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**A STUDY OF CO-MANAGEMENT
OF
NATIONAL PARKS
IN
AOTEAROA/NEW ZEALAND**

***Presented in
partial fulfilment
of the
requirements for
Master of Science
(Resource Management)
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by

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Executive Summary

National parks have been associated with public ownership and Government agency management for a long time. The changing character of national park ownership and management around the world has challenged this association. Consequently, Co-management of the National Park Estate is currently the subject of heated debate in this country.

The Treaty Principles, international soft law and an increasing number of examples of co-management of national parks overseas suggest co-management of national parks in this country is appropriate and viable. Partnership in management of the Conservation Estate is part of the Crown's initiative for dealing with redress to Maori.

This report examines current inconsistencies regarding partnership relations between iwi Maori and the Department of Conservation. It is argued that co-management should take place within the context of national parks in Aotearoa/New Zealand. Options to work towards co-management are identified and discussed. Areas where further research is required is identified and an agenda for how research might be undertaken is discussed.

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"Don't walk in front of us, walk beside us"

Maori saying

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Chapter 1. Problem Identification

1.1. Introduction

Aotearoa/New Zealand's most notable¹ natural areas are part of the national park system. Aotearoa/New Zealand's national parks have been set aside "...for the purpose of preserving in perpetuity ... for the benefit and enjoyment of the public, areas that contain scenery of such distinctive quality or natural features so beautiful or unique that their preservation is in the national interest..." (Part I, National Parks Act, 1980). Currently, there are 13 national parks in Aotearoa/New Zealand which have established in excess of 2 million hectares of land within their boundaries. Management of national parks in Aotearoa/New Zealand has traditionally been the responsibility of various Crown agencies and is currently the responsibility of the Department of Conservation. Maori have had little input into national park management, yet Maori interests in environmental management decisions (including those concerning national park management) are guaranteed under the Treaty of Waitangi (Orange, 1988; Matunga, 1995; Barber, 1995). In her study on the customary use debate, Barber (1995) has identified joint Iwi - Department of Conservation management regimes, or co-management, as one likely option available to the Department of Conservation as a means to satisfy legislative requirements to the Treaty.

At this time, there are no co-management systems in place within Aotearoa/New Zealand's national parks. However, there exist formal arrangements for Maori participation in management over some of the Conservation Estate². In Whanganui National Park, the Te Ranga Forum Agreement (1995) has been established and

¹ The term 'notable' applies to values expressed by both Maori and non-Maori regarding areas within national parks.

² Conservation Boards including Maori membership in the Constitution are: Tongariro National Parks Board, Taranaki National Parks Board.

Boards including Maori membership in the Constitution are: Lake Okatina Scenic Reserve, Lake Rotoiti Scenic Reserve, Horowhenua Lake Recreation Reserve, Whitireia Park Recreation Reserve, Takahanga Pa Historic Reserve (Department of Conservation, 1995a)

provides a vehicle for co-management opportunities in the future.

The following sections in this chapter identify the rationale of this report, discuss the problems associated with the issue of co-management of national parks, identify boundaries of the report and finally, describe the style the report has followed.

1.2. Definition

For the purposes of this report, the term co-management has been used to indicate partnership in management, or joint management, between iwi Maori and the Department of Conservation. Co-management encompasses all functions of the Department of Conservation in the operation of existing national parks and extends to include future planning processes for further national park development. This report does not include options of iwi Maori ownership of the National Park Estate in the discussion of co-management.

1.3. Issue Statement and Objectives

There is no co-management of national parks in Aotearoa/New Zealand. Although there are conflicting opinions as to whether co-management of national parks should take place, the Treaty Principles, the Government's mechanisms for redress of Treaty claims, international soft law, and current overseas trends in national park management suggest co-management is both viable and desirable.

The objectives of this study are to:

- establish whether co-management of national parks in Aotearoa/New Zealand should be undertaken; and to
- propose how co-management of national parks in Aotearoa/New Zealand could best be achieved.

1.3. Problem statement

There are many reasons why co-management has not been implemented at national park level in Aotearoa/New Zealand. These reasons include:

- Maori and non-Maori expectations of the Treaty of Waitangi are different.
- There is a variety of interpretation of Treaty obligations in legislation governing the Department of Conservation. This is especially true of the Wildlife Act 1953 and the National Parks Act 1980 which are considered by some to be in conflict with the Conservation Act 1987 (Alty, pers. comm., 1996; Barber, 1995).
- The current structure of the Department of Conservation leaves iwi Maori involvement in management decisions to the discretion of Conservancy managers on a regional basis. This results in an inconsistency of relations between iwi Maori and the Department of Conservation on a national basis.
- Issues such as cultural harvest and land claims have increased the complexity of relationships between the Department of Conservation and Tangata Whenua (Mason, pers. comm., 1996).
- There is inconsistency in the debate over co-management of national parks in Aotearoa/New Zealand. This is especially noticeable in the spokes people for Non-Government Organisations.
- Crown proposals which include options for iwi Maori ownership of the National Park Estate have increased the complexity of the debate over co-management. This is because some people believe that the National Park Estate should be owned by the Crown in order to be managed effectively by the Crown³.
- Some groups opposed to co-management of national parks suggest Maori environmental values will not make effective co-management relationships possible⁴.

³ For example, Federated Mountain Clubs of New Zealand (FMC) have stated that conservation management within national parks will be compromised if title to National Park Estate passes into Maori ownership (FMC, 1995).

⁴ For example, FMC has opposed Maori involvement in the management of national parks because values held by Maori, such as conservation of resources for utilisation, are not considered compatible with those of the Department of Conservation (FMC, 1995).

- Iwi Maori are not able to exert kawanatanga (governance) within the National Park setting, yet national parks contain taonga for the tangata whenua (Matunga, 1995).
- Iwi Maori currently may not have the necessary knowledge, skills or resources to participate adequately in management without assistance (Mason, pers. comm.). Current budget constraints on the Department of Conservation may mean adequate assistance is not available.

1.4. Boundaries of the Study

For the purposes of this study I have chosen to stay within the boundaries of the current legislative framework. This boundary has been identified for several reasons. Firstly, the Conservation Law Reform Act 1987 is a recent enactment that is unlikely to have major structural changes made to it in the near future. Secondly, the current legislation also allows a reasonable amount of scope for individual interpretation as to how the legislation can be applied. This is reflected in the wide regional variation of management responses to those Acts that dictate the Department of Conservation's role in the management of national parks.

1.5. Report Structure and Style

This report has been structured in the following manner:

Chapter 2	The Conceptual Framework
Chapter 3	What is a National Park
Chapter 4	The Current Situation
Chapter 5	The Debate
Chapter 6	In Support of Co-management of National Parks
Chapter 7	A Strategy for Achieving Co-management
Chapter 8	Conclusions

The report has been written for no specific audience, but rather to further general

understanding of a complex situation. Iwi Maori, Department of Conservation staff, and members of Non Government Organisations may find the discussion useful.

This report has been written using the editorial style of *The Journal of Policy Sciences*, Kluwer Academic Publishers, the Netherlands.

Chapter 2. Conceptual Framework

2.1. Introduction

This chapter outlines the perspective taken for the report, and identifies assumptions made concerning the co-management debate. The chapter discusses the methodology implemented in the preparation of the report and justifies why the project has taken this approach. Lastly, the chapter identifies the method employed in the preparation of the report.

2.2. Perspective

I am a Pakeha male educated to post graduate level. I am not able to, nor do I assume to speak for Maori.

I have approached the issue of co-management of national parks from the perspective that it is primarily a Pakeha problem. This is because Pakeha hold the balance of power through active governance, the political environment and legislation (primarily the Conservation Act 1987 and the Resource Management Act 1991). Through the implementation of power, (which may or may not be the intent of the legislation) iwi Maori have been excluded from participation in the decision making process within the national parks arena.

I assume that the exclusion of iwi Maori from participation in national park management decisions is a major concern for iwi Maori. I assume this because iwi Maori are denied the right to say how resources are utilised in national parks, and therefore are denied property right or rangatiratanga⁵ over those resources. In his study on Maori recreation

⁵ The New Zealand Maori Council have described Rangatiratanga as "the wise administration of all the assets possessed by a group for that group's benefit: in a word, trusteeship" (Department of Justice, 1989). Rangatiratanga is an interpretive issue and varies in meaning between iwi (Blackford and Smith, 1993).

and national parks, Matunga (1995) identified that kawanatanga⁶ is exerted through partnership in national park management decision processes. However, how partnership in these processes might effect rangatiratanga can only be defined by individual iwi.

It is my assumption that co-management of national parks will enhance rangatiratanga.

2.3. Methodology

An interdisciplinary approach⁷ has been used to identify and analyse the problems associated with the issue of co-management of national parks in Aotearoa/New Zealand.

