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1. THE HISTORY

Preface

Te Ngāi Tūāhuriri Rūnanga, Te Hapū o Ngāti Wheke (Rapaki Rūnanga) and Taumutu Rūnanga are the partnering Rūnanga of the Greater Christchurch Partnership (GCP) and the Whakawhanake Kāinga Komiti (WKK). Through this relationship and associated workstreams a series of topic-based papers were produced, including the need for a Kāinga Nohoanga strategy for Greater Christchurch.

Ngā Rūnanga and Greater Christchurch committed to a mana whenua-led and developed strategy that focuses on the priorities of ngā Rūnanga in relation to Kāinga Nohoanga.

This document, *He Rautaki mō Kāinga Nohoanga – Greater Christchurch*, is the result of the efforts of multiple individuals and organisations and is based on the aspirations and forward vision of mana whenua and we thank the GCP partners for their willingness to allow the space, support and resource to bring the strategy to life within the context of mana whenua-led initiative.

This document is intended to be read in two thematic parts. Using Ngāi Tūāhuriri and Kaiapoi Māori Reserve as the primary case-study - the first set of sections giving a brief history and background to the grievances of Ngāi Tūāhuriri, how they relate to kāinga nohoanga; and the following set of sections cover the aspirations and barriers to kāinga nohoanga.

Rūnanga - Ngāi Tahu - Ngāi Tūāhuriri

Ngāi Tahu are a Treaty partner to the Crown by way of the Te Rūnanga o Ngāi Tahu Act 1996 and the Ngāi Tahu Claims Settlement Act 1998.

Three Rūnanga hold authority within Greater Christchurch: Te Ngāi Tūāhuriri Rūnanga, Taumutu Rūnanga and Te Hapū o Ngāti Wheke (*Rapaki Rūnanga*). Christchurch City resides with Ngāi Tūāhuriri, while the urban area of Lyttleton is located within the Rāpaki takiwā. Likewise, Rolleston sits within the takiwā shared by Ngāi Tūāhuriri and Te Taumutu Rūnanga.

There are 18 Rūnanga, constituting Te Rūnanga o Ngāi Tahu (*TRONT*) by the Te Rūnanga o Ngāi Tahu Act 1996. The authority of each Rūnanga is defined by their respective takiwā as stated in the First Schedule of the Act.

Te Rūnanga o Ngāi Tahu is a legal personality and the collective voice of Ngāi Tahu whānui. Like the Greater Christchurch Partners, Te Rūnanga o Ngāi Tahu is governed by the Treaty of Waitangi. Section 4, of the Te Rūnanga o Ngāi Tahu Act states the Act is to be interpreted in a manner ‘consistent with the principles of the Treaty of Waitangi’. Section 16 of the Act required Te Rūnanga o Ngāi Tahu to set its rules for governing itself in a Charter. That Charter is clear that the ‘tino rangatiratanga’ resides with Papatipu Rūnanga.

For all intents and purposes, the three Rūnanga (*Te Ngāi Tūāhuriri Rūnanga*, *Taumutu Rūnanga* and *Rapaki Rūnanga*) hold ‘tino rangatiratanga’ within their respective takiwā.

Rūnanga Historical Context

The Legislative History of Rūnanga

The Crown designed legislation to confirm the customs of hapū and Rūnanga in four Acts of Parliament:

- 1852 New Zealand Constitution Act
- 1858 The Native Districts Regulations Act
- 1858 The Native Circuit Courts Act
- 1862 Crown Grants Act (No. 2)

The New Zealand Constitution Act allowed the Crown to set aside regions wherein hapū would have customary authority within their regions. Section 71 of the Act states:

And whereas it may be expedient that the laws, Her Majesty may cause Laws of Aboriginal Native Inhabitants to be maintained customs, and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves, in all their relations to and dealings with each other, and that particular districts should be set apart within which such laws, customs, or usages should be so observed: It shall be lawful for her Majesty, by any Letters Patent to be issued under the Great Seal of the United Kingdom, from time to time to make provision for the purposes aforesaid, any repugnancy of any such native laws, customs, or usages to the law of England, or to any law,

statute, or usage in force in New Zealand, or in any part thereof, in anywise notwithstanding.¹

To facilitate this process, the Crown established ‘new institutions’, or as they were better known, Rūnanga. These Rūnanga were given legislative authority through the 1858 Native District Regulations Act, wherein the Native Circuit Courts Act allowed the rule of law to be implemented within tribal regions.

The 1858 Native Districts Act allowed Rūnanga to regulate all activities on their reserves as a local government. In fact, the Act was to supersede that of the provincial councils. Section V of the 1858 Act stated:

All such Regulations shall control and supersede, or preclude, the operation of all Laws or Ordinances in anywise repugnant thereto, or inconsistent therewith, which, before or after the date thereof, may have been or may be made or ordained by any Legislative Body within the Colony, other than the General Assembly, or by any Superintendent and Provincial Council.

This should come as no surprise because local government is a creature of statute and falls under the sovereignty of the Crown, wherein ‘iwi’ had a direct relationship with the Crown as a Treaty partner, not as a subset of the Crown. The separate jurisdiction was evident in Section 7 of the Act, which also allowed the Rūnanga to have its fiscal authority:

For ascertaining, prescribing, and providing for the observance and enforcement of the rights, duties, and liabilities, amongst themselves, of Tribes, Communities, or Individuals of the Native Race, in relation to the use, occupation, and receipt of the Profits of Lands and Hereditaments.

In short, this clause gave the Rūnanga the capacity to regulate, manage and administer the lands within its District through taxation, duties, and other activities on their lands. The idea of Māori regulating their financial activity through land taxation or rates needs to be understood within the context of the time. Governor Gore-Browne estimated that in 1856, Māori brought in £51,000 in customs revenue as opposed to the settler economy, which contributed £36,000.² On Grey’s return as Governor in 1861, the overall valuation of land for the Canterbury Purchase also raised the value of Māori land. Grey showed that the Canterbury Reserves was

¹ The Honourable Robert Stokes, ‘The New Zealand Constitution Act [1852]: together with correspondence between the Secretary of State for the colonies and the Governor-in-Chief of New Zealand in explanation thereof,’ (Wellington: Govt Printer, 1853), p28.

