

## TE MANA O TE WAI

### New concept, old words for governing freshwater in Aotearoa New Zealand

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#### Abstract

To address the freshwater crisis in Aotearoa New Zealand, regional councils must give effect to a relatively new term, Te Mana o te Wai, which is based on a very old word: “mana”. While local understandings are emerging, questions remain among Māori about what Te Mana o te Wai means. This conceptual article reviews the literatures to discuss and define Te Mana o te Wai. Four types of mana emerge from the scholarship: mana comes from the atua; mana is a spiritual power; mana is a generative power, and mana is the authority to control. There is also a fifth aspect: mana is a power that can be taken. The answer to the question of what Te Mana o te Wai means lies in the old words. Māori must turn to them to define Te Mana o te Wai and push for mana to be restored across all dimensions.

#### Keywords

freshwater governance, Indigenous knowledge, mana, mātauranga Māori

I think those things which were taken from us  
should be restored under that treaty.

—*Tare of Ngāti Whātua, Māori Parliament*  
*at Ōrākei, Auckland, 25 February 1879*

This article examines a relatively new term, Te Mana o te Wai, which uses a very old word, mana. Te Mana o te Wai is the fundamental concept of the National Policy Statement for Freshwater Management (hereafter “National Policy Statement”).<sup>†</sup> In Aotearoa New Zealand,

the status of Te Mana o te Wai in freshwater policy, as it is prepared and implemented across the country, is significant. Internationally too, the centring of Indigenous knowledge in the decision-making frame is an important marker of Indigenous development in freshwater governance (see, e.g., McGregor, 2014). Te Mana o te Wai is to be given effect by regional councils who have statutory responsibility for promoting sustainable freshwater management under New Zealand’s principal environmental legislation, the Resource

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† At the time of writing, the government was consulting on replacing the National Policy Statement for Freshwater Management 2020. The implications of these proposals are addressed at the end of this article.

Management Act 1991. The requirement to “give effect” means to “implement” and is “a strong directive, creating a firm obligation on the part of those subject to it” (see *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] at [77]).

Giving effect to Te Mana o te Wai relies on defining the term. In the National Policy Statement, Te Mana o te Wai is articulated as:

A concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment and the community. (clause 1.3)

To implement the National Policy Statement and give effect to Te Mana o te Wai, tangata whenua, regional councils and communities must come to a localised understanding of Te Mana o te Wai. Accordingly, “Every regional council must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.” My own work as an adviser to a regional council on iwi engagement with the National Policy Statement told me that iwi and hapū are at different places with regard to defining Te Mana o te Wai. Some have done this work. Ngāi Tahu ki Murihiku, for example, have developed an expression of Te Mana o te Wai that emphasises hauora, which for them means “fit, well, vigorous and robust” (Kitson & Cain, 2022). Others are still in the process.

This conceptual article enters that space and discusses and defines Te Mana o te Wai drawing on the Māori, Waitangi Tribunal reports, and other literatures about mana and water. Mana—“the authority of the author” (see Feekery & Jeffrey, 2019)—was a key factor in selecting the literature. Māori literature was prioritised first, privileging Māori scholarship on mana. The reports of the Waitangi Tribunal were prioritised second. As the commission of inquiry that hears claims by Māori against Crown breaches of the Treaty of Waitangi, the document that effected the colonisation of Aotearoa, the Waitangi Tribunal produces reports that contain a wealth of Māori evidence and analysis of Māori concepts, including mana. Literatures outside these two groups were prioritised third.

This article seeks to answer questions about Te Mana o te Wai circulating in te ao Māori by

turning to the scholarship. These questions include “What is that concept?” “How does that apply?” “What does that mean on the ground?” (Reginald Proffitt, personal communication, 27 September 2023). A deep well of intellectual work about mana and water exists and we (Māori) should use it, because at some point non-Māori institutions will start telling us what Te Mana o te Wai is. To pre-empt or respond, we need to draw on our own knowledges, in the text and on the land. Linda Tuhiwai Smith (2021) reminds us that in turning towards ourselves to define concepts such as Te Mana o te Wai we engage in the political act of resisting being defined by others.

Such resistance might involve subverting colonising interpretations of essentialism and authenticity—for example, that the scholarship is less Māori than the on-the-ground experience, or that new terms, such as Te Mana o te Wai, are not really Māori. This article opens a space for Māori voices in the literature to speak alongside those that resound from the whenua, with each voice having their own authority. The written narratives confirm an essence of Te Mana o te Wai that is relational, connecting humans to the natural and spiritual worlds, and explaining our place and responsibilities in the cosmological order. This confirmation serves a strategic purpose, strengthening Māori claims to rights to environmental protection and a seat at the decision-making table; rights articulated in the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007; see, e.g., Articles 18 & 29).

