Occurrence and Resolution of the Motunui-Waitara Resource Conflict (Wai-6)

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The 'Discovery' of New Zealand

The 'Destruction' of Aotearoa
Abstract

This thesis examines the base causal mechanisms of the Motunui-Waitara resource conflict, which occurred in the early 1980s in North Taranaki, and resulted in a claim to the Waitangi Tribunal. Resource conflicts are complex social phenomena, based on disputes over the use, control, and allocation of resources. They occur as the result of both proximate causes (empirical, easily identified, site specific), and base causes (a 'wider status quo').

The resource conflict revolved around the grievances of the local iwi, over the discharge of effluent onto coastal reefs by the Waitara township, Borthwicks freezing works, the 'Synfuels' synthetic-petrol plant, and the Petralgas methanol plant.

As social action, the resource conflict resulted from readily identifiable proximate causes, but also base causal mechanisms. The discharge of effluent, a proximate cause, reflected the causal 'wider status quo', which is analysed as comprising two parts. First, social organisation as a generalised framework of occurrence, where social relations between people nature and power are based on differentiation, the development of power relations, and the creation of imbalances. Secondly, context and place as a specific framework of occurrence, where the resource conflict was a result of two conflicting processes, economic and cultural transformation, which were reflected in a context of issues: energy; indigenous peoples; and environmental awareness.

The conflict became the subject of an extremely significant claim to the Waitangi Tribunal. The process of resolution was highly contentious, taking ten years to provide one working marine outfall and land based treatment all the waste streams. During a similar timeframe there has been an attempt to remove what are perceived as base causal mechanisms through the fisheries Quota Management System, the Sealords deal, and the process of Resource Management Law Reform which resulted in the Resource Management Act 1991.

Despite these processes there has not been effective resolution of the resource conflict, which requires the removal of all causes. A process of effective resolution is suggested, revolving around the principle of partnership and the notions of active protection, balancing priorities, rights and values. Finally, the Motunui-Waitara resource conflict although not finally resolved, has had a number of positive impacts, in Waitangi Tribunal operation, and in the changing focus, from management to control, of many Maori claims and Tribunal reports.
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INTRODUCTION

THE MOTUNUI-WAITARA RESOURCE CONFLICT

In 1982 a claim was made to the Waitangi Tribunal by a North Taranaki iwi, Te Atiawa (Wai-6). The issue which prompted the claim may be described as the 'Motunui-Waitara resource conflict', and was centred on dissension over the discharge of untreated domestic and meatworks effluent into the Waitara embayment, and onto nearby coastal reefs. Resource conflicts are complex social phenomena, often assumed to result from proximate causes - easily identifiable place specific factors. However they also involve 'base causal mechanisms' - fundamental, and often abstract factors which exist at a number of spatial and temporal scales. Attempts to resolve such conflicts which address purely proximate causes tend to be simplistic and ineffective. Effective resolution requires all causes, both proximate and base, to be addressed. This thesis examines the occurrence and resolution of the Motunui-Waitara resource conflict, with an emphasis on its base causal mechanisms.

In 1977 Waitara township and Borthwicks Freezing works (now AFFCO) began using the Waitara marine outfall to discharge effluent into the sea. The performance of this outfall was suspect, and concerns arose over a proposal by New Zealand Synthetic Fuels Ltd (Synfuels) to construct a second outfall at Motunui, just along the coast. Exacerbating this situation was a proposal by Petralgas Chemicals New Zealand Ltd (Petralgas) to discharge effluent directly into the Waitara river. Conflict became focussed on Maori grievances over the pollution of their traditional shellfish reefs, as a result of marine effluent discharge, and culminated in a claim to the Waitangi Tribunal.

The Tribunal was created in 1975, with the purpose of enquiring into claims by Maori of prejudicial treatment or actions by the Crown, inconsistent with the principles of the Treaty of Waitangi. Its original terms of reference limited enquiry to events and actions which occurred post 1975, restricting the exploration of Maori grievances, which trace back to land loss during European colonisation. As a result claims involving resource conflicts, which focus on recent events and actions, were predominant within early Tribunal reports. These largely involved issues of pollution (for example Kaituna Wai-4, Motunui Wai-6, Manakau Wai-8), and enjoyed public prominence and support from a growing conservationist movement in New Zealand. A decade after release of the Waitangi Tribunal report and recommendations it is questionable as to whether the Motunui-Waitara resource conflict has been resolved.
Resource conflicts

Resource conflicts are disputes over the use of natural resources - who uses what, the way in which it is used, and whether it needs to be used at all. They are manifested in a range of forms, and a variety of cases, from waste disposal options and differing resource management strategies, to plans for inner city parks, to proposed new highways, to protest over nuclear power. Furthermore, fundamental conflict over environmental issues is unlikely to diminish...

Environmental conflict is spreading geographically... Environmental conflict is spreading to encompass a wider range of industrial facilities... The frequency of environmental conflict is steadily rising with an increasing percentage of heavy industrial projects encountering community opposition.

Gladwin 1978 in Bacow and Wheeler 1984 p.3

Bacow and Wheeler (1984 pp.1-3) depict two significant factors in the occurrence of resource conflicts: the traditional western notion of economic development as the cornerstone of social progress; and the emergence of new political movements in the 1960s and 1970s, which demonstrated a fundamental alteration in social values. Blackford (1992) places this transformation in a New Zealand context, suggesting the existence of changing social priorities, which have been reflected in protest over the lack of recognition given to environmental concerns (for example the 'Save Manapouri Campaign'), and Maori rights and values. She summarises this situation as 'Increasing pressure on finite resources from a varying range of potential users contributes to resource management problems and environmental conflict.' (Blackford 1992 p.5).

The resolution of resource conflicts

Resolution revolves around establishing equilibrium within problems. While solution connotes clear cut well defined answers to problems which are readily identified and implemented, resolution implies responses which are less obvious, and require a measure of compromise. Traditionally the primary means of resolving resource conflicts has been the judiciary. Shepard (in Blackford 1992) suggests that environmental issues which go before the courts may be categorised within three broad classes:

- **General primary issues** - questions of national policy, whether or not an activity should take place at all anywhere.
- **Particular primary issues** - arise from a specific proposal with its own site, structures, and impacts.
- **Secondary issues** - arise indirectly from a proposed activity.

There are two specific strengths to this process: the taking of evidence under oath; and the public nature of the forum. However the adversarial nature of the court system promotes a loser/winner dichotomy, and '...tends to focus on the positions of the parties; the problem therefore appears to be a conflict of positions' (Blackford 1992 p.9). In focussing explicitly on positions, less attention is devoted to determining the underlying origins of these positions. This hinders effective resolution, which requires identification of
underlying concerns, 'It may well be that resolution requires people becoming more aware of their own position and what underpins it.' (Johnston 1988 p.8). The base causal mechanisms of resource conflicts are thus the 'underpinnings' of issues, and the parties involved. These underpinnings are part and parcel of the fundamental structure of society, a 'wider status quo', and an 'underlying logic'.

Incomplete or failed resolution is the direct result of the 'wider status quo' of the conflict not being fully understood, or uncovered, by the process of resolution, a result of the resolution addressing proximate causes, but not the base causal mechanisms. The conflict may then '...re-erupt at any time, not necessarily because of the same proximate cause but as a consequence of the same underlying logic.' (Johnston 1988 p.9).

**THESIS STRUCTURE**

The aim of this thesis is to...

Examine the occurrence and resolution of the Motunui-Waitara resource conflict, in terms of the base causal mechanisms of the dispute. These base causal mechanisms are a product of: the interaction of people, nature, and power; and context and place.

Figure 1.1 depicts graphically the structure of this thesis, acknowledging that each chapter is individual, but also part of an overall process, an aim. This aim being to examine the base causal mechanisms of the Motunui-Waitara resource conflict.

The resource conflict was a complicated issue which emerged over a period of time. It became focussed on the existence of differences between Te Atiawa and Pakeha relations to the Waitara river and coastal reefs. An important part of these differences were attitudes towards water and the disposal of waste within water. Chapter 2 provides an empirical focus for the resource conflict, describing its occurrence in terms of proximate sources - the outfall and effluent discharge - and key issues, such as differing cultural perceptions of water.

The Motunui-Waitara resource conflict also occurred as the result of an underlying logic and a 'wider status quo'. This thesis addresses the existence of a causal 'wider status quo' in two aspects: people, nature and power (chapter 3); and context and place (chapter 4). Chapter 3 is a theorisation which moves from abstract to concrete, and posits that the resource conflict as a form of social action occurred within a framework of social relations, determined by social organisation. Chapter 4 is more empirical, outlining an approach commonly used in political economy which asserts that the resource conflict as social action occurred within, and as part of a context of processes operating at a variety of spatial and temporal scales, including the importance of place. These differing views of the 'wider status quo' are complementary, not competing. Chapter 3 provides explanation of the occurrence of situations where resource conflicts such as Motunui-Waitara may emerge, and chapter 4 explains the occurrence of the resource conflict.
INDIVIDUAL CHAPTERS

CHAPTER 1 Introduction
- Wai-6 claim to the Waitangi Tribunal: a resource conflict
- What are resource conflicts? How are they resolved? Thesis aims and structure

CHAPTER 2 The Motunui-Waitara Resource Conflict
- Relationships to the resource: Attitudes to water and waste disposal
- The resource conflict

CHAPTER 3 People, nature, and power
- People, power, and nature: Social action, social relations, social organisation
- Environmental traditions: European colonisation

CHAPTER 4 Context and place
- Context and place: Economic and cultural transformations
- Energy: Environmental awareness
- Indigenous peoples rights

CHAPTER 5 Crown response to the resource conflict
- The process of resolution: Crown reaction
- QMS and 'Sealords'
- RMLR, RMA

CHAPTER 6 Resolution of the Motunui-Waitara resource conflict?
- Has the conflict been resolved? If not, why not?
- How should effective resolution proceed?
- What has been achieved?

THESIS AIM
- What are resource conflicts? For resolutions to succeed, base causal mechanisms must be identified.
- Base causal mechanisms exist within the fundamental structure of society, a wider status quo, an underlying logic.
- Occurrence of the conflict: These were proximate causes, reflective of a wider status quo of base causal mechanisms.
- Two complementary chapters examine the base causal mechanisms of the resource conflict: Social action is determined by the fundamental structure of society... social organisation
- Social action is determined by the operation of processes at a variety of temporal and spatial scales... context and place.

Resolution
- Claim to the Waitangi Tribunal: Report - causes/findings/recommendations
- Crown implementation of recommendations: Te Atiawa compensated? Source of prejudice removed? Prevention of other parties from being similarly affected in the future?
Social action is human action and interaction, and occurs within a framework of social relations, the ways in which people relate. Social relations in turn are determined by social organisation, which places people within hierarchies and structures, codifying the form of relations (figure 1.2). Chapter 3 draws upon social anarchism and insights from Marxism in theorising social organisation as essentially the development of power relations. Utilising this framework social relations between: Pakeha and nature; Maori and nature; and Maori and Pakeha are examined, establishing the occurrence of a causal situation for the emergence of resource conflicts.

Figure 1.2 Social organisation and the Motunui-Waitara resource conflict

People and their actions, social action, cannot be understood outside the context of place. Context is the various space and time sequences within which social action occurs, and place is the specific space and time location of that social action (figure 1.3).

Figure 1.3 Context and place of the Motunui-Waitara resource conflict
As a result of both social organisation and context and place, the Motunui-Waitara resource conflict occurred. A claim was subsequently made to the Waitangi Tribunal. Chapter 4 situates the occurrence of the Motunui-Waitara resource conflict within the contingencies of context and place. The context is based around processes of economic and cultural transformation, and is examined at international, national, and local scales through three factors: energy issues; environmental awareness; and indigenous peoples.

Once a claim is made to the Tribunal there is a set process of resolution to be followed (figure 1.4). The Tribunal releases a report which consists of: a discussion of causes; findings; and recommendations. Chapter 5 examines this process in relation to the Motunui-Waitara resource conflict, critically evaluating its success through analysis of the causes identified and the implementation of recommendations. Within the process it is assumed that the claim is adequately representative of the conflict; that all the causes have been identified and addressed within recommendations; and that with the implementation of recommendations by the Crown, the conflict will be resolved. In examining this, Chapter 5 encompasses local and regional recommendations concerning the discharge of waste, and national legislative based recommendations. It discusses issues such as the Quota Management System for fisheries, the 'Sealords' deal, and Resource Management Law reform.

Figure 1.4 Process of a claim to the Waitangi Tribunal

The final part of this thesis, Chapter 6, ties the occurrence and resolution of the resource conflict to the base causal mechanisms discussed in chapters 3 and 4. Resolution of the conflict is evaluated, and measures for the prevention of other parties being similarly affected in the future suggested. The impact and significance of the conflict and the claim are then discussed.
Chapter 2

THE RESOURCE CONFLICT

The Motunui-Waitara resource conflict in Taranaki was a dispute between the local iwi, Te Atiawa, on one hand, and the Crown, its institutions and organisations on the other hand. The context was the discharge of sewage both into the Waitara river, and via marine outfalls, onto coastal reefs. The dispute revolved around conflicting attitudes to waste disposal and the management of water quality... 'Sewage management and water purity are important issues in understanding Maori cultural values of the landscape, and the grievances which partners to the Treaty must address' (Menzies 1988 p.14). This chapter describes the Waitara river and coastal reefs, and their location, before depicting both Te Atiawa and Pakeha relationships with the resource. A number of key issues: attitudes to water; the disposal of waste to water; and water administration are discussed leading to a description of the emergence and occurrence of the resource conflict.

THE RESOURCE

Taranaki is on the east coast of the North Island of New Zealand. The region is dominated by Mt. Taranaki, the city of New Plymouth, and a large dairy industry. Waitara lies north along the coast from New Plymouth, and Motunui a short distance north west (figure 2.1).

Figure 2.1 The Taranaki region
The North Taranaki coastline (figure 2.2) is characterised by extensive reef systems which consist largely of variously sized boulders cemented into, or distinct from a conglomerate (lahar) base (Morris 1983 p.6). These reefs extend for 35-40 kilometres and collectively they constitute one of the most extensive traditional fishing reef systems of the Maori people (Taranaki Catchment Commission, TCC, 1986 p.26).

Figure 2.2 North Taranaki coastline

RELATIONSHIPS TO THE RESOURCE

Te Atiawa relationship with coastal reefs and the Waitara river

The Waitara river and North Taranaki coastal reefs are a significant natural resource, they contain '...a great diversity and abundance of marine life,' (TCC 1986 p.24). Over several hundred years Te Atiawa have developed an important relationship with this resource, involving spiritual and cultural, as well as economic elements. The relationship is part of Te Atiawa tradition, featuring in tribal myth and legend, and is a significant component of Te Atiawa history and identity (Wells 1878, Smith 1910, Wai-6 pp.9-14). In evidence to the Waitangi Tribunal a Te Atiawa elder asserted the importance of the Waitara river to his people 'My people personify the river, an entity aligned to our ancestor Maruwaranui, with the spirit or taniwha of the river. Those who cast pollution onto the spirit of the river are casting it onto the spirit of my people'. The linkages between Te Atiawa and the reefs were outlined in an address by Aila Taylor, Te Atiawa spokesperson, and may be summarised as...
Reef use exclusive to hapu
The reefs of the North Taranaki coast are divided up between seven hapu. It is not done to
gather food from another hapu's reef. If a reef is spoiled by an outfall then that family group
may be deprived all together.

Much of our seafood is eaten raw
We gather a large number of different species from the reefs including kuku, kina, pawa,
whake, kotorotore, pipi, and crabs. Much of this can be eaten raw. We have had people
suggest that outfalls are no risk to health because everyone cooks their seafood.

Cleanliness on the reefs
We have an extensive set of customs which keep the reefs healthy by not polluting them in
any way and not overfishing. For example shellfish are not eaten on the reef, women do not
gather while menstruating, people do not urinate whilst on the beach, a stretch of coastline is
declared out of bounds for a period if someone is killed at sea until after the body is found (a
rahui) etc...

Seafood is the 'crown' of our tables
The warmth of a welcome to guests is measured by the quality of the food provided, in
particular the quantities and varieties of seafood. Our marae runs on voluntary effort, we
have little money, we could not possibly afford to buy the things that we catch and gather.

What comes from the earth goes back to the earth
We believe that human waste should go back to the earth. We believe that anything to do
with human waste should have nothing to do with food; clothes should be washed separately
from tea towels; people should not sit on food tables; seafood should not be gathered from
reefs polluted by an outfall. This belief is not just related to 'scientifically detectable'
pollution, even if the scientists 'proved' that an outfall was not polluting, we would be
unhappy gathering seafoods from a reef near such an outfall.

Taylor 1986 p.2

The combination of these relations and Maori traditional fishing is '...an ancestral and
customary way of life. It is part of our cultural heritage...To the Maori fishing and the
gathering of kaimoana is not a recreational pastime, when a Maori
goes to his [sic] ancestral and spiritual waters it is for a purpose.' (Taranaki Maori Committee nd. p.3).

Pakeha relationship with coastal reefs and the Waitara river

In comparison Pakeha relations to the resource are based around recreational value...The
range of activities and the unique nature of the Waitara river for certain recreational
activities resulted in it being ranked as the most important recreational river resource in
North Taranaki' (TCC 1980 p.47). The lower Waitara and river mouth are the most
significant areas, being used by surfers, surfcasters, skin-divers, swimmers, yachtsies,
rowers, and whitebaiters. Up to 250 people may be there when the whitebait are running
(TCC 1980 p.49). The reefs are also used by Pakeha for the gathering of seafoods,
Taranaki Catchment Commission evidence to the Waitangi Tribunal suggesting that at
times there may be more non-Maori than Maori collecting shellfish (Wai-6 p.18). In
contrast, the beach around the rivermouth is ranked ninth out of ten in North Taranaki on
the basis of recreational value.
Cultural attitudes and classification systems

The resource conflict was based around the use of water and water resources. Maori people have specific attitudes towards water and the disposal of waste within water. Water (wai) is seen as the source of life and food (Menzies 1988 p.12), as a life giving essence, a priceless treasure left by ancestors for the life sustaining use of their descendants (Patrick and Taylor 1987 p.22). There are five classifications given to water by Maori with each state having a spiritual and temporal meaning (figure 2.3).

Figure 2.3 Maori classification of water

<table>
<thead>
<tr>
<th>Classification</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waiora</td>
<td>The purest form of water, used in sacred rituals to sustain life. To remain waiora the water must be protected from human contact through ritual prayer.</td>
</tr>
<tr>
<td>Waimaori</td>
<td>Water becomes waimaori when it comes into unprotected contact. Normal running water which is clean, clear unrestrained, also normal, usual, or ordinary.</td>
</tr>
<tr>
<td>Waikino</td>
<td>Water that has been polluted, or has a destructive force. Rapids, or submerged obstacles, give the water potential to harm people.</td>
</tr>
<tr>
<td>Waimate</td>
<td>Water that is so polluted that its lifeforce has expired. It has lost its mauri. It has the potential to cause ill-fortune, contamination or distress to the mauri of other living spiritual beings.</td>
</tr>
<tr>
<td>Waitai</td>
<td>The sea, surf, tide, water under the dominion of Tangaroa, rough, angry, boisterous.</td>
</tr>
</tbody>
</table>

Source: Douglas 1984

This typology, and the concepts of mana and tapu, give rise to strong behavioural controls in Maori customs relating to water (Patrick and Taylor 1987, Walker 1987, O'Regan 1988). The disposal of waste into water is considered an inappropriate and invalid use of that water. Papatuanuku (the earth mother) is capable of filtering sewage through her soil, and is therefore a more appropriate means of sewage disposal - 'what comes from the earth should return to the earth.'

In comparison, Pakeha understand water as a chemical (H₂O) rather than spiritual substance. A commodity to be sold or licensed, its flow to be regulated and channelled according to desires (McCan and McCan 1990 p.1). Within the Pakeha eight part classification system, judgements of water quality are based on human use, and the
acceptability of pollution (figure 2.4 - Saline classification are prefixed by the letter S).

Figure 2.4 Pakeha water classification system

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A</td>
<td>Upland catchment areas, reserved solely for water supply purposes.</td>
</tr>
<tr>
<td>Class B</td>
<td>Protected for water supply purposes, for both public and industrial uses. Less stringent bacteria restrictions than C, as the water would normally be treated before use.</td>
</tr>
<tr>
<td>Class C</td>
<td>Intended for recreational use, including swimming. The concentration of bacteria present will indicate the level of pollution.</td>
</tr>
<tr>
<td>Class D</td>
<td>The lowest class of fresh water, 'a substantially unpolluted state', allowed to be used in general recreation (including fishing but not swimming), agricultural use, and general industrial supplies.</td>
</tr>
<tr>
<td>Class SA</td>
<td>Refers to water in which there are beds of edible shellfish. A strict bacterial standard.</td>
</tr>
<tr>
<td>Class SB</td>
<td>Intended for recreational use, including swimming. Same water quality standards as Class C.</td>
</tr>
<tr>
<td>Class SC</td>
<td>Similar in purpose to SD but refers to enclosed saline waters such as harbours, bays, or estuaries.</td>
</tr>
<tr>
<td>Class SD</td>
<td>Open coastal areas used for general recreation and fishing.</td>
</tr>
</tbody>
</table>


Water pollution and the disposal of waste to water

While Maori draw a clear division between polluted and non-polluted water, Pakeha widely hold the view that '...the concept of characterising water as 'polluted' or not 'polluted' does not provide a realistic measure of water quality.' (Water Quality Criteria Working Party 1981 p.8). This view particularly represents that held by water engineers, scientists, and resource managers at the time the Motunui-Waitara claim to the Waitangi Tribunal was made.
The notion of 'pollution' is cultural, differing between cultures. The key point is that for Maori water is sacred, which is certainly not the case for the majority of Pakeha. To the Maori once water has become polluted, it is considered to be 'waikino' (figures 2.3, 2.5 A), and 'Water as the life giving essence must remain pure, in order to provide life for those that follow' (Patrick and Taylor 1987 p.22). In comparison many Pakeha consider this well defined division to be a common misconception, the situation actually a series of levels, and 'classifications' of pollution, some of which are 'acceptable' (figures 2.4, 2.5 B). These divisions are drawn on the basis of 'scientific knowledge' using microbiological standards such as faecal coliform. The issue is then establishing acceptable and unacceptable levels of contamination.