2.3.1. Justification for using an Interdisciplinary Approach

There are several reasons why an interdisciplinary approach has been selected. First, the complex nature of the issue of co-management in national parks in Aotearoa/New Zealand demanded an approach capable of working within and between the boundaries of different disciplines. An interdisciplinary approach attempts to acknowledge the inter-relatedness of disciplines, such as the impact the national economic policy may have on conservation initiatives like pest control or visitor services.

Second, an interdisciplinary approach allows for the analysis of Department of Conservation policy and processes to be included in the context of other wider issues. This is necessary since national parks are not isolated from the wider social, cultural, economic and environmental context of Aotearoa/New Zealand. For example, the Department of Conservation policy regarding Iwi relations must be considered in the context of national policy concerning the Treaty of Waitangi and in the context of other issues such as funding and legislation.

⁶ Kawanatanga means 'governance' (Ryan, 1989).

⁷ Approach is defined as the means adopted in tackling a problem (Collins, 1993).

Third, fragmented approaches have proved to be ineffective in dealing with the complex nature of environmental issues, since fragmented decisions have tended to shift problems rather than treat causes (Bührs, 1993). For example, fragmented approaches to wildlife management in Yellowstone National Park have produced problematic imbalances in populations of animals (particularly noticeable between herbivore and carnivore populations), and uncharacteristic vegetation caused by the absence of natural fires (Caughley, 1985). Shifting or displacing problems rather than resolving them has led to the recognition that more effective environmental management can only be possible if the causes of, and connections between environmental problems, and the effects of actions directed at them, are more comprehensively managed (Bührs, 1995).

Adopting an interdisciplinary approach acknowledges many things including:

- integrating a diverse range of interpretations, knowledge and information into resource decision making processes in an attempt to produce resource management decisions reflecting a more holistic⁸ view of the environment (Born, 1993);
- effective integration of interpretations, knowledge and information which can only occur in an environment of shared good will and openness (Armour et al., 1996);
- encouraging greater integration of institutions⁹ in the decision making process; and
- greater integration of policies (Bührs, 1995).

2.3.2. An Interdisciplinary Approach Applied to the Issue of Co-management

Section 1.3 has identified perceived problems regarding co-management of national parks in Aotearoa/New Zealand. This report investigates the history of national parks to give these problems a context. It also identifies a lack of national policy regarding current Iwi Maori and Department of Conservation relations and discusses

⁸ Collins (1993) defines holism as the idea that the whole is greater than the sum of the parts.

⁹ Institutions include the range of things that influence the process through which decisions are made. This includes: both formal and informal rules, conventions and traditions, procedures, organisations, responsibilities and powers (Bührs, 1993).

inconsistencies in policy implementation at Conservancy level. This report discusses and analyses the role and stance of non-government organisations in the debate over whether co-management of national parks should take place. Justification for co-management is provided through an analysis of the institutional framework, including legislation, the Treaty of Waitangi and Treaty Principles, international charters and conventions and changes in national park management methods. Finally, a process is identified to better facilitate co-management of national parks in Aotearoa/New Zealand.

2.4. Method

This report has been prepared relying primarily on a study of literature. The literature has been identified through research on the subject, as well as through research others have conducted (eg. Barber, 1995; Freeman, 1989; Matunga, 1995; White, 1994) and through recommendations given from people who were interviewed. As there is not so much specific documentation concerning co-management of national parks in Aotearoa/New Zealand, informal interviews with a range of people have been conducted (see Personal Communications, page **). These people have been approached because of their knowledge and experience regarding relationships between Iwi Maori and the Department of Conservation. Ngai Tahu have been approached through Maurice Ngatira, the Kaumatua of Lincoln University.

In establishing the current status of the Department of Conservation in Chapter 4, a range of Iwi Maori and Department of Conservation relationships are discussed. The rationale for this method is because of the regional variation between conservancies. The examples discussed in this Chapter have been selected to highlight the inconsistent relationships between Iwi Maori and the Department of Conservation. It is acknowledged that the selection of examples discussed in Chapter 4 does not constitute an extensive investigation.

Chapter 3. What is a National Park?

3.1. Introduction

National parks or equivalent reserves are located in most countries around the world. This Chapter explores the general history and ethos of national parks, investigates how national parks have evolved in Aotearoa/New Zealand, and identifies and discusses trends in national park management.

3.2. The Origins of National Parks

The origin of the name 'national park' is significant in considering how national parks have evolved. The term 'park' is English in origin, and implies an area reserved and managed for visitors. The prefix of 'national' has two meanings in the context of park. First it is qualitative, in that the park contains features that are of national importance. The second has to do with ownership in that the park whose features are of national importance should be "held by the nation for the nation" (Nicholson, 1972: p.34). These definitions have been implicit in national park establishment and management.

The beginning of the national park movement is attributed to members of the Washburn-Langford-Doane Expedition, who, as the first Europeans to explore the Yellowstone area in 1870, agreed that the wonders they had seen should be "dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people" (IUCN, 1974: p. 15). Yellowstone National Park was established two years later in 1872, and was the first national park to be established in the world.

Since then, the ideals expressed in the formation of Yellowstone National Park have been widely embraced around the world, aptly demonstrated by the formation of over 1,200 national parks or equivalent reserves over the next 100 years (ibid.). From these ideals, the United Nations General Assembly has formed a defining concept of national

parks¹⁰ and maintains a list of national parks and equivalent reserves¹¹.

All national parks are not mirror images of the Yellowstone experience. Differing objectives, geographical variations and administrative and political frameworks have been identified as key factors explaining variation between national parks (Harroy, 1972). Changing environmental, economic and social pressures on national parks have meant changing management strategies. Nicholson (1972) has noted that if the world's national parks are successfully to weather another 100 years, it can only be with the aid of much more effective public backing based on much clearer thinking and more professional management, assuring the basic integrity of the parks in face of a wider and more diverse range of uses.

3.3. National Parks in Aotearoa/New Zealand

In Aotearoa/New Zealand, the concept of reserving land for public use was included in the form of Royal instructions issued to Hobson, the first governor, and was continued by the colonising companies, provincial governments and eventually by the central government (Lucas, 1972). Compared with other industrial nations, Aotearoa/New Zealand has a high proportion of land (approximately 30%) in protected status, with a large percentage of this defined in 13 national parks. Lucas (1993) has defined four different motivating factors underlying the formation of national parks in Aotearoa/New Zealand: reverence for a particular place, the maintenance of soil and water, outstanding scenery creating popular visiting areas, scientific value and ecosystem preservation.

¹⁰ This concept included five conditions: extensive area, outstanding contents, an effective system of protection, creation and management by the highest competent authority of the country, and authorisation of tourism (IUCN, 1972).

¹¹ *The United Nations List of National Parks and Equivalent Reserves* was first published by the International Commission on National Parks (formed by the IUCN) in French in 1967 and in English in 1971. In 1972, the Convention Concerning Protection of the World Cultural and Natural Heritage established the *World Heritage List*.

Maori have played a role in the national park movement in Aotearoa/New Zealand. For example, Tongariro National Park came into being as a consequence of a gift of the peaks of Tongariro, Ngaruahoe and Ruapehu from paramount chief of the Ngati Tuwharetoa, Te Heuheu Tukino to the people of Aotearoa/New Zealand. The volcanic peaks were (and still are) taonga¹² for the Ngati Tuwharetoa and preservation through park status appeared the only option at that time to prevent the encroachment of colonisation.

Taranaki National Park was gifted to the people of Aotearoa/New Zealand by the tangata whenua¹³, but under different circumstances to those of Tongariro National Park. Taranaki National Park was originally created by parliament because of concern by settler-farmers for soil and land quality if the slopes of the mountain were to be ever cleared of forest. When concern was later expressed over the legitimacy of the manner in which the national park land was acquired, the park was returned to the tangata whenua. The tangata whenua, the Taranaki Maori Trust Board, then gifted the land back to the people of Aotearoa/New Zealand some 90 years after Te Huehue's gift of the Tongariro peaks (Lucas, 1993).

3.4. Changes in the Concept of National Parks

Changes in the way national parks are perceived, owned and managed have emerged over the last decade. There has been a shift from wilderness perceived principally as a recreational resource towards greater recognition of intrinsic values. This is particularly evident in Crown policy formation (White, 1994)¹⁴.

¹² Toanga means treasure, relic or property (Ryan, 1989)

¹³ Tangata Whenua means local people (Ryan, 1989)

¹⁴ Some non Government Organisations do not appear to have made this shift in perception. For example the Federated Mountain Clubs of New Zealand drafted policy at their 50th Jubilee that stated: "Wilderness is ... principally a recreational and cultural concept which is compatible with nature conservation" (White, 1994)

Market economy initiatives have placed restrictions on resources available for conservation purposes, resulting in smaller management institutions.