Four elements of mana as it relates to water emerge from the literature: mana comes from the atua, mana is a spiritual power, mana is a generative power, and mana is the authority to control. A fifth dimension is also relevant: mana is a power that can be taken. This facet points to the words that Tare of Ngāti Whātua proclaimed in 1879, which are stated at the beginning of this article. They remain as relevant now, as they did then. A 2023 report by the Ministry for the Environment and Stats NZ revealed that more than two-thirds of Indigenous freshwater birds and 76% of Indigenous freshwater fish are threatened with extinction or are at risk of being threatened. Nearly half of freshwater lakes have poor or very poor water quality. Forty-five per cent of rivers are not suitable for swimming because of the risk of infection with *Campylobacter* bacteria, which cause vomiting and diarrhoea. Rightly, the co-chair of the Climate Directorate for the National Iwi Chairs Forum, Mike Smith, has

described the situation as “carnage” (Chittock, 2023).<sup>‡</sup>

In this space, where action and recovery are urgently needed, the question of what Te Mana o te Wai means, and what regional councils will be giving effect to, is critical. Taylor (2022) suggests that “progressive, potentially transformative concepts” like Te Mana o te Wai “might just provide the change in attitudes and behaviours that we need as a country to reverse degradation of our rivers and lakes” (p. 89).

Accordingly, this article concentrates on the four types of mana, discussing each of them in depth, before analysing how mana was and can still be taken using the law. This idea of taking is critical to thinking about restoration. There is hope that what has been taken can also be repaired, but there is also a warning to be vigilant. The article concludes with a definition and depiction of Te Mana o te Wai as a frame for understanding and governing water in Aotearoa New Zealand, and some encouragement to not be distracted by new terminology. We already have the knowledge of our own words.

### Mana comes from the atua

Mana comes from the atua (Barlow, 1991; H. Smith, 2011; Waitangi Tribunal, 1997, p. 23). Atua, as defined by Barlow (1991), are commonly understood to be “the gods responsible for the creation of the universe: the planets, stars, sun and every living thing on the earth, including mankind” (p. 11). But in a discussion about Tangaroa, the atua of the sea, Royal (2012.) refers to Tangaroa as an “energy with all its forms, moods and expressions”. For him, the translation “god of the sea” does not capture the full nature of Tangaroa. Here, I accept both explanations of atua: as personifications and as forces and entities that take shape in the environment and in the material realm.

In seeking the source of mana, the customary narratives provide a whakapapa, a genealogical order. Some narratives emphasise Io-Taketake, “the ground of being, root cause, creator” (Marsden, 1988, pp. 9–10), as the beginning. Others start with Ranginui and Papatūānuku, the sky and the earth, and their many children who brought into existence the natural and spiritual worlds. Either way, the origins of mana are supernatural, but connected through whakapapa to people and the ecosystems in which we live. For human and

beyond-human beings, such as rivers, streams, lakes and swamps, mana is inherited.

In te ao Māori, the idea of sentient and non-sentient beings is perhaps irrelevant. Everything is descended from the atua and is thus endowed with mana and the other “essentials for life”: hau and mauri (E. T. Durie et al., 2017). Elements of the natural world are considered tuakana, senior siblings to people, and all are part of a genealogical line stretching back to the gods. Whether these elements are personified as deities or regarded as vibrations and entities, they are understood as being able to feel things. The framing of whakapapa requires relating, and relating entails feeling.

Best (1924) documented Parawhenuamea as the atua of freshwater, but in other narratives the atua is Maru. For example, in the karakia below, which is said before eating to acknowledge the sources of food, Maru is acknowledged as personifying freshwater bodies and the foods they provide:

Nau mai e ngā hua	We acknowledge these fruits
O te wao	Of the forest
O te ngakina	Of the garden
O te waitai	Of the sea
O te waimāori	Of the lakes, rivers and streams
Nā Tāne	Belonging to Tāne, atua of the forest
Nā Rongo	Belonging to Rongo, atua of cultivated foods
Nā Tangaroa	Belonging to Tangaroa, atua of oceans
Nā Maru	<i>Belonging to Maru, atua of freshwater</i>
Ko Ranginui e tū iho nei	Woven to the celestial energies
Ko Papatūānuku e takoto ake nei	Woven to the terrestrial energies
Tūturu whakamaui kia tina, tina!	Affirm it!
Haumi ē, hui ē, tāiki ē!	We are united and ready to proceed!

Parawhenuamea is the daughter of Hine-tūpari-maunga (also known as Hine-maunga and Hine-pari-maunga), the female representation of mountains, and Tāne-mahuta, god of the forests

<sup>‡</sup> The National Iwi Chairs Forum is an informal group of chairs of mandated iwi and hapū representative bodies. The purpose of the group is to “share information ... work collaboratively on key priorities of iwi ... and Advocate the collective priorities of iwi ... in discussion with others recognising the rangatiratanga/independence of iwi” (National Iwi Chairs Forum, n.d.).

and birds (Tangatatai, 2014; Te Whare Taonga o Waikato Museum & Gallery, 2020). According to Best (1924), Parawhenuamea married Kiwa, the guardian of the ocean, joining the rivers to the sea. Aroha Yates-Smith suggests that Parawhenuamea is also a representation of alluvial silt, with “para” meaning sediment, “whenua” meaning land, and “mea” being an ancient word for red (Te Whare Taonga o Waikato Museum & Gallery, 2020). Similarly, in Best’s (1924) recordings, Parawhenuamea is identified as the “parent or origin of *oneparahua* and *onepu* (alluvial deposits, silt and sand)” (p. 167). These cosmological narratives weave the forces of nature to one other and to people by way of whakapapa, generating a framing that emphasises a holistic and relational view of the world. However, the narratives do not just prioritise relationships between physical processes and phenomena. They take for granted the presence and connective flow of wairua, of spiritual and supernatural energies, which in te ao Māori are a normal part of reality (E. T. Durie, 1994). One of these energies is mana.

