# PATUHARAKEKE

# HAPU ENVIRONMENTAL MANAGEMENT PLAN 2014



## MIHIMIHI

Ehara taku toa i te toa takitahi, engari ko taku toa i te takitini ke. Heoi ano ra, anei nga tai mihi e pari ana. E kore rawa e timu te tai aroha. Ko tatou te waihotanga iho e takatu ana ao po, po ao o te hunga kua takahia te ara whanui a Tane ki tua o te Putahitanga o Rehua, ki te huihuinga o Matariki, moe mai ra ki te wahi ngaro, ki nga ringa atawhai o te matua i te rangi.

Kia kake au ki runga i te manu tipua nei. Kia titiro ai ki te mana whenua, ki te mana moana, otira, ki te mana tūpuna o Te Whangarei Terenga Paraoa. Ka hokioi te manu ra, a, ka tiu, ka hoka, ka whakatopatopata, kia rere ai. Ka tiro iho au ki te maunga tapu o Manaia ki tai, ki te mahinga kai nunui rawa atu o te motu nei ko Tawatawhiti tera, kei Parihaka ki uta, ki te ho te ao o nga awa e rere ana mai Te Ahi-pupu-a-Ihenga, ka rere ki te wahi tapu te pou herenga waka ki Hihiaua.

Ka rere ki te tai tapu, a, ki te tutakitanga o te tai ki nga paripari o te moutere o Matakohekohe me ana nei korero, ki a Motu-o-Taua, ki te kahui o nga tohora, te terenga o nga paraoa i haere mai ratou i runga i te hau o te marangai, ka rere nga ngaru.

Ka huri taku tirohanga ki nga ngaru hukahuka o Rahuikuri e whakangau ana te tai, ki Rehotahi, ki Poupouwhenua, a, ki te wai e karekare ki te wahapu o Whangarei Terenga Paraoa ki nga rekereke o te maunga Manaia e tutei ana, e matai ana ki nga motu i waho ra, ki a Taranga, ki a Marotiri me a-raua nei tamariki, ko Maui Roto, ratou ko Maui Waho, ko Maui ki-te-Taha me Maui Tikitiki-a-Taranga.

Ka hoki taku tirohanga ki a Ruarangi, ka rere ki reira, ka tau iho nei, a, ka tatu mai i runga i te nohonga o Torongare. Kei kora ka titiro te kaumatua ra ki te wahapu o Terenga Paraoa ki nga rarangi o nga waka, a, ka matakite ia hei hoa, hei hoariri ranei. E mea ana te whakatauki o to matou tupuna,

> "*Toa ana te riri i Ngatiti, tau ana te marino i te raki*."

Kati ra, e nga tini tupuna e kore a muri e hokia, a tona wa ka whai atu matou i o koutou tapuwae. Ko oku nui, ko oku iti, tena koutou, tena koutou, tena tatou katoa[1].

[1] Na to matou whanaunga, Te Ihi Tito te nuinga o tenei whakatauki e pa ana ki Whangarei Terenga Paraoa nei.

**PATUHARAKEKE HAPU ENVIRONMENTAL MANAGEMENT PLAN 2014**

Published in December 2014 by Patuharakeke Te Iwi Trust Board Inc

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# ACKNOWLEDGEMENTS

Ko te tuatahi ki a koutou kua rongo i te karanga o o tatou tupuna, nga kuia, nga wahine ma, me nga whanau katoa hoki tenei te mihi atu ki a koutou.

This Hapu Environmental Management Plan is the embodiment of many years of work by our kaitiaki both within our hapu and the trust board. To those who responded to the urgency of this kaupapa in contemporary times, in particular our Kuia, our Whaea who arose to commence the mahi that started us on the pathway leading to this document, nga mihi aroha ki a koutou nga wahine toa. Many of our hapu have tirelessly advocated for the protection and health of our home, our maunga, moana, awa, whenua, our people, culture and way of life - and heard our tupuna. To all those who have contributed their shared learnings and experiences, this plan was made possible from your contribution and service. We could not have done this without you.

Special thanks go to the working party members, Juliane Chetham, Ani Pitman, Jared Pitman and Deborah Harding. Other whanau such as Auntie Zona Midwood, David Milner and Tamihana Paki have provided valuable advice, material and guidance.

The preparation and publication of this plan was achieved through funding contribution from Northland Regional Council. This support is also acknowledged with much gratitude.

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## PEPEHA

*Ko Manaia te Maunga*

*Ko Whangarei Terenga Paraoa te Moana*

*Ko Takahiwai te Marae*

*Ko Rangiora te Whare Hui*

*Ko Patuharakeke te Hapu*

*Tihei mauri ora!*



# PART I: INTRODUCTION

## 1. Mana Whenua

This plan is written on behalf of hapu and whanau of Patuharakeke. Over the last two decades in particular, the hapu have been faced with increasing pressure to respond and have input into a variety of issues such as the increased industrialisation in our rohe, progression of treaty claims, resource management planning and customary fisheries issues. In recognition of the need to have a formalised strategy to deal with these matters this plan has been produced.
As outlined in the pepeha on the previous page, the whakapapa we give begins with Manaia as our maunga, Whangarei Terenga Paraoa as our moana, Rangiora as our whare tupuna, Takahiwai as our place where we stand and we the people are Patuharakeke.

We acknowledge that in various areas we share mana whenua with other hapu, however we provide below a summarized version of our wider rohe, which includes:

"...all the lands beginning at Otaika then west to Tangihua ranges. This includes Ruarangi. Then south through Waikiekie and on to Taipuha and then across to Wakatarariki (Bream Tail)... onwards to the northern point of Mangawhai harbour, then out to Te Hauturu o Toi to Aotea and up through the Mokohinau's to Tawhitirahi and Aorangi (the Poor Knights) and encompassing Marotiri, Ngatuturu and Taranga (the Hen and Chickens). This shared mana whenua and mana moana to these islands is acknowledged through Oneho the daughter of Te Taotahi, son of Motatau, and their ancient Ngati Manaia whakapapa.

"At the Northeastern side of the entrance to Whangarei Harbour, at Home Point, sits the pa of Hikurangi, then at Whangarei Heads (Te Whara) the pa of Te Whakaariki and at Tamaterau the small sentinel pa of Te Pirihi is situated. The boundary runs across the harbour to the south side up through Toetoe to Otaika (the point of commencement) and back down the harbour to take in Kopuawaiwaha, Mangapai,

Totara, Springfield, Mata, Mangawhati, Ngatiti, Takahiwai, One Tree Point, Poupouwhenua, Ruakaka, Waipu and Langs Beach to Wakatarariki (Bream Tail)"[2]. A visual depiction of our current mainland rohe for the purposes of contemporary management is provided in Figure 1 below. All the lands and waters, including swamps, lakes and ranges encompassed in this territory have traditionally been the domain of Patuharakeke with occasional seasonal rights such as Patunga Kuaka, Parera, Kopua Mango, Manu Oi shared in common with other related hapu.

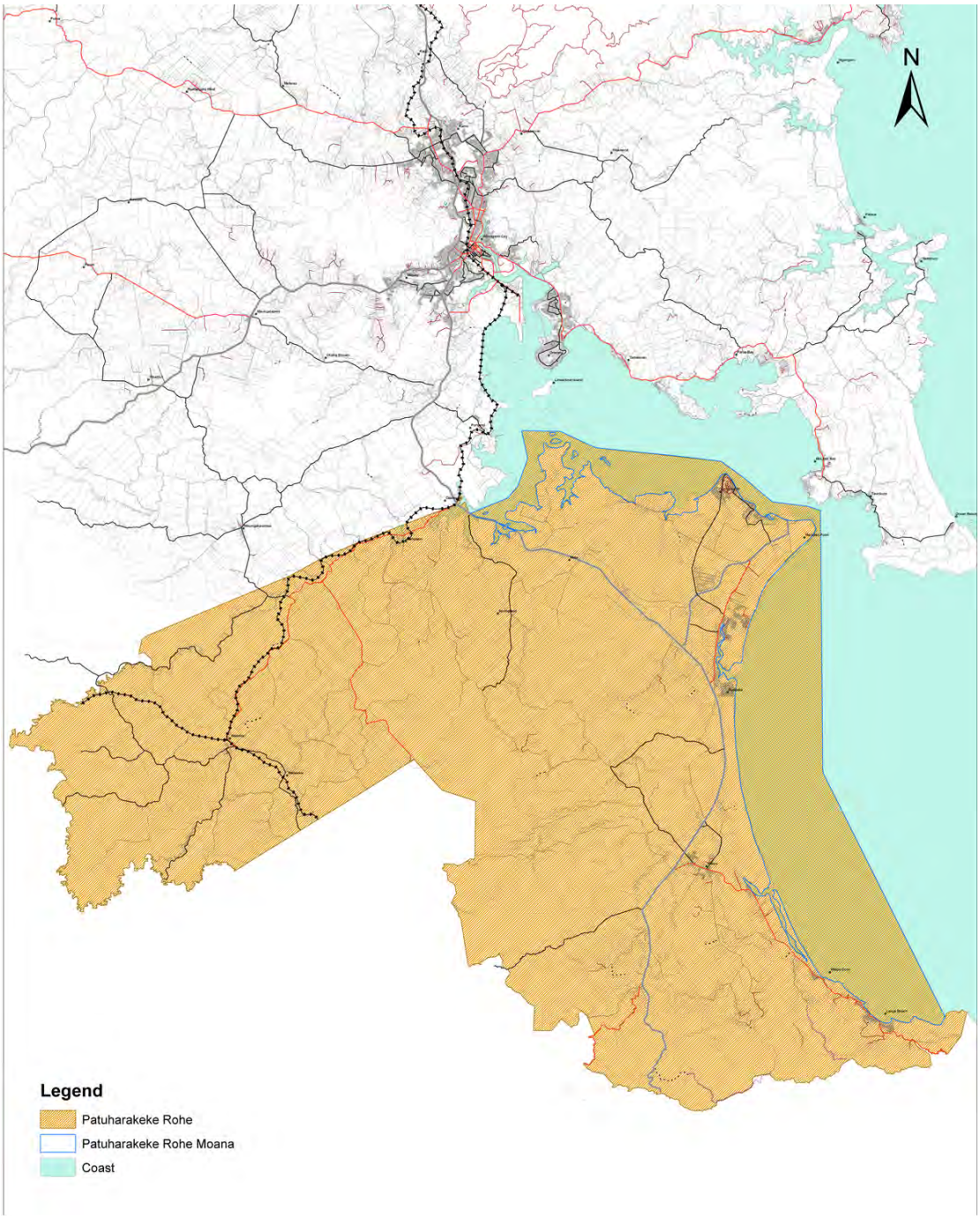



**Figure 1: Patuharakeke Mainland Rohe for Contemporary Management Purposes**

[2] As described in Brief of Evidence of Paraire Pirihi, Te Paparahi o Te Raki Hearings October 2013

## 1.2 Te Timatanga – Patuharakeke

Patuharakeke is derived from Ngati Manaia, Ngai Tahuhu, Ngati Wharepaia, Ngati Ruangaio and Te Parawhau and Ngati Tu. Prior to Patuharakeke taking the name Patuharakeke the hapu was more generally known as Ngati Tu with some elements identifying themselves as Te Akitai and Te Parawhau. All of these hapu have origins in Ngai Tahuhu and/or Ngati Manaia.

Patuharakeke are a composite hapu of descent from most major contemporary iwi groups in the north. These include Ngati Wai, Ngapuhi nui tonu, Ngati Whatua and Te Uri o Hau.

## 1.3 Purpose/ Kaupapa

This plan has been developed primarily for the following reasons:

- To ensure the appropriate engagement and participation of Patuharakeke in the planning and decision-making processes of councils, agencies, and developers with respect to our rohe.
- To assert our tino rangatiratanga and kaitiakitanga over our natural environment and all ancestral taonga; and
- To achieve the full intent of empowering legislative provisions such as those identified in section 1.7 below.
- To clearly identify the environmental management kaupapa of Patuharakeke.

## 1.4 Vision

***"I nga ra e hi ika, he kupenga tatai awhai nuku"***

*"If you wish to catch fish, first you need to ensure your net is in good order".*

Hapu member Harry Maki Midwood shared this whakatauki that was created for Patuharakeke by Harry and Meto Hopa of Kawhia. Through a series of strategic planning hui that have been underway since 2011, whanau agreed this whakatauki covered all the threads of our various discussions and what our journey ahead represented. The "net" was a recurring theme, for example, symbolising concepts such as whakapapa, whanau, matauranga and so on.

This proverb provides an all-encompassing contemporary vision, relating not only to having a healthy environment in order to be able to sustain our physical, cultural, spiritual, social and economic wellbeings, but also ensuring our tribal activities, structures, management practices and operations are reflecting where we are today and where we want to get to. In doing so we also seek to re-engage with korero from our tupuna and our past. With these aspirations, we articulate our approach in this plan.

## 1.5 Mission

Our Mission is simple:

***To revitalise the mauri of our taonga tuku iho.***

## 1.6 The Cultural Framework

The manner in which Patuharakeke responds to resource management issues in our rohe is shaped by several factors:

- A body of knowledge about our land, water and resources built over many generations;

- An holistic worldview that sees people in a familial and symbiotic relationship with the other manifestations of nature around them rather than in domination of it;
- The desire to protect key cultural values and practices such as mauri, tikanga, rahui and waahi tapu that are central to our identity, sense of place and cultural well-being; and
- An historical context where the dispossession of land that followed colonial settlement and Te Tiriti o Waitangi and the confiscation of Poupouwhenua and acquisition of Ruakaka, Mata and Waipu via imperfect purchases had a profound effect on the spiritual, cultural and traditional relationship between Patuharakeke and the environment. As the physical landscape changed, so did the ability of tangata whenua to access and manage the resources upon which they depended (see historical context below in section 3.2).

### 1.6.1 Key Principles, Values and Practices

The following guiding values, principles or practices shape our view of on the environment and resource management. These are recurring themes throughout this plan and are also intended to guide us in the implementation of this plan:

| | |
|---|---|
| *Whakapapa* | The foundation of our framework for managing resources, this demonstrates the relationships between the various elements of the world around us, including human beings. |
| *Kaitiakitanga* | Our duty of care and responsibility toward our taonga tuku iho. |
| *Whanaungatanga* | Building ongoing positive relationships. |
| *Manaakitanga* | Our ability to care for and sustain our whanau and our manuhiri |
| *Matauranga* | To protect, revive, enrich and utilise our knowledge in our capacity as kaitiaki |
| *Mana Whenua* | *Our right to exercise authority over our rohe and the resources therein.* |
| *Mauri* | Protection of the 'life force' contained in all places, species, minerals, ecosystems in our rohe. It can also be understood as a measure of the health and vitality of those elements. |
| *Tikanga* | To retain the traditions of our tupuna in all our operations. |

## 1.7 The Constitutional and Legislative Framework

| CONSTITUTIONAL FRAMEWORK | COMMENT |
|---|---|
| Te Tiriti o Waitangi 1840 / the Treaty of Waitangi/ He Whakaputanga 1835 | In our view He Whakaputanga o nga Rangatira o Niu Tireni (The Declaration of Independence 1835) and Te Tiriti o Waitangi need to be read together. Hapu resource management for Patuharakeke is about maintaining the cultural and spiritual integrity of these founding documents.<br><br>Through He Whakaputanga Maori sought and gained international support of an assertion of political, economic and social rights, acquired an international identity, national flag, and signed a declaration of independence. Te Tiriti o Waitangi further affirmed the protectorate principle and right to exist as a nation and people.<br><br>Article II of the Te Tiriti confirms the right to exercise authority over natural resources:<br><br>Maori Text<br><br>*"Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangitira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa…"*<br><br>Translation<br><br>*"The Queen of England agrees to protect the chiefs, the sub-tribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages and all their treasures..."* |

| LEGISLATIVE FRAMEWORK | COMMENT |
|---|---|
| Resource Management Act 1991 (RMA) | The purpose of the RMA is to promote the sustainable management of natural and physical resources. A number of sections in the RMA make specific reference to the need to recognise and include tangata whenua issues, interests and values, and therefore provide the basis for consultation, collaboration, participation, the development of iwi management plans, development and implementation of appropriate planning tools, and processes and systems for resource consent applications, planning and policy. In achieving this purpose, three main sections 6(e), 7(a) and 8, require |

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| | those exercising powers and functions under the Act to recognise and provide for iwi environmental interests and values.<br><br>Section 35A requires local authorities maintain records for each iwi and hapu within their area, including contact details and Iwi Management Plans.<br><br>Clause 3A and 3B of the First Schedule require local authorities to consult with the tangata whenua of the area (through iwi authorities) during the preparation of a proposed policy statement or plan, and set out the criteria for this.<br><br>Section 33 states that a local authority that has functions, powers, or duties under the Act may transfer any one or more of those functions, powers, or duties to another public authority, including an iwi authority; while Section 36B provides a framework for public authorities and iwi authorities to enter into joint management agreements about natural or physical resources.<br><br>Section 88 requires resource consent applicants to undertake an assessment of effects on the environment, including cultural effects.<br><br>Sections 61(2A), 66(2A) and 74(2A) state that regional councils and territorial authorities are required to take into account any relevant planning document recognised by an iwi authority, and lodged with the council, when preparing or changing a regional policy statement, or regional or district plan.<br><br>Section 104 also provides an opportunity for increased recognition of Iwi Management Plans in local authorities' consideration of applications for resource consent. |
| Historic Places Act 1993 (HPA) | The HPA is administered by the New Zealand Historic Places Trust/Pouhere Taonga. Its key function is to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand (s.4 (1) of the Act).<br><br>Section 4 states that in achieving the purpose of this Act, all persons exercising functions and powers under it are to recognise the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga.<br><br>Any person wishing to undertake work that may damage, modify or destroy an archaeological site (as defined by the Act), or to investigate a site by |

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|---|---|
| | excavation, must first acquire an authority from the NZHPT (ss.10-20 of the Act). |
| Local Government Act 2002 (LGA) | Although Section 4 of the LGA clearly acknowledges that responsibility for the Treaty obligations lie with the Crown, Parts 2 and 6 of the Act are intended to facilitate participation of Maori in local government. Local government is charged with the responsibility to promote opportunities for Māori to contribute to its decision-making processes. |
| Environmental Protection Authority Act 2011 (EPA) | This Act establishes the EPA and provides for a range of regulatory functions such as assessing applications for major infrastructure projects, Hazardous Substances and New Organisms, under several environmental Acts (including the Resource Management Act, the Hazardous Substances and New Organisms Act, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act and the Climate Change Response Act). |
| Conservation Act 1987 | The Department of Conversation Te Papa Atawhai is responsible for the protection of New Zealand's natural and historic heritage as mandated by the Conservation Act 1987. Section 4 of the Act states: **"**This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi**"**. |
| Treaty of Waitangi (Fisheries Claims)<br><br>Settlement Act 1992 | In addition to settling claims to commercial fishing, the TOWFSA clarified customary fishing rights. Regulations were developed to provide for the customary fishing rights of tangata whenua, the ability of tangata whenua to exercise rangatiratanga over traditional fisheries, and the relationship between tangata whenua and those places used for customary food gathering.<br><br>The Fisheries 1998 Kaimoana Customary Fishing Regulations allows iwi and hapu to demarcate a rohe moana (coastal marine area) over which they have mana moana status and select tangata kaitiaki whom the Minister of Fisheries (Primary Industries) then officially appoints as guardians. Tangata Kaitiaki can issue permits for customary fishing in the rohe moana.<br><br>Tangata kaitiaki can utilize customary management tools such as Mataitai reserves and Taiapure – allowing for traditional fishing grounds to be protected as special management areas and either protecting them as reserves or establishing specific rules or bylaws for their management. They can also place a rahui over sites using s186A to strengthen the |

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|---|---|
| | customary closure process. |
| The State Owned Enterprises Act 1986 (SOE) | This Act is of relevance as there are a significant number of land parcels in our rohe to which it applies.<br><br>Section 27B provides for the resumption of land to Maori ownership on recommendation of Waitangi Tribunal. |
| Te Ture Whenua Maori Act 1993 (TTWMA) | TTWMA is administered by the Maori Land Court, the key function of which is to facilitate and promote the retention, use, development, and control of Maori land as taonga tuku iho by Maori owners, their whanau, their hapu, and their descendants. |

## 1.8 Tangata Whenua Planning Tools

A number of tools are made use of by Patuharakeke in the contemporary exercise of kaitiakitanga. These assist with incorporating cultural values and objectives into RMA processes and assessing the cultural health of our rohe. These tools include:

- Cultural Impact Assessments (CIA's)
- Cultural Values Assessments (CVA's)
- Cultural Health Monitoring (see section 3 for a description of Cultural Health Indicator Monitoring Framework for Patuharakeke)
- Sites of Significance Mapping (see section 8 for more information on our mapping project).

## 1.9 Policy Development and Design

### 1.9.1 Development

This plan was developed using the following key steps:

- Formation of a hapu "working party" to lead the review and update of the HEMP;
- A Desktop review of existing plan, other HEMPs and identification of gaps;
- An initial workshop to form the working party and allocate tasks;
- One initial hui-a-hapu at the start of the work programme to seek hapu input on the vision and clarification/identify "resource" issues of significance to Patuharakeke;
- Four wananga/workshops with working party and other key hapu members to discuss draft provisions;
- Development of draft provisions (issues, objectives, policies and methods) for the HEMP;
- A "report back" hui -a- hapu seeking ratification of draft plan with presentation of the issues of significance, policy direction and draft provisions to the wider hapu through hui for comment and endorsement;
- Presentation and circulation of the full draft for feedback and editorial review;
- Presentation of the completed HEMP to Local Authorities and Agencies.

