



© 2022 by the author(s). This is an Open Access article distributed under the terms of the Creative Commons Attribution 4.0 International (CC BY 4.0) License (<https://creativecommons.org/licenses/by/4.0/>), allowing third parties to copy and redistribute the material in any medium or format and to remix, transform, and build upon the material for any purpose, even commercially, provided the original work is properly cited and states its license.

Citation: Muru-Lanning, M., Mills, K., Harrison, N., Lanning, G., Tukiri, C. 2022. Te Ora a Ururoa: Learning from the Mahi of Kaitiaki. *Public History Review*, 29, 78–95. <https://doi.org/10.5130/phrj.v29i0.8275>

ISSN 1833-4989 | Published by UTS ePRESS | <https://epress.lib.uts.edu.au/journals/index.php/phrj>

ARTICLES (PEER REVIEWED)

Te Ora a Ururoa: Learning from the Mahi of Kaitiaki

Marama Muru-Lanning^{1,*}, Keri Mills², Ngāhuia Harrison³, Gerald Lanning², Charmaine Tukiri⁴

¹Waikato, Ngāti Maniapoto, Ngāti Whātua

²Pākehā

³Ngātiwai, Ngā Puhī, Ngāti Pukenga, Pākehā

⁴Ngāti Mahuta, Ngāti Hikairo, Ngāti Whawhākia

Corresponding author: Marama Muru-Lanning, m.murulanning@auckland.ac.nz

DOI: <https://doi.org/10.5130/phrj.v29i0.8275>

Article History: Received 14/07/2022; Accepted 30/08/2022; Published 06/12/2022

Mai Hawaikinui ki Whangaparāoa, huri ki Tāmaki, ki Whangārei, ka hoki anō ki Tāmaki. Whiti atu ki te Mānukanuka o Hoturoa. Ka haere ki Mōkau, ka taka te punga. Ka hoki ake ki Kāwhia kai, Kāwhia tangata, Kāwhia moana.

Ka tū ko Hani rāua ko Puna.

This tauparapara created by the late Hukiterangi Muru for our research traces the harbour routes travelled by the Tainui waka, which is said to have been guided into the Kāwhia Harbour by Paneiraira, a taniwha and kaitiaki. The English translation is ‘From Hawaiki to Whangaparāoa, to Tāmaki, to Whangārei and returning to Tāmaki. Crossing over to the Manukau Harbour. Continuing on to Mokau. Turning to Kāwhia, Kāwhia the waters, Kāwhia the sustenance, Kāwhia the people. The resting place of Hani and Puna, the taurapa and tauihu of the Tainui waka.’

The James Henare Research Centre was awarded funding by the Royal Society of New Zealand Te Apārangi in 2020 for a project focused on kaitiakitanga over harbour environments, based at four case sites: Kāwhia, Aotea, Manukau and Whāngārei.¹ The research investigates kaitiakitanga as both an ethic and flaxroots politic, emphasising the work of community activists at multiple levels, from the shores and waters of their harbours to the steps of Parliament.

The root word in kai-tiaki-tanga is ‘tiaki’, which means to protect/guard/care for/tend. ‘Kai’ as a prefix signifies an actor or actors. Kai-tiaki therefore breaks down as ‘the being/s who

DECLARATION OF CONFLICTING INTEREST The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article. **FUNDING** The author(s) received no financial support for the research, authorship, and/or publication of this article.

protect/guard/care for/tend'. Tanga (or hanga/manga/anga/nga, etc.) is a nominalising suffix, which captures some of the context of the word it attaches to – a bit like '-hood', '-ship', '-ment' or '-ance' in English.² So, kai-tiaki-tanga is the phenomenon of beings protecting, guarding, caring for or tending. Guardianship is a possible translation, as is stewardship, nursing, trusteeship, or any kind of protective work. But in its true context, embedded in te reo and te ao Māori, kaitiakitanga comes connected with wider obligations, rights and spiritual dimensions.³ These include concepts such as mauri, mātauranga, rangatiratanga, mana, whanaungatanga and whakapapa.⁴

The kupu kaitiakitanga is visible in written text from the 1840s. *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law*, by Richard Benton, Alex Frame and Paul Meredith, provides evidence of the term being used in Native Land Court documents and Māori translations of the Bible. Kaitiakitanga is an old word, but, as others have noted, the use of this word to describe the human practice of interacting with and caring for the natural environment, is a relatively new use of the term. The Law Commission phrased this succinctly: 'Kaitiakitanga is a term coined in relatively recent times to give explicit expression to an idea which was implicit in Māori thinking but which Māori had hitherto taken for granted.'⁵

What we now call kaitiakitanga would in the past just have been called 'tikanga', the correct way of doing things, part of the whole integrated parcel of Māori custom. Prior to Pākehā arrival, there was no need for a specific word to describe the protection of the natural environment, because the natural environment was not seen as a separate thing to relate to – this is a western idea.⁶

Māori Marsden and others have noted that a predominant old use of the term kaitiaki was for non-human guardians, from the gods themselves, to taniwha and other beings who belonged to specific places and peoples.⁷ However, the word was mobilised by Māori rights activists in the 1980s to describe their own, human, work, as part of strategic campaigns to defend their lands and waters from environmental desecration.⁸ The term was adopted by the public service in the 1980s and proliferated in legal and policy documents, most notably the Resource Management Act 1991. The inclusion of kaitiakitanga in legislation and policy developed in the context of increasing neoliberal and Third Way politics, at a time when the government was seeking to devolve many of its responsibilities to 'stakeholders'. Central and local government still tend to use the term kaitiaki as a convenient Māori shorthand for stakeholder, recognising Māori 'interests' and requesting their labour, without relinquishing power or offering remuneration for their time and expertise.

Our research is focused on the critically important and threatened environments of harbours. When the first voyagers arrived in Aotearoa, they sought whanga, the sheltered bays in which to draw up their waka and come to land. Hundreds of years later, the first Europeans did the same. Aotearoa's harbours are and have always been coveted and contested sites for navigation, industry, fishing, recreation and settlement. Historically, they are important places of meeting, negotiation and exchange.⁹ They are where land, sea and people come together.

Most written histories of individual harbours, if they mention Māori history at all, sail over it swiftly and shallowly before moving on to a narrative about Pākehā industry.¹⁰ We return to the stories Māori tell about their harbours and their relationships with harbours, focusing on the Kāwhia, Aotea, Manukau and Whāngārei harbours. These harbours cover a range of different ecological states and threats, economic uses, and inter-iwi relationships, and they are all treasured and defended passionately by local kaitiaki.

This project includes the full range of kaitiaki voices, including kaumātua and kuia, rangatahi, tamariki and particularly wāhine Māori. Women's kaitiaki leadership is plentiful in our oral history, though it is underrepresented in existing literature. Strong Māori women such as Dame Nganeko Minhinnick, Tuaiwa Hautai (Eva) Rickard, Angeline Greensill, Carmen Kirkwood, Dayle Takitimu, and others less well-known, have played a fundamental role in the activation of kaitiakitanga in relation to harbours. Furthermore, there

