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A thesis  
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THE UNIVERSITY OF  
**WAIKATO**  
*Te Whare Wānanga o Waikato*

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## Abstract

This thesis examines the experience of the Ngāti Maniapoto ('Maniapoto') iwi in the development and implementation of their river settlement legislation, the Ngā Wai o Maniapoto (Waipā River) Act 2012 (the 'Act')<sup>1</sup>. The overarching purpose of the Act is to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia. The restoration of the Waipā River is essential because of its considerable significance to Maniapoto. The Waipā River is connected to the health and identity of the Maniapoto people and is a taonga (gift) that contains their spiritual and physical wellbeing. The Waipā River is significant because:

Te Awa o Waipā is a taonga to Maniapoto; the relationship between Maniapoto and the Waipā River is historical, intellectual, physical, and spiritual; to Maniapoto, their relationship with the Waipā River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture

The approach to expressing the journey of Maniapoto in the development and implementation of the Waipā River legislation required a Māori lens. I used a Kaupapa Māori approach to examine the development of the Act and again to understand the difficulties in realising the promise of the Act. The focus of this thesis is on the Maniapoto people and their experience of the Act. The Waipā River Settlement and the Waikato River Settlement are closely connected, and the study delves into the history of the Waikato River Settlement and its influence on the Waipā River Settlement. The rangatiratanga (authority) of Maniapoto within their rohe has always been paramount in decision-making. The co-governance and co-management framework however relies on a different form of decision, that of co-decision-making, which is conducted not only in partnership with the Crown but also other Waikato River iwi. Co-governance and co-management change the standard model of traditional autonomous decision-making or rangatiratanga within an iwi and potentially challenges the decisions made. The co-governance and co-management Deed agreed between Maniapoto and

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<sup>1</sup> Ngā Wai o Maniapoto (Waipā River) Act, No. 29. (2012).  
<http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3335204.html>

the Crown for the Waipā River has changed how people operate in the Maniapoto rohe and how they may have operated previously. This thesis concludes by reflecting on some of the challenges experienced by Maniapoto in the new co-governance and co-management era.

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I te timatanga te Kupu, I te Atua te Kupu, ko te Atua anō te Kupu. I te Atua anō tēnei Kupu i te timatanga. Nana ngā mea katoa i hanga; kahore hoki tetahi mea i kore te hanga e ia o ngā mea i hanga. I a ia te ora; ko te ora te marama mō ngā tangata. I roto i te pouri te marama e whiti ana; heoi kihai I mau i te pouri. – Hoani 1:1-5.

First and foremost, I praise God for my life and the miracles and blessings while completing this thesis. You never left me. All glory, honour and praise be to Your Holy Name.

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To my Maniapoto whanau, Whanake Taiao and the Maniapoto Kaitiaki (guardians) on-the-ground, ka nui te mihi ki a kōutou. Ā muri kia mau ki tēnā, kia mau ki te kawau mārō, whanake ake, whanake ake! E taku tau, Hikatauaki, he aroha mutunga kore mōu, mo ake tonu atu. To my children, Taylor and Sterling, you've made me who I am today and I thank you. Last, but not least, to my parents Maurice O'Donnell and Mona Tuwhangai who were both tragically killed when I first began this master's journey in 2016; may you both rest in eternal peace.



## Chapter 1

### Introduction

#### 1.1 Introduction

##### **Whakapapa of Maniapoto**

Hoturoa  
Hotuope  
Hotumatapū  
Mōtai  
Ue  
Rakamaomao  
Kākati  
Tāwhao  
Tūrongo  
Raukawa  
Rereahu  
**Maniapoto**

I descend from the tupuna, Maniapoto, from whom the people of Ngāti Maniapoto (henceforth ‘Maniapoto’) derive. As a Ngāti Maniapoto person living in the Maniapoto rohe (region) at Kāwhia, I take notice of what happens in the rohe and to our people. I bring to this research the practical experience as an iwi technical expert, having worked for my people for many years. I gained an in-depth understanding of the Maniapoto people within my role and a working knowledge of the issues they face. I am optimistic that with the upcoming Treaty of Waitangi settlement our future as Ngāti Maniapoto can be bright.

This thesis examines both the development and implementation of the Ngā Wai o Maniapoto (Waipā River) Act (2012), (henceforth ‘the Act’)<sup>2</sup> from a Maniapoto-centric perspective. This perspective draws on my own 7 years of working experience which focused primarily on the development and implementation of the Act and the application of its founding operational agreement, the Deed in

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<sup>2</sup> Ngā Wai o Maniapoto Act, No. 29. (2012).  
<http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3335204.html>

relation to the co-governance and co-management of the Waipā River.<sup>3</sup> The co-governance and co-management framework for the Waikato and Waipā Rivers integrates many protocols and mechanisms across the two rivers. The structure primarily involves the Crown, the river iwi (Waikato-Tainui, Maniapoto, Raukawa, Te Arawa River Iwi and Tuwharetoa), the local authorities (Regional and District Councils), the Waikato River Authority/Waikato River Clean-up Trust and the Waikato and Waipā Rivers within the framework.

For this research, it was clear that a Māori lens was required when looking at the Maniapoto views and their experience of the Act. With this in mind, I used a Kaupapa Māori theory research approach to examine the development and implementation of the Act. Kaupapa Māori theory helps to understand the challenges in realising the ‘promise’ of the Act and what it aspired to do during its development. It allowed examination of difficulties in the development of the Act, which continued in the implementation of the Act, and their implications in terms of the aspirations of the Maniapoto people to see the Waipā River restored to a healthy river.

The importance of this research is that it is without constraint and written to benefit future Maniapoto people to provide understanding where there generally is none. The situation is clear; if you are not working for the Crown or a river iwi in the co-governance framework, then you are unlikely to understand the complexities of what is going on. The average Maniapoto person is unlikely to know that the Waipā River has a co-governance entity that oversees it and to understand its settlement legislation. The natural assumption of a Maniapoto person is that the Waipā River is where we swim, where we grew up and is the fabric of who we are. It would be unnatural as a Maniapoto person to think that anyone other than Maniapoto would govern, manage, restore or protect the Waipā River.

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<sup>3</sup> Maniapoto Māori Trust Board (2010 September 27) *Deed in relation to the co-governance and co-management of the Waipa River* [https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto\\_deed\\_final\\_270910.pdf](https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto_deed_final_270910.pdf)

This thesis gives a voice to co-governance and co-management from the perspective of the Maniapoto people with the hope that others will understand what the framework ‘promised’ and the real challenges in implementing the framework for the Waipā River. Maniapoto had been hopelessly watching the decline of the Waipā River over generations while it was under the Crown’s management. Maniapoto had aspirations for the restoration and protection of the Waipā River and how they could achieve that. When the Crown approached Maniapoto in the late 2000s to be part of the co-governance and co-management framework for the Waikato and Waipā rivers, there was hope that the aspirations of Maniapoto for the Waipā River, in particular, could be fulfilled. For the people of Maniapoto, the framework and its associated restoration funding could potentially fulfil their aspirations for the Waipā River and give hope and future opportunities for the Maniapoto people. The co-governance and co-management framework promised the Maniapoto people the hope that things could be better for the Waipā River and that there could be more education and employment opportunities in restoring the river to a healthy state than had ever been done before. The promise was that Maniapoto would have exclusive autonomy over the Upper Waipā River and shared interests in the Lower Waipā River. Furthermore, that promise implied that Maniapoto would be involved at all stages of the development and implementation of the Ngā Wai o Maniapoto (Waipā River) Act (2012) and would not be left behind.

There are many moving parts to the co-governance and co-management framework for the Waikato and Waipā rivers, and they can intersect at different points in time. Maniapoto was the last river iwi to enter the framework after Waikato-Tainui, Raukawa, Te Arawa River iwi and Tuwharetoa. This delay gave Maniapoto time to watch the other river iwi and their negotiations with the Crown from the outside; however, this delay also meant that Maniapoto were not fully able to appreciate the complexities, challenges and learnings gained by those who engaged with the framework and the Crown on a daily basis. The fundamental point of the structure is to pool resources and work collectively and collaboratively across river iwi and Crown agencies for the benefit of both the Waikato and Waipā rivers. The framework provides a platform for the Crown to operate across both the

Waikato and Waipā rivers without the constraint of dealing with each river iwi. The co-governance and co-management framework focuses on a common purpose. The structure essentially put the rivers first and the overarching objective was how to restore river health. Together with representatives of the Crown and the local community, the rivers were to become a community resource for all people of New Zealand.

The co-governance entity, the Waikato River Authority and its establishment, is considered next. The co-governance entity effectively replaces the autonomy of individual river iwi (and their rangatiratanga) over the rivers by combining five river iwi representatives (one from each of the five river iwi), the Crown's ministerial appointees and a representative of the local authorities. The Waikato River Authority is charged with the overall responsibility to restore the Waikato and Waipā rivers for the benefit of everybody. Through a Kaupapa Māori lens, this research provides the cultural context for Maniapoto to discuss challenges associated with the development and implementation of the Ngā wai o Maniapoto (Waipā River) Act (2012).

## **1.2 Ngāti Maniapoto**

The Ngāti Maniapoto people derive from the tupuna, Maniapoto. On the 5th March 2013, the census<sup>4</sup> indicated that 35,358 people identified as being of Ngāti Maniapoto descent, which, in 2013, represented 5.3% of the total population of Māori origin in New Zealand.

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<sup>4</sup> Stats NZ, *Tatauranga Aotearoa Iwi individual profile: Ngāti Maniapoto*.  
[http://archive.stats.govt.nz/Census/2013-census/profile-and-summary-reports/iwi-profiles-individual.aspx?request\\_value=24555&tabname=Income&sc\\_device=pdf](http://archive.stats.govt.nz/Census/2013-census/profile-and-summary-reports/iwi-profiles-individual.aspx?request_value=24555&tabname=Income&sc_device=pdf)

Figure 1

### Ngāti Maniapoto Rohe Map



Source: Maniapoto Māori Trust Board.<sup>5</sup>

The Ngāti Maniapoto rohe (area) is situated on the North Island's west coast in the Waikato region. It stretches from Kāwhia (Te Raukūmara and out to sea for 12 nautical miles), taking in the towns of Kihikihi, Ōtorohanga (along the Hauhungaroa Ranges), Te Kuiti (Rangitoto Range), Taumarunui, and Mōkau (to the Waipingao Stream) before returning to Kāwhia. The Ngāti Maniapoto rohe is also known as Te Rohe Potae<sup>6</sup> or King Country. This name came into being after an incident where the second Māori king, Tawhiao, placed his hat on a map and warned that all the land underneath the hat would fall all under his authority. Maniapoto has many marae and papakāinga within the rohe; some are active while others lie dormant. The Maniapoto Māori Trust Board (henceforth the 'Board') is the

<sup>5</sup> Maniapoto Māori Trust Board *About Us - Rohe Map* <https://www.maniapoto.iwi.nz/about-us/rohe-map/>

<sup>6</sup> Kerry Pollock, King Country region: Te Rohe Pōtae. <http://www.TeAra.govt.nz/en/king-country-region/page-6/>

iwi authority for Ngāti Maniapoto. Based in Te Kuiti and established in 1988, the Board was constituted as a body corporate under the Maniapoto Māori Trust Board Act, No. 229. (1988). The Board's membership comprises 15 board members. There are seven regional management committee members, i.e., six members generally-elected by the Maniapoto people, one kaumātua representative appointed by the Maniapoto Kaumātua Kaunihera (Council of Elders) and one Kīngitanga representative appointed by the seventh Māori King, Tūheitia (or his successors). The Board established seven regional management committees when the Maniapoto rohe was sectioned off into seven parts and the Maniapoto marae within each of the seven parts respectively were clustered into one regional management committee area. Some regional management committees are more prominent than others due to the number of marae they represent, while others may have only a few marae in their area. Each regional management committee marae appoints two representatives to its respective regional management committee to serve its local interests, and those two representatives report back what is happening on a regional level to their marae. For the most part, the regional management committee representatives are the Maniapoto people who are the kaitiaki (guardians) for that area of the Maniapoto rohe. The regional management committees deal with day-to-day matters that happen within their field and at times can work in conjunction with the Board on Maniapoto activities. When the Board wants to distribute information to the marae and people, it may choose to disseminate this information through the regional management committees and their marae. Effectively, this means Board involvement at a local level because the regional management committee has at least one Board member. Each of the seven regional management committees appoints one person to the Board every 3 years when trustees are elected to the Board. The Maniapoto people generally-elect six trustees onto the Board. The Kaumatua Kaunihera (Council of Elders) appoints one of its members to the kaumātua position. Kīngi Tuheitia appoints one Kīngitanga representative, which brings the total tally of Board members to 15; each Board member has equal voting and speaking rights. At the time of writing this thesis, Ngāti Maniapoto is still a pre-Treaty settlement iwi, as it is awaiting its final comprehensive Treaty of Waitangi settlement under the Te

Rohe Potae inquiry. To date, Ngāti Maniapoto has had two agreements with the Crown: (1) for the fisheries settlement; and (2) for the Waipā River Settlement.

The whakapapa (genealogical) links between Waikato-Tainui, Raukawa and Maniapoto are particularly strong and come through a direct blood connection. This blood connection is also what binds these three river iwi together and it provides a close link to both the Waikato and Waipā rivers, not just as whanaunga (relatives) but also as co-governance and co-management partners. The tupuna (ancestor) Turongo (from Waikato) and Mahinaarangi bore a child, Raukawa, who then had a son, Rereahu, who then had his son, Maniapoto. This genealogy illustrates the close kinship ties between these three river iwi.

### **1.3 The Waipā River and Waiwaia**

The overarching purpose of the Ngā Wai o Maniapoto (Waipā River) Act is to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia. A key point in understanding how to achieve the overarching purpose concerns the Waipā River and Waiwaia.

The Upper Waipā River flows through the Ngāti Maniapoto rohe, but the source for the river begins in the Pureora Forest at the Pekepeke (spring) within the Ngāti Rereahu territory. The tupuna (ancestor) Rereahu was the father of the tupuna Maniapoto and son of the tupuna Raukawa (from where the people of Ngāti Raukawa derive). There is therefore a close kinship relationship between the three iwi of Ngāti Raukawa, Ngāti Rereahu and Ngāti Maniapoto. From the pekepeke in Pureora Forest, the Waipā River makes its way through rural farmland towards Te Kuiti (Ngāti Maniapoto rohe) before heading towards Pirongia township where the Waipā River joins with the Pūniu River, the largest tributary to the Waipā River. It is at this junction at Pirongia that the Waipā River invisibly enters the boundary of the Waikato tribal lands, to be exact, the lands of the hapū, Ngāti Maahanga, which cover the main stem of the Waipā River through to the Te Pahu and Whatawhata townships. At

Te Kōwhai, the Waipā River traverses through the Ngāti Reko rohe, before it joins with the Waikato River at the Ngāruawaahia confluence. The Waipā River is the largest tributary to the Waikato River and is 115 km in length and, as noted above, runs from the spring (pekepeke) in Pureora Forest to the confluence with the Waikato River at Ngāruawahia. The Waikato River eventually meets with the sea at Te Puaha o Waikato (Port Waikato).

In describing the importance of the Waipā River to the people of Maniapoto, Shane Te Ruki stated:

Ko Waipā te toto o te tangata! Ko Waipā te toto o te whenua, koia hoki he wai manawa whenua! He wai tohi mauri hei whakamau i te waiora o te kanohi Atua ki te Iwi. He wai tohi tangaengae kia whai ora ai ngā uri o Maniapoto. Ko te wai iara hei whakapumau i te ruru o te ihonga tangata, e!

Waipā, she is the lifeblood of the people. Waipā she is the lifeblood of the land, verily she is! [Indeed, she is the unfailing spring of the earth! She is the water that anoints the thymus of man to bind to the tribe the waters of life that issues forth from the lineage of the gods. She is the water that blesses the umbilical cord to ensure the health of the descendants of Maniapoto. 'Tis the water that permanently renders the knot of the navel chord secure and fast.]<sup>7</sup>

To Ngāti Maniapoto and Ngāti Rereahu, Waiwaia is a spiritual kaitiaki (guardian) that looks after and is known to live in the Waipā River.