² Alan Ward, “A Report on the Historical Evidence: The Ngai Tahu Claim Wai 27”, *Commissioned by the Waitangi Tribunal* (1989): T1, 404. Hazel Petrie also refers this calculation, but also outlined the Colonial Treasurer, C. W. Richmond’s view that this ratio was over-estimated. Nonetheless, the Native Secretary, Donald Mclean, supported Gore-Browne’s estimate. (Hazel Petrie “Colonisation and the Involvement of the Maori Economy”, *A paper for Session 24, XIII World Congress of Economic History, Buenos Aires* (2002): 17.

valued at £67,000 while the Kaiapoi Reserve itself was valued at £45,500.³ There were approximately 200 tribal members on the Kaiapoi Reserve. Grey made an interesting observation on the Kaiapoi Ngāi Tahu:

“... under the proposed regulations, law and order are introduced throughout the whole country, Europeans flock into the Native districts, and a considerable value is given to the lands of the Natives, they will soon be a people quite able to bear local taxation, and willing to impose it, to give a still increased value to their property.”⁴

Kaiapoi was to be the first Rūnanga to fall under the 1858 Act as the Crown Commissioner, Walter Buller, visited Kaiapoi in 1858 to transfer the customary on the Kaiapoi Māori Reserve into Crown Title by way of a Rūnanga. Buller stated from the outset that:

“In commencing my work at Kaiapoi, my first aim was to establish the Rūnanga upon a firm and satisfactory footing, and to make this the recognised medium of all my operations with the Natives.”⁵

The actual legislation to allow the transfer of title from customary to Crown Title, along with its unique arrangements, was not finalised until the 1862 Crown Grants Act (No 2) was passed two weeks before the 1862 Native Land Act was passed. The Crown Grants Act confirmed the written and oral agreements reached between the Kaiapoi Ngāi Tahu and the Crown to convert their land from customary title to a Crown Grant. Those agreements included the right of the Rūnanga to have regulatory and fiscal authority over their land as declared in the 1858 Native District Regulations Act.

Even the former Premier, William Fox, had written to his Ministers stating that the:

“... jurisdiction of the Rūnanga should, as nearly as may be in each case, be co-extensive with the lands of the hapū or hapū's (sic) of which it consists. The Rūnanga should be empowered to make bye-laws in all matters which concern those who live within its jurisdiction, subject to the approval of the Governor in Council.”⁶

³ Alexander Mackay, “Supplementary report from W. Buller, Esq., to the Native Secretary Christchurch 17th, October 1861”, in A Compendium of Official Documents Relative to Native Affairs in the South Island, Volume Two (Nelson: Luckie and Collins, 1872), 113.

⁴ Minute by His Excellency, Governor, Sir George Grey”, *AJHR* (1862), E-2, p18.

⁵ Mackay, A Compendium of official documents relative to native affairs in the South Island Vol. 2, p96.

⁶ John Gorst, *The Māori King: Or, the Story of Our Quarrel with the Natives of New Zealand* (Oxford: Oxford University Press, 1959), p160.

Points To Note

Rūnanga were established under special legislation to have:

- Regulatory Authority
- Fiscal Authority
- Authority on their customs and practices

All that was required for the Rūnanga to become operational under the 1858 Native Districts Legislation was that the Rūnanga would be gazetted. However, by 1862, when the Crown Grants Act (No 2) was passed, New Zealand had passed into a Civil War and the ‘Ultra-democrats.’ that had entered government were in no mood to confirm past agreements and the agreements made with Rūnanga were abandoned with the Native Land Court introduced to take over the regulatory authority of Māori Land.

In 1862, James Fitzgerald, the Member of Parliament for Ellesmere, made the following observation when speaking to support the Rūnanga over the proposed Native Land Court:

“I hoped that the Government would have extended their Rūnanga system. The Native Lands might then bear the same relation to the Rūnanga’s (sic) as the waste lands of the Crown did to the Provincial Government – that was, if they wanted to sell or lease the land, it would be for the Rūnanga of the district to make regulations for it. The district Rūnanga had been told that it should have the disposal of the lands; what, then, was the use of bringing down a Bill saying that this Court should have the power?”

Kemp Deeds – The Canterbury Purchase

The Treaty of Waitangi and its principles are often pointed to as the overarching agreement between the government and Māori and, while this is true to some extent, it often overshadows the localised agreements signed by iwi across Aotearoa. For Ngāi Tūāhuriri the relevant and localised agreement is the Canterbury purchase, also known as the Kamps Deed.

In 1848, Henry Tacy Kemp, acting on behalf of the Crown, purchased around twenty million acres of land for £2,000 as part of a series of purchases around the South Island. These deeds were found to be untenable, and the key reasons why were that:

- The consideration was almost offensively inadequate; despite Māori at the time actively pushing for a higher number which they had calculated as reasonable based on smaller purchases in the region.
- Maps, charts, and statistics that were relied upon were inaccurate, leading to a lack of certainty as to what was being purchased and misconceptions about Māori population numbers and settlements.
- The crown had already “sold” swathes of land in north Canterbury and Kaikoura to Ngāti Toa under the ‘Wairau Deed’ unbeknownst to Ngāi Tahu iwi at the time and this Canterbury Purchase was touted as a way to re-legitimise (as they saw it this would be in essence an acknowledgement from the Crown of their Rangatira in the area) Ngāi Tahu’s claim over the land.

The 1848 Canterbury deed of purchase provided specifically for kāinga nohoanga, as quoted below:

“Kei te pukapuka Ruri te tino tohu, te tino ahua o te whenua, Ko o matou Kaainga nohoanga, ko a matou mahinga kai, me waiho marie mo mo matou, mo a matou tamariki, mo muri iho i a matou; a ma te Kawana”

- This excerpt states that mahinga kai and kāinga nohoanga will be set aside without impediment for their children and their children after them to benefit from.
- The official translation, however, took a narrow view of this clause, taking places of residence and food gathering to mean those which were at that time occupied or had some kind of structure, i.e. gardens or fishing areas, present.
- This translated definition excludes many of the established wider implications of the terms ‘Mahinga Kai’ and ‘Kāinga Nohoanga’ which make them unique to Ngāi Tahu and Ngāi Tūāhuriri as places of rest and replenishment.