Figure 2.5 Maori and Pakeha conceptions of water pollution

<table>
<thead>
<tr>
<th>Good Water</th>
<th>Polluted Water</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Maori</td>
<td></td>
</tr>
<tr>
<td>B Pakeha</td>
<td>Water with a minimum of impurities</td>
</tr>
</tbody>
</table>

Source : Author

Water pollution management

At the time of the claim in 1982, Pakeha values and principles provided the content and form of resource management in New Zealand, including waste management systems. The entire process was monocultural since Maori people and Maori cultural values were outside of, and historically had been excluded from, waste management' (McCan et al 1992 p.14). Yet the eight part classification scheme, an essential part of applying the management principles envisaged by the Water and Soil Conservation act 1967, was rarely applied. The Waitangi Tribunal was told in evidence during the hearings for the Motunui report that the classification system was fraught with difficulties and seldom used (Wai-6 p.38).

Prior to the 1950s there had been little regularised water quality surveying in New Zealand (McColl 1982 p.7), however in 1953 with the Water Pollution Act, the Pollution Advisory Council was formed and began water quality surveys. Subsequently this authority was replaced by the Water Resources Council (WRC). With the passing of the 1967 Water and
Soil Conservation Act, a National Water and Soil Conservation Organisation was established (Roche 1992 p.201).

Two key aspects of Pakeha waste management schemes have been the compartmentalising of specific types of resource uses as discrete, thus implementing the concept of multiple use (codified in the Water and Soil Conservation Act 1967), and the complexity of institutional arrangements. Thus a river and its tributaries may have had a number of legitimate uses: taking water from the river; discharging effluent into the river; gravel extraction; as well as other uncontrolled landuses which result in chemical run off. The complexity of this situation was paralleled by the number of government agencies involved in water and soil administration (figure 2.6). This administrative structure emerged in an ad hoc way, the result of water being perceived as a free good, and not being ascribed with any spiritual value.

Figure 2.6 Water and soil conservation administration in New Zealand - 1982
EVOLUTION OF THE RESOURCE CONFLICT

Until the construction of the Waitara marine outfall in 1978, industrial and domestic effluent was discharged into the Waitara River with little or no treatment. Since the 1940s semi-raw sewage from the Borough's septic tanks had been discharged into the river, and prior to 1956 the effluent from Borthwicks freezing works (now AFFCO) was discharged untreated. After 1956 there was some preliminary treatment which removed most sediment fat and other materials.

In 1967 there were allegations that shellfish, polluted as the result of effluent discharge, might be implicated in a typhoid outbreak among the local Maori people. Following this, in 1972 the Waitara Borough Council concluded that the serious contamination of the Waitara river could not continue (New Plymouth District Council, NPDC 1991 p.2), and in 1973 the water right for discharge through a marine outfall was granted. Under the water right the discharge was to conform to class SE standards, and any portion of the discharge that might reach the beach should meet the SB classification (figure 2.7). By 1975 Borthwicks freezing works and the Borough Council had agreed to jointly finance the construction of the outfall.

Marine outfalls are pipelines conveying urban and/or industrial waste to a submerged discharge point, located in relatively open coastal waters, generally beyond the surf zone. As wastewater density is less than seawater density discharged effluent rises rapidly towards the surface. The dilution and dispersion of this wastewater depends upon the depth and design of the diffuser section, as well as currents and tides (Williams 1985 p.41). Any marine discharge has the potential to change or adversely affect the marine environment, but there are significant differences between wastewater from urban and industrial sources. Urban wastewaters in New Zealand generally have faecal coliform counts of around $10^6$ and $10^7$ per 100ml, and between 60 g/m³ and 80 g/m³ of grease (fats, waxes etc.) (Williams 1985 p.18). In comparison, freezing works wastewater have had faecal coliform levels of around $4 \times 10^6$ per 100ml reported, and may contain up to 900 g/m³ of fats (Williams 1985 p.19).

When constructed in 1977 the Waitara marine outfall cost approximately $1.3 million. It was designed by Tauranga consultants Worley, Downey, Muir and Associates, the pipes were made in Palmerston North by Hume Industries (NZ), and the line was installed by McConnell Dowell Construction Ltd (Wood 1987 p.1). The effluent was discharged approximately 1310 metres offshore from the Waitara river mouth, through a diffuser consisting of five portholes, (155mm. by 610mm.), 27 metres apart (Kirk 1984 p.3) (figure 2.7).
The integrity of the outfall was highly questionable. The launching of the pipeline in 1977 had been delayed by approximately four hours, waiting for an engineer to arrive from New Plymouth. Due to bad weather that came up during the wait, the pipeline was pushed out of its trench when launched, cracks appeared in the pipejoint of the nearshore section, and a 300 metre length of pipeline had to be removed and replaced.

Further complications arose as sand was washed away from under the pipeline, causing droopage and forcing some joints to open up. Furthermore, due to the problems experienced during the pipeline launch, two of the five diffuser ports were against the ocean floor and 70% of the effluent was discharging from one of the three remaining ports. There were also suggestions that while the outfall was originally designed to cope with 450 cubic metres of effluent per hour, on occasion Borthwicks alone had produced three times that amount.

The effluent discharged was 'raw', there was no secondary or tertiary treatment, and the outfall was poorly located, adjacent to the Waitara river, the Waitara township, and running between two reefs (figure 2.7). Subsequent to outfall construction in early 1981, significant quantities of sheep 'pellets', and other materials purported to be freezing works waste had been found on the beaches and the reefs on both sides of the outfall (Kirk 1984 p.5). Furthermore, TCC bacteriological tests showed that the shoreline waters around the outfall exceeded the quality requirements of SB waters (one of the control measures included in the outfall's water right, (figure 2.4).
There is significant photographic evidence of pollution, particularly of ocean 'plumes' indicating that only three ports were working giving an ineffective dispersal, and how the predominating north-westerly winds, high wave action, and on shore currents had the effect of returning the effluent along the shallow coastal shelf to the shellfish beds and onto the shore (Figure 2.8) (Wai-6 pp.28).

**Figure 2.8 Outfall plume from Waitara marine outfall**

By the early 1980s concerns over effluent discharge issues related to the Synfuels, and Petralgas 'Think Big' energy development projects were added to this situation of pollution and contamination. There was concern that these developments would lead to a proliferation of outfalls, and accelerate a steady expansion of effluent discharges onto North Taranaki seafood resources (Boyce et al 1986 p.99).

In August 1980 Petralgas had applied to the Planning Tribunal to discharge directly into the Waitara river (Petralgas 1980 p.5). Subsequently due to a number of negative submissions from organisations such as the TCC, and the Department of Agriculture and Fisheries, Petralgas changed its application and began discharge through the existing Waitara marine outfall. Meanwhile the Synthetic Fuels Plant applied for, and in December 1981 was granted consents by the Planning Tribunal for the construction of a stand alone marine outfall at Motunui (see Figure 2.9). The Planning Tribunal recommended a 900m. long outfall, adding 300m. to the proposed length, and a time period of 10 years (a term of 27 years had been sought by Synfuels). In practical terms this was cautious, authorising only five years of the plant's operation (Wai-6 p.). No doubt critical to the Tribunal's granting of the right was the Crown's contractual obligation to provide infrastructure for the Synfuels plant, particularly the need to have a guaranteed interruption free effluent disposal system for the lifetime of the plant.
Synfuels case for the construction of an outfall at Motunui was based on four key points:

- The site was considered by the Regional Water Board to be one of the most suitable for a marine discharge pipeline on the North Taranaki coastline.
- It was considered that a dilution factor of 150:1 would be needed by the Synfuel effluent, and that the Waitara outfall only had a dilution of 40:1.
- Concern over the structural integrity of the Waitara outfall.
- Concern over the possible synergistic effects of Synfuel and Petralgas effluent mixing in the Waitara outfall.

The water right granted to Synfuels required on site treatment of the effluent, which comprises a three part process: neutralisation (nutrient addition and equalisation); biological treatment; and sludge handling. The effluent is then passed through the cooling water blowdown, which includes pH control, and corrosion and biological growth inhibitors. Finally the effluent is dechlorinated with sodium metabisulphate at the effluent sump prior to discharge (Trout 1984 p.8).

Figure 2.9 Proposed Motunui marine outfall

Source: Bechtel Petroleum Ltd. 1981 p.1.1

The proposed outfall met with significant objections from people mindful of the inadequacies of the existing Waitara outfall, and aware of the possibilities of a proliferation of outfalls along the North Taranaki coast (coincidentally the new New Plymouth outfall 16km to the west had just been installed) (Wilson 1993 p.3). In reaction Te Atiawa and other groups protested the pollution at several steps: objections were made
to the TCC at the various water right hearings; submissions were made to the Commissioner for the Environment's audit of the Synfuels and Petralgas Environmental Impact Reports; submissions were made to the Planning Tribunal; the Planning Tribunal's decisions were protested against in the Court of Appeal; the owners of the Waitara Marine Motor Camp took High Court proceedings claiming that material from the outfall had significantly and detrimentally affected the coastline; and a claim to the Waitangi Tribunal was made by the local iwi Te Atiawa.

The Waitangi Tribunal did not commence its enquiries until after the Planning Tribunal and Court of Appeal proceedings. The point was made that by doing so 'certain areas of concern' might either be resolved or made clearer, (Wai-6 p.8), largely due to an awareness of section 7(1)(c) of the Treaty of Waitangi Act where the Tribunal may decline to enquire into a claim if there is another appropriate forum of remedy, appeal, or redress. The original claim to the Waitangi Tribunal was filed in June 1981(Appendix I), and claimed that Te Atiawa were...

...prejudicially affected by the policy or practice adopted by or on behalf of the Crown which results in failure to properly control discharge of sewage and industrial waste into the sea between New Plymouth and Waitara such policy or practice being inconsistent with the principles of the Treaty of Waitangi in that it has in particular adversely affected fishing grounds known as Tauranga, Te Puna, Titi Rangi and Orapa reefs belonging to Manukorihi, Otaraua and Ngati Rahiri hapu...

Wai-6 Appendix I pp.76

This claim referred to the discharge of effluent between New Plymouth and Waitara. In response to a request from the Tribunal for further particulars a more specific claim was filed 25 March 1982 (Appendix II). This claim was narrower and more detailed, elaborating specifically on the Waitara Marine outfall. Mention was also made of the establishment of petrochemical industries and their possible impact.

7. PETRO Chemical Industries being established near Waitara have obtained approval for the discharge of industrial waste and sewage into the same area of the sea as is already polluted by the Waitara Outfall and the position in the absence of proper supervision is therefore likely to deteriorate.

Wai-6 Appendix II

The Tribunal sat at three hearings during the process of the claim:

(a) During the week commencing 5 July for the purpose of hearing the Te Atiawa claimants.
(b) During the week commencing 18 October for the purpose of hearing other interested persons and bodies.
(c) During the week commencing 22 November for the purpose of hearing final submissions and replies.

releasing its report in March 1983.

The Motunui-Waitara resource conflict occurred in the early 1980s, but had been emerging over the previous decade. The conflict appeared to be the result of several proximate causes: the Waitara marine outfall; the proposed Motunui outfall; and the Petralgas
proposal to discharge into the Waitara river. There also appeared to be several base causes: differing relations to the resource between Maori and Pakeha; differing attitudes to water and waste disposal between Maori and Pakeha; and the domination of Pakeha attitudes within complex water administration. These were local manifestations of a wider status quo and the fundamental structure of society, which provided the base causal mechanisms of the conflict. The next chapter employs social theory to situate the resource conflict in this broader structure.
Chapter 3

The Relations of People, Nature, and Power

The resource conflict was a form of social action, which took place within and as a part of a framework of social relations. This framework consists of interaction between: people; and people and nature (environmental traditions). These social relations are part of a 'wider status quo', the fundamental structure of society, which is identified here as the base causal mechanism of the Motunui-Waitara resource conflict. This chapter examines social relations through the concept of social organisation, suggesting that Maori and Pakeha environmental traditions differ, and that due to social relations between the two cultures Pakeha environmental traditions have dominated resource management legislation, institutions and practice. This situation provided a base causal mechanism for the occurrence of the Motunui-Waitara resource conflict, and underlaid the many proximate causes.

Relations between people and nature are explained differently by a number of social theories, many of which use conceptions of social organisation as their basis, for example the modes of production approach within Marxism. This chapter constructs a framework of social organisation drawn from critical social theory, utilising the social anarchism of Peter Kropotkin and Murray Bookchin, and insights from Marxism. The framework argues that social organisation is both a state and process, through which social relations are constructed by differentiation; the development of power relations; and the creation of imbalances. Furthermore it argues that differences between social relations, for example between Maori and Pakeha relations with nature, can occur and are the result of differing balances between two factors, competition and co-operation (mutual aid).

PEOPLE, NATURE AND POWER

People and nature

People may be taken as a body of persons composing a community, tribe, race, or nation. More conceptually complex is the idea of nature, which may be defined in any number of different ways '...The order, disposition, and essence of all separate entities composing the physical universe....The primitive state of existence, untouched and uninfluenced by civilisation....Natural scenery....Man's natural state, as distinguished from the state of grace...' (Johnston 1986 p.313). Over time two senses have become predominant: the essence or nature of something; and the world in general, particularly the physical world. Yet there is still debate over the latter definition - over the position of people relative to nature, whether nature is external to human existence, or an intrinsic part. There is no doubt that people and nature relate, but 'It is the problem of understanding the relations
between nature and humanity, nature and culture, nature and society that has long fascinated geographers.' (Johnston 1986 p. 315).

Power

Similarly debated is the concept of power, but at its basis is the idea that A in some way affects B, and that A does so in a non-trivial or significant manner (Lukes 1974 p.26). From this power may be seen as a means of understanding/explaining relations between A and B. Lukes (1974) presents a three dimensional view of power, summarising and expanding on traditional sociological theory. The first dimension is drawn from Parsonian sociology and conceptualises power as the use of authoritative decisions to further collective goals, while the second dimension is the narrower interpretation provided by C. Wright Mills, of power as exclusively a facility for getting what one group 'the holders of power' wants. This second dimension develops an understanding of power as influence, coercion, and force. The third dimension is developed by Lukes as an attempt to focus on the relationships and structures of power rather than individual behaviours, and presents power as a group phenomenon which materialises in a number of forms such as political institutions.

Figure 3.1 Lukes' three dimensional view of power

![Diagram of Lukes' three dimensional view of power]

Source: Author

Linking the concepts of people, nature, and power

A number of contemporary social issues are concerned with the concepts of people, nature, and power, for example the environment, peace, gender, indigenous peoples' rights, and the Third World. Greenland (1991) links these concepts in presenting Maori ethnicity as a strategy for coping with the problems of power, or its absence, and placing Maori relations with nature at the centre of their ethnicity. The issues of land alienation and resource (mis)management are held as examples of the virtues of the Maori, and a means of
Linkages between people, nature and power, in the context of contemporary social issues have been discussed by a number of authors. Berman (1988 p.52) for instance, refutes the notion that any interaction between organisations concerned with such issues is merely opportunistic, rather suggesting a shared sense of purpose. Capra and Spretnak suggest that this shared purpose is an outward manifestation of a paradigm shift (1984), while Eckersley (1988 p.55), asserts the existence of a new philosophy which encompasses these social issues and movements, and draws upon a wide range of political traditions, '...particularly Anarchism and Feminism as well as the very broad tradition of Socialist/ Marxist thought.'

Social anarchism and Marxism are thus increasingly recognised as having a part to play in the understanding and analysis of issues involving people, nature and power. Both are social theories which propose specific conceptions of social organisation as a means of understanding social relations.

**Social anarchism, social organisation, and social relations**

Social anarchist perspectives on social organisation revolve around a radical theory of human ecology, in which the domination of nature by people is seen to follow from the domination of people by people. Ecological despoilation is then held to reflect imbalances in human relations. These concepts are based in the work of Peter Kropotkin and Murray Bookchin (Galois 1977, Breitbart 1979, Clark 1984).

Peter Kropotkin's work in the late nineteenth century proposed that human society had become alienated from the natural processes of which it is a part. He conceptualised that the development of nature, and thus people and society, revolved around 'mutual aid' (co-operation) rather than Darwin's notion of 'survival of the fittest' (competition) (Kropotkin 1914 p.2). Kropotkin asserted that mutual aid is discouraged by certain modes of political, economic, social, and spatial organisation (Breitbart 1981 p.138). For example, centralisation and hierarchical capitalist divisions of labour generate inequality and pyramids of power, and the State utilises authoritarian relationships to inhibit co-operation and further economic and social privilege.

This framework has been built upon over the past thirty years by Murray Bookchin's 'social ecology' which focusses on the notion that ecological problems are fundamentally social problems. He asserts the existence of connections between the problem of human domination of nature and all other forms of domination, and like Kropotkin has suggested hierarchical social relations as the base causal mechanism for all domination. Bookchin has depicted four key causal factors: patriarchy; the anti-naturalist bias of orthodox Christianity; the classical split in the ancient world of spirit and reality; and the dissolution of organic community relationships into market relationships by capitalism (Bookchin 1991a). An important aspect of these factors is the removal of spirituality from nature.
Marxism, social organisation, and social relations

Marxist thought is popularly seen as a political doctrine, yet it is primarily a conception of society and a means of analysing how society works. The crux of Marxism is an explanation of social organisation and social relations by reference to material organisation and the processes of production. This approach is termed 'modes of production' and seeks to analyse 'how different economies and societies are organised' (Overton 1988 p.8). For example the capitalist mode of production leads to capitalist economies and social relations.

An underlying assumption of Marxism is that capitalism prevents '...the distinctively human potentialities of its individual members from being actualized...' (Conway 1987 p.34). This is the process of alienation, whereby people are deprived of their social potentialities. Alienation stems from the commodification of labour and has a variety of forms: political; religious; economic; and also from nature (Rius 1976 p.78). Under capitalism, labour, the means whereby people convert nature into forms useful to them (Pepper 1984 p.162), is a commodity and people are alienated from their labour and their work. By labour a worker produces a good or service, but within capitalism the product remains the property of those who control the means of production - 'bosses'. The product of the worker's labour is then alienated, becoming the property of the bosses. This commodification and alienation are based on exploitation.

The 'Labour theory of value' proposes that the value of any good or service is expressed by the amount of labour taken to produce it. The value of this product is its exchange value and is equal to wages, whilst the price is equated with use value. A necessary precondition for capitalism is that use value must always be larger than exchange value, resulting in the creation of surplus value. The amount of exploitation is equivalent to surplus value.

Within capitalist society workers are alienated from their humanity through the appropriation of their surplus value by the bourgeoisie (bosses). They suffer further alienation through divisions of labour, where their removal from the products of their work is increased. As labour is the production of objects out of nature, the removal of people from their labour and the finished product causes a separation from nature. People are seen to have been further alienated from nature by the transition from a feudal to a capitalist mode of production, where the workers were removed from the land '...so that instead of working in harmony with the cycles of nature, they now work to the rhythm of the machine.' (Pepper 1984 p.151).

FRAMEWORK FOR UNDERSTANDING SOCIAL RELATIONS

Ecological and social imbalances

Bookchin identifies the existence of a number of current ecological crises: pollution of the atmosphere; that the waters of the earth are literally dying; the disappearance of non-renewable resources; diminishing biodiversity and more (1971 p.47). He then proceeds to
place these events in a framework of increasing scale:

Modern man's despoilation of the environment is global in scope like his imperialisms...
Today human parasitism disrupts more than the atmosphere, climate, water resources, soil, flora, and fauna of a region: it upsets virtually all the basic cycles of nature and threatens to undermine the stability of the environment on a global scale.  

In comparison Marxist thought explains the occurrence and increasing scale of this 'environmental crisis' as part of the rhythmic and escalating cycle of crises which characterises the capitalist mode of production. These crises, which include social relations between people (i.e. class conflict), are caused by the inherent contradictions of capitalism, and will eventually lead to its collapse. Bookchin, (1986 p.47), builds upon Kropotkin's assertion that ecological despoilation reflects imbalances in human relations in arguing that:

Man has produced imbalances not only in nature, but more fundamentally in relations with his fellow man, and in the very structure of his society. The imbalances man has produced in the natural world are caused by the imbalances he has produced in the social world.

Lee, (1980 p.8), attempts to apply this logic to Marxist theory:

Thus the problems of social dehumanisation (unemployment, war, inadequate health care, malnutrition in a world of plenty) and the correlative ecological problems (pollution, destruction of non-harmful species, depletion of non-renewable resources etc) stem from the same root cause, alienation.

Social and ecological problems are thus linked in their occurrence, the result of people and nature being two parts of an organic social organisation. Organic conceptions of social organisation provide the basis for a single explanatory theory of social relations, in establishing that the same factors and processes affect all social relations, be they between people, or between people and nature (figure 3.2). From this all social relations are linked, and power relations in all forms have the same causal mechanisms. Kropotkin adhered to an organic conception 'All are inter-dependent in a civilised society, it is impossible to reform any one thing without altering the whole...' (Kropotkin 1913 p.8). While similarly 'Marx recognised this [an organic view] in proposing that people have developed from nature and in mutual interaction with nature.' (Lee 1980 p.3).

**Figure 3.2 Social organisation**

![Diagram of social organisation](Image)

Source: Author
Differentiation and the development of power relations

Clark suggests two main explanations of domination: economic - where ruling classes arise when a sufficient surplus is generated to allow appropriation by a segment of society; and political - where ruling classes establish themselves through conquest, after which they are able to continuously extract a surplus from the labour of the subjected group (1984 p.221). Both of these explanations revolve around control of the means of production, and the workers employed to operate these means. This is typical of Marxist analysis as the social, cultural, and political dimensions of society (i.e. inclusive of power relations) are seen to evolve out of the productive forces, the economic structure of society (Peet 1985 p.6).

In answer to this Bookchin asserts that previous theories on the origins of systems of domination have usually been simplistic, and that the Marxist emphasis on class and material oppression limits the understanding of domination largely to economic stratification (1991b p.5). Bookchin is concerned that such explanations of domination conceal the existence of hierarchical relationships which in the absence of economic exploitation or political coercion would serve to perpetuate oppression (1991b p.3).

Bookchin constructs a framework of hierarchy and domination whereby human society is differentiated from nature as a result of 'the graded passage of biological evolution into social evolution' (Bookchin 1989 pp.26-32, 1991b pp.21-33). In this process human society, termed second nature, is seen as developing out of (first) nature. Both are parts of natural evolution, and thus the development of human society (second nature) is the result of first nature's own inherent evolutionary processes. The Roman orator Cicero promoted this notion 2000 years ago in asserting that, '...by the use of our hands, we bring into being within the realm of nature, a second nature for ourselves.' (Bookchin 1989 p.25).