The late Piripi Crown from Ngāti Rereahu/Ngāti Maniapoto describes Waiwaia as follows:

Tenei ano te korero ko te ahua o Waiwaia, he ahua miharo rawa atu. E kore, e kore te tangata e kaha ki te whakamarama atu ki te tino ahua o tenei mauri. I ai ki tetahi korero kei ngā kare o ngā wai e rere piatata mai, I raro iho nga hihi a Tamanui a Marama hoki, koina a Waiwaia. Kei nga rerewai ka kite mai te tangata i nga aniwaniwa i puta mai i roto. Koia ano a Waiwaia. Heoi ano ko te tino ataahua o Waiwaia ko te wai. E kore tatou i te wai e kore tatou e ora ana.

Te whakatauki: “Ko te mauri, ko te waiora o te Waipā ko Waiwaia.”

Describing the likeness Waiwaia, it was recounted as having an amazing appearance. No person really had the ability to find suitable words to describe the appearance of Waiwaia. One attempt, however, talks of the ripples of the water reflecting in the sun under the moonlight as being the penultimate description. Rainbows that appear in the waterfall also portrayed the likeness. But the most important part of Waiwaia was that it was the water itself and without it, man could not survive.

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<sup>7</sup> Maniapoto Māori Trust Board (2010 September 27). *Deed in relation to the co-governance and co-management of the Waipa River*, p. 13. [https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto\\_deed\\_final\\_270910.pdf](https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto_deed_final_270910.pdf)



The proverb: "The essence and wellbeing of the Waipā is Waiwaia."<sup>8</sup>

In essence, the overarching purpose of the Ngā Wai o Maniapoto (Waipā River) Act (2012) is to restore the quality of the waters of the Waipā River and, effectively, restore the mana *tuku iho* o Waiwaia the kaitiaki of the Waipā River for Ngāti Maniapoto. Waiwaia is a taonga (treasure) for Ngāti Maniapoto to protect, something which is not possible to do with the current degraded state of the Waipā River water quality. To restore the mana *tuku iho* o Waiwaia to the description given by the late Piripi Crown means to increase the water quality of the Waipā River to a healthy level. The key indicators of a healthy Waipā River are not just in the water quality but also the use of the Waipā River and the reconnection of the Ngāti Maniapoto people to the Waipā River so that they can access the river and re-establish traditional food gathering and spiritual practices. Ngāti Maniapoto want to restore the Waipā River to health and the mana *tuku iho* o Waiwaia. Ngāti Maniapoto will then be able to provide kai (food) from the Waipā River to their marae *manuwhiri* (visitors) and be able to re-engage in traditional cultural practices.

The existence of Waiwaia is not limited to Ngāti Maniapoto; another iwi has also confirmed the presence of Waiwaia. Ngāti Māhanga believes that both Waiwaia and their kaitiaki, Tūheitia, live in the Waipā River. At Te Papa-o-Rotu Marae in Whatawhata, the home of Ngāti Māhanga, there is a carved pou that acknowledges the kaitiaki of the Waipā River: Tūheitia and Waiwaia. The current and seventh Māori King, Kīngi Tūheitia, is named after the tupuna (ancestor) Tūheitia, who was the father of Māhanga or Maahanga (using Waikato dialect of double vowels instead of macrons). The people of Ngaati Maahanga believe that the spirit of Tuuheitia, who they consider their kaitiaki, resides in the Lower Waipā River. This short overview of the Waipā River and Waiwaia is not exhaustive nor is it intended to be exclusive; its purpose is merely to highlight points relevant to this thesis. The Waipā

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<sup>8</sup> Maniapoto Māori Trust Board (2010 September 27)) *Deed in relation to the co-governance and co-management of the Waipa River*, p. 10. [https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto\\_deed\\_final\\_270910.pdf](https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto_deed_final_270910.pdf)

River has many iwi and hapū associated with it (not all have been named here), and each has its own deeply embedded histories and stories.

#### **1.4 The Ngā Wai o Maniapoto (Waipā River) Act 2012**

The overarching purpose of the Ngā Wai o Maniapoto (Waipā River) Act (2012) is to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia.

The ‘promise’ of the Act is to restore the Waipā River for present and future generations and to care for and protect Waiwaia. The Crown and Ngāti Maniapoto were those tasked with fulfilling this ‘promise’.

While Ngāti Maniapoto was defined earlier in the chapter, the Public Finance Act 1989<sup>9</sup> defined the ‘Crown’ as follows:

##### **2. (1) Crown or the Sovereign**

- (a) Means the Sovereign in right of New Zealand; and
- (b) Includes all Ministers of the Crown and all departments.

The Crown is the New Zealand government and it consists of the prime minister, ministers and their ministries and departments (including staff). The Ngā Wai o Maniapoto (Waipā River) Act (2012) acknowledges Maniapoto and the Crown as Treaty of Waitangi partners who will abide by the Treaty of Waitangi principles in the development and implementation of the Ngā Wai o Maniapoto (Waipā River) Act (2012) by working together to achieve the following overarching purpose:

- (1) To restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia, and;
- (2) To restore and protect the health and wellbeing of the Waikato River.

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<sup>9</sup> Public Finance Act. No. 44. (1989), Section 2. (1).  
[http://www.legislation.govt.nz/act/public/1989/0044/latest/DLM160819.html?search=sw\\_096be8ed81888c42\\_crown\\_25\\_se&p=1&sr=1](http://www.legislation.govt.nz/act/public/1989/0044/latest/DLM160819.html?search=sw_096be8ed81888c42_crown_25_se&p=1&sr=1)

Closely aligned to the overarching purpose is the need to minimise the unnecessary bureaucracy from the Crown in order to achieve effective and practical outcomes.<sup>10</sup>

The Act confirms the Crown obligations to take responsibility for the degradation of the Waipā River while under its exclusive management. However, the cost for the clean-up of the Waipā River (and the Waikato River) becomes a collective effort and responsibility across several river iwi, the local authorities and the Crown. Furthermore, the Crown entered into Ministerial Accords agreements with Maniapoto to progress individual arrangements with Crown ministries. Five local councils entered into a single Joint Management Agreement (JMA) with Maniapoto for the Waipā River resulting in a Joint Management Committee that oversees the JMA and its implementation.

The Ngā Wai o Maniapoto (Waipā River) Act (2012) is essential to both the Crown and Maniapoto in different ways. For Maniapoto, the Act enforces the overarching purpose to restore and protect the Waipā River in a manner that is Maniapoto-specific and recognises the relationship between Maniapoto and the Waipā River. For the Crown, the Act provides for the extension of the Vision and Strategy (the 'V&S') (developed for the Waikato River) as the primary direction-setting document for the Waipā River from its source (Pekepeke) in the Pureora Forest to the confluence where the Waipā River joins the Waikato River at Ngāruawahia. The Waikato River Authority/Waikato River Clean-Up Trust as the cogovernance entity oversees the clean-up process for both the Waikato and Waipā rivers.

To understand the decisions taken during the development and implementation of the Act, we must understand the cultural context in which these decisions sit from a Māori world view and, more specifically, from a Maniapoto view. By taking a look at the general concepts of Māori knowledge, we can see influences on decision-making. Maniapoto rangatiratanga is the ability for Maniapoto to make decisions over the iwi's rohe and resources.<sup>11</sup> Rangatiratanga incorporates tikanga Māori, kaitiakitanga, manaakitanga and mātauranga Māori, which can influence Maniapoto rangatiratanga

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<sup>10</sup> Ngā Wai o Maniapoto Act, No. 29. (2012). Sections 4.(5) (a)-(c).  
<http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3264701.html>

<sup>11</sup> Ngā Wai o Maniapoto Act, No. 29. (2012). Section 4.(6).  
<http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3264701.html>

and decision-making. Rangatiratanga is also about identity as a people despite struggles such as colonisation as discussed by Pihama and Cameron (2012, p. 226):

Prior to colonization, all identification was done through our whanau (extended family structure), hapu (a group of whanau connected through common ancestor/sub-groupings of Iwi) or Iwi (nations connected through common ancestor). Maori means to be "normal" or "pure," a fitting term for an Indigenous People. We have, however, also been active in maintaining our hapu and iwi identities, and it is through pepeha that we can culturally share that identity with one another. Our people have been doing this for generations.<sup>12</sup>

Beyond status, understanding Māori knowledge is about providing context, and it is fundamentally vital to understanding dealings between Māori and the Crown. Māori have standard rules or tikanga Māori, which are generally the same. There may be specific tikanga for their iwi or hapū. Sir Hirini Moko Mead's book *Tikanga Māori: Living by Māori Values* states that tikanga Māori is:

the set of beliefs associated with practices and procedures to be followed in conducting the affairs of a group or an individual. These procedures are established by precedents through time, are held to be ritually correct, are validated by usually more than one generation and are always subject to what a group or an individual is able to do. (Mead, p. 12.<sup>13</sup>

There is no set definition for tikanga Māori, but there is general respect among Māori for how each iwi or hapū conducts tikanga Māori within its tribal rohe (area). New Zealand law has provided definitions of tikanga Māori and how it is interpreted in law. The Education Act (1989)<sup>14</sup> was the first piece of legislation to mention tikanga Māori. The term was used in the context of wananga, with a bracketed definition of tikanga Māori as Māori culture.<sup>16</sup> The Resource Management Act (1991)<sup>15</sup> expanded this definition when it stated that: "Tikanga Māori means Māori customary values and practices." The Te Ture Whenua Māori Act (1993)<sup>16</sup> (Māori Land Act 1993) adopted the same definition of tikanga Māori as the Resource Management Act (1993) had and did not add or amend the definition.

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<sup>12</sup> Pihama, L., & Cameron, N. (2012). Kua tupu te pā harakeke: Developing healthy whānau relationships. In Waziyatawin & M. Y. Bird (Eds.), *For indigenous minds only: A decolonization handbook* (pp. 225–244). Santa Fe, NM: SAR Press.

<sup>13</sup> Mead, S. M. (2013). *Tikanga Māori: Living by Māori values*. New York, NY: Huia (NZ) Ltd.

<sup>14</sup> Education Act, No. 80. (1989). Section 61,3(a)(2).

<sup>15</sup> Resource Management Act, No. 69. (1991). Section 2.(1).

<sup>16</sup> Te Ture Whenua Maori Act. No. 4 (1993) Maori Land Act (1993). Section 4.

Although there is no single definition for tikanga Māori, it does include Māori customary values, beliefs, practices and procedures. The importance of tikanga Māori is that it can support or restrict decision-making; although, it is like a convention is not however legally binding. When legal obligations conflict with tikanga Māori, a common understanding is needed so that everyone understands what is required. It is essential to have shared knowledge because tikanga Māori can often affect and influence how decision-making works. As Smith notes: “Notions of tikanga are embedded in the ways people often think and behave (Smith, 2015, p. 49).”<sup>17</sup> Tikanga Māori can be confusing when there is no clarity in terms of cultural context and legislative obligations.

There is a vast range of literature regarding tikanga Māori (Mead, 2003) and its place in legislation (Te Aho, 2007; Ruru, 2009) and policy. The co-governance and co-management experience for Waikato iwi and the Waikato River has already received attention (see Te Aho, 2010; Te Aho, 2011; Muru-Lanning, 2012). This thesis’ purpose is however to discuss the experience of Maniapoto as a Waipā River people with our own tikanga Māori and its importance concerning the Waipā River. As stated in the Preamble of the Act<sup>18</sup>: “To Maniapoto, their relationship with the Waipā River, and their respect for it, gives rise to their responsibility to protect Te Mana o te Wai and to exercise their kaitiakitanga in accordance with their long-established tikanga.”

Maniapoto clearly state the inherent responsibility in their relationship to the Waipā River, which has endured for a long time, including the obligation to protect Te Mana o te Wai as described in the Preamble of the Act:<sup>19</sup>

Te Mana o te Wai is paramount to Maniapoto. Historically, Te Mana o te Wai was such that it would provide all manner of sustenance to Maniapoto including physical and spiritual nourishment that has over generations maintained the quality and integrity of Maniapoto Marae, whanau, hapū and Iwi.

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<sup>18</sup> Nga Wai o Maniapoto Act, No. 29. (2012). Preamble (12).

[http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3335204.html?search=qs\\_act%40bill%40regulation%40deemedreg\\_nga+wai+o+maniapoto\\_resel\\_25\\_h&p=1](http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3335204.html?search=qs_act%40bill%40regulation%40deemedreg_nga+wai+o+maniapoto_resel_25_h&p=1)

<sup>19</sup> Ngā Wai o Maniapoto (Waipā River) Act, No. 29. (2012). Preamble (13-14).

[http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3335204.html?search=qs\\_act%40bill%40regulation%40deemedreg\\_nga+wai+o+maniapoto\\_resel\\_25\\_h&p=1](http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3335204.html?search=qs_act%40bill%40regulation%40deemedreg_nga+wai+o+maniapoto_resel_25_h&p=1)

Te Mana o te Wai traditionally gave Ngāti Maniapoto the ability to be hospitable to their manuwhiri (visitors) by providing them with a meal when they visited them. The food could be a cooked tuna (eel) and watercress meal, both of which, had been gathered from the Waipā River. For spiritual nourishment, the Waipā River provided a place to practise religious blessing ceremonies that gave the people strength. Maniapoto view the Waipā River in its entirety, including the seen and the unseen (spiritual) components, with the visible health of the river and its reflection on the health of the people of Ngāti Maniapoto. The Waipā River is inherent in the identity of Ngāti Maniapoto people who use it for recreational, spiritual and physical sustenance. The concept of kaitiakitanga (guardianship) is a Māori term which is often misused or misunderstood by non-Māori. Māori are kaitiaki, and non-Māori are not kaitiaki because kaitiaki is a Māori term for Māori people. The difference lies in the longevity of the guardianship role for a Māori person. For Māori this relationship can be generational; this long relationship does not apply to non-Māori. The term kaitiaki is not usually self-appointed as a title. Still, it carries with it a high level of responsibility and is intergenerational, most often passed from one generation to the next. The Te Ture Whenua Māori Act (1993) defines kaitiaki as guardian.<sup>20</sup> The Resource Management Act (1991) defines kaitiakitanga as: “the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship.”<sup>20</sup>

The Fisheries Act (1996)<sup>21</sup> has a similar definition: “Kaitiakitanga means the exercise of guardianship; and, in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Māori.”

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<sup>20</sup> Resource Management Act, No. 69. (1991).

[http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM230272.html?search=sw\\_096be8ed81934a2c\\_kaitiakitanga\\_25\\_se&p=1&sr=0](http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM230272.html?search=sw_096be8ed81934a2c_kaitiakitanga_25_se&p=1&sr=0)

<sup>21</sup> Fisheries Act, No. 88 (1996).

[http://www.legislation.govt.nz/act/public/1996/0088/latest/DLM394199.html?search=sw\\_096be8ed8193a5e1\\_kaitiakitanga\\_25\\_se&p=1&sr=0](http://www.legislation.govt.nz/act/public/1996/0088/latest/DLM394199.html?search=sw_096be8ed8193a5e1_kaitiakitanga_25_se&p=1&sr=0)

To be a kaitiaki in the true meaning of the word is to be responsible for a natural resource generally in a specific area. Being a kaitiaki includes protecting resources from overuse and depletion. A preventative measure for replenishing the resource may be by imposing a rāhui (or ban). In the instance of low shellfish numbers, due to over-harvesting, a rāhui can be placed on the area so that it replenishes itself. When there is a drowning, a rāhui can be placed on the area to prevent people from fishing, swimming and collecting shellfish in that place. The duration of the rāhui may be for a specific length of time or until the deceased is found. A rāhui can also be imposed in the event of direct pollution into the sea (e.g., from a wastewater treatment plant). An event like this could initiate a rāhui over the area so that no fishing, swimming or shellfish collection occurs. A rāhui like this may last until that resource is back to a healthy state. The role of a kaitiaki is a responsibility passed down from generation to generation for the benefit of present and future generations. The kaitiaki are accountable to the people who appointed them. The kaitiaki role is in managing the natural resource (e.g., forest, sea, river, lake) on behalf of the people. Kaitiakitanga is the practice that the kaitiaki use to fulfil their responsibility to the local whānau, marae, hapū and iwi to whom they are accountable. The context for Maniapoto kaitiakitanga is encapsulated in the following quote from the Maniapoto Waipā River Deed which states that Maniapoto kaitiakitanga:

...embodies principles of guardianship, to care for and protect the Waipā River and all its elements as an intergenerational responsibility to assure the sustainability of the Waipā River as a taonga of Maniapoto and requires Maniapoto participation in decision-making processes related to the Waipā River.<sup>22</sup>

The Ngā wai o Maniapoto (Waipā River) Act (2012) defines kaitiakitanga in the Guiding Principles as follows:<sup>23</sup>

A guiding principle is kaitiakitanga, which is integral to the mana of Maniapoto and requires –

- a. Restoration of the relationship of Maniapoto with the wai; and;

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<sup>22</sup> Maniapoto Māori Trust Board (2010 September 27)) *Deed in relation to the co-governance and co-management of the Waipa River*. p. 16.