During the negotiations around the compensation for the purchase, it was expected that due to the low purchase price that mahinga kai and nohoanga would be reflected much more expansively in the deed for their descendants to prosper in lieu of higher compensation.

Pursuant to this the Kaiapoi Native Reserve (*now known as MR873*) was gazetted in 1865 under the Crown Grants Act (No. 2) 1862 and later the Crown Grants Act 1873, which gave assurances that the Crown’s contractual obligations to Māori under Kemp’s Deed would be upheld.

As we now have the wisdom afforded in hindsight it's clear that these promises were not fulfilled and, even with the continuation of MR873, it is in not what was envisioned by those signing the Kemps Deed, or even reflective of the deed's words.

The significance of this deed to wider debate is that it highlights an aspect that is often overlooked when Māori -Crown relations are discussed: public discourse focuses on the more general and nationwide treaty principles, and attention is not paid to the localised agreements signed by iwi but not reflected in action. The relevance to this document specifically is clear and the hope is that the promised kāinga nohoanga can be realized over time, in partnership with the Crown and local councils.

Iwi – Crown/Local Councils

Local and regional government was established by the Crown without any Māori involvement or consent. Local government authorities exist because they have been established and granted authority by the Crown. This completely undermined the ideas previously developed about Rūnanga governance and, through those powers granted by the Crown, local government authorities have regulated where and how Māori lived and the resources they have been able to use.

Local government authorities in Aotearoa have strong legal and moral obligations to honour and uphold Te Tiriti and partnership obligations to the iwi and hapū with mana over the land on which they operate (*mana whenua*). The Waitangi Tribunal has emphasised that the Crown cannot contract out of its Treaty obligations via devolution of power to local government. This obligation is only deepened when read alongside of contractual promises made by the Crown under the Kēpē Deed.

Many have argued for greater recognition and provision of Te Tiriti at local government level, via both representation and positive obligations to comply with Te Tiriti in the spirit of partnership. The current Minister for Te Arawhiti Crown-Māori Relations, Tama Potaka, pointed out as early as in 1999 that:

“Local government does not need to be artificially conceptualised as the Crown in order to possess Treaty responsibilities. Local government is exercising powers that have been assumed by the Crown, rightly or wrongly, on a Treaty basis. These include defining Māori environmental management structures and controlling transport systems (such as the roads and rivers). If local government did not exercise these powers, then central government would exercise them, or at least control their performance”

For much of the time since the colonisation of Aotearoa, local government has not honoured and upheld Te Tiriti in day-to-day operations. Relationship dynamics between local government and Māori, iwi, hapū and whānau are often contentious. Initiatives intended to uphold Te Tiriti and recognise Rangatiratanga at a local government level, have been subject to organised and concerted campaigns by anti-Māori and anti-diversity groups. The most recent example of this is the coalition Government’s intention to repeal the Canterbury Regional Council (Ngāi Tahu Representation) Act 2022, which enabled Te Rūnanga o Ngāi Tahu to appoint up to two members of the Regional Council.

Still, many local government authorities do recognise their Tiriti obligations and are beginning to take proactive steps to try to better reflect their Tiriti partnership with iwi and hapū. In particular, many local government authorities now recognise and

provide for Māori representation on local authorities and have made a commitment to 'partnership' as it is enshrined in Te Tiriti.

Ngāi Tūāhuriri have a relational connection to their takiwā in Canterbury and have valuable place-based knowledge of the environment acquired over hundreds of years of occupation. Ngāi Tūāhuriri also intimately understands the needs and challenges of local communities in respect of their social, and economic situations. There exists a significant opportunity for local government authorities in Greater Christchurch to embrace their Tiriti obligations to Ngāi Tūāhuriri at the benefit of everyone in Canterbury through equitable, sustainable and regenerative place-based outcomes.

2. THE VISION

Purpose and Vision

To paraphrase a statement by New Zealand Initiative and economist Eric Crampton:

“I just find it very hard to believe that iwi leaders signing onto the Treaty believed their descendants would wind up needing to beg a bureaucrat’s permission to build houses on their own land”.⁷

This quote highlights the ultimate vision of mana whenua, which has always been in effect to return Māori to a position where they are able to regulate, manage and develop their own lands.

This strategy is prepared by Whitiōra. The focus of the strategy is twofold: to advance economic development and enable kāinga-nohoanga. These objectives are to be achieved upon the tribal kaupapa of Rangatiratanga, which means in this context the respective Rūnanga of the land being able to have their aspirations and vision for their land realised.

While this document will often use MR873 as an example it is also intended to apply to urban land as well, where applicable, as reserve land in the South Island is scarce.

The intention behind this strategy is to identify the barriers that exist between Rūnanga and their land, and to make the mana whenua vision for kāinga nohoanga clear, so that local and regional authorities will be able to better align strategy and planning resources to work towards shared goals.

Process for Development and Implementation

Step One: Presentation of Strategy to partners and authorities.

Step Two: Partners and mana whenua to come together to pragmatically decide what changes are within their scope to help development of kāinga nohoanga.

Step Three: Formulation and ratification of possible plan changes or other lever or mechanism that will enable kāinga nohoanga.

Step Four: Discussions with other Rūnanga to determine the level of buy-in of their takiwā or if the process will be specific to Ngāi Tūāhuriri.

⁷ Eric Crampton, *New Localist Approach can be more responsive to local needs*, [New Zealand Initiative](#), 10 February 2024

Step Five: Implementation of the changes in planning documents, hopefully alongside other changes to land management regime.

Key Identified Barriers

While research into the specifics of kāinga nohoanga development is sparse and typically flawed, the general barriers which they face are often universal:

Infrastructure costs and the implementation are a barrier to any kind of development, and that barrier is amplified for Māori land. Years of underspending and, in some cases, lack of existing infrastructure coupled with issues around the plurality of land ownership and rural land blocks only enhances this issue.

This was a key issue when Te Ngāi Tūāhuriri Rūnanga developed their first tranche of kāinga nohoanga within MR873, which resulted in a project overbudget and delayed.

Legislation: Māori land is governed by an extra layer in the Te Ture Whenua Māori Act, which means that access to funding and lending is a more complicated process.