This emergence of society began with the institutionalisation of human relationships, first with the ascendancy of elders, and then with early divisions of labour, and resulted in hierarchical differentiation which reworked societal relationships into systems of status. Some examples of status systems are: age and gender divisions; warrior and shamanistic groups; and domestic society placed in the service of civil society (Bookchin 1989 p.76). The emergence of hierarchy and a consequent distortion of social relations provided the opportunity for the development of power relations - 'the emergence of systems of domination'. Bookchin has suggested that the distortion of social relations through the creation of hierarchy has been furthered in capitalist societies by three main factors: the emergence of the city as a new social arena where social interaction was not based upon ancestral or blood ties (1989 p.80); the rise of the nation-state as the institutionalised apex of male civilisation and a professional system of social coercion (1989 p.66); and the penetration of the capitalist economy into society as a whole.

Yet within Marxism there is a similar explanation of power relations. This explanation lies in the logic adopted by Marxist thought, where the key to explaining domination is consistently the creation of differentiation, and the expansion of these differences into hierarchies of domination - power structures. The alienation of people from their
humanity is a product of the differentiation of workers from their labour, and the acquisition of their surplus value by the bourgeoisie (further differentiation). This gives the bourgeoisie the ability to influence, coerce, and force the workers, it gives them the power to dominate.

The same logic applies to people/nature relations where the perception of nature within the capitalist mode of production is as an 'other', an '...objective obstacle over and against human subjective ends.' (Lee 1980 p.5). This creates differentiation, 'alienation', in the form of a subject/object dualism. As a result of this dichotomy capitalism is tied to excessive exploitation of nature in order to continue and extend profit maximisation (Peet 1985 p.8).

**Social organisation as a process**

The causes and results of social and ecological problems are proposed as hierarchy and domination by social anarchism, and alienation and exploitation by Marxism. These terms and the frameworks of ideas which they head are different, yet contain important similarities. Both social anarchism and Marxism propose the creation of differentiation, and from this the construction and operation of power relations as the root cause of all problems and imbalances, either social or ecological. There is then three parts to the process of social organisation: differentiation; the development of power relations; and the creation of imbalances.

Social anarchism and branches of Marxism have applied their theories of social organisation to a number of different of societies in time and space, recognising that results of the process are not necessarily similar. Both assert that major transformations in social organisation are possible, and desirable. For Marxism this is the development of socialist/communist society, for Bookchin and Kropotkin it is the creation of community. Social anarchism provides a means for explaining variations in social relations through two key concepts - competition and co-operation (Kropotkin 1913, 1914). 'To a lesser or greater extent for every culture, these themes characterise the manner of relationships between people, and between people and nature.' (Pawson 1992a p.16). From this any differences that may exist in social relations between cultures are due to the differing significance of competition and co-operation. Supporting this Eckersley suggests that in human societies social hierarchy can either enable or oppress (1992 p.150), suggesting that while social hierarchy is necessary for domination to occur, its existence does not necessarily preclude it.

**PEOPLE AND NATURE**

**Environmental traditions**

Within social organisation people and nature interact as a social relation. Environmental traditions describe this relationship, portraying a person and their culture's perceptions and relations with nature. Nature is conceptualised as different from people, and on the basis
of this difference power relations develop. The outcome of this power relation is the creation of imbalances. Yet environmental traditions may differ between and within cultures. That nature is perceived and related to differently in different societies, in different ages is accepted, 'Environmentalism as sets of ideas, cannot be regarded as discrete objective entities but must be examined in relation to the groups and society from which they come.' (Pepper 1984 p.147).

For some peoples the words 'soil' and 'dirt' do not describe uncleanliness, and nature is not denigrated by the word 'wilderness'. The world may be seen in fundamentally different ways - time and space are not necessarily linear as understood within western scientific tradition. Furthermore, people's concrete relations with nature may also be seen to differ. The extent and scale of environmental degradation within western 'civilised' countries has been greater than that produced by so called primal peoples. However, while the form of relations with nature may differ between cultures, all environmental traditions can be understood on the basis of social organisation, a process of differentiation and the development of power relations, and the creation of imbalances (figure 3.3).

Figure 3.3 Social Organisation - Maori and Pakeha environmental traditions

PAKEHA ENVIRONMENTAL TRADITIONS

Pakeha differentiation of people and nature - separation

Clarence Glacken, (1967) has argued that until the end of the eighteenth century western concepts of the relationship of human culture to the natural environment were dominated (but not exclusively so) by three ideas: a designed earth; environmental influence; and people as geographic agents. Within these ideas nature is seen as: designed for the 'hierarchy of life' - with people at the pinnacle; as created for people; or as an external influence to dominate or be dominated by. All these ideas involve an explicitly dualistic conception of people and nature, the separation of human thought and action from the natural environment.
In a modern context Glacken's framework of three ideas has been added to by the further development of rational and value-free technology, and subsumed by the term technocentrism. Within the predominant technocentrism people are 'apart from' nature, which is neutral and is easily used and understood by people through the application of 'rational and value free' scientific techniques. In contrast ecocentrism recognises environmental traditions which have always existed (for example in the art of the 18th century romantic artists), and which assume a natural morality which limits and imposes restrictions upon human activity in the natural environment - people are 'a part of' nature. White (1967) has argued the cause of the technocentric separation of people and nature as being 'Judaean-Christian tradition' which purports that man alone is made in the image of God, and alone has a rational soul, which sets him apart from the rest of nature. Yet this view has been refuted by claims that Christianity is not typically arrogant to nature (Attfield 1984), or is not the only source of such arrogance in our cultural heritage (Passmore 1974). This argument promotes the 'mechanistic world view' and associated developments as the prime cause in the European separation of people and nature.

The mechanistic world view asserts a separation of people and nature. The world is a 'mechanism' and can be understood like any machine, by pulling it apart into its component pieces. This world view developed from the classical split in the ancient world of people and nature. It was legitimised by the messages of human primacy and the non-sacredness of nature espoused by Western Churches (themselves legitimating their position in relation to prevailing nature-based religions). The ideas were then further developed through the works of Copernicus, Galileo, Bacon and Newton, which constructed a 'rational and value free' science. Of particular significance was Descartes' duality of mind and matter which permitted only people the privilege of both matter and intellect; body and spirit, making the way clear for the scientific and technological exploitation of nature. This world view espoused a social hierarchy where people were placed above the 'lesser races' of animals and plants. There is also hierarchy within people, men being placed next to God and above women and children (figure 3.4).

Figure 3.4 European cultural perspective: People as separate and above nature
The development of power relations - Pakeha domination of nature

Settlers have characteristically had an exploitative attitude towards nature, largely resulting from their essential task - the creation of home and society in an 'under-developed' environment (Wynn 1979 p.171). Within New Zealand the demands of Pakeha colonisation gave primacy to 'settlement' and 'improvement', two ideas which asserted people's power over nature.

Pakeha saw the natural landscape as 'unimproved', to them it was a grief to see land desolate and uninhabited, barren and sterile in the absence of people's hand, and the mountains and forest were frightful without people (Shepard 1969 pp.5-7). They attempted to recreate the ordered and anthropocentric landscapes which they had left behind in Europe:

Clearings were welcomed as cheerful homelike reliefs from the gloomy strangeness of the bush, especially as these clearings acquired crops and hedges, domestic animals, and English weeds ... The association of man-centred pastoral scenery with virtue and Godliness was the most persistent theme in the written record of the New Zealand pioneer.

Settler purpose became the conversion of 'wasteland' into a productive and thus a comfortable landscape (Pawson 1987 p.311). In nineteenth century New Zealand a land settlement ethos promoted that all unoccupied land be assessed for its settlement potential. Forest lands, because they were thought to contain fertile soils, were especially favoured. Prodigious effort was turned to the creation of towns and farms from forest and bush (Wynn 1979 p.171). The destruction of bush was especially vigorous, clearing land for settlement, but also removing an element of nature perceived as oppressive. The clearing of forests was a battle, and was described in the language of battle, 'victory over the environment' a recurring theme (Pawson 1987 p.313).

The creation of imbalances

By the middle of the nineteenth century large areas of New Zealand were under Pakeha occupation. The primary tool of land management had become fire (Whitehouse 1984 p.3), employed to remove thorny shrubs and promote the growth of palatable shoots. In a number of areas vegetation depletion was exacerbated by rabbit infestation, and by the turn of the century there was large scale land degradation, caused by a combination of burning, grazing by sheep, and a rabbit problem. 'Since the days of Homer and Plato, soil erosion has been one of the most widely recognised symptoms of disharmony between man and his environment.' (Mather 1982 p.207).

By the early 20th century some of the drier parts of the South Island had deteriorated to a state in which they were described as man made deserts (Petrie 1912, Cockayne 1915; in Mather 1982 p.209), and by the 1930s there was something of a crisis with widespread accelerated land erosion and regular devastating floods (Roche 1992 p.201). A study of tussock grasslands in the South Island, had concluded that soil erosion induced by burning was serious over much of the high country (Zotov 1938; in Whitehouse 1984 p.4), and in
1938 severe flooding in the Esk river, East Coast, North Island, helped draw attention to New Zealand's erosion problem.

MAORI ENVIRONMENTAL TRADITIONS

Maori differentiation of people and nature - distinction

Mauri is the life essence, the power of the gods, and everything in the world is imbued with mauri. Mauri is the bonding element that knits all the diverse elements within the universe, giving creation 'its unity in diversity' (Marsden 1988 p.20). From this Maori are a part of nature. The basis of this is to be found in the Maori creation myth, where the environment is seen as a family, with the earth and its body - the land - one of humanity's parents (figure 3.5), a marked contrast to the dominant European conceptualisation of people and nature (see figure 3.4).

Figure 3.5 Maori differentiation of people and nature: The environment as family

The landscape itself is perceived not as an accumulation of physical facts, but as Papatuanuku and other Atua (O'Regan 1988 p.5). This family is woven into Maori genealogy, history, heritage. Marsden describing the relationship of Papatuanuku's children (i.e. people and nature) as symbiotic, and this genealogy of creation as part of the cosmic process, the movement towards perfect spirituality as consciousness is freed from the constraints of time and space (1988 pp.21-23). Challenger attempts to depict the centrality of the organic form of people/nature relations within Maori society (figure 3.6), where land is the source, expression and continuance of life itself, land identifies the people, and people identify with the land. Out of this spiritual and historic association comes the status of the Maori as tangata whenua - literally people who belong to the land.
The Maori creation myth describes how from the union of Rangi and Papa seventy children were born, of which eight are more widely known, six of these specifically related to nature (figure 3.5). In the beginning the sky lay upon the earth, and all was dark. At length the offspring of Rangi and Papa tired of continual darkness met, and Tane Mahuta separated his parents, uncovering the multitude of creatures whom Rangi and Papa had begotten. Subsequent to this separation the offspring warred amongst themselves. Tu Matauenga withstood Tawhiri's rage at the separation of his parents, then defeated his four brothers of the earth and sea. Tu, the god of war, is man. From this people are distinguished from their parents the sky and the earth. Walker (1987), has suggested that humanity's relationship to the earth and its resources is codified by the personification of nature in this the Maori cosmogenic myth.

Yet this differentiation is not an explicit separation, it is a distinction of self within an organic relationship. The severance of Rangi and Papa may be seen as the actions of children questing for knowledge after being held in the darkness for so long, almost as a process of children leaving home to establish their own lives. Extending this analogy the warring which established peoples position of primacy with the environmental family may be seen as sibling rivalry, '...man's struggling with nature is not man as an entity apart from nature, he merely participates in nature's battling as one member within nature.' (Yoon 1986 p.34).
The development of power relations - sibling rivalry

For the Maori land was their mother and their ancestor, an integral part of their personal and group identity, yet it was also recognised as their prime economic resource (Douglas 1983 p.1). Within this contrast the land, the rivers and lakes, and the seashore were not only a source of spiritual sustenance, but also the basis of the Maori subsistence economy. Maori were forced to exploit nature to survive, Yoon suggesting that 'In the [Maori creation] myth the principle governing inter-relationships between various elements in the environmental system is that of the stronger dominating the weaker.' (1986 p.32). Walker develops this idea, asserting that 'The conflict between the Gods over the separation of earth and sky established man's superordinate position in nature with the right to take the progeny of the departmental Gods and convert them to his own use.' (1987 p.42).

The environmental code portrayed by Maori cosmology establishes that people and nature are inherently linked, as are past present and future generations of this link. Yet also that people must exploit nature in order to survive. In order to maintain people's links with nature a series of environmental ethics were established which curtailed and placed limits on people's use of nature. This code was progressively developed in succeeding myths and traditions, so that the Maori/nature relationship was much more immediate, more detailed, and more specific than within the creation myth (O'Regan 1988 p.5). Walker (1987 pp.42-43) details the myth of Maui fishing up the land, where the failure of Maui's brothers to follow the expected code of behaviour - namely to placate the gods before converting the land to people's use - was a crime against nature. The result was the land acted in an unpredictable way, the proof being in the undulating landscape of Te Ika a Maui (The Fish of Maui, the North Island).

The alleviation of imbalances

The practical results of Maori exploitation of nature included the extinction of as many as thirty species of bird (Leach 1987 p.25), and the reduction of New Zealand's original forest cover from 78 to 53 percent (Pawson and Cant 1992 p.98). Yet such degradation was largely the result of unfamiliarity with the new landscape, reducing in occurrence and scale over time as Maori adapted. For instance, after arrival in New Zealand and discovery that Pacific Island fruits and vegetables would not grow in the cooler climate, Maori changed their diet to one of birdmeat and shellfish (Pawson 1992a p.20). Maori relations with nature were dynamic, and there developed a number of myths, prohibitions, and taboos relating to nature which established that people are not above nature, and attempted to suppress the emergence of significant ecological imbalances.

The key ideas in the formulation of this environmental ethic are mana and tapu which act to establish the wise use of resources rather than absolute protection. Mana is the highest value of Maori culture (Temm 1990 p.34). Described as the enduring, indestructible power of the gods, it underpins everything (Barlow 1991 p.61), and involves ideas such as status, prestige, standing, and especially self respect. Winitana suggests that ultimately mana comes down to how well you care for other people, particularly your own people (1990 p.108). The position of the environment within Maori society as a relative means
that care of nature and natural resources becomes part of mana. Evidenced in concepts like manawhenua (figure 3.7), and the position of iwi as kaitiakitanga - literally the guardianship of tribal taonga (treasures) which includes nature and natural resources.

**Figure 3.7 The concept of manawhenua**

![Diagram](image)

Source: Author

Tapu is the spiritual essence of all things and arises from mauri. Trees have tapu so that they are not cut down without acknowledging Tane. Rocks and mountains have tapu, and fish and birds have tapu so that it is common practice for Maori fisherpeople to return the first of their catch to Tangaroa (Tate 1990 p.88). A failure to address tapu is a failure for mana to grow, mana punishes breaches of tapu (Metge 1976 p.73) but more than this to ignore tapu you ignore the power of the gods (atua), and as such may bring down their wrath. Failure to respect tapu results in trouble, sickness, or even death (McCan and McCan 1990 p.6). Rahui is a specific form of tapu which restricts the use of resources, for example prohibited access to food resources in order to conserve them for special occasions (Barlow 1991 p.105).

**Summary - Maori and Pakeha environmental traditions**

Both Maori and Pakeha social relations with nature result from a process of social organisation as: differentiation; the development of power relations; and the creation of imbalances. Yet they are also significantly different. Pakeha environmental traditions consist of an explicit separation from and domination of nature, and result in significant imbalances. In contrast Maori relations with nature are characterised by distinction, sibling rivalry, and the alleviation of imbalances. These differences are the result of the differing significance of competition and co-operation. Maori explicitly recognise the importance of co-operating with the environment while Pakeha compete against nature.
Social relations between Maori and Pakeha are also examinable using the same framework of: differentiation, the development of power relations, and the creation of imbalances (figure 3.8). Relations between Maori and Pakeha were established during British colonisation of New Zealand, which was characterised by conflict. Europeans separated themselves from both Maori and nature, developing domination over both. As a result Maori history since colonisation has been one of oppression, a minority marginalised socially, economically and historically.

Figure 3.8 Social organisation - Relations between Maori and Pakeha

Source: Author

Separation of Maori from Pakeha

European colonisation sought to discipline both nature and people, to recreate colonial versions of the 'mother country', to dominate both the indigenous land and the indigenous populations... 'Many nineteenth immigrants saw their mission as the taming of the wilderness and the civilising of its native inhabitants' (Pawson 1987 p.306). British convictions of superiority allowed, even demanded, that they colonise untamed lands and peoples...

It is not to be doubted that [England] has been invested with wealth and power, with arts and knowledge...[and]...the mastery of restless waters, for some great and important purpose in the world...Can we suppose otherwise than that it is our office to carry civilisation and humanity...and above all, the knowledge of the true God, to the uttermost end of the earth?

in Pawson 1987 p.307

This superiority was derived from hierarchical conceptions of the world, where not only nature was separated from people, and women from men, but also British society and civilisation from other races and cultures. The process of colonisation acted to impose European social organisation and social relations upon the world. As nature was explicitly separated from people, and dominated through the mechanistic world view and the development of rational and value free science, so were indigenous peoples separated from British civilisation and then dominated through the development of power structures.
British domination of Aotearoa and the creation of imbalances

Pawson, (1987) suggests European colonisation of New Zealand a three stage process as explaining: superiority; subjugation; and separation. Under this framework of social organisation British superiority allowed and demanded the domination of nature and Maori alike, yet also required a separation, least the process tainted the Europeans. Pawson goes on to characterise a number of 'social separations' as resulting from this social organisation: between Pakeha and Maori; and between people and nature, evidenced in the differentiation of productive land and wilderness. The colonisation of the New Zealand landscape and Maori was an intrinsically linked process. Land and resources provided the context for conflict between the cultures.

New Zealand was one of the last countries settled as part of British expansion, and caught the eye of a prominent theorist of colonisation, Edward Gibbon Wakefield, whose New Zealand Company was ready to plant settlements by the late 1830s (Pawson 1992a p.16). As systematic colonisation under the 'Wakefield plan' commenced Auckland was chosen as the centre of government, and within ten years the New Zealand Company's settlement at Wellington (1840), was followed by others at Nelson (1841), New Plymouth (1841), Otago (1848), and Canterbury (1850). In 1851 New Zealand's European population was 26,000, ten years later it totalled 92,000, and by 1871 it exceeded 250,000.

When first settled New Zealand was controlled by the Colonial Office in Britain, operating within an amalgam of: humanitarian policies; the needs of an emergent state; and the needs of a British state seeking to minimise expenditure overseas (Pearson 1990 pA2). As a result of both this framework and legal, diplomatic, and humanitarian concerns, the British Crown secured a treaty with Maori - the Treaty of Waitangi (Orange 1988). Yet the primary goal of this Treaty was domination over Maori, as a means of gaining land for settlement.

As colonisation proceeded land became a focus for major dispute between European and Maori. Increased Pakeha drive for the ownership of commodities and control of the means of production expanded conflict with the Maori, who did not regard land as a tradeable commodity, (Pawson 1992a p.17). Maori communal social order and cultural attitudes towards land and resources meant that they were considered as a lesser race and legitimised the European mission of spreading 'civilisation'.

Two myths acted to legitimate Pakeha superiority and domination. First that Maori had let their land lie unused and idle for many centuries, (Shepard 1969, Pawson 1987, Pawson and Cant 1992). In this myth New Zealand was a wilderness which lacked morality and was inhabited by a barbarous race who had not improved the land. The inherent morality of European civilisation then justified British 'taming' of both nature and native (Pawson 1987 p.307). Secondly that New Zealand was 'a land of opportunity', an egalitarian society where those at the top are self made and those at the bottom are lazy. Any decline in the Maori position was then their own fault, not the cause of settlement practices or policies.
These myths and European cultural beliefs provided the form of social relations between Maori and Pakeha during the first period of colonisation. Yet it was with the emergence of a self-governing New Zealand state that Pakeha began the construction of a symbolic order to enforce and maintain their domination. 'With the passage of authority from direct British rule to local settler government in 1853, respect and prudence ceased to be on the agenda.' (Pawson 1992a p.20). There were two key forms of state policy introduced and utilised by the Pakeha. First policies of exclusion which encompassed a history of legislative and administrative measures. These successfully stripped away Maori control over land, for example the Land Wars and legislation such as the establishment of the Native Land Court in 1865, and the Native Land Act of 1873. Secondly policies of inclusion which consistently attempted to co-opt Maori within a quasi-separatist bureaucratic structure, for example the four Maori parliamentary seats and specialised welfare and administrative institutions (Pearson 1984 p.103).

Policies of assimilation were originally legitimised as a humanitarian concept, saving the Maori from the fate of the Amerindian and Aboriginal peoples (Pawson 1987 p.310), exemplified by Hobson's statement 'We are now one people'. Attempts to amalgamate Maori within Pakeha society saw a massive confiscation of tribal lands; a consequent undermining of iwi and hapu social-economic cohesion; and the banning of Maori language in schools. Yet there was still explicit separation between the races. As late as the 1940s three quarters of the Maori population still lived in rural districts, retaining their cultural values. This '...segregation - geographical, social, cultural - was the artificial basis for New Zealand's reputation for sound social relations.' (King 1985 in Pawson 1992a p.24).