### Mana is a spiritual power

Mana is a spiritual power that comes from the atua and with which water is imbued. This spiritual power is evident in several ways. For example, water is a medium that can remove tapu. Benton et al. (2013) define tapu as

a key concept in Polynesian philosophy and religion (along with mana and noa), denoting the intersection between the human and the divine. The term is thus used to indicate states of restriction and prohibition whose violation will (unless mitigated by appropriate karakia and ceremonies) automatically result in retribution, often including the death of the violator and others involved, directly or indirectly. (p. 404)

Hirini Moko Mead (2003, pp. 142–144) explains the use of water to remove tapu during tangihanga. Those who have attended the burial will, upon leaving the urupā or cemetery, sprinkle themselves with water to cleanse themselves of tapu. The final part of the tangihanga is a ceremony to lift the tapu from the house of the deceased. Termed takahi whare, or “tramping the house”, the ceremony involves a tohunga sprinkling water and reciting karakia in each room to remove the tapu from the dwelling, making the house noa. Mead (2003) describes noa as a state at which “balance has been reached, a crisis is over, health is restored and life is normal again” (p. 32).

Consistent with the belief in the spiritual power of water, maintaining the purity of water was prioritised. E. T. Durie et al. (2017) set out the ways in which water was managed to sustain its wairua. Waste discharge to water was prohibited. Separate waterways were used for distinct tasks, for ceremonies, and everyday activities, such as washing clothes, to maintain spiritual and physical sanitation. Both types of cleanliness were important in daily life and sacred customs. Furthermore, different types of waterways were used in ritual. Flowing water was used in tohi performed over children. During tohi, the child would be immersed in or sprinkled with water. They would be dedicated to an atua to endow them with desirable mental and physical traits. Puna were highly valued for their purity. According to Rawinia Higgins (2013), when a rangatira was dying, they would often request “a particular food, or water from a particular spring ... These were the ‘ō matenga’, the death provisions that would sustain the spirit in its journey after death.”

Waterbodies are guarded by taniwha, which the Waitangi Tribunal (1999) has defined as “revered water creatures of extraordinary powers” (p. 42). Best (1924) recorded that taniwha are descended from Parawhenuamea and, as such, are tapu. In the whakapapa, taniwha are surrounded and sheltered by their kin: horu and stones, gravel and sand, which are all protected by their ancestress, Parawhenuamea. Taniwha appear in multiple forms, such as *tuna*, rocks and logs. Taniwha on the Whanganui River, for example, can change the landscape and course of the river by thrashing their tails (see Waitangi Tribunal, 1999). They can be malevolent towards law breakers and outsiders who are encroaching on territory with bad intentions, and protective of the home people, guiding them safely on their river journeys. They can be ancestors in spiritual form, including those who were part of the migrations of Māori to Aotearoa. The presence of taniwha affirmed the relationship of the people with the reach of the river that they lived on. Disrespecting the water is therefore an insult towards the people and invites retaliation, whether that be environmentally, spiritually or legally.

Taniwha are kaitiaki, supernatural entities that facilitate a relational understanding of the river ecosystem; explain and warn of change in the river; emphasise a familial connection with past, present and future generations; bring attention to very localised connections that may get subsumed by a broader focus; and encourage a respectful and careful relationship with the water.

Perhaps Maisey Rika (2012) says it best in her song “Tangaroa Whakamautai [Tangaroa, Commander of the Tides]”, when she describes Tangaroa in all his forms: “he kaitiaki, he taonga, he tipua, ariki, he taniwha”—a guardian, a precious treasure, a supernatural entity, a god of ancient realms, a water spirit. Tangaroa is all these things, and so are taniwha.

