporary contexts, and have been duly elected to their positions at hapū, iwi, regional and national levels. Their election demonstrates their leadership qualities and the respect they command within their communities, bringing a wealth of governing experience and credibility in their responses. Their contributions provide invaluable perspectives on the nuances of Māori governance, which reflect an initiative-taking blending of traditional and modernity in their roles. Now, I talk about the voice of participants.

4.4 The voice of participants

In this chapter, eight voices are presented. Each participant gave consent to share their names and stories which added not only to the credibility of their information, while providing an individualized touch. Each participant contributed unique strands of knowledge and experience that were being woven into the thesis korowai.[258] As the researcher, I connected with the participant experiences being shared.

The organisations participants are involved with, vary in age of establishment, purpose and mission. The organisations serve as backdrops to provide context to participants' stories.[259] Altogether, the participants offered a symphony of voices, each resonating with the authenticity and depth of their individual and collective stories.

To respect the diversity and richness of experience shared by the interview participants, I approached the sensitive topic of age of the participants with thoughtful consideration. I recognised the potential for age-related discrimination; therefore, I chose to categorise ages of participants into bands of age. Each band is represented by a Māori term to encapsulate the essence of that life stage. This approach not only respected the cultural significance of these terms but also aligned with my commitment to value knowledge and experience at all stages of life.

4.4.1 Taonga: The Treasures of Wisdom (60 years and beyond) Age Band

The term "taonga," means a gift or treasure in the Māori culture. In this context, taonga is used to describe Māori leaders usually aged 60 years and beyond. Taonga symbolises a treasure

[258] A traditional Māori cloak. Historically, korowai were symbols of prestige and authority, often worn by individuals of high status within Māori society.

[259] See Appendices Interview Participants Profiles.

troves of knowledge, wisdom, and experience of the participants. The individuals' extensive life journeys have witnessed societal and cultural shifts in Aotearoa, New Zealand. Their insights have a story to tell and a personalised perspective to share. Taonga are therefore living embodiments of history, offering lessons and reflections that only decades of governance experience can provide.

4.4.2 Rangatahi: Learners in Governance (30-60 years) Age Band

In contemporary times, rangatahi typically refer to youth or the younger generation who are learning from their elders. However, in the context of this chapter, rangatahi is interpreted to signify those in the 30-60 years age band. One of the participants is a taonga in age, but categorises her life stage in a state of being a rangatahi. Traditionally, this definition embraces the idea of continuous governance learning and growth that is central to Māori ways of governing. Rangatahi represent individuals who are in the midst of their life's journey, actively engaging with the world, and still accumulating a wealth of governance knowledge and experience. They bridge the gap between the enthusiasm of youth and the wisdom of age, embodying the spirit of development and progress. Their perspectives are crucial in offering a dynamic blend of established knowledge and contemporary understandings. Rangatahi represent succession in progress.

4.4.3 Taonga connecting with Rangatahi

The interconnection between taonga and rangātahi cannot be overstated in this context. Here, there is a link between the experienced guardians of tradition, knowledge, governing skills, and the energetic innovators of the present and future. It is a symbiotic relationship where wisdom is passed down, and innovative ideas are welcome while being considered. This interdependent connection ensures their organisations are grounded in heritage, yet are also adaptable, resilient and forward-thinking.

Moreover, the interplay between taonga and rangātahi is not only vital for cultural and political subsidiarity of their organisations and communities, but is reflective of the broader societal evolution towards inclusive and participatory leadership models. Leaders such as taonga and rangatahi are seen as caretakers, accountable to their tūpuna,[260] to their present communities, and to future generations. Both rangatahi and taonga are needed to work together to promote

[260] Ancestors.

long-term vision of intergenerational wealth and self-governance for the present and the future.

4.5 The tremendous loads of governing

While I researched into the profiles of the participants, it became clear that each participant bore a tremendous workload of governing roles, duties, and responsibilities. Most participants were involved in at least two governance roles at various levels; national, regional or local. Their roles encompassed strategic oversight to firsthand involvement; each task carrying its own set of challenges and demands. In fact, each participant juggled time commitments, governance duties, with accountability responsibilities to their whanau, hapū and iwi. An analysis of the participants' profiles show four of the participants represent their hapū/iwi at the national level,[261] three participants at the regional level, and one participant at the local level.

On a side note, it would be fascinating to conduct an investigate to determine whether there is difference in style, development and experience with the South Island of New Zealand Māori governance leaders, however, this is not the focus of the thesis.

I will now identify where participants come from with their hapū or iwi affiliations in Aotearoa.

[261] Engaging with other iwi at the Pan iwi level and with the New Zealand Government.

4.6 Map of where participants come from

All interview participants govern in the North Island of Aotearoa NZ. The following hapū and iwi (in italicised font) show where participants whakapapa to.

Map 3: where participants come from

Source: "File:=Iwi Map" png <commons.wikimedia.org>.

- *Ngāpuhi*: Located in the Northland region, Ngāpuhi's territory encompasses the Hokianga, Bay of Islands, and Whangārei areas.
- *Ngāti Hine*: A iwi of Ngāpuhi, Ngāti Hine's traditional lands are in the Northland region, particularly around the Kawakawa and Waiomio areas.
- *Ngāti Kahu*: One of the six Muriwhenua iwi, Ngāti Kahu's rohe is in the Far North, particularly around the Karikari Peninsula and extending to the eastern coastal areas near Doubtless Bay.[262]

[262] The Muriwhenua lands are the traditional tribal lands of the six iwi (tribes) of Muriwhenua, New Zealand: Ngāti Kuri. Ngāi Takoto, Te Pātū, Ngāti Kahu Te Aupōuri, and Te Rarawa.

- Ngāti Rahiri: A hapū associated with Ngāpuhi, traditionally based in the Hokianga region.
- *Ngāti Manu*: Another hapū of Ngāpuhi, with traditional lands around the Kawakawa area in the Bay of Islands.
- *Whakatōhea*: Situated in the eastern Bay of Plenty, their territory centers around Ōpōtiki and extends along the coastline.
- *Ngāti Turangitukua*: A hapū/iwi of Ngāti Tūwharetoa, located in the central North Island, particularly around the southern shores of Lake Taupō in Tūrangi.
- *Mōkai*: Associated with Ngāti Tūwharetoa, the Mōkai area is near Taupō, in the central North Island.
- *Ngāti Makarangi*: they are recognized as a hapū within the Whanganui region.
- *Waikato*: The Waikato iwi's rohe spans the Waikato region, including the area along the Waikato River from Te Pūaha o Waikato (Port Waikato) through to Karapiro, encompassing *Hamilton* (Kirikiriroa) and extending to the west coast harbours.

4.7 Diagram of key themes.

I illustrate on the next page; the key themes of primary evidence obtained through mirroring research questions into interview questions for participants through the following diagram:

(i) An understanding of Māori social structures;

(ii) Views of governance principles;

(iii) Which tikanga Māori (value based principles) are practiced in your governance role;

(iv) Are there tensions?

(v) governance epochs and finally;

(vi) NZ Government treatments.

Figure 5: Key Themes

Source: Rakena (2024)

The following sections provide the primary evidence obtained with the interview participants and detail an analysis to each thematic theme.

4.8 Question One: Explain what do the Māori terms whānau, hapū and iwi mean to you?

4.8.1 Decolonisation of Māori social structures

Pita Tipene (He Taonga) articulates,[263]

> 'I've really had to decolonise myself over time. Because I've been raised in a home that spoke Māori just as much as English was spoken. My interpretation of those words are "don't be assimilated" because assimilation has occurred over generations and taught us that whānau or family is your nuclear family. However, for instance, my father's brothers, sisters and their children are whānau. In other words, your mother meant you are my cousin. In Māori terms, your mother was my tuahine.[264] Therefore, people in that generation needed to be given the right descriptors. Instead of nephew and niece it would be either tamahine for niece or tamaiti for nephew. My point being is that your own mother, father and your siblings were your whānau.
>
> As well, people who lived in the community were your whānau. As a result, when I would catch the bus from Motatau in the late 1960's on my Uncle Paul Jones's bus, we'd go

[263] Transcript of Pita Tipene (2023) at 4.

[264] Sister.

through Opahi, Matawaia, Pokapu, to pick up all the passengers who were all very elderly. I never heard of a word of English being spoken on the bus.

We'd go into Kawakawa for shopping or we would go to the movies. Our parents and grandparents would get their groceries, and then everybody would sit in the fish and chip shop in Kawakawa. If you ever knew the seating plan, it was sort of little cubicles where people sat and you could only really fit maybe, five (5) at the most on the seats. And everybody got their fish and chips. What I did was, to go from table to table nibbling on all the best bits out of everybody's fish and chips. Nobody batted an eyelid.

The same applied on the marae. You were both praised and admonished by anybody because you were seen as part of the whānau.'

Pita Tipene highlights the broader, communal nature of traditional yet still contemporary Māori social structures, where whānau extends beyond the nuclear family to include a wider network of relatives and community members. He emphasises the fluidity of roles and relationships in Māori society, reflecting a more collective sense of belonging. Pita Tipene describes a childhood in which the entire community functioned as whānau, reinforcing a wider and all-inclusive shared responsibility, care, and connection for whānau.

4.8.2 Defining Whānau

Pita Tipene continues,[265]

> 'How do I view whānau? Its purpose is in the Māori words whakawhānaungatanga[266] or whānaungatanga.[267] in that its people are of the same blood and have a common interest to look after each other, and a common interest in ensuring that the social fabric of the community is kept intact, and kept in balance like tapu[268] and noa.[269] Everything is in balance.
>
> And as a result, people kept to the law. They knew, that if they stepped out of that, there were consequences. But, you also had your right and your responsibilities to the wider community, and whether it be gathering food or growing food, or whatever else to play your part on the marae. That is whānau.'

Pita Tipene defines whānau as a group connected by blood and shared responsibility, rooted in whānaungatanga, where members support each other and maintain social and spiritual balance. He emphasises the importance of adhering to communal laws, fulfilling duties like food gathering, and contributing to the wider community, especially on the marae. It is also

[265] Transcript of Pita Tipene (2023) at 5-6.
[266] Family relationships; networking to determine how people can connect with other.
[267] Interchangeable with family relationships; networking to determine how people can connect with other.
[268] Loosely translated as sacred.
[269] Free from tapu; common.

important to recognise that family relationships in this context are not limited solely to direct blood lineage members.

Wikitana Popata (He Rangatahi) explains,[270]'So a whānau to me is someone like Rangi and I and our kids. Just Rangi and I, and our three (3) kids.' Wikitana Popata offers a contemporary view, considering his immediate family as whānau, very much a nuclear family.

Julian Williams (He Rangatahi) states,[271]

> 'For me, my whānau is us. My whānau line goes through my Great-Grandads. My hapū is derived from Makirangi, an ancestress of ours. She reminds of a Ngāti Hine story. (laughs). She was one the few women that led battles. There are some larger whānau groups under that, it's quite cool that we have a hapū. I think there would be too much of a distance between being a whānau and an iwi. I like it that we can have natural kinds of whānau groupings to be a hapū in and be represented at our marae, and be in our own space.'

Julian Williams' familial line traces back to his great-grandfathers and is tied to the ancestress Makirangi, a significant figure who led battles. Julian Williams values the close, natural connection of belonging to a hapū as an intermediary between whānau and iwi, appreciating the representation and sense of belonging it provides within their community and marae.

Moko Tauariki (He Rangatahi) i notes, [272]

> 'Whānau first, then hapū, and iwi last. My ahi ka is in Rahui Pokeka, and out in Morrinsville, te ao o Waikato, Ngāti Haua, and Rangiriri is my ahi kaa.[273]

Moko Tauariki illustrates his understanding of the hierarchy of Māori social structures.

Marsha Davis (He Taonga) says,[274]

> 'I work with Ngāti Rahiri, my hapū is Ngāti Rahiri.[275] Okay, whānau to me means immediate family and extended family within the understanding of manaakitanga[276] in whakawhānaungatanga.[277]First to my whānau who are my siblings, my parents my grandparents and then I extend out from there. So it's like the individual within the group situation. It expands as it goes out.'

[270] Transcript of Wikitana Popata (2025) at 3.
[271] Transcript of Julian Williams (2023) at 3.
[272] Transcript of Moko Tauariki (2023) at 2.
[273] Ahi Kaa is an analogy of keeping the home fires burning by occupation and utilising the land.
[274] Transcript of Marsha Davis (2023) at 2.
[275] Transcript of Marsha Davis (2023) at 3.
[276] Hospitality, caring for others.
[277] Family Relationships; networking.

Like Pita Tipene, Marsha Davis describes whānau as encompassing both immediate and extended family, with relationships expanding outward in layers from the core family to the wider hapū.

Kyla Ngawairau (He Rangatahi) affirms, [278]

> 'You can't have a hapū without a whānau. That is absolutely right, and you always see people draw these beautiful triangles where you put these trustees or the chairman at the top and the whānau at the bottom. Well for us, let's flip that around and let's put the whānau up top. Let's put (Nga Uri)[279] o Turangitukua at the top and let's put us [governors] at the bottom, because that's actually how it works.'

Kyla Ngawairau discusses whānau and hapū within levels of cultural subsidiarity and focusses on hapū rangātiratanga[280] for Ngāti Turangitukua. This shows a nuanced understanding of these terms in the context of governance.

Anne Kendall (He Taonga/He Rangatahi) comments,[281]

> 'In the case for me, I have many whānau. I have the whānau that I was born into. Which are my brothers and sisters, and then aunties and uncles. My whakapapa-based ones. As well, I have my marae whānau at home. I have my marae whānau here in Papakura[282] because I'm also incredibly involved with that marae. I have whānau inside of different community groups that I work with. When I say the word whānau, they are people that are important to me, that I have contact with often through the month. They are not somebody that I have contact with once a year or 6 months. So yes, there are those different layers of whānau that I have.
>
> Often some of those whānau, will come together in different ways. For instance, if I have a birthday, I often will have a collective of whānau from all of them present, and I don't see them any different from the whānau that I was brought up with. They are just as important to me as well as the people that are growing up within different whānau.
>
> Another example is if I look at my granddaughter. My granddaughter has been involved with the Whaitiaki group that I'm involved with, and set up for Papakura marae. She's been involved with the marae as well. She's been part of the growing of our hapū coming back to the whenua. She's been involved with some of the growing families inside of this community, but they are part of being a whānau, for me they are because they are always present in my life. As opposed to just what I was born into a bloodline.'

[278] Transcript of Kyla Ngawairau (2023) at 4.
[279] All descendants of Turangitukua.
[280] Tino (very) evidence off greatness, dominion; kingdom.
[281] Transcript of Anne Kendall (2023) at 2.
[282] Suburb of South Auckland NZ.

This kōrero illustrates the layered and relational nature of whānau, extending beyond whakapapa ties to include marae, community, and kaupapa-based connections that hold equal importance in daily life. It reflects how whānau is lived as a dynamic, inclusive network of belonging, not confined solely to bloodlines.

Anne Kendall continues,[283]

> 'The whānau to me is the same as with these other organisations. I don't separate myself from them as being urbanised people moved into a collective, they're whānau. If they ring for something, you go, if they need something, you do everything you can to help, no different from within your own whānau.
>
> We have a collective of whānau, and can see that being continued inside of other whānau groups, not just the whānau I whakapapa to, but also the ones are I don't whakapapa closely to. I wonder whether that's because of being brought up in the village as a child and not being separated from all the other hapū.'

Anne Kendall's statement highlights how whānau is conceived as a collective that transcends whakapapa, extending to urban and community groups where mutual support and obligation are expressed in the same way as within kin. It underscores the continuity of village and hapū-based values in shaping expansive, relational understandings of whānau.

Anne Kendall concludes,[284]

> 'You can't get to an iwi group without first having the whānau and then hapū which forms the iwi. You cannot get to iwi level if you are not hapū or whānau based. Your whānau is the start of that, the beginning that leads to the hapū.'

Anne Kendall reiterates the Māori social structures foster cultural subsidiarity on three levels. The term whānau extends out from whakapapa to whānau kaupapa.[285] Pita Tipene, Marsha Davis, and Julian Williams, whānau and hapū were the connecting links to others all over Aotearoa connected through an eponymous ancestor. Iwi was not.

Maui Hudson (He Taonga)states,[286]

> 'Whānau have ways of being together. The sort of practical and stuff. and when you don't have those ways of being together, that's when you get breakdowns, because they're not connected.
>
> it's the same at each of these other levels, what is the space that's being provided that allow it to come together and kind of work things through. The same with the iwi, so if you're going up, and then beyond the iwi where you start pushing up into, maybe the

[283]Transcript of Anne Kendall (2023) at 5-6.
[284] Transcript of Anne Kendall (2023) at 15.
[285] Whānau of the community.
[286] Transcript of Maui Hudson (2023) at 33.

> waka; or then you head up to the iwi chairs which has become a space for some of those conversations to take place; just those things get formalised.'

Maui Hudson emphasises the importance of whānau having established ways of being together, suggesting that disconnection occurs when those practices break down. It extends the idea of connection beyond whānau to include other levels such as iwi and waka, noting that each level requires a space for collaboration and discussion.

4.8.3 Defining Hapū

Pita Tipene explains,[287]

> 'The hapū was larger kin groups all coming together. You could apply this easily to Pipiwai, for Te Orewai and it would be the Shortlands, the Tipenes, the Henares, the Herewinis, you go through all of the (whānau)[288]. And then you go to Motatau, it's the Tipenes, the Henares, the Primes, the Tautaris, and that is the hapū in our case, we identified as Ngāti Te Tarawa. They grow bigger, their interests grow and they will decide what's good for them.
>
> In growing up, I was really identified as Ngāti Hine te hapū. And you and I only have to look on the on the marriage certificate Te Ropere and Mereana nee Henare,[289] that they were identifying themselves as Ngāti Hine not as Te Orewai[290] and Ngāti Te Tarawa.[291]
>
> In this case, Ngāti Hine te iwi which is a collective of all of those hapū that own all the valleys of Ngāti Hine. In our case, Te Orewai, Ngāti Te Tarawa, Ngāti Kopaki, etc.'

Pita Tipene provides a traditional perspective, emphasising kinship, shared responsibilities, and the balance of social law within communities. He distinguishes between whānau as immediate kin, hapū as larger kin groups, and iwi as a collective of hapū sharing common ancestral lands.

Wikitana Popata (He Rangatahi) offers a contemporary view, explaining his own whānau with his brothers and sisters could extend to a hapū.[292]

Julian Williams states,[293]

> 'For me, my whānau is us. My whānau line goes through my Great-Grandads. My hapū is derived from Makirangi, an ancestress of ours. She reminds of a Ngāti Hine story. (laughs). She was one the few women that led battles. There are some larger whānau groups under that, it's quite cool that we have a hapū. I think there would be too much of a distance between being a whānau and an iwi. I like it that we can have a natural kind of

[287] Transcript of Pita Tipene (2023) at 4.
[288] Family which includes up to three-four generations.
[289] Te Ropere and Mereana Tipene nee Henare are my grandfather's (Wynyard Tipene) parents. Therefore, they are my great grandparents.
[290] Whānau.
[291] Ngāti Te Tarawa is a hapu of Ngāti Hine. It is located in the Te Taitokerau (Northland) region of New Zealand's North Island.
[292] Transcript of Wikitana Popata (2023) at 2.
[293] Transcript of Julian Williams (2023) at 4.

whānau groupings to be a hapū in and be represented at our maraes and be in our own space.'

Marsha Davis continues, [294]

'Particularly, for Ngāti Manu, hapū within the Northland area is the most important entity in Māori culture . This knowledge was taught by our tupuna.[295] I direct you to the recent ruling or recent translation of the Waitangi Tribunal. Of the Treaty of Waitangi claims particularly the Ngāpuhi claims, hapū is the most important entity or the most important structure in Māori culture, in terms of belonging. And that answers your question. The third question, what is iwi, well for Ngāti Manu and Ngāti Rahiri we don't recognise iwi as construct. So basically just whānau and hapū.'

Marsha Davis views aligned with Wikitana Popata, Julian Williams and Pita Tipene. However, she notes her hapū, Ngāti Rahiri, only recognised whānau and hapū, not iwi. This indicates a divergence in the perception of these Māori social structures in different Māori traditional areas in Aotearoa New Zealand.

Kyla Ngawairau articulates,[296]

'The hapū for us is a common tupuna and we have a collective of whānau that come off of that tupuna. The membership of Nga Uri o Turangitukua are all the descendants of Turangitukua. Because our membership is based on whakapapa. It's not based on land.

We represent Nga Uri o Turangitukua within this role and Ngāti Turangitukua Māori Committee is the overarching body. Ngāti Turangitukua Māori committee is the body that has all the power. So if you have a look at our settlement, you'll see it's got really clearly Ngāti Turangitukua Māori Committee. Again, those who are involved in it are Nga Uri o Turangitukua and the authority is with Ngāti Turangitukua Māori Committee.'

Kyla Ngawairau notes how whānau is at the heart of their governance structure for Ngāti Turangitukua Charitable Trust. Like many hapū, Māori people are connected through an eponymous ancestor. Furthermore, the distribution of power and authority lies with Ngāti Turangitukua Māori Committee which is a hapū-centric base.

Anne Kendall reflects,[297]

'Yeah, I was born in a village under Tuaropaki.[298] Yeah, that's where I was born. I guess the hapū, to me, is the collective of all the whānau. For instance, in our hapū, we have a collective of Wairangi. There's about eight (8) different whānau that are connected to more than one hapū, and I am connected to more than one hapū, but mainly, Te Kohera. And our hapū whakapapa back to the same ancestors.'

[294] Transcript of Marsha Davis (2023) at 3.
[295] Ancestors.
[296] Transcript of Kyla Ngawairau (2023) at 3-6.
[297] Transcript of Anne Kendall (2023) at 3.
[298] In the Taupo Region NZ.

Anne Kendall reflects on hapū being a collective of various whānau, connecting back to the same ancestors, which highlight the interconnectedness of these social structures.

Maui Hudson explains,[299]

> 'We have the iwi as the tribe, hapū as the subtribe and then all of our whānau at least in Whakatohea. I'm direct from Ngaitama which is our hapū, elected by hapū members to be the rep[resentative] on our Whakatohea trust board. We are in a situation where we have eight marae and six hapū. Five of the hapū have a single marae and then one of the hapū have three marae, and there's a bit of contention around them. Some of them feel that they are an iwi themselves and so should have their own sort of independence from Whakatohea. Those are the sort of conversations that are happening around there.
>
> We'll often throw around the term whānau, hapū, iwi together. Like "we need to engage with Māori, we need to engage with whānau, hapū, iwi" and there's not really…a clarity around what some of those things mean, particularly on a whānau level because whānau could be quite small or quite large depending on how you're thinking about it.'

Maui Hudson's kōrero reveals both the layered structure and the fluidity of Māori social organisation, showing how whānau, hapū, and iwi are interconnected yet contested in practice. It highlights tensions around autonomy and representation, while also pointing to the ambiguity of scale and meaning when these categories are applied in governance contexts.

Co-authors Rakena and Benton state,[300]

> 'The claimants say that the hapū, as the basic building blocks of Ngāpuhi, must decide important issues regarding the settlement of their claims. They argue that their tikanga is not one of 'democracy' in western terms, but that it is perfectly capable of reaching consensus by requiring participation, discussion kanohi ki te kanohi,[301] and resolution of differences on matters of shared concern. They see an outcome based on a majority vote by individuals, without establishing hapū consent, as undermining their rangātiratanga, especially when the issue is the crucial one of mandate to negotiate a Treaty settlement. In their view, this is not the way forward to an enduring settlement that will empower future generations.'

Rakena and Benton comment that hapū governance is the primary unit of Ngāpuhi.[302] Collaborative decision-making of hapū in Ngāpuhi, talking with each other and achieving consensus on matters are core components of hapū rangātiratanga. Alternative governance forums are seen as undermining their leadership.

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[299] Transcript of Maui Hudson (2023) at 4.

[300] Rakena, M and Benton R.A.(2021). Hapū, Iwi Crown in Ngāpuhi Governance. In Waking the Taniwha: Māori governance in the 21st century (ed. R. Joseph and R. Benton). Auckland: Thomson Reuters at 637.

[301] Face to face engagement.

[302] Rakena and Benton (2020) at 631.

4.8.4 Defining Iwi

Julian Williams reflects,[303]

> 'Waikato is my iwi, Ngāti Makirangi is my hapū, and I have a few hapū, but I only have one iwi, and three marae. My connections to each of those marae are probably based on about four whānau. Our Moana whānau, our Wirihana whānau, our Piripi whānau, and our Henare whānau. Different Henare whānau from your Henare whānau. (chuckle)
>
> 'Now, when I think about logistics, our hapū are probably just as large as some of the iwi around the country, and even when you think of Ngāti Mahuta, I wouldn't say they're a hapū, to me they're an iwi. They are so large and have multiple marae. Ngāti Makirangi would probably have about six (6) marae that affiliate to Makirangi.'

The account illustrates how whakapapa connections to iwi, hapū, marae, and whānau are lived through overlapping layers of kinship, while also revealing the fluidity of scale where some hapū function with the size and influence of iwi.

Wikitana Popata states,[304]

> 'An iwi to me, is our family and my marae[305] down the road here, which is like, we probably got about 3,000 in our hapū alone. But right now though our families are here, we affiliate to Ngāti Kahu as our iwi. Yeah. To be honest, we're only tying ourselves to Ngāti Kahu now because of the settlement process stuff, and of course our whānaungatanga. But, it was mainly the settlement in the land claims, the law that made us all come into the one area and one body.'

Wikitana Popata highlights the strategic reasons for his association with Ngāti Kahu as iwi, which is influenced by settlement processes so they can engage with the Crown.

Kyla Ngawairau explains,[306]

> 'It changes, depending on where we are, and it's very similar within the hapū and the iwi roles. Particularly with Turangitukua, we have the governing role with the hapū. I'm not even going to say the Charitable Trust because it's the hapū that holds the mana. It's the hapū that actually holds that mana, and holds the whakapapa. We are appointed or elected to the governance roles that we know in the Pākehā world, and we get put into that, we're there to do the mahi.[307] In a Pākehā context, yes its governing. But in our hapū, the mana still sits with our hapū. Our hapū can pull us. Our hapū can pat us on the back and they still have a say. So I guess those roles change depending on where you are."

[303] Transcript of Julian Williams (2023) at 4.
[304] Transcript of Wikitana Popata (2023) at 2.
[305] A complex where Māori ceremonies are preformed and where Māori can gather. See Chapter 2. – Marae.
[306] Transcript of Kyla Ngawairau (2023) at 3.
[307] Mahi.

So consider the hapū for us is a common tupuna and we have a collective of whānau that come off of that tupuna.'

Kyla Ngawairau emphasises that within her hapū Ngāti Turangitukua, the mana and whakapapa are inherent to the hapū itself, rather than to any external governance structures such as their charitable trust. Kyla Ngawairau highlights that while individuals may be elected to governance roles familiar in the Pākehā context, the ultimate authority remains with the hapū. This means that the hapū has the power to guide, support, or even remove individuals from these positions, reflecting a governance model deeply rooted in Māori cultural values and collective decision-making. Her hapū holds the true authority, and governance roles are seen as positions of service to the hapū.

Anne Kendall comments,[308]

> 'I remember as a child being brought up that word iwi never being used, and I wondered whether it was more of a modern terminology because I can remember being young and going to the marae. And when they spoke the minute they mentioned their name or their hapū that was as far as they went. They could connect them to all over the place, whereas today, it's more seems to be, I guess the iwi seems to be, waka based. Iwi was never something that I was bought up with. So it'd be interested in knowing where that terminology of iwi originated from. To be honest, I know that my father never used it, and some of my koroua[309] never used it either. They never used the word iwi.'

The nuances of Māori social organisation can vary between different regions and communities. Some areas may have placed more emphasis on hapū affiliations, while others recognized iwi connections more prominently. The evolution of these terms and their usage reflects the dynamic nature of Māori society and its adaptation to changing political, social, and cultural landscapes.

4.8.5 Reciting Pepeha and whakapapa

Moko Tauariki states,[310] 'Koinei taku nei ao. (This is my world). Whānau, hapū, iwi are the very structures that give me my identity.'

Wikitana Popata recites,[311]

> 'No Ngāti Kuri, no Ngāti Kahu, no nga iwi katoa o te ika. My ties to Ngāti Kuri is my Popata family and my ties to Ngāti Kahu and Taipa is my Pikahu family. My tie to Victoria Valley,

[308] Transcript of Anne Kendall (2023) at 4.
[309] Respected elder male.
[310] Transcript of Moko Tauariki (2023) at 2.
[311] Transcript of Wikitana Popata (2023) at 1.

> Mangamuka is my Tipene family. And my tie back here in Kaitaia is through my Matenga-Popata side again. And then my Te Rarawa tie from Ahipara is my Puhepi family. And we are from the Busby's from Pukepuke.'

Julian Williams explains,[312]

> 'So interestingly, our surname, we picked up the Moana surname. So I would regard the Moana's as our whānau. My immediate whānau is Terina and the boys, my brothers and sisters on my mom's side. So my dad's Scottish. So my connection to iwi Māori, my uri[313] is through my mom and then I go from my mom to my grandad, and then follow the male line.
>
> Moana is my whānau name but my whānau before that didn't carry that name. We came from Ngāti Moana, Ngāti Kiwi, and then those were subsumed by Ngāti Makirangi. So for me, yeah, my whānau are the whānau I have here today. But my whakapapa line is my through my grandad's male line is the side that I focus on, that would be my whānau from within that line. I'm quite the, I suppose, almost the definition of hapū it would be the same way as I would think it. When we're working through our Ngāti Makirangi. So those that have come from Makirangi, it was a woman, she was an ancestress of ours. We go from a female line, and there were probably four large whānau names that come from that Makiha or the Morgans, our Piripi whānau, our Moana whānau and our Henare whānau. Amongst them too we have Tawera and Matahuru. So there's a big branch that comes off Makirangi.'

Julian Williams connects his whānau and hapū through both maternal and paternal lines, focusing on their grandfather's male lineage. Several whānau names, such as Makiha, Piripi, Moana, and Henare, share this connection, illustrating the collective nature of whānau and hapū.

Kyla Ngawairau declares,[314]

> 'Yea I saw that question "No hea koe?[315]" and I had a little giggle and thought I better be good to my mother and father. So,
>
> No Ngāti Maniapoto Ngāti Kahungunu, me Ngāti Tūwharetoa.
> E tipu rea ahau kei konei. Ko Maunga Tongariro raua ko Pihanga.
> Ko Tongariro te maunga[316]
> Ko Taupo te moana
> Ko Tūwharetoa te iwi
> Ko te Hiuhiu te tangata
>
> Ki te taha o te hapū Turangitukua
> Ko Pihanga
> Ko Tongariro

[312] Transcript of Julian Williams (2022) at 4.
[313] Descendant; race of humankind; relationship
[314] Transcript of Kyla Ngawairau (2023) at 2.
[315] Where do you come from?
[316] Mountain.

Ko Hirangi te marae
Kop Ngāti Turangitukua te hapū
Ko Tūwharetoa te ao pouri te wharewhare
Ko te Aroha te Whare kai
Ko Kyla Ngawairau ahau.'

Kyla Ngawairau continues,[317]

> 'I don't think there's anyone has a right answer that fits that. It really depends on where I'm standing at any given time. So I fit within whatever it is, the hapū, the iwi, in different spaces at different levels. So within my whānau I would say, I would be the tuakana,[318] in my immediate family. In my mom's family, I would still be that governance trustee, that leader. In my dad's family I'm a pepe.[319]

Kyla Ngawairau recites a formal pepeha that connects her both to her father's and mother's lineage. Her pepeha identifies her relational connectivity to the environment she associates with her marae, her hapū and finally what her name is.

Moko Tauariki states,[320]

> 'My ahi kaa is in Rahui Pokeka, and out in Morrinsville, te ao o Waikato, Ngāti Haua, and Rangiriri is also my ahi kaa.
>
> 'Yeah, I come from Waikato. That's right. I come from Ngāti Naho, Ngāti Mahuta, so I'm hapū first before I am iwi.'

Moko Tauariki demonstrates his relational connections with whenua, environment and his hapū.

4.8.6 Reflections

Julian Williams comments, [321]

> 'I really think it was just the branding exercise like we have Tainui Group Holdings which is a commercial holding arm. Our lands trust is Waikato Raupatu Lands Trust and then we had a Waikato Raupatu River Trust. But we recognise it now. Actually, I don't tell my sons or your mokopuna [322] that they're Waikato-Tainui. I hear a lot of that in people's pepeha.[323] So for me/,' it's not, we're Waikato, not Waikato-Tainui. And Waikato is not the iwi authority. It's anyone that affiliates to the tribe.'

Julian Williams reflects on the branding of Waikato-Tainui, noting the commercial and trust entities like Tainui Group Holdings and Waikato Raupatu Lands Trust. He emphasises a

[317] Transcript of Kyla Ngawairau (2023) at 3.
[318] Eldest child of family.
[319] Baby.
[320] Transcript of Moko Tauariki (2023) at 2.
[321] Transcript of Julian Williams (2023) at 4.
[322] Short term for mokopuna (grandchildren).
[323] It is an way of introducing you. It details your tribal affiliations. Included are your connections to the people, land and places that are important to you.

preference for identifying as Waikato, rather than Waikato-Tainui, and clarifies that Waikato is not an iwi authority but rather it encompasses anyone affiliated with the tribe.

Moko Tauariki comments,[324]

> 'I don't speak for hapū and iwi in this space, I'm not mandated by the iwi or any hapū to do and so I guess I speak for all of Māori. I'm elected through a democratic process, so anyone that is on the Māori roll, and yeah therefore they're the ones that actually put me in the in the seat at the Hamilton City Council o te kaunihera o Kirikiriroa.'

Moko Tauariki clarifies he does not represent any specific hapū or iwi and is not mandated by them. Instead, he speaks on behalf of all Māori, having been elected through a democratic process by those on the Māori electoral roll.

4.9 Analysis

All participants collectively understood the layered complexity of Māori social structures, in historical and contemporary contexts for whānau, hapū, and iwi. While there was a consensus on whānau as the cornerstone of kinship and cultural identity; views on hapū and iwi show variability, reflecting both traditional and contemporary understandings. This theme highlights the evolving nature of these structures, balancing traditional values with modern societal changes. However, all participants' narratives support the importance of Māori social structures as they pertain to Māori governance. More importantly, whānau, hapū and iwi emphasise their interconnectedness with each other.

4.10 Question Two: What does the term governance mean to you?

4.10.1 A Māori lens for governance

Marsha Davis adds,[325]

> 'I want to talk about governance in the understanding of Māori around their understanding of the link between governance and management. Māori are very hands-on people .and they will want to go in and do things themselves rather than sit back and govern, and just make the decisions. There's always a very interesting dynamic of pulling back and pulling back and not getting to involved in the management of things, but staying on the governance side. Again, that's a really foreign dynamic for Māori to make the decision, do it, get it over and done with. Just seek a resolve and carry that action through. It's a new way to just make decisions, sit back and let somebody else do it. This

[324] Transcript of Moko Tauariki (2023) at 2.

[325] Transcript of Marsha Davis (2023) at 9.

> is where there is a blurring of governance and management understanding of that occurs, particularly on marae.'

Marsha Davis's statement highlights the tension between governance and management within Māori cultural and political subsidiarity. The Māori governance approach is deeply relational, emphasising direct involvement rather than delegation. The expectation to separate decision-making from action is a foreign concept, challenging traditional Māori leadership, particularly within marae contexts. This blurring of governance and management, particularly evident on marae, contrasts with conventional juridification Finally, this tension reflects broader challenges in adapting Western governance structures while maintaining cultural integrity and autonomy at local levels.

Kyla Ngawairau comments,[326]

> 'Tūwharetoa is different to other iwi anyway. If we had a look at other iwi, in general , there is an overarching body for that iwi, whatever it might be called. There's one body where everyone kind of goes to, and that's the overarching body, and that's who all the stakeholders deal with. Tūwharetoa don't have that as such. We have multiple agreements; multiple settlements and a different body looks after each of them.'

Kyla Ngawairau's statement underscores the distinctive governance structure of Tūwharetoa, highlighting its decentralized approach compared to other iwi. Unlike iwi with a singular overarching body, Tūwharetoa operates through multiple entities managing separate agreements and settlements. This reflects a form of Māori political subsidiarity, where autonomy is maintained at various levels, ensuring localised decision-making. However, it also presents challenges in stakeholder engagement and cohesion, contrasting with more centralised iwi governance models.

4.10.2 Being responsible

Maui Hudson continues,[327]

> 'I'm going to say what governance means to me. Because I don't know whether my whānau or hapū are on the same sort of wave length. It's about being responsible for things and in some ways sort of reflecting the true essence of mana.[328] What I mean by that is, you just take responsibility for things. It's not a thing about whether you did it or not that, but you're responsible for kind of fixing the situation or the actions. That's how you know.

[326] Transcript of Kyla Ngawairau (2023) at 12.
[327] Transcript of Maui Hudson (2023) at 11.
[328] Loosely translated as prestige or status.

> You are only put in governance roles because you're responsible for whatever the thing is that you're governing. The iwi are responsible for making good decisions around assets. These things all seem to have a little bit of a mix of responsibilities: in part rangātiratanga; in part kaitiakitanga; In part, sort of manaakitanga. All of these things that maybe are qualities that you want your governors to manifest.'

Maui Hudson's perspective on governance emphasises its deep-rooted connection to Māori cultural values, particularly mana, rangātiratanga, kaitiakitanga, and manaakitanga. Governance is framed not as a position of authority but as a responsibility to uphold collective well-being. This aligns with Māori political subsidiarity, where governance is relational and duty-bound, ensuring that decision-making remains accountable to the people and whenua. It highlights a governance model that is both culturally embedded and ethically driven.

4.10.3 Collective Decision-making in Māori Governance

Pita Tipene notes, [329]

> 'In most of my governance roles I'm a chairman. I chair meetings that bring forward the collective will of the people, and sometimes that's very, very clear. It doesn't matter whether you're going to do it by consensus or by vote, you can sense that it's going to be a decision that you're going to come to quite quickly, so you can deal with it quickly. Other times, if it is contentious, well you just have to slow down. You have to go round and around. I don't mean round and around the room, but ensure that collective wisdom, different angles, diversity are being applied. Only then, will a clear and quality decision be made.'

Pita Tipene's statement highlights the relational and consensus-driven nature of Māori governance, reinforcing political subsidiarity. Decision-making is not solely procedural but deeply attuned to collective wisdom, ensuring diverse perspectives are acknowledged before reaching consensus. This reflects traditional Māori leadership principles, where governance is about guiding rather than dictating. The balance between efficiency and inclusivity demonstrates a culturally embedded approach that prioritises collective will over individual authority, ensuring decisions align with shared values and aspirations.

4.10.4 Community

Ann Kendall opines,[330]

[329] Transcript of Pita Tipene (2023) at 9.

[330] Transcript of Anne Kendall (2023) at 4.

> ‘For me, governance is kind of sitting in a space, kind of like the leading the waka.[331] For instance, if I look at the marae here[332] and being part of the governance on that, it’s about being there and working with our staff, and our community to find a way or find out where we want to go as a people. And sitting there ensuring that we get their vision. We make sure that what they say is captured, that we listen. And then, how we've utilised that is, by having the operational arm do the work. So we don't cross over between the two. We know which lane we belong to. I don't think we lead. I think we help the leaders to lead as opposed to being the leader.’

Anne Kendall’s statement reinforces Māori governance as a relational and facilitative process rather than a hierarchical structure. The metaphor of *leading the waka* reflects a collective journey where governance ensures the community’s vision is upheld. It highlights the distinction between governance and management, emphasising guidance rather than control, while navigating away from the rigidity of juridification. This aligns with Māori political subsidiarity, where leadership is about enabling rather than directing, ensuring decision-making remains rooted in collective aspirations and community engagement.

4.10.5 Decision Making

Marsha Davis responds,[333]

> ‘A system by which decision making decisions can be made by groups, or a group of people coming together for the benefit of the hapū. For Ngāti Manu governance rests at the hapū level. I don't think they've got it sorted out. We govern the rest because for Ngāti Rahiri; there are lots of different entities within Ngāti Rahiri that compete against each other. So governance for them is about sorting out the power.’

Marsha Davis’s statement highlights the localised nature of Māori governance, particularly the emphasis on hapū-level decision-making. For Ngāti Manu, governance is centred at the hapū, reinforcing Māori political subsidiarity. In contrast, Ngāti Rahiri faces internal competition among entities, making governance a mechanism for managing power dynamics. This reflects broader tensions in Māori governance, where balancing autonomy, collective benefit, and internal contestation is crucial for maintaining effective leadership and decision-making structures.

4.10.6 Governance structures

Anne Kendall continues,[334]

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[331] Usually a form of transport. In this context, the waka is like the organisation.
[332] Central meeting complex.
[333] Transcript of Marsha Davis (2023) at 3.
[334] Transcript of Anne Kendall (2023) at 4.

> ‘The NZ Māori Council level is the same, because we have the Executive. First we have our Pou[335] who is Sir Taihakurei Durie and then underneath him there’s the Co-Chairs. Then under that, I guess, is the Deputy Chair and then we come to the Executive. Then we have what they call a FARC group, which is the finance, audit, risk, compliance committee. Then we have all the districts, so we have 14 districts operating out of the 16.
>
> If you looked at the governance structure, it's probably the top layer and on the executive is a member from each district. Each district feeds back to its own group. And each district has a chair, a deputy chair and a secretary also. Sometimes it could have a different council representative that attend council meetings.’

Anne Kendall’s statement illustrates a structured yet multi-layered governance system within the New Zealand Māori Council, reflecting a blend of hierarchical and distributed governance. While there is a clear executive structure, decision-making remains tied to districts, ensuring representation and subsidiarity. This framework enables regional autonomy while maintaining national cohesion. The model aligns with Māori governance principles by balancing collective leadership with local accountability, ensuring governance remains responsive to diverse hapū and iwi interests.

Anne Kendall adds, [336]

> ‘So the other structure I work under is not that much different except under our structure. We are a statute under government and we have legislation under the Community Development Act. Our governance structure, in a way, is set up under that process. It is very formal. However, in the way we operate, we are tūturu[337] Māori, while we are marinated in colonisation. I love that, I've use it often, because that is a great way of looking at who we are as a people. And it's so true, we are.’

Anne Kendall’s statement highlights the dual nature of Māori governance within statutory frameworks. Their organisation operates formally under government legislation while maintaining tūturu *Māori* values. The metaphor of being "marinated in colonisation" acknowledges the enduring influence of colonial structures while emphasising cultural resilience.

Anne Kendall comments,[338]

> ‘When you think about at a governance level, when you go after proposals and things, you have to take a collective of different views to get the proposal at the table, to go into government to be able to meet the needs of a cross-section of your community.’

[335] Pillar.
[336] Transcript of Anne Kendall (2023) at 4.
[337] Authentic; real, true.
[338] Transcript of Anne Kendall (2023) at 8.

Māori governance, even within statutory settings, remains grounded in collective decision-making, to ensure diverse perspectives are represented. This reflects the complexities of political subsidiarity, where Māori must navigate both Indigenous governance principles and state-imposed structures.

Kyla Ngawairau states,[339]-+

> ‘Obviously, I’m a trustee on that as well. We have to look after what came through the settlements. We received the assets that we need to look after: A mix of putea,[340] whenua,[341] property, a lot of the primary buildings came back to us.’

Kyla Ngawairau states part of her role as a trustee, includes looking after the assets returned to the Trust in their Treaty settlement.[342]

Wikitana Popata opines,[343]

> ‘I believe that governance is just a Pākehā[344] thing. Governance is, I'm not too sure if we had that in Te Ao Māori,[345] not in the whole governance structure of today, anyway.
>
> We had tikanga. And it was through tikanga[346] and wānanga,[347] that the more wānanga we had with ourselves, the more understanding, people would know that this is the process.
>
> What governance, to me, of today is , it's sort of you write it down, you’ve got your bullet points. And it's like, if you don't stick to this, then the majority rules in some cases. Back in the day of our tupuna, we would wānanga until everyone well, we could have arguments for three (3) to (5) days, until people were satisfied that okay, this is our way.’

Wikitana Popata continues,[348]

> ‘I still hear those stories, from when our kaumatua[349] would say “We used to go through the whole night. We used to hui through the night until everyone was satisfied.” But these days we're just like “Well, this is what the rules say.’ And then you don't really need to have the wānanga on that.’

Wikitana Popata’s statement highlights the fundamental differences between traditional Māori decision-making and contemporary governance processes. Māori governance was historically grounded in tikanga and wānanga, emphasising inclusive, consensus-based discussions rather than rigid procedural frameworks. The shift towards Western governance models is

[339] Transcript of Kyla Ngawairau (2023) at 5.
[340] Finance.
[341] Land.
[342] Ngāti Turangitukua Claims Settlment Act 1999.
[343] Transcript of Wikitana Popata (2023) at 3-4.
[344] Person of European Descent.
[345] The Māori Worldview.
[346] Māori customary law and practices.
[347] A retreat to learn.
[348] Transcript of Wikitana Popata (2023) at 4.
[349] Transcript of Wikitana Popata (2023) at 4.

characterised by formalised rules and majority decision. This contrasts with the deliberative, relational process of traditional Māori governance. This reflects tensions in political subsidiarity where Māori governance must navigate imposed formalities while maintaining tikanga-based decision-making practices.

Moko Tauariki reflects,[350]

> ‘So governance to me, is a very westernised term. It comes with a preset, so this is my interpretation. Okay, it comes with a pre-set structure, that dictates to the people who are purportedly holding any governorship role, that this is what governance must look like. So it has to look like this in a particular way, as it has been prescribed by Western paradigms. That's what governance means to me.
>
> I've been sort of introduced to an existing structure. that has not had the involvement of Māori in terms of what it is, what it should look like. And so it's only really been determined by Western influences, Western ideology as to what a governance structure should look like.
>
> This is one of the challenges that I, as a very, I consider myself to be very pro in my Māori way of thinking, and so for me, I’ve been able to adapt because I'm a very colonised Māori, and I’ve accepted my colonisation. It does not necessarily mean that I have to operate and be influenced and let it determine the way and how I should think as a Māori, and behave as a Māori. Some of the challenges that I observe in their place are the very fundamentals that you and I will consider, “That's just what you do” when you're in a governance structure of any kind.”
>
> Such as having karakia[351] for example, you're about to engage in some very intense and deliberate debate and you want to invite Rongo[352] and Tumatauenga[353] into that space so that there is balance. But when you don't get the opportunity as a Māori to invite those influences into that space, then I'm debating into a world that is quite foreign, that my ancestors brought me into.’

Moko Tauariki critiques governance as a Western construct imposed without Māori input, reinforcing the tension between imposed structures and Indigenous political subsidiarity. Moko Tauariki acknowledges the necessity of adapting but resists allowing Western paradigms to dictate Māori ways of thinking and being. The absence of tikanga, such as karakia, highlights the struggle to maintain Māori cultural integrity within these frameworks. This reflects the broader challenge of integrating Māori governance principles within externally imposed systems while ensuring cultural authenticity and continuity.

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[350] Transcript of Moko Tauariki(2023) at 3.
[351] Prayer.
[352] Māori God associated with healing medicine; listening.
[353] Māori God associated with conflict and opposition; god of war.

Wikitana Popata comments,[354]

> ‘There's been times when it's not that important of an issue and then, like there's been when hapū say, “Oh, we didn't have a hui.” And then there are times where we had to say to them, “ But can you hurry up because we're waiting for you to make a decision.” Then, the chair person would say to the delegate, “Take this kaupapa back to your hapū and talk to them.” And what does the delegate do? They'll go back to the same five (5) people and then they'll talk about it, and then it's like No. But one thing I said to our marae down here, I said, “Well, can you at least put an email out to everyone. So everyone can have a say online.’

Wikitana Popata highlights challenges in Māori political subsidiarity, particularly in ensuring inclusive and representative decision-making at the hapū level. The reliance on a small group rather than broader consultation, reflects limitations in engagement, potentially undermining collective governance. The suggestion of using digital communication, such as email, or video calls, social medium forums, signals an adaptation to modern contexts while maintaining participation. This underscores the ongoing struggle to balance traditional consensus-based decision-making with efficiency in contemporary governance structures.

4.10.7 Hapū Governance

Kyla Ngawairau explains,[355]

> ‘Hapū set our rules of what we need to live up to, and our hapū can actually remove a trustee. And so it was set up that our hapū have the final say. Ours is very different to a lot of standard governance roles.’

Here, the unique governance structure of their hapū is emphasised. This setup ensures the hapū retains the final say, reflecting political and cultural subsidiarity and tikanga Māori. This approach contrasts with standard governance roles, to minimise the influence of juridification.

Wikitana Popata comments,[356]

> ‘No, to be honest, I wouldn't even try to tie tikanga to governance because it comes with a spiritual element to it. We’re governed by the rules that were set not by our ancestors, but by our Gods, our Atua[357] Māori. And our tikanga comes way back then. So when the tohunga[358] stands up and says stuff like “do it like this,” we will do it like this.’

Wikitana Popata distinguishes between tikanga and contemporary governance, noting the spiritual foundation of tikanga guided by Māori Atua (gods). Tikanga authority, is grounded in

[354] Transcript of Wikitana Popata (2023) at 18.
[355] Transcript of Kyla Ngawairau (2023) at 6.
[356] Transcript of Wikitana Popata (2023) at 5.
[357] Māori Gods.
[358] An expert; priest, artist.

ancient traditions and upheld by tohunga (experts). This approach contrasts with the secular, juridified nature of modern governance. His statement highlights the deep cultural and spiritual elements intrinsic to tikanga Māori and emphasises political and cultural subsidiarity.

Wikitana Popata continues,[359]

> ‘So some of our maraes and hapū in Ngāti Kahu, we don’t have governance. It's because we say that the moment you start to write up your own governance and your own constitution, then it's really it's really based for funding purposes. But some of our hapū, they don't have it.’

Wikitana Popata illustrates,[360]

> ‘I can give you an example. So governance down at the marae, things are not working properly is because people think that by us having a constitution and having governance in place, we can have a chairperson, and you can have monthly huis. And then in those monthly huis, we make decisions on behalf of the whole hapū . But what's happening these days is that you'll probably only get five (5) people at a marae committee hui and they are making big decisions on behalf of the hapū. And there's no accountability back to the hapū members. But how our tupuna used to do it, which was like I just said, they wouldn’t have a marae committee hui, they would have a hapū hui.
>
> They would call all the heads of the whānau to come, to come in an wānanga and do it properly. So, there is a marae in Ngāti Kahu that practices this practice. They still have the marae committee hui but after that, then they have a hapū hui and there's no Chairperson There's no secretary.
>
> The proper process to do because when we tried to start our new marae. The marae down the road, they had a committee hui, and they made a decision not to support us. And I was like “There was only like four of you at the hui.” I said, “My family's got the support from other families and they've given us letters.” And I said “Where does your mana come from? Did you just call it at that hui?” That's the clash that we're having. Is that they think they hold the ultimate authority because they’re the Chairperson, and they’re the committee for the marae. But I’m like “No, that's wrong. That's wrong.
>
> We’re all sitting at the same table. Yeah. What do they ended up doing? When they sit in a circle, how like when you go to a marae hui, there’s only the one table. Well, when it turns into a hapū hui they put tables out for everyone.’

Wikitana Popata’s statement highlights significant tensions within contemporary Māori governance, particularly at the marae and hapū levels. It critiques the adoption of formal governance structures, such as constitutions and committees, which emulate Pākehā systems, arguing that these often fail to reflect traditional Māori governance principles. The

[359] Transcript of Wikitana Popata (2023) at 12.

[360] Transcript of Wikitana Popata (2023) at 12.

issue stems from a lack of inclusive participation and accountability, as decisions made by small committee groups are perceived as undermining the collective authority of the hapū.

Traditional Māori governance relied on consensus-building within hapū, where decisions were made collectively through wānanga involving whānau and their representatives. This approach ensured broad participation and alignment with tikanga Māori. By contrast, modern committee-based structures, often with limited representation, are seen as alienating the wider hapū membership and disregarding the collective decision-making processes of the past.

The statement also underscores the symbolic and practical shift in governance dynamics when transitioning from a marae committee hui to a hapū hui. In the latter, there is an emphasis on inclusivity and equality, reflected in the physical arrangement of seating—moving from a hierarchical single table to a circular layout with multiple tables. This change signifies a return to collective governance practices, prioritizing shared authority and mana over individual or committee control.

The clash described in the statement exemplifies the broader challenges faced by Māori communities as they navigate the tension between traditional governance values and the constraints of modern institutional frameworks. It raises questions about the legitimacy of authority in contemporary governance models and the need for systems that honour the foundational principles of rangātiratanga (chieftainship) and collective decision-making inherent in Māori society.

Rakena and Benton note,[361]

> 'At the heart of the claimants' case is the protection of hapū rangātiratanga. They alleged that the Crown was attempting to transform the Ngāpuhi political structure to achieve settlement outcomes that had more to do with its policy preferences that those of Ngāpuhi.'

The claimants emphasise protecting hapū rangātiratanga, alleging that the Crown aims to reshape Ngāpuhi political structures to align with its policy preferences rather than those of Ngāpuhi. This highlights tensions between political and cultural subsidiarity and external influences, which challenge the Crown's approach and underscores the Ngapuhi Hapū

[361] Rakena, (2021) at 643.

adhering to tikanga Māori. The Crown's attempt to overlay Ngāpuhi hapū rangātiratanga and replace with its own subsidiarity would put Ngāpuhi into a neat definable box of Westernised governance.

Maui Hudson articulates,[362]

> 'I've struggled to see times when iwi have made decisions on behalf of hapū, when it's been a hapū decision to make. So when there's hapū decisions. I haven't seen the iwi jump over the top of them and make the decision for them. I mean if it's a hapū decision. It's a hapū decision. But a lot of times the conversation and the kaupapa is an iwi one, which obviously affects hapū. But it's still an iwi kaupapa.'[363]

Maui Hudson reinforces the principle of Māori political subsidiarity, emphasising the distinction between hapū and iwi decision-making authority. Maui Hudson acknowledges that hapū retain autonomy over their own decisions, with iwi generally not overstepping. However, iwi-level discussions often have significant implications for hapū, creating a complex governance dynamic. This highlights the need for clear delineation of decision-making responsibilities while ensuring that hapū voices remain central in matters affecting their interests within iwi governance structures.

Maui Hudson continues,[364]

> 'What happens with my hapū? I have a responsibility to go and talk back to the hapū. To kind of report back, share information, get ideas to bring and contribute into the decision making. But still your decision-making is around the iwi thing. Because there you're responsible to everyone, even if you've been selected by your hapū, there, you're still responsible to all other hapū. You're responsible to all the beneficiaries.'

Maui Hudson highlights the dual accountability within Māori governance structures, where representatives must navigate both hapū and iwi responsibilities. It underscores Māori political subsidiarity, where decision-making is decentralised, yet representatives must balance local obligations with broader iwi considerations. While selected by their hapū, representatives are ultimately accountable to all iwi members, reflecting the collective and relational nature of Māori governance. This dynamic requires careful negotiation to ensure both hapū autonomy and iwi-wide cohesion.

[362] Transcript of Maui Hudson (2023) at 18.
[363] Topic or theme of discussion.
[364] Transcript of Maui Hudson (2023) at 19.

4.10.8 Leadership

Pita Tipene comments,[365]

> ‘I always liken it to a bowl of spaghetti. There's a whole lot of different opinions but you've got to see through it really clearly and make decisions that will take the governance body forward and quite often some of those can be very unpopular. Therefore, you have to be a leader which is listening, hearing and applying collective decision making to meet the general will of the people. That's how I view it.’

Pita Tipene’s statement illustrates the complexity of Māori governance, likened to a “bowl of spaghetti” with intertwined perspectives and competing interests. It highlights the challenge of balancing collective decision-making with effective leadership, ensuring governance remains responsive while advancing shared goals. This reflects Māori political subsidiarity, where leaders must navigate diverse viewpoints, uphold relational accountability, and maintain cohesion. The emphasis on listening and consensus reinforces traditional Māori governance principles while adapting to contemporary governance structures.

Julian Williams reflects,[366]

> ‘So governance for me is supposed to be about leadership. It doesn't mean you have to be a CEO or a Chair, just good leadership. What's in the best interest of the whole collective for those that have put their faith into you. And that means, I mean Waikato had that saying “Waikato Taniwharau.”[367] We’ve got hundreds of Chiefs, it's not a good thing (laughs). Too many chiefs.
>
> People would look at the Chair, the Chair of each Post Settlement Group as the Chief, but they’re not. And where I see some of those things are, they might know everyone that’s sitting on the paepae[368] but they don't know the people that are preparing the paepae,[369] preparing the kai,[370] preparing the marae,[371] preparing the meeting. This is something that's changed. I think of the Lady Te Arikinui.[372] She walked through as a leader, as an ariki,[373] she walked through the whole marae to talk to everyone, to people.
>
> Whereas, I suppose leadership today, I don't know if they don't have the time, or they just don't seem to be recognisable as leaders of one of the largest tribes. And they don't seem to be recognisable for a lot of our people that are at the kohanga reo[374] or working

[365] Transcript of Pita Tipene (2023) at 8.
[366] Transcript of Julian Williams (2023) at 7.
[367] Waikato of a hundred taniwha, on every bend a taniwha). This saying attributes the power and prestige of the Waikato tribes to that of the river.
[368] Paepae refers to a flat, open space where meetings and events often take place with oratory.
[369] Bar; Beam. The paepae is an important symbol of social and cultural identity, representing the communal spirit of the Māori people. Only men orators can be seated at the paepae.
[370] Food; meal.
[371] An enclosed ground used as a meeting place.
[372] Māori Queen (1931-2006).
[373] Chief; first-born in notable family; priest.
[374] A preschool. Kohanga Reo is considered a language nest where young people ages infants 0-5 can register, and the language they are taught in the Māori language.

> on the marae. Before, everyone knew who the leader was, we all know who Kingi[375] Tuheitia[376] is. That's a given, but Post Settlement Group governance. I know my nieces wouldn't know who the Chair is or who's representing those spaces. And it's not leadership's fault. It could be just our people not getting involved.'

Julian Williams critiques contemporary Māori governance by contrasting traditional leadership with modern post-settlement structures. It highlights a shift from relational, visible leadership embodied by figures like Te Arikinui to a governance model where leaders may be less engaged with grassroots communities. The reference to *Waikato Taniwharau* underscores the challenge of having many leaders without clear connections to those they serve. This reflects tensions within Māori political subsidiarity, where governance must balance structural leadership with the relational accountability central to Māori ways of being. It also contrasts with contemporary governance structures that may lack personal connection and visibility among the wider community. Julian Williams profiles the importance of inclusive leadership.

Maui Hudson comments,[377]

> Everyone elected is on the trust board, you represent everyone because the beneficiaries of the trust board are all of iwi, the whole iwi.'

Maui Hudson highlights leadership as collective representation, where trust board members serve the entire iwi. Elected leaders are accountable to all beneficiaries, ensuring community-focused leadership.

4.10.9 Governance Experience

Maui Hudson reflects, [378]

> 'What government roles do I have? I've been on the Whakatohea trust board, probably for the last 12 years. I'm currently the Deputy Chair. From there, they've also appointed me on to some of the entities. In the past I've been on, Te Pa o Oranga our Health and Social Services Company. I have been a member of the Whakatohea Fisheries Trust assets holding company. I've been one of the negotiators for the settlement for the past 6 years. Currently I'm just the chair of Eastern Sea farms, which is one of the joint ventures which we are a part of.'

Maui Hudson outlines his extensive involvement in various governance roles within the Whakatohea trust board and related entities. This reflects his application of political and cultural subsidiarity across multiple domains, which highlighted a commitment to collective

[375] King.
[376] Māori King of Waikato territories, NZ.
[377] Transcript of Maui Hudson(2023) at 8
[378] Transcript of Maui Hudson (2023) at 11.

well-being and his effective leadership. He also states, 'I incorporate Māori values in relationships as a part of my governance and corporate principles are like accountability.'[379]

4.10.10 Our wellbeing

Moko Tauariki reflects,[380]

> 'Once again, our government structures have determined that it has to be managed like this, so we need to create that. It's supposedly meant to go back to our people in the form of a scholarship, in the form of a grants, etc. etc. But if it's to me, if you were to look at it, through a traditional lens Mylene, it would have looked like it something totally different. We would look at actually say, "What does your father need?" So that we are all on the same page in terms of our well-being.'

Moko Tauariki highlights the contrast between government-imposed governance structures and traditional Māori models of resource distribution. Moko Tauariki critiques the formalised, transactional approach of scholarships and grants, emphasising that traditional Māori governance prioritised collective well-being over bureaucratic processes. This reflects Māori political subsidiarity, where decision-making was relational and needs-based rather than prescriptive. It underscores the tension between imposed Western frameworks and Māori approaches that centre on whānau and holistic well-being.

4.10.11 Serving others

Pita Tipene states,[381]

> 'My definition of governance is that anybody who's holding a governance position, both individually and collectively, are kaitiaki[382] of a taonga[383] that belong to the people. In the first instance, they are stewards of kaupapa[384] and also servants of the people.'

Pita Tipene's definition of governance aligns with Māori political subsidiarity by emphasising *kaitiakitanga* and service to the people. Rather than viewing governance as power or authority, it is framed as a responsibility to protect and uphold *taonga* and *kaupapa* for the collective. This reflects traditional Māori leadership principles, where decision-makers are accountable to the wider community and act as guardians rather than rulers, ensuring governance remains relational and values-driven.

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[379] Transcript of Maui Hudson (2023) at 11
[380] Transcript of Moko Tauariki (2023) at 11.
[381] Transcript of Pita Tipene (2023) at 2.
[382] Stewards; guardians.
[383] Precious gift and treasure.
[384] Focus topic of discussion.

4.10.12 Westernised governance

Moko Tauariki comments, [385]

> 'The current governance structure that is based around Western paradigms is the only structure around what governance is supposed to look like. I believe that there are traditional structures that we as Māori once used to have. Some of my frustrations around sitting in some of the spaces, is that we often use Western rules and laws against ourselves in order to try and propel ourselves into a position of power.
>
> The minute that we do that, we've moved right into this world of foreign thinking and then the values of manaakitanga are almost out the window. The process of allowing ourselves, stems not just in the governance space. It actually goes right out into some of the practices that we consider to be traditional and kawa.[386]
>
> What I mean by that is, there were times when women used to speak on the paepae.[387] Here in Waikato, women used to speak on paepae, but, because of western influences and the like, which was sort of done away with. However, back to the governance, we've have lost the arts of allowing traditional ways of thinking. And when I say traditional, I'm not talking about the pre-European times; I'm talking about people who actually come to the table with real practical solutions to very complex problems. We think that we actually have to have a complex solution to a very simple problem. We actually buy into this. It even happens in some of the language that we use. We think we've got to use this very complex language and terminology to try and make people think that I actually know what I'm doing.'

Moko Tauariki critiques the dominance of Western governance paradigms, arguing that Māori have internalised and weaponised these structures against themselves. It highlights the erosion of traditional Māori governance practices, such as inclusive decision-making and manaakitanga, due to colonial influence. The reference to women speaking on the *paepae* exemplifies how Māori norms were altered through adopted frameworks. Moko Tauariki calls for a return to practical, tūturu[388] Māori governance approaches, resisting the unnecessary complexity and hierarchical power structures inherited from Western systems. This reflects a key tension in Māori political subsidiarity, navigating imposed governance models while striving to reclaim Māori decision-making frameworks.

4.10.13 Reflection on interviews

I initially drafted up to 30 questions which were aimed to cover all my bases, and I felt were necessary to test and analyse my research questions against. Before commencing actual interviews, I undertook a pilot testing of these research questions with senior members of my

[385] Transcript of Moko Tauariki (2023) at 7.
[386] Protocol.
[387] Front threshold of meeting house.
[388] Commitment, dedication, devotion.

own family. I requested feedback on the topics, and the flow and structure of the proposed questions. This was an invaluable process under kaupapa methodology to include participants in the co-design of questions. Consequently, I determined my initial 'research intensive questions' were cumbersome. I needed to redesign the set of questions. In a pragmatic approach, I calculated my original aim of having approximately 30 questions would mean I would need to ask one question every two (2) minutes in a 45-60 minute interview. I surmised I would run out of time to obtain evidence and participants would run out of breath. Prematurely, I had already forwarded the 30 questions to participants. Again, the pilot testing addressed the length of time needed for the interview, and I rehashed and culled down the questions to seven key questions, which could be responded to in a 45–60 minute allocation comfortably. The pilot testing was an invaluable tool to set the stage for effective and competent interviewing.

While the interview cohort was small, discussions were in-depth, and there were gasps of relief from participants at not having to rush to complete the interview questions. All participants enjoyed a relaxed space to pause and reflect over their responses. Some interviews even extended into 60-90 minutes; with the end result being an abundance of data. I remember vividly my introduction to an interview with my whānaunga[389] Pita Tipene, informing him of my new approach for interviewing:[390]

> 'Kia ora. Essentially Pita, for the interview, I've thrown away all my questions because they didn't work as well as I thought they would. But it's essentially five things. First, Looking at the interpretation of governance in your role. What kind of principles or Māori principles or values do you utilise in your role as a governor? Are there any tensions with your Hapū or with Iwi, and how are they managed? And whether or not you think that the government has always shown, or has shown, preferential treatment towards iwi, and anything else you would like to add?'

Two more research questions were added to the mix. The additional questions were:

1. Explain what do the words whānau, hapū and iwi mean to you?

[389] Relative.

[390] Interview Transcript of Pita Tipene (2023) at 1.

2. Where does your organisation fit on the cycle of governance epochs: Is the organisation who represents the hapū or iwi still adapting, stagnating, in revolution or in transformation?

I was able to ask the additional questions of every participant in the allotted time. I requested a repeat interview with Whaea[391]Ann Kendall with my improved list of questions, she kindly consented.

4.11 Conclusion

The selection of interview participants was guided by personal relationships and whakapapa. The Kaupapa Māori Research process ensured trust and mutual understanding was present to create an ambience for culturally safe conversations with the participants. All participants engaged in multiple past and present Māori governance roles and brought insights into navigating westernised governance principles while contemporaneously integrating tikanga (Māori value-based principles) into their governance practices. Their experiences reflected a blend of tradition and modernity, with diverse perspectives on Māori leadership and governance.

Finally, all participants were comfortable in expressing westernised best practices and terminology such as accountability, stewardship, leadership, role modelling, and collective decision making. But they uniformly housed these within their own Māori world view that stressed the critical importance of carrying these governing responsibilities out in relational ways. I have provided questions 1 and 2 and now Chapter 4 part II concludes the evidence of all participants responses.

[391] Respectful title for an older woman.

CHAPTER FOUR – PART II

Primary Evidence obtained from Interviewing Participants

> 'I've read and understood the information sheet you've given me about the project, and the questions about the project. Agree to participate in the project? Yes, I agree to the interview being recorded. Yes. I agree to be identified in the following way, yeah, I'm comfortable with the full name. I don't mind about that.'[392]

Tēnā koutou katoa,

Welcome to the Chapter Four – Part II of "Interview Connections with Governance Participants. This chapter will analyse sections 4.13-4.17 and conclude this chapter with a summary in section 4.18.

4.12 Question Three: What Māori principles are practiced in your governance organisation?

4.12.1 Tikanga Māori

Pita Tipene states, [393]

> 'To some extent, it depends on the type of governance that you're part of. The principles still apply, but the application of tikanga in your governance, your kaitiaki or responsibilities are different. Here's an example: I'm a trustee of the Waitangi National Trust. What I have to remember is, that the Waitangi National Trust has its own constituting legislation. It is government legislation, which is really clear. And I may have some ideas on what needs to be done. But if you're not adhering to legislation there are consequences.
>
> You compare that to say Te Rūnanga o Ngāti Hine, which has no government constitution. It's not a charitable trust. It's not an incorporated society. It's rules are the tikanga of Ngāti Hine. When you use that as two sort of polar opposites, in the end, you still have to apply the same responsibilities. You are a steward of kaupapa, either tangible or intangible assets. You still have to apply the same responsibilities of being open, transparent, and have integrity.'

This duality reflects the broader reality for many Māori governance entities, which must navigate the intersection of tikanga Māori and imposed Western legal structures. The analysis underscores the importance of maintaining tikanga Māori while engaging with external

[392] Transcript of Maui Hudson (2023) at 1.

[393] Transcript of Pita Tipene (2023) at 8.

systems, to ensure that governance practices remain culturally credible and aligned with Māori aspirations for rangātiratanga.

Marsha Davis discusses, [394]

> 'Yes, they are, because tikanga Māori [395] is practiced within the meetings. Let's say we have meetings, definitely; we will always have a prayer.[396] We always start with a mihi.[397] We always follow with a welcome to visitors. We'll go through all of those things that perhaps that on a non-Māori board won't do.
>
> There are certain regulations that we have to uphold. They are all of the Māori principles of manaakitanga,[398] and whakawhānaungatanga,[399] because we are a hapū-based entity. We are very much aligned to whakapapa,[400] very much aligned to succession identification of new people coming up, and young people. We are trying to get them to come up through the organisation.
>
> Not that it's always successful, but that is from a sense of culture. The most important thing is that we approach everything from a multi perspective like our strategic planning that we're working on at the moment. We look at social development education. Housing for Māori in particular, our beneficiaries health for Māori, particularly our beneficiaries. Again, this governance is intertwined within manaakitanga, whakawhānaungatanga and whakapapa.'

Marsha Davis explains the integration of tikanga Māori in meetings and decision-making processes, and reflects on the principles of manaakitanga and whakawhānaungatanga. Her hapū governance is deeply grounded in whakapapa.

Kyla Ngawairau comments, [401]

> 'We practice all the tanga,[402] but particularly for Turangitukua we always talk about Pihanga our Maunga.[403] We talk about what we needs to do, to be in line with our kuia,[404] Pihanga. The tikanga[405] needs to follow her and what she does. To put it briefly that's about manaakitanga and kaitiakitanga, because Pihanga is our kuia. Pihanga is the one who did our first karanga[406] as she outstretches her arms to embrace us all. Pihanga also has wairua.[407] Our wairua flows from her down to us, and we are kaitiaki.
>
> As long as we can stand tall and proud in the tikanga of Pihanga, and that's basically what our hapū talk about, our vision, is along those lines of 'stand tall and proud in the

[394] Transcript of Marsha Davis (2023) at 4.
[395] Māori valued- based principles and customary laws and practices.
[396] Karakia.
[397] A tikanga Māori ritual of welcoming people formally.
[398] Hospitality; care for others.
[399] The process of establishing good relationships.
[400] Genealogy; family history; lineage.
[401] Transcript of Kyla Ngawairau (2023) at 7.
[402] A suffix used to make verbs into nouns, it can also mean the suffix added to nouns to designate the quality and to modify another base derived from the base noun.
[403] Mountain.
[404] An older women usually of another generation. Usually, it reflects a grandmother.
[405] Māori customary law and practices.
[406] Call of Welcome.
[407] Spirit.

> tikanga of Pihanga We're doing what's right because we're looking after the whenua.[408] We're looking after the people. Because that was her role. If we adhere to her tikanga, then we're going in the right direction.
>
> Everything about Pihanga is really about a mama, a kuia,[409] and all the nurturing. We do talk about all the tanga in the world because she does everything, and we do that. Or we try very hard to live up to that.
>
> A lot of whānau hear the story about the mountains, and how a lot of Maunga[410] fought over Pihanga. Our story is basically says that Ruapehu was the koro. She [Pihanga] being the maiden. And she got to the point where she was ready to have her suitor. Then she called for them. And that's how we look at it. Our story is opposite to the other stories where it kind of makes all the mountains look like "Oh we want her" and "We're going to fight for her." There was a whawhai[411] that happened but it was at her call to say, "I'm ready." Then each of the Maunga went through their journey and they then moved away.'
>
> That's the reason why I said it because I knew we were going to talk about the Turangitukua side. It is very important to include her. So we're talking about the old days, she nurtured. And there's this story about the nurturing. And then you look at today, she's still doing that because the towns municipal supply comes from her.
>
> When we talk about Pihanga, we talk about the connections of that whakapapa. A lot of people have come to realise that Turangitukua wahine[412] are very strong and we always put it down to Pihanga.'

Kyla Ngawairau emphasises the deep connection to Pihanga their Maunga,[413] and how her tikanga guides their governance practices. Governance is aligned with manaakitanga and kaitiakitanga, which reflects Pihanga's nurturing and spiritual role. The hapū's whakawhānaungatanga vision to "stand tall and proud in the tikanga of Pihanga" ensures trustees protect the whenua and people, while they honour ancestral stories. and maintain cultural integrity.

Maui Hudson articulates,[414]

> 'I incorporate Māori values in relationships as a part of my governance and corporate principles are like accountability. Yes, because they can all sit alongside each other. Accountability can be reflected across all of those things.
>
> Accountable to people and manaakitanga,[415] accountable for the environment with kaitiakitanga.[416] Accountable to the entity or rangātiratanga[417] or something.
>
> And that's where it's actually important, because a lot of the practices that you're doing that reflect rangātiratanga, or reflect kaitiakitanga. The Māori side is really good at

[408] Land.
[409] An respected elderly woman.
[410] Mountain.
[411] A Fight,
[412] Women.
[413] Mountain.
[414] Transcript of Maui Hudson (2023) at 11.
[415] Hospitality; care for others.
[416] Stewardship.
[417] Leadership.

> expressing their values, and in some ways tikanga. But that's not really good at talking about process.'