[https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto\\_deed\\_final\\_270910.pdf](https://www.maniapoto.iwi.nz/wp-content/uploads/2016/05/maniapoto_deed_final_270910.pdf)

<sup>23</sup> Ngā Wai o Maniapoto (Waipa River) Act, No. 29. (2012). *Guiding Principles*.

[http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3264701.html?search=sw\\_096be8ed80d1ff5b\\_guiding+principles\\_25\\_se&p=1&sr=1](http://www.legislation.govt.nz/act/public/2012/0029/latest/DLM3264701.html?search=sw_096be8ed80d1ff5b_guiding+principles_25_se&p=1&sr=1)

- b. Restoration and maintenance of the ability of Ngā wai o Maniapoto to provide for the practice of manaakitanga; and;
- c. Recognition and respect for the kawa, tikanga, and kaitiakitanga of the marae, whānau, hapū, and Iwi of the Waipā River; and;
- d. Encouragement and empowerment of active involvement by Maniapoto in the expression of their kaitiaki responsibilities.

In practice, this guiding principle of kaitiakitanga involves the Maniapoto people reconnecting with their responsibilities as kaitiaki for the river. As an active kaitiaki, you need to have access to the river, access to the stories of the river and how it traditionally sustained the people over the generations. Being a kaitiaki also means being an active protector of the river, which is an inherent responsibility which is less about legislation and more about doing what is right for the river. The practice of manaakitanga (caring for others) is about looking after visitors, caring for them and providing hospitality for them to the best of your abilities. Historically, the people of Maniapoto would source their watercress, tuna, shellfish and other fish species from the Waipā River and then take it to the local marae and whānau. They would then gather together and cook the kai (food) for their manuwhiri (visitors) and special events (e.g., poukai). To be an active Maniapoto kaitiaki means to be able to undertake cultural responsibilities without inhibition, something which was natural before colonisation.

With the revitalisation of mātauranga Māori (Māori knowledge) particularly in environmental science, it is clear that there is a need to return to traditional mātauranga Māori and conventional cultural practices to fix the environment and return it to a healthy state. Smith emphasises this point when she states: “What Māori people have, as with other Indigenous people is a distinct knowledge tradition which lies outside western views of knowledge. It is still located in a cultural framework and lived by real people”<sup>24</sup> (Smith, 2015, p. 50).

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<sup>24</sup> Smith, L. T. (2015). Kaupapa Māori research- Some kaupapa Māori principles. In L. Pihama & K. South (Eds.), *Kaupapa rangahau: A reader: A collection of readings from the Kaupapa Maori Research Workshop Series* (pp. 46-52). Te Kotahi Research Institute.



Maniapoto describes tikanga and kaitiakitanga for the Waipā River as an inherent responsibility which joins the Maniapoto people to the river indefinitely.

## **1.5 Conclusion**

To summarise, this chapter introduced the purpose for this thesis, the people of Ngāti Maniapoto, the Waipā River and Waiwaia, the Ngā Wai o Maniapoto (Waipā River) Act 2012 and provided a cultural context for Māori concepts and a foundation for understanding the influences of Maniapoto rangatiratanga in decision-making.

Chapter 2 looks at the Kaupapa Māori approach to research that this thesis has adopted and the critical ideas of Dr Linda Smith and Dr Leonie Pihama who have emphasised the importance of Kaupapa Māori theory to research. Chapter 3 provides an account of the development of the Ngā Wai o Maniapoto (Waipā River) Act (2012) for Maniapoto people and its provisions as they relate to the Deed in relation to the co-governance and co-management of the Waipā River (2010). Chapter 4 reflects on the real challenges faced by Maniapoto in implementing the Ngā Wai o Maniapoto (Waipā River) Act (2012) and the reality of those challenges in practice. The chapter 5 reflects on the significance of the development and implementation of the Ngā Wai o Maniapoto (Waipā River) Act (2012) for Maniapoto while the final chapter discusses and considers the possible next steps. Chapter 6 reflects on the promise and the reality associated with the new era of co-governance and co-management related to the passage of the Ngā Wai o Maniapoto (Waipā River) Act. This chapter focuses on the challenges that Maniapoto have experienced, the difficulties and frustrations of operating within the co-governance framework.

## Chapter 2

### Methodology

#### 2.1 Introduction

For this thesis, I used the Kaupapa Māori theory method as my research method because my study required a distinctive Māori approach for authenticity and integrity. Dr Linda Smith developed a Kaupapa Māori research model that I chose to use for this research. That model is underpinned by the following fundamental principles:<sup>25</sup>

- Aroha ki te tangata (A respect for people)
- Kanohi kitea (The seen face)
- Titiro, whakarongo...kōrero (Look, listen...speak)
- Manaaki ki te tangata (Share and host people, be generous)
- Kia tūpato (Be cautious)
- Kāua e takahia te mana o te tangata (Do not trample the mana of people)
- Kāua e mahaki (Do not flaunt your knowledge).

These critical principles, together with the previous Māori concepts of tikanga, kaitiakitanga, rangatiratanga, manaakitanga discussed in chapter 1 intersect well and support the rationale for using Kaupapa Māori as the appropriate method for this research which is grounded in a Kaupapa Māori theoretical and methodological framework. First and foremost, the research must be useful and relevant to the 'research community': in this case, Maniapoto. This research explicitly recognises that I am not only working 'with' my community but that I am also part of it.

#### 2.2 Kaupapa Māori Theory and Perspective

The perspective of Kaupapa Māori theory is unique and necessary when researching with cultural integrity. As Dr Leonie Pihama stated: "Kaupapa Māori theory is a theoretical framework that ensures cultural integrity is maintained when analyzing Māori issues. It provides both tools of analysis and ways of understanding the cultural, political and historical context of Aotearoa." (Pihama, 2015, p. 11).

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<sup>25</sup> Smith L.T. (1999). *Decolonising methodologies: Research and indigenous peoples*. New York: Zed Books & Dunedin: Otago University Press.

Perspective, context and understanding are essential when analysing information which can be influenced by politics. The history of Māori in Aotearoa and the injustices they have faced through colonisation are still prevalent today. Kaupapa Māori theory is informed by an awareness of the way power relationships have been expressed through colonisation and the role of research and science in that process (Pihama, 2015). In her paper *Kaupapa Māori Research: Some Kaupapa Māori Principles*, Dr Linda Tuhiwai Smith defines Kaupapa Māori research as: "research by Māori, for Māori and with Māori."<sup>26</sup> Put simply, Kaupapa Māori describes anything that concerns how Māori think, act and exist in the Māori realm. Colonisation and power struggles with government or similar authorities have been a constant pressure for Māori to overcome historically and currently. In the introduction to *Decolonizing Methodologies*, Linda Smith writes that "the term research is inextricably linked to European imperialism and colonialism".

The Merriam-Webster dictionary defines imperialism as "1: imperial government, authority, or system; 2: the policy, practise, or advocacy of extending the power and dominion of a nation especially by direct territorial acquisitions or by gaining indirect control over the political and economic life of other areas."<sup>27</sup> Broadly, imperialism is how a country extends its power, influence, and rule. The dictionary's definition of colonialism is "1: the quality or state of being colonial; 2: something characteristic of a colony; and 3a: control by one power over a dependent area or people; 3b: a policy advocating or based on such control." Put simply; colonialism is how the imperialists succeed in gaining that power. Smith refers to the unequal relationships of the colonists over the colonised. The two concepts of imperialism and colonialism are closely linked and relevant to the influences on Māori, their thinking and decision-making. Smith (2015) refers to the power, authority, and rule that the

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<sup>26</sup> Smith, L. T. (2015). Kaupapa Māori research: Some Kaupapa Māori principles. In L. Pihama & K. South (Eds.), *Kaupapa rangahau: A reader. A collection of readings from the Kaupapa Rangahau workshops series*. (2nd ed.) (pp. 46-52). Hamilton, New Zealand: Te Kotahi Research Institute.

<sup>27</sup> Merriam-Webster. (n.d.). Imperialism. In Merriam-Webster.com dictionary.<https://www.merriam-webster.com/dictionary/imperialism?src=search-dict-box>

European colonialists asserted over colonised indigenous peoples, including the British colonisation of Māori.

European colonialists used force which has produced alienation, hurt and pain for indigenous peoples. The power struggle between European colonists and indigenous peoples, the Crown and Māori has been characterised by a radical power imbalance and is the reason for so many historical Treaty of Waitangi grievances.

Addressing the imbalance of power between the Crown and Māori is a crucial focus of Kaupapa Māori theory. Kaupapa Māori is about asserting our mātauranga Māori, traditions and experience and using it for the benefit of Māori as a priority within a Māori context. Kaupapa Māori theory then provides a platform for Māori to articulate their reality and experience, to give their truth as an alternative to the homogenisation and silence required of them within mainstream New Zealand society.<sup>128</sup>

In reviewing the history of Kaupapa Māori, Graham Smith<sup>29</sup> credits Tuakana Nepe as the first person to use the term "Kaupapa Māori" in 1987 about Kaupapa Māori schools or Kura Kaupapa. Smith (2012) asserts that he added "theory" onto Nepe's "Kaupapa Māori" term when writing his PhD thesis in the late 1980s– early 1990s. Smith (2012) examined how many theories underpinning education for Māori began with assumptions about Māori "deficit." Smith saw strong similarities between these deficit theories and processes of colonisation. He mentions that there are strong links between Kaupapa Māori theory and critical theory. Kaupapa Māori derives from the validity and legitimacy of the Māori language, knowledge and culture and critical social theory. As stated by Smith (2012), Kaupapa Māori has two parts: (1) structural analysis and (2) everyday practice. Both parts are required to maintain the radical potential of Kaupapa Māori theory. Challenges to the status quo and the use of critical

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<sup>28</sup> Reprinted with permission. Pihama, L., Southey, K., Tiakiwai, S., Ngā Pae o te Māramatanga (Organization), Waikato-Tainui College for Research and Development, & Te Kotahi Research Institute. (2015). Kaupapa rangahau: A reader: A collection of readings from the kaupapa Māori research workshop series led by associate professor Leonie Pihama and Dr Sarah-Jane Tiakiwai. Ngaruawāhia; Kirikiriroa; Auckland; Te Matenga Punenga o Te Kotahi, Te Whare Wānanga o Waikato.

<sup>29</sup> Smith, G., Hoskins, T. K., & Jones, A. (2012). Interview: Kaupapa Māori: The dangers of domestication. *New Zealand Journal of Educational Studies*, 47(2), 10-20.

theory are of fundamental importance in Kaupapa Māori theory; without it, we are merely “browning” the system or as Smith (2012) puts it: “Kaupapa Māori without critical theory becomes an opening for the browning of the mainstream institutions rather than space from which to challenge them.”<sup>30</sup>

The importance of using Kaupapa Māori theory in this thesis is to provide an academic context to this subject and to give understanding to the intricacies of the co-governance and co-management framework for Ngāti Maniapoto. Kaupapa Māori allows for a broad understanding of the tangible, intangible, spoken and unspoken subtleties that exist. The Kaupapa Māori theory research method supports this understanding without causing unnecessary offence. The relationship between Maniapoto and the Waipā River is their truth, reality and daily experience, although it may not be appreciated by mainstream New Zealand, as stated by Mahuika:

Arguably the ultimate goal of kaupapa Māori research, like much of the scholarship from indigenous and minority peoples, is to challenge and disrupt the commonly accepted forms of research in order to privilege our own unique approaches and perspectives, our own ways of knowing and being (2008, p. ).<sup>31</sup>

## 2.3 Researcher’s Background

My involvement with the content of this research began in 2011, before the enactment of the Nga Wai o Maniapoto (Waipā River) Act 2012 (the ‘Act’). I was employed by my iwi (Ngāti Maniapoto) to implement the mechanisms and arrangements of the Act’s 2010 predecessor, the Deed for the co-governance and co-management in relation to the Waipā River (the ‘Deed’). The role in the Environment Team (Whanake Taiao) involved the development and implementation of 10 Crown-Maniapoto Accords (the ‘Accords’), a JMA with five councils, regulations and bylaws for the Upper

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<sup>30</sup> Smith, Graham; Hoskins, Te Kawehau and Jones, Alison. (2012). Interview: Kaupapa Māori: The dangers of domestication [online]. *New Zealand Journal of Educational Studies*, 47(2), 10-20. Availability:<<http://search.informit.com.au.ezproxy.waikato.ac.nz/documentSummary;dn=446709408958963;res=IELHSS>>ISSN: 0028-8276.

<sup>31</sup> Mahuika, R. (2008). Kaupapa Māori is critical and anti-colonial. *Mai Review*, 3, 1-16.

Waipā River, the Upper Waipā River Integrated Management Plan, the Upper Waipā Fisheries Plan and the Maniapoto Environment Management Plan. The first-hand experience of working on, developing and implementing the arrangements and mechanisms of the Deed, and eventually the Act, provided me with context, knowledge and expertise. The building of relationships with Crown agencies, Crown officials, Maniapoto iwi and other Waikato River iwi gave me a unique perspective in terms of this research on the Waipā River. The job of an iwi technician is one of strategy, planning, negotiating, influencing, innovating and reporting. It is a hard role to be an iwi technician dealing with the Crown, local authorities and the iwi that employs you, whether you are Māori or not. However, for those who are from the same iwi that uses them, as I was, the responsibility increases and there is a burden to do the job well because the wrongs of your actions could affect your tamariki (children) or mokopuna (grandchildren). We would joke about it and say that we had 'skin-in-the-game' unlike others who could walk away from the job whenever they wished. I knew that decisions and actions made today would inevitably have an impact on the future generations of my iwi. As an iwi technician, the cogovernance space can be all-consuming with many challenges which continuously compete for attention, whether it is the Crown, councils, landowners or iwi. After completing 7 years of working within the Waikato/Waipā River co-governance and co-management framework, with a significant in-depth working knowledge and experience, I resigned from my position as Senior Policy Analyst in 2018.

## **2.4 Methods**

This research draws mainly on my own experience as a Ngāti Maniapoto person and study of the Deeds and Acts within the co-governance and co-management of the Waipā and Waikato Rivers. The use of Kaupapa Māori research ethics (Smith, 1999, p. 120) in conjunction with ethical approval from the University of Waikato ensured proper use of the information that was gathered or collected. During the development of this thesis, I participated in an environmental project between the Waikato-Tainui Research and Development College and the Waikato River Authority called the

Waikato and Waipā River Restoration Strategy ('Restoration Strategy'). I worked collaboratively with the Maniapoto Māori Trust Board to incorporate a Maniapoto perspective in terms of the Maniapoto iwi priorities for the Waipā River. These priorities would then feature as part of the restoration strategy for the Waipā River as a whole and present an iwi-centric narrative to the Maniapoto identified projects. The other participants in the iwi priorities project included: Waikato-Tainui, Te Arawa River iwi and Raukawa; all four researchers worked collaboratively under the guidance of the Waikato-Tainui Research and Development College. The Waikato River Authority also provided some information and feedback to help inform the project. Later, Tuwharetoa contributed to the Waikato and Waipā River Restoration Strategy document. Maniapoto had gathered extensive research on the Waipā River and had launched three critical reports for the Waipā River in March 2016: (1) the second generation Maniapoto Iwi Environmental Management Plan (EMP), (2) the Maniapoto Upper Waipā River Fisheries Plan (also considered an EMP) and (3) the Maniapoto Restoration Priorities for the Waipā Catchment Report. All three documents have assisted in informing the Maniapoto iwi priorities for the Waipā River and, more importantly, the research for this thesis.