New Zealand's colonial history was characterised by contradictory policies aimed at assimilating Maori Aotearoa within Pakeha New Zealand, whilst retaining some degree of Pakeha cultural separation, largely through the economic marginalisation and peripheralisation of the Maori. By the end of the nineteenth century the Maori found themselves at the bottom of a cultural division of labour (Pearson 1984 p.102), and represented a distinctly underprivileged section of New Zealand. This position continues and is evident today. With Maori urbanisation their relative levels of deprivation became obvious in a number of socio-economic indicators (table 3.2). Attempts to right this imbalance are perceived as many and costly by many Pakeha. McLoughlin (1993) has constructed a 'balance sheet' which offers 'rigorous' scrutiny of Government spending on improving the position of Maori compared to spending required by the failure of government policies (table 3.1). Expenses perceived as large and unfair by many Pakeha, for instance the 'Sealords' settlement, are juxtaposed against monies spent on elements such as the additional cost of Maori ill-health. McLoughlin describes the result as '...a disturbing deficit of $750 million which represents the appalling social and economic status of many thousands of Maori today.' (1993 p.62).
<table>
<thead>
<tr>
<th>Credits</th>
<th>Debits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Spending on Programmes to Advantage Maoridom</td>
<td>Government Spending Caused by Failure of Maori Policies</td>
</tr>
<tr>
<td>Agriculture and Fisheries</td>
<td>Health</td>
</tr>
<tr>
<td>800,00</td>
<td>104,112,000</td>
</tr>
<tr>
<td>Commerce</td>
<td>Inland Revenue</td>
</tr>
<tr>
<td>100,000</td>
<td>129,400,000</td>
</tr>
<tr>
<td>Conservation</td>
<td>Justice</td>
</tr>
<tr>
<td>3,519,000</td>
<td>126,535,000</td>
</tr>
<tr>
<td>Education</td>
<td>Social Welfare</td>
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<tr>
<td>72,614,000</td>
<td>850,608,000</td>
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<td>Internal Affairs</td>
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<td>Justice</td>
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<td>Labour</td>
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</tr>
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</tr>
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<td>48,131,000</td>
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<tr>
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<td>Treasury</td>
<td></td>
</tr>
<tr>
<td>1,100,000</td>
<td></td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td><strong>GRAND TOTAL</strong></td>
</tr>
<tr>
<td><strong>459,067,000</strong></td>
<td><strong>1,210,655,000</strong></td>
</tr>
<tr>
<td></td>
<td><strong>DEFICIT</strong></td>
</tr>
<tr>
<td></td>
<td><strong>751,588,000</strong></td>
</tr>
</tbody>
</table>
Table 3.2 Measures of the relative material positions of European and Maori\(^1\) in New Zealand, 1986

<table>
<thead>
<tr>
<th>Measure</th>
<th>Maori</th>
<th>European</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proportion of population</td>
<td>81.2</td>
<td>9.0</td>
</tr>
<tr>
<td>Employment status, (^2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employers</td>
<td>7.6</td>
<td>1.5</td>
</tr>
<tr>
<td>Self-employed</td>
<td>10.1</td>
<td>3.1</td>
</tr>
<tr>
<td>Wage or salary earners</td>
<td>75.1</td>
<td>78.7</td>
</tr>
<tr>
<td>Unemployed</td>
<td>5.6</td>
<td>15.7</td>
</tr>
<tr>
<td>Occupational status, (^3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional, technical</td>
<td>16.1</td>
<td>5.8</td>
</tr>
<tr>
<td>Administrative, managerial</td>
<td>6.2</td>
<td>0.9</td>
</tr>
<tr>
<td>Production, labourers</td>
<td>30.2</td>
<td>56.0</td>
</tr>
<tr>
<td>Educational status, (^4)</td>
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<td></td>
</tr>
<tr>
<td>No school qualifications</td>
<td>46.4</td>
<td>70.2</td>
</tr>
<tr>
<td>Tertiary qualifications</td>
<td>31.6</td>
<td>12.7</td>
</tr>
<tr>
<td>Criminal status, (^5) rates per 10 000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trialled and sentenced in court</td>
<td>2.7</td>
<td>18.7</td>
</tr>
</tbody>
</table>

1 Ethnic categories, based on self determination, used in New Zealand census 1986. Only those declaring themselves to be of more than one ethnic origin are omitted.
2 Of those aged fifteen years or over, in or seeking full or part time paid work: NZ census 1986.
3 Of those aged fifteen years or over, in full time paid work: NZ census 1986.
4 Of those aged fifteen years or over, NZ census, 1986.
5 District and High Courts: Justice Statistics 1986.

Source: Pawson 1992a p.20

Linking social relations in New Zealand

Pakeha domination of nature, and Pakeha domination of Maori have resulted from the same process of social organisation: separation, the development of power relations, and the creation of imbalances. The existence of linkages between these forms of domination aligns with Bookchin's key assertion that ecological and social imbalances are two sides of the same causal coin. The process of European colonisation in New Zealand provides sharp evidence of the interlinkages between social and ecological imbalances, settlers separating both themselves and their home landscape in Britain from the Maori and the New Zealand 'wilderness'. Maori were grouped with the New Zealand landscape as barbaric and uncivilised, differentiated from the civilisation of Britain and British people. Ecological and social imbalances are reproduced today in situations such as the Motunui-Waitara resource conflict, where Maori concerns over the pollution of their traditional resources are linked to their lack of control over this resource.

The continued reproduction of these interlinkages between social and ecological
imbalances is a significant reflection of the 'wider status quo', the base causal mechanism in the occurrence of the Motunui-Waitara resource conflict. This status quo is grounded in the fundamental structure of society, in the process of social organisation. Within this process Maori and Pakeha environmental traditions are different, yet due to Pakeha domination of Maori, their social relations with nature predominate within resource management, legislation, institutions and practice. This cultural dominance has long been reflected within resource management and led to the occurrence of the resource conflict (figure 3.9). The final section in this chapter describes and discusses the existence of Pakeha cultural dominance within resource management, using as examples two pieces of legislation and one institution which played important roles in the Motunui-Waitara resource conflict.

Figure 3.9 Occurrence of the Motunui-Waitara resource conflict

CULTURAL DOMINANCE WITHIN RESOURCE MANAGEMENT

The existence of a cultural domination within resource management is traced in two key pieces of legislation the Soil and Water Conservation Act 1967, and the Town and Country Planning Act 1977, and one key institution, the Planning Tribunal. These provided the framework for resource management at the time the Motunui-Waitara resource conflict occurred.

The Water and Soil Conservation Act 1967 was intended to facilitate total control of water allocation and quality, of river protection and erosion control. The Act promoted and implemented the concept of multiple use, yet within this legislation there was no recognition specifically given to Maori cultural values. They were by assumption part of the public interest and given no special standing. Section 21(3) specified that one of the functions of natural water is the carriage of wastes, which conflicts strongly with Maori preferences for the disposal of waste materials. That little or no notice was taken of
Maori environmental traditions within this legislation is evidenced by Planning Tribunal comment upon it:

...to the extent that it is possible to do so, the cultural attitudes of the Maori people to the water of the estuary have been taken into account and have been provided for. The Act does not provide for the spiritual relationship with those waters to be taken into account...

Indeed we cannot see how the law could do so.

Planning Tribunal in Cotton 1988 p.7

The Town and Country Planning Act 1977 section 3 sets out matters of importance and includes (1)(g) the relationship of the Maori people and their culture and traditions with their ancestral land. This was the first major concession to the notion that Maori interests and values were distinctly different from those of Pakeha, and that they needed to be considered (Matunga 1989 p.2). The section saw the easing of some town planning restrictions and rural planning permissions, for example Taupo and Tauranga counties developed special marae community zones and papakainga zones, yet Kenderdine commented that s.3(1)(g) was unlikely to be of paramount consideration when weighed against all the other factors within the section (Asher and Naulls 1987 p.84).

The success or otherwise of section 3(1)(g) should be evaluated in its use and interpretation. The Planning Tribunal originally held a narrow, concise interpretation of ancestral land, where to qualify the land had to have been held continually by the Maori people (Quiletet v. Mongonui County 1978, in Shearer 1987 p.31). It wasn't until 1987 in Habgood v. Royal Forest and Bird Protection Society that the Tribunal allowed that the notions of ownership and ancestral land could be separate (Cotton 1988 p.1). At this point the interpretation was widened to - there must be a nexus between the Maori culture and land in question which affects the relationship of the Maori people to the land (Cotton 1988 p.4). Despite these changes significant problems continued to exist in that s.3(1)g had no more significance than any other part of s.3(1), and in that Maori people were deterred by the apparently complex procedures of the Act, and the Pakeha bureaucracy which operated them (Stokes 1992 p.29).

The Town and Country Planning Act established the Planning Tribunal, with the role of being the principle body for passing judgement on the use of natural resources. It has powers similar to that of a District Court, and its activities revolve around value judgements in terms of priorities. Shearer uses the example that the Tribunal may be called upon to decide whether to grant a right to discharge effluent into a particular water regime (1987 p.39). He goes on to identify three major limitations for the adequate hearing of Maori values: the alien environment; the often prohibitive length and cost of hearings; and that the Tribunal itself is dominated by Pakeha and gives higher value to scientific rather than cultural evidence (1987 pp.40-41). There is no provision for Maori representation on the Tribunal, or for equal or greater weighting for certain Maori matters as guaranteed under Article 2 of the Treaty of Waitangi.
CHAPTER SUMMARY

Using an analytical framework, based in the social anarchist traditions of Kropotkin and Bookchin, the Motunui-Waitara resource conflict reflects both social and ecological imbalances, which are linked and result from the same causal processes. Such imbalances also characterised European colonisation of New Zealand, in the development of Pakeha domination over Maori and nature. Both forms of imbalance are the result of social organisation, a process of: differentiation; the development of power relations; and the creation of imbalances, which underlays the fundamental structure of society.

Within this wider status quo Maori and Pakeha relations with nature are different, the result of differing balances between competition and mutual aid. Furthermore, Pakeha dominate society, relegating Maori to the position of a powerless minority. Interaction between these social relations has resulted in the creation of a cultural dominance within resource management. This dominance, reproducing underlying social and ecological imbalances, providing a situation where social actions such as the Motunui-Waitara resource conflict occur. However, the framework does not fully explain how specific resource conflicts emerge from this wider causal structure. The next chapter employs the conceptual framework of context and place as a means of elucidating base causal mechanisms specific to the Motunui-Waitara resource conflict.
Chapter 4

Context and Place

The existence of a 'wider status quo' provided the base causal mechanism of the Motunui-Waitara resource conflict. The previous chapter introduced the resource conflict as social action and discussed the wider status quo as social relations, determined by social organisation. This approach proposed the occurrence of the resource conflict as the reproduction of an underlying framework of social relations, based around domination and social and ecological imbalances. It was illustrated by discussion of cultural dominance within resource management. This theorisation provided a causal situation for the conflict, yet as social action the Motunui-Waitara resource conflict also occurred as part of, and within, a context of events and actions occurring at a number of determinate spatial and temporal scales. Geography as a discipline utilises notions of context and place to analyse and interpret such interactions, thus the causal wider status quo has two parts: social organisation as providing a generalised framework of occurrence; and context and place as providing a specific framework for occurrence. This chapter investigates the operation of context and place as a base causal mechanism of the Motunui-Waitara resource conflict.

CONTEXT

Context in human geography

The notion of context revolves around two assumptions: that all social action is situated in time and space; and that space is both context and creation - both a condition and consequence of human activity. From this human agency is seen as a series of situated events in time and space.

During the last decade 'context' has become something of a buzzword within human geography (Driver 1988 p.502), a result of the universalising ambitions of the quantitative revolution, and linked criticism of theoretical frameworks which leave no place for singular characteristics. There have been two key factors influencing this development of context in geography: a call to retrieve history as a legitimate part of human geography (Driver 1988 p.497); and a need to reclaim geography's traditional attachment to places (Gregory 1978). 'Geographers should reclaim their traditional area of expertise, the ability to comprehend events in specific places as the outcomes of developments in those places as well as the impact of global forces' (Johnston 1985a p.7). From this, context in human geography is recognition that a given event or process can only be understood when placed within a context of other events/processes occurring at a variety of spatial and temporal scales, and within the contingencies of place.
Economic and cultural transformation as context

There are two significant factors in the occurrence of resource conflicts. First the western notion of progress which emphasises economic growth as development, and secondly changing social values reproduced in the emergence of new political movements in the 1960s and 1970s (Bacow and Wheeler 1984 pp.1-3). These factors are aspects of a two part context: economic transformation; and cultural transformation. The processes are separate, yet intrinsically linked, and have operated globally over the past three decades to significantly transform geography: internationally, nationally, and locally.

The process of economic transformation has a number of aspects. Importantly the forces of capitalism are transmitted internationally, thus '...the global scale counts most when trying to grasp contemporary change.' (Britton et al 1992 p.5). Since 1975 there has been an increasing global integration of production and trade, which Kelsey terms the 'era of international capital' (1990 p.19). Factors such as 'the new international division of labour' and the development of Multi-National Corporations (MNCs) evidence a restructuring in which '...economic agents and institutions, operating at a number of spatial scales, lay down successive layers of investment and create divisions of labour, which represent a changing geography of activity and profit accumulation...' (Britton et al 1992 p.3).

National boundaries no longer act as 'watertight' containers of the production process, rather they resemble sieves through which extensive leakage occurs - the traditional international economy of traders giving way to a world economy of international producers (Dicken 1986 pp.3-4). Significant investment by MNCs in a number of highly controversial and capital intensive projects in New Zealand has reflected the increasing permeability of national boundaries. These include the Motunui Synfuels plant (Mobil Oil, US), the Comalco aluminium smelter (Cozinc-Rio Tinto, UK), and a compressed natural gas plant (Amoco, US) (Le Heron 1992 p.18). Yet there are a number of other facets to the transformation of capital. Issues of economic growth and sustainable management have been increasingly debated, and changing trends of production and consumption have emerged in the international economy and filtered through to national and local levels.

As part and of, parallel to, this restructuring there has been a cultural transformation, involving a number of complex social phenomena. The plight of the underprivileged and oppressed has gained international attention and politicisation; feminism has swept the globe in waves; significant parts of the world have been decolonised, only to become the Third World; and a 'new world order' has appeared with the displacement of Eastern European communist regimes. As the Third World was decolonised, awareness grew of a Fourth World - indigenous peoples such as the Maori, who exist as powerless minorities within their own countries.

In recent years the voices of indigenous peoples living in wealthy, First world countries have been heard with increasing force. They seek to retrieve land rights and measures of self determination after generations of existing as dispossessed minorities in lands that were once theirs. Pawson and Cant 1992 p.95
The positions and protests of these people have been thrown into sharp relief through celebrations of 'discovery' and colonisation by a number of countries: Australia's 1988 Bicentennial; New Zealand's 1990 Sesquicentennial; and the Americas' 1992 celebration of 500 years since Columbus' 'voyage of discovery'.

Also of significance in this process of cultural transformation has been the increasing awareness and politicisation of environmental issues, where: the number of environmental groups and the size of their membership is accelerating; green capitalists and consumers are emerging; and environmental issues are now a significant part of the political agenda. In 1972 the United Nations (UN) Conference on the 'Human Environment' was held in Stockholm. Twenty years later another UN conference was held, this time at Rio, and was entitled 'Environment and Development'. At Stockholm economic growth was lauded as the solution to environmental and societal problems, but at Rio there was a reduced commitment to economic growth, with proposals for small scale projects, and local involvement and control in environmental management. The differences between these two Global Environmental Conferences suggest the nature of the changes being wrought by processes of economic and cultural transformation. The changing titles of the conferences are important, inferring that the costs of maintaining growth and material standards in terms of environmental degradation and social conformity were becoming apparent.

Context and indigenous people's rights

Processes of economic and cultural transformation interact at a number of spatial levels, and a number of contexts. Decisions made in New Zealand are subject to, and a part of, these processes of transformation (Britton et al 1992 p.5). Kelsey (1990) has discussed Maori rights during the years 1984 - 1989, in a context of two separate revolutions: Rogernomics; and the assertion of Maori rights. Both processes sought control over the country's economic and political sovereignty, and were reproductions of an '...ongoing contradiction which has existed since 1840 - between the New Zealand state founded on colonial capitalism and the right of te iwi to te tino rangatiratanga over Aotearoa.' (Kelsey 1990 p.23). She goes on to suggest that conflict between this context of contradictory processes culminated in the 1987 Court of Appeal case brought by Maori against the State Owned Enterprises Act 1987 (SOEs).

The collision of such processes however, is ultimately at the local level, restructuring being '...about changes in global, national, and local forces that combine to shape the material world we encounter daily, wherever we are living.' (Britton et al 1992 p.2). There are a number of ways in which the two processes of transformation have conflicted at the local level. One obvious point of contact has been changing decision making processes and structures concerning the use and management of natural resources. This has resulted in issues of resource development and conservation no longer being separated - the notions of sustainable development and sustainable management good examples. In a number of instances the rights of indigenous peoples have been a significant element in the process of cultural transformation, playing an important part in changing perceptions of resource use and management, for example: the Berger report and James Bay Cree protests.
in Canada; Illuru (Ayres Rock) and Kakadu National Park in Australia. Within New Zealand the Motunui-Waitara claim to the Waitangi Tribunal has been the most significant example. Here the process of economic transformation was expressed through the Synfuels and Petralgas 'Think Big' energy developments, and conflicted with a cultural transformation which revolved around the grievances of the indigenous population - Te Atiawa, and changing environmental awareness.

**Three contextual themes: energy; indigenous peoples; and environment**

Blackford (1992 p.5), when placing economic and cultural transformation within a New Zealand context, suggests cultural transformation is reflected in protest over the lack of recognition given to both environmental values and Maori rights and values. Collision between cultural and economic transformations finds concrete form in a number of contexts, and in conflicts involving indigenous peoples, economic transformation has often been reproduced through energy issues, for example the James Bay, MacKenzie Valley and Motunui-Waitara resource conflicts. Thus a context of three themes: energy issues; a resurgence in the rights of indigenous peoples; and increased environmental awareness will be used in this chapter to examine the occurrence of the Motunui-Waitara resource conflict. These three themes involve a range of temporal facets, and are traced through international; national; and local spatial scales (figure 4.1).

**Figure 4.1 Context of the Motunui-Waitara resource conflict**

Source: Author
The 'energy crisis'

Increases in patterns of consumption by industrialised Western countries since World War II were tied to a rapid growth in the use of energy. From 1950 to 1973 total primary energy consumption in the non-communist areas grew at some 4.6 percent per annum, fed by economic growth at a similar rate. (Ministry of Energy 1978 p.4). This growth in energy use came almost entirely from hydrocarbons (oil and natural gas), with global oil consumption in 1973 five times the level of 1946 (Ministry of Energy 1978 p.4). Oil was cheap and convenient due to the discovery and development of large easily won reserves in North Africa and the Middle East. The supply of oil seemed more reliable than the often strife torn coal industry. As a result consumer countries' indigenous energy resources such as coal and gas were often rendered uneconomic compared with imported oil.

Despite this, the oil exporting countries found that they were receiving little benefit from their increasing exports. In 1960, in an attempt to overcome this, they formed the Organisation of Petroleum Exporting Countries (OPEC). In the aftermath of Arab Israeli conflict in the 'Yom Kippur' war, OPEC imposed a selective and partial oil embargo. Responding to the threatened shortage, prices offered for oil on uncontrolled world markets increased dramatically, making it clear to OPEC that the time had come when large increases in world oil prices were possible - in October 1973 OPEC doubled the price of its oil, and less than three months later doubled it again. At this time OPEC countries were producing over half the world's oil. Within a number of states, particularly Organisation for Economic Co-operation and Development (OECD) countries, there was high dependence upon oil, mainly from OPEC sources. This 'international energy crisis' dramatically illustrated the impact of global process on individual countries, or even individual people.

Growth in consciousness of the 'Fourth World / First Nations'

The Fourth World is composed of indigenous peoples who lost their land and sovereignty through colonisation. They exist as islands in the First World, marginalised socially and economically through assimilation into the global capitalist system (Pawson and Cant 1992 p.95). A number of authors have identified the existence of a recent worldwide rise in the consciousness of these Fourth world peoples, and drawn attention to the increasing political vitality of the indigenous minorities as a worldwide phenomenon (Murton 1987, Pearson 1990, Pawson and Cant 1992). The Maori of New Zealand, the Inuit of Canada, and the Aborigine of Australia are all examples of these Fourth World peoples, who today are being renamed as 'First Nations'. The increase in consciousness and political vitality of indigenous groups has been reflected in increased activism and politicisation of their position, effectively an indigenous resurgence. This has involved a general increase in the awareness of indigenous people's rights amongst the world, with 1993 being the UN 'Year of the Indigenous Peoples'.

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The resurgence of indigenous peoples in New Zealand, Canada, and Australia is often linked. All were colonised by white settlers during Europe's global expansion between the seventeenth and nineteenth centuries, with their rights pushed to one side. Similarly it was only in the 1960s that protest in all three countries became politicised, stimulated by decolonisation of the Third World, the black American civil rights movement, and the growing acceptance of cultural pluralism in the First World. In Australia this increased politicisation led to the 1967 national referendum where a 90% vote was recorded to repeal discriminatory clauses in the Federal constitution. In Canada it was the result of the Federal government's 1969 white paper, which reaffirmed the policy of assimilation, and was boosted by the 1977 publication of the Berger Inquiry. In New Zealand appeals by Maori concerning their position and fate had been made to the Crown since the late nineteenth century, but it was not until 1975 that this protest was extensively publicly mobilised, in the form of a Land March where 30 000 people marched upon parliament to protest the Maori loss of land.

**Increasing environmental awareness**

Increasing environmental awareness is a global process that has a number of faces, ranging from the politicisation of environmental issues, to political party activism, to social movements, and the greening of capitalist enterprises. Good examples are the increasing prominence of global environmental groups such as 'Greenpeace', and the 1983 success of the West German Green (Die Grunen) party in the West German Federal elections, gaining 5.6% of the vote (Miller 1991 p.44). This transformation of social values has been reflected in: the burgeoning membership of environmental groups; the emergence of green consumers and capitalists; and the growing importance of environmental issues on the agenda of mainstream political parties.

Suggested causes of this complex social phenomenon are as many as its various guises. During the 1960s and 1970s publications such as the Club of Rome's neo-Malthusian 'Limits to Growth', Schumacher's 'Small is Beautiful', and Rachel Carson's 'Silent Spring' all evidenced and fuelled growing environmental awareness. These works and others served to identify that increasingly environmental problems could not be confined to national boundaries. Issues such as acid rain, ozone depletion, the greenhouse effect and sea-level rise were used as examples in asserting that environmental degradation, and the solutions to such problems, were not necessarily confined to the international borders of nation-states.

One of the key factors proposed as causing this increasing environmental awareness and activism in western countries is the decline of the traditional blue collar working class as an innovatory political force, and the rise of a 'new middle class' as the harbinger of cultural transformation (Eckersley 1988 p.54). This new class is more involved than any other in environmental issues and green politics (Eckersley 1989 p.222). They are more aware of the scale and depth of environmental and social problems, as well as being more able and motivated to become politically engaged in overcoming them.
Reactions to the 'energy crisis' provided a significant context for conflict between processes of economic and cultural transformations. On one hand it was asserted that there were no energy supply problems - rather countries had balance of payments problems, caused in part by the rising costs of oil imports. The answer was to remedy balance of payments deficits, and/or develop internal energy resources. The opposing argument asserted that questions and answers needed to be directed to wider issues: such as current practices of energy use; alternative energy sources; and increasing energy efficiency "The crux of energy policy lies in determining the ends, not just charging blindly on by whatever technological means we can find." (Hill and Lee 1979 p.13).

