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P O Box 5805 Moray Place Dunedin New Zealand [redacted]

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PERSONAL

Please deliver to Dr. Mutu

Dr Margaret Mutu
c/- New Zealand Conservation Authority
Fax: (04) 471 1082

Dear Dr Mutu

Maori Participation and Input into Resource Management in Aotearoa/New Zealand

I have read with interest your paper presented to the Ecopolitics VIII Conference held at Lincoln University on 9 July 1994.

As a Maori studies academic I am surprised by your repeated selective reference to the Treaty of Waitangi, in which you emphasis power and authority of tangata whenua over (all) resources while neglecting to mention Article Two's tandem provision for sale of lands to the Crown.

As an academic with responsibilities to a publicly funded tertiary institution do you consider that you have a duty, when relying on the Treaty as the basis for your argument, to present all its relevant provisions to those under your professional influence?

Of particular concern to me is a statement on page 13 of your paper that—

> "...a further rather insidious factor that has crept into this debate (use of public land in Treaty settlements). Some lobby groups with good access to the media and government are using the very successful environmental lobby to promote notions of racial superiority of Pakeha New Zealanders in respect to managing these lands. A spokesman of one of these groups was publicly rebuked by the chairman of the Board of Inquiry (on National Coastal Policy) for demonstrating such attitudes to the Board's Maori members during the (public) hearings".

I appeared before the Board of Inquiry in Dunedin on behalf of Public Access New Zealand. If you refer to myself I take strong exception to your accusations and your statement as a representation of fact. If I am the person you refer to would you please enlighten me as to—

- the nature of the alleged 'notions/attitudes of racial superiority'
- the form of the 'rebuke' from the chairman.

If your statement is about me it is a complete falsehood and I ask for its retraction.

I sense from your reaction to my submissions to the Board that you do not have a disposition of tolerance for examination or questioning of your views or professional work. Your reply to this letter would be an opportunity to demonstrate that I am incorrect in my observation.

Yours sincerely,

BJ Mason

Bruce Mason
PANZ Trustee

Maori Participation and Input

into

Resource Management

and

Conservation

in

Aotearoa/New Zealand

Dr Margaret Mutu
University of Auckland

A Paper Presented at the

Ecopolitics VIII Conference
held at
Lincoln University
9 July 1994

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1. INTRODUCTION

1.1 The Treaty of Waitangi

The benchmark that Maoridom starts from in contributing to resource management and conservation in Aotearoa/New Zealand is the Treaty of Waitangi. The Treaty, the founding document of present day New Zealand society, was signed in 1840. It was a simply stated agreement between the Queen of England and Maori chiefs of New Zealand. In the Treaty the Queen expressed the desire that Maori should be protected from the negative effects of her subjects migrating from England to New Zealand. She undertook to set up a system of government in New Zealand to maintain peace and good order but promised that Maoridom would be guaranteed complete power and authority over everything they held dear; their lives, culture, language[1], land, homes, forests, fisheries and anything else they valued. She also promised that she would ensure that Maori had all the rights of British citizens and that she would provide protection in this respect. She appointed a Governor to ensure that her wishes were carried out.

The chiefs present at Waitangi and then later in many other parts of the country, agreed to this Treaty after considerable debate. They assumed that since the Queen of England was the chief of all English chiefs, she must therefore be of great *mana*. Such a person, in Maori eyes, must be of the highest honour and integrity, and be a fitting person with whom the chiefs could forge a personal and aristocratic alliance. That alliance would be forged by entering into this agreement and confirmed and sealed by the sending of a Governor[2]. Furthermore, in doing so the Queen acknowledged the *mana* of the chiefs as equivalent to hers. As far as the chiefs were concerned, the Treaty would hold for as long as the Queen and her descendants sat on the throne of England[3].

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1 Although not specifically listed in the Treaty, the Waitangi Tribunal has found that the word *taonga* covers everything of value to Maori, both physical and non-physical. It made specific findings on the language and culture in this respect in its "Finding of the Waitangi Tribunal Relating to Te Reo Maori and a Claim Lodged by Huirangi Waikerepuru and Nga Kaiwhakapumau i te Reo Incorporated Society", Wai 11, April 1986.

2 Salmond (1992:6) points out that this is consistent with Maori practices of the times whereby "it was not uncommon in Maori kinship politics to seal an alliance by sending (*tuku*) a chiefly person from their own territory to that of another group..."

3 This is the understanding of my tribes as passed down to me by my elders. (Mutu 1993)

In the intervening 150 years there has been great reluctance by the servants of the Crown to either acknowledge or comply with these undertakings and promises[4]. Maoridom, however, has patiently persisted, despite having being rendered poverty stricken by government after government. Although we started to make some legislative in-roads in 1975 with the *Treaty of Waitangi Act*[5], and have seen incorporation of references to the Treaty in, for example, the *Conservation Act* 1987[6] and the *Resource Management Act* 1991[7] (RMA), the realities on the ground for *hapuu* and *iwi* are nowhere near what our ancestors envisaged and certainly not what these Acts provide for.

Each generation of each *hapuu* and *iwi* has, since 1840, patiently handed down what the Treaty meant to the tribe. In doing so each generation is urged to persuade the Queen's servants to honour their sovereign's instructions. For my tribe, the meaning of the Treaty is very simple. We remain the *mana whenua* within our area, that is we remain the ultimate authority in respect of our lands and all our natural resources, our lives and everything that effects us. At the same time, we live within the laws of the country as sanctioned by the Queen, and strive always for a peaceful co-existence with our guests who are the subjects and invitees of the Queen of England. But time and again we are forced to choose between our own *tikanga*, that is, the correct way to do things according to Maori tribal law, and the laws sanctioned by the Crown.

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4 See the reports of the Waitangi Tribunal.

5 Under this Act the Waitangi Tribunal was established to inquire into and report to government on alleged breaches of the Treaty of Waitangi. Over 400 claims have been lodged with the Tribunal. Although it has reported on less than a quarter of these claims, it has already found that there have been substantial breaches throughout the country.

6 Most particularly at Section 4 where there is a requirement "to give effect to the principles of the Treaty of Waitangi".

7 This Act contains several provisions relating to the special consideration that must be afforded to Maoridom, their culture and values, most specifically in the purpose of the Act at Ss 6(e) and 7(a). It contains a provision relating to the Treaty of Waitangi but it is very weak stating only that the principles of the Treaty of Waitangi shall be taken into account. In the *Ngawha Geothermal Resource Report*, the Waitangi Tribunal made findings that this section is in violation of the Treaty and recommended that government amend it. Government has not acted on the recommendation.