A proposed solution involves accessing funding under the Infrastructure Funding and Financing Act 2020 (Which allows councils and developers to increase funding for infrastructure projects through targeted rates levied against those residing in or benefitting from the project). This solution, while it has been valuable in some cases, still has its own complications: Māori land requires the consent of landowners before the increased rate can be applied, this means that not only is time an issue with many blocks having multiple beneficial owners, but also that they are in effect consenting to an encumbrance on their land and an increase in rates.

Key Goals:

- Consolidate information about the current state of infrastructure in Tuahiwi
- Map deficit and plan for current infrastructure to be brought up to a baseline for those on the reserve.
- Investigate infrastructure needs for target growth or possible expansion of population on reserve, and for other non-residential needs.
- Funding issues discussed, with an understanding that long term planning is needed to ensure securing of funding while investigating other pathways.

Māori Land Court and Te Ture Whenua Act:

It would be amiss to not acknowledge the issues relating to Te Ture Whenua (*Māori Land Act*) in this document, however they are issues that can only be remedied by central government.

The purpose of the Te Ture Whenua Act 1993 is to “to promote the retention of that land in the hands of its owners, their whānau, and their hapū, and to protect wāhi tapu: and to facilitate the occupation, development, and utilisation of that land”. Between 2014⁸ and 2024⁹ the Māori Land Court (MLC) reported that the amount of Māori freehold land decreased by around 50,000 hectares and while customary land titles increased overall, the only customary block in the South-island no longer exists.

Retention was something of a key focus for the MLC and its predecessors after the mass alienation that it was used to legitimise; which at times leaves its second development and utilisation function lacking.

An example is a member of the iwi who was undertaking a land sale. The land was Māori freehold land that only had one owner and the buyer was in the preferred class of alienee, as such this should have been a painless transfer of land and a simple change to the Māori land register. Yet, this sale took four separate trips to the Land Court as a bank and the MLC seemed to be at odds over the process for payment. The individual selling the land was forced to spent thousands of dollars in lawyer fees as the MLC continued to ask for more information despite the correct forms being submitted, and required proof that the funds for the land had been transferred before changing the register for the land, however the bank would not release the funds without some assurances that the transfer would or was able to take place due to the nature of Māori land and the MLC’s role. This led to months of delays, and without the means or determination to proceed could have seen a simple transfer of land interest completely abandoned. This highlights the retention functions of the court themselves becoming the hindrance, this story is also one of many in which the process of the MLC has frustrated the efforts of landowners.

When comparing the Māori Land Court numbers to the District Court (acknowledging the obvious differences in scale, jurisdiction and hierarchy) we can see that their report looks at new cases in, resolutions of cases and active cases as at their date. The District Court for example has numbers of new cases that are 1:1 with resolved cases and 0.4 in active cases as at the reporting date. The MLC have a ratio of 2:1:6 so for every case resolved application there is two created and 6 waiting to be resolved. While this is not a scientific study, it shows the levels of application being resolved is not sustainable. This coupled with the lack of investment in more

⁸ Māori Land Court, *Māori land update July 2014*, ministry of justice, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.xn--morilandcourt-wqb.govt.nz/assets/Documents/Maori-Land-Data/Maori-Land-Update-2014.pdf

⁹ Māori Land Court, *Māori land update July 2024*, ministry of justice, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.xn--morilandcourt-wqb.govt.nz/assets/Documents/Maori-Land-Data/Maori-Land-Update-2024.pdf

FTE's in the court and proposed changes instead adding to the courts workload, the wait times will likely only increase until further reforms are proposed.

Key Goals:

- Provide for effective planning rules that don't require Te Ture Whenua distinction or MLC intervention, move towards a local accreditation from Rūnanga working with council for kāinga nohoanga development.
- Align planning documents to this understanding while also creating mechanisms within the Rūnanga and council to address issues and ensure this does not unduly prejudice non-Māori landowners.

3. MĀORI HOUSING

Introduction

In analysing the housing situation for the Greater Christchurch area and some of the socio-economic variables that influence the housing situation, the data can sometimes be restrictive. The approach taken here has been to begin with the housing-related variables of high interest and source data at the lowest spatial scale available for the variable. For instance, when investigating public housing applications while considering ethnicity, data are only available at a national scale, so that is the scale used. This national data provides insights of limited value for greater Christchurch; however, by introducing successive data sets that address related variables, the report overcomes some data limitations by drawing together the mosaic of insights.

Data on a tribal level has been obtained from Statistics New Zealand's Integrated Data Infrastructure (IDI). These microdata tell a rich story of socio-economic variables of high relevance to Ngāi Tūāhuriri. However, the data are from 2018 and have not been updated in a format accessible to this project since that period. Additionally, many of the most important variables for housing insights in these data were only recorded once and, therefore, cannot be used to consider trends. Data from 2018 are too old to provide valuable insights for this project and have thus not been included. This data limitation is mentioned only to highlight the significant dearth of quality data available to researchers investigating Māori-specific needs in Aotearoa and the pressing challenge that needs to be addressed within New Zealand government agencies.

Rent and Ownership

Housing affordability is a significant concern throughout Aotearoa. All three districts of Greater Christchurch show an overall increasing trend in housing affordability from the early 2000s to the early 2010s. Selwyn District generally maintained a higher level of affordability than the other two districts. There was a decrease in housing affordability from 2020 onwards. This decrease might be attributed to factors such as increased housing demand, economic impacts due to the COVID-19 pandemic, and potential changes in interest rates or housing policies. The significant decreases in housing affordability in all three districts from 2020 could result from a complex interplay of factors, including the economic impact of the COVID-19 pandemic, shifts in housing market dynamics, changes in consumer preferences, and broader financial conditions. This period marked a challenging

time for the housing market, with potential impacts on affordability due to changes in supply and demand and the overall economic environment. More data are required to interpret this trend; however, affordability appears to have flattened in recent years.

Negative changes imply declining affordability as rent prices rise faster than incomes. Rental affordability demonstrates less volatility and remains broadly flat over time; however, all districts saw a gentle increase in affordability from the middle of 2010 onward. Compared to the rent index, the large decrease in mortgage affordability from 2020 highlights the growing gap between the affordability of owning versus renting. While both sectors are becoming less affordable, the sharp decline in mortgage affordability may have more immediate and pronounced impacts on homeownership aspirations, potentially leading to increased demand in the rental market and further decreasing rent affordability.

