

Mark Solomon Keynote  
NZ Water & Wastes Association 50<sup>th</sup> Annual Conference  
Christchurch Convention Centre  
9.30am-10.30am, Wednesday 24 September 2008.

Theme: "Ensuring Water for our Future".

*Promoting forward thinking discussion on what needs to be done to ensure the development of policies that result in an effective and secure water future for all.*

Mihi...

Thank-you for the invitation to address this conference. It's a privilege to be here representing Ngāi Tahu.

I have no doubt that everyone here is very aware of the issues that face our country concerning water, in particular those to do with water quality and quantity - and especially here in Te Waipounamu.

The increasing demand and competition for water and the growing awareness that we must use what we have responsibly and sustainably, are concerns that everyone has a stake in.

Ngāi Tahu is aware of the growing impatience among the community, regulators and the Government about the effects that activities like intensive farming and hydro-electric power generation are putting on the environment and especially water resources and waterways. If we continue down a path of unsustainable use, we will all pay a hefty price.

Today I want to briefly share with you some insights about Ngai Tahu's view of the cultural importance of water and how we view freshwater now and into the future.

Over half the fresh water resources in NZ are located in the rohe of Ngai Tahu, some of the greatest pressures on water quality and quantity are occurring in our backyard, the long term implications for our waters do not look promising, water management systems are failing us, an issue not confined to Te Waipounamu alone.

If you can picture a water way or location in Te Waipounamu, perhaps a favourite site or place like Queenstown or Wanaka, a fishing spot, or a special place over looking water and you will likely be referring to a place that was a traditional or seasonal camp site.

Our ancestors had a thing for location, an eye for places that were sheltered, had access to food resources and connected to water and waterways, and invariably places that conjured up feelings of beauty and awe.

Our traditions, placenames and a strong network of seasonal mahinga kai activity envelop the takiwa.

Water was a central feature, a medium that our people lived with and off rather than seeking to manipulate it to do things that were not natural, it was a resource that the people had no need to control or harness.

It is easy to imagine how a spiritual connection with an unspoilt resource could be formed, allied with an overlay of traditional concepts of creation, of life emerging from the beginning of time, from a time when light and water emerged from the great void, of people being connected by whakapapa to the natural environment.

Add to this customary rights, tupuna who established the right, who today succeeds to that right, and the cumulative knowledge of the water resource and associated catchment and you begin to get a feel for a relationship that has a specific whakapapa extending over many generations.

To Ngāi Tahu water is not only a source of food and physical sustenance, but a source of mana and spiritual sustenance - intricately linked to our well-being, and the hunter gatherer society.

This is the simplest expression of Ngai Tahu's cultural view of water, and I suspect much of it probably resonates with most of you here – we are sometimes more alike in these matters than we think.

So when it came to negotiating with newcomers how these customary rights were to be treated, it is understandable how the Maori version of the Treaty of Waitangi is of such importance to our people. Reference to partnership, protection and participation are strong features of Article II, and water and water sites are specifically mentioned.

No rangatira, no people who practised their customary rights would willingly surrender that which was a source of mana and spiritual sustenance, and intricately linked to their well-being.

While today much attention is paid to the way Ngāi Tahu has grown the value of its economic base and the income from the Settlement assets, for the most part this economic transformation is driven by the desire and obligation to revitalise and restore our cultural identity and social well-being.

As I have eluded to, near the heart of Ngāi Tahu cultural identity lies the environment and our relationship with it. In respect of water there are some very fundamental issues that need to be tackled including ownership and allocation, but the one that really strikes at the core of Ngāi Tahu culture and values is water quality.

To Ngāi Tahu water is a taonga of the utmost importance. It is central to our ongoing identity, particularly in relation to the custom of mahinga kai – our food gathering and hunting traditions.

The three 'p's of Article II of the Treaty ie; partnership, protection and participation have not been recognised in the water management arrangements under the RMA. There is plenty of opportunity for 'participation' that fulfils consultation needs, but not the decision making, 'protection' is not evident by the continued degradation of our waterways, and the principle of 'partnership' is non evident.