### Mana is a generative power

The regenerative capacities of the natural world are also a manifestation of mana, making mana a procreative and restorative power. According to Barlow (1991), this type of mana was implanted in Papatūānuku, and is “associated with the ability of the land to produce the bounties of nature” (p. 61). In Māori thought, the land includes the water (E. T. Durie et al., 2017). James Ritchie referred to this form of mana as mana huaanga,

which arises from riches, the possession of resource rich territories or resources, the fruits of the bush, its birds, the eels, gardens and waters, inland or oceanic. These not only sustained the iwi but with these good things they could make their mana material through the hospitality they could offer and the koha which they could carry when they travelled or joined others in celebration, or to mourn. (Waitangi Tribunal, 1999, p. 35)

In the Waitangi Tribunal’s (1985) report on the Manukau claim, the riches of the Manukau Harbour and the tributaries that fed it are recalled: [Witnesses] referred to the harbour’s once plentiful supply of flounder, mullet, pioke shark, skate, trevally, snapper, kahawai, kingfish, parore, tarakihi, moki, herring, stingray, lemonfish, hāpuku, limpet, crayfish, toheroa, pipi, scallops, mussels, paua, kina, pupu, oysters, toitoi, karengo and sea fungus, and to the eels, koura, trout, whitebait and watercress in the rivers and creeks. (p. 39)

There is a close relationship between mana, mana huaanga, and manaakitanga. E. T. Durie et al. (2017) refer to manaakitanga as “the key conceptual regulator of conduct” in relationships, and define it as “the reciprocal enhancement of the mana of each other when people engage” (p. 18). Mead (2003) also emphasises the special status of manaakitanga, asserting that “all tikanga are underpinned by the high value placed upon manaakitanga – nurturing relationships, looking after people, and being very careful about how others are treated” (p. 29).

Manaakitanga is a value and practice that is

always important in relationships, regardless of context, but it is commonly demonstrated through hospitality. According to the Waitangi Tribunal (1999), “Mana was also at the heart of gift giving ... Lavish presentations of food for important visitors were a powerful expression of the mana of the people providing them” (pp. 36, 38).

Customary fishing is a site where all three concepts—mana, mana huaanga, and manaakitanga—are practised. Through the memories of Sir Douglas Kidd, Huhana Smith (2011) demonstrates the interwoven nature of these values, and the ways in which they are lived and embodied in the people who are connected to the land and sea:

Whole communities both Māori and non-Māori, would engage in customary harvest activities. Sir Douglas Kidd, a former minister of fisheries, grew up in Kuku, a predominantly Māori community in the southwest Horowhenua region of the North Island. As a young person in the late 1940s and early 1950s he would join the throng of local people, mainly family groups, who congregated for hauling or fishing at the local beach. He recalled one occasion when four strong young Māori men took a large net out into the surf using a long mānuka (*Leptospermum scoparium*) pole. Others fed them the extensive net as they pushed into the waves to set it:

‘The rope net was about thirty or forty yards and they used to get huge amounts of fish, including monstrous stingrays. All the kids would flee in terror when [a stingray] flicked its tail ... [Y]ou peered through people’s legs and I remember there would be a designated person assisted by men in their late thirties or forties (perhaps the chief’s children) who would divide the catch, and everybody or every family present went home with fish. There was no cutting or cleaning allowed on the beach, the net was detangled, rolled up and heaved onto a truck, probably the only truck in the district. And everybody toddled off like nobody had been there.’ (p. 159)

The narrative demonstrates that manaakitanga is inclusive and involves sharing the bounty of Tangaroa with others. Fishing is an example of a collective activity where everyone contributes for the benefit of the whole. All generations are involved, from children to adults. Tangaroa is respected; fish are not gutted on the beach and no rubbish, which might contaminate and disrespect Tangaroa’s realm, is left behind. This single activity provides for intergenerational learning and connection to each other and to the environment.



The system of principles and rules that organises the activity is Māori.

Mana, as *mana huaanga*, is a generative power that enhances the mana of the people. It enables them to sustain themselves, and to *manaaki* others who, in turn, will reciprocate when the time comes. Mana supports the resource base, which sustains the people and enables the continuation of their values, practices and relationships. These relationships are not only reciprocal between the people but also between the community and their territory over time. This responsibility of the people, to the environment and to each other, past, present and future, is called *kaitiakitanga*. Merata Kawharu (2000, p. 355) refers to these obligations, respectively, as *mana whenua* and *mana tangata*. There is also a duty to the gods, which she refers to as *mana atua*.

*Kaitiakitanga* “is based on *whakapapa* (genealogy), lineage” (Minhinnick, 1989, p. 4). As such, it is to be carried out by the *tangata whenua*. Contemporaneously, however, *kaitiakitanga* must be supported by others (Kawharu, 2000, p. 367), without such others claiming that they are *kaitiaki*. Despite colonisation and land loss, *kaitiakitanga* remains “the practical exercise of ... *rangatiratanga*” (Kawharu, 2000, p. 367), or “paramount power and authority” (Mutu, 2011, p. 16). In the contact period between Māori and Europeans (1769–1840; see E. T. Durie, 1994), “*rangatiratanga*” emerged as a new word developed from the base word “*rangatira*” to convey Christian ideas about God’s kingdom and Māori ideas of sovereignty, leadership and self-determination (see Kawharu, 2000, p. 350; Mead, 2003, p. 36). The old Māori word for these qualities is “mana” (see M. H. Durie, 1998, p. 1).