Homeownership in the Tuahiwi/Kaiapoi locality

Individual home ownership indicates whether a person aged 15 years and over owns (or partly owns) the dwelling they usually live in or holds the dwelling in a family trust. There was a consistent decrease in home ownership in Kaiapoi Central, with a notable 20 percent drop from 2006 to 2013, followed by a further 21 percent decrease to 2018. Kaiapoi East experienced a dramatic decline in home ownership, especially between 2006 and 2013, with a 69 percent decrease, followed by another 51 percent decrease to 2018. The trend in Kaiapoi South shows a less drastic but still noticeable decrease in home ownership, with a 7 percent decrease from 2006 to 2013 and a 20 percent decrease by 2018. Kaiapoi West's homeownership also decreased over time, but at a more gradual pace compared to Kaiapoi East, with a 6 percent decrease from 2006 to 2013 and an 8 percent decrease to 2018. Tuahiwi shows the most stability in homeownership from 2006 to 2013, with a negligible decrease of 1 percent, but then a 21 percent decrease by 2018, indicating a late but significant reduction in home ownership. The suburbs exhibit variability in the trends of home ownership. Kaiapoi East stands out with the most significant decreases, indicating potentially unique local factors influencing this trend. Despite the variability, all suburbs show a trend of decreasing home ownership from 2006 to 2018, suggesting broader regional or national factors at play, possibly including rising housing prices, changes in mortgage accessibility, or socio-economic shifts. Tuahiwi's late transition from stability to a significant decrease in homeownership may reflect delayed socio-economic impacts or changes in the housing market specific to this suburb.

From 2006 to 2013, Māori home ownership decreased by 14 percent in Kaiapoi Central but then slightly increased by 6 percent by 2018, showing a partial recovery. Kaiapoi East experienced a stark decline in Māori home ownership, with a 50 percent decrease from 2006 to 2013, and another 50 percent decrease by 2018, indicating a consistent and significant downward trend. Contrary to other areas, Kaiapoi South showed stability in Māori home ownership from 2006 to 2013, with no change, followed by a slight increase of 8 percent by 2018. Kaiapoi West saw a 20 percent increase in Māori home ownership from 2006 to 2013, followed by a decrease of 8 percent by 2018, indicating fluctuating ownership patterns. Tuahiwi experienced a significant decrease of 33 percent from 2006 to 2013 in Māori home ownership, with a slight increase of 6 percent by 2018, suggesting a partial recovery.

Despite some areas showing stability or slight increases, the general pattern indicates challenges in maintaining or increasing Māori home ownership across the suburbs, with particular areas experiencing more pronounced decreases.

Comparison of Māori home ownership and total home ownership in the Tuahiwi/Kaiapoi locality

The overall trend in Kaiapoi Central shows a decline in home ownership, with Māori home ownership experiencing a slight recovery from 2013 to 2018, contrasting with the overall continued decline. Both total and Māori home ownership in Kaiapoi East show significant declines, with the rate of decrease for Māori home ownership being particularly stark, mirroring the overall trend but more pronounced. The trends diverge with Māori home ownership in Kaiapoi South showing resilience and a slight increase, contrasting with the overall decline in total home ownership. Kaiapoi West saw fluctuating patterns for Māori home ownership, with an initial increase unlike the overall trend of decrease, showing a unique dynamic for Māori homeowners. Similar to Kaiapoi Central, Tuahiwi experienced a decrease in total home ownership with a slight recovery in Māori home ownership by 2018, indicating a partial rebound for Māori homeowners in contrast to the broader trend.

The impact on home ownership varies between these suburbs' total population and the Māori population. While the overall trend for both groups is a decrease, Māori home ownership shows instances of stability or slight recovery in certain areas, such as Kaiapoi South and Tuahiwi, which is not always reflected in the total home ownership trends. Kaiapoi East stands out for significant decreases in both total and Māori home ownership,

highlighting substantial challenges in this suburb. Certain suburbs show resilience or recovery in Māori home ownership, contrasting with the general trend of decline in total home ownership. This suggests that while broader housing market pressures exist, factors or interventions may support Māori home ownership in specific contexts.

Additionally, Data retrieved from the 2023 Census shows that rate of Māori homeownership in Greater Christchurch and the MR873 reserve area is lower than that of the Non-Māori population. At the time of the 2023 census 45.6 percent of Māori living in MR873 did not own their own home and 66.5 percent of Māori in Greater Christchurch did not own their own home.

While the homeownership rate of Māori living with the reserve area was higher than in the Greater Christchurch area, it was still noticeably lower than the percentage of Non-Māori who do not own a home within MR873, which was 30.3 percent.

The 2023 census identified 567 non-Māori and 96 Māori living within the reserve area who owned their own home. Of the 96 Māori who owned their own home in Mr873, 60 identified as Ngāi Tahu.

At the time MR873 was established approximately 200 individuals had an interest in the reserve. The total number of Māori who own homes within the reserve today is less than half of the number of original owners identified in 1858. The low number of Māori homeowners within the reserve suggests that many of these original owners and their descendants have faced barriers preventing them for building and/or buying homes on their land.

4. PAPAĀINGA AND KĀINGA NOHOANGA

Papakāinga is a term that is widely used across Aotearoa/New Zealand in the context of housing for Māori. Many people use it as a “pan” Māori term, assuming that it has the same meaning for all hapū in all locations.

Papakāinga is not used or defined in the Resource Management Act 1991. It does however appear more recently in the following documents, in the context of housing for Māori as follows:

- S80E (b)(ii) of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 which enables a Council to change a district plan to enable papakāinga housing – note the qualifier that papakāinga is only housing; and
- National Policy Statement on Urban Development (as updated 2022) in clause 3.23 which requires any analysis of the housing market to include demands for housing by Māori, including different forms of housing such as papakāinga. Once again noting that the Policy Statement limits papakāinga to housing.

Also noting that the ordinary dictionary meaning of papakāinga in the Oxford Dictionary is “a housing development for Māori people on their ancestral land”. The website tupu.nz describes a papakāinga as “a group of 3 or more houses, built on whenua Māori”. Similarly, the Te Puni Kokiri website provides “A Guide to Papakāinga Housing”¹⁰.