Maui Hudson incorporates tikanga Māori and corporate principles into governance. He emphasises accountability across multiple domains: manaakitanga, kaitiakitanga, and rangatiratanga. While Māori practices effectively express values and tikanga, Maui Hudson reflects on the challenge in articulating process.

Anne Kendall acknowledges, [418]

> 'I know that tikanga is important. The beauty of tikanga in the urbanised area is that they've handed it over to another group and then it's handed back again. For instance, [Papakura Marae, Auckland NZ] is an urbanised marae. It is the first whare[419] for tangi.[420] The tikanga is Tainui. For instance if a tangi[421]is for Tainui, the tikanga will be Tainui, and then if it's Ngāpuhi, then it will be handed over to Ngāpuhi to run. Then it will be handed back to them [Tainui]."

Anne Kendall highlights the adaptive application of tikanga in urbanized areas, such as at Papakura Marae in Auckland. The marae follows Tainui tikanga for tangi (funerals) but allows other iwi, such as Ngāpuhi, to apply their own tikanga when appropriate. This practice ensures cultural practices are respected and maintained within a diverse, urban context. Anne Kendall concludes, 'There's manaakitanga, whānaungatanga, rangātiratanga, mana motuhake as far Conversely, Wikitana Popata asserts, [422]

Wikitana Popata continues,[423]

> 'It comes down to like about people have forgotten about that old tikanga, and then people have become quite complacent and lazy. And they're just like "Oh, I need to get home, I'm tired." And I was like "Oh, if you're tired, you should have just stayed home because you're ruining the buzz. "It's like "Hey, we're onto something good, but because you're tired, you're turning everyone's buzz down.' (laughs.)

Wikitana Popata's kōrero emphasises that tikanga is inseparable from its spiritual origins, rooted in the authority of atua rather than human decree. It shows how everyday practices, such as restrictions around kaimoana, are grounded in ancestral narratives that embody divine instruction and reinforce respect for the natural world.

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[418] Transcript of Anne Kendall (2023) at 11.
[419] A place, house where the deceased can lay in state.
[420] A Bereavement.
[421] A marae is made available for a bereavement, when someone had passed so they can lay in state, and be visited by whānau.
[422] Transcript of Wikitana Popata (20213) at 5.
[423] Transcript of Wikitana Popata (2023) at 13.

Reflection

As a researcher, I analysed common themes and concepts, and it became clear, that all participants highlighted the importance of integrating tikanga Māori governance to make their new governance organisational entities uniquely Māori centric. Their governance roles were framed within Māori tikanga as a default position; while attempting to strike a balance alongside effective westernised governance practices for contemporary development and economical sustainability. Manaakitanga and kaitiakitanga are considered to be the highest forms of tikanga Māori, and featured prominently across all participants' evidence. These values were expressed in Māori culture and preferred in ways of Māori self-governing.

4.12.2 Whakapapa

Maui Hudson comments,[424]

> 'There's obviously this whakapapa element, so whānau whakapapa to a hapū. In our context you may have whakapapa to different hapū but you need to choose the hapū that you're going to vote for as a part of elections. When you're on the register, you have a primary hapū, and that's the one that you vote into. But your whakapapa allows you to connect to any others and then you can participate in them in the way you like in a practical way, but the voting only happens in the one that you've elected.'

Maui Hudson discusses the role of whakapapa in hapū participation and elections. Individuals with multiple hapū affiliations must choose a primary hapū for voting purposes, though they can engage with their other hapū practically. This process respects the individual's whakapapa connections while it ensures structured electoral participation.

Maui Hudson continues,[425]

> 'There's obviously a sort of flexibility. You've got whānau that could be kaupapa whānau, which is a different whānau from our whakapapa whānau. It's all right, there is a flexibility. Those whānau have their own sort of accountabilities to themselves.'

Maui Hudson accentuates the flexibility within Māori social structures, which acknowledge the existence of kaupapa whānau (based on shared goals or values) alongside whakapapa whānau (based on genealogy). Each type of whānau has its own accountabilities, which allowed for diverse forms of participation and responsibility within the community. This flexibility aligns with Māori value-based principles and political and cultural subsidiarity.

[424] Transcript of Maui Hudson (2023) at 5.

[425] Transcript of Maui Hudson (2023) at 5.

4.12.3 Manaakitanga

Julian Williams states,[426]

> ‘I really do believe in it, it's a common one, everyone talks about Manaakitanga. I really do believe in that concept of lifting others with koha,[427] your mana,[428] to someone else. You can create a platform for everyone to come up to, rather than steps to get away from everyone. I really believe in manaakitanga.
>
> When Terina and I talk about for us, what’s the point in having a beach place and enjoying it by ourselves? We need everyone to enjoy it, to make it memorable, to make it valuable. It just wouldn't be a success without having everyone else enjoy your successes. And that's what manaakitanga should be doing. I’ve gained some success; how can I help you? How can I lift my marae to the same spot, or at least create a platform for them? I'm really a big one with manaakitanga.’

Julian Williams stresses the importance of manaakitanga to implement and to uplift others and sharing success to benefit the community. He advocates for creating inclusive platforms that enable collective advancement rather than individual elevation. This approach aligns with tikanga Māori, and reinforces political and cultural subsidiarity, while it challenges the individualistic tendencies often associated with juridification.

Moko Tauariki reflects, [429]

> ‘To me, manaakitanga also invokes the value of serving others, being a servant and being a host. In Waikato I have a duty to manaaki anybody, that is not from here. It doesn't matter what iwi or what ethnicity, the value of manaakitanga must prevail. Irrespective of the views that they have, the different views that they have at the end of the day, we can agree to disagree, but we should still be able to demonstrate manaakitanga at a high level. We should still be able to sit at the same table and have a kai[430] and look each other, and be quite respectful to each other.’

Moko Tauariki accentuates manaakitanga as a core value, emphasising the importance of serving and hosting others with respect and hospitality. In Waikato New Zealand, this duty extends to all, regardless of iwi or ethnicity, and it prioritises maintaining respectful relationships despite differing views. This approach embodies tikanga Māori while it reinforces political and cultural subsidiarity. Manaakitanga fosters inclusive, and respectful governance practices.

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[426] Transcript of Julian Williams (2023) at 9.
[427] Gift; respect.
[428] Authority.
[429] Transcript of Moko Tauariki (2023) at 6.
[430] Eat bread together, share food.

Moko Tauariki continues, [431]

> ‘The element of manaakitanga, is often absent in those places of governance, particularly in the space where I am right now. We are purportedly meant to be making decisions for the wellbeing of the people in our city, but quite often I feel that our decision making has absolutely not to do with the well-being of the people in our city, because it's actually determined by how much money you have.
>
> And so the factor of applying an equitable service across our city, to people in need is often overlooked because it has fiscal constraints. Even though we have the ability to do, it we actually think that there are far greater places where we can put some of that financial investment. We quite often forget about the people who are not living in homes that are living on the streets, got kore[432] kai (no food), are sitting in their homes with no power, because the power companies cut them off, etc., etc. A whole lot and the demographic that is affected by this the most are not Pākehā people. They are Māori people. They are Pacific Island people. That's the demographic that is affected by some of the decisions that we make in council.’

Moko Tauariki critiques in his role as a city councillor, and the absence of manaakitanga in decision-making processes within his current governance role. Decisions purportedly for the well-being of city residents are often influenced by financial constraints, which neglect equitable service provision, particularly for Māori and Pacific Island communities. This highlights a disconnect from tikanga Māori and political and cultural subsidiarity, and reiterates the need for inclusive, compassionate governance.

4.12.4 Kaitiakitanga

Julian Williams comments, [433]

> ‘Kaitiakitanga in this sense is, it's not just protecting a taonga[434] but protecting our bloodlines, and our tikanga. Guardianship of those things we fought for and lost. Guardianship of the kōrero[435] that we received from our tūpuna[436] and applying them appropriately so that wea are being respectful. So kaitiakitanga is generally associated with the environment but I believe it's much wider than that, you can apply it to our children.’

Julian Williams broadens the concept of kaitiakitanga beyond environmental stewardship to include the protection of bloodlines, tikanga,[437] and ancestral knowledge. This holistic guardianship involves respecting and appropriately applying the wisdom of tupuna.[438] By

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[431] Transcript of Moko Tauariki (2023) at 4.
[432] Do not have anything.
[433] Transcript of Julian Williams (2023) at 9. Kotahitanga in this context alludes to ‘being of one mind in purpose.’
[434] A prized possession; treasure.
[435] Language; to talk about;
[436] Ancestors.
[437] Māori value based principles.
[438] Ancestors.

extending kaitiakitanga to encompass the care of children, Julian Williams underscores the importance of tikanga Māori, political and cultural subsidiarity in governance.

Moko Tauariki reflects,[439]

> 'In my world view, I am a kaitiaki[440] of everything to do within Kirikiriroa,[441] and also in terms of the work that we do as a council. I have a duty as a kaitiaki to make sure that the principles and the values of kaitiakitanga are not being diluted, but, in fact, of being upheld at the highest level. While this might be a challenge for many of my colleagues within the Council, it just means that there are areas that development needs to happen as to ensure that the people who are looking after our natural places understand why they are doing it, and not just because they're doing it, because it's a job. I want them to feel that actually, you're keeping our city pristine and clean, not just because that is the right thing to do. But there are kaitiaki values behind it. And in applying the values or the principles of kaitiakitanga by default, you are giving effect to manaakitanga at the same time.'

Moko Tauariki emphasises his role as a kaitiaki in Kirikiriroa, to ensure that the principles of kaitiakitanga are upheld in council work. This involves educating his colleagues about the deeper significance of their actions beyond mere job responsibilities. By promoting kaitiaki values, Moko Tauariki aspires to enhance environmental stewardship and simultaneously foster manaakitanga. All his endeavours are reflective of integrating tikanga Māori, political and

Kyla Ngawairau states,[442]

> 'Kaitiakitanga is obviously huge for all Māori. So in terms of the PSGE itself, we have that role and obviously I'm a trustee on that as well. We have to look after what came through the settlement. So that's part of that governing role. So when the Charitable Trust was set up, we received the assets that we need to look after: a mix of putea,[443] whenua,[444] and property. A lot of the primary buildings came back to us.
>
> The setup of the Charitable Trust was also to establish a cultural identity learning centre to maintain waahi tapu[445] and to also look at our whānau and support them into ownership of residential homes within Turangi,[446] within our whenua.[447] Also, in terms of commercial; there was a look at properties that could support our whānau in participating in that commercial life. So all of that combined is to do with kaitiakitanga.'

[439] Transcript of Moko Tauariki (2023) at 6.
[440] Steward; guardian.
[441] Hamilton NZ was originally the site of several Māori villages (kāinga), including Kirikiriroa ("long stretch of gravel'"), from which the city takes its Māori name.
[442] Transcript of Kyla Ngawairau (2023) at 5.
[443] Finance.
[444] Land.
[445] Cemetery.
[446] Turangi is situated in the middle of the North Island of Aotearoa.
[447] Land.

Kyla Ngawairau highlights the significant role of kaitiakitanga within their PSGE. As a trustee, they are stewards with the responsibility to safeguard assets received through settlements. Kyla Ngawairau also focusses on maintaining their cultural identity in their multiple roles. This comprehensive approach to governance reflects tikanga Māori, with political and cultural subsidiarity.

Kyla Ngawairau continues,[448]

> 'One of the things that we do in terms of governance, is just to keep on track with your governance roles. I always look at kaitiakitanga because it is so wide. Our role is to look at Pihanga just as much as she looks after us. Within that, we need to look after her and we have to tell her story, to look after her we have to explain to whoever are stakeholders, council, or government, what she means to us and how she fits into this picture and that they just have to get on board.'

Kyla Ngawairau emphasises the broad scope of kaitiakitanga, and highlights the reciprocal relationship with Pihanga, the sacred mountain of the region. Governance roles included educating stakeholders, such as councils and government, about the significance of Pihanga and ensuring they understand and respect her role in the community.

Kyla Ngawairau notes,[449]

> 'That's the beauty of Māori governance. Māori governance isn't about just the person who's at the table. I strongly believe Māori governance is about kaitiakitanga. And that means if I said something to my auntie who can go and talk to that cousin down the road- that I'm having a trouble with it, kaitiakitanga bring us together in a more mutually beneficial way. I always talk about kaitiakitanga and manaakitanga because, at the end of the day everything Māori does comes down to that, no matter which tanga you use that's always right at the base of that. Because that's our whakapapa aye, is to look after each other.'

Kyla Ngawairau highlights the collective and relational nature of kaitiakitanga. Effective governance extends beyond formal roles, which emphasises mutual support and community cohesion through kaitiakitanga and manaakitanga. These foundational principles guide all Māori actions, rooted in whakapapa to ensure governance practices foster collective well-being.

Kyla Ngawairau explains,[450]

[448] Transcript of Kyla Ngawairau (2023) at 10.
[449] Transcript of Kyla Ngawairau (2023) at 15.
[450] Transcript of Kyla Ngawairau (2023) at 11.

> ‘We pushed a lot of that kōrero through, and we do that at all levels even as a part of our governance. When we talk we put that out in front. It's not just about, we look after this property, and this is how much we make. For us it’s not that. We need to be accountable, and we need to run those things absolutely. We need to be on the ball for that. But the most important thing is we're doing it because we need to look after our whānau, our rohe.[451] We need to be good kaitiaki.’

Kyla Ngawairau underscores the importance of integrating traditional principles into all governance levels. Accountability and fiscal management are essential, but the primary focus is on caring for whānau and their rohe.[452] This approach underscores the importance of kaitiakitanga, ensures decisions prioritise the well-being of the community and environment, and align with tikanga Māori, political and cultural subsidiarity.

Kyla Ngawairau concludes,[453]

> ‘I always talk about kaitiakitanga and manaakitanga because at the end of the day everything Māori do comes down to that.
>
> We are always looking at how we can be better kaitiaki for our rohe. Because for us, it's what's most important. This is our whenua; you can’t be a kaitiaki unless you connect to the whenua. This is our whenua; we have to lead that.’

Kyla Ngawairau’s korero highlights how kaitiakitanga and manaakitanga underpin Māori ways of being, framing responsibility to the whenua as central to identity and leadership.

4.13 Question Four: Whether tensions exist in your relationship with iwi or hapū and how are they managed?

4.13.1 Tensions in Tikanga Māori

Marsha Davis states,[454]

> ‘Another tension is on Waitangi Marae; we have certain rules and regulations are observed where tikanga is observed and where women can't speak. Those sorts of tensions come into play when you have very important female leaders from other hapū that come in and want to speak and can't speak. And so those are the kind of everyday tensions that are here. It is quite normal for Māori and for hapū rivalry so I’m calling tensions normal.
>
> How do we manage it? By that I mean by being very generous to our visitors in terms of welcoming them, treating them with respect and listening to what they say. And even if

[451] Transcript of Kyla Ngawairau (2023) at 14.
[452] Boundary; region, territory.
[453] Transcript of Kyla Ngawairau (2023) at 15.
[454] Transcript of Marsha Davis (2023) at 5-6

you don't agree, to being very gracious and taking it on board. I didn't grow up on a marae but what I observed on a marae, it's a place where everybody gets to say what they want to say and you listen with respect, and you may debate. And you may disagree. And you may agree. But it's a safe place to say anything that you want, and that's where all the tensions come out.'

Marsha Davis identifies the existence of multiple tensions at the governance level, and suggests that these challenges are common and should be managed through respectful and inclusive discussion. Marsha Davis talks about how the Marae is a safe space to for open dialogue and debate.

4.13.2 Tensions with Whānau

Kyla Ngawairau remembers, [455]

> 'My cousin and I, we had a real huge blowup[456] on a kaupapa. We knew it was going to happen, we just hammered each other in the hui, and we just went for it. A couple of people were like, "should we jump in?" And a couple of other people said "Leave them because you'll be bitten. So just leave them alone. They're all right, they're whānau." We both went to town. At the end of it, he goes "Well, I'll pick you up in 10 minutes and we'll go for a coffee. I was like "Yea, you're buying lunch, by the way."
>
> My other cousin said, "Oh, he said, he's coming to pick you up, and apparently, he's buying lunch. So I'm coming for lunch, too." She had a laugh, and off we went, because your whānau means more to you and that relationship means more to you than anything, you find a way through, and for us, having a kai,[457] having a cuppa is a way we tautoko[458] ourselves.'

Kyla Ngawairau shares a personal experience of resolving tensions and highlights the importance of family relationships and the strategy of sharing 'a cup of coffee together.' I recount this scenario to my brother, he cracked[459] up with laughter, smirked and then said, "I can see this happening, because this is what I do with my relations, fight and then make-up with food."[460]

This narrative illustrates the resilience of whānau relationships and the tikanga Māori principle of tautoko.[461] Despite intense disagreements during hui,[462] the familial bond prevails, and underscores the importance of maintaining strong, supportive relationships. This approach

[455] Transcript of Kyla Ngawairau (2023) at 16.
[456] Argument, feud with each other.
[457] Food.
[458] Support.
[459] Exploded.
[460] Primary evidence with my brother DD in 2024.
[461] Support.
[462] Meeting.

aligns with cultural subsidiarity, and emphasises conflict resolution and unity through cultural practices.

Wikitana Popata illustrates,[463]

> I'll be honest, it's not healthy at all. Like we've been clashing hard out. Yeah, like we've been really clashing. I've been attending all the rūnanga for Ngāti Kahu hui since I was young and then there were times where like two (2) years ago I went to the rūnanga and I asked them if they could support my whānau to establishing a new marae.
>
> I was talking to the Chairperson of the rūnanga, and I said "Well hang on, I remember when you came to us a couple of years back and you came to ask the rūnanga to support you in your marae, and the rūnanga said yes. Then she said to me, "No." So, we went and asked the-our other marae. And I was like "We've just spoken to your other relations, and they said you didn't even ask them."
>
> I called them out. And then after that day they just didn't like me. There was a lot of ego. And then I said, "Look, I'm not picking on you. I'm just stating the fact that you didn't go through that process. So why are you forcing us to go through that process?" There were other marae within Ngāti Kahu where they have ended up just starting their own marae. They didn't ask the next marae. What happened was a lot of these marae when they established our new marae. It's either because they have a new vision or a new belief. Or they had a run in with the other marae, and then they left.'

Wikitana Popata's statement reveals significant tensions can exist within Māori governance, particularly in the dynamics between rūnanga, marae, and whānau decision-making. It highlights his frustration with a perceived lack of transparency and procedural integrity when seeking rūnanga support for establishing a new marae. The clash between centralised governance structures and hapū autonomy is evident, with some whānau choosing to establish marae independently, often due to differing visions or past conflicts.

This reflects a broader challenge in Māori governance, where rūnanga structures, intended to represent iwi interests, may not always be seen as legitimate or inclusive by all members. The persistence of hapū autonomy, despite bureaucratic obstacles, demonstrates the resilience of traditional self-determination, yet also raises concerns about fragmentation within iwi structures. At its core, the statement underscores how power struggles, ego, and relational tensions can disrupt collective governance, straining the balance between centralized decision-making and the traditional Māori practice of consensus-building within whānau and hapū.

[463] Transcript of Wikitana Popata (2023) at 7-8.

Wikitana Popata continues,[464]

> ‘Then I said, “Well our marae, it used to be over here, but because our lands were taken from us back in the 1800’s by the missionaries, we lost all that land, and then they burnt all our taonga, and they buried all our taonga in the swamps. All our marae and our carvings. I said, “ we're here to actually start a new marae.”
>
> They didn't like it. So we ended up just doing our thing. We started developing our whānau, holding wānanga and then we even did like our Geo-tech reports, our surveying. We got some funding through Te Puni Kokiri. They gave us about $150,000 to do our feasibility. And then we got to that point, where our kids were growing up and that's when we ended up starting our kura. And then when we started our kura, we went back to the rūnanga to ask them to support us. And then they said, “Oh no, we can't support you, then we can't support you.” And I said, “Well, I'm not asking for support for our marae, I’m asking for support for the education of our kids that just happens to have te kura kaupapa Māori.’
>
> From that day on, when they said “No, we can't support you because the marae down the road, they're not supporting you.” I'm like, “Well, I'm talking about the education of our kids. I'm not talking about a marae.” And they said, “No, we can’t.” And I lost it; I totally lost it. I was real angry.
>
> I was like, “Oh well, my family, we’re’ out of here.” So we pulled out of the rūnanga of Ngāti Kahu for like the last 3 years - 4 years. And I must say it was a good move because we've done more mahi on our own then sitting in that space full of people who are just following one person.
>
> With the opening of our kura last week, there's been other iwi leaders around the area here who come up to me and said, “Look, you've done more for Ngāti Kahu then what the rūnanga has done for your iwi.’

After losing ancestral land and cultural treasures, Wikitana Popata’s whānau sought to re-establish a marae but faced resistance. Undeterred, they secured funding, built a kura kaupapa Māori, and fostered community development. When they sought rūnanga support for education rather than the marae, they were again denied due to political tensions. Frustrated, they withdrew from the rūnanga, finding greater success through self-determination. The acknowledgment from other iwi leaders affirms that meaningful progress often happens outside formal governance when autonomy and vision drive action.

4.13.3 Tensions with Hapū

Moko Tauariki articulates,[465]

> ‘There’s always tensions alright, like even now, there’s always hapū banging on the door of the iwi authority because they are not given the opportunity to speak on their

[464] Transcript of Wikitana Popata (2023) at 8-9.

[465] Transcript of Moko Tauariki (2023) at 8.

> respective takiwa,[466] on their respective places that are relevant to them and Julian Williams[467] and I know this because we've been in amongst it. Our way around it was to create some capability, to create capability for our whānau to participate. And so we use the iwi authority to leverage, to force the hand of the Crown in order to resource, our people's time to participate and the aspirations that the Crown have in some of our backyard.'

Moko Tauariki highlights tensions between hapū and iwi authorities regarding representation and participation in relevant takiwa.[468] To address this, he emphasises building capability within whānau, and leveraging iwi authority to secure Crown resources. This approach ensures meaningful engagement and participation on Māori social structures levels.

Julian Williams discusses,[469]

> 'Absolutely, tensions. Probably two sides of this coin for me. When I was at the iwi authority, through our mahi, we heard from hapū that they support the iwi authority, but they're always looking to when will your role as an iwi authority dissipate? Like when we would be gone. Because if we've just taken a 140 or so years to get our lands back. We don't want to take another 140 years before it gets back to the people that originally lived on it.
>
> When I left the tribe, there's a couple of things that stood out to me, and that was, one, that hapū are doing a lot, off their back, working together, working hard, trying to work with each other.'

Julian Williams addresses the inherent tensions between hapū and iwi authorities. Hapū support iwi efforts but desire eventual dissolution of the authority to restore land directly to them as its original inhabitants. This challenge emphasises self-determination and local autonomy. The hard work and cooperation of hapū underscore their commitment to these goals.

Wikitana Popata explains,[470]

> 'When you are having five (5) big families in the one hapū, you're going to have conflict among yourselves. Maybe on the iwi perspective, I don't really like the iwi set up. When we start going in as an iwi, it gets a bit too complicated. And then you may think people are down for the kaupapa but some of them, they're all about their own mana too. And you come across all of that, and it just becomes a whole lot of waste of energy.'

Wikitana Popata's statement reflects the complexities and tensions within Māori governance, particularly in balancing whānau, hapū, and iwi structures. The speaker highlights how multiple

[466] In this context, takiwa refers to territory, area, region.
[467] Interview participant.
[468] Areas.
[469] Transcript of Julian Williams (2023) at 11.
[470] Transcript of Wikitana Popata (2023) at 2.

large families within a hapū can create internal conflicts, while iwi-level governance adds further complications. They express scepticism about iwi structures, suggesting that while some individuals may support collective kaupapa, others prioritize personal mana, leading to power struggles and inefficiencies. This critique underscores a broader challenge in Māori governance—navigating relational dynamics, maintaining collective unity, and ensuring that leadership remains accountable to the people rather than personal or political interests. Ultimately, the speaker views iwi governance as energy-draining, favouring smaller-scale, whānau-driven approaches over broader iwi structures.

4.13.4 Tensions with Governance decision making

Maui Hudson comments,[471]

> 'The hapū doesn't exist without the whānau. Is the decision being made here one for the hapū? No, it's an iwi kōrero because it's an iwi kaupapa. and you're just a part of contributing to that iwi kaupapa as a hapū representative because you're an important part of the iwi. And the iwi does not exist without the hapū.'

Maui Hudson's kōrero underscores the interdependence of Māori social structures, where whānau form the foundation of hapū, and hapū in turn sustain the iwi, highlighting both distinct roles and collective responsibility in decision-making.

4.13.5 Tensions with the Governance Entities

Anne Kendall states,[472]

> 'You will always get tensions regardless of if it's for the council family. The only way you can handle it is to listen to them, have an idea of where their views are coming from, but it doesn't mean that you can't agree to disagree. You can agree to disagree, because like marinating something, not everybody likes your flavour because it's okay. They don't have to. But you can agree to disagree, because it might be something you really like, and might be something that works for more people and maybe not for one or two. But it doesn't mean that you have to change everything in. The consensus is a good way of dealing with conflict or differences of opinion.
>
> However, I remember, as a child of Mokai that I like the fact that when a decision was made by the elderly for the betterment the village, then it was picked up and it was run with. The conflicts were dealt with as a collective of people supporting one another as opposed to the dictatorship that can happen. Like, I know that some of the bullying and the things that go on today in the community, if you had got your elders together to help support the families to work together better and support each other, it could happen. And having somebody come in from outside, telling you how to fix something. And

[471] Transcript pf MH (2023) at 17.

[472] Transcript of Anne Kendall (2023) at 8-9.

> actually, it needs to be fixed from the inside. Do you know what I mean? It's not knowing all the answers for working in other areas, it's trying to influence and bring it into an area something that it's never been used for a long time.'

Anne Kendall acknowledges inevitable tensions and stresses the importance of listening, understanding, and agreeing to disagree. Anne Kendall advocates for consensus-building and collective decision-making, as seen in her village with traditional elder-led governance. Addressing conflicts internally can foster stronger community cohesion and support.

Maui Hudson shares,[473]

> 'When you are at the iwi level, that's the place where most of the tensions arise. The time I've been on our trust board. The tensions have arisen and they manifest themselves in different kaupapa. But the thing that sits underneath all of those has largely been the people that feel like the iwi is making decisions for the hapū, and the hapū needs, well they should be more autonomous. They're trying to push that through either decision-making processes of the Trust Board; or the way in which the Trust Board engages with external parties. Or the hapū themselves. Actually it is the primary source of tension.'

Maui Hudson's korero identifies the primary source of tension at the iwi level as a perceived overreach of iwi decisions into hapū autonomy. These tensions manifest in various kaupapa and stem from the belief that hapū should have greater self-governance. This highlights the need for political and cultural subsidiarity, so hapū can exercise a degree of autonomy within broader iwi authority structures.

Moko Tauariki comments,[474]

> 'Oh, yeah, there are tensions all right, at the moment. We seem to be managing those quite civilly. We're not attacking each other, we're speaking to kaupapa and not necessarily speaking at people in terms of our hapū members. Although, I've not necessarily experienced anyone directing any sort of negativity towards me. They might be thinking it. But I've personally not really been under any duress, with my decision making since I've been in there. I've only been in council since October last year and in that time, I've been able to adapt and understand that space quite well.
>
> But with that said, we do have issues. We do not see eye to eye on a great many things and today was a good example of some of it. However, we apply this process of democratic decision making, which means that whoever polls the most in terms of votes, that's the decision that will be, that will go ahead. We don't all see eye to eye in the chamber, and that's not entirely bad, either. That's kei te pai. If we saw eye to eye on everything, yeah, I don't think it would invite any real challenge to the way and how we could be better. I think we'll become complacent in what we think that it was working well, and the old saying of "if it ain't broke, don't try and fix it," but when it does break,

[473] Transcript of Maui Hudson (2023) at 16.

[474] Transcript of Moko Tauariki (2023) at 4.

and there are or you can see where there are some weaknesses. You want to try and get ahead and remedy it and put a process in place before it does break.'

Moko Tauariki's korero reflects how hapū governance navigates internal tensions through respectful dialogue and democratic processes, where disagreement is seen not as division but as a source of challenge, adaptability, and collective improvement.

4.13.6 Tensions with Political alliances

Marsha Davis shares, [475]

> 'There is always tensions, in Māori-culture in, particularly in our family tree. There's always tensions that come up in terms of political tensions and alliances. With Ngāti Rahiri particularly, not everybody in Ngāti Rahiri is singing Ngāti Rahiri, because they belong to another hapū as well as well. So they belong to Ngāti, or Ngāti kawa or so on so they align with other hapū and so. Yes, there is tension there.'

Marsha Davis acknowledges persistent political tensions and alliances within Ngāti Rahiri. These tensions arose because members often belong to multiple hapū, leading to varied alignments and loyalties. This dynamic underscores the complexities of political and cultural subsidiarity, as individuals navigate their identities and responsibilities across different hapū affiliations.

4.13.7 Tensions in Representation and Mana

Julian Williams articulates,[476]

> 'I'm probably going back 20 years. We were fighting over who gets to talk about something. Who should negotiate a contract, and who's allowed to have a memorandum of agreement with a company? And where did the benefits go? Who's getting paid to speak on behalf of that taonga, who allowed the development to occur and what did you get out of it? Even if you got nothing. There's perceptions that could be about a housing developer, then you must have got a house out of it, sadly.
>
> In some ways you've got some good groups, some collective groups like our Waahi Whānau Trust in Huntly for example, who represent seven or so marae and collectively pool some of their funds together for scholarships, internships, and things to help whānau.'

Julian William's statement highlights the persistent tensions in Māori governance, particularly around authority, representation, and benefit distribution. It contrasts disputes over decision-

[475] Transcript of Marsha Davis (2023)at 5-6.

[476] Transcript of Julian Williams (2023) at 14.

making and perceived inequities with collective models like Waahi Whānau Trust, illustrating the struggle between fragmented leadership and cooperative governance structures.

4.13.8 Tension in Trustee Confidentiality

Marsha Davis comments, [477]

> 'There's tension when it comes to maybe making some decisions. Let's say, there's opportunities or financial opportunities, and some trustees belong to more than one hapū, and that hapū has knowledge of it. These are all things that Māori are keenly observant that affect the Māori economy. And so I would say that's the tension that comes across.'

Marsha Davis highlights tensions that arise from decision-making, particularly concerning financial opportunities. Trustees often belong to multiple hapū, leading to conflicts of interest and heightened scrutiny. These dynamics significantly impact on their Māori economy, and it emphasises the need for careful management of political and cultural subsidiarity to navigate these challenges effectively.

Analysis

Were there tensions experienced? Definitely. Every interview participant notes tensions ranging from multiple sources: internal disagreements between hapū and iwi about mandate authority to represent people, disputes over membership and access to benefits, court action, delayed settlement outcomes, their impacts in disharmony between families and groups, breakdown of cohesiveness of relational ways of governing, and lost opportunities. The overarching tension was hapū tangling with new legally incorporated iwi authorities set up under Treaty settlements, as hapū try to reassert their legitimacy of hapū rangātiratanga.

However, interview participants are governors; so they didn't simply talk about tensions and challenges. Each participant notes the diverse strategies they use to manage the relationship and tension experience between iwi and hapū. Strategies included encouraging open communication and transparency, wide consultation down to hapū, and some iwi authorities resource hapū to help lift hapū.

[477] Transcript of Marsha Davis (2023)at 5-6.

4.14 Question Five: Do you believe the NZ Government demonstrates preferential treatment towards iwi and how?

Pita Tipene expresses his view,[478] 'I've answered your question that iwi do get preferential treatment and it's just of way of working that is convenient, for some, not all.'

Wikitana Popata of Ngāti Kahui comments,[479]

> 'Traditionally, there was no iwi aye. So a lot of us and because of the land claims, the settlement process-you have to sort of tie yourself in with an iwi. So we do have an iwi that used to be quite well known back in the day that we more or less affiliate to.'

Wikitana Popata reflects on the traditional absence of iwi structures and notes that the land claims and settlement processes necessitate having an affiliation with an iwi. This affiliation is often tied to historical recognition, and underscores the impact of juridification, political and cultural subsidiarity, with the adaptation of Māori governance practices to transition into contemporary legal frameworks.

Julian Willams explains,[480]

> 'So we have our post settlement entity group - Waikato or Waikato-Tainui as they are referred to a lot. But that's not the iwi, that's the iwi authority established in 1995 but our iwi is much, much broader. And even before1995, the establishment of the group, we were probably even more unified as a waka because we had a Tainui Māori Trust Board. I don't know what triggers these changes is really what appeases the government, who'll say we'll only talk to you if you're a collective. We don't want to deal with too many smaller groups. We'll work with your trust, but you have to go under the Ture Whenua Māori Land Act.'

Julian Williams discusses the distinction between Waikato-Tainui as a post-settlement entity and an iwi authority, and the Māori social structure of iwi. He notes that pre-1995 unification under the Tainui Māori Trust Board was stronger. Government preferences for dealing with large natural groupings rather than smaller groups, influence structural changes. Julian Williams agrees that this preferential treatment towards iwi authorities undermined hapū rangātiratanga. Although claiming iwi authority status provided access to power and benefits, post-Treaty governance entities must align their governance with Westernised structures, again, this approach affects Māori political and cultural subsidiarity.

[478] Transcript of Pita Tipene (2023) at 17.
[479] Transcript of Wikitana Popata (2023) at 1.
[480] Transcript of Julian Williams (2023) at 5.

Co-authors Finlayson and Christmas state,[481]

> 'The Crown's preference has been to negotiate with what have become as *large and natural groupings*. Individual negotiations over every historical Treaty Claim are almost impossible, particularly given the overlap of multiple claims in the same areas. Not only would this tie up valuable resources in hundreds of small negotiations, but the resulting settlements would be small.'

This statement justifies the government's policy of dealing with large natural groupings rather than individual negotiations and hapū. However, the quantum is not the primary consideration for hapū. It is the relational reconnection of Māori people to the whenua, to the environment, and to their whānau.

4.14.1 Iwi authority supersedes iwi status

Anne Kendall observes,[482]

> 'Yeah, iwi has got a higher status inside of government, even with us, the iwi leaders are separate. The conversations with iwi leaders is not inclusive of us as well. Yeah, it's interesting because, I'm just thinking of, in the village where I was brought up we knew who the leaders were, because the community chose who the leaders were. I wonder whether some of our iwi leaders are actually chosen by government because government put a higher focus or highlights different ones, different iwi leaders more so than the iwi itself does.'

Anne Kendall critiques the elevated status of iwi leaders within iwi authorities, within government interactions, and she notes a lack of inclusivity for broader community voices. She reflects on traditional leadership selection by the community, which contrasts with perceived government influence in highlighting certain iwi leaders. This tension highlights the challenges of maintaining political and cultural subsidiarity in contemporary governance structures.

4.14.2 Iwi authorities open doors for hapū iwi

Kyla Ngawairau observes,[483]

> 'Ngāti Turangitukua is a hapū of Ngāti Tūwharetoa. Under the PSGE, when we put that through, we then became recognised as an iwi for government purposes. I guess if I put it that way, it's for legal purposes and that's the side of it. We get doors opened to us the same as other iwi do. So when the government comes and says we're doing this and that with iwi, that includes us.'

[481] Finlayson, C.,& Christmas, J. (2021). He Kupu Taurangi: Treaty Settlements and the Future of Aotearoa New Zealand Huia Publishers at 42.

[482] Transcript of Anne Kendall (2023) at 13.

[483] Transcripts of KN (2023) at 13.

Kyla Ngawairau explains that Ngāti Turangitukua, a hapū of Ngāti Tūwharetoa, achieves iwi recognition under the PSGE for legal and government purposes. This recognition grants them the same access and opportunities as other iwi authorities, such as facilitating government interactions and inclusion in initiatives. This shift underscores the interplay between juridification and political and cultural subsidiarity in contemporary Māori governance.

4.14.3 Large Natural Groupings

Marsha Davis states, [484]

> 'The government always looked at dealing with numbers. Yes, They do. I think the Government wrote a script when you look at the Treaty of Waitangi Act . You can see quite clearly that they're going to deal with large natural groupings.
>
> Secondly, if an iwi can show initiative to be able to do well in a business nature, particularly in partnership with the Government, they can get government funding. Then the doors open for them to get more and more varied funding for many different projects. So they might start with health, and then they might go into housing, and they might go into development, and so on. I do think there is a preference, it's written into law. That's my own personal perspective and view of it.'

Marsha Davis observes the government preferred dealing with larger natural groupings, as she perceived in the Treaty of Waitangi Act 1975. She notes that iwi who demonstrated business initiative, especially in partnership with the government, gain access to varied funding opportunities. This preference, seemingly embedded in law, highlights tensions between juridification, political and cultural subsidiarity of Māori social structures and Māori ways of governing. Marsha Davis's comments align with Kyla Ngawairau, that having the status of an iwi authority provides a fast track to resources and benefits not accessible to hapū.

Marsha Davis concludes,[485]

> 'We need to be an iwi for a Treaty settlement. That's exactly it. And
> the rules are not our rules they are somebody else's rules. Yeah and that in itself says that If we want to achieve something. The government looks at the large natural groupings. We need to be an iwi.'

Marsha Davis acknowledges the inevitability of being an iwi, then transitioning into an iwi authority. This also means being compliant to the NZ Government policy of large natural groupings to be able to accomplish the strategic visions of her hapū.

[484] Transcript of Marsha Davis (2023) at 6-7.

[485] Transcript of Marsha Davis (2023) at 7.

Maui Hudson reiterates,[486]

> ‘If you then think about like the Treaty settlement stuff is different again, and they keep going on about large natural groupings and that sort of thing.
>
> I was going to say to them, “We're not a large natural grouping, we’re an iwi, an iwi isn't a large natural group thing, an iwi’s an iwi.” Okay, a large natural group, because if you put a whole lot of different iwi together and do it as a collective.’ I’m saying that hapū can make up an iwi and that's a large natural grouping.’

Maui Hudson emphasises that his iwi is a distinct entity and should not be conflated with the Crown's concept of a large natural grouping. It also highlights the traditional Māori perspective that hapū collectively form an iwi, suggesting that the Crown's approach may oversimplify or misrepresent these relationships.

4.14.4 Other issues

Maui Hudson states.[487]

> ‘If I think about our hapū and the changing nature of what they can provide to their members. They can't provide help and social services. If we tried to set up on our marae, we would be only looking after 20 people. We wouldn't be providing services to the rest. And no one's going to pay for you to do that. That's got nothing to do with preference for hapū or preference for iwi.
>
> We, Whakatohea Māori Trust Board set up an iwi service. But we're not just delivering to ourselves. We are actually providing for the community because we need those numbers to make it work, function, and be viable.’

Maui Hudson’s statement reflects the challenges faced by hapū in providing social services due to limited resources and scale. Establishing such services at the marae level may only cater to a small number of individuals, making it difficult to secure funding and maintain viability. In contrast, the Whakatōhea Māori Trust Board has developed iwi-wide services through entities like Te Pou Oranga o Whakatōhea, which offers integrated education, social, and health services to the broader community. This approach ensures that services are sustainable and can reach a larger population, aligning with the mission to support whānau, hapū, and iwi well-being.

[486] Transcript of Maui Hudson (2023) at 23.

[487] Transcript of Maui Hudson (2023) at 19.

Analysis

It was very apparent in participants comments that preferential treatment was shown by successive NZ Governments (in their strategies for Treaty and settlement negotiations, management plans, court cases, consultations, and access to funding) to iwi authorities at the detriment of hapū rangātiratanga.[488] Why? Because iwi authorities slot neatly into the policy of the Crown preferring only to deal with large natural groupings. This policy and tactic acts as a filter, and the reparation provided is a powerful incentive to participate in negotiations with the Crown.

Iwi authorities received authority to govern over the assets returned, funding allocation doors are open to iwi authorities, and only iwi authorities are consulted over specific matters by the Crown. Claiming the status of iwi authorities opened doors of governance power. The downside of the Treaty settlement process is post Treaty governance entities are compelled to design their governance structures in concert with westernised structures and subsidiarity.

4.15 Question Six: Is there anything else you would like to add?

4.15.1 Current governance roles

Moko Tauariki critiques the dominance of Western paradigms, expressing frustration that traditional Māori structures and values are often sidelined in favour of Western rules. [489] This shift undermines manaakitanga and other tikanga Māori. He highlights the loss of traditional arts and practical solutions, which were often replaced by unnecessarily complex approaches and language, which reflect a departure from his cultural political and cultural subsidiarity.

Maui Hudson opines,[490]

> 'Governance is a good thing where you kind of sit in these roles and then you talk about what it is to be in good governance, and what is governance itself? It's about being responsible for things and in some ways sort of reflecting the true essence of mana. And what I mean by that is that you just take responsibility for things.
>
> People don't like to sort of talk about themselves as being a Rangātira,[491] but if you think about that responsibility which is to bring things together and look after and do that. You are only put in governance roles because you're responsible for whatever the thing is that you're governing.

[488] Hapū self-determination and governance.
[489] Transcript of Moko Tauariki (2023) at 6-7.
[490] Transcript of Maui Hudson (2023) at 11.
[491] Leader.

> And those things all seem to have a little bit of a mix of responsibilities, In part rangātiratanga,[492] in part kaitiakitanga,[493] in part, manaakitanga.[494] All of these things that maybe are qualities that you want your governors to manifest.'

Maui Hudson emphasises the essence of governance as taking responsibility and reflecting mana. Governance roles are filled by those accountable for their domains, embodying a mix of tikanga Māori. These qualities he considers are essential for effective governance.

Julian Williams comments,[495]

> 'So three things, I'm a trustee on our marae and we're called the Marae committee. Just like most marae committees. They are very important roles for the leadership in our marae. But we're not regarded and no one will call us a governance group, but we act with the same ways, probably more with tikanga kind of behind us rather than say, the way governors should act and report and respond under Te Ture Whenua Trusts or Post Settlement Group Entities ("PSGEs") where they're audited for every bit of penny spent.
>
> I've have also worked for Waikato-Tainui for 13 years, and that level was the iwi authority level. Here, they had appointed a governance group from the 68 marae that affiliated and signed the kawenata[496] to the tribe. From the 68 marae, at that time they appointed three (3). to the tribal Parliament level, Te Whakakitenga, which is now called Te Whakakitenga o Waikato. They then appoint 11, with 10 appointees who become the governors and the Kingi Māori appoints the other one.'
>
> So governance is a bit different at the iwi authority level, which is really hard. But the governance there is controlled. Because Waikato is controlled by the legislation that established it. And then we try to apply tikanga, rather than the other way around, starting with our values first. We seem to develop them a bit later, after we've satisfied the many requirements, we have to do to maintain that we are a governance group and report to the Crown, and have accountants come through, and everything.'

Julian Williams distinguishes between marae committees and iwi authority governance. Marae committees, although not formally recognised as governance groups, operate with tikanga Māori as their guiding principle. Conversely, governance at the iwi authority level, such as Waikato-Tainui, is legislatively controlled and focuses on compliance and reporting to the Crown. This often necessitates incorporating tikanga after meeting formal requirements and highlights the tension between tikanga and juridification in contemporary governance structures.

[492] Leadership.
[493] Stewardship.
[494] Hospitality and caring for others.
[495] Transcript of Julian Williams (2023) at 7.
[496] Covenant or settlement.

Kyla Ngawairau reflects,[497]

> 'We need to be using whatever mechanisms, and whatever those tools are to the betterment of Turangitukua. But one of the things that I have found is, Ko Tūwharetoa te iwi, kotahitanga. We've got so many entities, Kotahitanga which is another PSGE that is being run, and that works by having a couple of delegates or trustees from each hapū that want to participate from Tūwharetoa, and sitting around that table.
>
> The governance around that table is representatives of hapū. Here, Turangitukua have got a couple of people, you have your main one and an alternate sitting there but you still only get one say, one vote. That's ka pai.[498] But what we did, though, is that settlement happened. All the negotiations happened, and everything, but; we still made sure that we put in a clause into that to say that basically just to say that actually nothing in here negates what we have in our settlement.'

The Ngāti Tūrangitukua Claims Settlement Act 1999 stipulates that the settlement is for the benefit of Ngāti Tūrangitukua collectively. This provision ensures that the rights and redress specific to Ngāti Tūrangitukua is preserved and not negated by subsequent agreements or settlements involving the broader iwi. This approach allows for collective iwi advancement while safeguarding the unique rights and settlements of individual hapū, maintaining a balance between unity and hapū autonomy within the governance framework.

4.15.2 Hapū and Iwi connections

Kyla Ngawairau comments,[499]

> 'An example of that would be, and this is just even at the hapū level. The Charitable Trust is just a means to an end, of having direct relationships with government agencies, because we're treated as an iwi, and this is because of our settlement. However, we still uphold all the values of our hapū. And through doing that, and we still have a lot of our hapū participate in a lot of these kaitiakitanga roles such as-the cultural stuff and along the lines of running annual inductions.
>
> People who work on top of Pihanga, well, they need to come and actually have an induction with us. We say, "Your staff need to come here and learn who we are. If your staff need to go on there, they need to come and knock on our door, we'll open it and say hello first. That kind of stuff." And so that's, a two-way street then because they then learn about who we are and what we expect.'

Kyla Ngawairau illustrates how a charitable trust enables direct relationships with government agencies, treating the hapū as an iwi due to their settlement status. Despite this, the hapū maintains its values and ensures active participation in kaitiakitanga roles. Kyla Ngawairau

[497] Transcript of Kyla Ngawairau (2023 at 22.
[498] Okay.
[499] Transcript of Kyla Ngawairau (2023) at 10.

enforces cultural protocols, such as requiring inductions for those working on Pihanga, fostering mutual understanding and respect. Her approach exemplifies the integration of tikanga Māori, political and cultural subsidiarity within a formal westernised governance framework.

4.15.3 Leadership

Anne Kendall reflects,[500]

> 'I also can remember one of the koroua.[501] If there was a lot of noise in the village, and because we were in the middle of the village; he just stood on a step and roared for them to keep that noise down, and it was kept down. He had that respect. Disputes were settled by the fact that leadership was strong, respected. and led by behaviour, not by dictatorship. He displayed good behaviour, by being a good firm leader.'

Anne Kendall recalls when a koroua whose respected leadership would maintain order and settle disputes within the village. His ability to command respect and lead through exemplary behaviour, rather than dictatorship, highlights for her the importance of strong, respected leadership grounded in tikanga Māori. This example exemplifies the significance of rangatiratanga[502] and manaakitanga in traditional governance practices.

4.15.4 Long term vision

Pita Tipene states,[503]

> 'Well, when Kawiti finally did sign Te Tiriti o Waitangi, he refused to sign on the sixth of February, they've [the Crown] got his two sons Maihi Kawiti and Taura Kawiti to sign on the sixth and then he finally signed on roundabout May the thirteenth, 1840. And five years after that, he led the war against the British.
>
> He wrote a kōrero[504]which is known as te tangi[505] o Kawiti or in any of his waiata,[506] which your mother researched and brought it to the Waitangi Tribunal. In there, all of the messages that we need to uphold and adhere to now are there to hand on to future generations. In regard to your question, in what Kawiti said, if I could pluck a couple of those lines (from Mylene's mother's book),[507] "We will wait until the sandflies nip at the edges of the book and at that time you will stand up…"[508]
>
> … but the last line "Titiro ki nga tangata o te moana," which in my interpretation, anyway, means always remain strategic and always retain a global orientation. Which is looking beyond the horizons of the sea. Look beyond what you can actually see. You can

[500] Transcript of Anne Kendall (2023) at 4.
[501] Male elder.
[502] Leadership.
[503] Transcript of Pita Tipene (2023) at 14-15.
[504] Talk.
[505] A lamentation.
[506] Song.
[507] Davis, MT. (2020) Te Orewai Karanga" (Gravitas Media Hamilton NZ).
[508] See Chapter 7 which documents Kawiti's prophecy.

> interpret that in different ways because he was the master strategist. And when we wānanga [509] about this with my peers, is that he was giving a vision that was five, six, seven generations out.'

Pita Tipene shared insights from his heritage, and emphasises the strategic vision passed down through generations and the importance of looking beyond immediate horizons for the future of Ngāti Hine.[510] "Te Tangi o Kawiti," provides enduring messages for future generations, which emphasize strategic foresight and a global perspective. Here, Pita Tipene underscores the importance of long-term vision in Māori leadership and looking back to his tupuna for Ngāti Hine's future.

Kyla Ngawairau declares,[511]

> 'We're quite proactive at pushing forward. We're always looking at, okay, we want this, we're going to push for that. But what happens? And where does that fit? We have a lot of cross overs. We're always looking at how we can be better kaitiaki of our rohe.[512] Because for us, it is what's most important. This is our whenua,[513] you can't be a kaitiaki unless you connect to the whenua. This is our whenua; we have to lead that.'
>
> This is what we say to people, even to the community. They'll talk about kaitiakitanga. And we sit there and listen. We're like, yeah. And in two years' time you're going to move away and then what? You're going to forget about Turangi. Where actually, our whānau are still going to be here in two (2) years, 10 years, 100 years. We were here a 100 years ago. We're going to be here, in a 100 more. That's kaitiakitanga.'

Kyla Ngawairau emphasises the proactive approach to improve kaitiakitanga within their rohe. She stresses the importance of a deep, enduring connection to the whenua, contrasting transient community involvement with the long-term commitment of their whānau. Her perspective highlights the enduring responsibility and continuous stewardship central to tikanga Māori, political and cultural subsidiarity.

Marsha Davis expresses hope for a future for hapū rangatiratanga. She states, "I hope, in a 100 years' time we have our own government."[514]

Wikitana Popata explains,[515]

> 'Instead of us just sitting here reliant on our land claims and settlement money from the government, whānau actually need to step up and just do the mahi required to get your

[509] A retreat of learning .
[510] Transcript of Pita Tipene (2023) at 14-15.
[511] Transcript of Kyla Ngawairau (2023) at 10.
[512] Boundary.
[513] Land.
[514] Transcript of Marsha Davis (2023) at 11.
[515] Transcript of Wikitana Popata (2023) at 25.

whānau into the future. What we're doing here, when we pulled out of the Rūnanga o Ngāti Kahu, we actually said, 'We got the brains to just do it on our own. 'That's why we started our kura[516] and then we tried to start a couple of businesses. We're trying.

... [B]ecause my cousins down in Orakei they said to me, "You got to have good people who fully understand governance to be able to run a $1 billion dollar iwi." I said, "Yeah, yeah, yeah. But if you get 10 relations that are good in governance, and then you got two (2) relations that are good in tikanga. Well, we all know who's going to win. We all know he's going to dominate." But I said, "If you have a balance. then it will only enhance each other."

We do want to develop into the future and have businesses in place to help sustain us. But you also have to have that balance of tikanga to say, "Hey, hey, hey!, our tupuna did it like this." And some of the stuff that our tupuna taught us are just basic things that even the educated governance person probably don't know. So we just got to work hand in hand.'

Wikitana Popata promotes a long-term vision of self-sufficiency, urging whānau to take proactive steps through education and business, rather than relying on settlement funds. It highlights the importance of balancing governance expertise with tikanga, integrating traditional wisdom to enhance sustainable development.

4.15.5 The Resource Management Act 1991, sections 6 (e), (7a) and 8.

The purpose of the Resource Management Act 1991 ("RMA") is to promote the sustainable management of natural and physical resources in New Zealand. The RMA requires decision-makers to recognise and provide for Māori values, including the relationship of Māori with their ancestral lands, water, sites, and taonga, as well as the principle of kaitiakitanga [517] However, Waitangi Tribunal reports have found that the RMA's provisions do not adequately give effect to the principles of the Treaty of Waitangi, as the language used is considered too weak to ensure Māori interests are properly protected.[518]

Rakena states,[519]

> "The Resource Management Act1991 ("RMA") purpose is to promote the sustainable management of natural and physical resources of Aotearoa. The Act has significant ramifications for Māori in promoting its purpose. The Waitangi Tribunal has been very critical of the resource management framework in New Zealand prior and post RMA 1991. The Tribunal found that "this framework has prevented Māori, particularly iwi and

[516] School of Education.
[517] Guardianship; stewardship.
[518] "Māori and Council Engagement under the Resource Management Act"1991" (2025) Te Puni Koriri <www.tpk.govt.nz>; "Extracts from Waitangi Tribunal commentary, finds and recommendations on the Resource management Act 1991" (June 2025) Ministry for the Environment Manatū Mō Te Taiao <www.environment.govt.nz>.
[519] Rakena (2021) at 908.

hapū from controlling the management of their taonga and natural resources contrary to the principles of the Treaty of Waitangi." In 1993, the Tribunal noted in its Ngāwha report that the Resource Management Act 1991 is inconsistent with the Treaty principles.[520] Again in 2011, the Tribunal's *Ko Aotearoa Tenei Report* was 'heavily critical of the use of Treaty settlements to stop gaps in the RMA'[521] when it observes:[522]

> It is disappointing that the RMA has almost completely failed to deliver partnership outcomes in the ordinary course of business when the mechanisms to do so have long existed. It is equally disappointing that Māori are being made to expend the potential of their Treaty settlement packages or customary rights claims to achieve outcomes the Resource Management Law Reform project (now two decades ago) promised would be delivered anyway.'

Rakena suggests that the Crown concretises the appearance of the lack of power sharing with Māori. The Waitangi Tribunal is critical of its prevention to allow hapū and iwi to govern of natural resources through the exercise of kaitiakitanga.[523]The Tribunal states,[524]

> 'Again, there is the challenge of having these great provisions, but the greater challenge is ensuring that these provisions are implemented and have practical outcomes.

Addressing these challenges requires a collaborative approach that respects and integrates Māori perspectives, while ensuring that governance provisions are not only established but also effectively operationalised to produce tangible outcomes.

Julian Williams notes,[525]

> 'When I left the tribe, there's a couple of things that stood out to me, and that was, one, that hapū are doing a lot off their back. By working together, working hard, trying to work with each other. But the biggest challenges we faced were the ones put in front of us by the government; when we would go to a court, the Environment court. Its legislated by the Resource Management Act [1991], and the decision-makers were all Pākehā.[526] We're supposed to go there to fight for our taonga[527] but we end up fighting about who has mana to speak on behalf of that taonga in court. And a lot of tensions go there about who has mana to kōrero and make decisions about taonga, or about our people in Rangiriri or Te Kauwhata. Unfortunately, they would end up in court and Tauiwi[528] would make the decision. It wouldn't be resolved. As much as we tried to resolve amongst ourselves, we couldn't really come to an agreement. But I would say in the last few years what we've seen with hapū, in particular, is working together with a lot more to say.

[520] Waitangi Tribunal Ngāwha Geothermal Resource Report (Wai 304, 1993) at 154.
[521] Joseph, R et al.(2019) at 137.
[522] Waitangi Tribunal (2011) vol 1 at 285-286.
[523] Guardianship; Stewardship.
[524] Rakena (2021) at 909.
[525] The Environment Court is a specialist court operating under the RMA 1991.
[526] Foreigner. Usually applied to white men/ women in Aotearoa New Zealand. Usually, a British European.
[527] Treasured gift.
[528]Strangers (non-British but not Māori).

> Listen we're not going to relinquish what we think we have mana[529] to, but we acknowledge you have some interest in the space so let's work out who gets to say what. Where do you sit on the hierarchy? We're starting to get a little bit better in that.
>
> In the previous 28 years, the decisions about who has mana has been sitting with Pākehā because we were never appointed to hearing panels as decision makers because we were regarded as having a conflict of interest because we were Māori. That is the biggest tensions that we've had have been around are "Who has mana to talk about a taonga, the voice to speak on the representation and the money.'

This is an important insight Julian Williams shares emphasising the internal tensions get exacerbated by the way the NZ Government sets up legislative requirements for decision-making. The hierarchy around Māori governance demonstrates how hapū and iwi can be in alliance for a shared purpose. The statement also shows how representation of iwi and hapū is overshadowed by Pākehā mana.

4.15.6 Reflections and Questions

Moko Tauariki reflects,[530]

> 'One thing I don't hear quite often amongst people who have just discovered, who are still discovering their journey, and being decolonised is, that there are aspects of colonised self that I absolutely love. I'm on a journey to balancing out my life, which allows me to live in this colonial world and live in this Māori world. To me, the manifestation of what a true meaningful te Tiriti relationship looks like sits within that. I want my whānau Māori to learn about their Indigeneity and their Māori world, I also would like my Pākehā colleagues, and their whānau, to learn about our Māori world in the same way that I'm required to learn about their Pākehā world.
>
> I mean, that's why we don't preach it to them. We model it to them. We role-model it to them so they can see. I make the words to role model a genuine and meaningful te tiriti relationship. that's what I'm talking about. I'm not going to tell people. You got to go and do this and do that. Actually, I'm just going to role model for you. So you want to do it too.'

Moko Tauariki emphasises the importance of balancing life between colonial and Māori worlds, to embody a true Te Tiriti relationship. He advocates for mutual learning, where both Māori and Pākehā understand each other's worlds. His approach involves role modelling rather than preaching, to demonstrate genuine engagement and respect which could lead to fostering a meaningful and reciprocal partnership.

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[529] Loosely translated into status; prestige; authority.

[530] Transcript of Moko Tauariki (2023) at 12.

4.15.7 The importance of relationships and connections

Kyla Ngawairau responds,[531]

> 'Sometimes because they've [external agencies] come with the presumption that "Oh that's all right, we've dealt with that, we did really well there, we can just bring that over here." It doesn't work, and that kind of put things on the back foot as well. Because that kind of says to us, 'Well mate, you're not even listening to us. You've come in again on a preset something. And we don't like to preset anything because that's saying, we're not open to a relationship to build that relationship together.'

Kyla Ngawairau criticises external agencies' presumption that previous successful approaches can be universally applied with bespoke, context-specific strategies. This attitude is seen as dismissive and counterproductive, as it ignores the need for open, collaborative relationship-building. Kyla Ngawairau underscores the necessity of mutual respect and listening.

Kyla Ngawairau illustrates, [532]

> 'Last year there was probably half a dozen of us in a zoom with a particular entity. And that conversation basically was "Kia ora!" They're like and said "Oh, kia ora! We sent you the plans. Did you have a look at it? We need consent." Yeah. Well, it's not going to happen. It was like just that simple for us. First, come on the mihi[533] to us. I guess for us that's a huge thing because you can't build a relationship. If you don't know who it is.
>
> How do you build a relationship if you don't know us? And so we're very much of make sure that somebody knows of our settlement. Somebody who can cover off the cultural things when you come and talk to us. You have somebody with some authority who can actually make decisions. Knowing that the poor people that we deal with, we gave them an opportunity to reschedule a hui and gave them time to go away and sort of come back. They did and we just basically said, "No you didn't meet our standards. Goodbye."
>
> They brought another person into the picture but it still wasn't a person that could actually give any more detail, and they still didn't understand everything, so it was like well this is just wasting our time. And it happens regularly. I listen to my cousins in different organizations and stuff, and it's quite common. I guess we get tired. And sometimes you're a little bit nicer. Other times it's like well, actually, I am tired.
>
> The other thing is, and a lot of it is, we do a lot of this for free. People that come to us are in paid jobs. We do this for free. And one of the things that I do? My cousin looked at me and laughed because I was very quick in one of our zooms to say "Right okay, so we'll have the hui at 6 00 clock. "Oh, I finish work." "Well, sorry about it. You meet us at 6 o'clock or we don't meet and they're like "Oh, oh!" Cause their day is over at five (5).

[531] Transcript of Kyla Ngawairau (2023) at 21.
[532] Transcript of Kyla Ngawairau (2023) at 18.
[533] Introduce yourselves to us. Form connections with us.

> Well mate, you expect us, and our whānau to meet you in your working day. Well it doesn't work like this.
>
> We've been pushing that a lot too. When you are meeting many hapū, many iwi, you always have a handful of people that are there doing mahi and it's usually the same handful or two. People can't afford to take time off from mahi for all this stuff that happens. They need their work.'

Kyla Ngawairau describes the challenges they face when external entities engage without understanding or respecting their hapū cultural protocols. The lack of proper mihi[534]and inadequate preparation reflect a failure to build genuine relationships with their governance entity. This disrespectful approach combined with the unpaid nature of Māori consultation work, leads to frustration and what Kyla Ngawairau considers wasted time. Kyla Ngawairau emphasises the need for culturally aware decisive representatives and equitable meeting times to accommodate their representatives' availability.

Wikitana Popata reflects,[535]

> 'Okay, this interview is quite fitting because just in the last two (2) weeks. I have actually left the kura. I haven't fully left, but I've left my teaching position and I even left my board position, but I have still got a big say at the kura. I am not too worried about that. But I decided, and I said to Rangi, "What I want to do, since dad's passing, I said, "I want to go back to the rūnanga and I want to help my people because we're the only iwi, Ngāti Kahu is the only iwi in te Hiku o te ika that hasn't settled our claims.
>
> The other four (4) iwi have settled, and they settled for peanuts really. And Ngāti Kahu was the only iwi who said "We don't want to settle. That's not, that's not a fair deal." I said to Rangi, "I want to go back into that space." So I did. I went back down to the rūnanga, and we had a big hui down there, and all the kaumatua were happy that I'd come back. And to my surprise, some of these ones that were like again. They were just so happy that I had come back, and they were saying to me, "We need you. We need you back."
>
> I said to myself, "Yeah, I just to want to help my people. They're struggling out there." In a way, I want to get a settlement for us. So we can build our papa Kainga,[536]and we can get funding, and we can advance our reo. I've mended a part of me that needed to be mended with Ngāti Kahu. They're supporting me to organise the Ngāti Kahu festival. And they're willing to give me over $250,000 in funding to organise this. So that's what I'm up to now."

[534] Greeting.
[535]Transcript of Wikitana Popata (2023) at 14.
[536] A home .

Wikitana Popata underscores Māori cultural and political subsidiarity through a commitment to hapū-led governance and resistance to unfair settlement processes. Wikitana Popata's return to Ngāti Kahu's rūnanga highlights the role of kaumātua-endorsed leadership in navigating unresolved claims and advancing self-determined development. The desire to secure a just settlement for papakāinga, te reo revitalisation, and economic advancement reflects hapū-centric governance resisting state-imposed structures while reaffirming cultural identity and collective well-being.

Wikitana Popata continues,[537]

> 'Well, I actually pitched it to them. They were like, "So what do you want?" I said "Well, I want to run a festival. But it's going to be a unique kind of educational festival that's going to have two (2) parts to it. The first part we'll hold our first festival in Kaitaia at the Te Ahu Centre, and then I want to run a kapa haka comp[etition] between each marae in Ngāti Kahu.
>
> And then have one game of league, the Auckland Ngāti Kahu vs. the Home Ngāti Kahu. And then I want to run workshops. I want to utilise the Kaitaia cinema to invite my relations from Ngāti Whatua Orakei who have been doing really well with what they've been doing after their settlement. And just to try and inspire our people, and to try and create some vision for them.
>
> We haven't really done all this before in Ngāti Kahu because there's never been anyone in Ngāti Kahu to organise something like this. And then having other workshops like 'te reo o Ngāti Kahu' and then having a panel and having a forum tent for that. Another forum tent for the land claim stuff, where is everything is talked about there. And then the second part of the festival we'll hold it in a couple of weeks or couple of two (2) months' time, and we'll hold that one out in Taipa on the land.
>
> Then I said to them, I'll organise all our waka[538] to be out on the water. When we do hold it there, it will be a real big, positive, empowering festival to empower us and educate us at the same time.'

Wikitana Popata highlights an initiative aimed at strengthening Māori cultural and political subsidiarity through grassroots-driven events. By organising a festival that integrates kapa haka, sports, *te reo*, and land claim discussions, the speaker reinforces *hapū*-based self-determination. The emphasis on Ngāti Kahu-led education and inspiration from Ngāti Whātua Ōrākei post-settlement success underscores the role of *hapū* in reclaiming governance, fostering cultural revival, and creating visionary pathways outside of centralized *iwi* structures.

[537] Transcript of Wikitana Popata (2023) at 6-7.

[538] Canoe.

4.15.8 The missing connection between generations

Wikitana Popata opines,[539]

> 'What we're facing now is that a lot of our elders that are still here with us, they're not quite the elders who can give us that rightful guidance to be able to lead us into the future. There is a breakdown between our generation and the generation above us. It is because, we've been through kura kaupapa and we've learned about Te Ao Māori and then when we go and meet up with all this lot, it's like we're clashing.
>
> I'm afraid that the people that are left here in this world today, are not those leaders and those entrepreneurs, innovators within iwi that used to be here. They're not here anymore. We are left with our relations who have just moved back home from Auckland, who don't know who they are. Who don't know their history.'

Wikitana Popata highlights the challenges facing Māori cultural and political subsidiarity due to generational shifts and the erosion of traditional leadership. The disconnect between younger Māori educated in kura kaupapa and older generations *being colonised* reflects tensions in cultural continuity. The absence of former leaders and the return of whānaunga disconnected from their whakapapa and history further weakens hapū and iwi governance. This underscores the need for revitalised leadership pathways grounded in Te Ao Māori to sustain cultural and political self-determination.

4.15.9 Working at the coal face of governance roles

Kyla Ngawairau continues, [540]

> 'There's always the government stuff. But there's also the community stuff. Part of the governance is still dealing with that grass roots stuff. Yeah, we can make the beautiful big strategic plans and all that, and work away at that. But if our foundations are not right, and we're always putting out all those little fires. Then, how do you truly move forward in a positive way?'

Kyla Ngawairau emphasises the importance of addressing both governmental and community issues. Effective governance requires balancing high-level strategic planning with grassroots concerns. Without having solid foundations and resolving everyday issues, true progress would remain elusive.

Analysis

[539] Transcript of Wikitana Popata (2023) at 6.

[540] Transcript of Kyla Ngawairau (2023) at 29.

Each participant brought a unique perspective, shaped by their experiences and roles in Māori governance. The core themes captured multiple matters on multiple levels. Core themes culminated in a collective understanding that Māori governance is a dynamic field, continuously evolving, adapting, and being resilient.

4.16 Conclusion

Hapū rangātiratanga is fundamental to Māori self-governance, reinforcing hapū as custodians of the land and well-being. Te Tiriti o Waitangi and He Whakaputanga affirm these governance rights, yet colonial frameworks continue to undermine hapū autonomy. Rakena and Benton highlight the dismantling of traditional Māori economic systems by colonial policies, reflecting the state's continuing attempts to centralise power to themselves.

Despite these constraints, hapū governance persists. Pita Tipene highlights consensus-based decision-making, while Marsha Davis notes strategic hapū alliances that navigate Crown policies. Iwi authorities have altered governance landscapes, with some hapū integrating into iwi-led frameworks, such as Ngāti Turangitukua, while Ngāpuhi hapū successfully opposed Te Rūnanga A Iwi O Ngāpuhi, reaffirming hapū rangātiratanga.

Interviews reveal tensions between traditional Māori governance and modern political structures, particularly regarding age discrimination. The study identified two age groups: *Rangatahi* (30-60 years) and *Taonga* (60+ years), where the latter are valued for institutional knowledge yet sometimes sidelined in governance roles. The challenge remains to balance intergenerational leadership while ensuring governance aligns with tikanga.

Transcribing the interviews provided rich primary evidence, generating over 200 pages of data. Analysis identified key themes, linking participant insights to governance structures and decision-making practices. These narratives highlight the ongoing negotiation between traditional Māori governance and contemporary political frameworks.

Māori governance must address systemic barriers by genuinely recognising hapū autonomy. While iwi authorities gain prominence, hapū remain crucial for self-determination, cultural preservation, and land connections. Equitable frameworks must honour whakapapa, tikanga, and intergenerational leadership to ensure sustainable governance.

CHAPTER FIVE

‘Hapū’ seen through the lenses of interview participants

> ‘Hapū are the real, the true traditional governors of their spaces, of rohe,[541] so that's where the real power sets within those hapū. The Treaty process is merely a modern-day system that allows the government to work with the native savages, i.e., myself and yourself and others as Indigenous people of this country.’ [542]

Moko Tauariki’s perspective underscores the importance of recognising and respecting hapū as the foundational governors of their rohe.[543] Te Tiriti o Waitangi 1840 was an agreement between the British Crown and Māori Rangatira representing their hapū. However, the current Treaty process has been critiqued as a modern system that the government uses to engage with Māori in ways that does not fully honour the original autonomy and authority of hapū.

Tēnā koutou katoa,

5.1 Introduction

The focus of this chapter is to include bonus primary evidence of hapū seen through the eyes of interview participants. There is no fanfare in the format of this chapter, rather, six sections divided into key core themes titled: Hapū rangātiratanga, Te Tiriti O Waitangi 1840, Hapū governance processes, Māori social structures, Hapū alliances, and Miscellaneous governance roles of hapū. The primary evidence was derived from participants’ transcripts which are not featured in other chapters, with comments from my two published articles,[544] Any evidence which demonstrates a perception of hapū is detailed here, once again, sometimes in extensive verbatim quotes. The format follows a brief definition of each key theme being outlined, followed by the primary evidence. An analysis will accompany each passage of evidence with a conclusion at the end of this chapter.

[541] Territories.
[542] Transcript of Moko Tauariki (2023) at 8.
[543] Boundary, district, region, territory, area, border (of land).
[544] Rakena and Benton (2021).

5.2 Hapū Alliances

Traditional hapū alliances represented longstanding cooperative relationships between other hapū. These alliances were integral to Māori social organisation, and served as mechanisms for mutual support, shared purpose, resource sharing, collective decision-making, expanding land territory and consolidating power bases. Once hapū alliances served a purpose, the alliance then dispersed back into their individual hapū.

Marsha Davis illustrates,[545]

> 'We need to be a large natural grouping for a Treaty settlement. That's exactly it. It's exactly it. And the rules are not our rules they are somebody else's rules. And so that's why I really look at and notice the difference between Ngāti Rahiri, who are fighting. They have maybe three or four different claimant groups within the hapū, but cannot agree on who their leaders are to take them forward. But we have Ngāti Manu who is one small hapū they've already agreed. And there actually they've formed an alliance with three (3) other smaller hapū in the Pewhairangi. And now here is the first large natural grouping in Northland.
>
> And this is an interesting thing about the trust that they form because the governance act states that they will all go together to settle, that they each have their own independence as a hapū and so they support each other. They might have overlapping claims, and they might not agree on some of those claims. While their claims overlap, they will support going together to settle. So that's a really interesting dynamic that gives you a level of governance. You could say, it's almost iwi like.'

Marsha Davis emphasises the importance of forming large natural groupings for Treaty settlements. She contrasts the challenges being faced by Ngāti Rahiri with the unity achieved by Ngāti Manu. Marsha Davis highlights Ngāti Manu's alliance with smaller hapū, forming the first significant grouping in Northland. Marsha Davis emphasises there was mutual support amongst the alliance of hapū despite potential overlapping claims highlight a robust governance dynamic akin to iwi.

Rakena and Benton illustrate,[546]

> 'Ngāpuhi itself as a large and formidable aggregation appears to have arisen from the power struggle between the "Northern" and "Southern" alliances of hapū for power and land in the eighteenth century.[547] They reached their pinnacle of power and solidarity under the leadership of the Hokianga warrior Hongi Hika early in the nineteenth century, not long after which the component groupings once more tended to go their own ways". There is no mention of "Ngāpuhi" as a united power bloc at

[545] Transcript of Marsha Davis (2023) at 11.
[546] Rakena and Benton (2021) at 633.
[547] Sissons et al., (2001). Ngā Pūriri o Taiamai: A Political History of Ngā Puhi in the Inland Bay of Islands. Auckland: Reed.

> the signing of the Treaty of Waitangi, which notably was concluded by rangātiratanga representing their hapū under the aegis of the Rangātiratanga ‘o te wakaminenga o nga hapū o Nu Tireni me era rangātira ra atu.’[548]

The passage explores the emergence of Ngāpuhi, which originate from power dynamics between Northern and Southern Alliances of hapū in the 18th century. Led by Rangātira Hongi Hika, Ngāpuhi reached its zenith in the early 19th century. The Treaty of Waitangi was signed by rangātira who represented individual hapū, not an iwi or unified block.

5.3 Hapū Rangātiratanga

Maui Hudson comments,[549]

> ‘This narrative that hapū-rangātiratanga, is the be all and end all and should be supported. I mean, we've managed to keep it together, yet we still end up, being kind of represented as Whakatohea, and Whakatohea becomes our political entity. But it doesn’t stop our hapū from being entities, and we've set things up in a way that will allow hapū to also become formal entities that we can kind of pass things down to them.’

Maui Hudson acknowledges the importance of hapū rangātiratanga and its support within their Whakatohea community, yet not as their political representative with the NZ government. While being collectively represented under the umbrella of Whakatohea Māori Trust Board, individual hapū maintain their entity status. However, the formal entity may impose a juridification obligation on hapū while it is maintaining a degree of cultural subsidiarity.

Wikitana Popata,[550] notes traditionally in their hapū, iwi structures did not exist. The land claims and settlement processes necessitated affiliation with an iwi. Consequently, many hapū now align with historically recognised iwi to navigate modern governance frameworks under the government’s requirements. This shift underscores the adaptation and the need to respond to natural grouping requirements, as well as resilience of traditional structures in contemporary governance times.

Rakena and Benton opine,[551]

[548] Treaty of Waitangi Act 1975, sch 1 (Māori text).
[549] Transcript of Maui Hudson (2023) at 24-26.
[550] Transcript of Wikitana Popata (2023) at 1.
[551] Rakena and Benton (2021) at 642.