More inclusive park management styles, such as community and co-management schemes, have provided greater conservation and preservation successes than the historical 'management in isolation' regimes have been able to produce (Brown, 1992). This more inclusive approach has come about through acknowledgment and utilisation of other forms of knowledge, including the knowledge of indigenous peoples, which exists outside institutional management structures. With reference to co-management regimes established in Australia, Brown (1992: p. 63) states:

"Where it has occurred, the restoration of Aboriginal ownership and use of protected areas has proved beneficial to conservation management. This experience has challenged and seen some modification of the conservation models that have been both imported and developed by non-Aboriginal Australian society."

Growing recognition of historical injustices imposed on indigenous peoples by colonising powers is impacting on national park management in several ways. First, growing recognition of historical injustices is resulting in the returning to original owners, land, or land in place of other land, illegally or unjustly acquired. For example Ulu-Kata National Park, (formally known as Ayers Rock) is one of an increasing number of parks and reserves being returned to the Aboriginal people in the recognition and granting of land rights over certain areas of Australia (Leaver and Fuller, 1995). Similar acknowledgment of colonial indiscretion resulting in national parks land being returned to indigenous owners has occurred in Aotearoa/New Zealand and Canada.

Second, greater recognition of indigenous people's rights¹⁵ has also led to increased input by indigenous peoples into decision processes at all levels of government including national parks management.

Increases in tourism, particularly the rising popularity of 'eco tourism'¹⁶, has had significant repercussions regarding park use patterns and management directions (Department of Conservation, 1994). For example, Tongariro National Park has experienced rapid increases in visitor use in the last decade, with peak years easily exceeding 850,000 visitors (ibid.). The impact on the park is significant. Tongariro Crossing Track experienced 28,000 walkers in 1994 which had significant implications regarding the facilities appropriate to the Wilderness zoning of the area (Carlyne, pers. comm., 1996). Commercial operators within the park cater for a large percentage of the visitors to the park (some years exceeding 500,000 visitors) and place pressure on the Department of Conservation facilities, such as carparks, sewage, roads and visitor services (Department of Conservation, 1994).

The concept of large continuous ecosystems has evolved in some countries, where the need for protection and conservation management is recognised to extend beyond the national park boundaries. For example, in the United States and Canada, large mountain corridors of protected ecosystem have been proposed. One of these, the Cascades International Park, embraces the North Cascades National Park, three recreation areas and seven wilderness areas in the United States, and in Canada the Manning and Cathedral Provincial parks and two recreation areas (IUCN, 1996). Other similar proposals exist in Central and South America.

¹⁵ Indigenous people's rights (also known as aboriginal rights) refers to the rights of indigenous peoples, (eg: social rights, cultural rights, rights to self determination etc.) and are formalised through international charters, declarations and conventions.

¹⁶ Tourism activities loosely based around natural resources. In Aotearoa/New Zealand, this label has been applied to a wide range of activities including jet boating, heli skiing, mountain biking and trout fishing.

Finally, as discussed earlier, national parks management is influenced through government commitments to international treaties and conventions. In Australia, the combination of these factors has led some commentators to advocate a de-institutionalisation of conservation land management efforts (Leaver and Fuller, 1995).

Conservation management between countries is not completely autonomous for links exist at an international level. For example Aotearoa/New Zealand is aligned to Australian conservation initiatives through the Australia and New Zealand Environment and Conservation Council. International commissions such as the Commission on National Parks and Protected Areas also provide links and networking.

3.5. Summary

The national park movement began over a century ago. Land set aside for public use and pleasure was maintained in perpetuity through public ownership of the national park estate. Since then different pressures on the national parks have brought changes to the way parks have traditionally been regarded and managed. These pressures include: financial constraints on national park management structures, land and rights claims of indigenous people, increasing park use by visitors, inadequacy of definitive park boundaries when dealing with ecological factors, and international treaties and conventions. The next chapter investigates national park management in Aotearoa/New Zealand with focus on how the Department of Conservation has met the obligations of the Treaty of Waitangi.

Chapter 4. The Actual Situation

4.1. Introduction

The Department of Conservation was formed as a consequence of large scale reformation of environmental legislation and administration that occurred between 1984 and 1990 (Memon, 1993). The functions of the Department of Conservation are identified in the Conservation Act 1987 and in the enactments listed in the First Schedule of that Act. Section 4 of the Conservation Act 1987 states that the Department of Conservation must "give effect to the principles of the Treaty of Waitangi". There are inconsistencies between some Conservancies of the Department of Conservation in the implementation of Section 4.

This chapter appraises the extent to which the Department of Conservation currently implements the Treaty issue of partnership. Several functions of the Department of Conservation are examined and reveal inconsistency in current practices at different levels of management. These functions concern the implementation of national strategies, policies and plans, and interpretation of Treaty obligations.

As stated in Section 2.4 (Method), examples described in this chapter have been selected to demonstrate the inconsistency of relationships between iwi Maori and the Department of Conservation on different levels of management including national parks.

4.2. The National Level

The Department of Conservation has a legal requirement to "give effect to the Treaty of Waitangi" under the Conservation Act 1987 (Part I, section 4). Through national strategies, policies and plans, the Department of Conservation implements its Treaty obligations.

The Submission G-8 presented to the Waitangi Tribunal by the then Director-General of Conservation, Ken Piddington (Department of Conservation, 1988) is considered by some parties (eg: Ngai Tahu) as being an important statement of intent regarding relationships between the Department of Conservation and iwi Maori (House, pers. comm., 1996). This is because the Director-General's submission identifies the common goal of the Department of Conservation and the central purpose of the Treaty, and the means by which this goal, the guarantee of quality, might be achieved through "genuine partnership". Here, genuine partnership includes partnership in the management of national parks. Piddington stated:

"In considering our responsibilities for the public estate, the central issue comes back to whether or not the question of title is actually relevant to our management role. Since the claimants have raised several issues in respect of title I believe the conclusion we have reached is highly significant. As already indicated the stewardship of a public resource does not require the steward to obtain evidence of ownership. It is, however, necessary for that agent to receive unequivocal instructions from a source of higher authority. This authority in my submission equates precisely with the concept of "Rangatiratanga" in Article the Second. It follows that by seeking appropriate guidance from a tribal Trust or other authority the Department can align its protective role with the wording of the Maori version of the Treaty (Department of Conservation, 1988: p 17).

Thus, the Director-General at this time envisaged the development of a partnership between iwi Maori and the Department of Conservation working for the common good.

More recently, through the Atawhai Ruamano / Conservation 2000 process, the Department of Conservation has prepared strategies to address key management issues (eg. biological diversity conservation and human resource issues) leading to the year

(eg. biological diversity conservation and human resource issues) leading to the year 2000 and has involved extensive consultation with staff. The relationship between iwi Maori and the Department of Conservation was one of the key management issues identified, but preparation of the partnership strategy proved problematic. It is likely the original working group became frustrated with the failure of the Director-General and the Executive Management Team to accept strategies formed by the group. An interim guideline titled Guidelines to Staff on Maintaining Working Relationships with Iwi (Department of Conservation, 1995c) was released by the Director-General in June, 1995.

In September 1996, the Draft Kaupapa Atawhai Strategy (the Draft Strategy) was completed through the Atawhai Ruamano / Conservation 2000 process. This strategy identifies the same features of relationship noted in the interim Guidelines but goes much further in identifying other areas and actions available for iwi Maori partnership in management. Included in the mission statement of the Draft Strategy is to:

"Welcome and foster the Maori contribution to conservation management by:

- supporting the development of a tikanga approach to conservation;
- integrating Maori initiatives into the programmes of the department; and
- adopting aspects of tikanga into the management practices of the department"

(Department of Conservation, 1996:p. 4).

The goals of the Draft Strategy include: (i) interpreting and administering conservation legislation so as to give effect to the principles of the Treaty of Waitangi, (ii) advising the Government on the resolution of claims as they relate to conservation estate, (iii) developing a relationship with Maori that is consistent with the status of signatories of the Treaty of Waitangi, (iv) developing an effective relationship with Maori in the conservation of biological diversity, (v) developing an effective relationship with Maori in

the conservation of their cultural heritage on lands administered by the Department of Conservation, (vi) developing an effective relationship with Maori in the provision of visitor services, (vii) raising public awareness of the role of iwi Maori in conservation and to advocate cooperation between Maori and other stakeholders in conservation, and (viii) managing the Department of Conservation so as to be able to meet Treaty responsibilities (Department of Conservation, 1996: p.5).