Conflict between these two arguments found concrete expression in a number of resource conflicts. In many of these environmental disputes the conflict was exacerbated by the claims and grievances of indigenous peoples, for instance the MacKenzie Valley gas pipeline proposal in Canada. This issue became a focus for Canadian debate over resource exploitation and the rights of the indigenous peoples. The resource conflict questioned a number of Canadian beliefs, particularly the juxtaposition of resource exploitation with progress and development, and the perception of the Canadian north as a resource frontier open for exploration and exploitation, for example 'The north will change... Development will occur. It is inevitable.' (Hall commission 1976 in Berger 1977a p.89).

**NATIONAL CONTEXT - NEW ZEALAND**

'Think Big' energy policy

The term 'Think Big' was coined to describe the economic strategy of Sir Robert Muldoon's National Government. The basis of 'Think Big' was an assumption that economic growth would bring development and that large scale energy and capital intensive projects were the key to growth (Perrings et al 1981 p.11). Growth became the number one priority of the National Government '...the over-riding aim of the economic policies which the government has been putting into place is to lift the economy out of the low growth trap in which it is caught.' (Muldoon 1980 Budget). Securing a reliable energy supply which fulfilled all needs was seen as an essential step in the process of attaining economic growth. Following the 1973 'energy crisis', the cut back of oil supplies by Iran in 1978 not only increased price, but also reduced overall supplies by some 4.3% below estimated demand for inland consumption (Ministry of Energy, 1979 p.14). As a result 'Think Big' promoted a programme of rapid heavy industrialisation, utilising the country's indigenous energy supplies, with the aim of maximising short term growth (Peet 1981 p.26). One of the key bodies charged with this resource exploitation was the Liquid Fuels Trust Board (LFTB), which had been established by statute in 1973.

A LFTB report entitled 'Development of an Initial Strategy for Transport Fuels and Supply, and Gas Utilisation in New Zealand' promoted three key goals: improvement of New Zealand's balance of payments; greater control of the economy; and improved
security of supply - self-sufficiency (NZSFC 1981 p.3). These goals became visible in a number of contemporary government policy announcements: the 1979 Ministerial statement on use and allocation of the Maui gasfield; 'Energy Strategy 1979'; and 'Energy Plan 1980' (Porter et al 1982 p.6). In these statements the National Government developed an energy policy based on: reduction of New Zealand's dependence upon imported oil; efficient usage of energy; and a planned use of energy to meet future needs. The 'Think Big' policy combination of growth and energy issues was to be achieved largely through the development of a small number of large scale energy intensive industries (for example the aluminium smelter at Bluff), complemented by a major programme of replacement of imported oil by indigenous fuel sources (for example Synfuels and Petralgas).

While Think Big was proposed as the ends to New Zealand's worsening economic position, the National Development Act 1979 was established as the means to this ends. The Act provided for 'major projects' of 'national importance' to enjoy significant advantages over smaller projects through special 'fast track' planning procedures. Following the procedural delays experienced by the Clyde Dam project, caused by numerous objections and considerable litigation, the Act was introduced to parliament (Waller and Waller 1983 p.34), leaving reduced options and timeframes for public submissions. A feature of New Zealand environmental statutes and management at the time was the degree of administrative fragmentation between separate agencies and organisations, yet the National Development Act only attempted to resolve this in terms of 'Think Big' projects, and resulted in restricting the possibilities for adequate investigation and public participation.

Waitangi - The Treaty, the Tribunal

The resurgence of indigenous rights is best illustrated in New Zealand by changing perceptions of the Treaty of Waitangi (Appendix III) and by operation of the Waitangi Tribunal: two interlinked factors.

The Treaty of Waitangi has been described as the 'Maori Magna Carta', (McHugh 1991), and is increasingly seen to provide some sort of basis for Maori / Pakeha social relations in New Zealand - for example the concept of partnership expressed in the Court of Appeal's 1987 decision. Its history has been extensively documented in recent publications, and a generally accepted analysis of the Treaty's past is that there are two historical contexts - Maori and Pakeha (Orange 1987, 1988). The Pakeha history is dominated by a 'loss of memory' of the Treaty which occurred largely once its usefulness as an entitlement to colonisation had been served. In comparison 'Te Tiriti' was never forgotten in Maoridom, 'Maori attitudes to the Treaty over the past 150 years have been far more consistent, and based on understandings established in 1840, which have assumed increasing relevance and been growingly articulated.' (Orange 1988 p.2). Orange also identifies a recent trend within Pakeha history of the Treaty, of 'rediscovery, and McHugh (1991), suggests this to be in fact a third historical context - 'The afterlife of the Treaty in Pakeha society'.
The Waitangi Tribunal was created with the passing of the Treaty of Waitangi Tribunal Act 1975 to: enquire into claims by Maori of prejudicial treatment, or actions by the Crown inconsistent with the principles of the Treaty of Waitangi; and to make findings; and then if necessary recommendations for redress. This Act, and the creation of the Tribunal, may be viewed as consequent to the overlapping of the three historical contexts depicted by Orange and McHugh. This overlapping resulted from two key aspects, first, urbanisation of the predominantly rural Maori population, which began after World War II and promoted increased group interaction and shared awareness of subordination. Secondly the expansion of international communications where the oppressed position of minorities over the world (particularly the Third World), and the black civil rights movement, was brought increasingly to the attention of Pakeha. New Zealanders were forced to re-evaluate the situation in their own country, due to the increasing obviousness of the socio-economic disadvantages suffered by Maori.

The Waitangi Tribunal has been given the authority to determine the meaning and place of the Treaty, and has had a substantial impact on political and public attitudes. Since its inception the Tribunal has attempted to formulate a unified view of the Treaty and Maori rights for all of New Zealand. In terms of the Treaty of Waitangi however, there are effectively five versions, one in maori and four in english, with none an exact translation of the other. An important aspect of Tribunal operation has been the attempt to reconcile this. The Waitangi Tribunal has chosen to take the Treaty as a guide rather than a finite contract, and as established by international principles of Treaty interpretation (Shaw 1991), is guided by the Treaty's principles, its spirit, and intention.

Vienna convention - Article 31(1) A Treaty shall be interpreted in good faith, in accordance with the ordinary meaning to be given to the terms of the Treaty in their context, and in the light of its object, and purpose.

International Court - "...the first duty of a Tribunal which is called upon to interpret and apply the provisions of a Treaty, is to endeavour to give effect to them in their natural and ordinary meaning in the context in which they occur."

Shaw 1991 p.234

The spirit of the Treaty transcends the sum total of its component written words, and puts narrow or literal translations out of place.

Wai-6 p.55

The Tribunal's function is then to enquire into Maori claims and assess these against the principles of the Treaty of Waitangi - 'The Treaty has been replaced by the 'principles of the Treaty' as the reference point for justice for Maori.' (Douglas and Henare 1988 p.105).

The original Treaty of Waitangi Tribunal Act provided only for the investigation of actions and policies of the government which occurred after 1975. This precluded the hearing of historical land claims and resulted in a dominanceresource conflict claims, for example Kaituna (Wai-4), Motunui (Wai-6), and Manakau (Wai-8). The resurgence of Maori people and their culture interacted with these limitations, and was constructed around nature and natural resources. Greenland (1991) has characterised recent Maori ethnicity as based around: the notions of tangata whenua and kaitiaki which provided the
Maori with a common origin and a fundamental source of unity; and contrasts between Maori and Pakeha approaches to land, particularly the portrayal of these differences as an artificial polarisation. This allowed the development of an argument which rejected the moral basis of Pakeha society as exploitative of both nature and people.

Environmental awareness and activism in New Zealand

From the 1960s the ecological and aesthetic price of nationally significant development projects became of concern to growing numbers of New Zealanders (Pawson 1992b p.188), and in 1972 the Values party (arguably the world's first Green political party) was created. Values contested the 1972, 1975, and 1981 general elections without winning a seat, but importantly placed environmental issues firmly on the political agenda. This occurred at a time when disputes over native forests in South Westland and the Manapouri hydro scheme had become national issues. Rainbow (1993 p.x), suggesting that opposition to the raising of Lake Manapouri struck at the heart of the development ethic which had driven New Zealand's colonial history.

In the late 1970s as a result of these factors, both major political parties attempted '...to accommodate the interests of those parts of the electorate believed to sympathise with environmental causes. Labour in particular targeted such people, on the assumption that many were young, urban liberal voters.' (Pawson 1992b p.188). Noticeable results of this have been threefold: the reservation of natural resources, for example creation of the South West New Zealand Heritage Area; the rationalisation of institutions concerned with environmental management, for example creation of the Ministry for the Environment (MfE), and the Department of Conservation (DOC); and the reformulation of environmental safeguards for development, for example the Resource Management Act (RMA), developed through the process of Resource Management Law Reform.

These changes however, were not forced by growing environmental awareness alone however. In the restructuring a common theme of separating the commercial and non-commercial components of resource management existed. In this goal the interests of environmentalists coincided with those of Treasury and business interests, albeit for differing purposes (Pawson 1992b p.188). Treasury was concerned that insufficient returns on investment were being achieved by state forestry and farming initiatives, and for this reason considered that development and conservation purposes should be separated within environmental administration.

With the recent establishment of the New Zealand Green Party, the Values agenda of increasing environmental awareness and activism has been revived. The party placed environmental issues at the centre of all its policy, and contested the 1990 general election in 71 of New Zealand's 97 electorates, gaining 9.15% of the valid vote (without, however, winning a seat). Rainbow (1993) asserts that Green issues are increasingly articulated in both political and intellectual forums '...environmental values will be incorporated into decision making more and more...' (Rainbow 1993 p.94).
While account must be taken of global forces, national processes act as a social membrane through which global forces are filtered (Britton et al. 1992 p.3). Within New Zealand differing responses to the energy crisis evidenced conflict between the two processes of transformation: economic and cultural. There was a polarity of opinion, some considering that

Far from an energy shortage, New Zealand has extensive reserves of cheap and readily available energy... the obvious thing to do is use the competitive advantage provided by these resources as a tool in the restructuring of the economy... The danger is that we will be too conservative and timid to exploit them...

Ingram in Hill and Lee 1979 p.10

In comparison there was argument that 'Substitution between non-renewable resources (i.e. gas for oil) is really maintenance therapy - it reduces the cost but doesn't break the habit.' (NZIE 1979 in Hill and Lee 1979 p.11), and that 'Transport is the real crisis element in the energy and adjustment to the transport fuel shortage requires a different lifestyle.' (Action for the Environment 1979 in Hill and Lee 1979 p.13).

These conflicting views collided in debate over the 'Think Big' development policy, and were reproduced in a number of resource conflicts, the most obvious example the Motunui-Waitara claim to the Waitangi Tribunal. The economic transformation of New Zealand's energy policies and practices collided with changing social attitudes reflected in the expression of Maori grievance and growing environmental concern. The result was a claim to the Waitangi Tribunal, which established the Tribunal '...as having a significant role in considering Maori perspectives on the environmental impact of large development projects.' (Stokes 1992 p.186).

LOCAL CONTEXT - TARANAKI

Discovery and exploitation of the Maui gasfield

The Maui Gasfield is situated approximately 50km off the West Coast of the North Island of New Zealand. It was discovered in 1969 by Shell, BP, and Todd, ten years after the discovery of the Kapuni onshore gas and condensate field, (the first for New Zealand). The field was estimated to have gas reserves of 5500 petajoules (4.9 x 10^{12} cubic feet), and 780 petajoules of recoverable associated condensate (140 x 10^{6} barrels). The utilisation of this resource was decided on the basis of a report by the LFTB.

In February 1979, following an approach to the government by Mobil with a proposal to manufacture petrol from Maui natural gas, the LFTB awarded research contracts to Mineraltechnik of West Germany and the Badger Company of the United States, to study local production of synthetic fuels. The major reason for the Liquid Fuels Trust Board recommending the Synthetic petrol plant was that '...it represented the most practicable gas utilisation option for achieving a significant degree of self-sufficiency in transport fuels by
the middle 1980s.' (Bechtel Petroleum Ltd. 1981 p.5). For the Maui Gasfield three main recommendations were made by the LFTB: the manufacture of chemical grade methanol for export from Maui gas; the allocation of 50 - 60 petajoules (PJ) per year of Maui gas to the manufacture of synthetic petrol; and the complementary expansion of New Zealand's refinery at Marsden Point.

In November 1979 the government officially adopted these recommendations. In July 1980, Petralgas Chemicals New Zealand (Petralgas), a company composed of Petrocorp (51% owned by the New Zealand government), and Alberta Gas Limited, applied to the government for the provisions of the National Development Act 1979 to be utilised in the construction of a stand alone methanol plant in North Taranaki (figure 4.2). The application was successful, and only seven months later following the required environmental impact report (EIR) from Petralgas, and the Commission for the Environment's audit of this EIR, the Planning Tribunal decision granting the necessary consents was released.

Simultaneously on the first of April 1980 an agreement was signed between Mobil and the government over the construction of a synthetic fuel plant (figure 4.2). In September following the assembly of a site selection committee and the choice of the Motunui site, the 'New Zealand Synthetic Fuels Corporation Limited' (Synfuels), was constituted, with Mobil having a 25% shareholding - the rest being held by the New Zealand government. Consequent to this in February 1981 an application for the necessary planning and building consents to be heard under the National Development Act 1979 was submitted to the government. It was accepted, and the Planning Tribunal report gave the project the all clear at the end of 1981.

There were a number of questions over the appropriateness of these development projects, some of the most important concerned with effluent disposal. Petralgas originally applied for a water right to discharge directly into the Waitara river, while Synfuels sought consents for the construction of a new stand alone outfall at Motunui. Both proposals were opposed. The Commission for the Environment received 68 submissions when preparing its audit of the Synfuels EIR. The vast majority critical of which were the project, and a number expressed general concern over the possible construction of an outfall, 'Sewage outfall sites may not be 'biological deserts' but the animal, and plant communities near outfalls show obvious changes in structure, diversity, abundance, disease susceptibility, and growth.' (Hunter 1981 p.3).

In its audit of the Petralgas EIR, the Commission for the Environment (CfE) recommended against discharge into the Waitara River, which was contrary to Taranaki Catchment Commission (TCC) policy, and suggested the use of the existing Waitara marine outfall (CfE 1981a p.24). Subsequently, during the course of the Planning Tribunal hearings, Petralgas withdrew its applications for rights to discharge into the river and arranged with the Waitara Borough Council for these discharges to be made into the Council's sewage system, subject to prior treatment, to the standards required by the public authorities concerned.
Compared to the methanol plant it is important to note that Synfuels '...has the potential for creating substantially greater environmental disturbance than the nearby Petralgas Methanol plant.' (Crn 1981d, p.16). In its audit of Synfuels EIR, and in its submissions to the Planning Tribunal, the Commission for the Environment felt that the proposal for the construction of a stand alone marine outfall at Motunui had not been discussed in sufficient detail, and that Synfuel effluent should also be discharged through the existing Waitara outfall. The Department of Scientific and Industrial Research (DSIR) and Ministry of Agriculture and Fisheries (MAF) also made submissions suggesting that Synfuels should reconsider the methods proposed for the treatment and discharge of effluent. Despite this with TCC approval, the water right for a new marine outfall was granted 'To discharge treated effluent at an average of forty litres/second, of process effluent plus up to thirty litres/second of contaminated stormwater from a marine outfall into the Tasman Sea.' (Water right 821, in Planning Tribunal 1981b p.41).

Te Atiawa and Taranaki - the loss of land

For the Te Atiawa land was everything. It was the foundation of life, the permanency and stability which provided the basis of economic and social survival. Every aspect of life for Te Atiawa involved land. It provided the history, the culture, the food of life and the politics. Te Atiawa was an integral part of the land and had to live by the land, its environments and nature's endowments of the land. Every social activity was influenced by the land, the respect for land was paramount and in over a thousand years of occupation, Te Atiawa had nurtured the resources of the land and the sea.

Love 1991 pp.11-12

During the process of the Motunui-Waitara resource conflict, Aila Taylor pointed out to the Waitangi Tribunal the importance of raupatu (land confiscation), in understanding the history and attitudes of Taranaki Maori (Durie 1987 p.81, Mahuta 1987 p.82). Taylor (1986) has further asserted that Te Atiawa are known as 'Te iwi o te wahi kore' - the people with nothing, referring to the fact that they have little land. The confiscation of Atiawa lands added to a legacy of oppression and loss, a history of grievance that both focussed Te Atiawa mana on their coastal reefs and found voice in the claim to the Waitangi Tribunal.

In 1839 Colonel William Wakefield, acting as an agent of the Plymouth Company (a subsidiary of the New Zealand Company), began purchasing land in Taranaki. Wakefield entered into six deeds - the fifth (the Nga Motu deed), and sixth being signed on the 15th of February 1840 with the Chiefs of Taranaki. These purchases and the 'Company' extinguished all rights of Maori and provided no entitlement apart from the so-called Native reserves, or Tenth. In evidence to the Waitangi Tribunal (ongoing Taranaki land claim Wai-143) Te Atiawa have asserted that the contracts entered into between Wakefield and Maori could not be sustained, largely on the basis that the deeds were in English, complicated, and not fully explained by the interpreters.

Despite strong protest by Te Atiawa, and Hobson's January 1840 proclamation that meant only titles from the Crown could give valid title to land, the Company continued with illegitimate purchases. An investigation of the Company's titles in Taranaki in 1844 by

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William Spain on behalf of the British Government had recommended in relation to the Nga Motu deed - clearly transacted after Hobson's proclamation) a Crown grant to the Company of 60,000 acres - only two miles less in length and breadth than the original block which the Company had claimed.

In 1848, after Te Atiawa had made it clear that land around Waitara was not for sale, Wiremu Kingi arrived from Waikanae with a heke of over 500 people. While settlers viewed the increasing number of Te Atiawa now located in Taranaki with concern, of equal concern was the development of an economic base by the Maori. In 1854 it was noted that...

Te Atiawa had substantial crops of wheat, oat, maize, and potatoes. During 1853 they sold over 2,800 pounds worth of produce to the two largest local exporting firms...Te Atiawa owned 150 horses, 250-300 head of cattle, 40 carts, 35 ploughs, 20 pairs of harrows and three winnowing machines.

Love 1991 p.7

Despite this there were disputes within Te Atiawa - particularly within hapu - over the sale of land. On the 21 of February 1860 Te Teira and a small group of Te Atiawa sold a block of land at Waitara to the Crown, despite a statement by Wiremu Kingi that, 'Notwithstanding Teira's offer, I will not permit the sale of Waitara to the Pakeha. Waitara is in my hands, I will not give it up.' (Love 1991 p.9)

Despite Kingi frequently again conveying the unwillingness of people with rights in the land to sell, the Crown seized upon the opportunity, and claimed that Te Teira had received payment and that the land belonged to the Queen. On March the 4th 1860 the military and the Government swung into action, with Te Atiawa being forcibly evacuated from their township at Waitara. Many years later '...Teira said that he had been wrong to try and sell Wiremu Kingi's land as well as his own, but that Kingi had been wrong in trying to stop all sales.' (Sinclair 1991 p.18). By 1861 there was an uneasy peace with troops continuing to occupy Waitara. However, a few days before Governor Grey planned to renounce the Waitara purchase and return land to Te Atiawa, troops were ambushed by Maori and the Taranaki wars began.

Along with lands in Waikato, Tauranga, Hawkes Bay and other parts of Taranaki, Te Atiawa lands were confiscated in 1863 by the government (figure 4.3). The Atiawa were forced to live in the dense bush and steep hills between the Waitara and upper Wanganui rivers. Twelve years later Kingi and his people entered New Plymouth to make peace 'Both Wiremu Kingi and Hapurona [Kingi's general] said that placing themselves in the hands of the Europeans was the best evidence they could give of their peaceful intentions and their determination to live on friendly terms with the Pakeha.' (Sinclair 1991 p.13). The confiscation of Maori land by the government has been described as '...the most ruthless act in New Zealand's European history and the source of bitterness to the present day.' (Sinclair 1991 p.20).
Local environmental awareness and activism

Within Te Atiawa evidence to the Waitangi Tribunal, there was a significant element aimed towards the negative and questionable environmental impacts of the Synfuels/Methanol plants, ocean outfalls and effluent discharge in general. At a general level there were a number of statements, Ken Piddington (Parliamentary Commissioner for the Environment), asserted in a written submission that many of the projects examined around the coast of New Zealand during the past two years offered the threat of increased pollution. More specifically a number of expert witnesses made important points, for example Margaret Loutit (Professor of Microbiology at Otago University) discussed the increasing use and presence of chrome in industrial waste, and the great lack of information of the effects of chrome on seafoods.

In addition to these a large number of submissions from national and local environmental pressure groups made submissions on the energy developments in Taranaki: national organisations - Friends of the Earth; Nature Conservation Council; Environmental Defence Society; Environment and Conservation Organisations of New Zealand Inc.; Action for Environment; and local organisations - Taranaki Clean Sea Action Group (Inc.); North Taranaki Environment Protection Association Inc.; Royal Forest and Bird Protection Society Inc. (Taranaki Branch). These submissions were often scathing in their comment on the development proposals, and the procedure used. The Values party stated that:

...the environmental consequences of committing NZ to petrol as a fuel for several decades, when good alternatives exist, are so great and so wideranging, that an environmental impact report on a proposed synthetic petrol plant must show convincing reasons for rejecting the alternative fuels which could be produced from the same feedstock. This has not been attempted.

in CfE 1981c p.446

Similarly the North Taranaki Environment Protection Association (NTEPA), commented that the '...[Synfuels EIR] is a repetitive, shallow report with inadequate references, multiple errors and some deliberately misleading comments. There are several significant omissions.' (in CfE 1981c p.268). There were also a number of submissions on the environmental impacts of the developments and the inadequacy of the EIR, for example'...there is an almost total lack of regard for invertebrate fauna.' (Entomology Department Lincoln College, in CfE 1981c p.313). The proposed Motunui outfall was often referred to 'We oppose the proposed Motunui outfall. We are totally opposed to the building of long sea outfalls. The Waitara Borough Council outfall is a classic example of why these should not be built, it has had breaks in it for the vast majority of its life, that have proved next to impossible to fix, and has resulted in gross pollution of the Waitara and surrounding coastline...' (NTEPA in CfE 1981c p.288).