An instrument negotiated during our Claim Settlement process to require councils to recognise Ngai Tahu interests were the 'Statutory Acknowledgements' placed over many important waterways in our takiwa, requiring councils to furnish copies of notified consent applications.

Opportunity or the principle of the right to develop or share in development of natural resources has not been addressed adequately. During our Treaty Settlement processes the Crown indicated that the question of water 'ownership' was off the table at that time, a position that has been repeated during the government's Sustainable Water Programme of Action. In the meantime rights to water use are continually being consigned to private interests through resource consents that effectively reduces the amount that is up for discussion and or available to address the customary and in stream interests.

We have concerns that groups with quantifiable needs will continue to be treated differently from Ngai Tahu and other community interests, often it is the 'users' whose values are tangible and measurable who are the winners or more easily accommodated.

Environmental flows usually employ methodologies that originally were used in North America to address concerns about salmon and other fish. It is important that environmental flows take account of a variety of values in our waterways, including cultural values. The reliance on science alone fails to take into account a wider set of values that are legitimate in this discussion.

Research by Moana Tipa and Laural Tiernay produced the Cultural Health Index (CHI) and helps groups to recognise some of the cultural aspects operating in a river when consulting Maori, a holistic indication of stream health. Further work is needed to develop a 'cultural opportunity matrix' as a tool to assess stream flows that link cultural values with environmental indicators helping to underpin information exchanges needed between Maori and resource managers and scientists.

There is a need to encourage innovative research that is validated through the academic and cultural processes as exemplified by Tipa and Tiernay. The level of research funding going into this area of research is minimal, partly constrained by research funding limitations and compounded by a small fraternity focusing on these opportunities for research and development.

The 1997 State of New Zealand's Environment Report highlighted a number of significant issues facing the health of freshwater including widespread pollution from both point and non-point sources, the loss of natural habitat from drainage, flood control, removal of riparian vegetation, waste disposal, stormwater and agricultural runoff.

Alarmingly, a recent review of national water quality trends by Scarsbrook in 2006 reveals that non-point source pollution has become an even greater concern.

Ngāi Tahu have long held such concerns over the degradation of New Zealand's water environments and the negative effects this is having on our traditional relationships with water - particularly with regard to customary rights, access, ownership and management.

Ngāi Tahu relationships with water, however, have been eroded over the last five generations, in spite of the Treaty of Waitangi, and other judicial mechanisms, such as Fenton Entitlements, guaranteeing Māori full rights and ownership of their lands and associated natural resources as long as they wished to retain them.

This denial of recognising the full extent of aboriginal rights guaranteed to us in law led to many waterways being severely polluted and irreversibly changed into unnatural patterns.

Some would argue that New Zealand legislation over time has progressively extinguished both Māori Treaty rights and aboriginal title to water. They point to the Soil and Water Conservation Act 1967 for instance which vested the sole right to use water in the Crown. The Crown has also assumed ownership over the beds of navigable rivers, through a number of statutes passed since 1903.

However, these statutes are directly comparable to the statutes relied upon in relation to the foreshore and seabed, which the Court of Appeal found to be insufficient to extinguish Māori customary title.

Therefore, it is more than likely that these statutes have not extinguished customary rights to the beds of rivers. As yet, it is unknown how they apply to the actual water in the river, but it is arguable that they are similarly insufficient to extinguish customary rights over the water.

It is equally important to point out that Māori environmental philosophy does not extend to owning natural resources in the sense of ownership or title as interpreted in recent newspaper articles or at the time of the Seabed & Foreshore debate.

Rather, the place of Māori and Ngāi Tahu in the natural order is equal to all other living things and that we share the privilege of being able to sustainably use resources for our sustenance and needs. This ethic is encapsulated within the term kaitiakitanga which most of you will be familiar with.

I mention these issues too, because some believe that customary rights held in aboriginal title are a modern construct. In fact, they were already a centuries old part of the immense package of English law that took force in New Zealand in 1840 by virtue of Article III of the Treaty of Waitangi. It was when we all became British subjects that Māori customary rights became part of the rule of law.

In the meantime, Ngāi Tahu continues to raise water-related concerns under the Resource Management Act, the Waitangi Tribunal and with statutory monitoring and planning agencies.