### 1.9.2 Design

The environmental policy contained in this document derives in part from a number of sources, principally the Ngati Hine Environmental Plan, Nga Ture mo Te Taiao o Ngati Hine 2008 and Te Roroa Iwi Environmental Policy (Ratified Version) 2009. These documents were based on earlier iterations of hapu and iwi plans such as those undertaken by Ngatiwai Trust Board and various Ngapuhi hapu, in particular the *Environmental Management Plan for Ngati Rehia, 2007* and the *Ngatiwai Environmental Principles.* We have also taken inspiration and guidance from the Mahaanui Iwi Management Plan 2013 jointly published several Papatipu Runanga of Ngai Tahu.

As with all the documents mentioned, a focal point of our Plan is on building and maintaining durable relationships. We recognise that implementation of our policies will be dependent on the strengths of our relationships with our own whanau and all others who interact within our rohe.

It is vital that Patuharakeke are acknowledged and recognised as kaitiaki and enabled to actively practise kaitiakitanga in regard to all resources within our rohe. Relationships and kaitiakitanga are relevant to all aspects of environmental management. Accordingly, we have prepared a general section on kaitiakitanga and placed this and the relationships section at the front of the document, thereby setting the scene for all natural resource policies that follow.



# PART II - PARTICIPATION IN RESOURCE MANAGEMENT PLANNING AND DECISION-MAKING

## 2. RELATIONSHIPS

Undoubtedly, the participation of Patuharakeke in local government planning and decision making processes was virtually non-existent prior to the enactment of the RMA. This was due to the lack of recognition of tangata whenua and legislative mechanisms that gave visibility to the relationship of tangata whenua with the natural environment. As a result, previous generations had limited success participating in the respective resource management regimes.

Over the last two decades Patuharakeke have adopted various structures to better enable their participation in policy and planning, such as the Patuharakeke Te Iwi Trust Board (PTB). PTB has been increasingly active over the last decade and a half in regard to council and various agencies' issues. PTB has developed a number of policy documents such as Consultation Guidelines[3] in an attempt to identify its position on resource management and other issues clarify appropriate consultation and engagement processes for the benefit of councils and other agencies to secure Patuharakeke's appropriate input. In more recent times this has replaced the previously common occurrence of hapu members being targeted directly in a personal capacity to unwittingly provide consent to activities on behalf of Patuharakeke.

Despite having a number of relationships in place, a number of guidelines, policies and an Environmental Management Plan, Patuharakeke remain entrenched in a primarily reactive mode, where agencies continually engage us as an after-thought once designs are completed and decisions have effectively already been made.

[3] see http://patuharakeke.maori.nz/about-patuharakeke/patuharakeke-trust-board/policies/

In order to achieve our vision and mission, we will need to strengthen existing relationships and create new meaningful ones on a variety of levels. These relationships will be within our own hapu and whanau; our wider whanaunga hapu and iwi links in Tai Tokerau; the community; developers; and agencies with responsibilities in regard to the environment.

Some parties have legal requirements to engage with Patuharakeke either as Treaty Partners and/or under statute (such as the RMA or LGA) and with others it is recognised best practice or tikanga maori. PTB have entered into a number of Memoranda of Understandings with various agencies, industry and developers that have had varying levels of effectiveness. Ongoing collaboration will be required with the following parties, including but not limited to:

### 2.1 Mana Whenua

- Takahiwai Marae Trustees
- Takahiwai Marae Committee
- Patuharakeke Kainga at Takahiwai, Titahi, Mangapai, Otaika, Toetoe and Tamaterau
- Patuharakeke whanau whanui ie. those living away in other towns and cities in Aotearoa or abroad

### 2.2 Hapu and Iwi

- Ngapuhi
- Te Parawhau
- Ngatiwai
- Ngati Whatua
- Te Uri o Hau
- Te Waiariki, Ngati Korora, Ngati Taka
- Ngati Tu
- Ngati Kahu o Torongare
- Ngati Manuhiri
- Ngati Rehua
- Ngati Hine

### 2.3 Community

- Bream Bay Coastal Care Group
- Schools, Kohanga
- The Whitebait Connection Programme
- Ruakaka Economic Development Group, Ruakaka Ratepayers Association
- Marunui Trust
- Bream Head Trust
- Forest and Bird

### 2.4 Developers/Industry

- Refining NZ Ltd
- Northport Ltd
- Northland Port Corporation
- Carter Holt Harvey (LVL)
- Fonterra
- Dairy NZ
- Federated Farmers
- Mighty River Power
- Golden Bay Cement

## 2.5 Government Agencies and Institutions

- Northland Regional Council (NRC) & Whangarei District Council (WDC)
- Ministry of Primary Industries (MPI), Ministry for the Environment (MfE), Department of Conservation (DOC), Historic Places Trust (HPT), Environmental Protection Authority (EPA)
- Crown Research Institutes eg. NIWA, Cawthron
- Universities and Academic Institutes
- Northland District Health Board (NDHB)
- Maori Land Court (MLC)
- Te Puni Kokiri (TPK)
- Office of Treaty Settlements (OTS)
- Environmental Protection Authority (EPA)
- Northland Inc Ltd

## 2.6 Issue

Current relationships are limited in their provision for the full participation of Patuharakeke as equal partners in decision making processes affecting natural and physical resources in our rohe.

## 2.7 Objectives

a) Patuharakeke will strengthen and establish ongoing meaningful relationships with our neighbours, community, developers and agencies to ensure we are appropriately acknowledged as kaitiaki of our rohe.
b) Patuharakeke will have a partnership role in resource management planning and decision-making within our rohe.

## 2.8 Policies

a) PTB will endeavour to keep hapu and whanau informed of all issues affecting the development and management of our natural, physical and heritage taonga. For significant issues, PTB will always advocate for these issues to be brought back to the marae for korero and hui, and will provide regular, open consultation through hui between PTB, and our hau kainga and whanau whanui.

b) PTB will endeavour to ensure that Patuharakeke participate in the decision-making processes of government agencies that affect us and our resources and are engaged on all issues of concern to us.

c) Patuharakeke will wananga and work collaboratively with other hapu and iwi to share skills, learning, knowledge, experiences and opportunities. Patuharakeke will consider invitations to participate in multi stakeholder working parties on a case by case basis.

d) PTB will continue to advocate for the recognition of Patuharakeke as a Treaty partner in all multi-stakeholder processes involving the management and development of natural, physical and heritage resources within our rohe. Patuharakeke will consider all requests to join multi- stakeholder processes on a case by case basis.

e) Patuharakeke will continue to work collaboratively and positively with all community groups and stakeholders whose policies and initiatives contribute to the sustainable management and enhancement of resources within our rohe. Patukarakeke will consider all requests to join multi-stakeholder

processes on a case-by-case basis.

f) PTB will establish a dedicated Resource Management Unit as a key method of providing for participation of mana whenua in the sustainable management of our rohe and protection of our taonga.

g) PTB will report annually to Patuharakeke hapu on all aspects of its involvement in the sustainable management of our rohe and its resources.

h) PTB will, to the best of our capacity, monitor all applications for development initiatives within our rohe.

i) PTB will direct developers to the appropriate point of contact for their proposal. PTB will enter into consultation with all developers to assist in ascertaining the actual or potential effects of the development proposals on Patuharakeke, our values and our environment. Where any development initiative has the potential to impact on our values or resources, PTB will request that the developers bring their initiatives to the marae for the consideration of the hau kainga.

j) PTB will ensure that adequate measures to avoid, remedy or mitigate any adverse effects on Patuharakeke, our values and our environment are identified for developers and council prior to development proceeding.

k) PTB will, to the best of our capacity, monitor all developments once commenced to ensure that they do not result in adverse effects and that they are completed in accordance with the conditions of their consent.

l) PTB will promote and enhance partnerships between Patuharakeke, central government and its agencies, and regional and district councils. The relationships with Patuharakeke, need to be cognisant of our status as tangata whenua, kaitiaki and Treaty partner.

m) PTB will actively participate in the decision-making processes of all agencies where those decisions affect Patuharakeke, our values or taonga. Patuharakeke will consider requests to participate in such processes in a collective forum of other tangata whenua on a case by case basis.

n) Patuharakeke will actively participate in the management of our taonga – our involvement should be sought at the commencement of all management, planning and monitoring processes.

o) Agencies and other parties should be cognisant of the lack of capacity and resources for PTB to participate in contemporary planning and policy processes. Where consultation or participation in agency processes involves a cost to Patuharakeke, these should be borne by the relevant agency. Where consultants or contractors undertake consultation on behalf of agencies, the contract for service should specify the need for the contractor to consult directly with Patuharakeke on a professional basis.

p) PTB will continue to build the capacity and capability of Patuharakeke to engage with local government, contribute to decision making and implement kaitiakitanga objectives and aspirations.

q) PTB will work with local authorities to develop appropriate methods and

processes to assist in building our capacity to contribute to decision making, consistent with local government obligations under the Local Government Act 2002. This includes:

i. The provision of meaningful opportunities to contribute to decision making processes;
ii. The provision of training opportunities on RMA 1991 issues; and
iii. Ensuring that tangata whenua contributions to planning processes are appropriately resourced;
iv. Carrying out cultural inductions for local government, agencies, and other parties and stakeholders.

## 2.9 Methods

### *Relationships with Hapu and Iwi*

a) Patuharakeke will continue to seek to maintain close communication with other Taitokerau kaitiaki. This includes sharing of skills, learning, information, knowledge and experience and providing support for the kaupapa of other units where this is complementary to our policies and methods. Patuharakeke will consider all requests to join multi stakeholder working parties on a project by project or issue by issue basis.

b) Patuharakeke will actively pursue the wider kaitiakitanga interests of the Iwi of the Taitokerau and consider:

i. collaboration in practical work, technical, training and information systems with other iwi and hapu-based kaitiakitanga units;
ii. developing processes for facilitating the transfer of information between Iwi, based on best practice for kaitiakitanga, eg. the development of tribal GIS systems and collaborative support systems and groups in this area.
iii. coordinating environmental monitoring (eg. kaitiaki/cultural health monitoring) with other iwi and hapu of Te Taitokerau;
iv. collaborating with other Taitokerau Iwi and hapu to prepare generic responses to central and local government policy initiatives.
v. Where feasible, Patuharakeke will network with other Iwi and hapu to investigate whether there are shared activities, learnings and leverage opportunities with local governments; national government and international indigenous arenas.

### *Relationships with Community Groups*

c) Patuharakeke will continue to engage with all community groups involved in the sustainable management and enhancement of our rohe and its resources. Such engagement will be on the clear understanding that Patuharakeke are tangata whenua and as such are mana whenua and kaitiaki within our rohe and, as such, not just another stakeholder.

d) Patuharakeke will remain open to approaches from community groups seeking support or assistance with sustainable management or development initiatives within our rohe. PTB will consider requests to enter into partnerships with community groups for specific projects or initiatives on a case by case basis.

### *Relationships with Developers*

e) PTB will establish a Patuharakeke RMU to work with all responsible developers in our rohe and to facilitate dialogue and engagement with our marae community, hapu and land owners.

f) PTB will continue to advocate that all potential developers should seek to enter into direct engagement with us in regard to their proposals at the earliest possible stage of the development.

g) PTB will enter into agreements with responsible developers to clearly specify the involvement of Patuharakeke in the development process. Where this involvement includes a cost to the marae or hapu, PTB will insist that all reasonable costs are borne by the developer.

h) Patuharakeke will develop protocols covering protection of all waahi tapu and other heritage sites and values in regard to development initiatives and will seek to have these protocols adopted as standard consent conditions for all consents granted within our rohe.

### *Relationships with Science and Research Organisations*

i) Patuharakeke will enhance the exercise of kaitiakitanga through establishing relationships and recognizing collaborative opportunities with Crown Research Institutes, universities and other research organisations through research partnerships.

### *Information*

j) All agencies need to provide adequate and timely information on all activities and programmes affecting Patuharakeke, our values and our taonga to Patuharakeke. In particular, information should be supplied regarding:

   i. resource consents (notified and non-notified), permit and concession applications, including previous staff reports and monitoring/compliance records in the case of consent renewal applications;
   ii. Plan and policy preparation, monitoring and review, for example Long Term Plans, District Plans, Regional Policy Statement and Plans, Conservation Management Strategies and Plans; and
   iii. Work plans and projected projects that could potentially affect Patuharakeke, our heritage, culture and taonga at the commencement of the planning or business cycle.
   iv. Any agencies undertaking scientific research within our rohe should consult with PTB before research commences to determine how their programmes can best co-ordinate with the needs and priorities of Patuharakeke. If the work impacts on taonga of Patuharakeke appropriate protocols must be formally agreed with the kaitiaki from the outset of the research and conditions for the work determined by mana whenua must be respected. Such protocols will include agreed understanding of indigenous intellectual property rights. Additionally, where kaumatua and kuia consider it appropriate, tikanga will be observed in the course of the research; and Patuharakeke should have the opportunity to work beside the researchers, in a paid capacity. Finally, any publications arising from research involving ourselves and our taonga, Patuharakeke shall be invited to review findings and append our own comments to the published information and will be appropriately acknowledged in the publication.

### *Resource Consents / Concessions / Permits*

k) Patuharakeke request that the agencies:
   i. Require all applicants for consents/concessions/permits to demonstrate that they have ascertained whether their proposal has any effects, major or minor, on Patuharakeke values and resources. Where effects, actual or potential, are evident, applicants should be required to provide evidence that Patuharakeke have been adequately consulted and engaged. Where such evidence is not supplied the application should be not be accepted;
   ii. Place conditions on consents that provide for the avoidance of effects on matters of significance to Patuharakeke and provide for the involvement of Patuharakeke in the monitoring and review of resource consents. This should include development of agreed protocols governing any activity allowed by consent or permit that can affect waahi tapu or other heritage matters;
   iii. Include in all council reports on resource consent applications or policy development within the rohe of Patuharakeke, the results of consultation or negotiations held with Patuharakeke;
   iv. Hold hearings, pre-hearings and preliminary meetings on marae where Patuharakeke taonga, values or heritage may suffer adverse effects from the proposal;
   v. Not be involved in decisions pertaining to Patuharakeke resources, values or heritage without full prior discussion with Patuharakeke;
   vi. Develop and implement appropriate processes for informing Patuharakeke of all notified and non-notified applications for resource consent, permits, and so forth of interest to Patuharakeke;
   vii. Develop mutually-agreed processes and timeframes to allow us to conduct site visits and assessments of all proposed activities before final decisions are made;
   viii. Require all prospective applicants at the earliest possible stage of their proposal to agree to the process by which Patuharakeke will consider and monitor the development if requested. This will include allowance for conducting site visits and assessments of all proposed activities prior to lodging resource consent applications and reasonable access for kaitiaki to monitor the development once consent is granted where Patuharakeke consider this necessary; and develop best-practice standards and guidelines for development processes and outcomes within our rohe.

### *Decision Making*

l) All agencies need to engage regularly with Patuharakeke to ensure adequate and timely participation of Patuharakeke in development and implementation of agencies' decision-making and management processes. Agencies should actively consider developing Agreements or Memoranda of Understanding to umbrella their relationships with Patuharakeke and to provide clarity and certainty for both partners.

### *Joint Management*

m) All Crown assets within the rohe of Patuharakeke are subject to actual or potential Waitangi Tribunal claims. This is particularly relevant to WDC reserves and the conservation estate or 'public conservation lands'. All decisions over current acquisition, transfer, disposal and management of

Crown asset must include Patuharakeke from the outset of those processes.

n) The Department of Conservation is obliged by statute to give effect to the principles of the Treaty of Waitangi, and should do so by entering into binding memoranda of agreement with Patuharakeke. These memoranda will include collaborative or co-management agreements for specific localities within the Crown's conservation estate, as well as agreements whereby Patuharakeke have effective input into all aspects of the Department's management processes that affect us, our values, or our taonga.

o) Local authorities have the ability to transfer powers and functions under the RMA and Reserves Act 1977 and the ability under the RMA and the LGA to enter into joint management agreements with Patuharakeke. Opportunities for any of these mechanisms should be identified and incrementally implemented. For example, management of Council owned reserves and similar areas, especially where these contain waahi tapu; present a prime opportunity for this. Patuharakeke will negotiate a schedule for developing joint management agreements over key reserves within our rohe that have high cultural value.

p) In addition to the above, WDC and NRC should:
   i. Provide for the active participation of Patuharakeke in the development, implementation, monitoring and review of all council plans and policies and all decision-making processes that affect us, our values and taonga;
   ii. Recognise Patuharakeke as an affected party to all plan and policy development and all resource consent and permit applications that impact or affect our resources, culture and/or heritage;
   iii. Take into account this Environmental Management Plan in the preparation or review of all statutory and non-statutory instruments (strategies, policy statements and plans) that affect our rohe as the initial step in involving Patuharakeke;
   iv. Where, for whatever reason, there has not been Patuharakeke input into statutory planning processes, such silence is not to be interpreted as agreement or acceptance of any such plan or policy; and
   v. Ensure that an adequate pool of independent maori commissioners approved by or acceptable to Patuharakeke is available for all relevant hearings (resource consent, plan and policy development) where Patuharakeke interests are involved.



# PART III: RESOURCE ISSUES

## 3. KAITIAKITANGA

Kaitiakitanga is fundamental to the relationship between Patuharakeke and the environment. As Kaitiaki, Patuharakeke are responsible for both the knowledge (matauranga) and the practice (tikanga) of kaitiakitanga in relation to resources. This relationship is an intergenerational responsibility rather than a right – a duty we are bound by culture, tradition and whakapapa to maintain. These duties are based upon the ultimate aim of protecting mauri; and secondly, the obligation to ensure the legacy we leave to our mokopuna is a healthy environment.

There has been a large historical loss of knowledge of kaitiakitanga – both the "whys" and "hows" – as a result of colonisation, our virtual landlessness and the progressive introduction of increasing layers of government control over resources and their management.

Te Tiriti o Waitangi guarantees tangata whenua the right to fulfil their kaitiaki obligations to protect and care for taonga in the environment, including land, waterways, natural features, waahi tapu and biodiversity within our rohe. However, there are important questions about the ability of current laws and policies to effectively support these kaitiaki relationships to the degree required by the Treaty. As tangata whenua who hold manawhenua in our rohe, Patuharakeke interests in resource management extend beyond stakeholder or community interests. The articles and principles of Te Tiriti o Waitangi are the underlying mutual obligations and responsibilities that Te Tiriti places on both Patuharakeke and government agencies and local authorities, and reflect the intention of Te Tiriti as a whole.

This Patuharakeke HEMP is a written expression of kaitiakitanga, setting out how to achieve the protection of natural and physical resources according to our values, knowledge and practices. This section provides an overarching policy statement on kaitiakitanga, and is relevant to all other sections of the Plan.

## 3.1 Recognition of Kaitiakitanga

### 3.1.1 Issues

a) Local authorities have not been successful in providing effective recognition of kaitiakitanga in natural resource management and governance processes.

b) There is a lack of direct and effective Patuharakeke involvement, as the kaitiaki, in the sustainable management of our ancestral taonga, including water, soil, minerals, air, indigenous flora and fauna and our heritage.

### 3.1.2 Objectives

a) Patuharakeke are acknowledged as the kaitiaki of all resources within our rohe and are actively involved in the decision-making, management, monitoring and enhancement of those resources including water, soils, mineral, air, flora and fauna and heritage.
b) The relationship of Patuharakeke and our culture and traditions with our ancestral taonga is recognised and provided for as a matter of national importance by Councils and other statutory agencies.
c) Matauranga Patuharakeke or traditional Patuharakeke environmental knowledge is acknowledged, protected and utilised.

### 3.1.3 Policies

a) Patuharakeke are recognised as the kaitiaki of all resources, including water bodies, energy, soils, minerals, air, flora, fauna and heritage, in our rohe.
b) Local authorities shall ensure that they have the institutional capability to appropriately recognise and provide for the principle of kaitiakitanga.
c) Elected or appointed members (councillors or commissioners) and senior management must provide leadership and support for their staff regarding engagement with Patuharakeke.
a) Use will be made of relevant Matauranga Patuharakeke/traditional Patuharakeke environmental knowledge and practice in management and decision-making associated with all resources, including water bodies, soils, minerals, air, flora, fauna, energy and heritage. The intellectual property rights associated with that knowledge will be respected and protected.
b) PTB are an interested and potentially affected party to any notified and non-notified resource consent application within our rohe concerning or potentially affecting any resource because of our special relationship with these taonga. When PTB is involved in setting conditions for a consent, the applicant or council will resource PTB to regularly monitor and review those conditions.
c) Local authorities will recognize and take into account this Patuharakeke HEMP as "…a relevant planning document recognised by an iwi authority and lodged with the council" in accordance with section 61(2)(a) of the RMA.

### 3.1.4 Methods

a) PTB requests that all statutory agencies with responsibility for management of all resources recognise Patuharakeke as kaitiaki within our rohe. PTB will monitor all agencies' current and proposed policies to ensure that this happens. PTB also request that all relevant statutory agencies:
   i. Actively promote engagement with tangata whenua as being best practice to resource consent or permit applicants pre-application;

ii. Require that all resource consent or permit applications concerning or potentially affecting all resources, including water bodies, soils, minerals, air, flora, fauna and heritage, be lodged with a PTB Cultural Impact Assessment approved by Patuharakeke as the relevant tangata whenua. Suggested consent conditions should be included in the assessment;
iii. Notify PTB of any resource consent or permit application concerning or potentially affecting all resources, including water bodies, soils, minerals, air, flora, fauna and heritage and provide adequate time and resourcing for PTB to respond in an informed manner;
iv. Provide PTB with copies of any infringement or abatement notices or details of Environment Court proceedings within our rohe.

b) PTB, councils and other agencies and stakeholders will work together to ensure there is ongoing provision of opportunities to instil traditional values and knowledge in our rangatahi through involvement in restoration projects and customary mahinga kai practices.