The third goal identified above (regarding relationships that are consistent with the status of the signatories) is significant in that it identifies the expectations of partnership. In describing the third goal, the Department of Conservation identifies that it needs to develop a cooperative relationship with iwi Maori that recognises both kawanatanga and tino rangatiratanga. Features of the relationship that the Department of Conservation is seeking to establish include:

- "• that both parties act independently;
- that both parties are committed to a cooperative relationship;
- that the relationship is based on a shared understanding;
- that the relationship is based on a common goal;
- that both parties engage together in purposeful activity;
- that the relative roles and responsibilities of the two parties are clear and agreed to;
- that the respective capabilities of the two parties are recognised; and
- that the actions of both parties are coordinated" (ibid. p.11).

Action statements identify how these features of the relationship will be achieved by the Department of Conservation. These are:

- "3.3.1 interpret and administer the Conservation Act so as to give effect to the

- principles of the treaty of Waitangi;
- 3.3.2 engage in management partnerships with the tangata whenua to the fullest extent that legislation will allow;
 - 3.3.3 protect and manage places special to Maori according to tikanga and in a partnership relationship with tangata whenua which acknowledges the kaitiaki role;
 - 3.3.4 ensure that staff have gained an understanding of tikanga Maori and the Treaty of Waitangi to enable participation in effective partnerships; and
 - 3.3.5 consult with tangata whenua whenever a proposed management action involves an identified tangata whenua interest" (ibid.).

The Draft Plan identifies a partnership engaged to the "fullest extent of the law", a partnership based on "shared understanding" and "common goals". Such a partnership is congruent with the vision of Piddington, evident in his description of "genuine partnership".

Partnership is also reflected in the human resources strategy of Atawhai Ruamano / Conservation 2000: The People Plan (the People Plan). The People Plan is significant in that it identifies the responsibilities of staff regarding the relationships between the Department of Conservation and iwi Maori. Regarding partnership, the plan states:

"The department reflects through staff its commitment to biculturalism and partnership with Iwi Maori." (ibid., 1994: p. 15)

In achieving this, various actions are prescribed, including: (for appropriate positions) a willingness and ability to work with iwi Maori and to incorporate tikanga Maori values in conservation work, and a training framework to develop staff understanding of major strategic initiatives such as biological diversity, tikanga and working with Maori and

Treaty of Waitangi under S4 of the Conservation Act. Other actions are important in terms of partnership:

Action 125 states:

"Acknowledge and draw upon where appropriate, the experience of Maori staff, and others with a knowledge and understanding of Te Reo Maori¹⁷, tikanga Maori¹⁸ and relationships with iwi Maori; and recognise and reward the skills they contribute." (ibid.: p.38)

Action 126 states:

"Encourage and welcome suggestions from staff about appropriate partnership and bicultural initiatives, approaches and structures, and consciously strive to make progress in this area." (ibid.: p.38)

Action 127 states:

"Develop appropriate and achievable strategies to increase participation by Maori in activities within the Department (eg working groups, project teams, other opportunities) and in positions at all levels, while maintaining the merit principle to appointment." (ibid.: p.38, 39)

Although these actions are relevant to staff rather than directly to types of relationships formed with iwi Maori, management of staff reflects the perceived intent to implement meaningful relationships and partnership. These action statements guide specific managers to implement policies on employment and staff training programmes that have the potential to enhance iwi Maori and Department of Conservation partnership.

The intent of the Atawhai Ruamano /Conservation 2000 documents discussed above is

¹⁷ Te Reo Maori is Maori language (Ryan, 1989).

¹⁸ Tikanga Maori are Maori customs and obligations (Ryan, 1989).

that the Department of Conservation takes genuine and active measures regarding partnership, and the action statements identified within the plans provide clear indication for management on how partnership is to be achieved. However, in practice, the vision statements, mission statements and the action statements of the Atawhai Ruamano / Conservation 2000 plans investigated can be seen to be implemented in an inconsistent manner.

For example, inconsistency relating to the implementation of partnership identified within the Draft Strategy and the People Plan exists at national level. A probable 'sidelining' or marginalisation of the Kaupapa Atawhai Division, including the Head Office Policy Unit for the Kaupapa Atawhai Division exists. This observation is based on allocation to units other than the policy unit in the Kaupapa Atawhai Division, major Treaty and Maori policy initiatives, interpretation for policy of section 4 of the Conservation Act 1987, and development of policy on a Maori dimension of conservation. An example of work being allocated to other officials and units included the Department of Conservation's contribution to the Natural Resources policy which was part of the Government's 'fiscal envelope' policy. Here, policy was formed by a group of officials, and the policy unit of Kaupapa Atawhai was only used as an occasional 'sounding board'. In so doing, appropriate use of staff skills within the Head Office Policy Unit for the Kaupapa Atawhai Division was not made.

There is also evidence suggesting inconsistency relating to the implementation of partnership identified within the Draft Strategy and the People Plan exists regarding staffing at Conservancy level. The Department of Conservation South Island Conservancies employ approximately 1200 to 1500 staff ¹⁹, yet of this number, there are only approximately 140 Maori staff. Further, most Maori staff occupy labouring style

¹⁹ Figures are approximations taking into account seasonal variation of employment contracts (figures provided by Department of Conservation, Canterbury Conservancy).

employment (Mason, pers. comm., 1996). Of special note, there are no Maori Enforcement Officers (ibid.), which suggests the Department of Conservation is not adequately meeting the goals or performing actions identified in the Draft Strategy and the People Plan relating to partnership and staffing.

4.3. The Conservancy Level

Despite the intent of partnership identified in the Atawhai Ruamano / Conservation 2000 strategies, inconsistency in iwi Maori - Department of Conservation relations exists at Conservancy level. Matunga (1995) has noted that the requirement to "give effect to the Treaty of Waitangi" has been interpreted in different ways by different managers in the Department of Conservation. Some Conservancies have established processes for active consultation with local iwi while other Conservancies have reduced consultation with tangata whenua altogether (Noble, pers. comm., 1996). Crengle (1996) has suggested that some Conservancies have even entered into 'liability management'²⁰ regarding consultation with iwi Maori. Examples illustrating different approaches regarding partnership follows. These examples are drawn from actions taken by the Department of Conservation within the Whanganui and Canterbury Conservancies.

Whanganui Conservancy

Whanganui Iwi Whanui Tonu and the Department of Conservation (the Minister of Conservation) have agreed, by way of the Te Ranga Forum (Department of Conservation, 1995b) to establish protocols for progressing discussions and negotiations between the two parties. Two key features of the Forum are:

- the development of a framework for working together for conservation in the Whanganui National Park, and

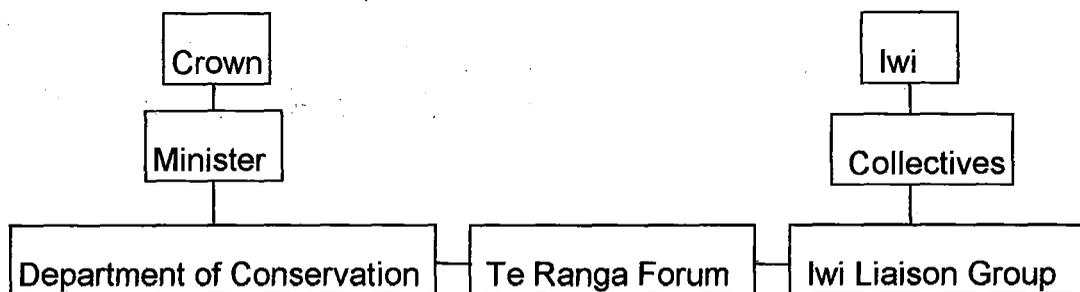
²⁰ Crengle uses this term to describe how some Department of Conservation staff manage iwi consultation in a manner so as to avoid liability imposed through the courts.

- the development and completion of projects identified and agreed to by both parties (Department of Conservation, 1995b).

Although currently only at 'agreement to negotiate' stage, the Forum is an example of a co-management initiative in a national park in Aotearoa/New Zealand. Of primary significance is the identification of the Iwi Liaison Group and the Department of Conservation as equal partners. This relationship is illustrated in figure 1:

Figure 1.

Relationship of the Parties



(Source: Department of Conservation, 1995b)

A key issue to the Forum is the recognition that there are substantial differences between the respective positions on power and control and on the ownership of the resources in question. Resolution of these differences may not be possible in the Te Ranga Forum but this will not necessarily prevent discussions and negotiations taking place on mutually agreed issues involving the management of Whanganui National Park (ibid., 1995b). In this way, Te Ranga Forum agreement has the potential to form the basis for a co-management relationship in the future.

Currently, Te Ranga Forum is the only example of a signed agreement that identifies

common ground for partnership between iwi Maori and the Department of Conservation. Although other Conservancies have produced plans that undertake to achieve partnership²¹, Te Ranga Forum is unique and therefore demonstrates the inconsistency in relationships between iwi Maori and the Department of Conservation.