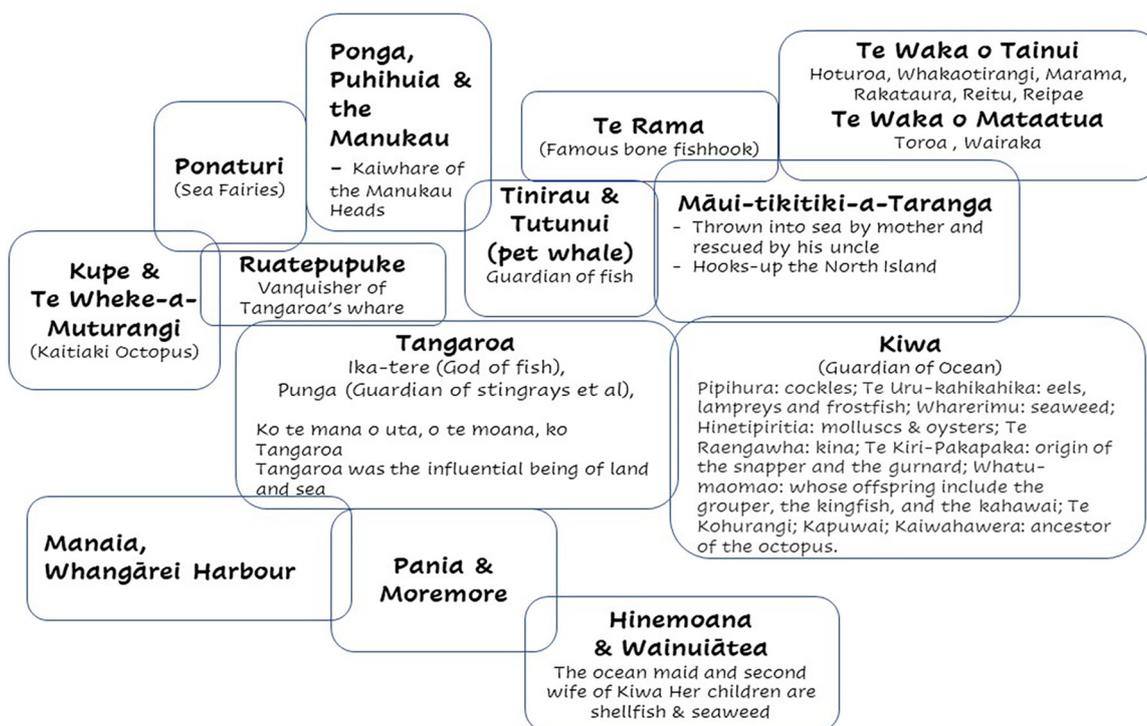
is a rich history of tūpuna wahine associated with harbours, including Puhuhuia and Te Ata-i-Rehia at Manukau; Kuiawai, Reitū and Reipae at Whāngārei; and Whakaotirangi at Kāwhia.

In this article, which originated as a panel kōrero at the 2021 New Zealand Historical Association Conference, we present a small part of the deep and wide whakapapa of kaitiakitanga. We follow it from its origins in the superhuman beings who guard places and people, through to the ongoing work of tangata whenua protecting their lands and waters from the encroachments of colonisation and its close attendant, pollution. We focus on the role of wāhine in this whakapapa and emphasise the political nature of the work on which they have spent their lives. Kaitiakitanga is widely recognised as a kinship-based ethic of environmental care, but less acknowledged is the fact it is also a *politic*: a carefully and fiercely enacted strategy to protect significant places and assert mana in relation to them. Wāhine Māori have played a lead role in these campaigns.

Whakapapa

According to Cleve Barlow, 'whakapapa is to lay one thing on another'.⁴¹ It is the genealogical descent of all living things from the primordial Atua and their children, to our cultural heroes, to our tūpuna, and to people and events of the present time. Everything has a whakapapa: birds, fish, animals, trees, soil, sand, rocks and, of course, people.

Whakapapa is a lens through which we analyse tangata whenua stories as they transfer knowledge from one generation to another. From a whakapapa perspective we can comprehend harbours differently, and begin to understand the tikanga, or moral codes, that have been laid down for today's kaitiaki by tūpuna. The diagram below shows the diversity of the relationships and connections that exist between the land and the sea or ki uta, ki tai, and the multitude of people and creatures who dwell in this unique space.



Atua, tūpuna and kaitiaki associated with harbours and the sea. (Credit to Marama Muru-Lanning)

This article traverses our harbour sites: Kāwhia and Aotea, Manukau and Whāngārei, and some of the human kaitiaki, both ancestral and living, whose work continues to uphold the mauri ora o ēnei whanga.

Kāwhia

Kāwhia is 77.5km west of Hamilton, about an hour's drive, and around two and a half hour's drive from Auckland. For the purposes of our research the Kāwhia harbour site includes Aotea Harbour, which is geographically and ancestrally connected. Kāwhia is a place of deep significance for the people of Tainui, as described in our opening tauparapara. It is the final landing point of the Tainui waka. The waka still rests there today next to Maketū marae, between two stone pillars: Puna marks the stern of the waka and Hani marks the prow. The people of the waka settled around the area of Kāwhia before moving inland. Kāwhia is where the iwi Tainui began.

WHAKAOTIRANGI

Kōrero tuku iho o Tainui recalls that Whakaotirangi arrived on the Tainui waka. She was the senior wife of Hoturoa, the captain of the waka, and is famed for bringing the kūmara, taro and aute with her from Hawaiki. But she held mana in her own right before she boarded the waka. As a daughter of a chief, Memeha-o-te-rangi, she was born with mana. She had some input into the building of the waka and carried the 'mauri' or taonga that carried the life-force of the waka with her on the journey. When the Tainui waka became stuck at the isthmus of Ōtāhuhu, it was Whakaotirangi's karakia that released the waka.¹² This on its own signifies mana and may even indicate that she was recognised as a tohunga.

Once they landed in Kāwhia and life moved along, Whakaotirangi chose to leave her husband and move closer to Aotea harbour. It was in between the hills of the harbours that she began to clear ground for her māra kūmara. Her experimentations and observations resulted in a successful crop that still grows today, including a crop next door to the James Henare Research Centre whare at the University of Auckland, and crops in other Waikato gardens. It is this mahi that has seen Whakaotirangi recognised by the Royal Society of New Zealand as one of the first female scientists.¹³ This short history of Whakaotirangi shows her to be a woman of high standing, with mana and autonomy of her own, not just as the senior wife of Hoturoa, as she is often described.

KAITIAKITANGA IN KĀWHIA

Self-identification with the land is crucial to Māori: tangata whenua means people of the land.¹⁴ The relationship between people and whenua is clearly seen through pepeha. Pepeha is a form of identification: it does not just tell people where Māori come from, but also who they connect to. For those in the know, people can immediately begin to connect people to place, whānau and tūpuna, with many being able to recite their pepeha and whakapapa all the way back to those on the waka and beyond. Landscape (which includes bodies of water) and whakapapa shape their identity.

Diane Gordon-Burns reiterates that the naming of place and pūrākau are important, because without them our histories, our identities and our strengths as wāhine are lost.¹⁵ Whakaotirangi was involved with the building of the Tainui waka, she held the mauri taonga during their journey and provided the karakia when the waka was stuck. This indicates mātauranga of waka and tikanga o ngā waka. Another wāhine tupuna o Tainui, Ruapūtahanga, had her own karakia that helped her to catch eels, showing she held mātauranga of water, its movements and the life within it.

Many generations later, in a 1989 Television New Zealand (TVNZ) Waka Huia episode, we can hear the voice of Aotea rūruhi Nora Pikia sharing mātauranga Māori fishing traditions and other sea craft she learnt about as a young girl living next to the harbour. Nanny Nora tells how she wanted to learn to fish for herself,