Within Waitaha/Canterbury, papakāinga is not a universally adopted term and its generally accepted meaning of housing for Māori falls short of the intention and purpose of the Māori Reserves as promised through the Canterbury Deed of Purchase between the Crown and Ngāi Tahu in 1848.

The terms of Kemps Deed were anticipated to provide for:

- the setting aside of kāinga nohoanga (translated as places of residence) as reserves;
- rights to mahinga kai;
- the right to develop land, including subdivision, communal facilities, and other community activities;
- the right to develop a sustainable and growing economic base within the community to sustain future generations;

¹⁰ <https://www.tpk.govt.nz/en/o-matou-mohiotanga/housing/a-guide-to-papakāinga-housing>

Following the signing of Kemps Deed, Walter Mantel was sent from Wellington to survey the land for the reserves, including Māori Reserve 873 (MR873) at Tuahiwi. The Crown had anticipated that MR873 would be similar to a rural English village. At the time of creating (subdividing) the Reserve, land was required to be set aside for a school, church, cemetery and hospital, further evidence that the Reserve was intended to be a township.

Accordingly, the term *kāinga nohoanga* as used in the contract (Kemps Deed) between the Crown and Ngāi Tahu anticipates development that is more comprehensive than just housing. Instead, it anticipates future development that would provide for the full range of social and economic activities to support hapū.

5. NGĀ HERENGA AND LOCAL GOVERNMENT

Te Tiriti o Waitangi within the context of local government

Many local and regional government staff do not understand the relationship between Te Tiriti o Waitangi and the legislation with which they are responsible for implementing in their day-to-day work. Whilst most Councils provide training to understand the historic context of the Treaty there is a subsequent confusion as to its relationship with administration of legislation.

Recent Examples:

1. Early versions of the Greater Christchurch Spatial Plan (dated 2023) described Te Tiriti o Waitangi as a matter of “national direction” alongside the National Policy Statement on Urban Development and Government policy on greenhouse gas emissions. Senior staff working on the project did not identify this as an error and it was only changed following request from representation from Ngāi Tūāhuriri.
2. The draft Canterbury Regional Policy Statement (2024) identified Te Tiriti o Waitangi as being legislation and applied the New Zealand Coat of Arms used for official versions of Acts and secondary legislation. Representatives of Ngāi Tūāhuriri requested that the Coat of Arms be removed.

These recent examples demonstrate low recognition of the Treaty as a constitutional document that sits above statutes. It is also indicative of planner practice which views the Treaty as being either subservient to, or a consideration of the environmental planning framework.

1. Herenga

That Council’s review their Treaty Training to ensure that, additional to the historic context, the training also provides insight and guidance for staff on the relationship between the Treaty as a constitutional document and key Acts of Parliament that are administered by Councils.

Recognition of Māori Reserves

Within the Greater Christchurch workstreams there has been poor identification of Māori Land and the mapping of Māori Reserves.

Recent examples:

Maps used for development of the Greater Christchurch Spatial Plan identified only a small pocket of land within the Tuahiwi Village as urban – reflecting the Residential 3 zoning in the operative Waimakariri district plan. This ignored the zoning for the whole of MR873 which enables up to 7 dwellings to be built as a permitted activity on Māori land, along with a range of commercial, educational and social activities.

The failure to fully map MR873 means it is not “seen” when investment or strategic decisions on infrastructure are being made e.g. accessibility to state highways. It looks as if the land is undeveloped rural land. In some scenarios e.g. the Business Case for Mass Rapid Transit, this “undeveloped” status, if it had been retained, would have made Māori Land vulnerable to be taken for public works (being cheaper and less developed than the urban land on the other side of the road) to service adjoining urban areas.

Ngāi Tūāhuriri provided feedback under Clause 4A of Schedule 1 of the Resource Management Act to Environment Canterbury noting that the draft RPS had similarly failed to identify MR873 as part of the settlement pattern of Greater Christchurch (along with other commitments made – see below) and was therefore not visible as an area of development requiring infrastructure investment.

2. Herenga

That Councils commit to mapping the full extent of MR873 and other Māori Reserves in all strategy and policy documents.

Carrying Through on Commitments Made in the Greater Christchurch Spatial Plan

The Greater Christchurch Spatial Plan identifies Priority Areas for urban development where Councils expect infrastructure to be directed and subdivisions implemented.

Additional to the areas proposed for “standard” urban subdivision, the Spatial Plan identifies “Priority Areas arising from the Te Tiriti Partnership”. This priority applies to kāinga nohoanga on Māori Reserves and within urban areas.

Ngāi Tūāhuriri provided feedback under Clause 4A of Schedule 1 of the Resource Management Act to Environment Canterbury noting that the draft RPS had selectively adopted only some parts of the Greater Christchurch Spatial Plan and had left out the Priority Development Areas arising from Te Tiriti Partnership on maps, in the definitions and in policies.

For Kāinga Nohoanga to be prosperous it is essential that the undertakings made in higher order or strategic documents are carried through and able to be implemented.

Ngāi Tūāhuriri expects that matters relating to kāinga nohoanga will remain front and centre of Council delivery and not forgotten and left to later, unknown processes.

3. Herenga

That Councils carry through the commitments made in the Greater Christchurch Spatial Plan to deliver infrastructure to MR873 and to enable the greater development of Māori Land. Unless mana whenua are able to either partner in these decisions on investment and intervention, or independently make decisions for Māori Reserves, there is a concern that priorities and interests will be diluted, forgotten or lost.

Planning Mechanisms for Delivery

This section describes the actions that Ngāi Tūāhuriri expects Councils to follow through in order to give effect to the undertakings in the Greater Christchurch Spatial Plan. These actions are focused on the statutory planning and how to better deliver prosperous kāinga nohoanga in Māori Reserves and within urban areas.

Definitions in District Plans

The operative Christchurch District Plan limits Māori Land to areas that are zoned as Papakāinga/Kāinga Nohoanga.

This fails to account for:

- land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land; or
- Treaty settlement land, where the land is transferred or vested and held as part of redress for the settlement of Treaty of Waitangi claims or the exercise of rights under a Treaty settlement Act or Treaty settlement deed;
- The acquisition of land and land owned by the Rūnanga or a Rūnanga entity for the purpose of a kāinga nohoanga.