## 3.2 Te Tiriti o Waitangi

PTB is the kaitiaki of claim number 745, the blanket claim over our rohe on behalf of Patuharakeke, to the Waitangi Tribunal. There are various other claims within Patuharakeke that have been filed with the Waitangi Tribunal such as Wai 504, Wai 1038 and Wai 1040. In October 2013 these claims were heard before the Waitangi Tribunal as part of Te Paparahi o te Raki inquiry. Box 1 below provides a background to the Patuharakeke Claims. PTB are working to expedite an outcome as soon as possible given the immense development pressure and push by crown entities and local government to sell remaining crown/ surplus assets in our rohe. Resolution of Treaty claims is likely to have significant impact on management of resources within our rohe.

In the interim, the precautionary approach would strongly suggest that significant management decisions should not exacerbate or undermine existing claims. In any dispute as to which version of the Treaty has mana, Patuharakeke policy is that the Maori version has preference. The RMA 1991 requires all persons exercising functions under that act to take into account the principles of the Treaty of Waitangi. The Local Government Act 2002 requires local authorities provide opportunities for Maori to participate in decision-making processes in recognition of the Crown's responsibility to take appropriate account of the principles of the Treaty. The Conservation Act 1987 must be interpreted and administered as to give effect to the principles of the Treaty. The Reserves Act 1977, gives effect to the Treaty of Waitangi as recognised in the Conservation Act. The Fisheries Settlement legislation and Kaimoana regulations provide for Maori rights in fisheries management as guaranteed by the Treaty. Other legislation such as the Hazardous Substances and New Organisms Act 1996, and the Historic Places Act 1993 also place responsibilities on local authorities to recognise the Treaty.

The lack of understanding of Treaty issues by government agencies and local authorities and their inadequate policy and processes to address Treaty obligations, are key concerns for Patuharakeke. The very fact that the RMA hierarchy directs decision makers to 'take [the Treaty] into account', rather than 'recognise and provide for', or 'give effect to', trivializes the status of Te Tiriti.

In our view, it is not sufficient to merely 'take into account' the *principles* of the

Treaty of Waitangi. Instead, Te Tiriti/the Treaty should define the relationship between Patuharakeke and the Crown, and also local government. It is through giving effect to the Treaty that local government can meet their other obligations under the Act such as S6(e) of the RMA to recognise and provide for the relationship of Maori with natural resources as a matter of national importance, and that manawhenua can fully exercise kaitiakitanga rights and responsibilities.

### *Box 1: Background To Patuharakeke Statement of Claim*

*Patuharakeke have several claims before the Waitangi Tribunal, including key claims Wai 745 and Wai 1308. 15 years of tireless work and research by our Claims Progression Committee culminated in the presentation of our briefs of evidence before the Waitangi Tribunal in October 2013. While this momentous occasion finally provided the opportunity to relate our experiences and losses as Patuharakeke, the journey is of course far from over, and we will continue in our quest for fair and just recognition of our Treaty grievances.*

*The key causes of action to which our Statement of Claim relate include undermining the Tino Rangatiratanga of Patuharakeke through nineteenth century land alienation. The alienation and confiscation of land in Patuharakeke's rohe through actions of the Crown and/or their agents has resulted in less than two percent of land remaining in Patuharakeke ownership. From approximately 100,000 acres including coastal lands stretching from One Tree Point to Mangawhai of around 78,000 acres along the eastern seaboard, now only around 5 acres (2.02 hectares) are held communally by Patuharakeke. This includes Patuharakeke's marae complex, urupa, Kaumatua flats and the old Takahiwai Native School grounds.*

***Confiscation**:*

- *The 5000 acre Poupouwhenua block (which includes most of Marsden Point and One Tree Point and is shown in Figure 2 below) was confiscated by the Crown in late in 1844. This was in compensation for a settler's house that was burnt down in Matakana earlier that year by a group that included a chief from Patuharakeke owing to a dispute about the imperfect acquisition of the land by the settler. The Auckland Provincial Governor was later quoted in the Southern Cross Newspaper that following an investigation he was satisfied that the events in Matakana had been exaggerated - but the land was still taken.*
- *The underlying purpose of the 'confiscation' was to provide land for settlers.*

***Alienation through Corrupt Crown Purchases:***

- *An excessively low price paid, then would on sell to settlers shortly after at a massive profit margin (eg. Waipu and Ruakaka Blocks)*

*The failure to survey boundaries, then taking land in lieu of survey charges*

- *The failure to provide reserves and breach of promise to ensure 10% of future proceeds would go to Patuharakeke (eg. Waiwarawara block)*
- *Public works takings right up until the 1960's (eg. Pukekauri Block)*
- *Busby purchased a large area at Ruakaka and Waipu in December 1839 - he paid 40 pounds and some other items including 60 blankets for an area of about 100,000 acres. This purchase was not recognised as valid by the*

*Crown following further investigations in 1841 and 1842. Historians have shown clearly that Maori who agreed to sell land in the 1840s and 1850s thought they were only selling use rights for the buyer to utilise the land, and that the contract was based on a mutual benefit, and not that the land was given up in perpetuity. Busby had been "British Resident " in NZ based in Russell, carried a lot of influence and his purchase was probably NZ's first case of "insider trading"- he would have been aware that he was purchasing only 6 weeks ahead of the signing of the Treaty of Waitangi and would have been aware of the Crown plans to stop Maori from selling land to anyone except the Crown once the Treaty was still signed.*[4]

***Twentieth Century Breaches:***

*Twentieth century breaches that are highlighted in our Statement of Claim emphasise environmental issues, such as the industrialisation of Poupouwhenua and the failure of the Crown to protect natural resources such as freshwater resources, Whangarei Terenga Paraoa and other natural resources and heritage within our rohe. These issues are substantively discussed in Part III of this HEMP. Unfortunately the Crown and government agencies persist in undermininig our rangatiratanga to the present day. Some current examples that have forced PTB to take legal action to protect our rights include:*

***Mighty River Power MRP/ "Section 27B Memorials":***

- *The State-Owned Enterprises Act 1986 corporatised a number of government agencies (SOEs) through government's restructuring of the public sector in the 1980s. On corporatisation, SOEs sold off assets (lands and buildings) deemed 'surplus to requirements'. Much of this estate had been constructed on lands, or were lands taken from Maori under the Public Works Act. This resulted in court action for lack of Treaty provisions in the disposition of these surplus assets.*
- *The New Zealand Maori Council sued the Crown over the lack of Treaty provision and the 27B amendment of the SOE Act 1986 was the result.*
- *s27B provides for 'remedies' lands to be returned to original owners/claimants to Waitangi Tribunal if they find in claimants' favour, claimants would get first right to purchase back the land…*
- *The Electricity department which ran the Power Station at Ruakaka became 'Electricorp' and eventually after number of iterations, the current Mighty River Power Ltd (MRP);*
- *In 2013 the government sells more of Patuharakeke's potential treaty claims - 49% of MRP on the share market in 'Government Share Offer' under the Mixed Ownership Model and claim that Iwi were offered opportunity to purchase shares in their Treaty Settlement negotiations;*
- *In April 2014 MRP places 11 titles (166ha) on the open international market. PTB (with whom they have a Memorandum of Understanding) was given one days notice of the sale.*
- *Patuharakeke litigates through the High Court to stop the sale and seeks an*

[4] BOE Guy Gudex

*urgency hearing before the Waitangi Tribunal.*

***Ruakaka Racecourse:***

- *Questionable purchase by Whangarei Racing Club in 1990 for a price well below government valuation prior to any requirement for consultation with tangata whenua on lands that were to be set aside for treaty settlements.*
- *Whangarei Racing Club has applied to put zoning in place to develop an equine centre, hotel facilities and 350 residential units through a 'Private' Plan Change funded by WDC/ratepayers.*
- *The land is subject to S27B of the Stated Owned Enterprises Act 1986 (SOE Act)*
- *PTB had to lobby the council to commission a Cultural Impact Assessment and have since put in several submissions in opposition*
- *The Plan Change has since been approved by WDC and Environment Court Appeals were lodged by PTB and DOC. Court directed mediation is presently underway.*

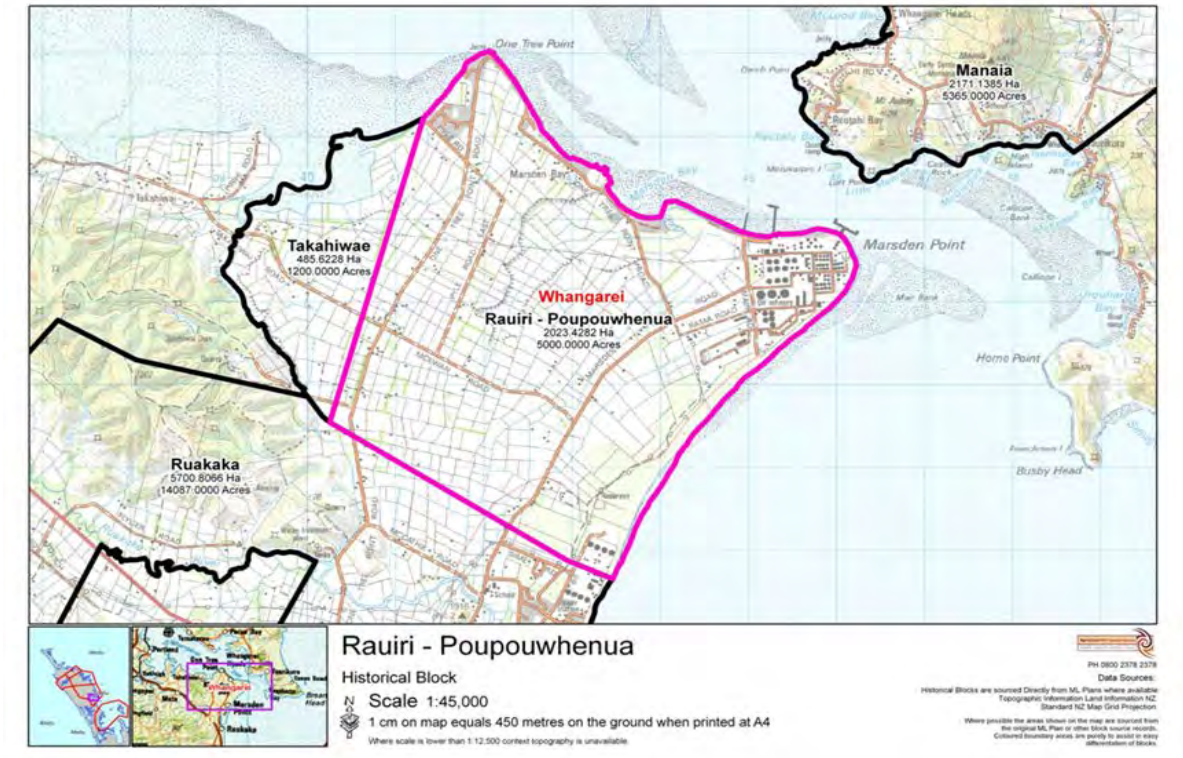



**Figure 2: Poupouwhenua Block**

### 3.2.1 Issue

a) There is a lack of proper recognition of and provision for, Te Tiriti o Waitangi as the basis for the relationship between Patuharakeke and local government.

### 3.2.2 Objective

a) Te Tiriti o Waitangi forms the basis of the relationship between Patuharakeke and local government.

### 3.2.3 Policies

a) Te Tiriti o Waitangi is an agreement between Patuharakeke tupuna and the Crown, but in contemporary times Treaty obligations also sit with local government in addition to central government agencies.
b) The articles of Te Tiriti o Waitangi should be given effect to in accordance with the significance of the treaty to Maori as the founding document of the nation.
c) In giving effect to Te Tiriti, government agencies and local authorities must recognise and provide for kaitiakitanga and rangatiratanga. As the tangata whenua who hold manawhenua in our rohe, Patuharakeke interests in resource management extend beyond 'generic' stakeholder or community interests.

### 3.2.4 Methods

Approaches for achieving these objectives and policies are can be found throughout the various sections of this plan, however methods of particular relevance can be found in section 2.9 regarding (i) relationships; (j) provision of information; (k) protocols for consenting, concession and permitting processes; (n-q) decision-making and joint management.

## 3.3 Kaitiaki Monitoring Tools

As kaitiaki and mana whenua, Patuharakeke must be involved in the monitoring of all aspects of the health of our rohe. For this to happen there needs to be:

- increased integration of monitoring across agencies
- increased reliance and use on community level and community-based monitoring
- increased recognition and use of cultural indicators
- resourcing of kaitiaki

A cultural monitoring framework for our health and wellbeing needs to recognise that:

- Patuharakeke traditional, economic and subsistence foods and practices, and traditional cultural activities are interrelated, as well as mutually supportive and interdependent.
- The overall health and cultural wellbeing of Patuharakeke whanau and hapu is directly related to our ability to manage, harvest, prepare and eat our traditional foods and continue our traditional practices.
- Patuharakeke have the traditional knowledge and maintain practices that will, with proper technical support and resourcing, help to meet our economic and environmental needs and ensure our wellbeing.
- It is important for us as a hapu to determine methods to measure the current state, changes and rates of change (decline, destruction, improvement or revitalisation) of our environment. This must be done with full and effective participation of our taumata and resource management practitioners.

We fully expect our cultural monitoring framework to develop over time in step with our participation. To date, Patuharakeke have developed and utilised indicators primarily in the realm of Tangaroa. We are currently developing an overarching Cultural Health Index ('CHI') methodology framework that will include indicators for monitoring the cultural health of Papatuanuku, Tane Mahuta and of course Wai Maori/freshwater resources.

Tangaroa CHI were developed as part of a Ministry for the Environment project "A Coastal Cultural Health Index for Tai Tokerau"[5] (CCHI) in which Patuharakeke whanau and PTB took part in 2010. The CCHI is based on the calculation of a takutai health measure and mahinga kai measure. We anticipate modifying and adding to this index as part of our overall CHI Framework.

| **Indicators** | **Unhealthy** | | | | **Healthy** |
|---|---|---|---|---|---|
| 1. Catchment land use | 1. Land heavily modified (eg. bush, wetlands etc lost) | 2 | 3 | 4 | 5. Appears unmodified |
| 2. Adjacent vegetation (MHWS plus 100m) | 1. Little or no vegetation – neither exotic or indigenous | 2 | 3 | 4 | 5. Complete cover of vegetation – mostly indigenous |
| 3. Adjacent land use (MHWS plus 100m) | 1. Margins heavily modified | 2 | 3 | 4 | 5. Margins unmodified |
| 4. Takutai condition (sediment) | 1. Covered by mud/sand/slime | 2 | 3 | 4 | 5. Clear of mud/sand/sediment |
| 5. Changes to takutai | 1. Evidence of modification (e.g. dredging, structures, erosion, reclamation) | 2 | 3 | 4 | 5. Appears unmodified |
| 6. Water quality | 1. Appears polluted (eg. eg, foams oils, slime, marine pests etc) | 2 | 3 | 4 | 5. No pollution evident |
| 7. Water clarity | 1. Water badly discoloured | 2 | 3 | 4 | 5. Water is clear |
| How would you describe the overall health of the takutai at this site? | 1. Very unhealthy | 2 | 3 | 4 | 5. Very healthy |
| Comment | | | | | |
| 8. Mahinga Kai Measure | | | | | |
| Abundance | While in the field a collated list of plant, bird and fish species is prepared for each site. A score of 1–5 is then made, depending on the total number of species present.<br><br>Can also use catch per unit effort measure for specific species (eg how long does it take to fill a sack with pipi?) useful for comparison over time.<br><br>Also note size of individuals eg. to evaluate whether there is a range of | | | | |

[5] see Chetham and Shortland, 2010

| | |
|---|---|
| | adults, juveniles etc |
| Change | Comparison of species present today and mahinga kai species historically sourced from the site. Score 1-5 |
| Accessibility of the site | A score of either 1, 3 or 5 is given based on the legal and physical access tangata whenua have to the site:<br><br>**1** No access to the site.<br><br>**3** Either physical or legal barriers make access difficult.<br><br>**5** Unimpeded easy access to the site. |

**Figure 3: Patuharakeke Coastal Cultural Health Indicators**



# 4. RANGINUI

## 4.1 Discharges to Air

While air quality in Tai Tokerau generally remains high, Patuharakeke are in a unique, sensitive location owing to the industry clustered at Poupouwhenua/Marsden Point. The oil refinery at Poupouwhenua is a significant emitter of discharges to air, and others in the vicinity such as Northport, the Carter Holt Harvey LVL Plant, and a solvent recovery plant, also contribute to emissions. As such, the Northland Regional Council has developed a specific Marsden Point Air Quality Strategy that came into effect in 2008 and has been included in the Regional Air Quality Plan. This strategy must be taken into account when decisions are made on air quality in the Marsden Point Area.
Discharges to air have the potential to adversely affect local ecology, amenity values and the health of our whanau living and working within this 'airshed'. While the industries over the years have provided employment for hapu members, many of us feel that our statistics around lower life expectancy and poor health statistics have been influenced in some way as a result of industries' location and density in our rohe. According to Northland District Health Board, no health impact assessments associated with industry at Marsden Point have ever been undertaken.[6]

PTB have developed a robust working relationship with Refining NZ, the oil refining company, over the last decade in particular, and are provided monitoring results on a regular basis. The refinery has updated technology in recent times to ensure they are performing within consent limits, and strive to take a best practice approach. However, with the existing zoning and projected growth of future industry in our rohe it will be important to remain vigilant and have ongoing input into any future policy development and monitoring on air quality and discharge permit applications.

### 4.1.1 Issue:

a) The discharge of contaminants-to-air can have adverse effects on Patuharakeke values such as mauri, mahinga kai, waahi tapu, and marae, and the health of our people and communities.

### 4.1.2 Objectives:

a) To protect the mauri of air from adverse effects related to the discharge of contaminants to air.
b) Patuharakeke are involved in regional decision making on air quality issues.
c) PTB maintain close relationships and dialogue with the air polluting industries in our rohe.

[6] Medical Officer of Health, Dr Jonathan Jarman, pers. comm. 12/12/2012.

### 4.1.3 Policies:

a) To protect the mauri of air from adverse effects associated with discharge to air activities.
b) To require that the regional council recognise and provide for the relationship of Patuharakeke with air, and the specific cultural considerations for air quality, including the effects of discharge to air activities on sites and resources of significance to tāngata whenua and the protection of cultural amenity values.
c) To support the use of indigenous plantings and restoration projects as a means to offset and mitigate industrial, agricultural and residential discharges to air.

### 4.1.4 Methods:

a) PTB require input into any resource consent applications seeking to discharge contaminants to air within our rohe.
b) PTB will work with industry to develop cultural monitoring methodologies to complement the existing monitoring regime relating to discharges to air.
c) PTB to work with industry and other relevant stakeholders to consider funding research on the impacts of air discharges at Poupouwhenua to human health.
d) PTB will work with industry and other relevant stakeholders, academic institutions and other interested parties, to fund research to assess the health impacts of activities on Patuharakeke whanau.

## 4.2 Climate Change

Climate change is a fact and the latest projections from the 5th Assessment Report of the Intergovernmental Panel on Climate Change [7] make alarming reading. According to this publication, some impacts are now irreversible and the adaptation they will demand will present new challenges (as well as opportunities) for tangata whenua [8]. For tangata whenua, the effects of climate change have serious implications, with a lack of information or planning being a major issue. All international evidence to date points to the fact that poor, youth, women and remote communities are disproportionately impacted by climate change. Maori figure highly in all these categories. Climate change is therefore likely to exacerbate many of the inequities already faced by Maori. The adverse effects are potentially wide-ranging and extremely serious. Most modelling sees our rohe with increasing average temperatures, increasing annual rainfall, increased severe weather events and significant sea level rise.

A reaffirmation of traditional ways and knowledge as well as new and untested strategies will therefore be important for ensuring the long-term social, ecological, cultural and economic sustainability of our community in the context of a changing climate. If we consider and plan early for the future impacts of climate variability and change we will be more resilient in the face of that change.

### 4.2.1 Issues

a) Climate Change will impact the cultural, economic, social, and environmental wellbeing of Patuharakeke.

[7] http://ipcc.ch
[8] See https://www.niwa.co.nz/climate/information-and-resources/climate-and-māori-society

b) The magnitude, nature and timing of these effects on Patuharakeke and our taonga tuku iho have not been assessed.
c) There is a failure by NRC to proactively lead mitigation of carbon emissions within Northland.
d) There is a lack of preparedness planning for adaptation to the effects of climate change within Tai Tokerau and Aotearoa as a whole.

### 4.2.2 Objectives

a) Our Patuharakeke hapu and whanau community have sufficient information to allow us to plan for the effects of climate change.
b) The potential impacts of climate change on Takahiwai marae, papakainga, and other sites of significance are identified and Patuharakeke are enabled to proactively develop responses and strategies for adapting to or accommodating those changes.
c) Our hapu and whanau community is resilient and capable of being self-sufficient in times of events such as flooding, severe storms, tsunami, and droughts.
d) Our hapu and whanau community is enabled to make the most of any opportunities that a changing climate might bring.
e) Climate change is an integral part of community-based integrated catchment management planning led by tangata whenua.
f) Northland's energy needs are met predominantly from community owned renewable energy resources, generated within the region.