Canterbury Conservancy

A somewhat different approach to partnership with tangata whenua was demonstrated by Canterbury Conservancy when intentions were expressed to issue consents under the Marine Mammals Protection Act (1978), for the purpose of whale watching off the Kaikoura coast. Ngai Tahu, the tangata whenua, contested both the Department of Conservation's decision to issue additional consents and the process by which the decision was reached. The decision made by the Department of Conservation was challenged by the Ngai Tahu Trust Board in the Court of Appeal on the grounds of an absence of consultation guaranteed through the Treaty of Waitangi and reasonable expectation that no additional permit would be granted without the consent of the tangata whenua. The Court of Appeal found that:

"...the statutory provisions for giving effect to the principles of the Treaty of Waitangi in matters of interpretation and administration should not be narrowly construed."...and..."The Crown was not right in trying to limit those principles to consultation. The principles required active protection of Maori interests."

(Ngai Tahu Maori Trust Board v D-G of Conservation, [1995] 3NZLR 558 & 560)

The court's analysis of the actions of the Department of Conservation as confining the Treaty principles to an 'empty obligation' to consult is important. Although it has been acknowledged that it is the perception of some people that the section 4 requirements of

²¹ For example the Taranaki/Egmont National Park Management Plan (April 1996 draft) undertakes to "Implement mutually acceptable co-operative agreements with tangata whenua to ensure the protection of natural, historic and cultural values" (Horsley et al. 1996).

the Conservation Act (1987), do not always 'sit well' with other legislation listed in the First Schedule²², (Alty, pers comm., 1996; Barber, 1995), this case reinforces the view that the 'parent' Act, the Conservation Act (1987) is the key Act in defining the actions of the Department of Conservation.

This case is an example of where the Department of Conservation has failed to meet iwi Maori expectations of partnership. It is also an example of where the Department of Conservation has failed to meet the requirements of Treaty partnership identified in Section 4 of the Conservation Act 1987. When compared with the Te Ranga Forum, this case illustrates how partnership relationships between iwi Maori and the Department of Conservation has been implemented in different ways by different managers. It also illustrates the inconsistency present in the interpretation of legislative obligations placed on the Department of Conservation through the Fourth Schedule of the Conservation Act (1987), and the inconsistent manner in which Department of Conservation national strategies, policies and plans are put into practice.

4.3. Summary

This chapter has identified Department of Conservation's strategies and policies concerning partnership and also highlighted the inconsistent manner in which they have been implemented. Maori continue to claim greater input into the decision making process in the management of national parks in Aotearoa/New Zealand through the Waitangi Tribunal, the Courts and direct negotiation with the Department of Conservation. Such initiatives by iwi Maori and subsequent Crown reaction is the subject of much debate. This will be discussed in the next chapter.

²² For example, the Wildlife Act (1953), the National Parks Act (1980).

Chapter 5. The Co-management Debate

5.1. Introduction

Two factors play a significant role in defining the political climate in Aotearoa/New Zealand. First, The Treaty of Waitangi continues to dominate the political agenda, including Treaty issues as they apply to conservation. Second, Non Government Organisations (NGOs) take a leading role in placing issues on the political agenda.

In 1995, the Crown undertook an extensive and concentrated public consultation process on proposals for the settlement of Treaty of Waitangi claims. These proposals, including a draft policy on claims affecting the Conservation Estate, were not accepted by iwi Maori. Yet submissions on The Crown Proposals For The Settlement of Treaty of Waitangi Claims provide a unique insight into the opinions of NGOs concerning co-management of national parks.

This chapter investigates the role NGOs play in policy formation and how they affect the co-management debate in Aotearoa/New Zealand.

5.2. The Role of NGOs

Some NGOs are powerful lobbyists; many have large constituencies and use effective political tactics. The strength and organisation of NGOs is of crucial importance in having issues recognised politically and substantive policies formed (Bührs, 1993). Politicians are influenced by NGOs when considering conservation and resource management issues since members of these groups are considered knowledgeable about environmental issues (Bührs, 1993; Palmer, 1995).

Where unified NGO opinion can be demonstrated, significant results can be achieved²³.

²³ For example the New Zealand Forest Accord was reached between the New Zealand Forest Owner's Association and a coalition of 17 environmental organisations (Bührs, 1993).

However, NGOs can become territorial in campaigning (Brown, 1992), and in so doing, remain polarised over some issues. The next section will investigate the position of several larger NGOs in the debate concerning co-management of national parks in Aotearoa/New Zealand.

5.3. NGOs and the Co-management Debate: an Aotearoa/New Zealand Context

The Federated Mountain Clubs of New Zealand (FMC), the Royal Forest and Bird Protection Society (RFBPS) and Maruia Society²⁴ are NGOs campaigning on co-management of national parks. These groups offered submissions on the Crown Proposals For the Settlement of Treaty of Waitangi Claims regarding both ownership and management options for conservation estate. Significantly, these groups hold opposing views regarding their recommendations to the Office of Treaty Settlements on the co-management of national parks.

Concerning Maori involvement in establishment and guardianship of the national park estate, the FMC stated in 1995:

"The Estate is being held as a hostage, in the expectation the Crown will capitulate to this blackmail." and "Only a fool, or someone who wanted to compromise the Conservation Estate, would suggest co-management in this situation. Appeasing such advocates with self management of the Estate will not get to the heart of their concerns, which is a Maori controlled New Zealand - a total abrogation of the Treaty. It is better not to start down that track. The road to hell is paved with such intentions..." (FMC, 1995: p. 20-21).

²⁴ The FMC is a national alliance of recreationalists, with some 15,000 club and individual members and was formed in 1931 (FMC, 1995), The RFBPS represents approximately 50,000 New Zealanders and was established in 1923 (RFBPS, 1995). Maruia Society represents approximately 8,000 New Zealanders, has existed for over 20 years and is active in many pacific countries (Maruia Society, 1995).

The RFBPS stated in 1995:

"It is inevitable that any transfer of title or of management responsibilities to iwi for areas of the conservation estate will compromise the protection, preservation and public ownership and involvement in management" and "...conservation boards provide the appropriate forum for Maori representation and input into conservation management." (RFBPS, 1995: p.5 & 8)

Maruia Society stated in 1995:

"We have knowledge of co-management arrangements operating in Australia, and detailed experience of participatory management of customary owned land for conservation purposes in Melanesia. We consider that site specific conservation values could be safe guarded under equivalent arrangements ..." and "the Maruia Society has...supported the notion that native plants and animals are taonga in terms of the Treaty, and that a management system which recognises iwi authority should therefore be developed."(Maruia Society, 1995: p.2 & 3)

Inconsistency among NGOs regarding co-management of national parks has characterised public debate for a number of years. For example, FMC has been consistently opposed to Crown (Department of Conservation) co-management initiatives. This stance has been clearly advocated in FMC publications, where, in 1992, the dangers of co-management were discussed by Barr (1992), in 1993, the exclusive and discriminatory nature of co-management was discussed by Barr (1993), and in 1994, the comparison was made by Barr (1994) between Iwi Maori management options and apartheid.

Conversely, some organisations, such as Greenpeace, although not actively campaigning in the co-management debate, have indicated to Government as early as 1990, support for co-management options for Conservation Estate including national

parks (Mills, pers. comm., 1996).

5.4. Problems Associated with NGOs who have Opposing Views on Co-management

NGO's lack of agreement regarding co-management of national parks has implications for the implementation of co-management regimes in national parks. The issue of whether or not co-management should occur is made more complex by the opposing views of NGOs such as FMC, RFBPS and Maruia Society. This complexity is manifested in several ways.

As discussed in section 5.2., NGOs are important players in the formation of political policy. The political lobbying carried out by the FMC, RFBPS and Maruia Society and the stance taken by Greenpeace is inconsistent. Thus, no clear policy direction on the issue of co-management of national parks can be identified.

Currently, NGOs are the predominant public advocates concerning conservation issues²⁵. Consequently, NGO's conflicting information and opinions concerning co-management of national parks contributes to mixed public opinion in general. Further, where public NGO advocacy is unsupportive of co-management of national parks and is aggressive and/or emotive in content, a degree of public alienation of iwi Maori is likely to result²⁶.

It is not known whether those persons speaking for NGOs have the mandate to speak for constituents or accurately reflect the opinions of constituents regarding co-management of national parks. It is suspected that some speakers for some NGOs may not

²⁵ For example, during the Cave Creek tragedy where 14 people died when a viewing structure collapsed at Punakaiki, West Coast, NGOs were the predominant 'voice' articulating the problems of budget conditions placed upon the Department of Conservation contributing to the accident.