4. Herenga

That district plan definitions of Māori Land are reviewed to ensure that they are not restricted to zoning for historic and parts of historic Māori Reserves, but also encompass scenarios for the transferral of land from the Crown or a local authority; for

lands acquired through Settlement legislation; or land acquired by Rūnanga or a Rūnanga entity for the purpose of a kāinga nohoanga.

Policy Direction

It is appropriate that plans have clear policy support, including at the level of Strategic Objectives, for the zoning of Māori land for the purposes of kāinga nohoanga.

Typically, mana whenua objectives and policies are broad and emphasise “aspirations”, “engagement” and protection or integration of cultural values. Many of these objectives and policies lack specificity and fail to clearly articulate mana whenua priorities which are for partnership (not engagement or consultation) and the ability to initiate, deliver and manage land use that will deliver on objectives related to rangatiratanga, self-determination, wellbeing and prosperity.

The policies should encompass the following principles and values:

- Mana whenua priorities are for the wellbeing and prosperity of its people, including through kāinga nohoanga within urban areas and on Māori Reserves (Strategic Level).
- Enable the creation of new Special Purpose Māori Zones where criteria relating to ownership, scale and activity are met.
- Anticipate and provide for mana whenua/Rūnanga entity development of land within urban areas that is tikanga led and meets the cultural needs of mana whenua; with differences in development form and activities from the underlying zoning/planning rules enabled and not discouraged by onerous processes; and
- Anticipates and supports the transfer of powers for Māori Land and Māori Reserves to the Rūnanga.
- In consultation with agents for Ngāi Tūāhuriri, identify a preferred delivery mechanism (plan change and/or resource consents) for Kāinga Nohoanga; and ensure that the objectives and policies of the relevant plans support and enable the delivery of Kāinga Nohoanga in urban areas.

Zoning Options

Where land is acquired by Ngāi Tūāhuriri through:

- Transferral from the Crown or a local authority;
- Treaty settlement processes; or

- Acquisition by the Rūnanga for the purposes of kāinga nohoanga

That the regional and district plans anticipate and provide for the rezoning of that land as Special Purpose (Māori).

This could be achieved through two different mechanisms:

Traditional Rezoning

This option would require the Rūnanga and/or relevant entity to prepare a private plan change request; or for the Rūnanga and Council to work collaboratively on a plan change that is then promoted by the Council.

This option requires a detailed proposal for change to be prepared with objectives, policies, rules and outcomes as well as an Assessment for Environmental Effects.

This option would be time-consuming and of high risk in terms of third-party intervention that diminishes or removes the core cultural elements. It also involves high duplication in costs (potentially for the same activities in different localities) over time.

Adoption of the Deeming Mechanism

In the Christchurch district plan new roads that are vested are “automatically” deemed to become a Transport Zone and subject to all the provisions of that zone.

An alternative to traditional rezoning is to consider a Deeming Mechanism. This mechanism would enable land to be “deemed” to be Māori Land, and therefore developable as kāinga nohoanga, where specific criteria have been met. Criteria would relate to:

- the status of the landowner (as the Rūnanga or a statutorily recognised entity owned by the Rūnanga)
- the area of land prescribed (to avoid small parcels of land being used);
- and the range/combination of activities fulfils a definition of kāinga nohoanga;
- standards are met to ensure the management of effects at the boundary of the land.

For example: Land is acquired by a Rūnanga or entity representing the Rūnanga and meets:

- a minimum land holding i.e. greater than 1ha; and

- the mix of activities being residential and/or mixed use for residential, commercial, social, educational and cultural purposes.

Upon written advice to the Council demonstrating that these criteria have been met, the land is deemed to be a Kāinga Nohoanga.

Applicable rules would then be imposed which are focused on the boundaries of the site. Depending on the location of the site, the applicable rules would either be designed to ensure that the amenity and environmental standards of adjoining properties are maintained; or that the capacity of the operational environment of an adjoining business was not put at risk.

5. Herenga

Ngāi Tūāhuriri expects that the Councils will pro-actively and formally address this option; and work with its advisors to assess its viability as a planning mechanism.

Resource Consents

In the scenario that the deeming mechanism is rejected, one-off plan changes or resource consents would be the only options, with plan changes being less preferred.

In the scenario that resource consents are the only option, the objectives, policies, activity status and assessment matters of the relevant plans would be determinative of success (refer comments above on the need for objectives and policies of respective plans to be reviewed).

6. Herenga

Ngāi Tūāhuriri expects that the Councils will work with its representatives to review respective district plans in respect of the wording of objectives and policies (as described above) to ensure that, activity status and assessment matters.

Review and Reform of the Resource Management Act

Ngāi Tūāhuriri acknowledges that the Resource Management Act is subject to review and likely to be replaced by the end of 2026.

It is understood that the current bespoke nature of each district plan may (ultimately) be replaced by standardised zones and rules which will apply nationwide. There is however anticipated to be some form of process whereby the standardised zones or rules can be changed; but must be justified. Justification is likely to be a formal process.

Ngāi Tūāhuriri notes that the historic context of Kemps Deed and the creation of Māori Reserves within Canterbury creates a planning context which is

distinguishable from the rest of Aotearoa. In addition, kāinga nohoanga carries a legal and historic meaning different to that of papakāinga, which is more generally adopted in other parts of the country.

Ngāi Tūāhuriri wishes to signal, its desire, to continue following through on the development of planning mechanisms which will enable greater kāinga nohoanga within its takiwā – both on Māori Reserves and in urban areas.

Where new planning standards impose a “Māori” zone – Ngāi Tūāhuriri would wish to work with Councils to justify, if needed, the refinement of those provisions to ensure that they are the most effective and efficient to enable kāinga nohoanga to prosper.

Transfer of Powers

In addition to the constitutional relationship between the Crown and local government, it is important to recognise that Ngāi Tūāhuriri has a relational connection to its takiwā and has acquired valuable place-based knowledge of the environment over hundreds of years of occupation. Ngāi Tūāhuriri also intimately understands the needs and challenges of its community in respect of its social, and economic situations. Accordingly, there exists a significant opportunity for enhanced place-based outcomes through partnership with local government in terms of social equity and the environment. That partnership may include the transfer of powers.