### 4.2.3 Policies

a) PTB will work collaboratively with our neighbouring hapu and iwi to contribute the views of tangata whenua to regional and national climate change policies and processes.
b) PTB require that the relevant local authorities and agencies recognise and provide for the potential effects of climate change on resources and values of importance to Patuharakeke, for example:

    i. effects of sea level rise on our coastal marae and waahi tapu, including urupa;
    ii. increased salination of rivers and estuaries, affecting mahinga kai resources and customary use;
    iii. warming of oceans and effects on marine ecosystems, including those on the sea floor;
    iv. changes to the amount of rainfall, and effects on aquifer recharge;
    v. changes to the habitats of indigenous flora and fauna, including taonga species;
    vi. increased pressure on already failing infrastructure;
    vii. changes in tourism (especially eco-tourism markets);
    viii. increased transportation costs and energy costs (the end of cheap oil and security of supply);
    ix. health impacts (eg. tropical diseases)

c) PTB support the reduction of emissions as a response to climate change, including but not limited to:

i. Urban planning to reduce transport emissions;
ii. Use of solar water heating and similar measures to reduce energy use; and
iii. Improved farming practices to reduce emissions.

d) Central and local government climate change policy associated with forests and carbon credits should promote, encourage and reward the protection and restoration of indigenous forest.
e) Restoration planning for wetlands and lagoons must take into account the potential for future sea level rise associated with climate change.
f) Local authorities must discontinue their current practice of enabling and promoting beachfront development in our rohe, whether it be industrial or residential.
g) Local authorities must recognise and provide for collaborative catchment management, led by tangata whenua that incorporates responses to impending changes in climatic conditions.
h) NRC should take a proactive response and take action now, rather than adopting the cynical "head in the sand" or hands off privatised model (i.e community must challenge development rather than baseline activities being articulated for public welfare) mentality currently afflicting and influencing central government.

### 4.2.4 Methods

a) Patuharakeke will work proactively with all agencies and individuals who are seeking positive and pragmatic solutions and responses to climate change.
b) PTB will seek funding and support from appropriate agencies and stakeholders to examine the risks climate change poses, our vulnerability and adaptive strategies we can take to protect our community, values and taonga tuku iho.
c) PTB will not support to any development proposals in the coastal environment where climate change poses an undue risk.
d) Patuharakeke will investigate ways to improve our "carbon footprint" including improving our energy efficiency and investigating opportunities for renewable energy generation and use in our rohe.
e) PTB strongly recommend that Northland Health and local government consider the potential health and social effects of climate change on Patuharakeke in their strategic planning.



## 5. PAPATUANUKU

Patuharakeke consider all land within our rohe to be ancestral land. Since colonial settlement pre- 1840 all but a fraction of our land has been alienated. Now it is mostly privately owned (general title) with small amounts held by the Crown (mainly conservation estate) or councils (e.g. recreation and road reserves).

Fragments of multiply-owned Maori land, Maori reserves and small blocks of General Land owned by Patuharakeke makes up just 1% of the original tribal estate that was held by the hapu. Increasing numbers of beneficial owners (many overseas) and fragmentation of shares makes management decisions complicated. Generally, Maori land cannot be used as security for raising capital for establishing, maintaining and/or expanding either economic use or social equity (housing, kainga, marae, etc).

Changing land use (forest clearances, conversion to farmland and exotic forestry, coastal subdivision and industrial development, etc) has increased pressure on our land and water resources. The attributes that attract residents today are those that our tupuna valued. Development threatens the remainder of intact pa, kainga, waahi tapu and mahinga kai as lifestyle choices come into conflict with cultural values. While councils are responsible for ensuring that development does not result in adverse effects, lax controls on subdivision, development and land use and a "development above all else" mentality has resulted in inappropriate development, inadequate infrastructure and degradation of our cultural landscape, amenity and natural resources.

### 5.1 General Matters

#### 5.1.1 Issues

a) Patuharakeke are tangata whenua. Our relationship to this land is central to our being. We consider all land within our rohe as ancestral land.

b) Differences in how land held in Maori title compared to land in general title are treated. This is poorly recognised and provided for.

c) Development places increasing pressure on our land and water resources.

### 5.1.2 Objectives

a) To have all Patuharakeke ancestral land currently held in crown title in hapu ownership.

b) Maximum protection of our ancestral land from adverse effects of development.

c) True costs of development are carried by those profiting from the development.

### 5.1.3 Policies

a) No further alienation of Maori land. Long term sustainable use of Maori land should be adopted where it is economically viable.

b) Development of land resources in our rohe should not be at the expense of our relationship with that land, culture and heritage or at the expense of the environment.

c) Development should be preceded by proper infrastructure planning.

### 5.1.4 Methods

a) PTB will support and encourage, where possible, research into long-term sustainable land uses on Maori land, e.g. permanent cover commercial indigenous forestry.

b) PTB will request MLC and TPK to urgently investigate issues of succession of Maori land shares and the adequacy of current processes for managing this.

## 5.2 Marae and Kainga

Our marae at Takahiwai remains the centre of hapu life in our rohe. We wish to enhance its status to ensure that in future our marae is a vital living centre of a vibrant hapu community. Our marae has always played an integral and important role as community centre and provides direct benefit to the community (e.g. in times of natural disaster, hosting sporting teams, schools and so forth). This community benefit should be recognised in all policies affecting the rating of such land.

Development of papakainga allows our whanau the opportunity to establish affordable housing. Papakainga cannot be compared to subdivision or housing development on general title land.

### 5.2.1 Issues

a) Our Takahiwai marae is the cultural heart of our hapu.

b) Our kainga, those that remain in Maori ownership, are the obvious sites for the re-establishment of hapu communities.

c) The right to reside on, use and develop Maori land is constrained by land zoning rules, housing density rules, provision of infrastructure and services, and multiple ownership.

d) Returning settlement assets will provide future opportunity for re-establishment of kainga and marae on that land.

### 5.2.2 Objectives

a) Our marae is the vital living centre of a vibrant hapu community.

b) Whanau are able to return and live on their whenua.

### 5.2.3 Policies

a) Our marae is a heritage icon in its own right and should be recognised as such.
b) PTB will encourage and support our Marae Committee and whanau to develop our marae.
c) Papakainga developments initiated by whanau will be supported to facilitate the resettlement and re-association of tangata and whenua. Council control of papakainga should be confined to matters of health and safety and should not require 'reserve' contributions of land.

### 5.2.4 Methods

a) PTB will advocate that agencies recognise and provide for the policies in this section.
b) PTB will support and assist the marae committee and whanau within our rohe to further develop our marae and kainga on a sustainable basis. In particular support will be given to the marae to develop as a cultural centre of our people and tikanga. Any future development of the marae and papakainga should consider energy efficient building design, methods and materials, environmentally sustainable energy, sewerage, waste and water systems.

## 5.3 Maori Land Rating

Historically much land has been lost to inequitable rating policies of local government. Patuharakeke consider there has never been full consideration given to the differences between Maori land and land held in general title or the unique situation the owners of Maori land face. We acknowledge the challenges for WDC and NRC in addressing this problem and recent policy initiatives to provide temporary relief for rating on Maori land in some circumstances. However, finding a durable and sustainable solution requires the active attention of central, regional and local government. We consider that MLC has a significant role to play. Because valuation of Maori land is tied to that of general title, we are increasingly seeing a situation where the rate burden on Maori land is increasing because of its proximity to general title land, even though the circumstances of the Maori land has not changed. Further, the notion of valuing Maori land on its saleable value on the open market is unrealistic given the multi-shareholding nature of Maori land tenure and our duties to retain land within our whanau and its connection to our tupuna.

### 5.3.1 Issues

a) The rating of Maori land is a contentious issue for Patuharakeke and is inaccurately assessed.
b) The intensified housing market in our coastal rohe in recent years has seen a dramatic increase in the rateable value of those properties and therefore increased costs on our local community.

### 5.3.2 Objective

a) Fair Maori land rating policies.

### 5.3.3 Policies

a) Maori owned land should not be subjected to the same valuation process as that which applies to land held in general title.
b) Valuation and rating of Maori land should not be affected by escalating property values caused by development and intensification of adjoining or neighbouring general title land. Where such development does result in increased rateable values for Maori land this should be recognised and mitigated through development levies.
c) Local authorities should review their Maori land rating policies and in particular consider the long-term effects of current remittance and postponement policies. Local authorities should seek the full participation of PTB, TPK and the MLC in these reviews.
d) Local authorities in Tai Tokerau should develop a single consistent policy and approach to Maori land rating issues.

### 5.3.4 Methods

a) PTB will make submissions to all relevant council processes requesting review of Maori land rating policies and processes. This includes insisting that staff involved in setting and processing rating policy receive adequate training in Maori land and rating issues.
b) Where development of general title land causes increases in rating of Maori land, PTB request that the consent authorities negotiate agreements with each developer to ensure that the developer makes adequate long term provisions to mitigate this effect on Maori land owners.

## 5.4 Soils and Minerals

Minerals are by their very nature limited. Soils are a finite resource and their use must be managed to ensure no adverse effect on the environment and that sufficient mineral and soil resources are retained for future generations. Inappropriate land uses can cause erosion; and sedimentation is one of the major causes of poor water quality in our waterways.

### 5.4.1 Issues

a) Extractive industries and inappropriate land use and management have the potential to diminish or destroy the mauri of mineral and soil resources in our rohe and there are potential adverse environmental, cultural and social effects.
b) Mineral and topsoil resources are finite.
c) Prospecting, exploration and mining activities can adversely affect areas significant to Patuharakeke including waahi tapu, waterways, mahinga kai and our cultural landscapes.
d) Soil erosion resulting from inappropriate land uses and management.
e) Earthworks activities need to be managed to avoid damaging or destroying sites of significance, and to avoid or minimise erosion and sedimentation.

### 5.4.2 Objectives

a) The mauri of mineral and soil resources is protected and enhanced in ways that enable Patuharakeke to provide for our social, economic and cultural wellbeing; and that of generations to come.

b) The sustainable use and management of mineral and soil resources without adverse impacts.

### 5.4.3 Policies

a) Prospecting, exploration and mining activities are not permitted in areas significant to Patuharakeke.
b) Patuharakeke promote innovative, sustainable management practices for mining and quarrying operations, including rehabilitation.
c) Earthworks provided for as a permitted activity in council plans must meet stringent environmental performance standards.
d) Integrated earthworks management plans are required for earthworks consent applications detailing how erosion, sediment control, possible archaeological or cultural sites and rehabilitation are to be managed, and how risks will be identified and minimised.
e) Patuharakeke are involved in decision-making regarding any contaminated land in our rohe.

### 5.4.4 Methods

a) PTB will advocate for the enhancement of our soils and careful handling of our minerals. In particular we request the relevant statutory authorities ensure that:
    i. Crown Minerals Act and RMA processes are better integrated;
    ii. activities are not permitted in areas we identify as significant;
    iii. permit holders are required to prepare and implement a mine or quarry closure and rehabilitation plan;
    iv. effective erosion and sediment control measures are implemented while soil is exposed and 80% vegetated ground cover is achieved within 3 months of earthworks being complete.
    v. earthworks provided for as a permitted activity require notification of council and PTB, no less than 1 week prior to any work;
    vi. payment of a bond is a mandatory condition for any earthworks;
    vii. Land use is matched with land capability (eg soil type; slope, elevation);
    viii. Encouragement and support for organic farming and growing methods
b) PTB will work with permit holders to plan and implement rehabilitation programmes, costs being met by permit holders.
c) A royalty will be payable to PTB where the extraction of a mineral resource from lands within our rohe has been agreed to.

## 5.5 Vegetation Clearance and Commercial Forestry

Vegetation is usually cleared for land management purposes, such as the creation or maintenance of pasture or in the creation of residential subdivisions. When land is denuded for long periods, erosion and sedimentation into waterways occurs. There is an associated loss of nutrients and carbon from the soil, and the water holding capacity of the catchment is altered (eg. storm water runs off rather than absorbs). Vegetation clearance also leads to fragmentation and loss of remnant native bush and habitat, loss of opportunities for regeneration, and diminishing of cultural landscape and natural character values.

### 5.5.1 Issues

a) Vegetation clearance can have adverse effects on waterways, sites of significance, indigenous biodiversity, cultural landscapes and amenity values.
b) Commercial forestry operations can have adverse effects on waterways, sites of significance, indigenous biodiversity, cultural landscapes and amenity values.

### 5.5.2 Objectives

a) Native vegetation clearance is avoided in our rohe.
b) Sound land management practices become the norm in our rohe with waterways, sites of significance, indigenous biodiversity and cultural landscapes protected from the adverse effects of vegetation clearance and commercial forestry operations.

### 5.5.3 Policies

a) PTB and Councils will promote land use and land use management that avoids undue soil disturbance and vegetation clearance.
b) PTB will oppose vegetation clearance in areas that are identified as high risk for soil erosion, areas of significant indigenous biodiversity, and culturally significant sites.
c) PTB and Councils will promote the establishment of native forestry operations in the rohe alongside other commercial operations with the ultimate view of phasing out exotic forestry and replacing it with natives.

### 5.5.4 Methods

a) PTB will assess applications to undertake vegetation clearance in our rohe (eg. the applicant commissions a CIA).
b) PTB will assess proposals for commercial forestry and activities associated with the replanting of existing plantations in our rohe (eg. produce a CIA resourced by the forestry company).
c) PTB will continue to advocate for the protection and enhancement of indigenous forests in our rohe (eg. by way of submissions to National and Regional policy and planning documents etc).

## 5.6 Subdivision and Development

The last decade and a half has seen a proliferation of unfettered coastal subdivision and industrial and commercial estates in our rohe. This has taken place with little regard to infrastructure requirements and has had negative consequences for fresh and coastal water quality, natural character and our cultural landscapes and seascapes. Decision makers have allowed subdivision development to physically encroach upon high value sites such as the Ruakaka Dune Lake – adjacent to the Ruakaka Racecourse it is the only dune lake in Waipu Ecological District, and in fact the whole Eastern Northland Ecological Region. The Marsden Cove subdivision and marina allowed for modification and damage to residual cockle beds and increased the likelihood of pest species arriving in on the hulls of yachts, as confirmed by the recent infestation of the invasive Sea Squirt "Styela" at that location[9]. The entire southern end of Langs Beach looks like an extremely affluent Auckland suburb and the cultural landscape at this location has been forever altered.

[9] see http://www.biosecurity.govt.nz/files/pests/seasquirt/styela-clava-eia-aug2011.pdf

PTB believe coastal subdivision in Ruakaka, One Tree Point, Waipu Cove and Langs Beach has reached saturation point. There is currently a massive oversupply of sections, yet the councils are actively supporting further growth and expansion of subdivisions through private plan change mechanisms and a permissive planning approach. There appears to be little regard for the concerns consistently raised by Patuharakeke through our responses to consent processes and submissions to such plans as the Marsden Point Ruakaka Structure plan and other planning and policy documents. PTB will continue to maintain a precautionary approach and oppose inappropriate coastal development (especially that which contravenes the NZCPS and impacts our cultural landscapes, seascapes and the natural environment).

While subdivision and residential land development activities can have adverse effects on cultural values, there are some examples where cultural benefits can be gained, including opportunities to reaffirm connections between tangata and whenua. For example, the use of Patuharakeke names and cultural interpretation in developments or roading can re-establish a Patuharakeke presence on these modified landscapes. Acting to ensure developments have 'light footprints' in relation to building design, water, waste and energy also provides cultural visibility and is consistent with achieving the objectives of this Plan. Again, effective engagement and relationships between applicants and tangata whenua are required from the design phase right through to consent being granted and beyond (eg. ongoing monitoring) in order for these positive outcomes to be realized.

Tangata whenua policy in this document is aimed at avoiding sporadic, uncontrolled development in our rohe, and remedying or mitigating impacts of development on our cultural landscapes and seascapes. Coastal land development must be cohesive with the landscape rather than deviate from it, and enhance existing values rather than degrading them.

### 5.6.1 Issues

a) Subdivision and development can have significant effects on tangata whenua values, including sense of place, cultural identity, indigenous biodiversity, mahinga kai, and waahi tapu.

### 5.6.2 Objectives

a) Coastal cultural landscapes and seascapes are protected from inappropriate use and development.
b) Patuharakeke has a prominent and influential role in urban planning and development in our rohe.
c) When subdivision and development activities occur, they are based on low impact, innovative and sustainable design.

### 5.6.3 Policies

a) Councils and agencies will ensure that the cumulative impacts of subdivision and development on the natural and cultural landscape values of our ancestral whenua and coastal areas are recognised and avoided, including:
    i. Effects of incremental development; and
    ii. Ensuring that existing modification of the landscape is not used to justify further change where it is inappropriate to allow further coastal development.

b) Councils and agencies will not allow private ownership (or what is effectively private ownership) of the foreshore as a result of coastal subdivision activities.
c) Local authorities are required to recognise and provide for tangata whenua values in coastal land development activities, such as:
    i. The protection of coastal headlands and skylines;
    ii. The protection of coastal indigenous biodiversity, including remnant forest and endemic species;
    iii. The protection of waahi tapu and sites of significance;
    iv. The protection of view shafts to significant natural features and landmarks;
    v. Access to coastal areas for customary use;
    vi. Patuharakeke aspirations for coastal areas, such as the establishment of mataitai reserves;
    vii. The potential for sedimentation and contamination of fresh and coastal waters; and
    viii. The increased stress on existing water resources and community infrastructure.
d) Local authorities and agencies must take a precautionary approach towards applications where potential effects on the coastal environment are uncertain, unknown or poorly understood.

### 5.6.4 Methods

a) Councils will work with PTB to implement a consistent approach to the identification and analysis of Patuharakeke interests in subdivision and development activities including[10]:
    i. Encouraging developers to engage with PTB from the outset of development planning to identify potential cultural issues; including the preparation of Cultural Impact Assessment reports (CIA's);
    ii. Requiring engagement with PTB at the Plan Change stage.
    iii. Requiring that resource consent applications assess actual and potential cultural, social, environmental and economic effects of the proposal on Patuharakeke; and
    iv. Ensuring that effects on our cultural values are avoided, remedied or mitigated using culturally appropriate methods as recommended by PTB.
b) PTB will develop a set of basic principles and design guidelines, along with assessment criteria for subdivision and development.

## 5.7 Utilities, Amenities and Infrastructure

In the past the design, building and maintenance of major infrastructure has followed not preceded development, leaving infrastructure in continual "catch-up". Settlements now have old and worn systems struggling to keep up with demand. Developers have not contributed to the true cost of providing infrastructure and services for new development leaving the existing communities to carry the shortfall. There have been occasions where the infrastructure provided as part of large scale developments has been substandard (for example Marsden City roading and stormwater systems have failed), and other times where the council has deliberately pursued a solution which we find unacceptable (eg. an ocean outfall as part of the Ruakaka Long Term Wastewater Treatment Plant Consent). When adequate services

[10] see also section 2.9 of this plan.

for new development are provided, it is often at the expense of providing modern services for existing communities.

Historically Patuharakeke, as kaitiaki and tangata whenua, have not been able to participate fully in decision-making over these assets. Maori land tends to be poorly serviced compared with other parts of the district. We have had decades of experience where Maori land has been taken under various Acts, such as the Public Works Act, to allow for infrastructure. The Pukekauri Lake/Dam is an example of this. Unfortunately, such acquisition has not been accompanied by the resources for their sustainable management.

### 5.7.1 Issues

a) Increased development and population pressure brings with it increased demand and need for all types of infrastructure, roads, water supply, sewerage systems, storm water, reserves and parks, libraries, museums and information centres.

b) Councils and agencies such as DoC and WDC have acquired large areas of land for public reserves and other infrastructure.

### 5.7.2 Objectives

a) Patuharakeke participate fully in all decision-making processes of agencies over planning for, development and management of utilities, amenities and infrastructure within our rohe.

### 5.7.3 Policies

a) Patuharakeke will participate fully in all decision-making processes of agencies over planning for, development and management of utilities, amenities and infrastructure within our rohe. Such participation should commence at the outset of any planning or business cycle.

b) Innovative means of providing for infrastructure should be encouraged, e.g. farming of algae for bio-fuels on sewerage treatment ponds, effluent disposal to support indigenous forestry.

c) New developments should be levied to pay the full and true cost of infrastructure.

d) Provision of public services to green field developments should not be at the expense of the needs of existing communities.

e) Public reserves management should be adequately resourced to ensure that these areas are sustainably managed.

f) Agencies should negotiate a schedule of reserves with PTB for transfer to joint or sole management regimes that include full participation of ahi kaa and kaitiaki.

### 5.7.4 Methods

a) Patuharakeke will continue to advocate that agencies recognise and provide for these policies.

b) PTB will request that a schedule and process for negotiating joint management agreements over public reserve lands be investigated and

included in an MOU or Memoranda of agreement and/or co-management agreements to be jointly developed.

## 5.8 Public Access

Access has long been a significant issue for Patuharakeke for three principle reasons:

- Kaitiaki require access to all waahi tapu and sites of cultural significance. With the alienation of most ancestral lands from Maori title many of these sites are now on either private or public land. Many of our sites have already been damaged or modified beyond recognition and we have serious concerns about the ability of agencies to ensure our sites are not further compromised.
- Access to customary fisheries, mahinga kai and customary resources. Many of these customary areas are now only accessible across public or private land which raises issues for Patuharakeke and landowners.
- The current Crown policy of providing access for all to and along all parts of our waterways and coastline raises significant issues.