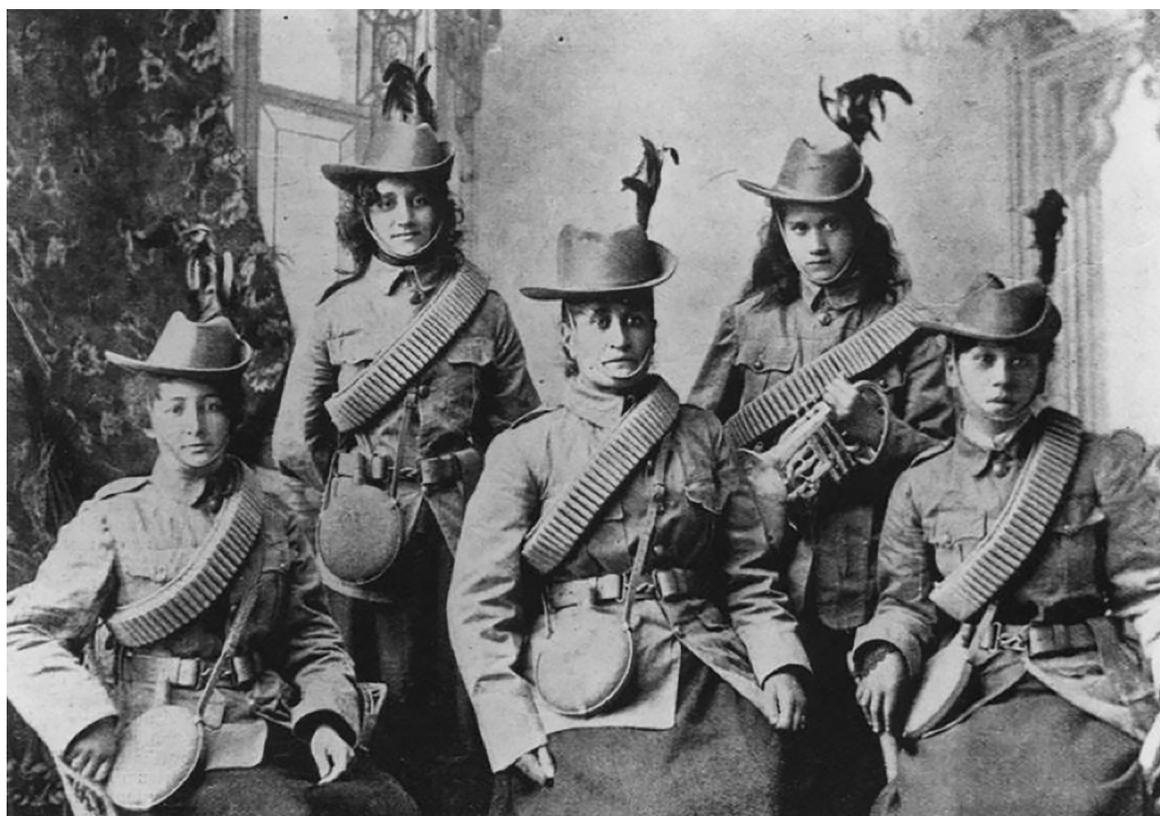
so her mother took her out on a waka made by her nephews and taught her.¹⁶ Again, this story illustrates mana and autonomy, along with inter-generational passing of mātauranga through matrilineal relationships.

The balance between tangata whenua and te taiao (the natural environment) was taught and promoted through tūpuna, including wāhine tūpuna. Sustaining the environment, Papatūānuku and her waters contributed to our wellbeing and, as Dr Pita Sharples explains, each iwi, hapū and whānau 'have their own kawa which guides them in the vital role of guardians of our natural resources, protectors of the flora and fauna for the benefit of future generations'.¹⁷ The kawa can be seen today by the actions of the hapū that care for and protect Whakaotirangi's māra, Hawaiki, in that they have sought legal protections through Manatū Taonga, the Ministry for Culture and Heritage.¹⁸

Whāngārei

Following the whakapapa of tupuna wāhine allows us to connect our harbour case sites – the Manukau/ Kāwhia/Aotea Harbours to the Whāngārei Harbour – through the Tainui ancestresses Reitū and Reipae, and their marriages into the North, which are remembered in one of the names for the Whāngārei Harbour: Te Whanga o Reitū.

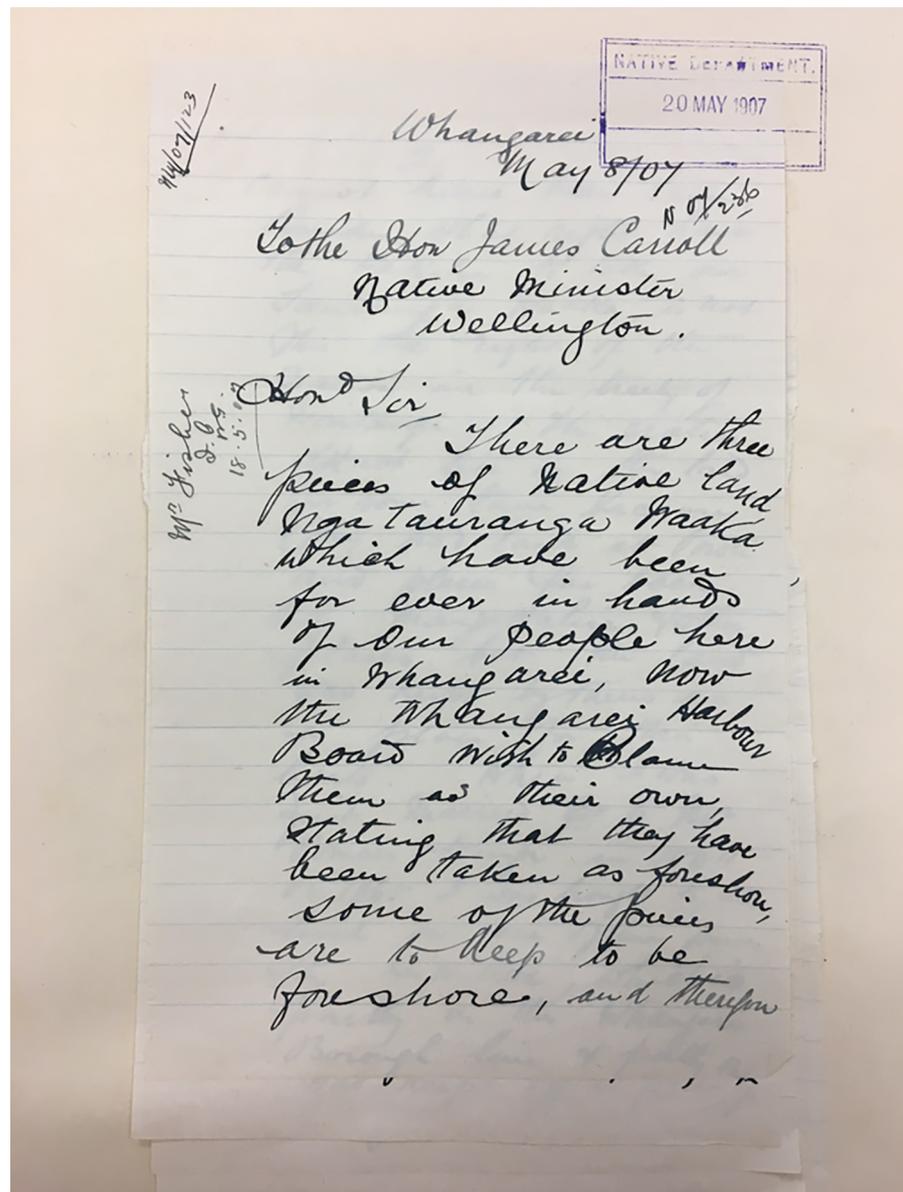
The Whāngārei Harbour, also known as Whāngārei Te Rerenga Parāoa (Whāngārei where the whales run) or Te Whangā o Reitū (The Waiting Place of Reitū), is a large harbour on Northland's east coast, after which the adjacent city of Whāngārei is named. Whāngārei Harbour has been heavily industrialised since 1848 when Portland Cement was established on Matakōhe Island in the harbour. The island was leased from local tribe Te Parawhau by Mathew Whitelaw and Robert Carruth.



Cowdell, 1901, *The Ngapuhi Nursing Sisters of Mercy, Whangareei*. Top Row, from left, M. Kaire, Kohu Gertrude Waetford. Bottom Row, from left, A. Calkin, Ruiha Kingi, C. Calkin. (Auckland War Memorial Museum, neg C42329)

The women in this photograph are the result of unions such as those between Reitū, Reipae and the Northland chiefs Ueoneone and Tahuhupotiki. Ruiha Kingi is the tupuna wahine in the centre of this photograph. She is the great-great-grandmother of one of the harbours team, Ngāhūia Harrison, and the focus of Ngāhūia's series of photographic and video works, based on archival research, called *Te Rua Mahara o te Kāwanatanga*.

Ruiha is pictured with the battalion that she formed at the time of the South African War, at the turn of the twentieth century. They were called the Ngāpuhi Nursing Sisters of Mercy. The two stipulations to join the New Zealand Army at the time were that you had to be a man, and you had to be Pākehā. Ruiha rejected these restrictions and formed her own battalion of women to fight where they could: on the home front, fundraising and treating the sick.