A key source of data on the development and implementation of the Act has been a series of documents associated with the Waikato River Settlement. These are listed below:

- Co-Management Arrangements for the Waikato River – Report of the Independent Review Panel – 27 April 2009
- Waikato-Tainui Deed of Settlement in relation to the Waikato River – 17 December 2009
- The Vision and Strategy for the Waikato River (Te Ture Whaimana o te Awa o Waikato)
- Raukawa Deed in Relation to a Co-Management Framework for the Waikato River 2009

- Te Arawa River Iwi Deed in Relation to a Co-Management Framework for the Waikato River 2010
- Tūwharetoa Māori Trust Board Deed in Relation to Co-Governance and Co-Management Arrangements for the Waikato River 2010
- Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010
- Ngāti Tūwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010

Documents specific to Maniapoto under the Waipā River Settlement include:

- Maniapoto Iwi Environmental Management Plan;
- Upper Waipā River Fisheries Plan;
- Maniapoto Priorities for the Restoration of the Waipā Catchment;
- Maniapoto Historical Environmental Report Transcripts
- Ngā Wai o Maniapoto (Waipā River) Act. No. 29. (2012)
- Deed in relation to the co-governance and co-management of the Waipā River
- Terms of Agreement between Maniapoto Māori Trust Board and the Crown – 4 September 2008
- Agreement between Maniapoto Māori Trust Board and Crown in respect of co-management arrangements for the Waipā River – 4 November 2009
- Deed in relation to the co-governance and co-management of the Waipā River between Maniapoto and the Maniapoto Māori Trust Board and the Sovereign in right of New Zealand – 27 September 2010
- Waiwaia Accord between Maniapoto Māori Trust Board and the Crown – 27 September 2010 (and schedules to the Waiwaia Accord)



- Ngā Wai o Maniapoto (Waipā River) Bill (Bill 231-3) – Committee of the Whole House  
– 8 March 2012
- Joint Management Agreement between Maniapoto and Waikato Regional Council, Waikato District Council, Waipā District Council, Ōtorohanga District Council and Waitomo District Council and
- Maniapoto archives.

## 2.5 Conclusion

In chapter 2, I have outlined the rationale for using the Kaupapa Māori theory method and perspective for this research. I have followed the critical principles of Kaupapa Māori research approaches, and I have carried out the study in a way that is consistent with the ethics approved by the University of Waikato; these approaches have provided a solid foundation for the research.

Using Kaupapa Māori theory and methods has allowed the Maniapoto perspective to maintain its cultural integrity. It has also accommodated my approach of drawing on my personal experience and self-reflections as an iwi policy technician as it relates to the focus of the thesis. Doing so has allowed for a more contextually rich analysis of the development and implementation of the Ngā Wai o Maniapoto (Waipā River) Act. I will turn to this in the next chapter.

## **Chapter 3**

### **Development of the Waipā River Deed and the Act**

#### **3.1 Introduction**

This chapter examines the development of the Deed in Relation to the Co-governance and Co-management of the Waipā River ('the Deed') and the Ngā Wai o Maniapoto (Waipā River) Act 2012 ('the Act') agreed between the Crown and Maniapoto. The focus is on the 'promise' of co-governance and co-management in the development of the Deed and the Act. Chapter 4 examines the 'promise' of co-governance and co-management and the implementation of the Deed and the Act. The concluding chapter, chapter 5, includes recommendations around what has worked and what could be improved. This chapter therefore reviews the development of the Deed in relation to the co-governance and co-management of the Waipā River and also the development of the Ngā Wai o Maniapoto (Waipā River) Act 2012. Furthermore, the promise of the Deed and the Act agreed between the Crown and Maniapoto highlights the potential and the benefits envisaged for the people of Ngāti Maniapoto.

#### **3.2 A New era of Co-governance and Co-management**

Co-governance is defined as: "Arrangements in which ultimate decision-making authority resides with a collaborative body exercising devolved power – where power and responsibility is shared between government and local stakeholders" (Dobson, 2014). Co-management is defined as: "The collaborative process of decision-making and problem solving within the administration of conservation policy" (Dobson, 2014). The Crown and Maniapoto agreed to enter into a new era of co-governance and co-management over the Waipā River when the Deed was signed in 2010 which would solidify the relationship of both parties and other stakeholders. Both parties agreed that the direction needed to obtain two goals

1. To achieve the overarching purpose for the Waipā River:

“To restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia”.<sup>32</sup> and

2. To achieve the overarching purpose for the Waikato River:

“To restore and protect the health and wellbeing of the Waikato River for future generations”.<sup>33</sup>

Co-management for the Waipā River means that both parties (Maniapoto and the Crown) agree to<sup>34</sup>:

1. Implement the direction set under the cogovernance framework;
2. Promote the restoration and maintenance of the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia;
3. Promote the restoration and protection of the health and wellbeing of the Lower Waipā River, as a tributary of the Waikato River, for future generations; and follow the principles of mana<sup>35</sup> and the principle of practical and effective outcomes.

The Deed created the co-governance framework and co-management arrangements for the Waipā River. At the same time, the Waikato River co-governance and co-management framework was in the development and implementation stages. The signing of the Deed provided Maniapoto with the opportunity to develop and implement co-governance and co-management for the Waipā River and to also participate in the existing co-governance and co-management for the Waikato River, which by legal definition, includes the Lower Waipā River. The V&S extended to the Upper Waipā River upon

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<sup>32</sup> Ngā Wai o Maniapoto (Waipa River) Act, No. 29. (2012). *Overarching purpose of the Act*.

<sup>33</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act, No. 24. (2010). *Overarching purpose of the Settlement*.

<sup>34</sup> Deed in relation to the co-governance and co-management of the Waipā River 2010, section 3.7.

<sup>35</sup> Deed in relation to the co-governance and co-management of the Waipā River 2010, section 3.9.

the enactment of the Act. The Deed also recognised Maniapoto interests in the Lower Waipā River; however, this is under the mana whenua of Waikato-Tainui via their hapuu.<sup>36</sup>

The deliverables of the Waipā River cogovernance framework included:

1. The development and recognition of Maniapoto objectives for the Waipā River; and;
2. Maniapoto settlement legislation for the Waipā River including the Vision and Strategy and its extension to the whole of the Waipā River and the functions and granting of functions and powers to the co-governance entity, Waikato River Authority.<sup>37</sup>

The deliverables for the Waipā River co-management arrangements within the Maniapoto legislation included:

1. The Maniapoto Iwi Environmental Management Plan.
2. Maniapoto participation in resource consents under a Joint Management agreement with local councils.
3. Establishing an integrated management plan for the Upper Waipā River.
4. The development of regulations and bylaws for the Waipā River.
5. Any other co-management arrangements agreed between both parties.

It is challenging to discuss deliverables for the Waipā River without noting what was happening simultaneously in the Waikato River, which established a cogovernance entity to oversee the framework and implement the V&S for the Waikato River. In 2008, the Guardians Establishment Committee was established to develop the V&S for the Waikato River up to its junction at the Pūniu River.

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<sup>36</sup> Deed in relation to the co-governance and co-management of the Waipā River 2010, section 3.10.

<sup>37</sup> Deed in relation to the co-governance and co-management of the Waipā River 2010, section 3.11.

Once the V & S were completed, the Waikato River Authority (which is the co-governance entity for the Waikato and Waipā Rivers) was tasked with the implementation and monitoring of the V&S. The co-governance entity that oversees the co-governance framework is the Waikato River Authority (WRA), the successors to the Guardians Establishment Committee and a statutory body.<sup>38</sup> The co-governance entity originally set the V&S for the Waikato River; however, agreement with Maniapoto for a whole-of-river approach saw the V&S extended to the Upper Waipā River (after the enactment of the Act). This Act granted the Waikato River Authority, as the co-governance entity, functions and powers over both the Waikato and the Waipā rivers. Another feature of the co-governance entity is the establishment of the Waikato River Clean-up Trust which receives money from the government for the five Crown-river iwi settlements and distributes that money in line with the V&S.

The Waikato River Authority was established under section 22 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and section 23 of the Ngāti Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010. The purpose of the Waikato River Authority is to:

- Set the primary direction through the Vision and Strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations.
- Promote an integrated, holistic and coordinated approach to the implementation of the Vision and Strategy and the management of the Waikato River.
- Fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-Up Trust.

The WRA has 10 Board members, five are appointed (one per river iwi), and five are Crown-selected.

The WRA is the sole Trustees of the Waikato River Clean-up Trust.<sup>8</sup> The direction-setting document for the WRA is Te Ture Whaimana o te Awa o Waikato (the V&S for the Waikato River) which is the overarching policy for the Waikato River and which has equal standing with the National Policy Statement that relates to the river. The V&S for the Waikato River, as stated in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, is recognised as being at the same level of a National Policy Statement for the Waikato River. Waikato-Tainui demonstrated their vision for, and tikanga connection to, the Waikato River through the V&S. The V&S allow Waikato-Tainui to continue

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<sup>38</sup> Deed in relation to the co-governance and co-management of the Waipā River 2010, section 6.1

to practise their tikanga and kaitiakitanga of the Waikato River and created a \$210m Treaty Settlement between the Crown and Waikato-Tainui in 2010. The Waikato River Clean-up Trust was established under section 32 of the Waikato Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and section 33 of the Ngāti Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010. Later in 2012, a further \$10m Treaty Settlement between the Crown and Maniapoto increased the Waikato River Clean-up Trust Fund to \$220m.

The Waikato River Authority is an independent statutory body and includes one Maniapoto member who has additional provisions on the co-governance entity. Following the extension of the V&S to the Upper Waipā River, there was to be a 3-month review of the entity and appointment of a member representing Maniapoto. In Part 6 of the Waikato-Tainui River agreement, Maniapoto endorsed the Waikato River Clean-Up Trust as outlined and acknowledged that the Crown wanted the Clean-Up Trust that administers the \$22m river settlement would be managed by the co-governance entity. Although Maniapoto were not at the same place as the other Waikato River iwi in negotiating the Waikato River Clean-Up Trust, the Crown agreed to include Maniapoto in negotiations for the Trust and consulted with Maniapoto on the terms of a trust deed. Between the transition period of the Guardians Establishment Committee and the Waikato River Authority, the government commissioned NIWA to undertake the Waikato River Independent Scoping Study (WRISS). The WRISS looked at the clean-up activities that were needed and the associated costs for the clean-up. Maniapoto did not agree that the WRISS should include the headwaters of the Waipā to the junction with the Pūniu River junction. However, Maniapoto decided to engage with the Crown in the scoping study concerning the Waipā River, including contributions to the Waikato River Clean-Up Trust. From this point in the chapter, I will focus on the co-governance and co-management framework for the Waipā River. To provide a historical context of this framework, we must also consider the Waikato-Tainui and the Waikato River Settlement, as that also implies referencing the Waikato River.

### **3.3 Waikato River Settlement**

On behalf of his iwi, Sir Robert Mahuta negotiated the Waikato-Tainui Raupatu Settlement in 1995 with the Crown. In April 2009, the Government commissioned an independent panel to make recommendations to the Minister. As a result, the Crown wanted to re-engage with Waikato-Tainui and other Waikato River iwi on their co-management agreements.

The Crown and Waikato-Tainui signed the Waikato-Tainui River Agreement on 22nd August 2008. That agreement has the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River. The Waipā River is a significant contributor to the waters of the Lower Waikato River and so it will have a considerable impact on the effectiveness of arrangements in place to restore and protect the wellbeing of the Waikato River. The agreement also allowed Maniapoto to enter a new era of co-management concerning the Waikato River. The Agreement in Principle signed between the Crown and Waikato-Tainui had a specific clause related to the forming of the Guardians Establishment Committee.

The settlement was monumental in terms of Treaty of Waitangi settlements and set a precedent for other iwi to follow as they pursue their agreements. The 1995 Waikato settlement agreed to negotiate the Waikato River at a later date. This negotiation led to the Waikato River Raupatu Settlement in 2010. The Waikato-Tainui Waikato River Settlement developed the co-governance framework and co-management arrangements for the Waikato River and the Lower Waipā River. This framework would later include other Waikato and Waipā River iwi (Raukawa, Te Arawa River iwi, Tuwharetoa and Maniapoto). The Crown worked to negotiate Deeds and agreements with the respective River iwi simultaneously for the Waikato and Waipā Rivers. These were the Waikato-Tainui Deed of Settlement in relation to the Waikato River 2009 (Waikato-Tainui); the Deed in relation to a co-management framework for the Waikato River 2009 (Raukawa); the Deed in relation to a co-management framework for the Waikato River 2009 (Te Arawa River iwi); the Deed in Relation to co-governance and co-management arrangements for the Waikato River 2010 (Tuwharetoa); and the Deed in Relation to the co-governance and comanagement of the

Waipā River 2010 (Maniapoto). The Deeds resulted in the establishment of river settlement Acts for each iwi (i.e., the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; the Ngāti Tuwharetoa, Raukawa and Te Arawa River iwi Waikato River Act 2010 and, for Maniapoto, the Ngā Wai o Maniapoto (Waipā River) Act 2012). Waikato iwi inherited the role of kaitiaki (guardians) for the Waikato River according to their tikanga bestowed on them by their tuupuna (ancestors).

Waikato iwi must therefore not only care for the river, but must also bear the burden and responsibility of protecting the river in its entirety so that it can be passed on to future generations as their inheritance. In essence, the river is their identity and their responsibility to look after its welfare continues through many lifetimes. The leadership of Waikato-Tainui resulted in Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act's being enacted into law in 2010.<sup>39</sup>

Without the guidance, drive and determination of Waikato-Tainui in connection with the Waikato River, the co-governance, and co-management framework for the Waipā River would not exist nor would similar settlements for other Waikato and Waipā river iwi. The Waikato River Deed and legislation has provided a pathway for recognition of the V&S in law, in government and council policy. The Waikato-Tainui settlement also created opportunities to access river clean-up funding for a substantial number of years. The Waikato River Clean-up Trust fund was allocated \$210m for Waikato River restoration and protection efforts.

### **3.4 The 2010 Waipā River Deed**

In 2010, Maniapoto and the Crown signed a Deed for the Waipā River which recognised the relationship of Maniapoto with the Waipā River. The overarching purpose of the Deed was: “to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia.”<sup>9</sup>

The Deed was quite specific and contained agreements made between the parties. The Crown acknowledged the degradation of the river and the effects and distress to Maniapoto that the

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<sup>39</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, Preamble.



pollution of food sources caused. The Crown further acknowledged that this degradation prevented Maniapoto from meeting their traditional kaitiakitanga responsibilities to the Waipā and their people. The degradation of the river also negatively affected their ability to uphold tikanga practices such as manaakitanga (care and provision of food). In terms of restoration priorities for the Waipā River, the Deed included an acknowledgement by the Crown of Maniapoto's deep-felt obligation to restore and maintain the waters that flow into and form part of the Waipā River. The Crown acknowledged in the Deed:

...that to Maniapoto, their relationship with the Waipā River and their respect for it, gives rise to their responsibilities to protect Te Mana o Te Wai and to exercise their kaitiakitanga in accordance with their established tikanga. Their relationship with the Waipā River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture.<sup>12</sup>

The agreement proposed co-management and co-governance arrangements in a Treaty-based relationship. Maniapoto were encouraged and empowered to be actively involved in expressing their kaitiakitanga responsibilities while enhancing their capacity and capability to engage in co-management. Both parties agreed that for co-management to work, it must be implemented and achieved at both the central and regional government levels. That success would include good faith from both parties, with consensus decision-making and protection of the integrity of the arrangements as a motivator to achieve co-management.

Before signing the Deed, Maniapoto received \$3m and upon the signing received a further \$7m as part of the Waipā River settlement. For the next 20 years, from 2010 to 2030, Maniapoto will be paid \$1m annually up to a total of \$30m. Following the enactment of the Act and the extension of the V&S to the Upper Waipā River, the Crown gave \$10m to the Waikato River Clean-Up Trust as part of the Waipā River settlement. The total cost of the arrangement between Maniapoto and the Crown will be \$40m in direct payments, with the ability to apply for restoration projects annually from the Waikato River Clean-Up Trust which administers \$220m of river settlement money.

The Deed allowed for the inclusion of the Upper Waipā River to the Waikato-Tainui settlement for the Waikato River. The Lower Waipā River from the Ngaruawaahia confluence to the Pūniu River junction is part of the Waikato River Settlement.

The Deed and subsequent legislation acknowledge the overarching purpose and the following objectives for Maniapoto:

1. Maintaining and growing tino rangātiratanga over Maniapoto knowledge and resources
2. Restoring the relationship of Maniapoto with their wai
3. Enabling long-term intergenerational planning and the transfer of knowledge
4. Identifying the extent of the water resources within the rohe of Maniapoto and undertaking a characterisation of essential resources (biological and ecological)
5. Restoring and maintaining the ability of Nga Wai o Maniapoto to provide for the practice of manaakitanga
6. Encouraging and empowering Maniapoto kaitiakitanga
7. Protecting waahi tapu and waahi tupuna
8. Practising sustainable land use and sustainable water use, and
9. Providing economic development opportunities and providing that Maniapoto objectives for the Waipā River, including any changes that Maniapoto may make to their goals are consistent with the purpose in clause 28, [and] will form a basis of any future review of the Vision and Strategy.