> 'The establishment of Tūhoronuku as the 'mandate holder' posed many disturbing issues for opposing Ngāpuhi hapū. Tūhoronuku as the sole entity to negotiate the settlement, as the all-encompassing body representing any and all who affiliate as Ngāpuhi contradicted Ngāpuhi's ethos of hapū rangātiratanga.'

The establishment of Tūhoronuku as the mandate holder for Ngāpuhi settlement negotiations raised significant concerns among opposing Ngāpuhi hapū alliances. By positioning Tūhoronuku as the sole representative entity, it contradicted the Ngāpuhi ethos of hapū rangātiratanga and undermined the autonomy and leadership of individual hapū. It also challenged the principle of political and cultural subsidiarity of Ngāpuhi hapū.

Rakena and Benton continue, [552]

> '…However mandating processes are only one step in the negotiation phase of the settlement of our claims. It is just as important that hapū rangātiratanga and hapū tikanga are respected, protected and enhanced at every stage in the settlement process and beyond.'

The mandating process is only an initial step in claim settlement negotiations. Rakena and Benton posit it is crucial that hapū rangātiratanga and hapū tikanga are respected, protected, throughout the entire settlement process and beyond. This approach ensures the preservation and strengthening of hapū autonomy and cultural practices.

Kyla Ngawairau comments,[553]

> 'Particularly with Turangitukua we have the governing role with the hapū. I'm not even going to say the Charitable Trust because it's the hapū that holds the mana. It's the hapū that actually holds that mana that holds the whakapapa. We [as trustees] are appointed or elected to the governance roles that we know in the Pākehā world, and we get put into that role to do the mahi.[554]
>
> In a Pākehā[555] context, yes its governing. But in our hapū, the mana still sits with our hapū. Our hapū can pull us. Our hapū can pat us on the back and they still have a say. I guess those roles change depending on where you are. Our hapū can remove a trustee. It was set up that our hapū have the final say. Ours is very different to a lot of standard governance roles.'

Hapū rangātiratanga concretises the foundational principle of Māori self-governance for Ngāti Turangitukua; although influenced by Pākehā frameworks, is fundamentally anchored in hapū authority. Ngāti Turangitukua Charitable Trust is the NZ government's westernised

[552] Rakena and Benton (2021) at 647.
[553] Transcript of Kyla Ngawairau (2023) at 3.
[554] Work.
[555] NZ Person of European Descent.

entity established to govern over the Treaty settlement but not to govern over the Māori social structure hapū who choose to govern their own affairs, make decisions, and manage resources according to their tikanga.[556] This structure ensures that the mana of the hapū prevails over conventional contemporary governance models.

5.4 Hapū rangātiratanga processes

Maui Hudson states,[557]

> 'The hapū are important constituents of the iwi. And we can think about the ways in which we distribute, because we're never going to be able to do distributions to whānau because we don't have that much money. But distributions to hapū that support marae, which are a resource for all of those whānau, then becomes a way of providing a benefit to everyone.'

Maui Hudson asserts the significance of hapū as key constituents of the iwi. He advocates for distributing resources to hapū, which, in turn, support marae with central resources for all whānau. This approach ensured broader benefits for the community. Maui Hudson continues,[558]

> 'I have a responsibility to kind of report back, share information, get ideas to bring and contribute into the decision making from the hapū. But still my decision-making is around the iwi thing. Because there you're responsible to everyone, even if you've been selected by your hapū, there, you're still responsible to all other hapū. You're responsible to all the beneficiaries. I can't go there and say, "Well, I'll just get back to my hapū thing and talk about it.'

Maui Hudson discusses his dual responsibility to report back to and represent his hapū and his broader iwi whānau.[559] Despite being selected by his hapū, he acknowledges there is accountability to all hapū and beneficiaries within the iwi authority structure and the legislative role of trustees at law. Maui Hudson highlights the complex governance role of balancing hapū interests.

Maui Hudson reflects,[560]

> 'We've had iwi settlements and they have been very hapū-centric, and then resulted into devolution. With Ngāti Ranginui, and then Whānau Apanui which have not gone through. If you look at the Ngāti Ranginui one, everyone is still fighting the post settlement around the distribution and who gets what.'

[556] Māori cultural values and practices.
[557] Transcript of Maui Hudson (2023) at 8.
[558] Transcript of Maui Hudson (2023) at 19.
[559] His iwi whānau (family).
[560] Transcript of Maui Hudson (2023) at 24.

Maui Hudson highlights that iwi settlements, although focused on hapū, often lead to devolution and internal conflicts in his view. Using Ngāti Ranginui as an example, Maui Hudson notes ongoing disputes over distribution of resources post-settlement. This accentuates the challenges of maintaining hapū rangātiratanga and equitable resource distribution with the complexities in balancing tikanga Māori in settlement processes.

Maui Hudson observes,[561]

> 'This is why the iwi have sort of stepped in and taken over a bunch of the services, like, providing the health services, providing the social services because you can't deliver it at a hapū level. You haven't got the scale.'

Maui Hudson explains their iwi authority has assumed responsibility for assorted services, due to the impracticality and scale limitations of delivering these services at the hapū level. This shift reflects the balance between hapū autonomy and the need for effective, scalable solutions in the modern governance context.

Kyla Ngawairau notes,[562]

> 'The legal entity and taking on those roles that are bound by law creates the accountability. Our rules are under the hapū are what we need to live up to. Our hapū can remove a trustee. It was set up that our hapū have the final say. Ours is very different to a lot of standard governance roles.
>
> And Ngāti Turangitukua Māori committee is the body that has all the power. If you have a look at our settlement, you'll see it's got really clearly Ngāti Turangitukua Māori Committee. Those who are involved in it are Nga Uri o Turangitukua but the authority is with Ngāti Turangitukua Māori Committee.
>
> They have the say of the appointment of trustees. We run a process where you have to be a registered member to elect and to nominate people and to put your name forward, and we will hold an AGM. It doesn't determine that you are actually a trustee once the AGM finishes. Those names still must go back to the Ngāti Turangitukua Māori Committee to be ratified. Then we need a letter from them to confirm that they have been ratified.'

Kyla Ngawairau contrasts the legal framework and accountability to their hapū governance which is vested in the Ngāti Turangitukua Māori Committee. Kyla Ngawairau describes the unique process where the hapū has the final say, notably in trustee appointments, which diverges from conventional governance processes and provides a legislated secondary top layer where hapū have the final say.

[561] Transcript of Maui Hudson (2023) at 6.

[562] Transcript of Kyla Ngawairau (2023) at 6.

Wikitana Popata articulates,[563]

> ‘Sure, we have tikanga.[564] And, it was through tikanga and wānanga,[565] the more wānanga we had with ourselves, the more understanding we gained and people would know that this is the process.
>
> However, what governance is to me today, it's sort of what you write it down, and you’ve got your bullet points. And it's like, if you don't stick to this way, then the majority rules in some cases. Back in the day of our tupuna[566], we would wānanga with everyone-and we'll have arguments for 3 to 5 days, until people were satisfied that it’s okay, this is our way.’

Wikitana Popata contrasts traditional governance through tikanga and wānanga, which involved extensive deliberation and consensus-building, versus contemporary governance, characterised by written procedures and the majority rule. Wikitana Popata also criticises the current governance structure at marae committees, and highlighted issues of low attendance and lack of accountability. Wikitana Popata advocates for the traditional hapū hui model which emphasised inclusivity, collective decision-making, and equal participation of all whānau heads. Wikitana Popata rejects hierarchical structures imposed by modern governance frameworks. [567]

Marsha Davis states,[568]

> ‘Governance is a system by which decision making decisions can be made by groups, or a group of people coming together for the benefit of the hapū. For Ngāti Manu governance rests at the hapū level I don't think they've sorted out. We govern the rest because for Ngāti Rahiri there are lots of different entities within Ngāti Rahiri that compete against each other So governance for them is about sorting out the power that comes with governance.’

Marsha Davis posits governance entails decision-making processes conducted by groups for hapū benefit. For Ngāti Manu, governance primarily occurs at the hapū level, who prioritises cohesive decision-making. However, challenges arise within Ngāti Rahiri due to competing entities, necessitating efforts to manage governance power dynamics effectively. Marsha Davis also speaks on the cultural structures and process intwined into their contemporary governance practices.

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[563] Transcript of Wikitana Popata(2023) at 4.
[564] Māori customary law and practices.
[565] Learning sessions.
[566] Ancestors.
[567] Transcript of Wikitana Popata (2023)) at 10.
[568]Transcript of Marsha Davis (2023) at 3.

Marsha Davis continues,[569]

> ‘The principles we exercise. Firstly, everybody (trustees) is equal on the board of trustees. Secondly, we meet with the beneficiaries, and we have a tupuna whānau rep[resentative] system, whereby each whānau gets to choose a representative that attends the meetings. Within the structure, there are beneficiaries, and as trustees, and they all have different voting rights.
>
> The board of trustees then meet with tupuna whānau, and within those within those meetings, they remit submissions to the tupuna whānau reps so that they can contribute too. Let's say, for example, it might be a change in trust order, it might be a change in how we're going to vote whether when we talk about the Covid experience, or having to delay AGMS,[570] and when they need to actually meet. Under the Trust Act,[571] you must meet once a year with your beneficiaries. Tupuna whānau reps will then consider remits that will affect the structure of the trust order, and therefore the governance structure of the government structure of the Te Tii Waitangi B3Trust.’

Marsha Davis outlines principles governing the Te Tii Waitangi B3 Trust. Marsha Davis emphasises equality among trustees and active participation of beneficiaries through tupuna whānau representatives. These representatives practice political subsidiarity by contributing to decision-making, by relaying beneficiaries' concerns, and considering submissions that affect the trust's governance structure.

Marsha Davis reflects,[572]

> ‘I'm just going to say something about Ngāti Manu because it's interesting working with two different approaches. And I'm not saying that Ngāti Manu disregard the cultural approach. But what it does is, it stands very firm as being Ngāti Manu for Ngāti Manu and what that means. At the beginning of the Treaty claims Ngāti Manu stepped up and said that they were not going to follow everybody else and go with the Government lead. I guess, it means to align with a particular group. I won't mention the name that everybody will know what it is and so what I'm saying is that this seems to be development of a strong sense of individualism for a particular hapū.
>
> In my observation, Ngāti Rahiri (Te Tii Waitangi B3 Trust)is more Māori based. It's really true. It's based on Māori cultural values. However, there are two clear distinctions here. And it's interesting working with both of them.’

Marsha Davis contrasts governance approaches between Ngāti Manu and Ngāti Rahiri, illustrating the diversity within Māori governance structures. Ngāti Manu is described as prioritizing self-determination, maintaining a firm stance on representing their own hapū

[569] Transcript of Marsha Davis (2023) at 4.
[570] Annual General Meetings.
[571] Trustee Act 2019.
[572] Transcript of Marsha Davis (2023) at 5.

interests rather than aligning with wider government-led settlement processes. This reflects a strong assertion of autonomy and resistance to external influence.

In contrast, Ngāti Rahiri, particularly through Te Tii Waitangi B3 Trust, is portrayed as deeply rooted in Māori cultural values, emphasising collective identity and tikanga-based governance. The speaker's observation suggests that these differences create distinct governance dynamics, where Ngāti Manu embodies an individualised, self-reliant approach, Ngāti Rahiri adheres to a more traditional, collective Māori framework. This comparison underscores the ongoing negotiation between autonomy and cultural cohesion in contemporary Māori governance.

Rakena and Benton note,[573]

> 'The two sides of the argument also reflect different socio-political values. The Tūhoronuku IMA (and the Crown) relies on a one-person one-vote democratic process as demonstrating support for a mandate that has been properly recognised as reflecting the majority of Ngāpuhi individuals. The Tūhoronuku IMA said that the claimants are a 'loud minority' and that there will always be those who are unhappy with the outcome of a voting process. Supporters of the Tūhoronuku IMA see it as representing the 'modern-day demographics of Ngāpuhi,' including 'those Ngāpuhi who are not actively engaged presently, but who stand to benefit from the settlement of past wrongs.
>
> The claimants say that the hapū, as the basic building blocks of Ngāpuhi, must decide important issues regarding the settlement of their claims. They argue that their tikanga is not one of 'democracy' in western terms, but that it is perfectly capable of reaching consensus by requiring participation, discussion kanohi ki te kanohi, and resolution of differences on matters of shared concern. They see an outcome based on a majority vote by individuals, without establishing hapū consent, as undermining their rangātiratanga, especially when the issue is the crucial one of mandate to negotiate a Treaty settlement. In their view, this is not the way forward to an enduring settlement that will empower future generations.'

Rakena and Benton highlight contrasting perspectives within the Ngāpuhi community regarding the Tūhoronuku IMA's mandate for negotiating a Treaty settlement. On the one hand, were hapū who supported the mandate which emphasised a democratic process based on individual votes, asserting it as reflective of modern Ngāpuhi demographics. Opposing hapū asserted the primacy of hapū in decision-making, and advocate for consensus-building through traditional mechanisms like face-to-face discussions.

[573] Rakena and Benton (2021) at 637.

Individual voting without hapū consent is viewed as eroding their rangātiratanga and undermining the potential for a lasting settlement: As a result of this political showdown, Rakena and Benton continue,[574]

> 'In late 2018, 110 hapū participated in the referendum on the evolved mandate. The Te Ropu Tuhono Technical Advisers noted the following: "The Ngāpuhi Hapū Endorsement and Ngāpuhi Tangata vote have failed to reach the respective 65% and 75% thresh holds that Te Ropu Tuhono set for the Endorsement process".[575] The settlement was supported by 31 of 105 hapū who held hui on the proposal, and by individual votes in 52 of the 110 hapū participating in the poll (although overall 51.7% of the individual votes favoured the Rūnanga's proposals). Support was greatest (although far from unanimous) among the hapū associated with the old "Northern Alliance," and rejection almost total among their erstwhile opponents.
>
> The mandate was decisively rejected in both hui and individual votes among the hapū most closely associated with Ngāti Hine (See Appendix 1 for results). The majority of those hapū whose alliance was alongside Ngāti Hine had joined in a separate claim under the banner of Te Aho Claims Alliance. Nevertheless there are natural groupings within Ngāpuhi who will happily work together for certain purposes on their own terms.'

The referendum on the evolved mandate reveals patterns of support and rejection among 110 hapū; where specified thresholds were not met and, then the motion was defeated. This divergence between the Northern alliance and Ngāti Hine emphasise the complex dynamics operating within Ngāpuhi. This historical political showdown illustrates hapū alliances are still working and can work in political and cultural subsidiarity to achieve a shared purposed.

Rakena and Benton conclude,[576]

> 'For many hapū, the individual polls probably carry little weight. Important decisions have traditionally been arrived by consensus resulting from face-to-face meetings, which even in the twenty-first century are the preferred method of negotiation. Indeed, it is the complexities of this alternative form of government with which central governments, enamoured of the efficiency and uniformity which characterize their Austinian view of sovereignty, are reluctant to contend.'

The 2018 referendum revealed three key insights: Rūnanga o Ngāpuhi gained support from some hapū, suggesting potential for collaborative settlement; while most hapū preferred independent or group negotiations; and a division existed between northern and non-

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[574] Rakena and Benton (2021) at 644.

[575] "Final Report from the Te Ropu Tuhono Technical Advisers On the Outcomes of the Endorsement Process & Next Steps" (20 December 2018) The New Government <www.govt.nz>.

[576] Rakena and Benton (2021) at 645.

northern Ngāpuhi; evident in hui and poll outcomes. Traditional hapū consensus-based decision-making contrasted with centralised Western governance structures, posing challenges for negotiations with the Crown.

5.5 Māori social structures

Māori social structures weave relationships, roles, and responsibilities together within their communities. These structures are deeply grounded in familial bonds, and especially the whakapapa principle of blood connection to each other.

Maui Hudson states,[577]

> 'Hapū traditionally was a like a place where people were because they lived around the pa[578] and they were all actually needed to do things to help themselves out, and it was more kind of an active sort of relationship and a functioning kind of, like a functioning community.'

Maui Hudson reflects on the traditional role of hapū as vibrant and cohesive communities centred around the pa.

Marsha Davis comments,[579]

> 'Particularly, for Ngāti Manu, hapū within the Northland area is the most important entity in Māori culture. I direct you to the recent ruling or recent translation. Of the Treaty of Waitangi claims, particularly the Ngāpuhi claims,[580] hapū is the most important entity or the most important structure in Māori culture in terms of belonging. That answers your question. The third question, what is an iwi? For Ngāti Manu and Ngāti Rahiri we don't recognise iwi. It is a later construct. So, basically, whānau and hapū.'

Marsha Davis emphasises the paramount importance of hapū within Māori culture, particularly for Ngāti Manu in Northland. Both hapū of Ngāti Manu and Ngāti Rahiri reject the recognition of iwi structure.

Kyla Ngawairau states,[581]

> 'You can't have a hapū without a whānau. That is absolutely right, and you always see people draw these beautiful triangles where you put these trustees or the chairman at the top and the whānau at the bottom. Well for us actually let's flip that

[577] Transcript of Maui Hudson (2023) at 6.
[578] Village (fortified);
[579][579] Transcript of Marsha Davis (2023) at 3.
[580] The Waitangi Tribunal Paparahi O Te Raki (Wai 1040, 2010).
[581] Transcript of Kyla Ngawairau (2023) at 4.

around and let's put the whānau up top. Let's put (Nga Uri)[582] o Turangitukua at the top and let's put us at the bottom, because that's actually how it works.'

Kyla Ngawairau emphasises the fundamental connection between hapū and whānau, and suggests whānau should be prioritised as the top layer governance structures.

Pita Tipene recounts,[583]

> 'I was asked this question last Saturday night at the Matawaia marae. Is Ngāti Hine an iwi or hapū?" and I said, "We are an iwi. We have nine (9) hapū, and we will determine what we are, and we won't let anybody else tell us what we are". But more importantly, it was to keep our nine (9) hapū together in a coherent and clear way. To exercise our own interdependence as hapū of Ngāti Hine.'

Pita Tipene confirms Ngāti Hine's status as an iwi. However, Pita Tipene emphasises the autonomy of its nine hapū to determine their collective identity, which was to maintain unity and interdependence as hapū within Ngāti Hine.

Wikitana Popata notes,[584]

> 'Traditionally, there was no iwi aye. So for a lot of us because of the land claims, the settlement process, you have to sort of tie yourself in with an iwi. So we do have an iwi that used to be quite well known back in the day that we more affiliate too. Which is our iwi of Te Patu. But then there's actually hapū within this iwi so we're a bit of both.'

Wikitana Popata discusses the evolving concept of iwi affiliation due to land claims and settlement processes. While he acknowledges ties to the iwi of Te Patu, he emphasises the significance of hapū within this framework. Wikitana Popata defined Ngāti Kahu as an iwi which encompassed his family and marae. Wikitana Popata mentioned how his hapū had a substantial hapū population.[585]

5.6 Cultural Subsidiarity between hapū and iwi

Maui Hudson comments,

> 'We've created Te Tāwharau o Te Whakatohea as our post settlement entity. And so that will be the iwi entity, and there's often a little bit of a difference between the iwi entity and what it represents and what the iwi is. You can have people that represent the iwi but that aren't part of the iwi entity because they are cultural leaders rather than the political leaders. And there are different times when those things, where

[582] Offspring; descendants; kin; successor; blood connection.
[583] Transcript of Pita Tipene (2023) at 9-11.
[584] Transcript of Wikitana Popata (2023) at 1.
[585] Transcript of Wikitana Popata (2023) at 3.

there can be a bit of tension in it. But if people are sensible it all works out. But occasionally there are times when people aren't.

In some ways a little bit the same with the hapū. The hapū are pretty clear about what the hapū is, often though not clear about who speaks for the hapū.'

Maui Hudson highlights the complexities of Māori cultural and political subsidiarity within post-settlement governance. It underscores the distinction between iwi as a collective identity and the iwi entity as a political structure, revealing tensions between cultural and political leadership. Similarly, hapū maintain clear identities but face challenges in defining formal representation. These dynamics illustrate the negotiation between traditional Māori governance, rooted in relational leadership, and modern administrative structures imposed through settlement processes.

Maui Hudson continues,[586]

'It made me think about what are the things that the hapū can deliver or should be empowered to deliver, and what are the things that best sit at the iwi level. The support around cultural development, the reo, the tikanga, the history. The iwi shouldn't take that away. They should be trying to allow and support the hapū to be the 'drivers' of that. [587]

And you see that happening in the way Ngai Tahu supports the Rūnaka,[588] effectively with their things. And you see it happening in other places. The iwi Whakatohea provides some money to the hapū, hapū decide how they're going to spend it.

Maui Hudson emphasises the importance of Māori cultural and political subsidiarity, advocating for hapū as the primary drivers of cultural development, reo, tikanga, and history. It critiques the centralisation of these roles at the iwi level, arguing that iwi should facilitate rather than control. An example of Whakatōhea funding for hapū illustrate a model where hapū retain autonomy, reinforcing traditional governance structures within modern settlement frameworks.

5.7 Te Tiriti o Waitangi 1840 and The Treaty of Waitangi 1840

Te Tiriti o Waitangi is a foundational agreement to anchor the rights of Māori to self-governance and sovereignty over their lands, resources, and cultural heritage. It

[586]Transcripts of Maui Hudson (2023) at 7.
[587]Transcript of Maui Hudson(2023) at 7.
[588]Transcript of Maui Hudson(2023) at 7.

established the legal and constitutional framework for Māori to assert their authority and maintain their traditional governance structures of hapū rangātiratanga.

Rakena explains,[589]

> 'Māori are the Indigenous people of Aotearoa New Zealand ("Aotearoa"). From their arrival in the early 12th century,[590] Māori rangātira (chiefs) exercised governance in all spheres of cultural, political and economic infrastructures within their hapū (communities).[591] Māori infused and implemented evolving and growing knowledge of environmental governance over terrestrial and marine estates. The pristine quality of lands, coastlines, oceans, fisheries, aqua-cultures and natural resources of Aotearoa discovered and undiscovered were 'taonga' (culturally valued resources).[592] Māori harnessed and harvested these taonga to provide multigenerational wellbeing, sustainable economic development and wealth. This environmental governance approach secured livelihoods for hapū, cemented commercial trade with other iwi (tribes) and consolidated opportunities for overseas trade enterprise.'[593]

Māori historically exercised comprehensive governance through their rangātira over cultural, political, and economic spheres within their hapū. Māori implemented advanced environmental governance, maintaining pristine natural resources. Their approach ensured multigenerational wellbeing, sustainable economic development, and facilitated both intertribal and international trade, incorporating tikanga Māori with effective hapū rangātiratanga.

Rakena continues,[594]

> 'With the signing of the Treaty of Waitangi/Te Tiriti o Waitangi (the Treaty) on 6 February 1840, an international agreement was concluded between Māori rangātira and the Crown. Both sovereign nations derived 'mana' ("recognised authority, influence and prestige that combined notions of psychic and spiritual force and vitality") and for Māori rangātira, high expectations affirmed in the Treaty. One significant guarantee was for the Crown to protect their taonga, the 'undisturbed possession of their lands, and estates, forests, fisheries for as long as they wished to retain them.' Under the mantle of the Treaty, the New Zealand Crown 'is under a clear constitutional and legal duty to ensure that Māori community mana over taonga is protected.'[595]

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[589] Rakena (2021) at 897.
[590] Hiroa (1958) at 5.
[591] Benton et al., (2013) at 71. "This term refers to the primary political unit in traditional Māori social organisation at the time of contact with Europe and America."
[592] See Benton et al (2013) at 396-399 for a comprehensive discourse on 'taonga'.
[593] Petrie, H. (2013). Chiefs of industry: Māori Tribal Enterprise in Early Colonial New Zealand. Auckland: Auckland University Press.
[594] Rakena (2021) at 897.
[595] Joseph et al., (2019) at 3.

Rakena reflects the high expectations Māori Rangatira held following Te Tiriti o Waitangi, particularly regarding the protection of their taonga. Te Tiriti established a constitutional and legal duty for the Crown to safeguard Māori authority over their resources including lands, natural resources, and language among many other taonga reinforcing the importance of Māori sovereignty and the Crown's obligations.

5.8 Miscellaneous reflections on hapū governance

Here is evidence that contain sundry reflections from participants on the role of hapū. Maui Hudson notes,[596]

> 'We think about what ways can we restore our mana over our domains, in relation to the whenua, in relation to the moana and in relation to our people. This is sort of mana tangata, mana moana, mana whenua element. The thinking helps driving and making outcomes happen. Also, we need to recognise the importance of engaging, and having continuing engagement with the Crown: In terms of being able to make sure that resources keep running through, and work kind of proactively towards some of the outcomes that are going to be beneficial.'

Maui Hudson emphasises restoring mana over their territories, and their people. He reiterates the significance of having ongoing engagement with the Crown to ensure resource sustainability so Whakatohea could provide wellbeing to whānau and hapū.

Maui Hudson continues, [597]

> 'It's a creature of the legislation (Whakatohea Māori Trust Board). Does that mean that it's a Pākehā thing like some of the cousins say, no, because it's for us. We're the ones doing it. We make the decisions.
>
> But there's a few kind of hooks and things in it. But, if we got rid of that, what would you replace it with? We still have to put together a trust deed. We still have to talk to voting processes, we still have to do all these things, because if they're not there, then what do we do?[598]How do we decide who our rangātira are, and who's going to represent us?'

Maui Hudson reflects on the tension between Māori governance structures created under legislation and traditional Māori self-determination. He acknowledges that the Whakatōhea Māori Trust Board is a product of legislative frameworks, leading some to question its authenticity as a Māori governance entity. However, Maui Hudson counters that while it operates within a Pākehā legal system, it is still controlled by Māori, making decisions for

[596] Transcript of Maui Hudson (2023) at 9.
[597] Transcript of Maui Hudson (2023) at 12.
[598] Transcript of Maui Hudson (2023) at 12.

their people. The challenge lies in the structural constraints: legal obligations, voting processes, and governance mechanisms which, while necessary for function, can feel restrictive. Maui Hudson questions what could replace such a structure if it were removed, recognising that even without legislative oversight, decisions about leadership and representation would still need to be made. This highlights a deeper dilemma in Māori governance on how to reconcile traditional decision-making with contemporary governance demands, while maintaining legitimacy and accountability.

Maui Hudson notes,[599]

> 'We have 3,000 registered members, but you have a hapū meeting, and you'd be lucky to get 15 people there. There is this sort of tension between the people that are there that would like to say they represent the hapū, they represent the voice of the hapū; even though there's not kind of a connection between those 15 and the other 3,000. In a sort of an accountability way, at least in terms of the voting onto the trust board, they get a chance to have a say. It might only be 300 people that participate in that, but still it's sort of a more transparent and accountable way of engaging and providing support for the authority that's been represented.'

Maui Hudson profiles a tension within the hapū regarding representation and accountability. Despite hapū having a large, registered membership, hapū meetings often have minimal attendance. Nonetheless, those present claim to represent the hapū voice, although they lack connection with the broader membership. Voting onto the iwi Whakatohea Trust board provides more transparency regarding representation.

Maui Hudson explains,[600]

> 'Our hapū that are really strongly focused on autonomy and that the hapū should be the political entity, not the iwi, and in some ways they are anti-iwi. That's not everyone in hapū, of course, because they keep voting me on, and I don't share that view. But that sort of voice is there.
>
> It made me think about what are the things that the hapū can deliver or should be empowered to deliver, and what are the things that best sit at the iwi level? The support around cultural development, the reo,[601] the tikanga,[602] the history. The iwi shouldn't take that away. They should be trying to allow and support the hapū to be the 'drivers' of that.'

Maui Hudson discusses differing perspectives within hapū regarding their autonomy versus iwi authority governance. While some advocate for hapū as the primary political entity; others, Maui Hudson sees value in iwi support for cultural development to hapū and

[599] Transcript of Maui Hudson (2023) at 5.
[600] Transcript of Maui Hudson (2023) at 7.
[601] Māori Language.
[602] Māori customary laws and practices.

empowering hapū to lead in this space. Maui emphasises the importance of delineating responsibilities between hapū and iwi levels to preserve cultural heritage thereby redefining the cultural subsidiarity for hapū.

Maui Hudson reflects:[603]

> 'I know this, over in the States where their iwi have only got 3,000 people and so that's the size of the hapū. You could be saying, our hapū are the size of an iwi and therefore could be an iwi.'

Maui Hudson illustrates an example to show that in some places in the United States, the size of the hapū is comparable to that of an iwi in NZ. He contemplates that hapū could potentially function as iwi entities due to their size in Aotearoa New Zealand.

Kyla Ngawairau describes the following,[604]

> 'We have Turangitukua included as part of our hapū settlement but yes we're part of Tūwharetoa. But we wrote into our settlement that Ngāti Turangitukua is a hapū of Ngāti Tūwharetoa the iwi. So that's very clear. From a government perspective, we're treated as an iwi. But within us internally we need to make sure that that was very clearly outlined because that's exactly who we are, a hapū. That matters to us. It also matters to our whānaunga[605] hapū to make sure that that's clear. We haven't thought that we're higher than them or anything. It's just a mechanism that we need to use.'

Kyla Ngawairau clarifies the relationship between their hapū, Ngāti Turangitukua, and their iwi, Ngāti Tūwharetoa. Kyla Ngawairau reiterates the distinction between hapū and iwi. While Ngāti Turangitukua is recognised as an iwi externally; internally, Kyla Ngawairau confirms their hapū identity, which ensures clarity for themselves and their affiliated hapū, without asserting superiority over other hapū.

Kyla Ngawairau affirms,[606]

> 'Turangitukua is a hapū that's had a settlement for a while and I guess a few more people have come through that are willing to kind of get in there and push things through more. So with that we're pushing and saying, actually, we need to take this because hey, somebody else shouldn't be doing our mahi. If someone else is doing our mahi, we're not the kaitiaki.'

Kyla Ngawairau reiterates the proactive stance of Turangitukua hapū trustees to drive their settlement going forward. Kyla Ngawairau emphasises the importance of hapū taking

[603] Transcript of Maui Hudson (2023) at 31.
[604] Transcript of Kyla Ngawairau (2023) at 22.
[605] Familial; blood connection hapū.
[606] Transcript of Kyla Ngawairau (2023) at 23.

charge of their own affairs to fulfil their role as kaitiaki,[607] rather than allowing others to dictate their actions.

5.9 Conclusion

Participants consistently affirm hapū rangātiratanga as central to Māori self-governance, positioning hapū as the primary custodians of their ancestral territories and collective well-being. Te Tiriti o Waitangi 1840 and He Whakaputanga 1835 are emphasised as foundational documents affirming Māori governance rights within the contemporary global landscape.

The traditional Māori social structure was an efficient economic system. The colonial government's failure to acknowledge and integrate this framework, was a deliberate act to dismantle Māori governance structures, undermining political and cultural well-being. The Crown disregarded centuries of Māori self-governance and economic success, reflecting an envious response to its efficacy.

Traditional hapū governance continues to influence contemporary decision-making and consensus-building. Pita Tipene recounts how these processes endure, while Marsha Davis notes how hapū alliances strategically navigate Crown policies, particularly the policy of “large natural groupings” for Treaty settlements.

Participants also illustrate the varied roles hapū play within governance contexts. Ngāti Turangitukua exercises hapū rangātiratanga assuming an iwi authority persona, while ensuring hapū principles remain central to its mandate. Ngāpuhi hapū successfully opposed Te Rūnanga A-Iwi-O-Ngāpuhi as the legislative entity, affirming hapū rangatiratanga’s relevance in contemporary governance still exists. While some iwi authorities attempt to accommodate hapū governance, this remains insufficient for those hapū seeking full autonomy.

Overall, hapū continue to assert their governance identity, challenging imposed structures and advocating for self-determination within evolving governance landscapes.

[607] Guardians; stewards.

CHAPTER SIX– Part 1

The New Zealand Government Interventions through legislation

and its Institutional arm

> 'The Crown constituted itself as a government with single, undivided sovereignty, used its unilateral power to introduce policy and legislation that facilitated the dispossession of whānau and hapū of their resources and their authority in the land, and enshrined its own authority and capitalist social relations instead.'[608]

The Crown's establishment of a centralised government with unilateral sovereignty led to the disenfranchisement of Māori social structures, governance, the appropriation of their resources, and the imposition of Westernised socio-economic structures. This resulted in long-term adverse effects on Māori as a nation.

Tēnā koutou katoa,

6.1 Introduction

The parliamentary system of government in Aotearoa New Zealand is a constitutional monarchy. Today, Māori rangātira self-govern within the spaces of the nation state's own legislative and institutional systems.

The phrase 'there is always two sides of the story' rings true when the New Zealand Government legislation and the country's legal institutional arm are discussed. More so, where governmental tools interface to affect hapū, iwi and iwi authorities, and their ability to exercise Māori modes of self-governance. This chapter explores the dual perspectives inherent in specific legislation and institutions acknowledging both the historical context, and now the contemporary implications for hapū and iwi represented by iwi authorities. Chapter6 also investigates the notion that successive New Zealand Governments have shown preferential treatment for iwi by increasing their presence in legislation over their

[608] Healy, S., 2006.The nature of the relationship of the Crown in New Zealand with iwi Maori (Doctoral dissertation, ResearchSpace@ Auckland). at Abstract.

counterpart hapū. This proposition is also supported by participants' interview evidence (Chapter 4 Part II) and the case study of governance in action of (Chapter 7 Part I and II).

New Zealand's legislative landscape is influenced by its bicultural foundation,[609] a unique characteristic stemming from the Te Tiriti o Waitangi 1840. Several rangātira signed the Māori text Te Tiriti o Waitangi. And not, a different English text which wasn't presented at Waitangi on Feb 6, 1840.

The key difference is that Te Tiriti o Waitangi is the Māori language text and the Treaty of Waitangi is the English language text. These two texts convey fundamentally different meanings regarding sovereignty and rights, leading to different expectations and ongoing conflict. The Māori text emphasises tino rangatiratangas [610] and guarantees Māori sovereignty over their lands, resources, and taonga[611] while granting the Crown kāwanatanga[612] to maintain order and lawless of its British settlers. In contrast, the English version interprets these terms differently, suggesting Māori ceded sovereignty and the transfer of sovereignty to the Crown. This fundamental misalignment laid the groundwork for disputes as the Crown often disregards Māori interpretations and uses the English interpretation of the Treaty to justify land acquisition and resource control.

Te Tiriti comprised of three key articles: the first grants governance rights to the Crown, the second guarantees Māori authority over their lands and taonga, and the third extends to Māori the rights and privileges of British subjects. Over time, these articles evolved into principles such as partnership, active protection, and redress, which guide contemporary interpretations of the Treaty of Waitangi. These principles acknowledge the Crown's obligation to collaborate with Māori, respect their self-determination, and address historical injustices. Despite these efforts, the divergence between the two Treaty texts continues to shape the complex and ongoing relationship between Māori and the Crown.

More importantly, the Treaty anchors all legislation pertaining to Māori, as it laid the initial groundwork for the roles, rights and responsibilities of both the Māori and the New Zealand

[609] Biculturalism is not addressed formally as a country.
[610] Chiefly Authority.
[611] Treasures, valued resources.
[612] Governance.

Government. Again, the interpretation and implementation of the Treaty's principles have been a subject of ongoing debate and contention continuing into the present time.

Consequently, the NZ Government and some non-Māori New Zealander groups view the Treaty and related legislation through different lenses, influenced by their own cultural worldviews, political, economic, and social. This has led to a complex and sometimes contentious relationship between the Māori and the Crown; with legislation often being the ground breaker to impose the dominant worldview of the New Zealand Government. However, in both versions of the Te Tiriti and the Treaty of Waitangi, the Crown has been proven guilty of breaches and past injustices again and again under the authority of the Treaty of Waitangi Act 1975. The Crown has acknowledged this, apologised, and provided minimal compensation as noted by Mutu.[613] Furthermore, the Crown continues to sidestep the Waitangi Tribunal compensatory recommendations to enter into direct negotiations with large natural groupings to make final settlement.

In recent decades, there has been a growing emphasis with the Crown to address alleged past injustices of breaches of the Treaty of Waitangi through various means, which include legislated Treaty settlements, co-governance arrangements,[614] and; the incorporation of Māori perspectives and values into the legislative process. This pattern of behaviour reflected a broader trend towards recognising the unique status of the Māori as co-partners of the Treaty of Waitangi 1840. Yet in the same breath, the Crown moulds Māori settlement governance entities (PSGEs) in their own image. Post Settlement Governance Entities resurrect Māori governance, albeit importing an incremental degree of self-governance within the constraints of PSGEs negotiated with the Crown. Nevertheless, challenges remain.

Issues such as land rights, resource management, and the representation of hapū in the national political process continue to evoke strong opinions and debate among hapū and iwi.

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[613] Mutu, M. (2019). 'The Treaty claims settlement process in New Zealand and its impact on Māori,' Land, 8(10), at 152.

[614] Notable co-governance arrangements for resource management include the Waikato River Authority, Whanganui River Settlement 2017, Ngāi Tahu Claims Settlement Act 1998, Rangitaiki River Forum, and Taranaki Mounga Project.

6.2 Separating this chapter into two sections

From the very start of the thesis research, I wanted to ensure I captured the subtleties of Māori understandings and lived experience of Māori adapting to multiple ways of governing in all spheres, and in all the chapters I crafted. I was committed to include as much evidence derived from the interviews, the case study portfolio, and literature that firmly rested on a Kaupapa Māori standpoint and research practice as described in Chapter Three (3). Meanwhile, while completing this chapter, the newly installed 2023 coalition government of New Zealand with its agreements seemed to turn the thesis on its head. I had no intention to include the coalition's strategic direction until I fully discovered its strategic direction to marginalise Māori as a minority group rather than as a partner to Te Tiriti o Waitangi. It appears a change of guard has happened in the corridors of law-making and governing NZ. More significantly, one of its intents was to halt Treaty settlements of iwi and hapū to self-govern. Therefore, this hot topic was relevant to include in this chapter.

For the purpose of preserving the rich evidence and my analytic synthesis, the chapter is divided into two parts. I want to be respectful of the narratives, experiences and wealth of knowledge shared. Like Chapter 4, my legal training advocates the participants' evidence and context brings deeper understanding. Accordingly, I have chosen to privilege their voices in sometimes extensive verbatim quotes. These quotes are embedded in the sections below as pathways into emerging issues, and then into common/diverse insights.

The natural split will occur between Chapter Six. Part I, sections 6.1- 6.9 and Chapter Six Part II sections 6.10-6.15. In both chapters, relevant legislation is identified, includes participants' responses about their experiences with interfacing with the New Zealand Government, and will be followed by a conclusion.

6.3 The format of this Chapter

This chapter will focus primarily on the legislative and governmental institutional developments that have shaped the Crown's approach to the rights of the Māori who affiliate with hapū and iwi. To ensure an understanding of these issues, my Māori methodology has encompassed a range of sources.

Firstly, I have incorporated primary evidence obtained from interview transcripts of participants who have directly engaged with pertinent legislation and institutions since 1975. This is a good starting point as the Waitangi Tribunal was first established in 1975 and chaired by Judge Eddie Durie (Chief Justice of the Maori Land Court to make inquiry into Māori historical and contemporary claim allegations against the Crown.

Secondly, I have utilised Chapter 7, 'Governance in Action',[615] as an additional tool for analysis. Chapter 7 examines two case studies where legislation and institutional actions have intersected with the lives and governing rights of hapū, and iwi and we see governance in action as recounted by the interview participants. The cases involve the battle between the political battle of Te Rūnanga A-Iwi-O-Ngāpuhi ("TRAION") and Te Kotahitanga o Nga Hapū Ngāpuhi ("Te Kotahitanga"). The second cause study looks focusses on Māori environmental governance how participants' organisations respond to it.

Thirdly, I include selected excerpts from co-authors Finlayson and Christmas. Christopher Finlayson is a former leading barrister and Minister of Treaty Negotiations, (2008-2017). [616] The book documents the government's policies and intent regarding its Treaty obligations. The reasoning behind including this book's commentary is because Finlayson acted as a representative of the Crown in Treaty negotiations with iwi and hapū and coauthored a book on his experiences and encounters as the Crown narrative.

Fourth, key authors will offer critique on the government tools such as legislation and regulatory policies while examining their impacts on Māori ways of governing.

Finally, news media about the new coalition government[617] and approach to dealing with Māori will be noted and analysed.

6.4 The legislation and legal Institutions under investigation

I examine a selection of legislation and entities that have played a fundamental role in shaping the legal and cultural landscape of New Zealand for hapū and iwi and have been

[615]See Pages 207-262 of the thesis.
[616]Finlayson and Christmas (2021).
[617] A coalition government comprises of the political parties National, New Zealand First and Association of Consumers and Taxpayers, ("ACT") party.

engaged with by the interview participants. Following these sections are the institutions legislated by the Crown.

International Treaty:

1. *Te Tiriti o Waitangi and The Treaty of Waitangi 1840*: Recognised as New Zealand's foundational document; and establishes a relationship between Māori rangātira[618] and the British Crown.

Legal institutions:

2. *The Waitangi Tribunal*:[619] It is deemed a Commission of Inquiry under the Second Schedule of the Treaty of Waitangi Act 1975. It is an institutional body established via the NZ Parliament. It is responsible for addressing grievances related to the Treaty, particularly those filed by the Māori claimants composed of whānau, hapū and iwi.
3. *Post-Treaty Governance Entities*: These are legally-incorporated organisational structures legislated to create iwi authorities to represent iwi interests created by the governmental policy of large natural groupings.

Key Legislation:

4. *Māori Fisheries Act 2004, Schedule 4.* This legislation deals with Māori fishing rights as stipulated in the Treaty of Waitangi.
5. *The Marine and Costal Area (Takutai Moana) Act 2011, Part 3:* Recognises and provides for customary interests of whānau, hapū and iwi in New Zealand's marine and coastal area.
6. *Public Works Act 1981, sections 40 and 41*. This is legislation that has implications for Māori land rights, especially in terms of land acquisition by the Crown acquired under this banner.
7. *Resource Management Act 1991 sections 6(e), 7(a), 8*. The Resource Management Act includes multiple sections that address Māori issues and concerns. Key

[618] Chiefs.

[619] "Waitangi Tribunal;" <www.waitangitribunal govt.nz>.

sections include Sections 21, 22, and 27, which relate to iwi participation and consultation in resource management decisions.

Challenges and responses to the legislation: A sample of challenges surrounding legislation are alluded to. I have now provided an overview of this chapter. Now we commence with Te Tiriti o Waitangi and Treaty of Waitangi 1840.

6.5 Distinguishing Te Tiriti o Waitangi 1840 and The Treaty of Waitangi 1840

The Māori language Te Tiriti o Waitangi is a treaty of peace and friendship that granted immigration rights to the subjects of the Queen of England and confirmed Māori paramount authority as declared in He Whakaputanga of 1835. It was the treaty that was discussed, agreed and signed at Waitangi. The English language draft on the other hand, is a treaty of cession of sovereignty and was a wish list drafted by some English bureaucrats wanting to take over the country. This draft was not discussed or agreed to anywhere in the country. Te Tiriti o Waitangi is not a translation of The Treaty of Waitangi.

One of the reasons this error has persisted is its legal origin in the Waitangi Tribunal's 1975 legislation that requires it to reconcile the two documents. Academic Ani Mikaere's, well-known analysis demonstrates conclusively that the two are irreconcilable, because they embody fundamentally different understandings of authority. [620] Te Tiriti guarantees Māori tino rangatiratanga while granting the Crown limited kāwanatanga, whereas the Treaty asserts full cession of sovereignty. For Mikaere, attempts to harmonise them obscure this contradiction and perpetuate the Crown's dominance over Māori governance. Moana Jackson too, in both his Brief of Evidence for the Te Paparahi o Te Raki Inquiry (Wai 1040, 2012) and his wider writings, consistently argues that Te Tiriti o Waitangi and the English Treaty text are irreconcilable.[621] He maintains that rangatira never ceded sovereignty, with Te Tiriti affirming Māori tino rangatiratanga and envisaging a relationship of shared authority, while the English version unilaterally asserted Crown sovereignty. For Jackson, attempts to merge the two texts distort Māori intent and reinforce colonial assumptions.

The error is compounded by governments and the public service deliberately obfuscating the difference between the two by using the oxymoron "Te Tiriti o Waitangi/The Treaty of

[620] Mikaere (2011).

[621] Moana Jackson, (2012).

Waitangi" as a political ploy to promote the draft wish list. The reason they do this is that they need to maintain the false fiction that Māori leaders ceded sovereignty to the Queen of England. It is what they use to justify their refusal to recognise tino rangatiratanga and the Māori right to self-determination.

A major contributing factor to the error is the underlying wrong assumption about the treaty that occurs in much of the literature, that The Treaty of Waitangi is a legitimate treaty. The British Crown claimed sovereignty based on the Treaty of Waitangi which makes their claim to sovereignty illegitimate as some legal scholars have repeatedly pointed out including Moana Jackson,[622] Ani Mikaere,[623] and Claire Charters.[624]

Another contributing factor to the error is inadvertently drifting into using The Treaty of Waitangi instead of Te Tiriti o Waitangi when writing in English for a non-Māori speaking audience.

Those who try to argue that the English language Treaty of Waitangi has legitimacy refer to the 30 or so signatures collected at Port Waikato on a copy of the English language wish list. That document was signed after the English missionary Maunsell read out Te Tiriti o Waitangi and then assured the leaders that the English document (which they couldn't read or understand) meant the same.

The most comprehensive reference for the differences between the two documents is the Waitangi Tribunal's 2014 report.[625] Ani. Mikaere,[626] and Margaret Mutu.[627]

6.5.1 The document Te Tiriti o Waitangi

Te Tiriti o Waitangi, signed in 1840, consists of a preamble, three written articles, and a fourth oral article. The preamble declared Queen Victoria's wish to establish government in Aotearoa to maintain order while safeguarding Māori interests and facilitating settlement. The first article stated that rangatira granted the Queen kāwanatanga, a limited authority of governance, which differed markedly from the English version that spoke of ceding

[622] Jackson (1992).
[623] Mikaere (2011).
[624] Claire Charters "The Myth of Sovereignty" (4 June 2017) E-Tangata <www.e-tangata.co.nz>.
[625] Waitangi Tribunal (Wai 1040,2014).
[626]Mikaere (2011).
[627] Margaret Mutu (2010) 'Constitutional Intentions: The Treaty Texts' in Malcolm Mulholland and Veronica Tawhai (eds) Weeping Waters: The Treaty of Waitangi and Constitutional Change (Huia, Wellington, 2010) 13.

sovereignty. The second article guaranteed Māori tino rangatiratanga over their lands, villages, and taonga katoa, while granting the Crown a right of pre-emption. The English text narrowed this to property rights, diminishing the broader promise of chiefly authority. The third article promised Māori the rights and privileges of British subjects, aligning more closely across both versions. The fourth article, conveyed orally by Hobson and his officials, affirmed freedom of religion and protection of customary practices. Collectively, Te Tiriti o Waitangi envisaged shared authority, Māori autonomy, and limited Crown governance; while the English Treaty reframed the agreement as a cession of sovereignty, creating a constitutional tension that continues to resonate.

Strack and Goodwin note, [628]

> 'In the actions of the Crown, one Treaty principle is emphasised, kawanatanga, the right to govern, and another principle is downplayed – that of tino rangātiratanga, the right to self-determination.'

The recurring theme of the Te Tiriti o Waitangi and the Treaty of Waitangi continues as a subject of ongoing and considerable debate regarding its legal and constitutional status. This statement highlights the imbalance in the Crown's application of Treaty of Waitangi principles. Te Tiriti o Waitangi was originally intended to establish a relationship of shared authority, with the Crown exercising governance while Māori retained control over their lands and their own affairs. However, in practice, the Crown has often asserted kāwanatanga unilaterally, using it to justify legislative and political dominance, while restricting Māori self-governance. This dynamic has led to ongoing contestation, as Māori continue to assert tino rangātiratanga through Treaty claims, governance structures, and political activism. The downplaying of tino rangātiratanga reflects a colonial legacy where state institutions historically constrained Māori autonomy, reinforced power imbalances that have persisted in contemporary governance debates.

However, Rakena and Benton note, [629]

> 'Thus, by merely engaging with British systems of government, chiefs were unwittingly deemed to have ceded authority over their own people, and territories. This denial of mana, together with the diminished labour pool, weakened the social cohesion provided by chiefly leadership. So the colonising process significantly

[628] Strack and Goodwin (2017) at 48.

[629] Rakena and Benton (2021) at 634.

> altered Māori social, spiritual, and economic systems and, as a consequence, the bonds that bound individuals and communities loosened.'

Here, the Māori Chiefs' acquiescence to the Crown's governance rationalised the Crown's assault on all fronts of Māori society.

Until 1987, the Te Tiriti was not recognised in domestic law. A seminal case, *New Zealand Māori Council v Attorney-General,*[630] introduced principles of the Treaty of Waitangi to provide a presumably consistent interpretation and approach to Te Tiriti O Waitangi and he Treaty of Waitangi. It also acknowledged a contemporary partnership between Māori and the Crown and the Crown's duty. Finlayson and Christmas opine,[631]

> 'The overarching feature of these principles was the definition of the Crown-Māori relationship as a form of partnership in which both partners must act reasonably, honestly and in the utmost good faith. The Crown has obligations to protect and preserve Māori property and a duty to remedy past breaches of the Treaty. These principles and others have come to form the basis of the contemporary Treaty relationship between the Crown and Māori.'

In contrast, academic Margaret Mutu submits the impact of this codification of the 'principles' of the Treaty of Waitangi was to divert attention from the true essence to uphold hapū and iwi sovereignty in the Treaty partnership. Mutu notes, 'The so-called principles of the Treaty of Waitangi attempt to by-pass the original Treaty.'[632] Mutu states there is the challenge for the Waitangi Tribunal to reconcile the different versions of Te Tiriti o Waitangi and the Treaty of Waitangi, and its impact felt by hapū and iwi. Mutu affirms the Waitangi Tribute report which states Māori did not cede sovereignty to the British.

On the political front, ACT[633] political party leader David Seymour, [634] a newly appointed Minister in the coalition government in 2023 declares,[635]

> 'His party does not regard Te Tiriti o Waitangi as a partnership between Māori and the Crown. David Seymour told *Midday Report* he believed Te Tiriti o Waitangi was a founding document, but the idea that it is a partnership is based on a misinterpretation.

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[630] New Zealand Maori Council v Attorney-General [1987] 1 NZLR, 641.(CA).

[631] Finlayson and Christmas (2021) at15.

[632] Mutu, M. (2019) b '"To honour the Treaty, we must first settle colonisation" (Moana Jackson 2015): The long road from colonial devastation to balance, peace and harmony', Journal of the Royal Society of New Zealand, 49(sup1), at 6.

[633] ACT (Association of Consumers and Taxpayers (NZ). ACT is a right-wing, liberal political party.

[634] A member of NZ parliament.

[635] "Te Tiriti o Waitangi partnership a 'misinterpretation,' David Seymour believes" (22 January 2024) RNZ <www.rnz.co.nz>. (22 January 2024).

> ‘It is a document that founds New Zealand as a country, where in Article 1 the government has the right to govern, in Article 2 we each have the right to tino rangātiratanga the right to flourish in self-chosen ways and in Article 3 we all have nga tikanga katoa rite tahi, or the same.’

The statement highlights how Māori governance has been constrained by Crown frameworks that limit tino rangatiratanga, leaving only a shadow of Māori authority. Despite Te Tiriti guaranteeing rangatiratanga, the Crown’s interpretation entrenches state sovereignty and sidelines Māori governance. In essence, it shows the gap between Te Tiriti’ o Waitangi promises and the restrictive realities imposed by legislation.

As well, Seymour’s slur on the New Zealand courts approach is ill considered by itself. Is this a slur on the Courts? Seymour, focusses on the Crown being able to ‘flourish’ at the expense of its other partner, demonstrates a lack of knowledge about the Te Tiriti o Waitangi as a founding document,’ and a skewed lens intended to embed a recycled colonialist view with the public of a same bent. The Treaty was signed between two sovereign nations, not one. Te Tiriti o Waitangi Articles clearly articulated the roles, and responsibilities of both parties.

In response to David Seymour, Finance Minister Nicola Willis relays the position of the current NZ coalition government on 23 January 2024. She states,[636]

> ‘The political year has begun with headlines dominated by the response to the new coalition government's policies related to Māori. More than 10,000 people gathered at Tuurangawaewae on Saturday for a unified response to the coalition government's policies impacting Māori and Te Tiriti o Waitangi, including opposing the ACT Party's moves to redefine the principles of the Treaty. ACT party leader and Cabinet minister David Seymour told RNZ's *Midday Report* it was wrong to see Te Tiriti o Waitangi as a partnership between Māori and the Crown.
>
> In response however, National MP and Finance Minister Nicola Willis told RNZ's *First Up* it was clear the Treaty of Waitangi established a foundational relationship between the Crown and iwi. It is our founding document as a nation. How that relationship works in practice is something that the courts have likened to being like a partnership," she said.’

Here, we see diverse and conflicting views, on the interpretation of Te Tiriti o Waitangi in political circles. While Nicola Willis’ statement reaffirms a partnership between Māori and

[636] “Nicola Willis: Govt’ committed to relations that Treaty of Waitangi promises” (22 January 2024)” RNZ <www.rnz.co.nz>.

the Crown while the Coalition Government commences to strip away Māori rights as stated in the Coalition Government Agreement.[637] Māori Development Minister Tama Potaka of the current coalition also responded to the Ngāruawāhia hui at Tūrangawaewae Marae on the position of the coalition was not to create a chasm of divisiveness between the Crown and Māori, he notes,"[638]

> 'We've been very clear to the motu[639] during our campaign and coalition agreement to encourage discussions about the Treaty of Waitangi. However we're also very clear that we will not support an unhelpful referendum on Treaty principles that will be divisive.'

Further, Potaka's reassurance signals an attempt to calm Māori concerns by affirming the Treaty remains central while rejecting a referendum that could undermine it. At the same time, it reflects ministers toeing the party line, acknowledging the issue but framing it within coalition boundaries rather than fully addressing Māori aspirations.

Quotes and commentaries from political figures like David Seymour, Tama Potaka and Nicola Willis illustrate divergent views on the Treaty's interpretation in Aotearoa. Seymour sees Te Tiriti as foundational but not a partnership, while Willis views it as a foundational relationship likened to a partnership between Māori and the Crown. This position has been the default position of the Crown since 1987 when the Treaty principles were determined.

These commentaries concretise the ongoing debate about the Treaty's role in promoting the Treaty rights in modern Māori governance and to erase our founding document Te Tiriti o Waitangi 1840.

In the role of a city councillor, Moko Tauariki talks about the Te Tiriti o Waitangi,[640]

> 'I campaigned on three (3) key items, and one of those big ones for me was the infusion or the embedding of te Tiriti o Waitangi across our organisation. With that said, I need to model and lead what a good Te Tiriti partnership looks like, because I don't feel that some of my peers. not saying all of them, but some have absolutely no idea what my world looks like. And so, when they hear things like karakia even the word Te Tiriti gives them a little bit of palpitations. I have no problems with doing

[637] "2023 Coalition Agreement" (Dec 2024) New Zealand First <www.nzfirst.nz>.
[638] "Māori Development Minister Tama Potaka: Ngaaruawaahia hui positive and constructive" (22 January 2024) RNZ <www.rnz.co.nz>.
[639] An Island; cut; severed; grove of trees.
[640] Transcript of Moko Tauariki (2023) at 5.

> things like karakia. When I do things like karakia, I explain what it is that I'm going to pray about. Quite often It's a story. I like telling stories because they are behind the kind of karakia that I do give. There's also a whakapapa, and I want them to understand the genesis of that whakapapa.'

Moko Tauariki highlights his commitment to embedding Te Tiriti o Waitangi within his organisation, and emphasising the need for a genuine partnership modelled through leadership. He reflects a vision of Te Tiriti as not just a legal framework but a lived relationship, where understanding cultural practices becomes central. Moko Tauariki acknowledges that some peers lack an understanding of the Māori worldview, and he aims to bridge this gap, and to foster a deeper appreciation of Te Tiriti partnership between Māori and the Crown.

6.6 The Waitangi Tribunal. The Treaty of Waitangi Act 1975, Preamble and section 6

The Waitangi Tribunal is a statuary Commission of Inquiry established in 1975. The Waitangi Tribunal mandate is to investigate alleged historical claims for breaches of the Te Tiriti by the Crown and make recommendations to NZ Government to make reparation. Margaret Mutu describes the context of the genesis of the Waitangi Tribunal,[641]

> 'In the 1970s, protests against the theft of Māori lands and a number of land repossessions started attracting media attention. In 1975, the government responded by setting up a permanent commission of inquiry, the Waitangi Tribunal. Its function is to inquire into Crown breaches of the Treaty, to report and to make recommendations to the Crown for removal of the prejudice. The government's primary intention was not to address the numerous breaches of the Treaty but rather to take the protest off the streets and away from public and international view.'

Mutu articulates that the Crown's motivation in the establishment of the Waitangi Tribunal was not to appease Māori, rather, to conceal what was happening from the public eye and the international stage. Mutu's incisive analysis in "The Treaty Claims Settlement Process in New Zealand and its Impact on Māori" explored the profound disenfranchisement of Māori through New Zealand's Treaty claims settlement process.[642] She details a governmental approach that overwhelmingly favours colonial interests. The study highlights the stark injustice faced by Māori communities, exacerbated by policies that returned less than one percent of confiscated lands. Muru emphasises the call for

[641] Mutu (2019)b at 6.

[642] Mutu M (2019)a at 152.

substantial constitutional transformation to be advocated as a necessary measure to rectify the ongoing impacts of colonisation.

In the same vein, Rakena and Benton explain,[643]

> 'The Tribunal was an ingenious political manoeuvre by Parliament to appease mounting political unrest from Māori insurgence and Māori renaissance.'

Rakena and Benton continue,[644]

> 'The Treaty Settlement process offers three types of redress: an agreed historical account with a Crown apology, cultural redress like place name changes and co-governance of resources, and commercial redress through financial compensation or property. These measures aim to address the breaches of the Treaty and their impact on the claimant group.'

In another vein, on 29 January 2024, reporter Audrey Young wrote regarding the review of the Waitangi Tribunal proposed by the newly elected coalition government. Young comments,[645]

> 'The Government's agenda on Māori policy goes much further than ACT's bid to rewrite the principles of the Treaty of Waitangi, as Shane Jones[646] has warned, and the way the Waitangi Tribunal operates will come under scrutiny too.'

Shane Jones, a New Zealand First minister, specifically noted the Waitangi Tribunal constitutional inquiry getting underway. The inquiry will look, among other things, at sovereignty. Jones states, "An institution that's been around for 50 years should not expect to continue on uncritically for another set of decades without being reviewed."[647] Among the clauses in New Zealand First's coalition agreement with National is a commitment to "Amend the Waitangi Tribunal legislation to refocus the scope, purpose, and nature of its inquiries back to the original intent of that legislation".[648] Tribunal chair and chief judge of the Māori Land Court Caren Fox said in a memo published that the constitutional inquiry would not primarily look at whether past Crown conduct constituted breaches of the

[643] Joseph, P. (2000). Māori and the market: the Waitangi Tribunal (2000) Race & class 41 (4): 59-80 in Rakena and Benton (2021) at 638.
[644] Rakena and Benton (2021) at 639.
[645] Young A "Waitangi Tribunal review – changing role set to come under scrutiny by coalition government" (29 Jan 2024) Newstalk ZB <www.newstalkzb.co.nz>.
[646] NZ First Member of Parliament and Minister of the Crown.
[647] Young, A. (29 Jan 2024).
[648] "Coalition Agreement (2023).– New Zealand National Party & New Zealand First" at 10; <www.nzfirst.nz>.

Treaty. Rather, the inquiry will first seek to enable parties to find common ground on what a Tiriti/Treaty compliance might look like today."[649]

The current Prime Minister of New Zealand Christopher Luxon, responds to comments from Members of Parliament David Seymour and Shane Jones on the Waitangi Tribunal, he states,[650]

> 'What we need to be focused on is many commentators and others and we certainly have it in our coalition agreement is to look at the future role of the Waitangi Tribunal going forward and that's something that should happen in a very proper and considered process. So I think the comments are ill considered.'

Right now, the ongoing debate about the Te Tiriti o Waitangi role to mobilise the Māori rights in modern Māori governance is emerging. The Tribunal's role to review historical claims and its current scrutiny underplay its significance to address Māori grievances and interpret the Te Tiriti and the Treaty in modern contexts. While the Waitangi Tribunal can only make recommendations to governments, the staff attached to the Waitangi Tribunal are acknowledged judges, historians, and members of all walks of life who are appointed for their expertise in matters that are likely to come before them. I believe, the Waitangi Tribunal has become the silent champion and advocates for Māori issues through its reports which stand as bastions and kaitiaki[651] of authentic historical evidence of the claimants and a rewriting of history. Yet, more has to be for Māori Governance into the future.

In September 2024, an interim report on the Treaty Principles Bill was released.by the Waitangi Tribunal, it notes[652]

> 'With respect to the Treaty Principles Bill policy, the Tribunal found that the Crown had breached the Treaty principles of partnership and reciprocity, active protection, good government, equity, redress, and the article 2 guarantee of rangātiratanga. The Crown failed to engage with Māori, and the Bill:
>
> - lacked a policy imperative justifying its development.
> - was based on flawed policy rationales.

[649] "2023 Coalition Agreement (2023)" at 10.
[650] Palmer Russell "Luxon: Waitangi Tribunal comments from coalition parties 'ill considered" (19 April 2024) RNZ <www.rnz.co.nz>.
[651] Guardians and stewards.
[652] "Tribunal Releases Report on Treaty Principles Bill"(16 Aug 2024) Waitangi Tribunal <www.waitangitribunal.got.nz>.

- was ‘novel’ in its Treaty interpretations.
- was fashioned on a disingenuous historical narrative; and
- distorted the text of te Tiriti o Waitangi.

If enacted, the Tribunal found, the Bill would reduce the constitutional status of the Treaty/te Tiriti, remove its effect in law as currently recognised in Treaty clauses, limit Māori rights and Crown obligations, hinder Māori access to justice, impact Treaty settlements, and undermine social cohesion.

…The Tribunal concluded that the two policies, considered jointly, were consistent with an alarming pattern of the Crown using the policy process and parliamentary sovereignty against Māori instead of meeting the Crown’s Treaty/te Tiriti obligations. The combined impacts of the policies are or will be highly prejudicial to Māori.

The Tribunal recommended that:

1. The Treaty Principles Bill policy should be abandoned.
2. The Crown should constitute a Cabinet Māori–Crown relations committee that has oversight of the Crown’s Treaty/te Tiriti policies. The Tribunal did not consider it appropriate that these matters are considered by the Social Outcomes Cabinet Committee.
3. The Treaty clause review policy should be put on hold while it is reconceptualised through collaboration and co-design engagement with Māori.
4. The Crown should consider a process in partnership with Māori to undo the damage to the Māori–Crown relationship and restore confidence in the honour of the Crown. While the Tribunal noted that this issue was wider than the two specific policies before it in this urgent inquiry, it stated that it made this recommendation based on its findings and the redress that is necessary to remove the prejudice and prevent similar prejudice in the future.’

The proposed Treaty Principles Bill has sparked strong reactions across New Zealand, both from Māori and non-Māori communities. Many Māori, including political leaders and scholars, view the bill as an attempt to dilute the rights established under Te Tiriti o Waitangi. On the other hand, supporters, including members of the ACT Party, believe that redefining the principles will provide more clarity in governance and ensure that all citizens are treated equally under the law.

To date, the achievements of the Tribunal indicate: 2501 historical claims have been registered, full or partial reports on 1028 claims as of 2015, 123 final reports have been issued, and district reports covering 79% of NZ land area have been issued.[653]

[653] “What we’ve achieved” (2025) Waitangi Tribunal <www.waitangitribunal.govt.nz>.

6.7 The Māori Fisheries Act 2004, section 24

The Māori Fisheries Act 2004 was introduced in New Zealand to acknowledge the historical and cultural significance of fishing resources to Māori sustenance and trade. The Act provides a variety of measures, including the establishment of Māori fishing quota and the creation of Māori marine title areas. The Act includes provisions for the recognition and protection of traditional Māori fishing practices, and the compensation for past damaging practices conducted by the Crown.

The Act employs a Westernised interpretation of iwi, where only these iwi who fit the eligibility criteria will be entitled to a fishing quota. Hapū are omitted as being recognised entities for the purpose of the various powers and benefits derived from the Act. A default condition required by the NZ Government is mentioned below. Here, it was to ensure they were dealing with Māori entities as larger scale populations, specifically at the iwi level.

An important feature of the Māori Fisheries Act 2004 is section 24,which provides the eligibility criteria for Ngāti Hine hapū and Rongomaiwahine hapū to become iwi under the Act. The Act states:[654]

> "24 *Status of Ngāti Hine and Rongomaiwahine*
>
> (1) If Ngāti Hine withdraws from the joint mandated iwi organisation of Ngāpuhi in accordance with the constitutional documents of Ngāpuhi, Ngāti Hine becomes, upon completion of its withdrawal, an iwi for the purposes of this Act as if it were listed in Group B—NGAPUHI of Schedule 3.
>
> (2) If Rongomaiwahine withdraws from the joint mandated iwi organisation of Ngāti Kahungungu in accordance with the constitutional documents of Ngāti Kahungungu, Rongomaiwahine becomes, upon completion of its withdrawal, an iwi for the purposes of this Act as if it were listed in Group G—TAKITIMU of Schedule 3.
>
> (3) Subsections (1) and (2) do not override section 21(2)".

Pita Tipene recounts,[655]

[654] "Maori Fisheries Act 2004" (2025) New Zealand Legislation<www.legislation.govt.nz>.

[655] Transcript of Pita Tipene (2023) at 12.

> ‘That particular event began in 2004 when the Māori Fisheries Act was going through its various stages in Parliament. It was led by Erima Henare in particular and Pita Paraone that wanted Ngāti Hine after long deliberations by our own kaumātua[656] and kuia[657] to get ourselves on the Māori Fisheries Act as an Iwi. That was opposed strongly by Te Rūnanga iwi o Ngāpuhi and its leadership. But in the end Ngāti Hine was able to get itself into the legislation, albeit as part of the schedule and could withdraw from Te Rūnanga iwi o Ngāpuhi to set itself up as an iwi. After moving through various compliances which included, having a ballot and having over 75% of the people vote to withdraw, having a register of over 5,000 members, and there was various other compliances which we carried out and easily moved through those.
>
> For instance, when the vote was held, 99.6% of all voters voted to withdraw from Te Rūnanga iwi o Ngāpuhi. So we complied with the Act. The only part that was ever left was to negotiate with Te Rūnanga o Ngāpuhi about the percentage of the fisheries assets that we would take with us. In our correspondence to the Rūnanga, we said that Ngāti Hine percentage of, was then 124,000 of the Ngāpuhi roll, that we made up 46.6% of it, of that roll. You and I can both safely say that Te Ropere, and Mereana Tipene[658] numbers alone would be significant.
>
> So as a result, that became the sticking point through 2011 up to this day, is that Te Rūnanga o Ngāpuhi has either procrastinated or put in place blockages to prevent Ngāti Hine exercising its full withdrawal. And the sticking point has been the negotiation over the percentage of the asset.’

The transcript of Pita Tipene illustrates a form of collaborative decision that was practiced traditionally and now presently where all members were consulted for the collective decision. Pita Tipene, as vice chair of Ngāti Hine, was affected by this piece of legislation. He recounts his experience of how the status of his hapū Ngāti Hine shifted to iwi, noting also the resulting internal Māori tensions that accompanied the process. Pita Tipene continues,[659]

> ‘I can say clearly that the current leadership of Te Rūnanga A iwi o Ngāpuhi (“TRAION”) is making for a much stronger working relationship with Ngāti Hine. And we're getting closer towards full withdrawal with Te Rūnanga A iwi o Ngāpuhi.[660] But even that won’t be without its difficulties, because this is a large part of both the Act, the Māori Fisheries Act and the Te Rūnanga iwi o Ngāpuhi trust deed. Look, I think we're getting closer, but it just never moves fast enough, and it really comes down to leadership and the will of parties to work it out.’

[656] Adult; usually a male who has a wealth of knowledge to share with his hapū; elder.
[657] Adult; usually a female who has a wealth of knowledge to share with her hapū; elder.
[658] Te Ropere and Mereana Henare are my Great Grandparents who had 21 children. A family reunion was held in 2022. Approximately 300-500 of whānau attended.
[659] Transcript of Pita Tipene (2023) at 12.
[660] Te Runanga- A - iwi o Ngāpuhi has been renamed Ngāpuhi Runanga Group.

The transcript of Pita Tipene illustrates a form of collaborative decision making that was practiced traditionally and now presently where all members were consulted for the collective decision. Furthermore, Pita Tipene continues that the relationship was going forward for Ngāti Hine with Te Rūnanga A Iwi o Ngāpuhi.

After lobbying for Ngāti Hine, the inclusion in the legislation have paved for Ngāti Hine to eventually obtain resourcing after jumping through the hoops of withdrawing from Te Rūnanga A Iwi O Ngāpuhi. Resources are essential to assist governance for hapū and iwi. Iwi authorities who have received benefits have caused rifts between 'haves' who may not be willing to share with the "have nots." The Crown's divide and rule disrupts and causes tensions between iwi authorities tasked with representing iwi and with Māori social structures who are hapū and iwi. Meanwhile, TE RŪNANGA-Ā-IWI-Ō-NGĀPUHI in the above scenario also demonstrate how tensions can be managed with the right leadership at the governance helm and working in good faith from all parties according to Pita Tipene.

6.8 Marine and Coastal Area (Takutai Moana Act 2011, Part 3)

The Marine and Coastal Area (Takutai Moana) Act 2011 *("*"MACA") in NZ establishes a new property class for marine and coastal areas. The MACA also attempts to restore customary title interests for Māori extinguished under the 2004 Act.[661] MACA introduced statutory tests with high thresholds to satisfy, whereby customary interests may be identified, and there is provision for public access. Under MACA, Māori can obtain legal rights to recognise their customary interests in the form of either customary marine title ("CMT") or protected customary rights ("CRs"). Applications for recognition of CMT interests under MACA closed on 3 April 2017. The Act provides two application pathways for this purpose. Whānau, hapū and iwi can engage in negotiations directly with the Crown, or by applying to the High Court for a recognition order.

Applicants must satisfy the Act that sets a high threshold test. Applicants must prove that they have exclusively used and occupied the specified area from 1840 to the present day without substantial interruption. If successful, recognition provides rights to protect wāhi tapu, participate in conservation processes, and manage activities in line with tikanga,

[661] Foreshore and Seabed Act 2004 (repealed).

though ownership of the foreshore and seabed remains vested in no one.[662] This process provides legal acknowledgment of enduring Māori relationship with the takutai moana while preserving public access.

Registrations of claims show close to 500 applications registered interest. Statistics for registration show,[663]

1. 203 applicants are for determination by the New Zealand High Court; and
2. 382 applications are for determination by the responsible Minister, of these 175 have also applied for a High Court determination.

As well, a significant issue for MACA is where whānau, hapū and iwi claims overlap.[664]

In light of an application for MACA Maui Hudson states,[665]

> 'We would have had lots more fights, because it's also not clear, internally where the boundaries between the hapū are. There is literally no map I've ever seen that shows where the hapū boundaries are. As soon as you push those into Treaty settlement context, you are going to have the claims across each other.
>
> We already saw that with MACA. All Whakatohea claims, they all went in as hapū claims, but they all claimed the same space. Essentially, you have to demonstrate exclusivity if you wanted to get your claim recognised. But you had all these people that put in their claims[666] for the hapū because they were on that hapū rangātiratanga buzz.
>
> And it's come through, and we've ended up getting it, and we got the MACA across the whole area, but it's shared. So all of the hapū are shared with all of the other hapū, like right across the whole area. Then one of the hapū's is going, "Oh nah, this is us, not you fellas."
>
> And they don't like that. And then they say, okay, what's the entity that's going to look after this, and they try and create a new iwi entity. And then that entity needs to have presentation from the hapū but also have name the claimants. So all of a sudden, you've also making claimants. The law is the legal process is giving individuals a right over those places. So instead of a hapū voice, it's already just kind of prioritized themselves (claimants) on a process just because they were the ones that put the

[662] Under the Marine and Coastal Area (Takutai Moana) Act 2011, the foreshore and seabed are "vested in no one". This means the common marine and coastal area has a special legal status, and cannot be owned by the Crown, private individuals, or anyone else.

[663] "Te Kahui Whakatau (Treaty Settlements) Year to Date Progress Report 1 July –(30 September 2024.)" Te Arawhiti The office for Maori Crown Relations. <www.whaktau.govt.nz>.[663]

[664] An overlapping claim is where multiple claims are made for the same land and their claims overlap in terms of their boundaries of areas.

[665] Transcript of Maui Hudson (2023) at 27-28.

[666] Re Edwards (Te Whakatōhea No. 2) [2021] NZHC 1025.

> claim in. Its once again, a Pākehā judge, and Māori lawyers making an argument for their clients, making use of processes to try and get themselves some mana.'

Maui Hudson recounts the case of multiple Whakatohea hapū who successfully won their MACA claim in overlapping claims in 2023. This case set a precedent to enable iwi and hapū to have defence of their claims across the marine estate causing dissatisfaction from the Crown. Here we see, individualisation of title is concretised to impose a westernised concept of land ownership and tenure rather than to acknowledge Māori social structures to govern in the marine coastal estates.