Letter from Ruiha Kingi to James Carroll, 1907. (Archives New Zealand Te Rua Mahara o te Kāwanatanga, ACIH 16036 MA11907/236; R22401276)

The letter pictured here was written by Ruiha to the Native Minister, James Carroll, in 1907. Ruiha was protesting the Northland Harbour Board's theft of three parcels of land in the Whāngārei Harbour. The areas were tauranga waka (landing places for canoes). In her letters, Ruiha refers to them as having always been kept in commons, as papatupu lands.¹⁹

This language is particularly resonant in today's context, with the 'common marine areas' described in the Marine and Coastal Area (Takutai Moana) Act 2011. This Act replaced the controversial Foreshore and Seabed Act of 2004, which ran with the idea that foreshore and seabed was 'commons' and, therefore, Crown owned.²⁰ The replacement 2011 statute says marine areas are 'common' and, therefore, no-one owns them.²¹

These pieces, as Ruiha stated, had not passed through the Native Land Courts because they were papatupu land – commons – for all Māori in the area and those visiting to utilize. This illustrates the complications of using words like 'commons' – whose commons and whose use-rights are we talking about?

Ultimately, the tauranga waka were taken by the Harbour Board. There were three pieces: Otārīki, Hihiaua and Pohe Island.

POHE ISLAND

Pohe Island was bought from the Northland Harbour Board by the Whangārei District Council (WDC) in 1967. The image below shows that the WDC had big plans for the future of Pohe Island, a public recreation area. The plans also involved the reclamation of land that included Pohe Island.²² There was a lot of conflict over these developments; the plans kept getting bigger and bigger, but the funding was not growing at the same rate. In 1964, the council began using Pohe Island as a landfill.²³

Ngāhuia has been photographing the site, documenting the ways that the land holds events and is itself an archive. This is explicit in many ways at this site, as it is the place to which the people of Whāngārei brought their rubbish for over thirty years. The council began capping the landfill in the early 2000s, and, in an uncanny loop back to their 1960s aspirations, are transforming the dump into a public recreation area.

Ngāhuia uses lines from documents in the archives to title the photographic works. For instance, the title of the work below, *The Safe Treatment of Leachate is Crucial to the Success of Any Landfill*, was taken from a pamphlet distributed by the WDC reassuring the public that the necessary health precautions had been, and were continuing to be, used to mitigate the leaching of toxins from the dump into the surrounding environs.²⁴

These strange hills and land formations on Pohe Island are the result of the council pushing piles of rubbish together to then cap and create hills for walking or bicycle pump tracks. Pohe Island is an odd place, a commons created out of our rubbish, collected on stolen lands. The landscape in these photographs are not as they seem – or are not as they should be, perhaps – and certainly not what Ruiha Kingi had in mind when she took it upon herself to advocate for this area at the turn of the century.

Ruiha's fight for sovereign rights in lands and waters around the Whangārei Harbour continues today. It continues at Pohe Island with Ngāti Kahu o Torongare people, descendants of Wiremu Eru Pohe, protesting to have their ancestor's name memorialised at the new recreation park, the William Fraser Memorial Park.²⁵ At the other end of the harbour, the mouth, mana whenua Patuharakeke continue to struggle with the heavy industry on their rohe-moana. Contending with the both the closure of the Marsden Point Oil Refinery site, and the damage caused to shellfish beds during the refinery's life.²⁶ While the refinery closes its doors, its neighbour Northport plans an extension. The port is looking to build two new docks, including a large dry dock, as part of its 'vision for growth'.²⁷



He Puke, He Para, 2021, C-Type Print. (Photograph by Ngāhuia Harrison)



The Safe Treatment of Leachate is Crucial to the Success of Any Landfill,
2021, C-Type Print. (Photograph by Ngāhuia Harrison)

Manukau

The Manukau Harbour, also known as Te Mānukanuka o Hoturoa, is one of Aotearoa's largest and most tidal harbours, flowing in and out along Tāmaki's southwest coast. It is South Auckland's harbour and, along with the surrounding whenua, has been treated very badly by the colonial state. Several commentators have called it 'Auckland's rubbish bin', drawing attention to the disproportionate amount of pollution it has received (and continues to receive) in comparison with the wealthier Waitematā.²⁸

But the Manukau remains beautiful, breathing in and out of Tāmaki Makaurau, and the Māori communities who live alongside it continue to campaign for its restoration and for the restoration of their rights to care for and manage their waters. In this they follow in the footsteps of their tupuna.

One of those tupuna who spent her life campaigning on behalf of the Manukau Harbour was Kahurangi Nganeko Minhinnick. The reinvigoration of the term 'kaitiaki' in the 1980s to advocate for environmental protection seems to originate in the many submissions written by Minhinnick (later Dame Nganeko), in her tireless campaigns to protect the Manukau Harbour and to reassert Ngāti Te Ata's authority in the area. She used the word kaitiaki in many of her submissions in the 1980s, both the non-human use of kaitiaki: 'Te Rua Kaiwhare, our tribal taniwha, is guardian of the Manukau', and the human use:

My name is Nganeko Minhinnick of Ngati Te Ata, Waikato-Tainui. I present this evidence on behalf of all the traditional Tainui Marae hapu known as Te Puaha Ki Manuka, who are the tribal custodians, the guardians, the 'KAI TIAKI' the 'TANGATA WHENUA' of the Manukau and Waikato River.²⁹

'Kaitiakitanga' became a key term in the Manukau Harbour claim to the Waitangi Tribunal in the mid-1980s and was translated in this context as 'guardianship'. Robert Mahuta (later Sir Robert), as spokesperson for Nga Marae Toopu, the confederation of Tainui marae, used the word 'guardianship' in the conclusion of his submission at Makaurau marae at Ihumātāo:

the key issues are those of control and guardianship, to conserve what is seen by Maaori people to be traditional and continuing food resources and to allow to them the full and unimpaired right to exercise the spiritual guardianship which is ancestrally obligatory.³⁰

The paired terms in the first line – control and guardianship – illustrate an important point. In all the Māori references to kaitiakitanga there are these two sides to the coin – responsibility and authority. When it is used in Pākehā contexts, however, the authority aspect of kaitiakitanga is often not acknowledged.

Sir Robert also suggested the establishment of a group of kaitiaki to ensure the protection of the harbour, and here he made explicit reference to an existing Pākehā institution – the Guardians of the Manapouri and Te Anau Lakes:

Tribunal members will remember the national hue and cry over Lake Manapouri which eventually led to the establishment of the Guardians of Manapouri. The same process was repeated for Lake Rotorua and has many precedents.³¹

This demonstrates a deliberate strategy going on in an attempt at dialogue with Pākehā; the kupu 'kaitiaki' was drawn into relationship with an existing Pākehā institution: lake guardians. Pākehā responded to this; the concept of a body of kaitiaki was enthusiastically picked up by Pākehā bureaucrats, but the proposed body, Ngā Kaitiaki o te Mānuka, was never actually established. The archives show that Ngāti Te Ata quickly realised the government's enthusiasm to implement a (variation of a) tried and true institution in fulfilment of their treaty obligations was eclipsing any discussion about ownership and control of the harbour. A

Ministry for the Environment discussion paper on the Manukau Harbour, released in 1987, provides an enlightening summary of how this unfolded:

In the context of environmental administration, ‘Guardians’ is a Pakeha Concept. The Waitangi Tribunal hoped that this concept could be merged in the case of the Manukau with the centuries old Maori principle of Kaitiaki... It is now clear that a merger of the Guardian concept with the Kaitiaki principle may be inappropriate. There are major differences between the roles of Guardians and Kaitiaki... Careful discussions will now be needed between the tangata whenua and the Crown to ascertain whether the Kaitiaki wish to integrate their tradition with the Pakeha Guardian concept.³²

Ngā Kaitiaki o te Mānuka never happened, but the word kaitiaki took on a life of its own in the bureaucratic world, getting swept into the larger campaign, to ‘make Māori concerns justiciable’.³³ This campaign was in response to the long struggles of people like Dame Nganeko, who had spent decades appealing vainly to environmental legislation which had no mechanisms for taking cultural values into account.³⁴