1.2 Administrative Practice at the Flax Roots Level

Ideally, and if the Treaty was being adhered to, no law in this country, either in the way it is written or the way its is administered, would be in conflict with our own tribal *tikanga*. Unfortunately, many statutes have been written such that they are in direct conflict with *tikanga Maori*, and consequently also in violation of the Treaty[8]. A few do make direct provision for upholding the Treaty, as I mentioned above, and the country's courts have ruled that the Crown is obliged to uphold the principles of the Treaty. But the day to day reality for Maoridom at the flaxroots level stems more from how the servants of the Crown, namely government officials, choose to administer these laws. To test whether, for our purposes, the laws relating to resource management and conservation are being administered in a manner that is consistent with the Treaty, questions such as the following need to be asked and answered:

- Is the special status of Maoridom in this country understood and acknowledged by government servants working in the field of resource managment and conservation?
- Is the authority of *tangata whenua* in respect of their natural resources acknowledged?
- Is the nature of that authority and its source understood by government servants?
- Then, more specifically, do local authorities and consent authorities, for example, listen and act appropriately when Maori tell them that an existing use of a natural resource in their area is a gross violation of the Treaty?
- Do those same authorities act on *tangata whenua* instructions that a particular consent application must be modified or declined because it is offensive and even abhorrent to the local *hapuu*?

When you ask many local authority managers these questions[9], they usually say

"Yes" or "Sometimes".

They have to, of course. The RMA requires them to. The most truthful answer from these people, which becomes obvious once they are further questioned, is

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[8] See the reports of the Waitangi Tribunal.

[9] During the hearings of the Board of Inquiry into the New Zealand Coastal Policy Statement, I took the opportunity to put questions such as these to every local authority who appeared before us.

"Yes, if we think it is appropriate".

In my experience the word "appropriate" in this context means "provided in fits in with values and cultural practices that I and my Council know and understand". It is rare in this country, even today, that decision makers in local authorities in this respect know and understand anything outside their own Pakeha cultural values. Time and again these Pakeha values come into direct conflict with those of Maoridom in the fields of resource management and conservation.

When, on the other hand you ask these same questions of the various *hapuu* at the local level, as I have done, a few say "Occasionally" but most say "No". They will also tell you that they are sick to death of being consulted, when at the end of the day local authorities still will not acknowledge the special status of Maoridom in a practical sense, do not respect their *waahi tapu*, still don't understand what Maoridom is actually talking about and, worst of all, have no comprehension of the meaning of the Maori words and hence Maori values and concepts which are specifically provided for in the RMA.

I have been quite staggered by this lack of comprehension. In the rest of this paper I will outline just some of the attempts that have been made by Maori members serving on two statutory bodies, the New Zealand Conservation Authority and the Board of Inquiry into the New Zealand Coastal Policy Statement and the attempts made there to start ensuring that policies derived from the RMA and the Conservation Act start trying to address this problem of gross ignorance on the part of administrators. In doing so I will discuss particular examples addressed by each body and also comment on some of the processes used by these bodies. In the case of the Board of Inquiry these have allowed some meaningful advice to be issued on Maori matters. For the Conservation Authority, matters have been far less straight forward.

2. THE BOARD OF INQUIRY INTO THE NEW ZEALAND COASTAL POLICY STATEMENT

I will discuss the Board of Inquiry first since it has completed the task set for it by the RMA. That task was to inquire into the New Zealand Coastal Policy Statement (NZCPS) as drafted by the Minister of Conservation and to report on it and make recommendations to the

Minister. The Policy Statement was the first attempt ever made to lay down a national policy in a particular area of resource management. Previously policies were drawn up by regional bodies according to how they saw the legislation being implemented in their region. Regional coastal policy statements are now required to be not inconsistent with the NZCPS.

2.1 Board Membership

The Board was an independent body appointed by the Minister of Conservation. It was very careful to conduct its inquiry and to make its recommendations quite independently of the Minister - which in practice, of course, is the Department of Conservation.

The Presiding member was a retired chief Planning Tribunal judge. There were also two lawyers, one of whom is Maori, a planner and myself as a Maori Studies academic with a background in dealing with my own *hapuu*'s coastal resource management problems in the Planning Tribunal.

The appointment of two Maori to such a small Board is most unusual. It did however answer a request made so frequently by Maoridom not to make sole Maori appointments. The pair of us relied very heavily on each other for support and informed debate on Maori matters.

2.2 Board Hearings: Court Rooms vs Marae

The Board conducted its inquiry by calling for public submissions, conducting hearings throughout the country then spending several months deliberating and writing the report and recommendations. Nearly 600 submissions were received and hearings were conducted over a period of several months. Two hearings were conducted on marae, the first in the North amongst my own tribes.

It was very interesting to watch the apprehension of the non-Maori members of the Board evaporate as that first marae hearing progressed, and to also watch them come to the realisation in the course of the hearings that, RMA aside, Maoridom really did have a very sound and valuable contribution to make to the policy statement. Even though similar statements to those made on the marae had been made by other Maori in previous hearings

conducted in Pakeha venues such as court rooms and council chambers, they had much more relevance and impact when presented in a Maori venue. And what was even more interesting in the Northland hearings was that non-Maori also presented their submissions on the marae. In that venue none of them had any problem acknowledging the *tangata whenua* before they commenced their submission. I look forward to the day when they are as ready to do that in a non-Maori venue as well.

2.3 Maori Submissions

Maoridom throughout the country were consistent about the values they held in respect of the coast, and the huge concern they had to ensure that not only was degradation remedied and not permitted to occur in future, but also that sustainable development could still occur. Over fifty written submissions were received from different *tangata whenua* groups and representatives of many of those appeared before the Board.

2.4 Maori Responsibility Under the RMA - Can the Bird Fly Without Feathers?

Some of the submissions received from Maoridom were very substantial, often very lengthy but also of very high quality. I comment on this fact because none of the Maori groups has anything near the substantial resources of local authorities and large development interests (such as port companies and the telecommunications industry) with which to pay the professional fees normally required to prepare such submissions. In general, the Maori submissions were prepared with minimal resources but still demonstrated very clearly the huge amounts of knowledge held by those tribes about the coastal resources. Time and again Maoridom told the Board that they find themselves having to provide such expertise free of charge, and could not continue to do so. A well known Maori proverb sums this situation up: *Ma te huruhuru te manu ka rere.* 'A bird needs feathers to fly'.

It makes a mockery of the RMA that Maori matters are given high priority there but that those with the qualifications to provide the necessary expertise and skills to ensure compliance with those provisions are denied access to financial support to carry out the job. I recall the outcry earlier this year from some councillors in the Auckland region when *tangata whenua* indicated they were going to charge for their services. In fact, several regional councils are contracting *tangata whenua* expertise but I have yet to hear of any

council being prepared to pay for Maori expertise at the same rate as they pay for legal, planning and engineering expertise.

Although it did not fall within the scope of the inquiry, the Board commented on this matter and recommended that it be addressed urgently. I note that the Parliamentary Commissioner for the Environment has since issued a statement clarifying the situation in terms of the RMA. Not surprisingly she has stated that where consultation with Maori by local authorities and consent authorities is required by legislation then that authority must pay for that advice. Where it is required by an applicant for a resource consent, then the applicant must pay, as they must pay for any advice.

2.5 Maori Terms Used in the RMA and NZCPS

In demonstrating their expertise on Maori matters, all *tangata whenua* groups were very clear, for example, about what the responsibilities of *kaitiakitanga* are for them (as provided for at S7(a) of the RMA). They were also very clear about what "in accordance with *tikanga Maori*" means, what *waahi tapu, mana whenua, taonga* and the various other Maori words and phrases used in the RMA and the NZCPS mean in practice on the ground. These concepts were referred to in a myriad of ways as Maori listed their concerns, but the most comprehensive explanations were those given entirely in Maori in oral evidence presented in hearings.