Journalist Fiona Wu reports on the coalition government 's response to this determination, she states,[667]

> 'This is the first substantive appeal under the Marine and Coastal Area ("Takutai Moana") Act 2011 ("MACA") made to the Court of Appeal. It follows a landmark decision by Churchman J in *Re Edwards (Te Whakatōhea No. 2)* [2021] NZHC 1025*,* awarding customary marine title (CMT) and protected customary rights (PCR) to a range of applicant groups in the Eastern Bay of Plenty. The decision carried significant implications for some 200 applications filed in the High Court. It was also the first case to confront competing applications for CMT over the same area.
>
> At the heart of this appeal is a contest between groups who make up Te Whakatōhea iwi as to who should hold CMT over the specified area.'

To further substantiate the coalition's intent to fetter the precedent, on 27 November 2023, The New Zealand Herald reported on the government's intention to overturn the Court of Appeal decision of *Whakatōhea Kotahitanga Waka (Edwards) & Ors v Te Kāhui and Whakatōhea Māori Trust Board & Ors* [2023] NZCA 504 regarding the successful MACA claims by legislating against it. Journalist Audrey Young reports,[668]

> 'One of the early battlegrounds of the new Coalition Government is set to focus on the foreshore and seabed law. The three parties of government have agreed to legislate against a recent Court of Appeal judgment on customary title to the foreshore and seabed.
>
> Essentially, the Court of Appeal judgment issued on October 18 changed the law passed by Parliament and will make it easier for iwi and hapū to have customary title recognised by the courts. As a result of the coalition agreement, the Government will

[667] Wu Fiona "First Substantive appeal of Marine and Coastal Area Act decisions clarifies legal principles (3 Nov 2023)The Law Association <www.thelawassociation.nz>.

[668] Young A "Foreshore and seabed - Govt set to overturn Court of Appeal judgment" (26 Nov 2023) NZ Herald <www.nzherald.co.nz>.

> pass a law overturning that part of the judgment and return the criteria for customary title to the tougher one passed by Parliament.
>
> .... The move will be vigorously opposed by the Greens and Te Pati Māori which described it as a move to "whitewash Aotearoa and entrench colonisation."
>
> The coalition agreement says the Government will "Amend section 58 of the Marine and Coastal Area Act to make clear Parliament's original intent, in light of the judgment of the Court of Appeal in Whakatohea Kotahitanga Waka (Edwards) & Ors v Te Kahui and Whakatohea Māori Trust Board & Ors [2023] NZCA 504.'

The first substantive appeal of the Marine and Coastal Area Act alerted the New Zealand Government of loopholes that enabled Māori to be successful claimants in the marine and the new coastal estate. The Parliament's original intent to create 'tougher' insurmountable eligibility to limit rights for Māori failed to imprint a westernised legal construct and marinate Māori again into assimilation and colonialism.

Here is an update and respond from the New Zealand Government to the loophole of the Act. As of mid-2025, the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill is progressing through Parliament. It aims to tighten the threshold for Māori groups seeking customary marine title by requiring proof of continuous, exclusive use and occupation of an area from 1840 to the present.

These changes are designed to override a 2023 Court of Appeal decision that had relaxed aspects of that test, although the Supreme Court later reinstated a stricter interpretation, in line with the Government's intent.

Additionally, the Waitangi Tribunal conducted an urgent inquiry in 2024, concluding that the proposed amendments breach Treaty principles by failing to consult with Māori and undermining partnership, active protection, and good governance.

Reflection

There was a big commotion and protest when the NZ Labour government enacted the Foreshore and Seabed Act 2004. as caused by a large-scale Māori hīkoi[669] against the government's legislation. The Act declared the foreshore and seabed to be Crown-owned, extinguishing any potential Maori customary rights under Te Tiriti o Waitangi. The hīkoi culminated at Parliament, protesting the removal of Māori Land Court authority and the

[669] Land March.

lack of recognition for tribal claims. It was then repealed and replaced by the Marine and Coastal Area (Takutai Moana) Act 2011 passed by the National Government. These legislations were triggered by a seminal court case[670] which determined the New Zealand Government had not extinguished customary title to the foreshore and seabed for Māori. The then Deputy Prime Minister Michael Cullen stated in an interview the Pākehā[671] view on the situation and that the seabed and foreshore bill was fair to all. Cullen states,[672]

> 'That is not the sort of stuff that goes down terribly well in an awful lot of the Pākehā[673] constituency. Let's be quite blunt about that. This Government is stretching Pākehā tolerance a long way in terms of the package it has put forward.
>
> Dr Cullen said Maori who argued that they should own the foreshore and seabed because they would not stop public access were missing the point .
>
> ...Pākehā say bluntly, and I agree, that we have a right to go to the beaches not by grace or favour.'

This current situation of Whakatohea is reminiscent of past history and the intent of the current coalition government to diminish the rights of hapū and iwi, and stifle the return to Māori self-government over marine and coastal areas through the insurmountable thresholds legislated. Ironically, the court case highlights property rights and Pākehā rights. There are no insurmountable tests for Pakeha to climb.

The New Zealand Government did not extinguish rights to the foreshore and seabed permanently; instead, the Foreshore and Seabed Act 2004 vested ownership of these areas in the Crown. Prior to legislation, different hapū and iwi coexisted and recognised overlapping interests in shared zones in the marine estate. To prioritise Pākehā interests 'not by grace or favour' is to suggest Māori will act like Pākehā, insecure to the point of legislation to secure their claims. Insecure enough to make the statutory tests incredibly high to surmount. Insecure enough to delimit Māori rights to govern in this space.

It is clear there are impacts that this legislation has had on the internal relationships between hapū to hapū, and hapū to iwi. While hapū and iwi cling to traditional Māori philosophies to identify with Māori social structures, as demonstrated by successful hapū in the above quote; they are incentivised to exercise decision-making powers as individual

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[670] Ngāti Apa v Attorney General [2002] 2 NZLR 661.

[671] Person of European descent.

[672] "Cullens says seabed and foreshores bill fair to all" (4 May 2004) NZ Herald <www.nzherald.co.nz>.

[673] Person of European descent.

title holders rather than as an alliance of hapū. When I attended Māori Land Law at law school, a statement by the lecturer holds true, 'Māori are marinated in colonisation, skin deep.'

In September 2024, The New Zealand Law Society Te Kahui Ture o Aotearoa wrote a submission to Te Arawhiti Office for Māori Crown Relations; raising concerns over proposed Takutai Moana changes being initiated by the NZ Coalition Government. It states,[674]

> 'The Law Society is concerned about aspects of the intended changes affecting te Tiriti o Waitangi Treaty of Waitangi (Treaty) relationships, the rule of law, access to justice, and other constitutional issues including breaches of fundamental rights. The Law Society does not support the proposed changes and recommends they do not proceed. The changes will include a declaratory statement overturning the High Court and Court of Appeal judgments in *Re Edwards*, which was the first substantive appeal interpreting the meaning of the test for customary marine title under the Takutai Moana Act.
>
> … The Law Society has significant concerns about the proposals. They relate to: Treaty of Waitangi consistency and disregard for Treaty principles; the rule of law, including but not confined to the retrospective application of the intended changes; arbitrary and inconsistent treatment of applicants, breaching fundamental rights and raising issues of access to justice; and progressing the changes in an accelerated timeframe that is not consistent with good legislative and policy process.'

Beyond its present cautionary statement, the Law Society can increase pressure by deepening legal submissions, supporting litigation, elevating concerns internationally, and warning more forcefully about the Crown's constitutional obligations. This would effectively "put the Crown on notice" that its proposals risk breaching domestic constitutional norms.

The Crown's proposed legislative changes affecting MACA including a declaratory provision overturning *Re Edwards* (High Court and Court of Appeal), raise serious constitutional, Treaty, and human rights concerns.

First, the proposals are inconsistent with te Tiriti o Waitangi and the Treaty of Waitangi principles and disregards the guarantees of tino rangatiratanga affirmed therein. The

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[674] "Marine and Coastal Area)Takutai Moana) (Customary Marine Title) Amendment Bill (15 October 2024) New Zealand Law Society <www.lawsociety.org.nz> at 1-2.

retrospective extinguishment of judicially determined rights would amount to arbitrary legislative intervention that undermines Māori customary interests.

Secondly, the proposals are contrary to the rule of law. Retrospective legislation overturning considered judicial interpretation destabilises settled expectations, diminishes judicial independence, and erodes confidence in the courts. Such intervention breaches fundamental rights, including equal treatment and access to justice.

In another vein, legal/policy conditions for 'exclusivity' is a draconian western tool. It overrides, dismantles and marginalises Māori social structures under the guise of the law and attempts to deconstruct and westernise Māori social structures. Assimilation and recycled colonialism via Crown legislation culture appears to be on the cards again. It is appropriate to use as an analogy academic Audre Lorde wrote in her fiery essay, "For the master's tool will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change."[675] Throughout Aotearoa history, New Zealand Governments have flourished at the expense of Māori, with the continued intent to whittle away Māori customary titles, usurp environmental rights, more significantly, to ensure their usurped sovereignty continues to remain intact.

6.9 The Public Works Act 1981

> 'Māori are firmly established stakeholders in public works land. Their cultural, social and spiritual ties to land are enduring. As Indigenous people they are intrinsically connected to geographic locations through tribal affiliations.'[676]

Public works in Aotearoa New Zealand refer to infrastructure projects funded and managed by the NZ Government for the public benefit. These projects include roads, bridges, water supply systems, and public buildings such as schools and hospitals.

When the government, or local government authorities, undertake public works projects, they often require land that is privately owned. In such cases, the government negotiates with landowners for the purchase of the required property. If an agreement cannot be

[675] Lorde, A. (2018). The master's tools will never dismantle the master's house UK: Penguin.
[676] Grayson, M. (2021). 'Surplus Public Works Land: Power, Relationships, and Accountability', in Joseph, R. and Benton, R. (eds.) (2021) Waking the Taniwha: Māori Governance in the 21st Century. Wellington: Thomson Reuters, pp. 812–835. at 812.

reached, the government can exercise its powers under the Public Works Act to compulsorily acquire the land. This process is governed by specific laws and regulations to ensure that the acquisition is for the public benefit and that fair compensation is provided to the affected landowners. The balance between public interest in such projects and the rights of private landowners is a contentious aspect of this process; especially in the context of Treaty principles and Māori land rights.

Public works have had a significant impact on the relationship between traditional Māori and their land. This has often resulted in the loss of Māori land and the disruption of Māori communities. Lawyer Michael Grayson opines how the British worldview of public works would inevitably conflict with the Treaty of Waitangi promises the Crown made to Māori regarding land tenure. Grayson states,[677]

> 'Powers of compulsory land acquisition are inherent to the land tenure system introduced to Aotearoa New Zealand when Māori affirmed their constitutional relationship with the British Crown. The full implication of this aspect of the arrangement would likely have been unknown to Māori signatories of the Treaty of Waitangi. However, it would be the Crown's ultimate dominance over estates in land, the doctrine of the Crown's eminent domain, which would later compromise the Crown's guarantee of Māori rangātiratanga when the parties found themselves at odds over conflicting requirements for land.'

Two worldviews collided, Māori were gradually left bereft as their rights to govern their own land, and people were diminished. The alienation of Māori land in the late 19th and throughout the 20th centuries has profound impacts on Māori social structures, governance, and their cultural fabric. Historian and author Claudia Orange's work provides detailed insights into the loss of Māori land over time. According to the maps adapted from her Illustrated History of the Treaty of Waitangi, in 1910, Māori held nearly 27% of the North Island's land, approximately 7.7 million acres. By 1939, this had been reduced to about 9%, or approximately 2.8 million acres.[678] This large-scale loss of land significantly disrupted traditional Māori societal organisations; which was intricately connected and relational to land they held in stewardship for their hapū.

[677] Grayson (2021) at 808.

[678] Orange, C. (2004). An Illustrated History of the Treaty of Waitangi. Wellington: Bridget Williams Books.

The mechanisms of land alienation included the operations of the Māori Land Boards and the Native Land Court, who facilitated these transfers, often without adequate consultation or compensation. These alienations were not merely economic transactions to Māori communities but were deeply tied to Māori identity and governance, as whenua[679] is considered one of the cornerstones of Māori social and spiritual well-being.

The imposition of government-led Māori land development schemes and consolidation policies further exacerbated these issues. These schemes, often executed with paternalistic oversight, undermined Māori autonomy and traditional governance structures. Moreover, instances where Māori gifted land to the Crown for specific purposes, such as schools, only to find these lands not returned once the intended use ceased, further eroded trust and compounded grievances.[680]

The application of the Public Works Act 1981 played a significant role in alienating Māori land, often prioritising public utility over Māori interests. Inadequate consultation processes and the overlooking of cultural significance, such as sacred sites,[681] resulted in the loss of valuable heritage and further disenfranchisement of Māori communities.

These practices reflect a broader colonial strategy aimed at a disregard for Maori history and cultural values, undermining Māori governance, and integrating Māori land into the colonial economic framework. This strategy has had enduring adverse effects on Māori social structures and governance. The following example illustrates how Māori land acquired under the public works affected Ngāti Turangitukua hapū/iwi in Turangi, New Zealand.

6.9.1 Ngāti Turangitukua land acquired through Public Works

In the late 1960s, the New Zealand Government undertook a development project in the central North Island centred around the Tongariro Power Scheme. The project required substantial land acquisition in the Turangi area for the construction of hydroelectric power facilities. Ngāti Turangitukua ancestral lands encompassed the Turangi township, and their

[679] Land.
[680] Waitangi Tribunal The Ngai Tahu Report (Wai 27,1999).
[681] Usually Wahi tapu – cemeteries.

hapū/iwi saw approximately 1,770 hectares acquired by the Crown from 1864 onwards. Ngāti Turangitukua received $5 million as settlement in 1999.[682] The settlement resolved grievances from the 1960s, when the Crown breached the Treaty of Waitangi during the construction of the Turangi township to support the Tongariro power scheme. The Waitangi Tribunal found in the Turangi Township Remedies Report, that[683]

> '(a) The claimants have been prejudicially affected by the provisions of the Public Works Act 1928 and the Turangi Township Act 1964, in that both Acts were and are fundamentally inconsistent with the basic guarantee given in article 2 of the Treaty of Waitangi that Maori could keep their land until such time as they wished to sell it at a price agreed with the Crown;
>
> (b) the Turangi Township Act 1964 permitted the Crown to acquire land compulsorily without direct consultation with the Maori landowners, thus contravening the Crown's duty to act in good faith and consult with its Treaty partner in respect of matters affecting Maori…'

The acquisition of traditional lands disrupted the traditional hapū lifestyle, disconnected them from their ancestral lands, and had major cultural and social impacts. The Turangi Township Remedies Report of the Waitangi Tribunal records how the tribunal found the Crown's consultation with the Ngāti Turangitukua hapū to be inadequate, which resulted in trauma and adverse social consequences. The Report reads,[684]

> 'As the Tribunal noted, this has resulted in the dislocation of households, the loss of lifestyle and livelihood, and the loss of the guarantee of a place on ancestral lands for their children. The pain of this loss is long term and is being passed on to the next generation.'

The Tribunal concludes,[685]

> 'The Tribunal is satisfied that the Crown has breached the Treaty of Waitangi, and its principles, in its dealings with Ngāti Tūrangitukua and that the hapū has suffered prejudice as a result.'

After direct negotiation with the Crown; the Ngāti Turangitukua Claims Settlement Act *1*999 was passed on 21 September 1999, which marked the formal settlement between the New Zealand Government and Ngāti Turangitukua after 133 years.[686] This settlement acknowledges the grievances of the past, provides financial and cultural redress, and aims

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[682] Ngāti Turangitukua Claims Settlement Act 1999.

[683] Waitangi Tribunal The Turangi Township Report (Wai 84,1998) at [3.2.1]

[684] Waitangi Tribunal (Wai 84,1998) at [5.2.8].

[685] Waitangi Tribunal (Wai 84,1998) at [107].

[686] (1864-1999= 133 years).

to restore the relationship between Ngāti Turangitukua and the Crown. The Ngāti Turangitukua Charitable Trust's website[687] documents what happened with Public Works so their hapū would always remember what happened. The Ngāti Turangitukua vision is to move forward in tandem with the Crown not as an iwi authority but as a hapū. The website records,[688]

> 'The Ngāti Tūrangitukua Claims Settlement Act 1999 gives effect to this settlement. The settlement covers claims made by Ngāti Turangitukua arising from the creation of the Tūrangi township, in the central North Island, in the 1960s and the development of the Tongariro power scheme. It aims to restore the mana of Ngāti Tūrangitukua and the honour of the Crown by settling this historic, but recent, grievance.
>
> The settlement includes an apology by the Crown for its wrongdoings and a redress package of cash, land and administrative arrangements. Most of the settlement affects the Tūrangi township. The apology from the Crown is a very significant element of the settlement and clears the way for Ngāti Tūrangitukua and the Crown to form an honourable relationship. The value of the settlement does not directly compensate for the losses suffered by Ngāti Tūrangitukua but provides a platform for the hapū to build on.
>
> The Settlement of the Claim has allowed Ngāti Tūrangitukua to work towards a brighter, collective future. However the pain of the past will not be forgotten and it is important that our tamariki learn of the mistakes that were made so as not to allow them to be repeated.'

On a final note, I remember a conversation with Interview participant Kyla Ngawairau who can whakapapa to Ngāti Turangitukua. In her interview, I asked, "Are you an iwi or a hapū?" Kyla responded, "We are a hapū with iwi status in our relationship with the Crown."[689] Kyla Ngawairau emphasises Ngāti Turangitukua explicitly states in their settlement that they are a hapū of Ngāti Tūwharetoa to ensure clarity about their identity.

While the government treats them as an iwi for administrative purposes, internally, they reaffirm their status as a hapū. This distinction is important both for their own identity and for maintaining relationships with other hapū, reinforcing that their recognition as an iwi authority is merely a strategic necessity rather than a shift in status.

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[687] "Ko wai Mātou"(2025). Ngātiturangitukua <www.Ngātiturangitukua.co.nz>.

[688] "Ko wai mātou: Our Goal, Vision & Commitment"(2025). Ngātiturangitukua <www.Ngātiturangitukua.co.nz>.

[689] Primary evidence with Kyla Ngawairau (2023) at 22.

CHAPTER SIX – PART II

NZ Government Interventions through Legislation and its Institutional Arm

> "In the 30 years of considering the historic breaches of the Treaty (since the Treaty of Waitangi Act 1975), the usual formula is well established and does not accommodate much in the way of te tino rangatiratanga. Certain "bottom line" assumptions by the Crown are evident and are well entrenched in common law or statue.
>
> For example, nobody can own the foreshore and seabed (notwithstanding the remote possibility of a customary marine title being granted); nobody can own water, nor in some cases, apparently, that space that the water occupies (see the discussion about lakes and rivers below); and the Crown claims ownership of minerals.[690] These overriding assumptions largely strip Maori title of any substance and leave a mere shadow."[691]

By setting the "rules of the game," Māori are positioned as participants within Crown-designed institutions rather than autonomous decision-makers. In essence, the statement highlights how legislative and institutional interventions preserve Crown sovereignty and recognition on Crown terms, producing symbolic rather than substantive recognition of Māori tino rangatiratanga.

Tēnā koutou katoa,

6.10 Introduction

Welcome to the Chapter Six–Part II of "NZ Governance Interventions through Legislation and its Institutional Arm." This chapter will analyse sections 6.12 – 6.17 as a continuation of Chapter Six Part I and Part II will conclude with a summary.

6.11 Post Settlement Governance Entities

Post-settlement governance entities ("PSGEs") are the legislative structures for iwi to receive final settlements from the Crown; acknowledging the breaches to the Treaty of Waitangi 1840 committed by the Crown to Māori hapū. The PSGE is the official body the Crown recognises

[690] The Crown Minerals Act 1991.

[691] Strack and Goodwin (2017) at 44.

as representing the iwi or hapū in managing settlement assets and relationships The process is concluded through legislation and policy.

The genesis of the Treaty of Waitangi settlement policy was founded on a formulated strategy of the NZ Government for direct settlement with 'large natural groupings' which relate iwi and amalgamations of hapū.[692] Author Malcom Birdling explains,[693]

> 'In his last speech as a Member of Parliament, Sir Douglas Graham, the driving force behind Treaty of Waitangi settlement policy during the 1990s, had a short bitter exchange with then MP Tariana Turia:
>
> > 'Rt Hon. Sir DOUGLAS GRAHAM: If that member thinks we are going to deal with hapū settlements, she can forget it. There are thousands of them, and if she thinks the Crown is dividing people, which we are certainly not trying to do-
> >
> > Tariana Turia: It is a Treaty right.
> >
> > Rt Hon. Sir DOUGLAS GRAHAM: The member keeps talking about Treaty rights. If the member does not want any settlements, and I know she does not, then, say we want to deal with hapū, in a thousand years' time she will still be working it out and will still be arguing about the hapū rohe boundary. It is bad enough dealing with the iwi level, but that is another issue.'

The Crown's strategy to settle Treaty claims by negotiating directly with large natural groupings marginalises smaller groups. This approach, while administratively expedient, often fails to respect traditional hapū structures, leading to new grievances, undermining fairness and promotion of the inclusivity of the settlement process. According to Birdling, direct settlements have transitioned from ad-hoc beginnings to a structured process and are 'now the primary mode of settlement.'[694] The formalisation of Treaty settlements commenced in 1992. Birdling concludes,[695]

> 'In the rush to achieve full and final settlements, spurred on by public demand for an expeditious settlement process, the Crown has opted for a policy of negotiating only with large natural groupings. The effect of this has been to shut out the smaller groups which traditionally dominated Māori society, unless they amalgamate into larger groups. The policy is not based on tikanga, nor a desire from Māori to be defined into large-group terms; it exists because it is easier for the Crown to do things this way.'

[692] Birdling, M. (2004) "Healing the Past or Harming the Future?: Large Natural Groupings and the Waitangi Settlement Process" New Zealand Journal of Public and International Law 2(2):259-83.

[693] Rt Hon Sir Douglas Graham (5 October 1999) 580 NZPD 19590.

[694] Birdling, (2004). at 260.

[695] Birdling (2004) at 283.

In the push to secure full and final settlements, driven by public pressure for a swift resolution process, the Crown has chosen to negotiate exclusively with large natural groupings. This policy does not align with tikanga or reflect Māori preferences for group definition but exists because it simplifies the Crown's process.

In 2010, James Anaya, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, visited New Zealand. In his report "Report of the special rapporteur on the rights of indigenous peoples on extractive industries and indigenous peoples," he acknowledged that while the Treaty settlement process has its limitations, it stands as a globally significant example of addressing historical and ongoing grievances of Indigenous peoples.[696] He also noted that many settlements have delivered considerable benefits in specific instances.[697]

The United National Special Rapporteur considered that the Treaty settlement process heralded an intent of the Crown to reconcile with iwi and hapū.

Academic Angeline Greensill states,[698]

> 'The Crown and its imposed western structures fails to recognise tino rangātiratanga and by doing so undermines the political autonomy of hapū to such an extent that under the present Treaty settlement processes, the Minister of Treaty Settlements arbitrarily decided that he would negotiate directly with statutory iwi-based organisations, who in turn claim benefits on behalf of hapū with or without their consent.'

Greensill critically highlights the ongoing erosion of hapū autonomy through Treaty settlement processes, where the Crown privileges statutory iwi organisations over hapū self-determination. This reflects a broader issue within Māori governance: the struggle to uphold tino rangātiratanga within a legal and political system that continues to favour centralised, state-sanctioned structures. The statement aligns with broader scholarly critiques of the Crown's approach to Māori governance and underscores the need for genuine recognition of hapū as the foundational unit of Māori political authority.

Barrister, solicitor Ani Mikaere argues, [699]

[696] Anaya, S. J. (2015). Report of the special rapporteur on the rights of Indigenous peoples on extractive industries and indigenous peoples. Ariz. J. Int'l & Comp. L.,32, 109.
[697] Finlayson and Christmas (2021).
[698] Greensill, A (1997). "Balancing Hapū and Iwi (Central and Local) Interests"(1997) Paper presented at the Address to Ngai Tatou 2020: Indigenous Governance & Accountability Conference at 2 cited in Kent (2011) at 139.
[699] Mikaere (2011) at 142.

> ‘By recognising only those groups that fit within the government’s preferred framework, the Crown actively silences alternative governance structures and forces Māori to adopt forms of organisation that are foreign to them.’

The following ‘Progress Map’ shows completed Treaty Settlements and current negotiations.

Source: Te Arawhiti The office for Māori Crown Relations. Te Kahui Whakatau (Treaty Settlements) “Year to Date Progress Report 1 July -30 September 2024.” <www.tearawhiti.govt.nz>.[i]

6.11.1 The Red Book[700]

The Red Book ("Ka tika ā muri, ka tika ā mua: Healing the past, building a future" (A Guide to Treaty of Waitangi claims and Negotiations with the Crown") is used to guide the Crown process of negotiations with iwi and hapū in the Treaty settlement process.[701] The Red Book does not replace a single policy but consolidates and updates earlier frameworks, including the Crown Principles for Treaty Settlement (1992), the Crown Proposals for Settlement of Treaty of Waitangi Claims (1994), and the 2000 policy review establishing six key principles, while also superseding specific guidance such as parts of the Office of Treaty Settlements' overlapping interests policy. In effect, it brings these strands together into one accessible guide for negotiations.

The Red Book constitutes a tool of governmentality, used by NZ Governments to regulate the conduct of their engagement with Māori. It outlines the legal and procedural frameworks established by the NZ Government to address historical grievances of Māori hapū and iwi under the Te Tiriti o Waitangi and The Treaty of Waitangi 1840.[702] It also details the principles, processes for negotiations, including the criteria for recognition as a settlement group, the negotiation process itself, financial and cultural redress mechanisms, and the subsequent legislation required to implement settlements. The Red Book is also an institutional tool used to shape the conduct of how Māori can govern.

One of the most contentious policies laid out in the Red Book is that the Crown will only negotiate settlements with what it refers to as 'large natural groupings".[703] The Red Book records, "The Crown strongly prefers to negotiate claims with large natural groupings rather than individual whānau and hapū".[704] This approach by the Crown was not a consideration when signing the Treaty of Waitangi 1840 with over 500 chiefs signing for over 500 hapū. This has critical implications for the internal relationships of hapū and iwi.

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[700] Office of Treaty Settlements, (2004).Healing the past, building a future: a guide to treaty of Waitangi claims and negotiations with the crown. Office of Treaty Settlements. ("The Red Book").

[701] Office of Treaty Settlements, (2020) .Healing the past, building a future: a guide to treaty of Waitangi claims and negotiations with the crown. Office of Treaty Settlements. ("The Red Book").

[702] The "material published in this guide reflects the Crown's policies and understandings at the time of publication.

[703] The Red Book, (2020),at 27.

[704] The Red book, (2020),at 27.

The "large natural groupings" policy was established by the Crown in the 1990s to define Māori partners for Treaty of Waitangi settlements, with the framework evolving in 2020 to accommodate situations like Ngāpuhi's move from a single large group to multiple hapū groupings, in response to Waitangi Tribunal findings and the need for more flexible, localized redress. This shift in 2020 represents the genesis of a more flexible approach, allowing for the division of large groupings into smaller units to better reflect the specific, unique interests and aspirations of individual hapū for settlement purposes.

Recently, negotiations with large natural groups and mandating for negotiations have attempted to replace negotiations with large natural groups. Section on page 39 of the Red Book 2018 PDF edition reads,

> 'Attempts to have the Waitangi Tribunal or the High Court reject the Crown's preference for negotiating settlements with large natural groupings and endorse negotiations with specific hapū and whānau have not been upheld by either body. In its Pakakohi and Tangahoe Settlement Claims Report 2000, the Waitangi Tribunal says of the Crown's preference for dealing with large natural groupings, that 'this is an approach with which we have considerable sympathy. There appear to us to be sound practical and policy reasons for settling at iwi or hapū aggregation level where that is at all possible.'

Efforts to push for hapū or whānau-level negotiations have failed, with both the courts and the Waitangi Tribunal backing the Crown's policy of settling claims through larger iwi groupings, which they view as more practical and effective.

Moko Tauariki comments,[705]

> 'When the Treaty settlement process came along you couldn't settle your Treaty settlement unless you became an iwi, not hapū. And so there were a couple of hapū: Ngāti Koroki Kahukura was one, and Ngāti Haua was the other who became iwi.
>
> Ngāpuhi will be the largest and biggest settlement in this country.'

Moko Tauariki recognised the policy of large natural groupings was the measure for Treaty settlements. He mentioned how the Ngāpuhi Treaty settlement will be historical.

Co-authors Strack and Goodwin argue, [706]

> 'The state will not enter into negotiations (or at least will not complete any settlement) without ensuring that an iwi has created a corporate governance structure that is confirmed in statute to represent the iwi. Representative of iwi with whom the Crown

[705] Transcript of Moko Tauariki at (2023), p 11.

[706] Strack and Goodwin (2017) at 48.

> will consider negotiating have to meet Crown-established criteria rather than those according to tikanga.
>
> ...The structure exists solely to satisfy the Crown that a fiscally responsible and mostly representative authority will administer a settlement. The Crown has pressured Māori groups to organise and codify into 'large natural groupings in a form that fits its own notions of political organisation, representation and governance. The Crown's promise of economic reward provides an incentive to do so.'

Strack and Goodwin debate the economic incentive for Māori to settle in large natural groupings and become a moulded pressurised governance entity acceptable to the Crown.

Evidence from former Chairman of Te Rūnanga of Ngai Tahu declares,[707]

> 'One of the downsides of the Treaty process was that you have to come under some sort of corporate structure that is approved by the government. The fact that the government has a veto power over initial settlement structure indicates the current contemporary boundaries of Māori self-determination.'

Mark Solomon acknowledges there was a downside to Treaty settlements which fenced in self-determination and demonstrated the coercive political power wielded by the Crown. Economic incentives are not the only tools the Crown uses to shape iwi as corporate entities.

Strack and Goodwin continue,[708]

> 'The *modus operandi* of western government is often to divide and rule: to pick winners and losers and enter into discussions with Māori elites (business persons) while refusing discussions with smaller hapū groupings and less powerful or lower status Māori (like "protestors and radicals"). The Crown is expert at offering symbolic concessions that promise much but amount to little.'

Here, preferential treatment is demonstrated over hapū and whom the Crown will enter into discussions with. This approach is evident in the use of the divide and rule approach. Mutu continues in the same vein,[709]

> 'While every hapū and iwi has its own story to tell of their experiences, common themes were apparent. These included the way that the Crown adopts divide-and-rule tactics and pursues them ruthlessly.'

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[707] Slowey, G. A. (2005). "Globalisation and Development in the Fourth World: Indigenous Experiences in Canada and New Zealand" Paper presented at the 4th International Critical Management Studies Conference, 4-6 July, Cambridge at 58 cited in Kent (2011) at 212.

[708] Strack and Goodwin (2017) at 44.

[709] Mutu M (2019) at 11.

Mutu's arguments aligns with Strack and Goodwin in the assessment of Crown strategies to maintain some degree of control over PSGEs. Furthermore, the NZ Government acts in a way that juridifies iwi authorities into being more permanent concretised structures, than they are in more dynamic cultural contexts of Māori governance relationships. This has a cascading effect, so that hapū then also become juridified**,** and positioned as being under iwi authority governance.

In 2012, former member of Parliament David Clendon states,[710]

> '…One primary problem with these settlements is the issue of large natural groupings. Since 1999 it has been Government policy to deal with Iwi rather than hapū and whānau, and more recently there is a clearly stated preference to deal with large natural groupings. This is no secret. In the Office of Treaty Settlements advice to claimants it is spelt out in the well-known so-called red book that the Crown strongly prefers to negotiate settlements with large natural groupings of tribal interests, rather than individual hapū or whānau within a tribe.
>
> This is done on the basis, we are told, that it is easier to manage and work with them, easier to deal with overlapping interests, and reduces costs to both Crown and claimants. We are also told that in this way the issues become more workable around redress, and cost-effective for these large natural groupings. It has been argued on many occasions in the court, in the judiciary, in the Waitangi Tribunal, and elsewhere that policy processes based purely on Government definitions, without seeking input into the most appropriate Māori social structure, effectively can be seen as perpetuating breaches rather than resolving them.
>
> Choosing to adopt a blanket approach, a very selective approach, in the Government's determining with whom it will negotiate has interfered with traditional relationships between Iwi, between hapū, in ways that are not helpful and that continue to create new problems.'

The above transcript involves conversation with Members of Parliament (MPs) around the Ngāti Porou Claims Settlement Bill In Committee. David Clendon was critical of the NZ Government's preferred select option of preferring to negotiating with large natural groupings. Clendon challenged the NZ Government in their dealings and on the impact on Māori social structures. Clendon spelt out that the approach of the Government tends to ignite problems rather than diffuse them. He continued to state how tensions are created and how the

[710] "Ngāti Porou Claims settlement Bill – In Committee" (8 March 2012) New Zealand Parliament <www.parliament.govt.nz>.

government deliberately moves to substitute Māori social structures with westernised homogenised governance continuity.

Concerning self-determination, co-academics Strack and Goodwin talk about the Treaty settlement process and the unwillingness of the Crown to entertain Māori asserting self-determination. They state, [711]

> 'The Treaty settlement process is now well entrenched in the New Zealand government's agenda.[712] Through it, the Crown has recognised historic breaches of the Treaty of Waitangi and aims to settle those, assuming that this will the end of the matter.
>
> ... Indigenous groups are left frustrated by a reluctance on the part of the Crown to let them assert their self-determination (tino rangātiratanga), and leaving them still seeking scraps of recognition from the colonial table and being expected to be grateful for whatever is offered.'

Ironically, as noted in Chapter 7 Part II – Governance in action, Rakena determines there are certain drivers which will be transformation agents for Māori iwi authorities and communities. Rakena states, [713]

> 'Treaty Settlement legislation rather than the Resource Management Act and other legislation is more enabling for Māori and remains the primary route to influence the RMA regime as far as environmental management and remedial planning is concerned.'

Kyla Ngawairau of Ngāti Turangitukua talks about her PSGE, she says,[714]

> 'In terms of the PSGE itself, we have that role and obviously I'm a trustee on that as well. We have to look after what came through the settlements. That's part of that governing role when the Charitable Trust was set up.
>
> We received the assets that we need to look after, a mix of putea,[715] whenua,[716] property, and a lot of the primary buildings that came back to us. But the setup of the Charitable Trust was also to establish a cultural identity learning centre to maintain waahi tapu,[717] to look at our whānau, support them into ownership of residential homes within Turangi, and within our whenua. And also, in terms of commercial property. There was a look at properties that could support our whānau in participating in that commercial life.'

[711] Strack and Goodwin (2017) at 41.
[712] "Te Kahui Whakatau (Treaty Settlements)"; <www.tearawhiti.govt.nz> cited in Strack and, Goodwin (2017) at 11.
[713] Rakena (2021) at 915.
[714] Transcript of Kyla Ngawairau (2023) at 4-5.
[715] Financial Compensation.
[716] Land.
[717] Usually Māori land gifted for a cemetery,

Kyla Ngawairau of Ngāti Turangitukua spoke about her governing role, duties and responsibilities to their post-Treaty governance entity. One important aspect of governing is to preserve and maintain tikanga Māori and kaitiakitanga of their hapū.

On another note, Finlayson and Christmas note,[718]

> 'New Zealand has now spent over twenty–five years, tens of thousands of hours and billions of dollars reaching Treaty settlements with iwi and hapū around the country. Every settlement has been carefully negotiated, ratified by the claimants and enacted by Parliament. Apologies have been made, land returned and a vast range of continuing obligations imposed on the Crown and local government. In return, settling groups have agreed to the removal of the jurisdiction of the Waitangi Tribunal over their historical claims. There is no ability to go back.'

Finlayson and Christmas reflect on the cost of PSGEs. He reiterates the finality of settlements happen by side stepping the Waitangi Tribunal's jurisdiction. Finlayson and Christmas in He Kupu Taurangi highlight the strengths and challenges of New Zealand's Treaty settlement process.[719] Settlements provide redress for historical grievances but cannot fully resolve the impacts of colonisation. They remain limited in addressing systemic inequities and face varying levels of acceptance among Māori groups. Finlayson and Christmas also warn of the risk of ongoing colonisation through the reinterpretation of tikanga Māori within Crown-imposed frameworks. This could dilute Māori legal traditions, undermining genuine expressions of tino rangātiratanga. Despite these concerns, they emphasise the potential for Treaty settlements to signify a new beginning. If parties prioritise Māori legal traditions and view settlements as a foundation for ongoing relationships, they could foster reconciliation and decolonisation, enabling a truly equitable partnership between Māori and the Crown.

Bear in mind, this not a scholarly account of the treaty claims settlement process and is unreliable (it contains many errors of fact).[720] It is a populist account provided largely by a Minister of Treaty Negotiations to justify the manner in which he managed to have many 'large natural groupings' around the country accept grossly unfair and unjust treaty claims and fiscal

[718] Finlayson and Christmas (2021) at 203.
[719] Finlayson and Christmas (2021).
[720] Simon, H. (2022) 'Book Review: Finlayson, C. and Christmas, J., 2021.He Kupu Taurangi: Treaty Settlements and the Future of Aotearoa New Zealand. Huia (NZ) Limited. Simon states, 'Given this is an apologia for the work of Rt. Hon. Chris Finlayson QC it is not a definitive academic monograph on the topic or something that is reflective of Kaupapa Māori research. The book's stance ignores key issues around Treaty Settlement and Māori and Pākehā relations by the likes of Ani Mikaere, Margaret Mutu, Matthew Wynyard, Evan Poata-Smith, Veronica Tāwhai, Juan Tauri or my own.' at 86.

envelope settlements that almost all claimants opposed. It provides a political justification for a Minister of the Crown telling the country repeatedly that Māori accepted his settlements, were happy with them and would never revisit them. It eschews the extensive critical scholarship on the settlements process, including more than 20 reports of the Waitangi Tribunal. It ignores the extensive protest that accompanied every settlement and the settlement process, especially over 'large natural groupings and the standout example in Ngāpuhi.[721] It aims to obfuscate the damage Finlayson did to Māori communities as Minister, as his settlements and the settlement process traumatised and divided them.

When the Waitangi Tribunal released He Whakaputanga me Te Tiriti: The Declaration and the Treaty (2014), finding that Ngāpuhi rangatira did not cede sovereignty in 1840, the then-Minister for Treaty Negotiations Chris Finlayson dismissed the conclusion almost immediately. He described it as "interesting history" but of no constitutional consequence, reiterating that Crown sovereignty was beyond question.[722] Academic responses challenged this position. Carwyn Jones argued that the dismissal revealed the Crown's reluctance to confront the constitutional tension between its assertion of sovereignty and Te Tiriti's affirmation of Māori authority, and that the Tribunal's findings should have been a starting point for dialogue rather than rejection.[723] Similarly, Claire Charters observed that such denials perpetuate the myth of absolute sovereignty, obscuring the negotiated relationship envisaged in Te Tiriti and reinforcing colonial assumptions.[724] Collectively, their analyses positioned Finlayson's response as emblematic of Crown dominance, foreclosing genuine engagement with Māori understandings of authority.

Finally, Finlayson and Christmas, eschew reference to the huge benefits that have accrued to the Crown and Pākehā through the extinguishment of treaty claims that settlements deliver, and the legislative removal of the massive liabilities the Crown carries for its breaches of Te Tiriti o Waitangi that happens with each settlement. This all needs to be kept in focus when considering this book.

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[721] Covered in Chapter 7 -Part I. "Governance in Action."

[722] "Ngāpuhi chiefs did not cede sovereignty Waitangi Tribunal" RNZ (17 November 2014) RNZ <www.rnz.co.nz>.

[723] Jones, C (2016). New Treaty, New Tradition: Reconciling New Zealand and Māori Law UBC Press, Vancouver.

[724] Claire Charters 'The Myth of Sovereignty' (4 June 2017) E Tangata <www.e-tangata.co.nz>.

By contrast, academic Dr Robert Joseph states,[725]

> 'The awarding of benefits under such settlements to corporate entities raises the possibility of iwi Māori being sharply divided, as a corporate elite prospers while the majority are still further marginalised… The class stratification of Māori will mean that future generations of Māori who seek justice under the Treaty will face their most trenchant opposition from those Māori for who the settlement has brough power and prestige.'

Joseph's statement critiques the unintended consequences of Treaty settlements, particularly the potential for economic and social stratification within Māori communities. By channelling benefits through corporate governance entities, settlements risk creating a corporate elite that accumulates wealth and influence, while a sizeable portion of Māori remain marginalised. This could deepen inequalities rather than addressing historical grievances.

The critique also warns of future tensions: marginalised Māori may face resistance not just from the Crown but from powerful Māori individuals or groups who have benefited from settlements. This raises concerns about the alignment of Treaty settlements with tikanga Māori and the risk of prioritising neoliberal objectives over collective well-being and tino rangātiratanga. Further, Joseph critiques the New Zealand government's role in reshaping traditional Māori tribal structures into centralised governance entities that align with state-centric political and economic agendas. This transformation, he argues, often leads to the corporatisation of Māori governance, potentially sidelining Māori socio-political dynamics.[726]

For an in-depth exploration, the book Waking the Taniwha: Māori Governance in the 21st Century, edited by Robert Joseph and Richard Benton (2021),[727] examines the evolution and challenges of Māori governance structures in contemporary New Zealand, addressing the interplay between traditional practices and modern state-imposed frameworks. It delves into how government policies have influenced the formation of Māori governance entities, often

[725] Joseph, R. (2016). Te Mata Hautū Taketake Māori and Indigenous Governance Centre Training Hamilton, Waikato Print at 23.

[726] Fodder, A., Joseph R., Davis-Ngatai, P (2014) Māori and Indigenous Governance Centre. (2016). Ka Takahia Anō o Tātou Tapuae: Retracing Our Steps. Hamilton: University of Waikato.). Cognatic descent groups

[727] Joseph, R. and Benton, R. eds. (2021).

aligning them with neoliberal objectives, and discusses the implications for Māori self-determination and cultural integrity.

Co-authors Finlayson and Christmas in He Kupu Taurangi highlights the strengths and challenges of New Zealand's Treaty settlement process.[728] Settlements provide redress for historical grievances but cannot fully resolve the impacts of colonisation. They remain limited in addressing systemic inequities and face varying levels of acceptance among Māori groups. Finlayson and Christmas also warn of the risk of ongoing colonisation through the reinterpretation of tikanga Māori within Crown-imposed frameworks. This could dilute Māori legal traditions, undermining genuine expressions of tino rangātiratanga. Despite these concerns, they emphasise the potential for Treaty settlements to signify a new beginning. If parties prioritise Māori legal traditions and view settlements as a foundation for ongoing relationships, they could foster reconciliation and decolonisation, enabling a truly equitable partnership between Māori and the Crown.

While PSGEs are westernised constructs to make settlements for breaches of the Treaty of Waitangi full and final, PGSEs have provided resources and means for iwi to move into a contemporary governance era with seeding capital. Secondly, PSGEs can assist in creating economic bases for iwi authorities to move beyond the grievance era and forge ahead into the future through self-governance.

Meanwhile, new challenges and new tensions arise by Māori governance entities being established through the filter of the Crown's preference dealing only with large natural groupings. Challenges emerge in issues of membership, access to benefits, failed subsidiarity, poor communication, and heightened tensions between hapū and iwi. Julian Williams noted it that the contemporary leadership of these post Treaty settlement entities may not readily be recognised by those it serves. I wonder if it is conceivable that the leadership of communal resources of iwi and hapū will remember a name, or do we just be identified as a beneficiary with allotted shares or as a registered member. Again, it begs the question, unless registration as an affiliated member occurs, he/she may not be entitled to benefits such as educational benefits and other initiatives. Yet whakapapa connects a person

[728] Finlayson and Christmas (2021).

to this particular iwi or hapū. In other words, westernised governance structures tend to reduce complex social/cultural relationships and knowledge, to being simply a matter of lists and registers for membership, enrolment, voting, and access to benefits. Maui Hudson points out that large natural groupings impact on internal relationships between iwi and hapū; and result in increasing juridification of Māori cultural ways of governing.

6.12 Iwi Authorities are creatures of Aotearoa New Zealand Legislation

Iwi Authorities in Aotearoa New Zealand are statutory entities created under legislation to manage tribal assets, represent iwi interests, engage with the Crown and other stakeholders. The term is interchangeable with PSGEs. Unlike traditional Māori governance structures based on whakapapa and tikanga, these entities operate within Crown legal frameworks, often navigating tensions between state-imposed regulations and Māori self-determination. Their formation reflects both the recognition of Māori collective rights and the constraints of a legislative system that shapes their authority and function. Strack and Goodwin affirms the requirement of a corporate governance structure. They note,[729]

> 'The state will not enter into negotiations (or at least will not complete any settlement) without ensuring that an iwi has created a corporate governance structure that is confirmed in statute to represent the iwi.'

Critics of iwi authorities argue that these entities, shaped by Crown legal frameworks, may inadvertently perpetuate neoliberal agendas, potentially sidelining traditional Māori values and community needs. For instance, lawyer Annette Sykes contends that the "iwi elite" have embraced neoliberalism, which may not align with the broader interests of Māori communities.[730] Critics of iwi authorities since 2015 have raised concerns about their alignment with traditional Māori values and their effectiveness in representing iwi interests.

In *Ngāti Whātua Ōrākei Trust v Attorney-General [2018] NZSC 84*, the Supreme Court addressed whether Ngāti Whātua Ōrākei could contest Crown recognition of overlapping iwi claims in their rohe. The Court affirmed that iwi and hapū may be heard when Crown actions risk prejudicing established rights, underscoring the importance of tikanga and mana whenua.

[729] Strack and Goodwin (2017) at 48.

[730] "Sykes on neoliberalism & the iwi elite" (15 Dec 2010) The Standard <www. thestandard.org.nz>.

The Marine and Coastal Area (Takutai Moana) Act 2011 ("MACA Act"), sets out how Māori can seek recognition of customary marine title and protected customary rights. It declares the marine and coastal area to be owned by no one but imposes strict evidential tests requiring proof of exclusive use and occupation since 1840. Both the case and the Act reflect the ongoing tension between Māori rangatiratanga and Crown-defined legal frameworks.

Additionally, the Marine and Coastal Area (Takutai Moana) Act 2011 has been a focal point of criticism. In 2024, the Waitangi Tribunal found that proposed amendments to the Act, which sought to tighten the threshold for Māori customary marine title claims, breached Treaty principles. The Tribunal concluded that the Government had ignored official advice, failed to consult with Māori, and violated principles of active protection and good governance.[731] These critiques highlight the ongoing challenges iwi authorities face in balancing statutory obligations with the preservation of traditional Māori governance principles.

The establishment of iwi authorities has significantly influenced the traditional Māori social structure, particularly the roles of iwi and hapū. The 1992 fisheries settlement, which allocated resources to iwi rather than hapū, exemplifies this shift. Consequently, many contemporary Māori tribal organisations are formed at the iwi level. This transition has led to debates about the erosion of hapū autonomy and the centralisation of authority within iwi structures. Such centralisation may not fully reflect the diverse interests and needs of individual hapū, potentially sidelining traditional governance practices.

On another note, Joseph explains the differences between the Māori social structure iwi and westernised governance. Joseph states,[732]

> 'Iwi authorities are NZ Government entities imposed on iwi to become corporatised entities to be held in trust for its registered members. A more insidious strategy is eventually the words iwi authorities and tribes can change the narrative of Māori social structures and their meanings to mean what the NZ Government negotiated agreement on. Iwi and hapū are the 'tribe' in contemporary Māori society but Māori governance entities are not themselves iwi or hapū.
>
> Whatever institution the governance entity takes, the primary function of the entity and its subsidiaries is to *represent* the tribe or socio-political group does not replace *it*.

[731] "Tribunal releases report on the Takutai Moana Act 2011 (12 Sept 2024) Waitangi Tribunal (<www.waitangitribunal.govt.nz>.

[732] Joseph, R. (2014). Indigenous Peoples' Good Governance, Human Rights and Self-Determination in the Second Decade of the New Millennium – A Māori Perspective. Māori Law Review, December 2014.

> The governance entity is the agent of the tribe in that exists to serve the tribe's function. Consequently, the entity is accountable to the tribe.'

Joseph underscores the tension between traditional Māori social structures and state-imposed governance models. It critiques the corporatisation of iwi authorities as entities that serve state-driven agendas, risking the redefinition of iwi and hapū identities. While governance entities are tasked with representing their tribes, they are distinct from the tribes themselves and remain accountable to them.

This centralisation of power within iwi authorities can create intra-tribal contestation, as hapū may not always consent to decisions made on their behalf. Māori governance should be guided by Māori values rather than Crown-imposed structures that prioritise state interests and undermine the political cohesion of hapū. The tension between iwi authorities and hapū autonomy is a direct consequence of the Crown's preference for hierarchical, Western-style governance structures to frame Māori Governance models.

In summary, while iwi authorities have provided a framework for managing resources and engaging with the Crown, their establishment has also prompted discussions about the preservation of traditional Māori social structures and the balance of power between iwi authorities and hapū.

6.13 The 2023 Coalition New Zealand Government's position regarding Māori

The current viewpoint of the 2023 newly elected New Zealand coalition government towards Māori issues has been characterised by a significant shift to the right, with plans to roll back reforms that were aimed at enhancing Māori rights and living standards. This NZ conservative government ("coalition government") is composed of the National party,[733] the ACT party[734] and the NZ First party.[735] The coalition government has proposed legislation that would explicitly undermine the Te Tiriti o Waitangi, the country's founding document which

[733] The National party is a centre-right political party. It is one of the two political parties that dominate contemporary NZ politics alongside their rival the Labour party.

[734] ACT(Association of Consumers and Taxpayers) NZ has been characterised as a liberal and libertarian party.

[735] The NZ First is a populist and nationalist political party.

underpins Māori sovereignty claims.[736] The government's coalition circulars are aimed to provide guidance for Ministers and agencies on the consultation and operating arrangements agreed to by the Coalition Government. There are two coalition agreements: National-New Zealand First and National-ACT. Here are their arrangements pertaining to Māori from the National and NZ First,

1. Abolish the Māori Health Authority;[737]
2. Ordering public agencies to stop using the Māori language unless entities are specifically related to Māori;[738]
3. Ensure all public service departments have their primary name in English, except for those specifically related to Māori;[739]
4. Restore the right to local referendum on the establishment or ongoing use of Māori wards, including requiring a referendum on any wards established without referendum at the next Local Body elections;[740]
5. Conduct a comprehensive review of all legislation (except when it is related to, or substantive to, existing full and final Treaty settlements) that includes "The Principles of the Treaty of Waitangi" and replace all such references with specific words relating to the relevance and application of the Treaty, or repeal the references;[741]
6. Amend section 58 of the Marine and Coastal Area Act to make clear Parliament's original intent, in light of the judgment of the Court of Appeal in Whakatohea Kotahitanga Waka (Edwards) & Ors v Te Kahui and Whakatohea Māori Trust Board & Ors [2023] NZCA 504;[742]
7. Amend the Waitangi Tribunal legislation to refocus the scope, purpose, and nature of its inquiries back to the original intent of that legislation;[743] and
8. Confirm that the Coalition Government does not recognise the United Nations Declaration on the Rights of Indigenous People ("UNDRIP") as having any binding legal effect on New Zealand. [744]

[736] Corlett E " Thousands of Māori gather to tell New Zealand's government: you cannot marginalise us" (21 Jan 2024) The Guardian <www.theguardian.com>.
[737] 2023 Coalition Agreement at 8.
[738] 2023 Coalition Agreement at 9.
[739] 2023 Coalition Agreement at 9.
[740] 2023 Coalition Agreement at 10.
[741] 2023 Coalition Agreement at 10.
[742] 2023 Coalition Agreement at 10.
[743] 2023 Coalition Agreement at 10.
[744] 2023 Coalition Agreement at 10.

The National-ACT coalition agreement addresses Māori issues by disestablishing Te Aka Whai Ora, introducing a Treaty Principles Bill, reviewing "race-based" policies, and restoring local referendums on Māori wards, significantly reshaping Crown–Māori governance relationships.[745]

This is a serious direction which impacts on hapū and iwi governance and Māori at large. Māori society is going to be hit by a new wave of colonisation and the Government's intention is to create a divisive society under the banner of 'Equal Citizenship.'[746]

This following section considers the impact of coalition agreements on Māori self-determination.

6.14 Impacts of the NZ Coalition Agreements around Māori self-determination

Firstly, the New Zealand Coalition Government does not recognise UNDRIP.[747] This movement harks back to when the Labour Government voted against the UNDRIP in September 2007 along with the United States of America, Canada and Australia on the global stage, until it announced its support in April 2010. This is a sad indictment as there appears to be a chain reaction occurring globally to quell Indigenous self-determination by settler societies. Some examples on the global stage include: Indigenous Rights and Australian Human rights through the Voice referendum, where a proposed a constitutional amendment would serve as a permanent advisor to Parliament on issues impacting Indigenous Australians, was silenced and 'supporters say unleased a tsunami of racism'; [748] and the discrimination of Native Americans in the United States still continues.[749] In Canada, 'decades of structural and systemic discrimination" persist, yet British Columbia and Canada have both

[745] "Coalition Agreement" (24 Nov 2023) NationBuilder <www.assets.nationbuilder.com>.
[746]2023 Coalition Agreement at 10.
[747] United Nations Declaration on the Rights of Indigenous Peoples 2007.
[748]"Shameful act': Indigenous Yes leaders break silence over Voice referendum result" (23 Oct 2023) SBS Australia <www.sbs.com.au>.
[749] Findling, Mary G., Logan S. Casey, Stephanie A. Fryberg, Steven Hafner, Robert J. Blendon, John M. Benson, Justin M. Sayde, and Carolyn Miller. "Discrimination in the United States: experiences of native Americans. "Health services research 54 (2019): 1431-1441.

passed UNDRIP Acts.[750] The forced labour or of Uighur Muslims in China;[751] and the ongoing conflict in Brazil's Apache lands[752] demonstrate the ongoing legacy of colonialism.

In 2008, author Naomi Solomon's work "Was the New Zealand Government justified in voting against the Declaration on the Rights of Indigenous peoples? declares, [753]

> 'The Government's position seems to have been motivated by its own state-centric, narrow and "worst-case scenario" interpretations of the Declaration. The Government's main motivations for opposing the Declaration are that it requires the recognition of lands now lawfully owned by others and that it grants to indigenous peoples rights that others do not have (MFAT 2006). The Government argues that the Declaration gives rights to indigenous peoples that others do not have and is therefore discriminatory.
>
> ... While it is understandable that the Government want to protect the right to lands of other citizens, the approach taken is illogical because those protections exist within the Declaration and at international law. The Government has arguably breached its own policies regarding consultation with Māori and has therefore breached its own 'principles' under the Treaty of Waitangi.'

I submit the current NZ coalition government designs to create communication strategies to manipulate, sway or influence the opinions of the public to support their beliefs. The NZ Law Society and the Waitangi Tribunal have raised the issues of breaches. The coalition government wants to distance itself from its obligations agreed and signed under the Treaty of Waitangi 1840 and continue on its objectives to marginalise Māori society.

Secondly, the Government proposes to honour the undertakings of the Crown through past Treaty of Waitangi settlements.[754] Does this mean those in current negotiations with the Crown will be progressed or halted? Are future Treaty settlements out? Historical claims are being addressed, however contemporary claims are still in a holding pattern. Waitangi Tribunal contemporary claims are allegations by Māori of breaches of the Treaty of Waitangi by the Crown (government actions, policies, or laws) that occurred or were active after September 21, 1992. Will contemporary claims be heard? The following questions have been

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[750]"Lee, H. "Violence against Indigenous Peoples persists across Canada: Human Rights Watch" (11 Jan 2023) Global News <www.globalnews.ca>.

[751] "China: Carmakers Implicated in Uyghur Forced Labour" (1 Feb 2024) Human Rights Watch <www.hrw.org>.

[752] Boadle A "Indigenous people protest Brazil not protecting ancestral lands" (26 April 2024) Reuters <www.reuters.com>.

[753]Solomon, N. (2008). "Was the New Zealand Government justified in voting against the Declaration on the Rights of Indigenous peoples?" Te Kahui Kura Māori).

[754] 2023 Coalition Agreement at 10.

floating in my mind. While the Coalition Government will honour past post-Treaty settlements, will they honour settlements into the future? Will they settle with Ngāpuhi, the biggest and one of the final iwi who has yet to reach a final settlement? Are we shifting towards a more divisive New Zealand with the Coalition Government who is now exercising preferential treatment to past Treaty settlements?

How will the Treaty of Waitangi be revisited, as it currently stands as the constitutional cornerstone of Aotearoa New Zealand? Is a golden age of the Crown having a forward-thinking partnership with Māori over? Will Māori governance adapt, stagnate, revolutionise or become transformative as it rises to meet the new threats that the NZ Government is looking to impose? The last question I have, I will consider in more detail in Chapter Eight on governance epochs.

The potential impact of these proposed policy directions on contemporary Māori communities is unsettling. The proposed changes have sparked widespread protests and legal challenges from hapū and iwi, demonstrating their collective concern and opposition to the government's policies.[755] Academic Claire Charters concludes,[756]

> 'The world is watching the policy rollbacks affecting Māori.
>
> Having spoken to a number of indigenous leaders globally and talked about these various different policies around te reo Māori,[757] around to the re-write of Te Tiriti and so on, there's just such a sadness that New Zealand is losing its high ground in leading the way in many of these areas.'

The international stage is watching.

6.15 Reflections

I discussed with my primary supervisor whether my approach and thesis remained pertinent in light of the current NZ collation government's agreements to absolve itself of any responsibility for Māori matters mentioned in the Coalition agreement 2023. Dr D Smith responded that it was now more important than ever what was happening in light of Māori

[755]Kaur S Fox K and Chang A (2023). "A breakdown of the issues at the centre of Māori protests in New Zealand" (8 Dec 2023) npr <www. npr.org>.
[756] Tyson J "Actions by new government will make NZ fall behind as 'world leader in indigenous rights' scholar" (12 Dec 2023). Te Ao Māori News <www.teaonews.co.nz>.
[757] The Maori language.

governance. After much pondering and reflection, I was persuaded and settled by her argument.

In another conversation with a work colleague, he stated “It’s okay Mylene, a lot of what is happening can be summarised as a politician standing on a political rhetoric soapbox”.[758] A conversation with another work colleague declared, “I have seen a lot of the ‘haven’t done’ within the 100-day Action plan period of the National led government rather than ‘ have done’ promises”, who knows?”. [759] I have reflected multiple times, deciding no one can read a crystal ball and predict accurately into the future. Politicians come and go. We can only prepare, adapt, maybe stagnate, revolutionise then transform. My thesis is a snapshot of this time, which is historically informed.

As well, I conducted some research and discovered there is a trend being manifested globally to imprint homogeneity against Indigenous peoples.[760] Here in Aotearoa, hapū and iwi are today experiencing the full governance recycling of adapting, stagnating, revolution and transforming since 1840. This will be argued in Chapter Eight *Governance Epochs*.

Interview participants expressed overlaps in governance epochs can occur with the ability to continue to adapt. Now Māori may be standing on the cusp of again adapting with resilience with a little bit of revolution.

This sidelining of Māori influences contrasts with the revitalisation of the Māori language, economic contributions, cultural integration, and educational influence happening in NZ society.

[758] Primary evidence with a work colleague (2024).
[759] Primary evidence of a work colleague (2024).
[760] Examples of Indigenous cultural homogenization include the loss of Traditional Ecological Knowledge (TEK) among various Indigenous groups due to globalized lifestyles and increased reliance on global systems.; The erosion of Indigenous languages in the United States, Australia, and Canada, and the adoption of Westernised consumer practices .These processes are driven by factors such as colonisation, government policies promoting assimilation, migration to urban areas, and the pervasive influence of global media and technology.

6.16 Conclusion

The dominant New Zealand settler worldview continues to marginalise hapū in contemporary governance, reinforcing centralised control through legislative and institutional frameworks. Governmental tools such as laws, regulations, management plans, and policies serve as mechanisms to maintain authority over iwi structures,while impacting on the relational dynamics between hapū, iwi, and increasingly institutionalised iwi authorities.

Recent political shifts towards conservative policies reveal a continuation of colonial power dynamics that undermine Māori rights. Attempts to reinterpret Te Tiriti o Waitangi 1840 have sparked widespread concern and protest among both Māori and non-Māori. Under these conditions, the Crown retains the ability to legislate in ways that dilute Treaty promises, reinforcing state control while fostering divisions within Māori governance structures.

The increasing legal recognition of iwi authorities has solidified their role as dominant governance entities. This trend sidelines hapū, diminishing their traditional role as the primary political engine of Māori governance. Legislation further amplifies tensions between hapū, iwi, and whānau, eroding the dynamic and relational governance models that once defined Māori society. While cultural and political subsidiarity continues to evolve, it often does so within constraints imposed by governmental frameworks.

Hapū face economic and political pressures to align with iwi authorities, particularly in Treaty settlements. Forming alliances or adapting to meet Crown-defined groupings becomes a prerequisite for access to economic benefits. This growing juridification of Māori governance reflects an increasing reliance on legislative recognition, transforming traditional governance structures into state-sanctioned entities.

Ultimately, state intervention has entrenched western governance models, solidifying iwi authorities while weakening the flexible, relational structures of hapū governance. Legislation remains a powerful tool in shaping Māori aspirations, demonstrating how colonial frameworks persist in defining contemporary governance.

CHAPTER SEVEN -PART I

Case Studies - Governance in Action

> 'Now I go to iwi chairs meetings representing Ngāti Hine, I go to te Kahu o Taonui hui which are Te Taitokerau collective of iwi. I go to the National iwi chairs forum representing Ngāti Hine.
>
> For a long time, Te Rūnanga-A-Iwi-O-Ngāpuhi would sit at the same table and denounce Ngāti Hine saying we're a hapū and we shouldn't belong. I just made sure that I sat there and if anybody was going to turf Ngāti Hine out, well then, they need to turf me out.
>
> The reason for that is because government can see that instead of working with 150, 200 hapū here in Ngāpuhi, they only have to talk to one person and that will be the chair of Te Rūnanga iwi o Ngāpuhi. So they want it clear and easy for them, and there are other reasons.
>
> For Ngāti Hine, some people may argue well what the hell is Ngāti Hine doing sitting at the Iwi Chairs Forum, but it's clearly made up of nine (9) hapū. Actually, you can sit at an Iwi Chairs Forum meeting if you have the support of your hapū but I doubt that all iwi have the support of all of their hapū.'[761]

Cultural subsidiarity is evident when Pita Tipene argues that iwi like Ngāti Hine have every right to participate in iwi-level forums. He emphasises that Ngāti Hine is composed of nine hapū, asserting that their presence at the Iwi Chairs Forum is legitimate because he has the support of his hapū. Pita Tipene challenges the idea that iwi authorities should solely dominate such spaces, pointing out that "You can sit at an Iwi Chairs Forum meeting if you have the support of your hapū, but I doubt that all iwi have the support of all of their hapū." Cultural subsidiarity plays a more significant role to support representatives who can say with authority that they have the mana to represent their hapū and iwi at these higher levels.

Tēnā koutou katoa,

7.1 Introduction

This chapter is divided into two parts each providing a case study that presents evidence on the internal contexts of Māori self-governance in action. It looks on the periphery at the interventions and tools employed by NZ Governments to shape that self-governance in ways it finds more amenable and malleable.

[761] Transcript of Pita Tipene (2023) at 16-17.

For both case studies, I draw on new primary evidence obtained from the semi-structured interviews I conducted with Māori leaders in governing roles. The case studies also draw upon my analyses of NZ Government policy documents, common law and legislation, regulations and agreements, Waitangi Tribunal documents, and court cases.[762] The analysis is bolstered by references to two of my authored/co-authored papers published during the period of this PhD program, which offer a comprehensive examination of the complexities of Māori governance at the grassroots level. These published papers are made available in full in Appendix B[763] and Appendix C.[764] I also draw on my own firsthand experience as a member who can whakapapa back to Ngāti Hine hapū in the Ngāpuhi nation.

Chapter Seven Part I explores the internal political challenges and contestation that arose between Te Rūnanga A-Iwi-O-Ngāpuhi [765] and Ngāpuhi hapū alliances ("Te Kotahitanga"). The second case study in Chapter Seven Part II investigates the external intercultural interface of Māori environmental governance with the New Zealand Government's environmental management framework. Both studies focus on the practice of governing power at the interface, and the consequences of that for the Māori self-governance arrangements between hapū, iwi and the Crown.

The internal governance interface between hapū and westernised 'iwi authority' governance structures draws out contestation arising within Māori modes of cultural subsidiarity. An examination of which internal societal form asserts relative governing authority, decision making responsibility and collective representation is observed. The Māori-NZ Government interface is posed as an intercultural one, which enables an examination of which modes of governing are operationalised into practice as a consequence of alignments and misalignments of intercultural subsidiarity. Author Martin Nakata's insight into the condition of Indigenous education in Australia when it is contested at the interface with Western epistemologies, is broadly relevant here to the negotiation of practice that has been thrust

[762] See Chapter Six: The New Zealand Government Interventions through legislation and its institutional arm.

[763] Rakena (2021).

[764] Rakena and Benton (2021).

[765] A Charitable Trust.

onto Māori self-governance in its internal and external interfaces. Nakata relevantly points out,[766]

> 'Negotiating between these [interfaces] is a transforming process of endless instances of learning and forgetting, of melding and keeping separate, of discarding and taking up, of continuity and discontinuity.'

Before commencing on the historical background of the first case study, I will introduce some foundational concepts that underpin Māori ways of governing. These are the concepts of tino rangātiratanga and hapū rangātiratanga.

7.2 Tino rangātiratanga

Both Linda Tuhiwai Smith[767] and Mason Durie[768] emphasise the centrality of tino rangātiratanga as the foundation of Māori sovereignty and self-determination. Smith frames tino rangātiratanga within the guarantees of Te Tiriti o Waitangi, emphasising Māori authority over their lands, resources, and cultural institutions as essential to Indigenous autonomy. Durie extends this understanding by describing tino rangātiratanga as a principle of sovereignty that encapsulates the right of Māori to determine their own destiny through political authority, cultural autonomy, and control of resources. Read together, their analyses reveal tino rangātiratanga not only as a Treaty obligation but also as a living principle that affirms Māori capacity to shape their future across social, cultural, and political domains.

7.3 Hapū rangātiratanga

Durie discusses hapū rangātiratanga, stressing that hapū historically were the primary unit of Māori political authority and self-determination, exercising control over their social, cultural, and political affairs. He consistently frames hapū as autonomous, self-governing entities within the wider iwi structure.[769]

In the context of Ngāpuhi hapū and iwi, Rakena and Benton state,[770]

[766] Nakata, M. (2007). "The cultural interface" The Australian journal of Indigenous education.36(S1):7-14.at 7.
[767] Smith, L.T. (2012). Decolonizing methodologies: Research and Indigenous peoples. 2nd ed. London: Zed Books.
[768] Durie, M. (1988).
[769] Durie (1988).
[770] Rakena and Benton (2021) at 646.

> ‘Historically, Ngāpuhi through tikanga exercised hapū tino rangātiratanga over the taonga[771] within their rohe.[772] Over time, Ngāpuhi’s rangātiratanga diminished substantially through colonisation, mono-cultural legislation and broken promises of Te Tiriti.’

Rakena and Benton continue,[773]

> ‘There is a firm belief that the road to self-determination for Ngāpuhi is characterised by the fundamental political unit of hapū rangātiratanga. This prevailing philosophical approach dominated the 2018 mandate vote and showed the cohesive resistance of hapū opposing the one size fits all” strategy.’

These statements highlight the persistent influence of Ngāpuhi's hapū’ rangātiratanga that still is adhered to and prevails today reaffirming their capacity and ability to govern their communities.

Culture subsidiarity highlights hapū as the most appropriate governing entities because they are closest to the cultural and spiritual realities of their communities. Centralised iwi authority, as seen in Treaty settlements, disrupts this subsidiarity. Hapū governance, grounded in tikanga and whakapapa, is inherently decentralised, so attempts to amalgamate hapū into iwi organisations face persistent resistance.

Cultural subsidiarity is inseparable from tikanga Māori and hapū authority, both vital for community decision-making. When centralised structures override this autonomy, hapū risk losing identity, authority, and control over traditional resources and practices. Such disruption weakens hapū as culturally sovereign entities, a pressing concern as Māori continue to assert their right to self-governance under Te Tiriti o Waitangi. I now turn to the historical background of Ngāpuhi leading to the contemporary tensions between hapū rangātiratanga and iwi authority governance.

7.4 Part I Governance in Action - Historical Background

This section introduces the first of two case studies, focusing on the governance journey of Ngāpuhi, New Zealand’s largest and most dispersed nation, and the tensions between iwi and hapū governance. It examines the political struggle to secure Crown recognition of representation, with competing governance models put forward for a vote. The case study

[771] Treasured gifts, or resources.
[772] Territory.
[773] Rakena and Benton (2021) at 640.

highlights the internal dynamics and transformations within hapū and iwi from colonisation to the present, with Ngāti Hine, now an iwi, playing a central role in Te Kotahitanga against Te Rūnanga-Ā-Iwi-O Ngāpuhi, a conflict that continues to shape debates over Māori self-governance and the exercise of tino rangātiratanga.

The following section introduces a prophetic cry of Te Ruki Kawiti in 1846 to begin this story.

Te Ruki Kawiti (circa 1775–1854) was a Ngāpuhi leader, warrior and peacemaker of Ngāti Hine descent. He composed "Te Tangi o Kawiti"[774] shortly after the cessation of hostilities with the British in 1846,

> *Te Tangi o Kawiti*.
>
> 'E te whānau, i te pakanga ahau ki te Atua i te pō, heoi, kīhai ahau i mate. Na reira, takahia te riri ki raro i ō koutou waewae. Kia ū ki te whakapono, hei poai Pākehā koutou i muri nei. Waiho rā kia kakati te namu i te whārangi o te pukapuka, Te Tiriti O Waitangi, Te Kawenata Tapu, hei konei ka tahuri atu ai kei takahia e koutou ngā papapounamu ā ō koutou tūpuna e takoto nei. Titiro atu ki nga taumata o te moana." (Te Ruki Kawiti, 1846.)[775]

> ["*My illustrious warriors and people, I fought with God last night, and I survived. Therefore I call upon you to trample anger and fighting under your feet … hold fast to your faith, for the day will come when you will be ruled over by your Pākehā friends … Be patient, wait until the sandfly nips the page of the document, meaning the Treaty of Waitangi, the sacred covenant. Then and only then, shall you rise and question and oppose, lest you break the sacred word of your Ancestors. Look to the distant horizon of the sea*."]

Rakena and Benton explain,[776]

> 'The lines of Te Ruki Kawiti's prophecy quoted at the beginning of this chapter have provided sustenance and inspired continued resistance to Crown domination by Ngāti Hine and other Ngāpuhi hapū for ensuing generations. In its 2015 Ngāpuhi report, the Waitangi Tribunal assumed the role of the sandfly nipping the page of the document. Te Ruki Kawiti's call to action, this time peaceful but nonetheless determined, will not go unheard or disregarded.'

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[774] The Cry of Kawiti.

[775] The English translation has been taken from the Ratana Church website; a more literal translation of "hei poai Pākehā koutou" would be "you will become Pākehā boys (or minions)". Variations of this orally transmitted text have been recorded in Tawai Kawiti "Heke's war in the North" Te Ao Hou 16, 1956 at 45; Amadonna Jakeman "Hei Poai Pākehā Koutou i muri nei" (MA thesis, Auckland University of Technology, 2019) at 2. Tanya Milne "He Tohunga o te ao Māori" (2009) 2 MAI Review at 4; and in the "Prophecy" section of the Ratana Church website <www.theratanachurch.org.nz>. Its special significance is noted in the concluding section of this chapter.

[776] Rakena and Benton (2021) at 648.

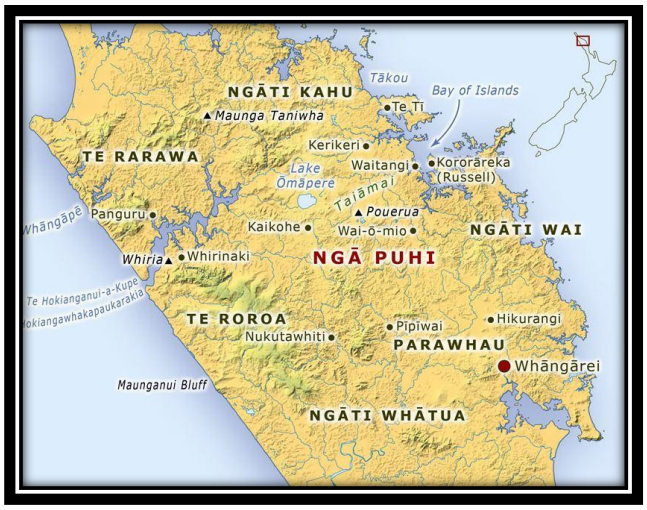
The narrative of Ngāpuhi has a long history, beginning as far back as the signing of Te Tiriti o Waitangi 1840.

On 6 February 1840, at Waitangi, Māori entered into Te Tiriti o Waitangi ("Treaty"). The Treaty had two texts: one in Māori, signed by chiefs at Waitangi, and another in English, signed later by some chiefs, at Manukau and Waikato Heads. The English version claimed Māori ceded sovereignty to the British Crown, while the Māori version indicated that chiefs retained control over their lands and taonga.[777] The differing interpretations, particularly around governance led to contested meanings, and broken promises. Rakena and Benton note,[778]

> 'Struggles arose with the colonial government in large part from the realization by some of these rangātira that the sovereignty, which they and their hapū had enjoyed, and had expected to continue to enjoy, had dried up with the ink on the parchment of the Treaty.'