### **3.5 The Waipā River Settlement**

On 4th September 2008, Maniapoto and the Crown signed a Terms of Agreement. The Terms of Agreement with Maniapoto followed an agreement between the Maniapoto Māori Trust Board and the Crown to negotiate the settlement of the Maniapoto historical Treaty of Waitangi claims

concerning Nga Wai o Maniapoto. At the same time, negotiations were underway between the Crown and Waikato-Tainui for the Waikato River. At the time of signing the Terms of Agreement with Maniapoto, the Crown had already signed an Agreement in Principle with Waikato-Tainui in December 2007 and then again in August 2008; the Crown signed a Waikato-Tainui Deed of Settlement in relation to the Waikato River, which was amended on 17th December 2009.

The Crown entered into these Terms intending to uphold its existing agreements with Waikato-Tainui. The Terms made it clear that it would establish the Guardians Establishment Committee who would be tasked with developing the V&S for the Waikato River and the Waipā River to the Waipā River and Pūniu River confluence. The Crown sought to promote a single framework for the Waikato and Waipā Rivers through a whole-of-river approach to co-management.

Maniapoto had a member on the Guardians Establishment Committee and were motivated to keep the mauri of the Waipā River intact. Therefore, Maniapoto agreed to a whole-of-river approach that led to the consideration of the governance arrangements and inclusion of the Upper Waipā River. The parties agreed that the purpose of the Terms was to establish a statutory framework for the co-management of the Waipā River. Maniapoto also wanted to promote Te Mana o Te Wai for not just the Waipā River, but also for Nga Wai o Maniapoto i.e., all the waters within Maniapoto. The enhancement of mana and protection of Maniapoto interests was a driving force during these Terms negotiations.

Initially, the Terms recognised Maniapoto's interests in the Waipā River from the headwaters to the Pūniu River and the Waipā River confluence. Both parties agreed that settlement of the Waipā River should happen in advance of the broader Maniapoto comprehensive claims. The parties also agreed to address redress for Maniapoto claims to the Waipā River and Nga Wai o Maniapoto generally. The timeframes to complete a mandate and an initial agreement were short, i.e., on or before 10th September 2008. The agreement however did not get signed until November 2009. The Crown

contributed to Maniapoto negotiation costs on the conditions that Maniapoto provided an annual report that would be completed by an independent auditor.

The following year on 27th April 2009, the Crown released a Report of the Independent Review Panel. The panel reviewed the co-management arrangements for the Waikato River (and inevitably the Waipā River). On 27th April 2009, it published the Independent Review Panel report on the comanagement arrangements for the Waikato River. The terms of reference for the panel provide the scope for advising Ministers on:

- a. how effectively the co-management arrangements meet the objectives of the deed of settlement with Waikato-Tainui and intended agreements with other Waikato River iwi; and
- b. whether changes to the co-management arrangements are necessary to achieve the outcomes agree and, if so, what those changes might be.

The panel was to provide advice to the ministers within 3 weeks of its establishment. The members of the group were: Evan Williams (Chair), Barry Harris, Guy Salmon, Gordon Blake, Jamie Ferguson and Paul Majurey. Maniapoto met with the panel on 16<sup>th</sup> April 2009 in response to the panel's recommendation to include the whole catchment and the entire lengths of the Waikato River and Waipā River. The report informed the direction of the co-management arrangements, in particular, those co-management arrangements that were in negotiation at the time of the report and resulted in changes. The report recommended that the V&S be the primary direction-setting document and that the Guardians Establishment Committee be the co-management entity tasked with the responsibility of the V&S with 50/50 Crown and iwi members who would administer the clean-up trust funds. The funds used to fund the WRISS and the rehabilitation activities would be a contestable fund and opened up the door to third parties, as the fund was not limited to Crown and iwi partners.

An agreement between Maniapoto and the Crown in respect to the co-governance and co-management arrangements for the Waipā River was signed on 4th November 2009. This agreement followed the review of the Waikato River co-management arrangements and the recommendations

by the independent panel, which caused existing agreements and negotiations to be reconsidered. Maniapoto expressed a deeply felt obligation to restore, maintain and protect all waters that flow into the Maniapoto rohe (Nga Wai o Maniapoto) and believed the quality and integrity of the waters (Te Mana o te Wai), which included the Waipā River, were paramount. Maniapoto acknowledged that the restoration and maintenance of the Waipā River was part of a catchment approach, which was consistent with their desire to keep the river intact, including the mauri of the Waipā River. Te Mana o te Wai provided for the Maniapoto people. Maniapoto would also have a member on the Guardians Establishment Committee. Both parties agreed that the objective was to restore and maintain the Waipā River and protect it from further degradation through the co-management arrangements.

The Waikato-Tainui Deed of Settlement in relation to the Waikato River was signed on 17th December 2009 and followed by the final signing of the Deed for the Waipā River on 27th September 2010. For the next 2 years, Maniapoto and the Crown worked on the Nga Wai o Maniapoto (Waipā River) Bill which was first introduced to Parliament on 16 November 2010 and which had its first reading in Parliament on 17th May 2011. On the 28th June 2011, the Bill reached Parliament's Select Committee followed by its second reading on 16th February 2012. The Parliament's Committee of the Whole House considered the Bill on 8th March 2012, before the third and final reading on 28th March 2012. The Nga Wai o Maniapoto (Waipā River) Act 2012 was given royal assent on 5th April 2012.

Maniapoto was the last iwi to enter the cogovernance framework for the Waikato and Waipā Rivers. Both the Crown and Maniapoto agreed to the iwi's historical association to the Waipā River reflected in the Statements of Significance. The Crown would develop acknowledgments in the next stage. The Crown and Maniapoto agreed to create the co-management arrangements concerning the Waipā River and agreed that other iwi may have their own relationship with the Waipā. Recognising the Maniapoto relationship with the Waipā River reflected the unity of purpose to restore and maintain the Waipā River.

The Act however did not contain any Crown acknowledgment of the pollution and degradation, the loss of food sources, and the distress caused to Maniapoto through their inability to meet their obligations to manaaki their whānau and their manuwhiri (visitors). Furthermore, the Crown did not acknowledge the deterioration of the Waipā River while under its management and responsibility. The disassociation of the people of Maniapoto from the river was further exacerbated with the acquisition of land along the Waipā River which prevented public access.

### **3.5 The ‘Promise’ for the Waipā River**

The Waipā River settlement and the co-governance and co-management framework nevertheless ‘promised’ to achieve the overarching purpose of the Act which was to restore and maintain the quality of the Waipā River waters and to care for and protect the mana tuku iho o Waiwaia.

Subsection 1 of the Act provides a breakdown of the definition:

- a. the phrase “the waters that flow into and form part of the Waipā River” refers to the connected and flowing body of water that comprises the Waipā River together with all its associated waters and water columns, including those flowing through its floodplains and the Maniapoto karst, streams, waterways, tributaries, springs, geothermal springs, watercourses, and lakes but does not include any unconnected waters or artificial watercourses such as an irrigation canal, water supply race, canal for the supply of water for electric power generation, or farm drainage canal; and
- b. the reference to the “mana tuku iho o Waiwaia” means the ancestral authority and prestige handed down from generation to generation in respect of Waiwaia, as described in the statements of significance set out in part 2 of the deed; and
- c. “Waiwaia” refers to the essence and wellbeing of the Waipā River; to Maniapoto Waiwaia is the personification of the waters of the Waipā River, its ancient and enduring spiritual guardians.

Maniapoto and the Crown agreed: “that protective measures are necessary to safeguard the Waipā River from further deterioration, and that co-governance and co-management arrangements provide a foundation for the restoration and maintenance of the Waipā River.”<sup>13</sup>

Given that both parties agreed that the Waipā River was not in the state to provide a healthy abundance of food and sustenance for the people of Maniapoto as it once had been, there was hope that through the co-management arrangements that this situation would change.

## Chapter 4

### Development of the Co-governance Framework and Co-management Arrangements: River Management Plans and Partnership Accords

#### 4.1 Introduction

The Ngā Wai o Maniapoto (Waipā River) Act 2012 led to the development and extension of river management plans and partnership accords. This chapter will outline the details of these, noting the promise they have offered for partnership in governance and management of the Waipā River.

The co-governance framework that emerged from the Deed and Act included co-management arrangements and the intent to involve the respective iwi in the decision-making process to recognise their relationship with their lands, water and sacred sites. Maniapoto and the Crown are currently Treaty Partners. They use the Treaty of Waitangi principles as a guide and a means to work towards the overarching purpose of the Deed and Act.

The co-management arrangements are to:

- 7.2.1        implement the direction set under the co-governance framework;
- 7.2.2        reflect a range of existing legislative instruments including those intended to:
  - (a) facilitate Māori involvement in decision-making processes;
  - (b) recognise the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and
  - (c) reflect the principles of the Treaty of Waitangi; and
- 7.2.3        promote the restoration and maintenance of the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia.



Maniapoto launched three critical documents for the Waipā River in March 2016: (1) the second generation Maniapoto Iwi Environmental Management Plan (EMP), (2) the Maniapoto Upper Waipā River Fisheries Plan (also considered an EMP) and (3) the Maniapoto Restoration Priorities for the Waipā Catchment Report. All three documents have been released to the Crown agencies and local authorities to inform them of Maniapoto aspirations and expectations for their development of policy for the Waipā River. Maniapoto has Accord arrangements with all of the Crown agencies in the natural resource sector and is also a partner to one single JMA with five councils. The co-management arrangements<sup>40</sup> are recognised and expressed through the Maniapoto Iwi Environmental Management Plan, JMAs with local authorities, Upper Waipā River Integrated Management Plan, Regulations and any other matters. This provision has allowed Maniapoto to set about developing planning documents and agreements from a Maniapoto perspective to incorporate Maniapoto tikanga into the river legislation and Maniapoto-specific policies.

#### **4.2 Co-management Arrangement: Upper Waipā Integrated River Management Plan**

The Act at Schedule 2 provides for the preparation of an Upper Waipā Integrated River Management Plan (IRMP). The purpose of the IRMP is to achieve an integrated approach between Maniapoto, relevant departments, local authorities, and appropriate agencies to the management of aquatic life, habitats and natural resources within the Upper Waipā River.

There are three main components of the Integrated River Management Plan:

1. A conservation component (a conservation management plan and freshwater fisheries management plan under the Conservation Act 1987) which is related to conservation management under the conservation legislation;
2. A fisheries component which deals with issues related to fisheries management under the Fisheries Act 1996;

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<sup>40</sup> Maniapoto Māori Trust Board. (2010) Deed in Relation to Co-governance and Co-management of the Waipā River, 7.3, p. 51.

3. A regional council component which deals with issues related to the resource management, biosecurity and local government functions of the Council under the Resource Management Act 1991, Biosecurity Act 1993, Local Government Act 2002 and any other relevant enactments; and
4. Any other component agreed between Maniapoto and any appropriate agency, including territorial authorities, responsible for administering or exercising functions, power and duties under any legislation that affects the Upper Waipā River and activities in its catchment that affect the Waipā River.

Maniapoto and the three Crown agencies agree the principal components of the Integrated River Management Plan and also have established three separate Accord agreements:

1. A Conservation Accord with the Department of Conservation that focuses on:
  - a. Management of Conservation under the conservation legislation and recognition of Maniapoto interests in natural and historical resources, freshwater fisheries and freshwater fish habitats in the Waipā River and its catchment for present and future generations
2. A Primary Industries Accord with the Ministry for Primary Industries that focuses on:
  - a. Management of fisheries under the fisheries legislation
  - b. The preservation, protection, and management of customary, commercial, recreational and environmental interests of Maniapoto in the Waipā River;
  - c. Providing for the utilisation of fisheries resources while ensuring sustainability
  - d. Customary fishing interests in all fisheries matters including the Fisheries Act, commercial, customary, recreation and aquaculture (including aquaculture on land)
  - e. Interests in whitebait, mussels, watercress, tuna stock, any other fish stocks
3. A Local Government Accord with the Department of Internal Affairs that focuses on:

- a. Resource management, biosecurity and local government functions of the Waikato Regional Council under the Resource Management, Biosecurity and Local Government Acts and any other relevant legislation.

#### **4.3 Co-management Arrangement: Joint Management Agreement**

Maniapoto and the Waikato Regional Council, alongside four other District Councils (Waikato, Waipā, Ōtorohanga and Waitomo) also entered into a JMA on 3rd April 2013. The purpose of the JMA was to provide for the local authorities and Maniapoto to work together on matters affecting the Waipā River. The agreement outlined the functions, duties and powers provided for in the Resource Management Act 1991<sup>41</sup> and to give effect to the Waipā River Act.<sup>42</sup>

The JMA implementation plan detailed the principles of the agreement, role of monitoring activities, resource planning documents and resource consents for the Waipā River. The JMA includes the Maniapoto objectives for the Waipā River as an appendix.

The scope of the Joint Management Agreement covered<sup>43</sup>:

- (a) matters relating to the Waipā River and activities within its catchment affecting the Waipā River as depicted in Schedule One;
- (b) matters relating to the exercise of shared functions, duties and powers in relation to:
  - (i) monitoring and enforcement activities as provided for in section 21 of the Waipā River Act;

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[http://www.legislation.govt.nz/act/public/2012/0029/latest/whole.html?search=sw\\_096be8ed80d1ff5b\\_obje ctives\\_25\\_se&p=1#DLM3335241](http://www.legislation.govt.nz/act/public/2012/0029/latest/whole.html?search=sw_096be8ed80d1ff5b_obje ctives_25_se&p=1#DLM3335241) at clause 19

<sup>42</sup> <https://www.waikatoregion.govt.nz/assets/PageFiles/Templates/Signed-Joint-Management-Agreement-Waipā-River-Maniapoto-Māori-Trust-Board.pdf> p. 4

<sup>43</sup> <https://www.waikatoregion.govt.nz/assets/PageFiles/Templates/Signed-Joint-Management-Agreement-Waipā-River-Maniapoto-Māori-Trust-Board.pdf> p. 4

(ii) preparing, reviewing, changing or varying an RMA Planning Document, as provided for in section 22 of the Waipā River Act; and

(iii) considering applications under Part 6 of the RMA in relation to resource consents as provided for in section 23 of the Waipā River Act.

(c) additional duties, functions or powers as agreed between the Maniapoto and the Local Authorities, whether collectively or individually.

The JMA followed the guiding principles from the Act to promote the overarching purpose of the Act, to respect the mana of Maniapoto, to promote the principle of co-management and have a shared commitment.<sup>44</sup>

#### **4.3 Co-management Arrangement: Maniapoto Iwi Environmental Management Plan**

In 2007, Maniapoto developed He Mahere Taiao, a first-generation Iwi Environmental Management Plan for Maniapoto. Maniapoto realised following the co-governance and co-management Deed and the Nga Wai o Maniapoto (Waipā River) Act 2012 that an updated and new Maniapoto Iwi Environmental Management Plan was required. Maniapoto applied for funding in 2013 to the Waikato River Clean-Up Trust to fund a new Iwi Environmental Management Plan. Maniapoto was successful in the application which led to a multi-year project to develop the Iwi Environmental Management Plan. Maniapoto had structures in place before the co-governance framework and before European settlement:

Prior to European settlement, Maniapoto had well established social structures, tikanga, and kawa: distinct belief systems that ordered the exercise of rangatiratanga and kaitiakitanga for land, water, the ocean, the sky and all the natural resources within those realms. These systems extended to include family relationships, customary land rights and interests, conflict resolution and the protection and use of the environment through the application of tikanga and Mātauranga Māori.<sup>45</sup>

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[http://www.legislation.govt.nz/act/public/2012/0029/latest/whole.html?search=sw\\_096be8ed80d1ff5b\\_obje ctives\\_25\\_se&p=1#DLM3335241](http://www.legislation.govt.nz/act/public/2012/0029/latest/whole.html?search=sw_096be8ed80d1ff5b_obje ctives_25_se&p=1#DLM3335241) at clause 20

<sup>45</sup> Maniapoto Māori Trust Board. (2016) Maniapoto Iwi Environmental Management Plan, 1.2.4, p. 13.

