Māori Tribal Organisations
and
New Institutional Economics

Marama C. J. Findlay

Abstract

This thesis investigates the iwi (Māori tribal) organisations established in New Zealand in the 1980s and 1990s to manage resources being transferred as a result of Treaty of Waitangi settlements and the devolution of government services. The research has two objectives. Firstly, it aims to document iwi organisations' establishment and operation from the viewpoint of those working inside the organisations. Secondly, it compares insider perspectives with economic theories concerning the causes, consequences and development of economic institutions.

To address the first objective, the research gathers qualitative data for three iwi organisations and uses these to construct case reports. An inductive comparison across cases finds that while the underlying motivation for creating the iwi organisations is a desire to live as Māori, the immediate stimuli are opportunities negotiated with government. Iwi are chosen, in preference to other Māori groups, because of their size and traditional status and organisational success is dependent on meeting the requirements of both members and external parties.

To address the second objective, the research examines a number of theories from new institutional economics which assist understanding of the empirical findings. To adequately explain iwi organisations as a whole, however, and to assess the relative explanatory power of the theories, they must be connected into a single explanatory framework. The research constructs a framework using the concept of social capital, understood as the combination of all the socio-economic institutions operating to make collective action possible. The framework proposes that socio-economic institutions can have an influence and value independent of other forms of capital.

Viewing new iwi organisations through the constructed theoretical framework casts them as intermediaries, managing relational contracts between tribal members and external parties. The relational contracts with members constitute bonding social capital and are characterised by informal institutions of high intrinsic value, considerable relationship-specific social capital, transferability across tasks but not persons, and a preference for voice over exit. Relational contracts with external parties are primarily instrumental in value and formal institutions play a significant role; they show variability in the importance of informal institutions, relationship-specific social capital, transferability and preference for exit over voice.

The thesis presents an insider's view of new iwi organisations and then translates this view into the concepts of new institutional economics. In doing so, it contributes to two discussions: first, on the appropriate way to understand new iwi organisations; second, on the appropriate way for new institutional economics to understand society's economic institutions.

Dedication

Ki tōku whānau, me te arohanui

Nō koutou te kaha

He Mihi - Acknowledgements[1]

'Ehara tēnei mahi i te mahi takitahi, he mahi takitini.'

'This work is not that of one person, but of many, many people.'

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[1] A glossary of Māori terms and a note on the use of Māori in the thesis is included in Appendix Two: Glossary of Māori terms, 378. With respect to this page, the acknowledgement in English in the second half is an approximate translation of the Maori text.

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Chapter One: Introduction

Thesis origins

The new iwi organisations with which this research is concerned have their origins in two socio-political movements that began in the 1970s and 1980s. The first movement involves a demand by Māori that the Crown honour its obligations under the 1840 Treaty of Waitangi and the settlement of specific claims made by Māori against the Crown under the Treaty of Waitangi Act (1975). The second movement involves a Māori drive for more control over the services being delivered to their people, and the decision by the New Zealand government to devolve government services to community organisations for delivery which followed the election of the 1984 Labour Government. Iwi have created new institutional forms to hold and manage the assets being transferred to them by government as a consequence of these two movements.[2]

Significant resources are being transferred to iwi organisations as a consequence of Treaty settlements and devolution of government services. The 1992 Treaty of Waitangi (Fisheries Claims) Settlement Act embodies the single largest Treaty settlement to date. The 1992 Settlement created The Treaty of Waitangi Fisheries Commission (Te Ohu Kai Moana) to hold the assets transferred by the Crown on an interim basis.[3] In 1999 the net value of Te Ohu Kai Moana was $415 million and it

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[2] First contact between New Zealand Māori and Europeans dates from the visits of Abel Tasman, in 1642, and Cook in 1769, but more intensive interaction occurred from the early 1800s and led to the signing of the Treaty of Waitangi in 1840. In the Māori text of the Treaty of Waitangi, Māori were guaranteed "te tino rangatiratanga" (the unqualified exercise of their chieftainship) over their "wenua" (lands – usually spelt whenua), "kainga" (villages), and their "taonga katoa" (all their property/treasures). More information on the Treaty of Waitangi can be found on a website provided by the New Zealand Government at www.treatyofwaitangi.govt.nz. In the thesis I use the terms new iwi organisations, iwi organisations, and Māori tribal organisations synonymously to refer to the contemporary tribal organisations that emerged in response to these two socio-political movements (Treaty settlements and devolution), and which are the subject of this research. Devolution was originally associated with 'the Decade of Māori Economic Development' and MANA (loan finance for small business development by Māori) but now refers primarily to the contracting out of government services.

[3] The 1992 fisheries settlement is colloquially referred to as the 'Sealords Deal', because it involved the purchase and transfer to Māori of a 50% share in the Sealords fishing company. Te Ohu Kai Moana was charged with developing a scheme for the allocation of the fisheries assets to iwi. The nature of this allocation model has been the subject of lengthy deliberation, consultation and litigation. It culminated in the Māori Fisheries Act (2004) which finalised a plan for the allocation and ongoing management of the fisheries assets. The first transfer of assets from Te Ohu Kai Moana to an iwi occurred on 22 Sept 2005

exercised control over more than 40% of New Zealand's individual transferable fisheries quota.[4] Estimates of the total value of resources transferred to iwi organisations as a consequence of devolution programmes are difficult to obtain, but for two of the three cases in the research the income from government service contracts was around $3 million each in 2001/2002 and constituted 56% and 84% of the total income of the organisations in that year. A press release on 18 July 2003 reported that Māori Health Providers collectively had received $135 million in government contracts in 2002/03.[5]

The researcher began work at Te Ohu Kai Moana in 1995 and had responsibility for assisting iwi across New Zealand to prepare their organisations for the receipt of fisheries assets. Te Ohu Kai Moana established formal requirements that iwi would have to meet before receiving fisheries assets, and iwi organisations were seeking to meet these, as well as developing appropriate governance and management skills. It became clear in the course of the researcher's work at Te Ohu Kai Moana that the development of iwi organisations that could successfully manage assets in the interests of members would be critical to the success of both Treaty settlement and devolution strategies. The performance of iwi organisations would have a major impact on both the economic sectors in which they were active (including fisheries, Māori service delivery and the regional economies of specific tribes) and the future of shape of Māori society.

Iwi are intensely debating questions of organisational design as they develop their structures but little documentation exists concerning either the practical or conceptual issues involved. Of the literature that does exist, only a small proportion is being undertaken by academics, and none is the work of economists. The thesis research is

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(The Dominion Post, 22/9/05). More information on the 1992 Settlement and allocation can be found at www.teohu.Māori.nz.
[4] These figures come from the Statement of Financial Position of the Treaty of Waitangi Fisheries Commission Group, Annual Report to Parliament for the year ended 30 Sept 99, page 34. There are considerable problems with valuing the fisheries settlement, as it included non-market assets such as rights on statutory boards, and future commitments e.g., 20% of all quota species newly introduced into the Quota Management System. All dollar values in the thesis refer to New Zealand dollars.
[5] The release was issued by the New Zealand Press Association and the information came in response to a parliamentary question to the Ministry of Health (full details can thus be found in the parliamentary debates). The press release was viewed on the combined newspaper website: www.stuff.co.nz on 19/7/03. If similar resources were being transferred in social services and education, the combined amount would be some $400 million per annum.

motivated by an interest in investigating the institutional forms that iwi are developing to manage settlement and devolution assets and comparing these with theories of institutional design offered by the economics literature.

Research questions

The thesis research has two objectives. The first is to document the establishment and operation of new iwi organisations from the viewpoint of the 'insiders' who are establishing and operating them. Interviews with insiders and reviews of organisational documents are guided by three questions:

> How and why was the organisation established?
> What does the organisation currently do?
> Where do you see the organisation going in the future?

The research seeks to understand the factors that insiders argue are influencing their organisation's establishment and ongoing development and, using an inductive approach, to uncover a set of more general propositions about these processes. Documenting and drawing out themes from the insider stories is intended to create a set of primary and secondary narratives about new iwi organisations. This task includes the writing of case reports which will be discussed and approved by the insider participants to ensure they are a reasonable reflection of their views. It also involves a comparison of the case reports to draw out common and contrasting themes.

The second objective of the research is to compare the insider explanations of iwi organisations with economic theories of the causes, consequences and development of institutions. This task aims to extend the conceptual tools that have been applied to understanding new iwi organisations and to compare concepts from new institutional economics with an unusual institutional form. The second part of the research is guided by the question:

> How do insider stories about the factors explaining the evolution of new iwi organisations compare with theories of institutional design offered by contemporary institutional economics?

The first research task, documenting insider views of the organisations and drawing out the key themes, is valuable because of the economic, political and cultural importance of the organisations. Insiders themselves are generally too involved in the tasks of institutional design and operation to document them. The second task, applying the ideas of new institutional economics to the organisations, has not been attempted to the researcher's knowledge and provides fresh insights into their nature which should be of interest to practitioners, policy makers and theoreticians.

New iwi organisations possess several features distinguishing them from the institutions generally considered by the new institutional economics literature suggesting they would provide interesting material for comparison with, and extension of, that literature. The organisations have commercial functions nestled within broader political and cultural objectives; they are producers of public goods within the private sector; they are constituted by formal rules from one culture (i.e., mainstream New Zealand) grafted onto the informal rules of another (i.e., Māori); and their membership is determined by genealogical right, whose exercise is optional, but not transferable.

The new institutional economics literature recognises the need for more extensive empirical testing and the value of using qualitative data. For example, Furubotn and Richter argue in an overview of new institutional economics that it attempts 'to develop theory that is concerned with real issues, by cross-fertilization of the social sciences, and by ensuring an intimate relationship between theory and empirical work' (1997a, 12).

Acheson presents a paper which 'addresses one area of relative neglect – the interaction between careful study of particular organizations or institutions and the development of the theory' (2000, 341). He contends that 'we need more disciplined empirical stories to guide theoretical efforts' (2000, 360).

Alston similarly argues that:

> Frequently, quantitative measures of the causes or consequences of institutional
> change are simply not available; even when they are available, better evidence

may come from the qualitative historical record. Using the details of historical facts as evidence, we essentially are applying the case study approach. …the case study approach to institutions is attractive because it may yield the building blocks for more general theories of institutional change. With the present state of theoretical knowledge about institutions, the case study approach is often the only way to further our knowledge about institutional change. (1996, 30)

Overview of the thesis

Following the introduction the thesis proceeds with a chapter on methodology and methods (chapter two). This chapter begins by summarising the philosophical arguments for methodological pluralism and the qualitative, inductive approach used in the thesis research. It considers the methods of new institutional economics and then moves to outline qualitative, inductive, case study research methods used in other fields of the social sciences. It closes by explaining the methods used in the different stages of the thesis research and their relationship to the previously discussed methodological theory.

The methodology chapter is followed by three case studies which provide histories of the iwi organisations since establishment, from the viewpoint of the insiders and organisational documents consulted (chapter three, sections 1-3). The case reports discuss the establishment, main activities and the factors influencing the operation of the organisations. The case studies are followed by a chapter that draws out the themes that emerged across the cases in response to the question: 'what explains the evolution of the new iwi organisations?' (chapter four).

The second part of the thesis contains a comparison of the empirical findings with the new institutional economics literature (chapter five, sections 1-4). The first section of this comparison is concerned with selecting the parts of new institutional economics literature that provide most comparative insight into the inductive findings and creating a framework for the theories and concepts selected. The inclusive framework is needed to reflect the holistic nature of the case study findings and to allow systematic evaluation of the relevance of the selected theories. The framework is built around the concept of social capital, understood as the combination of socio-economic institutions

operating to make collective action possible. It links four concepts: institutions, social capital, relational contracts and organisations. These four concepts are used to organise the subsequent detailed comparison of the empirical findings and literature (chapter five, sections 2-4).

The conclusion to the thesis summarises the findings in response to the research questions and reflects on the research overall (chapter six). It outlines the methodological innovations that were required to guide the research effectively and then sets out the research findings. The conclusion observes that the comparison of the theory and inductive findings has resulted in a fresh understanding of new iwi organisations viewed through the conceptual lens of new institutional economics, and the inductive development of new institutional economic theory in order to adequately explain new iwi organisations. The conclusion closes with possibilities for future work.

Chapter Two: Methodology and methods

Introduction

The thesis research began with an interest in exploring contemporary iwi organisations and some knowledge of the institutional economics literature which might assist in this exploration. The intention was to investigate iwi organisations from the viewpoint of those working inside them and it was believed that this would require the use of qualitative data. The methodological framework and the particular methods of the research underwent substantial evolution as the thesis progressed, however, in response to an increased understanding of the methodological literature. The discussion below is a retrospective summary of the research methods used.

This chapter begins with an introduction to the debate between empirical and theoretical rigour in scientific investigation and its relationship to the choice of qualitative versus quantitative methods. The introduction is included because the dominance of quantitative methods in contemporary economics means that it is prudent for those employing qualitative methods to explain their choice. The chapter then considers the variety of methods used in new institutional economics. Despite the considerable use of qualitative data there is little discussion of qualitative methods in new institutional economics, or in economics more generally. The chapter discusses holism as an isolated although somewhat dated example of a qualitative approach in economics. Grounded theory is introduced, because of its influential role on qualitative methodologies in the social sciences. The chapter then considers naturalistic enquiry, issues of trustworthiness and ethics in qualitative research, and the case study approach.

The final part of the chapter contains an explanation of the methods employed in the thesis research and a discussion of how these compare and contrast with the methods outlined the first half the chapter. This discussion is divided into three stages:

1. The selection of cases, gathering of qualitative data and writing of the three case studies;
2. A comparison of the cases resulting in a cross-case comparison model of the factors influencing the evolution of the iwi organisations;
3. A comparison of the empirical findings with the new institutional economics – social capital literature.

Theoretical or empirical rigour? Making trade-offs and choosing a methodological approach

Subject matter, methodology and prior theory are closely interrelated in successful research. Delorme (1997, 113-114) suggests that a good method is one that balances syntax (the relationship of the components of a model to each other), semantics (the relationship of the components of the model to the objects they are held to denote) and pragmatics (the relationship between the model and its interpreters).

Methodological approaches tend to fall into two groups: those that give priority to semantics and those that emphasize syntax. Approaches that give priority to semantics stress the need for theory to be firmly grounded in reality, even if this means that the theory reflects the ambiguity and uncertainty observed in the real world. Realism, or empirical rigour, takes precedence over theoretical rigour. Approaches that give priority to syntax stress the primacy of theoretical rigour. They start by generating formal, deductive models in which the internal logic of the relationships is fully elaborated prior to exploring the correspondence between the model's components and aspects of the world.

The trade off between syntax and semantics arises because it is not possible to uncover the 'true' nature of the world so that there is always some discrepancy between our models and the world they seek to explain. Our inability to truly know the world has been described as a condition of 'radical epistemic uncertainty' where:

> …there is no certain empirical knowledge, whether grounded in our own personal experience or in that of mankind in general. And more than that: there is no sure method of guaranteeing that the fallible knowledge that we do have of

the real world is positively the best we can possess under the circumstances. A study of the philosophy of science can sharpen our appraisal of what constitutes acceptable empirical knowledge, but it remains a provisional appraisal nevertheless. (Blaug 1992, 26)

There are few who now disagree that the situation of social scientists is one of 'radical epistemic uncertainty'. The dispute is rather over the implications of the situation for methodology. Broadly stated, the positions are to remain committed to methodological monism, to argue for methodological pluralism while retaining a role for critical discussion between methodological approaches, or to give up all normative methodological statements. These three positions loosely correspond to the methodological positions adopted by positivists, post-positivists and post-modernists.

A positivist holds that objective reality can be apprehended and that such apprehension is the aim of 'the' scientific method. Post-positivists consider that all knowledge of the world is interpretation, but that it is possible and desirable for dialogue to occur between differing interpretations in an attempt to better understand each other and move towards greater agreement. Post-modernists consider that all interpretations must be regarded as equally valid as there are no meta-criteria for adjudicating between them. The choice of method for this research draws on a belief in post-positivist methodological pluralism and the case for this position is elaborated below.[6]

Dow (1997, 93) advocates methodological pluralism when she argues that:

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[6] The characterisation of positivist, post-positivist and post-modern positions are extreme simplifications, but detailed discussion is beyond the scope of this thesis. True positivists reject the notion that we suffer from radical epistemic uncertainty, but many researchers retain a practical commitment to methodological monism – they work as if there were only one scientific method – although they would, if pressed, accept the uncertain nature of all knowledge. Blaug (1992) is an example of such attachment. Maki, Lawson, and Dow (in Salanti and Screpanti 1997) argue for methodological pluralism with critical debate and Screpanti (1997) argues against normative methodological statements but retains a commitment to methodological pluralism as an 'ethical precept'. The range of post-positivist and post-modern positions are difficult to organise. Positions are still evolving and there is little agreement on terminology and labels (see for example Guba and Lincoln (1994) and Denzin (1994)). The critical question remains how one distinguishes good theory from bad theory, as no methodologist or scientist is prepared to give in to methodological anarchism. Even those who eschew normative statements about methodology such as Screpanti (1997) suggests that 'while it is true that one model is always … epistemically arbitrary, it is not true that one model is as good as another. The best models are those which provide better instruments for modifying the world.' Guba and Lincoln (1994) summarise the aims of positivism, critical theory and constructivism as: explanation, prediction and control; critique, transformation and emancipation; and understanding and reconstruction. At this level of abstraction, the aims are more remarkable for their similarities than their differences.

….since knowledge in general is based on imperfect knowledge, it is inevitable that there will be a range of understandings of reality among agents as well as economists. But this epistemology differs from pure pluralism in that there are regularities in the knowledge-generation process of agents and economists that limit the range of rational [beliefs[7]]; the choice of beliefs (among agents and economists) is a matter for rational debate.

Samuels (1997, 74) similarly suggests that:

Methodological pluralism affirms either that there are no methodological/epistemological absolutes or that no such absolutes have been demonstrated unequivocally. … On the other hand, methodological anarchism is avoided by emphasising, first, the identification of the precise nature, grounds and limits of particular methodologies; second the importance of the *process* by which knowledge and the credentials of knowledge are pursued and knowledge worked out; third, the burden on each researcher to make studied determinations of credentials for him or herself; and fourth the process of *criticism* itself. (emphasis in original)[8]

At the level of research practice, a common theme in requests for methodological pluralism is to suggest that the precision of the deductive models used by orthodox economics comes at the cost of empirical accuracy. Thus, Backhouse (1998, 1852) suggests: 'The basic objection to axiomatisation (and more generally to mathematisation) is that theories lose contact with reality.' Elaborating, Chick (1998, 1865) argues that '[f]ormal methods are admired precisely because they eliminate vagueness and imprecision, but they eliminate them only in the theory; theory can never eliminate vagueness inherent in the data or objects of study.' The strength of deductive models is in their structural rigour but 'there are no rules for transmitting the internal

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[7] The word in the text is 'benefits', but it seems clear from the context that beliefs was the word intended.

[8] As is characteristic of middle positions methodological pluralism is subject to attack from both sides. Screpanti (1997, 301), for the non-normativists, suggests that '…fallibilism [is] an approach in which methodological pluralism is accepted as a *critical* tool. But so far as fallibilism is coupled with realism it inevitably leads to methodological monism. Fallibilists like Caldwell, for example, endeavour to seek plurality and then try to reduce it through criticism.' Blaug (1992, xiii) on the other hand, in discussing Caldwell's work, complains that 'if all methodological standards are equally legitimate it is difficult to see what sort of theorising is ever excluded'.

precision of the syntax [of formal models] to the semantic problem of application' Chick (1998, 1861, citing Coddington).   This trade-off between theoretical and empirical rigour suggests a place for theories that score well on empirical accuracy, even if this requires more theoretical flexibility than deductive models will allow.

For the researcher in my position, who accepted the arguments for methodological pluralism and was interested in exploring a particular substantive area, the critical question was what methodological approach to choose. Delorme (1997, 117) offers the following advice on this choice:

> In the study of a phenomenon perceived as complex, for which there exists no available substantive theory or model, empirical investigation comes first together with abduction and the attempt at theorizing. Hence the priority is given to the object of study and to the semantics over the syntax in the first step.[9]

Wilber and Harrison (1978, 85), in discussing the choice between the inductive 'pattern model' approach and the deductive 'covering law model', similarly suggest that:

> [The]…use of the pattern model appears appropriate when an explanation involves many diverse factors, each of which is important; when the patterns or connections among these factors are important; and when these patterns can be observed in the particular case under study. Use of the covering law model appears more appropriate when one or two factors or laws determine what is to be explained and when these factors or laws are better known and understood than the specific instance.[10]

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[9] The concept of 'abduction' is distinct from the philosophically problematic process of 'induction'. Since Hume, it has been accepted that it was not possible to logically prove a generalization by induction. As Blaug (1992, 16-17) reports, 'Such [inductive] arguments may be called "nondemonstrative" in the sense that the conclusions, although in some sense "supported" by the premises, are not logically "entailed" by them.' Blaug suggests that what is 'vulgarly labelled as "induction"' should for clarity's sake be termed adduction: 'the non-logical operation of leading from the chaos that is the real world to a hunch or tentative conjecture about the actual relationship that holds between the set of relevant variables'. Hodgson (1997, 145) reports that Peirce called this same process 'abduction'. In this chapter, I use the term induction in line with common usage when, accepting these arguments, I should more correctly use abduction or adduction.

[10] Full details of the pattern model are discussed ahead in the section entitled 'Holism'.

The choice to use a qualitative, inductive, case study approach in the thesis research is consistent with the advice of Delorme, Wilber and Harrison. The empirical evidence on new iwi organisations held at the start of the study suggested that there were a diversity of interrelated influences on the origins of iwi organisations and that while it was unclear what the important factors were, it was possible to collect a range of information about those influences. In contrast, while the new institutional economics literature offered a range of theories that might be useful in exploring new iwi organisations, none stood out as being obviously relevant and all had been developed in contexts with important differences in initial conditions compared with the new iwi organisations. For example, most of the literature related to commercial institutions rather than those that were a combination of community-government and commercial activity, as are iwi organisations. None had been developed explicitly in the context of an indigenous tribal government, where this government was located within a nation state of a different cultural and ethnic composition. The research began with access to the subject matter, but without an obviously appropriate theory, suggesting the research should work from subject matter to theory, using an inductive approach.

The strict inductive approach suggests that one should enter research with no prior questions or problems (Glaser 1992, 22) in contrast to the deductive view that scientific research must begin with a hypothesis that is sufficiently clearly stated that it is refutable (Blaug 1992, xiii). In practice all research involves some combination of inductive and deductive reasoning. Thus while one might wish to let theory emerge from the data, it is not possible for a human researcher to enter the empirical world with no prior theories about how that world works. The prior theories that the researcher holds will both explicitly and implicitly influence the questions asked, the information uncovered and way it is interpreted. Furthermore, even those who argue for an inductive approach accept that relationships are suggested as the analysis proceeds and one should go into the field to investigate these suggested relationships further (Glaser 1978, 37).

The approach of the thesis research attempted to balance openness in discovering issues in the field data, with a desire to compare the empirical material with the theoretical literature. The approach required open-ended questions, as well questions seeking information with a bearing on economic theories judged most relevant.

Methods of the new institutional economics

The new institutional economics' literature concentrates more on theoretical and empirical work than on methodological discussion. The following section discusses the implicit methodology underlying the most common practice in new institutional economics. Institutional economics is not characterised, however, by one coherent and systematically applied methodological approach.

Generating theories in new institutional economics

New institutional economists start with assumptions which place greater weight on realism compared with more orthodox economic theorising.[11] The emphasis on realistic assumptions means that new institutional economists consider that their theories are better explanations of economic activity than those of the neoclassical theory. Many of the assumptions differ from those of neoclassical theory in response to the findings of empirical work on, for example, the way individuals make decisions.

Hypotheses in new institutional economics are generated from the assumptions in an informal, deductive process. The process is deductive, in the sense that the hypotheses are argued logically from the assumptions, but it is informal, using prose rather than mathematical language. An example of the informal, deductive process can be found in the work of Williamson (1985) who starts from individual economic agents who are opportunistic and exercise bounded rationality in a world where economic activity involves investments with a high asset specificity. From these assumptions Williamson (1993, 40) builds up his 'discriminating alignment hypothesis'. Kay (1997) similarly constructs his theory of patterned, path-dependent company expansion around a model of the firm as a bundle of resources competing for technological advantage, with decisions made in hierarchical frameworks by boundedly rational agents. Nelson and Winter (1982) start with the assumption that much everyday behaviour, both individual

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[11] Orthodox, mainstream and neoclassical economics are used as synonyms in the thesis (and in contrast to new institutional economics).

and collective, is governed by routines which evolve over time. They build both informal and formal models of institutional change based on this assumption.[12]

Testing theories in new institutional economics[13]

New institutional theories are offered as plausible explanations, but the standard method of testing is to make predictions and evaluate them against empirical data. A number of new institutional economists stress the importance of producing theories which giving rise to 'refutable assumptions', suggesting falsificationist criteria should be employed in theory testing. The dominant practice, however, as in economics generally, is to take supporting empirical material as evidence of a good theory. For example, Shelanski and Klein (1995, 340) conclude that '[s]tudies that examine the make-or-buy decision and the structure of long-term contracts, in particular, overwhelmingly confirm transaction cost economic predictions.'[14]

The empirical material with which theories are compared is a mixture of qualitative and quantitative data. The concepts of the theories are relatively new, however, and this is associated with a more free ranging discussion of what data might be taken to correspond to a particular theoretical concept than is common in more established economic theories. In discussing empirical work in transaction cost economics, for example, Shelanski and Klein (1995, 339) observe that finding adequate proxies for the components of the hypothesis is not always straightforward, and has been a source of confusion in testing theory in transaction cost economics.

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[12] Williamson's, Kay's and Nelson and Winter's theories are discussed more fully in the chapter five which compares institutional economic theory with the empirical findings. Aspects are included here to illustrate the generalisations made about the methods of the new institutional economics.

[13] The separation of the logic of the generation and testing of theory is common in philosophy of science, even though the two generally progress in parallel in the practice of science.

[14] Mäki (1993, 6) notes the tendency of prominent new institutional economists such as Douglass North and Oliver Williamson to 'legitimise their endeavours in terms of "refutability"', echoing the logical positivist adoption of falsifiability as the hallmark of a scientific theory (and its associated promotion of predictive over explanatory theory). North (1981, x) argues, for example, that 'in order to make a contribution to knowledge the theory must be potentially refutable'. Williamson (1986, 196) similarly calls for 'more attention to refutable implications (and less to rhetoric) in the study of economic organisations.' Neoclassical economics pays deference to prediction and the falsificationist approach, but they are not its usual practice.

Methodological commentary in new institutional economics

Methodological commentary in new institutional economics is often ambivalent, both defending the methods widely used (a mixed qualitative and quantitative verification of informal, realistic theories) while at the same time showing deference to orthodox methods in economics (quantitative testing aimed at verifying the predictions of formal, mathematical theories). The methodological ambivalence parallels the variety of opinions about whether new institutional economics is an extension, complement or substitute for more orthodox, neoclassical theory. The simultaneous defence of the methodological and theoretical style of new institutional economics, while paying deference to quantitative testing of general theories, can be interpreted as an attempt to employ methods appropriate to the institutional subject matter without directly challenging economic orthodoxy.[15]

The following statement by Alston (1996, 30) is an example of such ambivalence:

> Frequently, quantitative measures of the causes or consequences of institutional change are simply not available; even when they are available, better evidence may come from the qualitative historical record. Using the details of historical facts as evidence, we essentially are applying the case study approach. … In arguing for the case study approach we are not abandoning science. We still maintain that the use of theory in developing hypotheses is important. …[but] the case study approach to institutions is attractive because it may yield the building blocks for more general theories of institutional change. With the present state of theoretical knowledge about institutions, the case study approach is often the only way to further our knowledge about institutional change.[16]

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[15] An orthodoxy that fears that its 'rigorous, deductive theories of human action' are all that prevent economics from falling into the abyss with the other social sciences. For example, Blaug (1992, xxv) argues that economics is 'set apart from …sociology and political science because it manages to provide rigorous, deductive theories of human action that are almost wholly lacking in these other behavioural sciences'.

[16] Alston's equating of the use of qualitative historical fact with the case study approach is an oversimplification (characteristic of the scant attention to qualitative methodology in economics), but his argument for giving qualitative data a legitimate role is valid. Menard (2001, 89) gives the following assessment of the relationship of economics to case studies: '[e]conomists do not like case studies. … This is quite paradoxical considering both the development of economics and the general history of science. In economics, cases have played a major role in the breakthroughs that shaped the discipline….'. A more detailed consideration of the case study approach occurs later in this chapter.

Alston seems to be suggesting that new institutional economists would like to develop quantitative general theories, but that qualitative local theories are the best it can currently produce. The desire for formal, general laws, and the admission that new institutional economics is unlikely to find them, is echoed in the statements below.

'A theory of economic dynamics comparable in precision to general equilibrium theory would be the ideal tool of analysis... [but] ...we do not have such a theory ... in fact, such a theory is unlikely' explains North (1996-343). North lists all the elements that would also have to be included to obtain a model of economic change (demography, military technology, models of state, ideology) and concludes that there is 'no neat supply function for new institutional arrangements' (1981, 68). Eggertsson (1996, 13) similarly cautions that with respect to new institutional economics 'we must recognise the limits of our approach. Although various regularities and patterns have been and will be uncovered, we should not expect to discover a deterministic law of economic systems...'.

In an appeal to economists to broaden what counts as 'theory', Richter (1994, 596) suggests that there are questions of interest to economists which cannot be translated into mathematical language. While it is possible to respond to this incompatibility by forcing these questions into a mathematical frame, or by refusing to deal with them at all, Richter argues that '[t]he good decision is to employ problem-relevant means to analyze problems which cannot be sensibly translated into mathematical terms, even if some vagueness thereby results, following the saying: "It is better to be vaguely right than precisely wrong"'.

Many economists working in the institutional area (including new institutional economists) have agreed, implicitly or explicitly, with Richter's argument that the mathematical modelling and quantitative representation of strict event regularities is not a suitable method for many questions of interest. Rather than abandon these questions to other social science disciplines they are employing alternative methods and accepting that a formal, universal theory of institutional change is not a necessary outcome for the project to be worthwhile. Despite the fact that new institutional economics uses qualitative data, however, there is little attention to the analysis of these data in the

literature of economic methodology.[17]   Below I discuss a rare example of a such attention in the holistic methodology of Wilbur and Harrison (1978). For more recent and in depth work on qualitative methods, however, one must look elsewhere in the social sciences and grounded theory is considered because of its central role in this respect.