Patuharakeke wish to be fully involved in the preparation of any public access policies or plans by any agency from the outset of the planning process.

### 5.8.1 Issues

a) Alienation of ancestral land from Patuharakeke ownership restricts our access to many sites of significance to us, including waahi tapu and cultural harvest areas.

b) There is a conflict between public access, protection of sites and resources of importance to Patuharakeke.

### 5.8.2 Objectives

a) Sites and resources of importance to Patuharakeke and customary access to them, is protected and enhanced.

### 5.8.3 Policies

a) Policies and plans prepared by statutory agencies must recognise the rights of access that Patuharakeke have:
   i. to all waahi tapu,
   ii. for the harvesting and collection of kai,
   iii.to taonga prized for traditional, customary and cultural uses, and
   iv. for the purposes of kaitiaki/cultural health monitoring.

b) Public access rights should not be given precedence over spiritual and customary values and sites.

### 5.8.4 Methods

a) Patuharakeke will continue to advocate that agencies recognise and provide for these policies.
b) PTB will work closely with all agencies involved in public access policies and ensure Patuharakeke participate fully in such decision-making processes.
c) Councils issuing consents that could affect customary access will include consent conditions to protect and enhance customary access and cultural monitoring of such sites.

## 5.9 Overseas Investment and Purchase of Land

Patuharakeke are attempting to restore cultural and traditional associations with the land, including the gathering of knowledge of places, the protection of waahi tapu

and the regaining of access to sites of significance. The sale of land to overseas investors can be inconsistent with these aims; and lead to further disenfranchisement. Overseas investors are unlikely to be aware of the cultural importance of the land they are purchasing, and therefore sites, places and relationships may be at risk. In considering applications for the purchase of land under the Overseas Investment Act, the Overseas Investment Office (OIO) needs to formally recognise tangata whenua values associated with the land, in addition to the values that make land sensitive under section 10(1)(a) of the Act.

On the other hand, overseas investment can occasionally foster opportunities to recognise and provide for tangata whenua associations with a specific area, including the protection of and access to sites of particular importance. However, any cultural benefit to be realised from overseas investment will depend on the establishment of formal processes to ensure such rights and interests are sufficiently regarded in the decision-making.

### 5.9.1 Issue

a) Overseas investments and purchases of property can affect the relationship of tangata whenua with our ancestral lands, water, sites, wahi tapu and other taonga.

### 5.9.2 Objectives

a) Overseas investors are aware of the cultural importance of any sites they purchase in our rohe and recognize and provide for protection of and access to, sites of significance to Patuharakeke.

### 5.9.3 Policies

a) In the context of the OIO, Patuharakeke support the retention of New Zealand land in New Zealand ownership. Furthermore, Patuharakeke support the retention of ancestral land in Maori ownership, ensuring domestic ownership.

b) To require that the OIO formally recognise and provide for Patuharakeke interests for all overseas investment applications, in particular:
   i. Patuharakeke historical, cultural, traditional and spiritual relationship with the land;
   ii. The protection of cultural values associated with the land; and
   iii. Patuharakeke access to sites and places of cultural importance.

### 5.9.4 Methods

(a) The OIO will support PTB to engage directly with potential investors to secure an enduring first right of refusal agreement to any lands purchased within our rohe.
(b) The OIO in conjunction with councils and other relevant agencies, will require the preparation of Cultural Value Reports by PTB to identify values, risk and desired outcomes for any potential purchases in our rohe.
(c) Councils and relevant agencies will ensure that cultural information is placed on LIMs, PIMs and titles.
(d) Councils and agencies will work with PTB to set appropriate consent conditions for the conservation (including maintenance and restoration) of cultural and historical heritage and provisions for access when development occurs on these properties.

## 5.10 Waste Management

We now live in a throwaway society that has only recently and after-the-fact begun to adopt sustainable practices to waste management and disposal. Other coastal urban communities such as Raglan, Kaitaia and Kaikoura have clearly demonstrated that is possible to greatly reduce waste to landfill volumes (by 70%) via community based management and resulting in a reduced overall cost to the community. Those communities have also demonstrated that responsible waste management can be an attractive community business and employer. A Waste minimisation approach to waste management is consistent with protecting cultural values and achieving outcomes sought in this plan. Reducing the volume of solid waste and wastewater produced in our rohe will reduce pressure on existing infrastructure, and on environmental and cultural values.

### 5.10.1 Issue

a) The excessive volume of waste in our society is not sustainable.

### 5.10.2 Objectives

a) A zero-waste rohe for our mokopuna.
b) Patuharakeke will prioritize transitioning to zero-waste marae, kohanga and kainga.

### 5.10.3 Policies

a) Local authorities and agencies will pursue a waste minimisation approach to waste management in our rohe.

### 5.10.4 Methods

a) Patuharakeke will advocate that councils and agencies pursue zero waste policies covering our rohe.
b) Patuharakeke will lead by example by investigating and implementing programmes to achieve zero waste for our marae, kohanga, kura and papakainga (eg. reduction of waste produced, and the use of composting and recycling programmes).
c) PTB will support well planned initiatives by tangata whenua and the community to establish sustainable waste management businesses.
d) Local authorities and tangata whenua will maintain dialogue with industry and keep abreast of technological advances to find innovative solutions in waste management (eg. using waste to generate electricity; using treated effluent to irrigate forestry and non-food crops etc).

## 5.11 Genetic Engineering

Whatever decisions are made regarding genetic engineering (GE) in this generation will have far reaching and irreversible effects for our environment, our flora and fauna, the food we eat and the world our mokopuna inherit. Until it is adequately proven to us that the benefits of genetic engineering do not endanger our environment and our mokopuna, we will take a precautionary approach to ensure we do not place our rohe at risk.

If there is GE contamination it will easily cross into or out of our rohe. As such, it should be controlled at a national level. However, the current management regime does not adequately provide for the potentially adverse effects of genetic engineering on mauri and the cultural, social, economic, and environmental

wellbeing of hapu. The use and development of GE is not supported due to their potential to corrupt or interfere with species' whakapapa. Both the mauri and wairua of living things are sacred. As such responsibility lies with kaitiaki to protect the legacy of future generations including protecting the sanctity of whakapapa. Our concerns range from the potential impact on crops, food supply, biodiversity and taonga species, cultural and intellectual property, and the commodification of taonga Maori.

Given the widespread opposition by Maori and much of the broader community to GE in the region, the Whangarei District Council ('WDC') has had the foresight to advocate for a ban all Genetically Modified Organism ('GMO') releases and make any Environment Protection Agency (EPA) approved outdoor GE field trials a discretionary activity in the District plan. The Northland Regional Council ('NRC'), however, seems reluctant to take a stand on this issue and have argued that it is not an issue for the Regional Policy Statement as it is addressed through the HSNO Act administered centrally by the EPA. Patuharakeke have representation on the Maori National Network ('MNN' or Te Herenga) for the EPA (formerly ERMA) for the last 8 years. In our experience the tangata whenua consultation and engagement process for applications under the EPA is markedly inferior than what occurs under RMA processes and we remain of the view that a precautionary approach must be taken until more knowledge is available and tangata whenua are adequately involved in decision making on these issues.

### 5.11.1 Issue

a) Genetic Engineering is culturally offensive to Tangata Whenua and the current management regime does not adequately provide for the potentially adverse effects of genetic engineering on the mauri of species and the cultural, social, economic, and environmental wellbeing of Patuharakeke.

### 5.11.2 Objective

a) The cultural values of Tangata Whenua with respect to GE/GMO's are respected and Te Tai Tokerau is declared GE Free.

### 5.11.3 Policies

a) Patuharakeke oppose the introduction of genetically modified organisms, or products produced from such organisms, on the basis that it is contrary to whakapapa, it represents untested dangers, and is not in any way essential to human wellbeing.

b) Patuharakeke support a GE free rohe.

c) Patuharakeke considers that control of GE is a central government issue. Pending review of the national legislation, release of GMOs should be prohibited locally.

d) Any variation to national policy or practice which allows the introduction of genetically modified organisms or material within our rohe, the responsible agency or business must advise PTB .

### 5.11.4 Methods

a) Patuharakeke will request that NRC and WDC ensure that release of GMOs is prohibited at a regional level until there is an adequate review of national legislation.



## 6. WAI MAORI

Fresh water is a most precious taonga for Patuharakeke and the quality and quantity of this resource is a key management issue and therefore huge responsibility for us. Our focal waterways include the Waipu, Ruakaka, Takahiwai and Mangapai Rivers, while Skull Creek/ Mangawhati and other tributaries such as Pukekauri, and Rauiri (Blacksmiths Creek) also have immense cultural significance. The hapu continue to advocate for improvement in water quality in the area with our strong commitment to our lands and waters stemming from our duty as kaitiaki to preserve the resource for generations to come. Without appropriate management of water the legacy for our mokopuna does not bear thinking about. The clearance of the majority of our native forests for pastoral use and ongoing poor land management practices, have systematically ravaged our freshwater resources. As a consequence, tuna, inanga and koura now seldom appear on any whanau tables, and certainly are not in adequate supply to serve at marae events. Watercress was formerly a dietary staple but farm effluent and industrial discharges in our waterways have rendered it unsafe to eat.

Northland Regional Council monitoring data results indicate that habitat quality in the Ruakaka River catchment has declined from sub-optimal to marginal in the last five years and water quality is generally very poor. The site was ranked worst for water quality out of 35 rivers monitored in 2008-09[11]. These results were corroborated by our own cultural health monitoring programme undertaken in 2010 as part of a Ministry for the Environment-funded project. In our assessment of mahinga kai the Ruakaka River mouth location was found to be virtually unusable for gathering kaimoana (Chetham & Shortland, 2010). This kai source not only provided

[11] See http://www1.nrc.govt.nz/Resource-Library-Summary/Research-and-reports/Rivers-and-streams/Northland-Rivers-Habitat-Assessments-2008-2010/Results/#A1

sustenance for Patuharakeke and the local community but is a food source for the many native and migratory birds that inhabit the Ruakaka estuary.

Water allocation in the rohe is also a major issue for mana whenua. Indicative allocation levels calculated using the proposed National Environmental Standards on ecological Flows and Water Levels shows much of the Whangarei Harbour catchment is highly allocated[12]. Water permits are effectively treated as property rights and the resource managed as though it is infinite. The alienation of tribal lands and waters along with a history of Crown agency assumption of water rights has meant that Patuharakeke have lost control and management of principal water bodies that have since been exploited by successive agencies for the economic benefit of others. Pukekauri Dam is a prime example, having been acquired under the Public Works Act in the mid 1960's to supply water for the Marsden Point Oil Refinery. Some years ago WDC decided it was surplus to requirements but negotiations for its return have had little progress.

Crown management of our waterways is spread over agencies e.g. Fish and Game, DOC and NRC, added to this are the numerous stakeholders with interests e.g. environmental groups, farmers, industry and recreational groups. There is a lack of coordination and common approach between these agencies and stakeholders. The tendency is to deal with problems in a reactive fashion, rather than addressing the source of the issue. The recent initiative by a sector of the community to remove Mangroves in the Ruakaka Estuary is an example of this. This project was primarily for aesthetic reasons and was actively supported by NRC through their mangrove management fund.

To date, there have been virtually no opportunities for the active involvement of tangata whenua in decision-making, policy development and monitoring in relation to the management of the quality and quantity of water. There has been minimal utilisation of tikanga, matauranga Maori and cultural indicators in the management of water resources to ensure that adverse impacts on culture and traditions are avoided.

Recent initiatives such as the Whangarei Harbour Catchment Group and Ruakaka River Liaison Committee are positive steps forward but have largely only come about because of the requirements of the National Policy Statement for Freshwater Management[13]. While PTB are participating in both these groups, it has become evident that resourcing is limited and we are yet to see how much weight any policy developed will be given in planning documents. Further, we agree with the viewpoint espoused by Fish and Game, that is: "Despite the overwhelming number of submissions, advice from the Land and Water Forum and scientific and multi-sectoral working groups and detailed consideration of these issues in legal cases which set higher standards including the Horizons One Plan and the Ruataniwha, the changes announced will not require regional councils to provide swimmable, fishable waters which are safe for food gathering"[14]. The onus will be on regional councils to set the bar higher than the minimum standards required by the NPS.

## 6.1 Issues

[12] Justin Murfitt (Policy Programme Manager NRC) pers. comm.
[13] See http://www.mfe.govt.nz/rma/central/nps/freshwater-management.html
[14] http://www.fishandgame.org.nz/national-policy-statement-freshwater

a) Water is perceived as a public utility and infinite resource rather than a taonga tuku iho.
b) The Mauri of water is in serious decline and needs enhancing and protection.
c) Mana whenua are increasingly unable to feed their whanau and our mana is being eroded through inability to manaaki manuhiri due to degradation of mahinga kai in our waterways.
d) Mana whenua access to clean drinking water and access to safe sanitation is at risk due to over allocation and the pollution of water resources in their rohe.
e) Mana Whenua are increasingly unable to carry out cultural and traditional activities on, within and around water resources.
f) Patuharakeke are not represented in decision-making over water management in Te Taitokerau.
g) Patuharakeke have never ceded sovereignty over our water resources and do not accept that it is a "common resource".
h) Patuharakeke have not shared any of the economic benefits derived from commercial use of our water for infrastructure or commercial purposes.

## 6.2 Objectives

d) Water is valued as a precious resource essential to all life and is respected for its taonga value above all other values.
e) The mauri of water is enhanced in ways which enable Patuharakeke to provide for our physical, social, economic and cultural wellbeing.
f) Sustainable management of water in Te Tai Tokerau occurs on an integrated catchment basis and is led by tangata whenua.
g) All mahinga kai sites in waterways in our rohe are managed, monitored and enhanced by Patuharakeke.
h) Water quality standards relevant to Patuharakeke are developed and implemented by agencies and monitored by kaitiaki.
i) Water quality is such that future generations will not have to drink treated water.
j) Healthy riparian margins for all the waterbodies in the rohe.
k) Patuharakeke are fully involved in decision-making over water allocation in our rohe.
l) The underlying titles of which the Pukekauri Dam area is comprised, taken under Public Works and later declared surplus to requirement, is in Patuharakeke ownership.

## 6.3 Policies

a) The right of access to clean water is a basic human right.
b) Patuharakeke have never transferred our customary ownership of our water resources.
c) Patuharakeke will participate fully in any decision-making over water management and allocation within our rohe.
d) Decision-makers will ensure that economic costs do not take precedence over the cultural, environmental and intergenerational costs of poor water quality.
e) To discharge human effluent, treated or untreated, directly to water is culturally repugnant. All direct discharges of pollutants or contaminants should be put to land treatment processes and not discharged into waterways. A timetable should be set for the elimination of any existing discharges to natural waterbodies.

f) NRC will provide an integrated, catchment-management planning and implementation programme that progressively includes all waterbodies in our rohe and is based on intergenerational outcomes.
g) NRC will develop stringent and enforceable controls on the following activities given the risk to water quality:

   i. Intensive rural land use;
   ii. Subdivision and development adjacent to waterways; and
   iii. Discharge to land activities associated with industry

h) Activities potentially affecting waterbodies will be managed on an integrated catchment basis.
i) All aquifers will be protected from contamination and over-allocation.
j) All puna and repo will be protected from inappropriate use and development.
k) Councils and other relevant agencies will recognize and support the use of cultural monitoring and assessment tools by Patuharakeke to compile base line data and assess the state of freshwater resources, including but not limited to:

   i. Cultural Audits
   ii. GIS Mapping of waterways and mahinga kai
   iii. Cultural Health Index; and
   iv. the use of customary management tools for protecting freshwater values.

## 6.4 Methods

### *Water Quality*

a) Councils and Patuharakeke will jointly develop integrated catchment management strategies including mechanisms for allocating water and monitoring for all waterbodies in our rohe.
b) PTB will continue to participate in initiatives such as the Whangarei Harbour Catchment Group and Ruakaka River Liaison Committee.
c) PTB will take positive action to enhance waterbodies and will develop and implement a monitoring programme using cultural health indicators and other assessment tools as needed.
d) PTB will advocate for the enhancement of all our waterbodies and will work with any party promoting or implementing positive actions to improve water quality. PTB request statutory authorities to:

   i. ensure that water quality standards in our rohe are set based on the elevated standard we want to achieve rather than establishing a minimum lower standard that we can degrade to.
   ii. ensure that when water quality issues arise, the source of the problem must be addressed rather than adopting "band aid" solutions (eg. find new ways to treat water, mangrove removal in estuaries as opposed to addressing sedimentation and pollution in the upper catchment etc).
   iii. promote and provide incentives for the rehabilitation, enhancement and protection of waterbodies and margins;
   iv. ensure that appropriately sited, pupose-built wetlands are used for sewage systems. We object to the use of repo of any size being used for sewage systems; ;

v. prohibit drainage of naturally wet areas or wetlands including draining adjacent land;
vi. ensure that no chemical pesticides, fertilisers or contaminants are used where they can potentially affect any waterbody;
vii. ensure that no liquid waste (e.g. stormwater, sewage and farm effluent) is discharged into a waterbody;
viii. ensure that unrestricted stock access to waterbodies is prevented and nitrogen caps are imposed on farms;
ix. ensure that resource consents for works stipulate regular cultural health monitoring by resourced kaitiaki as part of compliance monitoring. Where data shows that there is an adverse effect on water quality then activities must cease;
x. ensure that riparian margins are as wide as possible and planted in locally sourced indigenous plants;
xi. ensure that when structures are placed in waterbodies, provision is made for indigenous migratory species; and
xii. provide free riparian management plans for farms (NRC).

### *Water Quantity/Allocation*

e) PTB will advocate for appropriate water allocation strategies and request NRC ensure that water permits are granted for a maximum 15-year duration. In addition, permits must include consent conditions that take into account the following matters:

i. the level of existing knowledge about the resource;
ii. the risk to the resource;
iii. the type of the activity supported by the take and use of water; and
iv. justification for volume applied for.

f) PTB will oppose the granting of water permits to take and use water from waterways where there is insufficient information about flows, including flow volume and variability (e.g. small tributaries).
g) PTB will advocate for monitoring, reporting and effective and enforceable penalties for non-compliance, including revoking resource consents and enforced environmental remediation.
h) The underlying land titles of which the Pukekauri Dam area is comprised (taken under Public Works and later declared surplus to requirement) be returned to Patuharakeke ownership promptly.



## 7. TANE MAHUTA

Patuharakeke are the kaitiaki of the Atua Tane Mahuta. The forests and their inhabitants are the cloak that covers Papatuanuku. Prior to colonisation, Kauri, Rimu, Totara and Puriri forests dominated the Takahiwai, Ruakaka and Waipu ranges. Indeed, the Pukekauri block and lake in the Takahiwai ranges can be literally translated as, "hill ensconced in kauri". This place is referred to in our tribal pepeha and illustrates the importance of these places and their biodiversity to our cultural identity. These forests and the river tributaries within them were home to a number of species now threatened, endangered or extinct in our rohe. These include Brown kiwi; long fin tuna; koura; kokopu; Hotchsetters frogs; Kukupa and many more species. Today's secondary remnants are primarily kanuka and manuka forests infested with possums, wild goats, pigs and weed plant species.

Dense lowland forests of species such as totara, kahikatea, kowhai, rewarewa, titoki, puriri, karaka, pukatea, and nikau once flanked our awa. All that remains now are slivers 50–100 m wide, with an under-storey often grazed by cattle and infested with riparian weeds. These include such weed species as Chinese privet, creeping, jasmine, Jerusalem cherry, inkweed, woolly nightshade and crack willow[15].
Extensive wetlands and dune lakes throughout Mata, Ruakaka and Waipu were once teeming with tuna, kokopu, ducks, shags, crakes and rails. They were not only significant sources of kai for Patuharakeke, but sites for gathering rongoa species, weaving and building materials, and repositories for cultural and spiritual artefacts for the hapu. Wetlands are now almost completely drained and the last remaining and regionally significant Dune Lake is at risk from unfettered subdivision developments.

Indigenous plants and animals are the result of countless generations of whakapapa from nga Atua. Our tupuna interacted with these flora and fauna, their very survival depended on these taonga and therefore their sustainable management. Maori had

[15] See http://www.doc.govt.nz/Documents/conservation/land-and-freshwater/land/waipu-ecological-district/waipu-pna-level-1-q07-112-q07-145.pdf

no concept of "conservation" where resources or areas were locked away for "natural", "aesthetic" or "amenity" values. Indigenous flora and fauna are part of an holistic and interdependent association that are bound to all the other deities and their offspring, including humans. They are indicators of the health of our environment.

During the past 160 years or more, since the Crown has assumed responsibility for managing our native plants and animals, we have seen significant and devastating loss of biodiversity through poor management, deforestation and pest and disease incursions. Since 1850, 80% of Te Taitokerau's indigenous vegetation has been destroyed[16].

Mature indigenous trees are extremely vulnerable to damage during building development where they are regarded as expendable if in the way of a potential house site or access, or impede a spectacular view. Wetlands are equally considered expendable and continue to be drained for agriculture, while at the same time cattle are allowed to roam on river banks and in pockets of remnant bush. What little natural bush remains requires protection and enhancement to the best of our ability.

Patuharakeke have an extensive history of working collaboratively on the ground with a range of parties including DOC, WDC, NRC, schools, conservation and community groups such as the Whitebait Connection. Biodiversity isn't just about the land, but also waterways and their interconnectedness and interdependence. Healthy kai needs a healthy home. Customary fishing and food gathering sustains our people and enables manaakitanga and takoha. Additionally, there are potential economic benefits from sustainably managed ecosystems including employment in sustainable forestry and conservation management and eco-tourism.