The Maniapoto Iwi Environment Management Plan (“the Plan”) is a Maniapoto comprehensive document that covers not only the Waipā River but also the Maniapoto rohe. It is a direction-setting document for Maniapoto comprising issues, objectives, policies and actions. The Plan asserts organised systems through tikanga and kaitiakitanga that were in place before colonisation and which have continued to this day. The purpose of the Plan is to protect, restore and enhance the relationship of Maniapoto with the environment, including their economic, social, cultural and spiritual connections.<sup>46</sup> The Plan is “a tool to support the leadership of Maniapoto at the forefront of exercising kaitiakitanga and rangatiratanga within the Maniapoto rohe.”<sup>47</sup> The Plan includes the co-governance and co-management arrangements for the Waipā River. The Environmental Management Plan contains the links to the Maniapoto-Crown Accords.

#### **4.4 Joint Management Agreements**

The Deed at Part 5 provided for Maniapoto to have five individual JMAs with one regional (Waikato Regional Council) and four local councils (Waikato District Council, Waipā District Council, Ōtorohanga District Council and Waitomo District Council). Each JMA would require annual meetings, resources and implementation strategies.

In 2011, Maniapoto developed a framework focused on building relationships between the iwi, regional and local authorities, community and other key stakeholders. Meetings with the local and regional councils agreed to one JMA with the five councils and Maniapoto. This solution combines all the resources and leads to collective thinking for the Waipā River catchment.

A focus for the Waikato Regional Council has been their 20-year Waipā Catchment Plan that looks at the protection and restoration of the health and wellbeing of the Waipā and in turn the Waikato River. The key objective is to get critical partners, Maniapoto and others, to develop an integrated management plan for works in the Waipā River catchment. The JMA for Maniapoto and the five

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<sup>46</sup> Maniapoto Māori Trust Board. (2016) Maniapoto Iwi Environmental Management Plan, 1.1.2, p. 12.

<sup>47</sup> Maniapoto Māori Trust Board. (2016) Maniapoto Iwi Environmental Management Plan, 1.1.5, p. 12.

councils includes reference to the Local Government Accord between Maniapoto and the Crown. It provides for local authorities and Maniapoto to work together on matters affecting the Waipā River. The JMA implementation plan details the principles of the agreement, role of monitoring activities, resource planning documents and resource consents for the Waipā River.

#### **4.5 Regulations and Bylaws for the Upper Waipā River**

Section 32 of the Ngā Wai o Maniapoto (Waipā River) Act allows for Maniapoto to make regulations for the management of the aquatic life, habitats and natural resources in the Upper Waipā under the Fisheries Act 1996. The regulations allow Maniapoto to manage customary fishing on the Waipā River through the issuing of customary fishing authorisations. Maniapoto can also recommend to the Minister bylaws that restrict or prohibit fishing on the Waipā River of fisheries under the Fisheries Act 1996. The regulations and bylaws are closely linked with the Primary Industries Accord, discussed later, and the fisheries objectives that provide the foundation for the fisheries regulations that will come from the Upper Waipā River Fish Plan.

#### **4.6 Upper Waipā River Fish Plan**

In 2013, the Waikato River Authority gave funding for a Fisheries Plan for the Upper Waipā River. Under section 11A of the Fisheries Act 1996, this plan, will be deemed to be the fisheries component of the Upper Waipā River integrated management plan. The objectives for the fishery will provide direction for the Upper Waipā River Fish Regulations. The Fisheries Plan is specific to the Upper Waipā River and linked to the overarching purpose of the Ngā Wai o Maniapoto (Waipā River) Act 2012 i.e., “To restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia.”<sup>48</sup>

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<sup>48</sup> Ngā Wai o Maniapoto (Waipā River) Act 2012, 3(1).

The Fisheries Plan principles and values include kotahitanga, te mana tuku iho o Waiwaia, te mana o te wai, manaakitanga, tikanga, and kawa.

The objectives, actions and directions to achieve the vision of the Fisheries Plan include rangatiratanga, kaitiakitanga, hononga and mātauranga. Tikanga within the Fisheries Plan is a principle and value, and kaitiakitanga is an objective. The Fisheries Plan seeks to use traditional values to create new actions to restore and maintain the quality of the Waipā River. The Fisheries Plan acts as a foundation for the Waipā River Fisheries Regulations which are currently in development. The resulting Waipā River legislation<sup>49</sup> is another vehicle for Maniapoto to exercise their kaitiakitanga and tikanga for the Waipā River. The Maniapoto Iwi Environmental Management Plan will incorporate the Fisheries Plan and its actions. The Fisheries Plan forms part of the Integrated Catchment Management Plan for the Waipā River.

#### **4.7 The Crown-Maniapoto Accords**

The Maniapoto and Crown Accords have been a vital part of the co-governance and co-management arrangements. These have been integral to establishing how Maniapoto and the Crown agencies would work together. Developed between 2010 and 2014, Maniapoto and the Crown have signed 10 Accords in total. The Waiwaia Accord is the overarching accord that links the Prime Minister, Minister of Treaty Negotiations, Minister for the Environment, Minister of Māori Affairs and any other Minister/persons as agreed. The Crown and Maniapoto signed the Deed for the Co-governance and Co-Management Agreement for the Waipā River on the same day as the Waiwaia Accord. The remaining Accords are schedules to the Waiwaia Accord which was developed similarly to the Kiingitanga Accord by Waikato-Tainui. The Crown signed the Waikato-Tainui Kingitanga Accord on the same day as the Deed.

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<sup>49</sup> Nga Wai o Maniapoto (Waipā River) Act 2012.

YEAR OF SIGNING	DATE OF SIGNING	ACCORD SIGNED	PARTIES TO ACCORD
<b>2010</b>	27 September	Waiwaia Accord	<ul style="list-style-type: none"> <li>• Prime Minister</li> <li>• Minister of Treaty Negotiations</li> <li>• Minister for the Environment</li> <li>• Minister of Māori Affairs</li> <li>• Any relevant Minister/persons as agreed</li> </ul>
<b>2011</b>	29 September	Environment Accord	<ul style="list-style-type: none"> <li>• Minister for the Environment</li> <li>• Secretary for the Environment</li> </ul>
	15 December	Taonga Tuturu Accord	<ul style="list-style-type: none"> <li>• Minister for Arts, Culture and Heritage</li> <li>• Chief Executive of the Ministry for Culture and Heritage</li> </ul>
<b>2012</b>	26 September	Māori Affairs Accord	<ul style="list-style-type: none"> <li>• Minister of Māori Affairs</li> <li>• Chief Executive of Te Puni Kokiri</li> </ul>
	26 September	Crown Lands Accord	<ul style="list-style-type: none"> <li>• Commissioner of Crown Lands</li> </ul>
	26 September	Land Information Accord	<ul style="list-style-type: none"> <li>• Minister for Land Information</li> </ul>
<b>2013</b>	27 November	Energy and Resources Accord	<ul style="list-style-type: none"> <li>• Minister of Energy and Resources</li> <li>• Chief Executive of the Ministry of Business Innovation and Employment</li> </ul>
	23 December	Conservation Accord	<ul style="list-style-type: none"> <li>• Minister of Conservation</li> <li>• Director-General of Conservation</li> </ul>
<b>2014</b>	28 January	Local Government Accord	<ul style="list-style-type: none"> <li>• Minister of Local Government</li> </ul>



			<ul style="list-style-type: none"> <li>Chief Executive of the Department of Internal Affairs</li> </ul>
	8 August	Primary Industries Accord	<ul style="list-style-type: none"> <li>Minister for Primary Industries</li> </ul>

The Crown-Iwi Accords are arrangements with which the river iwi have engaged; and for Maniapoto, there are 10 Accord agreements. The Deed refers to the signing of the Waiwaia Accord and gives provision for further Accords to be agreed between Maniapoto and the following parties:

- (a) The Minister of Fisheries and Aquaculture and the CE of the Ministry of Fisheries;
- (b) The Minister of Conservation and the Director-General of Conservation;
- (c) The Minister for the Environment;
- (d) The Minister of Māori Affairs;
- (e) The Minister for Land Information;
- (f) The Minister for Arts, Culture and Heritage;
- (g) The Minister for Local Government;
- (h) The Minister of Agriculture;
- (i) The Minister for Biosecurity;
- (j) The Minister of Energy and Resources;
- (k) The Commissioner of Crown Lands; and
- (l) Any other Ministers or persons agreed under Clause 8.4 of the Management of the Waipā River.

The Waiwaia Accord was developed between Maniapoto and Crown officials and was the priority for development by Maniapoto and the lead agency, Te Puni Kōkiri. The Waiwaia Accord implementation plan and the Māori Affairs Implementation plan were developed under the same programme because Te Puni Kōkiri is the lead agency.

The role of Maniapoto is to work with the Crown on co-governance and co-management agreements. Te Puni Kōkiri, as the lead Crown agency, has provided funding for Maniapoto to develop and implement an Accords framework across 10 Maniapoto-Crown Accords. The success of the Accord implementation is dependent on the relationship between Maniapoto and the Crown; Maniapoto worked with Te Puni Kōkiri to give it a deeper understanding of how Maniapoto views the Accords process and the future direction of the agreements while providing a high-level vision for Maniapoto.

The first lead agency for the Waiwaia Forum for Maniapoto was the Ministry for the Environment; the forum later became the responsibility of Te Puni Kōkiri. Some river iwi had the Ministry for the Environment or Te Puni Kōkiri as their lead agency but that excluded Waikato-Tainui who dealt directly with the Department of Prime Minister and Cabinet. Ultimately, all of the river iwi would have Te Puni Kōkiri as the overarching lead agency.

Maniapoto and the Crown entered into Accord agreements that are considered compulsory due to both parties' agreement. Initially, there were 11 Maniapoto-Crown Accords with different Ministries. Since the Deed signing in 2010, some Crown agencies have since merged with other Crown agencies to create super ministries (e.g., Ministry of Primary Industries which combined the fisheries, agriculture and forestry Accords) which has resulted in only 10 Accords between Maniapoto and the Crown:

1. Waiwaia Accord (the overarching Accord)
2. Primary Industries (formerly Fisheries, Aquaculture, Agriculture and Biosecurity)
3. Conservation
4. Environment
5. Māori Affairs
6. Land Information
7. Taonga Tūturu
8. Local Government

9. Energy and Resources

10. Crown Lands.

#### **4.8 The Waiwaia Accord**

The overarching Accord is known as the Waiwaia Accord, to which Maniapoto and the Crown are parties. The Waiwaia Accord affirms the commitment between Maniapoto and the Crown towards co-governance and co-management over the Waipā River. Both parties' commit to the overarching purpose of restoring and maintaining the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia. The Waiwaia Accord is a relationship agreement to enhance and sustain the relationship between Maniapoto and the Crown. Initially, the lead agency was the Ministry for the Environment; it was responsible for the relationship between Maniapoto, and the Crown was represented by the Ministry for the Environment. Te Puni Kokiri later replaced the Ministry for the Environment as the lead agency.

The Waiwaia Accord, as the first Accord between the Crown and Maniapoto, was signed on 27th September 2010. It was a solemn compact between the Crown and Maniapoto and committed both parties to negotiate and develop additional Accords for implementation. In total, 10 Accords were signed along with eight Accord Implementation Plans. Unfortunately, despite the 18 Accord agreements in place between the Crown and Maniapoto, the Crown has not adequately staffed and resourced the implementation of these Accords. The intention of the Accords has not been fully realised in 8 years and has resulted in the Accord mechanisms being ineffective and costly to Maniapoto.

The Accords focus on achieving a holistic and co-ordinated approach to the fulfilment of the overarching purpose in restoring the Waipā River. Maniapoto pushed continually to have exclusive decision-making powers within the Upper Waipā River and to focus on building the capability and capacity of the Maniapoto people. During the development of the Accords the Crown and Maniapoto

agreed how they would work together to fulfil their mutual obligations under the Accords. As part of the work programmes, Maniapoto pushed for specific requirements including: annual reporting on progress, input into that particular Ministry's Statement of Intent, Maniapoto input into Ministerial organisational restructuring and training for the Ministry staff who engaged with the Accord.

An integrated management approach looks for areas to eliminate duplication or where opportunities exist to work across multiple Accords and Ministries. The possible extent of Maniapoto kaitiakitanga at the development stage included regular relationship meetings with the Crown officials to stay abreast of new policies or processes that may impact on Maniapoto and to progress the Accord development or implementation. Most times this consultation involved travel to Wellington and a revolving door of meetings with various Crown agencies and officials over 2 days. It was a rare occurrence that Crown officials would visit the Maniapoto rohe. Most of the Accord development meetings occurred in Wellington. While establishing the annual work programme for each respective Accord, Maniapoto internship and secondment opportunities were requested. Our Maniapoto people, based in Wellington studying at Victoria University, were successful in obtaining Crown internship positions as per Accord agreements. The intention was to assist our Maniapoto people with these opportunities in the hope that one day they would eventually reciprocate their skills and experience back to Maniapoto.

Raising awareness of the Accords and active participation with Crown officials was difficult between the years 2011 and 2015. Then in December 2015, there was a sudden shift to recognise the importance of the Accords and a willingness to progress the implementation plans for each Accord. Throughout the engagement with the Crown, Maniapoto continued to pursue opportunities for input into Crown working parties, policy planning and legislative development, specifically if there was a direct impact on Maniapoto and the Waipā River.

A monitoring framework was to be developed with the Crown to easily see the progress of the Accords and provide a dashboard for annual the Waiwaia Forum with the Prime Minister and Ministers. The

Environment Accord and the Taonga Tuturu Accord contained good examples of the development and implementation of the Crown-Maniapoto Accords.

#### **4.9 The Environment Accord**

The Environment Accord addresses Maniapoto interests in the preservation and protection of Maniapoto interests in resource management within the Waipā River and its catchment. The Accord, provides for Maniapoto decision-making within the Upper Waipā River and the building of Maniapoto capacity amongst the people.

The Purpose of the Environment Accord is to:

- (a) reflect the commitment of the Crown and Maniapoto to enter a new era of co-management over the Waipā River with the overarching purpose of the restoration and maintenance of the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaia;
- (b) set out how Maniapoto, the Environment Minister and the Chief Executive of the Ministry for the Environment will enhance and sustain their ongoing relationship; and
- (c) outline how the Crown, through the Minister and the Chief Executive, recognizes and will engage with the Trust Board to provide for the exercise of Kaitiakitanga by Maniapoto.

This Accord, in conjunction with the Ministry for the Environment, included a Joint Work Project which was instrumental in providing direction for Maniapoto on restoration priorities. Maniapoto and the Ministry for the Environment entered a joint work project, which is known as the “Maniapoto Special Project”. The project was to identify and prioritise critical issues and hot spot areas for the Waipā River catchment. Once high priority areas were identified, a co-ordinated approach was to prioritise and implement remediation initiatives with critical internal and external stakeholders. The Maniapoto Special Project was created in response to the development of the Waikato River Scoping Study, in which Maniapoto had limited participation. Waikato-Tainui negotiated the WRISS with the Crown. The purpose of the WRISS is to identify the rehabilitation priority actions and associated costs to restore and protect the health and wellbeing of the Waikato River. A series of wānanga were held from November 2013 onwards to capture information about

priority areas. Maniapoto engaged NIWA to facilitate the many wānanga, collate the data and present it back to Maniapoto with the priority areas for the Upper Waipā River catchment.

The implementation strategy for the Environment Accord required meetings to discuss the Accord implementation and to agree on the implementation strategy in advance, i.e., in the course of developing the Accord, at a general level. The Accord implementation strategy included: annual reporting and other processes, Input into the Statement of Intent for the Ministry for the Environment, input into organisational restructuring at the Ministry, the opportunity to explore additional mechanisms within the environment portfolio and the opportunity to provide training on the Environment Accord to the core staff directly connected to the implementation of the Environment Accord.

One example of an initiative to support training emerged from requests by Maniapoto kaitiaki for workshops to build capacity to engage in the Resource Management Act 1991. Maniapoto and the Ministry for the Environment collaborated to facilitate an RMA 101 workshop in 2014; this was facilitated by the Ministry for the Environment officials. The workshop attracted a good deal of interest from and attendance by Maniapoto people.