### Mana is the authority to control

In a political sense, mana is the authority to decide and control how resources are used and managed (see E. T. Durie et al., 2017; M. H. Durie, 1998, p. 1; Waitangi Tribunal, 1988, p. 181). Mason Durie points to the use of mana in He Whakaputanga o te Rangatiratanga o Nu Tirenī Declaration of Independence of the United Tribes of New Zealand. Signed in 1835 by 34 northern *rangatira*, the intention of the declaration, according to Manuka Henare (2014), was to say to the world: “These islands indeed belong to Māori people ... we are a free and independent people, we’re open to discussions about trade, we will form a Parliament to pass laws on trade and justice and peace, and we are looking for partners.” In effect, we are sovereign; we are in

charge; we are an economic power seeking to grow and expand. Putting this intention into words, the text of He Whakaputanga states:

Ko te Kingitanga ko te mana i te wenua o te whakaminenga o Nu Tirenī ka meatia nei kei nga Tino Rangatira anake i tō mātou huihuinga . . .

All sovereign power and authority within the territories of the United Tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity . . . (Waitangi Tribunal, 2014, pp. 168–169)

The aspects and practical application of mana can be seen in evidence regarding the *rangatira*, Popata Te Waha, and his mana over the huge and highly organised shark fishing expeditions at Rangaunu Bay (see Waitangi Tribunal, 1988). In a reading before the Auckland Institute of the Royal Society of New Zealand, R. H. Matthews (1910) recounted in vivid detail an expedition he was invited to attend in 1855:

[T]he mana, or authority, over the *kopua* (the deep) was solely exercised by Popata Te Waha, who had inherited it from his ancestors. It was he who issued the *panui*, or notice, of the date of the *maunga* (or catching), and who fired the signal gun from his headquarters at Okuraiti to notify the camps at Te Unahi and Pukewhau that sharks would be caught that night . . . Popata Te Waha’s *mana* over the *kopua* was acknowledged by all the surrounding tribes . . . and all the numerous *kaingas* or settlements within this boundary. Maoris from all these places were represented at the great *maunga*. (p. 598) Popata Te Waha’s mana was not vested in an institution, demonstrating Edward Taihākurei Durie’s observations that mana is embodied in and practised by people. Mana is “ascribed and achieved”, meaning one’s mana is inherited, but it can also be improved through the exercise of “mana enhancing traits”. These qualities include “bravery, hospitality, eloquence, generosity, honesty, integrity, fearlessness, honourableness and scrupulous adherence to promises” (E. T. Durie, 1994, p. 37). Such attributes were to be employed for the benefit of others. Selfishness and individualism were discouraged and service to the collective was paramount. The task of the *rangatira* was to ensure that the people would survive and flourish.

Mana is an expansive concept that is used in many ways, but its meaning in He Whakaputanga

was clear: ‘[I]t spells out authority and control’ (M. H. Durie, 1998, p. 2). As such, mana “confers a larger capacity than kaitiakitanga” (E. T. Durie et al., 2017, p. 30), which some have suggested is preferred by the Crown as a less threatening alternative. At the other end of the spectrum, mana may also include ownership, which Jacinta Ruru (2022) has called “arguably the most significant water issue facing this country” (p. 325).

In the pre-contact period, the people were the hapū, primarily. But post-contact and today, the people include Māori and everyone else. Te Atihaunui-a-Pāpārangī leaders who gave evidence to the Waitangi Tribunal during the Whanganui River inquiry accepted reasonable use of their river by the public, so long as their mana was respected (see Waitangi Tribunal, 1999). Their mana was exclusive to them, but it provided a frame within which others could be included. Conflict arose when settler-colonisers refused to recognise Te Atihaunui authority. In 1999, the year the Whanganui River report was published, the Tribunal pointed out that modern river management is so complex that cooperation is required. Twenty-one years later, the National Policy Statement opened up a space for such inclusion to be activated, but elected representatives have to push the button. Such representatives tend to be unwilling to share (see Rennie et al., 2000). This tendency is inherited from the early settler-colonisers. Mana is a power that can be taken

Colonisation had significant impacts on all of the dimensions of mana, incrementally dismantling and eroding it at all levels. Most notably, colonisation severed the relationships of Māori with their resources, such as water. Land alienation and the law facilitated political and physical exclusion, and drove a sea of environmental destruction and social, economic and cultural disruption, all of which have accumulated into disparity, inequity and loss. Mana as land ownership is irrecoverable across much of Aotearoa, and freshwater decision-making—mana whakahaere—is vested in others.

Water was central to colonisation. Along with land, the Crown needed water to facilitate settlement and promote land “improvement” as the engine of economic development in the new economy. Such improvement involved draining wetlands and clearing native forest to convert the land to pasture. In the eyes of the settler-colonisers, swamps were rank, unoccupied wastelands with fertile soils that were best drained and cultivated (Park, 2002). Forests stood in the way of progress (Brooking & Pawson, 2011) and, by the early 1890s, were “fast disappearing

before the settler’s axe” (von Dadelszen, 1893). To effect this conversion of wetlands and forests to farmland, Parliament passed a chain of legislation that gave the Crown and other institutions control—mana—over water.