It takes very little reflection to realise that the fact that the best explanation of Maori terms is that provided in the Maori language is a very logical state of affairs. The Maori terms used in the RMA were used there simply and solely because there are no equivalent terms or phrases in English. They are words and concepts that belong specifically to the Maori language and culture and as such can only be properly understood and explained from within that context. Those who do not have some knowledge of that culture and language are therefore somewhat handicapped if they do not set about availing themselves of at least a beginner's grasp of both the language and culture. Yet time and again the Board received submissions from non-Maori bodies asking for the Maori terms to be translated and/or explained.

2.6 The Board's Explanation of *Kaitiakitanga* Based on *Tangata Whenua* Submissions

As a result of these requests for explanation, the Board in its report attempted to give an explanation of *kaitiakitanga* which was based on the submissions received from *tangata whenua*[10]. We did this in order to demonstrate not only how complex even a simple explanation is when made in English (mainly because of the need to explain underlying values assumed by Maoridom), but also how its basis and underlying values are from a culture quite different from mainstream Pakeha New Zealand culture. We hoped that such an explanation would also demonstrate why it is that Maoridom approaches the management of the coast in a fundamentally different way from Pakeha, and that that approach, being equally or more valid than any Pakeha approach[11], accounts for why Maoridom seem to some non-Maori to be unaccountably stubborn about certain management practices, such as the discharge of sewage to the sea.

Having given this explanation of *kaitiakitanga* the Board went on to include as a fundamental principle in management of the coast, the fact that *tangata whenua* are the *kaitiaki* of the coast. The explanation indicated that this was a duty which fell to individual *hapuu* along the coast as a result of their occupation over hundreds of years and the vesting of *mana* in those *hapuu* by non-human, spiritual powers.

2.7 Recommendation of a Special Maori Task Force

We also went on to recommend that in light of our great concern about the lack of expertise in Maori matters in local authorities and consent authorities, particularly in the Department of Conservation[12], that a Special Maori Task Force be set up to oversee all aspects of the

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[10] An extract from the Board's report which gives the explanation of *kaitiakitanga* is appended to this paper.

[11] This latter comment, that a Maori approach is more valid, is based on two observations. The first is that Maori have lived on the coasts of this country for several hundred years longer than any Pakeha and as such have a far greater collective and overall knowledge about it. The second is that guarantees were made in the Treaty of Waitangi that Maori would always have complete authority over everything they valued, and that includes the coast.

[12] The only staff employed in the Department specifically for their expertise in Maori matters are the Kaupapa Atawhai Managers in each of the 13 conservancies, and a Kaupapa Atawhai Division and an Assistant Director-General (Maori Issues) in Head Office. Each conservancy employs just one person to fill this role when the staffing of conservancies ranges between 40 and 300 (Director-General of Conservation; personal communication). Head Office has 6 staff employed for their Maori expertise.

Department's work in respect of Maori matters. We recommended that this be separately funded by the Crown and be made up of equal numbers of people appointed by *tangata whenua* and the Crown.

2.8 Conclusion

These are just some of the Maori matters addressed by the Board. In it lengthy deliberations the Board relied heavily on the expertise of its Maori members in providing advice on Maori matters. The Maori members in turn relied on the expertise of the different tribal representatives who appeared before the Board. The Minister and then Cabinet accepted all the recommendations of the Board, including a completely rewritten *New Zealand Coastal Policy Statement.* It was gazetted in May 1994 and remains in force for the next ten years.

3. THE NEW ZEALAND CONSERVATION AUTHORITY

The Authority is an independent body set up under the *Conservation Act* 1987 to advise the Minister on conservation issues. It plays a major role in setting policy and is the approving body for all Conservation Management Strategies[13]. The Authority, in practice, has to work fairly closely with Department of Conservation (DoC) staff and, unlike the Board of Inquiry, has had difficulty maintaining its independence at times. For example, the Director-General attends all authority meetings and remains in the meetings even when the Authority goes into committee. He is there ostensibly to provide information but does also advise the Authority at times.

Of the twelve member body, two Maori members are appointed on the recommendation of the Minister of Maori Affairs. The local authority representative on the present authority is also Maori. Two of the Maori members are from the northern (Taitokerau) tribes. The third is from the south island.

Other members represent various non-governmental interest groups such as the tourism and farming industries and environmental and recreational lobby groups. The Authority's current chairperson is a lawyer with a strong recreational interest.

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[13] Strategic planning documents drawn up for each conservancy which will determine how lands administered by DoC will be managed for the next 10 years.

3.1 Treaty Issues as a Priority of the Authority

When I first took up my position on the Authority last year, we were all informed that the Minister was desparately looking for some pathway through the myriad of Treaty issues confronting many areas of conservation management. Because of government's inability to adequately address Treaty issues, decision making in some key conservation areas throughout the country is effectively being blocked by *tangata whenua*. Two particular examples of this are the establishment and administration of national parks and the protection of certain species of native flora and fauna. The Authority as a whole, very early in its term, resolved to set Treaty issues as one of its top priorities.

3.2 Lands Administered by DoC and Treaty Settlements

One of the most contentious issues arising in this area was what should be done about lands administered by the DoC which have been successfully claimed before the Waitangi Tribunal. The Authority was well aware that most, if not all of the lands currently administered by the Department of Conservation were under claim before the Tribunal. It was also aware that in more than one case the Tribunal had recommended, after extensive investigations and deliberations, that the land should be returned to the tribes from whom it had been wrongly taken. These lands were lands which had come under the control of the Department when it was established in 1987, and were left over lands from the old Departments of Lands and Survey, and Forestry.

The Minister asked the individual Maori members very early on for their opinions. My advice after consultation with my *kaumatua* (elders) was that as a matter of honour the Crown had no choice but to return lands that had effectively been stolen. However, I also pointed out that once the Crown had re-established its honour by returning the land, it could then start to negotiate for public access to those lands, should that be appropriate.

Many environmental lobby groups are very concerned about this approach, preferring to regard the lands administered by the Department as having been set aside purely for their conservation values. Others openly express great fear of what may happen to the lands if Maori and not the Crown are the owners. Discussions with leaders of some of these groups indicate that much of this fear is fed by the same ignorance of Maori culture and values that

I had already noted during my time on the Board of Inquiry.

However, there is a further rather insidious factor that has crept into this debate. Some lobby groups with good access to the media and government are using the very successful environmental lobby to promote notions of the racial superiority of Pakeha New Zealanders in respect of managing these lands. A spokesperson of one of these groups was publicly rebuked by the chairman of the Board of Inquiry for demonstrating such attitudes to the Board's Maori members during the (public) hearings.

Statements recently issued by the Minister of Conservation indicate that he is adopting a policy whereby he recognises that some of the lands administered by DoC will probably have to be returned to *tangata whenua*. He has acknowledged that the Crown's honour must be restored but is trying to reassure the environmentalist lobbies that he will look to their concerns when reaching a settlement. There is even suggestion that settlements may be subject to *tangata whenua* complying with certain arbitrary conditions (such as public access).