Qualitative, inductive, case study research in theory

'Qualitative research' is used by different people to mean different things. Sometimes it is used to refer to any research that uses qualitative materials. At other times it refers to a particular type of analysis. Where attempts are made to draw out some common elements authors readily admit that qualitative research:

> …crosscuts disciplines, fields, and subject matter. A complex, interconnected family of terms, concepts, and assumptions surrounds the term *qualitative research.*   These include the traditions associated with positivism, post-structuralism, and the many qualitative research perspectives, or methods, connected to cultural and interpretative studies. (Denzin and Lincoln 1998, 2)

The following section reviews the approaches to qualitative, inductive and case study research selected as most appropriate to the subject matter of the thesis. It discusses the methods based in holism presented by Wilbur and Harrison (1978), grounded theory, naturalistic enquiry, issues of trustworthiness and ethics in qualitative research, and the case study approach.

Holism

Within economics, discussion of qualitative research is hard to find. An exception is Wilbur and Harrison's (1978) work on holism, which they present as the method of

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[17]Acheson (2000), for example, argues that not all new institutional economic theory is amenable to traditional econometric testing, but that the parts that require different methods are being neglected, because of the absence of methodological guidelines on how to carry out alternative testing. Thus, he concludes: '…the domain of story telling has to expand to test, imperfectly but with more power, the parts of this theory of the firm that are currently subject only to the test of logical consistency. Basically, we need more disciplined empirical stories to guide theoretical efforts. …[and]… NIE would be well served by developing a set of professional norms for disciplined story telling…' (Acheson 2000, 360).

institutional economics, building on Diesing's (1971) discussion of its use in the social sciences generally.[18]   Wilbur and Harrison present methods based in holism as an alternative to the logical-positive approach employed in orthodox economics.   Holism holds that a phenomenon is largely determined and only intelligible in terms of its place in the whole.   To explain a phenomenon is to articulate the pattern of relationships between it and the rest of the system.   Social reality is understood as the gradual evolution of these patterns of relations.[19]

Explanation in the holist approach is specific to the situation being considered.   Strict causation is not demanded and thus explanation and prediction are not symmetrical. Indeed, strict prediction is not considered possible, given the complexity, specificity and openness of the situations being studied: 'the pattern which provides the explanation does not uniquely determined the parts' (Wilber and Harrison 1978, 77).   'Laws', in this method, are replaced by low level generalisations that can be taken as suggestive guides to possible relationships.   'General laws are used to suggest practices or tendencies that may be operative in a particular system … usually, for most people, most of the time … to the holist, generalizations and general laws do not explain, only specific circumstances do' (Diesing 1971, 160).[20]

The specificity of holistic method requires that study stays close to the subject matter, otherwise it risks degenerating into 'loose, uncontrolled speculation' (Wilber and Harrison 1978, 83).   One of the hallmarks of the holistic method is the primacy of subject matter over method. Diesing (1971, 140) suggests that:

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[18] Wilbur and Harrison suggest that institutional economics is characterised less by a common set of theories than by the nature of its theorising, which is holistic and evolutionary. There is some dispute, however, on whether institutional economics can be characterised as having a common method. Rutherford (1998, 251) suggests that the key institutional economists: Veblen, Mitchell and Commons, used a diversity of methods. This debate aside, the work on holism is presented here to show that qualitative methods are not unknown in economics, even if they have remained undeveloped and under-utilised. Wilbur and Harrison's discussion concerns what is sometimes referred to as 'old institutional economics' (which includes the work of Veblen, Mitchell and Commons) to distinguish it from 'new institutional economics' (which includes the work of Williamson). The substantial debate on the relationship between and relative merits of the old and new institutional economics is beyond the scope of the thesis [but see Langlois (1989) or Rutherford (1994)].

[19] In support of the holistic approach, Scianchi (1997:128) argues that reduction cannot provide a complete description of reality because 'the nature of a thing depends on the interlacement of conditions it fulfils, that is, it depends on its placing within a global system of interlacements. We have to study this global system in order to define its constituent parts'. As an example, he points out that 'a brick does not exist in itself' but may be a building component or a weapon depending on the context (1997, 128).

[20] Diesing (1971, 163) notes that '…to devotees of the deductive model, pattern explanations look like descriptions, since they cannot find the laws they like to use as sources of intelligibility'.

The disagreement here is over the relative importance of subject matter and of 'science' in determining one's concepts and procedures. The holist believes in the primacy of subject matter; he believes that whatever else a method may be, it should at least be adequate to the particular thing described and not distort it. The belief in the primacy of subject matter over method is perhaps the most striking characteristic of the holist standpoint.

Diesing (1971, 291) proposes the participant observer method as the approach that has been most successful in constructing holistic explanations in the social sciences. The subject matter in this method is a 'single, self-maintaining social system'. The system may vary in size from a family, or organisation, to a whole society or historical epoch, but in all cases it is the system's uniqueness and unity which is of interest.

The starting point for the theorist in the participant observer method is their immersion in the system for study. The participant observer aims to let the subject matter suggest meanings, rather than testing previously derived hypotheses. As the investigator spends time immersed in the subject matter they begin to document recurrent themes that they observe such as an accepted practice, cultural norm, mode of production or recognised social objective. Themes are considered more important the more frequently they link to other themes and the more they illuminate the distinctiveness of the system.

Using the themes, the participant observer next starts to make some tentative hypotheses about the nature of connections within the system. These hypotheses are tested by compiling and comparing data from a multiplicity of sources (including previous case studies, survey data and personal observations). The validity of a piece of evidence is assessed by comparing it with other evidence on the same point, or by evaluating the reliability of the source of the evidence. If further evidence, or reliability of source are lacking, the hypothesis is discarded. [21]

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[21] Diesing (1971, 280) suggests that participant observation is important because '[a]n observer who is not emotionally involved will be unable to empathise, to see things from the perspective of his subject, and therefore will miss much of the meaning of what he sees'. This is linked to what Diesing (1971, 287) suggests is the implicit ontology of case study methods: '[s]ocial causation is not a matter of regular sequences as on a movie screen, but rather a matter of perception, interpretation and decision. The world that affects human beings is a perceived world and external factors must be perceived and interpreted to

Lastly, themes which have been validated are linked in a network and a pattern model emerges of the particular case under study. The model emphasises the multiplicity of connections between the phenomenon of interest and the rest of the system. The investigator is constantly seeking to increase the coherence between the model and the real world, which requires that the model undergo ongoing modification as new data are uncovered and as the system itself evolves.[22]

Grounded theory

Grounded theory originated with Glaser and Strauss (1967) and has had a major influence on the development of qualitative methods in the social sciences. It has been variously developed, both by the originators, and by others (e.g., Glaser (1978; 1992), Strauss and Corbin (1998), Lincoln and Guba (1985) and Maykut and Morehouse (1994)). Grounded theory is now widely used across the social sciences (although not in economics) and criticism from post-modernists helps cement its position in the mainstream (Denzin and Lincoln 1998, ch.1).[23]

Strauss and Corbin (1998, 158) suggest that:

> …grounded theory is a *general methodology* for developing theory that is grounded in data systematically gathered and analyzed. Theory evolves during actual research, and it does this through continuous interplay between analysis and data collection. (emphasis in original)

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have an effect. … In order to understand how the controls act, one must find out how they are perceived and interpreted by each individual subject'.

[22] In addition to the uncovering of 'themes' and their incorporation into a 'case study' Diesing (1971, 182) describes two further steps in the development of holist theory : the development of a typology of case studies and the distillation of general theory from the typology. The development of general theory is resisted by some holists and Diesing (1971, 191) observes that '[t]he construction of a general theory is the most risky and difficult of projects for a case study method, because general theory is farthest from the individual case'. Building typologies and general theory require the study a large number of cases and will not be contemplated in this research for reasons explained below.

[23] There is extensive writing and debate on grounded theory, and what follows is thus a highly summarised account. Although the original formulation of grounded theory contained both positivist and post-positivist elements, later renditions that have taken account of developments in the theory of knowledge more firmly locate it as post-positivist (e.g., Strauss and Corbin 1998). Finch provides a rare example of the argument for the use of grounded theory in economics, but he concedes that its 'application within economics has not been widespread' (Finch 2002, 214).

The method assumes that some form of social science theorising is possible and desirable, but that the 'criteria of judgement [of credibility] be based instead on the detailed elements of the actual strategies used for collecting, coding, analyzing, and presenting data when generating theory' (Glaser and Strauss 1967, 224). In keeping with many qualitative approaches, grounded theory is interpretative, that is:

> '[i]nterpretations are sought for understanding the actions of individual or collective actors being studied …. [and those] interpretations must include the perspectives and voices of the people whom we study … [but] researchers assume the further responsibility of interpreting what is observed, heard or read.' (Strauss and Corbin 1998, 160)

Glaser (1992, 4) states even more strongly that grounded theory is concerned with '[w]hat is the chief concern or problem of the people in the substantive area and what accounts for most of the variation in processing the problem?'

Glaser and Strauss (1967, 53) outline a detailed process for analysing data to produce grounded theory. It can be summarised as involving the following steps: the reduction of the data into more abstract categories, the elaboration of relationships between these categories and the organisation of the categories into a framework for understanding the situation being studied.[24] To reduce the data into categories the researcher begins by carrying out a detailed analysis of the data (interviews, documents, field notes) looking for interesting incidents. When an incident is encountered it is given a label (i.e. coded or categorised). The next time an incident is encountered it is compared to those that have been previously labelled. If it is sufficiently similar, it is included in an existing category but if it does not fit into an existing category, it forms a new one. As incidents are compared to incidents 'memos' are written discussing what the incidents have in common and these become the properties of the categories (Glaser and Strauss 1967, ch.5).

As the conceptual discussion of each category develops by constant comparison with new incidents, insights will start to arise about the relationships between categories and

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[24] These stages are reminiscent of the 'themes, connections and pattern model' which are the components of the holistic approach.

these are also recorded in memos. Strauss and Corbin (1998, 135) suggest that '[w]e call these initial hunches about how concepts relate "hypotheses" because they link two or more concepts, explaining the what, why, where and how of a phenomenon'. This process is reinforced by periodic, systematic comparison of the emerging categories looking for connections, redundancy and missing categories. As the analysis continues the substantive categories formed early in the analysis, which group concrete incidents, give way to more abstract categories (Glaser 1978, 54&118).

As analysis of existing data continues a second process occurs in tandem. Where questions or possible relationships emerge and the data to answer or test them are not present, fresh data collection is called for. The collection of new data driven by gaps in the emerging analysis is called 'theoretical sampling' and is a crucial component of grounded theorising.

> Theoretical sampling is the process of data collection for generating theory whereby the analyst jointly collects, codes, and analyzes his data and decides what data to collect next and where to find them, in order to develop his theory as it emerges. … Theoretical sampling on any code ceases when it is saturated, elaborated and integrated into emerging theory. (Glaser 1978, 36)[25]

The final stage in producing grounded theory is the linking of categories to form a coherent whole which provides a framework for understanding what is happening in the situation being studied. Glaser (1978, 116) suggests that this is best done by choosing one core category which has relationships to most of the other important categories. Strauss and Corbin (1998) suggest that the core category answers the question 'what is the research about?'. The other categories are linked by asking 'where does this fit?' (Glaser 1978, 123). When the other categories have been sorted in relation to the central category the emerging framework is refined. This requires work on consistency,

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[25] Saturation means that as new data are analysed no new findings emerge. Glaser and Strauss (1967, 62-63) hold that '[s]aturation can never be attained by studying one incident in one group. What is gained by studying one group is at most the discovery of some basic categories and a few of their properties. From a study of similar groups (or subgroups within the first group), a few more categories and their properties are yielded. But this is only the beginning of theory. A sociologist should try to saturate his categories and their properties by maximising differences among groups'.

completeness and filling out any thin areas by re-examining both the original coded data and the memos that have emerged.[26]

Glaser (1978) stresses that what are being sorted in generating the final framework are concepts, not data, and that this keeps the process manageable. In his earlier work Glaser (1978, 117) suggests that sorting should integrate the existing literature, but later he states that 'the researcher may show how his work is at odds with other theory and suggest corrections of it or suggest synthesis of other theories, but the grounded theory stands on its own' (Glaser 1992, 15).

Grounded theory and naturalistic enquiry

Lincoln and Guba (1985, 188) use elements of the grounded theory approach in developing a set of social science research methods for doing what they term 'naturalistic enquiry'. The key elements of naturalistic enquiry are:

- Phenomena are studied in their natural setting, because their meaning derives as much from contexts as it does from themselves.
- The main tool of investigation is the human instrument, because only a person has the adaptability to cope with the indeterminacy of the natural setting for research.
- While not opposed to quantitative methods, qualitative data sources predominate, because they are more natural extensions of human activity (looking, listening, reading etc) and therefore suit the human instrument.
- The use of tacit knowledge is made both explicit and legitimate. Tacit knowledge is that which is known intuitively, without being explicitly stated or explained.
- Sampling is 'purposeful' with the aim of including as much information as possible (and where purposeful is 'more or less synonymous with the theoretical sampling of grounded theory').

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[26] Glaser (1978) explains that it is possible for there to be more than one contender for the core and for the sorting to occur in different ways but that it is best to have one core category per paper, leaving open the possibility of generating a second paper with a different core category.

- The general design is planned but the details of sampling, instrumentation and questions emerge as the research begins to reveal what is there to be uncovered.

- Analysis is inductive and more specifically, Lincoln and Guba adopt the grounded theory approach of Glaser and Strauss.

- The findings of the research are negotiated with the informants' whose view of reality the research seeks to reconstruct.

- The findings are reported in the case report which allows the informants position to be reported and enables the rich description necessary for assessing transferability. Applicability to a second situation must always be tested empirically.

- Detailed measures to ensure trustworthiness are included in the research and the reporting of findings.

There are some points of tension between grounded theory and the naturalistic, case study approach. Lincoln and Guba hold that the outcome of the analysis process should be a reconstruction of the participants' construction of reality rather than a disembodied theory. The case report must be rich in description (idiographic) to allow the reader to assess how similar it is to other cases, and thus whether the findings might be relevant to these other cases. Glaser and Strauss (1967), by contrast, are concerned with abstracting theory from the data and continually caution against slipping into description when analysing or writing up the emergent theory. (The use of elements of both the grounded theory and naturalistic approach in the thesis research are discussed ahead.)

Trustworthiness, ethics and kaupapa Māori research[27]

Quality assurance procedures are less standardized in qualitative analysis than in quantitative work, although there is agreement in the literature on the broad shape of such procedures. They include measures aimed at ensuring sound data collection and analysis, the importance of maintaining an audit trail of all stages of the research, and the need for participant and collegial checks on process and findings.

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[27] 'Kaupapa' translates as theme, or purpose, and here is used to mean Māori controlled research (as explained in the text below).

Lincoln and Guba (1985, ch.10), for example, argue that research must take steps to ensure its credibility, potential for transferability, and confirmability. Actions to increase credibility relate to ensuring the quality of data collection and analysis and include the need for prolonged engagement, persistent observation, triangulation,[28] peer debriefing, negative case analysis (developing of hypotheses to include anomalies) and checking by informants. Potential transferability requires that the researcher presents enough contextual detail of their study to enable a researcher working in another context to assess whether the findings may be transferable to that second context. Transferability is only possible if the second situation is similar to the first and must always be tested empirically. The chief tool that they propose for assessing confirmability is 'the independent audit' of both process and results by an impartial outsider. The audit requires that a detailed diary be kept of all elements of the research activity.

In the case of holism, the authors suggest that the outcome is the creation of 'plausible stories' rather than the formal verification of hypotheses. Ward (1972, 189) argues that to be plausible the story must pass certain tests which include whether the important facts are included and correctly stated, whether the story is supported by multiple sources of information and whether the story is believed by the participants. He also suggests that it is important to identify if the model is the only plausible story or whether other hypotheses are possible.

The above literature says relatively little about the ethical issues involved in doing qualitative research. This is surprising given that an important aim is to express the views of those participating. Only one pair of authors had a specific chapter on the topic (Miles and Huberman 1994, ch.11) and they provide a discussion of issues to be considered, rather than any clear guidelines. Much of their advice is about being self-conscious about the ethical choices being made that is, anticipating, forming preliminary agreements, and having regular reflection and renegotiation. The specific issues they raise can be grouped under two headings: avoidance of harm and sharing of benefits (which includes the issue of ensuring the research is worthwhile). In addition to the chapter by Miles and Huberman there are issues raised by the other authors that

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[28] Stake (2000, 443) suggests that triangulation involves the consideration of multiple perceptions (data sources, methods, investigators) in order to clarify and confirm meaning.

have obvious ethical implications. For example, the stated aim of grounded theory is that it tells the story of participants in a way that is useful to them, as well as making a contribution to knowledge, and this implies that the benefits of research should be shared.

Ethical issues arise for the researcher because as well as being an economist I am part of a community of Māori researchers. Within this community there is a growing debate about the appropriateness of 'Pākehā' (non-Maori) research methods being applied to issues concerning Māori. A contrasting set of methods are discussed under the heading 'kaupapa Māori research'. The discussion of kaupapa Māori research is relatively recent. Much of the debate is still at a conceptual level and while there are researchers seeking to carry out kaupapa Māori research, they share a common approach, rather than an agreed body of methods.

Philosophically, kaupapa Māori research is a method of exploration based on a Māori ontology and epistemology. A more political approach for assessing whether a piece of work is kaupapa Māori research is to ask the question 'who is in control?'. Smith (1992, 9) provides the following list of questions that elaborate on this theme:

1. Who has helped define the research problem?
2. For whom is this study worthy and relevant? Who says so?
3. Which cultural group will be the one to gain new knowledge from this study?
4. To whom is the researcher accountable?
5. Who will gain the most from this study?[29]

Cunningham (1998, 9) provides a taxonomy of different types of research in which the most significant dimension of difference is 'who is in control?'. Four categories are set out by Cunningham. These are:

- 'Kaupapa Māori research', where Māori are in sole control;
- 'Māori-centred research', where dual accountability exists;[30]

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[29] Smith (1999) discuss the political and philosophical origins of kaupapa Māori research in greater depth.

- 'Research involving Māori', where there is Māori subject matter but mainstream control,[31] and

- 'Research not involving Māori', where there is neither Māori subject matter nor control.

An assessment of the research from a kaupapa Māori viewpoint occurs at the end of this chapter.

Case study research

There are two views of case study research. Some, such as Yin (1984) suggest that it is a particular set of methods. The approach of the thesis is to view it primarily as a choice of subject matter as argued by Stake (2000, 435). Stake (2000, 436) suggests that the case is a bounded, integrated system, with patterned behaviour that is probably purposive. The subject matter of the research, the new iwi organisation, meets this definition of a case. The implication of characterising case study research as a choice of subject rather than methods is that it is not necessary to identify a unique methodology for case study research. Rather, one can choose methods that seem suitable for the questions at hand.

One area in which case study research is distinctive and which does need to be addressed explicitly is the selection of the case or cases. In case study research one or a small number of cases are purposefully selected. This contrasts with quantitative work which aims for a random sample selection to achieve representativeness and allow generalisations about the wider population (Maykut and Morehouse 1994, ch.6). Yin (1984:21) explains that 'case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes'. Stake (2000, 448) also reminds us

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[30] In his taxonomic chart Cunningham (1998, 9) lists Māori-centred research as being in mainstream control. In his text (p8) he speaks about dual accountability, however, and this seems more useful in distinguishing 'Māori-centred Research' from 'Research Involving Māori'.

[31] During the debates leading up to the New Zealand national elections on 17 September 2005 the term 'mainstream' was to become highly politicised and emotive. A number of New Zealand readers of the thesis have since cautioned me on the use of the term 'mainstream' in this work. The term is used here to refer to non-Maori New Zealand society. Elsewhere in the thesis the term 'mainstream economics' is used as a synonym for neoclassical economics.

that first and foremost, 'the purpose of a case report is not to represent the world, but to represent the case'.[32]

If the important relationship is between the case and theory, one might look to theory to guide case selection. Yin (1984, 48) takes this approach when he suggests that choice of multiple cases should be subject to 'replication logic' such that each additional case is predicted to produce similar results, or contrary results (for reasons predicted by the theory). Yin's approach assumes that one commences case selection with a theory capable of making predictions of similarity or difference.

Maykut and Morehouse (1994, 61) deal with the situation where there is no theory at the outset by suggesting that as knowledge of the subject matter grows and theory emerges it should direct further sampling. Thus new cases may be added to the sample during the study as additional knowledge about sources of variation are uncovered. Maykut and Morehouse (1994, 56) suggest that 'perhaps the most prominent and useful strategy is *maximum variation* sampling, where the researcher attempts to understand some phenomenon by seeking out persons or settings that represent the greatest differences in that phenomenon' (emphasis in original). Glaser and Strauss (1967) offer a slightly different approach (although one that should have the same result) with their instruction to undertake 'theoretical sampling'. As explained earlier, this involves using the questions emerging from the analysis to drive the collection of new data until saturation occurs and new themes cease to emerge when data from additional cases are analysed.

Maykut and Morehouse's (1994) maximum variation strategy is methodologically sound but it may not be practical in the context of one research project. If the resources required to study additional cases are beyond the means of the research project, the theoretical results will suggest where sampling should occur in *subsequent* studies. As Glaser (1992, 16) points out it is legitimate for the output of an inductive study to be a hypothesis based solely on the subject matter considered with the task of exploring its generality left to subsequent studies. This leaves a final word on selection made by Stake (2000, 446) who suggests that '[t]he researcher examines various interests in the phenomenon, selecting a case of some typicality, but leaning towards those cases that

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[32] Case studies, as with qualitative work generally, are concerned with both the specific and the general, in contrast with quantitative research which is concerned only with the general.

seem to offer *opportunity to learn*. My choice would be to take that case from which we feel we can learn the most' (emphasis in original).

Qualitative, inductive, case study research in the thesis

The thesis research was carried out in three broad stages. These were:

1. The selection of cases, gathering of qualitative data and writing of the three case studies;
2. A comparison of the cases resulting in a cross-case comparison model of the factors explaining the evolution of the iwi organisations;
3. A comparison of the empirical findings with the new institutional economics - social capital literature.

These three stages represent a selective synthesis of the methodologies and methods discussed above. The key features of the research approach, and its similarity and contrasts with the methods described, are discussed below.

The case studies: qualitative, insider stories

The research began inductively. This is consistent with Delorme's advice (1997, 117) that where the relevance of existing theory is unclear attention should be given to subject matter in the first instance. It is the approach taken in holism, grounded theory and naturalistic enquiry. As well as the practical limitations imposed by the absence of an obviously relevant theory there were ethical reasons for adopting an inductive approach. It allowed iwi organisations to be presented from the position of those working inside the organisations. This was more compatible with a kaupapa Māori approach than taking theory from new institutional economics and testing whether the behaviour of iwi organisations was consistent with that theory. The construction of a negotiated, insider description of the empirical situation under study is also consistent with holism, grounded theory and naturalistic enquiry. Neither the inductive approach

nor the recording of insider views is a feature of the methods of new institutional economics.[33]

Iwi organisations were treated as 'cases' in the research because they met the definition provided by Stake (2000, 436) who suggests that the case is a bounded, integrated system, with patterned behaviour that is probably purposive. The treatment of the organisations as cases allowed the integrity of the insider stories to be maintained, that is, the organisations could be presented as whole systems in the first instance before isolating, reorganising and analysing their individual components. The use of the case study approach is consistent with holism and naturalistic enquiry, tolerated by new institutional economics, but is not a general feature of grounded theory (at least in its original form).

Selection of cases

Three iwi organisations were included as cases in the research: Ngāti Whatua, Waikato-Tainui, and Ngāti Raukawa ki te tonga.[34] The selection of cases was not driven by pre-existing theory because there was no prior conceptual work, such as a proposed list of key influences, which could lead to an initial selection that sampled all the key issues. This initial theoretical openness suggests that the research might have introduced new cases as the analysis continued in order to achieve greater variation in those factors that emerged as theoretically important. The constraint on this was the need to deal with each case in considerable depth. This required significant time and resources, such that it was not possible to include new cases as the research proceeded. Priority was given to 'saturating' the case reports (additional material on a particular case yielded no new themes) over saturating the cross-case comparison model (additional cases yielded no new themes in model). This is consistent with naturalistic enquiry (with its emphasis on 'rich description' in individual cases) rather than grounded theory (which looks at

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[33] The research uses qualitative material, aims for realism and explanation, and is informal, in common with the methods of new institutional economics. The use of an inductive approach, however, distinguishes it from the general practice of new institutional economics.
[34] These are the name of the iwi, not the organisations because the latter changed their names during the period under study. Ngāti Raukawa refers to Ngāti Raukawa ki te tonga (southern Ngāti Raukawa) in the thesis, although in the chapter on Waikato-Tainui, references to northern Ngāti Raukawa also occur because of its close relationship to Waikato. 'Ngāti' is used in tribal names to denote 'the people of …' a certain tribal ancestor.

multiple and variable instances of a phenomenon).   The implications of this choice for the cross-case model are discussed in the next section.

Selection of the three cases in the study was not driven by economic theory, but all displayed some key features which I judged essential to their inclusion in my research. Beyond these commonalities they were known to differ in significant respects. One of the features which they held in common and which made the selected cases attractive, was that they were all known by the researcher to have gone through substantial restructuring both physically (in terms of consultation and the creation of new organisations) and conceptually (with reflection on where the tribes wanted to be in the future). Accessibility was another feature which was critical, given the methodological decision to explore the organisations from the viewpoint of insiders. The organisations' preparedness to give me access to their internal views and documents was due to my having prior personal contact with some key individuals within them and also because all three organisations place a high value on education and research. The organisations selected are not unique in possessing the above features but they are strong examples of them.[35]

The organisations were known to differ along the various dimensions including their traditional structures, their current legislative form, their current functions, their asset base, the progress of their Treaty claims, their geographic location and their population. The similarities and differences with respect to these dimensions are summarised in the table below. (Full details are contained in the case reports in chapter 3.)

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[35] Accessibility is a crucial factor in following Stake's (2000, 446) advice that one select 'cases that seem to offer *opportunity to learn*' (emphasis in original). The willingness of the three organisations to cooperate was due, at least in part, to their support for Māori gaining further education and because they considered that the research might hold something of interest to them. An openness to the results of external research is likely to influence the way an organisation develops compared with an organisation that is relatively closed to external ideas.

Iwi Feature	Ngāti Whatua	Waikato-Tainui	Ngāti Raukawa
Recent restructure	Yes	Yes	Yes
Value for education	Yes	Yes	Yes
Prior contact	Yes	Yes	Yes
Traditional structures	relatively decentralised	relatively formal and centralised	relatively decentralised
Legal form	Māori Trust Board (est. 1988)	Trust and Incorporated Society and (est. 1995 and 1999 respectively)	Incorporated Society (est. 1988)
Current functions and asset base	health services and radio; minimal asset base;	owns and manages significant land, commercial property, and fisheries assets	wānanga (university); health and social services; minimal asset base;
Progress of Treaty Claim(s)	several sub-tribal settlements complete; research on pan-tribal coordinating claim underway	major land settlement in 1995; claims to Waikato River and west coast harbours underway	research on pan-tribal coordinating claim underway
Geographic location of rohe (tribal territory)	south west North Island (including Palmerston North city)	mid-northern North Island (including Hamilton city and south Auckland)	northern North Island (including north Auckland city)
Population (census estimate)[36]	medium 13,113	large 46,526	medium 19,698

Table 1: Characteristics of the case studies - Ngāti Whatua, Waikato-Tainui and Ngāti Raukawa

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[36] Estimates of tribal populations vary. These 'notional iwi populations' estimates are taken from Schedule 3 of the Māori Fisheries Act (2004) viewed on the Te Ohu Kai Moana website at www.teohu.Māori/mfa/legislation.htm, on 2/9/05. They are derived from the 2001 census and will be used in the distribution of fisheries settlement assets to tribes. The entire schedule is included in the appendix three.

Data sources

The literature says relatively little about how one chooses what qualitative data to use. The forms most commonly referred to are field notes arising from direct observation, interviews with participants and documents. By implication, the best data in any particular situation depend on both the questions being asked and what is available.

Participant interviews were the primary data source for the research. These recorded the voices of insiders and allowed discussion directly related to the research question. A substantial number of documents were also collected from each site. One of the cases, Waikato-Tainui, had considerable coverage in the mainstream media and this was used to supplement the case report. Lastly, the research drew on what Lincoln and Guba (1985, 188) refer to as 'tacit knowledge': the implicit understanding built up through working over a number of years with iwi organisations and with the three cases in particular.

Interviews, of necessity, involve selection. The primary focus in the research was on the views of those active in establishing and operating the iwi organisations. Interviews were correspondingly conducted with those who had roles as leaders, or employees, or both. This group was judged to have the most in-depth knowledge of organisational change and thus to be the richest source of information on the research question. Identifying specific individuals to approach was achieved through the 'snowballing' technique where a senior individual in each organisation was approached and their advice sought on who should be interviewed.[37]

Material sent to participants prior to the interviews included a detailed list of questions but at the actual interview participants universally asked for a significantly abbreviated list of questions. This led to the following, more successful, opening enquiry:

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[37] The senior individuals, and indeed most of those interviewed, were persons with whom I had prior personal contact. The overall work with the organisation, and each individual interview, was cleared with the organisation's chairperson and/or board. Initial contact with respect to the research generally involved raising the matter at a meeting or phone call on another subject and if these initial contacts were favourable participants were sent a detailed letter explaining the project and a 'participant consent form' (which is required by the university ethics committee). It transpired in the actual research that most of those spoken to were also members of the iwi: all the Ngāti Raukawa participants were iwi members; all but one of the Waikato participants were iwi members; and the Ngāti Whatua participants were both Ngāti Whatua and Ngā Puhi (with links into Ngāti Whatua).

How and why was the organisation established, what does the organisation currently do, and where do you see the organisation going in the future?

The most substantial discussion occurred at the initial interviews but subsequent conversations included requests by the researcher for clarification of specific details and recent developments.

A wide variety of documents were collected relating to each of the three iwi organisations. These included constitutional documents, communications with tribal members (e.g., annual plans, annual reports, pānui or newsletters, discussion documents), internal reports, fisheries papers, legal documents from court actions that the iwi had been involved with, Waitangi Tribunal Documents (i.e., historical reports), academic research papers, and minutes of tribal hui (meeting). Some of these documents contained financial information and thus a limited amount of quantitative information is also included in the case reports.[38]

The ethics of confidentiality and anonymity

Working with iwi organisations as a subject matter had implications for the anonymity and confidentiality of those interviewed. The universal set from which cases were selected contains about 60 members. The salient features of these organisations are widely known so that my case studies, even if they were not named, would be recognisable to people working in the area. Once the organisation is identified it would be relatively easy to guess the identity of those interviewed. This made it unrealistic to protect participants' anonymity without significantly changing the characteristics of the case.