²⁶ For example, Barr writes in the New Zealand Herald "Maoris have been conspicuously absent from most conservation battles. ...Maoris are the main poachers of the endangered and protected native wood pigeon" (Barr, 1995). This article suggests Maori have no place in conservation management.

accurately represent their respective constituency²⁷. Bellingham (1996) has suggested that "while many members of [NGOs] have embraced the new environmentalism, some of their leaders have not".

5.5. Summary

NGOs are not in agreement over the issue of co-management of national parks in Aotearoa/New Zealand. This chapter has highlighted the debate of NGOs through submissions made on Crown Proposals For the Settlement of Treaty of Waitangi Claims. Disagreement has also been demonstrated over a number of years prior to the publication of the Crown proposals. Further, debate is often based on inaccurate and/or incomplete information regarding Maori cultural values and practices, or in a manner that is opinionated and offensive to some parties. The conflicting opinions of NGOs have implications for the implementation of co-management in national parks which includes increasing the complexity of the situation, obscuring policy direction, inconsistent public advocacy and the possible alienation of iwi Maori. The next chapter investigates whether co-management should take place.

²⁷ For example, the FMC submission investigated in this report (FMC, 1995) had 21 articles attached in support of the submission. Of the 21 attached articles, 19 were from that organisations club publication, the other 2 being editorial comments in daily newspapers. Of the 21 attached articles, 18 (including 1 of the editorials) were by the same author, Hugh Barr, the club president. The Barr articles advocate against co-management. The style and content of the articles suggest this is the opinion of the author rather than based on either substantive material on the subject being discussed, or opinion shared by the constituency of the FMC.

Chapter 6. In Support of Co-Management of National Parks

6.1. Introduction

The 13 national parks in Aotearoa/New Zealand are managed by the Department of Conservation. However, in carrying out this responsibility, the management of the national parks cannot be isolated from the greater social and political environment of Aotearoa/New Zealand. This chapter identifies the responsibilities of the Government to be fulfilled in the context of national parks in Aotearoa/New Zealand and argues in support of co-management as a means by which these could be met. First, the Treaty of Waitangi is investigated and the Crown's response regarding redress to claims discussed. Finally, international obligations to declarations and conventions are investigated.

6.2. The Treaty of Waitangi

The Treaty of Waitangi (Te Tiriti o Waitangi) established a relationship between the Maori people and the Crown. Two versions of the treaty, one in English text and one in Maori text were prepared and signed. How these should be interpreted remains a major issue. The Government, with assistance from the Waitangi Tribunal and the courts, has identified principles by which it will act when dealing with issues that arise from the Treaty of Waitangi. These principles are: the Principle of Government or the Kawanatanga Principle, the Principle of Self-management or the Rangatiratanga Principle, the Principle of Equality, the Principle of Reasonable Cooperation and the Principle of Redress (Department of Justice, 1989)

The Rangatiratanga Principle has important implications for the Crown and its agents. In this principle the Crown guarantees to iwi Maori the control and enjoyment of resources and taonga. The Crown also undertakes the restoration of iwi Maori self management and the active protection of taonga as part of the Crowns' policy of recognising

rangatiratanga. The difficulty lies in the interpretation of Maori language used in the Treaty for as Orange (1988: p 3) has observed:

"...a case can be made for Maori self determination, autonomy and devolution of responsibility from mainstream government to Maori bodies, and a case for a stronger Maori presence in government decision making"

Yet the Court of Appeal has found:

"The principles of the Treaty do not authorise unreasonable restrictions on the right of a duly elected government to follow its chosen policy. Indeed to try to shackle Government unreasonably would itself be inconsistent with those principles" (New Zealand Maori Council v A-G [1987] 1NZLR 641, in Department of Justice, 1989).

Obviously a balance must be achieved. In numerous claims with regard to taonga, the Waitangi Tribunal has re-affirmed that in the Maori version of the Treaty, "o ratou taonga katoa" meant all things highly prized, or valued possessions (Matunga, 1995). In line with this interpretation of "o ratou taonga katoa", the High Court found that land need not be in Maori ownership for Maori to have a relationship with that land (Royal Forest and Bird Protection Society v Habgood Ltd [1987] HC M665/86).

Article II of the Treaty and the Rangatira Principle has guaranteed Maori rangatiratanga over their taonga. To place this principle in the context of co-management, Maori have the right to have input into decisions that have the potential to have impact on taonga. Where taonga are identified in national parks, the interests of iwi Maori must be respected. Co-management provides a means to incorporate iwi Maori concerns in decisions and processes that impact on taonga.

The fourth principle, the Principle of Co-operation is critical when considering interaction between Maori and the Crown. This principle reflects the Treaty objective of reasonable co-operation to be expressed by both parties to the Treaty. The Crown, in the identification of this principle has anticipated moving beyond consultation with the final phrase of the principle. Here the text describes the outcome of reasonable co-operation as being partnership. In the national park context, partnership could be implemented through co-management.

Historically the Crown has displayed marked inconsistency in meeting Treaty obligations. The fifth principle, the Principle of Redress, provides the underlying sentiment of the Crown; one of accepting responsibility to provide a process for the resolution of grievances arising from the Treaty. Currently, the Crown considers that in resolving grievances, focus should remain as far as possible on the restoration of property rights to Maori. (Office of Treaty Settlements, 1995). This attitude reflects, to some degree, recent Waitangi Tribunal decisions. Orange (1988: p. 6) has observed:

"there has ... been a recognisable shift in [Waitangi Tribunal] reports, recommendations, from a conciliatory position to a reparatory stance - in other words, recommendations seem to be now seeking reparation as much as compromise".

However, resolution of grievances effecting national park estate has proved problematic²⁸. Co-management has been identified as an effective means for iwi Maori to exert kawanatanga over taonga within national parks (Matunga, 1995).

²⁸ Iwi rejected the Crown Proposals for the Treaty of Waitangi Claims (Department of Conservation, 1996).

6.3. Redress

The Government has decided that the Conservation Estate is not readily available for the settlement of Treaty claims (Office of Treaty Settlements, 1994). However, use can be made of the Conservation Estate to make redress for historical grievances (Department of Conservation, 1996). In these circumstances, the Government has identified mechanisms for delivering redress for claims affecting Conservation Estate.

These are:

- (i) the transfer of ownership to Maori with or without legal encumbrances attached to the title;
- (ii) a reversion of land to Maori, subject to conditions set under statute, with the capacity for return of title to the Crown in the event of non-compliance with those conditions;
- (iii) transfer of a significant management role to Maori in relation to the land, subject to ongoing Crown ownership and conditions set under statute (Department of Conservation, 1995a).

These mechanisms applied individually or in conjunction with each other, allow for different ownership and management options. Although the Proposals for the Settlement of Treaty of Waitangi Claims (Office of Treaty Settlements, 1994) was not accepted by iwi Maori, in considering these mechanisms as likely forms of redress, the Government has acknowledged the potential for iwi Maori - Department of Conservation co-management to exist. In doing so, the Crown has accepted that co-management of the Conservation Estate is a viable option.

6.4. Declarations and Conventions

A necessary component of crown reparation has been the recognition of the Treaty as a 'living' document. This has been reflected through the courts. In the 'New Zealand Maori Council' case, Justice Cooke found that:

".. the Treaty is a document relating to fundamental rights; that it should be interpreted widely and effectively and as a living instrument taking account of the subsequent developments of international human rights norms..."

(New Zealand Maori Council v A-G [1987] 1NZLR 641)

More recently, human rights norms²⁹, have identified the rights of indigenous peoples in terms beyond strictly social relationships. Norms established by international conventions and declarations having impact on management processes in national parks are: the 1972 Convention Concerning Protection of the World Natural Heritage, the Draft Declaration of Rights of Indigenous Peoples 1993, the Mataatua Declaration 1993, and the 1992 Convention on Biological Diversity. These conventions and declarations are known as international soft law and though governments may ratify them, enforcement of the conditions agreed to is problematic. This section discusses conditions agreed to by the Aotearoa/New Zealand Government.

As the title suggests, the 1972 Convention Concerning Protection of the World Cultural and Natural Heritage (the World Heritage Convention) which established the World Heritage List, recognises cultural and natural values together. The objective of the convention is the protection of natural and cultural areas of "outstanding universal value" (Lyster, 1985). Areas may be listed on the World Heritage List for either natural or cultural values, or both³⁰. Significantly, more areas are listed exclusively for cultural values, or for cultural values listed jointly with natural values, than listed for natural values alone (ibid.). This observation supports the importance the international community places on the interaction of people with the environment, together with the importance of preserving cultural values as well as natural values.

²⁹ Norms are a standard of behaviour that is required and desired (Collins, 1993).

³⁰ For example Tongariro National Park is listed for both cultural and natural values.