Section 33 of the RMA enables local government to transfer any of its functions, powers or duties under the RMA to another public authority, including an iwi authority. The legislation makes it clear that a transfer of powers can occur where:

- the iwi authority represents the appropriate community of interest
- the iwi authority has sufficient expertise and technical capacity
- the transfer results in efficiencies

Ngāi Tūāhuriri can be identified as an iwi authority through its inclusion in the First Schedule of the Te Rūnanga o Ngāi Tahu Act 1996 Act. Section 16 of that Act requires Te Rūnanga o Ngāi Tahu to set rules for governing itself in a Charter. That Charter is clear that the ‘tino rangatiratanga’ resides with the Papatipu Rūnanga. Further, Ngāi Tūāhuriri is identified in the Te Rūnanga o Ngāi Tahu (Declaration of Membership Order 2001) as the entity with responsibility for resources and protection of tribal interests within its takiwā. Accordingly, Ngāi Tūāhuriri, is recognised as having

authority to enter into agreements and arrangements with local government in its takiwā.¹¹

The Waitangi Tribunal has observed that the collaborative governance provisions under the RMA have disappointingly unrealised potential.¹² Further, the Randerson Report¹³ prepared for the Labour Government review of the Resource Management Act identified that “Despite the large number of provisions in the RMA designed to provide for Māori interests, these have not been implemented to enable mana whenua to engage meaningfully in the resource management system”

There are a number of regulatory barriers to the exercise of transfer of powers, including:¹⁴

- Local government authorities and iwi authorities need to agree and commit in good faith in the spirit of partnership to enter into a transfer of powers arrangement and in the past there has been no political will to transfer powers.
- [There is currently no local government policy about the exercise of section 33 transfer of powers in Canterbury.
- There is currently no formal application process for iwi authorities to follow to request a transfer of powers.¹⁵
- Council internal administrative processes, structures, funding and technical capacities are not transparent for Rūnanga.¹⁶
- The current RMA process requires public notification of the proposal to transfer powers and invite public submissions, which opens mana whenua up to racism and discrimination from the broader public.
- Iwi authorities are not able to raise rates, in the way that councils do, to support their administration of transfers and in the past, some local authorities have been mistakenly under the impression that they do not have the ability to transfer resources to iwi authorities.¹⁷

¹¹ Rennie, Thomson, and Grayston, ‘Section 33 Transfers — Implications for Co-Management and Kaitiakitanga’ - the inclusion of iwi as public authorities under s33 reflects in part the 1990 Labour Government intention to facilitate the empowerment of Māori through the Runanga Iwi Act 1990.

¹² Waitangi Tribunal, *Ko Aotearoa Tēnei (WAI 262, Volume 1)*, above n 9, 116.

¹³ <https://environment.govt.nz/assets/Publications/Files/rm-panel-review-report-web.pdf>

¹⁴ Randerson report chapter 4 <https://environment.govt.nz/assets/Publications/Files/rm-panel-review-report-web.pdf>

¹⁵ ‘Stemming the Colonial Environmental Tide’.

¹⁶ Rennie, Thomson, and Grayston, ‘Section 33 Transfers — Implications for Co-Management and Kaitiakitanga’.

¹⁷ Rennie, Thomson, and Grayston.

- Central government policy has undermined the exercise of transfer of powers by local government authorities.¹⁸

7. Herenga

Ngāi Tūāhuriri expects that the Councils will create and commit to processes for receiving and supporting requests for the transfer of powers in relation to Māori Land; along with resources to support the process of transfer and implementation.

In the event that s33 is not replaced with an equivalent provision in the reform of the Resource Management Act, Ngāi Tūāhuriri expects that Councils will be open to exploring new ways of expressing and delivering on partnership.

Infrastructure

The provision of infrastructure that will unlock the potential of Māori Reserves remains an on-going challenge. Even with the new capital that Ngāi Tahu gained post-settlement in 1998, the government still retains an unlevel playing field wherein despite the infrastructure created by Ngāi Tahu in new subdivisions, the development contributions made to the Council and GST payments to the central government, none of these ‘taxes’ are directed to Ngāi Tahu reserves.

In the case of Kaiapoi Māori Reserve, Ngāi Tūāhuriri are grateful for the improvements of sewerage and water provision made to date and there is a formal statement of gratitude from Ngāi Tūāhuriri to the Waimakariri District Council.

Ngāi Tūāhuriri is of the view that despite the boundaries of territorial authorities possessing different boundaries to its takiwā, there is a case for the cross-territorial sharing of resources. This is demonstrated by the example of Christchurch city. The city lies within the Ngāi Tūāhuriri takiwā and there has been significant Ngāi Tahu investment and infrastructure development within the city boundary, but none of that investment is redirected to MR873.

The Rūnanga was originally created to act as local government; yet the rates paid by Tribal members are not directed to the Rūnanga.

Ngāi Tūāhuriri also notes the desire of local government to deviate GST from the central government to themselves. Ngāi Tahu have a symmetrical view.

The Greater Christchurch Spatial Plan commits to the prosperous development of kāinga nohoanga on Māori Reserve Land and in urban areas; and identifies that “partnership and work between mana whenua and councils is needed” and must be “supported by investments in infrastructure by partners”. The key commitment from the Partners is “to invest and provide infrastructure to support the

¹⁸ ‘Stemming the Colonial Environmental Tide’.

development of MR873” and up-grade infrastructure where needed in urban areas to enable kāinga nohoanga.

8. Herenga

Ngāi Tūāhuriri expects that the commitment made in the Greater Christchurch Spatial Plan will be carried through with active discussion and participation in an approach for the design and delivery of infrastructure for MR873.

As a first step, it expects that this will be treated as an identifiable and active work programme initiated and managed by the Councils; with funding identified through Annual Plans for development and delivery.

As the Councils have already agreed to the commitment in partnership, it is not expected that Ngāi Tūāhuriri needs to engage as a submitter in any Annual Plan processes.

In circumstances where Ngāi Tūāhuriri is developing urban kāinga nohoanga that require assistance with understanding and delivering infrastructure – it expects that it will be treated as a partner by Council officials; and not an “applicant”.