These bodies however are largely driven by western science that has always struggled to adequately include Māori cultural values in freshwater management, freshwater food-gathering standards, data gathering techniques, analysis, reporting and the development of policy.

Perhaps a question that needs to be asked is what risk would tangible relationships between major water users in the Ngai Tahu takiwā pose? For example there are at least three major power generators utilising tribal waters, plus many irrigation companies. Such 'partnerships would require recognition of each partners values and core responsibilities, placing a wider range of values on water management and use, sharing benefits and bring Ngai Tahu directly into the tent pre-empting costly and time consuming ownership challenges in the future.

In 2007, Ngāi Tahu decided to take an initiative in the area of Māori cultural values in relation to water. In conjunction with the 18 Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu undertook a cultural health study of South Island waterways aimed at quantifying how we view the current health of waterways in Te Waipounamu.

To do this, 100 freshwater sites from 20 catchments throughout the South Island were assessed using the 'Takiwā' cultural environmental monitoring and reporting tool. This tool allows us to record, collect, collate and report on the cultural health of significant sites, natural resources and the environment within our respective region – the aim being that this will allow iwi to play a greater role in environmental management.

Overall, the results of the study found selected South Island waterway sites to be in a state of *moderate to poor* cultural health.

In particular, the assessments highlight significant issues with the management of the riparian zone and the importance of this area as a habitat for native plants, birds, fish and other wildlife, and as a buffer from the negative impacts of surrounding land-use.

The study also highlighted significant issues with non-point and point source discharges and the failure of recreational water quality standards to protect customary freshwater food gathering practices and users.

The majority of sites displayed a complete lack of native riparian or wetland vegetation, extensive modification of the riparian margin and often intensive land-use right up to the edge of waterways - and sometimes in to the waterway.

A number of sites also had visible and direct discharges.

Although the overall assessment was moderate to poor, there were some sites and features that were seen as positive and provide ideas for how future management may be able to improve the cultural health of waterways.

These included the presence and abundance of remnant and/or restored native riparian vegetation and the separation of waterways from intensive land-use. There are already of course a number of farmers and other land users who use these techniques as part of their land management.

Protecting, enhancing and extending native riparian and wetland buffers is seen as one of the most effective ways to help restore and protect both our urban and rural waterways.

For Ngāi Tahu promoting riparian restoration and dealing with the sources of contaminants is seen as the most important challenge for the future management of waterways in Te Waipounamu.

Ngāi Tahu can't make changes like these on its own – it's going to take co-operation and understanding to create a future where our waterways aren't little more than drains to carry away our waste and by-products.

I believe that Ngāi Tahu can and should work with all stakeholders. Together we could make greater changes to the health of our waterways than can be achieved by solely working with councils for instance.

The RMA and council processes often put Māori in positions where we are at loggerheads with consent applicants, rather than creating situations that encourage co-operation, sustainable and win-win outcomes.

Ngāi Tahu are convinced that given better understanding of the benefits that can come from simple techniques like planting native vegetation on the edges of waterways we can make significant in-roads towards saving our waterways with little impact on land use practices.

I think for most water users in the South Island, the idea of sitting down with Ngāi Tahu to discuss these issues is a lot less scary today than it was twenty years ago. There's now much greater understanding of our cultural position on water and how much we have in common

Perhaps having got to know us better in various ways, there is less fear of the unknown and perhaps a measure of respect from the practical people of the land for what we are achieving in practical social, cultural and economic terms.

Elsewhere however barriers to understanding remain. Perhaps it is a lack of guidance from the Crown who also struggle with understanding the nature and extent of customary rights

Perhaps there's a fear that Māori will pillage the resource? Or perhaps a fear that they won't allow the resource to be pillaged.

I think it's important to realise that the cultural importance of water is not something that just Ngāi Tahu believes in. This is knowledge that's held dear in all marae around the country – and that includes the one nearest to you.

Earlier, I referred to the Ngāi Tahu custom of mahinga kai. This is one of the backbones of our culture and traditions. In its simplest form mahinga kai means “work the food” – this is about understanding the land, the seasons and the lifecycles of the creatures that live on the land and in the water.

Water is the life blood of the land and of industry – together we can make sure we create a future that sustains both.

Kia ora koutou...