In Aotearoa/New Zealand, the Department of Conservation identifies in strategies, policies and plans, cultural (including spiritual) values along side natural values. Many of these cultural and spiritual values identified within national parks belong to Maori. Consequently, iwi Maori have an interest in the management of these values. In providing for the management of natural and cultural values, co-management fits in with the values identified by the World Heritage Convention.

The Draft Declaration of Rights of Indigenous Peoples 1993³¹ is made up of 45 articles, many of which deal with the relationships of indigenous peoples and the environment, particularly lands of traditional occupation. Articles 25, 26 and 33 are particularly relevant to issues of environmental management:

Article 25 states:

"Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard" (Te Puni Kokiri, 1994a: p. 23).

Article 26 states:

"Indigenous peoples have the right to own, develop, control and use lands and territories, including the total environment of the lands, air, waters and coastal seas, sea ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full

³¹ The Draft Declaration of Rights of Indigenous Peoples was completed in 1993 by the Working Group on Indigenous Populations and is under consideration by the United Nations. The Draft Declaration recognises certain rights of indigenous peoples, including self determination, and entitlement to assistance from national governments and the international community to exercise these rights. The Draft Declaration is beginning to work its way up the UN hierarchy and will form (assuming it will be accepted) an important part of emerging international law of indigenous rights.

recognition of their laws, traditions and customs, land tenure systems and institutions for the development and management of resources, and the right to effective measures by states to prevent any interference with, alienation of or encroachment upon these rights" (ibid.).

Article 33 states:

"Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognised human rights standards" (ibid.).

These articles recognise the spiritual relationships of iwi Maori to the land and the rights and needs to manage resources of traditional value. Co-management is a means for iwi Maori to implement the rights and needs identified in these articles in the context of the national park estate.

The Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples 1993³² is primarily aimed at intellectual property rights but offers several recommendations that are relevant to co-management of national parks. These points refer to the development of policies and practices, where indigenous peoples should:

"1.4. Prioritise the establishment of indigenous education, research and training centres to promote their knowledge of customary environmental and cultural practices"; and

"2.6 Indigenous flora and fauna is inextricably bound to the territories of

³² The Mataatua Declaration was the product of the First International Conference on the Cultural and Intellectual Property Rights of Indigenous Peoples. The convention was attended by 150 delegates of indigenous nations from around the world and hosted by the tribes of Mataatua in Whakatane, June, 1993. The Declaration is not legally binding but does show concern in the form of consensus amongst indigenous peoples for the preservation of customs and traditions in all their forms (Te Puni Kokiri, 1994a).

indigenous communities and any property right claims must recognise their traditional guardianship" (Te Puni Kokiri, 1994a: p. 51).

Recommendation 1.4 is important in that it recognises the value of traditional methods of environmental management such as Rahui and Taipure and suggests indigenous people act to preserve these mechanisms. Co-management offers a venue to achieve this. Recommendation 2.6 is important in that it recognises firstly the close links that iwi Maori have with the environmental and secondly, the need to recognise their traditional guardianship.

The 1992 Convention on Biological Diversity has been ratified by the Aotearoa/New Zealand Government. The Government has delegated responsibility over matters concerning the conservation of biological diversity to the Department of Conservation. The functions of the Department of Conservation are prescribed in the Conservation Act 1987, and includes those enactments listed in the First Schedule of that Act.

Biological diversity is dealt with in long term planning by the Department of Conservation. For example, the 1992 Convention on Biological Diversity has been one of the subjects identified in the Atawhai Ruamano process and a draft response is currently being prepared (Alty, pers. comm., 1996). Conservation Management Strategies deal with the Department of Conservation's role in conserving biological diversity on a regional basis. The Resource Management Act 1991 also has implications for the Department of Conservation concerning biological diversity.

Although the Resource Management Act 1991 was enacted prior to the ratification of the 1992 Convention on Biological Diversity, some common ground can be identified. In Part II of the Resource Management Act 1991, Section 5(2)(b) identifies safeguarding the life-supporting capacity of air, soil, water and ecosystems, while Section 6(c)

recognises the need to protect significant indigenous flora and habitats of indigenous fauna.

Operating under the requirements of Section 4 of the Conservation Act (1987) and Section 8 of the Resource Management Act (1991) the Crown must 'give effect to' and 'take into account' the principles of the Treaty of Waitangi respectively. Further, by way of the Treaty of Waitangi, Maori have been given authority over taonga, which can be argued to include indigenous flora and fauna³³.

There are many important environmental issues including biological diversity that Maori are concerned about. These are reflected in the numerous claims to the Waitangi Tribunal regarding pollution and degradation of natural resources. For example: the Welcome Bay Sewerage Scheme claim (Wai-3) regarding sewage pollution of fisheries, the Kaituna River claim (Wai-4) regarding sewerage pollution of lakes and rivers, the Motunui - Waitara claim (Wai-6) regarding the pollution of fisheries, the Manukau claim (Wai-8) which included the issue of industrial and sewerage pollution of the Manukau Harbour, the Mangonui Sewerage claim (Wai-17) regarding sewerage pollution, and the Kakanui Sewerage Scheme claim (Wai-34) regarding sewerage pollution are expressions of these concerns (Crengle, 1993; Matunga, 1995).

Co-management of national parks provides a venue for iwi Maori to have input into decisions regarding biological diversity.

6.5. Summary

This chapter has discussed important treaties, conventions and declarations in terms of responsibilities that the Government should take into account in the administration of

³³ For example, intellectual property rights to indigenous flora and fauna were identified in the Mataatua Declaration 1993. Intellectual property rights to indigenous flora and fauna is also the subject of Treaty of Waitangi claim Wai-262 known as the Indigenous Flora and Fauna claim.

national parks in Aotearoa/New Zealand. The Principles of the Treaty form the basis for Maori and non-Maori relations. The Government is committed to providing redress of Treaty grievances including redress affecting national parks. The 1972 World Heritage Convention lists cultural and natural heritage together, thereby acknowledging the importance of both categories of heritage. The Draft Declaration of Indigenous Peoples Rights 1993 recognises the spiritual relations of indigenous peoples to the land and the rights to manage traditional resources. The Mataatua Declaration 1993 identifies indigenous peoples property rights to indigenous flora and fauna and the right of those peoples to manage those resources. The 1972 Convention on Biological Diversity is administered by the Department of Conservation and in carrying out this duty must give effect to Section 4 of the Conservation Act 1987 and Section 8 of the Resource Management Act. The treaty of Waitangi and international soft laws support the concept of co-management of national parks. The next chapter outlines a strategy for achieving co-management.

Chapter 7 A Strategy for Achieving Co-management

7.1. Introduction

In this chapter, the key factors limiting the implementation of co-management in national parks are identified. Options for progressing towards co-management are discussed, and for each option, further research is identified that is required to overcome inadequate knowledge or information that is problematic in achieving co-management of national parks in Aotearoa/New Zealand.

7.2. Key Factors Limiting the Implementation of Co-management

Many problems have been discussed regarding the issue of co-management of national parks in Aotearoa/New Zealand. In order to move towards co-management of national parks, the most important factors limiting the implementation of co-management need to be identified.

The absence of definitive national policy statements that interpret the requirements of Section 4 of the Conservation Act 1987 and define relationships between iwi Maori and the Department of Conservation limits the implementation of co-management of national parks in Aotearoa/New Zealand.

Further, Department of Conservation strategies, policies and plans regarding relationships with iwi Maori are not implemented in a consistent manner.

With regard to these factors, the identification and initiation of any process should acknowledge that it is unlikely that the Government will produce definitive policy regarding Section 4 of the Conservation Act 1987. This is because it appears that the Crown has identified the Courts as the appropriate venue to establish the principles of

the Treaty of Waitangi. In acknowledgment of this, the Department of Conservation has noted in the Draft Strategy that:

"While the department may contribute to discussions on the principles, it has no role in determining what the principles are. Simply stated, the role of the department is 'to give effect to the principles...'" (Department of Conservation, 1996: p.7).

7.3. A Strategy for Achieving Co-management in Aotearoa/New Zealand

In order to achieve co-management of national parks, the identification and initiation of a strategic and timely process that takes into account the key factors identified above should be undertaken. In accepting that varying circumstances will require the implementation of different actions to achieve the same goal, a range of options are identified. There are two options by which co-management of national parks might be achieved while remaining within current legislation. These are:

Option I *For iwi Maori and Conservancies of the Department of Conservation to work together with the mechanisms available through current legislation, utilised to the fullest extent, in order to achieve partnership (through strategies, plans and agreements), thereby establishing a basis for future co-management initiatives.*

Option II *For iwi Maori to pursue legislative judicial precedents (ie. principles) through the court system regarding relationships with the Department of Conservation (as in the case of Ngai Tahu Maori Trust Board v D-G of Conservation, [1995] 3NZLR).*

The next two options identify how co-management of national parks might be achieved through amending current legislation or enacting other empowering legislation. This

acknowledges that the constraints of current legislation may not be adequate to deal with some situations.