Events had given impetus to these arguments, when before the Waitangi Tribunal the coastal reefs and shellfish beds were described as a health hazard, and examples were given of people contracting boils and skin diseases from swimming, and of divers emerging from the water with toilet paper and other wastes on their bodies. Furthermore in late October 1982, between Tribunal hearings, fish were killed along a 20 kilometre
stretch of the Kapuni river due to an ammonia seepage from the Kapuni Ammonia-Urea plant.

Local conflict between economic and cultural transformation

The Synfuels and Petralgas energy developments in Taranaki were part of the 'Think Big' policy, reflective of a significant process of economic transformation. They were criticised for a number of reasons. It was suggested for example that the conversion of natural gas to petrol (Synfuels), is inefficient, wasting nearly half of the energy originally contained in the gas (for example see Baker et al 1981 p.9). Comparisons were drawn to the production of CNG where only about three percent of energy is lost. There were also criticisms of the way in which 'the national interest' was defined and used by Synfuels and the National Development Act 'Synthetic petrol is probably a very high cost option, but it may be being pushed by some who would prefer to see New Zealand locked into an oil based economy...' (Baker et al 1981 p.11).

The Motunui-Waitara resource conflict acted as an expression of conflict between economic and cultural transformations. Key issues were the rights of the indigenous people, Te Atiawa, and environmental impacts of the development. The Atiawa attached great spiritual, cultural, and economic value to their coastal resources, threatened by the development proposals. Their history has been dominated by the loss of land, resulting in a strong emphasis on the importance of the reef, and a deep sense of grievance. Environmental concerns added weight to the Te Atiawa grievance, questioning both the economic objectives of energy policies and practices and the specific environmental impacts of the developments.

PLACE IN TARANAKI - THE MOTUNUI-WAITARA RESOURCE CONFLICT

This chapter has positioned the Motunui-Waitara resource conflict within a context of two processes of transformation and three themes. Place within Taranaki and of the resource conflict is both a part, and a reproduction of this context. A report entitled 'Taranaki Regional Energy Study' (produced by Porter et al for the New Zealand Energy Research and Development Committee), depicts the interlinkage between context and place in Taranaki energy developments.

The energy crisis of 1973, the continuously increasing price of imported liquid fuels, the impact of those prices on the nation's balance of payments and the time lag in developing alternative fuels, new technology and its implementation have all contributed to the sharp focus on Taranaki and the indigenous energy resources which lie within or offshore from the region...

Porter et al no.81 1982 p.5.

Figures 4.2 and 4.3 act as a visual summary of the context of the Motunui-Waitara resource conflict and the way in which it has reproduced at the local level. They are of the Taranaki region and establish not only the place of the conflict, but also that this place
differs for Maori and Pakeha. The different perceptions of the same environment suggesting the operation of conflicting processes of transformation. They also represent several of the points drawn out in chapter 3, suggesting that there are different cultural representations of nature and place.

The understanding of people, place, culture and nature is socially constructed. Nature and landscapes reflect different meanings for different peoples, and within New Zealand Pakeha meanings dominate over Maori meanings, hence their views as expressed in figure 4.3, are submerged by the developmental history of figure 4.2. The place of Taranaki and the Motunui-Waitara resource conflict was different for Te Atiawa compared to many Pakeha, an idea presented throughout this thesis, which is illustrated in figures 4.2 and 4.3. Te Atiawa place is defined by 'Ko Taranaki te Maunga, Ko Whaitara te awa, Ko Te Atiawa te iwi', Taranaki is the mountain, Waitara is the river, Te Atiawa are the people. the Manukorihi marae on Owae Pa is a focal point of life, the reefs an extensive tribal taonga. In comparison the Pakeha development process recognises Taranaki as the basis of extensive petrochemical industries.

These contrasting views of the landscape reflect the base causal mechanism of the resource conflict - a wider status quo - constructed generally on the basis of social organisation and through context and place, specifically reproduced in the Motunui-Waitara resource conflict. The lack of recognition given to Te Atiawa place (figure 4.3) by Pakeha institutions is a similar reflection of the wider status quo.
Figure 4.3

Ko Taranaki Te Maunga Ko Whaitara Te Awa Ko Te Atiawa Te Iwi

Manukoribhi Marae
One of the oldest Marae in Taranaki today, and a focal point in the common life of Te Atiawa.

Mount Taranaki
Mount Taranaki originally stood with the central mountains of Taupo, but he fell in love with Pihanga, the wife of Tongariro. Taranaki was forcibly ejected following a violent quarrel. He traveled westward forming the valley of the Wanganui river, and arrived at his present position.

Importance of shellfish
"Seafood is the crown of our tables"
The warmth of a welcome to guests is measured by the quality of the food provided, in particular the quantities and varieties of seafood.
Aila Taylor

The fact is that the government took whatever land it had occupied and wanted. It was the most ruthless act in New Zealand's European history, and a source of bitterness to the present day.

Te Atiawa, known as "Te iwi no te wahi kore", the people with nothing, referring to the fact that they have little land. This makes the reefs on our coast even more important.
Establishing Pakeha Place in Taranaki

Waitara River
The range of activities and the unique nature of the Waitara river for certain recreational activities resulted in it being ranked as the most important recreational river resource in North Taranaki.

Taranaki Catchment Commission.

Mount Egmont National Park is dominated by its mountains. It is used for a range of activities including skiing, climbing and tramping.

Maui Gasfield Exploitation
Situated off the West Coast of the North Island of New Zealand. Discovered in 1969, and estimated to have reserves of 3550 petajoules of gas, and 780 petajoules of recoverable associated condensate. One of the larger natural gasfields in the world.

Maui Platform
Located 34 kilometres off the Taranaki coast, the Maui Platform brings up natural gas and condensate from beneath the sea floor.

Waitara River

Natural gas is piped to the Synfuel plant where it is transformed into crude methanol (80% methanol + 20% water) in the largest crude methanol production facility in the world.

Synfuel produces 1200 tonnes of commercial grade methanol daily. The methanol is piped from the site to storage tanks at Port Taranaki, from where it is shipped for export.

New Zealand

South Island

North Island

Synthetic Fuels Plant

Methanol Plant

Synthetic Petrol

PETROL GAS CHEMICALS NEW ZEALAND operate a stand alone methanol plant, which produces 1200 tonnes of commercial grade methanol daily.

The methanol is piped from the site to storage tanks at Port Taranaki, from where it is shipped for export.

Pipelines to the Synergy plant, which produces 5000 tonnes of methanol a day. Up to 25% of this may leave the site as crude methanol while the balance is converted into gasoline.

Synfuel produces 5000 tonnes of petroleum each year - 33% of New Zealand's

Figure 4.2
Chapter 5

Crown Response to the Resource Conflict

The Motunui-Waitara resource conflict occurred as the result of a wider status quo, comprised of: social organisation, which provided a general framework of occurrence; and context and place which provided a specific framework of occurrence. The resource conflict resulted in a claim to the Waitangi Tribunal, following a set process of resolution. This process of resolution also occurred within, and as part of, the causal 'wider status quo'. This chapter provides an analysis of the Waitangi Tribunal's Motunui-Waitara report: the Tribunal's discussion of causes; its findings; and the recommendations made to the Crown. Crown response to the conflict and Tribunal recommendations are then discussed in two aspects. First the implementation of case specific and regional recommendations aimed at proximate causes, largely the issue of effluent discharge. Secondly, the implementation of national recommendations aimed at the base causes identified by the Tribunal, a process which encompassed issues such as the fisheries Quota Management System, the Sealords deal, and Resource Management Law reform.

CLAIMS PROCESS

Once the Motunui-Waitara claim was made to the Waitangi Tribunal, there was a set process to be followed (figure 5.1). This pathway was dictated by, and took place within the causal 'wider status quo', a reproduction of social organisation, and the operation of context. The Tribunal is part of this fundamental structure, organised and dominated by the Crown.

Figure 5.1 Process of a claim to the Waitangi Tribunal

Source: Author
The Crown is the dominant force in the occurrence and resolution of resource conflicts in New Zealand: establishing the rules and processes for the allocation of resources; owning and controlling many resources; and holding the responsibility for articulating wider national/social values (Sharplin 1987 p.4). A significant element in understanding the claim process is then for the Crown to be clearly defined (Payne 1991 p.23). Within New Zealand 'the Crown' is a vague term, best defined on the basis of who exercises effective power of government. In 1840 this was the Sovereign and the British Government; today it is the Cabinet Ministers in the Executive Council 'Cabinet is the powerhouse of New Zealand Government.' (Palmer 1987 p.8). The proceedings of Cabinet are informal and confidential, making final decisions on: all matters of important policy; the content of all regulations; the content of statutes to be passed by Parliament; government expenditure; and the administration and direction of the public service (Palmer 1987 p.22).

The Waitangi Tribunal upon receiving a claim conducts hearings, before releasing a report which discusses and suggests causes, and explicitly details findings and recommendations (figure 5.1). The most significant factor of this process is the need for claims to be dealt with at both legal and political levels, described as the need to find 'practical resolutions'. Oliver suggests a wide divide between the Waitangi Tribunal's findings - a view of 'what the law should have been and what governments should have done' - and recommendations - 'an inevitably limited and pragmatic approach to what might be done by way of redress' (1991 p.3). This is the process of 'practical resolution', for example within the Motunui report the interpretation of clause 2 of the Treaty of Waitangi had radical implications, yet the Tribunal's final recommendations were mild and conciliatory (Sorenson 1987 p.179). The following of potentially radical findings by mild and accommodating recommendations is a trend followed by later Waitangi Tribunal reports, a practical application of the principles of the Treaty of Waitangi. This illustrates the position of the Tribunal as part of the Crown framework in New Zealand, a reflectance of the causal wider status quo of the resource conflict.

WAITANGI TRIBUNAL - MOTUNUI-WAITARA REPORT

Causes identified by the Waitangi Tribunal

In its report the Waitangi Tribunal asserted legislation and planning requirements to be the central causal factors of the Motunui-Waitara resource conflict (Wai-6 p.5). However, these were argued to be an outward manifestation of a more deep rooted problem, that '...presently there are no statutory provisions to secure to the Te Atiawa hapu the exclusive use, ownership, or control of any of their reefs.' (Wai-6 p.16). The Tribunal argued that under the Treaty of Waitangi the Crown is obliged to protect Maori use of resources and give Maori interests priority (Wai-6 p.5), and that Te Atiawa did not have ownership, nor control, of their reefs. It stated that this control was vested in others who may or may not be aware of Maori customs and preferences.

The question before this Tribunal therefore is not merely whether the regulations ought to be amended in one way or another to enable the harvesting of smaller paua or to expedite
licences to harvest kaimoana for tangi or hui, but whether the current presumption as to who may control or regulate the use of the reefs and the manner in which that is done, is consistent with the principles of the Treaty of Waitangi.

Wai-6 p.17

In discussing the notion of control the Tribunal examined the roles of five bodies with responsibility for the protection and enhancement of coastal and inland waters: the Taranaki Catchment Commission and Regional Water Board; the Ministry of Works and Development; the Department of Health; the Ministry of Agriculture and Fisheries; and the Taranaki United Council. The Tribunal asserted that within these organisations the Maori interest was given no greater value than that of other special interest groups (Wai-6 pp.18-23), then posing the question 'Is the view that the Te Atiawa interest in the reefs is no greater than that of the general public consistent with the spirit and intent of the Treaty of Waitangi.' (Wai-6 p.24).

The Tribunal attempted to answer this question with the first extended discussion of the principles of the Treaty of Waitangi (Oliver 1991 p.21), giving emphasis and primacy to the Maori version of the text. Using the second clause of the Maori version, the Tribunal asserted that Maori had retained control over their fisheries by virtue of 'te tino rangatiratanga' (Sorenson 1987 p.179). Rangatiratanga was defined by the Tribunal as the 'highest chieftainship' or even sovereignty (Wai-6 p.59), and intricately related to the concept of mana, 'Rangatiratanga denotes the mana to not only possess what is yours but also to control and manage it in accordance with your preferences.' (Wai-6 p.60). It is important to point out that the English text in referring to a 'full, exclusive, and undisturbed possession' is consistent with the notion of rangatiratanga...

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their lands and Estates Forests Fisheries and other properties which they may collectively or individually possess.

see Appendix III

Findings of the Waitangi Tribunal

Within the Motunui report the Waitangi Tribunal depicted the Treaty as a gift by Maori to Pakeha, of the right to make laws, in return for the promise to do so as to acknowledge and protect their interests (Wai-6 p.65). The gift of government in return for the recognition and maintenance of 'te tino rangatiratanga'. From this the Tribunal considered its findings as an independent opinion and review of the Crown's responsibilities under the Treaty (Wai-6 p.65). In its findings the Waitangi Tribunal made a tripartite division between findings of fact; of interpretation; and of jurisdiction.

As fact the Tribunal found that the Waitara river and reefs constitute significant and traditional fishing grounds of the Manukorihi, Otaraua and Ngati Rahiri hapu of Te Atiawa. That these were being increasingly polluted towards the Waitara river mouth, and stood to be further polluted. Furthermore it found that the construction of an outfall would be deleterious to reefs near Motunui, and that this would result in further pollution, or that
there could be no guarantee against further pollution.

As interpretation the Tribunal found that the Crown had an obligation under the Treaty of Waitangi to preserve the Atiawa use of their fishing grounds to the fullest extent practicable, and to protect them especially from the consequences of settlement and development of the land. This protection was interpreted to be at two levels: physical protection of the fishing grounds; and recognition of te tino rangatiratanga.

As jurisdiction the Tribunal found that Te Atiawa had been prejudicially affected by: Acts and regulations that the Crown had enacted concerning fishing grounds and the coastal environment; the policies and practices adopted by agencies of the Crown; by the practice of the Crown in omitting to make appropriate laws for the protection of Maori fishing grounds from pollution, and for the control of Maori fishing grounds by Maori people; and the proposal of the Crown to construct an ocean outfall at Motunui.

**Recommendations made by the Waitangi Tribunal**

From these causes and findings the Waitangi Tribunal made several recommendations.

- **Case Specific**
  Discontinue the Motunui outfall, Synfuels to discharge through the Waitara outfall as a temporary solution.

- **Regional**
  Establish a Regional Planning and Co-ordinating Task Force to develop a medium term regional plan for the provision of infrastructure and ancillary services commensurate with projected growth.

- **National**
  Establish an inter-departmental Commission to promote legislation for the...
  - Reservation and Maori control of significant Maori fishing grounds.
  - Recognition of Maori fishing grounds in general regulatory and planning legislation.
  - Improvement of existing provisions for the assessment and control of particular work projects that may impinge on Maori fishing grounds.

The case specific and regional recommendations were largely based on 'proximate causes', and the national recommendations on the Tribunal's interpretation of base causal mechanisms. On March the 13th 1983, these recommendations were released in the Waitangi Tribunal's report. At the time, Minister of National Development the Hon. Bill Birch commented that: waste disposal options were under study by the Morris report (a report funded by the Ministry of Energy and carried out by the Waitara Borough Council's consultant engineers), and that careful study would be needed to determine whether the Tribunal recommendations could be implemented (*The Daily News* 14.3.83). He also suggested that in the end the matter was one to be decided on technical grounds, in terms of the Water and Soil Conservation Act, displaying ignorance of the Tribunal's discussion of the Act in its report '...[under the Water and Soil Conservation Act 1967] the [Planning] Tribunal could not take account of those concerns of the Maori people that were merely cultural, spiritual, or metaphysical.' (*Wai-6* p.38).
Section 6(3) of the Treaty of Waitangi Act 1975 provides that the Waitangi Tribunal '...may recommend to the Crown that action be taken to compensate for or remove the prejudice complained of or to prevent other persons from being similarly affected in the future.' (Wai-6 p.65). The resolution of Maori grievances is thus achieved through Crown implementation of the Waitangi Tribunal's recommendations. The rationale for Waitangi Tribunal recommendations provides a useful yardstick for evaluating the success of their implementation. Were the Te Atiawa sufficiently compensated and was the cause of their prejudicial treatment removed? Were other parties prevented from being similarly affected in the future? Significantly in their claim Te Atiawa requested that the Waitangi Tribunal '...make such recommendations as it may consider appropriate to remove the prejudice... and to prevent other persons from being similarly affected in the future.' (Appendix II). There was no mention of compensation, only reference to the removal of prejudice, and the prevention of other parties being similarly affected in the future. Resolution should thus be evaluated on the basis of whether or not the causes of prejudicial treatment were removed, and other parties were prevented from being similarly affected in the future.

Case specific and regional recommendations - proximate causes

On March 27th 1983, ten days after the release of the Waitangi Tribunal's report, the Prime Minister Robert Muldoon announced that tenders would be called for the Motunui outfall to ensure that it would be completed in time, effectively overruling a major recommendation made by the Waitangi Tribunal. Bill Birch's comments ten days prior appearing to be a political manoeuvre to gain time. Locally, New Plymouth M.P. Tony Friedlander (also Works Minister) commented that delayed construction of the outfall would cost $20 million a month, while the Waitara Borough Council echoed its call for the Motunui plant to use the existing Waitara outfall (Kirk 1984 p.6). A hui held at Manukorihi marae to discuss the report and the government's reaction passed a motion to send a telegram to the Queen asking that she honour her ancestor's agreement - the Treaty of Waitangi (The Daily News 4.4.83). As public debate escalated The Daily News (a local Taranaki newspaper) suggested in its editorial that

The more the issue is debated, the longer the argument rages, the more it becomes clear that the Government has grievously miscalculated the depth of opposition by Maori people and many Europeans to the discharge of industrial wastes into coastal waters which embrace traditional fishing grounds.

The Daily News 4.4.83

It is probable that this was the first time that many people had heard of the Waitangi Tribunal, yet the Prime Minister's dismissal of the Tribunal's recommendations provoked a swift public reaction. The report had attracted a great deal of public interest, particularly from environmental concerns (Temm 1990, Oliver 1991), and economists opposed to the 'Think Big' developments (Ministry of Agriculture and Fisheries 1990). Criticisms of the Crown response reflected confrontation between the contradictory cultural and economic transformations which had played a causal role in occurrence of the conflict. The growing controversy intensified the political heat on the government. In a placatory move a
committee was established to review work on the Synfuels plant, and suggest how the Crown should proceed in light of the recommendations made by the Waitangi Tribunal. The committee consisted of representatives from the Ministries of Energy, Environment, Maori Affairs, Treasury, and Works and Development, and was chaired by Graham Tuohey, a member of the Prime Ministers advisory group.

In early April, a month after the release of the Waitangi Tribunal's recommendations, the Morris report was presented. It had been commissioned prior to the claim, by the Ministry of Energy, to report on likely industrial development in Waitara, and consider the various outfall options. The report labelled the existing Waitara outfall a failure, and recommended the construction of a new $17 million regional outfall at Waitara, with individual treatment of the waste streams (Morris 1983 pp.3-5).

At this time public and media pressure continued to build for the Crown to recognise and implement the Waitangi Tribunal's recommendations. On April 11th Taranaki Federated Farmers voted in favour of Synfuels using the existing outfall, and sent a telegram to the Prime Minister supporting the Atiawa stance (The Daily News 12.4.83). In a meeting on April 12th between themselves, the Prime Minister, National Development Minister Bill Birch, Maori Affairs Minister Ben Couch, and Western Maori M.P. Koro Wetere, Te Atiawa sought a reversal of the Crown's decision to build the Motunui outfall, and an endorsement of the Waitangi Tribunal's recommendations. Muldoon's viewpoint was encapsulated in a comment to the media, stating he was sure that the Taranaki people had realised after yesterday's discussions that scientific and technical experts did not believe any pollution would occur from the outfall 'All they, [Te Atiawa] have got is a feeling that there might be pollution.' (The Daily News 13.4.83). This comment displayed a failure to understand pollution as a culturally constructed perception.

The following weekend, (16th - 17th April), there was a hui held at Parihaka of Te Atiawa and representatives from all the Taranaki tribes, with people attending from as far afield as Auckland and Invercargill (The Daily News 16.4.83). The meeting was historic in that all Taranaki tribes were assembled together, and united in one cause. Te Atiawa opposition to the Motunui outfall was affirmed and supported, and it was decided to withhold tapu lifting ceremonies at all industrial sites in the region. It was also decided to oppose sending any Maori artefacts from Taranaki on the 'Te Maori' tour of the United States, as Mobil (partners in Synfuels with the crown) had contributed $3.3 million towards the cost of the exhibition (The Daily News 17.4.83).

Five days later on April 21st, a meeting was called at short notice, after the Crown had decided to introduce special legislation allowing Synfuel's effluent to pass through the existing Waitara outfall. The legislation was passed as The Synthetic Fuels Plant (Effluent Disposal) Empowering Bill, on the 9th of September 1983. To an extent, this implemented the concept of a regional outfall, to be used for all marine discharges of effluent. This had been touted by Federated Farmers, environmental groups, the Waitangi Tribunal, the Catchment Commission, the Taranaki United Council, the Values party, and the Morris Report. The National Government gained the support of the four Maori M.P.s for the Bill, and promptly proclaimed it as a rare and historic occasion. In contrast the
leader of the opposition, David Lange, claimed that the about face by the government represented nothing less than a complete rout (The Daily News 23.4.83).

The Bill was criticised by Jim Douglas, manager of the Taranaki Catchment Commission (TCC) as increasing the risk of pollution, due to the dilution achieved by the Waitara outfall being only 40:1 at most, and often as low as 18:1 (Kirk 1984 p.16). He was also concerned that as an interim measure it should be kept as brief as possible until the construction of a regional outfall. The Morris Report had stated that the Waitara outfall should only take waste from the petrochemical plants for a temporary period of three - four years, the planning period for a new regional outfall (Morris 1983 p.23). Geoffrey Palmer, deputy leader of the opposition commented that the Bill imposed too large an obligation on the Waitara Borough Council (WBC), for the costs that would be incurred in upgrading the outfall. Waitara Mayor Dick Wilson reiterating this 'The new Bill is not what the Borough thought was intended. It placed some obligations on us to do things we might not be prepared to do.' (Kirk 1984 p.20).