In 1991 the first version of the Resource Management Act was passed, and section 7 included kaitiakitanga amongst a list of things that decisionmakers needed to ‘have particular regard to’. Kaitiakitanga was, according to David Young, hastily defined at the last minute, after previous agreement that local Māori should be left to define it for themselves. At the eleventh hour, however, the new Minister of Māori Affairs, Winston Peters, got a definition from Manatū Māori (the Ministry for Māori Affairs), and the following wording went into the Act:³⁵

The exercise of guardianship; and in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself.³⁶

Morris Te Whiti Love, who was key in the discussions for resource management reform, claimed this definition went into the bill without consultation. He described it as ‘a bit of a mouthful and perhaps a little confusing’.³⁷ The definition also failed to identify a key characteristic of kaitiaki – that they are Māori. As a result of that and other concerns, a replacement definition was introduced in 1997:

[T]he exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethics of stewardship.³⁸

While an improvement, the current definition still fails to mention the authority dimension of kaitiakitanga, and in fact there were attempts to get the kupu ‘rangatiratanga’ into the Act, which were shot down by the select committee.³⁹

At the time of writing, the Resource Management Act 1991 is shortly due for repeal and replacement by the Natural and Built Environments Bill. We do not yet know what the definition of kaitiakitanga will look like in the new legislation, but in the current exposure draft there is an exciting subclause at section 18(e) ‘to recognise and provide for the **authority** and responsibility of each iwi and hapū to protect and sustain the health and well-being of [te taiao]’ (emphasis added).⁴⁰ We wait to see whether the latest attempt to recognise Māori authority over their environments will survive into the legislation itself.

The SOUL of a Place

An important aspect of the harbours project is the interaction between kaitiakitanga and state-law, particularly in relation to property/land law and environmental law. This came starkly to light during the 2019 occupation of Ihumātao.

Ihumātao is an area of long-standing Māori settlement and cultivation on the southern shore of the Manukau Harbour. The land was the home and economic base for several hapū. It occupies a strategic position on the harbour and contains particularly high-quality fertile soils for food production.⁴¹

Early contact between Māori and European settlers around the Manukau Harbour was generally positive. The Waitangi Tribunal concluded that ‘this was the golden age of Maori agriculture and growth. Peace and prosperity seemed assured.’⁴² However, in 1863, as a precursor to the Crown invasion of the Waikato, Māori were evicted from their villages around Ihumātao because of their refusal to take an oath of allegiance to Queen Victoria and, in effect, turn their backs on their kin and the Kīngitanga. In 1865, the Crown confiscated 445 hectares of land around Ihumātao as punishment for this so-called rebellion. The Crown then granted the land to a Pākehā family, the Wallaces, in 1866, who set about farming and quarrying the land.

In its 1985 Manukau Report, the Waitangi Tribunal described the on-going effects of the raupatu – observing the:

intense grief felt by the claimants which tended to pervade all aspects of the claim. For them it is as though the confiscations and dealings occurred yesterday.⁴³

The Crown now accepts that the raupatu was ‘unjust’ and ‘wrongful’ (but not ‘unlawful’).⁴⁴

In 2012, the Wallace family (and others) successfully challenged council decisions not to zone the land for urban development. Mana whenua participated in support of the council. The Environment Court, concerned with the owners’ rights to utilise the land, held that the better outcome was to allow urbanisation. The court said:

To lock the land up might indeed provide for Māori and heritage values. But it would not provide for the needs and economic well-being of the owners. By allowing sensitive constrained development, heritage and landscape characteristics can be protected while at the same time allowing the owners to provide for their economic well-being.⁴⁵

In 2014, the land was established as a ‘Special Housing Area’ (SHA) under legislation designed to facilitate the development of the land for housing purposes.⁴⁶ Two years later, the land was sold to corporate giant Fletcher Building and, utilising the land’s SHA status, the company obtained the required RMA approvals to develop the land. In granting the approvals, the Hearing Commissioners were significantly influenced by the Environment Court’s earlier decision to allow urbanisation of the land.⁴⁷

Heritage New Zealand Pouhere Tāonga granted authorisations to Fletcher to modify or destroy archaeological sites on the land in 2017. A group of young mana whenua sprang into action in response. Save Our Unique Landscape (SOUL) began with a group of whanaunga, mainly wāhine, deciding they had to act to protect the land before development could go ahead. They appealed to the Environment Court, arguing that ‘the area is an extensive wāhi tūpuna... taken by the Crown... when the existing Māori population was forcibly evicted’.⁴⁸ The court upheld the decision to grant the authorisations. It acknowledged that the ‘relationships of Māori with these lands... have been adversely affected for a long time’; but also referred to the court’s earlier urbanisation decision and the SHA decisions.⁴⁹

Subsequently, in 2019, with their legal avenues seemingly exhausted, SOUL established a land occupation to stop the Fletcher development – a direct challenge to Fletcher’s rights as ‘owner’. The ‘owner’ understanding of property law is pervasive. Its influence is enormous, but often goes unnoticed. Key characteristics of this understanding are:⁵⁰

- Absolute powers vested in a single identifiable *owner*, within clear property boundaries, including the power to make decisions about the use of the land, and who can have access.

- A decision to exclude others can be arbitrary and unreasonable but legally enforceable – including with the force of the State
- The property boundary can be viewed as the ‘mutual frontier between autonomy [of the owner] and vulnerability [of non-owners]’.⁵¹

The central focus is on the relationship between the owner and the land – and not on people who are vulnerable to effects of the owner’s authority over it.

Ownership rights are created at particular moments of time and fixed for eternity, despite societal or environmental change. Joseph Singer observes that they:

are fixed at magic moments – the moments of acquisition and transfer – and that subsequent events have no effect on the scope of those property rights. This image is antihistorical in the sense that it presumes that the context in which property rights are exercised over time is a matter of no interest. This presumes that the exercise of property rights by owners generally will be self-regarding, having little or no effect on the legitimate property or personal interests of others.⁵²

The owner model is the predominant understanding of property law in Aotearoa.⁵³ Alternative understandings acknowledge the legitimate interests of owners and non-owners to further various human and social values, potentially including non-market values.⁵⁴ It is particularly resilient to change, with its focus on, and protection of, the *rights* of individual owners; and its strong alignment with economic liberalism. It is why SOUL was left only with a political remedy.

As illustrated at Ihumātao, property law, with its emphasis on ‘rights’, does not allow for the morality of an owner’s ‘ownership’ to be questioned – even if it is questionable. If ownership is obtained in accordance with the rules of the property law system, as was the case for Fletcher, then the fact that the land entered the property system by way of an injustice is not *legally* relevant. Moreover, in a perverse way, people who challenge the morality of a particular property arrangement are characterised as being the immoral, or dishonest, ones. This is often seen in the way protestors such as SOUL are portrayed.⁵⁵

Property law, therefore, entrenches past injustices – rather than facilitates their remediation. Jeremy Waldron refers to this ‘resilience’, which:

muddies the water; it makes the injustice that much more difficult to clear up; it lays a kind of curse on a land so that even good-hearted members of later generations may be genuinely at a loss as to how to make things better.⁵⁶

There is limited scope to recognise the rights of non-owners. The tikanga-based relationships of the mana whenua with Ihumātao, including those reflected in the concept of kaitiakitanga, did not diminish as a result of the land entering the property law system in 1866 and having (‘legal’) ‘owners’. But property law does not recognise them as *legal* rights. The RMA recognises tikanga based relationships, including kaitiakitanga.⁵⁷ They are, however, just one of many considerations when making RMA decisions, including the property rights of owners (as illustrated in the Environment Court decisions discussed above).⁵⁸ They do not constitute ‘property rights’ – they are ‘interests’ that have legal effect, but only through the operation of the RMA.