Integrated management was a crucial element in the Environment Accord and ensuring that there was a strong focus on kaitiaki and mana whakahaere. Specific activities concerning the Environment Accord included the annual relationship meetings; meetings with Maniapoto and Crown staff as required; joint work projects; any internships, university holiday employment, student research projects and secondments available at the Ministry; annual training workshops on the Resource Management Act 1991; the Commissioner Training “Making Good Decisions” programme; opportunity to apply as a Heritage Protection Authority; formalising an information sharing and communication protocol between the parties; the practical implementation of the Maniapoto Iwi Environment Management Plan within Ministry for the Environment’s daily operations; and the provision for kaitiakitanga at the local level wherever possible. The engagement mechanisms for the

Environment Accord included enhanced opportunities for Maniapoto to provide input into Ministry working parties. Furthermore, there was to be Maniapoto engagement on Ministerial policy planning and legislative development concerning the Waipā River and preparation of management strategies/plans and provision of advice on appeals and specific circumstances.

#### **4.10 The Tāonga Tuturū Accord**

In partnership with the Ministry for Culture and Heritage, Maniapoto developed the Taonga Tuturu Accord. The Ministry for Culture and Heritage is responsible for preserving and protecting taonga tuturu. For this specific Accord, the agreement concerned preservation, protection, and management of tāonga tuturū found within the Waipā River and its catchment or identified for present and future generations as being of Maniapoto origin. The process for claiming taonga tuturu when found is cumbersome. Maniapoto represents Maniapoto interests when taonga are located in the Maniapoto rohe or have an affiliation to Maniapoto. It is essential that the Maniapoto iwi is involved in the decision-making within the Maniapoto rohe and have tino rangātiratanga over Maniapoto knowledge and resources. The purpose of this Accord is to set out how the Minister for Arts, Culture and Heritage, the Ministry for Culture and Heritage and the Maniapoto Māori Trust Board will direct the interaction between the parties on matters specified in the Accord and will establish and maintain a positive, cooperative and enduring relationship between the parties. The implementation strategy was similar to that for the other Accords and very general, and the deliverables included one relationship meeting between the Chief Executive of the Ministry for Culture and Heritage and the Chief Executive of the Maniapoto Māori Trust Board. The parties needed to agree to an information-sharing protocol when they meet to discuss how the Accord will support the implementation and roles of their staff, including having an awareness of the Accord.

Under the Taonga Tuturu Accord, Maniapoto can register with the Ministry for Culture and Heritage as a Registered Collector of taonga tuturu. Being a registered collector allows it to purchase or be appointed custodian of Crown-owned taonga tuturu. The legislation that the Ministry must uphold is

the Protected Objects Act 2006. When a taonga tuturu is found, a notification protocol is triggered; this protocol involves the finder taking the taonga tuturu to a museum, or if found on Department of Conservation land, to the finder's local office so that he/she can complete a notification form for the Ministry. The Ministry assigns a registration number to the taonga and then notifies the relevant iwi and other relevant parties of a taonga find and its find location. The iwi are then able to claim ownership and custody of the taonga tuturu. The find is later published publicly, and the Ministry can receive other claims for ownership of it. Where more than one iwi makes an application for a taonga, the Ministry must work through the validity of each application to determine ownership. Once satisfied, the Chief Executive of the Ministry applies to the Registrar of the Māori Land Court for an order to confirm the owner of the taonga tuturu.

The Maniapoto iwi has a notification protocol whereby, when taonga tuturu is found within the Maniapoto rohe or has a link to Maniapoto, the Ministry will contact Maniapoto to advise of the taonga and give a date for a claim of ownership to be lodged. When there is a taonga find, a museum will examine the taonga to see what conservation is needed. The museum will document the taonga, including what type of taonga it is and any information about its find site. Despite the notification protocol, the period to claim ownership is just 60 working days, which creates an opportunity for others to claim ownership. Where more than one person claims ownership of the same taonga tuturu, the Chief Executive of the Ministry must be satisfied with the claim and determine who owns the taonga tuturu. The find location can determine the ownership of the taonga. If the taonga tuturu find is within the Maniapoto rohe and then another iwi claim the taonga as theirs, the respective iwi often discuss the ownership amongst themselves. Once agreed, the other claimant will withdraw its claim. Claims for temporary ownership can be made to the Ministry when there is a taonga find. Maniapoto claim temporary ownership of taonga tuturu found within the Maniapoto rohe. If granted, the taonga are sent to a predetermined site until the Māori Land Court sits, at which time the permanent ownership will be determined. Where Maniapoto is the only claimant, and the Chief Executive of the Ministry determines that the taonga tuturu will be vested in



the Maniapoto Māori Trust Board, the Court will make an order to vest the taonga tuturu in the Maniapoto Māori Trust Board on behalf of the people of Ngati Maniapoto. Where an export application has been made to remove a Maniapoto taonga from New Zealand, the Chief Executive will contact Maniapoto and consult with the iwi. Other features of the implementation strategy include a list from the Ministry of all the historical publications commissioned by the Ministry that relate to Maniapoto which the Ministry can provide to Maniapoto on request. If there are any issues with information contained within a Ministry historical publication relating to Maniapoto are considered not to be factual, then there may be an opportunity to correct the document.

Where the Ministry is required to undertake work in the Accord area, and it may need cultural or spiritual advice, the Chief Executive of the Ministry will contact the Board to provide these services. Furthermore, if the Chief Executive wants historical, cultural information or commemorative information the Board will be contacted.

The Ministry has a nomination register which shows where it has appointed people to ministerial boards. Maniapoto can provide names of nominees for Boards under the Ministry. In addition, if there are any Ministerial appointments available within the Ministry, the Board can nominate a candidate.

The Ministry funds culture, heritage and arts initiatives and also makes funds available for commemorating Waitangi Day. The Maniapoto rohe contains national monuments, war and historic graves which are of special interest and significance to Maniapoto. The Ministry can provide funding for the maintenance of those graves.

#### **4.11 Summary**

This chapter has outlined the mechanisms through which Maniapoto has pursued co-governance and co-management arrangements with various Crown bodies. This chapter includes co-management arrangements, regulations and bylaws around the Upper Waipā, joint management plans with

councils and broader environmental management plans. It has also outlined a parallel programme which has seen the development of a series of Crown Maniapoto Accords, the most notable being the Waiwaia Accord, the Environment Accord, and the Taonga Tuturu Accord. The next chapter reviews the outline of the initial V&S developed as a part of the Waikato River Settlement for ngā wai o Maniapoto.

## Chapter 5

### The Waipā River Deed and the Vision and Strategy

#### 5.1 The Vision and Strategy

In the 2010 Waikato-Tainui River legislation, the lower Waipā River is part of the Waikato River definition: “‘Waikato River’ means the Waikato River from Te Taheke Hukahuka to Te Puuaha o Waikato, and includes the Waipā River from its junction with the Puunui River to its confluence with the Waikato River”<sup>50</sup>

<sup>51</sup>The Waikato River Settlement included within it the development of a vision and strategy for the Waikato River. The result was Te Ture Whaimana o te Awa o Waikato (Vision and Strategy). Waikato-Tainui had a vision for the Waikato River and had a distinctive and enduring connection to the Waikato River. That vision has been recognised as of national importance as stated within the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.<sup>52</sup>

The V & St are of equal, and at times more considerable, statutory significance to that of the central government national policy statement regarding the Waikato River. Importantly, it gives power back to Waikato-Tainui regarding the restoration and protection of the wellbeing of the Waikato River, therefore, allowing Waikato-Tainui to continue to practise their tikanga and kaitiakitanga of the Waikato River. The V&S are the most visible form of action of Crown engagement regarding the Waikato/Waipā Rivers. That settlement allocated an initial \$210m and through river settlement negotiations with Maniapoto, and it provided another \$10m for clean-up funding.

The V&S attached at Schedule 1 of the Act state that:

Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting

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<sup>50</sup> [file:///C:/Users/kapui/Downloads/5982\\_Waikato-Tainui-Deed-of-Settlement-in-relation-to-the-Waikato-River-17-Dec-2009%20\(1\).pdf](file:///C:/Users/kapui/Downloads/5982_Waikato-Tainui-Deed-of-Settlement-in-relation-to-the-Waikato-River-17-Dec-2009%20(1).pdf) at 6.14.1

<sup>52</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

<sup>52</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

the health and wellbeing of the Waikato River, and all it embraces, for generations to come.<sup>53</sup>

At Clause 11 of the Waikato River Act<sup>54</sup>, the V&S is part of the Waikato Regional Policy Statement. The V&S also affected the Resource Management Act 1991 (RMA). Planning documents issued under the RMA must be consistent with the V&S.<sup>55</sup> Limitations have been placed on councils not to make laws or rules that would nullify the Vision and Strategy. Regional policy statements, regional plans, and district plans must all comply with, include within or give priority to the Vision and Strategy. The V&S prevail over a national environmental standard<sup>56</sup> and is of note in other existing legislation<sup>57</sup>. The V&S are a powerful tool for the Waikato and Waipā River iwi, including Maniapoto.

The V&S each had their objectives and strategy for the Waikato River:

The goals of the Vision are spelled out in Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 in the following way:

- (a) the restoration and protection of the health and wellbeing of the Waikato River:
- (b) the restoration and protection of the relationships of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships:
- (c) the restoration and protection of the relationships of Waikato River Iwi according to their tikanga and kawa with the Waikato River, including their economic, social, cultural, and spiritual relationships:
- (d) the restoration and protection of the relationships of the Waikato Region's communities with the Waikato River, including their economic, social, cultural, and spiritual relationships:
- (e) the integrated, holistic, and coordinated approach to the management of the natural, physical, cultural, and historic resources of the Waikato River:
- (f) the adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River and those effects that threaten serious or irreversible damage to the Waikato River:
- (g) the recognition and avoidance of cumulative adverse effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within the catchment on the health and wellbeing of the Waikato River:

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[http://www.legislation.govt.nz/act/public/2012/0029/latest/whole.html?search=sw\\_096be8ed80d1ff5b\\_obje ctives\\_25\\_se&p=1#DLM3335241](http://www.legislation.govt.nz/act/public/2012/0029/latest/whole.html?search=sw_096be8ed80d1ff5b_obje ctives_25_se&p=1#DLM3335241) at Schedule 1.

<sup>54</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, s 11.

<sup>55</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, s 12.

<sup>56</sup> Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, s 12.

<sup>57</sup> Conservation Act 1987. National Parks Act 1980. Reserves Act 1977. Wild Animal Control Act 1977. Wildlife Act 1953. Resource Management Act 1991.

- (h) the recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities:
- (i) the protection and enhancement of significant sites, fisheries, flora, and fauna:
- (j) the recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental, and economic wellbeing requires the restoration and protection of the health and wellbeing of the Waikato River:
- (k) the restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length:
- (l) the promotion of improved access to the Waikato River to better enable sporting, recreational, and cultural opportunities:
- (m) the application to the above of both maatauranga Maaori and the latest available scientific methods.

Strategy: To achieve the vision, Schedule 2 also refers to the following approach, quoted here in full:

- (a) ensure that the highest level of recognition is given to the restoration and protection of the Waikato River:
- (b) establish what the current health status of the Waikato River is by utilising maatauranga Maaori and the latest available scientific methods:
- (c) develop targets for improving the health and wellbeing of the Waikato River by utilising maatauranga Maaori and the latest available scientific methods:
- (d) develop and implement a programme of action to achieve the targets for improving the health and wellbeing of the Waikato River:
- (e) develop and share local, national, and international expertise, including indigenous expertise, on rivers and activities within their catchments that may be applied to the restoration and protection of the health and wellbeing of the Waikato River:
- (f) recognise and protect waahi tapu and sites of significance to Waikato-Tainui and other Waikato River iwi (where they do decide) to promote their cultural, spiritual, and historical relationship with the Waikato River:
- (g) recognise and protect appropriate sites associated with the Waikato River that are of significance to the Waikato regional community:
- (h) actively promote and foster public knowledge and understanding of the health and wellbeing of the Waikato River among all sectors of the Waikato regional community:
- (i) encourage and foster a "whole of river" approach to the restoration and protection of the Waikato River, including the development, recognition, and promotion of best practice methods for restoring and protecting the health and wellbeing of the Waikato River:
- (j) establish new, and enhance existing, relationships between Waikato-Tainui, other Waikato River iwi (where they so decide), and stakeholders with interest in advancing, restoring, and protecting the health and wellbeing of the Waikato River:
- (k) ensure that cumulative adverse effects on the Waikato River of activities are appropriately managed in statutory planning documents at the time of their review:
- (l) ensure appropriate public access to the Waikato River while protecting and enhancing the health and wellbeing of the Waikato River.

## 5.2 Maniapoto Objectives for the Waipā River

In conjunction with the V&S, each of the river iwi has objectives for their respective river set out in their deeds. The individual river iwi objectives were established by each river iwi to provide a

foundation that would underpin the co-governance and co-management framework. There is mention of the Maniapoto Objectives; however, they are given little prominence in the overall of the co-governance and co-management arrangements for the Waipā River. The reason for that is that the extension of the V&S to the Upper Waipā River puts the Vision at the front and centre, and the Maniapoto objectives for the Waipā River become invisible in comparison.

The overarching purpose of the Maniapoto objectives mirrored that of the Deed<sup>58</sup> with the objectives<sup>59</sup> focused on:

1. Hononga (Inclusive and valued relationships between all key stakeholders)
2. Maniapoto (Maniapoto ancestral relationships is revitalised and recognised)
3. Partners (Partner/River relationships are clear, maintained and focused).

The Maniapoto objectives provided the following strategies:<sup>60</sup>

- a. Integrated, holistic and collaborative planning and management
- b. Hononga ki nga wai
- c. Research, knowledge and information
- d. Clean-up activity
- e. Training and education

The focus of the Maniapoto objectives was to strengthen Maniapoto kaitiakitanga and tikanga and reinforce critical internal and external stakeholder relationships that would enable the achievement of the purpose of the Deed. The Maniapoto objectives launched in 2012 released just before the enactment of the Act that extended Te Ture Whaimana o te Awa o Waikato (V&S) into the Upper Waipā River.

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<sup>58</sup> Maniapoto Māori Trust Board. (2010). Deed in relation to Co-governance and Co-management of the Waipā River, Overarching Purpose.

<sup>59</sup> Maniapoto Māori Trust Board. (2012). Maniapoto Objectives for the Waipā River Framework.

<sup>60</sup> Maniapoto Māori Trust Board. (2012). Maniapoto Objectives for the Waipā River Framework.

The purpose of the objectives for Maniapoto was to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of Te Mana Tuku Iho o Waiwaia. The focus of the Maniapoto objectives was to strengthen Maniapoto kaitiakitanga and tikanga and reinforce critical internal and external stakeholder relationships that would enable the achievement of the overarching purpose of the Deed. These objectives are essential to the restoration strategy and the priorities for the Waipā River.

### **5.3 Maniapoto Iwi Priorities for the Waipā River**

During the development of this thesis, I was part of a team which undertook a project between the Waikato-Tainui Research and Development College and the Waikato River Authority that incorporated river iwi priorities for the Waikato and Waipā River Restoration Strategy. Dairy NZ developed the restoration strategy project along with the Waikato Regional Council and the Waikato River Authority and enabled the development of the Maniapoto iwi priorities that would sit within the broader scheme of the restoration strategy.

The Maniapoto priorities for the Waipā River report provided an excellent foundation to the Maniapoto iwi priorities project with Maniapoto people seeking outcomes concerning safe water, increased and abundant kai populations and the protection of waahi tapu sites. Given the environmental pressures within Maniapoto, the areas that needed significant redress were the impact of farming and river control activities and more specifically, vegetation clearance. Access to Maniapoto whanau and reconnection back to the Waipā River was another area of priority.

The distribution of the clean-up trust funding required direction regarding the restoration efforts across the Waikato and Waipā rivers and a coordinated approach to the clean-up projects with identified projects and costings associated with their implementation.

The project identified eight Maniapoto iwi priority projects including (projects 1 and 2) marae and community water supply project focused on identifying and protected known puna (springs), (projects

3 and 4) Waitomo Stream and Middle Puniu River erosion and protection, (project 5) Piharau restoration and protection in the Upper Waipā River, (project 6) pou whenua projects, (project 7) kaitiaki training and implementation of the Maniapoto cultural health indicator tool for the Mangaokewa river and (project 8) better farm practices programmes for Māori land blocks in the Upper Waipā River catchment.