Given that a promise of anonymity was unrealistic, it was decided to offer participants the right to negotiate changes in the case studies. This introduces the bias of both self and external censorship. The risk of 'losing' data was not greater, however, than the

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[38] Interview and document lists for each case are contained in appendix one.

losses that might arise from altering data to protect anonymity.[39] An ethical imperative was operating, however, in addition to this methodological one. The research aimed to present the views of participants and they were assumed to be the best judges of whether the material included did them 'harm'. Stake (2000, 447) points out that '[t]he value of the best research is not likely to outweigh the injury to a person [or organisation] exposed. Qualitative researchers are guests in the private spaces of the world. Their manners should be good and their code of ethics strict'.

Analysis of data and compilation of case reports

The case reports are 'co-constructed' organisational histories and display all the characteristics of the naturalistic enquiry outlined earlier (Lincoln and Guba 1985, 188). They are rich in empirical detail with a minimal amount of conceptual organisation and aim to provide a holistic description (rather than isolating particular aspects). The information came from participants but its arrangement was driven both by the issues they raised as important and the research's interest in charting the key influences over their organisation's evolution. The case reports were discussed and approved by participants. Considerable feedback was received although almost all was clarification of detail rather than any fundamental objection to what had been said.

A substantial amount of time was spent prior to the analysis investigating 'computer assisted qualitative data analysis software' (CAQDAS) and the decision was made to use a programme called 'NVivo'. Retrospectively, while the software assisted the process of storing and organising the interview data, it had minimal impact on the substance of the case reports.[40]

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[39] Yin (1984, 137) points out the high price of anonymity which requires the elimination of many specific details. This is time consuming and also reduces the power of the case study report.

[40] The use of NVivo was more limited than anticipated in part, because it was not practical to load the thousands of pages of collected documents into programme which meant that these were analysed in a traditional manner. Only the interviews were analysed with NVivo. It was also limited because the more analytical components of the research (the cross-case comparison, and the comparison of the empirical findings with the literature) were not amenable to the use of NVivo.

The cross-case comparison model and comparison of the empirical findings with the new institutional economics literature

The cross-case comparison model brought together the key themes that emerged in response to the question 'what explains the establishment and evolution of contemporary iwi organisations?'. It was constructed by comparing the issues that emerged from the individual case studies. The case report is a 'pattern model' as anticipated by holism, containing themes and connections integrated into a holistic explanatory system. The emphasis is on the place of contemporary iwi organisations in the broader social system and the proposed connections are explanatory 'low-level generalisations' rather than universal predictive laws.

The cross-case comparison model has similarities to the categories, relationships and framework which are the outcome of grounded theory. The cross-case model has more empirical content, however, and is less abstract than is expected by grounded theory. The cross-case model is not 'theoretically saturated'. This is because while the model accurately reflects the three 'saturated' case reports, the research did not contain a large enough number of cases to state confidently that the model applies to all iwi organisations.[41] More abstract work came not through the grounded theory approach used in the second stage of the thesis but through the comparison with the literature in the third stage. Thus the cross-case comparison model does not have the status of a theory that stands independent of prior theory, as is anticipated by grounded theory (Glaser 1992, 15).

The third stage of the research placed more weight on comparison with the existing theoretical literature than is anticipated by holism, grounded theory or naturalistic enquiry but less than is usual in the deductive approach of new institutional economics. Thus rather than starting with a pre-existing theory to test, empirical findings were used to guide the selection and organisation of those theories which provided most comparative insight. *No* methodological guidance was found on how one carries out the

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[41] How many cases should be included and thus, where the balance should be struck between the detailed study of one case (and subsequent theorisisng) and the study of multiple cases to allow generalisations to populations, varies between disciplines. It was pointed out to me, for example, that anthropologists often draw theoretical propositions from the detailed study of only one case. From this perspective, a study which includes three cases accounting for some 12% of the Maori population, provides more than adequate coverage.

comparison of inductively derived propositions with existing literature (although it is anticipated by grounded theory) and thus this phase was the most inventive.

The third stage of the thesis is a test of how far inductively derived propositions about the factors explaining the evolution of contemporary iwi organisations support theories offered by new institutional economics. The research found that selected concepts and theories were supported, but that their usefulness for comparison with the empirical findings was greatly increased when they were integrated into a holistic, inclusive framework.[42] Only such a framework could provide an adequate basis for comparison with the inclusive, holistic propositions that emerged from the insider interviews and documents. The outcomes of the research were therefore a new synthesis of the pre-existing theoretical material into a framework suitable for investigating socio-economic institutions and a new way of conceptualising the origins, nature and development of contemporary iwi organisations.[43]

It would have been possible to compare selected economic theories with the empirical material in a deductive manner, but this would have been a response to a different research question. It would have yielded a different conceptual picture of contemporary iwi organisations and would not necessarily have captured the critical features identified by the insiders. The research might also have employed a formal, quantitative approach but this would have had to ignore some of the institutions identified as important by participants. Some institutions such as cultural norms are not amenable to direct quantification (although individual manifestations of them may be). Therefore, despite the centrality of these institutions to the contemporary iwi organisations described to me, they would have been left out of the analysis.

Trustworthiness, accountability and ethical issues

The research method adopted in the thesis was a synthesis of a number of different approaches and the trustworthiness of the different stages was correspondingly diverse.

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[42] Holistic is used here in contrast to reductionist, in the sense that multiple influences and institutional forms were included in the framework. Inclusive refers to the inclusion of all the theories that provided comparative insights with the empirical findings (rather than the testing of one theory, more typical of the deductive approach).

[43] This statement of methods is a summary: both the creation of the framework and the detailed comparison of the theory with the empirical findings involved many iterations.

The case reports draw on multiple data sources (for which an audit record is provided) and a long-term involvement with the subject matter on the part of the researcher. They were discussed and approved by participants and aim to contain sufficient material that outsiders can judge the validity of the cross-case propositions and the transferability of those propositions to other contexts. All these are measures for trustworthiness in naturalistic enquiry [discussed earlier by Lincoln and Guba (1985, ch.10)].

The cross-case model draws on the information provided in the case reports (such that the outsider can judge its validity) and 'tacit knowledge'. The validity of tacit knowledge is difficult to judge for those who do not share that knowledge. It was for this reason that a Māori advisor was included as a research supervisor i.e., someone who does share this knowledge. The model also met the criteria for a good pattern explanation established by Wilbur and Harrison (1978, 77) by including the most important themes from the data such that it was 'difficult to imagine an alternative pattern or explanation which manages to include the same themes'.

The validity of the comparison of the empirical findings and the prior literature depends on the reliability of the first two stages of the research which yield the empirical findings, the accuracy with which the prior literature is reported, and the logic of the arguments made. The reliability of the empirical findings is discussed in the previous two paragraphs. The accuracy of the use of the literature can be checked via the references and the logic of the arguments must be judged on the basis of what is written in the thesis. All of the above factors are important to ensuring the academic accountability of the research, that is, its validity and reliability judged by the criteria of the academic community in which the research is located. The aim of methodological discussion is to clarify and develop the criteria on which academic accountability should be judged.[44]

Some methodological approaches, including that adopted in the thesis, place an ethical responsibility on the researcher toward the research participants. In these approaches

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[44] It should be clear from the earlier discussion of divergent methodological approaches in the social sciences that different parts of the academic community adopt different methodological approaches with correspondingly different criteria for accountability. The aim of the discussion in the first part of this chapter was to make clear what accountability criteria were being adopted and thus in what part of the academic community the research was being located.

ethical responsibility towards participants is a component of the academic standards that research must meet to be acceptable. Miles and Huberman (1994, ch.11), for example, consider that researchers have a responsibility to ensure that their work avoids harming participants and that its benefits are shared. Smith (1992), in her discussion of ethical responsibilities in Kaupapa Māori research, asks who controls and who benefits from a particular piece of work. Including an ethical responsibility towards participants suggests that the research project should be classified as 'Māori-centred research', where dual accountability and benefits exist (Cunningham 1998, 9). This dualism is evident in that, in addition to meeting the standards for academic accountability set out above, the research included measures to ensure accountability to the research participants.

Accountability to the research participants is evident in the joint formulation of the research question. Thus, while it was a topic which the researcher found compelling and which was acceptable to the faculty in which the research was located, its importance was confirmed in discussions with Māori who were involved with iwi organisations. The primacy given to the views of insiders in the research process and the checking of case reports by participants are also measures which provide some accountability to participants. The case reports were designed to provide a useful historical record for participants and their success in this respect was confirmed by two of the organisations studied, indicating some sharing of research benefits. In addition, the comparison of the empirical findings with the literature involved the translation of insider views into the concepts of new institutional economics. This was intended to be useful to iwi organisations by making them more visible and explicable in the external world.

Chapter Three: Case studies[45]

3.1 Te Rūnanga o Ngāti Whatua case report

Who are Ngāti Whatua?

'Me tupu ia wiwi ia wawa, turia i te wera, piri ki te rito o te rengarenga, waiho me whakapakari ki te hua o te kawariki.'

This is a pepeha (proverb) of Ngāti Whatua which the Rūnanga (tribal council) has adopted as an insignia. Tom Parore (2000, para 67) explained its origins in this way:

> …and you will have seen those words 'Blossom forth again like the flowers of the Kawariki'. The Kawariki is the swamp buttercup and the story is an ancient pepeha from the Kaipara. And it was when Ihenga who was one of the ancestors of the area from Te Arawa … was challenged there by Ngā Puhi and the challenge was 'where will you be tomorrow when we've defeated you today'. And the response was 'we'll move here and we'll move there, we'll stand erect in the heat of the day, we'll spread out like the roots of the rengarenga plant, and we will blossom forth again like the flowers of the kawariki'. In other words what he's saying is 'we'll survive, we'll never give in, never give up'. And we thought, well, that's a good message to adopt for Ngāti Whatua.[46]

Ngāti Whatua are descended from the Mahuhu waka (canoe) and have links with the Kurahaupo and Mataatua waka. They claim descent from Tumutumuwhenua and more

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[45] Documents referenced in the case reports can be found in the three case bibliographies contained in Appendix One.

[46] This is a characteristically modest pepeha. In one conversation, Tom Parore suggested that Ngāti Whatua was a humble iwi, but would stand up for itself when pushed.

recently from Haumoewarangi.[47] They are the southernmost iwi of Te Taitokerau (the region north of Auckland city) and their current boundaries date from the middle of the 18th century.[48] Their southern boundary is marked by the Tamaki River and North Manukau Heads, and their northern border stretches from the Whangarei Heads to the Wairau River in the Waipoua Forest. Ngāti Whatua have a substantial coastline relative to their overall land area and the Kaipara Harbour is an important feature of this coastline.

Ngāti Whatua is a medium sized iwi with a population of some 13,000 recorded in the 2001 census. They are sandwiched between two much larger iwi: Ngā Puhi to the north (population approximately 107,000) and Waikato-Tainui in the south (population approximately 46,500[49]). Historically, their lands have been used as a corridor for northern tribes moving south. Ngāti Whatua are tangata whenua in a substantial area of Auckland city and particular challenges arise from this.[50] For example, there is very high proportion of non-Ngāti Whatua Māori living amongst them and intense resource management debates arise associated with urban development. The impact of these features on the tribe's personality and activities emerges in various ways in the story that follows.

Establishment of Te Rūnanga o Ngāti Whatua[51]

At a hui (meeting) in September 1986 at Oruawharo Marae a steering committee was established to create a Rūnanga based on the 30 plus marae of Ngāti Whatua.[52] The hui had been called to discuss the fate of the tribal flag, Te Aweawe o te Rangi and the theme that emerged from the hui was an desire for kotahitanga (tribal unity) and self-governance. Related themes concerned the development of the human and physical

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[47] Ngāti Whatua was defined as the descendents of Haumoewarangi in the original Rūnanga legislation but there has since been a move to alter this to 'Haumoewarangi and other recognised tupuna (ancestors)'. An inclusive definition of tupuna has significance for the issue of tribal unity, as discussed below.
[48] Parore (2002) contains a short history of the iwi.
[49] Population estimates for all iwi are contained in 'Notional Iwi Populations', appendix three.
[50] 'Tangata whenua', literally the 'people' of the 'land', are those who can claim the ancestoral inheritance in a particular area.
[51] The basic outline of this section was covered in the interview with Tom Parore (2000) and the detail is drawn primarily from the report by Marama Henare (1993) and its supporting documents – some 76 in total. Only material from other sources is referenced explicitly.
[52] Marae are the meeting areas or buildings of a community, but the term is also used to refer to the people of the community e.g., 'Oruawharo Marae attended the meeting'.

resources of the tribe including a need to maintain and build knowledge of its tikanga (customs), waiata (songs) and whakatauākī (proverbs). Opportunities arising out of devolution were implicit as it was expected that the new Rūnanga would take on government programmes such as MANA, Maccess and Matua Whāngai on behalf of the whole Ngāti Whatua.[53]

The issue of tribal unity is pervasive in the early discussions about the Rūnanga. Speakers explained that this needs to be understood against a background of forces acting to divide the tribe both from within and without. Externally, the rohe (territory) of Ngāti Whatua was divided by regional government between Auckland and Northland at Topuni. Internally, there had been a settlement for the Orakei subsection of the tribe, with the resulting establishment of a Trust Board.[54] At the time of the 1986 hui the Orakei Trust Board was administering the MANA and Maccess programmes for the whole of Ngāti Whatua and other programmes, such as Matua Whāngai, were being managed by the Taitokerau Māori Trust Board (of which Ngāti Whatua is a member).

The September 1986 gathering called for the establishment of the Rūnanga and unleashed a watershed of further hui with the months and years following having records of meetings on an average of 1-2 each month.[55] The hui are variously referred to as being called for the iwi whānui (wider tribe), the steering committee (which gained the status of the interim Rūnanga), the marae (collectively) and the kaumātua (elders), although a common core of people is recorded at them all. The hui discussed a wide range of issues relating to the establishment of the Rūnanga in addition to other tribal

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[53] MANA was a loan fund established to assist Māori into business, Maccess was the Māori variant of the Access job training scheme and Matua Whāngai concerned the placing of Māori children into Māori foster families. (MANA is in capitals because it is an abbreviation for the full name of the programme. It is also a play on the word 'mana' meaning authority or status.) While the two themes of kotahitanga and devolution are cited as the motivation behind the establishment of the Rūnanga, one speaker suggested that devolution had to be understood as having its origins in the resurgence of Māori nationalism in the 1960s and '70s, evidenced in events such as the Land March. He suggested that government programmes such as Tu Tangata, the establishment of the Waitangi Tribunal and later, devolution, were a response to this resurgence (Parore 2000, para 10). Parore (2000 para 10) notes that '…Tu Tangata really started off as the main thrust and that was about attitudes and about self-reliance and pride and independence of Māori people and that programme flowed on and part of that was Tuku Rangatiratanga which was returning the decision-making to Māori people'.
[54] Ngāti Whatua ki Orakei have manawhenua over lands in Auckland City.
[55] The bulk of the 76 documents appendixed to Marama Henare's (1993) report are minutes from these hui. Remembering that these hui were called and attended by people on a voluntary basis, usually by the busiest members of the tribe, who often had to travel considerable distances as hui moved around the rohe, one can't help but be overwhelmed by the level of energy and commitment displayed. Ultimately, tribal organisations owe their existence to these people.

business. Pervasive were concerns as to how the structure would give appropriate status to the tribe's kaumātua and to its marae. The issue of the most appropriate legal personality was also discussed.

When the Te Rūnanga o Ngāti Whatua Act was passed on 21 December 1988 it included specific provision for kaumātua, stating that:

> (1) Te Rūnanga shall from time to time, by resolution, appoint a council of elders to be known as Te Kauhanganui [assembly].
>
> (2) The principal function of Te Kauhanganui shall be to advise Te Rūnanga on all matters involving Ngāti Whatua lore.
>
> (3) Te Kauhanganui shall comprise such of the kaumātua of the beneficiaries[56] as Te Rūnanga may decide to appoint from time to time after consulting the kaumātua. (New Zealand Parliament 1988, s7)

Although the Kauhanganui has no formal power over the Rūnanga the Chairman's 1998/1999 annual report (Te Rūnanga o Ngāti Whatua 1999a) makes reference to their invaluable input and states that: '...we will not make any major decisions without the input of the Kauhanganui'. Parore (2002) later commented, however, that a 'logistical difficulty is getting elders together from an extended tribal area. The Kauhanganui is a vital part of Te Rūnanga and tribal development, but practical issues have impeded its effectiveness'.

The relationship between marae and the Rūnanga was not dealt with in the legislation.[57] The relationship continued to be a source of debate, partially resolved by the establishment of a Rūnanga Poupou of marae representatives (discussed below) to which the Rūnanga o Ngāti Whatua was accountable, and partially a matter for ongoing negotiation.[58] The legislation did make explicit reference to the desire for kotahitanga balanced against decentralised authority, stating that:

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[56] The term 'beneficiaries' rather than 'iwi members' is a legacy of the original Trust Board legislation since the first Boards were established to administer settlement monies, in trust, on behalf of their beneficiaries.

[57] The Trust Boards Act limits the number of members to between 7 and 11 making it impossible to have the Rūnanga directly comprised of marae representatives.

[58] A rūnanga is a council and poupou are literally 'anchor posts'.

In performing the functions conferred on it by section 24 of the Māori Trust Boards Act 1955, Te Rūnanga shall consult with other tribal authorities concerned with the administration of resources for the benefit of members of the Ngāti Whatua tribe, with the objective of bringing the assets of the whole tribe under a unified administration, thereby *reaffirming tribal identity, while still preserving local autonomy*. (New Zealand Parliament 1988, s6; emphasis added).[59]

The motivation for establishing the Rūnanga as a Trust Board was a belief that this would confer the highest possible legal status: it would have its own legislation.[60] There was some consideration given to including powers drawn from the Companies Act, but this was dropped after concerns from the parliamentary counsel and the threat of loss of the charitable status enjoyed by Māori Trust Boards. There was some criticism of the Trust Board model from tribal members because of its focus on accountability to the Minister of Māori Affairs. Attempts to drop some of these accountability provisions from the constituting legislation were unsuccessful.

The discussion above underplays the lively debates that preceded the formation of the Rūnanga but it can still be described as a relatively straight forward process. This was to change, however, as a result of two events: a misappropriation of funds by a board member in 1989 and a funding drought from 1990 to 1992. The consequences of these two events placed the survival of the Rūnanga in the balance.

The misappropriation of funds occurred in 1989, the first year of the Rūnanga's existence, and came to light in early 1990. It caused considerable anger amongst tribal members and resulted in calls for the sacking of all Board members and a dissolution of the Rūnanga, as well as the more moderate call for a filling of the six vacant positions on the board.[61] In addition to the disappointment relating to the financial crisis there

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[59] In the 2001/2002 year the Rūnanga held 11 meetings, the Rūnanga Poupou 3, Te Kauhanganui 3 and there was an AGM in October 2001.

[60] Māori Trust Boards are generally constituted under a number of acts simultaneously, including the Māori Trust Boards Act (1955+), Māori Purposes Acts (various years) and sometimes their own specific legislation. The Trust Board was the dominant model in the northern part of the North Island at that time (with 11 of the total 13 Māori Trust Boards being north of the Taranaki-Taupo-Bay of Plenty line).

[61] Some of these vacant positions had resulted from resignations and some had never been filled. The Board of trustees was 'interim' until elections could be held consistent with the Trust Boards legislation which required the compilation of a tribal register, prior to postal-voting.

was a concern about the lack of progress of the Rūnanga with respect to compiling the beneficiary roll, convening Te Kauhanganui and communicating effectively with marae.

Countering the anger and hurt expressed at the tribal hui in this period were renewed calls for unity, forgiveness and a desire to get on with the business. At a milestone hui at Haranui Marae in June 1990 the healing sentiments won out. The hui is recorded as being attended by 150 to 200 people at its peak and 27 of the 32 marae were formally represented.[62] Decisions were made to fill the six vacant positions on the Board (the more moderate approach) and to establish a Rūnanga of Ngāti Whatua tuarua (backbone of Ngāti Whatua) comprising representatives of each of the marae.[63]

The additional board members were nominated and subsequently notified to the Minister of Māori Affairs. The Rūnanga Tuarua (which later became known as the Rūnanga Poupou) met in the following month and Te Rūnanga o Ngāti Whatua proceeded with its work. This included trying to recover from the financial crisis, compiling the beneficiary roll to allow formal elections to be held, drawing up a charter and plan, deciding on a physical headquarters, involving itself with the national fisheries debate and Māori Congress, and having boundary discussions with neighbouring iwi. By 1992 hui also record discussions on education, training, social welfare, the establishment of a Ngāti Whatua radio, investment in Tahi Clothing and Treaty claims.[64]

While the Rūnanga survived the immediate fallout from the misappropriation it was left under a financial shadow. By the end of 1990 the Chief Executive reports indicate that while funding secured from the Iwi Transition Agency had enable the Rūnanga to cover its debts, it was left with no operating funds. There were calls for MANA and Maccess to be transferred from the Orakei Trust Board and debate between the two organisations as to whether Te Rūnanga o Ngāti Whatua was ready to receive it. The Rūnanga was

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[62] This is a high attendance in the context of tribal hui.
[63] One reason for taking the more moderate approach was that tribal hui did not have the legal power to sack the board members – this was the prerogative of the Minister of Māori Affairs. There was concern therefore that a new board appointed at a tribal hui would have no legal status and that there would then be two boards, splitting the tribe and undermining the capacity of either board to administer government programmes.
[64] These areas of activity are discussed in more detail in subsequent sections.

effectively run on a voluntary basis at this time by the Chief Executive. As he explained in his interview:

> I ran it on a completely voluntary basis all that time and I continue to do so, other than Tihi Ora which I'm chairman of, so people had to make some sacrifices to keep the Rūnanga going; so that was the challenge and I suppose we've underplayed it in a way but then how can you play it up. (Parore 2000, para 27).

The lack of funding took its toll, however. It limited the capacity of the Rūnanga to proceed with the beneficiary roll and thus to organise formal elections or indeed to do any of the things for which it had been established. The hui in this period express frustration at this lack of progress and, more seriously, the emergence of rival organisations claiming the mandate to represent Ngāti Whatua. The minutes of a Rūnanga Poupou hui on 20 Feb 1993 record the comment that '[t]he Rūnanga has come down to the wire and we must get on with it' (Henare 1993). Tom Parore reflected that:

> The Rūnanga experienced difficulties during 1991 and 1992 because of a lack of funding to employ any staff. It was during this time that challenges to the status of the Rūnanga status were made …[however]… the report of the Waitangi Tribunal decision clearly gives no recognition of status for the challengers (Te Rūnanga o Ngāti Whatua 1994).

The report to which Tom Parore is referring, and the event which brought these challenges to a head, was the involvement of Ngāti Whatua in Treaty claims over surplus railway lands (which the Crown was seeking to dispose of as part of its privatisation of the New Zealand railways). In negotiating the settlement of these claims it was necessary for the Crown to establish which iwi had lands involved and which organisations had the mandate to speak for them. The Waitangi Tribunal was called upon to investigate these questions and established, with little difficulty, that Te Rūnanga o Ngāti Whatua had the authority to speak for Ngāti Whatua as a tribe, while the Ngāti Whatua o Orakei Māori Trust Board spoke for the Orakei hapū [sub-tribe].[65]

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[65] The appropriate translation of the term hapū is subject to dispute. It is generally accepted that a hapū is a collective smaller than an iwi but whether the term hapū or iwi should it is translated as 'tribe' is

Although some dissent continued, the findings of the tribunal and the tribal hui on which those findings were based cemented the Rūnanga's position as the tribal authority.[66]

In addition to the Tribunal findings on mandate, the Rūnanga was greatly assisted when the Te Ohu Kai Moana quota lease rounds began to provide funding for the Rūnanga's operations. Although bids for quota are recorded from late 1990 the reports of lack of funds continue through 1992 and it is not until the 1992-1993 lease round that a record of actual quota obtained can be found. Income from fisheries became, and continues to be, the sole source of discretionary spending for the Rūnanga. Its importance in this regard was emphasised by a number of speakers.[67]

Through 1993 work and debate continued on formal elections for the Rūnanga as a matter of urgency. The need to divide the tribal rohe into wards to allow for the election of 11 Board members and the appropriate relationship between marae and Rūnanga remained a source of tension. Elections were finally held in December 1993 consistent with the Māori Trust Boards legislation and those elected were subsequently recognised by the Governor General. Around 3000 people of voting age were on the roll at this time and 5000 on the roll in total (Te Rūnanga o Ngāti Whatua 1994).

Rūnanga structure, purposes and charter

The structure and purposes of the Rūnanga have been referred to above but they are dealt with systematically and in depth in the Kaupapa or Charter (Te Rūnanga o Ngāti

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debated. If hapū are tribes, then iwi are confederations of tribes. If iwi are tribes, this makes hapū 'sub-tribes'. The difficulty with the expression 'sub-tribe' is that it implies subordination to the tribe, a connotation not present in the term hapū. Ballara (1998) discusses in depth how the relative importance of hapū and iwi has changed over time. Her general thesis is that hapū were the more important unit of social organisation historically and that a significant role for iwi collectives is a comparatively recent phenomenon.

[66] As noted above, the report by Marama Henare (1993) which provides much of the detail for this section was commissioned by the Tribunal for this hearing. The findings were reported in The Waitangi Tribunal (1993) *Report on South Auckland Railway Lands*. The substantive outcome of the claim against the disposal of surplus railway lands was a settlement of $4 million which was divided equally between Orakei and the Rūnanga. The Rūnanga used this fund its share of the Auckland Casino bid and the remainder was paid out to marae.

[67] For example, the fisheries money enabled the Rūnanga to shift from the house of the Chair into its own offices in 1994.

Whatua 1995).[68] This introduces itself as 'a legal undertaking by the board of Trustees to the Ngāti Whatua people which defines how the Board of Trustees will run the Rūnanga and its accountability….'. Work on this document began at the Rūnanga's inception, but the current version is dated October 1995. The Charter discusses how the Rūnanga fits within Ngāti Whatua, its guiding principles, accountability, representation, approach to conflict resolution, equity and its relationships (with other Taitokerau iwi, Ngāti Whatua taurahere and manuhiri).[69] More technical matters relate to elections, structure and duties of the Board, funding, accounts, the seal and constitutional amendments.[70]

The Rūnanga is located within the structure of the tribe using the metaphor of the whare tapu. Thus the tribe has tupuna who are represented by the tekoteko; kaumātua and kuia who form the Kauhanganui and are represented by the heke of the house; 32 marae, whose representatives form the Rūnanga Poupou and are represented by the walls and foundations of the house, and finally the Rūnanga, which are likened to the reo karanga and taumata korero.[71] The Charter explains that the Rūnanga is 'the authorised voice of Ngāti Whatua, and for this function will operate through a consultative process with the Iwi, recognising the local autonomy of each marae'.[72]

The Rūnanga is accountable to the Kauhanganui ('the ones that are influential in advising on all matters to do with ngā tikanga [the customs] o Ngāti Whatua') the Rūnanga Poupou (whose quarterly meetings it must attend and report to) and the tribe generally through the annual general meetings and elections.[73] The Rūnanga Poupou representatives are in turn required to keep their marae members informed. Changes to

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[68] I came across the Charter early in my days working for Te Ohu Kai Moana and was so impressed by its thoughtfulness that I resolved to try to work with Ngāti Whatua in my thesis research. The following paragraphs contain many extracts from the Charter (which are attributed but not individually referenced).
[69] Taurahere is used here to refer to groups of Ngāti Whatua descent formed outside the tribal rohe. Manuhiri are guests or visitors.
[70] The Charter is not required under the Rūnanga's constituting legislation but was commenced when the Rūnanga a Iwi Act was in place and it was anticipated the Rūnanga would be recognised as the authorised voice of the Iwi under that Act. The Act was repealed but the Charter survived.
[71] These words in Māori describe things which have no equivalent in pākehā culture but indicative meanings are: whare tapu – sacred (meeting) house; tupuna – ancestors; tekoteko – carved figures; kaumātua and kuia – male and female elders; Kauhanganui – council (of elders, in this case); heke – rafters representing lines of descent; marae – constituent communities of the iwi; Rūnanga Poupou - council of marae representatives (literally 'anchor posts'); reo karanga – the calling voices; taumata korero – the platform of speakers.
[72] Note again here the need to balance kotahitanga against local autonomy
[73] These latter two are provisions of the Act rather than the Charter. The Rūnanga must present annual plans and annual reports to the annual general meetings.

the Charter must be approved by a majority vote at the Rūnanga Poupou. The Philosophy of the Rūnanga states that '**[o]ur activities derive from the needs of our people and we work from the marae up, rather than from the top down**' (emphasis in original).

The Charter states that '[t]he mission of Te Rūnanga o Ngāti Whatua is to provide for the development of Ngāti Whatua as a strong and caring iwi'. The Charter's philosophy statement outlines that the first priority is to the unity, wairuatanga (spirituality), development and well-being of the Ngāti Whatua people. It explains that the Rūnanga cares for its people's language and culture, the natural beauty of their rohe and their improved future. The explanation as to how the mission statement is to be manifest mostly relates to Ngāti Whatua but there is also a repeated theme of needing to manāki manuhiri (care for guests).

The goals which manifest the mission statement include upholding 'Te Kotahitanga me Te Tino Rangatiratanga o Ngāti Whatua under the guidance of our kaumātua and kuia'[74] and exercising the responsibility of tangata whenua to be the authorised voice of the tribe. Other goals are to provide for 'people development', 'people caring' and 'economic development'. The Rūnanga is charged with managing the affairs and finances of the tribe. The goals set out in the Charter are translated into the operational structure of the Rūnanga which is divided into five areas of responsibility: Rangatiratanga (dealing with representation on external bodies, fisheries and land claim negotiations, and Tihi Ora - the health co-purchasing body); People Development (education, training, employment, youth, cultural and marae development); People Caring (social development, housing, health, environment, land and customary fisheries); Economic Development (which includes the companies: Mai FM - radio, Tahi Holdings - clothing, and Hapai Te Hauora Tapui - health; commercial fisheries and tourism); and Support Services (administration and finance).[75]

The Charter discusses in some length the more technical aspects of the Rūnanga's operation. Board members have a governance role, overseeing the finances and work of

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[74] This translates as 'The unity and sovereignty of Ngāti Whatua under the guidance of the elders'.
[75] This operational structure is not included in the Charter but is outlined in the organisational chart (Te Rūnanga o Ngāti Whatua, 1997) and the annual plans and reports.

the CEO (Chief Executive Officer). They have statutory duties relating to the beneficiary roll, elections, plans, reports and finances, as well as portfolio duties relating to the activities of the Rūnanga. The expectations of the CEO and support services unit are outlined.