As currently proposed in the exposure draft mentioned above, the Natural and Built Environments Act will include several ‘outcomes’ to be achieved, including that:

the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga is restored and protected.⁵⁹

The reference to ‘restoring’ relationships is an interesting one – especially in the context of the seemingly untouchable rights of the people who ‘own’ the land at issue. The property and environmental law processes outlined here led to SOUL having no legal route to pursue their rights, only a political route such as the occupation at Ihumātao. Property law in Aotearoa operates to ‘lock in’ a relationship between an ‘owner’ and the land at a specific point in time, striking out with a thick legal pen rights that existed for hundreds of years before that moment. The strength and rigidity of property law in this country presents ongoing challenges for kaitiakitanga and the restoration and recognition of tikanga-based relationships more generally.

Conclusion

The title of this article, ‘Te Ora a Ururoa’, refers to the whakataukī Kaua e mate wheke, me mate ururoa – a challenge to go down fighting, like the ururoa (shark), rather than give in lightly like the wheke (octopus). The kaitiaki that have peopled these pages lived their lives, and many continue to live their lives, fighting like the ururoa against the forces of colonialism that seek to separate them from the lands and waters that make them who they are. Wāhine Māori have been particularly strong leaders in the fight to control and protect their places of significance, from ngā wā o mua to today. We hope that our research for this project, by bringing their kōrero to a larger audience, will help them to win their battles for a better Aotearoa, one where their kaitiakitanga, and rangatiratanga, can be freely exercised for the good of all the living things on these islands.

Kuputaka (Glossary)

The definitions below are from Te Aka online dictionary of te reo Māori, unless marked otherwise.⁶⁰ Definitions are often truncated to provide the meaning/s most relevant to the word’s use in the text of our article. Some words requiring more detailed explanation are derived from other sources and are endnoted to those sources.

- A – ‘(particle) of, belonging to – used when the possessor has, or had, control of the relationship or is dominant, active or superior to what is possessed.’
- Atua – ‘(noun) ancestor with continuing influence, god, demon, supernatural being, deity...’
- Hapū – ‘(noun) kinship group, clan, tribe, subtribe – section of a large kinship group and the primary political unit in traditional Māori society. It consisted of a number of *whānau* sharing descent from a common ancestor...’
- Iwi – ‘(noun) extended kinship group, tribe, nation, people, nationality, race – often refers to a large group of people descended from a common ancestor and associated with a distinct territory.’
- Kahurangi – ‘(noun) illustrious person, famous person, person of high rank, chieftain, lady of high rank.’
Also ‘(personal noun) Dame (title).’
- Karakia – ‘(noun) incantation, ritual chant, chant, intoned incantation, charm, spell – a set form of words to state or make effective a ritual activity.’
- Kaumātua – ‘(noun) elder, elderly man ... a person of status within the *whānau*.’
- Kawa – ‘(noun) marae protocol – customs of the marae and *wharehau* [meeting house], particularly those related to formal activities such as *pōhiri*, speeches and *mihimibi*.’
- Kāwanatanga – ‘(loan) (noun) government...’
- Kōrero – ‘(noun) speech, narrative, story ... discussion, conversation...’
- Kōrero tuku iho – ‘(noun) history, stories of the past, traditions, oral tradition.’
- Kuia – ‘(noun) elderly woman ... female elder.’
- Kūmara – ‘(noun) sweet potato...’
- Kupu – ‘(noun) word ... statement...’

- Mahi – '(verb) to work, do...'; also '(noun) work ... practice ... activity'
- Mana – 'Mana has to do with the place of the individual in the social group. Some individuals are regarded as having a high level of mana and others have varying levels. The word as defined by Williams (1957:172) has a range of meanings: 'authority, control', 'influence, prestige, power', 'psychic force', 'effectual, binding, authoritative'. / People with mana tend to be persons in leadership roles in the community. They are well placed in terms of whakapapa and come from chiefly lines or from important families. People of mana draw their prestige and power from their ancestors (mana tipuna). This power is socially founded upon the kinship group, the parents, the whānau, hapū and iwi. There is also a personal increment based on the proven works, skills and/or contributions to the group made over time by an individual that provide human authority (mana tangata). The element of psychic power relates also to whakapapa and connections with the Gods of the Māori world (mana Atua).'⁶¹
- Mana whenua – 'the power associated with the possession of lands; it is also the power associated with the ability of the land to produce the bounties of nature.'⁶²
- Marae – '(noun) courtyard – the open area in front of the *whareniui* [meeting house], where formal greetings and discussions take place. Often also used [as in article text] to include the complex of buildings around the *marae*.'
- Mātauranga Māori – '(noun) Māori knowledge - the body of knowledge originating from Māori ancestors, including the Māori world view and perspectives, Māori creativity and cultural practices.'
- Mauri – '(noun) life principle, life force, vital essence, special nature, a material symbol of a life principle, source of emotions – the essential quality and vitality of a being or entity.'
- Māra – '(noun) garden, cultivation.'
- Ngā – '(determiner) the – plural of *te*.'
- Ngā wā o mua – '(noun) olden days, former times, formerly.'
- O – '(particle) of, belongs to, from, attached to – used when the possessor has, or had, no control of the relationship or is subordinant, passive or inferior to what is possessed.'
- Ora – '(noun) life, health, vitality', and '(modifier) healthy, fit, well, alive – in a state of wellbeing or just being alive.'
- Pākehā – '(noun) New Zealander of European descent...'
- Pepeha – '(noun) tribal saying, tribal motto, proverb (especially about a tribe)...'
- Pūrākau – 'Traditional story or storytelling'... 'The [storytelling] experience can be profound, exercising thinking and emotional transformation.'⁶³
- Rangatahi – '(noun) younger generation, youth.'
- Rangatiratanga '(noun) ...chieftainship, right to exercise authority, chiefly autonomy, chiefly authority, ownership...'
- Raupatu – '(noun) confiscation.'
- Rūruhi – '(noun) elderly woman.'
- Taiao – '(noun) natural world, environment, nature...'
- Tāmaki/Tāmaki Makaurau – the original name of Auckland.
- Tamariki – '(noun) children...'
- Tangata whenua – '(noun) local people ... indigenous people – people born of the whenua [land]...'
- Taniwha – '(noun) water spirit, powerful water creature... *taniwha* take many forms from logs to reptiles and whales and often live in lakes, rivers or the sea. They are often regarded as guardians by the people who live in their territory, but may also have a malign influence on human beings.'
- Taonga – '(noun) treasure, anything prized - applied to anything considered to be of value including socially or culturally valuable objects, resources, phenomenon, ideas and techniques.'
- Tauihu – '(noun) bow, prow, figurehead (of a canoe).'
- Tauparapara – '(noun) incantation to begin a speech.'

- Taurapa – ‘(noun) stern-post (of a canoe).’
- Te – ‘(determiner) the (singular) – used when referring to a particular individual or thing’ Also ‘when referring or a whole class of things or people designated by the noun that follows.’
- Te Rua Mahara o te Kāwanatanga – The reo Māori name for Archives New Zealand.
- Tikanga – (Moko Mead, 2016, [p19]) – ‘the ethical and common law issues that underpin the behaviour of members of whānau, hapū and iwi as they go about their lives and especially when they engage in the cultural, social, ritual and economic ceremonies of their society.’
- Tohunga – ‘(noun) skilled person, chosen expert, priest, healer – a person chosen by the agent of an *atua* and the tribe as a leader in a particular field because of signs indicating talent for a particular vocation.’
- Tupuna – ‘(noun) ancestor...’ The plural is *tūpuna*. A *tupuna wahine* is a female ancestor.
- Ururoa – ‘(noun) white shark, white pointer.’
- Wāhi tapu – ‘(noun) sacred place, sacred site - a place subject to long-term ritual restrictions on access or use, e.g. a burial ground, a battle site or a place where tapu objects were placed.’
- Wāhi tūpuna – ancestral place/s.
- Wahine – ‘(noun) woman...’ and ‘(modifier) female...’
- Waka – ‘(noun) canoe...’
- Whānau – ‘(noun) extended family, family group...’
- Whanaunga – ‘(noun) relative, relation, kin, blood relation.’
- Whanaungatanga – ‘(noun) relationship, kinship, sense of family connection - a relationship through shared experiences and working together which provides people with a sense of belonging. It develops as a result of kinship rights and obligations, which also serve to strengthen each member of the kin group. It also extends to others to whom one develops a close familial, friendship or reciprocal relationship.’