The following figure (on the next page) illustrates the traditional lands of Ngāpuhi.

Map 4: Traditional lands of Ngāpuhi



Source: "Traditional lands of Ngāpuhi" <www.teara.govt.nz>

The following evidence emphasises the internal and external contestation emerging within Ngāpuhi historically. Rakena and Benton explain, [779]

> 'In 1845-46, Ngāpuhi Chief Hone Heke was the first serious challenge to the Crown in the years after signing the Treaty. Hone Heke protested against the growing control of colonial government over Māori affairs and the subsequent erosion of tino rangātiratanga.[780] This complex conflict involved fighting between two factions of Ngāpuhi as well as clashes with British forces became known as the Northern War. The

[777] Prized possession, resources, legacies.
[778] Rakena and Benton (2021)at 634.
[779] Rakena and Benton (2021) at 634.
[780] Political control by Māori People over Māori affairs.

> armed struggle against the British was supported mostly by the hapū that had been part of the old "Southern Alliance," but joined by some of those, such as Ngāti Tautahi and Ngāti Whakaeke [which are hapū] that had been allied with the "Northern Alliance" in the eighteenth-century conflicts, thereby breaking ranks with their erstwhile allies who sided with the Colonial Government.[781]
>
> Conflicts of personal and regional interests within and among these groups allowed the British to gain the upper hand and a nominal victory after the abandonment of Ruapekapeka pā in January 1846. [782] Outside the urban areas, however; it was tikanga Māori that generally prevailed in Māori communities well into the twentieth century, although the Queen's Writ could be used when convenient or necessary. Aotearoa New Zealand was now being "transformed from an exclusively Māori world into one which Pākehā dominated numerically, politically, socially and economically."[783]

The Northern War of 1845–46 exemplifies the deep tensions within Ngāpuhi and the contestation of Crown authority in the decades following Te Tiriti. Hone Heke's challenge was not only directed against the colonial government's encroachment on tino rangātiratanga but also revealed divisions among Ngāpuhi hapū, where shifting alliances fractured earlier bonds and some sided with the Crown.

In 1962, efforts were made to unify Ngāpuhi hapū failed. Ngāti Hine responded to this setback by establishing Te Porowini o Ngāti Hine within the Rohe Potae; [784] a standalone province which effectively asserted Ngāti Hine's independence from their Ngāpuhi neighbours.

Māori self-governance and hapū rangātiratanga diminished and underwent reshaping by colonisation, while continuing to exist in contemporary Ngāpuhi Māori governance. These dynamics influenced Crown negotiations, particularly in managing internal and external contestations at intercultural interfaces. It also highlights the internal complexities of layered

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[781]Cowan, J. (1922). The New Zealand Wars and the Pioneering Period (Volume 1, Wellington: Government Printer) at Chapters 3-9;

[782]Arohamai, Evidence from Ngāpuhi and Ngāti Hine traditions suggests that the pā was not abandoned, but that many of the defenders were gathered in the nearby bush conducting a Rātapu (Sunday) church service when the British entered. James Cowan (1922) recorded that Kawiti and his people were in the bush when the pā was entered. James Belich later emphasised that Ruapekapeka was a "strategic withdrawal" rather than an abandonment, noting that the pā had already served its purpose in delaying and exhausting the British. See for discussion, Belich, James The New Zealand Wars and the Victorian Interpretation of Racial Conflict (Auckland University Press, Auckland, 1986). Cowan, James The New Zealand Wars: A History of the Māori Campaigns and the Pioneering Period: Volume I, 1845–1864 (Government Printer, Wellington, 1922).

[783]"A history of New Zealand 1769-1914"(2025) NZ History <www.nzhistory.govt.nz>.

[784] Benton, et al.(2013) at 339-341 discuss "Rohe". This term denotes a boundary and the act or process of establishing a boundary (either territorial or concerning a course of action) or an enclosure. However, this expression is now also used elsewhere, for example in Taitokerau, as a metaphor for traditional or contemporary heartland territories of an iwi or hapū."

governance and subsidiarity challenges faced by the Ngāpuhi confederation of alliances and the ongoing implications.

Now that our stage has been set, I now examine the political battle of Te Rūnanga A-Iwi-O-Ngāpuhi ("TRAION") and Te Kotahitanga o Nga Hapū Ngāpuhi ("Te Kotahitanga").

7.5 The political showdown between Te Kotahitanga and TRAION

TRAION, established in 1989, is a charitable trust representing all Ngāpuhi descendants. As an iwi authority under New Zealand law, it manages assets and resources on behalf of its people, overseeing 55 marae and 150 hapū. Its mission is to support initiatives that advance Ngāpuhi reo, education, youth, mātauranga, arts, environmental health, and papakāinga development..'[785] However, in light of its relationship with Ngāti Hine; Rakena and Benton note, [786]

> 'However, Ngāti Hine's association with the Rūnanga[787] has been problematic for many years, and in February 2019, the combination of nine hapū reiterated through their chairman their intention to withdraw completely from the Rūnanga and conduct their own Treaty negotiations.'

Ngāti Hine's long-standing tensions with the Rūnanga culminated in February 2019, when nine hapū, through their chairman, reaffirmed their intention to withdraw entirely and pursue independent Treaty negotiations. Rakena and Benton provide more detail about the contestation, tensions and conflicts which marked the cultural interface between the Kotahitanga[788] and TRAION. In a nutshell, the effect was a historical political standoff from hapū rangātiratanga contesting TRAION's right to represent and hold the mandate to negotiate with the Crown in Treaty settlements.

Furthermore, Te Kotahitanga expressed concern over external governance imposed through legislated centralised structure. This is significant because it highlights the potential loss of cultural autonomy when hapū are compelled to adhere to external governance models such

[785] "Ngāpuhi Rūnanga Group" (2025) Ngapuhi.iwi.nz <www.ngapuhi.iwi.nz.
[786] Rakena and Benton (2021) at 641; Barrington. M (5 Dec 2011) "Iwi group suspends Ngāti Hine" (15 December 2011) NZ Herald <www.nzherald.co.nz>;"Ngāti Hine not into Rūnanga a Iwi o Ngāpuhi" Marae TV (18 October 2013) <www.youtube.com>;Garrick G (2019). "Ngāti Hine wants to formally split off from Ngāpuhi Treaty talks" (5 Feb 2019) RNZ <www.rnz.co.nz>.
[787] A Runanga is a tribal administrative institution.
[788] Comprised of hapū and iwi who whakapapa to Ngāpuhi.

as those mandated by the Crown. These models often prioritise efficiency and economic outcomes over the culturally embedded practices that govern hapū relationships with land, resources, and people. This tension between external governance and internal autonomy reflects the broader struggle for cultural subsidiarity, where hapū rangātiratanga is deeply tied to maintaining tikanga and whakapapa connections.

Therefore, more significantly, a crucial step in the negotiating process is the mandating process. This is where hapū or iwi receive the mandate or authorisation from hapū or iwi members to act on their behalf in negotiations with the Crown towards a settlement of Treaty of Waitangi claims. The choice of which strategic level within a social structure group is the most appropriate for different circumstances is an internal governance decision within the group, with subsidiary levels of the polity needing to be engaged and respected.

The case study evidence is testimony to the extraordinarily sophisticated capability within Māori social systems for opportunistic political aggregation and disaggregation; for example, where alliances of hapū and of iwi come into being for shared purposes, thereby mobilising multi-level governance arrangements to enable group aggregations to cooperate effectively. Such capacity for scaling-up aggregation is a positive characteristic of Māori cultural subsidiary. But it is one that remains vulnerable to the governing tension of subsidiarity when localised smaller units reassert their own local governing autonomy. When the fluidity of cultural formations such as iwi becomes more formalised by imposed legal mechanisms and policy rules which occurs with incorporation of the iwi, then the value of cultural subsidiarity for the role of hapū governance can be seriously undermined.

Another relevant point is that this chapter importantly discusses the challenges this diversity and subsidiarity presented in forming a sustained unified approach across hapū to governance and Treaty negotiations with the Crown. The relational and social complexity of Māori governance structures and the need for careful consideration of the unique characteristics of each hapū within a larger iwi authority framework were never distinctive than at this time. The analogy to David and Goliath seems apt.

I now consider the role of the NZ Government's policy tool of preferencing so-called 'large natural groupings' has played out in this political and cultural showdown between Ngāpuhi hapū and iwi levels.

7.6 A Large Natural Groupings Strategy

In 2007, the Ngāpuhi Design Group under the umbrella of TRAION recommended to the Waitangi Tribunal to combine its five hearing districts of Northland with a single inquiry.[789] Rakena and Benton state,

> 'The arguments put forward were that the separate inquiries could be divisive to Ngāpuhi hapū; and hinder the opportunity for claimants to present their evidence in a collective manner without segmentation between districts.' This recommendation fell in line with the Crown's current Treaty of Waitangi settlement policy, founded on a strategy of direct settlement with "large natural groupings."[790]

This strategy raised concerns within Ngāpuhi about potentially undermining the distinctiveness and autonomy of individual hapū and hapū rangātiratanga, relative to iwi within the larger Ngāpuhi polity. However, this proposal was accepted and became known as Te Paparahi o Te Raki Inquiry.[791]

Rakena and Benton investigated the adverse impacts on hapū-iwi governing relationships created by the NZ Crown's preferred policy. Rakena and Benton noted that the policy became "A sticking point for claimant groups when negotiating with the Crown." Rakena and Benton continue,[792]

> '…[T]he "large natural grouping" aggregation preferred by the Crown for its Treaty settlements has been well criticised for not necessarily being "natural", and disempowering the voice of the primary traditional unit, the hapū. This is particularly so in the case of Ngāpuhi when they emphatically reject the Austinian view of sovereignty.'

From 2008-2009, TRAION sought feedback from 150 hapū on how to progress a settlement of historical claims. A sub-committee of TRAION, named Te Rōpu o Tūhoronuku[793] ("Tūhoronuku"), was formed to progress the Treaty settlement process and started holding consultation hui.[794] During these hui, Tūhoronuku developed a strategy to obtain the mandate from hapū and proposed a structure for the mandated entity.

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[789] "Ngāpuhi are ready to tell their story" Northern News (28 April 2010) Stuff <www.stuff.co.nz> cited in Rakena and Benton (2021) at 641.
Hapū sovereignty.

[790] Rakena and Benton (2021) at 641.

[791] "Te Paparahi o Te Raki" (2025) Waitangi Tribunal <www.waitangitribunal.govt.nz>. This is a Northland inquiry(Wai 1040) which includes approximately 415 claims.

[792] Rakena and Benton (2021) at 639.

[793] Tuhoronuku, the kite of Rahiri (a great Ngāpuhi ancestor) also serves as a metaphor of dreams and aspirations of the Ngāpuhi nation.

[794] Meetings.

The establishment of Tūhoronuku as the mandate holder also sparked internal contestation among Ngāpuhi hapū, as it clashed with the cultural ethos of hapū rangātiratanga by centralising authority over all Ngāpuhi hapū. This move was perceived as undermining both current and future claimants, and highlighted an intercultural interface where the NZ Crown's imposed structures directly conflicted with traditional and contemporary Māori ways of governing upheld by Te Kotahitanga. Tuhoronuku as the sole entity to negotiate the settlement, and to represent all who identify as Ngāpuhi, contradicted Ngāpuhi's culturally-based governance ethos of hapū rangātiratanga.

One consequence of this 'top-down' process was the emergence of Te Kotahitanga o Ngā Hapū Ngāpuhi ("Te Kotahitanga").[795] Te Kotahitanga is essentially a large collective of Ngāpuhi hapū which came together in opposition to Tuhoronuku. Despite efforts by the Crown to meld the two parties' interests and encourage collaboration, no agreement was reached.

In 2009, Te Kotahitanga held its inaugural meeting and set three strategic goals which emphasised hapū sovereignty, set goals to affirm hapū autonomy, coordinate Tiriti grievances, and support claims while upholding mana and tikanga. Te Kotahitanga highlighted how the tension between Crown settlement policy of centralisation by dealing with large natural groupings, and hapū autonomy played out.

The following interview conducted as part of my thesis research documents the firsthand experience and primary evidence by Deputy Chair Pita Tipene of Ngāti Hine regarding Tuhoronuku.

Pita Tipene recounts, [796]

> 'For all intents and purposes, when Tūhoronuku began in 2008, Ngāti Hine had a clear stance on that, that Tūhoronuku, which was a subcommittee of Te Runganga o Ngāpuhi, was not going to speak for Ngāti Hine. And therefore, we opposed it. We were given the opportunity to join, and therefore change things from the inside but we never believed that once. We had no trust in the leadership. And therefore, we firmly opposed that.
>
> My anchor in all of that was that I would go back to our people in Motatau and put it to them, and they would tell me if I was on the wrong track; well, not just me, but us. And you know some of these identities as well as I do, my brother, Wiwi Tipene, Poppa Tipene, Taura Cherrington, they were all steadfast in their opposition. So they became my tuara.[797] That whenever I went into the fray, as well as others, that they had made a

[795] Unified in one purpose and mind.
[796] Transcript of Pita Tipene (2023) at 9-10.
[797] Backbone of support.

> decision. It wasn't my decision, or our decision. It was all of our decision. And when you make that sort of a decision and have that sort of discussion under the roof of Manu Koroki,[798] you better hold the line too.
>
> So as a result, I was always steadfast in opposing Tūhoronuku because they hadn't even given the courtesy of asking us whether they should be representing us. In relation to your question, there was always going to be huge tension and it just spurred me on to publicly denounce any movement by Tūhoronuku to try to achieve the mandate which effectively would have been speaking for Ngāti Hine.'

Pita Tipene continues,[799]

> '…any meeting that we would have held out at Tau Henare, out at Te Orewai, or Eparaima o Makapi, would have been one to inform the people there of the Ngāti Hine stance, which was to oppose Tūhoronuku. But more importantly, it was to keep our nine (9) hapū together in a coherent and clear way. To exercise our own interdependence as hapū of Ngāti Hine.'

Ngāti Hine adamantly opposed Tūhoronuku from its inception in 2008, adamantly rejecting its authority to represent them. This opposition was collectively decided by Ngāti Hine hapū, which reflected their commitment to maintain hapū rangātiratanga. Ngāti Hine was governed by the belief that representation should be grounded in genuine hapū consent and collective decision-making.

In 2011, voting took place to secure the resolution that "Tūhoronuku was mandated to represent Ngāpuhi in negotiations with the Crown for the comprehensive settlement of all Ngāpuhi historical claims, and Crown breaches against The Treaty of Waitangi."[800] According to Rakena and Benton, [801]

> 'Voting packs were sent to 29,289 adult Ngāpuhi (18 years and over). Of the 6,794 people who voted, 5,210 (76.4%) voted in support of the mandate and 1,584 (33.6%) opposed it.[802] (The 2013 Census gave the total Ngāpuhi population as 125,601.)'

The voting packs were forwarded only to a small percentage of 23.32% of the total Ngapuhi population. Only these who had registered with Te Rūnanga A-Iwi-O-Ngāpuhi may have received the voting packs.

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[798] Manu Koroki is the wharenui (large house or meeting place) at Motatau Marae named after a tupuna.
[799] Transcript of Pita Tipene (2023) at 11.
[800] Rakena and Benton (2021) at 642.
[801] "Census iwi individual profiles: Ngāpuhi" (2013) Stats NZ Tatauranga Aotearoa <www.archive.stats.govt.nz>.
[802] An error in Rakena and Benton (2021). The correct percentages 5210/6794 is 76.7%, and 1584 is correspondingly 23.3%.

Within six months, on 12 September 2014 the Waitangi Tribunal granted applications by Te Kotahitanga supporters for an urgent hearing. Fifteen claimant groups argued that the Crown had erred in its decision and the rush to settle all Ngāpuhi historical Treaty claims through a single settlement via the iwi authority. Claimants argued, this process ignored the cultural rights and preferences of Ngāpuhi hapū claimants. Seventy-two interested parties joined the hearing in support of the application, and 14 interested parties joined in opposition. The crux of the hapū claimants' case was the need to recognise and affirm hapū self-determination and the protection of their hapū rangātiratanga. Rakena and Benton explain,[803]

> 'The Ngāpuhi claimants stated in their application to the Waitangi Tribunal the importance of hapū tino rangātiratanga and how it was different from an Austinian view of sovereignty.[804] Both views were critiqued in the *Ngāpuhi Mandate Report* as follows,[805]
>
> > The two sides of the argument also reflect different socio-political values. The Tūhoronuku IMA (and the Crown) relies on a one-person one-vote democratic process as demonstrating support for a mandate that has been properly recognised as reflecting the majority of Ngāpuhi individuals. The Tūhoronuku IMA said that the claimants are a 'loud minority' and that there will always be those who are unhappy with the outcome of a voting process. Supporters of the Tūhoronuku IMA see it as representing the 'modern-day demographics of Ngāpuhi,' including 'those Ngāpuhi who are not actively engaged presently, but who stand to benefit from the settlement of past wrongs.'
> >
> > The claimants say that the hapū, as the basic building blocks of Ngāpuhi, must decide important issues regarding the settlement of their claims. They argue that their tikanga is not one of 'democracy' in western terms, but that it is perfectly capable of reaching consensus by requiring participation, discussion kanohi ki te kanohi, and resolution of differences on matters of shared concern. They see an outcome based on a majority vote by individuals, without establishing hapū consent, as undermining their rangātiratanga, especially when the issue is the crucial one of mandate to negotiate a Treaty settlement. In their view, this is not the way forward to an enduring settlement that will empower future generations.'

The Crown and Tūhoronuku relied on westernised concepts of majority rule and individual votes and reinforced the demographic influence in Ngāpuhi of bigger units. The interface and contestation between hapū, iwi and the Crown, reaffirmed conflicting governance

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[803] Rakena and Benton (2021) at 639.

[804] John Austin, 1790–1859, was an English philosopher whose monistic theory of sovereignty, expounded in Lecture VI of his work, had a profound influence on English jurisprudence and continues to dominate the Crown's view of sovereignty in Aotearoa New Zealand.

[805] Waitangi Tribunal Ngāpuhi Mandate Inquiry (Wai 2490, 2015) at 39.

frameworks and approaches. While 'Western' democracy, by numerical majority is rejected in the passage quoted above; the Ngāpuhi culturally-based view of democracy resonates with the origins of modern democracy. Here, the role played by local assemblies of citizens in the ancient Greek city states was to meet together to discuss the affairs of their local community and their relationships with their neighbours.[806]

The Waitangi Tribunal Report concludes,[807]

> 'At the heart of the claimants' case is the protection of hapū rangātiratanga. They alleged that the Crown was attempting to transform the Ngāpuhi political structure to achieve a settlement outcome that had more to do with its policy preferences than those of Ngāpuhi.'

Again, we see the tensions and conflicts which marked the relationship between the Kotahitanga and TRAION in a historical political standoff for authority to weld the unilateral mandate and representational right to negotiate with the Crown in Treaty settlements.

Rakena and Benton report,[808]

> 'From April to August 2016, a draft version of the Maranga Mai Report by the tri-partite group was released for discussion and feedback and a final report was released to the public. Between these periods, the Waitangi Tribunal released the *Ngāpuhi Mandate Inquiry Report* (Wai 2490). The report held that the Crown had a primary duty to protect hapū and a responsibility to ensure that all Ngāpuhi have an opportunity to be involved in the mandate.
>
> The Crown in recognising the Tūhoronuku IMA mandate had breached its obligations under the Treaty of Waitangi to ensure that the structure of Tūhoronuku IMA protected hapū rangātiratanga. The concluding comments from the Report stated, "It is clear that, in order for the Treaty relationship to be repaired, hapū must be returned to a position of authority.'[809]

The Waitangi Tribunal's Ngāpuhi Mandate Inquiry Report and the subsequent release of the Maranga Mai Report highlighted the inherent tension and heightened contestation between Crown-imposed structures and the protection of hapū autonomy through hapū rangātiratanga. The Tribunal's findings underscore the necessity for contemporary governance models that genuinely reflect and uphold hapū rangātiratanga, rather than subsuming it under broader incorporated structures with centralised mandates.

[806] Rakena and Benton (2021) at 642.
[807] Waitangi Tribunal (Wai 2490, 2015) at 12.
[808] Rakena and Benton (2021) at 643.
[809] Waitangi Tribunal (Wai 2490, 2015) at 84.

This period reflected a pivotal moment in Māori-Crown relations and emphasised the need for approaches to honour the distinctiveness of hapū governance. At its heart, the dispute and the Tribunal's reports revealed the ongoing critical role being played by the Māori systemic mechanism of cultural subsidiarity and Māori ways of governing to navigate real-world governing relationships.

7.7 The Result of Voting for Mandate and Representation

In late 2018, after the decision of the Waitangi Tribunal was determined,110 hapū participated in a referendum to endorse a mandate for settlement with the Crown. The results showed that the required endorsement thresholds to secure the mandate were not met but rejected. Technical advisers who reported on the referendum state, [810]

> 'The Ngāpuhi Hapū Endorsement and Ngāpuhi Tangata vote have failed to reach the respective 65% and 75% thresholds that Te Ropu Tuhono set for the Endorsement process.'

Rakena and Benton reflect,[811]

> 'Support was greatest (although far from unanimous) among the hapū associated with the old "Northern Alliance", and rejection almost total among their erstwhile opponents.
>
> The mandate was decisively rejected in both hui and individual votes among the hapū most closely associated with Ngāti Hine.'

This result reflected the growing entrenchment of contestation and division within Ngāpuhi, with the mandate's rejection again contrasting the importance of cultural subsidiarity, and the complex dynamics between collective hapū decision-making and individual westernised voting preferences.

An implication of Large Natural Groupings ("LNG") is that as iwi transition into iwi authorities, iwi authorities often act as centralised bodies prioritising Crown negotiation requirements over the localised decision-making power traditionally held by hapū. There is unmistakable evidence that at the interculture interface, the Crown policy privileges centralised iwi authorities at the expense of local autonomy.

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[810] "Final-Report-from-Te-Ropu-Tuhono-Ngapuhi-Technical-Advisors on the outcome of the Endorsement Process and Next Steps (20 December 2018). The New Zealand Government. <www.govt.nz>.

[811] Rakena and Benton (2021) at 644.

Furthermore, LNG are seen as default representatives for Treaty negotiations, which ignore the decentralised nature of traditional Māori governance. The use of LNG in Treaty negotiations can erode hapū autonomy, and could place Ngāti Hine hapū in a subordinate position. This demonstrates the ongoing contestation within Ngāpuhi, where Te Kotahitanga is increasingly vocal in asserting their own governance rights and rejecting the notion that iwi authorities can speak for them in negotiations with the Crown. This example emphasises how iwi authorities, while functional in Crown dealings, may fail to represent the specific needs and desires of hapū, leading to internal division and dissatisfaction. In section 7.9 we read what is happening with Ngāti Hine going forward. Meanwhile, the next section documents the historical determination from the Waitangi Tribunal on the matter of whether Ngāpuhi ceded sovereignty in 1840 to the Crown for all Māori.

7.8 Māori Sovereignty

Pita Tipene recounts, [812]

> 'In 2008, 2009 a thought was fed to the hapū of Ngāpuhi or the people of Ngāpuhi that a case should be put to the Waitangi Tribunal that we never ceded sovereignty.
>
> And so we use that sandfly saying, oh well I certainly used it as a catch cry or a war cry and we took that to the rest of Ngāpuhi.[813] We must have held at least 30 maybe 40 wānanga[814] over two years to wānanga the sovereignty, mana motuhake,[815] te tino rangātiratanga[816] kaupapa.[817] So that we were clear, coherent and that we knew what it meant to us and therefore who would best articulate that to the Waitangi Tribunal. We also argued, why would we even go to the Waitangi Tribunal? Because we don't want an independent inquiry to tell us what we already know.
>
> Nonetheless, we decided to take it to the Waitangi Tribunal, and we did over five weeks from May 2010 to February 2011. Starting at the Waitangi Marae, Te Ti Marae and finishing at Otiria Marae, of which your mother[818] was prominent in week (four) that was held at the Whitiora marae in Te Tii.
>
> So with all of that as a backdrop, the Waitangi Tribunal finally came back in November 2014, and upheld the kaupapa that was led by Erima Henare, Hirini Henare, Hone Sadler, Rima Edwards and Pat Hohepa, amongst others. So come back to your question whether iwi are being given preference. iwi certainly are different throughout the country.
>
> What we know is that we prosecuted a case to the Waitangi Tribunal that hapū signed Te Tiriti o Waitangi and He Whakaputanga and therefore if hapū were the basis of

[812] Transcript of Pita Tipene (2023) at 15-17.
[813] Te Tangi o Kawiti refers to the sandfly at 234.
[814] Education sessions.
[815] Self-determination.
[816] Leadership representation.
[817] Central topic of discussion.
[818] Moetu Tipene Davis.

> rangātiratanga, mana motuhake back in 1835 and 1840, then surely that must be so in 2010 when we started the hearing. So hapū mana motuhake[819] is the bedrock of the tribes up here.'

Te Kotahitanga and Ngāti Hine hapū led the charge to initiate a movement asserting they never ceded sovereignty. This led to widespread discussions on sovereignty, mana motuhake, tino rangātiratanga, and cultural subsidiarity. In 2014, the Tribunal upheld their claim, affirming that hapū were the foundation of rangātiratanga and mana motuhake. This decision reinforced the centrality of hapū sovereignty and cultural subsidiarity within Ngāpuhi, highlighting its ongoing importance at the cultural interface in Māori governance discussions and the Crown. The influential finding caused divergent ripples of reactions from Ngāpuhi, Māori and the Crown. The immediate response of some leaders and the Minister of Treaty Settlements was recorded thus in the *Northland Age*:[820]

> 'Some leaders at Waitangi yesterday said the Tribunal's finding would strengthen their claims to natural resources, because their ancestors never consented to giving up sovereignty; others that it could open up avenues for Māori via international law. Treaty Settlements Minister Chris Finlayson said in a statement there was no question the Crown had sovereignty in New Zealand, and the report did not change that.
>
> This finding became a beacon of solidarity for Ngāpuhi and a significant axis of historical determination. The Tribunal made no conclusions about the sovereignty that the Crown exercises today, or how the Treaty relationship should operate in a modern context. The Tribunal's key historical finding was as follows:[821]
>
> > 'We have concluded that in February 1840 the rangātira who signed te Tiriti did not cede their sovereignty. That is, they did not cede their authority to make and enforce law over their people or their territories. Rather, they agreed to share power and authority with the Governor. They agreed to a relationship, one in which they and Hobson were to be equal – equal while having different roles and different spheres of influence. In essence, rangātira retained their authority over their hapū and territories, while Hobson was given authority to control Pākehā.
> >
> > .... While some may see our conclusions as radical, they are not. In truth, our report represents continuity rather than dramatic change. Leading scholars – both Māori and Pākehā – have been expressing similar views for a generation or more. When all of the evidence is considered, including the texts as they were explained to rangātira, the debates at Waitangi and Mangungu, and the wider historical context, we cannot see how other conclusions can be reached.'

[819] Self-determination.

[820] "Ngāpuhi 'never gave up sovereignty'" (17 November 2014) NZ Herald <www.nzherald.co.nz>.

[821] Waitangi Tribunal He Whakaputanga me te Tiriti /The Declaration and the Treaty (Wai 1040, 2014) at 527–528.

In November 2014, the Waitangi Tribunal's Te Paparahi o Te Raki Stage 1 report concluded that Ngāpuhi did not cede sovereignty when signing the Treaty in 1840; with Māori Hapū retaining authority to govern their territories while agreeing to share power with the Crown.

Not to mention, the overall sentiment within the Ngāpuhi complex was one articulated by Moana Tuwhare, a former board member of Tūhoronuku: [822]

> 'I'm particularly interested in how we as Ngāpuhi have dug our heels in on the basis of our Hapū rangātiratanga and the fact our many rangātira never ceded sovereignty through Te Tiriti or anytime thereafter. This starting point means our attitude to Iwi governance is much like our attitude to Crown governance, useful to a point but the relationship must be on our (hapū) terms with mutual benefit flowing.
>
> To that end I'm also personally advocating that our hapū be recognised as legal entities in this country in their own right without any layer of mainstream governance structures and requirements but still meet the transparen[cy] and accountability tests through our tikanga rather than through a deed of trust or incorporation. I believe to develop this further we should be focusing, debating, recording and refining what our tikanga are in 2018 and defining for ourselves what our standard of good governance practices look like. Certainly, the tensions between the current [Pākehā] norms and our tikanga are a major contributing factor to our current stalemate on how to move forward. Power and control being another.
>
> Anyhow, hapū as legal entities seem to me to be a simple and logical way to reclaim our legal status and work through the current tensions.'

Moana Tuwhare underscores a commitment to hapū rangātiratanga, with a firm stance that sovereignty was never ceded through Te Tiriti. But it also demonstrates the preparedness of Māori to entertain new governing modalities of their own choosing. Hence, Tuwhare advocates for recognising hapū as legal entities, governed by their tikanga rather than mainstream westernised structures. This proposed solution emphasises the recognition of cultural and political subsidiarity. Furthermore, this approach seeks to resolve the ongoing contestation and tensions at the cultural interface between Pākehā norms and tikanga Māori.

By aligning contemporary governance with hapū values and refining governance practices based on tikanga, Tuwhare envisions a pathway that respects hapū autonomy and addresses the complexities of layered power and control within the Ngāpuhi governance system. It emphasises the importance of respecting hapū rangātiratanga in negotiations with the Crown

[822] Rakena and Benton (2021) at 645.

and TRAION while it highlights the ongoing challenges to achieve a unified approach among the Ngāpuhi hapū for Treaty settlements and for moving forward.

7.9 What is happening now in Ngāti Hine?

An information hui was held for Ngāti Te Tarawa, a hapū of Ngāti Hine at Motatau Marae, Motatau on 11 August 2024 and 23 September 2024. The hui goals were threefold. Firstly, to inform hapū of Te Ara Tika o Ngāti Hine Mandate Strategy. Secondly, to seek feedback from the hapū and thirdly, to discuss what are the next steps. I attended this meeting via ZOOM and witnessed the hapū reaching consensus through participation, having discussion kanohi kite kanohi, and continuing to talk until resolution for the discussion on matters were met.

Figure 6: Ngāti Te Tarawa Tiriti Mandate Information Hui

Source: Facebook.com

Furthermore, several hui will be called to garner the direction of many hapū in Ngapuhi with the view to obtaining the mandate to negotiate with the Crown through hapū rangātiratanga. While Ngāti Hine will meet the Crown's policy of large natural groupings, Ngāti Hine has reiterated it will be on hapū terms of governance. A vote calling for mandate and representation of the iwi Ngāti Hine was to be held on 1 December 2024. However Ngāti Hine leaders are reaching out to whānau globally in Australia and the United States of America. An important skill in hapū rangātiratanga is that you can't rush engagement, it takes time to listen and make a collective decision as hapū.

7.9.1 An outside view of what is happening

Maui Hudson comments,[823]

[823] Transcript of Maui Hudson (2023) at 31.

> ‘The idea of Ngāpuhi and how it organises itself for a Treaty settlement, it's quite a different context. And Ngāti Hine are wanting to do their own thing; I don't have a problem with that in that sense. But you know, it will end up in that same situation that you do when Ngāti Hine becomes the entity. And then, if that's an entity, and then you've got other entities they have to think about. How do they bind themselves together as Ngāpuhi?
>
> How do you carry forward those kaupapa at that level because there’s a place that’s providing that space at the moment. If you break it up and move it into other areas. What do you then do to create something that is the unifying piece for both stuff?’

Maui Hudson comments on the potentially adverse outcomes for solidarity of the ongoing internal tensions arising out of the push-and-pull dynamic between the centralised iwi authority and localised hapū layers of contemporary Ngāpuhi self-governance. Maui Hudson acknowledges Ngāti Hine's desire to assert its autonomy, which reflects hapū rangatiratanga. However, this raises concerns about the potential fragmentation of Ngāpuhi as a nation. He also questions how to maintain a balance between hapū independence and iwi unity. Maui Hudson believes the challenge is to reaffirm a polity structure that enables hapū to operate independently while preserving the strength and identity of the iwi with other Ngāpuhi hapū. In other words, how can the institutional mechanism of cultural subsidiarity that has proven for generations to be the effective cultural foundation for interdependent governing relationships within Māori nations; be affirmed in contemporary practice when NZ Government interventions act in ways that are contradictory to the vitality of that mechanism?

The following section presents analysis on the future implications for Ngāti Hine.

7.10 Future Implications for Ngāti Hine

Pita Tipene states,[824]

> ‘Well, you and I both know well that when Kawiti did not sign Te Tiriti o Waitangi, he refused to sign on the sixth of February. They, [the Crown] got his two sons: Maihi Kawiti and Taura Kawiti to sign on the sixth and then he finally signed on roundabout May the thirteenth, 1840. And then, five years after that, Kawiti led the war against the British.
>
> He wrote a kōrero[825]which is known as te tangi[826] o Kawiti or in any of his waiata,[827] which your mother researched and brought it to the Waitangi Tribunal. In there, all of the messages that we need to uphold and adhere are there now and can be handed onto future generations. So in regard to your question, in what Kawiti said, if I could pluck a

[824] Transcript of Pita Tipene (2023) at 14-15.
[825] Talk.
[826] A lamentation.
[827] Song.

couple of those lines (from Mylene's mothers book)[828] "We will wait until the sandflies nip at the edges of the book and at that time you will stand up."[829]

... but the last line "Titiro ki nga tangāta o te moana," which in my interpretation, anyway, means always remain strategic and always retain a global orientation. Which is looking beyond the horizons of the sea. So look beyond what you can actually see. So you can interpret that in different ways because he was the master strategist. And what we wānanga [830] about this with my peers is that he was giving a vision that was five(5), six(6), seven (7) generations out.'

Pita Tipene shared insights in our interview from his heritage and emphasises the strategic vision of Kawiti passed down through generations. Pita Tipene highlights the strength of resistance to imposed governance, and the importance of looking beyond immediate horizons to new possibilities for the future of Ngāti Hine.[831]

In contrast, a key implication for future self-governance is the risk of losing mana motuhake,[832] if Ngāti Hine hapū are subsumed under the banner of iwi legislated entities. Ngāti Hine face a choice between maintaining their rangātiratanga or becoming part of larger iwi authorities potentially diluting their distinct identities and Māori ways of governing. This conundrum highlights the ongoing tension between maintaining hapū autonomy and participating in state-recognised structures like iwi authorities. If hapū governance becomes too closely tied to iwi bodies or government structures, the cultural and political subsidiarity of hapū may be lost, leading to a future where Māori self-governance is defined more by state-sanctioned entities than traditional structures. The discussion also points to the diminishing role of hapū in governing according to their tikanga and principles, a significant loss for cultural sovereignty.

A further implication is the potential for legislative oversight to encroach upon hapū authority for the greater good. As Ngāti Hine work to obtain the mandate to negotiate their role within the larger iwi structures; the risk is, legislative frameworks may override the more flexible, localised decision-making that hapū rangātiratanga entails with the erosion of subsidiarity. There is potential for hapū to be absorbed into iwi structures, which may be perceived as more streamlined but less culturally authentic to the principles of tikanga and mana motuhake.

[828] Davis, M. T. (2020). Te Orewai Karanga Gravitas Media Hamilton NZ.
[829] See Chapter 7 which documents Kawiti's Tangi.
[830] A retreat of learning .
[831] Transcript of Pita Tipene (2023) at 14-15.
[832] Absolute authority.

Finally, if hapū rangātiratanga is not respected, there will be long-term consequences for Māori governance. One potential consequence highlights the risk of hapū becoming a legislative entity to manage the resources negotiated. This concern reveals the broader fear that hapū will be transformed into administrative bodies rather than continuing as autonomous entities that guide their people based on traditional leadership models.

7.11 Conclusion

This case study outlines Te Kotahitanga's struggle to maintain rangātiratanga against iwi authorities with the New Zealand Government privileging "large natural groupings" in Treaty settlements. A key finding that Ngāpuhi never ceded sovereignty opens different fundamental conversations with the Crown. While Te Kotahitanga and Ngāti Hine seek transformation in Māori governance, the potential risk of becoming legislative entities managing negotiated resources looms. Maui Hudson highlights concerns about the future of other Ngāpuhi entities; possibly leading to the integration of more iwi within Ngāpuhi. Who then is Ngāpuhi?

The case study clearly shows the struggles related to iwi authorities, cultural subsidiarity, and the future implications of self-governance. Centralised iwi authorities, while facilitating state interactions, often overshadow local hapū governance. The principle of cultural subsidiarity reinforces the need for hapū to retain their decision-making authority, and future self-governance must avoid reducing hapū to mere administrative entities connecting to the larger group. The evidence provided in the case study supports the argument to honour rangātiratanga, and future governance arrangements must prioritise hapū autonomy and cultural integrity. While iwi authorities have their advantages, they often centralise power in ways that undermine hapū rangātiratanga. Cultural subsidiarity, rooted in *tikanga*, remains crucial for maintaining hapū authority and identity.

Ngāpuhi nation self-governance, as with other Māori nations, operate on the basis of a sophisticated system of cultural subsidiarity where governing roles, responsibilities and representative mandate are distributed *across* the interdependent layers of whānau, hapū and iwi. The insiders' accounts and analyses of the Ngāpuhi mandating debacle and the government's illogical and unjust 'large natural grouping' demands are a resource and

contribution to our understanding of the barriers imposed by the Crown's treaty claims settlement process.

Hapū throughout the country constantly battle to stop local government bodies giving permission to developers to carry out environmental devastation and destruction, and to draw meaningfully on the many centuries of knowledge that hapū carry about how best to look after and manage the natural environment.

Under the normative rules of cultural subsidiarity, the larger-scale agency of iwi is very much an emergent phenomenon of Ngāpuhi nationhood, linked to the needs of hapū to get important larger-scale things done at an aggregated demographic scale beyond that of single hapū. The creation by NZ Governments of iwi authorities potentially impede the continuing effectiveness of cultural subsidiarity, and hence the effectiveness of Māori collective self-governance arrangements. A critical factor in the internal credibility and effectiveness of new iwi authorities is the extent to which Māori cultural subsidiarity can be reaffirmed and embedded within such new governmental structures. The case study has demonstrated what happens when cultural subsidiarity is ignored. I am curious how this pathway will unfold.

Interestingly, while hapū alliances are dispersed all over Aotearoa New Zealand and internationally, we live in a modern contemporary world where the concept of hapū rangātiratanga, a traditional way of thinking is still being observed, practiced and upheld in many Māori communities. Finally, the future of Māori self-governance must address the risk of hapū losing their unique governance structures as they navigate relationships with both the Crown and the iwi authority entity.

The difficulties encountered by Māori communities subjected to government-imposed governance entities has traumatised and divided those communities as those elected to serve on the entities struggle with the inevitable conflict between tikanga (Māori law) and legislation (colonisers' law). The first-hand experiences of the small group of interviewees provides valuable data for identifying and analysing the difficulties as does the well-known mandating example from the Ngāpuhi treaty claims process and the decades-long difficulties with the Resource Management Act highlighted in the environmental governance case study.

In Part Two of this chapter, I present a case study that delves more deeply into the consequences of governmental tools deployed by NZ Governments to shape and engage with Māori modes of self-governance in environmental management of natural resources.

CHAPTER SEVEN - Part II

Environmental Governance in Action

> 'Our people, they didn't value themselves or their knowledge because they were sitting across from the legal team, the QC[833]. But there's a value of knowledge that they have for the land and the people. And so I think that's what's starting to happen, we're starting to see our people value themselves, which is important.'[834]

This statement reflects on a turning point in the recognition of Māori knowledge within formal governance settings. Māori are now beginning to appreciate and assert the intrinsic worth of their cultural knowledge handed down and taught to them by their tupuna.

Tēnā koutou katoa,

7.12 Introduction

Aotearoa New Zealand's marine and coastal ecosystem is a vital part connecting to the country's overall ecological health. In this chapter I explore the narrative of Māori environmental governance and its contribution to Westernised approach of ecosystem-based management ("EBM"). This case study is derived from a published paper on "Māori Environmental Governance and Ecosystem-based Management in Aotearoa, New Zealand," published by me as a sole author.[835] The case study introduces the concept of Māori environmental governance; and proposes mātauranga Māori[836] and tikanga Māori governance practices can effectively intertwine with Westernised environmental management strategies. The research project Tuhonohono features in this chapter which investigates the law and cultural interface of governance in action.

7.13 Format of Chapter

This chapter offers an academic exploration of dynamics of environmental governance and management which highlights key thematic approaches utilised throughout the thesis

[833] Queens Counsel.
[834] Transcript of Julian Williams (2023) at 5.
[835] Rakena, M. (2021) Māori Environmental Governance and Ecosystem-Based Management in Aotearoa, New Zealand R. Joseph and R. Benton eds. In Waking the taniwha: Māori governance in the 21st century. Auckland: Thomson Reuters.
[836] Māori traditional knowledge systems.

research, and its challenges that emerged out of this case study. Each section is heavily weighted with primary evidence gathered from interview participants and me. A focussed analysis of cultural and political subsidiarity with any contestation is included. A summary concludes this chapter. I next introduce Indigenous cultural approaches to environmental governance.

7.14 Indigenous Cultural approach to environmental governance

Indigenous Peoples approach to environmental governance is deeply rooted in longstanding cultural traditions and relational understandings of the natural world. The approaches prioritise stewardship, sustainability, and the interconnectedness of all living systems, reflecting an inherent respect for the ecosystems that sustain their communities. Rakena states,[837]

> 'Many indigenous groups had their own concepts of stewardship and respected nature long before the conservation movement began. The survival of their cultures and ways of life is invariably linked to maintaining the traditional knowledge which supports and nurtures the healthy relationships with the ecosystems in which they live. Their continued existence is also linked to ensuring that Indigenous Peoples are in most cases able to live within the carrying capacity of their ecosystems.'

Unlike conventional conservation methods, often shaped by extractive or commodified perspectives, Indigenous environmental governance is guided by principles of reciprocity, holistic management, and intergenerational equity. Central to this paradigm is the transmission of traditional ecological knowledge. Environmental governance is intimately tied to place and cultural identity, to preserve biodiversity but also sustain Indigenous ways of life. Indigenous frameworks underscore the necessity of recognising and supporting Indigenous sovereignty and self-determination in environmental decision-making, ensuring governance strategies remain aligned with the carrying capacities of ecosystems, and the values of the communities that depend on them. In Aotearoa NZ, Rakena comments on Māori environmental governance,[838]

> 'Māori are the Indigenous peoples of Aotearoa and their aspirations and well-being are interconnected with and interdependent on their relationship with the land, the oceans and its natural resources. There are opportunities for Māori involvement in natural

[837] "UNEP and Indigenous Peoples: A Partnership in Caring for the Environment" (29 November 2012) UNEP – UN Environmental Programme Guidance <www.unep.org>. at 5 cited in Rakena (2021) at 902.

[838] Rakena (2021) at 914.

> resource and environmental management as informed by the growing body of literature, and the New Zealand Government's intent to engage with Māori as Treaty partners.'

Māori governance in action is grounded in traditional stewardship and tikanga, and can effectively intertwine with modern environmental strategies. The survival of Māori environmental governance depends on maintaining Mātauranga Māori,[839] to ensure the ecosystems' health and has capacity to sustain the environment.

7.15 The historical background of Māori and environmental governance

From their first arrival in Aotearoa, Māori exercised Māori environmental governance, which demonstrated a relational connectivity to the land, and its people. This environmental approach also served to create strategic sustainable and economic opportunities both in the local and international market to benefit their communities historically and now in contemporary times.

The need to combine Māori governance practices with modern Western approaches reflects both cultural subsidiarity (to uphold Māori governance systems) and an intercultural interface, which includes the blending of Māori and the Crown approaches to environmental governance.

Rakena points out,[840]

> 'Māori and the government need to collaborate more effectively, work together in good faith, and include all multiple users. Incorporating Māori tikanga and mātauranga into EBM activities will improve all stakeholders' understanding of the health of the marine environment and environmental trends. The importance of the conservation and sustainable use of the marine ecosystems needs to be delivered within an environmental fusion of mātauranga Māori and tikanga Māori and ecosystem-based management. It needs to be stressed; all elements combined will strengthen the environmental governance within an Aotearoa New Zealand principle-based framework for sustainable development of natural resources.'

Effective collaboration between Māori and the NZ government, grounded in good faith, is essential. Rakena posits that integrating Māori tikanga and mātauranga into EBM will enhance understanding of marine health, and environmental trends, and provide a more balanced perspective. Rakena also advocates for collaboration, suggesting there is implicit contestation. Also, the need to secure a genuine partnership, suggests that existing structures may inadequately reflect Māori values. This fusion of two vested cultures (Māori and the

[839] Traditional Maori knowledge Systems.

[840] Rakena (2021) at 914.

Crown) to the ongoing wellbeing of the marine and land environment will strengthen environmental governance within an Aotearoa New Zealand framework, promoting sustainable resource development.

I now turn to the growing recognition and value of Mātauranga Māori in contemporary governance and environmental management.

7.16 Mātauranga Māori systems of knowledge being valued

Mātauranga Māori offers an integrated approach to environmental governance, emphasising the interconnectedness of people, land, and ecosystems. Guided by principles such as kaitiakitanga and whānaungatanga (relationships), it aligns ecological sustainability with cultural and spiritual well-being. By integrating mātauranga Māori, governance frameworks can foster inclusive and sustainable outcomes that honour Indigenous values and their tupuna[841] traditional wisdom.

Julian Williams reflects,[842]

> 'In the late nineties I remember one of my first hearings I went to. They split the electricity company, and then they got Genesis, Mercury, and Mighty River Power, and all those power companies only. They're a knowledgeable people, and I feel really shy because I'm in an unfamiliar city. I am in the capacity of the iwi authority.
>
> Our people, they didn't value themselves or their knowledge because they were sitting across from the legal team, the QC. But there's a value of knowledge that they have for the land and the people. And so I think that's what's starting to happen — we're starting to see our people value themselves, which is important.'

Julian Williams illustrates a historical example of Māori knowledge when faced with external, legal authority (the Crown's legal teams). Julian Williams's commentary reflects increased cultural subsidiarity, as he discusses the growing recognition of Māori knowledge systems within environmental governance settings. The increasing self-valuation of Māori knowledge indicates a confidence of cultural identity and autonomy.

I will now explore how tikanga Māori and ecosystem-based management can align to create a sustainable framework for natural resource governance.

[841] Ancestral.

[842] Transcript of Julian Williams (2023) at 15.

7.17 Tikanga Māori and Ecosystem-based management

Rakena states,[843]

> 'In New Zealand, customary Māori values and practices pertaining to the use and management of land and natural resources have been incorporated into domestic legislation to an extent. However, a consideration of the beliefs, values and practices underpinning tikanga Māori, together with an examination of how these values relate to existing frameworks of environmental ethics, reveals just how rich a reservoir of ecological wisdom tikanga Māori is.' For example, the concept of kaitiakitanga embodies guardianship and stewardship of the environment and is central to Māori environmental ethics.[844] Kaitiakitanga has been increasingly recognised in legal contexts. However, the full potential of such principles is yet to be realised within mainstream environmental management frameworks. A deeper integration of tikanga Māori could lead to more sustainable and culturally resonant environmental outcomes.

Rakena highlights how customary Māori values and practices are increasingly reflected in New Zealand's environmental legislation, yet Rakena argues that deeper engagement with the foundations of tikanga Māori reveals a rich reservoir of environmental ethics that remains underutilised. Rakena contends that integrating tikanga and mātauranga Māori with ecosystem-based management would strengthen environmental governance by embedding Māori worldviews alongside Western approaches. While acknowledging existing recognition, Rakena critiques the limited extent to which current frameworks meaningfully incorporate Māori perspectives, calling instead for a more profound intercultural fusion. Such integration, Rakena argues, would not only honour Māori knowledge systems but also deliver more effective environmental outcomes. Mikaere Kawharu frames kaitiakitanga as a socio-environmental ethic rooted in whakapapa and tikanga, describing it as "Both an expression and affirmation of rangatiratanga."[845]

Accordingly, it is imperative that Māori ecological wisdom be more systematically incorporated into environmental policy and practice, thereby ensuring that the principles of tikanga Māori substantively inform the sustainable management of Aotearoa's natural resources. In the following section, I provide a brief overview of ecosystem-based management and its comprehensive approach to environmental governance.

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[843] Rakena (2021) at 904.

[844] Kawharu, M. (2000). Kaitiakitanga: A Maori anthropological perspective of the Maori socio-environmental ethic of resource management. The Journal of the Polynesian Society, 109(4), pp. 349–370 at 353.

[845]

7.18 Ecosystem-based management ("EBM")

Rakena defines EBM as,[846]

> 'Concerned with the processes of change within living systems and sustaining the services that healthy ecosystems produce. Ecosystem-based management is therefore designed and executed as an adaptive, learning-based process that applies the principles of scientific method.'

Briefly, EBM is an integrated approach to managing natural resources that considers entire ecosystems, including humans, aimed to sustain ecological health, biodiversity, and services by integrating environmental, social, and economic factors. Next, we analyse key legislation that impact on Māori governance, with particular attention to the Resource Management Act 1981.[847]

7.19 Legislation

Rakena states,[848]

> 'From the outset, it is important to acknowledge that there are key statutes that incorporate the Treaty of Waitangi and tikanga and mātauranga Māori over the terrestrial and marine estate. Some of them are listed here: The Resource Management Act 1991 (RMA is a primary Act), Conservation Act 1987, Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Local Government Act 2002, Māori Fisheries Act 2004, Marine and Coastal Area Act (Takutai Moana Act) 2011, and Exclusive Economic Zone and Continental Shelf Act 2012, Te Awa Tupua (Whanganui Claims Settlement) Act 2017, and regulations such as the Kaimoana Customary Fisheries Regulations 1998 to name a few.'

Rakena argues although a suite of statutes, including the RMA 1991, Conservation Act 1987, and Te Awa Tupua Act 2017, incorporate references to Te Tiriti o Waitangi, tikanga, and mātauranga Māori, this recognition is largely symbolic and procedurally constrained. Rather than embedding Māori values as the basis of environmental governance, the legislative framework positions them within Crown-defined parameters, thereby reproducing structural limits on tino rangatiratanga. This reveals a persistent asymmetry in the exercise of authority over Aotearoa's terrestrial and marine resources.

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[846] Secretariat of the Convention on Biological Diversity The Ecosystem Approach (Montreal, QC, Canada 2004).cited in Rakena (2021) at 905.

[847] The Resource Management Act 1981.

[848] Rakena (2021) at 906.

7.19.1 Resource Management Act 1991 ("RMA")

Rakena states,[849]

> 'The Resource Management Act 1991 (RMA) purpose is to promote the sustainable management of natural and physical resources of Aotearoa. The Act has significant ramifications for Māori in promoting its purpose. The Waitangi Tribunal has been very critical of the resource management framework in New Zealand prior and post RMA 1991. The Tribunal found that "this framework has prevented Māori, particularly iwi and hapū from controlling the management of their taonga and natural resources contrary to the principles of the Treaty of Waitangi." In 1993, the Tribunal noted in its Ngāwha report that the Resource Management Act 1991 is inconsistent with the Treaty principles. Again in 2011, the Tribunal's *Ko Aotearoa Tenei Report* was 'heavily critical of the use of Treaty settlements to stop gaps in the RMA' when it observed:[850]
>
> > It is disappointing that the RMA has almost completely failed to deliver partnership outcomes in the ordinary course of business when the mechanisms to do so have long existed. It is equally disappointing that Māori are being made to expend the potential of their Treaty settlement packages or customary rights claims to achieve outcomes the Resource Management Law Reform project (now two decades ago) promised would be delivered anyway.'

Rakena critiques the RMA, pointing out its failure to uphold the principles of the Treaty of Waitangi, particularly with respect to Māori governance over natural resources. By citing the Waitangi Tribunal's findings, Rakena underscores the Act's inability to deliver on its promises of partnership and meaningful involvement of iwi and hapū in managing their *taonga*.[851]

Rakena's critique highlighted political subsidiarity in that the Act centralises decision-making power and prevents iwi and hapū from exercising governance over their resources. This is a direct challenge to hapū-level authority, where control over land and resources is an essential part of political autonomy.

Cultural subsidiarity is also at play, as the RMA's framework does not adequately respect Māori customary law (*tikanga*) and traditional environmental management practices, which are rooted in a Māori worldview.

Rakena brings to light the ongoing contestation between Māori governance principles and the Crown's legal frameworks. She illustrated how the RMA has not only failed to respect Māori sovereignty over their resources but also forced Māori to expend Treaty settlements and

[849]Rakena (2021) at 908.
[850]Waitangi Tribunal (Wai 262,2011) vol 1 at 285-286.
[851] Treasured resources.

customary rights to achieve outcomes that should have been delivered under the RMA itself. This reflects a broader systemic issue where Māori governance is constrained by the Crown's legal frameworks, preventing meaningful participation in resource management.

We will now examine the complexities and opportunities within co-governance and co-management models between Māori and the Crown.

7.19.2 Co -governance and Co-management

Rakena explains,[852]

> 'Co-management and co-partnership legislation for Māori and the Crown over natural resources are negotiated decision-making arrangements between iwi and/or other groups and local and central government. The challenge here is ensuring Māori have opportunities to be involved effectively in decision-making processes and institutions. Māori are usually in the minority at these tables of power and susceptible to the tyranny of majority, a fear expressed by Tocqueville[853] in his analysis of democratic processes.'

Julian Williams states,[854]

> 'The government need structures that can be accountable for public funds. Then, they can report on outcomes that the government has funded. For us, we need to deliver on the environment. There's a whole heap of agreements thing in arrangements in co-management and govern and sharing rules that your iwi authority will hold. We're bound to devolve; there is a lot more things to deal with than just funding.
>
> It's becoming marinated in a behaviour that will be difficult to shake off. I also think that is a lot that responsibilities could be shared out, especially health services. Well, maybe we would have to get a role in what they call social procurement.
>
> When we get to that point where we can devolve some of the responsibilities we've openly accepted from the government; we have to think how to lead and deliver those services they want us to do. I just think it's going to be harder. The larger we grow, the larger the government, the more responsibilities the government puts on the iwi authority.'

Julian Williams's statement points to political subsidiarity, where iwi must navigate shared governance structures with the Crown. The emphasis on accountability and the legal obligations of iwi governance reflect political decision-making at the local level in partnership with state structures. There is a degree of contestation as Julian Williams noted the increasing

[852] Rakena (2021) at 911.

[853] The phrase "tyranny of the majority" is commonly attributed to Alexis de Tocqueville, in his seminal work Democracy in America. Tocqueville, A. (2003). Democracy in America. Translated by H. Reeve and F. Bowen. Revised ed. New York: The Colonial Press. (Original work published 1835).

[854] Transcript of Julian Williams (2023) at16-18.

responsibilities placed on iwi by the Crown, making governance more challenging, especially within co-management frameworks.

7.19.3 Mana Whakahono a Rohe - RMA section 58K-58U

Under legislation, the purpose of Mana Whakahono a Rohe is [855]

(a) to provide a mechanism for iwi authorities and local authorities to discuss, agree, and record ways in which tangata whenua[856] may, through their iwi authorities, participate in resource management and decision-making processes under this Act; and

(b) to assist local authorities to comply with their statutory duties under this Act, including through the implementation of sections 7(a), and 8.

Kyla Ngawairau illustrates,[857]

> 'When the mana whakahono came out and you had X amount of time for iwi to jump in there, put in your bid and basically to sort that out. We did that. When we did that we already had decided among ourselves that that was just a door opening for us and we need to work forward in that. We looked at how we would do that. Of course, to our good fortune the Māori wards came up and so they worked to our benefit. We jumped in on that, and we had a number of I don't know 2, 3 years to talking to the Council and working through what we can do, how we can make it work. And they spent a lot of time looking at all the legalities, the technical stuff. And we just keep saying, go find it, go find a way. And we pushed and pushed and pushed. So now we have the Turangitukua joint governance.
>
> Now they have four members that the Council chooses. That's up to them how they work that out. And we have four members of Turangitukua. Again, Turangitukua decided, okay, how do we make this work out our four people? We decided that the best mechanism for us, the best way for us is to have to two from our hapū and two from the Charitable Trust.
>
> And there's a recognition for this work, because we knew we were going to be pushing, and there's going to be a lot that falls out of that. We need some cultural aspects in there, we need to understand, because of our settlement the charitable trust has to have members in there. Because we own some of the land that the Council manages. So they administer like the Turangitukua rugby field and stuff like that.'

Kyla Ngawairau's statement reflected cultural subsidiarity where she asserts the importance of incorporating Māori cultural values (tikanga) into the governance framework under Mana Whakahono a Rohe. This suggests a push for local hapū-level governance with respect for Māori cultural practices. The repeated mention of "pushing" implies contestation, as

[855] Resource Management Act 1991, section 58(m).
[856] People of the land.
[857] Transcript of Kyla Ngawairau (2023) at 24.

Ngawairau notes that their efforts faced resistance, particularly when advocating for cultural considerations to be integrated into the governance process.

Kyla Ngawairau continues,[858]

> 'We' are at evolution. The Taupo District Council, have the consents, for municipal supply of water. Things like that to work through with Waikato Regional Council and all the rest of it.
>
> Through all that, they then had to come to us, because you know that's on our land. And we actually said "Actually no, we actually want to be a part of that. We want our name on that." And so now we've held them out and held them up and had many a conversations now as a hapū to see where that looks and how we can work that.
>
> The three waters for us is a huge thing, because for us in Turangitukua, the waste water and the storm system is on our whānau land. The town's municipal supply, the drinking water is on our land. We actually have everything on our land.
>
> And we're saying "Actually, no, this is on our whenua, and we're putting our hands up to say, you need to include us" . We need to be at that table.'

Mana Whakahono a Rohe establishes a framework for iwi and local authorities to co-manage resources under the RMA. Kyla Ngawairau explained how Turangitukua used this mechanism to secure joint governance with the council, ensuring cultural and legal considerations are met. She underscored the importance of iwi involvement in key infrastructure projects on Māori land, advocating for a strong role in decision-making.

In the next section, we explore power-sharing provisions in the RMA, focusing on the transfer of decision-making authority to iwi.

7.19.4 Power Sharing

Under the canopy of legislation, transfer of powers to iwi are provided in the RMA s 33 (2)(b). Regional councils and local authorities are required to consider relevant accounts by an iwi authority;[859] Rūnanga[860] or hapū. Rakena explains,[861]

> 'Another statutory provision to assist Māori participatory in power sharing and governance can be found in RMA s 33 which provides for the transfer of local authority functions, powers or duties to a public authority. In effect, s 33(2)(b) allows for Councils to delegate public authority and jurisdiction to include Māori

[858] Transcript of Kyla Ngawairau (2023) at 27.
[859] The RMA refers to iwi authority as the authority which represent an iwi and which is recognised by that iwi as having authority to do so; RMA 1991 section 35A.
[860] Assembly or council.
[861] Rakena (2021) at 910.

> organisations such as iwi authorities. The statutory provision has been there since 1991, and local authorities can transfer functions and powers, enabling Māori to more fully carry out their tikanga and kaitiaki responsibilities on the land and the ocean. Again, in 1993, The Ngāwha Tribunal recommended an amendment to the RMA stating among other things "that the Crown has not, in delegating extensive powers to local and regional authorities under the Act, ensured that its Treaty duty of protection of Māori interests will be implemented."[862] This transfer of power has never been implemented.' There have been a number of attempts, but no actual implementation.'

The RMA s 33(2)(b) permits local authorities to transfer powers to iwi, supporting their kaitiaki responsibilities. Despite this provision existing since 1991, it remains unimplemented. Why? Some factors include lack of human resource capital, allowing Māori to be effectively involved in decision-making processes.

In addition, Rakena's statement reflects political subsidiarity, as it addresses the transfer of powers from local authorities to iwi or hapū. Contestation is evident in Rakena's critique of the failure to implement these statutory provisions effectively, highlighting the disconnect between legislative promises and real-world power-sharing outcomes.

Section 33 of the Resource Management Act 1991("RMA) in New Zealand previously allowed a local authority to transfer its functions, powers, or duties under the Act to another public authority, such as an Iwi Authority. Section 33 of the Resource Management Act ("RMA") was repealed as part of the 2023 reform, which replaced the RMA with the Natural and Built Environment Act 2023 and the Spatial Planning 2023. The section was repealed was due to a shift in government policy, where the new governing party wanted to overhaul the RMA entirely. Although the 2023 legislation was short-lived, its repeal reversed the previous section 33 repeal and restored the original RMA's provision for transferring powers between local authorities.

7.19.5 Side stepping NZ Government statutory processes

Maui Hudson comments,[863]

> ''We looked at co-governance models, and we had this sort of co-governance model in place. And so we decided to leave that as it was. We created a kaitiaki forum to deal with the rest of the area, and to kind of deal with the water stuff, but we did not make it

[862] Waitangi Tribunal Nga Hapu o Te Ahuahu (Wai 304, 1993) at 154.

[863] Transcript of Maui Hudson (2023) at 10.

a statutory one. We did not want to kind of push co-governance that was going add cost to the process, and also make us subject to statutory consultation processes so we would have to deal with public consultation. This would limit the conversations to put, you know, to defined areas.

If we want to have a talk about the coastal area, we want to have a talk about the coastal area. You want to have a talk about this, and we do not. We are in a place that allows us to engage with the agencies; we do not want them using the terms of reference to limit us.

But it is a sort of I do not know it is a different, a sort of a different process, not going to have that necessarily the same mana. But the mana is actually only useful if you have actually got resources behind them. And you still have to work through these things.

So we set it up in that way, and we set up the possibility of creating co-management agreements that we can kind of talk about what it is that we want. But then kind of focus on and push it into actual actions and activities.'

Maui Hudson's approach to their iwi authority creating a kaitiaki forum outside of statutory processes reflects cultural subsidiarity, where Māori governance occurs independently without being bound by government rules. By choosing a non-statutory path, they have maintained autonomy and cultural governance over resources. There is also intercultural subsidiarity here, as they engage directly with agencies, allowing more flexibility in co-management without the limitations imposed by formal state processes. The decision to avoid statutory processes indicates contestation, particularly with statutory co-governance frameworks that could limit their freedom and create unnecessary costs.

We now turn to special legislation that advances Māori environmental governance, such as the Hauraki Gulf Marine Park Act 2000.

7.19.5 Special Legislation

Rakena states,[864]

> 'Finally, a legislative vehicle that is gaining traction is special legislation which enables the development and implementation of Māori environmental governance, and is simultaneously reflective of EBM. The Hauraki Gulf Marine Park Act 2000 is special recognition of the Hauraki Gulf, and seeks to protect and develop the Gulf's valuable resources while also recognising the tangāta whenua's (people of the land) special relationship with Hauraki. Two other such examples are the Fiordland (Te Moana o Atawhenua) Marine Engagement Act 2005 and the Kaikoura (Te Tai o Marokura) Marine Management Act 2014.'

[864] Rakena (2021) at 912.

7.19.6 Treaty of Waitangi Settlements

Rakena declares,[865]

> 'However, more significantly; Treaty of Waitangi settlements rather than statutes 'are proving to be the major catalyst for recognising and protecting Māori environmental interests in mātauranga, tikanga and taonga.'

Rakena noted special legislation is key to advancing Māori environmental governance. Rakena's discussion of special legislation reflects intercultural interface, where specific laws are created to accommodate both Māori governance systems and state-driven environmental management. The recognition of Māori interests through Treaty settlements further underscore a blend of governance approaches. While supportive of these legislative developments, there is implicit contestation in the need for Treaty settlements to play such a significant role, perhaps suggesting that standard legislative processes are insufficient in recognising Māori rights.

Next, we delve into the Tuhonohono project, which bridges Māori and Western environmental governance frameworks.

7.20 The Tuhonohono Research Project

The project "Tuhonohono"[866] was a legal based research project of which I was a part.

The research was located in the marine estates in Waipounamu,[867] which explored the interface between mātauranga Māori, tikanga Māori and New Zealand mainstream law. Tuhonohono was commissioned by New Zealand's national organisation *The Sustainable Seas Challenge,*[868] whose vision is "The national Sustainable Seas challenge was established in 2014 to provide research to invested stakeholders with the vision, for mātauranga Māori[869] to inform and underpin EBM for Aotearoa."[870]

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[865] Rakena (2021) at 906.
[866] The dynamic between Māori lore and law.
[867] The top of the South Island of Aotearoa New Zealand.
[868] "The Sustainable Seas National Science Challenge" (2025) Sustainable Seas National Science Challenge <www.sustainableseaschallenge.co.nz>.
[869] Māori knowledge systems.
[870] "Vision Mātauranga" <www.sustainableseaschallenge.co.nz>.

As part of the research team we were tasked to form a bridge of understanding between Māori lore and law, with Westernised concepts. My allocated responsibilities included visiting international Indigenous communities, [871] to observe their environmental approaches, and to determine whether there are parallel approaches to preserve environmental estate with Māori.

Our research design included conducting 15 semi-qualitative interviews with involved Māori communities in the research project;[872] to explore their interface with the NZ government; to provide literature reviews on Māori law and lore, and present research findings with Director Dr Robert Joseph. Finally, Dr Joseph and I presented at workshops on the ongoing developments on our research for the duration of the project. To shape an uniquely NZ-centric worldview, the following recommendations must include at the minimum, Rakena explains,[873]

- 'a co-governance and co-design structure that recognises the Māori constitutional relationship and mana whenua at all levels (whānau, hapū, iwi), together with the guiding principles of mauri,[874] whakapapa,[875] kaitiakitanga,[876] mātauranga-a-iwi[877] and mātauranga-a-hapū.[878]
- acknowledge humans as ecosystem components with multiple values; views long-term sustainability as a fundamental value, in particular maintaining values and uses for future generations; and
- includes collaborative and participatory management throughout the whole process, considering all values and involving all interested parties from agencies and iwi to industries, whānau, hapū and local communities.' The Sustainable Seas Challenge's vision of tikanga underpinning EBM is an affirmation to make a unique Aotearoa context.'

The Tuhonohono research project exemplified the need for a more genuine partnership between Māori and the Crown, one that respects and integrates Māori worldviews into national governance. However, despite progress, the Crown's reluctance to fully devolve power to hapū and recognise the unique role of tikanga in governance continues to stifle the transformative potential of Māori environmental leadership. The ongoing imbalance in power-sharing, the lack of practical support for kaitiakitanga, and the failure to address structural

[871] Victoria Island, Canada, The Big Bear Project, British Columbia.
[872] South Island of New Zealand.
[873] Rakena (2021) at 912.
[874] Life principle.
[875] Family history, genealogy; lineage.
[876] Guardianship; stewardship.
[877] Maori knowledge at the iwi level.
[878] Maori knowledge at hapū level.

inequities within legislation suggest that Māori governance remains marginalised within mainstream environmental management frameworks.

Finally, it is difficult to ascertain the success of the Tuhonohono project on a practical implementation level. However, at the coal face, multiple hapū are forging ahead with their methodologies and methods and as the Sustainable Seas Challenge moved into an era of actualising the theoretical theories of such projects as Tuhonohono.

In the following section, I present primary evidence of interview participants who have engaged with Māori Environmental governance in different contexts.

7.20.1 Water environmental governance

Kyla Ngawairau illustrates,[879]

> 'The hot topic is Three waters, "Te Mana o te Wai." Have a look at that. We have already had a couple of phone calls, couple of hui around that, and our settlement doesn't cover a lot with the current RMA processes, and we are aware of that. The guy rings us and highlights that to us. He'd done his homework this time, so kudos to him. He went through; and he had read it. Done his homework, and he knew that. We're sitting there saying "Yes, okay. Ka pai you. You've done that. Yes you're telling us that it, but they'd have to say, sorry. Then he went ahead to say, "So we then we only need to worry about this section."
>
> We go, "Well actually, you forgot about the Treaty of Waitangi. He looked only at that little passage, which was it. So bro, go back and have a look at Te Tiriti o Waitangi and just remember the partnerships, the participation, and everything else that comes with it. Then tell us that." This is the stuff we deal with daily. He was kind of full on thinking, he thought he had it sorted.
>
> Then we said, "We did email you, saying we're working through a mana whakahono as well." He was kind of [stumped] there too. We said, "You don't even know what it looks like." We actually thought the conversation was a bit premature. However, he wanted to meet, so we thought, Well, we can meet and just tell him that. But you know again, it's more time that we've got to spend rather than a little bit of foresight because we've got this plan and we need to tick this job off. We're still working through this mana whakahono. Until we deal with it and it's finalised, we don't know what the whole picture looks like.
>
> In terms of governance, there's a lot of those kind of things that happen, just keeping things in check, making sure that we keep as many doors as possible open to get the benefits we can for our hapū. Again, that's all kaitiakitanga.

[879] Transcript of Kyla Ngawairau (2023) at 20.

> We'll have wānanga around the three waters and see what it looks like. We know that it's a big kaupapa, but we also recognise that actually we literally have three of those kaupapa at our doorstep. We've got to deal with it.'

Kyla Ngawairau addresses the "Three Waters" reform and "Te Mana o te Wai," which reflects intercultural subsidiarity, where she refers to the need for government representatives to respect and incorporate the principles of Te Treaty of Waitangi in governance processes. The interaction shows clear contestation, as Kyla Ngawairau pushes back against the government representative's narrow focus, demanding full recognition of Treaty principles in their work.

7.20.2 Water Waste Management

Kyla Ngawairau explains,[880]

> 'An example would be multiple members and multiple entities including Turangitukua Trust Board, and another whānaunga hapū have said, "The Council has said "Here is the plant and this is where the waste water goes. There's that plant there." Well, actually we've got issues with that, because it's close to Lake Taupo with other problems, and because of the location of where it is. The Trust Board[881] is involved because it's close to the lake and it affects the lake. Turangitukua is involved because it's in our rohe.[882] Our neighbouring whānaunga hapū is also involved, because right there is the canal, and then it's them, we have that cross over our land right there. We're having all kind of conversations.
>
> There's a lot of conversations going on, and there's a lot of kōrero, because Lake Taupo means everything to all of us, and we need to protect her. We need to be a good kaitiaki there. It involves all of us.
>
> How do we do it? We've got to be real and look at our options. We start talking to each other and hoping that somebody comes up with a great answer. We know, we're never going to please everybody, because nobody wants that on their land, no matter what. But it does need to go somewhere, and it has to be a better option than where it is close to the lake, and with its overflows.
>
> In the most part, yes, people actually attend the hui.[883] We might not always agree with each other. And you always get a lot of people that turn up to the hui that have a lot to say. I've been to two other hapū' hui and I guess it's the good thing for us is because we are whānaunga hapū, we have whakapapa ties, anyway.
>
> We can go to the different hapū hui and have a listen. I've been to one of them because I want to see what the feeling is from our whānau down there. I want to see what they're feeling about it because we need to understand their point of view. I went and just listened, and go to see these technical people give the spiel and what have you. Yeah, just really listen to see how whānau are feeling about it.

[880] Transcript of Kyla Ngawairau (2023) at 13-14.
[881] Tūwharetoa Māori Trust Board.
[882] Territorial Boundary/ies.
[883] Meeting.

> Then I've got cousins that went to another hui, and I said to them "Well, where did you fellas feel at the end of the day? How are you feeling about it?" And we just went for a cup of tea and had a chat. And a lot of informal discussions just happened. You can fix a lot over a cup of tea. It works at all levels.
>
> I mean, that's a huge kaupapa for our little town. And we're going through those conversations. So far, so good. Our relationships have been okay. We've had some up and downs absolutely. You know, a cousin upset here, there and everywhere. But you work through them. Because you know a kaupapa like that, it's not going to be smooth sailing, no matter what. And as long as we go on understanding that, we're fine.'

Multiple entities, including Turangitukua Trust Board, address concerns about a wastewater plant's impact on Lake Taupo. Various hapū are involved in protecting the Lake, lead to multiple discussions. Informal hui and conversations are considered essential for understanding perspectives and navigating disagreements. Despite challenges, collaboration still continues.

Julian Williams states,[884]

> 'We're probably going to have representatives from eight of the tribes for the three Waters Services reform, which was quite neat. They have established an iwi collective; and then they'll have a regional representative group. It's only got four seats for the iwi; In Tamaki and three seats for the North of Auckland.'

.Julian Williams notes the Three Waters reform's iwi representation and feels quite satisfied.

We now explore the concept of legal personhood for natural entities and its significance in Māori environmental governance.

7.21 Legal Personhood

Rakena explains,[885]

> 'Environmental personhood' to protect nature found its roots in research carried out in 1972 by a United States American law professor Christopher Stone.[886] His work influenced Māori academics James Morris and Jacinda[887] Ruru to argue 'that applying Stone's idea to afford legal personality to New Zealand's rivers would create an exciting link between the Māori legal system and the state legal system."[888] The legal paradox of a river or forest as a legal entity with all the rights, powers, duties and liabilities of a natural person has yet to be contested within a court of law.'

[884] Transcript of Julian Williams (2023) at 1.
[885] Rakena(2021) at 907.
[886] Stone, C.D. (1974). Should trees have standing? Toward legal rights for natural objects. Stanford Law Review 26 (6): 1488-1489.
[887] Arohamai, correct name is Jacinta not Jacinda.
[888]Morris, J.D. and Ruru J. (2010). Giving Voice to Rivers: Legal Personality as a Vehicle for Recognising Indigenous Peoples Relationships to Water. Australian Indigenous Law Review 14 (2) 49-62.