The importance of building positive relationships with a wide range of other organisations and people are discussed in the Charter. The philosophy statement talks about 'good relations with all other people in the community of our rohe; …friends and loved ones from other Iwi and nationalities; [and] …reciprocal arrangements with other Iwi for Ngāti Whatua people in their rohe'. In seeking to work with local Māori Trusts and Incorporations, it acknowledges the autonomy of those organisations. The Charter makes reference to fostering the special relationship with other Taitokerau Iwi and pan-tribal organisations while emphasising that Ngāti Whatua will manage its own affairs. There is a commitment to providing assistance, if possible, to Ngāti Whatua taurahere groups and consideration to the relationship with other Māori in the rohe. The relationship with government is mentioned only briefly in terms of the right of the Rūnanga to appoint representatives to ensure 'their interests and views as tangata whenua are considered by Government, local bodies and organisations'.

A number of speakers emphasised that it was the tribe's responsibility to care for manuhiri (guests) in their rohe. This is reflected in the Charter's goals relating to providing for personal development, caring and economic development, which all refer to 'Ngāti Whatua *and other Iwi within the rohe of Ngāti Whatua'* (emphasis added). The philosophy also states that '[a]lthough our first priority is to Ngāti Whatua, we will also cater for all other Māori people in our rohe not catered for by taurahere or urban Rūnanga'. There is a specific reference in discussing relationships to these latter groups: 'Ngāti Whatua acknowledge that there are various taurahere and urban authority groups already established in the rohe. The Rūnanga welcomes these organisations and on the basis of mana whenua invites them to work in harmony with us'.[76]

It was clear from the interviews that the Charter is a living document as far as the Rūnanga workers are concerned. A number of them referred to the importance of the

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[76] 'Mana whenua' is authority (mana) over the land (whenua). It is an attribute of the tangata whenua (the people of the land).

mission statement in guiding their operations. Tom Parore (2000, para 73) talked about the need for the Rūnanga to take time out to articulate the tribe's tikanga or guiding principles '...so that we know that when you're dealing with Ngāti Whatua this is the way they're going to operate. We want to get something that's pretty specific, peculiar to Ngāti Whatua'. Allan Pivac (2000, para 10) said that his job was to translate the mission statement into concrete measures in the annual plan and report and to try to make Ngāti Whatua tikanga ('sacred values and principles') a point of difference in the Rūnanga's external dealings.[77]

Tom Parore (2000, para 64) gave this more general explanation of the role of the Rūnanga in the life of the tribe:

> To maintain or enhance the mana (authority) of an iwi, you have to work at it: you need to have a structure in place and you need to have people on the ground and you need to have kaupapa (purpose). You need to have tikanga that people understand and you just can't take tikanga and those things for granted it needs to be worked on every day of the week.   Kotahitanga comes about because of participation and consultation: you need to get people involved so that they share in the decision-making and perceive that they've got some stake in it; they feel they belong. So we need to do things together; so even the sporting things I regard as important… and it's important to go around all the different areas just to maintain contact and it just can't be done from a distance. I'm not sure we're doing that as well as we might; it's a huge strain, it has to be said… that's one of the avenues for communication and consulting with people, through the electronic media, the internet and things like that …and I'm sure that will develop … and a lot of it came from those early meetings that we had, one of the things was 'don't leave anybody out, don't leave anybody behind'.

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[77] Tom Parore discussed in his interview and in his 98/99 Chairman's Annual Report the ongoing work on clarifying the tikanga, tupuna and taumata of the tribe as well as a need to rewrite the Charter so it was more user-friendly.

Work of the Rūnanga: overview [78]

Te Rūnanga o Ngāti Whatua overcame its early tribulations to experience steady growth. The Chairman's report for 2001/2002 records that the Rūnanga employed a total of 160 people. Its most successful activities are in health, radio broadcasting and commercial fisheries. Tahi Holdings, the Rūnanga's unsuccessful foray into clothing manufacture and retail, has had a reincarnation as a provider of financial services. The Rūnanga boasts a modest but steady involvement in a number of education and training activities and has shown a grim determination to try to deliver social services, despite repeated failures to form a suitable agreement with the Crown. Treaty settlements and resource management are both important and show some signs of progress, despite a lack of funding and a complexity of issues and relationships to negotiate.

Interviews revealed a quiet optimism that, after a decade of emphasis on sound financial management in the wake of the early crisis, the Rūnanga had emerged from this cloud. It was looking to be more proactive by involving Trustees in strategic planning and taking initiatives of its own, rather than solely responding to government opportunities. The Rūnanga's self-appointed challenge was to found all relationships on Ngāti Whatua tikanga with the meaning of this in particular situations a matter for ongoing exploration. A summary of the financial measures of the Rūnanga's activities are contained in the table below. (The figures in the table come from the annual reports to iwi members and are pre-audit. They relate to the Rūnanga, not the consolidated accounts. All figures are in thousands of New Zealand dollars. Brackets indicate a negative value.)

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[78] While the general themes in this section were taken from the interviews, the detail is taken from documents – Marama Henare's collection (which includes many hui minutes) and relates to the period 1986 -early 1993, and annual reports for 1998-1999, 2000-2001 and 2002-2003. This means there is a gap in the detail from '94-97 and also that I only have financial information for 1998-2002.

Measure \ Year	1998	1999	2000	2001(a) note 1	2001(b)	2002
Total Equity note 2	2 408	2 820	3 240	3 197	2 458	2 469
Net Surplus	11	413	125	(96) note 3	(683) note 4	12
Total Income note 5	2 153	2 646	3 241	4 505	4 336	4 724
Income from service contracts	1 285	1 677 note 6	1 712	2 515	2 510	2 666
Income from fisheries leases	553	803	1 000	1 228	1 228	1 326
Net surplus from fisheries leases	313	592	767	912	942	1004
Other income note 7	144	91	47 9	744	559	617
Investments Value: note 8						
Mai FM shares	200	200	200	324	0	0
Mai FM loan	124	124	339	215 note 9	0	0
Te Kupenga shares	-	862	862	351 note 3	0	0
Tahi shares	161	161	329	329	0	0
Tahi loan	146	146	146	146	172	32
Tahi advance	599	882	660	633	0	0
Te Aohou Ltd	319	319	319	319	0	0

Table 2: Financial measures of Te Rūnanga o Ngāti Whatua activities, 1998-2001

Notes to Table 2: Financial measures of Te Rūnanga o Ngāti Whatua activities, 1998-2001

1. There are two sets of values for 2001. 2001(a) comes from the 2000/2001 annual report (and is therefore pre-audit figure). 2001(b) comes from the 2001/2002 annual report, is post-audit, and takes into account the incorporation of the MANA loan portfolio into the balance sheet. Further details are in note 4.

2. The change in total equity is not identical to the net surplus because the accounts are pre-audit.

3. The operating surplus for 2001(a) was $632,000 but after an appropriation to the asset replacement reserve of $134,000 and share write-down for the Te Kupenga shares of $510,095, there was a net deficit as shown. The 2000/2001 Annual report notes that 'the write-down of the Te Kupenga shareholding was the major surprise and was a situation over which the Rūnanga had no control'.

4. The 2001(b) figures reflect the transfer of the MANA loan portfolio from Ngāti Whatua ki Orakei. The 2001/2001 annual report had this to say about the transfer: 'The transfer of the MANA portfolio was also completed during the year and thus enabled the Rūnanga to tidy up the 'balance sheet' that has been carrying transactions that could only be cleared on completion of the transfer. Although the changes have a fiscally neutral impact on the balance sheet, they do provide both the Rūnanga and the auditors with a greater degree of comfort as it (the balance sheet) conservatively understates asset values without diminishing equity.' What the incorporation of MANA meant in practice was the write-off of almost all the Rūnanga's investments (shares, loans and advances). It was explained to me that the Audit Department had issued qualifications to Ngāti Whatua's accounts relating to these investments and writing them off almost completely was the most conservative approach possible and a way of eliminating these qualifications. I was told that the investments might well be written back up, if they made a return in the future. The MANA portfolio addition (worth 1,019,584) was offset by revaluations for Te Kupenga shares (down $351,905 to nil), Mai Media shares and loan (down $538,853 to nil) and Tahi Holdings share and loan (down $986,379 to $172,000). With these write-downs, the company investments all but disappear from the balance sheet. The loan to Tahi Holdings remained, because of its more solid repayment record ($50,000 in the 2000/2001, $140,000 in 2001/2002) and the Rūnanga was confident that the outstanding $32,000 was recoverable. The difference between the MANA loan value and the revaluations is negative $894,309, the effective 'write-off' the balance sheet. There is also an appropriation to the asset replacement reserve of $410,692. These two figures turn the operating surplus of $621,594 into a net deficit of around $683,000.

5. Total expenditure is indicated by the difference between total income and the net surplus. Expenditure details are not reported as these are unremarkable (except for educational and cultural grants which are reported later in the text). The single biggest item is personnel (44 – 50%) the rest being spread over

organisational overheads (travel, rent, vehicles, communications, koha [donation], depreciation etc).

6. In 1999 these services were divided between the Rangatiratanga portfolio – 27% (which includes Tihi Ora, the health purchasing body); People Development – 14% (which includes the training programmes) and People Caring – 58% (which includes the health services delivery).

7. In the 2001/2002 year 'other income' included health funding that did not arise from the Ministry of Health (about 50% was from this source); various subsidies e.g., employment; funding from other government departments e.g., funding for research on Treaty claims. 'Modest profits' from the commercial activities (apart from fisheries) are also included here when they occur.

8. The investment activities are, in summary: Mai FM Ltd (renamed Mai Media in 2002), an Auckland Radio station 100% owned by Te Rūnanga; Te Kupenga Ltd, the parent company for Moana Pacific Fisheries Ltd (Te Rūnanga purchased 628,401 shares in Te Kupenga on 18 Feb 1999); Tahi Holdings Ltd, whose main activity was originally the manufacture and sale of Māori Design Clothing but which has been recently reinvented as a provider of business services; Te Aohou Ltd which represents funds advanced to Ngāti Whatua o Orakei Māori Trust Board to assist in its part share of the Auckland Casino bid. (The bid was not successful, but Te Rūnanga o Ngāti Whatua considered that given the success of other developments the advance should be reimbursed and ultimately, the funds were deducted from the MANA account.) More detail of these investments occurs in the following sections.

9. In 2001, $124,000 from the loan was converted into share capital.

Discussion of the financial measures of the Rūnanga activities, 1998-2001 (table 2).

Total equity has risen and fallen over the 1998-2002 period to remain virtually unchanged. The fall was due to the write-down of investment values (as explained above). Total income is high relative to net surpluses and total equity. The reason for this is a combination of service contracts where funding only just covers costs and the use of the net surpluses from fisheries leasing to cover the non-funded activities (e.g., new contract negotiations, resource management, communications, governance activities and educational and cultural grants).

The accounts show that the increase in total income is driven firstly by the growth in service contracts (predominantly in health) and secondly by an increase in fisheries lease income. This confirms these two areas as the Rūnanga's success stories. By

contrast dividends on the Rūnanga's investments were described as 'modest' and the major write downs in their value is testament to this. There are important activities that do not appear in the accounts - those that have not received funding - but which are areas of major concern. Treaty settlements, resource management and negotiations on social services all come into this category.

Commercial activities[79]

The first objective under the Economic Development Responsibility in the 2002/2003 annual plan was to '[e]nsure that a balanced portfolio of investments is maintained'. The investment portfolio was to be 'continuously reviewed throughout the year and investment opportunities investigated as they arise'. Businesses were to be monitored against their business plans, including benchmarks 'that ensure that the businesses uphold the mana and integrity of Ngāti Whatua' (Te Rūnanga o Ngāti Whatua 2002b).[80]

Despite the recognition that a 'balanced portfolio of investments' was desirable, its possession by the Rūnanga seems to be as much a result of serendipity as systematic investigation. Investments were made in response to immediate opportunities: Tahi Holdings and Te Kupenga were founded on MANA funds, commercial fisheries involve the management of quota made available by Te Ohu Kai Moana and Mai FM was founded on privileged access to the radio frequency (in addition to the personal enthusiasm of key individuals from the iwi).

In addition, all investments can be explained by more than solely commercial imperatives: Tahi originally held the promise of jobs and profile and then of being able to provide business advice to marae; fisheries are considered a taonga and supports local fishers; and Mai FM is a way of communicating with iwi members and other Māori. The participation in the Māori Congress casino bid was also explained as more than just a commercial decision as the funds had come from the railway lands settlement, the proposal was to build on the former railway lands and as tangata whenua, Ngāti Whatua needed to be seen supporting the Māori Congress.

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[79] The delivery of service contracts are also commercial activities for the Rūnanga, but are discussed separately in this chapter, following the Rūnanga's operational divisions.

[80] The second objective in the portfolio is to 'Support and promote Māori business in rohe', primarily by advising on government business support schemes to ensure they deliver to Māori.

The financial returns from the commercial ventures were described as 'modest' and the substantial write down of investment value in 2001 is consistent with this description. The exception to this is the steady growth net income from the on-leasing of Te Ohu Kai Moana quota.

Fisheries

Fisheries issues feature in the earliest discussions of the Rūnanga.[81] From the outset two objectives are expressed for commercial fisheries management. A Rūnanga meeting on 19 June 1990 referred to the establishment of a fisheries committee two years earlier and 'the need to protect the interests and livelihood of Ngāti Whatua persons in the fishing industry' (Henare 1993). At a Rūnanga Poupou Hui in November 1990 it was argued that the 'quota was an asset of the people and needed to be dealt with accordingly'. The two objectives, keeping Ngāti Whatua fishers on the water and managing the asset for all the tribe, have continued. Tom Parore (2000, para 10) talked about the rules for the on-leasing of the fisheries quota obtained by the Rūnanga:

> …and the other thing that we did with it was to put it out to tender and basically we just had two rules in that approach of putting it out to tender. Firstly, was that to be successful the tenderer … obviously price was a factor, but they had to guarantee that they would give quota to Ngāti Whatua fishermen …yeh, that was one of the main considerations … to actually fish some of the quota and obviously if they could provide some additional quota as well that was in their favour…so we followed that right through … [and] … in practice that worked fairly well.

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[81] The first bid for fisheries quota from the Māori Fisheries Commission is recorded at the Poupou hui in November 1990. The quota is made available 'at cost' by Te Ohu Kai Moana, that is, at a cost that covers government charges and Te Ohu Kai Moana operations. Te Ohu Kai Moana makes the quota available as a means of assisting iwi to participate in the fishing industry which is one of its statutory functions. The partial success of the bid is noted in the Chief Executive's report of 18 Dec 1990, and a Rūnanga hui two years later (20/11/92) reports that 314 tonnes of quota were obtained for 1992/93 tender round. The CE report of 18 Dec 1990 also records the hope of an allocation of shares in Moana Pacific Fisheries from Te TAI (Te Tira Ahu Iwi - the Iwi Transition Agency, a government body).

Parore later commented that the policy of ensuring Ngāti Whatua fishers were prioritised was appreciated, and more pointedly, that criticism would be forthcoming if this were not the case.[82]   He also explained that the Rūnanga had made sure that Ngāti Whatua commercial fishers were involved in the Rūnanga fisheries committee (2000, 49-53).

As well as intensive internal discussion on fisheries allocation, Ngāti Whatua has had an ongoing involvement in regional and national fisheries debates. Te Rūnanga o Ngāti Whatua was part of a regional tribal grouping, the 'Area One Consortium', and bid for Fisheries Commission quota for a number of years as part of this group. The Rūnanga had a significant input into how quota was allocated within that consortium by obtaining accurate tribal population and coastline figures. I was told that the Rūnanga left the Consortium because it was attempting to make decisions for iwi rather than acting as a discussion forum.

Tribal hui minutes record discussion of the Sealords deal prior to it being finalised with a general view that it should be supported as the best that could be achieved, but that Ngāti Whatua's entitlement and customary rights needed to be protected.[83]   Ngāti Whatua have consistently provided input into the national allocation debate initially advocating an approach based on coastline and then accepting one that included population after it became clear this was necessary in order to secure the agreement necessary for allocation to iwi to occur.   The Rūnanga's recognition of the need to compromise in order to allow allocation to occur is evident from a much earlier date than most other iwi.   While they have argued that all settlement assets should be returned to iwi, they were prepared to support the May 2003 model, He Kawai Amokura again, in order to achieve agreement and implementation.

Te Rūnanga o Ngāti Whatua on-leases the quota it obtains from Te Ohu Kai Moana. It does not consider that it would be commercially viable to fish or process that quota itself but it is looking to develop more sophisticated commercial arrangements. One

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[82] In practice, the dual objectives relate only to inshore quota, as this what small commercial fishers require. Deepwater quota requires large companies with the capital to fund large vessels.
[83] As explained in Chapter One: Introduction, the Sealords deal is the colloquial name for the 1992 Fisheries Settlement, because it involved the purchase and transfer to Maori of a 50% share in the Sealords fishing company.

example would be to combine a fixed fee for access to the quota together with a share of marketing profits. Hally Toia stressed repeatedly that in commercial decisions relating to quota price was not the only or even the most important factor. What mattered was the quality of the overall relationship which included a long-term commitment, benefits to Ngāti Whatua fishers and to the Iwi more generally, and a preparedness to be innovative in the relationship e.g., to look at profit sharing relationships.

Te Rūnanga o Ngāti Whatua has a strong relationship with Leigh Fisheries.[84] The township of Leigh is within the Ngāti Whatua rohe and the company is willing to ensure some quota goes to Ngāti Whatua fishers. It also employs Māori, including some Ngāti Whatua. The Rūnanga has also dealt with Moana Pacific (in which it has shares and which is Māori owned) and Sealords (which is 50% Māori owned). At the time of the latest interview they were leasing their inshore quota through Leigh Fisheries and their deepwater quota through a broker, with Sealords the eventual recipient.

Other issues that arose for the future were the potential and expectation that the Rūnanga could generate income from fisheries consultancy (something that was already happening in a modest way) and the desire for the Rūnanga to gain a presence in aquaculture. Both the 2001/2 and 2002/3 annual plans refer to investigations of how an aquaculture base might be established in the Kaipara Harbour. In his 2002 interview Hally Toia reported that Te Rūnanga o Ngāti Whatua had made an application for an aquaculture permit on the Kaipara and in 2003, that they had lodged a claim with the Waitangi Tribunal against the current government moratorium on new aquaculture permits. Hally also mentioned that the Rūnanga had been doing some informal work with other Taitokerau Iwi on fisheries management matters again, with a view to the importance of long-term relationships.

There were two reasons given by speakers for the importance of fisheries to the Rūnanga. At a practical level, the on-lease of fisheries quota provides the only source of independent income for the Rūnanga.[85] More esoterically, fisheries are important

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[84] Leigh is a small, private company owned by fishing families. It has its quota caught on contract and most is processed as 'iki' snapper which are exported to Japan. 'Iki' snapper are killed with a spike through the head as they are taken off the long-line and then exported whole-green and chilled.

[85] The financial impact of fisheries on the Rūnanga's income is summarised in Table 2: Financial measures of Te Rūnanga o Ngāti Whatua activities, 1998-2001. The financial importance of fisheries is

because Ngāti Whatua are a coastal-fishing people. The life-line that fisheries income provided for the Rūnanga in the early 1990s was mentioned by Tom Parore (and discussed above). Allan Pivac also emphasised that the fisheries income paid for all the unfunded Rūnanga activities including new contract negotiations, tribal hui and governance, resource management and customary fisheries, and educational and cultural grants. He noted that the Rūnanga had received some criticism for 'frittering' the fisheries income rather than building up an asset base, but argued that they had little choice if the Rūnanga was to meet its wider obligations. He did, however, express the desire to 'salt some income away', rather than have to spend it on immediate needs. He also emphasised the need for security of asset ownership i.e., final allocation, before long-term investment decisions could be made.

Tom Parore (2000, 49-53) talked about the need to do an appraisal of the different options for the management of the fisheries assets once the ownership was secured, while also referring to their 'taonga' status:

> …it's fundamental that we maintain those assets and not just in investment terms, although that should be pretty sound, I mean if you had to compare it with the value of another investment and another one won out in financial terms we'd probably still argue for the fisheries because the settlement was made to iwi and here's an iwi, we've got a big coastline and a big harbour and we ought to be involved in the business and enterprise of fishing ….it's a taonga.

Tahi Holdings - from clothes to accounts

Tahi Holdings began life in August 1990 as a manufacturer and retailer of Māori design clothing. Initially the Rūnanga bought a 49% shareholding but in the face of poor returns it became clear that the Rūnanga needed either to exit, or to buy the remaining shares. The latter course was taken but the venture continued to perform poorly. Eventually the company name and debts were salvaged as it was transformed into an

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increased as there is a possibility that little will come back to the tribal organisation from other Treaty settlements given the current trend within Ngāti Whatua for hapū based settlements (discussed further below). Tom Parore explained that the fisheries committee, and the kuia and kaumātua in particular, considered that the assets should be kept together at a tribal level but he was realistic that there might be pressure from some sub-sections of the tribe for their own share.

entity offering 'business bureau services' (while participating in subvention arrangements with more profitable Rūnanga ventures).

The original investment in Tahi was made because it was seen both a potential employer of Māori and as a flag bearer for Ngāti Whatua through the visibility of the distinctively Māori clothing. In addition, partners in the company were people from Te Arawa (with whom Ngāti Whatua has ancestral connections) and MANA funds were available to help fund the venture.

Allan Pivac used the events relating to Tahi to explain how tikanga made a difference to the way the Rūnanga behaved in its financial dealings:

> ..and some of the decisions that we would make should not have been made from a commercial perspective …but from a tikanga perspective they have to be made … one example was the Tahi business, the clothing business that Ngāti Whatua got lured into, whatever the term is …through the MANA Scheme at the time; and the only way that the borrower could get access to the MANA fund was … to work with Ngāti Whatua and the only way that Ngāti Whatua could get any money was to work with Tahi so you were kind of forced together. …Now as minority shareholder, that business eventually went belly up, well so close to it that it was technically insolvent, so the majority shareholders wanted to get out so they came and offered the opportunity to the Rūnanga. Now you'd know that you should not really get into the business because you know that the companies facing liquidation and that …the debts that you can't see are going to be bigger than the ones that you can and all those other sorts of things .. that whole iceberg thing. … So you had to have a huge faith in your own ability to turn the business around to make a commercial decision to go with it, *but from a tikanga perspective you could not walk away from it, the mana of Ngāti Whatua could not be let go with that business.* … If you got known as an iwi that didn't pay its bills how the heck were you going to be able to go on. So that the bottom line was that there was no other decision. (Pivac 2000, para 2, emphasis added)

The 1998/99 CEO report (Te Rūnanga o Ngāti Whatua 1999a) announced the decision that Tahi would cease trading. As noted, however, the company continued to operate, but as a financial services bureau. Allan Pivac (2000, para 21) again explained: '…and although Tahi has cost us a lot of money, and again, it started off as a matter of mana, although we haven't been able to grow that, the losses are going to be useful to the Rūnanga in terms of tax … [and] .. ideally we should be able to do financial reports for our marae if they need it, and offer those sorts of services …'. The Rūnanga accountant, Steve Watene (2000, para 13) suggested that offering financial advice was 'really double faceted as a social service to the marae and the kohangas [Maori language nests] and as a business back to the Rūnanga. So there are big benefits in such a company being set up …it will provide a return back to the Rūnanga as well as adding to the scope of the services that the Rūnanga has to offer'. Watene noted that the aim was to have all the business centres self-supporting.

The 2001/2002 Annual Report records that 'Tahi once again ended the year with a modest profit from its business bureau services' (that being the third year in a row). The Annual Report also noted that the Rūnanga was continuing to look for external funding for this assistance to marae in the preparation of their financial statements so the service could be expanded and provided at a subsidised rate.

Mai FM – Radio Ngāti Whatua

The possibility of establishing an iwi radio station was being discussed at Rūnanga meetings in the early 1990s. The idea was to grow into the Auckland radio station, Mai FM which is aimed at an urban youth audience.. Mai has achieved considerable popularity and the 2001/2002 Annual Report records that it 'achieved the supreme accolade in the Auckland market, the number one rating radio station…'. When I asked about the reasons for Mai's success I was told that it was largely due to the enthusiasm and skill of key individuals. Obtaining the frequency was also assisted by Ngāti Whatua's status as tangata whenua.

Mai seems to have been modestly profitable: the 2000/2001 Annual Report notes that 'Mai FM reversed the disappointment of last years loss'. This is despite being limited by insecure access to the trademark frequency (licences are granted only annually by the

government) and the fact that 'an injection of capital is required to achieve growth of any significance' (Te Rūnanga o Ngāti Whatua 2001a). Mai is also subject to tikanga constraints with a policy of not broadcasting outside the rohe without the agreement of the tangata whenua of that area.

The record shows a slow diversification of activities. In 1996 Ruia Mai, a subsidiary broadcasting in te reo Māori (Māori language) began operation, but its fate was decided by the vagaries of funding from Te Māngai Paho (the government agency responsible for funding Māori language programmes).[86] The 2001/2002 Annual Report describes how MAI had expanded its activities and was renamed Mai Media to reflect this with new ventures including music recording, publishing, website, and a dance music frequency.

Health, social services and education

Health

Health is a success story for Te Rūnanga o Ngāti Whatua. This is true both in terms of growth of services offered and in the quality of the relationships which they have been able to achieve. Health activities are of two kinds. Firstly, the Rūnanga owns Tihi Ora which has a 50% stake in a Māori Health Co-Purchasing Organisation (MAPO) in partnership with the Crown. Secondly, they deliver services through Te Ha o Te Oranga. Tihi Ora sits within the 'Rangatiratanga' portfolio and Te Ha within 'People Caring'.

Tihi Ora, as part of a MAPO, is responsible for assessing health needs and matching these needs to providers. It receives funds from government to purchase specified health services and then enters into contracts with Māori providers for the delivery of those services. This allows Ngāti Whatua to have a partnership with the Crown and then to exercise its obligation as tangata whenua to look after both its own tribal members and other Māori in its rohe. In the interviews both Allan Pivac and Tom

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[86] A Herald article on 8/4/04 reported that Ruia Mai, a subsidiary of Mai FM, had lost its contract with Te Mangai Paho and would close in June 2004, with the loss of 15 jobs.

Parore talked about the desirability of allocating funds in a way that ensured that the four Māori health providers in their rohe were maintained.

In his CE report for 2000/2001 Allan Pivac talked about the relationship between Tihi Ora and the Crown.

> The Rūnanga … continues to stress the Treaty stance and to find solutions that give effect to full participation as a Treaty partner. While it might not be the ultimate model, the optimum model for Ngāti Whatua is the co-purchasing framework and it is this model that the Rūnanga seeks to expand and adopt across other portfolios. It is the only model, to date, that recognises the Rangatiratanga of Ngāti Whatua and the Crown and fulfils the Article II requirements. (Te Rūnanga o Ngāti Whatua 2001a)

In his interview, Allan Pivac (2000, para 27) also spoke about the two-way relationship between the Rūnanga and the District Health Boards (DHBs) on the one hand, and with other Māori groups on the other:

> …but part of the trick with the new DHB governing bodies …. [is to] … understand the nature of the relationship in working with mana whenua versus working with ma ta waka [other Māori] … so that they can actually see that there's a loop and if the mana whenua relationship is operating appropriately then the mana whenua must, through its tikanga, manāki all other Māori. And if the other Māori organisations are working well then they must support mana whenua because mana whenua go into bat on their behalf and in terms of the tikanga Ngāti Whatua must ensure that all people must get access to quality of service and quality of care. So that's the next big hurdle, to convince the DHBs that this is an appropriate relationship to have with Ngāti Whatua as mana whenua through their co-purchasing body Tihi Ora.

The Annual Reports tell a story of steady growth in both the scope and value of services offered by Te Ha o Te Oranga, the Rūnanga's health delivery body established in May 1997. The 2000/2001 report outlines delivery from 7 sites with a total of 108 staff

employed. There had been a deliberate strategy to decentralise delivery and get a spread across the tribal rohe.[87]

When discussing the services delivered by Te Ha, Diane Lawson, a manager with Te Ha, emphasised the importance of community support and input into their work, with the role of kuia and kaumātua being particularly valuable. She expressed frustration with frequent changes made to contracts by the Health Funding Authority, but stated that they sought to expand both within the constraints of the contracts offered and by negotiating changes to those offers. She considered that there was enormous potential to expand services both in terms of scope and density across the rohe. Lastly she noted that there was a delicate balance between the governance role of the Rūnanga and the management role, but that the Rūnanga had been relatively successful in achieving that balance.

Social services

If health can be summarised as a success story, social services are a tale of frustration. The government's inability or unwillingness to enter into a partnership that appropriately reflected the Treaty was referred to in both the interviews and the annual reports, as the following extracts show.

> Te Ngaru Awhina and the iwi social service development on the other hand has not progressed beyond the signing of the joint development agreement with DSW [Department of Social Welfare] in July 1998. Policy and legislative changes within social welfare have not worked in favour of iwi and there is

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[87] The health services focus on primary care. At the start of 2002 there were two teams based in Dargaville, one a mobile community nursing unit, and the other working in social services, mental health and alcohol and drug use prevention. The nursing unit had, in response to community demand, sub-contracted a GP from Dargaville to support the work of the nurses. The day I was visiting the Dargaville operation in October 2000 was the launch for an immunisation education project, a joint effort by a wide range of community groups including Te Ha, Plunket, the Māori Women's Welfare League, Dentists, Fire Service, Asthma and Kaipara Health. The launch was attended by kaumātua, health workers and many parents and children. I was later told that there had been a considerable rise in immunisation rates in the aftermath of the event. The Wellsford site had a number of health promoters and was beginning to employ nurses. There was also mention of a residential mental health facility at Browns Bay which the Rūnanga was involved in. In addition to these contract services, the 2001/2001 Annual Report mentions that the 'Oma Oranga [Health Run] event and the kaumātua and kuia dinner organized by Te Ha have become two annual events'.

every indication that the iwi social service strategy has been abandoned by DSW. (CEO report in Te Rūnanga o Ngāti Whatua 1999a)

The 2000/2001 Annual Report comments that:

> Progress with the development of Te Ngaru Awhina has continued to be a saga. … in spite of very supportive audiences with the Prime Minister, the Minister of Social Services himself, and his Associate the General Manager CYFS [Children, Youth and Family Services] and her officials, progress has been thwarted by a low level official.

The dominant reason given for the failure in the progress of the social services relationship, in contrast to health, was the lack of understanding and vision on the part of government officials in key positions.