I am not convinced, from the examples I know from my own area, that it will be possbile to set conditions which, after all, are not requirements of other private property owners, on Maori land owners **before** land is returned. The Crown needs to reestablish its own honour and demonstrate its goodwill to Maoridom by returning the land before it starts asking for concessions for the general public.

3.3 The Proposed Northland Kauri National Park - *Tangata Whenua* Refusal to Discuss Proposal

Earlier I mentioned two specific examples of areas where *tangata whenua* are blocking conservation efforts. The first example related to national parks. Several tribes were objecting to the establishment of national parks in their area because all the lands being proposed for the parks were under claim before the Waitangi Tribunal, and many had been for years. The establishment of a national park over the area would effectively remove it from being able to be returned to *tangata whenua* in the event of the Tribunal finding that it had been wrongly acquired by the Crown. One proposal for a national park even included

lands which the Tribunal had already recommended should be returned (the Waipoua Forest and Maunganui Bluff in Northland)[14].

In this case *tangata whenua* from several tribes throughout the north flatly refused to discuss the proposal for a Northland Kauri National Park until such time as all their claims had been heard and settled. Despite being told this in no uncertain terms more than four years ago, both the Department of Conservation and the Authority continued to push the proposal. When I took up my appointment on the Authority I was under very clear instructions from the tribes of the north to ensure that their rights under the Treaty were upheld and that nothing on this proposal was to proceed without their say so.

This has been made very clear to the Authority on several occasions but particular members have the greatest difficulty in understanding that in fact Maoridom have every right to do this as a result of their status guaranteed under the Treaty. Despite the Authority's own undertaking to address Treaty issues, I found myself forced into having to choose between my tribe and the Authority on a particular occasion in relation to this issue. The occasion was when the Authority insisted on returning to the north to inspect the proposed areas again. I chose my tribe and distanced myself from the Authority in its actions.

In the final analysis the recommendation to the Minister on the proposed national park will contain a very strong caveat in keeping with the instructions of the tribes of the north. Basically, the tribes of the north have made no input into the proposal about what the appropriate management for a proposed area should be. They do not intend to do so until their claims to the Waitangi Tribunal are all heard and settled. At that stage meaningful discussions with *tangata whenua* can be started about the nature and extent of the proposed park. The Authority has aware that it must proceed with great caution in advising the Minister.

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[14] See the *Te Roroa Report* of the Waitangi Tribunal.

3.4 Environmentalist Opposition to Maori Rights to Traditional Food Sources - Proposing a Solution to the Impasse

The second example that I mentioned concerned the taking of particular native bird species as a traditional source of food. The court has had to go as far as ruling against the Department of Conservation when they attempted to prosecute *tangata whenua* for taking native birds which were traditional food of that particular tribe. The Treaty after all, guaranteed the right of Maori to do that and the Department of Conservation is required by its own legislation to ensure that the Treaty is upheld. After the court ruled against the Department, the Minister made his own assessment of the situation and decided that the Department was not capable of sorting the problem out itself. This related largely to the fact that senior officers in the department simply refused to take the expert advice of the numerically few Maori experts in the department. The Minister then removed the matter from the Department's hands and asked the Authority to advise him.

The Authority struggled with the matter for quite some time, being severely hampered by departmental interference. However, once members realised that the reality on the ground in relation to many native species was that neither Pakeha nor Maori conservation values could be adhered to because of the present impasse, the Authority made a determined effort to try to find some sort of solution. Again it involved trying to explain some very basic values of Maoridom to those with little or no knowledge of either the language or culture. To that end I drew up a paper on the meaning of several Maori words used in conservation and resource management and delivered it to the 1994 conference of Conservation Board chairpersons[15]. The paper included basic explanations of words such as *tapu, mana, tangata whenua, tikanga Maori, rangatira, kaitiaki* and concentrated on providing these in a linguistic and cultural context. The paper was widely distributed to Conservation Boards and throughout the conservancies.

After much deliberation on the Maori customary use issue, the Authority produced a document entitled "Discussion Paper on Maori Customary Use of Native Birds, Plants and other Traditional Materials" which it has circulated for public comment. The paper, written

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[15] The paper was entitled "The Use and Meaning of Maori Words borrowed into English for discussing Resource Management and Conservation in Aotearoa/New Zealand".

in both English and Maori, points out that unless the *mana* of *tangata whenua* in relation to these native species is acknowledged and respected, conservation of these species will not be possible in practice. These species are, after all, all *taonga* or items of great importance to Maoridom, and as such, Maori authority and control over them is guaranteed by the Treaty. Ultimately, on a practical day to day basis, unless acknowledgement is afforded to those on the ground in each area with the *mana* for that area, nothing can be achieved. They are, after all, the people with the most intimate knowledge of their own area and its flora and fauna, including birds traditionally used as food. They also have a detailed knowledge of the most appropriate conservation methods for those species. Acknowledgement of their *mana* will greatly facilitate the necessary protection of the species in question. The paper makes some initial suggestions as to how that *mana* can be acknowledged and asks for the public to comment on those proposals.

Although this paper was fully endorsed by the Authority it went through some rather tortuous stalling mechanisms before it finally saw the light of day in public. I am aware that efforts to discount it completely and stall the public consultation process are still being carried out by those who consider that they have absolutely nothing to learn from *tangata whenua* who have hundreds of years of experience in relation to these species.

4. CONCLUSION

In conclusion I can say that my work on the Board of Inquiry into the New Zealand Coastal Policy Statement produced as reasoned and as meaningful a result for both Maoridom and New Zealand as a whole as was possible under the Resource Management Act. The New Zealand Conservation Authority on the other hand, has made some significant advances on Maori and Treaty issues but is proving to have a much harder road to hoe for its Maori members.

APPENDIX: *Kaitiakitanga*

Extract from *The Report and Recommendations of the Board of Inquiry into the New Zealand Coastal Policy Statement.*

Pages 16 - 18

(b) 'Kaitiakitanga'

Several submissions asked that Maori terms, such as tangata whenua and kaitiaki, be translated and/or explained in English. Others asked for sections of the NZCPS to be written in Maori. Many of the submissions from tangata whenua groups clearly demonstrated that the manner in which they were using terms such as kaitiaki and kaitiakitanga involved much more than the words used in the interpretation at Section 2 of the Act would indicate.

These matters have serious implications for the successful implementation of the NZCPS. The Board felt that it would be helpful to provide an explanation of *kaitiakitanga* in order to demonstrate how the term is understood by Maori.