Two historical pieces of NZ legislation introduced environmental personhood on the global stage. Firstly, New Zealand's national forest titled ,Te Urewera, was returned to the Ngai Tuhoe iwi and granted legal personhood in 2014.[889] The Whanganui River was conferred legal personality under the legislation of Te Awa Tupua (Whanganui River Claims Settlement) in 2017. Both settlements recognised the unique ancestral relationship and spiritual connection relied upon by iwi.[890] Still, we see where the continuing reinforcement of iwi not hapū as the recognised governance portal by the New Zealand Government.

This commentary reflects cultural subsidiarity, as the legal personhood granted to natural entities resonates with Māori cosmology and governance systems. It also recognises Māori worldviews in a legal context, validating Māori perspectives on environmental stewardship.

In the following section, we analyse the challenges Māori face in environmental governance, particularly regarding mana and decision-making authority.

7.22 Tikanga of the Ocean given by the Gods

Wikitana Popata states,[891]

> 'To be honest, I wouldn't even try to tie tikanga to governance because it comes with a spiritual element to it. We're governed by the rules that were set not by our ancestors, but by our Gods, our Atua Māori. And our tikanga comes back then. When the tohunga stands up and says stuff like do it this way, we will do it like that.
>
> He's not just saying he got that from his father or his father's father, it was handed down by our Gods. What's the example? Example would be, well, you know, when you learn the stories of why you shouldn't eat kaimoana at the beach. You know. Yes, our tupuna would have taught us that but our tupuna understood the story of our Gods, and because we were products and we were built from Tane and Hine Ahua. When we go into the element of Tangaroa, we have to show that respect. So our tupuna would've not known that by ourselves, we would have known the stories of our gods.'

Wikitana Popata reiterates Māori governance was divinely guided, with spiritual beliefs, such as respect for Tangaroa[892] in shaping decisions. This shows that governance is more than

[889] Te Urewera Act 2014.

[890] "Innovative bill protects Whanganui River with legal personhood" (28 March 2017) New Zealand Pāremata Aotearoa Parliament <www.parliament.nz>.

[891] Transcript of Wikitana Popata (2023) at 5.

[892] Tangaroa is the God of the sea, rivers, lakes, streams and creeks while also being the guardian of all the creatures who live in these waters.

political authority, it encompassed cultural and spiritual dimensions. This layered system highlights the importance of tikanga and spiritual guidance in Māori governance.

Cultural and political subsidiarity in Māori governance combines local decision-making with spiritual principles. Tensions arise when modern political frameworks, like iwi authorities, clash with traditional, hapū-based authority. The following photo depicts the bounty of the oceans. Each time our whanau goes to obtain kai moana, we give thanks and ask our God to protect us.

Figure 7: Collecting Oysters in the Far North Island, New Zealand with My Daughter and Me

Source: Rakena (2022)

7.23 Challenges

Julian Williams explains,[893]

> 'The biggest challenges we face were the ones put in front of us by the government when we would go to a court, the Environment court. Its legislated by the Resource Management Act [1993], the decision-makers are all Pākehā.[894] We're supposed to go there to fight for our taonga, but we end up fighting about who has mana to speak on behalf of that taonga in court.

[893] Transcript of Julian Williams (2023) at 13.

[894] Foreigner. Usually applied to white men/ women in Aotearoa New Zealand. Usually, a British European.

> A lot of tensions go there about who has mana to kōrero and make decisions about taonga, or about our people in Rangiriri or Te Kauwhata. Unfortunately, they would end up in court and a tauiwi[895] judge would make the decision. As much as we tried to resolve amongst ourselves, we couldn't really come to an agreement. However, I would say in the last few years what we've seen with hapū, in particular, is working together with a lot more to say.
>
> Listen, we're not going to relinquish what we think we have mana to, but we acknowledge the Crown have some interest in the space, so, let's work out who gets to say what. Then you know, where you sit on the hierarchy, I think we're starting to get a little bit better in that. But, in the previous 28 years, the decisions about who has mana has been sitting with Pākehā because we were never appointed to hearing panels as decision makers because we were regarded as having a conflict of interest because we were Māori. Yeah, I think that the biggest tensions that we've had have been around, "Who has mana to talk about a taonga, the voice to speak, the representation and the money.'

Julian Williams discusses the challenge of government-imposed barriers, particularly in courts where Pākehā often decide on Māori taonga, leading to tensions over mana. Recent times show hapū collaboration are increasing in working together. The contestation over mana to speak on behalf of taonga reflects cultural subsidiarity, where hapū-level authority is challenged in external legal settings. Furthermore, , the struggle for representation in courtrooms reflects the complexity of dual cultural subsidiarity as it intersects with legal systems. There is also clear contestation in this situation, as Māori face internal disputes over representation and external challenges with the Pākehā legal system making decisions about taonga.

7.23.1 The Crown's Challenge

The Crown's recognition needs to be inclusive of all levels, not just one level of iwi. A layered system can provide for kaitiaki at hapū level to exercise pertinent decision-making at the coal face by whānau and hapū. Rakena notes,[896]

> 'Approximately 66% of negotiated Treaty of Waitangi settlement agreements include some form of redress that includes Māori environmental governance over the marine estate.'

[895] Technically tauiwi are people (including Māori) who do not have mana whenua in a place, but; generally in these days and in the quote the word is used for non-Māori in general.

[896] Rakena (2021)at 907.

There is significant engagement of hapū and iwi in EBM and Treaty settlements, and rights in marine estates. In the following section, we will address the resource constraints that limit the effectiveness of Māori environmental governance and explore how these limitations impact their ability to enforce legal rights and manage natural resources effectively.

7.23.2 Lack of Resources

Rakena notes,[897]

> 'Legally, we rely on the Treaty and RMA to enforce our legal rights. However, we don't have many resources to meet our needs. We use a representative from our trust to work with Local Council and science organisations to ensure our interests are protected in the marine coastal space. In the past, Māori didn't have a say and as Councils seemed to have it all, they did not take Māori seriously. Council are now getting better, as more power sharing is happening. Iwi are able to protect a lot more.'

Rakena highlights Treaty settlements include Māori environmental governance, but resource constraints limit enforcement. However, iwi are increasingly protecting their interests as power-sharing with councils improve.

Next, the following section provides a conclusion.

7.24 Conclusion

Māori environmental governance is deeply grounded in traditional knowledge, offering an integrated approach to Ecosystem-Based Management. Despite established frameworks, their integration into legal and political structures remains inconsistent. The Resource Management Act 1993 and Treaty settlements acknowledge Māori involvement, yet implementation often reinforces systemic disparities. The Crown's centralisation of governance at the iwi level neglects hapū autonomy, creating imbalances that undermine self-determination.

Māori governance acknowledges ecological interconnectedness, emphasising participatory decision-making across whānau, hapū and iwi, industries, and government agencies. While subsidiarity is a key principle, the Crown's reluctance to devolve authority limits practical

[897] Joseph et al (2019) at 908.

application. Structural barriers, inadequate legal recognition, and resource constraints hinder hapū and iwi from meaningful governance over their lands and taonga.

Co-governance models present opportunities but often suffer from insufficient funding, government restrictions, and dependency on the state. This contradicts tino rangātiratanga and highlights ongoing contestation over authority. Māori environmental governance is guided by tikanga and kaitiakitanga, prioritising intergenerational sustainability and ecological resilience. Yet, without substantive Crown support, through legal recognition, resources, and structural reform, its full potential remains unrealised.

Achieving effective environmental governance in Aotearoa requires more than symbolic inclusion; it demands genuine power-sharing. Systemic barriers must be dismantled to equip Māori with autonomy and tools necessary for meaningful governance. Despite challenges, Māori continue to demonstrate resilience and adaptability, reaffirming their role as kaitiaki of their whenua and moana as noted by the interview participants.

Hapū throughout the country constantly battle to stop local government bodies giving permission to developers to carry out environmental devastation and destruction, and draw meaningfully on the many centuries of knowledge that hapū carry about how best to look after and manage the natural environment.

The first-hand experiences of the small group of interviewees provides unbelievably valuable data for identifying and analysing the difficulties of the decades-long difficulties with the Resource Management Act highlighted in the environmental governance case study.

CHAPTER EIGHT

Governance Epochs of Adaptation, Stagnation, Revolution and Transformation

> 'Through war, protest, and petition, the single thread that most illuminates the historical fabric of Māori and Pākehā contact has been the Māori determination to maintain Māori autonomy and the Government's desire to destroy it.'[898]

Strack and Goodwin emphasise the persistent struggle between Māori efforts to preserve their autonomy and the New Zealand Government's attempts to undermine it. Historically, Māori employed various methods of warfare, protests, and petitions to assert their self-determination and governance. Conversely, the Government has often sought to diminish this autonomy. This dynamic tension underscores the complex and often contentious nature of Māori/Crown relations throughout New Zealand's governance epochs.

Tēnā koutou katoa,

8.1 Introduction

The narrative of Aotearoa New Zealand history is entwined with the experiences of its Indigenous people, the Māori. The purpose of this chapter is to examine Māori governance across four distinct epochs which I have titled: Adaptation (800 AD -1835); Stagnation (1840-1975); Revolution (1975-2000); and Transformation (2000-Onwards). The framework of epochs are based on my literature review and are proposed here as an analytical device to investigate further the governance journey of Māori hapū and iwi. This chapter provides a logical, well-argued theoretical summation of the differing experiences, presented as epochs, that Māori lived through since arriving in Aotearoa[899] so many generations ago.

An epoch refers to a distinct and significant period of time characterised by particular events, developments, or characteristics. They are often used to describe a notable era or phase in history that shares common themes, trends, and changes, and other aspects of human civilisation. Epochs can range in time, from a few decades to centuries, and they serve as useful frameworks for understanding the development of societies, cultures, and civilisations over time. The framework of Māori governance epochs aims to shed light on the governance

[898] Strack and Goodwin (2017) at 46.

[899] Land of the long dawning.

challenges and achievements of each epoch; but also to contextualise the evolution of Māori governance within the broader trajectory of Aotearoa New Zealand's historical landscape.

The framework of named epochs should not be taken as implying they are simple chronological sequences that occur in a linear progression. Rather, epochs will be used to point to a set of characteristic governance experiences and conditions. In the real world, such epochs may overlap, and there are arguably times when governance groups who are undergoing an experience of transformation can contemporaneously encounter setbacks of stagnation.

This framework underscores the interconnectedness of these four distinctive epochs, revealing how they collectively contribute to shaping the trajectory of Māori governance. Here we see adaptability displayed by Māori communities past and present, the stifling impact of colonialism which stagnated existing Māori modes of governance, the revolutionary momentum of protests for civil Māori rights, and the unceasing incremental progress of transformation; which all together shape the continuum of Māori governance history. This mosaic of epochs reflects not only these influences on Māori governance from broader socio-political currents, but also how presently Māori governance engages to shape its own internal relational governance connections.

While I have attempted to capture the essence of Māori history and governance, I am cognisant of potential limitations. Historical narratives are shaped by multiple perspectives, and while scholars strive for objectivity, biases can inadvertently seep in. The focus on these four epochs, while revealing, can oversimplify the complexities of Māori governance over time.

Furthermore, understanding Aotearoa New Zealand's historical events is crucial for contextualising Māori governance. The challenge lies in interpreting the Māori perspective accurately, which did change over time and can sometimes be overshadowed by dominant narratives. My reliance on specific scholarly voices might inadvertently marginalise alternative viewpoints that could enrich the understanding of Māori governance, however, I address this viewpoint through the numerous participants interviews. Importantly, in line with the

overarching methodology, the standpoint for analysing the epoch chronology will be viewed through a Māori worldview.

8.2 The format of this chapter

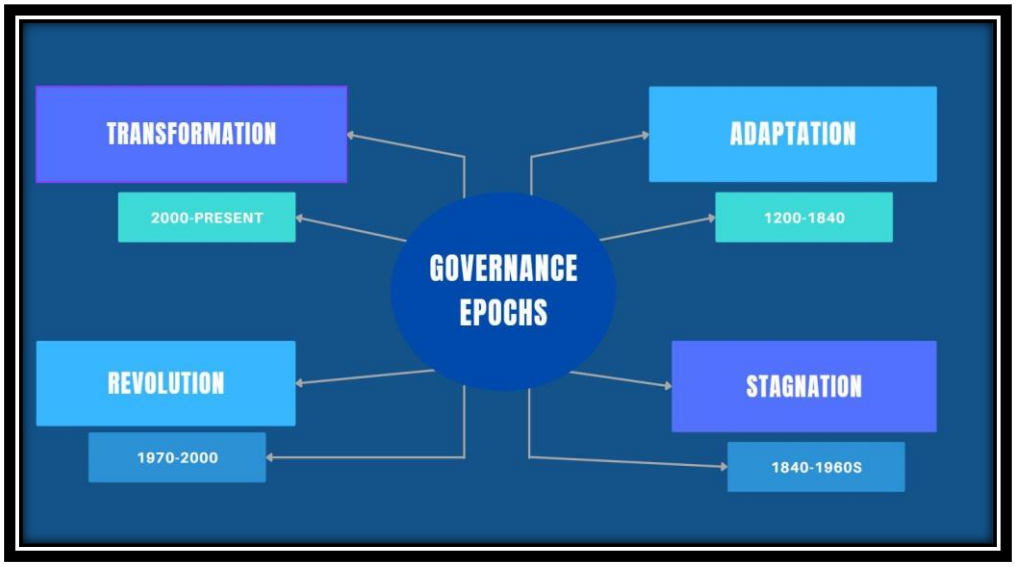
This chapter details historical events in chronological order and includes legislation that has shaped the course for Māori governance in Aotearoa New Zealand. It builds on evidence and analyses presented in Chapter Six on NZ Government interventions. through legislation and its institutional arm.

Furthermore, this chapter does not focus on case law which has led to legal precedents that has also shaped Māori governance. I have selected what I perceive as significant milestones that evolved through the law. This perception may differ to other eyes looking in. The selection and inclusion of events aims to be inclusive, but is by no means exhaustive.

The chapter will follow a simple format. Each epoch will be introduced by setting out a definition of the key characteristic after which I have named the epoch; namely, 'adaptation,' 'stagnation,' 'revolution;' and 'transformation.' These definitions privilege Māori meanings and understandings. This is followed by a snapshot of historical events and a brief discourse to highlight the conditions and experiences that characterised Māori governance in each epoch. The interview participants then provide supporting evidence concerning where they opined their organisation is sitting as at 2023 in the governance epochs. A conclusion is formed at the end of this chapter.

The following table illustrates the governance epochs of Adaption, Stagnation, Revolution and Transformation.

Figure 8: Governance Epochs - Source Rakena (2024)



8.3 The epoch of Adaptation (800 AD – 1835)

Adaptation in its broadest sense is taken to mean the process by which iwi and hapū became better suited to their environment in Aotearoa New Zealand. It encompassed changes made by individuals and communities to adjust to new conditions, challenges, or technologies.[900]

Snapshot of Adaptation

- 800 AD -Estimated Arrival of Māori to Aotearoa (Land of the long daylight),[901] New Zealand;[902]
- 1642-1772 – First meetings between Māori and Europeans;[903]
- 1700-1836 - Introduction of European Trade with Māori hapū;
- 1831 – The growing lawlessness of European settlers in Aotearoa, New Zealand; and
- 1835 – The Declaration of Independence is signed by Māori Rangātira

Winiata et al., talk about the arrival of Māori in Aotearoa, where they state,[904]

[900] Kuntz, J.C. (2021). 'Resilience in times of global pandemic: Steering recovery and thriving trajectories', Applied Psychology: An International Review, 70(1), pp. 188–215; Zukowski, R.S. (2014). 'The impact of adaptive capacity on disaster response and recovery: Evidence supporting core community capabilities', Prehospital and Disaster Medicine.', 29(4), pp. 380–387.

[901] Rakena and Benton (2021) at 631.

[902] Hiroa (1958).

[903] Salmond, A. (1992).Two worlds: First meetings between Maori and Europeans, 1642-1772. University of Hawaii Press.

[904] Winiata et al. (2008). 'The Survival of Māori as a People and Māori Enterprise.' Kapiti Coast, New Zealand: Te Wānanga o Raukawa at 850.

> '…a group of people now known widely as Māori, that they travelled light as they sailed Te Moananui a Kiwa, the Pacific. Their intelligence and energy, their most valuable cargo, took no space at all in their ocean sailing waka.'

The arrival of Polynesian ancestors demonstrated the adaptation and establishment of Māori culture and governance across Aotearoa New Zealand, and subsequent interactions with European explorers. Rakena and Benton continue,[905]

> 'Prior to other explorers arriving and renaming their country New Zealand centuries later, Māori developed governance in complex cultural, political and economic infrastructures founded on their technological advancement. Early Europeans, British, and American arrived to trade with Māori in seals and whales looking to develop new markets; and Petrie stated Māori made adjustments to meet trade demands by adopting new technology.[906] Trade occurred with Māori providing food, shelter and transport in exchange for European goods. In the period 1770-1840, Māori became well versed in commerce, Christianity and modern warfare. Petrie in her analysis of pre-colonial industry notes, "Using a range of commercial strategies, Māori had captured a considerable volume of trade and a healthy surplus of exports over imports by 1840."[907]

Rakena and Benton highlight several key aspects of Māori governance. Māori governance in the pre-colonial era was a sophisticated, adaptive, and resilient system capable of managing internal complexities and external influences. Rakena and Benton highlight their strategic engagement with emerging global trade networks, underscoring their economic agency and the relational, innovative nature of their governance structures. This analysis challenges simplistic portrayals of Indigenous governance as static or insular, instead presenting a narrative of Māori hapū as proactive, skilled, and self-determining actors in their historical context.

Beginning in the late 1700s, Māori began engaging with European traders. This period saw the Māori becoming adaptive and integrating into the cash economy, by selling their products.

In 1831, growing lawlessness among European settlers in New Zealand (Ngāpuhi ships are impounded in Sydney Harbour, Australia for the lack of a national flag).[908] There were concerns about a potential French annexation of the country which prompted 13 northern Māori Rangatira to seek protection from King William IV of the United Kingdom. King William

[905] Rakena and Benton (2021) at 632.
[906] Petrie (2006) at 67.
[907] Petrie (2006) at 56.
[908] "Māori adoption of flags"(2025) Te Ara The Encyclopaedia of New Zealand <www.teara.govt.nz>.

acknowledged the petition and the British Government promised protection to Māori. This event marked an early step leading to the signing of the Treaty of Waitangi in 1840, and formalised the relationship between the British Crown and the Māori Rangatira in New Zealand.

The Māori Rangatira response demonstrated innovative adaptive thinking, and tactical ability to strategise, while being politically astute to resolve the situation. There was a collaborative effort to enlist rangatira to recruit external help to secure the British King's protection. Māori adapted to a new world economically, socially, culturally and politically.

In late 1830, a ship named the Sir George Murray, built by Māori in Hokianga, was seized in Sydney Harbour for not flying a national flag.[909] This act, a breach of British navigation laws, prompted the British Resident James Busby to gather Māori Rangatira, leading to the selection of the United Tribes' Flag in 1834 to give New Zealand ships a national identity. In 1835, He Whakaputanga[910] was signed by multiple rangātira to proclaim the independence and nationhood of Aotearoa New Zealand, and the Rangatira as rulers of Aotearoa. The Declaration reaffirmed tikanga Māori, and Māori concepts of power and decision-making, declaring themselves sovereign rulers to trade internationally under a flag. Mutu notes many hapū, particularly in the north, continue to regard *He Whakaputanga* as Aotearoa's foundational constitutional document, frequently invoking it as they uphold and exercise their mana.[911]

Here, we see another form of adaptability was evident in the ability for rangatira to formalise their strategy in a formal written document. Māori had only recently acquired a written language of numeracy and literacy. Māori recognised that recording the event would assist their international commercial ventures with safe passage under British protection. Māori continued to expand and update their professional development to meet the new challenges the British brought to their shores.

[909]"He Whakaputanga – Declaration of Independence" (2025) NZ History <www.nzhistory.govt.nz>.

[910] A Declaration of Independence.

[911]Mutu, M. (2019)a.

We now observe whether adaptation is present in contemporary times with the interview participants.

8.3.1 Interview participants insights on adaptation

Marsha Davis comments,[912]

> 'I see it playing a really big part particularly because the Treaty claims are being settled. Going back to the word adaptation; our younger people live in that world of adaptation already so they can. I'm very hopeful that they can bring their fluidity into governance because it needs to be stretched and moved around. If we look at it too restrictively, we will never get anywhere, and that includes what we do with and how we utilise our historical Treaty claims funding as well.
>
> For Ngāti Manu, they've already got a really good structure, a helping structure that deals with the environment and that deals with education. It deals with the elderly, it deals with Māori cultural preservation that deals with the urupa,[913] it deals with their marae.
>
> Governance is already being enacted at every level. But on a Māori platform, I am way more comfortable with how I see that developing in the future. Although we are a very small hapū, we have got it right.'

Marsha Davis considers her organisation is adapting on many governance fronts while demonstrating cultural subsidiarity and promoting succession with the younger generation. Adaptation is observed as Marsha Davis's governance structure prepares to shape novel solutions and strategies that are fit for new purposes and the future.

On the other hand, Julian Williams continues, [914]

> 'Well, as a people, we are kind of adapting. And that way is learning to work with what we've got. But we need to be stronger to protect our tribe.'

Here we see resilience and continued adaptability being used as tools for Māori governance to meet the needs of Julian Williams's iwi.

Analysis*:* The adaptation epoch underscores the resilience and innovation of Māori governance systems in the face of external challenges placed in front of them. Adaptations were made at the time when Māori groups were sorting out their own internal governing and land relationships when they first arrived and settled in Aotearoa. Later, British settlers

[912] Transcript of Marsha Davis (2023) at 9.
[913] Cemetries.
[914] Transcript of Julian Williams (2023) at 21.

arrived. Māori adaptation involved the ability to move quickly and easily; to think and understand quickly, with the ability to change direction in becoming an internationally linked economy with the British settlers. All interview participants observe and agree that adaptation is still occurring now.

8.4 The Epoch of Stagnation (1840-1975)

Stagnation in governance occurs when colonial powers shift sites of authority from the colonised to the coloniser. This has led to disrupting Māori governance structures and creating dependency on external control. This displacement undermines local capacity and self-governance, which leads to long-term institutional weaknesses and diminished governance power. Hauraki Greenland states in a financial working paper,[915]

> 'The fundamental element of colonisation and modernisation was a confrontation with Māori forms of governance. That process resulted in the virtual obliteration of Māori governance structures.'

Greenland's statement highlights the profound disruption and stagnation that colonisation and modernisation imposed on Māori governance. By framing colonisation as a "confrontation with Māori forms of governance," it underscores that the process was not merely about coexistence with another culture, but one who then actively sought to dismantle Māori systems of authority and leadership. The phrase "virtual obliteration" signifies the systematic and deliberate erosion of Māori governance structures, replacing them with colonial frameworks that undermined tino rangātiratanga[916] and marginalised traditional relational systems.

The stagnation was not a reflection of inherent weaknesses in Māori governance but rather a consequence of external forces that sought to suppress Māori autonomy. The imposition of Western governance models, legal systems, and centralised authority disrupted the fluid and adaptive nature of traditional Māori governance. As a result, Māori governance structures were sidelined and constrained, limiting their ability to evolve organically in response to new

[915] Greenland, H. (2001) cited . in (New Zealand Treasury draft) In Kent (2011) at 127.

[916] Self-determination.

challenges and opportunities. The imposed stagnation of Māori governance was inherited as a legacy of colonialism.

Snapshot of Stagnation

- 1840- Signing of the Te Tiriti o Waitangi, it is interpreted where Māori ceded sovereignty to the British Crown in exchange for protection and recognition of rights.
- 1850 – Māori enjoy a brief prosperous economic period with the British
- 1860s-1870s: Wars between Māori and British settlers lead to significant loss of Māori land.
- Late 19th- Early 20th Century: Imposition of European culture, institutions, and language on Māori communities and aggressive assimilation;
- Mid-20th Century: Gradual recognition of Māori rights, beginning to address land grievances.

For a brief period after the signing of the Te Tiriti o Waitangi 1840, Māori social structures and the Crown enjoyed a honeymoon relationship. Then gradually, the Crown flourished with illegitimate sovereignty to exercise Austinian sovereignty of being a singular undivided sovereignty and to implement a strategy of colonialism. Moana Jackson states,[917]

> 'In every society, there can be a kind of social amnesia where people may innocently forget what might have happened in the past. But, in this country, there has been a deliberate mis-remembering of history that has obscured the reality of what colonisation really was and is. It has replaced the harsh reality of its racist violence and its illegitimate usurpation of power with a feelgood rhetoric of Treaty-based good faith and Crown honour.'

At this point, stagnation shaped the downward flight of governance of Māori communities within a rapidly changing socio-political landscape. The years that followed witnessed the impacts of colonial rule with land confiscations and attempted cultural assimilation. The NZ Government effectively used governmental tools to whittle away Māori rights and to secure land for its own people, the settlers. Stagnation was all about Māori governance frameworks being immobilised and undermined with the British installing governance control like warfare.[918]

[917] Jackson M "The connections between white supremacy and colonisation" (24 March 2019) E Tangata <www.tangata.co.nz>.

[918] The "New Zealand Wars" (2025) New Zealand History <www.nzhistory.govt.nz>.

In 1850, the commercial assets of Māori economies were substantial. American observer Robert S Merrill estimated that by 1858, Māori owned at least one hundred sailing vessels from 10-30 tons and at least two larger schooners with a total value of £30,000. [919] (Note, £30,000 in 1860 would be worth about £4.63 million GBP in 2025 terms, which converts to around NZ $9.73 million (using today's exchange rate (≈ 2.10 NZD/GBP). Furthermore, Winiata et al., state,[920]

> 'Whānau, hapū and iwi, were able to finance the purchase of water mills, vessels and other assets. Māori had entered into the cash economy by selling their goods, offering their services as employees, or entering into partnerships with other hapū. Petrie[921] acknowledges how quickly and effectively Māori adapted to accommodate and develop capital investments during the 'golden age.' Entrepreneurial chiefs achieved this as they expressed rangātiratanga while demonstrating a keen eye for commercial benefit.'

Māori were adaptive with prosperity. Writing in the 1950s, the American observer, Merrill studied Māori in Aotearoa in the 19th Century. [922] Māori economic growth involved considerable investment which was successful contrary to Western thinking of the day. Merrill noted that some key features of Māori society were characteristics of tikanga Māori and were the drivers of economic growth. The drivers Merrill states include,[923]

> '• kinship control of productive resources: *Whānaungatanga*
> • production and distribution on the basis of kinship groups: *Rangātiratanga:*
> • orientation of economic activity toward group generosity and largess and not toward individual accumulation of wealth: *Manaakitanga*
> • a "market" limited to reciprocal exchanges between groups*: Kotahitanga .'*

Here, we note there were overlaps of epochs being experienced. On the one hand, economic gains and entrepreneurship were happening. Yet at the same time, political subsidiarity and Māori governing were being subsumed under British sovereignty. Stagnation of self-governance was also occurring while adaptation indicated growth in Māori economic development.

In 1840, Te Tiriti was signed at Waitangi by 40 rangātira on the Te Reo Maori version only. Later, an additional 500 Māori Rangātiratanga throughout the country affixed their signatures

[919] Merrill, R.S. (1954). "Some Social and Cultural Influences on Economic Growth: The Case of the Māori" Journal of Economic History Vol 14, at 404-405.

[920] Winiata et al., (2008) at 851.
[921] Petrie H (2013).
[922] Merrill (1954) at 403.
[923] Winiata et al., (2008) at 851.

to copies of Te Reo Maori version except at Port Waikato. The English interpretation of the Treaty was Māori had transferred sovereignty to the Queen of England. This occurred while guaranteeing Māori the complete and undisturbed possession and ownership of their lands, forests, fisheries, and other properties both individually and collectively. The Treaty gave the exclusive right of pre-emption for land purchases to the Crown, and Māori were promised all the rights and privileges of British subjects. Historian James Belich records,[924]

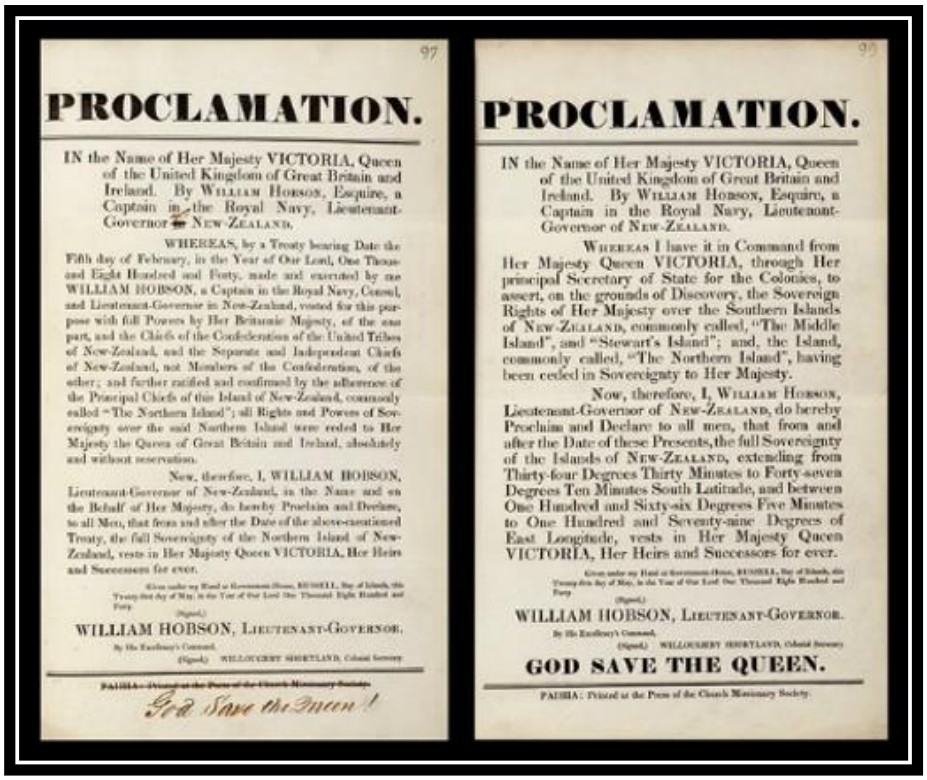
> 'Pakeha saw the English version as *the* Treaty for 130 years, but the notion that 500 Māori chiefs woke up one morning brimful of loyalty to Queen Victoria and blithely gave away their authority is, and should always have been ludicrous.'

On May 21, 1840 , William Hobson declared British sovereignty over all of New Zealand. He asserted authority over the North Island through the Treaty of Waitangi's cession, not Te Tiriti which was signed, and claimed sovereignty over the southern islands under the right of discovery.[925] In terms of Te Tiriti, this act was highly illegal, not least because of its on-going downstream effects. It is this proclamation that parliament and the courts rely on to this day for their legitimacy. The following table on the next page documents Hobson's proclamations of sovereignty over Aotearoa New Zealand, 21 May 1840.

[924]Belich, J. (2002). Making peoples: A history of the New Zealanders from Polynesian settlement to the end of the nineteenth century. University of Hawaii Press at 194.

[925] "Hobson proclaims British sovereignty over New Zealand" (2025) NZ History <www.nzhistory.govt.nz>.

Figure 10: Proclamations of sovereignty over Aotearoa New Zealand, 21 May 1840.



PROCLAMATION.

IN the Name of Her Majesty VICTORIA, Queen of the United Kingdom of Great Britain and Ireland. By WILLIAM HOBSON, Esquire, a Captain in the Royal Navy, Lieutenant-Governor of NEW-ZEALAND.

WHEREAS, by a Treaty bearing Date the Fifth day of February, in the Year of Our Lord, One Thousand Eight Hundred and Forty, made and executed by me WILLIAM HOBSON, a Captain in the Royal Navy, Consul, and Lieutenant-Governor in New-Zealand, vested for this purpose with full Powers by Her Britannic Majesty, of the one part, and the Chiefs of the Confederation of the United Tribes of New-Zealand, and the Separate and Independent Chiefs of New-Zealand, not Members of the Confederation, of the other; and further ratified and confirmed by the adherence of the Principal Chiefs of this Island of New-Zealand, commonly called "The Northern Island"; all Rights and Powers of Sovereignty over the said Northern Island were ceded to Her Majesty the Queen of Great Britain and Ireland, absolutely and without reservation.

Now, therefore, I, WILLIAM HOBSON, Lieutenant-Governor of New-Zealand, in the Name and on the Behalf of Her Majesty, do hereby Proclaim and Declare, to all Men, that from and after the Date of the above-mentioned Treaty, the full Sovereignty of the Northern Island of New-Zealand, vests in Her Majesty Queen VICTORIA, Her Heirs and Successors for ever.

Given under my Hand at Government House, RUSSELL, Bay of Islands, this Twenty-first day of May, in the Year of Our Lord One Thousand Eight Hundred and Forty.

(Signed)

WILLIAM HOBSON, LIEUTENANT-GOVERNOR.

By His Excellency's Command,

(Signed) WILLOUGHBY SHORTLAND, Colonial Secretary.

PAIHIA: Printed at the Press of the Church Missionary Society.

God Save the Queen!

PROCLAMATION.

IN the Name of Her Majesty VICTORIA, Queen of the United Kingdom of Great Britain and Ireland. By WILLIAM HOBSON, Esquire, a Captain in the Royal Navy, Lieutenant-Governor of NEW-ZEALAND.

WHEREAS I have it in Command from Her Majesty Queen VICTORIA, through Her principal Secretary of State for the Colonies, to assert, on the grounds of Discovery, the Sovereign Rights of Her Majesty over the Southern Islands of NEW-ZEALAND, commonly called, "The Middle Island", and "Stewart's Island"; and, the Island, commonly called, "The Northern Island", having been ceded in Sovereignty to Her Majesty.

Now, therefore, I, WILLIAM HOBSON, Lieutenant-Governor of NEW-ZEALAND, do hereby Proclaim and Declare to all men, that from and after the Date of these Presents, the full Sovereignty of the Islands of NEW-ZEALAND, extending from Thirty-four Degrees Thirty Minutes to Forty-seven Degrees Ten Minutes South Latitude, and between One Hundred and Sixty-six Degrees Five Minutes to One Hundred and Seventy-nine Degrees of East Longitude, vests in Her Majesty Queen VICTORIA, Her Heirs and Successors for ever.

Given under my Hand at Government House, RUSSELL, Bay of Islands, this Twenty-first day of May, in the Year of Our Lord One Thousand Eight Hundred and Forty.

(Signed)

WILLIAM HOBSON, LIEUTENANT-GOVERNOR.

By His Excellency's Command,

(Signed) WILLOUGHBY SHORTLAND, Colonial Secretary.

GOD SAVE THE QUEEN.

PAIHIA: Printed at the Press of the Church Missionary Society.

Source: <digitalnz.org>.

In the Mid 1800s, co-authors Winiata et al., recount Māori emerged in the mid-19th century as Aotearoa New Zealand's dominant entrepreneurial force. Petrie describes the 1840s and 1850s as the 'golden age' of Māori enterprise.[926] During this period, communities established ships, flourmills, churches, retail outlets, and even purchased land under Crown title, reflecting a rapid embrace of imported technology.[927] This entrepreneurial vitality was driven by kaupapa such as whānaungatanga, rangatiratanga, and kaitiakitanga, which spanned social, political, and environmental domains, ensuring benefits to rōpū tuku iho. Scholars like Petrie[928] and Merrill[929] emphasise the pivotal role of kinship groups, whānau, hapū, and iwi in anchoring this golden age of Māori political and economic life. Māori adapted to economic success combining their own cultural identity in concert with business acumen over all Aotearoa New Zealand.

[926] Winiata et al (2008) at 851.

[927]

[928] Petrie (2006) at 12-13.

[929] Merrill (1954) at 402- 403.

From 1844 to 1845, Hone Heke, a Māori Rangatira in the northern region of New Zealand, directed the removal of the British flagstaff in Kororāreka[930] as a protest against British colonialism. This act of defiance led to the first conflict of the New Zealand Wars in 1845, which unfolded in Kororāreka.

From the 1840s to the early 1870s, a series of conflicts known as the 'New Zealand Wars' often known as the 'British Invasion' erupted, pitting various hapū and iwi against Government forces.[931] The most intense and widespread fighting occurred during the 1860s.Consequently, the Government confiscated substantial portions of Māori land in the North Island. Assuredly, Māori interconnection to the land/waters as the foundation of Māori self-governance was severed. The removal of land rights by the Crown resulted in major negative impact on Māori groups ability to self-govern.

In 1846, the British Government issued instructions for the registration of all Māori landownership, designating any land deemed unused or surplus as Crown land.[932] Governor George Grey reinstated the exclusive Crown right to purchase Māori land as stipulated in the Treaty of Waitangi 1840 not Te Tiriti to convince Māori to sell their land. Crown agents employed questionable tactics, offering Government-determined prices rather than market rates.

In 1847, in the case of *R v Symonds,*[933] the Supreme Court acknowledged the doctrine of aboriginal title as part of New Zealand law while upholding the Government 's right to purchase Māori land pre-emptively. Between 1847 and 1865, approximately two-thirds of New Zealand's total land area was acquired from Māori through deeds of sale. The so-called 'deeds of sale' were found by the Waitangi Tribunal in the Muriwhenua Land Report to record tuku whenua (tikanga-based temporary allocations of land), not land sales.[934] As Māori property rights diminished, so did the ability to effectively govern their various territories.

[930] Eventually known as Russell.
[931] Belich, J. (1986). The New Zealand Wars and the Victorian Interpretation of Racial Conflict. Auckland, New Zealand: Penguin Books.
[932] "The Treaty in practice" (2025) NZ History <www.nzhistory.govt.nz>.
[933] R v Symonds (1847)NZPCC 388.
[934] Waitangi Tribunal Muriwhenua Land Report (Wai 45, 1997).

In 1862, the Native Lands Act was enacted by Parliament which established the Native Land Court.[935] Its operation led to it being named 'Te Kōti Tango Whenua'- the land-taking court. The Act also abolished the doctrine of Crown pre-emption, enabling settlers to directly purchase land from Māori owners. Numerous laws pertaining to Māori land were subsequently enacted in the following decades, leading to the continual loss of land by Māori through various means.

In 1863, The New Zealand Settlements Act was passed, authorising the Government to confiscate land from specific tribes without compensation.

In 1877, the seminal Supreme Court decision case of *Wi Parata v The Bishop of Wellington,*[936] declared the Treaty of Waitangi was "worthless" and a "simple nullity."[937] This ruling invalidated the ability of the Courts to consider claims based on aboriginal or native title, overturning the earlier Symonds decision.[938] Furthermore, the Chief Justice asserted that customary law did not exist in New Zealand. This precedent was legislated into law, and for over 100 years, the Crown used it to ruthlessly justify all means to undermine Māori self-determination and the right to exercise governance.

By the 1890s, Māori survival was in serious doubt. Winiata et al. observe that the population had fallen to around 42,000, a 60 percent decline over fifty years, raising fears of extinction. [939] Winiata et al continue, although numbers have since risen more than fifteen-fold to over 600,000, true survival lies not in population growth but in sustaining te reo, tikanga, and distinctly Māori values within a globalising world. [940] For a variety of reasons, the Māori economy experienced a significant downturn during the final four decades of the 19th century. Belich notes,[941]

> 'Continued land loss added to the problems. Under heavy Government and economic pressure, the 1890s and 1910s saw spasms of land selling that reduced Māori landholdings from 11 million acres in 1891 to 4.8 million acres in 1920, almost all of it in the North Island.'

[935] Now known as the Māori Land Court.
[936] Wi Parata v The Bishop of Wellington (1877) 3 NZ Jur (NS) 72 (SC).
[937] Winiata et al., (2008).
[938] R v Symonds (1847) NZPCC 388.
[939] Winiata et al (2008).
[940]Winiata et al (2008) at 849.
[941] Belich (2002) at 175.

The 1890-1910 era saw the continued diminishing of land to which Māori mana and authority was connected to, and colonialism by British settlers prevailed. Strack and Goodwin define colonialism as entailing, [942]

> '[It]... entails a complex system of racism, cultural and political domination that establishes a hierarchical arrangement between the coloniser and the colonised. The process of colonisation exploits indigenous peoples, destroys their national society, and displaced aboriginal cultures.'

Māori governance of their communities was vulnerable to the barrage of successive hits by the Crown to erode and supplant Māori governance with their own form of governance through colonialism.

In 1953, the Māori Affairs Act was enacted, aiming to make purportedly 'unproductive' Māori land utilised through a trustee system. The legislation also renamed the Native Land Court as the Māori Land Court. In 1967, the Māori Affairs Act was amended. This introduced compulsory conversion of Māori freehold land with fewer than five owners to general land which allowed for the sale or mortgage of the land. The Act expanded the powers of the Māori Trustee to acquire and sell what was considered as economically unviable interests in Māori land. These amendments were viewed by Māori as a land grab and sparked street protests. The legislation became catalysts for the Māori protest movements that emerged in the late 1960s, including annual Waitangi Day protests that began in the early 1970s and have continued into the present day.

In the following section, interview participants express their belief that their organisations are experiencing stagnation.

8.4.1 Interview participant insights on stagnation

Anne Kendall states,[943]

> 'If I took your model for instance, we have stagnated for 11 years because we have. One, we need to give our staff the tools to look outside of the square and to start to look at what Indigeneity might look like, and how do we use it to help; not only the marae but our people.
>
> The other stagnation is not only have we not empowered our staff, but we also haven't empowered the governance board to actually accept and recognise that we need to

[942] Strack and Goodwin (2017) at 50.

[943] Transcript of Anne Kendall (2023) at 20.

> grow. In order to do that, we need to grow our staff. There is a gap between the stagnation and the transformational, and for me, I believe we have that gap. We do that in terms of not upskilling in the governance and not upskilling our staff to help move forward.'

Anne Kendall highlights the challenges of bridging the gap between stagnation and transformation within Māori governance frameworks. It underlines the need for a dual approach: empowering staff to embrace Indigeneity and innovation while simultaneously ensuring governance boards are equipped to support this progress. The lack of upskilling for both staff and governors perpetuates stagnation, preventing her organisation from evolving effectively.

Anne Kendall continues, [944]

> 'We need to do that with the governance and the governance needs to be up with the play to be able to receive the staff that have transformed from being stagnant into a better position and support them. Not sit there and I've seen it. I've experienced it where staff have gone away, they've come back fired up but nobody else is and nobody else is ready to move with them, including governors.
>
> The transformation that you had and the stagnation was an eye opener for me knowing that some of our governors are stagnating. It's a meeting that they go to every month to tick a box, to stay compliant, but there's not transformational change to help our organisation or our staff to move into the evolution stage. Your model is really great, yeah, really great.'

Anne Kendall emphasises that transformational change requires not only the energy and readiness of staff but also the active involvement and adaptability of governance boards. Without alignment between these levels, efforts to innovate risk being stymied by compliance-focused governance that lacks vision and responsiveness. Anne Kendall's critique reflects the importance of cohesive and collaborative strategies in achieving transformational change. Governance must evolve beyond routine compliance to foster environments where innovation and growth are supported, ensuring the organisation moves into a stage of meaningful evolution and adaptability.

Here, Moko Tauariki states,[945]

> 'I can say this with conviction. We are revolutionary thinkers, but we're stagnated. We ain't going any way as a hapū, we're not going, anywhere. We're having the same conversations that we had 20 years ago. We talk about tino rangātiratanga, and mana motuhaketanga for individuals. But, when you're not able to take the rest of your hapū

[944] Transcript of Anne Kendall (2023) at 20.

[945] Transcript of Moko Tauariki (2023) at 8.

> on that same journey for them to be able to exercise their tino rangātiratanga and mana motuhaketanga, we haven't gone anywhere, we're stagnant.
>
> I'll say this about our iwi too. We purport to have a cash and asset base of over a billion dollars and yet we have approximately 83%, I repeat 83% of our tribal members that are still living below the poverty line. That's quite a significant statistic and a significant reality of our time.'

Moko Tauariki expresses concern over the persistent stagnation within his hapū, noting that discussions on self-determination and autonomy have remained unchanged for over two decades. This lack of progress further exemplifies at the iwi level, where, despite managing assets purportedly exceeding a billion dollars, approximately 83% of tribal members continue to live below the poverty line. This disparity underscores a critical disconnect between the iwi's economic resources and the well-being of its people, highlighting the need for transformative strategies that translate financial assets into tangible improvements in living standards for the hapū. Many Māori individuals continue to experience economic hardship, indicating that the growth in collective assets has not yet effectively alleviated poverty within the community.

Addressing this issue requires a multifaceted approach that includes strategic investment, capacity building, and transformational governance change. To implement such strategies creates potential to bridge the gap between asset accumulation and improved living standards, facilitating meaningful progress towards self-determination and economic independence for Māori hapū.

Marsha Davis opines,[946]

> 'It's on the cusp of stagnation and revolution, for Ngāti Rahiri. I say that because of they are the type of trustees who are there at the moment. However, I don't think our understanding of governance is all that great. We need new blood. We need younger people that really just do the work and to transform everything.
>
> We have a plan strategic plan that is most difficult to put into place and act upon. The reason being is that there is a lack of resources, like financial resources. and most of the transformation is based on financial.
>
> When I compare Ngāti Rahiri with Ngāti Manu, they don't care about what they don't care about. Well, that's not quite true. They care about what they are going to achieve, but they care in terms of what they have always cared about. They haven't changed, they've gone in and said we are Ngāti Manu. We will determine our own destiny. They

[946] Transcript of Marsha Davis (2023) at 8.

> come from a more non-Māori perspective. In terms of the four stages that you're talking about, we have always been on the cusp of transformation.'

Marsha Davis continues, [947]

> 'There is also an overlap in the governance epochs. Transformation is always started from the beginning that they [trustees] came, they were very new. They've lost all the land, and so they've had to move on and adapt. So they're always moving through adaptation, stagnation and transformation.'

Ngāti Rahiri's governance is at a crossroads between stagnation and revolution. The current trustees' limited governance understanding and financial constraints hinder the implementation of strategic plans. There's a pressing need for new, younger leadership to drive transformation. In contrast, Ngāti Manu maintains a steadfast approach, consistently determining its own destiny without notable change. Historically, Ngāti Rahiri has navigated through adaptation and transformation, continually striving to rebuild and progress after land losses. This overlap of governance epochs indicates resilience, but bridging the gap between strategic vision and practical implementation remains essential for future growth.

The Stagnation epoch offers lessons on the consequences of rigid and unresponsive governance structures. Stagnation shows how colonial imposition disrupted Māori governance, which led to undermining Māori forms of authority, institutions of power, and decision-making resulting in ongoing periods of economic, social, and cultural decline in Māori whānau and hapū. British colonialism enabled illegal usurpations of stealing and removal of land from Māori control, and created a critical adverse condition for Māori self-governance. Māori resisted imposed stagnation of their self-governance; when warfare was initiated. I reiterate, the Crown effectively removed Māori governance and supplanted their own form of governance. I submit that land appropriation, war, confiscation were all governmental tools to produce stagnation of Māori self-governance. Land appropriation led to destruction of Māori patterns of social structures of which Māori governance is a part.

8.5 The epoch of Revolution (1975-2000)

Revolution in the context of governance is characterised by a surge in demands for representation, political mobilisation, regrouping to demand rights and greater autonomy. As

[947] Transcript of Marsha Davis (2023) a t8.

well, to demand recognition of land rights, and to demand recognition of ways of governing. Revolution is seen as resistance and resurgence.

Additionally, revolution can be attempts to challenge or repudiate the established settler colonial system and replace established British modes of Government with Māori systems and institutions of self-governance. More intense political struggles can also result in revolutionary historical events.

Snapshot of Revolution

- 1975- Establishment of the Waitangi Tribunal to address historical Te Tiriti/ Treaty of Waitangi claims.
- Late 20th Century- Rise of Māori activism, protests, and the Māori renaissance movement.
- 1987- Passage of the Fourth Labour Government 's "Rogernomics" policies affect Māori communities disproportionately.
- 1990s- Advancements in Treaty settlements and growing political representation of Māori voices.

In the 1900s, Māori Councils were formed by the Government by legislation of the Maori Community Development Act 1962. In 1951, the Māori Women's league was established with the purpose to 'draw together Māori women on a national basis to address their own and their families' needs". [948]

In 1962, the New Zealand Māori Council[949] ("NZMC") was established originally to represent 14 iwi, to have political representation and to empower them to have control over their affairs under the legislation of the Maori Community Development Act 1962. The Act does not appear to allow the NZMC to "have political representation" or to empower it "to have control over their affairs." It seems the NZMC can only make representations to the Minister and collaborate with and assist State departments to keep control of Māori.

Yet, the NZMC has advocated for Māori rights, providing a platform for Māori voices to be heard in the country's political and social discourse. The NZMC instigated the seminal legal case which defined the Treaty principles and whether the Government 's plans to transfer

[948] "Maori Women's Welfare League: Kainga" (2025) Maori Women's Welfare League< www.mwwl.org.nz>. "Te Ropu Wahine Maori Toko I te Ora Maori Women's Welfare League" (2025) NZ History <www.nz history> .

[949] "The New Zealand Maori Council" (2025) New Zealand Maori Council <www.nzmaoricouncil.org>.

land to state-owned enterprises breached the Treaty of Waitangi principles.[950] Prior to 1975, the Governance revolution was seen on many fronts. Māori commenced to establish organisations which enveloped iwi from all across Aotearoa New Zealand.

Figure 10. Land March – 1975- Wellington Region, NZ

Source. <www.teara.govt.nz>.

.In 1975, the historical 'Land March' took place in Aotearoa New Zealand with protestors carrying placards denouncing the treatment by the Crown of Māori whānau, hapū and iwi and their land. The purpose of this march was to voice the demand to end the displacement of Māori land. Spanning a distance of 1,000 kilometres (621 miles), the march commenced from the top of the north island of Aotearoa New Zealand, and culminated at Parliament located in Wellington, the southern part of the North Island. The Land March garnered support from all persons. Participants presented a petition with 60,000 signatures to the Prime Minister, highlighting the widespread support for their cause. The petition called for an end to the monocultural land laws and imposed governance structures that excluded Māori cultural values. The Land March contributed to the establishment of the Waitangi Tribunal to investigate alleged Treaty breaches committed by the Crown.

The Treaty of Waitangi Act 1975 was enacted by Parliament in New Zealand, serving as the foundation for the establishment of the Waitangi Tribunal. Initially, the Tribunal's mandate was limited to addressing alleged contemporary breaches of the Treaty of Waitangi by the Crown. In 1985, the Waitangi Tribunal's authority was expanded to encompass historical grievances dating back to 1840.[951] With the expanded authority, Māori whānau, iwi and hapū flooded the Waitangi Tribunal with historical claims.

The mechanisms designed to protect Māori interests include the binding powers of the Waitangi Tribunal,[952] allowing the Tribunal to make binding recommendations for the return of Crown-owned or State-enterprise land to Māori claimants, where breaches of Te Tiriti o

[950] New Zealand Māori Council v Attorney General [1987] 1 NZLR 641.

[951] The date recognised for the signing of Te Tiriti o Waitangi.

[952] Under 8A-8HB of the Treaty of Waitangi Act 1975.

Waitangi are proven. These provisions were intended to give substantive effect to Māori interests by enabling the restitution of specific lands rather than merely compensatory redress. However, these mechanics have been successfully blocked for more than three decade and the Crown has never implemented a Tribunal's binding recommendation.

During the stagnation epoch, the restrictions placed by successive NZ Governments and the Western education system, prohibited Māori speaking their own language on school grounds, which has had profound impacts on the transmission of Māori cultural identity and ways of governing.

In 1982, the first kohanga reo, or "language nest" preschool was established in Pukeatua, Wainuimata, Lower Hutt, with over 100 facilities opened by the end of the year. Presently, there are more than 460 kohanga reo kura throughout the country.[953] These preschools play a crucial role in preserving and revitalising the Māori language. Māori immersion schools, known as Kura kaupapa Māori were established starting in 1985 and gained formal recognition under the Education Act 1989.

> The 1987 seminal Court of Appeal decision, *New Zealand Māori Council v Attorney-General* was a landmark decision in New Zealand's legal history, significantly impacting the interpretation and application of the Treaty of Waitangi.[954] The case addressed the sale of state-owned enterprises ("SOEs") and its implications for Māori land and taonga. The decision set vital precedents for Treaty jurisprudence and Māori rights, reshaping the legal and political landscape. The case arose from concerns that the transfer of Crown assets to SOEs would bypass obligations under Te Tiriti o Waitangi Article 2, which guarantees Māori tino rangātiratanga. This case underscores the importance of the Te Tiriti as a living document and provides a framework for balancing Māori rights with Crown responsibilities.

This case not only affirmed Māori as active partners in governance but also set a precedent for equitable and culturally attuned decision-making in New Zealand over their lands, forests, fisheries, and other taonga. The State-Owned Enterprises Act 1986 section 9 stipulates that NZ Government actions must not contravene the principles of the Treaty. The Court of Appeal

[953] "Te Kohanga Reo: Hompage"(2025) Te Kohanga Reo <www.kohanga.ac.nz>.

[954] New Zealand Māori Council v Attorney-General [1987] 1 NZLR 641 (CA).

ruled in favour of the NZMC, emphasised that the Crown's actions must align with the principles of the Treaty, and halted asset transfers unless mechanisms were implemented to protect Māori interests.

The principles of the Treaty of Waitangi articulated in the 1987 decision of *New Zealand Māori Council v Attorney-General* emphasise partnership, active protection, participation and redress.[955] Chief Justice Robin Cooke stressed the Treaty's spirit and intent, influencing legislation like the State-Owned Enterprises Act 1986. Academic Paul McHugh's *The Māori Magna Carta* analyses, underscored the principles' legal evolution.[956] Together, these sources affirm the Treaty's role as a living document guiding Māori-Crown relations. Shortly after the judgement, Eddie Durie, Chief Judge of the Māori Land Court reflects,[957]

> 'Until the Court of Appeal decision two years ago which halted the transfer of assets to state-owned enterprises, Māori people had not won a case since 1847. You had a sort of judicial scoreboard - Settlers: 60, Māori: 1.'

In the same year, the 1987 High Court decision of *Huakina Development Trust v Waikato Valley Authority*,[958] determined a significant precedent of the Treaty of Waitangi. Judge Chilwell declares,[959]

> 'There can be no doubt that the Treaty is part of the fabric of New Zealand society. It follows that it is part of the context in which legislation which impinges upon its principles is to be interpreted.'

The Treaty of Waitangi then, emerged as a constitutional foundation of NZ society. However, the Crown conveniently ignored the legal agreement Te Tiriti o Waitangi.

Further, the Māori Language Act 1987 was enacted, designating Māori as an official language of New Zealand and establishing the Māori Language Commission. Further, the 2017 Act added a few cosmetic tweaks.

In 1988, the Treaty of Waitangi Policy Unit was established within the Department of Justice to assist with Treaty settlement negotiations between the Government and Māori at the iwi level. This Unit later evolved into the Office of Treaty Settlements in 1995, and is now Te

[955] New Zealand Māori Council v Attorney-General [1987] 1 NZLR 641 (CA).
[956] McHugh, P.G . (1991). The Māori Magna Carta: New Zealand Law and the Treaty of Waitangi. Oxford University Press.
[957] "NZ Herald" 14 March 1989 at 20.
[958] Huakina Development Trust v Waikato Valley Authority [1987] 2 NZLR 188, 210.
[959] Huakina Development Trust v Waikato Valley Authority [1987] 2 NZLR 188. Per Chilwell J.

Arawhiti, the office of Māori Crown Relations. In 2024, Minister of Māori Development Hon Tama Potaka announced in August the Government's intention to transfer some responsibilities from Te Arawhiti to Te Puni Kōkiri.[960]

Later, the Runganga Iwi Act 1990 was introduced to present a framework for devolution which "acknowledged the enduring, traditional significant importance of iwi, with legally incorporated Rūnanga to become the administrative wings of the tribes."[961] Again, the Crown preference to deal with iwi is manifested in this legislation and it is consistent with the guidelines of the Red Book, that NZ Governments prefer to deal with "large natural groupings".

Later, Te Ture Whenua Māori Act 1993 was enacted to replace the Māori Affairs Act 1953, which finally reformed laws related to Māori land. The Act granted the Māori Land Court authority over claims pertaining to the status and ownership of Māori land, with an emphasis on retaining Māori land for the benefit of its owners and their descendants.

In 1994, the NZ Government proposed a "fiscal envelope" that would limit all future settlements of historical Treaty claims to a total cap of NZ$1 billion. This proposal predictably resulted in protests by Māori. However, the fiscal envelope policy was abandoned as official government policy but remained unchanged de facto. In other words, the policy is no longer called the 'fiscal envelope.' It is now known as the government's treaty claims settlement policy and was subsequently abandoned.

8.5.1 Interview participants insights on revolution

Wikitana Popata comments,[962]

> 'I used to do a lot of reading on the revolution of Cuba. The revolution of Venezuela. Revolutions around the world, Indigenous revolutions. And that gave me another perspective.[963] Even though as Māori, we're not as bad as other countries. But we're still stuck under this capitalist system. And my old me 10 years ago, I believed in taking the

[960] Te Puni Kōkiri is the Government's principal policy advisor on Māori wellbeing and development.
[961] Hill. R. S. (2009). Maori and the State: Crown-Maori Relations in New Zealand/Aotearoa 1950-2000. Victoria University Press; at 1.
[962] Transcript of Wikitana Popata (2023) at 15-16.
[963] A respective title given to an older women.

system down. I said, “The only way forward for us is to take the system down. Get rid of the system, this capitalist system and establish our own.

As well, Moana Jackson,[964] and Margaret Mutu,[965] when they were working on this constitutional and transformation mahi; they went around the whole country pitching to everybody about these six, seven models of what a new constitution would look like for Aotearoa. And I looked at these models and I said to Moana “Where's the constitution where it’s just us? And no Pākehā.[966] And he said to me, “Well, no one asked for that.” And I said, “Well, I am.”

He goes, “The only problem with that, it is a revolution. We'll have to pull that system down.” And then he goes, “And what that would mean. We have to go to war.” And I said, “Well, look, I'm just saying. Why have you got seven (7) models that are sort of the same similar thing then to what we have now like a partnership. So if you go to North Korea, North Korea belongs to North Korea. Doesn't belong to South Korea and America.” My old me would say that. And there's still a part of me that still believes in it, no matter what goes on.

When National[967] came back into power as the NZ Government, I loved it. I loved that they were just hammering us because that pushes Māori so far down that we have to rise back up. Yes, the sleeping taniwha,[968] has woken up.

The problem is, when Labour gets back in they sort of start giving us all this nice stuff again, and then Māori start to get a bit complacent again. Then National comes back again and they hit us hard again. And so we’re sort of just stuck in this cycle of capitalism. I’m afraid that when we're stuck in the cycle, my generation, they start to get a bit comfortable.

Māori forget about the struggle of what Nga Tamatoa[969] went through or Whina Cooper.[970] My boys went through it all, and we have had to re-educate ourselves again. So we're always stuck in the cycle of going around and around. I still believe that I don't like the system. The system is not our system.

Capitalism is about the 1% getting rich and the 99% just hanging in there. But if we turned it around a bit like what Fidel Castro did in Cuba. He kicked out all those big farmers in Cuba, and he turned it all into gardens and then he gave it to that chief or to that community leader to run.’

Wii talks about revolution and how the ‘old him’ thought about it. He reflects on the impact of different Governments of Aotearoa New Zealand in governing over Māori. Wikitana drew

[964]Māori Academic and constitutional lawyer.
[965]Professor of Maori Studies at the University of Auckland, New Zealand.
[966]People of European descent.
[967] One of the two main political parties in New Zealand.
[968] “The normal meaning of the word powerful creatures. By extension, the term is used to designate a powerful leader or other person of great importance.
[969] Ngā Tamatoa was a prominent Māori activist group formed in the 1970s in New Zealand, advocating for Māori rights and cultural revitalisation.
[970] Dame Whina Cooper was a revered Māori leader and activist, known as the "Mother of the Nation" for her dedication to Māori land rights and social justice. She famously led the 1975 Māori Land March, advocating for the protection of Māori land and cultural identity.

heavily upon the concept of Māori sovereignty in his statement. This is an important aspect of revolution; to challenge recycled paradigms and the inflicting interventions designed to halt Māori self-determination. New ways of thinking about old issues provide catalysts for revolution to make substantial changes happen in reclaiming Māori self-governance.

Wikitana Popata shares a factual memory, [971]

> 'What's happening right now is that land was taken from my tupuna[972] by another iwi Te Rarawa. Back in the 1800s my tupuna and a few others, they had left to go up to the Cape because there was some in-house fighting happening up there. When they left, an ancestor from Te Rarawa came over with the missionaries and he had sold our land to the missionaries for one donkey, some tobacco, and a woman. There was only one family of ours that held on to the last little bit which happened to be the Kaitaia airport.
>
> Today, the Government still haven't given that land back because they're waiting for Ngāti Kahu to settle our claim. Council is the current leasee and they want to upgrade the airport, but they can't. They don't know who to ask for the lease from.
>
> Right now, it's funny that we're having this interview, because right now it's happening right now we're being having hui[973] amongst three hapū here. We're all trying to come to a consensus of who is going to be in this working group to help settle this whole take.[974]
>
> Even that is the challenge on its own. My name was put in there purely because Crown, actually it wasn't really the crown or Council who dictated to us to sort out this working group. It was more ourselves. We had got together as three hapū and we're trying to create a working group. But just to create that working group, there's a lot of jealousy. There's a lot of people who are saying, "Why are you in there?" There's a whānau that just pulled out because they don't want to be a part of that process anymore. That's what I mean whaea,[975] there needs to still be some kind of governance in place to be like, or else we're just going to keep doing this. No wonder Pākehā don't want to deal with us.
>
> Yea, that's what they've been saying to us and I say, "Well, hang on, we've got a grievance here. We weren't only kicked off these lands, but we had to come back home from Auckland, and we had to buy our own land when once upon a time these lands belonged to us. Just bear with us, okay? Because all our families, they've gone through colonisation. We went to the urban cities and got colonised. Now we're back home, and we're still trying to develop ourselves and educate ourselves. Just bear with us. Pākehā's don't like that. (*Laughs)*.
>
> I understand Pākehā and why they don't want to deal with Māori, because we come with a whole lot of baggage. I'm like well, guess who created the baggage aye. That's what I mean. Just bear with us. Then they said, "We don't want the airport to close down." And

[971] Transcript of Wikitana Popata (2023) at 23-24.
[972] Ancestors.
[973] Meetings.
[974] This matter; this topic.
[975] A respectful title for an older woman.

I said, “Well guess what, we don't want it to close down, either.” We are just trying to deal with it.’

Wikitana Popata recounts another experience of revolution resulting in his whānau returning home from the ‘big smoke’ Auckland city and how three hapū are attempting to resolve governance matters of the Kaitaia airport with the Crown. Wikitana Popata describes the realities and complexities of consensus in decision-making. He reflects they are at this position because of the land being sold underneath their feet without their consent. Wikitana Popata asks the Crown for patience. Ironically, the Crown wants to negotiate with them, even though they are not a large natural grouping, rather a hapū alliance.

8.5.2 Protest March for the Principles of the Treaty of Waitangi Bill

In November 2024, a memory of the land march in the 1970s returned to me. Tens of thousands crowd New Zealand Parliament in protest for Te Tiriti o Waitangi and Māori Rights.

Figure 12: Hikoi[976] mo te Tiriti in the capital 2024[977]

Source: <www.1news.co.nz>.

[976] March.

[977] “In Photos: Hikoi mo te Tiriti in the capital” (19 Nov 2024) 1News <www.1news.co.nz>.

In November 2024, tens of thousands marched to New Zealand's Parliament in Wellington, protesting the Treaty Principles Bill aimed to redefine the Treaty of Waitangi's principles. Critics argue the bill could undermine Māori rights established by the 184-year-old Te Tiriti O Waitangi between the British Crown and Māori Rangatira. The hīkoi began in early November, with participants traveling from various parts of the country to the capital. The bill, introduced by the ACT party, has faced significant opposition.

To Maori, Te Tiriti o Waitangi1840 is considered New Zealand's founding document, establishing a relationship between the British Crown and Māori hapū. The proposed bill for the Treaty of Waitangi will provide a clearer definition of the Treaty's principles, which ACT party leader David Seymour argues have been interpreted too broadly, leading to preferential treatment based on ethnicity. Opponents contend that the bill disregards the Treaty's intent and could erode hard-won Māori rights.

The protests garnered international attention, with notable figures which included political leaders from Te Pāti Māori, the Green Party, the Labour Party, along with the Māori Queen, and the hīkoi organiser, Eru Kapa-Kingi.[978] The protests, particularly the nine-day "Hīkoi mō te Tiriti," drew tens of thousands of participants to Parliament in Wellington in November 2024. The large-scale mobilisation reflects deep-seated concerns within Māori communities and among their allies about the potential implications of the bill on Indigenous rights and New Zealand's commitment to honouring its foundational agreement Te Tiriti o Waitangi.

8.5.3 Submissions for The Principles of the Treaty of Waitangi Bill

The Principles of the Treaty of Waitangi Bill has prompted significant public engagement, with the Justice Committee receiving an overwhelming number of submissions. The committee reported having received more than 300,000 submissions (a record) and that the vast majority (estimated by officials) at more than 90% opposed the bill.[979] As of January 2025, the

[978] McCaull, A "What's good for Māori is good for everyone - hīkoi ends with peaceful protest" (20 November 2024) RNZ <www.rnz.co.nz>.

[979] Mc Connell, G. "Treaty Principles smashes submissions record" (13 Jan 2025) Stuff www.stufff.co.nz.

committee faced over 80 hours of oral submissions, reflecting the depth of public interest and concern regarding the proposed legislation.[980]

In response to technical issues affecting the Parliament website during the initial submission period, the Justice Committee unanimously agreed to reopen submissions, extending the deadline to 1.00 pm on Tuesday, 14 January 2025. This decision aimed to ensure that all individuals who attempted to make a submission but were unable to do so had the opportunity to participate in the legislative process.[981]

The substantial volume of submissions underscores the complexities and diverse perspectives surrounding the interpretation and application of the Treaty of Waitangi's principles in New Zealand's legal and social frameworks.

Analysis

The Revolution epoch reflects the transformative power of resistance and self-determination. It highlights the role of collective action and legal challenges in reclaiming rights and governance autonomy. Academically, it offers a rich field for studying the dynamics of power, resistance, and social change. Interestingly, several of the interview participants did not see themselves as revolutionary, rather as products of the revolution that reintroduced governance into their iwi and hapū. Now, Māori have had to rethink what it was they want to rebuild and act upon it. In addition, this revolution epoch represents resilience of Māori to 'push-back' against the NZ Government 's policy to deal with large natural groupings and all associate challenges for Māori self-determination.

8.6 The epoch of Transformation (2000-Present)

Transformability has been described as a component of resilience. According to Walker et al., transforming in the context of social-ecological systems is the capability of a system to reorganise into a new system when it can no longer cope in its existing form.[982] Essentially, it

[980] "Justice Committee faces 80 hours of submissions on Treaty Principle Bill (16 Jan 2025) NZ Herald <www.nzherald.co.nz>.

[981] "Principles of the Treaty of Waitangi Bill." (14 April 2025) bills Parliament.nz <www.bills.parliament.nz>.

[982] Walker, B., Holling, C.S., Carpenter S.R. and Kinzig A. (2004). "Resilience, adaptability and

is creating 'untried beginnings from which to evolve a new way;' and 'a new stability landscape.'[983] Walker et al., emphasises the outcome of transformation in a social-ecological context is to produce a fundamentally new system, for organisations it may be more nuanced. Transformation in a governance entity can occur partially or incrementally; suddenly or over longer periods of time. As an entity adapts, it transforms; in minor and major ways. An organisation's directed ability to strategically change its identity at times of crises or opportunities signals transformation. By creating novel untried beginnings, new stabilities can ensure ongoing viability.

Researcher's Snapshot Transformation (2000-Present)

- 2000s- Continuation of Treaty settlements, leading to increased Māori economic and political influence.
- Early 21st Century- Growing emphasis on biculturalism and recognition of Māori rights within Government policies.
- 2010s- Recognition of Te Reo Māori (Māori language) as a cultural treasure and efforts towards revitalisation.
- Present- Ongoing efforts for greater Māori Self-governance, representation, and addressing social disparities.
- 2023- A new coalition Government signals a shift to the right and how to manage Māori differently.

In 2004, the Court of Appeal's landmark decision in *Ngāti Apa v Attorney-General*[984] determined that the Māori Land Court has authority to determine the status of the foreshore and seabed as Māori customary land. This ruling prompted the NZ Government legislating The Foreshore and Seabed Act 2004, which asserts Crown ownership over the foreshore and seabed, and overrode the Court of Appeal's decision. The Act faced significant opposition from Māori that resulted in protests and contributed to the political formation of Te Pati Maori.[985]

In 2004, traditional Māori fishing practices were legislated in the Māori Fisheries Act 2004. The Act provided a way for two identified hapū to change their status to iwi to receive a share of the fishing quota. Ngāti Hine from Ngapuhi transformed from a hapū to an iwi, and prepares to engage with the Crown for a Treaty settlement.

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transformability in social–ecological systems. Ecology and society 9 (2

[983])Walker et al (2004).at 5.

[984] Ngāti Apa v Attorney-General [2003] NZCA [2003] 3 NZLR 643.

[985] The political Māori Party.

In 2011, the Marine and Coastal Area (Takutai Moana) Act 2011 repealed the Foreshore and Seabed Act 2004. The 2011 Act restored the right of whānau, hapū and iwi to seek customary rights and title through the courts or negotiations with the Government .

In 2014, a groundbreaking moment occurred with legal personhood being granted to the national forest Te Urewera[986] and in 2017, to the Whanganui River.[987] These landmark decisions bestowed the forest and river with their own legal identity and rights, recognises their significance to the Tuhoe iwi tribe, Whanganui iwi and the environment, respectively. These legislation set a precedent for acknowledging the rights of nature in legal frameworks globally. While these events are historical, these acts continue to demonstrate the NZ Government preferencing iwi over hapū.

In 2014, an explosive declaration and historical ruling from the Tribunal Waitangi Report declares, by Māori signing the Treaty of Waitangi, they did not cede sovereignty to the Crown and this validated hapū rangātiratanga. In quick response, the determination did not sit well with the New Zealand Government, and they used the media forum to reaffirm they had the right to govern.

As of August 2018, 72 Treaty settlements were passed into law, with a total value of $2.24 billion.[988]According to 'Stuff' New Zealand news website, [989]

> '…the Crown says the financial element of the settlements can never fully compensate the true value of loss in many claims. In particular, those where large areas of land were confiscated and then settled.'

In 2020, 25 Members of Parliament ("MPs") identify as Māori,[990] compared to only eight MPs" identifying as Māori in 1993. In 2023, there are 33 Māori MPs across all six parties in Parliament, [991] and play a significant role in advocating and downplaying Māori interests and issues in the political area of the NZ Government. The 2023 general election resulted in 32 MPs acknowledging their Māori descent, which was a record number. However, the only MPs

[986] Te Urewera Act 2014.
[987] Te Awa Tupua (Whanganui Rivers Claims Settlement) 2017.
[988] Fyers A "The amount allocated to Treaty of Waitangi settlements is tiny, compared with other Government spending." (2 August 2018) Stuff <www.stuff.co.nz>.
[989] Fyers A (2018).
[990] "A more diverse Parliament – Elections NZ" (2025) Elections NZ <www.elections.nz>.
[991] "Record number of Maori MPs elected to New Zealand Parliament" (14 Dec 2023) New Zealand Parliament Pāremata Aotearoa <www3.parliament.nz>.

mandated to present Māori are those holding the seven Māori seats. All others represent their constituents, but in practice are beholden to their parties first (which includes the Māori seat MPs).

8.6.1 Interview participants Insights on transformation

While interviewees often highlight the external fight with protests against Government for Māori rights and recognition, their ideas about more recent transformative Māori action tend to focus on their own internal innovations, self-chosen changes, and successes in rebuilding ways of self-governing. The following section highlights interviewees' insights into what transformation means to them.

Kyla Ngawairau explains,[992]

> ' Our vision is along these lines, to stand tall and proud in the tikanga of Pihanga. As long as we can stand tall and proud in the tikanga of Pihanga, that's basically what our hapū talk about, and then we're doing what's right. We're looking after the whenua, and we are looking after our people. Because that was her [Pihanga] role. If we adhere to her tikanga, then we're going in the right direction, transforming.'

Here we see what internal legitimacy, and collective mandate means to NTTCT.

Wikitana Popata reflects,[993]

> 'I don't really like the current governance system. For Māori governance there definitely is a space there that needs to be filled. Because like I said, we're moving into the modern world now, and we need some kind of governance in place to just have some stability for the hapū. Like I said, it needs to be a 60/40 balance with tikanga being the 60 and 40 being governance. So I don't know, something like that. Or even 55/45.'

Wikitana Popata introduced an innovative traditional and hybrid model of tikanga approaches with governance ending with a formula of proportionality in the modern world.

Pita Tipene articulates,[994]

> 'I would probably put the current status of Ngāti Hine and where we are trending under none of those. But I would call it more transformation. In transforming from structures, templates, processes that have been set by a type of government that worked in England and in all of its colonies.
>
> We need to have a system, a type of governance that suits us and I believe we're moving relatively quickly towards it. I don't want to call it co-governance because I don't think

[992] Transcript of Kyla Ngawairau (2023) at 31.
[993] Transcript of Wikitana Popata (2023) at 20.
[994] Transcript of Pita Tipene (2023) at 18.