One of the earliest laws to grant powers in water to local authorities appears to have been the Highways and Watercourses Diversion Act 1858 (see Waitangi Tribunal, 1999; White, 1998). Under this Act, provincial councils could divert and dam rivers and streams, sell the beds of rivers and streams that were diverted, and build structures such as bridges and wharves on the beds and banks of waterways. Māori were not represented on councils, nor were they compensated when rivers and streams that they used and possessed as part of the wider tribal estate were modified, damaged, destroyed or alienated.

In 1876, councils were given wide powers under the Public Works Act to affect land and water for drainage purposes. Under this Act, any natural watercourse, except a navigable river, could be declared to be a public drain and under the control of the county council. Councils could take any land for drainage purposes, build new drains, widen, deepen or alter the course of any drain, and enter any land to take materials to build or repair a drain.

These powers were later transferred to drainage boards under the Land Drainage Act 1873.

Drainage boards were deemed to be local authorities under the Act and, as such, were elected and governed by ratepayers. White (1998) argues that this policy would have been prejudicial towards Māori, who by the 1890s were significantly outnumbered by Pākehā and had been dispossessed of 83% of their lands (see also M. H. Durie, 1998, p. 119). Few Māori paid rates, and those who did were clearly a minority who would have exercised little political influence, especially with severely diminished landholdings.

Along with drainage boards, river boards also had extensive powers over rivers, streams, and other waterbodies. Established under various local Acts from 1868, and then national legislation from 1884 (see Roche, 1994), river boards could take land without the agreement of the owner; divert, dam or take water; and change the course of any stream or river—all under the auspices of flood protection. River boards also had the status of local authorities (von Dadelszen, 1893) and were governed and elected by ratepayers. Like drainage boards, river boards could levy rates and raise loans to pay for flood protection works, and select the contractors who would build them.

With tribal land and their economic base fast disappearing, Māori worked as contractors for river and drainage boards building stopbanks and digging drains to make a living. One claimant to the Waitangi Tribunal's (2006) Hauraki inquiry remarked:

We never got to participate in the new wealth that was supposed to result from the [drainage] schemes. Because we had so little land left the drainage schemes produced fewer benefits to us except as labourers. On the other hand we paid a high price in land and the loss of rich swamp and river resources. (p. 1148)

That Māori would one day work as labourers on their own land was predicted by Rewa, a rangatira who was present at the signing of the Treaty at Waitangi on 6 February 1840. According to Ranginui Walker (2023), Rewa and other rangatira opposed Governor Hobson's presence if it meant that their status, their *mana*, was deemed beneath his. Walker (2023) states that "Rewa told the governor bluntly to return to his own country. He even issued a prophetic warning that those who signed the Treaty would be 'reduced to the condition of slaves and compelled to break stones on the roads'." Other laws vested rights in water directly in the Crown. Under the Coal-mines Act Amendment Act 1903, the beds of all navigable rivers and the minerals in them were deemed to be "the absolute property of the Crown" (s 14(1)). In the same year, Parliament vested the sole right to use water in lakes and rivers to generate hydropower in the Crown under the Water Power Act 1903 (s 2(1)). The Crown could then grant this right to a third party, such as a council or corporation. The rights of the Crown in water were expanded under the Water and Soil Conservation Act 1967 to include "the sole right to dam any river or stream, divert or take any natural water, or discharge natural water or waste into any natural water, or to use natural water" (s 21(1)).

A suite of planning legislation vested the right to plan—that is, the designing or controlling of urban or economic development—in local authorities and government departments. The Town Planning Act 1926 and the Town and Country Planning Act 1953 required local authorities to prepare town and regional planning schemes. Schemes under the 1926 Act were to deal with sewerage, drainage, sewage disposal, and water supply. These matters were expanded under the 1953 Act to include harbours, navigable waterways and

power generation. Neither Act made any provision for Māori or the Treaty of Waitangi.

In these words, in these laws, stretching back to at least 1858, we see the Crown taking the *mana*—the authority to decide and control how resources are used and managed—and vesting that authority in itself, a network of local institutions, and others. The taking did not happen all at once. It happened over a century, and was an endless chipping-away. The cold realisation of what had been taken, but not ceded, is evident in the Proceedings of the Māori Parliament at Ōrākei in 1879. Among others, Te Hemara expressed the bitter truth:

The words of the Queen were that the *mana* of the Chiefs would be left in their possession, that they were to retain the *mana* of their lands, fisheries, pipi-grounds, forests . . . the pakehas . . . have taken the *mana* of the whole Island. They do not leave any *mana* over the land or the sea to the chiefs. (Appendix to the Journals of the House of Representatives, 1879, p. 17)

In response, Tare declared: 'I think those things which were taken from us should be restored under that treaty' (Appendix to the Journals of the House of Representatives, 1879, p. 25).