The international context and importance of the events was emphasised with telegrams of support arriving for Te Atiawa. The Hawaian Women's Coalition sent a message of support - 'Like you Hawaian people have experienced a degradation of culture', and from Japan came a message supporting Maori sovereignty, and demanding that the New Zealand Government acknowledge Maori people's inalienable rights. Te Atiawa response to the Bill was reserved, seeing this as one step in the process of resolution 'We do not wish to make an objection to an interim water right, as this is necessary for the Taskforce to do its job.' (Aila Taylor in TCC 1983 p.14), and 'We now put our faith in the Taskforce to come to an early solution of full land-based tertiary treatment of all wastes and recycle the water to industries thus saving the Waitara river from suffering...' (Vera Bezems, Te Atiawa in TCC 1983 p.21). This taskforce was the 'Waitara Regional Waste Water Interdepartmental Committee and Taskforce', also known as the 'North Taranaki Regional Wastewater Taskforce', established by the Crown as part response to the Waitangi Tribunal's recommendations.

In October 1986 the taskforce released its report after two years of study. The report had been debated fiercely for two months before it was released, with most of the details leaked (for example Taranaki Herald 11.9.86). It recommended that treatment and disposal of Waitara regional wastes should be concentrated at Waitara, and that there should be land-based treatment of individual waste streams before disposal through a new regional outfall. An idea proposed by the Morris report three years earlier, and vigorously supported by a number of people and organisations since. The cost of this new regional outfall was estimated to be about $13 million, with 90%, (about $11 million), to be provided by the Crown.

The interim period of disposal through the Waitara outfall was neither incident nor conflict free. On the 15th of September 1986 raw sewage flowed unchecked into the Waitara river for almost 24 hours. Cotton material found in the WBC's Richmond Rd. sewage system had caused the problem (The Daily News 16.9.86, 17.9.86). Only one month earlier Synfuels had applied for a water right to double its discharge through the Waitara outfall,
and increase its intake from the Waitara river from 370 L/sec. to 500 L/sec (The Daily News 9.9.86). There were a number of objections received, with strong protest from Te Atiawa.

Following release of the Taskforce's report, there were protracted negotiations between the outfall users and the Crown as to the implementation of its recommendations. Delays appeared set to ensure that the Waitara outfall water consents - due to expire December 5th (1988 Taranaki Herald 7.12.87) would have to be extended. On the 20th of January 1988, the North Taranaki District Council (NTDC - the new managers of the outfall due to local government reform), threatened to pull out from the proposed new Waitara outfall if costs were too high. The next day representatives of Te Atiawa and the North Taranaki Environmental Protection Association told media that little was being done to resolve the conflict over adequate treatment for Waitara's wastes.

On 9th June 1987, in conjunction with these disputes, a report was presented to the TCC stating that bacteriological pollution of the Waitara embayment had increased significantly since early 1984 (Taranaki Herald 10.6.87). In the report faecal coliform levels were taken as indicators of bacteriological pollution, and investigations to establish the cause of the pollution increases came up with nothing. Te Atiawa and local environmental groups were growing increasingly frustrated with the delays, Aila Taylor quoted as saying 'They [officialdom] have been doing it to us all along [delaying]... Its up to the people with political clout to try to put things right... A person can urinate on the street and be fined $100 for it, but industry can spew tonnes of waste into the sea each day and still nothing is done.' (Taranaki Herald 21.1.88)

Then in March 1988, after 18 months of discussions, a joint venture agreement (JVA) between the Crown and the NTDC in respect of construction, ownership, and operation of a new marine outfall was negotiated (Taranaki Herald 2.3.88). Yet three months later, in June 1988, a row developed between the outfall users group and the TCC over the payment for studies to determine virus and bacteria levels in the Waitara embayment (Taranaki Herald 13.6.88). The outfall users described the tests as unnecessary, and as not a part of their water right requirements, yet the TCC was acting on increasing scientific evidence suggesting that the traditional faecal coliform test for pollution was unreliable.

Meanwhile Te Atiawa disgruntlement was growing. In July 1988, in his annual report to parliament, the Chief Ombudsman stated that he had received representations from Te Atiawa about the inordinate delays they had experienced in having the 1983 Waitangi Tribunal recommendations acted on. He portrayed the outfall project as inadequate, a danger to public health, insensitive to Maori values, and deteriorating daily in efficiency. Also suggesting 'It only confirms to the Tangata Whenua that officialdom is insensitive to their needs and values'. (Taranaki Herald 20.7.88). This criticism was described as 'rubbish' and 'uninformed claptrap' by the NTDC Chairman, as 'out of date and innaccurate' (Taranaki Herald 21.7.88).

During this period the Waitara Outfall Management Board (WOMB), constituted under the JVA, continued to pursue the new outfall plan until an alternative proposal, the
upgrading of the existing outfall, was suggested in a report by 'Works Consultancy'. The study had been commissioned by the NTDC and AFFCO, and involved a risk analysis of the existing outfall, which showed that the structure could be upgraded to provide an acceptably low structural risk for a 25 year life period (Taranaki Herald 3.9.88). This option was seen to fulfill the Waitangi Tribunal's recommendations without imposing a heavy burden upon ratepayers.

In October 1988 approval for the expansion of the management committee's brief under the JVA to consider the refurbishment option was given by Cabinet, and in December 1988 this refurbishment option was agreed to by the Crown. In a public statement the government stated that the agreed proposal was consistent with the 1983 Waitangi Tribunal recommendations favouring land-based treatment. A report by R J Brown/ Murray North and Partners had shown that relining, using a high density polyethylene (HDPE) liner, was the most cost effective option. The outstanding issue then became the decision over appropriate land based pre-treatment for the combined town sewage and freezing works effluent streams.

That Waitara is essentially a one industry meatworks town, with a small ratepayer base from a population just over 6000, was critical in deciding the form of land based treatment. Economies of scale demanded the construction of a joint facility, and the type of treatment decided upon was hi-lime, where after separate milliscreening the two waste streams are mixed. Lime is then used to adjust the pH of the effluent to pH 11, and mixed for a minimum period of four hours, in order to debilitate harmful organisms (TCC 1989 p.12). It was estimated that this proposed upgrading of the existing outfall and installation of a hi-lime treatment plant would save $5 million. Despite the projected cost of the hi-lime treatment plant ballooning by more than $2 million the completion deadline was met, with operations phased in over a six month period from February 1992.

This point concluded Crown implementation of the Waitangi Tribunal's case specific and regional recommendations, and is considered by many as the resolution of the resource conflict 'The successful completion of the new facility [hi-lime treatment plant] and concurrent work on refurbishing the outfall have improved the long term viability for industry and particularly the freezing works, in the town whilst satisfying the concerns of the local community.' (Wilson 1993 p.10). Superficially the effluent discharge and consequent creation of pollution appears as the cause of Te Atiawa grievances, however, they were not causes, but reproductions of a causal 'wider status quo'. In its report the Waitangi Tribunal suggested that legislation and Crown institutions acted as the base causal mechanisms of the conflict, addressing these factors within national recommendations.

**National recommendations - base causes**

The national recommendations made by the Tribunal were based on recognition of Te Atiawa fishing rights, and the need to preserve these through re-establishing a measure of Te Atiawa control over their coastal resources. These recommendations were implemented during a timeframe parallel to the implementation of case specific and
regional recommendations. However, they became subsumed within two wider processes: first, the full and final settlement of Maori fishing claims through a process beginning with the Quota Management System and ending with the Sealords deal; and secondly, the process of Resource Management Law reform, culminating in the introduction of the Resource Management Act in 1991.

Within its report the Waitangi Tribunal provided a brief survey of the extent of legislative recognition and protection of Maori fishing grounds: through fisheries legislation such as the Fish Protection Act 1877 and the Fisheries Act 1908; but also through the Maori Affairs Act 1953; the Health Act 1956; Marine Reserves and Marine Farming Acts; the Water and Soil Conservation Act 1967; and the Town and Country Planning Act 1977. Te Atiawa grievance over prejudicial treatment was seen to revolve around two aspects: first the view that customary fishing rights had been extinguished; and secondly, that the only provision for Maori fishing rights was contained within special statutory conditions (Wai-6 pp.36-37). The Tribunal recommended that an interdepartmental committee be established to promote legislation aimed at improving Maori control and ownership of fisheries, particularly recognition of this position within general regulatory and planning legislation.

In 1984 Cabinet established an interdepartmental committee chaired by the Justice Department to investigate these matters. This committee reported in November 1985 and concluded:

* That the law pertaining to Maori fishing grounds does not give proper recognition to Maori interests.
* That more exact knowledge of the nature and extent of all Maori fishing grounds should be obtained.
* That the need for this should not be allowed to delay other action.
* That sections 155 to 158 of the Maori Affairs Act (which deal with Crown rights over Maori customary land) should be reviewed urgently.

The following terms of reference were then referred to the Law Commission in May 1986:

1. The recognition of Maori fisheries (including lake and river fisheries) in the law, and whether any, and if so what, changes ought to be made to the law in that regard;
2. What protection Maori fisheries should have in respect of Acts of omissions by the Crown, public bodies and other corporations, and individuals;
3. What measures and procedures are necessary or desirable to ensure that legislative proposals in any way affecting Maori fisheries take adequate account of Maori interests;
4. What criteria should be applied in resolving conflicts between Maori interests in respect of fisheries and other public interests.

During this time reports on the Manakau (Wai-8) and Muriwhenua (Wai-22) claims were considered and released. Both involved Maori fishing rights, and in Muriwhenua it was contended that full Crown control of fisheries was contrary to the Treaty. In an interim report on the Muriwhenua claim the Waitangi Tribunal asserted...

That in view of Treaty of Waitangi guarantees for Maori fisheries and the current lack of recognition given them, contrary to the Treaty, and in view of our findings that there is
need for greater research on how Maori fisheries might be more adequately provided for in legislation, policy and management planning, and in view of our finding that there is potential for conflict between Maori, public, and commercial fishing interests...

...comprehensive studies [should] be undertaken now to identify areas of major Maori habitation and fishing activity throughout the country ... and the options available for the recognition, protection or compensation of Maori fishing interests...

Wai-22 p.95

However, rather than the issue of fishing rights being dealt with claim by claim, there has been a wider process of reform which has attempted to deal with issues raised in the Motunui, Manakau and Muriwhenua claims. This process has encompassed three of the more controversial aspects of resource management in New Zealand: the Quota Management System (QMS); the Sealords deal; and Resource Management Law Reform (RMLR).

The quota management system and the Sealords deal

During the 1970s it was realised that many fish species within New Zealand waters were being depleted at alarming rates. In response the the government passed the Fisheries Act 1983 which experimented with the concept of a Quota Management System (QMS), targeting deep sea species. The Act also guaranteed continued rights to Maori, but paradoxically acted to exclude many Maori fishing operators. In a 1986 amendment to the Act QMS became the primary policy for regulating New Zealand's commercial fishing. Under the system a Total Allowable Catch (TAC) was established for each commercial species, each TAC was then divided up and allocated to fishing operators based on their catch history. These allocations were in the form of Individual Transferable Quota (ITQ) and had the characteristics of a property right.

In creating a property right in fishing QMS was in conflict with the proprietary interests of Maori 'The system, [QMS] we find, is in fundamental conflict with the Treaty's principles and terms, apportioning to non-Maori the full, exclusive and undisturbed possession of the property in fishing that to Maori was guaranteed.' (Wai-22 p.xx). Accordingly the courts placed injunctions on developing the quota management policy which remain in force (Wai-307 p.2). However, 'The Quota Management System may be contrary to the Treaty, but only as it is presently arranged... There are many good features to commend the system, and if agreement can be reached, it appears that Maori interests could be accommodated within it.' (Wai-22 p.xx).

At a national hui in 1988 it was decided to pursue the quantification of Maori proprietary fishing rights on a commercial basis, and in 1989 the Maori Fisheries Act was passed as an interim settlement of Maori fishing claims. The Act formed the Maori Fisheries Commission (MFC) and provided for the transfer from the Crown to Maori, as it became available, quota equal to 10% of the TAC for all species. However this was not considered by Maori as having resolved the issue of their fishing rights as guaranteed to them by Te Tiriti.

Three years later the proposed sale of the Sealords fishing consortium provided an opportunity to overcome the significant problem that most of the quota had been allocated,
Sealords holding 26% of quota. In September 1992 the Crown, Maori negotiators, and iwi representatives signed a deed of settlement claimed to be a ‘full and final’ settlement of all Maori commercial fishing claims against the crown. Within the deed the Crown agreed to: provide $150 million to finance the Maori in their bid for Sealord Products Ltd. (as a partner with Brierly Investments Ltd.); guarantee to the Maori 20% of all new species quota; recognise in legislation customary Maori fishing and food gathering interests; and provide for increased Maori involvement in the management of New Zealand fisheries. In exchange for these concessions Maori agreed to: the repeal of legislation recognising commercial Maori fishing rights; the discontinuance of all fisheries litigation against the Crown; acceptance of the QMS as a valid and valuable means of protecting the fisheries resource; and the removal of Waitangi Tribunal jurisdiction over commercial fisheries. In short the discharge and extinguishment of all commercial fishing rights and interests of Maori (Wai-305 1992 pp.1-2).

There were significant objections to the Sealords deal. During October 1992 the High Court heard cases brought by several iwi and Maori groups challenging aspects of the Deed of Settlement. These concerns asserted that the Deed of settlement extinguished rather than fulfilled the Treaty's obligations. The Sealord deal views the Treaty as something to be ended, and there was concern that the document and the Crown would compromise the standing of the Treaty and the principles of the Treaty (Wai-307 p.4). A number of Maori were concerned that the settlement would act to diminish Maori rangatiratanga and fishing rights, objections which the Waitangi Tribunal categorised these as being held by all 'The difference being that some would give more emphasis to opportunity while others would give more to conserving customary positions.' (Wai-307 p.3).

These concerns and conflicts over whether or not the settlement should proceed appear to have arisen in great part from disagreements over whether a commercial and non-commercial distinction can be maintained. There has been a consistent objective through the 1989 QMS settlement and the Sealords deal, of promoting the development and involvement of Maori in the New Zealand fishing industry. The Waitangi Tribunal considers this to be more important than any precise quantification of Maori proprietary interest (Wai-307 1992 p.3). In return the Crown expects the end of litigation and claims, and an agreement that further fish quota may be issued. This is particularly significant as this will then be the first national settlement to extinguish future claims on a resource.

The grievances from the Motunui claim however related more to non-commercial interests. Te Atiawa were concerned about fisheries which they relied upon as a source of mana, rather than profit. Evidence was given to the Tribunal as to the use of shellfish at hui, tangi and other significant occasions, not the importance of shellfish as a trading good. The interdepartmental review and the investigation by the Law Commission were subsumed into a wider reform, which rather than being aimed at the recognition of Maori fishing grounds and the protection of these grounds (as asked for by recommendations from the Motunui report), was dictated by the QMS, and aimed at quantifying and commercialising Maori fishing rights. One of the costs to Maori from the Sealords deal is that Treaty interest in non-commercial fisheries is made legally unenforceable and
replaced by policies and regulations (Wai-307 1992 p.8).

These policies and regulations, the management of non-commercial fisheries, are largely represented within the Resource Management Act (RMA), currently the dominant resource management legislation within in New Zealand. The process of Resource Management Law Reform had a greater significance for the Motunui-Waitara resource conflict than commercial fishing issues, questioning the control, use, and management of resources. The Act replaced the Water and Soil Conservation Act 1967, and the Town and Country Planning Act 1977, two pieces of legislation which played an important role in the occurrence of the resource conflict, reproducing the wider status quo, as does the RMA. Significant change in the approach to Maori rights within this legislation would suggest a change in the causal status quo, possibly the removal of the source of Te Atiawa prejudicial treatment, and the prevention of other parties from being similarly affected in the future.

**Resource Management Law Reform**

Resource Management Law Reform (RMLR) was a three year review of all New Zealand statutes impinging on resource management. It occurred at the same time as a number of other important reviews of environmental and conservation legislation which included the: Protected Areas review; Historic Places review; Local and Regional Government; Marine Reserves; Marine Mammals Protection; and Species Protection (Boast 1989 p.2).

In the Motunui report the Waitangi Tribunal criticised existing planning legislation and structures in two ways. First it made the point that there were no particular provisions for Maori fishing grounds in either the Water and Soil Conservation Act 1967, or the Town and Country Planning Act 1977. Secondly it discussed the lack of 'co-ordinated overall planning', citing the regulation of ocean outfalls in the Taranaki area, and the legislative constraints placed upon the Planning Tribunal in its consideration of a Maori perspective on the Motunui outfall. The Tribunal argued that '...these [Maori] rights and values should have a special and at times privileged place within the framework of planning decisions made under the authority of the Crown.' (Oliver 1991 p.20).

These issues were explicitly examined during the process of RMLR, one of the aims being the removal of barriers which prevent Maori from participating in the decision making process. As part of the stated objectives for this legislative reform the Government '...agreed that the general purpose and objectives of the RMA [Resource Management Act] must take into account the Treaty of Waitangi and recognise that costs as well as benefits should be considered and that no one value should be overriding in the planning process.' (MFE 1988 p.5). Significant issues recognised were: that the government should take a more active stance in relation to Maori interests; that new legislation should provide for more active involvement of iwi in Resource Management - with statutory requirements for consultation; and that legislation should provide for the protection of Maori cultural and spiritual values associated with the environment (MFE 1988 p.5). Particularly stressed during RMLR was the need for greater Maori representation on decision making bodies, and direct management responsibility for Maori.

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The RMA passed into law in 1991. The legislation provided a basis for Maori involvement in determining how natural and physical resources are to be managed, establishing the need for a working relationship between iwi and local authorities. However, the Act did not '...deal head on with Maori concerns as to rangatiratanga over resources such as water bodies, the coast, and land... There are avenues such as the Waitangi Tribunal, the Courts, and direct korero with the Crown for grievances felt by tangata whenua.' (MFE 1992 p.7).

The Act's purposes and principles are established by Part II of the legislation. Section 5 defines the purpose as being to promote the sustainable management of natural and physical resources, while Sections 6 to 8 Part II elaborate upon this purpose in terms of Maori interests. Section 6 states that...

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Section 7(a) states that...

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to the use, development, and protection of natural and physical resources, shall have particular regard to-

a) Kaitiakitanga...

Finally section 8 states that...

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi.

However within these sections there are varying levels of emphasis...

- Under section 6 (e), recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;
- Under section 7(a), have particular regard to kaitiakitanga; and
- Under section 8, take into account the principles of the Treaty of Waitangi

Solomon and Schofield 1992 p.5

Further to this Solomon and Schofield (1992) point out that sections 6,7, and 8 are subservient to section 5. All commence with the statement 'In achieving the purpose of this Act...', suggesting that these matters flow from the overriding purpose of sustainable management. In doing so the Maori interest is subsumed, only to be addressed if it does not conflict with a 'more significant purpose'. In the Motunui report the Waitangi Tribunal discussed whether '...the view that the Te Atiawa interest in the reefs is no greater than that of the general public consistent with the Treaty of Waitangi ? (Wai-6 p.24), questioning the legality of subsuming Maori rights within legislation.
Implementation of the RMA

Matunga (1989 p.8) has suggested the important difference between stated objectives and appropriate policy statements, and actual implementation at the local and regional government level. In 1993, following two years of discussions and negotiations between the Taranaki Regional Council (TRC) and the Taranaki Maori Trust Board, Te Putahitanga o Taranaki, a standing council of the TRC was formed, and a Maori Liaison Officer was appointed to the TRC planning section. Te Putahitanga o Taranaki was established to represent nga Iwi o Taranaki, and to meet on a regular basis to deal with matters Maori, particularly as they relate to management of the region's natural resources. Apart from the Regional Council Chairperson, the committee is solely Maori, with each iwi allowed to appoint two members, although each iwi has only one voting right. As its brief the committee is required to act as a forum for discussion for Maori, and as an advisor and advocate to the Council on matters Maori, as well as monitoring Council performance with regard to its obligations under the Treaty of Waitangi. Significantly the committee will not make recommendations or comment on matters pertaining to specific iwi areas, in such matters the TRC will deal directly with the iwi concerned.

To aid in providing an iwi perspective on resource management the TRC engaged a consultant firm who prepared a document, 'The Resource Management Act and the Treaty of Waitangi: A Starting Point and Framework'. This report was intended to act as a guide for the relationships between iwi and the TRC; the Act and the Treaty; and the practical steps that can be taken to address these relationships. The paper is wide ranging and approaches the subjects from philosophical, legal, and planning perspectives. An important part of the document is a discussion of steps to give practical effect to the Maori provisions in the Act, which includes the formation of Iwi management plans; partnership in the management process; and active participation. The TRC is seen to have made 'substantial progress in liaising with nga Iwi o Taranaki' (Solomon et al 1992 p.82). This has included recognition of tangata whenua, and the involvement of iwi as standard procedure in the development of catchment management plans, special legislation, resource consent applications, and incident reporting. Yet it is considered that 'The tasks before the Council in addressing the principles of the Treaty of Waitangi are many.' (Solomon et al 1992 p.85).

The report suggests a schedule for the introduction of some key requirements at short, mid, and long term temporal scales. The short term tasks largely involve identification and recognition of key elements such as spiritual and cultural values and issues of importance. The mid term goals involve specific identification of waahi tapu, tauranga waka, and significant sites or natural resources, plus a review of techniques for the protection of these. The long term on-going considerations are largely in depth reviews of resource management processes in all their aspects from the assessment of environmental effects, to the decision making process, to record keeping and information storage, to monitoring programmes. Also included are explorations of the options for iwi input and opportunities.

The RMA does place significant duties on local authorities to listen and to act upon the
views of tangata whenua on how resources should be managed, consultation being promoted as the key to this dialogue and interaction. The basic reason for consultation is the Treaty of Waitangi, and in the Ngai Tahu report the Waitangi Tribunal states that consultation is perhaps the most important way to ensure that Maori have input into the decision making process (Wai- p.915).

Yet consultation does not implement the Treaty which demands shared decision making and/or tribal autonomy. The steps taken by the RMA are positive but past experience with section 3(1)g of the Town and Country Planning Act has proved to Maori people that unless clear statutory guidelines are given as to how Maori interests are to be protected they can become empty provisions. The RMA falls short of the duty of active protection which the Crown has under the Treaty of Waitangi '...yet again te Tiriti o Waitangi and te iwi Maori have been margnalised in one of the most sweeping reforms [RMA] to affect Maori rights and the future of Aotearoa since 1840.' (Barnes 1988 p.5.1). RMLR and the RMA sidestepped the question of ownership, sidelined Treaty issues, and ran jointly with a local government reform which refused to acknowledge the Maori people. Barnes (1981 p.) suggests that under the Treaty of Waitangi every resource should be treated as being subject to a caveat, making use or management of that resource subject to tangata whenua objection as a violation of Treaty rights. The assertion being that recognition of rangatiratanga requires recognition of tangata whenua right of veto.