> that gives it justice. But there are Māori ways of working. In particular under The Whakaputanga[995] and Te Tiriti o Waitangi.
>
> It is transforming. Because, if you want to describe economic development. It is the simplest description of getting kai[996] on the table. We are transforming our ways of working here in this country, not only for Māori, but working with our Treaty partner in ways that will be unique to Aotearoa.'

Participant Pita Tipene expresses transformation should be unique to Aotearoa, New Zealand and to the Iwi's relationship with the Crown. The transformational way from imposed governance arrangements to Māori orientated governance, immediately rises major challenges for Māori - what kinds of Māori structures, processes etc will work best for them today? How do they decide on that? Who decides? How can cultural strength/legitimacy be protected, rebuilt amongst other things? However, exercising hapū rangātiratanga is a reality for Ngāti Hine.

Marsha Davis states,[997]

> 'It's very hard for smaller hapū to be heard to get a chance to actually go and meet with ministers to put their case before ministers. It's very difficult. So what happens is that you use the context that is in Government . You use the ministers that have come from your area. You use the local Government members that come from that area. And that's the only way you can do it. But small hapū are definitely at a disadvantage.'

For Marsha Davis, having conversations around hapū rangātiratanga with the Crown is no easy feat and requires a concerted effort, and multiple routes to talk with the Government officials.

Marsha Davis concludes,[998]

> 'If we have a look at the start of surrounding Te Tiriti and the formation of a different governance structure being introduced to Māori, we kind of got into the stagnation period. But now we are now in a transformational stage. To be at the transformational stage, we need to give the tools to our people, or to our leaders inside of Māori organisations to evolve and transform. When that happens they are in the right position, the right mind shift to actually accept it and moved away from the dictatorship that they've lived in.'

Marsha Davis words reflect on the evolution of Māori governance since the introduction of Te Tiriti o Waitangi. Initially, the imposition of new governance structures led to a period of stagnation, as traditional Māori systems were disrupted. Currently, there is a shift towards transformation, emphasising the need to equip leaders within Māori organisations with appropriate tools and mindsets to facilitate this evolution. This approach encourages moving

[995] Declaration of Independence.
[996] Food.
[997] Transcript of Marsha Davis(2023) at 7.
[998] Transcript of Anne Kendall (2023) at 19-20.

away from past authoritative models towards a more inclusive and adaptive governance, aligning with traditional Māori values and contemporary needs. The integration of traditional values with modern governance structures is seen as a pathway to effective leadership within Māori communities.

Furthermore, the emphasis on providing leaders with the necessary tools and fostering a conducive mindset resonates with the need for capacity building in Māori governance. The approach ensures that leaders are well-prepared to navigate the complexities of both traditional and contemporary governance landscapes.

Anne Kendall explains,[999]

> 'Transformation through part evolution happened in that period of Covid-19. The transformational change of the Crown letting go of their money and giving it to community like the marae, to deal with testing for Covid-19; vaccinating through the community; and bothering to find out who has it and who hasn't been vaccinated. The Government let go, they had to, because they couldn't work inside of the community. Community could, and marae was one of them.
>
> With the Crown letting go of some of that money and not giving too many boxes to tick, the collective achievement was to reduce the amount of people that ended up with covid. And they gave us the tools to allow that to happen.'

Anne Kendall illustrates an example of transformation which occurred during global pandemic Covid-19. The New Zealand Government adopted a transformative approach by allocating funds directly to community organisations, such as marae, to manage testing, vaccinations, and outreach efforts. This shift acknowledges that local entities possess the trust and capability to effectively engage with their communities. By minimising bureaucratic hurdles and empowering these organisations, the government facilitated a more efficient and culturally resonant public health response.

Anne Kendall concludes,[1000]

> 'If you take your model for me, and I have been using your model. It's been great at looking how we as an organisation move. I wouldn't have thought the way that I have been thinking since you've talked about where our organisation sits.'

Anne Kendall reflects on the positive impact that the governance epoch model has had on her thinking and their organisation's development. By adopting this model, Anne Kendall has gained

[999] Transcript of Anne Kendall (2023) at 19-20.

[1000] Transcript of Anne Kendall (2023) at 20.

new perspectives on her organisation's positioning and operations, which they had not previously considered.

8.7 Conclusion

From my early NZ archival and literature research, I developed the idea for a broad analytic framework of specific historic phases or epochs, through which Māori self-governance developed. The aim of the framework was to provide a broad organising lens to better understand the phenomenon of changes and adaptation of Māori governance through the particular lens of hapū iwi relationships, and the role the NZ Government plays in this relationship.

Māori governance was viewed through four epochs: adaptation, stagnation, revolution, and transformation. I reviewed a range of the NZ historical sources to design the epochs. They should not be taken as implying they are simple chronological sequences that occur in a linear progression. Rather they have been used in the thesis to point to a set of characteristic governance experiences and relational conditions which can then be analysed. Primary evidence was then elicited from the interview participants' as to where their hapū, iwi and organisations sit within these epochs.

Primary evidence from participants shows Māori governance is adaptive and resilient and they want to be transformational. In addition, evidence provided by the interview participants underscore the value of lived experiences and perspectives in understanding and shaping the trajectory of Māori governance climbing upwards. However, this is particularly apparent in the thesis, examples where hapū are not going to accept the current status quo. Not surprisingly, we are now seeing significant experimentation and adaptation occurring again being instigated by hapū and iwi alike, in their relative governing roles.

CHAPTER NINE

Formative Conclusions

'Today's Māori mindset of governance, business & economics is shaped by its own ancient history.'[1001]

Academic Manuka Henare highlights the continuity between traditional Māori values and contemporary governance, business, and economic practices. Henare suggests that the principles guiding modern Māori approaches are deeply grounded in their ancestral history, reflecting an enduring cultural foundation.

Tēnā koutou katoa,

9.1 Formative Conclusions

Te Hononga: The Relational governance connection of hapū with iwi within Māori contemporary communities in Aotearoa New Zealand provides an in-depth examination of the evolving governance structures within Māori society. The thesis set out to investigate the shifting dynamics of Māori governance, particularly the historical and contemporary relationships between hapū and iwi, and the impacts of colonial and legislative interventions. Through this research, it became evident that while hapū have historically functioned as self-governing entities, the Crown's policies have elevated iwi authorities, reshaping governance structures and creating ongoing tensions in Māori ways of governing and self-determination.

Māori governance is inherently relational, anchored in whānau, hapū, and iwi social structures. The increasing centralisation of governance within iwi authorities, driven by Crown policies, has disrupted this foundational balance. This shift has marginalised hapū decision-making, making it increasingly difficult for them to exercise their traditional governance roles.

The thesis identifies government attempts to socially engineer the ancient structure of Māori society from its whānau and hapū basis where tino rangatiratanga is exercised by hapū and their rangatira, to a more western bureaucratically convenient iwi-based structure in which iwi

[1001] Henare, M. (2008). Māori Governance Commentary. PowerPoint Presentation. Paper presented at the New Zealand Governance Centre Inaugural Governance Conference, Auckland at 10 cited in Kent (2011). at 135.

are redefined from loose and flexible political alliances of hapū to foreign corporate structures that displace hapū to control resources that belong to whānau and hapū.

Consequently, self-determination for hapū is being contested within a framework that prioritises efficiency and Crown recognition over a tikanga Māori based governance framework. The evidence shows that this restructuring is not an organic evolution but a policy-driven transformation that aligns more with Western models of subsidiarity than with Indigenous governance systems, that privilege local autonomy as a central element of cultural subsidiarity.

The relationship between hapū and iwi is continuously evolving within contemporary governance structures. While iwi authorities have gained political prominence, hapū remain central to Māori self-governance. Yet, tensions persist as hapū seek to reclaim authority in decision-making processes that have become concentrated at the iwi authority level. This research highlights that corporate iwi entities, shaped by Crown-imposed legal frameworks, are redefining Māori governance in ways that diminish the autonomy of hapū. Participants in my research interviews expressed concerns that these shifts risk erode tikanga Māori and replace whakapapa-based governance structures with hierarchical corporate models. This development is particularly significant given that iwi, historically, functioned as alliances of hapū rather than as centralised governing bodies.

While iwi authorities have emerged as central actors in contemporary Māori governance, it is important to remember that they represent and remain accountable to whānau, hapū and iwi. The advantages of iwi authorities are evident, particularly in their ability to engage on the national stage with the New Zealand Government and to operate on a large scale to benefit hapū. However, these benefits must be weighed against the risk of diminishing hapū rangātiratanga, as evidenced in participant evidence where governance decisions increasingly favour centralised over localised leadership.

The two case studies Chapter 7 - Part I Governance in Action and Chapter 7 Part II demonstrate contemporary governance in action at the coalface, offering unmistakable evidence of intercultural governance environments that exists within two distinct worldviews, Māori and Pākehā. Moreover, these case studies illustrate that hapū rangātiratanga can coexist, as demonstrated by Ngāti Hine who uphold hapū rangātiratanga even in the face of

the overarching authority of Te Rūnanga-a-iwi o Ngāpuhi, a western governance model. The second case study demonstrates hapū environmental governance is a critical relational connection to the whenua, and eco-system alongside western ecosystem-based management.

While Māori governance has always been adaptive, contemporary governance models can often fail to integrate tikanga Māori authentically. Despite the political and financial leverage gained by iwi authorities, hapū continue to assert their rangātiratanga through governance structures rooted in tikanga and intergenerational leadership. However, the Crown's preferential engagement with iwi authorities reinforces Western subsidiarity models, transferring decision-making power away from relational Māori networks into bureaucratic institutions that operate within Western legal paradigms. This transition threatens to sever Māori governance structures from their cultural foundations, making them reliant on Crown approval rather than whakapapa-based legitimacy.

Further, the Crown's large natural grouping policy operates as a structural barrier against smaller hapū or whānau. By requiring smaller entities to align under larger iwi-based structures, the Crown effectively denies those groups independence access to the settlement process. This is compounded by two features: first, settlement legislation is designed to achieve "full and final" closure, preventing future revisiting of claims in the courts or Tribunal; and second, the judiciary has signalled reluctance to intervene in settlement design. The result is that smaller groups face exclusion unless they relinquish their autonomy, creating a situation where their rangatiratanga is undermined and their historical grievances remain unaddressed. Succinctly, this statement exposes how the Crown's settlement framework privileges iwi-scale groupings at the expense of hapū rights, entrenching inequities by foreclosing future legal redress.

Māori cultural subsidiarity is a vital component of self-governance that ensures decision-making remains grounded in whakapapa and tikanga. This research evidences that hapū-led governance, as an expression of cultural subsidiarity, is in direct contrast to the Crown's preference for centralised iwi authorities. The erosion of hapū autonomy limits the ability of Māori to exercise self-determination at the local level. Interview participants consistently highlighted that hapū-led governance provides a more authentic and adaptable model for Māori decision-making, reflecting community values and reinforcing tino rangātiratanga.

Without reaffirming the primacy of hapū decision-making, the risk of cultural erosion intensifies, as governance structures become increasingly detached from the communities they are meant to serve.

Political subsidiarity is equally important in preserving Māori self-determination in the governance role. It ensures that governance authority remains at the hapū level rather than being concentrated within centralised iwi institutions or Crown-imposed frameworks. However, Government policies have systematically undermined Māori political subsidiarity by prioritising engagement with iwi authorities over hapū governance. This shift distances decision-making from the communities most affected by governance decisions, results in governance structures that increasingly reflect corporate and Western political frameworks and institutional standards, rather than tikanga Māori. The result is a growing disconnect between governance structures and the lived realities of hapū, who often find themselves operating within governance frameworks that do not reflect their needs or priorities.

Critically, the Crown's preferential treatment of iwi authorities continues to have profound implications for contemporary Māori governance. The Treaty settlement process and Government funding mechanisms have reinforced the centralisation of power within iwi entities, often at the expense of hapū. This has led to economic and political disparities, further entrenching governance models that privilege Crown-sanctioned entities over traditional Māori governance practices. The thesis findings highlight the urgent need to reclaim hapū-led governance and resist-imposed structures that weaken Māori cultural and political subsidiarity. Participants articulated concerns that continued engagement with Crown-recognised governance models risks solidifying structures that are fundamentally at odds with the relational and reciprocal nature of traditional Māori governance.

Despite challenges posed by the juridification of Māori governance, the resilience of hapū remains evident. While iwi authorities may incorporate elements of tikanga Māori, their governance structures are often constrained by Crown-imposed legal and bureaucratic frameworks. Interview participants in this research emphasised that decision-making within iwi authorities frequently lacks the collective participation and ancestral knowledge that characterises hapū-led governance. Consequently, governance structures rooted in whakapapa, environmental stewardship, and tikanga are being displaced by administrative models that prioritise efficiency and statutory compliance over cultural continuity. The

continued push toward corporatised governance not only disrupts traditional models but also weakens the intergenerational transmission of knowledge that has historically guided Māori governance.

The role of Crown interventions being used as Governmental tools to shape Māori governance cannot be understated. Crown policies and associated institutional mechanisms have directly influenced governance structures by prioritising iwi authorities as primary representatives, thereby marginalising hapū in key decision-making processes. Evidence from participant voices throughout the thesis further reinforces these concerns. Interviewees pointed to the ways in which Government funding structures incentivise the expansion of iwi authorities while simultaneously limiting financial support for hapū-led initiatives. This dynamic has made it increasingly difficult for hapū to sustain governance models that remain aligned with tikanga Māori, as Crown-recognised funding mechanisms favour Western governance structures over those embedded in whānau and hapū relationships. The result is an economic and political landscape in which iwi authorities are positioned as the primary representatives of Māori governance, despite the fact that many hapū have never ceded their autonomy to such institutions. This deep systemic intervention has created an ongoing tension between the relational and collective nature of Māori governance and the imposed Western frameworks that privilege centralised and corporate models. Other key drivers revealed by participants show how, within this new system, hapū may have personal agendas and conflict of interests that influence governance processes, highlighting the complex relational dynamics at play.

On the political front, the formation of the Coalition Government in 2023 introduced further complexities into the future of Māori governance. Recent policy directions indicate a reduction in Government support for Māori-led initiatives, exacerbating challenges for hapū and iwi in navigating governance spaces. These policy shifts have intensified tensions between Crown-imposed governance models and tikanga-based decision-making. The national march in 2024, where thousands of Māori and non-Māori protested against policies perceived as undermining Te Tiriti o Waitangi, reflects the widespread resistance to the New Zealand Coalition Government interventions in Māori governance, amongst other challenges. The thesis findings demonstrate that these contemporary policy shifts are deepening governance disparities, reinforcing the urgency of reaffirming the value of cultural and political

subsidiarity, and of Māori self-determination through hapū-led governance models. As Crown policies continue to prioritise Crown-recognised governance structures, the struggle for authentic Māori self-determination is increasingly taking place outside of official forums. The thesis analysis of Māori self-governance eras, also suggests one hopeful consequence of the growing Māori resistance to current NZ Government attacks on their long-established rights, may well be that hapū and iwi rediscover the value of closer cultural solidarity.

Achieving a new rebalancing of Māori governance requires a renewed commitment to hapū rangātiratanga while fostering meaningful political engagement with all Māori governance institutions. The research illustrates that governance models grounded in tikanga Māori, rather than those dictated by Crown-imposed frameworks, ensure that self-determination remains an active and tangible practice rather than a symbolic ideal. Interview participants in the research underscored the importance of revitalising hapū governance through community-driven initiatives that operate outside Crown-imposed governance structures. This reaffirmation of Māori political and cultural subsidiarity is essential to counteracting the increasing juridification of Māori governance and ensuring that self-determination remains central to governance practices. As Māori governance continues to evolve, the push for autonomy and self-determined governance models will remain vital to ensuring that decision-making reflects the values, needs, and aspirations of whānau and hapū.

Māori governance continues to evolve as a space of resistance, adaptation, and transformation. The thesis findings confirm that hapū remain fundamental to Māori self-determination, actively negotiating governance models that challenge Crown-imposed constraints while preserving cultural vitality. The thesis findings reaffirm that, despite systemic obstacles, hapū leaders are reclaiming governance spaces that uphold tikanga and Mātauranga Māori. Moving forward, this study highlights the necessity of dismantling imposed governance structures and revitalising a self-governance model that genuinely reflects Māori aspirations for tino rangātiratanga. Māori governance does not exist in a vacuum; rather, it is shaped by ongoing contestations between imposed structures and Māori assertions of authority. The pathway forward requires both resistance to juridification and the continued strengthening and rebuilding of relational governance arrangements that centre Māori worldviews.

The difficulties caused by New Zealand governments' on-going assimilationist policies are designed to control and marginalise Māori, also sustain power, control and resources in the hands of the British coloniser. Governments obfuscate the fact that this is being done in on-going violation of the country's founding treaty between Māori and the British Crown, Te Tiriti o Waitangi.

The practical realities of iwi authorities versus hapū rangātiratanga reveal tensions between centralised governance and localised self-determination. Iwi authorities, structured to align with Crown frameworks, offer economic and political leverage but often operate through corporate institutions that can marginalise hapū decision-making. In contrast, hapū rangātiratanga maintains whakapapa-based governance and cultural integrity but struggles for financial sustainability and formal political recognition. The challenge remains in balancing the benefits of iwi-scale governance while ensuring hapū autonomy is not undermined, requiring a recalibration of decision-making power to uphold tino rangātiratanga at the local level.

As Apirana Ngata reminds us:

> 'E tipu, e rea, mō ngā rā o tō ao,
> ko tō ringa ki ngā rākau a te Pākehā hei ora mō tō tinana,
> ko tō ngākau ki ngā taonga a ō tīpuna hei tikitiki mō tō māhunga,
> ā, ko tō wairua ki te Atua,
> nāna nei ngā mea katoa."
>
> *Grow and develop for the days ahead,*
> *with your hands grasping the tools of the Pākehā for your physical sustenance,*
> *your heart cherishing the treasures of your ancestors as a crown upon your head,*
> *and your spirit dedicated to God, the author of all things.*

This whakatauki encapsulates the necessity of navigating contemporary governance structures while holding firm to whakapapa, tikanga, and hapū rangātiratanga, ensuring that Māori governance remains deeply rooted in its cultural foundations while adapting to modern realities.

Tena koutou, Tena koutou, tena koutou katoa.

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APPENDICES

Profiles of Interview Participants 2023

Name	Whakapapa	Position	Age Band	Organisation Type	Description of Trust
Anne Marie Kendall (f)	Raukawa ki Waikato	Trustee	Taonga	Land Trust	The Waipapa 9 Trust has over 7,000 hectares of land which forms the basis of its intensive farming operation. Farming is the core business of the organisation while the Trust has also diversified into Forestry and Commercial Property. The Trust has assets totalling $ 160 Million and governed by a board of four trustees. Overall, the Trust has assets totalling $160 million which is governed by a board of 4 trustees.<www.waipapatrust.co.nz>.
		Deputy Chair		National Māori Organisation	The New Zealand Māori Council (NZMC) is a national Māori organization located in Wellington, New Zealand. The organization serves to promote the rights, interests, and wellbeing of Māori communities throughout New Zealand. The NZMC plays a significant role in advocating for Māori rights and providing support to Māori communities in areas such as health, education, and economic development.<www.nzmaoricouncil.org.nz>.

		Board Chair		Urban Health Trust	Te Hononga o Tāmaki me Hoturoa o Tamaki Trust is a Māori-led NGO charitable trust responsible for the delivery of a range of health and wellbeing services in Auckland. We were formally constituted in July 2010 as a result of a decision by the Boards of Te Kupenga o Hoturoa and Tāmaki Healthcare Primary Health Organisations to merge their entities into a single organization. <www.tehononga.org.nz>.
Julian Williams (m)	Ngāti Makirangi Waikato	General Manager	Rangatahi	Tribal Resource Management Trust; Resource Management Company	After 13 years working for Waikato-Tainui, Julian left as General Manager for one of the tribal units, the Waikato Raupatu River Trust. Julian has since started his own company focusing on natural resource work with local Councils, Iwi, Hapū and community groups. <www.waikatoriver.org.nz>.
		Board Chair		Education to Employment Trust	Smart Waikato Trust has partnered with over 300 businesses, organisations, schools, iwi and Government agencies to deliver Smart Waikato programmes. Our initiatives are practical and effectively support youth transitioning from education to employment. <www.smartwaikato.co.nz>.
		Member		Federation of Māori Authorities	The Federation of Māori Authorities Inc. is a collective of Māori trusts & organisations across Aotearoa. We exist to help our members prosper, grow and achieve greater returns, increasing exports and GDP. We help our Members, regions and communities to prosper and grow. Our contribution makes a difference to the wealth of Aotearoa NZ Inc. <www.foma.org.nz>.

Kyla Ngawairau (f)	Ngāti Turangitukua Ngāti Maniapoto Ngāti Kahungunu, Ngāti Tūwharetoa.	Trustee - Deputy Chair	Rangatahi	Ngāti Turangitukua Charitable Trust	Te Ngāti Tūrangitukua Charitable Trust is the post settlement entity that is responsible for managing the assets that Ngāti Tūrangitukua received under wai 84 the Tūrangi Township settlement. <www.Ngātiturangitukua.co.nz>.
Marsha Davis (f)	Ngāti Rahiri	Trustee	Taonga	Land Trust	Te Tii (Waitangi) B3 Trust is registered under Te Ture Whenua Māori Act 1993 as a Māori land holding trust. The Trust is governed by a board of seven trustees who are elected to the board by the Tupuna Whānau Representatives. The functions of the trustees is to administer the assets. The Trust will hold at least four meetings of Tupuna Whānau Representatives in each calendar year, one of which may include the Annual General Meeting as and when the Trustees may deem it appropriate to meet.<www.teTiiwaitangi.co.nz>.
	Ngāti Manu	Trustee			Kororāreka Russell holds a remarkable place in New Zealand's history. Many early Māori Chiefs dominated the town and the peninsular. It was a meeting place where Cook and Tapua, with his son Patuone, first met. It was a place of encounter with many battles including the Girls War and the beginning of the Northern Wars with the sacking of Kororāreka out of frustration with the failure to live up to Treaty undertakings.<www.russellmuseum.org.nz>.

Maui Hudson (m)	Whakatōhea, Ngāruahine Te Māhurehure	Associate Professor	Taonga	Research Organisation	Maui is an interdisciplinary researcher and currently hold a position as the Director of the Te Kotahi Research Institute, University of Waikato. He is a founding member of Te Mana Raraunga Māori Data Sovereignty Network and the Global Indigenous Data Alliance as well as a co-author of the CARE Principles for Indigenous Governance. I am a Co-Director of Local Contexts and co-developer of the Biocultural Labels. . I am also a Co-Director of the Veracity Lab and ENRICH Equity for Indigenous Research and Innovation Coordinating Hub.<www.profiles.waikato.ac.nz.>.
		Deputy Chair		Māori Trust Board	The Whakatōhea Māori Trust Board was established in 1952 to administer funds then held by the Māori Trustee as compensation for confiscated land.<www.whakatohea.co.nz>.
		Chair		Tribal-owned Business	54% of shares are held by Whakatohea Māori Trust Board. Eastern Sea Farms Limited, a company majority owned by the Whakatohea Māori Trust Board. Eastern Sea Farms holds consent for a 3,800 hectare marine farm located 8.5 kilometres offshore from Opotiki township. Commercial mussel farming by Whakatohea Mussels (Opotiki) Limited and four other companies began in October 2014. <www.companyhub.nz>.
Moko Tauariki (m)	Ko Ngāti Naho, Ngaati Hauaa, Ngāti Mahuta, Ngāti Wairere,	Councillor – Kirikiriroa Māori Ward	Rangatahi	City Councillor	Moko Tauariki was elected to Hamilton City Council in 2022, standing on a platform of being a voice for Maaori decision making within Council, better housing, better environmental standards, and improved access. He aims to model and lead a meaningful Te Tiriti partnership that keeps people at the centre of the journey.

	Ngāti Māhanga ngā hapū.				He is Deputy Chair of the Finance and Monitoring committee and sits on many of the other committees of Council. <www.hamilton.govt.nz>.
Pita Tipene (m)	Ngāti Hine, Ngāti Te Tarawa		Taonga	(General profile)	Pita Tipene is of Ngāti Hine and Ngāpuhi and has an educational background having taught in Tai Tokerau secondary schools and worked in a number of regional and national administrative roles in the education sector. His is the current chairman of the Ngāti Hine Forestry Trust and has a number of other governance roles amongst his people including Deputy Chair of Te Runanga o Ngāti Hine, is on the Waitangi National Trust, and the Federation of Māori Authorities.
Wikitana Popata (m)	Ngāti Kuri, no Ngāti Kahu, no nga iwi katoa o te ika		Rangatahi		Presently, Wikitana is a Kaiako of Taiao at Te Kura Māori o Tūtūtarakihi and Trustee for Oturu Marae, and Ngai Tohianga Whenua Maori Blocks. Wikitana's past governance roles include: • Te Arawhiti Advisory Board • Ngāti Hau Social Services Board • Te Rangi Aniwaniwa Board of Trustees • Tūtūtarakihi Board of Trustees • Tupuranga Reo Ōturu • Herewaka Trust (Māheatai Whenau ki Taipā)<www.org.nz>. • Te Runanga Nui o Ngā Kura kaupapa Māori - Mangai mō Te Hiku (Chair)

Statement of Authorship

The current Australian National University policy (ANUP 003405) for a *Higher Degree by Research [PhD] Thesis by Compilation or Thesis by Creative Works* states that,

4. *A thesis by compilation consists of papers (e.g. research articles, chapters in books) of which the candidate is the sole or joint author and which are in the process of being published, have been accepted for publication, or have been published.*

5. *Where the paper is jointly authored it is expected that at least the majority of the first draft is written by the candidate*. …. And that

12. *The scope and quality of a thesis by compilation is commensurate with the contribution to knowledge expected of a candidate for the relevant degree. The numbers of papers that constitute this requirement may vary between disciplines depending on their norms*.

The guidelines further note (Point 7) that such a thesis, in addition to its component published papers, contains,

a. *An introduction to the field of study and the hypothesis or research questions of the thesis, how these are addressed through its component papers, and a general account of the theory and methodological components of the research where these elements may be distributed across separate papers.*
b. *Linking text to establish the relationship between one paper and the next, such as through a foreword to each paper.*
c. *A conclusion drawing together the published papers in a cohesive manner, and addresses how the individual publications link to the theory and methodology adopted and evaluate the contribution that the research makes to the advancement of the research area.*

Two publications are also included in the thesis, which have been independently refereed in a book and professional journal. For one paper, I am the sole author, and the other is a jointly authored paper (Rakena and Benton, 2020), to which I made an equal contribution, and is used here with the express permission of the other author.

Both papers were written and published during my PhD Program and vary in format according to the styles required by respective journals and book publishers. For the sake of a more uniform 'thesis' appearance, and for ease of reading, the main body text of the original

publications has been reformatted into the thesis style, and follow a sequential thesis page numbering system. The original page numbering is indicated at the beginning of each published paper. As required, each publication retains its own discrete set of published references and diagrams, and the numbering for diagrams, notes and references have stayed in their original format.

Importantly, no changes whatsoever have been made to the text or content of any of the two published works. This 'original content' status means that no corrections can be made to any published grammatical or spelling mistakes that found their way into the original published versions.

The ANUPO 003405 (Points 13- 14) specifies that for all co-authored publications, *the collaborating authors sign the declaration* [which states] *the extent of the contribution of the candidate*. This Declaration is attached to the end of this Statement of Authorship.

Mylene MD Rakena

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Mylene Rakena

"Māori Environmental Governance and Ecosystem-based Management in Aotearoa, New Zealand "

Mylene MD Rakena

He aha te mea nui, he tangata, he tangata, he tangata
me mahi tahi tatou, me te oranga o te katoa
We must work together for the wellbeing of all

Māori are the Indigenous people of Aotearoa New Zealand ("Aotearoa").[1002] From their arrival in the early 12th century,[1003] Māori rangātira (chiefs) exercised governance in all spheres of cultural, political and economic infrastructures within their hapū (communities).[1004] Māori infused and implemented evolving and growing knowledge of environmental governance over terrestrial and marine estates. The pristine quality of lands, coastlines, oceans, fisheries, aqua-cultures and natural resources of Aotearoa discovered and undiscovered were "taonga" (culturally valued resources).[1005] Māori harnessed and harvested these taonga to provide multigenerational well-being, sustainable economic development and wealth. This environmental governance approach secured livelihoods for hapū, cemented commercial trade with other iwi (tribes) and consolidated opportunities for overseas trade enterprise.[1006]

With the signing of the Treaty of Waitangi/Te Tiriti o Waitangi (the Treaty) on 6 February 1840, an international agreement was concluded between Māori rangātira and the Crown.[1007] Both sovereign nations derived "mana" ("recognised authority, influence and prestige that combined

[1002] Aotearoa New Zealand land mass is approximately 265,000 sq kms with coastlines of 15,130 kms.

[1003] Te Rangi Hiroa The Coming of the Maori (Whitcombe and Tombs, Wellington, 1958) at 5.

[1004] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 71. "This term refers to the primary political unit in traditional Maori social organisation at the time of contact with Europe and America."

[1005] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 396–399 provides a comprehensive discourse on "taonga".

[1006] Hazel Petrie Chiefs of industry: Maori tribal enterprise in early colonial New Zealand (Auckland University Press, 2013) provides critical analysis of Māori trade prior to 1840.

[1007] "The Crown" is used to refer to the non-Māori Treaty partner. At different times in New Zealand history, "the Crown" could refer to the Queen, colonial government, representative settler government or contemporary government.

notions of psychic and spiritual force and vitality")[1008] and for Māori Rangātira, high expectations affirmed in the Treaty. One significant guarantee was for the Crown to protect their taonga, the "undisturbed possession of their lands, and estates, forests, fisheries for as long as they wished to retain them".[1009] Under the mantle of the Treaty, the New Zealand Crown "is under a clear consitutional and legal duty to ensure that Māori community mana over taonga is protected".[1010] However, in 1847 only seven years after the signing of the Treaty, Bishop Octavious Hadfield in *The Octavius Hadfield Paper*s included an acute observation of the colonising sweep of the Crown law to subsume Māori legal systems:[1011]

> The British Government seems to colonize in a very empirical way: there is no investigation of the laws, usages, and customs of the natives — no attempt made to suit any laws to their particular conditions: how they can expect to succeed is to me marvellous.

Today on the other hand, the interface of mātauranga (knowledge, carrying with it notions of depth, cultivaton and understanding)[1012] and tikanga (authority, control, legal condition or criterion)[1013] Māori, and mainstream New Zealand law "is much more accommodating and inclusive, but also complex and challenging".[1014] Māori continue to be embroiled and contest inter alia, through the Waitangi Tribunal,[1015] litigation, and at the grassroots level to recover, rejuvenate, and reconnect to these taonga. There has been a resurgence and impassioned commitment to continue to practice traditional Māori environmental governance as their tūpuna (forebears) practiced and be connected to similar achievements. Simultaneously, environmental crises are occuring globally. This chapter proposes that tikanga Māori and mātauranga Māori in environmental governance and managment can work in concert with

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[1008] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 154. A comprehensive discourse on "mana" is located at 154–204.

[1009] "The meaning of the Treaty" as articulated by The Waitangi Tribunal <www.waitangitribunal.govt.nz>

[1010] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 3.

[1011] Hadfield MSS, Hadfield/Vennh, 18 May 1847. Cited in K Sinclair The Origin of the Māori Wars (New Zealand University Press, 1957) at 107.

[1012] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 221–223.

[1013] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 429–433.

[1014] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 9.

[1015] The Waitangi Tribunal is a New Zealand permanent commission of inquiry established under the Treaty of Waitangi Act 1975 to inquire into alleged breaches of the Treaty by the Crown for Māori claimants.

western science's ecosystem-based management to address the human-induced assaults on the whenua (land) and natural resources of Aotearoa.

Further, the chapter will chart the global enviromental change that is transforming Earth's land and ocean ecosystems, and the impact that is presenting in the Aotearoa context. The following section will introduce the backdrop of how Indigenous peoples knowledge, practices, and environmental connectivity have gained international exposure in United Nations Forums as "soft" law. While these quasi-legal instruments do not have legally binding force, these declarations and agreements can be politically persuasive on the global stage. A discussion will follow to consider tikanga Māori in a legal context and its interface with New Zealand mainstream law. Ecosystem-based management will be introduced and lead into "Tūhonohono", a law-based case study which conducted critical analysis on the interface between Māori environmental governance, ecosystem-based management and New Zealand mainstream law. Formative conclusions will conclude the chapter.

31.1 The global enviromental change

Human activity to sustain peoples and their rapidly increasing levels of consumption of materials, energy and services have led to dramatic stress to terrestrial and marine ecosystems and global environmental change. There are numerous challenges internationally impacting on the earth's environment due to the effects of neoliberalism,[1016] developing global economies,[1017] resource scarcity,[1018] population growth,[1019] and changing climate[1020] and industrial development.[1021] In fact, Lewis and Maslin assert that because of human-dominated activities, a new geological era called the Anthropocene may have arrived.[1022] They continue

[1016] James McCarthy "The financial crisis and environmental governance 'after' neoliberalism"(2012) 103(2) Tijdschrift voor Economische en Sociale Geografie 180.
[1017] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 1.
[1018] Jame H Brown and others "Macroecology meets macroeconomics: Resource scarcity and global sustainability" (2014) 65 Ecological engineering 24.
[1019] Jame H Brown and others "Macroecology meets macroeconomics: Resource scarcity and global sustainability" (2014) 65 Ecological engineering 24.
[1020] Scott C Doney and others "Climate change impacts on marine ecosystems" (2011) 4 Annual Review of Marine Science 11; Camille Parmesan and Gary Yohe "A globally coherent fingerprint of climate change impacts across natural systems" (2003) 421 Nature 37.
[1021] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 1.
[1022] S Lewis and M Maslin "Defining the Anthropocene" (2015) 519 Nature171 at 171.

that the anthropocene epoch is defined where "Time is divided by geologists according to marked shifts in Earth's state and human activity has been a geologically recent, yet profound, influence on the global environment."[1023] Global environmental changes suggest marine ecosystems are becoming transformed, inter alia, by fishing,[1024] invasive species,[1025] habitat degradation,[1026] and changing climate.[1027] Additionally, a recent investigation by Hepburn and others (following Branch and others)[1028] articulates that many other factors have contributed to the on-going degradation on a global scale ranging from "ineffective governance, poor regulation and underinvestment in scientifically robust monitoring and research on the functioning of ecosystems".[1029] New approaches are required to mitigate the dramatic terrestrial marine degragation and destruction that includes all state actors, vested communities and science disciplines; all playing critical participatory roles.

Continuing in the same vein, changing climate is emerging as the greatest contender for global environmental change, presenting unprecedented consequences and devastation for all peoples' livelihoods and ecosystems. The UN Environmental Programme ("UNEP") which champions the global environmental dimension of sustainable development states climate change is "one of the most pervasive and threatening crises of our time".[1030] Agriculture is being impacted with food security being undermined,[1031] the changing composition of temperatures

[1023] S Lewis and M Maslin "Defining the Anthropocene" (2015) 519 Nature 171.
[1024] Daniel Pauly and others "Towards sustainability in world fisheries" (2002) 418 Nature 689.
[1025] Jennifer L Molnar and others "Assessing the global threat of invasive species to marine biodiversity" (2008) 6(9) Frontiers in Ecology and the Environment 485.
[1026] Claire W Armstrong and Jannike Falk-Petersen "Habitat–fisheries interactions: a missing link?" (2008) 65(6) ICES Journal of Marine Science 817; David Fluharty "Habitat protection, ecological issues, and implementation of the Sustainable Fisheries Act" (2000) 10 Ecological Applications 2325; Benjamin S Halpern and others "A global map of human impact on marine ecosystems" (2008) 319(5865) Science 948.
[1027] Scott C Doney and others "Climate change impacts on marine ecosystems" (2011) 4 Annual Review of Marine Science 11; Camille Parmesan and Gary Yohe "A globally coherent fingerprint of climate change impacts across natural systems" (2003) 421 Nature 37.
[1028] Trevor A Branch and others "The trophic fingerprint of marine fisheries" (2010) 468 Nature 431.
[1029] Hepburn and others "Challenges to traditional management of connected ecosystems within a fractured regulatory landscape: A case study from southern New Zealand" (2019) 29(9) Aquatic Conservation: Marine and Freshwater Ecosystems 1535 at 1536. Other papers include: James A Estes and others "Trophic downgrading of planet Earth" (2011) Science 333(6040) 301; Boris Worm and others "Impacts of biodiversity loss on ocean ecosystem services" (2006) 314(5800) Science 787.
[1030] "Why does climate change matter?" (2020) United Nations Environment Programme <unenvironment.org> (accessed May 2020).
[1031] Sonja Joy Vermeulen and others "Options for support to agriculture and food security under climate change" (2012) 15(1) Environmental Science & Policy 136 at 136.

and land transformation,[1032] and sea levels continuing to rise.[1033] Other environmental casualties are "the accelerated erosion of coastal zones, increasing intensity of natural disasters, species extinction and the spread of vector-borne diseases".[1034] Changing climate is placing functioning ecosystems and their resilience further under stress.

The urgent action needed to support a world transition to a sustainable future depends on global nations working with the environment to safeguard biodiversity in composite new approaches. This chapter posits that knowledge, traditional and contemporary, scientific and experiential in a blended approach may assist in mitigating the devastating changes. Further, there is necessity to create linkages between tradition Indigenous knowledge systems and western science protocols which will be explored in this chapter.

31.2 The Aotearoa New Zealand context

In step with the rest of the world, human-induced activity in Aotearoa has created pervasive intrusions on the environment, which precipitate the need to amend current eco-system management practices to ones that are more effective. Aotearoa is not exempt from the global environmental change and crisis given that Aotearoa is an island state where our marine and coastal estate is very important to the New Zealand blue economy. In 2013, Bargh (following Pauli) [1035] defined the blue economy as "one which focuses on nature and encourages companies and entrepreneurs to mimic nature in their processes and in the creation of their products".[1036] In other words, a new approach aligned in a blue economy setting should focus on Aotearoa-centric issues, be underpinned by Government participation, policy, scientific investment, and vested participatory communities. In addition, scientifically robust analysis connected with mātauranga and tikanga Māori can inform new strategic approaches and best practice for enviromental management.

[1032] S Lewis and M Maslin "Defining the Anthropocene" (2015) 519 Nature 171.
[1033] M Ruckelshaus and others "Securing ocean benefits for society in the face of climate change" (2013) Marine Policy 40 at 154.
[1034] United Nations Environmental Programme UNEP and Indigenous Peoples: A Partnership in Caring for the Environment Policy Guidance (26 November 2012) at 11.
[1035] G Pauli "The Blue Economy" Our Planet (online ed, February 2010) United Nations Environment Programme <unep.org/ourplanet> (accessed May 2020).
[1036]Maria Bargh "A Blue Economy for Aotearoa New Zealand?" (2013) 16(3) Environment, Development and Sustainability 459 at 460.

31.3 Indigenous peoples' affinity with the natural world and sustainability

Against the backdrop of global environment crises, there is growing interest accompanied by a growing body of literature that investigates the philosophical framework of Indigenous peoples' epistemologies and how this knowledge can aid in the battle to protect the earth and its natural resources. It is beyond the scope of this paper to examine the broad ambit of attributes and drawbacks of Indigenous knowledge.

From 1992 on the international stage, discussion on Indigenous peoples' knowledge and sustainability has led to the emergence of international agreements such as the Rio Declaration, the Convention on Biological Diversity. The Earth Charter also affirms "the ecological value of the Indigenous communities" and promotes "the need to both preserve and utilise such knowledge".[1037] Principle 22 of the Rio Declaration on Environment and Development 1992 acknowledges the role of Indigenous peoples' knowledge and that practices should be supported by the state in achieving sustainable development.[1038] Likewise, ch 26 of Agenda 21 provides insight on the significant nexus between the natural environment, its sustainable development and Indigenous peoples' knowledge and aspirations.[1039] Similarly, the Rio+20 outcome document in June 2012 "The Future We Want",[1040] in particular arts 40, 43, 49, 58(j), 109, 131, 175, 197, 211, 229 and 238, articulate the important inclusion of Indigenous peoples' knowledge in the achievement of sustainable development.[1041] Article 8(j) of the Convention on Biological Diversity provides that knowledge, innovations and practices of Indigenous peoples and communities can be promoted for their application thereby encouraging equitable sharing of the benefits.[1042]

In 2001, another UN investigation on "Indigenous Peoples, International Law and Sustainability" concluded "there was a direct linkage between cultural diversity, linguistic diversity and biological diversity" and "that the quickening pace of loss of traditional knowledge

[1037] Jemima Jamieson "The role of Indigenous communities in the pursuit of sustainability" (2010) 14 NZJEL 161 at 162.
[1038] 1992 Rio Declaration on Environment and Development in Report of the United Nations Conference on Environment and Development UN Doc A/CONF.151/26 (vol 1) (12 August 1992), principle 22.
[1039] Report of the United Nations Conference on Environment and Development UN Doc A/CONF.151/26 (vol 3) (12 August 1992), at ch 26.
[1040] Leal Filho Walter, Evangelos Manolas and Paul Pace "The future we want" (2015) 16(1) International Journal of Sustainability in Higher Education 112.
[1041] UN Partnership for SDGs <sustainabledevelopment.un.org/futurewewant>.
[1042] United Nations Convention on Biological Diversity 1760 UNTS 69 (opened for signature 5 June 1992, entered into force 29 December 1993), art 8(j).

was having a corresponding devastating impact on all biological diversity".[1043] In 2009, the United Nations passed a resolution to designate 22 April as "International Mother Earth Day" to advocate for the need to promote "harmony with nature and the Earth".[1044] This resolution was introduced by the Plurinational State of Bolivia who have enacted the world's first law to grant all of nature equal rights to humans.[1045] The conceptual framework posited by the Bolivian proposal was that it "underlies the importance of traditional and Indigenous knowledge"[1046] and the need for connectivity between Indigenous peoples' knowledge about the earth and modern science:[1047]

> An instrument to guide the relationship between human beings, biodiversity and environmental functions, and help to create linkages for the articulation between Indigenous knowledge systems of Indigenous people and the modern science. (Alternative Bolivian proposal, 2013, p. 15).

In 2012, the UNEP observed Indigenous peoples' traditional knowledge and their connectivity to their ecosystems existed long before global interest to protect the earth was envisaged:[1048]

> Many Indigenous groups had their own concepts of stewardship and respected nature long before the conservation movement began. The survival of their cultures and ways of life is invariably linked to maintaining the traditional knowledge which supports and nurtures the healthy relationships with the ecosystems in which they live. Their continued existence is also linked to ensuring that Indigenous Peoples are in most cases able to live within the carrying capacity of their ecosystems.

In summary, it is submitted that Indigenous peoples' knowledge now stands on a firm credible international footing and understands the delicate balance of natural resources. Indigenous knowledge has survived throughout the millennia, and can work in concert with science to address global environmental change. In particular, Māori traditional mātauranga and tikanga

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[1043] Benjamin J Richardson "Indigenous Peoples, International Law and Sustainability" (2001) 10(1) RECIEL 1 at 3.
[1044] United Nations "General Assembly to consider designating 22 April as International Mother Earth Day (press release, 22 April 2009) <www.un.org>.
[1045] John Vidal "Bolivia enshrines natural world's rights with equal status for Mother Earth" The Guardian (online ed, 11 April 2011).
[1046] Maud Borie and Mike Hulme "Framing global biodiversity: IPBES between mother earth and ecosystem services" (2015) 54 Environmental Science & Policy 487 at 493.
[1047] Maud Borie and Mike Hulme "Framing global biodiversity: IPBES between mother earth and ecosystem services" (2015) 54 Environmental Science & Policy 487.
[1048] United Nations Environmental Programme UNEP and Indigenous Peoples: A Partnership in Caring for the Environment Policy Guidance (26 November 2012) at 5.

of environmental governance can play a vital role in ecosystem-based management in Aotearoa.

31.4 Tikanga and mātauranga Māori in Aotearoa New Zealand

Mātauranga Māori is an epistemology that has its genesis in ancient Polynesia.[1049] According to Benton and others, mātauranga Māori traditionally "referred primarily to wisdom and understanding ... Modern usage most often carries with it notions of depth, cultivation and understanding."[1050] In the New Zealand legal context, Māori knowledge operates under "tikanga Māori", which is commonly defined as "Māori customary law". The Law Commission paper *Māori Custom and Values in New Zealand* described customary law in its broadest terms as "the body of rules developed by Indigenous societies to govern themselves".[1051] Further, that the closest Māori equivalent to concepts of law and custom is "tikanga". [1052] Māori customary law is founded on long-accepted practice which the common law[1053] refers to as time immemorial: "Ehara i te mea poka hou mai, nō Hawaiki mai anō". [It is not something of recent origin, but a tradition from Hawaiki]. [1054] Nonetheless, it must be noted that "In neither system does this preclude variation and adaptation to meet new circumstances as they arise."[1055] Joseph and others also articulate traditional mātauranga and tikanga Māori were neither "static nor unchanging".[1056] As well, "All cultures adapt and evolve with time, space, conflict and new technology, and mātauranga and tikanga Māori were certainly capable of adaptation".[1057]

[1049] Hōne Sadler "Mātauranga Māori (Māori Epistemology)" (2007) 4(10) International Journal of the Humanities1 at 1.

[1050] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 221.

[1051] Law Commission Maori Customs and Values in New Zealand (NZLC SP9, 2001) at 2.

[1052] Law Commission Maori Customs and Values in New Zealand (NZLC SP9, 2001) at 2.

[1053] Judge-made law developed over time and may be amended by the courts to changing circumstances.

[1054] HM Mead and N Grove Nga Pepeha a nga Tipuna: The Sayings of the Ancestors (Victoria University Press, Wellington, 2001) at 23 cited in Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 429.

[1055] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 429 at 429.

[1056] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 18.

[1057] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 18.

This connected relationship with the whenua (land) from time immemorial in Aotearoa was opined by Gerrard Albert, a Whanganui tribal leader in 2017, after ending a legal 160-year battle for the recognition of the Whanganui River as their ancestor and as a living entity, when he stated:[1058]

> We can trace our genealogy to the origins of the universe. And therefore rather than us being masters of the natural world, we are part of it. We want to live like that as our starting point.

Another Māori leader Catherine Davis from another area of Aotearoa affirmed the same philosophy:[1059]

> We have been here forever and we know the natural cycle of things. We know when there is a blip, we know when there is a glitch. We know when something is going down in terms of sustainability. So we need to be heard more clearly.

An extended description of the nature of tikanga, how it organises social ordering is opined by Mead:[1060]

> Tikanga embodies a set of beliefs and practices associated with procedures to be followed in conducting the affairs of a group or an individual. These procedures are established by precedents through time, are held to be ritually correct, are validated by usually more than one generation and are always subject to what a group or an individual is able to do ... Tikanga are tools of thought and understanding. They are packages of ideas which help to organise behaviour and provide some predictability in how certain activities are carried out.

Bishop Manuhuia Bennet (1968–1981) expressed the ethics of tikanga in very contemporary vernacular:[1061]

> Tikanga indicates the obligation to do things in the 'right' way: doing the right thing for other reason than because it is the right thing to do. Tikanga draws from many seeds; it has many shades and many applications.

[1058] "Indigenous People: Protecting our Planet" (8 August 2017) UN Environment Programme <unep.org>.
[1059] Leal Filho Walter, Evangelos Manolas and Paul Pace "The future we want" (2015) 16(1) International Journal of Sustainability in Higher Education 112.
[1060] Hirini Moko Mead "The Nature of Tikanga" (paper presented at Mai i te Ata Häpara Conference, Te Wänanga o Raukawa, Otaki, 11–13 August 2000) at 3–4.
[1061] Discussion with Bishop Bennett, Rotorua, 19 February 2001, cited in Law Commission Maori Customs and Values in New Zealand (NZLC SP9, 2001) at 16.

In 2010, in the context of Aotearoa and its environmental change, Jamieson pointed out that tikanga Māori operates in a "deep reservoir of ecological wisdom" which New Zealand environmental managers can use to better effect in the pursuit of sustainable management:[1062]

> In New Zealand, customary Māori values and practices pertaining to the use and management of land and natural resources have been incorporated into domestic legislation to an extent. However, a consideration of the beliefs, values and practices underpinning tikanga Māori, together with an examination of how these values relate to existing frameworks of environmental ethics, reveals just how rich a reservoir of ecological wisdom tikanga Māori is. Such a conclusion necessitates further mediation on how these values could be used to greater effect in New Zealand.

To conclude, Māori have philosophical affinity with the universe, an inseparable connection to the natural world. Accordingly, this chapter proposes that Māori customary law is dynamic, purposive, adaptive and responsive to Aotearoa's present environment quandary. Tikanga Māori must be incorporated with the ecosystem-based management model currently being explored in New Zealand marine environment management.

31.5 Ecosystem-based management

Ecosystem-based management ("EBM") has become a lodestar in response to the need for New Zealand's resource and environmental management to address terrestial and marine destruction, degradation and sustainability. EBM is emerging as a multi-conceptual framework in its ability to be cohesive and adaptable across the multiple competing uses of actors and communities. This international model has been touted to balance the interactions of demands on the earth's ecosystems.

From its humble beginnings in the 1970s, EBM surfaced in ocean management. On the international stage,[1063] there was growing recognition and understanding of the need to shift beyond "species or sector based management and adopting a more comprehensive eco-

[1062] Jemima Jamieson "The role of Indigenous communities in the pursuit of sustainability" (2010) 14 NZJEL 161 at 162.
[1063] Pew Ocean Commission (POC 2003) and US Commission Open Policy (UYSCOP 2004).

system approach",[1064] and EBM appeared to be the cautious solution. EBM is described as being:[1065]

> Concerned with the processes of change within living systems and sustaining the services that healthy ecosystems produce. Ecosystem-based management is therefore designed and executed as an adaptive, learning-based process that applies the principles of scientific method.

There are two fundamental reasons to shift to an EBM approach according to Leslie and McLeod.[1066] First, scientists acknowledge there is substantial and continual decline and degradation in the management of the ocean and its ability to survive. Second, the current effort to manage a sustained approach in coastal and ocean resources is inadequate and ecosystem-based management does not begin at the "low-water mark". [1067] Indeed, EBM is about interactions, acknowledging the connections between humans within the ecosystem and with "connecting environment policy and management efforts across air, land and sea boundaries".[1068]

Ecosystem-based management's integrative and co-operative approach to engage in conversations across actors, sectors, and users at every level of society further cements the notion of a collaborative and workable process for multiple users. In the context of ocean ecosystems, it can service accessible portals of engagement to those that would not have the ability to participate otherwise; it creates a "democratisation of ocean management".[1069] Another appealing attribute is that EBM can be implemented concurrently with other existing management plans, adding a broader brush stroke to consider participation of all Earth's citizens. According to Joseph and others, EBM is "designed and executed as an adaptive, learning-based process that applies the following common international principles":[1070]

[1064] Heather M Leslie and Karen L McLeod "Confronting the challenges of implementing marine ecosystem-based management" (2007) 5(10) Frontiers in Ecology and the Environment 540 at 540.
[1065] Secretariat of the Convention on Biological Diversity The Ecosystem Approach (Montreal, QC, Canada, 2004).
[1066] Heather M Leslie and Karen L McLeod "Confronting the challenges of implementing marine ecosystem-based management" (2007) 5(10) Frontiers in Ecology and the Environment 540.
[1067] Heather M Leslie and Karen L McLeod "Confronting the challenges of implementing marine ecosystem-based management" (2007) 5(10) Frontiers in Ecology and the Environment 540.
[1068] Heather M Leslie and Karen L McLeod "Confronting the challenges of implementing marine ecosystem-based management" (2007) 5(10) Frontiers in Ecology and the Environment 540.
[1069] John Kearney and others "The Role of Participatory Governance and Community-Based Management in Integrated Coastal and Ocean Management in Canada" (2007) 35 Coastal Management 79 at 86.
[1070] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 3.

- the connections and relationships within an ecosystem;
- the cumulative impacts that affect marine welfare;
- focus on maintaining the natural structure and function of ecosystems and their productivity;
- incorporate human use and values of ecosystems in managing the resource;
- recognise that ecosystems are dynamic and constantly changing;
- are based on a shared vision of all key participants; and
- are based on scientific knowledge, adopted by continual learning and monitoring.

Ecosystem-based management in a pragmatic way means different things to different countries. In Aotearoa, it is argued that EBM is congruent with tikanga and mātauranga Māori within a Māori traditional legal context; given that it is values-based, relational, and holistic. Ecosystem-based management can be adapted to an Aotearoa-centric lens that recognises tikanga Māori law, and acknowledges Māori worldviews. The New Zealand legal system, founded on the Treaty of Waitangi, creates a precedent here. EBM is about collaborating effectively with Government actors, with Māori and other stakeholders in good faith. It is about seeing the bigger picture of enhancing and protecting the environment. Finally, any integration and implementation of EBM in Aotearoa *must include mātauranga and tikanga Māori*.

31.5.01 Tūhonohono: an Aotearoa New Zealand research case study

The state of environmental change and disruption in Aotearoa makes imperative the amendment of current ecosystem management to adopt practices that are more effective. The environment management must be targeted to Aotearoa-centric issues in a blended approach that includes tikanga Māori knowledge systems. In 2014, one of New Zealand's government strategies to address this problem was to establish National Science Challenges. This strategic approach aimed to tackle science-based issues and investigate opportunities through research. Under the banner of the Challenges "Ko Moana Whakauka Sustainable Seas" (Sustainable Seas), the overarching objective is for New Zealand to have healthy marine ecosystems that will add value for all New Zealanders and, to enhance the value of New Zealand's marine estate for future generations.

Tūhonohono (the dynamic between Māori lore and law)[1071] is a legal-based research project which explored the interface between tikanga and mātauranga Māori, and New Zealand mainstream law. Tūhonohono provided an important opportunity to determine how the interface can be applied to the marine and coastal estate in Aotearoa. Tūhonohono also determined and analysed the legal enablers and challenges within a legal discourse lens. Within the sustainable seas context, Tūhonohono looked at bringing together the best laws and institutions of Aotearoa New Zealand's two founding cultures to ensure a healthy ecosystem for all New Zealanders.

From the outset, it is important to acknowledge that there are key statutes that incorporate the Treaty of Waitangi and tikanga and mātauranga Māori over the terrestrial and marine estate. Some of them are listed here: the Resource Management Act 1991 ("RMA"), Conservation Act 1987, Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Local Government Act 2002, Māori Fisheries Act 2004, Marine and Coastal Area Act (Takutai Moana Act 2011), and Exclusive Economic Zone and Continental Shelf Act 2012, Te Awa Tupua (Whanganui Claims Settlement) Act 2017, and regulations such as the Kaimoana Customary Fisheries Regulations 1998 to name a few. However, more significantly, Treaty of Waitangi settlements[1072] rather than statutes "are proving to be the major catalyst for recognising and protecting Māori environmental interests in mātauranga, tikanga and taonga".[1073]

To date, 73 Treaty settlements have given iwi and hapū in various parts of Aotearoa level-entry tickets to be engaged as stakeholders in the transition interface to ecosystem-based management ("EBM"). In the context of Māori environmental governance, approxiamately 66 per cent of negotiated Treaty of Waitangi settlement agreements include some form of redress that includes Māori environmental governance over the marine estate.[1074] Treaty settlements

[1071] Joseph and others "Tūhonohono: Tikanga Māori me te Ture Pākehā ki Takutai Moana" (2017) Sustainable Seas National Science Challenge <sustainableseaschallenge.co.nz>.
[1072] Treaty settlements are settled negotiated packages of redress between the Crown and Maori where there has been acknowledgement and legislative recognition of breaches of Te Tiriti o Waitangi/Treaty of Waitangi 1840 by the Crown. Forms of redress can include: Crown apology, cultural redress, financial quantum, lands, assets, and natural resources.
[1073] Reported in R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 131.
[1074] Reported in R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 135.

provide good opportunities to participate in EBM practices, but also pose challenges in implementing sustainable change.

Treaty settlements are affirmed through statutory acknowledgements, with deeds of agreements that can include co-partnership and co-managment provisions. Having legal title is one thing, but carrying out Māori environmental governance in practice is another. Interestingly, negotiated Treaty of Waitangi settlements have been the genesis for new innovative legal precedents and legal frameworks. Take for example, the Whanganui River[1075] and Te Urewera Forest (once a national park) — both have been granted legal personhood.[1076] These negotiated Treaty settlements sent global ripples of excitement through Māori, Indigenous peoples, conservationists and legal theorists alike, on the home front and internationally. The National Geographic, a world leader in geography, cartography and exploration declared these historical events to be "A Voice for Nature". [1077]

"Environmental personhood" to protect nature found its roots in research carried out in 1972 by United States law professor Christopher Stone.[1078] His work influenced Māori academics James Morris and Jacinta Ruru to argue that "applying Stone's idea to afford legal personality to New Zealand's rivers would create an exciting link between the Māori legal system and the state legal system".[1079] The legal paradox of a river or forest as a legal entity with all the rights, powers, duties and liabilities of a natural person has yet to be contested within a court of law. More importantly, these bold legal precedents are actualising power sharing between Māori and the Crown.

The methodology employed by Tūhonohono was first to explore the New Zealand legal system, the legislative provisions of the Treaty of Waitangi and seek in-depth knowledge of mātauranga and tikanga Māori through statute and common law. After completing a critical literature review, a number of semi-qualitative interviews were conducted. Local Māori community leaders were selected as interview participants in the focal region of Te Tau Ihu (the areas of

[1075] Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, s 14 states Te Awa Tupua is a legal person and has all the rights, powers, duties and liabilities of a legal person.
[1076] Te Urewera Act 2014, s 11 establishes Te Urewera as a legal entity with all the rights, powers, duties and liabilities of a legal person.
[1077] National Geographic (2019)."A Voice for Nature"<www.communityrights.us>.
[1078] Stone (1974).
[1079] Morris and Ruru (2010).at 50.

the South Island of Aotearoa New Zealand that include Nelson, the Marlborough Sounds, and Blenheim). These geographical territories are home to eight tangata whenua collectives (people of the land). Their views, direct experiences and opinions centred on the interface of tikanga Māori and mainstream law.

By synergising the literature and the interviews, Tūhonohono determined that there are enablers for carrying out EBM within Aotearoa that can incorporate and integrate mātauranga Māori and tikanga Māori (Māori environmental governance) within the Treaty of Waitangi context. Here are examples of statements that surfaced from Te Tau Ihu interview pariticipants: [1080]

> We act as eyes and ears on behalf of the Iwi watching over environmental matters that may effect their values and concerns.

Another Te Tau Ihu interview participant opined: [1081]

> Kotahitanga [unity] is the way forward in my view. You cannot actually have that on a hierarchal structure, otherwise people see it as a domination factor and that's really what's happened around the country.

One Te Tau Ihu interviewee commented on the raft of legal frameworks that Māori have to work in:[1082]

> Starting from the top there is the international legal framework which is the Treaty, so the Treaty and the UNDRIP [2007 Declaration on the Rights of Indigenous Peoples] are at the top, and then we come down to the RMA, and also running alongside that the LGA [Local Government Act] and Conservation Act. We would like the Minister for MPI [Ministry of Primary Industries] to exercise his powers of discretion … so that we can do whatever we want to do without having to jump through [too many] hoops.

On the other hand, Tūhonohono reported there is also an equal amount of challenges or limitations. In a nutshell, notwithstanding the recognition of Māori environmental governance and the Treaty of Waitangi principles in statutes and regulations, these significant drivers for

[1080] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 26.
[1081] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 149.
[1082] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 149.

Māori are often provided for, but often *not* given substantive effect in practice. A Te Tau Ihu interviewee commented in this respect:[1083]

> Legally, we rely on the Treaty and RMA to enforce our legal rights. However, we don't have much resources to meet our needs. We use a representative from our trust to work with Local Council and science organisations to ensure our interests are protected in the marine coastal space. In the past, Māori didn't have a say and as Council's [sic] seemed to have it all, they did not take Māori seriously. Council [sic] are now getting better, as more power sharing is happening. Iwi are able to protect a lot more.

In 2018, one Te Tau Ihu interviewee opined specificially about kaitiakitanga (an emerging ethic of guardianship or trusteeship, in this case over environmental taonga),[1084] and the importance of having capacity and succession to carry out Māori environment governance:[1085]

> Another challenge our Iwi has is that we are becoming isolated as most of our younger generation move away in search of work so those left behind are few. So that knowledge of practicing kaitiakitanga or harvesting that kaimoana slowly disappears because you only have a handful left.

To counteract some of the limitations mentioned, Tūhonohono determined that the Crown is making important inroads albeit in a limited manner, to expand the practical participation and appropriate consultation of Māori in resource and environmental management. In 2017, the Resource Management Act 1991 ("RMA") was amended to include new ss 58L to 58U "Iwi participation arrangements" (Mana Whakahono-a-Rohe). This new tool provides for partnership for iwi and local government to have conversations, and document how they will work collaboratively under the RMA regime, and more significantly, how tangata whenua will be involved in decision-making processes. However, again capacity and expertise become major deterrants to full participation in local government as articulated by a Te Tau Ihu interviewee: [1086]

> We simply don't have the capacity or expertise to manage all the complex Government processes so there should be some provision within Government to provide resources for Iwi to feed into the planning and resource management

[1083] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 133.
[1084] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 105–144.
[1085] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 26.
[1086] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 44.

> processes because at the moment, we have to do it all ourselves out of our settlement. And the settlement wasn't for carrying out obligations of the Government so there's some confusion there. The settlements were for Article 2, but the resource work is an Article 3 issue. Therefore, it should be the responsibility of the Government to resource that, and that's been overlooked.

31.5.02 The Resource Management Act 1991

The purpose of the Resource Management Act 1991 ("RMA") is to promote the sustainable management of natural and physical resources of Aotearoa. The Act has significant ramifications for Māori in promoting its purpose. The Waitangi Tribunal[1087] has been very critical of the resource management framework in New Zealand prior to and post the RMA. The Tribunal has found that "this framework has prevented Māori, particularly iwi and hapū from controlling the management of their taonga and natural resources contrary to the principles of the Treaty of Waitangi."[1088] In 1993, the Tribunal noted in its *Ngāwha Report* that the RMA is inconsistent with the Treaty principles.[1089] Again in 2011, the Tribunal's *Ko Aotearoa Tenei Report* was "heavily critical of the use of Treaty settlements to stop gaps in the RMA"[1090] when it observed:[1091]

> It is disappointing that the RMA has almost completely failed to deliver partnership outcomes in the ordinary course of business when the mechanisms to do so have long existed. It is equally disappointing that Māori are being made to expend the potential of their Treaty settlement packages or customary rights claims to achieve outcomes the Resource Management Law Reform project (now two decades ago) promised would be delivered anyway.

Accordingly, the Tribunal specifically identified the following areas for improvement:[1092]

- enhanced opportunities for the development and use of iwi management plans;
- improved mechanisms for delivering control to Māori;
- a commitment to capacity-building for Māori; and

[1087] The Waitangi Tribunal is a New Zealand permanent commission of inquiry established under the Treaty of Waitangi Act 1975 to claims made by Māori for alleged breaches of the Treaty of Waitangi principles which underpin the relationship between Māori the and the Crown.
[1088] C Fox and Chris Bretton "Māori Participation, Rights and Interests" (paper presented to Resource Management Law Association of New Zealand Conference, Dunedin, 26 September 2014) at 2.
[1089] Waitangi Tribunal Ngāwha Geothermal Resource Report (Wai 304, 1993) at 154.
[1090] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 137.
[1091] Waitangi Tribunal Ko Aotearoa Tēnei – A Report into the Claims Concerning NZ Law and Policy Affecting Māori Culture and Identity (Wai 262, 2011) vol 1 at 285–286.
[1092] C Fox and Chris Bretton "Māori Participation, Rights and Interests" (paper presented to Resource Management Law Association of New Zealand Conference, Dunedin, 26 September 2014) at 3.

- greater use of the national policy statements and tools.

Another statutory provision to assist Māori participation in power sharing and governance can be found in RMA, s 33 which provides for the transfer of local authority functions, powers or duties to a public authority. In effect, s 33(2)(b) allows for Councils to delegate public authority and district to include Māori organisations such as iwi authorities. The statutory provision has been there since 1991, and local authorities can transfer functions and powers, enabling Māori to carry out their tikanga more fully and kaitiaki responsibilities on the land and the ocean. Again, in 1993, in the *Ngāwha Report*, the Waitangi Tribunal recommended an amendment to the RMA stating among other things "that the Crown has not, in delegating extensive powers to local and regional authorities under the Act, ensured that its Treaty duty of protection of Māori interests will be implemented".[1093] This transfer of power has never been implemented. At present, there have been a number of attempts, but no actual implementation. A Te Tau Ihu inteviewee commented in this respect:[1094]

> We've always had a voice on the Council and the efficiency of that relationship varies but we don't have to fight for it like other organisations. Do they get it wrong? Sure. Do they need to be educated on that? Sure and we should do that. However, it's become inefficient. Why? Because we put a provision in the settlement Act about RMA stuff, and if you interpret that literally, they are doing their job by sending us every stupid consent that has no real significance for us. So we've got to redefine the things and say more precisely exactly what we want to see.

Again, there is the challenge of having these great provisions, but the greater challenge is ensuring that these provisions are implemented and have practical outcomes. The Waitangi Tribunal described the important exercise of kaitiakitanga (an emerging ethic of guardianship or trusteeship, in this case over environmental taonga)[1095] in resource management in its WAI 262 Report (2011) in that, kaitiakitanga should be part of the balancing process of the RMA, and decision-making process.[1096] Further, in all areas of environmental management, the system

[1093] Waitangi Tribunal Ngāwha Geothermal Resource Report (Wai 304, 1993) at 154.
[1094] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 43.
[1095] Richard Benton, Alex Frame and Paul Meredith Te Matapunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 105–144.
[1096] Waitangi Tribunal Ko Aotearoa Tēnei – A Report into the Claims Concerning NZ Law and Policy Affecting Māori Culture and Identity (Wai 262, 2011) vol 1 at 285–286.

must provide for kaitiaki "to effectively influence decisions and be afforded an appropriate level of priority".[1097]

Section 35A was inserted into the RMA in 2005, providing for a duty to gather information, monitor and keep records about iwi and hapū. This provision suggests seeking such information can lead to conversations between Councils and Māori interests. There are some challenges there, and similar challenges with other statutes as well. The RMA was further amended in 2017 by inserting new ss 58L–58U — Mana Whakahono a Rohe: Iwi participation arrangements. Section 58M provides that the purpose of the Mana Whakahono a Rohe is to provide a legal mechanism for iwi authorites and local authorites to participate in resource management and decision-making processes. Again, the most pressing challenge is the practical implementation and giving effect of statutory provisions.

Co-managment and co-partnership legislation for Māori and the Crown over natural resources are negotiated decision-making arrangements between iwi and/or other groups and local and central government. The challenge here is ensuring Māori have opportunities to be involved effectively in decision-making processes and institutions. Māori are usually in the minority at these tables of power and susceptible to the tyranny of majority, a fear expressed by Tocqueville[1098] in his analysis of democratic processes.

Māori are also lacking in human resource capital. Many Māori entities are engaging in recruiting the "right people" and fostering educational support to plan for increased capacity and succession. Two Te Tau inteviewees commented in this respect: [1099]

> Our Iwi has a similar problem to most Iwi where a lot of kaumatua are passing away and we are losing the traditional knowledge that has not transferred to the next generation. So we recognised that we needed to preserve that as quickly as we could. Another challenge our Iwi has is we are becoming isolated as most of our younger generation move away in search of work so those left behind are few. So that our knowledge of practicing kaitiakitanga or harvesting that kaimoana slowly disappears because you only have a handful left.

[1097] Waitangi Tribunal Ko Aotearoa Tēnei – A Report into the Claims Concerning NZ Law and Policy Affecting Māori Culture and Identity (Wai 262, 2011) vol 1 at 272.
[1098] Alexis de Tocqueville Tocqueville on America after 1840: Letters and other writings (Cambridge University Press, UK, 2009).
[1099] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 133.

And:

> Trying to manage the overall resources of New Zealand is not an easy task. Here we have multiple Councils and think about all the jobs and the people that they have to do them. Then they say that we (Iwi) can do all of that. Well it's a really big challenge, a very big challenge. Our main role is to build resources so we can try and improve the lives of our people.

Whether sufficient progress has been made, it's still early days; it will need to be explored further.

Finally, a legislative vehicle that is gaining traction is special legislation which enables the development and implementation of Māori environmental governance, and is simultaneously reflective of EBM. The Hauraki Gulf Marine Park Act 2000 is special recognition of the Hauraki Gulf, and seeks to protect and develop the Gulf's valuable resources while also recognising the tangata whenua's (people of the land) special relationship with Hauraki. Two other such examples are the Fiordland (Te Moana o Atawhenua) Marine Engagement Act 2005 and the Kaikoura (Te Tai o Marokura) Marine Management Act 2014.

To conclude this section, the challenges around implementing mātauranga Māori, tikanga Māori and Treaty of Waitangi principles within an EBM context are firstly, for Māori to have authority and authority; second, to have resources to carry out that authority and third, to have capacity to facilitate the process. Note that human capacity is an ongoing challenge for non-Māori and Māori alike. Despite these challenges, there are still great opportunities for EBM, and for mātauranga Māori and tikanga Māori in Aotearoa New Zealand. The Tūhonohono report concluded that a successful fusion of EBM principles, mātauranga Māori and tikanga Māori:[1100]

- is a co-governance and co-design structure that recognises the Māori constitutional relationship and mana whenua at all levels (whānau, hapū, iwi), together with the guiding principles of mauri, whakapapa, kaitiakitanga, mātauranga-a-iwi and mātauranga-a-hapū;[1101]
- is place and time-specific, recognising/understanding the ecosystem as a whole in all its ecological complexities and connectedness and addressing cumulative and multiple stressors;
- acknowledges humans as ecosystem components with multiple values;

[1100] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 3.
[1101] Refer to the Glossary at the end of this chapter.

- views long-term sustainability as a fundamental value, in particular maintaining values and uses for future generations;
- includes collaborative and participatory management throughout the whole process, considering all values and involving all interested parties from agencies and iwi to industries, whānau, hapū and local communities;
- has clear goals and objectives based on knowledge; and
- includes adaptive management, appropriate monitoring and acknowledgement of uncertainty.

31.6 International parallels

One final phase of Tūhonohono was to gather other important insights by looking at what had been happening internationally with Indigenous peoples in the marine estate. Investigatory research was undertaken to document their recent trends, recent developments and normalising shifts. Whenever we consider Indigenous peoples' rights internationally, we cannot go past the United Nations Declaration on the Rights of Indigenous Peoples 2007. Although non-binding, the declaration is politically persuasive. The ethos coming from the Declaration is that Indigenous peoples have the right to self-determination,[1102] which includes the right to freely determine their political, social, economical, and cultural domains; and by extension, fitting environmental development within the ecosystem-based management ("EBM") context.

Research in Canada was undertaken, in particular the Coastal First Nations Great Bear Initiative[1103] in British Columbia, which is an exciting development. In effect, they have been implementing EBM, by using traditional knowledge alongside modern marine use planning resources. Their vision statement is "Protecting our Coast. Building our Economy."[1104] Their jurisdictional region is a huge area (6.4 million hectares) over the land and the ocean. Here, the Federal Government, Provincial Government, the different stakeholders (miners, forestry, commercial fisheries), as well as First Nations are working together, implementing EBM. There have been shifts in power with increased aboriginal control and the formation of coalitions between stakeholders who were formerly in opposition.[1105] The EBM approach in Canada was keenly explored to distill lessons that could apply to us here in Aotearoa, New Zealand. In

[1102] United Nations Declaration on the Rights of Indigenous Peoples GA Res 61/295 (2007), art 3.
[1103] "Coastal First Nations Great Bear Initiative" <coastalfirstnations.ca>.
[1104] "Coastal First Nations Great Bear Initiative" <coastalfirstnations.ca>.
[1105] R Joseph and others The Treaty, Tikanga Māori and Ecosystem-based Management in Aotearoa New Zealand: Possible Ways Forward (University of Waikato, Hamilton, 2019) at 145.

particular, the comprehensive Treaty Settlements for the likes of Nunavut,[1106] Inuvialuit[1107] and Nisga'a[1108] were investigated to determine what particular lessons on implementing EBM over the coastal estate could be applied in Aotearoa.

Tūhonohono also looked at the Great Lakes that are located along the border between the United States and Canada. Even though they are freshwater lakes, some of them are just a bit smaller than the North Island of New Zealand, and so one could almost regard them as oceans. The Great Lakes community advocates sustainable management over its freshwater resources recognising growing population, intensive commercialisation, deterioration of quality of water, and increasing pressures on the basin as barriers.[1109] In the 1970s, dialogues between scientists and academics centred upon finding a new approach to resource management.[1110] What emerged from the dialogue was the call to transition to ecosystem-based resource management.[1111] In 2015, in the *Great Lakes Future Project*, the same approach was further extended to mirror "a policy system characterized by shared power, many actors, ambiguity, complexity, and flexibility". [1112] Friedman and others postulated specific barriers and how to combat them with policy considerations to move the project into a positive future for the Great Lakes.[1113] Again, an ecosystem approach as a collaborative approach includes government, industries and communities. These are important lessons for Aotearoa.