## 7.1 Issues

a) The mauri of indigenous flora and fauna is being negatively impacted by land use, development, disease and pest incursions leading to biodiversity losses.
b) All indigenous flora and fauna are taonga tuku iho to Patuharakeke.
c) Decline in key species (eg. tuna, kukupa, kauri) has significant adverse cultural, social, health and economic effects on Patuharakeke.
d) Matauranga Maori in relation to indigenous biodiversity is at risk due to loss of access to sites and other taonga and the ability to practice kaitiakitanga.
e) Weed and pest control is critical to the protection and restoration of indigenous biodiversity.
f) The current regime fails to protect the kaitiaki relationship of tangata whenua with indigenous flora and fauna with regard to the commercial use of indigenous species.

## 7.2 Objectives

a) The mauri of indigenous ecosystems is protected and enhanced enabling Patuharakeke to provide for our physical, social, economic and cultural wellbeing.
b) A pest free rohe for our mokopuna.
c) Restoration and expansion of both natural and managed indigenous forestry within our rohe.

[16] Te Roroa HEMP

d) An abundance of kai and cultural materials from sustainably managed ecosystems.
e) Healthy mahinga kai enabling Patuharakeke to harvest key species for sustenance, commercial and customary needs. Confidence that the use of our resources is being sustainably managed with Patuharakeke as decision makers and managers within our rohe.
f) Patuharakeke grow and encourage the use of Matauranga Maori in the sustainable management of our biodiversity.

### 7.3 Policies

a) Patuharakeke will honour their responsibility as kaitiaki of the Atua Tane Mahuta through practical and positive expression of kaitiakitanga.
b) PTB will consider all positive initiatives that benefit indigenous biodiversity in our rohe and will participate on a case-by-case basis, particularly supporting those which:

    i. Articulate clear strategies of eradication, as opposed to control or management;
    ii. Use a range of tools and methods, rather than relying on a 'magic bullet" approach;
    iii. Occur across agencies to align and co-ordinate efforts to maximise success;
    iv. Minimise the use of hazardous substances, and favour natural solutions;
    v. Employ schedules and techniques that avoid or limit the impact of operations on mahinga kai and other cultural values;
    vi. Value cultural, environmental and community costs in equal proportion to economic cost when designing pest control operations; and
    vii. Where the impacts or risks associated with a specific method of pest control are uncertain, then the precautionary principle is to be adhered to.

c) Proposed activities which involve modification of existing indigenous flora or habitats of indigenous fauna are to be preceded by thorough biological audits to identify indigenous species and potential impacts.
d) Patuharakeke will only withdraw our objection to any negative impacts on our indigenous flora and fauna after effective engagement and agreed remediation or mitigation are identified, and a timetable for implementation is agreed.
e) PTB will actively seek opportunities to get kaitiaki actively involved in weed and pest management.
f) Patuharakeke will not compromise the retention of our customary harvest and use rights to meet Crown policies or objectives.
g) Crown agencies and local authorities must provide active protection of the kaitiaki relationship of tangata whenua with indigenous flora and fauna and matauranga o Patuharakeke as guaranteed by Te Tiriti o Waitangi.

#### *Commercial Use Of Indigenous Flora And Fauna*

h) Researchers and bio-prospectors cannot use matauranga o Patuharakeke without consent of Patuharakeke.

i) The use of taonga species or matauranga for commercial gain must include benefits to tangata whenua.

## 7.4 Methods

### *Indigenous Biodiversity and weed and pest management*

a) Patuharakeke will promote a pest free rohe and will actively work with others to control predators and pests within our rohe.
b) Patuharakeke will promote the use of locally sourced seeds and plants for revegetation /landscaping.
c) PTB will advocate for the enhancement of all our indigenous flora and fauna as a high priority and will work with any party promoting or implementing positive actions to improve habitat.
d) PTB request statutory authorities to provide for the following:
    i. incentives for land owners who actively protect and enhance indigenous biodiversity;
    ii. all new subdivision and land use consents include legally enforceable conditions that protect and enhance indigenous biodiversity e.g. limiting planting of vegetation in gardens, etc to locally sourced seeds and plants only, protecting wildlife corridors;
    iii. pest control programmes are co-ordinated and targeted at a community level to ensure maximum efficiency;
    iv. where indigenous trees are felled, or fall as a consequence of natural events, they are to be provided to Patuharakeke to be used for customary purposes, e.g. carving.
e) Patuharakeke will continue with, and grow our cultural health monitoring programme, undertaking the following actions:
    i. Ongoing audits of our waterways, ngahere, mahinga kai and other sites to provide a baseline to assist in our role as Kaitiaki; and against which to monitor habitat improvement initiatives;
    ii. Identification of innovative ways to improving habitats;
    iii. Utilisation of Matauranga Maori and cultural indicators or tohu whenever possible;
    iv. Other education, and training opportunities that will benefit our Kaitiaki in terms of carrying out the monitoring programme; and
    v. Seeking support (funding, sponsorship, resources, capacity building etc) from crown partners and stakeholders to implement our cultural health monitoring programme;
    vi. PTB will continue to keep a watching brief on national and regional biosecurity programmes of relevance to our rohe, eg. Kauri Dieback Joint Agency Response.
f) PTB will identify ways our customary practices can be reinforced by planning and sustainable management practices.
g) PTB will seek management and decision making authority over key biological resources and their habitat over time via mechanisms such as s.33 transfers under the RMA and relevant sections such as s2, Chapter 2 and 6 of the Reserves Act 1977.



## 8. WAAHI TAPU ME WAAHI TAONGA

This section covers issues associated with our cultural heritage: sites, resources, traditions, knowledge, and landscapes of significance to Patuharakeke. This includes waahi tapu, mahinga kai and other sites of significance, and the traditional and contemporary landscapes in which they occur.

Waahi tapu and sites of significance are considered to be a most precious taonga to Patuharakeke. These sites place Patuharakeke in our rohe over a long period of time. As such, the destruction of any site of significance is of great concern to our hapu. These historical "footprints" become increasingly important and sacred and confirm the korero that has been passed down over generations. Through colonisation and land alienation, large scale physical destruction of waahi tapu and other sites of significance occurred. Together with the loss of access to them and thereby knowledge of them (in many cases) has had far reaching impacts on Patuharakeke.

While the wholesale destruction of waahi tapu that occurred prior to introduction of the RMA and Historic Places Act 1993 (HPA) no longer occurs, in our view there is still a long way to go before waahi tapu and cultural landscapes are afforded appropriate status. Patuharakeke assert that they should correctly have the same status as 'natural' or 'built' heritage status in the planning regime. Typically, agencies continue to take a narrow interpretation of our heritage, focussing largely on archaeological sites. Mechanisms in the HPA, when they are effectively implemented, actually only result in the protection of a singular site. Moreover, emphasis is generally placed on the expertise of archaeologists or landscape architects rather than kaitiaki and tangata whenua holding ahi kaa. In our view this undermines our knowledge and fails to capture the wider cultural landscape setting or context. It also precludes many sites of significance from protection. Nevertheless, we recognise that some development has the potential to enhance and improve cultural landscape values and access to sites of significance which can be supported on a case-by-case basis.

Our tupuna knew all of our rohe – homes, gardens, trails, ceremonial areas, landing sites, fishing sites, battle sites, urupa, places where whenua were always buried; tupapaku washed; and where taonga are secreted away. All these places were named by our tupuna and in naming them they tied those places to our culture and our heritage forever.

The naming of sites was and is bound by tapu. As with any example of colonisation, the new settlers have written over many of our original names. In some instances, our names were wrongly recorded, abbreviated, changed or omitted completely. A key example in our rohe, is Poupouwhenua, now known by the majority of the local population as Marsden Point.

It is important to Patuharakeke and the legacy we leave for the future that these historical inaccuracies be corrected and the proper names recorded. However, traditional place names, tupuna names and other cultural interpretation or tikanga, can only be used after proper consultation and approval from Patuharakeke.

## 8.1 Issues

a) Ongoing damage, destruction and mismanagement of waahi tapu and areas or sites of significance that contribute to, or are a part of, our cultural landscape and seascape.

b) Areas or sites of customary value are often limited to western definitions, such as "archaeological".

c) There is a need for a comprehensive and accurate source of maps and data on sites of significance within our rohe.

d) Changes in land ownership and use have often denied Patuharakeke access to sites of significance and waahi tapu.

e) To date Patuharakeke have rarely been engaged in any discussion over the naming of places within our rohe.

f) The use and interpretation of Maori cultural traditions, tikanga, values, language and symbols in the rohe of Patuharakeke.

## 8.2 Objectives

a) The protection and enhancement of areas or sites of customary value.

b) All councils implement more appropriate provisions for cultural landscapes under their cultural and heritage responsibilities, such as the development and implementation of cultural landscape strategies.

c) Councils, DOC and HPT work collaboratively to afford protection and management of waahi tapu, sites of significance and cultural landscapes in partnership with Patuharakeke as a priority for policy development, action and resourcing.

d) The Patuharakeke sites of significance mapping project is completed and used by Patuharakeke in conjunction with local agencies to effectively protect and manage waahi tapu in a manner consistent with our tikanga.

e) Patuharakeke have access to sites of cultural significance in our rohe.

f) Robust forms of linkage mechanisms are established between the Building Act and the RMA by all councils, so our cultural landscapes are not accidentally damaged, destroyed or modified.




**Figure 4: Patuharakeke Sites of Significance Overlay**

## 8.3 Policies

a) The recording of our cultural landscapes and seascapes, will be supported by Councils.

b) Councils must take responsibility for advocating and educating landowners and developers about areas or sites of customary value, in consultation with PTB RMU.

c) Our cultural landscapes and seascapes should be afforded at least as high a priority as other landscape values when being considered as part of any process under the RMA, the Conservation Act, the Reserves Act or the LGA.

d) Preparation of landscape assessments for resource consent applications and similar processes should be done in conjunction with PTB RMU to ensure that the cultural aspects of the landscape are given full recognition alongside other values such as natural character and amenity values.

e) Monitoring of effects on cultural landscapes and waahi tapu (including marine cultural heritage) within our rohe is the responsibility of the ahi kaa and kaitiaki. This should be reflected in all relevant consent conditions. This function should be formally transferred to PTB RMU as mana whenua and resourced appropriately.

f) Any areas and sites of customary value that contribute to, or are a part of our cultural landscape must be defined by Patuharakeke.

g) Councils and PTB RMU will jointly develop customary value, cultural landscape and or cultural heritage strategies in respect of our rohe.

h) The original names of all parts of our rohe as named by our tupuna should be used in all maps, charts, plans and other records.

i) The advice and input of Patuharakeke should be sought and observed in the naming of any new places or features within our rohe.

j) PTB, in conjunction with agencies and stakeholders, will encourage the use and representation of Maori culture (e.g. tikanga, markers, symbols, names, design) in public open space and the built environment when appropriate, including but not limited to:

    a. (a) Markers and designs as deemed appropriate.

    b. (b) Naming of features, roads, reserves, or buildings.

k) To support the use of interpretation as a tool to recognise and provide for the relationship of Patuharakeke to particular places, and to incorporate Patuharakeke culture and values into landscape design.

l) The interpretation of our values and history is best provided by Patuharakeke, and PTB RMU should be commissioned and resourced to provide this service.

m) PTB will ensure any use of names, and other cultural interpretation in such instances will require internal discussion with the relevant whanau and the Patuharakeke taumata prior to any decision being made.

## 8.4 Methods

### *Cultural Landscapes and Seascapes*

a) PTB RMU will request that councils and other relevant agencies afford cultural landscape and seascape values at least as high a priority as other landscape values when preparing plans and policies and when considering landscape values during resource consent processes.

### *Patuharakeke Sites of Significance Mapping*

a) PTB RMU will complete the mapping of the cultural landscapes and waahi tapu (including marine cultural heritage) within our rohe through the Sites of Significance mapping project (SOSM). Once this exercise is completed, we require councils to adopt this overlay on their own planning maps and to work with PTB RMU to develop adequate policy for the protection and management of these landscape and heritage values.

### *Waahi Tapu*

a) Where a proposal has the potential to affect a site identified in the SOSM overlay as a level 2 or 3 site[17] or has been assessed by PTB RMU as having the potential to affect waahi tapu, PTB RMU require that all relevant agencies ensure that one or more of the following directives occur:

   ii. Cultural Impact Assessment or Cultural Values Assessment (CIA/CVA);
   iii. Site visit;
   iv. Archaeological assessment, by a suitably qualified tangata whenua RMU representative and a qualified archaeologist, recognised by the NZHPT under s.17 of the Historic Places Act;
   v. Cultural monitoring to oversee excavation activity, record sites or information that may be revealed, and direct tikanga for handling cultural materials;
   vi. Inductions for contractors undertaking earthworks;
   vii. Accidental discovery protocol agreements (ADP); and/or
   viii. Archaeological Authority from the New Zealand Historic Places Trust.

b) PTB RMU requests that all agencies require that when any of the following situations arise, including:
   i. previously unrecorded subsurface archaeological sites are discovered during earthworks; or
   ii. koiwi are exposed; or
   iii. there is a death on site of a build/development project;

[17] There are three levels of significance in the Draft Patuharakeke SOSM framework, level 1 being the lowest and level 3 the highest. These levels have an associated protocol to determine how much information is shared (if any) with the public, councils etc.

that all relevant project operations in the area of the event must cease immediately.

The contractor or the person monitoring the earthworks will immediately advise the site manager and PTB RMU and take steps to secure the area to ensure that it remains undisturbed. The site manager will advise the NZHPT (and the Police if appropriate). The site manager will ensure that staff or representatives are available to meet and guide the appropriate Patuharakeke representatives to the site, and assist them with any reasonable requests they may make.

In the case of discovery of human remains, mana whenua and the property owner / developer will jointly seek any necessary approval of the Police or NZHPT so that the remains can be appropriately recovered, assessed, and buried at a site nominated by Patuharakeke representatives. All relevant construction operations or work will remain halted until such measures are decided. All representatives involved in the situation will ensure that they act in a respectful manner, being careful to involve no unnecessary parties or publicity at any time.

c) Any application for an Archaeological Authority to damage, destroy or modify a waahi tapu site must involve engagement with PTB RMU.

d) PTB RMU have the right to identify sites that are of high importance and sensitivity and are not under any circumstances to be modified, damaged or destroyed. This would thereby ensure that an Authority is not granted.

e) Should an Archaeological Authority be granted, PTB RMU must be involved in the setting of conditions on the authority, including:

   i. Cultural monitoring provisions;
   ii. Induction training for contractors undertaking earthworks; and
   iii. Tikanga issues surrounding accidental discoveries.

f) PTB RMU will investigate and prioritise becoming certified as a registered collector of artefacts under the Protected Objects Act 1975. Any museum that knowingly accepts unearthed taonga tuturu (such as adzes, sinkers or carvings) discovered within our rohe must pass such taonga to PTB once registration has occurred and ownership is finalised.

### *Access to Sites of Significance*

g) Patuharakeke must have unrestricted access to waahi tapu and other places of cultural significance on Crown land within our rohe.

h) PTB, in conjunction with the relevant agencies will aim to increase the ability of tangata whenua to access sites of significance on private land. This will be done by exploring such options as:
   i. Engaging landowners to develop access arrangements;
   ii. Engaging landowners to develop management plans to protect sites;
   iii. Opposing development that creates situations where places are 'land locked';
   iv. Registering sites or places with the NZHPT;

v. Caveats on land titles;
vi. Creation of reserves; and
vii. Use of covenants.

### *Ingoa Waahi*

i) PTB RMU will request any agency or individual selecting new names for places or features within our rohe to consult with Patuharakeke in order to select appropriate names.

### *Patuharakeke Tikanga Tuturu*

j) To require that the use and representation of Maori culture as per Policy 8.3 (h-m) above, involves and is endorsed by, Patuharakeke as the tangata whenua when it occurs within our rohe.

k) To require that any interpretation or information relating to Patuharakeke history, values, traditions or place names is agreed to and approved by PTB RMU.



# 9. TANGAROA

## 9.1 Coastal Water Quality

Patuharakeke lament the ongoing deterioration of the health of our water systems and in particular, the impact that this is having on our kaimoana and mahinga kai in the Whangarei Harbour and Bream Bay areas. Despite numerous statutory requirements and undertakings, the role of Patuharakeke as kaitiaki, tangata whenua and Treaty Partner in the management of these taonga remains tokenistic and diminished.

The status of our food basket has become critical. Our once pristine waterways are now clogged and suffocated by the silt of uninterrupted urban and rural development with their associated nutrient, pesticide, herbicide and industrial pollutants. Dumping of dredge spoil and cement fines discharged from the Portland cement works during the latter half of last century destroyed extensive seagrass beds in the harbour. These beds provided essential habitat for shellfish and finfish species. Widespread encroachment of mud and mangroves has displaced oyster beds and degraded the formerly white sandy beaches of Takahiwai and Ruakaka and Waipu estuaries. Pipi, kutai, cockle/tuangi, pupu and scallops/tipa were among the taonga species that were casualties of this mismanagement (Chetham, 2013).

Sewerage discharges have also been an historic stressor on the health of the harbour and continue to the present day. This means that even species just beginning to replenish in the harbour are unable to be harvested on a regular basis. In our view the cumulative impacts of discharges from industries such as Northport and the Refinery have not been adequately quantified.

Recent initiatives such as the Whangarei Harbour Catchment Group and Ruakaka River Liaison Committee are positive steps forward but have largely only come about because of the requirements of the proposed National Policy Statement for freshwater. While PTB are participating in both these groups, it has become clear that resourcing is limited and we are yet to see how much weight any policy developed will be given in planning documents.

### 9.1.1 Issues

a) The cultural health of Whangarei Terenga Paraoa, Bream Bay and our estuaries is adversely affected by:
   i. Direct discharges of contaminants, including wastewater and stormwater;
   ii. Sedimentation
   iii. Diffuse pollution from rural, urban and industrial land use;
   iv. Reclamation, drainage and degradation of coastal wetlands; and
   v. The cumulative effects of activities.

b) Patuharakeke are not represented in decision-making over the management of coastal waters in our rohe.

### 9.1.2 Objectives

a) Whangarei Terenga Paraoa, Bream Bay and our estuaries are precious taonga and the home of myriad species and are respected for their taonga value above all else.
b) The mauri and cultural health of the harbour, Bream Bay and our estuaries is protected and enhanced in ways that enable Patuharakeke to provide for our physical, social, economic and cultural wellbeing.
c) Patuharakeke have a leading role in managing, monitoring and enhancing coastal water quality in our rohe.
d) The management of coastal water quality in Te Tai Tokerau occurs on an integrated catchment basis and is led by tangata whenua.
e) Coastal water quality standards relevant to Patuharakeke are developed and implemented by agencies and monitored by kaitiaki.

### 9.1.3 Policies

a) Coastal water quality is required to be consistent with protecting and enhancing customary fisheries, and with enabling Patuharakeke to exercise their customary rights and safely harvest kaimoana.
b) Patuharakeke will participate fully in any decision-making over the management of coastal waters in our rohe.
c) Decision-makers will ensure that economic costs do not take precedence over the cultural, environmental and intergenerational costs of degrading coastal water quality.
d) The discharge of human effluent, treated or untreated, directly to coastal waters is culturally repugnant. All direct discharges of pollutants or contaminants (wastewater, industrial, storm water and agricultural) to coastal waters should be avoided and existing discharges ultimately eliminated.
e) PTB will oppose any new consent applications seeking the direct discharge of contaminants to coastal water, or where contaminants may enter coastal waters.

f) NRC will provide an integrated catchment management planning and implementation programme that progressively includes all waterbodies in our rohe and focuses on intergenerational outcomes.
g) NRC will implement rigorous controls restricting the ability of boats to discharge sewage, bilge water and rubbish in our harbour, estuaries and coastal waters.
h) Councils and other relevant agencies will recognize and support the use of cultural monitoring and assessment tools by Patuharakeke to compile base line data and assess the state of coastal water resources, including but not limited to:
   v. Cultural Audits;
   vi. GIS Mapping of harbour, estuaries and mahinga kai;
   vii. Cultural Health Index; and
   viii. the use of customary management tools for protecting freshwater values.

### 9.1.4 Methods

a) Councils and Patuharakeke will together jointly develop integrated catchment management strategies including mechanisms for allocating water and monitoring for all waterbodies in our rohe.
b) PTB will continue to participate in initiatives such as the Whangarei Harbour Catchment Group and Ruakaka River Liaison Committee.
c) PTB will take positive action to enhance our coastal water quality and will develop and implement a monitoring programme using cultural health indicators and other assessment tools as needed.
d) PTB will advocate for the enhancement of coastal water quality and will work with any party promoting or implementing positive actions in this regard. PTB request statutory authorities to:

   i. ensure that coastal water quality standards in our rohe are set based on the elevated standard of water quality we want to achieve, as opposed to establishing a minimum lower standard that we can degrade to;
   ii. promote and provide incentives for the rehabilitation, enhancement and protection of estuarine areas and coastal margins;
   iii. develop a strategy to deal with sedimentation by identifying the key sources and activities; implementing effective controls on those activities; and promoting indigenous reforestation, riparian margin enhancement and soil conservation as measures to address sedimentation in our harbour and estuaries;
   iv. prevent the discharge of liquid waste (e.g. stormwater, sewage and farm effluent) to coastal waters;
   v. unrestricted stock access to coastal margins is prevented;
   vi. Where data shows that there is an adverse effect on coastal water quality then activities must cease; and
   vii. resource consents for works stipulate regular cultural health monitoring by appropriately resourced kaitiaki as part of compliance monitoring.

e) PTB, councils and other agencies with responsibilities in the coastal marine area will formalise a programme of cultural health monitoring of the health of the Whangarei Harbour, Bream Bay and Estuaries in our rohe. The programme will be carried out by katiaki and focus on matters such as:
   i. Quality of mahinga kai habitat;
   ii. Species diversity and abundance;

iii. Water quality; and
iv. Suitability of traditional mahinga kai areas for customary use.