## **5.4 Summary**

This chapter has outlined Maniapoto specific mechanisms such as the Maniapoto Objectives and the Maniapoto Iwi Priorities for the Waipā River. The purpose of these documents in relation to the river was to articulate the Maniapoto aspirations and understanding of the Waipā River and for anyone who engages with the river to recognise Maniapoto as having mana whenua over the Upper Waipā River. The Vision and Strategy was established to restore and protect the health and wellbeing of the Waikato River, has had an immense impact on the people of Maniapoto and their objectives and aspirations for the Waipā River. The V&S has overridden the initial Maniapoto objectives with those of the V&S and the funding to implement the Maniapoto Iwi Priorities for the Waipā River is determined by the V&S and WRCUT and not Maniapoto at all.



## Chapter 6

### Discussion on the promise and reality of co-governance and co-management

#### 6.1 Introduction

This chapter reflects on the promise and the reality associated with the new era of co-governance and co-management related to the passage of the Ngā Wai o Maniapoto (Waipā River) Act.

Maniapoto have experienced challenges, difficulties and frustrations within the co-governance framework.

For Maniapoto marae where the focus is more localised, the vital interests are to maintain rangatiratanga in their respective areas, to protect waahi tapu and to advance active kaitiaki participation at a ground roots level.

Maniapoto aspire to honour their whakatauki and to enhance the mana of Maniapoto and protect Maniapoto interests. Maniapoto intend to restore the quality and integrity of ngā wai o Maniapoto (all of the Maniapoto waterways), to promote sustainability and minimise adverse effects of utilisation, to have an enduring relationship with the Crown, to build the capacity of Maniapoto people, to maintain healthy relationships with the other river iwi, to grow Māori economic development and to create visibility of the Waipā River within the framework.

#### 6.2 Co-governance and Co-management Challenges for Maniapoto

##### 6.2.1 The Vision and Strategy and the Limited Crown Response to Maniapoto

The guiding principles of interpretation in the Act introduced parliament's intention concerning the V&S as parliament's direction-setting document for the activities on the Waipā and Waikato rivers and their catchments. The V&S framework is a 'catchment-wide' approach instead of an iwi-specific approach according to the tribal area. The focus is thus on the respective Waikato River and Waipā

River hapū and their claims of ownership to the Waikato and Waipā rivers and the Deeds that have been signed in order to focus attention on what is best for all New Zealanders. Whakapapa is used to bind people to discuss mutually beneficial ways of agreeing and the division of the Waipā River between Maniapoto and Waikato-Tainui is no different. Iwi also respect invisible boundaries where a common purpose and the greater good is paramount. There is a danger that with a catchment approach, iwi will be pitted against one another as they try to get recognition for a river that is no longer the individual focus, but rather becomes part of a catchment. Furthermore, it is vital to address the role of Maniapoto in the restoration of the Waipā River when they are thrown together with other iwi along the Waipā River who have their own ideas for recovery.

The catchment-wide approach takes away the responsibility of the Crown to focus specifically on each river iwi and their rohe. Instead, this approach favours the guiding principles of the V&S once extended to the Upper Waipā River. Maniapoto states at para 23 of the Deed that they do not accept that they have ever relinquished their authority or rights over the Waipā River or its tributaries. Maniapoto further contends in the Preamble at para 18 that the deterioration of the health of the Waipā River happened while the Crown exercised overall responsibility for the management of the Waipā River. The V&S for the Waikato River, otherwise known as Te Ture Whaimana o te Awa o Waikato was developed by Waikato River iwi.

The development of the V&S for the Waikato River did not include Maniapoto. The WRISS did not include Maniapoto. Until the enactment of the Act in 2012, the V&S did not apply to the Upper Waipā River nor to Maniapoto.

### **6.2.2 The Accords**

The 10 Accords needed implementation plans with each agency to ensure that there was an annual work programme for both the Crown agency and Maniapoto to work towards fulfilling each parties' obligations to the Accords. An essential concern for Maniapoto has been to uphold their tikanga and kaitiaki responsibilities to the iwi, hapū and marae. The implementation plans have much potential to

reinforce the relationship principles and the overarching purpose of the accords. Plans that provided for the development of joint work projects that spelt out how the particular Crown entities would engage with Maniapoto on policy development and advice as well as opportunities for capability building, training, secondments, internships and holiday employment offered opportunities to develop new forms of partnership.

The Accords and implementation plans include a clear understanding of communication between the Crown and Maniapoto and the communication of information. An integrated management approach for the Crown and Maniapoto results in opportunities to reduce redundancies and to pool resources.

The River Settlement mechanisms established the Waikato River and Waipā River co-governance and co-management framework. Overall, the evidence suggests that the legislation and policies associated with the framework have been the impetus for the Crown to participate and acknowledge tikanga Māori for the Waikato and Waipā rivers. The trust relationship between river iwi and the Crown is still developing. River iwi work hard to include tikanga and kaitiakitanga practices within legislation and policy. As a way of guaranteeing recognition, this effort has been difficult to sustain. Moreover, the status of tikanga and kaitiakitanga between iwi when there are overlapping iwi claims and areas of interest inadvertently impinges on another iwi.

The implementation of the Deed and Act has now identified the protective measures necessary to safeguard the Upper Waipā River from further deterioration.

### **6.2.3 Implementing the Waiwaia Accord**

As noted earlier, the Waiwaia Accord established the Waiwaia Forum which the following attendees (or their delegates) attend:

- The Prime Minister
- The Minister for Treaty of Waitangi Negotiations

- The Minister for the Environment
- The Minister of Māori Affairs; and
- Any other individual that Maniapoto and the Crown agree.

The Waiwaia Forum, more commonly known as the Ministerial Forum, is an administratively cumbersome exercise due to the large scale of organisation that is needed. There are preforum meetings and correspondence between the Crown agencies and the lead agency. The logistics can be quite phenomenal. The Maniapoto people held initial meetings with the Crown within the Maniapoto rohe to which the Crown travelled. These meetings gave the Maniapoto iwi an opportunity to see the prime minister and ministers face-to-face in their own town and community. The iwi could participate in the forum and see for themselves the benefits of the co-governance and co-management arrangements.

Across the co-governance framework, on that occasion, Crown Ministers and officials met individually with the river iwi in their respective tribal rohe (areas). By the third year, the Crown proposed holding ministerial forums as doing so would reduce the expense for the Crown and combine all of the individual forums with river iwi at the one location. The event would take the form of a revolving door of iwi who would sit with the respective Minister for an allocated one-hour slot. The first of these forums would begin in Auckland, then move around Wellington and Hamilton over the years. The proposed arrangement caused some unrest amongst the river iwi who are responsible to their respective iwi as they wanted to hold the annual forums in their tribal rohe so that they could provide some accountability to their iwi. Unfortunately, this suggestion has not been taken up despite efforts from many of the river iwi to make it clear that this was what they wanted. On many occasions, Maniapoto have requested that the Waiwaia Forum returns to Maniapoto and they have even offered to host the other river iwi as well. The ministers and their officials declined the request to have the Waiwaia Forum in Maniapoto due to logistics. Following the signing of the

Deed, the Crown has tended to withdraw from engaging with specific iwi and has taken a more general approach whereby it meets with all of the river iwi consecutively in a single location.

The annual forum is the opportunity for iwi to provide feedback on the year's activities and to highlight the progress that has occurred between the iwi and the Crown agencies. If there are issues that need addressing, this is the time to raise them. However, again, the Crown has advised that if iwi expect to raise matters, they should forward any items for discussion. These would then be added to the agenda and so would provide ministers with the opportunity to give a response. There have also been requests for the iwi to provide any specific questions to the ministers 2-3 months before the annual forum so that officials could inform the ministers of them.

Other river iwi will take a small contingent of fewer than 10 people to the forums. These individuals are generally Board trustees, management and technicians. Maniapoto take a different stance in that they have always taken a contingent of iwi with them to the forum; generally, 40 or so kaumaatua, Kuia, Pakeke and rangatahi attend. The rationale has been to include Maniapoto whanau and create aspiration and motivation for rangatahi who may look at entering leadership, political or Crown agency positions in the future. The attendance by the Crown has usually involved between 20 and 40 participants, including the ministers and officials, who, due to their large numbers, can appear to outnumber the river iwi they meet.

A vital issue for the iwi has been the lack of time afforded to the respective iwi during this annual event. The Forum lasts for approximately 60 minutes. In each case, the iwi and Crown greet one another in a brief 3-5-minute exchange at the beginning and end of the meeting leaving about 50 minutes for the actual meeting which involves a short presentation by the iwi to the Crown and then the Crown response. The opportunity to discuss any items on the agenda and a short time of general discussion then follow.

The forum venue has typically been a hotel when held outside of Wellington, and at Parliament or Te Puni Kōkiri when the forum is in Wellington. The forums are time-bound and do not give full respect

to Maniapoto tikanga; however, the Crown does provide light refreshments. The atmosphere is very formal and requires extreme behind-the-scenes logistics in anticipation of meeting with the prime minister and other ministers.

Maniapoto therefore often requested that the Crown ministers consider attending a Waiwaia forum in the Maniapoto rohe. The rationale for holding the forum in Maniapoto was to make the engagement process with the Crown visible to the Maniapoto people as being able to meet face-to-face within the Maniapoto rohe established the mana of Maniapoto. Although the Crown ministers, including the prime minister attended Maniapoto rohe in the initial development stages of the Deed for negotiations, as of June 2018, the Crown had still not presented Maniapoto with an opportunity to host the ministers in the Maniapoto rohe.

#### **6.2.4. Implementing the Environment Accord**

As indicated above, Maniapoto requested assistance from the Ministry for the Environment on understanding the different pieces of legislation administered by the Ministry such as the Resource Management Act 1991 among others. Given that the Ministry held a plethora of data and information specifically concerning water quality for the Waipā River and the surrounding environment, Maniapoto requested access to the Ministry's document base. The opportunity for the Ministry to transfer staff to Maniapoto and for Maniapoto to second staff to the Ministry has the potential to be very positive.

A monitoring framework was needed to assess the progress of each accord. The monitoring framework would follow Accord progress and achievements. The outputs of the implementation plan included practical elements, for example, an annual meeting between the Secretary for the Ministry for the Environment and the Chief Executive for Maniapoto, and these have required precursor meetings between Ministry and Maniapoto staff. The annual meeting was to agree on joint programmes with work priorities confirmed and to agree on joint work projects. The sessions have also involved undertakings for capacity building and training opportunities that would provide

Maniapoto in our rohe with better knowledge of key environmental policies and processes. In exchange, Maniapoto has undertaken to give the Ministry for the Environment staff a Maniapoto awareness hui, the Environment Accord, and provide an update on what is happening in the Maniapoto rohe. Maniapoto and the Ministry were to actively look for opportunities for secondments, internships and holiday employment.

Although the Accords did provide for reciprocal opportunities for the Crown and Maniapoto to transfer staff and mutually build capacity, unfortunately, due to budget constraints on both parties, these have not been successful and the skills, knowledge and experience that would have been gained by Maniapoto staff and which would have been beneficial for the iwi have not yet been achieved. The intent was that Crown officials would have received insight into and understanding of Maniapoto and the issues that iwi face within the co-governance framework.

### **6.3 Maniapoto Objectives for the Waipā River vs Vision and Strategy for the Waikato River**

There have been tensions associated with the fact that Maniapoto has developed its objectives for the Waipā River and that these have differed from those spelt out in the V&S that informed the Ngā Wai o Maniapoto (Waipā River) Act. The passage of the Act extended the V&S for the Waikato River to the Upper Waipā River and effectively into the Maniapoto rohe. Maniapoto had, however, developed their own objectives for the Waipā River, focusing on hononga, Maniapoto and partners, and these objectives were specific to Maniapoto and their relationship with the Waipā River.

Maniapoto have attempted to communicate these by distributing them to all Crown agencies and local councils and by making hard copies available at the reception of the Board. The place of the Maniapoto objectives for the Waipā River and that of the V&S has left people confused.

The Ngā wai o Maniapoto (Waipā River) Act 2012 had an overarching purpose and was also granted powers and functions in relation to the cogovernance entity, the Waikato River Authority, as regards implementing the V&S for the Waikato River. The co-governance and co-management funding from

the government is primarily to enable Maniapoto to fulfil the co-management obligations that they signed up to under the Deed. The annual clean-up funding distributed by the WRA is conditional on meeting the objectives of the V&S for the Waikato River, which now applies to the Waipā River too. The Act enacted in 2012, Maniapoto was then able to apply for the clean-up funding, whereas they were not able to previously. The Maniapoto objectives have not been a focal point the clean-up activities of the Waipā River, as the Maniapoto objectives activities have been overshadowed by the V&S for the Waikato River.

As established, the V&S for the Waikato River is the primary direction-setting document over the whole of the Waipā River. Nevertheless, the tikanga and kaitiakitanga included in the V&S for the Waikato River are therefore assumed to now rule over the Waipā River in the Maniapoto rohe. This overarching of tikanga and kaitiakitanga associated with the V&S causes confusion for Maniapoto who have their own tikanga and kaitiakitanga. Complexities arise when the tikanga and kaitiakitanga of another iwi overshadows those a different iwi, in this case Maniapoto, within their rohe. Further clarity is needed to understand how the tikanga and kaitiakitanga within the V&S for the Waikato River apply to the Waipā River and specifically to the Upper Waipā River within the Maniapoto rohe. Additionally, there is a need to understand how the V&S for the Waikato River impact on Maniapoto rangatiratanga when the V&S is the crucial driver for clean-up funding and vital to the restoration policy.

### **6.3.1 Limited Maniapoto Resources to Implement the Deed and Act**

The Maniapoto Māori Trust Board in Te Kuiti faced challenges in recruiting qualified and capable staff to implement the Deed and the Act. Maniapoto have prided themselves on recruiting Māori staff primarily of Maniapoto descent to implement the Deed and Act. Despite an annual budget of \$1 million from the Crown for the implementation of the Deed and Act, this budget failed to meet the resources required to fulfil the agreed arrangements with the Crown.



Maniapoto has encouraged its people to create opportunities for employment or business, and some Maniapoto people have set up consultancy and earthworks businesses to undertake restoration projects. Despite honest attempts, some Maniapoto businesses have struggled to succeed in the clean-up of the Waipā River. Starting a restoration business involves establishing a company entity and understanding the significant obligations associated with health and safety. Council bureaucracy has challenged some business owners who want to secure status as a preferred supplier. Riparian planting, for example, has been completed through a third party and Maniapoto whanau have attended planting days as volunteers and not to get paid.

In contrast, a third party receives the contract to restore the Waipā River. The Maniapoto people are keen to be part of the restoration efforts to clean up the Waipā River. Still, the opportunities for them to engage as business owners is limited.

### **6.3.2 Crown Staff Turnover**

Another factor has been Crown staff turnover. Maniapoto recognised early in the co-governance and co-management framework that relationships were the key to success. The focus for Maniapoto is building the relationship with the Crown and specifically with Crown agencies for the Accords. Crown agencies have tended to have high turnover as staff move to different departments across the Crown spectrum, and this situation has contributed to a lack of consistency and reflects an absence of succession planning on the part of the Crown for the maintenance of partnership agreements.

During the 7 years that I worked in the co-governance framework, many Crown staff came and went, and for the most part, they would fail to adequately brief their successor before they handed over and exited the role. Crown staff turnover delays the progress for both Maniapoto and the Crown within the framework. Each time a new person took up a vacated position an exchange of contact details was required, along with an introduction meeting, a discussion about the work programme ahead of us, and an invitation from the Crown official to debrief her/him on progress to date. The length of time an official remained in his/her role would determine the amount of development

completed before that official left. The clock would then restart with a new Crown official. The experience was occurred frequently and regularly during my 7 years' working for Maniapoto and in particular for the Crown-Maniapoto accords. The Crown's institutional knowledge of what had been agreed and progressed with Maniapoto was most often lost when an official left. The institutional expertise was very rarely passed on to the new Crown employee, causing frustration for Maniapoto in progressing the accords.

## **6.4 Conclusion**

The development opportunities for the co-governance and co-management Deed in relation to the Waipā River and the Ngā Wai o Maniapoto (Waipā River) Act (2012) has been significant, but there is some difference between the 'promise' as written in the Act, and the various accords and management plans, and the reality of its implementation. The Crown must look into better resourcing of river iwi like Maniapoto. The Crown must acknowledge Maniapoto tikanga and kaitiakitanga and their importance in the practical restoration efforts of the Waipā River. Maniapoto need to provide an opportunity to share information with the iwi so that the iwi's internal capability and capacity can grow.

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