Exasperation had reached such a level in the 2001/2002 Annual Report that an interim additional strategy was to be taken:

> The Ministry of Social Development has simply not been responsive, at any level, to the principles-based representations made by the Rūnanga. …. [so] Te Ha [will] be permitted to deliver social development contracts … In the meantime, approaches continue to be made to the government regarding an involvement in social service delivery but the prospects of a Treaty-based relationship as in health and education do not look good in the short to medium-term. (Te Rūnanga o Ngāti Whatua 2002a)

Education

The Rūnanga has voiced a commitment to improving the educational achievements of its people. The involvement with government training programmes has been modest and faltering, however, driven by the vagaries of government funding. The 1998/1999 Annual Report records that the Auckland PTE (Private Training Establishment) operation had been 'seriously compromised' by a cut in government funding and forced to close, while the Dargaville campus continued to provide WINZ [Work and Income

New Zealand], Ministry of Youth Affairs and Te Rangakura training. The Dargaville campus also discontinued operation in December 2000, although new arrangements were being pursued (Te Rūnanga o Ngāti Whatua 2001a).

The 2001/2002 Annual Report records a more favourable relationship with government in the field of education. A draft MOU (Memorandum of Understanding) with the Ministry of Education was being prepared, with the Rūnanga 'confident that a Treaty-based relationship with the Ministry of Education will be achieved in the new planning year'.[88] The same report discusses the commencement of a government-funded Māori Women's leadership programme with two weekend hui for women in the area, which was to continue in 2002/2003. Lastly, the report notes that the Rūnanga and the Northland Polytechnic had 'negotiated to deliver training for a diploma in social services at the PTE site in Dargaville'.

The 2001/2002 Annual Report also outlines Rūnanga initiatives in education. It had resolved to fund a survey of te reo (Māori language) being taught locally with an aim to developing a reclamation strategy for the rohe. Financial management assistance was being given to marae (discussed above in relation to Tahi Holdings) and the Education Grant Scheme continued. Education grants had risen from 84 in 1998/1999 (totalling around $28,000) to 145 in 2001/2002 (totalling $60,000).

Treaty claims

In July 1992 the Chair and Secretary of the Rūnanga lodged a coordinating claim (Wai 303) to the Waitangi Tribunal on behalf of its members.[89] The claim noted that 'various individuals and groups have claimed some Ngāti Whatua tribal relationship [and] have registered claims with the tribunal'. The claim goes on to quote the Rūnanga's establishing Act:

> In performing the functions conferred on it by section 24 of the Māori Trust
> Boards Act 1955, Te Rūnanga shall consult with other tribal authorities
> concerned with the administration of resources for the benefit of members of the

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[88] A key reason given for the progress was the receptiveness of a key top level official.
[89] 'Wai 303' is the reference title assigned to the claim by the Waitangi Tribunal.

> Ngāti Whatua tribe, with the objective of bringing the assets of the whole tribe under a unified administration, thereby reaffirming tribal identity, while still preserving local autonomy. (New Zealand Parliament 1988, s6; emphasis in claim)

Consistent with this legislative function, the Rūnanga claim asked that the other claims lodged by Ngāti Whatua groups and individuals be merged and inquired into jointly by the Tribunal under the umbrella of the Rūnanga claim.

Subsequent tribal hui explained that the Rūnanga claim was 'for the purpose of ensuring that claims are coordinated to ensure they are being properly made and to prevent instances of individuals making claims on behalf of hapū without the authority of that hapū'. It was repeatedly emphasised in interviews that the claim was to coordinate, not consolidate the many claims made by people within the Ngāti Whatua rohe. (In early 2002 the number of these claims was approaching 100.) The aim was to ensure that further grievances were not caused by some groups not being heard in relation to claims that affected them, and to ensure that no section of the tribe was left out of the settlement process. To date there have been two settlements with hapū groups, one settlement at a mix of tribal and hapū levels, and the promise of a settlement at a tribal level.[90]

There was considerable concern expressed in interviews about the impact of Treaty settlements on tribal unity. Potential negative impacts included the division of the tribe into 'haves and have nots', disputes between hapū over the same resources, and emphasis on hapū allegiance to the detriment of tribal allegiance. One speaker emphasised the importance of tribal members knowing their history, tupuna and whakapapa (genealogy) in order to understand their kotahitanga. The 2002/2003 Annual Plan states that '[t]his year, the priority in the Tino Rangatiratanga Responsibility is te Kotahitanga through the Treaty of Waitangi claims process.' Just

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[90] The term hapū is used here to refer to groups within the iwi, whether they contain one or a number of hapū. (In Maori, the term hapū is both singular and plural.) The hapū settlements have been with Ngāti Whatua o Orakei (1991) and Te Uri a Hau (2002). In addition, Te Roroa has had their claim heard and are waiting on the Tribunal Report. The 1993 Railway Lands Settlement split resources between the Orakei hapū and the Rūnanga (although most of the Rūnanga's share was then passed on to individual marae). The return of fisheries assets has been promised to the tribal organisation and the annual lease of fisheries quota has been made to the Rūnanga for the past decade.

how kotahitanga will be manifest in the claims process is still being negotiated. Thus it is unclear whether assets will be returned to the Rūnanga, whether they will stay with the Rūnanga if returned there, or whether it will retain some coordinating role.

Another point made by speakers was that the government has a significant impact on the level at which settlements occur. This is because it is the government who decides who receives funds to research their claims and the government who controls the agenda for tribunal hearings and direct negotiations. One speaker lamented the lack of funding for the Rūnanga tribal umbrella claim while hapū were receiving substantial funds to research their claims. This situation was mitigated recently with the 2001/2002 plan noting that Crown Forestry Rental Trust funding had been secured for a claims coordinator and a claims researcher. In early 2003 I was told that an historical study explaining the kotahitanga of Ngāti Whatua, through consideration of its common tupuna, was nearly completed.[91]

Resource management and customary fisheries[92]

Within the Rūnanga's work, resource management and customary fisheries issues are grouped together in the 'Environment, Science, Land Use and Customary Fisheries' portfolio, within the People Caring Responsibility. Both were raised by speakers as important areas where more work was required, but which were being hampered by a lack of funding. The close relationship between the two issues was also highlighted by one speaker, with resource management decisions having a huge impact on fisheries management in areas such as the Kaipara Harbour creating the need to get coordination between the various government agencies including the Ministry of Fisheries, Department of Conservation, and local body councils. Tom Parore (2002) emphasises the importance of participating at all levels of decision-making with respect to resource management, including writing of legislation, policy formation and implementation.

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[91] Despite being pleased this study was finally being done, it was reported as unfortunate that it was not carried out *prior* to the settlement of sub-tribal claims.
[92] Management of customary fisheries was legislatively separated from Māori commercial interests as a result of the 1992 fisheries settlement which dealt solely with commercial interests.

Resource management

The critical issue in dealing with resource management issues was to get coordination of the 34 odd marae and the nine (mainstream) territorial authorities in the rohe of Ngāti Whatua. One speaker noted that it was hard to get individual marae to see their issues in the wider context and to realise that considerable technical knowledge was required to respond to complex issues raised by resource management consent applications. Speakers were keenly aware of the large and growing pressures imposed by Auckland city. The 1998/99 Chief Executives report spoke of increasing marae involvement, noting that '[o]f the 800 resource consent notifications received, only some 50 required further input [by the Rūnanga]' (Te Rūnanga o Ngāti Whatua 1999a).

In his interview Allan Pivac summarised the situation as follows: 'I mean we're long overdue for having a comprehensive policy document in place to handle resource management.' Tepania Kingi explained that such a document needed to be based on the tikanga of Papatūānuku (Mother Earth) which embodied two basic principles: things made by God are tapu (land, plants, water) and not to be damaged; things made by humans are replaceable/disposable. These principles applied to the care and manāki of both people and whenua. He also noted that it was critical to the mana and part of the obligations on the iwi to manage such things.

The 2002/2003 Annual Report records that the Rūnanga funded a three day work shop with hapū representatives to consider development of an Iwi Environmental Development Plan. It also reported that until Rūnanga could find some funding (internal or external) for 'the planning and coordination of an environmental management strategy for Ngāti Whatua it will be difficult to achieve a cohesive, enabling approach for Ngāti Whatua marae, hapū and whānau to fulfil their obligations to Papatūānuku and the relevant New Zealand statutes.'

Customary fisheries

In his 1998/99 report the Chief Executive notes that '[w]ith the release of the customary fisheries regulations during the year staff have maintained contact with the Ministry of Fisheries Māori Customary fisheries coordinators based in Auckland'. In our

conversation in late 2000, Hally Toia explained that only a limited amount of work had been done in this area but that the priority was to develop a management plan for the Kaipara Harbour which gave effective recognition to Ngāti Whatua as kaitiaki [guardians]. Ngāti Whatua hapū hold mana whenua over all the lands surrounding the Kaipara. There had been a working party formed that was being chaired by the local Mayor and which included commercial and recreational fishers, the Ministry of Fisheries and community groups. The Rūnanga wanted to have an inclusive management plan in place before Ngāti Whatua's claim to the seabed was heard.[93]

Tom Parore notes that the difficulties in implementing customary regulations in the North Island have been jurisdictional issues in the appointment of kaitiaki. He explains that:

> The regulations allow for the appointment of kaitiaki at iwi, hapū, and whānau levels. In other words, there are potentially three levels of overlapping control over customary fishing within any tribal area. The government does not have any robust process in place to deal with the jurisdictional issues raised by the regulations…'. (Parore, 2002)

Despite these problems, Parore (2002) states that the 'Rūnanga intends to play an active role in [customary] fisheries management by ensuring information about the process is understood and properly implemented and in appointing kaitiaki'.

Relationships

The story of the Rūnanga o Ngāti Whatua is one of a complex web of dynamic relationships with the organisation's fortunes closely linked to its success in managing these relationships. The simple message presented to me was that all relationships should be based on Ngāti Whatua tikanga, with the specific meaning of this continually evolving in new situations. The most frequently referred to relationships were those

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[93] A critical issue in the customary fisheries plan was the protection of flatfish, mullet and shellfish as a food source. In February 2002 Hally explained that he had been directed to explore what species were being caught in the Kaipara, and how they should be managed e.g., which should be reserved for customary take, which fished by Ngāti Whatua fishers and which commercially leased. The Rūnanga had commissioned one of the Kaipara hapū to consult on, raise awareness and prepare a report on what the local people wanted to do with customary fisheries.

internal to the Iwi especially those between the Rūnanga and its constituent hapū/marae. The ongoing challenge was to balance tribal unity with local autonomy. Dealings with government were clearly important but despite some successes, a failure by the government to deliver on Treaty-based expectations was the predominant sentiment. Relationships with other Māori, particularly those living in the Auckland urban area, were also commonly discussed with the desire they be based on a mutual respect between tangata whenua and manuhiri.

Internal relationships between Ngāti Whatua marae and hapū, and the Rūnanga[94]

The records of the hui leading to the establishment of the Rūnanga contain extensive discussion about the appropriate relationship between the tribal organisation and the marae and hapū of Ngāti Whatua. Kotahitanga was a driving force behind the establishment of the Rūnanga and there is agreement on the need for a central body, but the independence of marae and hapū is also fiercely argued.[95] The Rūnanga's establishing Act, it has been noted, embodies this delicate balance stating that: 'Te Rūnanga shall consult with other tribal authorities concerned with the administration of resources for the benefit of members of the Ngāti Whatua tribe under a unified administration, thereby reaffirming tribal identity, while still preserving local autonomy' (New Zealand Parliament, 1988, s6). The tension between tribal unity and local autonomy echoes through the interviews and Rūnanga documents as an ongoing need to negotiate appropriate relationships in concrete situations.

In his 1999 annual report as Chairman Tom Parore explains that:

> The task of representing the Iwi has not been easy and continues to be difficult. The challenge is to provide a balance between the interests and aspirations of whānau and hapū, and those of iwi. If there is too much emphasis on iwi, whānau and hapū feel disenfranchised. If there is too much emphasis on whānau

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[94] Little was said about the relationship between the Rūnanga and individuals. There was some mention in the context of effective service delivery and accountability but iwi politics is about relationships between groups not individuals.

[95] Although the splitting of the tribal rohe by government boundaries was cited by speakers as a reason for needing to rebuild kotahitanga it is clear from other discussions that internal tensions exist independent of this split.

and hapū, to the detriment of iwi, the identity and unity of the iwi will suffer. I see it as my major role to support whānau and hapū but within the context of the interests of Ngāti Whatua as a whole. (Te Rūnanga o Ngāti Whatua 1999a)

In the 2000/2002 annual report, under the Rangatiratanga Responsibility, unity is emphasised even more forcefully with the statement that:

Te Kotahitanga o Ngāti Whatua is the significant driver of activity for this responsibility. It forms the basis of everything we do, both as a goal to be relentlessly pursued and as a principle to guide the pursuit. It is the force behind the Wai 303 claim and underpins all of the relationship building activities of the Rūnanga.

Discussion of the different areas of activity of the Rūnanga contains many examples of attempts by the Rūnanga to promote unity while respecting local autonomy: decentralisation of the Rūnanga's health services appeared as much a political as a management decision; input into resource management debates demanded respect for local tangata whenua within the context of a tribal overview; and the Treaty settlement process was a struggle to promote tribal unity while supporting local settlements.

A number of activities of the Rūnanga are explicitly concerned with building kotahitanga. Work to increase understanding of the tribe's whakapapa, tupuna and history has been referred to above. The importance of communication and participation through new technologies and traditional hui has been noted, along with new types of gathering: the Oma Oranga, and Kaumātua and Kuia dinner.   Lastly, the emphasis on achieving simple, transparent, financial reporting was important to rebuild faith in the central organisation after the doubt resulting from the early financial difficulties of the Rūnanga.[96]

The importance of the Rūnanga assisting marae with their financial management was explained as a desire to build local autonomy. The Chief Executive suggested that:

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[96] Although it was emphasised by speakers that these financial measures were implemented because the leadership thought they were important, not primarily as a reaction to the theft.

[People think] that you've taken control away from marae, which they previously had but that's not what's happened. … What's happened is that marae and hapū have become more impotent over time and what they've done is that they've had to delegate their authority off somewhere else to a place like a Rūnanga. They've delegated the authority to deal with issues on their behalf until they're potent enough to deal with them themselves, so what happens when they're up and fully fledged and running, that delegation should be returned …this Iwi doesn't have a choice about supporting its hapū, it doesn't have a choice … it's gotta do it. (Allan Pivac 2000, para 63)

The interviews revealed a struggle to find metaphors to express the hapū-Rūnanga relationship appropriately. Tom Parore (2000, para 41), while discussing resource management and treaty settlements, explained that many sub-regions had set up their own organisations, but asked:

What are they going to do anyway, set up their own structures in all of those places? … I mean they've got marae … and then there's a takiwa [regional] structure in terms of the Rūnanga … they're all represented on the Rūnanga … [but] a lot of the time the policies involved, like resource management, have implications right across the Iwi and some of those things, especially the policies that relate to them that are best dealt with at the iwi level … the policies set out and obviously administered at the local level as well, *so a bit like the Ford motorcar, centralised policies and local application.* … I mean … you have to go through the claims process because people have got grievances … and everybody is entitled to have their day in court and they may get some settlement from it, they may not, but at the end of the day if we've got these settlements all over the place what happens, *do we still belong to the Iwi or don't we, and if we, do how is it expressed*? (emphasis added)

Allan Pivac (2000, 63) suggested that: 'well of course that's the hardest one is that federalism structure where you try and make leadership strong in the centre but everything managed locally … and I think organisations like this are built for that kind of relationship, the toughest kind of relationship you can get.' He added:

I'm not confused about what my role is and I'm not confused about the role of the Rūnanga. … I'm clear that what the Rūnanga is trying to do it will continue to do. It will continue to prospect for things that will advance the Ngāti Whatua position in whatever sector, in whatever area is possible and I'm going to do that within the values that Ngāti Whatua sets out for itself.

Relationships with government

The relationship with government was a dominant theme in the interview with the Chief Executive and in his annual reports. The Chief Executive, along with the Chairperson, has responsibility for the highest level negotiations with government. While there are marked differences in the success across different sectors, frustration is widespread. The slow progress in achieving a relationship with government based soundly on Treaty principles is reported in frank language, year after year.

> Rūnanga personnel remain heavily involved in the Treaty-based partnership negotiations with the Crown and other agencies that are inordinately frustrating, time-consuming and difficult but integral to the ability of Ngāti Whatua being able to accelerate progress in many areas. One such relationship that has been formed is with Auckland Healthcare and could prove its worth many times over for both parties. (CE Report in Te Rūnanga o Ngāti Whatua 1999a)

> Consistent with statements made at last year's annual general meeting, the Rūnanga elected not to deal with low level officials within the Crown agencies and chose instead to deal directly with Ministers of the Crown and only their most senior officials. … Although the level and frequency of engagement with the Ministers improved, securing tangible results did not. While there was little doubt the government supported the development of a relationship with the Rūnanga, overall, it lacked both the fundamental understanding of the role and function of a tribal body such as ours and the necessary commitment to a greater unity of purpose and collective responsibility that a robust relationship could achieve. The Rūnanga, however, remains undaunted in its role as an advocate for Ngāti Whatua. It continues to stress the Treaty stance and to find solutions that give effect to full participation as a Treaty partner. While it might not be

the ultimate model, the optimum model for Ngāti Whatua is the co-purchasing framework and it is this model that the Rūnanga seeks to expand and adopt across other portfolios. It is the only model, to date, that recognises the Rangatiratanga of Ngāti Whatua and the Crown and fulfils the Article II requirements. (CE report in Te Rūnanga o Ngāti Whatua 2001a)

Progress for the Rūnanga and Ngāti Whatua in the field of service delivery is clearly contingent on the ability of Ngāti Whatua and the Crown to form robust treaty based relationships. … But alas, despite spending a considerable amount of time on developing strategies that might fit the new [government] approach, the Rūnanga has not been able to celebrate any significant successes with the exception of education. As a consequence, there is still a large gap between what the Rūnanga is currently able to do and the full role it should be taking between Ngāti Whatua and all Māori residing within the rohe. … The Rūnanga has been consistent in its approach to forming relationships with external organisations and so continues to contend for participation at the strategic and policy level as not to confuse the Tino Rangatiratanga responsibility with that of service provision. (CE report in Te Rūnanga o Ngāti Whatua 2002a)

The relationship with government in the area of health, particularly as expressed in the co-purchasing company, is viewed as a success by the Rūnanga. Education has a mixed report, but at last record was hopeful. Social services continue to be a disappointment. With respect to Mai FM, the insistence on only annual leases of radio frequency by the Ministry of Economic Development was said to pose a major limitation to the development of the radio station. In Treaty settlements, the verbal support for tribal settlements but lack (until recently) of associated funding was lamented. A lack of funding for participation in resource management processes was also noted by the Chief Executive as part of the more general problem where 'I get inundated with reports [from government] that require input … we have to respond to this, and respond to that …it exasperates me' (Allan Pivac 2000, para 71).

The relationship with government is intimately linked with the other relationships discussed. Marae and hapū want government services so the Rūnanga is obliged to bid for them. The Rūnanga is similarly committed to a hapū-Crown triangle in the area of

Treaty settlements. The relationship with other Māori living in the rohe is heavily influenced by the success in negotiating service delivery relationships that enable Ngāti Whatua to fulfil its duty, as tangata whenua, to manāki its manuhiri. When relationships with other iwi arose in discussions, it was often in the context of having to agree on boundaries or policy positions in response to government initiatives.

Relationships with other Māori in the rohe

The relationship with non-Ngāti Whatua Māori living in the rohe was mentioned often in interviews and referred in the Charter. The importance is clearly related to the inclusion in the tribal rohe of part of Auckland City which as a whole contains the largest concentration of Māori in the country.[97]

When I asked Tom Parore (2000, para 56-57) about the reference to caring for other Māori in the Charter he explained that:

> The arithmetic of it was that on a population basis there were 72,000 Māori in our rohe, but Ngāti Whatua was only about 11,000 … so we're out-numbered in our own rohe so we needed to take that into account, establish good relations, recognise the others but also uphold our own tino rangatiratanga. So that was the challenge, we obviously had to get a cooperative policy going, that we expected them to recognise our mana whenua status, but we had to recognise that they were important too and they had a status here and were welcome in the rohe. [Marama: And do you think that has been successful?] Well, I think by and large it has been, but it always gets back to your presence on the ground, whether you've got an organisation that's got a sufficient infrastructure and funding to be able to actually get out there and do things.

Tom Parore (2000, para 73) also raised the 'urban Māori issue' when explaining the need to clarify taumata issues.[98]

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[97] As noted in the opening section, the rohe of Ngāti Whatua is north of the Tamaki River and the north Manukau heads i.e., they encompass the northern part of Auckland city.

[98] Taumata is literally the bench on which the speakers sit on the marae. In this context it refers to the representative voices for the Auckland area.

Now taumata, we're really talking about Auckland and the representation in Auckland; that there we are down there [and] in our whole rohe there's 70,000: about 10-11,000 Ngāti Whatua [and] 60,000 - the rest from other iwi. And we need to give them some representation on the taumata in Auckland. We need to have some process for that, but we also want them to acknowledge and follow Ngāti Whatua tikanga. … I mean the mana whenua of the area they're the last people to fear, one would think, for other Māori people in the area, they're the people to go to for awhina [assistance] and support. … Of course some of it's got a bit political with some of these urban authorities and they can do certain things but there's a difference between them and mana whenua - always was and always will be. We know and it's all around the country, mana whenua always recognise other people in the area, other Māori and other nationalities: …it's pretty basic to Māoridom.

When I noted that Waipareira (an Urban Māori Authority) had many Ngāti Whatua and Ngā Puhi people on its paepae [orators' bench] Tom quietly responded 'but it should be the other way around, you would think, [they should be] on our paepae…' (2000, para 73).

The relationship of the Rūnanga to other Māori has been particularly prominent in negotiations over health services, as discussed above. Allan Pivac explained that the Charter talked about developing Ngāti Whatua as a strong and caring iwi, because 'you have to be strong so in order to care for the 72,000 Māori that reside within the rohe: we first have to be strong enough to do it ourselves'(Allan Pivac 2000, para 2). Pivac (2000, para 20) later expanded on this theme:

You know mana whenua is the sacred right of an iwi to make decisions for itself within its own tribal area in order to manāki others, which is why we've put in the systems and processes that allow you to awhi [help] people: care for them, even if they don't need caring for. And systems and processes means exactly that and that stems from karakia [prayer] and religious systems and processes, whatever practice you have, through to policies within organisations and those sorts of things. It's seen as the one significant obligation, sacred obligation that Ngāti Whatua has.

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Relationships with other iwi

Relationships with other iwi were referred to occasionally in discussions and documents. The Charter affirms the links between Ngāti Whatua and other Taitokerau iwi and acknowledges its representation on various pan-iwi Taitokerau organisations. It follows this with an unequivocal defence of its tino rangatiratanga: 'Ngāti Whatua intends to manage its own affairs independent of any other organisation. That is to say, Ngāti Whatua will be masters of its own destiny' (Te Rūnanga o Ngāti Whatua 1995). The Charter also refers, in the context of expounding its caring philosophy, to the 'hope for reciprocal arrangements with other Iwi for Ngāti Whatua people in their rohe'.

The need to define boundaries for the purposes of Treaty settlements was mentioned in annual reports (although it did not seem to be a matter of particular urgency or concern). In another reference, one speaker reported with an air of regret that Ngā Puhi, Ngāti Whatua and Tainui had not done more to exercise their joint influence given their collective numbers, geographical location and mana.

Commercial relationships

The importance of tikanga underpinning all relationships, including commercial ones, was repeatedly raised by two of the speakers. Allan Pivac (2000, para 3) summarised the tikanga factor by saying: 'we want people to know us because …we will not shirk on our responsibilities and it doesn't matter how long it takes but we will honour our obligations and I suppose that's one of the strong points of difference in terms of how we're trying to do things'.

Tikanga required building long-term relationships, looking beyond price to the overall quality of the interaction, recognising the importance of the individuals involved on both sides, and behaving honourably at all times so as to protect the mana of the iwi. There were a number of specific examples of how tikanga impacted on the Rūnanga's commercial decisions, including the decision not to pull out of Tahi when it encountered financial difficulties, the choice of fisheries partnerships and the treatment of debts (which were not written off as it was believed that for reasons of tikanga they must eventually be repaid). It was felt to be so important that I get a sense of what building

tikanga based relationships meant that I was taken to speak to one of the commercial organisations that the Rūnanga has dealings with (the company they bought and serviced their vehicles through). When talking with the CEO of this company, he also emphasised the importance of long-term relationships between particular individuals within the two organisations.

3.2 Waikato–Tainui case report

Who are Waikato-Tainui?[99]

Tainui is a confederation of tribes whose people trace descent from those who came on the Tainui Waka which landed at Maketu, on the Kawhia Harbour. Waikato, Ngāti Maniapoto, Ngāti Raukawa, Ngāti Haua and the Hauraki group are the major tribes of the confederation.[100] This case study is concerned with the Tainui Māori Trust Board and its successor organisation which is a conglomerate including the Waikato Raupatu Lands Trust, Te Kauhanganui and their subsidiaries. Waikato dominate the 33 listed beneficiary hapū of this organisation and both Tainui and Waikato have been used to refer to this grouping of hapū.[101] By March 2003 some 49,000 people had asserted their affiliation to these hapū by recording their names on the tribal register (Waikato Lands Trust Annual Report 2002-2003).

In addition to common ancestry, the hapū of Waikato-Tainui are bound together by the Kīngitanga (the Māori King movement) which appointed a paramount leader in the mid-nineteenth century to promote unity, tribal rangatiratanga and to halt the alienation of land. These hapū collectively suffered from the Crown invasion of the Waikato region in 1863 and the subsequent land confiscations, referred to as the Raupatu. In addition, they share a veneration for the Waikato River whose importance is multifaceted.

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[99] In Tainui the long vowels are indicated with a repeated letter rather than a macron and thus they refer to 'Maaori' not 'Māori'. For consistency across the thesis, but with apologies to Tainui, I have not retained this practice except in direct quotes.

[100] For reasons explained in the report on Ngāti Raukawa (chapter 3.3) there are now two groups bearing the name 'Raukawa'– a northern arm around Putaruru/Tokoroa and a southern arm in the Horowhenua/Manawatu. These two arms now function as two tribes (although the common ancestry remains important). Both call themselves Ngāti Raukawa, with the context guiding whether the reference is to the northern arm, southern arm, or both groups.

[101] Neither term is strictly correct, as the grouping is much smaller than those who call themselves Tainui, but larger than those who consider themselves Waikato. In this case report I use Tainui, Waikato and Tainui-Waikato interchangeably to refer to the organisations belonging to the 33 Raupatu hapū, while acknowledging the other groupings to which these names can refer. When the Tainui Māori Trust Board was in existence 'Tainui' became the commonly used name, but when the Trust Board was replaced by a collection of entities which carried both the names Tainui and Waikato (the Kauhanganui, the Tekaumarua, the Waikato Raupatu Lands Trust, Tainui Group Holdings and its subsidiaries such as Tainui Development and Tainui Corporation) it was less obvious which name should apply. The difficulty in identifying one name that can be used for the organisation in its entirety has led to a persistence of the term Tainui, for the time being at least.

Historically, the River was a source of food and water for irrigation, it was a navigable highway connecting the tribe and centuries of habitation laced its banks with tribal history. The Waikato River retains a central role in the identity and economic life of the Waikato region.[102]

Of the three tribes that I worked with, Waikato has been subject to the greatest changes in fortune over the period of my research and this has been reflected in my relationship with them. I had strong support initially (1998-2001) through Sir Robert Mahuta and with those I interviewed in 2001 but then considerable difficulty in trying to secure meetings or even make contact.[103] By 2004, as the organisation consolidated its recovery and became more outward looking, I was once again able to meet with members to discuss developments. The information I had access to has also changed over time. I obtained extensive documentation for the 1995-1999 period; interviews carried out in 2001 which reflect the internal mood at that time (although are limited in detail); numerous media reports for the 2000-2001 period but no internal documentation, then a limited mix of internal information and media reports for the 2002-2004 period. The discussion that follows reflects this uneven access to information.

There has been, at various times, highly publicised opposition from sections of Waikato-Tainui to both the settlement and the subsequent activities of the Lands Trust. This chapter does not report or adjudicate on that debate, except in so far as it is raised by those interviewed, all of whom must be viewed as insiders to the organisation. Clearly this story will be judged incomplete from the view point of the disaffected Tainui 'outsiders'.[104]

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[102] For adjacent hapū, the West Coast Harbours also have a central role. These two paragraphs are drawn from the Occasional Papers of the Centre for Māori Studies and Research and (1984 in particular).

[103] I had interviews with Kingi Porima, Haydn Solomon, Shane Solomon, Niwa Nuri and James Ritchie, all in February 2001 (just before the death of Sir Robert Mahuta).

[104] Whether the opposition is more strongly felt than in the case of other iwi I cannot say; but it has certainly had a higher profile in the media, along with every thing else that Waikato has or hasn't done. Opposition is evident in court action attempting to injunct the settlement negotiations on the basis that there was no mandate to sign the Heads of Agreement (Hammond 1995) and to have the 1996 Tainui Māori Trust Board elections declared invalid (Savage 1997).

Brief history of the Kīngitanga, Raupatu, Tainui Māori Trust Board and Waikato Raupatu Claims Settlement (1995)[105]

History

The short history of Waikato's present tribal organisation was told to me as follows. The Kīngitanga was created to protect the tribes' rangatiratanga and to stop the alienation of land. Following the Raupatu, the mission of the Kīngitanga was to get their land back and the Tainui Māori Trust Board was created to achieve this purpose.[106] In 1995 when the Raupatu Settlement was agreed between Waikato and the Crown, the Waikato Raupatu Lands Trust was formed to manage the assets returned for the benefit of the whole tribe. The Kauhanganui, formed in 1999, was the representative parliament of the tribe charged with overseeing the work of the Lands Trust and the distribution of income.

The passing of the Waikato Raupatu Claims Settlement Act on 3 November 1995 was the culmination of processes that had begun almost a century and half earlier. The stated purpose of the Act was to record the Crown's apology to Tainui and to give effect to the provisions of the Deed (22 May 1995) that settled the Raupatu claims. The aim of the Act's Preamble, according to the tribal commentary, was 'to get into the public record the real history of what happened to Waikato during the years before the wars, the effect of that war on our people and the results of the land confiscations' (Solomon 1995, 4).