The interpretation of kaitiakitanga provided at Section 2 is

> *'Kaitiakitanga means the exercise of guardianship; and in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself'*

Having regard for the submissions of almost every tangata whenua group, this interpretation can only be adequately understood when placed in the following context (which in Maori terms is only a very simplified version of the explanation of the term):

> Kaitiakitanga is the role played by kaitiaki. Traditionally, kaitiaki are the many spiritual assistants of the gods, including the spirits of deceased ancestors, who are the spiritual minders of the elements of the natural world. All the elements of the natural world, the sky father and earth mother and their offspring; the seas, sky, forests and birds, food crops, winds, rain and storms, volcanic activity, as well as people and wars are descended from a common ancestor, the supreme god. These elements, which are the world's natural resources are often referred to as taonga, that is, items which are greatly treasured and respected. In Maori cultural terms, all natural, and physical elements of the world are related to each other, and each is controlled and directed by the numerous spiritual assistants of the gods.
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> These spiritual assistants often manifest themselves in physical forms such as fish, animals, trees or reptiles. Each is imbued with mana, a form of power and authority derived directly from the gods. Man being descended from the gods is likewise imbued with mana although that mana can be removed if it is violated or abused. There are many forms and aspects of mana, of which one is the power to sustain life.

> Maoridom is very careful to preserve the many forms of mana it holds, and in particular is very careful to ensure that the mana of kaitiaki is preserved. In this respect Maori become one and the same as kaitiaki (who are, after all, their relations), becoming the minders for their relations, that is, the other physical elements of the world.
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> As minders, kaitiaki must ensure that the mauri or life force of their taonga is healthy and strong. A taonga whose life force has been depleted, as is the case for example with the Manukau Harbour, presents a major task for the kaitiaki. In order to uphold their mana, the tangata whenua as kaitiaki must do all in their power to restore the mauri of the taonga to its original strength.
>
> In specific terms, each whanau or hapu (extended family or subtribe) is kaitiaki for the area over which they hold mana whenua, that is, their ancestral lands and seas. Should they fail to carry out their kaitiakitanga duties adequately, not only will mana be removed, but harm will come to the members of the whanau and hapu.
>
> Thus a whanau or a hapu who still hold mana in a particular area take their kaitiaki responsibilities very seriously. The penalties for not doing so can be particularly harsh. Apart from depriving the whanau or hapu of the life sustaining capacities of the land and sea, failure to carry out kaitiakitanga roles adequately also frequently involves the untimely death of members of the whanau or hapu.

An interpretation of kaitiakitanga based on this explanation must of necessity incorporate the spiritual as well as physical responsibilities of tangata whenua, and relate to the mana not only of the tangata whenua, but also of the gods, the land and the sea.

Local authorities and consent authorities need to be aware that tangata whenua read far more into the interpretation of kaitiakitanga expressed in Section 2 than just the surface meaning of the words written in English.

It must always be borne in mind that the value system associated with mana, kaitiakitanga, taonga, mauri, whanau and hapu is a system deeply embedded in the Maori culture. As such, these terms can best be understood within that cultural context. Local authorities and consent authorities should be aware of and able to accommodate what, to the uninformed, may seem to be stubborn refusal to compromise the principles of kaitiakitanga. For in reality, compromise most often simply is not an option for tangata whenua.

The example above perhaps also illustrates why translations into English of any of the Maori terms used in the NZCPS can never adequately explain the terms. The English translation

of kaitiaki is 'guardian, caretaker, trustee'. The translation of kaitiakitanga is 'guardianship, trusteeship'. None of these words comes even close to matching the explanation given above. Quite simply, each of the Maori terms used in the NZCPS has been used because there is no equivalent term in English. If there had been an equivalent term, it would have been used.

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Johnston
Mason.

Henson
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Harding
Dennis
Barr.
B. Marshall
Cox.
Sage

Report
to the
Minister of Maori Affairs
on the
New Zealand Conservation Authority

from
Dr Margaret Mutu

Intrpduction

This report covers the period July 1993 to May 1995 and deals with issues raised in the New Zealand Conservation Authority relating to Maori conservation and the effects of conservation policy and practice in this country on Maori. The report focusses on areas identified by Maori as problematic, and comments on NZCA's attempts to resolve these issues.

1. Meetings of and Conferences Relating to the NZCA

Since my appointment in July 1993, the full New Zealand Conservation Authority (NZCA) has met nine times for two day meetings. The 10th scheduled meeting in April this year was cancelled because of staffing shortages. The appointees recommended by the Minister of Maori Affairs (Sir Tipene O'Regan and I) have attended part or all of each of the nine full meetings.

I have also attended many other subcommittee meetings and consultative hui both in Wellington and throughout the country. These have concentrated on the areas of Maori customary use of native flora and fauna, the proposed Northland Kauri National Park, the Auckland, Taitokerau and Nelson/Malborough Conservation Management Strategies, conservation issues on the Chatham Islands and Conservation Board liaison.

I have presented papers as a member of the NZCA to the 1994 Conservation Board Chairmen's Conference (paper entitled "The Use and Meaning of Maori Words Used in Conservation and Resource Management") and the 1994 Ecopolitics Conference (paper entitled "Maori Participation and Input into Conservation and Resource Management in Aotearoa/New Zealand").

2. Briefing on Maori Conservation Issues

Apart from my own hapuu and iwi's background of longstanding attempts to have our own conservation practices recognised and respected by Pakeha conservationists and DoC, advice I bring to the NZCA is drawn from a wide range of sources. I am briefed on particular regional and tribal issues by Maori Conservation Board members and conservation portfolio holders of tribal authorities throughout the country. Kaupapa Atawhai Managers have also been very helpful in this respect. I am also advised by my own kuia and kaumatua and many others throughout the country on wider ranging conservation issues. These briefings, however, tend to be of an ad hoc nature and cannot be considered to produce a comprehensive view of conservation issues effecting Maori.

2. NZCA Priority Issue: Treaty of Waitangi and Tangata Whenua Perspectives

Early in its term the NZCA identified four issues to which it would accord its highest priority. Item 2 is "Treaty of Waitangi and Tangata Whenua Perspectives". A large number of issues falling under this heading appear on the agenda or are raised at every meeting of the NZCA. Having reviewed the minutes of the nine NZCA meetings convened since my appointment, I have summarised these issues as follows:

(i) DoC responsibilities under Section 4 of the Conservation Act (which requires the Department to "give effect to the principles of the Treaty of Waitangi")

(ii) Understanding the Principles of the Treaty of Waitangi

(iii) The Constitutional Status of the Treaty of Waitangi and *te tino rangatiratanga* of the tribes and hapuu throughout the country (minuted as Maori sovereignty)

(iv) The Quality of DoC Consultation with Tangata Whenua - particularly in respect of Conservation Management Strategies, 1080 aerial drops, customary harvest of native birds, conservation of kiore, proposals for Establishment and Additions to National Parks, appointments to Conservation Boards, appointments of Regional Conservators

(v) The Widely Reported and Evidenced Conflict Between DoC and Iwi throughout the Country

(vi) Protection of Waahi Tapu

(vii) Maori Customary Use of Native Flora and Fauna

(viii) The Use of Lands Administered by DoC to Settle Treaty of Waitangi Claims

(ix) DoC Acquisition of Lands under Claim to the Waitangi Tribunal

(x) Public Input into the Settlement of Treaty of Waitangi Claims

(xi) Litigation between DoC and Maori

(xii) WAI-262 Claim to the Waitangi Tribunal (re: Native Flora and Fauna)

(xiii) Contradiction between Conservation Act Requirements and Fish and Game Council functions

(xiv) The Role of Te Puni Kokiri in assisting NZCA to identify Maori Conservation Issues

(xv) The Roles, Responsibilities, Resourcing and Effectiveness of the Kaupapa Atawhai Division of DoC; the Role and Effectiveness of Assistant Director-General (tangata whenua issues)

(xvi) The Role and Effectiveness of Maori members of NZCA and Conservation Boards and their independence from DoC

In the rest of this report of I will comment on each of the above issues, recording the conclusions I have reached after 8 months on the Board of Inquiry into the New Zealand Coastal Policy Statement and two years on the NZCA.