In the United States, some of the Indian Reservations around the Coast were investigated. These Indigenous peoples have a very different context, where residual sovereignty which are powers not specifically assigned to federal government and belong to the states and the people respectively is exercised. What is important in New Zealand's context is what authority Indigenous groups have over the marine estate in particular oceans, if any; and the lessons iwi

[1106] "Whose land – Nunavut Settlement Area" <www.whose.land/en/Treaty/nunavut>.
[1107] "Inuvialuit Regional Corporation" <www.irc.inuvialuit.com>.
[1108] "Nisga'a Settlement Trust" <www.nisgaanation.ca/nisgaa-settlement-trust>.
[1109] Irena F Creed and Katrina L Laurent "The Great Lakes Futures Project" (2015) 41 J Great Lakes Res 1.
[1110] Susan H MacKenzie "Toward integrated resource management: lessons about the ecosystem approach from the Laurentian Great Lakes" (1997) 21(2) Environmental Management 173.
[1111] Susan H MacKenzie "Toward integrated resource management: lessons about the ecosystem approach from the Laurentian Great Lakes" (1997) 21(2) Environmental Management 173.
[1112] Irena F Creed and Katrina L Laurent "The Great Lakes Futures Project" (2015) 41 J Great Lakes Res 1 at 3.
[1113] KB Friedman and others "The Great Lakes Futures Project: Principles and policy recommendations for making the lakes great" (2015) 41 J Great Lakes Res 171.

and hapū could draw from the way that plays out in terms of working with the federal government, state government and other stakeholders.

31.7 Formative conclusions

The ecological footprint over the environment continues to reel within global environment change and crisis. The oceans, seas and coastal areas form an integral and critical nexus to New Zealand's ecosystem and, are essential to sustaining it. Ecosystem-based management ("EBM") is an appropriate response to this burgeoning enviromental intrusiveness.

Māori are the Indigenous peoples of Aotearoa and their aspirations and well-being are interconnected with and interdependent on their relationship with the land, the oceans and its natural resources. There are opportunities for Māori involvement in natural resource and environmental management as informed by the growing body of literature, and the New Zealand Government's intent to engage with Māori as Treaty partners.

Māori and the Government need to collaborate more effectively, work together in good faith, and include multiple users. Incorporating Māori tikanga and mātauranga into EBM activities will improve all stakeholders' understanding of the health of the marine environment and environmental trends. Conservation and sustainable use of the marine ecosystems needs to be delivered within an environmental fusion of mātauranga Māori and tikanga Māori and ecosystem-based management. It needs to be stressed: all elements combined will strengthen the environmental governance within an Aotearoa New Zealand principle-based framework for sustainable development of natural resources.

Tūhonohono investigated what is needed in New Zealand, not only for Māori but for all New Zealanders. A radical shift is needed in policy approach, laws and institutions to enable EBM as an integrated approach for sustainability and commerical endurance over the marine and coastal estate. Māori need to be granted more authority in law and in fact as well as resources; and Māori need to develop their capacity as Treaty of Waitangi partners to carry out governance effectively within the EBM context. There are Treaty settlements, co-managment and co-governance agreements for exercising and implementing EBM.

Treaty settlement legislation rather than the Resource Management Act 1991 and other legislation is more enabling for Māori and remains the primary route to influence the RMA

regime as far as environmental management and remedial planning is concerned. Any integration and implementation of EBM in Aotearoa New Zealand must include mātauranga Māori and tikanga Māori. The opening whakatauki reaffirms the notion of humans collaborating within the environmental realm to weather the environment crises together. The concluding whakatauki confirms the significance of tikanga Māori when looking into EBM in Aotearoa.

> *Kei raro i ngā tarutaru, ko ngā tuhinga o ngā tūpuna. - Beneath the herbs and plants are the writings of our ancestors.*[1114]

Glossary

Hapū	descent group with local base on a marae, section of a tribe, sub-tribe, also to be pregnant
Iwi	tribe or people, also bones
Kaitiakitanga	stewardship and protection, often used in relation to natural resources.
Mana	ascribed and achieved authority, honour, status and prestige of an individual and group, spiritually endowed and maintained
Manaakitanga	hospitality, enhancing the mana of others especially through sharing, caring, generosity and hospitality to the fullest extent that honour requires
Māori	literally ordinary person, native or Indigenous to Aotearoa New Zealand
Māoritanga	Māori culture and identity
Mātauranga-a-hapū	knowledge base of the hapū
Mātauranga-a-iwi	knowledge base of the iwi

[1114] Waitangi Tribunal, Ko Aotearoa Tenei: A Report Into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity (Wai 262, Legislation Direct, Wellington, 2011) at 237. Available online at www.waitangitribunal.govt.nz (Accessed September 2018). The paragraph where the above whakatauki (proverb) appears elaborates further: 'The environment, therefore, cannot be viewed in isolation. There is an old saying: Kei raro i ngā tarutaru, ko ngā tuhinga o ngā tūpuna.' (Beneath the herbs and plants are the writings of our ancestors). Mātauranga Māori [Māori traditional knowledge] is present in the environment: in the names imprinted on it; and in the ancestors and events those names invoke. The mauri [spirit or life-force] in land, water, and other resources, and the whakapapa [genealogy] of species, are the building blocks of an entire world view and of Māori identity itself. The protection of the environment, the exercise of kaitiakitanga [guardianship], and the preservation of mātauranga [knowledge] in relation to the environment then are all inseparable from the protection of Māori culture itself.

mauri	recognition of the life-force of persons and objects
Tangata	People
Tangata whenua	people of the land
Tikanga	right ways', custom, from *tika* (adj.) straight, right, correct, fair, just, rules, principles
tino Rangātiratanga	traditional authority, self-determination
Whānau	extended family, usually four generations, also to give birth
Whakatauki	Proverbs
Whakapapa	Lineage through your family ancestors and to the land
Whenua	land, also umbilical chord

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Co-Authorship Declaration

ANUPO 003405 (Point 13) states that in regard to published papers,

A thesis by compilation includes a signed declaration that specifies:

a. *Title, word length, authorship and publication outlet of each paper.*
b. *The current status of each paper (In press, Accepted, Under Review, In preparation).*
c. *The extent of the contribution of the candidate*

Two published papers are included in the thesis,

1. Rakena MD "Māori Environmental Governance and Eco-systems-based Management in Aotearoa New Zealand" in Joseph R and Benton R (eds) Waking the taniwha: Māori governance in the 21st century. (Thomson Reuters, 2021).Word Length, 6,783.

2.Rakena MD and Benton R "Hapū, Iwi, Crown in Ngāpuhi Governance" in Joseph R and Benton R (eds) in Waking the Taniwha: Māori governance in the 21st century (Thomson Reuters, 2021). Word Length, 10,347.

In both of these papers, I made a substantial intellectual, research and written contribution drawing on my deep existing cultural and professional knowledges as a Māori researcher and practising lawyer, to identifying the research issues, developing the research questions, to the creation, analysis and interpretation of the data, formulating and developing case studies, and to the writing of the paper.

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[1115] Email consent by Dr Richard Benton dated May 14, 2021.

"Hapū, Iwi, Crown in Ngāpuhi Governance"

Mylene M D Rakena, Richard A Benton

Te Tangi o Kawiti.

> E te whānau, i te pakanga ahau ki te Atua i te pō, heoi, kīhai ahau i mate. Na reira, takahia te riri ki raro i ō koutou waewae. Kia ū ki te whakapono, hei poai Pākehā koutou i muri nei. Waiho rā kia kakati te namu i te whārangi o te pukapuka, Te Tiriti O Waitangi, Te Kawenata Tapu, hei konei ka tahuri atu ai kei takahia e koutou ngā papapounamu ā ō koutou tūpuna e takoto nei. Titiro atu ki nga taumata o te moana. (Te Ruki Kawiti, 1846.)[1116]

> ["*My illustrious warriors and people, I fought with God last night, and I survived. Therefore I call upon you to trample anger and fighting under your feet … hold fast to your faith, for the day will come when you will be ruled over by your Pākehā friends … Be patient, wait until the sandfly nips the page of the document, meaning the Treaty of Waitangi, the sacred covenant. Then and only then, shall you rise and question and oppose, lest you break the sacred word of your Ancestors. Look to the distant horizon of the sea*."]

22.1 Introduction

Ngāpuhi is the largest and most dispersed iwi[1117] in Aotearoa New Zealand and this chapter discusses the continuing long journey of Ngāpuhi for self-determination. We chart the historical beginnings of Ngāpuhi and explore the important conceptual model of hapū[1118]

[1116] Te Ruki Kawiti (circa 1775–1854) was a Ngāpuhi leader, warrior and peacemaker of Ngāti Hine descent. He composed "Te Tangi o Kawiti" shortly after the cessation of hostilities with the British in 1846. The English translation has been taken from the Ratana Church website; a more literal translation of "hei poai Pākehā koutou" would be "you will become Pākehā boys (or minions)". Variations of this orally transmitted text have been recorded in Tawai Kawiti "Heke's war in the North" Te Ao Hou 16, 1956 at 45; Amadonna Jakeman "Hei Poai Pākehā Koutou i muri nei" (MA thesis, Auckland University of Technology, 2019) at 2. Tanya Milne "He Tohunga o te ao Māori" (2009) 2 MAI Review at 4; and in the "Prophecy" section of the Ratana Church website <www.theratanachurch.org.nz/prophecies>. Its special significance is noted in the concluding section of this chapter.

[1117] An iwi is a superordinate sociopolitical grouping united by common descent from a waka, composed of hapū, or linked directly to whānau (extended families). See Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 101–103.

[1118] This term refers to the primary political unit in traditional Māori social organisation at the time of contact with Europe and America, a relatively stable and cohesive grouping consisting of a number of whānau (extended families) sharing descent from a common ancestor. See Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 71–73.

rangātiratanga[1119] as Ngāpuhi's social, economic, political, and governance framework. Today on the political stage, Ngāpuhi is embroiled in a decade-long struggle for settlement of their long-standing Treaty of Waitangi (Treaty) grievances against the Crown.[1120] Of historical and legal significance is the re-affirmation by the Waitangi Tribunal[1121] that Ngāpuhi did not cede sovereignty to the Crown with the signing of the Treaty of Waitangi 1840.[1122] We outline the events and political processes of the Treaty in the settlement that drove the negotiations in late 2018 to a standstill, and the background to the opposition from certain hapū to the Treaty settlement processes. The chapter concludes with a review of the governance challenges and implications for the future of the Ngāpuhi confederation of alliances.

22.2 Historical background

Northland Māori narratives and traditions relate that the explorer Kupe from Hawaiki was the first Polynesian to discover Aotearoa, the land of the long daylight, in the early 12th century CE.[1123] When returning to Hawaiki and sharing his discovery, two captains Nukutawhiti and Ruanui set sail to Aotearoa to establish settlements. Subsequent to Kupe's discovery, many navigators and rangātira[1124] arrived in Aotearoa: Rāhiri, who descends from Kupe, Nukutawhiti (Kupe's grandson, captain of the Ngatokimatawhaorua waka[1125]) and Puhi, co-leader of the Mataatua waka and a founding ancestor of Ngāpuhi-nui-tonu.[1126] Rāhiri "consolidated and

[1119] Possessing authority and the ability act accordingly. See Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 325–334.

[1120] "The Crown" is used when discussing Treaty settlement policy to refer to the non-Māori Treaty partner. At different times in New Zealand history, "the Crown" could refer to the Queen, colonial government, representative settler government or contemporary government.

[1121] The Waitangi Tribunal is a New Zealand permanent commission of inquiry established under the Treaty of Waitangi Act 1975.

[1122] Waitangi Tribunal He Whakaputanga me Te Tiriti/ the Declaration and the Treaty (Wai 1040, 2014).

[1123] Te Rangi Hiroa The Coming of the Maori (Whitcombe and Tombs, Wellington, 1958) at 5. The precise location of Hawaiki is unknown, but traditional, linguistic and archaeological evidence indicate that Aotearoa was settled from Eastern Polynesia.

[1124] Rangātira: a chief (male or female), and by extension "a person in authority, possessing the expected attributes of a chief". See Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 325–334.

[1125] Waka: in this case, a voyaging canoe. The term also denotes the descendants of those who arrived on a particular ancestral waka. Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 494.

[1126] Ngāpuhi-nui-tonu is a broad term which includes most Tai Tokerau (Northland) hapū, irrespective of their particular iwi (confederation of hapū) designation.

expanded the influence of the people who came to be known as Ngāpuhi"[1127] and he is also referred to as "te tumu herenga waka" the stake to which the multiple waka of the north are bound.[1128]

Prior to other explorers arriving and re-naming their country New Zealand centuries later, Māori developed governance in complex cultural, political and economic infrastructures founded on their technological advancement. Early Europeans, British, and Americans arrived to trade with Māori in seals and whales, looking to develop new markets; and Petrie stated Māori adjusted meet trade demands by adopting new technology.[1129] Trade occurred with Māori providing food, shelter and transport in exchange for European goods. In the period 1770–1840, Māori became well versed in commerce, Christianity and modern warfare. Petrie in her analysis of pre-colonial industry notes, "Using a range of commercial strategies, Māori had captured a considerable volume of trade and a healthy surplus of exports over imports by 1840".[1130]

European powers answered their own calls of exploring new lands in an aggressive global approach to achieve commercial expansion, resources and conquest in the Pacific. The first contact between Māori and Europeans was at Pēwhairangi, the Bay of Islands in the North Island. Missionaries came to convert Māori to Christianity as well as to purchase land in advance of future European immigrants. Between 1818 and the early 1830s, Ngāpuhi used muskets to defeat several tribes in the "musket wars".[1131] Ngāpuhi Chiefs and some from other parts of the country signed the Declaration of Independence 1835 on behalf of the United Tribes of New Zealand. The Declaration affirmed the sovereign independence of Māori and the authority to trade internationally under a recognised flag.

[1127] Waitangi Tribunal He Whakaputanga me te Tiriti/The Declaration and the Treaty: The Report on Stage 1 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2014) at 26.
[1128] Waitangi Tribunal He Whakaputanga me te Tiriti/The Declaration and the Treaty: The Report on Stage 1 of the Te Paparahi o Te Raki Inquiry (Wai 1040, 2014) at 26.
[1129] Hazel Petrie Chiefs of industry: Maori tribal enterprise in early colonial New Zealand (Auckland University Press, 2013) at 67.
[1130] Hazel Petrie Chiefs of industry: Maori tribal enterprise in early colonial New Zealand (Auckland University Press, 2013) at 56.
[1131] RD Crosby The Musket Wars: A History of Inter-Iwi conflict, 1806–1845 (Libro International, Auckland, 2012).

The Bay of Islands (a large, sheltered harbour on the east coast of Northland), served as the contact zone where "the first steps toward partnership were taken between the colonizer and the colonized, and where Maori and Pākehā struggled through their earliest encounters toward co-existence".[1132] On 6 February 1840 at Waitangi, the Bay of Islands, the nation was expanded under the Te Tiriti o Waitangi (Treaty). There were two texts of the Treaty, one in Māori. The Māori-language version of the Treaty was the one signed by chiefs, who either wrote their names or drew their moko[1133] as a commitment of their adherence to the Treaty at a gathering at Waitangi on 6 February 1840. Chiefs including 13 women signed the English text in Manukau and Waikato Heads some months later. The English text stated Māori had ceded sovereignty of the territory to the Queen of England. In the Māori text, the Crown recognised that the lands and the taonga (treasures) of the territory would remain under the control of the chiefs. Different interpretations of the Treaty especially around governance (kāwanatanga) would later become highly contested and create a chasm of disappointments and broken promises for Māori rather than the beneficial relationship promised to both partners.

22.3 Ngāpuhi and Te Tiriti

Ngāpuhi itself as a large and formidable aggregation appears to have arisen from the power struggle between the "Northern" and "Southern" alliances of hapū for power and land in the 18th century.[1134] They reached their pinnacle of power and solidarity under the leadership of the Hokianga warrior Hongi Hika early in the 19th century, not long after which the component groupings once more tended to go their own ways.

There is no mention of "Ngāpuhi" as a united power bloc at the signing of the Treaty of Waitangi, which notably was concluded by rangātira representing their hapū under the aegis of the Rangātira "o te wakaminenga o nga hapū o Nu Tireni me era Rangātira atu".[1135] The Crown

[1132] Mary Louise Pratt Imperial Eyes: Travel Writing and Transculturation (Routledge, London, 1992) as quoted in Larsen Soren C and Jay T Johnson Being together in place: Indigenous coexistence in a more than human world (University of Minnesota Press, Minneapolis, 2017) at 132.
[1133] Tattoo.

[1134] Jeffrey Sissons, Wiremu Wi Hongi and Pat Hohepa Ngā Pūriri o Taiamai: A Political History of Nga Puhi in the Inland Bay of Islands (Reed, Auckland, 2001).
[1135] Treaty of Waitangi Act 1975, sch 1 (Māori text).

commenced arguably a legislative sweep to assimilate Māori into the new regime. Struggles arose with the colonial Government in large part from the realisation by some of these rangātira that the sovereignty, which they and their hapū had enjoyed, and had expected to continue to enjoy, had dried up with the ink on the parchment of the Treaty. New Zealand historians record the impact of the new ruling colonial Government on Māori commerce and the undermining of the political governance of the Māori communities:[1136]

> "Thus, by merely engaging with British systems of Government , chiefs were unwittingly deemed to have ceded authority over their own people, and territories. This denial of mana, together with the diminished labour pool, weakened the social cohesion provided by chiefly leadership … So the colonising process significantly altered Maori social, spiritual, and economic systems and, as a consequence, the bonds that bound individuals and communities loosened."

In 1845–1846, Ngāpuhi Chief Hone Heke was the first serious challenge to the Crown in the years after signing the Treaty. Hone Heke protested against the growing control of colonial Government over Māori affairs and the subsequent erosion of tino rangātiratanga.[1137] This complex conflict involved fighting between two factions of Ngāpuhi as well as clashes with British forces, and became known as the Northern War. The armed struggle against the British was supported mostly by the hapū that had been part of the old "Southern Alliance", but joined by some of those, such as Ngāti Tautahi and Ngāti Whakaeke who had been allied with the "Northern Alliance" in the 18th century conflicts, thereby breaking ranks with their erstwhile allies who sided with the Colonial Government .[1138]

Conflicts of personal and regional interests within and among these groups allowed the British to gain the upper hand and a nominal victory after the abandonment of Ruapekapeka pā in January 1846. Outside the urban areas, however, it was tikanga Māori that generally prevailed

[1136] Hazel Petrie Chiefs of industry: Maori tribal enterprise in early colonial New Zealand (Auckland University Press, 2013) at 217.
[1137] Political control by Māori people over Māori affairs.
[1138] James Cowan The New Zealand Wars and the Pioneering Period (Government Printer, Wellington, 1922) vol 1 at chs 3–9; Jeffrey Sissons, Wiremu Wi Hongi and Pat Hohepa Ngā Pūriri o Taiamai: A Political History of Nga Puhi in the Inland Bay of Islands (Reed, Auckland, 2001).

in Māori communities well into the 20th century, although the Queen's Writ could be used when convenient or necessary. Aotearoa New Zealand was now being "transformed from an exclusively Māori world into one which Pākehā dominated numerically, politically, socially and economically."[1139]

22.4 Ngāpuhi hapū tino rangātiratanga

Māori leaders in Taitokerau[1140] and elsewhere made use of opportunities to adapt institutions established to constrain their spheres of influence or make them agents of the Crown to serve their own purposes. In this way, rangātira exercised the tino rangātiratanga promised but not realised by Te Tiriti o Waitangi. The exercise of rangātiratanga also implied manaakitanga[1141] and an excessive assertion of authority whether by the Crown or traditional leaders has always eventually produced a countering resistance.

In Waima for example, under the Mahurehure leader Hone Mohi Tawhai, the local Māori school committee levied substantial fines from parents found guilty of speaking Māori within hearing of pupils in the school precincts, non-attendance of their children and other misdemeanours. As the fines increased so did the resistance of the parents and after a parent boycott, uncollected fines were cancelled, and a new school committee elected.[1142]

Where strictly local matters could be dealt with effectively by the local rangātira and other kaumātua, school committees often doubled as forums for discussion and debate on local affairs generally under their leadership at least up until the end of the Māori Schools system in the 1960s. Allan Arlidge notes how hapū tino rangātiratanga superseded other forms of political loyalties and governance structures:[1143]

[1139] "A history of New Zealand 1769–1914" <www.nzhistory.govt.nz>.

[1140] Taitokerau, Northland (north of the North Island) region of New Zealand.

[1141] Mutual respect, and awareness of one's obligations in relation to others. Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 205–209.

[1142] Pat Hohepa Waima, The People, the Past, the School (Waima School Committee, Waima, 1981) at 22–23, 25.

[1143] AS Arlidge "Some thoughts on the history of the local government of the Māori people" (1980) 89(3) JPS 329 at 337.

> "Māori history has demonstrated at least one thing clearly, that Māori individualism and tribal particularism has effectively militated against even canoe (waka) affiliations ever being more than temporary unstable alliances that quickly give way to either tribal or sub-tribal pursuits."

An attempt at a hui[1144] in Kawakawa in 1862 to unify Ngāpuhi under Maihi Kawiti failed.[1145] Maihi was the son of Te Ruki Kawiti, who had co-led the struggle against the British in 1845, and the acknowledged leader of Ngāti Hine, the foremost segment of the 18th century Southern Alliance. In response to this rebuff, Maihi established Te Porowini (Province) o Ngāti Hine, within the Rohe Potae,[1146] which he defined to separate the territory of Ngāti Hine from their Ngāpuhi neighbours. By doing this, Maihi effectively asserted the independence of Ngāti Hine as a province within the then-established regional Government system of the colony. He had accepted appointment as an assessor under the Native Circuit Courts Act of 1858, and later became a judge under the system established under the 1883 Native Committees Act. Yet, this was another official measure opposed or resented by many Māori, but nonetheless bent by them to serve at least to some extent their own purposes.

22.5 Ngāpuhi and governance

The UN Declaration on the Rights of Indigenous Peoples ("UNDRIP") begins with general statements on the rights of Indigenous peoples recognised in international human rights law and then focuses on self-determination: "a universal human rights percept concerned broadly with peoples, including Indigenous peoples, and grounded in the idea that all are equally entitled to control their own destinies".[1147]

[1144] "A gathering, usually for some community purpose". See Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 97–98.

[1145] Kene Hine Te Uira Martin "Kawiti, Maihi Paraone" in Dictionary of New Zealand Biography <teara.govt.nz/en/biographies/2k6/kawiti-maihi-paraone>.

[1146] Rohe pōtae: literally "encircling boundary"; a term originally associated with the Kīngitanga movement in the Waikato, but also used in Taitokerau "as a metaphor for traditional or contemporary heartland territories of an iwi or hapū": Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 339.

[1147] J Anaya Indigenous Peoples in International Law (2nd ed, Oxford University Press, Oxford, 2004) at 98.

The right to self-determination is a highly contested concept that resonates with all Indigenous peoples. Indigenous peoples globally are faced with the common struggle to have their rights recognised and realised, "including this right to self-determination through self-Government and the right to representation through their own governance institutions".[1148] The word "govern" originates *inter alia* from the Latin word "*gubanare*" which is "to steer, to rule".[1149] In the New Zealand context, Dewes defines governance as "decisions that define expectations, grant power, or verify performance" and notes also that these governance instruments were not exclusive to westernised notions of governance.[1150] Indeed, William Rees, who led a Government enquiry into Māori land laws in the 1890s, observed that Māori governance and the essential attributes were highly advanced when the New Zealand colony was established:[1151]

> 'When the colony was founded, the Natives were already far advanced towards corporative existence. Every tribe was a *quasi* corporation. It needed only to reduce to law that old system of representative action practised by the chiefs, and the very safest and easiest mode of corporate dealing could have been obtained. So simple a plan was treated with contempt. The tribal existence was dissolved into its component parts. The work which we have, with so much care, been doing amongst ourselves for centuries — namely the binding together of individuals in corporations, we deliberately undid in our Government of the Maoris [sic].'

Contemporary Māori governance has significant differences from mainstream governance in New Zealand. Hybrid governance models for Māori have emerged through post-Treaty settlements. Further, co-management and co-governance frameworks[1152] are appearing in Treaty settlements to acknowledge new arrangements being agreed to by Crown and Māori. Emerging from these arrangements is a new guard of Māori decision-makers, new governors, new rangātira guided by the call of self-determination for their people. The Ngāpuhi claimants

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[1148] R Joseph "Indigenous Peoples' Good Governance, Human Rights and Self-Determination in the Second Decade of the New Millennium — A Māori Perspective" (2014) Maori LR 10.

[1149] The word govern has origins in Greek "kuberman" to steer, Old French "governer", Middle English "govern".

[1150] Whaimutu Dewes "Governance Options" in New Zealand Law Society Governing and Running Maori Entities: Tribal Development and the law in the 21st Century (2009) at 71.

[1151] "Report of the Commission Appointed to Inquire into the Subject of the Native Land Laws" [1891] AJHR Session II, G-01 [The Rees Commission] at xviii.

[1152] For example, The Waikato River 2009 deed established a co-governance structure for the River to include Maori decision-makers and the Crown.

stated in their application to the Waitangi Tribunal the importance of hapū tino rangātiratanga and how it was different from an Austinian view of sovereignty.[1153] Both views were critiqued in the *Ngāpuhi Mandate Report* as follows:[1154]

> "The two sides of the argument also reflect different socio-political values. The Tūhoronuku IMA (and the Crown) relies on a one-person one-vote democratic process as demonstrating support for a mandate that has been properly recognised as reflecting the majority of Ngāpuhi individuals. The Tūhoronuku IMA said that the claimants are a 'loud minority' and that there will always be those who are unhappy with the outcome of a voting process. Supporters of the Tūhoronuku IMA see it as representing the 'modern-day demographics of Ngāpuhi', including 'those Ngāpuhi who are not actively engaged presently, but who stand to benefit from the settlement of past wrongs'.
>
> The claimants say that the hapū, as the basic building blocks of Ngāpuhi, must decide important issues regarding the settlement of their claims. They argue that their tikanga is not one of 'democracy' in western terms, but that it is perfectly capable of reaching consensus by requiring participation, discussion kanohi ki te kanohi, and resolution of differences on matters of shared concern. They see an outcome based on a majority vote by individuals, without establishing hapū consent, as undermining their rangātiratanga, especially when the issue is the crucial one of mandate to negotiate a Treaty settlement. In their view, this is not the way forward to an enduring settlement that will empower future generations."

These viewpoints were expressed frequently in encounters between Ngāpuhi groups and the Crown. Ironically, although "Western" democracy in the sense of Government by numerical majority is rightly rejected in the passage quoted above, the Ngāpuhi view of democracy resonates with the origins of modern democracy in the assemblies of citizens in the ancient Greek city states, meeting together to order the affairs of their local community and their relationships with their neighbours.

[1153] John Austin, 1790–1859, was an English philosopher whose monistic theory of sovereignty, expounded in Lecture VI of his work The Province of Jurisprudence Determined (John Murray, London, 1832), had a profound influence on English jurisprudence and continues to dominate the Crown's view of sovereignty in Aotearoa New Zealand. It unreservedly rejects notions of shared, divisible or limited sovereignty.
[1154] Waitangi Tribunal Ngāpuhi Mandate Inquiry (Wai 2490, 2015) at 39.

22.6 Ngāpuhi and the Waitangi Tribunal

As with many iwi in Aotearoa New Zealand, the Crown neglected the rights of Ngāpuhi until the enactment of the Treaty of Waitangi Act 1975 under the Labour Government . The seed of the Waitangi Tribunal germinated in the middle of a collision of two opposing forces. On the one hand, there was genuine political will to improve the situation for Māori. On the other hand, neoliberal economic policies to transform state-owned enterprises into commercially viable entities undermined and reduced political will for taking into account the plight of Māori.[1155] The Tribunal was an ingenious political manoeuvre by Parliament to appease mounting political unrest from Māori insurgence and Māori renaissance.[1156] Indeed, Joseph observes, "The Act was initially seen as a small and inexpensive way of coping with the growing pressures from the Māori community."[1157]

The Waitangi Tribunal is a standing commission of inquiry established under legislation.[1158] The purpose and function of the Tribunal is to make recommendations on claims brought by Māori relating to legislation, policies, actions or omissions of the Crown that are alleged to breach the promises made in the Treaty of Waitangi.[1159] Section 5(2) of the Act provides that in exercising its functions the Tribunal shall:[1160]

> "Have regard to the 2 texts of the Treaty set out in Schedule 1 and, for the purposes of this Act, shall have exclusive authority to determine the meaning and effect of the Treaty as embodied in the 2 texts and to decide issues raised by the differences between them."

The Waitangi Tribunal has the power to make recommendations to the Crown (as embodied by the Government of the day), but has no legislative or coercive authority. Historical Treaty

[1155] P Joseph "Maori and the market: the Waitangi Tribunal" (2000) 41(4) Race & Class 59.
[1156] The 1970s record Māori people beginning to assert their identity as Māori, Treaty issues, the revival of te reo Māori as an official language of New Zealand, (the Māori language), protest movement on land rights. The historical significance of the 1975 land march walking the length of the north island to Wellington heralded a renaissance for the Treaty, Māori identity and culture.
[1157] P Joseph "Maori and the market: the Waitangi Tribunal" (2000) 41(4) Race & Class 59.
[1158] The Treaty of Waitangi Act 1975. The Act provides "for the observance, and confirmation of the principles of the Treaty of Waitangi by establishing a Tribunal to make recommendations on claims relating to the practical application of the Treaty and to determine whether certain matters are inconsistent with the principles of the Treaty: <www.legislation.govt.nz>.
[1159] <www.waitangitribunal.govt.nz>.
[1160] The Treaty of Waitangi Act 1975, s 5(2).

breaches are settled with the Crown mostly by negotiations, and then implemented through legislation. This often occurs after the Waitangi Tribunal has issued a report and made a recommendation to the Government .

The initial powers of the Tribunal were limited to then current breaches of the Treaty; however, subsequent amendments to the Act gave the Tribunal authority to review the entire record in relation to the Treaty since 1840.[1161] Māori showed no particular interest in the Waitangi Tribunal until the amendments giving it retrospective authority were enacted. King notes the granting of this to the Tribunal became the catalyst for synergising Māori to act:[1162]

> "Little public notice was taken of its operations until 1985, when its powers were made retrospective to 1840 under s 6 of the *Treaty of Waitangi Act* [1975]. From this time, it became the focus of Māori resource claims against the Crown and the source of major settlements that would reinvigorate tribal activity over large parts of the country."

This legislative shift resulted in an influx of claimant groups registering their claims. Andrew notes that the impact of the new jurisdictional powers heralded a new infusion for Māori to take up "legal" arms for broken promises of the Treaty from 1840, stating: "The creation of a specialist Tribunal, now with retrospective jurisdiction, was a clear acknowledgement of the legitimacy of the historical claims of Māori."[1163]

The crucial step in the negotiating process between claimants and the Crown is the mandating process where hapū/iwi receive the mandate or authorisation from hapū /iwi members to act on their behalf in negotiations with the Crown towards a settlement of the claimant groups of Treaty of Waitangi claims. The Treaty settlement process provides for three types of redress to the claimant group. Firstly, a historical account of the Treaty breaches, and Crown acknowledgement and apology. The historical account details the ways that the Crown

[1161] Under the Treaty of Waitangi Amendment Act 1985, Parliament permitted the Tribunal to investigate events and claims dating back to 1840.
[1162] King M Penguin History of New Zealand (Penguin, UK, 2003) at 487.
[1163] Jessica Andrew "Administrative review of the Treaty of Waitangi settlement process" (2008) 39 VUWLR 225.

breached the Treaty and both the Crown and the claimant group must agree on this. The Crown acknowledges and apologises for the Treaty breaches and the impact they had on the claimant group. Second, cultural redress which can include, for example: changing place names, the transfer of Crown land to the claimant group, and co-governance of forests, rivers and lakes. Third, commercial and financial redress which can be a combination of cash and property.

A sticking point for claimant groups when negotiating with the Crown is the Crown's preference to negotiate with "large and natural groupings". As Coates points out, the "large natural grouping" aggregation preferred by the Crown for its Treaty settlements has been well criticised for not necessarily being "natural", and disempowering the voice of the primary traditional unit, the hapū.[1164] This is particularly so in the case of Ngāpuhi when they emphatically reject the Austinian view of sovereignty. Hickford made the following observation of the complexity of meeting the needs and aspirations of Ngāpuhi when he noted that "[i]t is conceivable that no single post-settlement governance entity would ever be able to accommodate the diversity of interests" within Ngāpuhi, "in view of the breadth of communities, their varied histories and perspectives". [1165]

Finally, on the international stage, the UN Committee on Economic, Social and Cultural Rights ("CESCR") published their concluding observations on the fourth periodic review of economic, social and cultural rights in New Zealand in late 2017 and early 2018. The Committee is an independent body that monitors states' compliance with the International Covenant on Economic, Social and Cultural Rights and examines individual countries' compliance with their human rights obligations under the convention. Concerns were raised around the constitutional status of the Treaty of Waitangi; and how Waitangi Tribunal recommendations are not binding on the Crown:[1166]

> "The Committee is concerned that the Treaty of Waitangi is still not legally enforceable nor referred to in the Constitution Act, and that the recommendations of the Waitangi

[1164] Chapter X4, this volume. Natalie Coates is a Māori lawyer who advocates for Māori and Indigenous rights.
[1165] Chapter X8, this volume. Professor Mark Hickford is Pro Vice Chancellor and Dean of Law at Victoria University of Law, Wellington, New Zealand.
[1166] United Nations Human Rights Office of the High Commissioner <tbinternet.ohchr.org>.

> Tribunal are not binding and are frequently ignored by the Government . Furthermore, the Committee is concerned at the limited efforts that have been made to ensure meaningful participation of Māori in decision-making concerning laws that impact their rights, including land and water rights."

To date, the Tribunal's achievements include 2,501 registered claims, fully or partly reporting on 1,028 claims, 123 reports issued and district reports covering 79 per cent of New Zealand's land issued.[1167]

22.7 Focus of Ngāpuhi claims

This section of the chapter seeks to establish a timeline of contemporary Ngāpuhi governance proposals and its transformations. The following narrative details the evolving role and governance struggles of the Ngāpuhi leadership in their pursuit to obtain mandate from hapū and settle with the Crown. There is a firm belief that the road to self-determination for Ngāpuhi is characterised by the fundamental political unit of hapū rangātiratanga. This prevailing philosophical approach dominated the 2018 mandate vote and showed the cohesive resistance of hapū opposing the "one size fits all" strategy.

Te Rūnanga-A-Iwi O Ngāpuhi (Te Rūnanga) is a charitable trust established in 1989 for all people of Ngāpuhi descent. There are 55 marae and 150 hapū listed under Te Rūnanga. The mission of Te Rūnanga is "To lead the cultural, social and economic growth of the Ngāpuhi by ensuring the self-determination and on-going sustainability of our people".[1168] Te Rūnanga's role is recognised under three statutes: first as the Mandated Iwi Organisation responsible for holding Ngāpuhi's share of the Māori Fisheries asset allocation under the Maori Fisheries Act 2004. Te Rūnanga received $60,549,000 worth of Māori Fisheries Settlement Assets in 2005. Second, as the Iwi Aquaculture Organisation under the Maori Commercial Aquaculture Claims Settlement Act 2004, Te Rūnanga is responsible for managing any aquaculture settlement assets on behalf of Ngāpuhi; and third, as the Iwi Authority under the Resource Management Act 1991.

[1167] <www.waitangitribunal.govt.nz>.
[1168] Te Rūnanga-A-Iwi O Ngāpuhi Strategic Plan 2014–2019 at 4.

An elected board of 10 trustees representing takiwā governs Te Rūnanga. Takiwā are clusters of marae and hapū that are closely grouped together by geographical area and usually closely linked by whakapapa (genealogy). The seven geographical takiwā within Ngāpuhi tribal boundaries are: Te Takiwā o Ngāpuhi ki Whangarei, Te Rōpū Takiwā o Mangakahia Ngāpuhi ki te Hauāuru, Ngāpuhi Hokianga ki te Raki, Ngā Ngaru o Hokianga, Taiāmai ki te Marangai and Te Rūnanga o Taumārere ki Rākaumangamanga. Two Auckland-based takiwā give recognition to the more than 50,000 Ngāpuhi tribal members who reside there. They are Te Takiwā o Ngāpuhi ki te Tonga o Tāmaki Makaurau and Ngāpuhi ki Waitematā. There is also Ngāti Hine, undefined (but shown as a geographical area bounded by five other takiwā on the Rūnanga's mandate submission in 2018[1169] and included as a takiwā under the Rūnanga Trust Deed as amended 27 January 2015). However, Ngāti Hine's association with the Rūnanga has been problematic for many years, and in February 2019, the combination of nine hapū reiterated through their chairman their intention to withdraw completely from the Rūnanga and conduct their own Treaty negotiations.[1170]

In 2007, the Ngāpuhi Design Group led by the Chairman Sonny Tau of Te Rūnanga recommended that the Waitangi Tribunal combine its five hearing districts of Northland with a single inquiry.[1171] The argument put forward was that the separate inquiries could be divisive to Ngāpuhi Nui Tonu[1172] hapū, hindering the opportunity for claimants to present their evidence in a collective manner without segmentation between districts. This recommendation fell in line with the Crown's current Treaty of Waitangi settlement policy, which is founded on a strategy of direct settlement with "large natural groupings". Te Paparahi o Te Raki (Wai 1040) inquiry district comprises all territories north of Auckland.

From 2008–2009 Te Rūnanga-ā-Iwi-o-Ngāpuhi sought feedback from affiliates on how to progress a settlement of historical claims. Te Rūnanga formed a sub-committee Te Rōpu o

[1169] Te Rūnanga-ā-Iwi o Ngāpuhi, Proposal for Ngāpuhi Settlement Negotiations August 2018 Response (Power Point presentation) <www.ngapuhi.iwi.nz>, slide 4.

[1170] For example: Mike Barrington "Iwi group suspends Ngāti Hine" Northern Advocate (online ed, Auckland, 18 December 2011); "Ngāti Hine not into Rūnanga a Iwi o Ngāpuhi" Marae TV (18 October 2013) <www.youtube.com>; Gia Garrick, "Ngāti Hine wants to formally split off from Ngāpuhi Treaty talks" Radio New Zealand (online ed, 5 February 2019).

[1171] "Ngapuhi are ready to tell their story" Northern News (online ed, 28 April 2010).

[1172] Ngāpuhi-nui-tonu describes the multiplicity of tribes, sub-tribes and marae linked by common descent from the original settlers of Taitokerau.

Tūhoronuku (Tūhoronuku) to progress the Treaty settlement process and started holding consultation hui. During these hui, Tūhoronuku developed a strategy to obtain the mandate and proposed a structure for the mandated entity. One consequence of this was the emergence of Te Kotahitanga o Ngā Hapū Ngāpuhi (Te Kotahitanga). Te Kotahitanga is essentially a large collective of Ngāpuhi hapū in opposition to Tūhoronuku. Despite efforts by the Crown to meld the two parties' interests (Tūhoronuku and Te Kotahitanga) and encourage collaboration, no agreement was reached. In 2009, Te Kotahitanga o Nga Hapū o Ngāpuhi held its inaugural meeting and set three strategic goals: firstly, to establish through the Waitangi Tribunal that hapū have never ceded sovereignty;[1173] second, to be a co-ordination point for hapū and claimants to prosecute their Tiriti o Waitangi grievances against the Crown;[1174] and third, to assist hapū and claimants in their Tiriti o Waitangi claims with the Crown that would uphold the mana[1175] and tikanga[1176] of those hapū.

In 2010, Stage 1 (Wai 1040) commenced at the Waitangi Tribunal. Stage 1 was devoted exclusively to determining the effect of four documents portending a shift in the discourse of sovereignty and self-determination of Ngāpuhi. Williams notes that there was a wide ambit of evidence, exhaustive consideration of oral testimony, legal submissions and historical analysis from claimants.[1177] In 2011, voting took place to secure the resolution that Tuhoronuku is "mandated to represent Ngāpuhi in negotiations with the Crown for the comprehensive settlement of all Ngāpuhi historical claims and Crown breaches against Te Tiriti o Waitangi/The Treaty of Waitangi". Voting packs were sent to 29,289 adult Ngāpuhi (18 years and over). Of the

[1173] Waitangi Tribunal Te Paparahi o te Raki (Wai 1040) stage 1 hearings.
[1174] Waitangi Tribunal Te Paparahi o te Raki (Wai 1040) stage 2 hearings.
[1175] "Mana. A Key philosophical concept combining notions of psychic and spiritual force and vitality, recognised authority, influence and prestige, and thus also power and the ability to control people and events": Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 154.
[1176] "Tikanga. Tika has an outer or surface meaning of 'straight, direct, keeping a direct course, tied in with the moral connotations of justice and fairness, including motions such as 'right, correct'": Richard Benton, Alex Frame and Paul Meredith Te Mātāpunenga: A Compendium of references to the Concepts and Institutions of Maori Customary Law (Victoria University Press, Wellington, 2013) at 429.
[1177] David V Williams "He Whakaputanga me te Tiriti: The Declaration and the Treaty — Sovereignty in 1840 — Comment" (2014) Maori LR.

6,794 people who voted, 5,210 (76.4 per cent) voted in support of the mandate and 1,584 (33.6 per cent) opposed it. (The 2013 Census gave the total Ngāpuhi population as 125,601.)[1178]

While there were unsuccessful discussions between Tūhoronuku and Te Kotahitanga following the mandate vote, amendments were included to Tūhoronuku's structure in order to satisfy some concerns raised by Te Kotahitanga during facilitated discussions in the period of October 2012 to February 2013. In March 2013, Stage 2 of the hearings commenced and the Crown sought submissions on the amended deed of mandate- 1,259 (36 per cent) submitted in support and 2,221 (63 per cent) in opposition. The Office of Treaty Settlements from 6 July to 20 July advertised the amended deed of mandate. 3,505 submissions were made in response to the amended deed and 63 per cent of these submissions opposed the amended deed. Notwithstanding mounting and visible opposition, the Crown recognised the mandate of Tūhoronuku to negotiate a settlement of historical Ngāpuhi claims under the Treaty of Waitangi on February 14, 2014. Part of the mandate agreement included Tūhoronuku's being legally separated from Te Rūnanga. On 6 March 2014, the Tūhoronuku Independent Mandated Authority was established as a charitable trust to set out the strategic direction for the overall Ngāpuhi negotiation process.

The establishment of Tūhoronuku as the "mandate holder" posed many disturbing issues for opposing Ngāpuhi hapū. Tūhoronuku as the sole entity to negotiate the settlement, as the all-encompassing body representing any and all who affiliate as Ngāpuhi contradicted Ngāpuhi's ethos of hapū rangātiratanga. The Tūhoronuku framework would cover individuals, whānau, hapū and all other groups of Ngāpuhi descent. This rationale undermined current and future claimants, moving even to represent those with multiple whakapapa affiliations that include Ngāpuhi. Within six months, on 12 September 2014 the Waitangi Tribunal granted applications by Te Kotahitanga supporters for an urgent hearing. Fifteen claimant groups argued that the Crown had erred in its decision and the rush to settle all Ngāpuhi historical Treaty claims through a single settlement ignored the preferences of Ngāpuhi claimants. Seventy-two interested parties joined the hearing in support of the application, and 14 interested parties

[1178] Department of Statistics "2013 Census iwi individual profiles: Ngāpuhi" <archive.stats.govt.nz>.2016

joined in opposition. The crux of the claimants' case was the protection of hapū rangātiratanga. The Waitangi Tribunal noted:[1179]

> "At the heart of the claimants' case is the protection of hapū rangātiratanga. They alleged that the Crown was attempting to transform the Ngāpuhi political structure to achieve a settlement outcomes that had more to do with its policy preferences that those of Ngāpuhi."

Within the same period, the Waitangi Tribunal released its Te Paparahi o Te Raki Stage 1 report, *He Whakaputanga me Te Tiriti/ the Declaration and the Treaty* in November 2014. The key finding in the report held that Ngāpuhi did not cede sovereignty in the signing of the Treaty. The historical finding sent divergent ripples of reactions from Ngāpuhi, Māori and the Crown. The immediate response of some leaders and the Minister of Treaty Settlements was recorded thus in the *Northland Age*:[1180]

> "Some leaders at Waitangi yesterday said the Tribunal's finding would strengthen their claims to natural resources, because their ancestors never consented to giving up sovereignty; others that it could open up avenues for Maori via international law. Treaty Settlements Minister Chris Finlayson said in a statement there was no question the Crown had sovereignty in New Zealand, and the report did not change that."

This finding became a beacon of solidarity for Ngāpuhi and a significant axis of historical determination. The Tribunal made no conclusions about the sovereignty that the Crown exercises today, or how the Treaty relationship should operate in a modern context. The Tribunal's key historical finding was as follows:[1181]

> "We have concluded that in February 1840 the rangātira who signed te Tiriti did not cede their sovereignty. That is, they did not cede their authority to make and enforce law over their people or their territories. Rather, they agreed to share power and authority with the Governor. They agreed to a relationship : one in which they and Hobson were to be equal – equal while having different roles and different spheres of influence. In essence, Rangatira retained their authority over their hapū and territories, while Hobson was given authority to control Pākehā.

[1179] Waitangi Tribunal The Ngāpuhi Mandate Inquiry Report (Wai 2490, 2015) at 12.
[1180] "Ngapuhi 'never gave up sovereignty'" Northland Age (online ed, Auckland, 17 November 2014).
[1181] Waitangi Tribunal He Whakaputanga me te Tiriti /The Declaration and the Treaty (Wai 1040, 2014) at 527–528.

> .... While some may see our conclusions as radical, they are not. In truth, our report represents continuity rather than dramatic change. Leading scholars – both Māori and Pākehā – have been expressing similar views for a generation or more. When all of the evidence is considered, including the texts as they were explained to rangātira, the debates at Waitangi and Mangungu, and the wider historical context, we cannot see how other conclusions can be reached."

From December 2014 until 2016, hearings were held in its (WAI 2490) *Ngāpuhi Mandate Inquiry* and its reports released. A tri-partite engagement process for Te Kōtahitanga, Tuhoronuku and the Crown was developed, terms of engagement were circulated and meetings began. From April to August 2016, a draft version of the Maranga Mai Report by the tri-partite group was released for discussion and feedback and a final report was released to the public. Between these periods, the Waitangi Tribunal released the *Ngāpuhi Mandate Inquiry Report* (Wai 2490). The report held that the Crown had a primary duty to protect hapū and a responsibility to ensure that all Ngāpuhi have an opportunity to be involved in the mandate. The Crown in recognising the Tūhoronuku IMA mandate had breached its obligations under the Treaty of Waitangi to ensure that the structure of Tūhoronuku IMA protected hapū rangātiratanga. The concluding comments from the Report stated, "It is clear that, in order for the Treaty relationship to be repaired, hapū must be returned to a position of authority."[1182]

In late 2018, 110 hapū participated in the referendum on the evolved mandate. The Te Ropu Tuhono technical advisers reported that: "The Ngāpuhi Hapū Endorsement and Ngāpuhi Tangata vote have failed to reach the respective 65% and 75% thresholds that Te Ropu Tuhono set for the Endorsement process."[1183] The settlement was supported by 31 of 105 hapū who held hui on the proposal, and by individual votes in 52 of the 110 hapū participating in the poll (although overall 51.7 per cent of the individual votes favoured the Rūnanga's proposals).

[1182] Waitangi Tribunal Ngāpuhi Mandate Inquiry Report (Wai 2490, 2015) at 84.
[1183] Willie Te Aho and Jason Pou Final Report from the Te Ropu Tuhono Technical Advisers On the Outcomes of the Endorsement Process & Next Steps (20 December 2018) at 1.

[1184] Support was greatest (although far from unanimous) among the hapū associated with the old "Northern Alliance", and rejection almost total among their erstwhile opponents.

The mandate was decisively rejected in both hui and individual votes among the hapū most closely associated with Ngāti Hine (see Appendix 1 for results). The majority of those hapū whose alliance was alongside Ngāti Hine had joined in a separate claim under the banner of Te Aho Claims Alliance.[1185] Nevertheless there are natural groupings within Ngāpuhi who will happily work together for certain purposes on their own terms.

The 2018 referendum results reflect at least three things: firstly, the Rūnanga o Ngāpuhi does have the support of some hapū for its proposals and could work constructively with them to achieve a viable settlement for those happy to work with it; second, the majority of Ngāpuhi hapū would prefer to negotiate their own settlements, either individually or in groupings of their own creation, such as Te Aho Claims Alliance; and third, there is probably a fairly sharp division of interest within the iwi between those who live within the Ngāpuhi heartland (reflected in the hapū hui outcomes) and those who have left home (reflected in the individual poll results).

This might account for the marked reversal of opinion in the Whangaroa results — 20 of the 22 hapū hui rejected the proposal, with one equally divided, but in 11 hapū individuals voted in favour. Similarly, in the Kaikohe-Taiamai area only eight of 22 hapū supported the proposal, but individuals voted "yes" in 16 hapū. Many people within the latter group are possibly more interested in benefitting from the proceeds of a settlement than in preserving or asserting local autonomy. On the other hand, although in 21 hapū the individual results supported the proposals, which the hui had rejected, in 52 hapū both sets of results were against the arrangements proposed by the Rūnanga through Tūhoronuku. For many hapū, the individual polls probably carry little weight. Important decisions have traditionally been arrived at by

[1184] Office of Treaty Settlements Ngāpuhi Evolved Mandate Voting with Hapū Endorsement Outcomes (2018); Elections NZ Ngāpuhi Evolved Mandate Proposal Voting Process: Final Result (2018). (See also the list of hapū at the end of this chapter.)

[1185] Henare et al, (2013), A Middleton and A Puckey He Rangi Mauroa Ao te Po: A Melody Eternally New (Dame Mira Szászy Research Centre (University of Auckland Business School), Te Aho Claims Alliance report, 21 February 2013) at 26–29.

consensus resulting from face-to-face meetings, which even in the 21st century are the preferred method of negotiation. Indeed, it is the complexities of this alternative form of Government with which central Government s, enamoured of the efficiency and uniformity which characterise their Austinian view of sovereignty, are reluctant to contend.

The overall sentiment within the Ngāpuhi complex seems to be that articulated by Moana Tuwhare, a former board member of Tūhoronuku: [1186]

> "I'm particularly interested in how we as Ngāpuhi have dug our heels in on the basis of our Hapū rangatiratangas and the fact our many rangātira never ceded sovereignty through Te Tiriti or anytime thereafter. This starting point means our attitude to Iwi governance is much like our attitude to Crown governance, useful to a point but the relationship must be on our (hapū) terms with mutual benefit flowing.
>
> To that end I'm also personally advocating that our hapū be recognised as legal entities in this country in their own right without any layer of mainstream governance structures and requirements but still meet the transparen[cy] and accountability tests through our tikanga rather than through a deed of trust or incorporation. I believe to develop this further we should be focusing, debating recording and refining what our tikanga are in 2018 and defining for ourselves what our standard of good governance practices look like. Certainly, the tensions between the current [P]ākehā norms and our tikanga are a major contributing factor to our current stalemate on how to move forward. Power and control being another.
>
> Anyhow, hapū as legal entities seem to me to be a simple and logical way to reclaim our legal status and work through the current tensions."

In their comments on the results of the voting on the 2018 Ngāpuhi Evolved Mandate Proposal, the Te Rōpū Tūhono technical advisers to the Tūhoronuku Mandated Authority concluded, "What is apparent is that the views of hapū as to the way forward do not align and it would seem that the aspiration of a single Ngāpuhi approach might be illusive". [1187]

[1186] Moana Tuwhare, personal communication 21 September 2018.
[1187] Jason Pou and Willie Te Aho Final Report from the Te Ropu Tuhono Technical Advisers on the outcomes of the endorsement process & next steps (20 December 2018).

The technical advisers saw two options for the Crown: (1) wait until the Waitangi Tribunal completed its second report and begin a new mandating process in the light of that, or (2) take a similar approach to that of the last Government with Te Arawa, and move forward with those hapū "who are willing and able to proceed". Both options, they noted, would require further research and analysis. The lessons of the past three centuries would imply that the second of these options is more likely to be the viable one.

22.8 Conclusion

According to the 2013 Census, 125,601 people, 18.8 per cent of the total population of Māori descent, affiliated with Ngāpuhi; however only 25,026, a fifth of this total, lived in the Ngāpuhi heartland of Taitokerau, compared with 50,580 (43 per cent) in Auckland, and 13,497 (10.7 per cent) in the Waikato. The total makes Ngāpuhi the largest iwi, and the most widely dispersed, well ahead of Ngāti Porou, next with 71,049 people enumerated. However, despite the formidable statistics, "Ngāpuhi" is as much an idea as a coherent social group. Te Tiriti o Waitangi is a source of constitutional rights for Ngāpuhi hapū in their longstanding grievances with the Crown. There is frustration at further delay for Ngāpuhi in its complex diversity to be at the settlement table. Nonetheless, the final curtain call of successful settlement process must be made where the negotiating structure is robust and has garnered full support by those hapū it purports to represent, and whose historical grievances it intends to resolve.

Historically, Ngāpuhi through tikanga exercised hapū tino rangātiratanga over the taonga within their rohe. Over time, Ngāpuhi's rangātiratanga diminished substantially through colonisation, mono-cultural legislation and broken promises of Te Tiriti. Despite the relatively brief interludes of apparent unity, the echoes of the ancient Northern and Southern alliances, the sense of autonomy (rangātiratanga), the mana motuhake of individual hapū, and the mana of the leaders within them, have remained key elements in regional and district politics. These factors have played out in different ways at different times, but they are continually present. They must be taken into account in future negotiations with the Crown.

The Tribunal's finding on sovereignty and the autonomy of hapū did not find favour with the Government of the day — the Minister of Treaty affairs, Hon Chris Finlayson, asserting that:[1188]

> "There is no debate as at today who holds sovereignty over New Zealand and what I was wanting to emphasise were the issues that I've come across over the years in the context of the Te Hiku negotiation that also apply with equal force to Ngāpuhi that we've got the opportunity to do some really good work up there."

An attempt to reconcile the two major groups contending for the mandate to represent Ngāpuhi in negotiations with the Crown — Tūhoronuku, established by Te Rūnanga-a-Iwi-o- Ngāpuhi, and Te Kotahitanga, a group including Ngāti Hine and others at odds with the Rūnanga's approach — produced the *Maranga Mai* report. This was the result of discussions held with Crown facilitation with the aim of establishing a new structure to negotiate on behalf of all Ngāpuhi. The introduction to the report, however, noted that:[1189]

> "… mandating processes are only one step in the negotiation phase of the settlement of our claims. It is just as important that hapū rangātiratanga and hapū tikanga are respected, protected and enhanced at every stage in the settlement process and beyond."

That this has proved an intractable problem should not be a surprise, in view of Ngāpuhi history from time immemorial. It is reflected on the opening page of the report, which reproduces two well-known whakatauākī: Ngāpuhi kōwhao rau ("Ngāpuhi of the hundred holes"), and Ngāpuhi taniwha rau ("Ngāpuhi of a hundred dragons"). Each of these symbolises both the diversity and the formidable independence of Ngāpuhi's component parts. Indeed, the Ngāpuhi historian LHW Stowell (Hare Hongi) wisely commented on the second of these "Ngāpuhi's Demons are legion (disturb not their peace.)"[1190]

[1188] Dean Nathan "Finlayson dismisses findings of Waitangi Tribunal" Te Ao Māori News (online ed, 17 November 2014).
[1189] Ngāpuhi Maranga Mai Final Report (10 August 2016) <www.govt.nz>.
[1190] H W Stowell Māori Tutor and Vade Mecum (Whitcombe and Tombs, Christchurch, 1911) at 131.

This same tension is reflected in the whakatauākī outlining the traditional boundaries of the Ngāpuhi heartland, the area covered by the Treaty negotiations with the Crown, which follows the two sayings:

> He mea hanga tōku whare, ko Papatuānuku te paparahi.
>
> Ko nga maunga nga poupou, ko Ranginui e titiro iho nei, te tuanui.
>
> Pūhanga-tohora titiro ki Te Ramaroa e whakakurupaeake ra i te Hauāuru.
>
> Te Ramaroa titiro ki Whīria, te Paiaka o te riri, te kawa o Rāhiri.
>
> Whīria titiro ki Panguru, ki Papata, ki te rākau tū papata ki te tai Hauāuru;
>
> Panguru, Papata titiro ki Maungataniwha.
>
> Maungataniwha titiro ki Tokerau.
>
> Tokerau titiro ki Rākaumangamanga.
>
> Rākaumangamanga titiro ki Manaia, e tu kohatu mai ra i te akau.
>
> Manaia titiro ki Tutamoe.
>
> Tutamoe titiro ki Maunganui.
>
> Maunganui titiro ki Pūhanga-tohora.
>
> Ehara aku maunga i te maunga nekeneke, he maunga tū tonu, tū te Ao tū te Po.
>
> Ko te Whare Tapu o Ngāpuhi tēnei, tihei mauri ora.[1191]

Whiria, on the southern shores of the Hokianga harbour, was the birthplace of Rahiri, but through its long occupation, also the site of many skirmishes among his relatives and descendants. The *Maranga Mai* report also notes, in reference to the whakatauākī, that "Tokerau is known as Matakaa to Ngāti Torehina, the hapū kaitiaki of the maunga."

[1191] Text as in Ngāpuhi Maranga Mai Final Report (10 August 2016) <www.govt.nz>; Rawiri Taonui gives the following translation on the Te Ara web site: A house is constructed thus / The sky father is the roof / The earth mother is the floor / The mountains are the posts / Pūhanga Tohorā faces Te Ramaroa / Te Ramaroa faces Whiria / The taproot of strife, the custom of Rāhiri / Whiria faces Panguru-Papata, the trees bent by the western wind / Panguru-Papata faces Maungataniwha that hears / both the eastern and western coasts / Maunga Taniwha faces Tokerau / Tokerau faces Rākaumangamanga / Rākaumangamanga faces Manaia / Manaia faces Tūtāmoe / Tūtāmoe faces Maunganui / Maunganui faces Pūhanga Tohorā / This is the sacred house of everlasting Ngāpuhi. <https://teara.govt.nz/en/ngapuhi/print>.

It was clear from the 2018 referendum results that the Tūhoronuku proposals, endorsed by Te Rūnanga o Ngāpuhi, had the support of a cluster of hapū and could form the basis for a solid agreement between them and the Crown. It was equally clear that they were unacceptable to Ngāti Hine, and many of the hapū who had been associated with the Kotahitanga and Te Aho groupings. Some of these may wish to negotiate as a single group with others on some matters, and as individual, autonomous hapū on others. If the Crown wishes in fact, as well as in theory, to reach an enduring settlement in the North, it must recognise that the various Taniwha must be accorded equal respect and dealt with on their own terms.

If the Crown were to apply the principle of subsidiarity[1192] within the framework of tikanga Māori, allowing the smallest claimant group capable of undertaking a particular governance or administrative function to do so if they so wished, this would almost certainly facilitate a substantial and enduring settlement of Ngāpuhi claims, acceptable to most if not all claimants. Power-sharing arrangements through Treaty settlements between the Crown and Ngāpuhi have yet to be determined, and while this is happening, Ngāpuhi remains in stasis in their economic, social, and even political development.

The lines of Te Ruki Kawiti's prophecy, quoted at the beginning of this chapter, have provided sustenance and inspired continued resistance to Crown domination by Ngāti Hine and other Ngāpuhi hapū for ensuing generations. In its 2015 Ngāpuhi report, the Waitangi Tribunal assumed the role of the sandfly nipping the page of the document. Te Ruki Kawiti's call to action, this time peaceful but nonetheless determined, will not go unheard or disregarded. Success in reaching an agreement requires both co-operation and effort from all parties.

[1192] S K Kataria "Subsidiarity and Urban Local Government" (2008) 54(4) Indian Journal of Public Administration 803.

We conclude with two pēpeha that encapsulate our responsibility as descendants of Rahiri going forward: “Me paopao oti? He mokopuna rānei nā Rahiri?”[1193]; Me oioi te ringa, ka puta te tama a Ūpokoroa.[1194]

[1193] “Should you refuse? Are you not descendants of Rāhiri?” Hirini Mead and Neil Grove comment “The message of this proverb is that it is better to be open minded and open hearted than to treat people with unkindness”, Ngā Pēpeha ā ngā Tīpuna (Wellington, Victoria University Press, 2001) at 301.

[1194] “When agitated by the hand, the son of Long-headed-one will appear”, that is, by energetic rubbing of the fire stick, smoke and flame will appear, thus sustained work will bring results. Hare Hongi “The Contest between Fire and Water” (1894) 3 JPS 155.

Appendix 1

Ngāpuhi Hapū

This list includes all hapū covered by the Treaty of Waitangi settlement claim which was the subject of the 2018 referendum. It shows the hapū decision (at hui called for the purpose) and the outcome of the individual votes cast by hapū members in response to the question:

"*Do you support the Evolved Mandate proposal … to represent Ngāpuhi including ngā hapū o Ngāpuhi in negotiations with the Crown for the comprehensive settlement of all Ngāpuhi historic claims and Crown breaches against Te Tiriti o Waitangi*." It also shows the geographical area in which each hapū was placed for purposes of representation on the board of the Tūhoronuku Independent Mandated Authority.

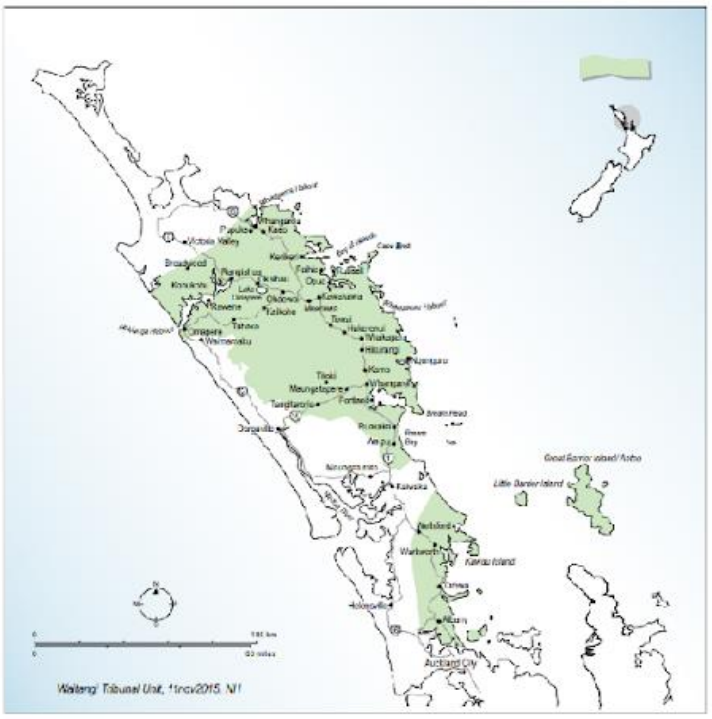
Hapū	***Hapū vote***	***Individual vote***	***District***
Kai Tangata	No	Yes	Whāngaroa
Kaitore	No	No	Whāngaroa
Kohututaka	No	No	Hokianga
Ngā Uri o Te Pona	No	Yes	Whāngaroa
Ngāi Tai	No	No	Whangārei
Ngāi Tāwake	Yes	Yes	Kaikohe-Waimate-Taiamai
Ngāi Tū Pango	No	No	Whāngaroa
Ngāi Tupoto	No	Yes	Hokianga
Ngāi Tūteauru	No	Yes	Kaikohe-Waimate-Taiamai
Ngare Raumati	No	No	Te Pēwhairangi
Ngāti Haiti	No	Yes	Whāngaroa
Ngāti Hao	Yes	Yes	Hokianga
Ngāti Hau	No	No	Whangārei
Ngāti Hau ki Omanaia	Yes	Yes	Hokianga
Ngāti Hine	No	No	Te Pēwhairangi
Ngāti Hineira	No	No	Kaikohe-Waimate-Taiamai
Ngāti Hinemutu	Yes	Yes	Kaikohe-Waimate-Taiamai
Ngāti Horahia	Yes	Yes	Mangakāhia
Ngāti Hurihanga	No	No	Hokianga
Ngāti Kaharau	Yes	Yes	Hokianga
Ngāti Kahu o Torongare	No	No	Whangārei
Ngāti Kahuiti	No	No	Whāngaroa
Ngāti Kairewa	Yes	No	Hokianga
Ngāti Kawa	Yes	Yes	Te Pēwhairangi
Ngāti Kawau	No	No	Whāngaroa
Ngāti Kawhiti	No	Yes	Whāngaroa
Ngāti Kerewheti	Yes	No	Hokianga
Ngāti Kiriahi	Yes	Yes	Kaikohe-Waimate-Taiamai

Ngāti Kohu	No	Yes	Whāngaroa
Ngāti Kopaki	No	No	Te Pēwhairangi
Ngāti Korohue	No	No	Kaikohe-Waimate-Taiamai
Ngāti Korokoro	No	No	Hokianga
Ngāti Kura	No*	Yes	Whāngaroa
Ngāti Kuta	No	No	Te Pēwhairangi
Ngāti Mahia	Yes	Yes	Kaikohe-Waimate-Taiamai
Ngāti Manu	No	No	Te Pēwhairangi
Ngāti Mau	Yes	Yes	Kaikohe-Waimate-Taiamai
Ngāti Miro	No	Yes	Whāngaroa
Ngāti Miru	No	No	Te Pēwhairangi
Ngāti Moe	Yes	Yes	Mangakāhia
Ngāti Moerewa	Yes	Yes	Kaikohe-Waimate-Taiamai
Ngāti Mokokohi	No	No	Whāngaroa
Ngāti Ngāherehere	No	No	Te Pēwhairangi
Ngāti Pakahi	No	No	Whāngaroa
Ngāti Pākau	No	No	Hokianga
Ngāti Pare	No hui held	No	Te Pēwhairangi
Ngāti Parenga	Yes	Yes	Hokianga
Ngāti Patutaratara	Hui not held	Yes	Hokianga
Ngāti Pongia	Yes	Yes	Mangakāhia
Ngāti Pou	Yes	No	Whāngaroa
Ngāti Rāhiri	Yes	Yes	Te Pēwhairangi
Ngāti Rahuwhakairi	No	Yes	Hokianga
Ngāti Rangi	No	Yes	Kaikohe-Waimate-Taiamai
Ngāti Rangihana	No	Yes	Hokianga
Ngāti Rauwawe	No	No	Hokianga
Ngāti Rehia	Yes	Yes	Te Pēwhairangi
Ngāti Ruamāhue	No	No	Whāngaroa
Ngāti Taka	No	No	Whangārei
Ngāti Tautahu	No	Yes	Kaikohe-Waimate-Taiamai
Ngāti Te Ara	No	No	Te Pēwhairangi
Ngāti Te Rino	No	No	Mangakāhia
Ngāti Te Tārawa	No	No	Te Pēwhairangi
Ngāti Tipa	No hui held	No	Te Pēwhairangi
Ngāti Toki	Yes	Yes	Mangakāhia
Ngāti Torehina	No hui held	No	Te Pēwhairangi
Ngāti Toro	Yes	Yes	Hokianga
Ngāti Tū	Equal	Yes	Whāngaroa
Ngāti Tuapango	Yes	Yes	Hokianga
Ngāti Ueoneone	No	Yes	Kaikohe-Waimate-Taiamai
Ngāti Uru	No	Yes	Whāngaroa
Ngāti Waiāriki	No	No	Whangārei
Ngāti Whakaeke	No*	Yes	Kaikohe-Waimate-Taiamai
Ngāti Whakahotu	Yes	Yes	Mangakāhia

Ngāti Whakamaunga	Yes	Yes	Mangakāhia
Ngāti Whārara	No	No	Hokianga
Patuharakeke	No	No	Whangārei
Patukeha	No	No	Te Pēwhairangi
Te Aeto	No	No	Whāngaroa
Te Hikutu	Yes	Yes	Hokianga
Te Honihoni	Yes	Yes	Hokianga
Te Ihutai	No	No	Hokianga
Te Kapotai	No	No	Te Pēwhairangi
Te Kumutu	No	No	Mangakāhia
Te Māhurehure	No	No	Hokianga
Te Matarahurahu	Yes	Yes	Te Pēwhairangi
Te Ngahengahe	No	No	Hokianga
Te Ngare Hauata	Yes	Yes	Kaikohe-Waimate-Taiamai
Te Orewai	No	No	Whangārei
Te Parawhau	No	No	Whangārei
Te Popoto	No	No	Kaikohe-Waimate-Taiamai
Te Pōtai	Hui not held	Yes	Kaikohe-Waimate-Taiamai
Te Pouka	No	No	Hokianga
Te Tahawai	No	No	Whāngaroa
Te Takato Kē	No*	Yes	Kaikohe-Waimate-Taiamai
Te Uri Kai Whare	No	No	Whāngaroa
Te Uri Māhoe	No	Yes	Hokianga
Te Uri o Hua	No*	Yes	Kaikohe-Waimate-Taiamai
Te Uri o Rata/kitaki	No	No	Te Pēwhairangi
Te Uri o Rauwera	No	Yes	Whangārei
Te Uri o Te Aho	No	Yes	Whāngaroa
Te Uri Ongaonga	No	No	Te Pēwhairangi
Te Uri Taniwha	No	No	Kaikohe-Waimate-Taiamai
Te Urikaraka	No	No	Te Pēwhairangi
Te Uriroroi	Yes	Yes	Whangārei
Te Wahineiti	No	No	Kaikohe-Waimate-Taiamai
Te Whānau Whero	Yes	No	Hokianga
Te Whiu	No	No	Kaikohe-Waimate-Taiamai
Tekau i Mua	No*	No	Te Pēwhairangi
Whānaupani	No	Yes	Whāngaroa
Whānautara	Yes	Yes	Kaikohe-Waimate-Taiamai

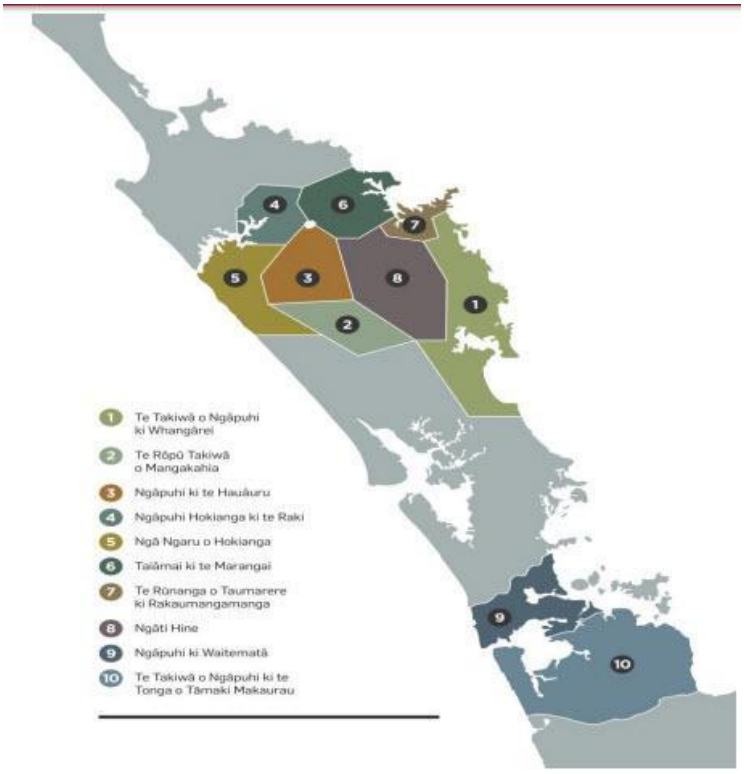
* Result set aside by Te Ropu Tuhono Technical Advisers because of procedural irregularities.

Maps



Map1: Te Paparahi o Te Raki Inquiry District (Wai 1040)

Map 2 Wider Ngāpuhi area of interest (2018)



The area of interest of the Rūnanga-ā-Iwi o Ngāpuhi is illustrated in the map displayed with the whakatauakī in the Rūnanga's Annual Report.[1195] There are more than a hundred hapū included within these contemporary boundaries, some at least of which (whether named as such or not) are de facto iwi in their own right, and further subdivided into smaller hapū closely affiliated with the larger grouping.

[1195] Te Rūnanga-ā-Iwi o Ngāpuhi Annual Report 2012. Kaikohe, Te Rūnanga-ā-Iwi o Ngāpuhi, 2013. https://www.ngapuhi.iwi.nz/Data/Sites/3/downloads-folder/annualreports/annual-report-2012-web.pdf

Map 3: “Te Whare Tapu o Ngāpuhi”

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Glossary

Hapū	descent group with local base on a marae, section of a tribe, sub-tribe, also to be pregnant
Iwi	tribe of people, also bones
Kaitiakitanga	stewardship and protection, often used in relation to natural resources.
Mana	ascribed and achieved authority, honour, status and prestige of an individual and group, spiritually endowed and maintained
Manaakitanga	hospitality, enhancing the mana of others especially through sharing, caring, generosity and hospitality to the fullest extent that honour requires
Māori	literally ordinary person, native or Indigenous to Aotearoa New Zealand
Māoritanga	Māori culture and identity
Mātauranga-a-hapū	knowledge base of the hapū
Mātauranga-a-iwi	knowledge base of the iwi
mauri	recognition of the life-force of persons and objects
Tangata	People
Tangata whenua	people of the land
Tikanga	right ways', custom, from *tika* (adj.) straight, right, correct, fair, just, rules, principles
tino Rangātiratanga	traditional authority, self determination
Whānau	extended family, usually four generations, also to give birth
Whakatauki	Proverbs
Whakapapa	Lineage through your family ancestors and to the land
Whenua	land, also umbilical chord

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Tena koutou, tena koutou, Tena koutou katoa.