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[105] The aim in setting out this history is to try to give some sense of the significance of the Kīngitanga and the Raupatu in the Waikato consciousness. Their huge historical weight helps explain events post 1995, the magnitude of the shift from grievance to commercial management and why the role for the Kīngitanga was central to the discussions of the new structure. This section is based largely on the *Waikato Raupatu Claims Settlement Act,* New Zealand Parliament (3 November 1995) and *The Waikato Raupatu Claims Settlement Act: A Draft Users Guide to the Act as at 28 October 1995*, Shane Solomon. I also make use of the *Deed Creating the Waikato Raupatu Lands Trust,* Tainui Maaori Trust Board/Rudd Watts & Stone (10 November 1995) and the *Deed of Settlement: Parties - Her Majesty the Queen in right of New Zealand and Waikato-Tainui,* (22 May 1995).

[106] This was not its public purpose initially given that it was formally created to administer the settlement annuity from a 'full and final' settlement. It was no surprise, however, when a claim to the Waitangi Tribunal was lodged in the Board's name in 1987 and in the 1996 Tainui Māori Trust Board Annual Report the Chairman states: 'The Board was established 50 years ago and will retire by the end of this century having fulfilled its purpose of concluding the raupatu claim'. Dame Te Atairangikahu also refers to it as the 'Board established to carry the torch of the Raupatu' (Tainui Māori Trust Board Report 1996).

The Preamble explains that Potatau Te Wherowhero was appointed as the first Māori King in 1858 to unify the chiefs who pledged allegiance to him, preserve their rangatiratanga and resist land alienation in the face of settler challenges. The Preamble goes on to explain that in July 1863 the New Zealand Government crossed the Mangatawhiri River unjustly invading the Waikato and how, after 'persistent defence of their lands, Waikato and their allies had fallen back before the larger forces of the Crown and had taken refuge in the King Country' (New Zealand Parliament 1995, Preamble s.E).[107] The Crown then passed the New Zealand Settlements Act 1863 confiscating 1.2 million acres of Tainui land. 'Widespread suffering, distress, deprivation were caused to the Waikato Iwi…as a result of the war waged against them, the loss of life, the destruction of their taonga and property, and the confiscations of their lands, and the effects of the Raupatu have lasted for generations' (New Zealand Parliament 1995, Preamble s.G).

Interactions between Waikato and the Crown since the Raupatu are recorded next in the Act. In 1926 a Royal Commission (led by Sir William Sim) considered the confiscations and in response to its findings the Waikato-Maniapoto Claims Settlement Act (1946) was passed. The Act provided for compensation to be paid as an annuity administered by the Tainui Māori Trust Board for the benefit of those hapū from whom land had been confiscated.[108] The Preamble notes that a claim was lodged with the Waitangi Tribunal on 16 March 1987 in relation to the Raupatu.[109] In 1989, a Court of Appeal judgement on the 'Coalcorp' case recorded the intensity with which Raupatu was remembered and the inadequacy of the compensation resulting from the Sim Commission investigation concluding that '[s]ome form of more real and constructive compensation is obviously called for if the Treaty is to be honoured' (New Zealand Parliament 1995, Preamble s.N). In 1991 direct negotiations began in which "Waikato pursued compensation on the basis of their long established principles of 'land for land'

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[107] The Waikato people followed the Chief Tawhiao into exile in the King Country and did not begin to move back into the Waikato rohe until the late 19th century.

[108] The initial value of the Trust Boards annuity was 6,000 pounds and this was increased to $15,000 in 1978. In addition to pursuit of the Raupatu, in the 1950s and 1960s this money was used for educational scholarships, marae development and the purchase of farm land and equipment. By the 1980s the Board had defined its role as assisting tribal development generally.

[109] The claim was lodged by Robert Te Kotahi Mahuta on behalf of himself, members of Waikato-Tainui, the Tainui Māori Trust Board and Ngā Marae Toopu and received the Tribunal registration title 'Wai 30'. It related to both land and water (the River and West Coast Harbours) although only land was included in the 1995 Settlement.

- 'i riro whenua atu, me hoki whenua mai' ('as land was taken, land must be returned') and 'ko te moni he utu mo te hara' ('the money is the acknowledgement by the Crown of their crime')" (New Zealand Parliament 1995, Preamble s.O). This led to the signing of the Heads of Agreement on 21 December 1994 and the Deed of Settlement on 22 May 1995.

Following the Preamble the Act proper begins with the apology from the Crown. It goes on to set out what it was agreed would be returned. The total redress value would be $170 million and this would be made up of approximately $100 million worth of land and a $70 million direct payment.[110] There was an agreed list of Crown lands whose return value and conditions would be negotiated between Waikato and the Crown and as they were returned, their value would be deducted from the redress value. Interest would be paid on the outstanding redress value accruing at the rate of some 9% from the date of the Heads of Agreement, 21 December 1994. There was a further list of Crown lands which were not available for settlement but over which Waikato would have a 'right of first refusal' if such lands were ever offered for sale by the Crown. Finally, Waikato were promised that the relativity of the redress value against any future settlements with other iwi would be maintained. In return Waikato agreed that all Raupatu claims were settled including a number other than Wai 30 lodged by the negotiators but excluding the Raupatu claims to the River, West Coast Harbours and the Waiuku and Wairoa land-blocks. These claims were left to be dealt with in subsequent negotiations.

Shane Solomon's 'User's Guide to the Settlement Act'

The Act paints a picture of a disgraceful past, an apologetic present and a reconciled future. A commentary on the Act written in October 1995 by Waikato's legal researcher, Shane Solomon, presents a somewhat different view. If the Act was seen by Waikato as a way of setting the historical record straight the commentary is an extension of this adding messages that they did not manage to have inserted into the text of the Act. It is the expanded version of the tribe's history relating to settlement negotiations and can be understood as an attempt to assuage internal tribal concerns

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[110] The split figures come from the Tainui Corporation Limited Profile (1996).

about the settlement. It also provides an insight into the tensions between the Crown and Waikato that were present in the drafting of the Act.

Solomon's commentary reveals the high level of tension present in negotiating the wording of the Act (and by implication, in the negotiations leading to the Deed of Settlement). Solomon explains that the Preamble 'was intensely negotiated with the Crown advisors. Waikato consistently fought for every word that went into the Preamble. Sometimes we won and sometimes we lost. For 90% of the Preamble Waikato got its point across'(Solomon 1995, 4). A simple explanation of the tension is a difference in emphasis with Waikato stressing the injustice and enduring loss resulting from the Raupatu and the Crown wanting to underline the words 'full and final'. Beneath this there appears to lie a more fundamental difference in understanding of key phrases such as 'full and final' and 'negotiations in good faith'.

References to the settlement being 'full and final' are repeated throughout the Act (e.g., Preamble S(c) & X(b), s.6.6, s9). Solomon (1995, 14) notes that the Crown 'wanted to use the words "full and final" as much as possible'. In discussing the Sim Commission, however, Solomon (1995, 9) explains to tribal members that:

> The 1946 settlement was said to be full and final. Remember, what is full and final can only be decided at a certain point in time. Later on, that may no longer be considered full and final. It is up to those in the future to re-litigate the meaning of full and final. Circumstances may change and the debate may be renewed between ourselves and the Crown.

In another place in the Act (New Zealand Parliament 1995, Preamble, s.X) where Waikato acknowledge that the settlement is 'fair, final and durable', Waikato countered by insisting that the Crown acknowledge that the settlement does not 'diminish or in any way affect the …ongoing relationship between the Crown and Waikato in terms of the Treaty of Waitangi or undermine any rights under the Treaty of Waitangi, including rangatiratanga rights'. From Waikato's view point this emphasizes that 'the Crown is

not let off the hook in terms of its Treaty obligations, and rangatiratanga rights are preserved whatever those may be'. (Solomon 1995, 15).[111]

At the time of the settlement some tribal members were questioning the mandate of the Waikato negotiators to settle on behalf of the whole tribe. Two themes come through in the commentary which can be understood as a response to this challenge. One underlines the legitimacy of the Kīngitanga to act for all those affected by the Raupatu while the second emphasises that the lands returned are for the benefit the whole tribe, not just the hapū in whose rohe they happen to lie. In addition, Solomon's highlighting the difficulty of negotiations with the Crown and his questioning the meaning of full and final contain a message for those who may have believed that the Settlement was inadequate.

Tainui Māori Trust Board and the Centre for Māori Studies and Research in the 1980s

In the 1980s the work of the Trust Board was underpinned intellectually by the work of the Centre for Māori Studies and Research (CMSR) at the University of Waikato. The joint stimuli for the reports were the parlous state of the tribe's communities and individuals and proposed industrial developments which would utilise Waikato resources: water and coal in the power station at Huntly and iron sands at the Glenbrook steel mill. The underlying assumption was 'that government [would] proceed with its development proposals and local communities must organise if they are to participate in the anticipated benefits' (Centre for Māori Studies and Research 1984, 2). In contrast to the experience of the Raupatu, where settler development was to the overwhelming cost of Tainui, the hope was that local Māori communities might extract some benefit from the projects and shift from being victims to active participants in development.

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[111] To understand why there might be differing views on the fullness and finality of the settlement one might consider the relativities between what was taken in Raupatu and what was returned in the 1995. 1.2 million acres of land were taken in the Raupatu (New Zealand Parliament 1995, Preamble, s.F) and an estimated 28,803 acres were available for return through the Settlement (Deed, s 5.1). This 28,803 was well short of the total Crown lands in the area, with some 47,000 acres of Conservation lands being withheld from negotiations. The value of the land taken was estimated at $12 billion (Deed s.2.3) while the value of redress agreed to in the Settlement was $170 million (Her Majesty the Queen in right of New Zealand and Waikato-Tainui 1995, sections 2.3 and 34). *Restitution for what was taken amounted to 2.4% by area and 1.4% by value.* Futhermore, while Waikato settled claims to land in 1995 they remained in grievance mode with respect to the River and Harbours. In commenting on excluded claims Solomon points out that the 'the biggest and most expensive claim is yet to be settled – that is the River' (1995, 21).

The reports argued that the industrial projects should be levied, with funds channelled to local marae via hapū and tribal structures.[112] The development strategy advocated the use and development of existing marae, hapū and iwi structures in both their physical and political (decision-making) capacities. Education and training leading to employment was the overwhelming concern, given the unemployment-induced exodus from communities and impoverishment of those who remained. In addition, the argument was repeatedly made that Tainui must be involved in the planning and ongoing monitoring of such projects for both their social and environmental impacts. In the latter area, the well-being of the Waikato River and West Coast Harbours were of paramount concern.

Overview of the new structure: Te Kauhanganui, Tekaumarua and the Waikato Raupatu Lands Trust

The Tainui Māori Trust Board was an organisation with many functions: tribal representation, tribal governance, commercial management and distribution of income. In the structure that replaced it these functions are separated into different entities. The sub-entities came into being at different times and the structure overall continues to evolve. The diagram below is a snapshot taken in late 1999 (since which time, two of the companies have ceased trading). The constituent parts are introduced here and discussed in more detail in subsequent sections.

The Kauhanganui is the representative body or tribal parliament and is made up of marae representatives (three from each marae). The Kauhanganui elects an executive called the Tekaumarua (literally, 'the Twelve').

The Tekaumarua, as well as being the executive of the Kauhanganui, is the board of directors of the Waikato Raupatu Trustee Company. The Kauhanganui is the sole

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[112] Distribution via the Tainui Māori Trust Board is advocated as a general principle in Centre for Māori Studies and Research (August 1984), although in the Waahi case study, it appears to have gone directly to the marae and in the Huakina example a hapū grouping was used (although in both cases the Trust Board appears to have had an important role in negotiations with government). This suggests the appropriate relationships of marae, hapū and tribal organisation in the development process were still evolving.

shareholder in the Trustee Company which is the trustee for the Waikato Raupatu Lands Trust.

The Lands Trust was formed to receive the assets that came back consequent to the 1995 settlement. By the 2003 Annual Report, however, it was described as 'a charitable trust that distributes grants' (i.e., the social arm of the overall organisation). The tribe's assets were then owned by the either the Trustee Company, or by its wholly owned subsidiaries. Distribution of income from the commercial operations back to the tribe is via marae, education, sports and cultural grants.

Below the Waikato Trustee Company, and solely owned by it, is Tainui Group Holdings Limited which owns and has an oversight role for all the commercial bodies. These include Tainui Corporation Limited, Tainui Development Limited, Raukura Waikato Fisheries Limited, Raukura Moana Fisheries Limited, Māori Development Corporation Limited, and MDC Investment Holdings Limited. Tainui Corporation (TCL) holds the developed, high-yielding settlement properties such as Waikato University. The rents it collects from these are the main source of income for distribution by the Lands Trust. Tainui Development Limited (TDL) received the low yielding 'bulk lands' at Settlement. Its task was to increase the tribal estate by developing, selling and buying more land. Raukura Moana manages deepwater fisheries and Raukura Waikato was an inshore fisheries operation (before it was broken up and sold in 2003). Māori Development Corporation holds Tainui's shares in Moana Pacific Fisheries (via Te Kupenga Limited). MDC Investment Holdings Limited was the body responsible for picking high risk, high return investments (before it ceased trading in 2000). Three of these companies (TDL, MDC and MDC Investments) themselves have further subsidiary interests. The Waikato-Tainui organisational structure (as it was in 1999) is set out in the figure below.

```
                          RAUPATU MARAE
                                |
                          TE KAUHANGANUI
                            (parliament)
                                |
                                |
WAIKATO RAUPATU ------- WAIKATO RAUPATU
LANDS TRUST             TRUSTEE COMPANY
LIMITED
                                |
                                |
                          TAINUI GROUP
                        HOLDINGS LIMITED
                                |
    ┌───────┬───────┬──────┴──────┬───────┬───────┐
   TCL     TDL     RWFL          RMFL    MDC     MDCi
```
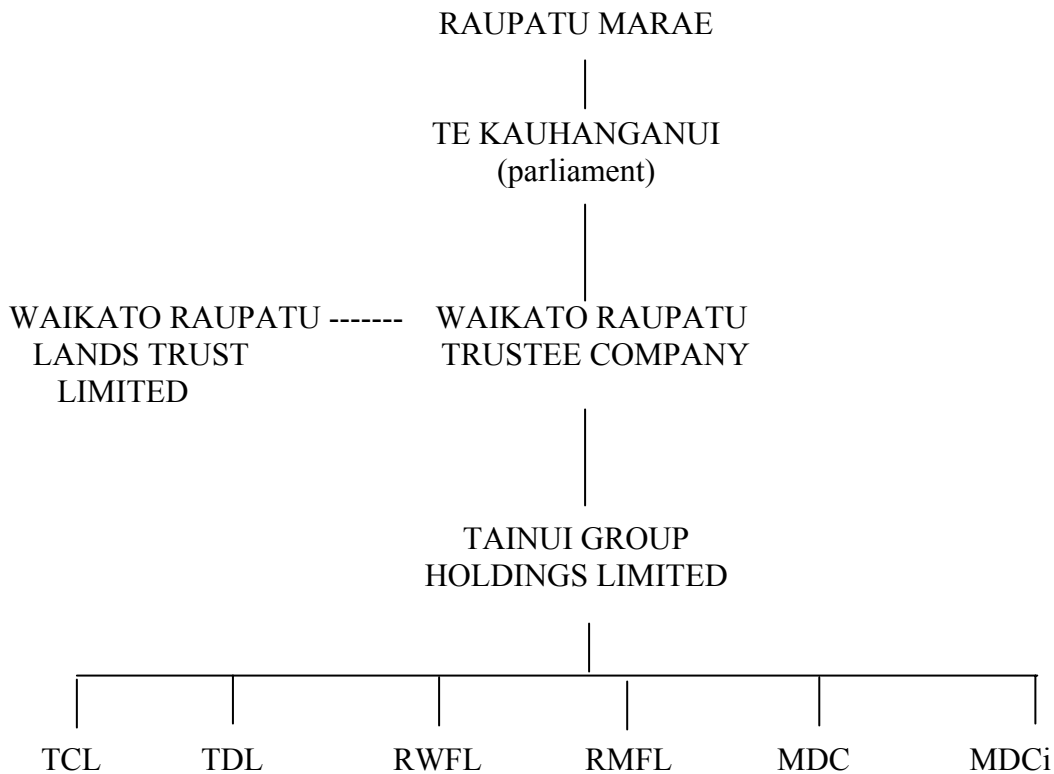
Figure 1: Waikato-Tainui : The New Structure (c.1999)

Waikato Raupatu Lands Trust and Waikato Raupatu Trustee Company Ltd

The Waikato Raupatu Lands Trust (the 'Lands Trust') was established in November 1995 to receive Settlement assets but by 2003 it was described as the social arm of the organisation. The Tainui Māori Trust Board was the initial interim trustee but after consultation the Waikato Raupatu Trustee Company Limited was formed in 1999. The Trustee Company is owned by the Kauhanganui and the 12 members who form the executive of the Kauhanganui, the Tekaumarua, are its directors. The beneficiaries of the Lands Trust are members of Waikato whose names are on the beneficiary roll. To register on the roll an individual must show that they whakapapa (trace descent) to one of the 33 hapū of Waikato affected by the Raupatu and nominate their primary marae.[113]

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[113] The tribal roll has had an eightfold increase since the 1995 Settlement. In 1992 it was around 5000 (Tainui Māori Trust Board 1997b) and in the May '99 edition of Te Hokioi the figure was some 43,100. The 2003 Annual Report records 49,000 are now enrolled with an expectation that the figure would reach 50,000 in the year to come. The roll is a central administrative tool for the organisation. It is the basis for postal elections, referenda and assessing grant eligibility.

The declaration of trust asserts that the Trustee 'will act fairly and in the interests of all Waikato in applying the Trust Property for Charitable Purposes' (Tainui Trust Board/Rudd Watts & Stone 1995). The scope of those purposes is explained to include promotion of education, culture, social and economic welfare, relief for the aged or poor, promotion of community and physical health, communication and raising the living standards of Waikato. The Deed provides for land to be converted into Te Wherowhero title. Lands under this title cannot be sold or mortgaged and the title can only be removed with the agreement of both beneficiaries (75% of beneficiary marae) and the three custodial trustees.[114]

Consultation and formation of Te Kauhanganui and Tekaumarua

Consultation on the structure that would replace the Tainui Māori Trust Board began in 1996 and continued for 3 years. The consultation process involved three rounds of marae hui; meetings with taurahere groups in Invercargill, Wellington, Christchurch, Sydney, Brisbane and Melbourne; discussion at other tribal hui (e.g., annual general meetings, poukai, rangatahi training hui[115]); and finally, a double round of voting (first by marae, and then by individuals in a postal referendum in Sept 1998).

A number of options were put forward during the consultation process including constituencies based on marae, hapū, groups of hapū, or individuals (in one single tribal electorate). Speakers involved in the consultation process suggested that the main discussion concerned the options for hapū and marae constituencies and what the appropriate role of Kīngitanga would be. The choice to base representation on marae rather than hapū was explained as largely due to practical reasons: marae have physical and legal structures and an active membership whereas many hapū do not.

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[114] Pootatau Te Wherowhero was the first Māori King. The 1996 Annual Report explains that 'Lands placed in Pootatau Te Wherowhero title will be those properties identified as being strategically important and larger blocks of forestry and rural lands transferred under the settlement or purchased by the commercial companies. … Strategic commercial properties and some smaller properties will remain in general title. Such properties will be those that can be developed for commercial purposes … In the main they will be central city properties or those properties where general title allows for maximum commercial value' (Waikato Raupatu Lands Trust Annual Report 1996). In the 2003 Annual Report some $14m worth of assets are reported as being held in Te Wherowhero title, or 7.6% of total net assets.
[115] Poukai are hui of the Kīngitanga. Rangatahi are young people.

The Tainui Trust Board members became the interim Tekaumarua (tribal executive) in October 1998. The first Kauhanganui (parliamentary) elections for the new body were held in late 1999 and first Tekaumarua elections were held in early 2000.

The Kauhanganui is made up of three representatives from all eligible marae, elected every three years.[116] The Kauhanganui is constituted as an incorporated society with individual marae as members. Marae are able to elect their representatives either by a duly notified hui-a-marae or by a postal vote of all members (with most marae using hui-a-marae). In the Kauhanganui, marae voting is weighted by marae population (as recorded on the tribal beneficiary role). There is also a Kaumātua Council which meets quarterly and has an advisory role.

All the powers of the Kauhanganui are vested in the Tekaumarua with some stated exceptions. The exceptions include the power to make changes to the constitution of the Trustee Company; major transactions e.g., asset changes of 30% or more[117]; liquidation or amalgamation; share issues; changes to the Lands Trust deed; the settlement of the River or Harbours claims; and the sale of Te Wherowhero lands. The Kauhanganui must have at least two meetings a year and there is provision for special general meetings. The Tekaumarua must have quarterly meetings and also has provision for special general meetings. The Tekaumarua is responsible for the financial affairs of the Kauhanganui.

Accountability issues were raised by a number of speakers with multiple layers of accountability being an inevitable consequence of separating functions into different entities. Speakers suggested that the new organisation was still working on the appropriate balance between allowing subsidiaries or delegates sufficient autonomy to operate effectively and providing sufficient controls. As an example, it was pointed out to me that the only formal control that marae exercised over their representatives in the Kauhanganui was to elect them every three years. The same is true of the relationship between the Kauhanganui and the Tekaumarua (remembering that the Tekaumarua was

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[116] 61 marae had signed the Deed of Settlement at the time of the first elections in 1999 and thus were initially represented on the Kauhanganui. At the time of the second elections in late 2002 a further four marae had signed out of a total of 68 who were eligible (Tainui Māori Trust Board 1997-2003, *Te Hokioi Jan 2003*). The technical detail here draws on the Kauhanganui constitution (Te Kauhanganui o Waikato, August 2000).

[117] The Kauhanganui voted to increase this from 10% to 30% early in 2004.

delegated with all the powers of the Kauhanganui, except for those explicitly excluded by the constitution).

A governance document prepared in 1998 by the Waikato Raupatu Lands Trust sets out in draft a proposed accountability regime between itself and its commercial subsidiaries. The accountability document has a particular significance because investment decisions made at this time and which subsequently went sour were blamed both on incompetence by those directly concerned and a failure to adequately monitor by those above. The governance document shows that the organisation was aware of the need for monitoring but the document's draft status suggests it was not yet fully implemented (and this was admitted to me by one speaker). The document notes that monitoring is particularly important for companies that do not have publicly traded shares (i.e., most of those of in the Waikato-Tainui structure).[118] The restructuring that followed the 1999-2001 financial problems included moves to tighten financial accountability.

Vision and purposes

Statements of vision and purpose are spread throughout the documents considered. A presentation to the 1998 Hui-a-Tau or annual general meeting (Tainui Māori Trust Board 1998f) explains that the outcomes the organisation is seeking are 'tribal and cultural self-determination, economic self-sufficiency and group efficiency'. The Rules of the Kauhanganui state that the objects of the Kauhanganui are 'to protect, advance, develop and unify the interests of Waikato; to uphold and support the Kiingitanga[119] (which incorporates the principles of unity, the retention of the tribal base in collective ownership and co-operation amongst peoples); to foster amongst the members of Waikato the principles of whakaiti, rangimarie and kia tupato [humility, peace and foresight]; and to achieve a settlement of Waikato's outstanding claims to the Waikato River, the West Coast Harbours and Wairoa and Maioro Land Blocks'.[120] The Lands Trust, it was noted above, can put its income towards virtually any charitable purpose.

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[118] In the 1999-2001 financial crisis it was in fact the banks that played the role of financial monitors.
[119] Note that Kiingitanga is the Waikato rendition of Kīngitanga.
[120] There is little in the Rules about how the Kauhanganui will actually carry out its objectives. There is in Tainui no equivalent of Te Kaupapa (Ngāti Whatua) or Whakatupuranga Rua Mano (Ngāti Raukawa), that is, a document that forms a bridge between the visionary objectives and concrete activities.

In the Kauhanganui's Rules, the objects of the Kīngitanga are virtually synonymous with the objects of the tribe. This message was repeated elsewhere and although the purposes of the Kīngitanga are made explicit in places, there is an unspoken implication that this is not necessary because they are widely understood and supported within the tribe.

Marae development, education and land are repeatedly emphasised as both a means to achieve tribal goals and as an end in themselves.[121] A key use of funds generated by the commercial arm was for educational scholarships and marae grants and the aim of one of the commercial subsidiaries (TDL) was to double the tribal estate each generation. These two aims are discussed in the Principal Negotiator's report in the 1997 Trust Board Annual Report (Tainui Māori Trust Board 1997a, 8&9).

> The short to medium strategy is to buy land - anywhere - everywhere. In this manner we can overcome the mindset that we are a landless tribe and focus on achieving other outcomes of the settlement. … The Endowed Colleges will instead allow our people to become international citizens, to participate in the global future of which we all need to be part. … I believe that in 100 years time this settlement will be remembered because of the Endowed Colleges. … Our settlement is not about replacing the responsibility of the government, nor is it about short-term remedy. The Crown still has a duty to provide for proper standards of health, welfare, housing, employment and all the basic needs that Maaori people along with other citizens require. … Once we have passed through this transition stage, it is envisaged that our subsidiaries will be managed by multi-qualified, educated, multi-lingual Tainui graduates who have an appreciation of what the vision is and who are prepared to actually live that vision. … Ko te tino tuumanako kia kotahi o taatou whakaaro ki te hoe i te waka nei. Me mutu te ngangau i a taatou anoo me te whakapooheehee i te hunga kuware.[122]

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[121] This began under the Tainui Māori Trust Board and continued after the 1995 Settlement.
[122] The Māori text approximately translates to: 'the deep hope is that the back-biting and the confusion of the ignorant will cease, and that our minds will be united in paddling our canoe forward'.

Work of the new structure: overview[123]

The period from 1995 – 2003 was one of massive changes for Waikato and can be divided into three phases. The 1995 Settlement was followed by the return of assets and a wave of new investments, creation of new structures and increasing distributions through to 1999. The 1999 annual report signalled the impending financial crisis, the full force of which was recorded in the 2000 financial results and which spilled out into 2001. The most recent two years, 2002 and 2003, have seen a recovery in the tribal organisation's finances and a release of energy which is being channelled into other areas of activity.

Structural changes make it difficult to draw a simple picture of financial results over time. The format of the financial reports was evolving and the figures were always very much abridged. The table below provides a financial overview of the work of the Waikato-Tainui organisation from 1995 to 2003. The figures in the table are drawn from the annual reports from 1995 to 1999 and for 2003, but the figures for 2000-2001 come from media reports[124] (although graphs in the 2003 annual report broadly confirm their magnitude). 2002 figures are taken from the 2003 annual report. All values in the table are in millions of dollars. Negative values are in brackets. TGH is Tainui Group Holdings Limited.

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[123] Most of the information for the next section comes from the Tainui Māori Trust Board Annual Reports 1995-1999. This included the reports of all the subsidiary organisations and activities, apart from in 1996 when the Lands Trust report formed a separate booklet in a dossier of organisational documents.

[124] The 1999-2000 figures ($44.5m/$168m) are taken from the Herald 20/2/01. The 2001 figure of ($2.8m) is taken from the Herald 15/6/02. The approximate figures recorded in the graphs of the 2003 annual report are operating losses of $45m and $5m in 2000 and 2001 and equity of some $160m in both years.

Measure Body/Year	Gross income	Grants [125]	Net Income [126]	Gross assets	Equity
Trust Board 95	**4.8**	**0.76**	**0.13**	**8.4**	**4.7**
Trust Board 96	5.2	0.9	(0.53)	16	4.1
Lands Trust 96	189[127]	1.0	183	196	187
Combined 96[128]	**194**	**1.9**	**184**	**212**	**191**
Trust Board 97	7.9	1.2	1.3	12	5.5
Lands Trust 97	18	2.0	9.8	207	197
Combined 97	**26**	**3.2**	**11**	**219**	**203**
Trust Board 98	2.7	0.07	(0.84)	12	4.6
Lands Trust 98	27	3.7	7.5	231	213
Combined 98	**30**	**3.8**	**6.7**	**243**	**218**
Trust Board 99	2.0	0.05	(0.71)	5.5	3.8
Lands Trust 99	37	0.13	(0.62)	156	130
TGH 99[129]	8.3	5.5	(3.1)	88	79
Combined 99	**47**	**5.7**	**(4.4)**	**250**	**213**
Consolidated 00	na	na	**(44.5)**	**182**	**168**
Consolidated 01	na	na	**(2.8)**	na	na
Consolidated 02	**38**	**1.5**	**0.45**	**185**	**172**
Consolidated 03	**42**	**0.95**	**3.4**	**203**	**188**

Table 3: Financial measures of Waikato-Tainui activities, 1995-2003

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[125] Grants are dominated by those to marae and educational scholarships. This figure includes both grants made or expended and for which provision is made. It is not clear whether grants for which provision is made appear in the accounts of the following year.

[126] This figure is net of costs and grants.

[127] This was made up of $170m in grants (the value of the settlement) and 19m interest (also from government).

[128] The 'combined' figure is the simple addition of the figures for the individual entities as listed in the table. The 'consolidated' value is the figure provided by the annual reports and is calculated following the accounting rules set out in the notes to that report.

[129] When Tainui Group Holdings (TGH) was formed in 1999 the shares in the subsidiary companies were transferred to it from the Lands Trust.

The table shows the 25 fold increase in gross assets and 40 fold increase in equity that occurred from 1995 to 1996 following the settlement of the tribe's land claims. This precipitated a flurry of new investments and new commercial and political structures. Distribution increased in total quantum and there were new initiatives such as the Endowed College, and sports and cultural grants, which were added to the traditional marae and educational grants. Research on the River Claim proceeded in earnest alongside numerous submissions on resource management issues.

The financial crisis looming in 1999-2000 is also shown in the table, with rising total but falling net income. This was due to modest income from the rental properties, losses from high risk investments, falling government interest payments[130] and an increase in tribal grants. The financial impact of the crisis reached its nadir in the losses of 2000 but concern then shifted to the political arena.

In 2002 the financial results had turned and fresh elections in both the Kauhanganui (Dec 2002) and Tekaumarua (Feb 2003) had cleared the political air. The 2003 Annual Report recorded the financial recovery with an acknowledgement that further improvement was required. (The rate of return on equity was still only 2.3%.[131]) There was renewed activity on the claims to the River and West Coast Harbours and progress in Waikato's social development in partnership with the Crown.

Recent consolidated financial results for the tribal organisation are not available but the results for Tainui Group Holdings (the tribe's most significant income-generating division) were reported in the media. These are set out in the table below and confirm a steady improvement in the tribe's financial position. The TGH distribution recorded in the table is made to the Trustee Company.