### Taking and restoration, despair and hope

At the time of writing, the Crown is consulting on replacing the National Policy Statement for Freshwater Management. The proposals include an option to completely remove Te Mana o te Wai (Ministry for the Environment, 2025, p. 16), thus continuing the legacy of the Crown taking *mana* through the means of law and policy. The words of Te Hemara and Tare ring true at this time: Attempts to take *mana* are ongoing, but restoration too remains possible. This section of the article considers these opposing forces—taking and restoration, despair and hope—in the context of implementing the four dimensions of *mana* within and beyond the structure of the National Policy Statement.

Beginning with *mana atua*, the seniority of freshwater in relation to people is recognised in the National Policy Statement in the hierarchy of obligations. This hierarchy prioritises the health and wellbeing of freshwater above human health needs and social, economic and cultural wellbeing. At every step of implementing the National Policy Statement, the hierarchy of obligations is to be applied. However, in October 2024, the government introduced a change to the Resource



Management Act to prevent local authorities from applying the hierarchy when making decisions on resource consent applications that affect water—a veiled attempt perhaps to exclude Māori from the consenting end of the planning process.

In response, various strategies emerge. As a priority, it is vital for regional councils to continue relationships with Māori, and to ensure ongoing Māori inclusion in plan development and implementation. The Māori voice throughout the planning process must endure. Second, councils can tighten the objectives and policies in regional plans to uphold Treaty settlement legislation and Iwi Management Plans that align with Te Mana o te Wai. Third, in policy and political circles, there is a role for advocates to promote the restoration of the original order of the hierarchy of obligations. The order is the line between the atua and the mundane, flourishing and decline.

Mana huaanga, the abundance of freshwater, is recognised in the compulsory mahinga kai value in the National Policy Statement. The compulsory status of mahinga kai requires that mahinga kai be managed under a National Objectives Framework across all freshwater bodies. The text of the mahinga kai value aligns with the narratives in the literature by stipulating that, for example, kai is safe to harvest and eat; knowledge about the preparation, storage and cooking of kai is able to be transferred; and the desired species are present across all life stages and plentiful enough for long-term harvest (Ministry for the Environment, 2024, p. 39).

An example of mahinga kai that demonstrates how mana huaanga might be applied through the implementation of the compulsory mahinga kai value is kōura (*Paraneuphrops planifrons*). Kōura are an important mahinga kai for Te Arawa in the Te Arawa lakes. Alongside others, Ian Kusabs, a Te Arawa fisheries biologist specialising in kōura, identifies sediment particle size as “the strongest driver of kōura abundance and biomass, with kōura populations increasing with sediment particle size” (Kusabs et al., 2015, p. 36). In the Te Arawa Lakes Environmental Plan, Te Arawa Lakes Trust (2019) has developed a narrative objective for kōura, which imagines that “the quality of the water is such that you can see the footsteps of the kōura” (p. 40).

Under the National Policy Statement, regional councils must go through a process of identifying values at place, outcomes for those values, attributes that enable progress towards those outcomes to be measured, and target attribute states. Regional councils must also develop action

plans and set limits on resource use as rules in their regional plans to achieve the target attribute state. For kōura, as mahinga kai, these steps must be followed. It makes sense that attributes and target attribute states relating to fine sediments be developed, and that rules and action plans be prepared to control sedimentation in the Te Arawa lakes where kōura are found. Te Arawa Lakes Trust (2019) identifies “the removal of sediment from Te Arawa lakes . . . for the purposes of . . . habitat restoration for taonga species” (p. 59) as a policy in its Environmental Plan. Currently, only attributes for sediment in rivers are included in the National Policy Statement. To support kōura, attributes for fine sediments in lakes should also be incorporated.

Mana wairua is partially provided for in the wai tapu value in the National Policy Statement, which requires that wai tapu be managed in freshwater where they are present. In the National Policy Statement, wai tapu are defined as places where rituals and ceremonies are performed. The narrative states that “these places are free from animal and human waste, contaminants and excess sediment, with valued features and unique properties of the wai protected” (Ministry for the Environment, 2024, p. 40). Absent, however, are taniwha and conditions that support taniwha, such as restrictions on activities that cause riverbed disturbance in areas where taniwha are believed to exist. Furthermore, the spiritual potency of water, which extends beyond the spatial bounds of wai tapu, is not recognised in the National Policy Statement. Both, however, could be provided for through the inclusion of appropriate terminology in the wai tapu and human contact values.