Option III *For iwi Maori to pursue ownership options of national park estate (or parts of national park estate) by way of claims under the Treaty of Waitangi. Once ownership has been established, management options for the lands held in ownership can be negotiated with the Department of Conservation.*

Option IV *For the Government (Department of Conservation) to evaluate current legislative provisions in terms of how well those provisions facilitate co-management of national parks, and amend legislation accordingly in a generic manner or enact empowering legislation to facilitate specific examples of co-management to take place.*

7.4. Discussion of Options and Further Research Required

Option I

Option I applies to Conservancies and iwi Maori on a regional basis. This option relies on openness, goodwill and the integrity of both parties and has been demonstrated through the Te Ranga Forum agreement (Department of Conservation, 1995b) and in the Taranaki / Egmont National Park Management Plan (Horsley et al., 1996).

To move towards co-management of national parks using this option, it would be useful for the Department of Conservation to:

- Investigate why Maori are not better represented in employment at all levels of responsibility within the Department of Conservation and how better Maori representation in employment with the Department of Conservation might be achieved.
- Promote Iwi Maori - Department of Conservation partnership in conservation

management in order to reduce opinion against co-management of national parks. This might best be undertaken by Kaupapa Atawhai Managers in conjunction with iwi Maori, Department of Conservation media liaison staff and Conservation Officers with interpretive responsibilities. The manner and extent of advocacy will need to be investigated.

Option II

This option might be appropriate for iwi Maori on a regional basis in circumstances where effective partnership between the Department of Conservation and iwi Maori has not occurred. In taking this option, iwi Maori need to monitor relationships with the Department of Conservation. Actions inappropriate in terms of the requirements of Treaty partnership can then be identified and challenged through the Courts to establish judicial precedents for future relationships. (This option is expensive for both parties).

To move towards co-management of national parks using this option, it would be useful for iwi Maori to:

- Identify and advocate Maori conservation initiatives and actions where significant gains in conservation have been achieved. This would reduce opinion against future co-management initiatives and encourage the Department of Conservation to actively involve iwi Maori in conservation decisions on matters of interest to Maori. The process of identification and advocacy need to be identified.
- Prioritise efforts to challenge decisions through the courts in order to maximise gains in achieving legal precedents. This acknowledges the time and money required to undertake this approach.

Option III

This option might also be appropriate for iwi Maori on a regional basis. This option deals with the transfer of ownership of land within national parks from the Crown to iwi

Maori. As identified earlier, current legislation (Section 11 of the National Parks Act 1980) does not allow for the transfer of ownership of national park estate³⁴. The awarding of claims involving existing national park estate requires amendments to legislation to accommodate the transfer of ownership in a generic manner, or an enactment of empowering legislation to facilitate specific examples of ownership transfer to take place.

To move towards co-management of national parks using this option, it would be useful for iwi Maori to:

- Identify land or other taonga of cultural or spiritual significance within national parks and thereafter, lodge and pursue the claims.
- Identify land or other taonga of cultural or spiritual significance within proposed national parks and begin negotiations for iwi Maori options available for ownership and management (including co-management) once the park becomes established.
- Identify and advocate Maori conservation initiatives and actions where significant gains in conservation have been achieved. This would reduce opinion against future co-management initiatives and encourage the Department of Conservation to actively involve iwi Maori in conservation decisions on matters of interest to Maori.

Option IV

This option is appropriate for the Department of Conservation on a national basis. This option acknowledges that there are limitations within current legislation regarding partnership in management of national parks.

To move towards co-management of national parks using this option, it would be useful

³⁴ However, land can held by tangata whenua under current legislation within national parks boundaries, if the land was identified and ownership awarded to tangata whenua prior to the establishment of the national park. For example Kaharangi National Park contains land of spiritual significance in iwi Maori ownership that is managed jointly by iwi Maori and the Department of Conservation for conservation purposes.

for the Department of Conservation to:

- Investigate the merits of making generic changes to existing legislation to better facilitate options of co-management, or enacting specific empowering legislation relevant to the specific requirements of different co-management arrangements (Department of Conservation, 1995a). This could be accomplished by the working group which prepared the response: *Mechanisms for Delivering Redress in the Case of Treaty of Waitangi Claims Affecting the Conservation Estate*.
- Promote iwi Maori - Department of Conservation partnership in conservation management in order to reduce opinion against co-management of national parks. The manner and extent of advocacy will need to be investigated. This might best be undertaken by Kaupapa Atawhai Managers in conjunction with media liaison staff and Conservation Officers with interpretive responsibilities.

Chapter 8. Conclusions

This report adopted an interdisciplinary approach to investigate the issue of co-management of national parks. The objectives of the study were to:

- establish whether co-management of national parks in Aotearoa/New Zealand should be undertaken; and to
- propose how co-management of national parks in Aotearoa/New Zealand could best be achieved.

In order to meet the first objective, this report has discussed the history of the national park concept and trends in national park management. It has been identified that initially national parks followed the Yellowstone model, but over time different pressures in different parts of the world (such as environmental, economic, social or cultural pressures) have brought about changes to the way national parks are managed. These changes have meant indigenous people are having more input into the management of national parks, both through transfer of ownership and management.

The management of national parks in this country has been investigated. National strategies of the Department of Conservation have identified requirements regarding Treaty of Waitangi obligations. Examples of both national and regional management decisions suggest that the Department of Conservation does not implement treaty obligations with consistency.

The role of NGOs in the debate over whether co-management of national parks should take place has been discussed. Conflict in the opinions of NGOs has been identified. Conflict of NGO opinion obscures Government policy direction and creates public confusion over the issue. It has also been identified that the opinions of some NGOs

might alienate Maori through the use of emotive and opinionated language.

Reasons for co-management of national parks have been presented. These include Treaty of Waitangi obligations and the Crown's mechanisms of redress of Treaty claims. International soft law obligations are discussed, including: (i) the World Heritage Convention which lists cultural and natural values together; (ii) the Draft Declaration of Rights of Indigenous Peoples 1993, which recognises the spiritual relationships of iwi Maori to the land and the rights to manage resources of traditional value; (iii) the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples 1993 which recognises that indigenous peoples are inextricably bound to traditional lands and recognises the value of traditional management techniques; and (iv) the 1992 Convention on Biological Diversity, which, while managed by the Department of Conservation, must be considered in light of the Treaty of Waitangi.

In order to meet the second objective, this report has identified two key factors limiting the implementation of co-management in national parks in Aotearoa/New Zealand. These are:

- The absence of definitive national policy statements that interpret the requirements of Section 4 of the Conservation Act 1987 and define relationships between iwi Maori and the Department of Conservation.
- Further, Department of Conservation strategies, policies and plans regarding relationships with iwi Maori are not implemented in a consistent manner.

In considering these points, the report has identified options for iwi Maori and the Department of Conservation by which co-management of national parks might be achieved.

These are:

Option I *For iwi Maori and Conservancies of the Department of Conservation to work together with the mechanisms available through current legislation, utilised to the fullest extent, in order to achieve partnership (through strategies, plans and agreements), thereby establishing a basis for future co-management initiatives.*

Option II *For iwi Maori to pursue legislative judicial precedents (ie. principles) through the court system regarding relationships with the Department of Conservation (as in the case of Ngai Tahu Maori Trust Board v D-G of Conservation, [1995] 3NZLR).*

Option III *For iwi Maori to pursue ownership options of national park estate (or parts of national park estate) by way of claims under the Treaty of Waitangi. Once ownership has been established, management options for the lands held in ownership can be negotiated with the Department of Conservation.*

Option IV *For the Government (Department of Conservation) to evaluate current legislative provisions in terms of how well those provisions facilitate co-management of national parks, and amend legislation accordingly in a generic manner or enact empowering legislation to facilitate specific examples of co-management to take place.*

For each option, areas where further research is required has been identified.

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Glossary

I. Maori Terms used in the Text

Iwi	tribe or people
Iwi Maori	tribal Maori
Kawanatanga	governance
Rangatiratanga	chieftainship
Tangata Whenua	local people
Te Reo	Maori Language
Taonga	treasures
Tikanga	customs and obligations

II. Technical Terms used in the Text

Advocacy	active support for a cause
Co-management	partnership of Maori and Department of Conservation in management
Conservation Estate	lands administered by the Department of Conservation
Indigenous Peoples	people who originate from the country in question

III. Acronyms Used in the Text

NGOs	Non Government Organisations
FMC	Federated Mountain Clubs of New Zealand
RFBPS	Royal Forest and Bird Protection Society