Endnotes

- 1 Royal Society of New Zealand Te Apārangi, 2019, The Voices of Our Harbours: Kāwhia, Manukau and Whangārei (Online). Available: <https://www.royalsociety.org.nz/what-we-do/funds-and-opportunities/marsden/awarded-grants/marsden-fund-highlights/2019-marsden-fund-highlights/the-voices-of-our-harbours-kawhia-manukau-and-whangarei/>
- 2 An example of which many New Zealanders are aware, due to its prominence in Te Tiriti o Waitangi, is of rangatira (chieftain) becoming rangatiratanga (chieftainship).
- 3 Kyle Powys Whyte, ‘On the Role of Traditional Ecological Knowledge as a Collaborative Concept: A Philosophical Study’, in *Ecological Processes*, vol 2, no 7, 2012; Jim Igoe, Katja Neves and Dan Brockington, ‘A Spectacular Eco-Tour Around the Historic Bloc: Theorizing the Convergence of Biodiversity Conservation and Capitalist Expansion’, in *Antipode*, vol 42, no 3, 2010, pp486-512; Jim Igoe and Dan Brockington, ‘Neoliberal Conservation: A Short Introduction’, in *Conservation and Society*, vol 5, no 4, 2007, pp432-449.
- 4 Maori Marsden, ‘Kaitiakitanga: A Definitive Introduction to the Holistic World View of the Maori’, in Te Ahukaramū Charles Royal (ed), *The Woven Universe: Selected Writings of Rev. Maori Marsden*, Estate of Rev. Maori Marsden, Otaki, 2003; Hēmi Whaanga and Priscilla Wehi, ‘Rāhui and Conservation? Māori Voices in the Nineteenth Century Niupepa Māori’, in *Journal of the Royal Society of New Zealand*, vol 47, no 1, 2017, pp100-106, <https://doi.org/10.1080/03036758.2016.1252408>; Richard Benton, Alex Frame and Paul Meredith (eds), *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law*, Victoria University Press, Wellington, 2013.
- 5 New Zealand Law Commission, 2001, Māori Custom and Values in New Zealand Law, p40, para 163 (Online). Available: <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20SP9.pdf>
- 6 Mere Roberts, Waerete Norman, Nganeko Minhinnick, Del Wihongi and Carmen Kirkwood, ‘Kaitiakitanga: Maori Perspectives on Conservation’, in *Pacific Conservation Biology*, vol 2, no 1, 1995, pp14-17, <https://doi.org/10.1071/pc950007>; Mere Roberts, ‘Revisiting “The Natural World of the Māori”’, in Danny Keenan (ed), *Huia Histories of Māori: Ngā Tāhuhu Kōrero*, Huia Publishers, Wellington, 2012, pp34-37.
- 7 Marsden, op cit, p16; Roberts et al, op cit, pp11-12.
- 8 Merata Kawharu, ‘Kaitiakitanga: A Maori Anthropological Perspective of the Maori Socio-Environmental Ethic of Resource Management’, in *Journal of the Polynesian Society*, vol 109, no 4, 2000, pp354-56, <http://www.jstor.org/stable/20706951>; Margaret Forster, ‘Hei Whenua Papatipu: Kaitiakitanga and the Politics of Enhancing the Mauri of Wetlands’, PhD Thesis, Massey University, 2012, p16.
- 9 Michael Belgrave, *Dancing with the King: The Rise and Fall of the King Country, 1864-1885*, Auckland University Press, Auckland, 2018; Anne Salmond, *Two Worlds. First Meetings between Maori and Europeans 1642-1772*, Viking, Auckland,

- 1991; Epeli Hau'ofa, 'Our Sea of Islands', in *The Contemporary Pacific*, vol 6, no 1, 1994, pp147-161, <http://www.jstor.org/stable/23701593>; Greg Denning, *Islands and Beaches: Discourse on a Silent Land, Marquesas, 1774-1880*, University of Hawai'i Press, Honolulu, 1980.
- 10 See, for example, Gavin McLean, *Otago Harbour: Currents of Controversy*, Otago Harbour Board, Dunedin, 1985; Brian Scanlan, *Port Taranaki: 115 Years of Elected Control*, Westgate Transport, New Plymouth, 1991; David Johnson, *Wellington Harbour*, Wellington Maritime Museum Trust, Wellington, 1996; Recent counterexamples are the rich coastal histories written by Michael Stevens, such as Michael Stevens, 'Māori History is Maritime History: A View from the Bluff', in Frances Steel (ed), *New Zealand and the Sea: Historical Perspectives*, Bridget Williams Books, Wellington, 2011, pp156-180.
- 11 Cleve Barlow, *Tikanga Whakaaro: Key Concepts in Māori Culture*, Oxford University Press, Auckland, 1991, p173.
- 12 Pei Te Hurinui Jones and Bruce Biggs, *Nga Iwi O Tainui: The Traditional History of the Tainui People*, new edition, Tainui Māori Trust Board, Auckland University Press, Auckland, 2004.
- 13 Royal Society of New Zealand Te Apārangi, 2022, Whakaotirangi [Online]. Available: <https://www.royalsociety.org.nz/150th-anniversary/150-women-in-150-words/whakaotirangi/> (Accessed 1 February 2022).
- 14 Angela Cheater and Ngapare Hopa, 'Representing Identity', in Andrew Dawson, Jenny Hockey and Allison James (eds), *After Writing Culture: Epistemology and Praxis in Contemporary Anthropology*, Routledge, Abingdon, 1997.
- 15 Diane Gordon-Burns, "'And Did She Cry in Māori?'" Recovering, Reassembling and Restorying Tainui Ancestresses in Aotearoa New Zealand', PhD Thesis, University of Canterbury, 2014.
- 16 Puhi Rangiaho, [Kaipatapātai] 'Ruruhi', *Waka Huia* [Video], 1989 [Online]. Available: <https://ngataonga.org.nz/set/item/466?fbclid=IwAR0anmQszCyxzu1uBo26JzHK6V1EzF4wf3BZiJwPG7iNikv7gPkjYq2zrA>
- 17 Pita Sharples, 'Foreword', in Rachael Selby, Pātaka Moore and Malcolm Mulholland (eds), *Maori and the Environment: Kaitiaki*, Huia, Wellington, 2010.
- 18 Zac Mcivor and Xavier Forde, *Hawaiki Iti, Aotea (List no. 9829)*, Report for a Wahi Tapu Area, Heritage New Zealand Pouhere Taonga, 2021.
- 19 *Record #1907/236* (C 457 532, MAI 916) Archives New Zealand Te Rua Mahara o te Kāwanatanga, Wellington
- 20 *Report on the Crown's Foreshore and Seabed Policy*, Wai 1071, Waitangi Tribunal Report, 2004.
- 21 New Zealand Government, *Marine and Coastal Area (Takutai Moana) Act 2011 No 3* (as at 28 October 2021), Public Act Subpart 1 – Interests in Common Marine and Coastal Area – New Zealand Legislation [Online] Available: <https://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html>
- 22 Pohe Island Development Plan, *Northland Advocate*, 7 May 1966.
- 23 Whangārei District Council, William Fraser Memorial Park on Pohe Island, Reserve Management Plan, 2013, p9.
- 24 Whangārei District Council, Pohe Island Landfill Permit Applications, Newsletter No 1, December 1994.
- 25 Whangārei District Council, 2012, Bridge Name Honours Culture and History [Online]. Available: <https://www.scoop.co.nz/stories/AK1306/S00257/bridge-name-honours-culture-and-history.htm>
- 26 Te Ohu Kaimoana, 2020, Rāhui at Marsden Point, Whangārei [Online]. Available: <https://teohu.maori.nz/rahui-at-marsden-point/>
- 27 Northport, nd, Vision for Growth: Our Future Footprint [Online]. Available: <https://visionforgrowth.co.nz/>
- 28 For example, Murray McNaughten from the Manukau Harbour Restoration Society, as quoted in Call to Save the Manukau Harbour, 2012 [Online]. Available: <https://www.nzherald.co.nz/aucklander/news/call-to-save-the-manukau-harbour/QGCSMARBA6TLFI4NAQ2NPURKZQ/>; Also, Warren Kyd, MP for Clevedon, 1990, in New Zealand Hansard [Online]. Available: <https://www.vdig.net/hansard/archive.jsp?y=1990&m=03&d=08&o=43&p=44>
- 29 Memorandum of Appeal: Nganeko Minhinnick on behalf of Ngati Te Ata, before the Planning Tribunal in the matter of W&SCA 1967 – NZ Steel (in He Whakatakoranga Kaupapa Vol. 1); To the chairman and members of special tribunal 4/83 of Auckland Regional Authority in the matter of Water and Soil Conservation Act 1967 And Water Right Applications by New Zealand Steel Ltd. Ce/3541, 3542; To the chairman and members of special tribunal 4/83 of Auckland Regional Authority in the matter of Water and Soil Conservation Act and Water Right Applications by New Zealand Steel Ltd. Ce/3541, 3542.
- 30 Centre for Maori Studies and Research, Occasional Paper no 25 'He Whakatakoranga Kaupapa: Submissions to Treaty of Waitangi Tribunal' [for Wai 8], Makaurau Marae, Ihumatao, 19 July 1984, University of Waikato, np.
- 31 *ibid*, np.
- 32 A footnote in the discussion paper read: 'A guardians system was developed a little under two decades ago to protect sensitive features of Lakes Rotorua, Wanaka and Manapouri-Te Anau.' Ministry for the Environment, 'The Manukau Harbour: A Strategy for Restoration and Future Management,' Discussion Paper, Ministry for the Environment, Wellington, June 1987, pp5-6.
- 33 Shane Jones in interview with David Young, 22 February 2001, as part of Resource Management Act Oral History Project, Audio held by National Library of New Zealand, OHInt-0531-5.