Mana whakahaere is not compulsory under the National Policy Statement. Fierce resistance to the freshwater co-governance model proposed by the previous Labour Government (see, e.g., Porter, 2022) suggests that adding a mandatory component to the National Policy Statement to facilitate implementation of the mana whakahaere principle would be deeply unpopular. However, local authority discussions to form shared water services entities indicate that despite central government opposing co-governance (see Brown, 2023), councils are still engaging with iwi as partners in the establishment of the entities (see, e.g., Ellis, 2025). Even in difficult political conditions, the relationships that have developed out of previous collaborative efforts endure (Harmsworth et al., 2016), and can be reinforced by Treaty settlement legislation, such as that for the Whanganui River, which is a legal person under Te Awa Tupua

<b>Mana atua—mana comes from the atua</b> Generates a relational framing that requires people to connect to and feel for the elements of the natural world as beings, and to respect and look after them as fragile yet powerful entities who have seniority in the genealogical order.	<b>Mana wairua—mana is a spiritual power</b> Mana wairua is about careful management that treats water as a potent spiritual medium that lifts tapu and enables ritual, as an entity, and as the lifeblood that sustains entities. Avoiding or reducing pollution and maintaining and restoring the integrity of freshwater ecosystems are priorities.
<b>Mana huaanga—mana is a generative power</b> Emphasises life; a territory rich in diverse and abundant species, which supports practices and values associated with food harvesting, such as manaakitanga, sharing for the collective benefit, respecting the environment as the domain of atua, reciprocal relationships, and kaitiakitanga.	<b>Mana whakahaere—mana is the authority to control</b> Focuses on decision-making, and on Māori and regional councils partnering in relation to freshwater. Partnering at the decision-making level is necessary because it affects planning and management and the implementation of all the other aspects of mana in the framework.
<p style="text-align: center;"><b>Mana is a power that can be taken</b>  Brings awareness to the fragility of mana, which can be dismissed through ignorance, destroyed or left to decline, and denied or usurped through the law. Under these conditions, restoration requires education, vigilance, advocacy and action.</p>	

Figure 1?

(Whanganui River Claims Settlement) Act 2017. With adequate resourcing, these relationships can be used as social capital (Bourdieu, 1977) to generate positive outcomes for the environment, Māori, and the wider community.

## Conclusion

Te Mana o te Wai is a holistic and relational framework for understanding and governing freshwater that is grounded in te ao Māori and mātauranga Māori, and composed of four types of mana: mana atua—mana comes from the atua; mana wairua—mana is a spiritual power; mana huaanga—mana is a generative power, and mana whakahaere—mana is the authority and control. Each of the elements is connected to the others and contains a constellation of interwoven values, practices and knowledges. A fifth dimension of mana is also critical: mana is a power that can be taken. The aim of Te Mana o te Wai must therefore be restoration across all the dimensions of mana (see Figure 1).

The potential removal of Te Mana o te Wai from the National Policy Statement and the reversal of the hierarchy of obligations make restoration more difficult. But hope survives, flourishes even, in the interstices. Here, relationships, resistance, advocacy, strategy and action combine to be generative of life and positive transformation. The

current may swirl overhead, potentially washing away the new words. But the old words have deeper origins, stretching back to the ancestors. Their roots are burrowed in the text and embodied in the land, too numerous to be ripped out. At times submerged, but always reaching towards the light.

## Glossary

atua	god, goddess, deity; supernatural beings or forces that are personified as ancestors with influence over particular domains
hapū	kinship group, clan, subtribe
hau	vital essence, vitality (of a person, place or object)
hauora	health
Hine-tūpari-maunga	female personification of mountains
horu	red ochre
Io-Taketake	supreme being
iwi	extended kinship group, tribe, nation
kai	food
kaitiaki	guardian

kaitiakitanga	the responsibility of the people to the environment and to each other, past, present, and future	tapu	term used to denote a state of restriction or prohibition (e.g., over a person, place, process or object)
karakia	set form of words to state or make effective a ritual activity	te ao Māori	the Māori world
Kiwa	guardian of the ocean	Te Arawa	descendants of the crew of the <i>Te Arawa</i> canoe who form a group of tribes in the Rotorua-Maketū area
kōura	freshwater crayfish ( <i>Paraneohrops planifrons</i> )		
mahinga kai	wild foods; wild-food gathering areas	Te Atihaunui-a-Pāpārangi	tribal group of the lower Whanganui River area
mana	a spiritual power, a generative power; the authority to decide and control how resources are used and managed	tikanga	the customary system of values and practices that have been developed over time and are deeply embedded in the social context
mana tangata	the responsibility of the people to each other	tohi	baptism or dedication rites
manaaki	look after others	tohunga	skilled person, chosen expert
manaakitanga	hospitality, generosity	tuakana	senior sibling
Māori	Indigenous peoples of New Zealand	tuna	eels
mātauranga Māori	Māori knowledge	wairua	spiritual and supernatural energies
mauri	life force		
Ngāi Tahu ki Murihiku	tribal group of the southern South Island	whakapapa	genealogy
noa	free from tapu and restriction	wai tapu	places where rituals and ceremonies are performed and taniwha are present
Pākehā	New Zealanders of European descent		
Papatūānuku	female personification of the earth		
Parawhenuamea	female personification of freshwater		
puna	springs		
rangatira	chief (male or female)		
rangiratanga	sovereignty, leadership, self-determination		
Ranginui	male personification of the sky		
takahi whare	lit., “tramping the house”, a ceremony to lift the tapu from the house of the deceased		
Tāne-mahuta	male personification of the forest		
Tangaroa	water spirit		
tangata whenua	Indigenous people of the land		
tangihanga	ceremonies of the dead		
taniwha	water spirit		

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