## 9.2 Foreshore and Seabed

Patuharakeke has manawhenua, manamoana, mana takutaimoana over the foreshore and seabed in the south of Whangarei harbour and through Bream Bay. This inalienable right has been ignored by successive local governments; a stance which was legitimised by the The Marine and Coastal Area (Takutai Moana) Act 2011. This has been to the detriment of the health of our foreshore, seabed, harbour and waterways – and all people who seek to enjoy these areas. It has impacted on our duties and obligations as tangata whenua holding mana over that area to undertake our duties as Kaitiaki. Loss of control over these sites has allowed some of our most significant kaimoana beds, bird roosting sites, tauranga waka, waahi tapu, and nohoanga sites to be lost forever to industrialisation and reclamations.

While the replacement Takutai Moana Act 2011 differs from the original Foreshore and Seabed Act of 2004 in a number of ways, it is still severely lacking in adequate recognition of the longstanding rights and interests of Patuharakeke in relation to our foreshore and seabed. In our opinion we remain the owners of the foreshore and seabed within our rohe as we were prior to and on the 6th of February 1840. We have never relinquished this title. The government contends that the mechanisms in the Act for recognition of our management role (e.g. taking into account hapu or iwi management plans, specifying roles and responsibilities in legislation, recognising customary interests through awards) will result in real or effective partnerships in governance or management of the Foreshore and Seabed. In reality, the existence of such tools in existing legislation (e.g. RMA 1991, LGA 2004) has not resulted in any real partnership roles or responsibilities and has not proved viable in practice.

The concept of 'public domain' is merely thinly disguised de facto Crown ownership. The Crown still essentially controls and manages it, which equates to ownership. Meanwhile, areas already in private ownership remain excluded, most of which are non-Maori. Moreover, while the right to access the High Court to claim customary title has been reinstated, tangata whenua should not have to prove their rights exist. As the foreshore and seabed is inherently Maori, the onus and burden should be on the Crown to prove its claim to the contrary. Further, the tests to prove non-territorial nor territorial interest are too onerous as in most instances our "exclusive use and occupancy" has been disturbed due to breaches of the Te Tiriti o Waitangi (Chetham & Pitman, 2010).

### *Vesting*

Patuharakeke vehemently opposed the application by Northland Port Corporation ('NPC') to construct a timber port (Northport) in the late 1990's. The port facility opened in 2002 and the area of reclamation administered by the Minister of Conservation under section 9A(1) of the Foreshore and Seabed Endowment Revesting Act 1991 (Revesting Act) and leased to NPC. Following the outcome of the resource consent process both NPC and Patuharakeke applied for vesting of the fee simple title of the reclamation under section 355 of the RMA. At present DOC's position is that the Minister of Conservation will delay vesting the land in either party until treaty claims pertaining to the area are settled.

### 9.2.1 Issues

a) The historical loss of our foreshore and seabed rights has resulted in adverse cultural, environmental, social and economic impacts on Patuharakeke. These are perpetuated in the contemporary context by the lack of appropriate statutory recognition of our customary rights over the foreshore and seabed.
b) Patuharakeke have specific interests in Port and reclamation activities that require addressing.

### 9.2.2 Objective

a) Recognition of, and appropriate provision for the longstanding rights and interests of Patuharakeke in relation to the foreshore and seabed.
b) A partnership regime with respect to port and reclamation activities in our takutai moana.

### 9.2.3 Policies

a) Patuharakeke will continue to seek just outcomes through our Waitangi claims processes (and other mechanisms) and advocate for an equitable partnership stake in port activities that will allow us to reaffirm our kaitiaki status and allow us to properly discharge our responsibilities. This would provide income to assist us to appropriately look after and manage our foreshore and seabed.
b) Patuharakeke will continue to seek ways to express our customary rights and interests over particular sites and areas within our takutai moana (eg. see policies in section 9.8.3 of this plan).

### 9.2.4 Methods

a) PTB's Treaty of Waitangi claims progression committee will continue to pursue these matters as set out in our amended statement of claim inter alia before the Waitangi Tribunal.
b) PTB will continue to engage with Northport, NPC and NRC to build and maintain robust working relationships to address cultural issues and achieve positive cultural, environmental and economic outcomes.
c) PTB and NPC will investigate the feasibility of having a Patuharakeke representative appointed to the NPC Board of Directors.

## 9.3 Access to the Coastal Environment

Over the last 170 years Patuharakeke access to the coastal environment for gathering mahinga kai and carrying out kaitiaki responsibilities has been significantly reduced and impacted by the degradation of sites, loss of mahinga kai resources, restrictions to physical access and competing uses. Customary access is a customary *right*, which means that tangata whenua must have unencumbered physical access to the coastal marine area.

There are multiple reasons to restrict public access to sensitive areas to protect habitat and breeding grounds for indigenous species. Vehicle access can adversely impact on our sensitive estuarine and dune habitats, whilst creating safety issues for beach users. We are also of the view that vehicle access has contributed to the depletion of kaimoana resources in the area. Horses are exercised with little restriction along Ruakaka beach. This compromises ecological values and conflicts

with other beach users. Kite boarders, walkers and uncontrolled pets have disrupted breeding shorebirds in our wildlife refuges. Landowners adjacent to the beach often form their own illegal access and further degrade the dune and beach environment. Some sectors of the community hold the view that the beach is "their road", "their playground" etc and they can do whatever they like.

A disconnect between agencies with responsibilities in regard to the coastal marine area (eg. DoC, WDC, NRC, MPI, the Police) means it is difficult to create cohesive policy, set bylaws and police them. Effective collaborative management between these agencies and Patuharakeke along with community involvement and support will be required to protect our coastal resources, natural character and landscape values and public amenity.

Nevertheless, while coastal access must be managed to protect indigenous biodiversity and cultural heritage values, it cannot unduly restrict customary access. Patuharakeke access to sites and resources in the coastal environment for customary and kaitiaki purposes must be recognised and provided for independently from general public access. Further, purchasers of land adjacent to the coast cannot be allowed to own (either literally or illusory) the foreshore, therefore further impeding access.

### 9.3.1 Issues

a) Patuharakeke access to the coastal marine area and customary resources has been reduced and degraded over time.
b) Unrestricted access to the coast by the public, vehicles and horses can have adverse effects on kaimoana, taonga species, waahi tapu, public safety and amenity values.

### 9.3.2 Objectives

a) Healthy dune and beach ecology, safety for beach goers, and protection of sites of significance, natural character and amenity through collaborative management between Patuharakeke and the respective agencies.
b) Customary access is protected and enhanced.
c) Vehicular access to the beach is limited to the following purposes:
    i. Customary management and kaitiaki monitoring eg. of mahinga kai (including policing of any bylaws) by Patuharakeke;
    ii. Emergency and lifeguard services;
    iii. Scientific or ecological research or monitoring in conjunction with Patuharakeke.

### 9.3.3 Policies

a) Customary access to the coastal environment is a customary right, not a privilege, and must be recognised and provided for independently from general public access.
b) Policies and plans prepared by statutory agencies must recognise the rights of access that Patuharakeke have:
    v. to all waahi tapu:
    vi. for the harvesting and collection of kai;
    vii. to taonga prized for traditional, customary and cultural uses; and
    viii. for the purposes of kaitiaki/cultural health monitoring.
c) PTB will continue to work collaboratively as a partner with the various agencies to find solutions to issues with public access to the coast in our

rohe.

d) PTB will oppose coastal land use and development that results in the further loss of customary access to the coastal marine area, including any activity that will result in the private ownership of the foreshore.

### 9.3.4 Methods

a) Patuharakeke will continue to advocate that agencies recognise and provide for these policies.
b) PTB will work closely with all agencies involved in public access policies and ensure Patuharakeke participate fully in such decision-making processes.
c) Patuharakeke will take opportunities to educate the community about our cultural values in relation to the coast and encourage attitudinal change.
d) Councils issuing consents that could affect customary access will include consent conditions to protect and enhance customary access.
e) PTB will continue to lobby our agency partners and local business and industry to seek funding for a kaitiaki monitor to patrol Ruakaka beach and other important areas on a fulltime basis. We envisage a kaitiaki monitor would undertake the following types of activities:
    i. Monitoring of kaimoana beds and adherence to any fishing restrictions;
    ii. Coastal cultural health surveys;
    iii. Monitoring of sites of cultural significance;
    iv. Monitoring of wildlife;
    v. Observation of any dog or horse bylaws;
    vi. Education and advocacy with general public.

## 9.4 Offshore Oil Exploration and Mining

Our century of reliance on oil is at a turning point. The BP Deepwater Horizon oil spill in the Gulf of Mexico in 2010 has highlighted the far-reaching consequences that our dependence on oil is having on the natural world and on the climate. Now they have depleted most easily accessible oil, companies are pushing into areas previously considered too remote, expensive or risky to exploit. Our precious coastlines here in Aotearoa are now in their sights and our government appears set on doing all they can to accommodate these large oil and mining interests.

The current regulatory regime provided by the Crown Minerals Act 1991 and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act ("EEZ Act") is confusing, difficult for hapu to engage in and weak. Prospecting and exploration for petroleum and minerals are classified as "permitted activities". While drilling requires a permit, decisions by the EPA to date have been made in spite of a glaring lack of information, particularly in regard to oil spill modelling and emergency responses. In order to feel confident about these activities taking place in our waters we would need the world's most sound, best practice environment standards, full liability cover and clean up capacity. This is not the case in Aotearoa at present. Moreover, the government has recently legislated to deny the right to voice opposition at sea, further impinging on our civil rights and our tino rangatiratanga. Patuharakeke therefore support the stance of Te Whanau a Apanui:

*"We are resolute in our defence of our ancestral lands and waters from the destructive practice of deep sea oil drilling. This is an issue for all peoples of New*

*Zealand and we call on those who support our opposition to stand with us in defence of what we all treasure,"* [18].

### 9.4.1 Issue

a) There is a lack of appropriate environmental policy in place to protect the realm of Tangaroa from the potential harmful effects of offshore petroleum exploration and mining.

### 9.4.2 Objective

a) Offshore petroleum exploration and mining is not permitted within the boundaries of our gazetted rohe moana (see 5 below), and extending in an easterly direction from Patuharakeke landward coastal boundaries to the limit of New Zealand's Exclusive Economic Zone ('EEZ').

### 9.4.3 Policies

a) Patuharakeke will oppose any offshore petroleum exploration and mining proposals within the boundaries of our gazetted rohe moana, and extending in an easterly direction from Patuharakeke landward coastal boundaries to the limit of New Zealand's EEZ.
b) The Crown and petroleum and mining companies are required to engage in early, and good faith consultation with Patuharakeke should any proposed prospecting, exploration or drilling licences be sought within the boundaries of our gazetted rohe moana, and extending in an easterly direction from Patuharakeke landward coastal boundaries to the limit of New Zealand's Exclusive Economic Zone.

### 9.4.4 Methods

a) PTB will work collaboratively with hapu and iwi to continue to oppose these activities and seek statutory change to protect our coastline from these destructive practices.
b) PTB will investigate utilization of Section 15(3) of the Crown Minerals Act 1991 (CMA) and the Minerals Programme for Petroleum (2005) provisions to protect areas of historical and cultural significance from inclusion in an offshore exploration permit block or minerals programme.

## 9.5 Oil Spill Risk

Because New Zealand's only oil refinery is located at Poupouwhenua, at the entrance to Whangarei Terenga Paraoa, there is a high risk of a marine oil spill in our rohe. Large oil tankers bring crude oil from overseas to be discharged from the tankers to the refinery where it is then refined and transformed into various petroleum-based products. These are then either transported to Auckland via pipeline or transported by coastal tankers to other ports around the country, for distribution to consumers. Along with our Bream Bay Coast and harbour, islands of great significance to Patuharakeke such as Tawhitirahi and Aorangi (the Poor Knights Islands) and Marotiri, Ngatuturu and Taranga (the Hen and Chicken Islands) are in close proximity to shipping navigation routes. Some incidences of minor spills and ships running aground have occurred in the past and resulted in requirements to avoid ships greater than 45m in length traversing the area between the Poor Knights and

[18]Dayle Takitimu, Te Whanau a Apanui [Greenpeace press release, March 2011]

the Mainland and smaller oil tankers (Aframax – 750,000 barrel capacity) entering the Whangarei Harbour. At this point in time Refining NZ is exploring the possibility of once again bringing Suezmax ships (1 Million barrel capacity) to their jetty.
In addition to tankers coming into the refinery, there are also a substantial number of cargo, container, and log and woodchip ships loading and unloading at the Northport facility at Poupouwhenua. These ships then travel to and from the main ports of Auckland and Tauranga and Northport. Given the desire to expand all of these ports in the near future, considerable increases in shipping movements are likely.

While NRC has a Marine Oil Spill Contingency Plan[19] and Oil Spill Response Team that could deal with minor spills, the recent example of the Rena running aground off Tauranga illustrated New Zealand's general lack of preparedness for major oil spills.

### 9.5.1 Issue

a) The location of the oil refinery, Northport and busy shipping routes in our rohe moana and coastal waters places our marine environment at risk of oil spill.
b) A significant oil spill would have devastating consequences for our kaimoana, taonga species, amenity and recreational values and the cultural health of our rohe moana.

### 9.5.2 Objectives

a) Patuharakeke are informed and able to participate in any oil spill response.

### 9.5.3 Policies

a) NRC, Refining NZ and Northport will immediately advise PTB of any oil spills within our rohe moana and coastal waters.
b) NRC will consult on their Oil Spill Response Plan with Patuharakeke and to our satisfaction. This must also include a contingency fund for remediation and recovery.

### 9.5.4 Methods

a) PTB will work collaboratively with NRC, the Refinery and Northport on education and training initiatives and exercises with regard to oil spills.
b) Patuharakeke will take part in any oil spill response within our rohe moana and coastal waters. These exercises will be funded by the various industry and local government parties giving consent to the activities.

## 9.6 Industrial Activities at Poupouwhenua

Te Poupouwhenua Block compromised some 5000 acres and is the name for the land area and foreshore now known as Marsden Point and included much of One Tree Point (see Figure 2). This land was obtained illegally by the Settler government from Patuharakeke through confiscation for a land dispute at Matakana. The incident was misreported by the infringing settler at Matakana and reported to Settler authorities and was used as a mechanism by the Crown to acquire Poupouwhenua. It is a key focus of our Statement of Claim to the Waitangi Tribunal. The site was an important tauranga waka (canoe landing site) and was utilised frequently by various waka taua/war parties stopping there to prepare for battles further south.

[19] Currently under review

Seasonal migrations during the summer months were common for Patuharakeke along with other Whangarei and inland hapu. These were primarily for harvesting the varied and abundant kaimoana at this location, although waterfowl from wetlands such as Rauiri/Blacksmiths Creek, and plants such as pingao from the fore dune were also utilised. Much of the area along the foreshore and dunes between the now Marsden Point Wharf and Refinery Jetty was regularly used as a nohoanga (camping site for harvesting kai) by Patuharakeke and other whanaunga from the Whangarei area up until the 1960s development of the site began and consequently restricted this practice.

The Northland Harbour Board recognised the natural attributes of Poupouwhenua for port development and began acquiring land at Marsden Point in the early 1960's. A few years earlier, Royal Dutch Shell had surveyed the site and found it suitable for the construction of an oil refinery which commenced operating in 1964. At the time, there was little knowledge of the effect industrialisation was going to have on the cultural health of the harbour. The local community were assured that growth would provide economic benefits, and this perception has driven industrial expansion in the area ever since, although in our view benefits to tangata whenua have never been realised.

Instead, refinery construction activities wiped out extensive mussel beds and flattened the dune systems. During 1966-69, a major dredging programme was undertaken to deepen the main channel and 754,000 m3 of sediment was removed and pumped on to Snake Bank and the Takahiwai shoreline. The reclamation of seabed at Poupouwhenua for the construction of the Timber Port in 2002 resulted in the destruction of arguably the largest remaining (and readily accessible by foot) pipi bed and shorebird roosting sites (Chetham, 2013).

A specific condition of the coastal permits and consents created a mitigation fund administered by NRC. A kaitiaki roopu was established to work with the consent holder NorthPort to select projects to enable improvements to the health of the Whangarei Harbour, and the study and/or mitigation of the effects of the port development on waahi tapu, taonga, and other features of special interest to tangata whenua. While some valuable work has been undertaken as a result of the Whangarei Harbour Kaitiaki group's establishment, the genuine hope of tangata whenua that the environmental mitigation fund would assist in building our capacity as kaitiaki and promoting our participation in the management of our harbour did not eventuate.

Given that this Fund is tied to a specific consent condition and its timeframe is coming to an end, we believe it is time for industry, tangata whenua, the community and stakeholders to explore a new mechanism going forward to improve the cultural and environmental health of the harbour. PTB have an MOU with Refining NZ and the relationships and understanding have improved markedly over recent years. PTB and Northport are also working on building a better rapport with one another. As such, this aim should be achievable.

The siting of these activities in our rohe has increased the likelihood of pest species arriving in ballast water and on the hulls of ships. The long term and cumulative effects of stormwater discharges from the port and refinery has not been quantified in our view. As tangata whenua we have grave concerns about their impacts on our now scarce kaimoana resources and the mauri of Whangarei Terenga Paraoa. These

vast industrial complexes have forever distorted and impacted on our cultural landscape and seascape.

### 9.6.1 Issues

a) Industrial activities at Poupouwhenua have had adverse impacts on the mauri and cultural health of Whangarei Terenga Paraoa and cultural landscapes and seascapes.
b) There is a need to work closely with NRC, NPC, Northport and Refining NZ to manage effects of industrial activities on the mauri and cultural health of the harbour and the relationship of tangata whenua to it.

### 9.6.2 Objectives

a) The mauri and cultural health of Whangarei Terenga Paraoa and cultural landscapes and seascapes are not further compromised by industrial activites at Poupouwhenua.
b) Patuharakeke maintain robust and effective relationships with Northport and Refining NZ and the relevant statutory authorities.

### 9.6.3 Policies

a) NRC will require that Northport and Refining NZ recognise and provide for the relationship of Patuharakeke to Poupouwhenua and the harbour and our aspirations to manage the harbour as mahinga kai, by:
    i. Ensuring that port activities at all times seek to avoid or minimise pollution in the harbour;
    ii. ensuring that consents for works or discharges stipulate regular cultural health monitoring by resourced kaitiaki as part of compliance monitoring;
    iii. Where data shows that there is an adverse effect on water quality then activities must cease;
    iv. Providing appropriate mitigation and/or compensation where cultural and environmental effects cannot be avoided, (i.e. such funds as for restoration projects);
b) Major dredging programmes will be avoided and CIA's will be mandatory for any dredging proposal in our rohe moana or coastal waters; and
c) PTB, NRC, Northport and Refining NZ will work collaboratively to develop a research program to investigate and address how dredging, reclamation, sedimentation and discharges in the harbour are affecting mahinga kai.

### 9.6.4 Methods

a) NRC implement effective marine rules to protect the harbour from the effects of point discharges and those associated with ballast, bilge and sewage from ships and boats, including biosecurity risks.
b) PTB will oppose any new land or foreshore reclamations in our rohe moana and coastal waters.
c) PTB will continue to participate on the Whangarei Harbour Kaitiaki Roopu for as long as it continues to function.
d) PTB, NRC, Northport, Refining NZ and other tangata whenua groups/ hapu and stakeholders will investigate an appropriate mechanism to implement a long term Whangarei Harbour Improvement fund or strategy going forward.

## 9.7 Marine Mammals

Whangarei Terenga Paraoa translates as "the meeting place of the whales". Whales have a special place in Patuharakeke tradition, they are seen as a kaitiaki or guardians and tribal korero states our tupuna named and called to known and favoured sea mammals and also chanted them back out to safety during strandings. After being hunted to the point of collapse last century they have recovered only to be at risk from marine pollution (heavy metals, toxins, plastics etc), noise pollution, boat strike, harassment from some tourist operators and boat operators, set nets and other commercial fishing practices, plummeting food resources, and the effects of sonar to name a few.

There are a number of theories as to why marine mammals strand, but it seems likely to be at least partially due to the increasing human-induced pressure their habitat is under. Our affinity and spiritual connection with whales and dolphins means Patuharakeke as kaitiaki have a foremost responsibility to advocate for the protection of these intelligent and majestic creatures. Whilst whale strandings are a sad occasion for Patuharakeke, they provide us with a valuable opportunity to revive matauranga associated with the preparation of whalebones for carving and obtaining other resources such as oil/ spermaceti. The Department of Conservation holds statutory responsibility for marine mammals under the Marine Mammals Protection Act 1978 and the Conservation Act 1987. We are fortunate that Ngatiwai developed the first protocol with DOC for the management of whale strandings. This provides for the recovery of bone and teeth by tangata whenua and the provision of scientific samples.

To date we have built our capability in this area through collaboration with Ngatiwai and have developed Patuharakeke Whale Stranding Guidelines[20] to guide the process and communications with DOC. A mass stranding of Pilot whales in Bream Bay in 2006 provided an opportunity for Patuharakeke to host a national tohora wananga. The wananga was a great success and allowed the building of more connections with hapu and iwi with knowledge and/or interest in whales and the recovery of resources from beached whales. Tikanga around flensing, boning out, burial, naming and gifting[21] of bone and so forth were shared and developed. Patuharakeke have since demarcated and named the site where the whales were buried (for later uplifting and cleansing) as a waahi tapu (the "Tahuna Tohora")[22].