- 34 This began to change with the High Court decision in *Huakina Development Trust v Waikato Valley Authority* [1987] 2 NZLR 188 (HC). In this case, the High Court agreed with arguments that the treaty was part of the fabric of New Zealand society and was a relevant aid to interpreting statutes, even where the statute did not refer to the treaty. This allowed the court to find that Māori values were interests that were relevant under the Water and Soil Conservation Act 1967. Eva Rickard was behind this proceeding and the case was important context in the development of the RMA.
- 35 David Young, *Values as Law: The History and Efficacy of the Resource Management Act*, Institute of Policy Studies, Victoria University of Wellington, Wellington, 2001, p29.
- 36 *Resource Management Act 1991*, s2[1].
- 37 Morris Te Whiti Love, 'Kaitiakitanga: More Than a Mouthful', in *New Zealand Engineering*, vol 49, no 1, 1994.
- 38 *Resource Management Act 1991*, as amended 1997, s2[1]. Related definitions in the Act are: 'tangata whenua, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area'; 'tikanga Maori means Maori customary values and practices'; 'mana whenua means customary authority exercised by an iwi or hapu in an identified area'.
- 39 Shane Jones interviewed by David Young, op cit.
- 40 Section 18 of the government's exposure draft is titled 'Implementation Principles' and contains placeholder text as follows: '[Placeholder for implementation principles. The drafting of this clause is at the indicative stage; the precise form of the principles and of the statutory functions they apply to are still to be determined. In paras (b) and (c) the terms in square brackets need to be clarified as to the scope of their meaning in this clause.' S18(b) reads 'Relevant persons must: "recognise and provide for the application, in relation to [te taiao], of [kawa, tikanga (including kaitiakitanga), and mātauranga Māori]"' <https://environment.govt.nz/assets/publications/Natural-and-Built-Environments-Bill-Exposure-Draft.pdf> (Accessed 20 April 2022).
- 41 A recent book lays out the changing history of Ihumaatao over time. See Lucy Mackintosh, *Shifting Grounds: Deep Histories of Tāmaki Makaurau Auckland*, Bridget Williams Books, Wellington, 2021.
- 42 *Report of the Waitangi Tribunal into the Manukau Claim (Wai 8)*, Ministry of Justice, Wellington, 1985, p13.
- 43 *ibid*, p31.
- 44 See, for example, New Zealand Government, *Waikato Raupatu Settlement Act 1995*, Section 6 (Online). Available: <https://www.legislation.govt.nz/act/public/1995/0058/latest/DLM369893.html>
- 45 *Gavin H Wallace & Ors v Auckland Council* [2012] NZEnvC 120, at [128]
- 46 New Zealand Government, *The Housing Accords and Special Housing Areas Act 2013* (Online). Available: <https://www.legislation.govt.nz/act/public/2013/0072/latest/DLM5369001.html>
- 47 Decision of Hearing Commissioners, 18 May 2016, at 8.18
- 48 *King v Heritage New Zealand Pouhere Tāonga* [2019] NZRMA 194, at [2].
- 49 *ibid*, at [90]; *ibid*, at [82]
- 50 See, for example, Joseph Singer, *Entitlement: The Paradoxes of Property*, New Haven, Yale University Press, 2000, pp28-30
- 51 Kevin Gray, 'Equitable Property', in *Current Legal Problems*, vol 47, no 2, 1994, pp157, 160, https://doi.org/10.1093/clp/47.Part_2.157
- 52 Singer, op cit, p173.
- 53 Richard P. Boast and Neil C. Quigley, 'Regulatory Reform and Property Rights in New Zealand', in Susy Frankel (ed), *Learning from the Past, Adapting for the Future: Regulatory Reform in New Zealand*, LexisNexis, Wellington, 2011, p127; Nin Tomas, 'Māori Concepts of Rangatiratanga, Kaitiakitanga, the Environment and Property Rights', in David Grinlinton and Prue Taylor (eds), *Property Rights and Sustainability: The Evolution of Property Rights to Meet Ecological Challenges*, Martinus Nijhoff, Leiden, 2011, pp219-248.
- 54 See, for example, Gregory S. Alexander and Eduardo M. Peñalver, *An Introduction to Property Theory*, Cambridge University Press, New York, 2012; Nicole Graham, *Lawscape: Property, Environment, Law*, Routledge, Abingdon, 2011; Margaret Davies, *Property: Meanings, Histories, Theories*, Routledge, Abingdon, 2011.
- 55 Jeremy Waldon, 'The Normative Resilience of Property', in Janet McLean (ed), *Property and the Constitution*, Hart Publishing, Oregon, 2000, pp170, 173.
- 56 *ibid*, p196.
- 57 See sections 6(e) and 7(a).
- 58 Part 2 of the RMA sets out a hierarchy of relevant considerations within which Māori interests and values are often 'balanced out' – and often in favour of economic development. See, for example, *The Stage 2 Report on the National Freshwater and Geothermal Claims*, WAI 2358, Waitangi Tribunal Report, Wellington, 2019, pp109-110, 517-528. Sections 6(e), 7(a) and 8 do not create a 'right of veto' and are three of many matters that decision-makers must consider under Part 2 of the RMA. See, for example, *Minhinnick v Watercare Services Ltd*, [1998] 1 NZLR 63 (HC); [1998] 1 NZLR 294 (CA).

The RMA does not expressly refer to property rights as a relevant matter, but they are relevant as an intrinsic part of 'the law'.

59 Clause 8(f). This is one of 16 outcomes.

60 Te Aka Online Māori Dictionary (Online). Available: <https://maoridictionary.co.nz/>

61 Hirini Moko Mead, *Tikanga Māori: Living by Māori Values*, Huia Publishers, Wellington, 2016, p32.

62 Barlow, *Tikanga Whakaaro*, p61

63 Robert Marunui Iki Pouwhare, 'Ngā Pūrākau mō Māui: Mai te Patuero, te Pakokitanga me te Whakapēpē ki te Kōrero Pono, ki te Whaihua Whaitake, mē ngā Honotanga: The Māui Narratives: From Bowdlerisation, Dislocation and Infantilisation to Veracity, Relevance and Connection', PhD thesis, Auckland University of Technology, 2020, pxxii.