4. - **Section 4 Responsibilities**
- **Treaty of Waitangi and Tino Rangatiratanga**
- **Role of the Assistant Director-General and Kaupapa Atawhai Division (Items i, ii, iii and xiv above)**

It is quite clear that items (i) - (iii) in the above list provide problems for DoC. The Director-General has issued statements on these matters but in my experience pays only superficial lip-service to his department's responsibilities. Despite the very strong statutory mandate provided by section 4 of the Conservation Act, he would clearly prefer that he did not have to deal with them. He has demonstrated on several ocassions that he is most uncomfortable discussing them in a public forum such as NZCA meetings.

In theory the Director-General will be relying on the policy advice of his Assistant Director-General (tangata whenua issues) on these matters. The Assistant D-G has not been able to articulate a clear DoC policy in respect of Section 4, and although he has a lot of very good ideas, they appear to be either ignored or misinterpreted by the rest of senior management. On several ocassions I have found that the Assistant D-G is unaware of many iwi issues currently before the NZCA. He appears to be very marginalised within the department.

The Director-General could also receive advice from the Kaupapa Atawhai Division (although this is more operationally oriented). The Kaupapa Atawhai (Head Office) Division often finds itself excluded from iwi related issues at Head Office level, or its advice ignored. Staff in both Head Office and at regional level have on several ocassions reported their advice being ridiculed and themselves chastised by senior DoC management for the professional advice they provide on tikanga Maori. Although the Kaupapa Atawhai Division do report support for their work at less senior levels of DoC, they do seem to be effectively marginalised within the department.

The Kaupapa Atawhai managers are also grossly under-resourced at conservancy level (only one staff member in each of the 14 conservancies). The Director-General, when questioned on the role of these staff, seemed to think that they were expected to deal with not only providing advice on and facilitating DoC staff relationships with tangata whenua, conveying DoC policy to Maori and Maori views to DoC, but also generally solving any and all problems that arise between DoC and Maori. The analogy of superman/woman was not denied.

This situation within DoC was of such concern to the Board of Inquiry into the New Zealand Coastal Policy Statement that we recommended the establishment of a separate Maori structure to administer the Maori component of that Policy Statement.

The lack of clear understanding of the Department's Section 4 responsibilities is reflected

throughout the department. One Regional Conservator (Northland), when questioned by the NZCA on DoC's Section 4 policy, told us that there was no policy. Although the Director-General emphatically denied it, NZCA has yet to see a policy document along the lines of the many other comprehensive policy documents which DoC has developed such as those on the Kaimanawa Wild Horses, Signs, Walkways, Threatened Plants and Animals, and International Visitors to name just a few.

5. Consultation Between DoC and Tangata Whenua (Item iv)

DoC has an abysmal record on consultation with tangata whenua. Those Conservancies who do attempt genuine consultation find themselves compromised by decisions imposed from Head Office. On the other hand, those who take an uncompromisingly dictatorial stand (Northland and Wanganui stand out in particular) are strongly endorsed by the Director-General. Even on the Chatham Is where centuries old Moriori conservation practices are still commonplace, the Canterbury conservancy persists in attempting to outlaw some of the key customs. This continues in the face of clearly articulated opposition from the Conservation Board and residents accompanied by claims to the Waitangi Tribunal against DoC and written complaints to the Director-General. The Director-General's dismissive attitude towards these complaints is consistent with his general attitude towards tangata whenua.

Recent instances of conflict have demonstrated that the Director-General appears to be under some misapprehension than quantity and not quality of consultation is what is important. Having attempted to come to some understanding with him myself, it is quite clear that he himself does not know how to conduct effective consultation with iwi and is not prepared to take Maori advice on the matter, either from within or outside his own department. Neither was he prepared to take the eminently sensible advice of the Parliamentary Commissioner for the Environment on the matter as it related to the Maungataniwha 1080 drop last November. His public attack on her for offering her advice was, quite frankly, most unseemly and unwarranted.

The approval of Conservation Management Strategies by NZCA has been made very difficult because of DoC's approach to consultation with tangata whenua. On the advice of tangata whenua, I have sought changes to the three CMSs that NZCA has considered to date. For although these documents must be approved by the Conservation Boards who are required to ensure that tangata whenua views are adequately catered for, they are in practice drawn up by DoC following directives from Head Office. There is a strong expectation that both the Boards and NZCA will largely rubber stamp them, having convinced tangata whenua that what is in the document is what is best for them.

However, DoC may well be forced to take this matter more seriously now that claims have been lodged with the Waitangi Tribunal in respect of two CMSs (Tongariro and Northland). Both claims are that the CMSs are in violation of the Treaty and that there has been inadequate consultation.

DoC has also found itself unable to discuss the issue of Maori customary use of native flora and fauna rationally with Maori (see 8 below). Its intransigence on a nil use, preservationist policy is both unrealistic and irrational in light of the realities of the day to day lifestyle and

customs of Maori communites and certainly not in the interests of conserving the species concerned.

The NZCA has also walked into major opposition from iwi over the setting aside of any further lands as National Parks or Reserves while claims still exist over them. Iwi have been particularly outspoken in Northland and Wanganui on this matter.

6. Conflict Between DoC and Iwi
Item v

During the hearings into the New Zealand Coastal Policy Statement, the Board of Inquiry was told time and again of open conflict between DoC and iwi, and not always by iwi themselves. During the consultation hui conducted by NZCA on Maori Customary Use, there was not one iwi who did not report conflict between themselves and DoC. In each of these forums, numerous quite specific instances were cited.

The Director-General denies that conflict exists. He specifically informed the NZCA in one meeting that I was inventing stories about its existence. He has also on several ocassions questioned the veracity of my advice from iwi, stating that he does not wish me to raise these matters in NZCA meetings. Furthermore his undertaking to ensure that discussions could take place with a view to improving DoC/Maori relationships in Northland were simply a further example of lip-service. The Northern Conservator and the Director-General have successfully made themselves unavailable for all meetings on the matter proposed by the Kaupapa Atawhai Division.

However, members of NZCA have all at some time been told by iwi in their own areas and elsewhere, and often in very graphic terms, of iwi anger at the manner in which DoC conducts itself on tangata whenua issues. The negative attitude of many DoC officials towards tangata whenua can be traced directly to the Director-General. For example, on more than one ocassion I have had to correct his assertion that tangata whenua are simply another interest group, with an implied lesser standing than conservation NGOs. He is most unwilling to admit that tangata whenua are in fact the Crown's Treaty partner.