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[130] In 1997 interest payments were 13m of income, in 1998 9m, and in 1999 6m.
[131] This is calculated from the table as follows: grants (.95) + net income (3.4) / equity (188) x 100% = 2.3%. Property and fisheries were employing some 76% of total assets and returning 5% and 5.5% respectively but the assets in the Lands Trust and investment divisions were losing 6.7% and 6.8%. Thus while the 2003 Annual Report states that '[t]he bias towards property drives the low return on assets', property was fairing better than other divisions of the existing portfolio. The net profit for TGH in the 2003-2004 financial year was reported in the media as increasing to $15.8m from $8.3m in the previous year (Susan Huria: The good outweighs the bad for Māori 11.10.2004 NZ Herald). Consolidated figures were not reported.

Measure / Year	TGH operating profit	TGH net profit after property trades	TGH distribution
2003	$4.5m	na	$3.3m
2004	$9m	$15.8m	$5.4
2005	$12m	$21m	$7.5m

Table 4: Tainui Group Holdings financial results, 2003-2005[132]

Land, property and MDC Investments

The overall structure in which commercial activity takes place was set out in Figure 1 above. The Waikato Raupatu Trustee Company Limited owns Tainui Group Holdings (TGH, est. June 1998), which in turn owns Tainui Corporation Limited (TCL, est. March 1996), Tainui Development Corporation (TDL, est. March 1996), and Māori Development Corporation Investment Holdings Limited (MDCI) as well as the fisheries interests discussed in the next section.

The aim in establishing TGH was to consolidate commercial activities and split governance from management. Governance is vested in the Trustee Company. TGH was to act as a group-wide treasury unit providing an overall 'strategic plan, integration of commercial activities and financial & management reporting system' (Tainui Māori Trust Board 1998e). The appendices of the 1999 Annual Report of the Tainui Māori Trust Board contain a TGH shareholder statement, statement of corporate intent and strategic plan. Apart from a reference to 'encouraging reasonable participation by Waikato-Tainui' they contain typical commercial imperatives.

The 1997 Annual Report (Tainui Māori Trust Board 1997a, 24) explains that:

> The WRLT (Waikato Raupatu Lands Trust) is currently in the process of formalising a blueprint outlining the strategic direction of the organisation

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[132] The table draws together information from a Waikato Times article on 26 May 2005 and an NZPA release of 17/6/05. A Waikato Times article of 7/5/05 reported that tribal grants of $1.85m had been approved by Te Kaumarua, funded by the profits from TGH.

…The primary concern of the WRLT is to protect the settlement with proper care and prudence for beneficiaries … The WRLT is looking for a balanced asset portfolio with acceptable returns on investments but is robust enough to handle the volatility of economic and market conditions. Consequently the WRLT is aiming to be more conservative in its approach to investments over the next few years to consolidate its economic base.

This statement shows that, whatever the subsequent financial difficulties, the stated intention was to manage a balanced and conservative portfolio of assets.

Tainui Corporation Ltd and Tainui Development Ltd

The Waikato-Tainui settlement was overwhelmingly about land. The Trust Board's 1995 Report explains that post-settlement negotiations were underway on conditions for the return of 1,200 individual properties: 9,000 acres of farmland, 18,000 acres of forest and 450 residential and commercial properties. These were to be transferred over a five-year period and held in two entities: Tainui Corporation Ltd and Tainui Development Ltd.

Tainui Corporation (TCL) received the high-yielding, commercially developed settlement properties such as Waikato University, Waikato Polytechnic and governmental buildings. It collects rents from these which is the main source of income for distribution by the Lands Trust. Tainui Development Limited (TDL) received the low yielding 'bulk lands' (farming and forestry), land for residential and property development and also holds the tribe's tourism and leisure investments (such as the 40% share in building the Tainui Novotel Hotel in Hamilton, and a 25% stake in Riverside Casino Ltd). TDL's task is to increase the tribal estate by developing, selling and buying more land. It was charged with realising the vision of doubling the tribal estate each generation and was also the primary holder of lands in Te Wherowhero title. Employment is also noted as a TDL objective at times (although it appears to be a consequential rather than primary aim).

The 1996 Lands Trust Annual Report states that 'TCL's role is to maximise profit from assets under their management. TDL's role is to increase the land quantum of the tribal

estate. Both are required to increase the asset base under their management'. An article in Mana Magazine in April/May 1998 reports that the rates of return expected from TCL and TDL were 9% and 15-20%. In 1997 TCL reported it made $1.2m on an average assets of $20m and returned $1.5m to the Lands Trust. This increased to $3.6m on net assets of $60m in 1998, with $3.5m to be returned to the Lands Trust (Tainui Trust Board reports for 1997 and 1998). These figures give rates of return of 6% for these two years. The 2003 Annual Report records a net operating surplus of $6.8m on $134m worth of assets employed in the property portfolio (TCL and TDL) or a 5% rate of return.

Māori Development Corporation Ltd (MDC)

Māori Development Corporation Ltd began life in 1987 as a joint government and Māori finance company and moved into investment banking in 1990. Following 'shareholder differences', the Tainui Trust Board became the sole shareholder in MDC in 1996, buying out the Crown and other minority Māori interests (although the possibility of other Māori reinvesting in the future was held open). The Company was renamed MDC Investments limited and continued its investment banking activities (with net assets of around $4m).

By the time of the 1997 Annual Report MDC Investments had interests in cattle semen, smart cards, packaging and fisheries. In the 1998 Annual Report the shift of the company to the Lands Trust and its renaming as MDC Investment Holdings Ltd wawere noted and in 1999 it made new investments in tourism, media and a rugby league team. These investments were expected to yield returns of at least 20% after three years.[133]

The 1999 report explains that:

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[133] The 1997 Annual Report records MDC's investments in Speech Recognition Systems Ltd (33%); Plade Holdings Ltd (cattle semen; 15%); Smartmove Ltd (smartcard reading devices; 15%), Insul-Box Group (insulated carton packaging; 15%) and Moana Pacific Fisheries Ltd via Te Kupenga Ltd, and its continued role as a major sponsor of the annual Māori Sports Awards. The 1998-1999 year reported new investments in Puka Park Resort Ltd, the Warriors Rugby League Team (66.6%), Info-Touch Technologies Ltd (50%), The Learning Web Ltd (45%), Business Interlink NZ Ltd (30%) and West Media Services (25%).

MDC's task this year is to consolidate and manage the range of investments it has undertaken over the past 18 months. Profit contribution for the next 12 months is expected to be minimal, but in line with the objective of achieving 20% returns over a three year period. Significant results are expected from year 2001 on. (Tainui Māori Trust Board 1999c)

Profit contribution was minimal and consolidation proved to be more substantial than predicted. The winding-up of the company was announced in the media in early 2000 with residual assets transferred to Tainui Group Holdings. The 2003 Annual Report records some $14.6m worth of assets employed in the remaining investment portfolio, but these made a net loss of $1m, or a 6.8% negative rate of return.

Fisheries

Waikato-Tainui has been involved with fisheries in a number of ways. They have been active in the allocation debate both through the Tainui Māori Trust Board and Tainui Waka Fisheries (a grouping which includes Waikato, Ngāti Maniapoto and northern Ngāti Raukawa). They have had commercial interests in both a deep-sea fishing company, Raukura Moana Fisheries Limited, and an inshore company, Raukura Waikato Fisheries Limited. They hold shares in Moana Pacific Fisheries via MDC Ltd.[134] In addition, both fresh and salt water customary fisheries are important for Waikato.[135] Lastly, they have put money towards scholarships for their young people to study fisheries related matters both in New Zealand and overseas.

Deep-sea – Raukura Moana Fisheries

Raukura Moana Fisheries Ltd has been a commercial success story for Waikato. It was founded in 1994 with a cash input of $37,500 each from the Tainui, Ngāti Maniapoto and Ngāti Raukawa Trust Boards. In the previous year the three iwi had combined the quota they received from Te Ohu Kai Moana and on-leased it through the Maniapoto Māori Trust Board. In the 1994/95 year the value of trade increased and it was decided

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[134] MDC owns a 14% share in Te Kupenga which in turn holds a 31% share in Moana Pacific Ltd.
[135] Eels are the paramount freshwater fish for Waikato and they have been involved with projects to transfer elvers up and over the Karapiro dam. Involvement with the eel fishery is linked to the River Claim. The Trust Board has also supported Taiapure applications on both the Aotea and Kawhia Harbours (Tainui Māori Trust Board Report 1996).

a company should be formed to ensure financial accountability and to separate the commercial operation from the politics of the Trust Board.

It was explained to me that there were a number of ways in which the separation of the political from the commercial was achieved. As noted above, the allocation debate was handled by a separate organisation, Tainui Waka Fisheries. The latter were allowed to ask for commercial information to support their negotiations, but non-commercial imperatives were not to impinge on the company's operations. The three Trust Boards' need for a guaranteed income was satisfied by the payment of an upfront lease fee for their quota rather than via a dividend payment (although the latter did occur occasionally). A guaranteed cash flow was particularly important for Ngāti Raukawa and Ngāti Maniapoto who have no other independent source of income. It was considered important to have a kaumātua as Chair of the Board, to satisfy shareholders, but he was held in reserve during negotiations, as someone whose approval must be deferred to. The separation out of inshore quota, the use of which is generally more closely scrutinised by tribal members, also helped to depoliticise the activities of the company.

Relatively free of political considerations, the company's Corporate Profile announced in its mission statement that 'Raukura Moana Fisheries Limited is committed to being: "The leader in the utilisation and management of resources in the Fishing Industry" "hei mua i roto i ngā mahi me ngā whakahaere a rawa a Tangaroa"' (Raukura Moana Fisheries Limited 1996b).   It was explained to me that the strategy for achieving what they admitted was a rather ambitious goal was to work to understand the industry both domestically and internationally, to anticipate market needs, to capitalise on having no fixed investments, and to take advantage of being Māori.[136]

On the basis of the above strategy, and as their experience grew, the activities of the company evolved and they moved up the value chain. In the first year, the company on-leased their quota to buyers who paid both the Te Ohu Kai Moana lease fees and a

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[136] This is a summary of the strategy but the speaker who provided it discussed each element at some length, suggesting that they were more than just slogans. For example, he placed a lot of emphasis on the fact that because they were a new company they were not locked into the mindset that a fishing company had to own boats (although he reported debate over this). This enabled them to be a 'virtual' fishing company using cell phones and contracts. Capitalising on being Māori seems mainly to refer to activating traditional alliances, although access to Te Ohu Kai Moana quota was a result of their tribal status.

margin that was passed on, up-front, to the company's shareholders. Following this, they moved into having their own (and others') quota caught on contract and then into contract catch and processing. The next step was to employ a marketer to sell both their own and other companies' processed quota. From there, the company shifted into chartering vessels, an undertaking with both higher risk and returns. Initially the vessels chartered were Russian ships capable of heading and gutting fish. In 1999-2000, they moved to a vessel capable of producing fillets (which are of higher value) and which had a lower risk New Zealand operator.

In addition to the changes in the company's activities, they managed an increasing volume of quota by building alliances with other tribes. They began with the Arawa and Mataatua tribes and have also worked with Ngā Puhi, Ngāti Whatua, Tauranga Moana, Whānau a Apanui, Ngāti Ranginui and Ngāti Porou.[137] It was explained to me that they believed there was room for a maximum of two tribally based fishing companies and that Raukura Moana Fisheries wanted to be one of them. If this was to occur, they realised they would have to work with tribes beyond their traditional allies and indeed, with their traditional enemies.

The Tainui Trust Board annual reports provide some financial and operational details about the company. The 1995 report records that RMF managed 10,000t of quota, paid out $294,000 in lease fees, and made a profit of $36,000 (Tainui Māori Trust Board 1995). By 1999 the company was managing 27,479t of quota, sales had increased to $27.5m, a $300,000 lease fee was paid and a net surplus of $1.1m was generated. Shareholders' funds moved from $3 to $4m giving a return on average funds of 32% (Raukura Moana Fisheries Limited 1999). In the 2003 Annual Report the total fisheries portfolio was recorded as employing $19.6m worth of assets and having a return of $1.1m, or 5.5% (Waikato Raupatu Lands Trust 2004).[138]

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[137] The tribes worked with have changed over time. For example, when a high profile CEO left he took some of the tribal alliances with him, emphasising that it is not just tribal but individual relationships that are important (although sometimes the boundary between the two is not clear).

[138] Additional financial results are as follows: In the 1996 the company managed 2,700t of Tainui quota and made a profit of $87,295. In the 1998 presentation to the Hui a Tau the Trust Board reports that $300,000 of lease fees were paid and a dividend of $390,000, on sales of $14m. An export award from Tradenz is also reported, along with company contributions to marae and poukai hui and employment of management trainees. In 1999 the Trust Board reported that the company managed 23,000t of quota and had increased sales from $7m to $15.6m. A lease fee of $300,000 was split between the shareholders. It also noted the $2m capital injection by TGH brought Waikato's equity to $2.9m and an 82% shareholding. (The fishing year is October to September, so the 1999 Trust Board report contains details

Inshore: Raukura Waikato Fisheries Ltd / Raukura Moana Seafoods[139]

Initially Waikato on-leased the inshore quota it received from Te Ohu Kai Moana (some 250t according to the 1995 Trust Board report) to Tainui fishers and to those employing Tainui. The 1996 report notes that the tribe was looking at coastal fishing companies and in 1997 it purchased Hartstones, a family fishing business based out of Raglan.[140] The aim was to get Tainui established in inshore fishing in preparation for allocation. The new company was renamed Raukura Waikato Fisheries and brought with it three trawlers, a Raglan holding facility, two retail outlets and 400t of inshore quota (snapper, gurnard and trevally). The company retained the previous owner as the CEO and a director, alongside one outside director and four directors from Tainui.

The first year was described as one of consolidation, allowing the new directors to learn the ropes and a $210,000 profit is recorded. In 1999 the establishment phase was said to be over and the time of tribal initiatives to have begun. The company wished to increase the training and employment of Tainui members and there were plans to merge the inshore and deep-sea companies. No financial details are reported.

By 2000 it was rumoured that Hartstones was struggling to make a profit for Tainui and restructuring options were being considered (Herald 18/10/00). An article in the Herald on 8/7/03 announced the imminent closure of the company. Tainui would sell wholesale and retail arms but keep the company's quota which was returning some $5 million annually. The sale was confirmed in an article 23 July with the explanation that too much had been paid for the company, it had been poorly managed and it had struggled to make profit since its purchase in 1997.

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of RMF's 1997-1998 fishing year, being most recent available. Figures in the Companies 1999 report however are for the 98/99 fishing year.)

[139] The Companies Office records that Iraklis Eighth Limited was incorporated under the Companies Act 1993 on 27/2/97 and changed its name to Raukura Waikato Fisheries Limited on 20/5/97 and then Raukura Moana Seafoods Limited on 9/9/99.

[140] Raglan is the name of both a town on the west coast of the Waikato rohe, and one of the West Coast Harbours.

Waikato and the allocation debate

Waikato have been actively involved in the fisheries settlement and the subsequent allocation debate (although the level of activity diminished during the period of financial upheaval). They were a party to the 1987 court action which resulted in an injunction on the Crown continuing with the distribution of fisheries quota until Māori fisheries rights had been adequately accounted for. In 1998 Waikato estimated that they had spent some $1.5 million on legal costs relating to the fisheries settlement and subsequent allocation debate (Tainui Maaori Trust Board 1998f). A submission to the Crown Fisheries Working Party sets out the Tainui belief that a minimum of 50% of ownership rights should be returned to tribes by the Crown and that tino rangatiratanga also demanded that tribes have an equal share in the ongoing management of fisheries and waters.

In the allocation debate Waikato has favoured models that place greater emphasis on population and a submission made in 2000 (Habib, 2000) argues that deepwater quota should be allocated solely by tribal population, with inshore allocated on the basis of iwi coast-lines. The movements in the allocation model over the 1992-2003 period, culminating in the model that was reported to the Minister of Fisheries in May 2003, have broadly been in the direction favoured by Waikato. A Waikato Times article on 7/8/03 reported that Tainui stood to gain some $26m worth of assets from the then allocation model.

Distribution: marae, education, sport and cultural grants

Distributions from commercial activities are made through the Lands Trust. Grants increased steadily from 1995, peaking at over $5m in 1999, were suspended in 2001, and have been reinstated at more modest levels in 2002 and 2003 ($1.5m and $1m respectively). Historically the Tainui Māori Trust Board provided support for marae and educational scholarships and this has continued to be central to the distributions of the Lands Trust. After the 1995 Settlement, however, the range of educational activities broadened and annual grants for sports and cultural activities were introduced. Of the total amount of grants 'made or committed' (outlined in Table 3) marae generally take between 30-50% and educational scholarships some 20-30%. In addition to grants, the

Lands Trust supports tribal events such as the annual tribal games (which began in 1998 and which had grown into a tribal festival by 2004) and Kīngitanga hui.

Education

The Tainui Trust Board has been concerned with education since its inception. It had a long history of providing educational scholarships and two substantial reports put out in 1986 and 1991 set out the 'Tainui Education Strategy'. In these reports the Trust Board advocates a major role for Tainui Māori in all areas of education. In the reports of the Centre for Māori Studies and Research the emphasis was on education and training leading to employment, but after the 1995 settlement there was a shift towards tertiary education to produce the next generation of tribal leaders and support for research. Tertiary scholarships and the Endowed College were part of this shift. The 1997 Annual Report explains that '[u]ltimately the aim is to promote our own qualified people within these corporate structures so they can assume more control in the economic destiny of the tribe' (Tainui Māori Trust Board 1997a, 20).

The Endowed College was to be a graduate research facility modelled on Wolfson College in Oxford, England. The 1999 Annual Report explains that:

> The college will be a research and residential research institute. The focus of the research will be the management of development and the evolution and evaluation of social policy. Particularly in the areas of education, health, housing, enterprise employment and care of use of resources. … The aim is to have Tainui, other New Zealanders and international students in roughly equal proportions. …The college will work in close association with Te Whare Wānanga o Waikato – University of Waikato. (Tainui Māori Trust Board 1999c, 26)

Construction on the college buildings began in December 1998 and the facilities had been completed by early 2000 (reportedly at a cost of $15m, Herald 17/10/02). This coincided with the financial crisis that erupted in late 1999, however, and to date it has housed no students. A Herald article on 10/10/03 reported that the Tainui executive had appointed a project manager with the aim of opening the college as a research centre in

early 2005 and the 2003 Annual Report lists it as one of four areas prioritised for action by the Lands Trust in the coming year.[141]

Marae development

Support for marae is central to the distributions made by the Lands Trust. Marae grants are made with few restrictions: the funds must be spent on charitable purposes, audited accounts must be produced and the marae must have signed the Deed of Settlement. There is limited information about what the grants are spent on but the 1999 Annual Report records that 62% of marae are involved in capital works (i.e., marae facilities) and marae can apply to have their annual grants capitalised to support such work.

In addition to the grants to marae the Lands Trust is working to make marae more active in the scholarship programmes, with individual applications being processed first by the marae to which they affiliate. From 1996 to 1998 a marae training programme was run by the Lands Trust and included a wide range of topics including the Settlement, proposed new structure, vision and work of the Lands Trust and marae management. As an adjunct to marae grants, taurahere groups in Invercargill, Christchurch, Wellington, Sydney, Melbourne and Brisbane have also been funded and closer links between these groups and the Kauhanganui were being fostered.

Article three services[142]

The Trust Board and then the initial work of the Lands Trust were focused on the Raupatu Settlement, leaving the provision of services through government contracts to other organisations.[143] There are some references to article three activities in documentation but the leadership was firm that the settlement was not about displacing

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[141] The Hopuhopu facility was being used for educational conferences by early 2004 under the name 'Waikato University College'.

[142] 'Article Three' refers to the section of the Treaty of Waitangi that guaranteed Māori the 'rights and privileges of British subjects'. Health, education and other services delivered to Māori as citizens are often collectively referred to as 'article three services' because they are considered to flow from rights derived from article three of the Treaty.

[143] One of the organisations with the highest profile is Raukura Hauora o Tainui Health Services which is reported to have received $3.1m in 2002/03 (out of 230 Māori Providers who received a total of $135m). This report was issued by the New Zealand Press Association on 18/7/03 and the information came in response to a parliamentary question to the Ministry of Health (full details can thus be found in the parliamentary debates).

government responsibility to fund these. I was told that the Tainui Māori Trust had originally been involved in MANA and Maccess programmes but that it had decided not to renew these contracts, or to enter into service delivery agreements, because they cast the board in the role of Crown agent. The leadership did believe, however, that the Kauhanganui should move into the role in extracting funding from government for services and in advising on how it should be spent. More than one speaker suggested that as the representative body for Waikato the organisation had the mandate to advocate for its members on social issues.

The movement of the Kauhanganui into a policy and coordinating role on service delivery was delayed by the financial crisis of 1999-2000 which diverted the organisation's energies and dealt a blow to its credibility. By 2003, however, with the commercial area stabilized, social development had become a major focus for the Lands Trust and Kauhanganui. The 2003 Annual Report records the establishment by the Tekaumarua of a 'Social Development Advisory Committee' charged with developing and implementing a social development strategy for the tribe and the Kauhanganui was also to establish standing committees in critical areas such as health, education, environment, employment and housing.

The 2003 Annual Report sets out the key principles for the organisation's involvement in social development including that it should be 'driven by the vision of the people' and that partnerships with the Crown should be at a 'Rangatira ki te Rangatira' (Chief to Chief) level, not casting Waikato in the role of Crown agent. As examples, the Lands Trust had negotiated MOU (Memorandum of Understanding) with the Department of Corrections and the New Zealand Police. In the former case they had input into what services were required and which providers should be offered contracts for particular services but were not involved directly in delivery. The organisation was also involved in discussions on a stronger and appropriate relationship with Tainui Hauora (the tribe's health services delivery body).

Resource management, the Waikato River and the West Coast Harbours

The importance to Tainui of the Waikato River and the West Coast Harbours (Manukau, Raglan, Aotea and Kawhia) has been described in the introduction. As the largest source of fresh water proximate to New Zealand's largest city mainstream demands on the River have also steadily grown. The tension between these two ways of valuing the River and the demand by Tainui that they have an equal role in its management have been central to Tainui's involvement in resource management issues since the 1980s. They have made submissions on specific resource demands and have worked steadily on their Treaty claim to the River.

At the time of the Settlement, Huakina Development Trust was functioning as the 'environmental arm of the Board' (Tainui Māori Trust Board Annual Report 1995). It sought to be involved in the move to take water from the Waikato to alleviate the 1994 Auckland water crisis. The failure by the Crown to engage with the Trust was a stimulus to progressing the River claim. In the same year, work was reported on a consensus document outlining 'Tainui Waka Resource Management Principles' in conjunction with other Tainui iwi and in consultation with 'all known hapū trusts and marae committees'. Work on Iwi Resource Management Plans for the River and West Coast Harbours was also underway.

In 1996 Huakina was reported to be involved in a Māori Resource Management Course with Auckland University, and in applications to take water from the River and discharge sewerage into the Manukau Harbour and the River. The need to organise to monitor River water quality was announced. In 1997 progress with the researching the River Claim was reported, along with submissions on six major resource applications. In 1998 resource consent issues were said to dominate the work of the Rivers and Harbours group who were working on applications relating to motorway expansion, water extraction for Auckland City, a dairy company, city council sewerage and landfills, a pulp and paper mill, a power station, hydro-electric dams, a wool scourer, a freezing works, a quarry, a coal mine and a geothermal power station.

In 1999 work on resource applications continued but the completion of the historical, legal and environmental research on the River Claim is the dominant news in the Trust Board's annual report. The outcomes sought from the claim are the establishment of a trust that would be funded to clean up the River and 'a co-management structure for the long-term protection of the River'. Less optimistically, the Principal Negotiator's report discusses the outstanding claims saying that '… if we as a tribe are able to sort out the mandate issues then perhaps the way ahead is still clear. If we are not able to sort them out then progress is going to be slow and difficult' (Tainui Māori Trust Board 1999c).

The 1999 report also records that '[r]elationships have strengthened with various industries that have applied for consents along the river'(Tainui Māori Trust Board 1999c). This was evidenced in a New Zealand Herald article on 9 June 2001 which reported that Tainui and Carter Holt Harvey (a forest milling and packaging company) had reached an agreement to work together to care for the River. A similar agreement with Mighty River Power (an electricity generator) was reported on 8/9 July 2003.

In 2004 the River and West Coast Harbour Claims had moved back into the foreground as a result of the national debate on the foreshore and seabed. The Lands Trust was meeting with representatives of coastal hapū to discuss the appropriate negotiating strategy and hapū and marae were being encouraged to develop local management plans for the harbours. Speakers reported that the Lands Trust had a responsibility to protect the tribe's rights and spearhead negotiations, but local marae and hapū were the ones with an ongoing role in resource management, with appropriate support from and coordination by the tribal body.[144]

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[144] Media reports in late 2004 suggested that the process of coordinating negotiations across hapū might not be straight-forward. Dissent from west coast and northern hapū is reported and also a reluctance by government to accept a mandate from the majority of hapū. Rather ' OTS [The Office of Treaty Settlements] acting director Dean Cowie said the Crown was unlikely to recognise the deed (of mandate) as it stands. "It's no easy role for Tainui to bring those border iwi into the scope of the settlement but, in claiming it has a mandate, the tribe has to prove it has the support of all the groups affected," he said. (NZ Press Association 14/10/04) Although nowhere stated, it seems likely that the ongoing negative media publicity had made the government more cautious in its acceptance of majority rather than unanimous mandates. On 25 May 2005 the Waikato Times reported what was effectively a compromise approach, with negotiations between Waikato and the government on the River Claim to start immediately, and with talks on the West Coast Harbours proceeding when coastal hapū had decided who would represent them. On 25/8/05 the Waikato Times reported that Te Kauhanganui had approved a resolution entitling hapū from each of the four West Coast Harbours to appoint a representative directly to the Harbours and River negotiating team.

Financial upheavals (1999-2001): reportage in the media and internal reflections

A history of the Waikato Raupatu Lands Trust is incomplete without some discussion of the financial upheavals of 1999-2001. A feature of this period, however, is the absence of publicly available, internally generated documents.[145] If internal communications ceased, the media more than compensated, with hundreds of newspaper articles chronicling the interwoven financial and political turmoil. Discussion based on media reports sits uneasily in an insider story about Waikato-Tainui but the media became the information source of last resort, not only for the general public and interested parties such as myself, but for tribal members. Tainui enjoyed a positive media image during the settlement period but the dysfunctional caricature that was painted during the misfortunes of '99-2001 has proved extremely durable.[146]

What the media reported 2000-2001[147]

After the flurry of reports covering the Raupatu Settlement in 1995 the media was relatively silent on the activities of Tainui for a few years. In the first months of 2000, however, there was an outbreak of articles on the financial difficulties within Tainui. A Price Waterhouse Cooper's report from November 1999 was leaked to the press (Herald 23/1/00 and 23/2/00). The Price Waterhouse Cooper's document was reported to explain that tribe was asset rich but income poor, with an excess of expenditure over income that was eroding the capital base. Problems were said to exist on both the income and expenditure sides of the ledger. Settlement properties owned by TCL comprised a significant proportion of Tainui's balance sheet and while providing a secure rental income, were relatively low yielding (around a 5-6% rate of return). In addition, the Māori Development Corporation whose role it had been to pick winners

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[145] The tribal newsletter ceased publication and I was unable to secure annual reports for the period, for example.

[146] Examples of the persistence of the negative caricature can be found in the reporting of all changes in personnel in conspiratorial tones, the announcement of positive financial results against a history of financial disaster, and the scepticism as to the value of consulting with the organisation over the siting of a new prison, because a previous employee had labelled its governance as dysfunctional. By contrast, articles on positive events such as the Tainui Festival, were scarce or non-existent.

[147] Most of the reports on which this section was based are drawn from the New Zealand Herald (the Auckland daily newspaper), but there are also some from the Waikato Times (Hamilton daily) and the Dominion (Wellington daily) and one each from the National Business Review and Radio New Zealand.

was making substantial losses.[148] Some of TDL's property investments (in Australia, and the Wellington residential developments) were also looking insecure by this time. Exacerbating the poor projections, interest payments being made by the Crown as part of the settlement were scheduled to cease in May 2000. High expenditure was a result of high operational costs and the steady increase of marae, educational sports and cultural grants. In summary, income from the successful commercial activities was not sufficient to cover high overheads, some failing investments and tribal distributions.

Reports on the response to the crisis quickly followed. This was said to include plans for 'a $40 million asset write-down, the sale of non-performing businesses, and the wind-down of the high-risk MDC investment company' (Herald 23/2/00). A structural review was underway to increase efficiencies and improve accountability (Waikato Times 29/1/00). Recriminations and rumours also began as to who was responsible for the crisis with reports on the departure of a number of top managers. The winding up of MDC was announced by the Dominion in March (28/3/00) with the transfer of its assets to Tainui Group Holdings.

By May the focus of reports had shifted to political matters with a series of events portrayed as an internecine struggle between factions within the Tekaumarua, in support of and opposition to the Kīngitanga. (Internal reports confirmed there were tensions, but did not describe them in these simple factional terms.) Court actions were part of this struggle and the dispute impacted on the capacity of the Tekaumarua to make urgently needed commercial decisions such as responding to a confrontation with the organisation's major creditors, the Bank of New Zealand and Hong Kong and Shanghai Banking Corporation. Foreclosure on land assets was ultimately averted with the repayment of some $40 million dollars of debt to these two institutions.

The first months of 2001 saw a continued high level of media coverage associated with the publication of the final 1999-2000 financial accounts (with losses in line with previous rumours) and the death of Sir Robert Mahuta. After that time the financial fortunes of the tribe recovered and media attention diminished. High profile changes in

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[148] One Herald article (23/1/00) summarised: 'The "high risk-high return" strategy envisaged for MDC Investment Holdings Ltd - the company that bought the Warriors league team and the Puka Park Resort at Pauanui - appears to have turned out to be high largely on the risk side'.

personnel occurred in the 2002-3 period (both senior managers and Tekaumarua members) and these continued to be reported as evidence of political tensions. The positive financial results in 2002 and 2003 were reported, although generally against the negative backdrop of the previous years.

Insider Reflections on 1999-2001

In their reflections on the crisis that erupted in 1999 insiders told a simple story. They emphasised the enormity of the changes that occurred following the 1995 settlement and believed, with the wisdom of hindsight, that they had tried to do 'too much, too fast'. They took a philosophical approach, in contrast to the dramatic media reports, arguing that the tribe was going through a learning process which while painful, could not be avoided. Lastly, they were concerned primarily with the political dimensions of the crisis rather than the financial.

An interview with Shane Solomon in the Waikato Business News on 5 February 2001 is characteristic of insider explanations.[149] Solomon argued that the greatest damage in the past year was to the tribal organisation's credibility both with the general public and, more seriously, amongst tribal members. He saw this as more important than the commercial losses which he argued had largely been dealt with. He notes that as the crisis took hold, internal tribal communications broke down leaving members to learn about the tribe's activities from the mainstream media. 'Before the settlement there was a common vision within Tainui … in the 6 years since, much has been lost by Tainui, but that may have been the most costly.'