### 9.7.1 Issues

a) The habitat of marine mammals is facing immense human-induced pressures.
b) Patuharakeke have developed a formal process around Marine mammal strandings and their cultural harvest. However we do not yet have the appropriate holding permits in place for taonga such as whalebone. Presently DOC requires that we get permission from Ngatiwai Trust Board to utilise their holding permit.

### 9.7.2 Objectives

a) Increased numbers of healthy whales and dolphins inhabiting and migrating through our coastal waters and harbour.

[20] see Patuharakeke Whale Stranding Guideline (http://patuharakeke.maori.nz/about-patuharakeke/patuharakeke-trust-board/policies/)
[21] see Patuharakeke Tohora Taonga Committee Tuku Taonga Process Guideline (http://patuharakeke.maori.nz/about-patuharakeke/patuharakeke-trust-board/policies/)
[22] shown on Figure 4 Sites of Significance Overlay

b) A strong partnership between DOC and Patuharakeke with regard to the management of marine mammal strandings and cultural harvest in our rohe.
c) Revival of matauranga and tikanga associated with marine mammal strandings and cultural use.

### 9.7.3 Policies

a) The cultural, spiritual, historic and traditional association of Patuharakeke with marine mammals, and the rights to exercise rangatiratanga and kaitiakitanga over marine mammals is guaranteed by Te Tiriti o Waitangi.
b) The relationship between Patuharakeke and DOC for the recovery, disposal, storage and distribution of beached marine mammals shall be guided by the principles of partnership.
c) To require that a standard procedure be introduced that Patuharakeke are involved in the determination of burial sites for beached whales that do not survive, and that burial locations are retained as waahi taonga and therefore protected from inappropriate use and development.

### 9.7.4 Methods

a) Patuharakeke will continue to advocate for a clean and healthy marine environment for marine life, including dolphins and whales.
b) Patuharakeke will continue to utilise and update the Patuharakeke Whale Stranding Guideline as necessary.
c) Patuharakeke will apply for a holding permit for whale bone and other taonga through DOC as a priority.
d) Patuharakeke will continue to work collaboratively with Ngatiwai and other hapu and iwi to build knowledge and understanding with regard to the cultural harvest of stranded marine mammals.
e) Patuhakeke will work with NGO's (eg. Project Jonah) to build our capability in marine mammal rescue techniques.

## 9.8 Customary Fisheries

The waters of Whangarei Terenga Paraoa, Bream Bay and our estuaries are a taonga gifted by our tupuna. We as kaitiaki have a duty to conserve and protect this taonga for our mokopuna. These waters once teemed with kaimoana such as kuku, tipa, kina, paua, tuatua, kokota, huwai, pipi, pupu, papaka, kumukumu, pioke, kahawai, tuna, kanae, wheke, whai, tamure, aua, patiki, and parore. However, more than a century of poor management practices has seen an immense decline in marine species as a result of degraded water quality, habitat loss and unsustainable harvest. The decline of kaimoana species, is accompanied by a decline in traditional knowledge in regard to those species, their uses and management practices. This impacts on our duty as Kaitiaki and displaces an important role and function for our tamariki and mokopuna.

Our mana as tangata whenua, is further diminished by our inability to practise manaakitanga to gather kai moana for the table both for our families and manuhiri (something we were formerly renowned for). Not only does this impact on our cultural wellbeing, but it has economic consequences, as we are unable to put kaimoana on whanau dinner tables, a practice that has always supplemented low incomes and our diet.

The current fisheries model has not successfully protected or sustained our mahinga kai and taonga species. While the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (TOWFSA) was intended to remedy Treaty breaches, none of the purported benefits have "trickled down" from the Mandated Iwi Organisations ("MIO"s) formed under the TOWFSA to Patuharakeke. Accordingly our participation in fisheries is limited to customary management and the recreational take we use to feed our whanau. Further, the mismanagement and pollution of the environment; water quality; privatised fishing property rights to certain fish species; over-fishing caused through by-catch, and over-allocation of fishing rights; the state of our kaimoana resources has left customary harvest virtually untenable. Only a handful of permits for customary take have been granted, let alone requested, by our Rohe Moana Committee in the past five years as Kaimoana is in such short supply.

Taiapure and Mataitai Reserves are the only fisheries management opportunities for Maori arising from fisheries settlement in relation to customary harvesting and management practices. However, relatively few have been established in the north island. This is a reflection of the onerous process and information requirements, serious time delays, and lack of access to technical support.[23]

Moreover, the fragmented nature of current fisheries management does not reflect our holistic view of coastal ecosystems. At present, the disconnect between managing the fish species and their habitat is a major issue. Having the best fisheries management tools in place would be pointless if the habitats that support the fishery (including adjacent land and waterways) are degraded.

Our rohe moana and tangata kaitiaki were gazetted in May 2009 under the Kaimoana Fisheries Regulations 1998. Figure 5 below shows our gazetted rohe moana although our traditional interests extend far further than depicted by the map. Limited capacity and resources have not allowed us to reach our goal of creating mataitai reserve for parts of our customary fishery. However, our committee have been active in monitoring our mahinga kai, using cultural health indicators and also through joint surveys with research organisations such as NIWA.

Our concern over depletion of pipi stocks at Marsden Bank led us to petition the Minister of Fisheries for a rahui (s186A closure) under the Fisheries Act 1996 in February 2011 to allow stocks to recover. Due to a lack of its recovery PTB have since extended the closure period for a further two years. The adjacent Mair Bank is now under threat and we are currently exploring options with MPI, NRC and Industry stakeholders as to how we can arrest this decline. What has become clear is that harvesting pressure is not the only factor affecting pipi at these sites and further research is required to identify the causes.

Overall, the relationship with the Crown with respect to our fisheries is a challenging one. We find it extremely hard to get any traction, with the responsible government departments. This has been particularly difficult over the past several years with the ongoing restructuring within Ministry of Fisheries and the now Ministry of Primary Industries. This has meant that staff and policy seemed to constantly change. It has become increasingly difficult to get support and information and we have seen Ministry capacity diverted away from customary fisheries.

[23] http://www.edsconference.com/content/docs/2012_papers/Stephenson%20%26%20Kirikiri.pdf

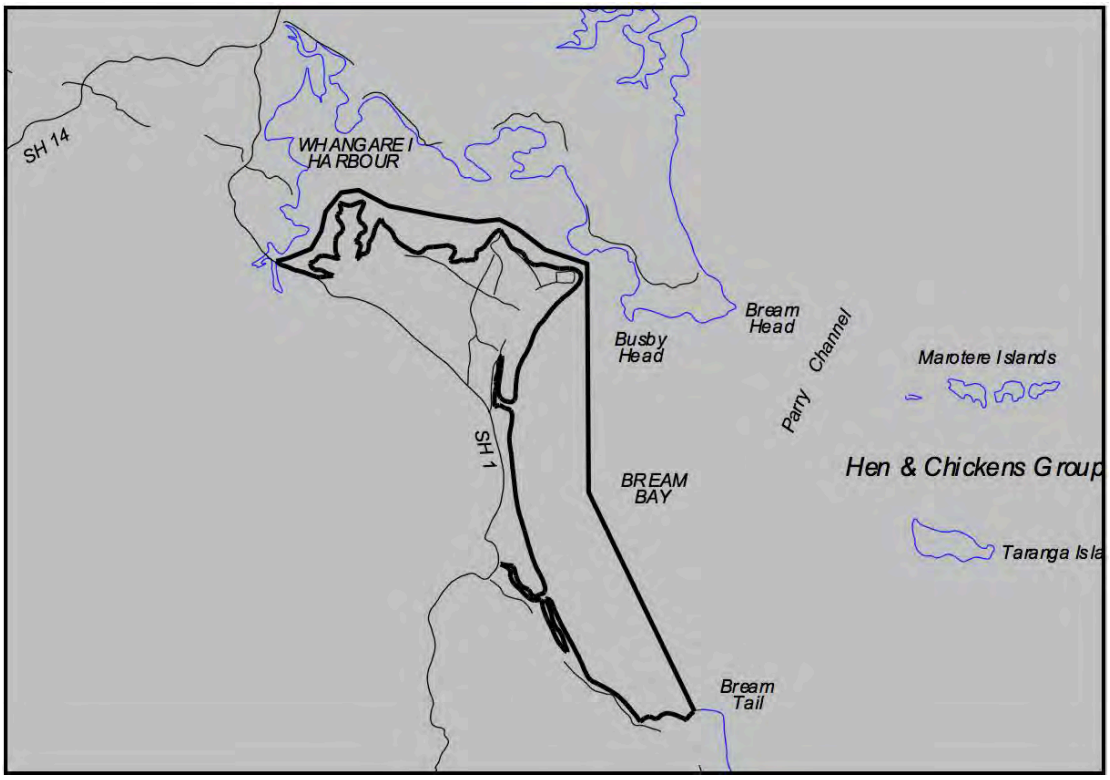



**Figure 5: Patuharakeke Rohe Moana Gazetted Boundaries**

### 9.8.1 Issues

a) Increasing pressure on the kaimoana resources in our rohe as a result of:
   i. Discharges to the coastal marine area and harbour, and impacts on coastal water quality;
   ii. Harvesting pressure;
   iii. Lack of awareness among visitors of the importance of our harbour, bays and estuaries as mahinga kai;
   iv. industrial activities; and
   v. Biosecurity risk.

b) There is a need to implement appropriate tikanga-based management tools for protecting and enhancing the marine environment and customary fisheries.

### 9.8.2 Objectives

a) That there is diversity and abundance of mahinga kai in our rohe moana, the resources are uncontaminated and healthy, and Patuharakeke have unimpeded access to them.

b) The role of Patuharakeke as kaitiaki of the coastal environment and sea is recognised and provided for in coastal and marine management.

c) Traditional and contemporary mahinga kai sites and species within our rohe moana, and access to those sites and species, are protected and enhanced.

d) Our rohe moana is protected through tikanga-based management of fisheries.

e) Te rohe moana o Patuharakeke is managed as a mahinga kai and mataitai, first and foremost.

### 9.8.3 Policies

a) Agencies and stakeholders will support the protection and enhancement of our rohe moana through tikanga-based customary fisheries management tools, and supported by matauranga Maori and western science, including:
   i. Mataitai;
   ii. Rahui; and
   iii. Tangata tiaki/kaitiaki.
b) Agencies and stakeholders will support the development of an ongoing monitoring scheme by Patuharakeke using Cultural Health Indicators ('CHI') to assess the health of our rohe moana.
c) To continue to jointly investigate and implement kaimoana reseeding projects in the rohe moana where traditional stocks are degraded either through the Whangarei Harbour Health Improvement Fund/Kaitiaki Roopu or another mechanism.
d) PTB will continue to develop and establish sound research partnerships with NRC, Crown Research Institutes, government departments, universities and other organisations to address issues of importance to tāngata whenua regarding the management of our rohe moana.
e) NRC will require protection or restoration mechanisms such as bonds, levies and mitigation funds as consent conditions for any application with the potential to adversely impact our rohe moana.
f) NRC will require that water quality in the harbour, our bays and estuaries is such that Patuharakeke can exercise customary rights to safely harvest kaimoana.
g) PTB will continue to work with local authorities to develop appropriate policies and rules to implement and enforce measures to improve coastal water quality (for example as set out in policies 9.1.3 and 9.6.3 of this plan).
h) PTB will work with MPI and other stakeholders to improve compliance with fisheries regulations through the following measures:
   i. Education of the wider community regarding the harbour, bay and estuaries as mahinga kai;
   ii. Continued support for kaitiaki to monitor the rohe moana area, including the rahui on Marsden Bank pipi bed; and
i) PTB will work with MPI and other stakeholders to continue to initiate and support research projects on kaimoana health, abundance and diversity in our rohe moana.

### 9.8.4 Methods

a) PTB will prioritise finalisation of our Draft Rohe Moana Management Plan.
b) PTB will prioritise the development of a mataiatai reserve application under the *Customary Fishing Regulations 1999* to establish mataitai reserves on particular areas of Whangarei Harbour and Bream Bay and seek the support of MPI and other agencies and stakeholders to advance it.
c) PTB will investigate making an application to MPI to extend our rohe moana boundaries to reflect their traditional extent (ie. East of Bream Bay to the 12 mile limit).

## 9.9 Aquaculture

Tangata whenua have been practicing forms of aquaculture for centuries. Shellfish seeding is a traditional form of aquaculture still practiced today. Other methods of cultivating kaimoana involved the storage of kaimoana in rock pools, or under piles

of rocks for "on growing" or until they were required. Rocks were placed to create structures for oysters in particular in specific locations for easy retrieval. Many traditional customary activities are now classed as aquaculture and are unable to be carried out without a permit. Patuharakeke have aspirations in this area and wish to explore mechanisms for developing marae-based or customary aquaculture (eg. for non-commercial purposes such as to enhance, support, restore and supplement existing or depleted kaimoana beds).

The last decade has seen multiple legislative changes for the aquaculture planning regime. Reforms in 2004 saw a requirement for regional councils to establish Aquaculture Management Areas ("AMA's"). This coincided with the passing of the Maori Commercial Aquaculture Claims Settlement 2004 ("MCACSA") entitling Iwi with a coastal rohe (essentially existing Mandated Iwi Organisations with fishing quota) to be entitled to 20% of any new space created in AMA's. The assets were to be held in the Takutai Trust and administered by Te Ohu Kai Moana until they were transferred to Iwi. Establishment of AMA's proved to be a lengthy and complex process. NRC's Plan Change 4 became stalled in the appeals process before effectively becoming redundant after further reforms in 2011 scrapped the AMAs in favour of a return to managing applications for marine farming space on a 'first come, first served' basis.

The 2011 amendments to the MCACSA presented the Maori entitlement to 20% of new space (or the equivalent) but introduced new mechanisms for delivery of that entitlement, focused primarily on a 'regional agreements' model. Regional agreements may include, space, cash or anything else that is agreed between the Crown and iwi with coastal interests in the relevant region and may be based on anticipated new aquaculture development, not just 'new space' that has already been created.

At present marine farming in our rohe is restricted to small oyster farms in Parua Bay. Development of aquaculture initiatives is currently led by Northland Inc. Northland Inc instigated the formation of the Northland Aquaculture Development Group ('NADG') in order to collaboratively to develop the 'Northland Aquaculture Development Strategy'. The strategy was officially launched at NIWA's Bream Bay Aquaculture Park in November 2012 and aims to see aquaculture in Northland developed into a $300 million industry employing more than 700 extra workers in less than two decades[24].

The group is made up of five working groups; Finfish, Oyster, Greenshell Mussel, Freshwater and Paua with a collective membership that includes the local aquaculture industry, iwi, and scientists. A shore and sea based farmed kingfish industry is being heavily promoted as one of the potential highlights of the North's future aquaculture industry and much of the initial work to develop this resource is being done out of the Bream Bay Aquaculture Park. The NADG also wants to significantly grow the Greenshell mussel industry, and aims to double the earnings of the oyster and paua industries. Due to a lack of capacity and resourcing Patuharakeke have had limited involvement in this collective to date.

NIWA operates the Bream Bay Aquaculture Park at the site of the old Marsden Power Station on land leased from Mighty River Power. This land has s27B SOE Act Memorials on the title and forms part of our Waitangi Claim. PTB also has an MOU with NIWA that requires both parties to act in good faith, communicate openly, and

[24] see www.northlandinc.co.nz/tell-me-about-aquaculture-strategic-plan-test

regard each other as equal partners, and includes other matters such as joint initiatives and shared environmental and scientific endeavours.

Patuharakeke need to have a say in how and where aquaculture occurs in our rohe. Inappropriate aquaculture locations and unsustainable practices have the potential to compromise values and resources important to Patuharakeke. Sustainable aquaculture, on the other hand, has the potential to contribute to the cultural, social and economic well-being of Patuharakeke and the wider community. Aquaculture and marine farming proposals need be considered on a case-by-case basis. Patuharakeke may identify areas that are inappropriate for aquaculture, based on the specific values located there, for example if the area is a traditional mahinga kai.

### 9.9.1 Issues

a) Patuharakeke have specific rights and interests associated with where and how aquaculture takes place.
b) Aquaculture can have adverse impacts on values of importance to Patuharakeke, such as cultural landscapes and seascapes, mahinga kai and other taonga species.
c) Sustainable aquaculture has the potential to contribute to the cultural, social and economic well-being of Patuharakeke and the wider community.
d) Patuharakeke have a specific interest in the title on which the Bream Bay Aquaculture Park is located that requires addressing.

### 9.9.2 Objectives

a) The specific rights and interests of Patuharakeke in aquaculture are recognised and provided for in our rohe moana and coastal waters, and including in any shore based aquaculture in our rohe.

### 9.9.3 Policies

a) Responsible agencies must ensure that Patuharakeke have an explicit and influential role in decision-making regarding the allocation and use of coastal space for aquaculture in our rohe moana and coastal waters and including shore based facilities in our rohe.
b) To require that all applicants, including Mandated Iwi Organisations, initiate early and effective engagement with Patuharakeke when considering marine farming ventures in our rohe moana and coastal waters;
c) When any sustainable aquaculture ventures are agreed to within our rohe moana, Patuharakeke will share tangible economic benefits.
d) No new commercial aquaculture is to be located within the Whangarei Harbour.
e) Agencies and stakeholders will work collaboratively with PTB to explore ways of developing marae-based or customary aquaculture (eg. for non-commercial purposes such as to support, enhance, restore and supplement existing/depleted mahinga kai).

### 9.9.4 Methods

a) Councils will require a Patuharakeke CIA to be produced for any aquaculture proposals in our rohe, rohe moana and coastal waters.
b) PTB will continue to engage in the NADG and other collectives as deemed appropriate by the hapu.
c) PTB will assess all aquaculture proposals in our rohe, rohe moana and coastal

waters on a case by case basis with reference to:

i. Location and size, species to be farmed;
ii. Consistency with Patuharakeke aspirations for the site/area;
iii. Effects on natural character, seascape and marine cultural heritage values;
iv. Visual impact from land and water;
v. Effects on customary fishery resources;
vi. Monitoring provisions;
vii. Cumulative and long term effects;
viii. Impact on local biodiversity (introducing species from outside the area); and
ix. Impacts on off-site species.




## PART IV: REVIEW AND EVALUATION SECTION

This HEMP has been prepared by PTB. It will be distributed to Patuharakeke via the website, e-mail circulation and a number of printed copies will be made available to the various Patuharakeke committees and potentially kohanga and schools within the rohe. The PTB website can be found at www.patuharakeke.maori.nz. The plan will also be made available to our whanaunga in neighbouring hapu and iwi and stakeholders and interested parties by way of this website. The plan will be formally lodged with WDC and NRC by October 2014.

The establishment of the PTB RMU is still to be initiated. A primary function of the unit will be stewardship of this plan including establishing a monitoring and review framework in collaboration with the hapu. Over time, further issues may arise or become more important necessitating new or additional policy to be formulated or the amendment of existing policy. Therefore, PTB will formally review this plan at least every five years. The plan will be treated as a "living document" however, and rolling reviews will occur as necessary.

As such, hapu requests for review, change or additions to this plan can be made in writing to PTB. All requests will be received on a case-by-case basis and considered by PTB at their monthly meetings. Unless advised otherwise by PTB, policy contained in this document may be modified, deleted, changed or enhanced by formal resolution of the PTB.

# REFERENCES


Chetham, J . (2013). *Brief of Evidence to the Waitangi Tribunal: Te Paparahi o te Raki District Inquiry*. Whangarei, October 16th 2013.

Chetham, J. & Pitman, A (2010). *Submission on the Crown Consultation Document on Reviewing The Foreshore and Seabed Act*. Patuharakeke Te Iwi Trust Board Inc. (Unpubliched Submission).

Chetham, J. & Shortland, T (2010). A Coastal Cultural Health Index for Te Tai Tokerau. Ministry for the Environment, Wellington.

Gudex, G . (2013). *Brief of Evidence to the Waitangi Tribunal: Te Paparahi o te Raki District Inquiry*. Whangarei, October 16th 2013.

Pirihi, P. (2013). *Brief of Evidence to the Waitangi Tribunal: Te Paparahi o te Raki District Inquiry*. Whangarei, October 16th 2013.


### Websites:


http://ipcc.ch

https://www.niwa.co.nz/climate/information-and-resources/climate-and-māori-society

http://www.repoconsultancy.maori.nz/cultural.environmental.monitoring.php

http://www.biosecurity.govt.nz/files/pests/seasquirt/styela-clava-eia-aug2011.pdf

http://www1.nrc.govt.nz/Resource-Library-Summary/Research-and-reports/Rivers-and-streams/Northland-Rivers-Habitat-Assessments-2008-2010/Results/#A1

http://www.mfe.govt.nz/rma/central/nps/freshwater-management.html

http://www.fishandgame.org.nz/national-policy-statement-freshwater

http://www.doc.govt.nz/Documents/conservation/land-and-freshwater/land/waipu-ecological-district/waipu-pna-level-1-q07-112-q07-145.pdf

http://www.greenpeace.org/new-zealand/en/press/Flotilla-heeds-iwis-call-to-stop-deep-sea-oil

http/www.northlandinc.co.nz/tell-me-about-aquaculture-strategic-plan-test

http://www.edsconference.com/content/docs/2012_papers/Stephenson%20%26%20Kirikiri.pdf

http:/www.patuharakeke.maori.nz