As a result I have had major disagreements and very sharp and at times vitriolic exchanges with the Director-General in NZCA meetings. I have repeated on several ocassions now that I was appointed to bring the views of Maori on conservation issues to the NZCA, and that I would continue to do so for as long as I was charged with that responsibility. I have also reminded the Director-General on several ocassions that the NZCA is an independent body responsible for providing advice to the Minister of Conservation.

Several DoC staff and Conservation Board members have reported to me that senior management have been attempting to discredit me and have advised Boards that my views and advice should be disregarded, and my presence in their conservancies avoided if possible (this became very obvious in Nelson and the Chathams Is, where tangata whenua had to be quite firm and persistent about wanting me to visit them). Despite these campaigns against me personally, I continue to receive advice and briefings from Maori Conservation Board members and Kaupapa Atawhai Managers.

7. Protection of Waahi Tapu (Item vi)

Although this is a matter of great importance to Maori, I have been unable to ascertain what DoC's policy is. I have been told for over a year now that "a policy is being developed". Iwi in several areas report that DoC will not protect waahi tapu in their area and that desecration by the public is causing great anxiety.

8. Maori Customary Use of Native Flora and Fauna (Item vii)

The Minister of Conservation asked the NZCA to provide advice for him on this issue having acknowledged DoC's inability to deal with it adequately. NZCA, in discussion with DoC's Protected Species, Kaupapa Atawhai and other Divisions and staff in conservancies and field centres, developed a discussion document in order to promote debate on the issue and then called for submissions on it. The document, drawn up by a subcommittee comprised of the Maori members plus the conservation NGO representatives, proposed that the mana of tangata whenua in respect of their taonga had to be recognised and adequately provided for if native species were to be properly conserved. This view was supported by the Kaupapa Atawhai Division but vehemently opposed by the director of the Protected Species Division. The latter advocates the retention of complete DoC control over all Maori use of native species, despite the findings of the District Court in Kaitaia that Maori customary use as defined by Maori was protected by the Treaty and provided for in law by section 4 of the Conservation Act.

NZCA experienced many delays before finally publishing the discussion document. Attempts by the Protected Species Division to prevent publication went to extreme lengths and the document was only finally published once reference to DoC having given advice was removed. Kaupapa Atawhai managers throughout the country were instructed not to make any comment on the paper, although in many conservancies, they did assist with consultative hui. The Protected Species Division, on the other hand, issued a paper attacking the document. This was distributed by Federated Mountain Clubs to all Conservation Boards in support of their opposition to Maori customary use. When the Chairman of the NZCA attempted to write to Boards responding to the allegations and correcting the inaccurate references to lack of consultation with DoC, the Director-General opposed the content of the letter and as a result it was never sent.

Given the lack of public comment from DoC on the release of the Protected Species Division paper, I can only assume that this is DoC's position on the issue. The Kaupapa Atawhai Division's view of this paper was never sought.

As soon as the NZCA's Discussion Paper was published staff servicing the NZCA came under direct personal attack from conservation lobbyists demanding that the paper be withdrawn. The Executive Officer of the NZCA cited it as one of the reasons she took early retirement. Another staff member also resigned, reducing the NZCA staffing by 50%.

The NZCA however, conducted a series of consultative hui, gathering a great deal of very valuable information and opinion from tribes throughout the country. The view that native

flora and fauna are taonga of tangata whenua was held unanimously by all tribes consulted. Another widely held view was that current legislation would not adequately recognise and provide for this.

Conservation NGOs did not in the main attend these hui and complained bitterly that they were not being adequately consulted. As a result a special meeting of their representatives was called in Wellington. They complained that they were not allowed to attend the consultative hui. However, some were invited and did send apologies, while others who did attend chose not to contribute to the discussion even when specifically asked to do so.

A subsequent hui in Nelson revealed that in fact DoC was not advising these groups in that region of the hui, and that they were actively discouraging meetings between the NGOs and Maori "because of the racial tension between the two". Other than in the minds of DoC officers, I found absolutely no evidence to substantiate such a claim at conservancy level.

On the whole the ordinary membership of the NGOs seemed very keen to learn of Maori customary usages, and acknowledged that in fact they knew very little about it. Many of the written submissions received on the discussion document from such people were very supportive of Maori having control and management of these taonga.

Support for Maori control has also come from the some respected members of the scientific community. This has helped to highlight the inadequacies of some of the conclusions reached by some DoC scientists. In particular, one scientific paper on the decline of the native pigeon in Northland demonstrated that there were no scientific grounds on which to base the scientist's conclusion that Maori were predating the bird to extinction. This raised serious questions of professional ethics which the Director-General refused to acknowledge and would not follow up.

There seem to be only a very few outspoken and openly racist leaders of the conservation lobby organisations who hold the same position as the Protected Species Division, a position which seems to have the support of the Director-General. Despite the heated exchanges that the discussion paper has generated, and the very questionable treatment of some DoC staff by the preservation lobbyists both in and outside DoC, the paper has achieved exactly what it set out to do: public debate on Maori customary use of native flora and fauna.

9. Use of DoC Lands to Settle Claims (Items viii and ix)

Iwi are very clear that whether their lands are administered by DoC or some other Crown agency is irrelevent; if the land was stolen it must be returned. The fact that many of those lands are now being administered by DoC is no accident. DoC administers over 30% of the land in the country and is attempting to acquire more. Comments by Chatham Islanders that DoC was attempting remove all human residents from those islands and reserve them for non-human species were certainly not unfounded given DoC's land acquisition activities there. Iwi consider that the government's attempt to exclude these lands from the settlement of claims are simply dishonest and dishonourable.

The Maori members of the NZCA have articulated these views several times, and although

there is support for it within NZCA, the conservation NGO representatives are vehemently opposed to Maori having any say over lands administered by DoC, either in terms of joint management, or returning the lands to the rightful owners. However, following Maoridom's severe criticism of this proposal (which was included in the the Crown's Proposals for Settlement of Claims) the Minister has asked DoC to reconsider its policy.

Ask for details.

10. Public Input into the Settlement of Claims (Item x)

Iwi are strongly of the view that the settlement of their claims is a matter between themselves and the Crown. A report prepared by the Parliamentary Commissioner for the Environment indicates that this is also the legal position and that conservation NGOs, masquerading as "the public", have no legal right to play any role in the settlement process.

Conservation NGOs have, however, managed to convince the Minister of Conservation (and government?) that they should be allowed to have a say in the final decision and have wreaked havoc in the South Is trying to prevent any land assets being returned to Ngai Tahu. Sir Tipene O'Regan has had to put up with interference in the settlement of Ngai Tahu's claim from the conservation NGO representatives on NZCA in this respect but has received support from other members of the NZCA.

11. DoC/Maori Litigation (Item xi)

DoC has been criticised by the Courts on more than one ocassion for its administration. Although there are several cases involving DoC and non-Maori, three matters of DoC/Maori litigation have been brought to the attention of NZCA.