Crown response to the Waitangi Tribunal report on the Motunui-Waitara resource conflict had two aspects: first the implementation of case specific and regional recommendations, based in the issue of effluent disposal; and secondly a wider process of change revolving around the control and management of resources, based in the settlement of fisheries claims and the Resource Management Act. The process took place within the causal wider status quo dominated by the Crown, offering some explanation of the ten year period it took to fix a faulty marine outfall, and construct a land based treatment plant for Waitara township and the AFFCO freezing works.
Chapter 7

Resolution of the resource conflict

RESOLUTION

Is the conflict resolved?

This final chapter addresses the resolution of the Motunui-Waitara resource conflict, questioning whether Crown response has provided 'effective resolution', and the measures required to attain such a goal. The base assumption of effective resolution is the creation of an equilibrium between the causes of the conflict and the grievances of the parties prejudicially affected.

With refurbishment of the Waitara outfall and implementation of the hi-lime treatment plant, superficially, the resource conflict appears resolved. There is a functional regional marine outfall and land based treatment of all the waste streams. Yet the issue of effluent discharge was not a cause, rather it reflected and acted to reproduce the base causal mechanism of the conflict - a 'wider status quo'. The non-recognition of Te Atiawa rights to resource use and a lack of control over that use, was suggested as the conflict's base causal mechanism by the Waitangi Tribunal. Several recommendations addressed these issues, and Crown actions such as the Maori Fisheries Commission transferral of fishing quota, the Sealords deal, and Resource Management Law Reform provided a wider process of reform.

Effective resolution requires recognition of the context of a wider status quo as the base causal mechanism. In the Motunui-Waitara resource conflict this status quo had two key facets: social organisation; and context and place. The issue of Maori control over resources acted as a reflection of the underlying logic of this status quo. Social organisation is reproduced through social relations, including those between people, nature and power, interaction between these providing a general situation where cross-cultural resource conflicts occur. Yet the Motunui-Waitara resource conflict was a specific conflict, its individual characteristics based in a determinate context and place. The context of the dispute was provided by two conflicting transformations economic, and cultural, reproduced in interaction between three factors: energy; indigenous peoples; and environment awareness.

People, nature, and power

Social relations is the interaction between people and nature, its form determined by social organisation. The social anarchism of Peter Kropotkin and Murray Bookchin suggests that social organisation consists of two competing forces competition and mutual aid. Competition invariably dominates, so that social relations are categorised by a process of
differentiation, consequent development of power relations, and the creation of both social and ecological imbalances.

Within Pakeha society people and nature are two parts of an explicit dichotomy, competition and exploitation resulting. In comparison while domination over nature exists within Maori society it is subdued and alleviated through principles of mutual aid. The same theories may be used to explain social relations between Pakeha and Maori, where European colonisation separated the races, allowing exploitation and a Pakeha position of dominance.

Within this framework of social organisation the Motunui-Waitara resource conflict was composed of both ecological and social imbalances. The discharge of pollution into the Waitara embayment and onto shellfish reefs, one side of the coin, and Maori grievance concerning their lack of control over their traditional resource the other side. The causes are Pakeha attitudes to nature which allow ecological despoilation colliding with Maori attitudes which descry such degradation. Pakeha attitudes prevail within resource management legislation and institutions, a reproduction of their dominant position within New Zealand society.

The issues of the Motunui-Waitara resource conflict then become issues of domination and exploitation, of Pakeha attitudes to nature dominating in New Zealand as a result of their position of power. The underpinning of this position is an emphasis on competition and a neglect of mutual aid. The resolution lies in a reconstruction of mutual aid, where association and co-operation are the best means of survival. The mechanisms for this expansion of mutual aid are Crown obligations under the Treaty of Waitangi, for instance the notion of partnership. This would place Maori and Pakeha on equal footing, a position where differences would not necessarily develop into domination and from which Maori attitudes to nature would be integrated into resource management. Practical recommendations for this implementation have been made, for example the devolution of power to iwi structures as a form of local government complementary to Pakeha Regional/City/District Councils, and the idea of Treaty impact reports (TIR), similar to the notion of environmental impact reports (EIR).

**Context and place**

In depicting a wider status quo as the base causal mechanism of the resource conflict it is important to recognise that social relations occur within time and space. The operation of processes at a variety of temporal and spatial scales acting to constrain social relations. Context and place are the concepts which geography utilises to understand this. Context is a recognition that process at one scale (whether it is time or space) may be affected by, and in turn affect, process at other scales. Complementary to this, place assumes that social action occurs in determinate spatial settings, and are is fact moulded by this setting of place. It was this interaction of general processes interacting through a variety of spatio-temporal scales with the singular characteristics of the Motunui-Waitara area, that led to the occurrence of the resource conflict.
Two key processes of economic and cultural transformation were identified. These general processes were reproduced through a context of three issues: energy; indigenous rights; and environmental awareness and operated to formulate the Motunui-Waitara resource conflict. At a variety of scales the transformations reproduced, interacted and conflicted. The Motunui-Waitara resource conflict was the coalescing of this conflict at the local scale. There was significant interaction between scales, for example the international oil crisis played a large part in the National government's formulation of the 'Think Big' policy. This led to the exploitation of the Maui gas fields and construction of the Synfuels and Petralgas plants in Taranaki. Temporally Te Atiawa loss of land in the nineteenth century was reproduced in the context of grievance which arose over pollution in the 1970s and 1980s.

Economic and cultural transformations interact in a number of contexts, one of which focusses on questions over the use of resources, who uses them? for what? and how? These questions occur at a variety of scales but found concrete form in the Motunui-Waitara resource conflict. The Crown acted as an agent for the development of energy, and only grudgingly accepted responsibility for the expression of indigenous rights and environmental issues.

Resolution then needed to reconcile issues of energy, environment, and indigenous peoples rights at a number of scales. For instance, rather than the narrow focus given environmental impact reports (EIR) and the Planning Tribunal by the National Development Act, opportunity should have been given for the public discussion of the broader issues and questions related to energy developments. The exploitation of Maui gas and the Synfuels and Petralgas plants were aimed at reducing dependence on one non-renewable resource (foreign oil) by increasing dependence on another (indigenous natural gas). There was little opportunity for questioning or attempting to change this approach, or issues such as the concentration of capital and the economies of scale, which are argued as cheapening the technical process, but used for the purpose of dominating the market. Furthermore there were significant issues attached to the further penetration of New Zealand by multi-national capital which were not fully discussed.

**Unified view of causes**

The two differing causal views presented are complementary not competing. They act in concert to explain the 'wider status quo' or the existence of a 'dominant cultural perspective' which constitutes the underlying origins of conflicts. Social action is explained by social organisation at an abstract level, and in terms of concrete empirical processes by context and place. Both understand the Motunui-Waitara resource conflict as the reproduction of broader conflicts. Social organisation exists as conflict between competition and mutual aid, which is visible in both Pakeha and Maori relations with nature, and interaction between Maori and Pakeha. In comparison context and place asserts that interaction between economic and cultural transformations at a number of scales and in a number of issues acted as a catalyst for the conflict. These differing causal views of the conflict are interrelated. The Motunui-Waitara resource conflict was the result of a 'wider status quo', which involved social organisation at a general level, and
context and place at a more specific level. Social organisation in consisting of two opposing forces (mutual aid and competition) provides the basis for social relations and all facets of society to revolve around conflict. The Motunui-Waitara resource conflict emerged as a result of this situation, but at a more specific level due to the operation of context and place.

**EFFECTIVE RESOLUTION?**

The Waitangi Tribunal recommendations implemented by the Crown as resolution for the Motunui-Waitara resource conflict have all been related to proximate causes - the discharge of sewage. Yet it took a period of approximately ten years to reach the situation where all four waste streams have land based treatment, before being discharged through one functional outfall.

For effective resolution - compensation; removal of the cause of prejudicial treatment; and the prevention of other parties from being similarly affected in the future, recommendations must take account of all causal issues. In the case of the Motunui-Waitara and similar resource conflicts there must be recognition of both social organisation which promotes the occurrence of conflict, and the operation of context and place which provide the form of the conflict. Recommendations made regarding the Motunui-Waitara resource conflict must be aimed at resolving the dominance of competition within society, and reconciling the linked processes of economic and cultural transformation.

Pakeha and Maori environmental traditions are different yet reconcilable is fiction. They are constructed in the same manner and difference is in extent rather than type. Within Pakeha traditions there has always been recognition of alternatives, for example in the landscape paintings of romantic artists from the eighteenth century, and currently in the notions of social ecology, deep ecology, ecofeminism, and others. The support of such 'ecological alternatives' is increasing within western and Pakeha society, evidenced by the number of groups, particularly environmental agencies, which supported Te Atiawa in their claim to the Waitangi Tribunal. The Treaty of Waitangi provides a mechanism whereby Maori and Pakeha relations with may coexist. If measures had existed where there was effective recognition of Crown obligations inherent within the Treaty of Waitangi, both causal aspects of the resource conflict would have been negated. Mutual aid rather than competition would be fostered within society, and environmental legislation. There would have been adequate process for discussions over the conflict between economic and cultural transformation, and opportunity to resolve operation of the two processes, furthermore, it is likely that other parties would then be prevented from similar prejudicial treatment in the future.

While treaties impose obligations under international law, colonial law in New Zealand rejected attempts to apply international law in a national court (Williams 1989 p.52). The Wi Parata v. Bishop of Wellinton ruling in 1877 asserting the Treaty to be a 'simple nullity'. This '...effective veto that the Crown has over incorporation by legislation of the
Treaty into municipal law is seen by some Maori as lying at the heart of the problem.\' (Douglas and Henare 1988 p.101). Increasingly the Treaty of Waitangi is incorporated within legislation, for example the Environment Act 1986, and the Resource Management Act 1991. Yet within this legislation the Treaty is subservient to the Acts' purposes. Maori desire that the Crown is required to adhere to its obligations under the Treaty, which assert that the Maori interest should not be subsumed within, or declared less important, than the 'public interest', or 'the purpose of this Act'.

It does not appear that the Treaty will be fully incorporated within domestic legislation. Kelsey suggesting that within the 1985 extensions to the Waitangi Tribunal's powers a proposal to approach the Treaty as part of domestic law was reduced to a Treaty assessment of proposed legislation (1990 p.263). The Crown has a vested interest in not fully incorporating the Treaty, which would fundamentally change the wider status quo of which it is a dominant part. Yet this resistance to fundamental alteration may be overcome in developing and incorporating the principles of the Treaty of Waitangi. For instance the notion of partnership, and the principles of active protection, balance and priority and rights versus priviliges.

Framework for effective resolution of cross-cultural resource conflicts

In 1987 when the New Zealand Maori Council took a case to the New Zealand Court of Appeal concerning the State Owned Enterprises Act 1986 (SOEs), the principle of partnership was firmly established. The case was based on two apparently contradictory sections in the Act, section 9 stated that 'nothing in this Act shall permit the Crown to Act in a manner that is inconsistent with the principles of the Treaty of Waitangi', yet section 27 restricted the lodging of claims on SOE land to the Waitangi Tribunal (Stokes 1992 p.182). The Court of Appeal strongly upheld the Treaty, and Crown obligations 'It was authoritatively laid down that the Treaty signifies a partnership and requires the Pakeha and Maori partners to act towards each other reasonably and with the utmost good faith.' (Wai-153 p.33).

The basis for a concept of partnership was developed by the Waitangi Tribunal in the Muriwhenua claim (Wai-153, Wai-304).

It was a basic object of the Treaty that two people would live in one country. That in our view is also a principle, fundamental to our perception of the Treaty's terms. The Treaty extinguished Maori sovereignty and established that of the Crown. In so doing it substituted a charter, or a covenant in Maori eyes, for a continuing relationship between the Crown and Maori people, based upon their pledges to one another. it is this that lays the foundation for the concept of partnership. Wai-22 p.192

This guiding principle of partnership is a framework recognising that 'While the needs of both cultures must be provided for and compromise may be necesary in some cases to achieve this objective, the Treaty guarantee of rangatiratanga requires a high priority for Maori interests when proposed works may impact on Maori taonga.' (Wai-153 p.42). Thus there are a number of principles which act to address the balance of the partnership, the
In contrast the Tribunal asserts that the degree of protection to be given to Maori resources should depend upon the nature and value of that resource, while adding that the value attached is essentially a matter for Maori to determine. This is the principle of balancing priorities. Sometimes Maori interests are of such a nature that they should be given a priority, but on other occasions such interests have to be balanced against the competing demands of other sectors of society. The notions of rights and privileges acts as a mediator and constraint for the idea of balancing priorities. Under the Treaty of Waitangi Te Atiawa have an inalienable right to use of the coastal reefs, members of the public have a revocable privilege. In another example the Ngati Whakaue of Rotorua have a Treaty based right to their share of the geothermal resource, members of the Rotorua Bore Users Association have a privilege only.

Yet for these measures to act as an effective resolution they must be introduced to the causal structures of society. The Waitangi Tribunal is not a preventative body it acts upon past events. It has defined the measures necessary for effective resolution of the Motunui claim but cannot implement these. Implementation must occur within legislation and institutions such as those addressed by the Tribunal in the Motunui claim as having responsibility for Resource management. The framework of partnership is practical in providing for flexibility and the adjustment of relations - through balancing priorities and maintaining a distinction between rights and privileges. As such it should not 'In achieving the purpose of ... legislation' be regarded, recognised, or taken into account within and causal institutions. It must be an overall purpose itself.

DENOUEMENT

Despite the lack of a final resolution the Motunui-Waitara resource conflict has had a number of significant and positive results. In 1981 with the granting of water right applications to Petralgas and Synfuels, under the National Development Act, and the subsequent hearing of their case before New Zealand's highest court the Court of Appeal, the legal avenues open to the Atiawa were virtually exhausted. As a final resort a claim was made to the Waitangi Tribunal, which had been particularly ineffective up to that point 'Until 1982 the Tribunal was an empty showcase' (Kelsey 1990 p.21). Yet in this claim the chair of the Tribunal was assumed by a Maori, Chief Judge Eddie Durie, for the first time, resulting in a number of procedural innovations. The hearings were held on the marae of the claimant tribe and witnesses were permitted to speak Maori, importantly the kawa of the particular marae was followed. These procedural changes informed the spirit of the subsequent proceedings and report. The Motunui report has been described as 'one
of the four cornerstone decisions' of the Waitangi Tribunal, along with Kaituna, Manakau, and Te Reo Maori (Temm 1990). It followed a period of apparent diminished interest in the Tribunal, and attracted a great deal of public interest. The increased public awareness was due in large part to environmental groups and economists whose interests in this case happened to align with those of Te Atiawa. The report reinforced the Waitangi Tribunal's role, in the seven years prior to the Motunui report four claims were heard and reported on, in comparison the next four claims to be considered took two years. Temm (1990) has also suggested that the report laid the foundation stone for the development of the Waitangi Tribunal through the Court of Appeal decision in 1987.

Significantly there were a number of positive approaches within the content of the report. There was the first extended discussion of the principles, rather than the provisions of the Treaty. The Tribunal also accorded Maori knowledge of the environment, equal standing alongside modern scientific knowledge, they discussed Maori grievance in a Maori context, taking Maori needs and values as its yardstick and challenging many entrenched Pakeha preconceptions.

Through the Motunui-Waitara resource conflict the context as well as the process of resolution has been transforming. Within the Motunui report the Waitangi Tribunal began to move its focus from management to control, a move that can be subsequently traced through the Manakau, and Muriwhenua reports, and the Sealords 'Deed of Settlement'. The Tribunal developed the importance of tradition, but placed greater emphasis on a mix of Maori values and rights, arguing that these rights and values should have a special and at times privileged place within planning and management, a position of control. This change reflects a wide process where indigenous rights originally linked to mana Maori, are now increasingly tied to 'te tino rangatiratanga'.

The resource conflict, and Te Atiawa concern over the reefs represented a mere residual of something much larger, a much wider grievance. This grievance was the loss of land, which if it had the opportunity would have arisen. This thesis has taken this further and suggested that the loss of land is a reproduction of something much larger itself, a 'wider status quo' which involves both everyday decisions and the fundamental structure of society. The resolution of this wider status quo requires that people be made aware of its existence and the way in which their positions reproduce and maintain its existence. This thesis has attempted to expand understanding of the causal wider status quo in the Motunui-Waitara resource conflict, an important step in its resolution.
Make everybody see,
in order to fight the powers that be...

PUBLIC ENEMY 'Fear of a Black Planet' 1991
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APPENDICES

APPENDIX 2

IN THE MATTER of the Treaty of Waitangi

Act, 1975

AND

IN THE MATTER of a claim by Manukorihi
and Atiawa hapus of
Te Atiawa Tribe

TO

THE WAITANGI TRIBUNAL

I, AILA TAYLOR of Waitara, member of Te Atiawa Tribe, claim the tribe to be prejudicially affected by the policy or practice adopted by or on behalf of the Crown which results in failure to properly control discharge of sewage and industrial waste into the sea between New Plymouth and Waitara such policy or practice being inconsistent with the principles of the Treaty of Waitangi in that it has particular adversely affected fishing grounds known as Tauranga, Te Puna, Titi Rangi and Orapa Reefs belonging to Manukorihi, Otaraua and Ngati Rahiri Hapus and is causing and will continue to cause irreversible damage to a larger area of sea bed on which the Te Atiawa Tribe relies as a source of food thereby depriving the Te Atiawa Tribe of the full exclusive and undisturbed possession of fisheries which it desires to retain as confirmed and guaranteed to it by the Crown.

DATE: "2 June 1981"

FOR AND ON BEHALF OF THE TE ATIAWA TRIBE

"A. Taylor"

...........................................

AILA TAYLOR

THE LIBRARY
UNIVERSITY OF CANTERBURY
IRIS ROBERTSON, 1979

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APPENDIX 11

FURTHER PARTICULARS OF CLAIM

IN THE MATTER of the Treaty of Waitangi Act, 1975

AND

IN THE MATTER of a claim by Te Atiawa Tribe and its Manukorihi Otaraua and Ngati Rahiri and other Hapus

I. AILA TAYLOR of Waitara, member of and authorised spokesperson for Te Atiawa Tribe says as the follows:

1. HAPUS OF TE ATIAWA TRIBE both before and since the Treaty of Waitangi have enjoyed the full exclusive and undisturbed possession of their fisheries including those offshore and beyond low water mark along the Taranaki Coast and it is their wish and desire to retain the same in their possession.

2. PARTICULAR fishing grounds affected are Tauaranga, Te Puna, Titi Rangi and Orapa reefs belonging to Manukorihi, Otaraua and Ngati Rahiri Hapus.

3. TE ATIAWA TRIBE relies on its fisheries as a source of food.

4. THE Taranaki Catchment Commission by order dated 6.12.73 gave the Waitara Borough Council as a local authority constituted under the Local Government Act, 1974 the right for a period of ten years to discharge preliminary treated sewage and industrial waste into the sea off the Waitara River at a point approximately 1200 meters off shore subject inter alia to the following conditions.

(a) The discharge is to conform to class SE standards and any portion of the discharge that should reach the beaches must meet the classification SB or such higher classifications when the coastal waters are classified by the Water Resources Council in due course.

(b) In the event of the discharge or any portion of it not meeting the above classification then steps must be taken to give primary treatment to the discharge to ensure the classification is met and the Commission requires land to be reserved for future Waste Treatment Plan site.

(c) Monitoring of the discharge form the outlet to and including the
beaches as required from time to time by the Commission shall be carried out by the Waitara Borough Council and result supplied to the Commission as and when requested the full cost to be carried by the Council.

5. A series of tests carried out by both the Taranaki Catchment Commission and the Health Department has now established that pollution off the area of the Waitara River mouth and extending along a considerable area of the coastline on either side is to an excess of that permitted by the Commission.

6. SUCH tests have also established that bacterial contamination of shellfish exceeds the American Federal Drug Administration quality standards and renders them unfit for human consumption.

7. PETRO Chemical Industries being established near Waitara have obtained approval the discharge of industrial waste and sewage into the same area of the sea as is already polluted by the Waitara outfall and the position in the absence of supervision is therefore likely to deteriorate.

8. TE ATIAWA TRIBE claims that the policy or practice adopted on behalf of the Crown by its Agencies including the Taranaki Catchment Commission and the Health Department prejudicially affects its rights to its fisheries and is inconsistent with the principles of the Treaty of Waitangi.

9. TE ATIAWA TRIBE requests that the Treaty of Waitangi Tribunal inquire into and make recommendations as it may consider appropriate to remove the prejudice it complains of and to prevent other persons from being similarly affected in the future.

"A.Taylor 18.3.82"

..................................................

AILA TAYLOR
Appendix 3

ENGLISH VERSION

PREAMBLE

Her Majesty, Victoria, Queen of the United Kingdom of Great Britain and Ireland, engaging with her Royal
Favour the Native Chiefs and Tribes of New Zealand, and
as a mark of their respect for the rights and
and to secure to them the enjoyment of Peace and Good
Order, has seen necessary, in consequence of the great
number of Her Majesty's Subjects who have
recently settled in New Zealand, and the rapid extension
of Emigration from Europe and Australia which is
still in progress, to constitute and appoint a
commission of New Zealanders to mediate with the
Aborigines of New Zealand for the recognition of Her
Majesty's Sovereign authority over the whole or any
part of those islands. Her Majesty therefore being

WANANGI

TE Tiriti o

Signed at Waitangi February 1840, and afterwards by about 500 chiefs.

THE QUEEN OF ENGLAND,

VICTORIA, the Queen of England, in her kind (gracious)

TREATY OF WAITANGI: A LITERAL ENGLISH TRANSLATION OF THE MAORI TEXT

TREATY OF WAITANGI

part of these islands. Her Majesty therefore being

article the first

part of these islands. Her Majesty therefore being
determined to establish a settled form of Civil Government

TREATY OF WAITANGI

GREAT BRITAIN

This has happened in some but not all areas of

THE QUEEN OF ENGLAND,

This is the case because the Constitution

THE QUEEN OF ENGLAND,

This is the case because the Constitution

THE QUEEN OF ENGLAND,

This is the case because the Constitution

THE QUEEN OF ENGLAND,

This is the case because the Constitution

THE QUEEN OF ENGLAND,

This is the case because the Constitution