- The Kaikoura whalewatch case which is awaiting the decision of the Court of Appeal.
- DoC withdrawal of its attempt to prosecute Maori whitebaiters in Taranaki with the result that substantial costs were awarded against the department.
- The Planning Tribunal in the Far North being extremely critical of DoC's management of a camping ground, and ordering the closure of a toilet block and recommendeding the setting up a joint management committee with tangata whenua.

In each of these cases, tangata whenua have relied on Section 4 of the Conservation Act to support them.

12. WAI-262 Claim (Item xii)

There is strong support throughout Maoridom for the principles articulated in this claim and this has been clearly articulated in all the Maori Customary Use hui that NZCA has conducted. This also involves issues of Maori intellectual property rights and biodiversity.

how - when? Conservation NGO members of NZCA have been attempting to pursuade DoC to make submissions in opposition to this claim. While the Director-General would like to able to do

so, he is aware that his only role is to advise Crown Law on their preparation of a response to the claim.

The NZCA has not formulated a view on the claim, despite the conservation NGOs attempts to impose a view on it.

13. Fish and Game Council Functions (Item xiii)

Maori members of the NZCA find the fundamental contradiction which exists between the requirements of the Conservation Act and the Wildlife Act to protect native species and the license provided to Fish and Game Councils to harvest some of these (e.g. native ducks) or introduce exotic species (e.g. trout) which predate on native species, totally illogical. That other conservationists seem quite comfortable with the situation highlights a rather strange inconsistency in the otherwise consistent preservationist ideology. For on the one hand they will vehemently oppose Maori use of native species even though it is a right guaranteed under the Treaty, but do not appear to appreciate that duck-shooting and trout-fishing are very similar activites. The inconsistency in allowing native species which non-Maori may wish to harvest to remain unprotected while those which are of importance to Maori are designated "protected" seems conveniently lost on DoC. Nor do they appear to appreciate the loss of traditional Maori food sources that provision for trout-fishing has caused.

Sir Tipene has raised this issue on several occasions in the NZCA, particularly in relation to developing a policy on Maori customary use of native flora and fauna.

14. Assistance for NZCA from Te Puni Kokiri (Item xiv)

NZCA sought assistance from Te Puni Kokiri after DoC indicated it would not support efforts of Maori NZCA members to call national hui to discuss Maori conservation issues. Although NZCA was supportive of the need to ascertain Maori views more comprehensively, given the major disagreements between the Director-General and myself on what those views are, its budget was so severely cut by DoC that it had no resources to fund such hui.

However, although the Director-General initially agreed to Te Puni Kokiri assisting, he later took umbrage that anyone, particularly Maori, should potentially question the operation of his department. Thus, despite a resolution on NZCA's books for the Chairman of NZCA to reach some acceptable agreement with the Director-General on how Te Puni Kokiri can assist and not offend DoC, the Director-General has refused to discuss the matter with the Chairman. Te Puni Kokiri has apparently been instructed not to interfere with DoC matters, inspite of its statutory monitoring role.

15. Maori Members of NZCA and Conservation Boards (Item xvi)

Maori members of the NZCA enjoy a positive and constructive relationship with most other members of the NZCA. It is fair to say that the NZCA does not always agree with the advice provided by the Maori members, and I have registered a dissenting vote on more than one ocassion. While the Forest and Bird Society representative (G.Ell) often opposes Maori

views, and articulates quite unique and sometimes odd reinterpretations of the Maori conservation tradition, only one member (C.Potton representing Federated Mountain Clubs) has consistantly articulated anti-Maori views. But in general the NZCA has made some very helpful decisions in respect of Maori issues.

However, I am informed by DoC staff that senior management actively discourages the inclusion of the Minister of Maori Affairs nominees (Sir Tipene and myself) from any major policy making processes, if they can. Staff servicing the NZCA have told me on more than one ocassion that their suggestions as to who might represent NZCA in various forums have been vetoed by senior management before they are even referred to the Chairman of the NZCA. This vetoing is not always successful (as, for example, with the Ecosystems Management workshop and several of the later customary use hui). However the practice does put unnecessary pressure on the NZCA staff to take an unwelcomed stand against their superiors within the department. The immediate past Executive Officer of the NZCA reported on several ocassions receiving instructions to "keep the NZCA under control" and found it both unprofessional and distasteful.

This raises very serious questions about the independence of NZCA from DoC and, as a result, its ability to carry out its statutory purpose properly. The Director-General actively promotes the local authorities representative on NZCA (J. Klaricich) who happens to be Maori, but does not purport to represent Maori on the NZCA, as the Maori spokesperson for the NZCA. This is unfair to Mr Klaricich whose representative duties essentially prevent him from being an appropriate Maori voice in this context. He has a deep experience of Local Government in a conservation context and should be encouraged to speak for his area of particular expertise.

Maori members of Conservation Boards report feeling very isolated and unsure of what their role is. Attempts to run training hui have been vetoed by DoC. These members feel that essentially they are there to provide a necessary brown facade for DoC and that their concerns are rarely, if ever, taken seriously, unless they happen to fall within the DoC agenda. Those who have conveyed their concern to me over the CMSs have found themselves facing the wrath not only of the conservancy but also of their own Conservation Boards. One group (Nelson/Malborough) stood their ground, but the members of other Boards felt too unsupported and withdrew their complaints.

16. Conclusion

One of the strong underlying values of Maori society is the conservation of the natural resources provided by the earth mother. Practices deriving from these values have been developed and refined over many centuries in this country. They are essentially dynamic and adaptable but are always developed within a consistent framework of sustainability.

However we are well aware that the sociological, economic and political upheaval experienced by Maori society over the past century has seriously undermined these practices to varying extents in different parts of the country. A key role that the NZCA and DoC should be playing is encouraging the retention of these practices were they are still known and the revival of them where they have been overwhelmed by other practices which threaten sustainability.

Some non-Maori conservationists hold very strong and inflexible ideological views. These eschew not only the practical reality of the natural resources of this country and Maoridom's long dependence on them, but also, clear (western) scientific evidence that Maori practices are based on sound conservation principles. Not unsurprisingly, the practices espoused by the adherents to this ideology are significantly different from Maori practices. Much of this relatively recently developed ideological conservation theory appears to have been subsumed into DoC policy precluding any real consideration of indigenous conservation practices. This inspite of the international obligations under the Convention on Biological Diversity which includes the requirement to "protect and encourage customary uses of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements". New Zealand ratified this Convention in September 1993.

It is with some interest that I have also noticed that this DoC policy excludes many non-Maori conservation practices as well. For example, I consider some of the restrictions imposed on the usually sound conservation practices of the tourism and recreation industries unnecessary, and at times, quite mean-spirited. I think in particular of the issues surrounding mountain bikes and heliskiing in National Parks and the provision of tourist facilities there.

The conflict that has resulted between tangata whenua and DoC was therefore quite predictable, given not only the existence of the Treaty of Waitangi but also the clear understanding of iwi of how that relates in practice to their use and enjoyment of their own taonga. It will take some considerable wisdom and maturity on the part of government to find a clear pathway through the current conflict in order to resolve the ridiculous and quite frankly, unnecessary problems currently besetting conservation in New Zealand.

Dr Margaret Mutu
6 June 1995