In the interview, Solomon outlines his views on why the commercial problems arose. He argues that the commercial managers were not ill intentioned but 'tried to deliver too fast, because Tainui wanted too much, too soon for too many'. Lack of experience and inflated expectations proved their undoing. He acknowledges that individuals were given too much latitude, that investments were too diverse and in retrospect, higher in

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[149] Shane Solomon's official title at that time was 'Legal Adviser'. He became the Kīngitanga's representative on the Tekaumarua for a time on a temporary basis when Sir Robert was admitted to hospital in January 2001 and then permanently after Sir Robert's death. The quotes in this and the following two paragraphs are all taken from the Waikato Business News article, 5/2/01, which Shane Solomon recommended that I consult for the research.

risk than return. Solomon doesn't plead any special circumstances for Tainui: '[t]he only uniqueness in our settlement was that land was returned and not a lot of cash – and some of the land became a liability. In retrospect, I think we did too much too soon. The lesson is to tread carefully, take time, and manage people's expectations'.

Solomon does not consider that there was anything wrong with the original structure 'given the intentions at the time' and the attempt to provide for greater democracy while preserving those structures which had united people in the past. He is also comfortable with the need for them to evolve based on experience. He believes the tribe will learn from what has happened, and '[i]n the long-term, maybe it will be a unifying experience, we will see these 5 years as our youth'.[150]

Relationships

The relationships which are important to the Waikato-Tainui organisation are multiple and include those within sub-entities; between sub-entities (marae, Kauhanganui, Kīngitanga, Tekaumarua and subsidiary companies); between the organisation and external non-Māori bodies (the Crown, local bodies, local companies and the media); and between the organisation and other Māori organisations (own iwi, other iwi and pan-iwi). The multiplicity of relationships is a reflection of the breadth of activities in which the Tainui tribal organisation is involved and different relationships are relevant to different activities. Thus as the activities and focus of the organisation have changed different relationships have come into prominence. Frequently one relationship interacts with others, reflecting the role of the tribal organisation as an interface body.

The table below summarises the changing prominence of different relationships for the Waikato-Tainui organisation over time. During the period of settlement negotiations

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[150] In the interviews of early 2001 other speakers echo this summation of the crisis: '…it's a learning process and it doesn't matter whether you're 9 or 90, you've still got to learn something, it's just a learning process for the people, and for Tainui'. Another person suggested that: 'Tainui is going through a period of growth even though it may not seem like it to a lot of people associated or affiliated to the tribe, they see it as something that is falling apart it's actually quite healthy for us to go through this, because there's no other way to break the camel's back and the culture of the organisation and within the tribe itself in order to move forward we have to go through this, burning the forest down and letting it grow again'. An article in August 2002 quotes two Kauhanganui rangatahi representatives making the same point : that what was being portrayed externally as dysfunctional was in fact a learning process for the tribe.

the relationship with the Crown was central and the mandate of constituents was also important. After the settlement there is a marked shift in focus to the internal relationships important in building the new structure including with marae and members. Once the financial crisis broke the focus shrunk further and after a rationalisation in the subsidiary companies most of the media reportage concerns the relationships within the Tekaumarua, and between the Tekaumarua, the Kauhanganui and the Kīngitanga. The recent trend is for a reinvigoration of relationships across the board with renewed links with marae and members, Crown agencies, central government and the Tainui federation.

The table is based on the conversations and available documents. It is not an exhaustive list of the relationships of the organisation but reflects the prominence of different relationships across those sources and, as such, is likely a reasonable reflection of the relative importance of the different relationships over time. In the table, a summary of importance is given, with 'maximum' indicating most attention, 'medium' indicating an intermediate amount, 'minimum' indicating a small amount, and 'none' indicating virtually no attention.

Period / Relationship	1995 Settlement negotiations	1996-1999 Post-settlement	1999-2001 Financial storm	2002– 2004 Financial recovery
Within and between sub-entities of the organisation (and the Kīngitanga)	no information	**maximum** flurry of activity to create new political and commercial entities	**maximum** media reports tension within and between Tekaumarua, Kauhanganui, commercial entities and Kīngitanga	**minimum** media reports some tensions but these not considered extraordinary internally
Members↔ Marae↔ Tribal organisation	**medium** consultation to gain approval for settlement	**maximum** explosion of activities involving marae and individual members	**none** implosion of activities involving marae and individual members	**medium** renewal of activities and distributions; mandate issues in negotiations on River and Harbours
Organisation ↔ Crown	**maximum** intense negotiations with Crown	**none** little mention	**none** little mention	**medium** negotiation over River, Harbours and services
Organisation ↔ Other Māori	**minimum** e.g., involvement in allocation debate	**minimum** e.g., continued involvement in allocation	**none** little mention	**minimum** e.g., renewed contact with Tainui iwi on fisheries
Organisation ↔ Commercial	**minimum** limited activity	**medium** ongoing since settlement	**medium** much is negative	**medium** ongoing
Organisation ↔ Media	**medium** positive	**minimum** positive	**medium** negative	**minimum** mixed

Table 5: Changes in the prominence of different Waikato relationships, 1995-2004

Relations within and between sub-entities of organisation and the Kīngitanga

After the 1995 settlement a new set of commercial entities was created to own and manage the assets being returned and there was a corresponding need to clarify appropriate accountability relationships between these and the Trust Board, as the then governance body. There was energy devoted to this, but in retrospect it was agreed that accountabilities were too slow to be clarified and effectively implemented, with a lack of controls cited as one factor leading to the financial problems of 1999-2001.[151] There was work to devise a replacement for the Trust Board which would be the new tribal representative body. Consultation on the new representative body was widespread with debate on whether representation should be hapū or marae based and how the voice of the Kīngitanga should be heard.

When the financial crisis erupted in 1999-2000 this created tensions within and between the various sub-entities as the organisation struggled to clarify what had gone wrong and how to move forward. Disputes within the Tekaumarua impacted on its capacity to make urgent commercial decisions and the debate appears to have absorbed much of the organisation's energies with a marked decrease in relationship activity with both constituents and external bodies. Although internal voices did not agree with the picture painted in the media of a simple conflict between pro and anti-Kīngitanga forces, they did accept that there were different views on how the voice of the Kīngitanga should be expressed. Some linked this to a generational change within the tribe's leadership and the shift from grievance to development modes.

In December 2002 and February 2003 Kauhanganui and Tekaumarua elections were successfully held and since then the internal view seems to be that tensions within the governance body have diminished significantly to levels that are not unworkable or extraordinary for a tribal political organisation.[152] As importantly, tensions were said to

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[151] The problem seems to be a combination of a lack of formal controls and a failure to observe those that were formally in place.
[152] The 'normal' assessment was made early in 2004. Subsequently that year a fresh public relations disaster arose for the organisation relating to accusations that Lands Trust Board members and staff had been overpaid in the process of consultation between the tribe and the Crown over the location of a new

be contained in the political sphere rather than impacting on the commercial activities of the tribe. The Kauhanganui was increasingly active in social development but voted in early 2004 to increase the independence of the commercial management arm (by increasing the major transactions threshold for the TGH). A constitutional review was undertaken by a committee of the Kauhanganui, but I was told this was not politically driven, but something which had been anticipated at the time the organisation had been established as part of its ongoing development.

Relations between members, marae and the tribal organisation

During the period of settlement the energy of the tribal leadership was necessarily focused on negotiations with the Crown but there was also a need to inform members of progress and, in the latter phase, to gain their approval for the agreement. There was highly publicised but localised opposition to a centralised settlement which ultimately did not prevail.[153] The need to assert the legitimacy of a centralised settlement under the mantle of the Kīngitanga, for the benefit of the whole tribe, is evident in the Solomon (1995) commentary on the Settlement Act.[154]

After the 1995 Settlement there was an explosion of activities which involved both marae and individuals in the life of the tribal organisation. There were extensive consultation hui on the form of the new parliament, training hui for tribal rangatahi, tribal games' tournaments, a drive to increase enrolments on the tribal register, a leap in both educational and marae grants, and widespread dissemination of both annual reports and the new tribal newsletter. Marae were made the basis for representation through the new tribal parliament and there were moves to increase their role in selection of scholarship recipients (reinforcing their role as the link between individuals and the tribe). The local knowledge of marae and hapū was also called upon in research in support to the River claim and individual resource consent applications. After 1999

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prison. The internal repercussions again put the organisation at the disputatious end of the scale, in comparison with other iwi organisations, mainstream political parties or corporates.

[153] In 1993 Te Rapa Air force base and Hopuhopu military base were returned as evidence of the Crown's good faith in negotiations. There were legal challenges to this by hapū who felt these should have been returned to them directly, rather than to the tribe as a whole. Other legal challenges were mentioned in the introduction to this case report. Despite the vocal detractors, in April 1995 a postal vote of Tainui Trust Board beneficiaries over 18 (some 11,600 people) was taken on the settlement offer and over two thirds are reported to have been in favour (Tainui Māori Trust Board Annual Report 1995).

[154] Although the settlement was centralised the CMSR research in the 1980s proposed a model of hapū and marae led development supported, but not controlled, by the tribal organisation.

there was an implosion in this activity, as the organisation's focus shifted inward. Hui, grants, annual reports and newsletters either diminished or ceased entirely and members were left to puzzle over the organisation's changing fortunes through the frenzy of media reporting.

Recently, as the tribe's finances have stabilised, there have been renewed activities involving both marae and individual members. Grants to marae and tertiary students have recommenced, newsletters and annual reports are being distributed, and a tribal festival has been held. The role of marae representatives is also increasing as the Kauhanganui becomes more active in tribal social development. A constitutional review committee has been formed from Kauhanganui representatives and I was told it would be consulting with marae as part of its work. The return to work on both the River and West Coast Harbours' Claims also requires the combined efforts of marae and the central organisation (but see section on Resource Management for difficulties in securing this unity).

Relations with the Crown

The settlement negotiations necessarily involved a period of intense contact with Crown representatives. Despite an agreement being reached, internal commentary paints a difficult relationship (as discussed earlier). Post-settlement there were ongoing negotiations on the return of individual land blocks, but the Crown relationship ceases to be a major focus for the organisation and this continued through the period of financial upheaval 2000-2001. The post 2002 period has seen renewed dealings with the Crown in two priority areas for the organisation: the movement into social services in a partnership role with Crown agencies and in negotiations over the River and Harbour claims. In addition to the relationship with central government, resource management issues have been the basis for ongoing dialogue with local government and other Crown entities (such as the electricity and roading bodies).

Relations with other Tainui iwi and other Māori

Historically, Waikato-Tainui and the Kīngitanga have taken a prominent role in national Māori affairs. The power of the Kīngitanga has stemmed from its capacity to mobilise

both its own people and outsiders.[155]   Consistent with this, Waikato had a prominent role in the fisheries settlement and subsequent allocation debate up until 1999. Relations with other Māori bodies did not have a high profile in my interviews or in more recent documentation, however. The settlement negotiations seem to have drawn the tribe's focus inward, and this tendency has been even more marked in the post-settlement period. (This was not the initial intention but a number of expansive projects involving external bodies have been dropped or put on hold. Such projects include the hope of making MDC a pan-Māori investment body and the Endowed College.)

The recent shift to a more outward focus appears to include renewed relations with the Tainui federation with the Waikato Times (13/11/03) reporting the formation of a Tainui Federation working party (made up of Waikato, Maniapoto, Hauraki and northern Raukawa) to deal collectively with seabed and foreshore debate and boundary issues relating to allocation. I was also told that the reported difficulties between the shareholders in Raukura Moana (Waikato Times 7/8/03) were being resolved. In the area of social development discussions were underway to cement a closer relationship with Tainui Hauora.

Commercial relationships

Since the settlement and the return of a large quantum of commercial assets, commercial relationships have become a necessary part of the life of the organisation. They are of two types, firstly, those which involve Waikato-Tainui as a commercial player (e.g., joint ventures and financial institutions) and secondly, those which involve them in resource management decisions as kaitiaki of the River e.g., with Carter Holt Harvey. Despite their necessary importance, very little was said or written about these relationships. (This was in part a reflection of the role of the individuals I spoke to, and also a tendency for tribal communications to focus on the distribution activities of the tribe.) In fisheries, the one area where I was able to speak to someone in a commercial

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[155] The Waikato leader Te Puea's extraordinary success, for example, as recounted in her biography by Michael King (2003), is clearly due to her capacity to mobilise her own people and establish successful relationships with outsiders, including other Māori leaders and tribes (e.g., Ngata and Ngāti Porou), New Zealand politicians (e.g., Coates) and even international figures (e.g., English dignitaries, US troops during WWII).

role, relationships with other iwi were central but this does not seem to be the case in property, land and investment dealings.

Media

Waikato-Tainui is subject to level of media attention unparalled among iwi. It has been a variable relationship, shifting from intense and positive during the time of the settlement, to moderate but still positive in the 96-99 period, to intense and negative over the 1999-2001 period, to moderate and balanced from 2002 onwards. There are marked differences between newspapers with the Auckland based New Zealand Herald tending to focus on the negative and the Hamilton based Waikato Times providing more extensive and balanced coverage.[156]

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[156] In the first half of 2005, for example, the researher found only three articles in the New Zealand Herald relating to Waikato-Tainui and two of these were essentially negative. By contrast, the Waikato Times had extensive coverage of the celebrations for the 10th anniversary of the Settlement which contained dissenting opinions but which were overwhelming positive outlining recovery in the financial affairs, distribution, and both internal and external relationships.

3.3 Te Rūnanga o Raukawa case report

Who are Ngāti Raukawa?

'Ko te manawaroatanga a Ngāti Raukawa ki te pupuri i te rangimarie, ara, i te whakapono.'[157]

Ngāti Raukawa ki te tonga (southern Ngāti Raukawa) live in the western districts north of Wellington: Horowhenua, Manawatu and Rangitikei and recorded a population of 20,000 in the 2001 census. They recite their boundaries as being 'mai i Waitapu ki Rangataua, mai i Miria te Kakara ki Kūkūtauaki'. Their presence in this rohe has its origins in the movement south of the rangatira (chief) Te Rauparaha in the early nineteenth century. Te Rauparaha brought with him his father's people of Ngāti Toarangatira and part of his mother's people of Ngāti Raukawa. Some Te Ati Awa of Taranaki, an iwi with close links to Te Rauparaha, also followed him south (Walsh-Tapiata 1997, 70-72).[158]

Ngāti Raukawa, Ngāti Toarangatira and Te Ati Awa continue to have strong connections and refer to themselves as 'the Confederation'. It was explained to me that 'Raukawa has never been short of committees and organisations' (Durie 2001, para 8) and the majority of these are organisations of the Confederation. A common theme among those interviewed was that Te Rūnanga of Raukawa must be understood as just one of a number of Raukawa organisations.

One of the most celebrated institutions of the Confederation is the church of Rangiatea built at Otaki from 1849 to 1851 under Te Rauparaha's leadership.[159] The Raukawa Marae Trustees ('the Raukawa Trustees') were formed in 1936 under the Native

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[157] This is the Ngāti Raukawa pepeha which appears on the cover of the Rūnanga's annual reports. In McEwan, JM (1990, 145) it is translated as 'the steadfastness of Ngāti Raukawa in clinging to peace and faith'.

[158] Raukawa has of course a history that extends far beyond the movement south of Te Rauparaha but such records are beyond the scope of this chapter.

[159] The church's physical building was burnt down in 1995 but its spirit endured and a new structure was erected and opened on 23/11/03 (Manawatu Evening Standard 24/11/03).

Purposes Act and comprise 69 representatives of the hapū of the three Confederation Iwi. At inception, the Trustees primary task was to care for the Raukawa marae at Otaki and their role has since expanded to host Whakatupuranga Rua Mano: Generation Two Thousand and Te Wānanga of Raukawa, Raukawa's University (both discussed below).

A number of bodies attest to the Confederation's long standing commitment to education. Te Wānanga o Raukawa, the Confederation's University, currently stands on land which supported the Otaki Native School in the latter nineteenth century and the Otaki Māori Boys College in the early part of the twentieth.[160] The Trust Board receives rental income from Confederation lands and uses it to fund educational scholarships for the members of the three tribes and others.

The Raukawa District Māori Council was formed under the Māori Community Development Act (1962). The original District Māori Council in which Raukawa was involved was called Ikaroa and included the East Coast of the North Island, but Raukawa felt it was more appropriate to restrict the region to the southern west coast. Unlike the previously mentioned organisations, the District Council includes the neighbouring iwi of Rangitane and Muaupoko as well as Ngāti Raukawa (but not the other iwi of the Confederation) and is built up from local marae committees. At times the District Council has delivered funding to marae and at other times it has required marae committees to raise a levy to keep the District Council functioning. Another organisation of the Confederation which Raukawa talk about with some reverence, demonstrating the well-rounded nature of their interests, is the Otaki Māori Racing Club established in 1886. (The Racing Club is not now owned by the Confederation, but retains a strong connection to it.)[161]

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[160] The land was gifted by the Confederation to the Church Missionary Society in the 1850s to support the Mission Station. The lands were subsequently vested into a trust pursuant to the Otaki and Porirua Empowering Act 1907 which was repealed and replaced by the Otaki and Porirua Trust Board Act 1943.
[161] When seeking participant comment on the draft case report I received comment from one Rūnanga member that the story presented here was perhaps unduly orientated towards Otaki. My understanding is that the concern was not that I have misrepresented the story of the Rūnanga, but rather that the Rūnanga may be somewhat 'Otaki-centric'. I record the comment here as a matter of historical record. It is not my place to adjudicate on the internal political balance between the various hapū of Ngāti Raukawa within the Rūnanga – although the comment supports my contention that managing relationships is a critical task of the Rūnanga.

Whakatupuranga Rua Mano: the Raukawa vision[162]

Preceding the formation of the Rūnanga and heavily influencing its purposes was an initiative of the Raukawa Trustees called 'Whakatupuranga Rua Mano – Generation 2000'. One speaker describes the origins of Whakatupuranga Rua Mano in this way:

> Now when Whata came back he thought well it's a bit strange that we've got all these people looking after the building and no one looking after the people and so he began to reconfigure the Raukawa Trustees to be a body that was also involved in Raukawa people and where they were heading. (Durie 2001, para 10)[163]

The stated aim of Whakatupuranga Rua Mano, which was conceived of in 1975, was to prepare the tribes of the Confederation for the 21st century and the original project contained three missions. One was concerned with revitalising knowledge of taha Māori (the Māori dimension) among iwi members and, in particular, ensuring that the Confederation's children were brought up immersed in their Raukawatanga, Toarangatiratanga and Te Ati Awatanga.[164] Secondly, there was a concern to raise mainstream educational achievement among tribal members. Finally, there was a 'Pākehā Mission' which aimed to promote understanding and appreciation among Pākehā of the value of things Māori and in particular to work with those teachers instructing the tribes' children. (The pākehā mission was later dropped, because of what one speaker jocularly referred to as the participants 'low productivity' and a prioritising of the other two missions.)

Whakatupuranga Rua Mano set out a number of principles which were to guide the Raukawa Trustees in their decision-making. These stated that 'our people are our

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[162] There were many references to Whakatupuranga Rua Mano in the interviews and in addition, this section draws on a publication by the Raukawa Trustees (2000) *Whakatupuranga Rua Mano – Generation 2000 : Celebrating 25 Years.*

[163] Whatarangi himself is characteristically modest about his role suggesting that : '[i]ts true someone had to have the idea, but that idea wouldn't have gone very far if there had been opposition to it' (Raukawa Trustees 2000, 11).

[164] 'Raukawatanga' is a conjunction of 'Raukawa' and 'tanga' and refers to the Raukawa culture, or perspective. Similarly, Toarangatiratanga refers to the culture of Ngāti Toa (also called Toarangatira) and Te Ati Awatanga refers to the culture of Te Ati Awa. Māoritanga is also commonly used to refer Māori culture.

wealth and their development and retention is of the utmost importance; our activities must guarantee the revival of the Māori language'; and, 'the marae is our principal home'.[165] The importance of marae foreshadowed a subsequent emphasis on hapū development, with the marae being the physical manifestation of the hapū.[166] A further principle stated that 'as a people, we aim at having greater control over our present and future circumstances' (foreshadowing the call for 'tino rangatiratanga' as the words of the Treaty of Waitangi came to have greater currency). Associated with this greater self reliance were principles aimed at 'increasing our influence in the affairs of our nation' and a belief that 'that what is good for Māori is good for New Zealand'.

Whakatupuranga Rua Mano was to give rise to a wide range of activities with Te Wānanga o Raukawa the most renowned outside Raukawa and the Confederation. Within the Iwi it has inspired the restoration of both the physical and human dimensions of the Raukawa marae. Its motivating influence was often referred to by those interviewed and its words are echoed in subsequent documents and policies of Te Rūnanga o Raukawa. One speaker spoke about it in this way:

> I think that was a basis and a very important signal for our people and for hapū and iwi to have those dreams, to visualise, to develop those dreams if they want to go somewhere together. And it was, it was a binding force. I guess it was a binding force for further development, to gather strength and inspiration. I'm sure that a lot of people measured their efforts along those particular lines. (Royal 2001, para 17)

In 2000 a retrospective hui was held to celebrate the achievements of the past 25 years and consider the vision and strategies for the new millennium.

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[165] All the quotes in this paragraph are from Te Rūnanga o Raukawa 1990. The following story is told to explain what 'the marae is our principal home' means. 'A family were buying a new fridge and decided to donate their old one to the marae. It was pointed out, however, that really they should be putting the new one into the marae - their principal home - and keeping the old one.' I have heard this story retold a number of times outside Raukawa.

[166] There are more hapū in Raukawa than there are marae so the two are not strictly interchangeable, but they are so tightly intertwined that a reference to one is often an implicit reference to the other. (Literally, one is a place and the other is a group of people.)

Kōmiti Whakatinana and the inception of Te Rūnanga o Raukawa

The vision set out in Whakatupuranga Rua Mano provides the motivating backdrop for the creation of the Rūnanga. When asked why Te Rūnanga o Raukawa was formed, however, speakers universally reply that the Iwi needed an organisation to respond to government policies on devolution and Treaty settlements.

The 1984 election of a reformist Labour Government released a watershed of changes in the way the government was involved in the economy and society. The 1984 Hui Taumata (Māori Economic Development Summit) is mentioned by speakers as the first major event signalling the possibility of change in the relationship between the government and Māori. Although a government initiative, it was seized upon by Māori as a forum for discussing how Māori could increase control over their destinies and move away from welfare dependency. The catch cry was the need to turn 'negative funding' (government money spent in crisis management in the justice, social welfare and health systems) into 'positive funding' (economic, social and political development controlled by Māori), in a new decade of Māori economic development.

One speaker recalls:

> We had quite a big hui in Palmerston North after the 1984 Hui Taumata and we were, and I say we, Māori in this rohe, were starting to talk. And I think the first initiative of coming together as a people of the region was the amalgamation of the Raukawa Trustees and the Raukawa District Māori Council … So the amalgamation brought all the iwi resident, except taurahere, into a single organisation, which was Kōmiti Whakatinana. (Te Maharanui Jacob in group interview 2001, para 16; amended by Jacob in a letter of 23/5/03)

In the 1980s the Raukawa Marae Trustees began to be approached to form relationships with government departments. This was not the Trustees legislative purpose, however, and so the Kōmiti Whakatinana was formed in 1986 to take on this role.[167] Its

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[167] Whakatinana means implement, so the 'Kōmiti Whakatinana' is the implementation committee.

immediate task was to take up government programmes on offer to iwi (e.g. MANA and Maccess) and it was also to work towards a formally constituted body that could take on these tasks permanently. In 1988 Te Rūnanga o Raukawa was constituted as an incorporated society with membership from the organisations discussed above: the Raukawa Trustees, the Wānanga, the District Council, the Otaki and Porirua Trust Boards, the Rangiatea Vestry and the Otaki Racing Club.[168] Little debate was reported about the legal form in which the Rūnanga should be constituted: Kōmiti Whakatinana recommended an incorporated society and this was accepted.

A significant change occurred in the Rūnanga in 1991 when the constituency of the Rūnanga shifted to comprise solely the hapū of Ngāti Raukawa, becoming the only organisation so comprised.[169] The reasons given for the change are firstly, that the other iwi (Te Ati Awa, Ngāti Toarangatira, Rangitane and Muaupoko) had by this time 'gone their own way' and formed exclusive tribal organisations of their own, and secondly, that Raukawa hapū wanted a structure that gave them a more direct say. Government had by this time formed a preference for tribal organisations as agents for devolution, negotiations on Treaty settlement issues, and consultation in such areas as resource management.[170] When questioned, speakers accepted that the government preference for dealing with iwi individually also motivated them to move from pan-tribal to single-tribe organisations. The governing body to Te Rūnanga o Raukawa is 'Te Rūnanga Whaiti', a group of 24 hapū representatives who meet monthly. Sectoral sub-committees, formed from any hapū representatives who wish to attend, are also important in discussing issues and then making recommendations back to Te Rūnanga Whaiti for final decisions.

Devolution was a policy which involved the transfer of government programmes to tribal organisations to deliver. Devolution appeared to provide a neat marriage between

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[168] As noted in the first section, the Trustees included the three iwi of the Confederation (Raukawa, Toa and Ati Awa) and the District Māori Council included Raukawa, Muaupoko and Rangitane.

[169] One speaker pointed out that this is not strictly correct, as there are some hapū that affiliate to the Rūnanga who are Tainui, but not descendents of Raukawa. In addition, '[s]ome of the hapū of the Rūnanga singly, or in groups of related hapū, claim iwi rather than hapū status but have accepted the umbrella of Te Rūnanga for all issues or occasions where unity is appropriate or important' (Jacob, 2003). I have referred to them as hapū for convenience, but do not pass judgement on their status by so doing.

[170] The Rūnanga-a-Iwi Act (1990) is an example of this attention to tribal organisations. Although the Act was repealed by the following National Government, that government continued the emphasis on tribal development.

iwi aspirations for self-determination and the government's desire to reduce the state's role in service delivery. The interplay between Māori and the government over this period is complex and outside the scope of this study, but it was clear by the end of the 1980s that there were major differences between the two on the objectives of devolution and on the desirable nature of their new relationship.[171] This gave rise to tensions which persist to the present day (and which are discussed further below).

It was also clear by the late 1980s that the government was determined to reduce the state sponsored security net. This reinforced the belief by iwi that they needed to be able to 'look after their own' and thus needed Rūnanga to do this. One speaker explained:

> …and of course Māori were last employed and first off, and so it had a drastic effect on Māori the free market ideology, and I think there were lessons learnt out of that, that we cannot rely on government any more. You have to set up your own structures, your own organisations and employ your own people. (Royal 2001, para 21)

Objects of the Rūnanga

When asked what it was that the Rūnanga did that was 'special' the simple answer was that it assisted tribal members to live as Raukawa. It supported their development at the same time as, and usually by means of, supporting their tikanga, whanaungatanga (familial bonds) and whakapapa. Other responses talked of the need for its activities to promote mana-a-hapū (authority of the hapū) and economic and political self reliance.

> I think all of them, the Rūnanga, Wānanga, District Council and Trustees, are making it possible for Māori people in this area to live as Māori and that wasn't always the case. Now when I say live as Māori I mean that marae are meaningful, they're not just places you turn up to, that being Māori is important, the networks are increasingly good, so that people know of the Māori networks

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[171] Walsh-Tapiata (1997, ch.2) provides a detailed account of the relationship with government from a Raukawa viewpoint.

and share them and have fun in them. I think that's what's happening. (Durie 2002, para 65)

The formal objects of Te Rūnanga o Raukawa, as set out in its rules, draw heavily on the vision of Whakatupuranga Rua Mano (Te Rūnanga o Raukawa undated). The objects state that the Rūnanga is established to advance and raise the mana of the whānau, hapū and iwi of Ngāti Raukawa. They talk about finding ways to ensure that members know their whakapapa, reo, their place to stand and that they can all contribute to their whānau (family), hapū and iwi. The Rūnanga is to assist members to strengthen their taha tinana (body), hinengaro (mind), wairua (spirit) and whānau and ensure their children are raised under the influence of their whānau, hapū and iwi. The objects talk about the need for members to have increasing responsibility for their present and future circumstances.

Looking outwards, the objects make reference to the need for the Rūnanga to promote productive relationships and cooperate with other agencies to promote employment, training, housing and systems for social advancement. There is a reference in the objects to Te Rūnanga o Raukawa being 'a recognised Māori Authority' anticipating the references to such entities in the Resource Management Act (1991) and the now-repealed Rūnanga-a-Iwi Act (1990). With respect to the Rūnanga's composition, there is a reference to the desirability of gender and age equity, and to a rōpū kaumātua (group of elders) being created that has automatic right to attend meetings, speak and be listened to.

Work of the Rūnanga: overview

The simple story recounted of the changing activities of the Rūnanga starts with an initial commercial focus, a shift into the delivery of social and health services, and the ongoing responsibility for Treaty settlement issues. Commercial activity has continued through the period but its role is more modest than initially envisaged.[172]

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[172] The distinction between commercial activities and service delivery, while common, is something of a false dichotomy here as with other iwi organisations, because service delivery is a commercial activity for the Rūnanga. A more accurate distinction is whether the Rūnanga is selling into an open market, or selling to the Crown. Also, some iwi receive reimbursement for their input into resource management processes and this work could be described as ecoservice provision.

The simple story is also one of growth. Originally the Rūnanga operated out of the Wānanga buildings but it now has four offices located in Fielding (dealing with social services and health), Palmerston North (with a commercial focus), Levin (dealing with social services and health) and Otaki (with a tikanga/kawa [customs/protocol] focus). Staff numbers had risen to 61 by 2002 (up from 43 in 2000).

The table below summarises how the Rūnanga has grown and how its activities have changed over the period 1994-2002, as reported in the annual accounts. All values are in 1000s of dollars. Brackets indicate a negative figure.

Year / Measure	1994	1995	1996	1997	1998	1999	2000	2001	2002
Accumulated Surplus note 1	3200	3500	3700	3900	3100 note 2	3700	4300	5200	5800
Social Services note 3									
Gross Income	110	205	277	277	351	305	466	1183	1392
Net Income	(9)	28	(17)	(2)	11	12	168	290	(23)
Health note 3									
Gross Income	100	204	452	487	524	778	1020	1361	1715
Net Income	6	13	17	(2)	48	160	120	131	159
Loans									
Gross Income	458	121	214	201	182	166	97	152	229
Net Income	95	108	154	33	117	96	26	56	189
Fisheries note 4									
Gross Income	-	56	77	101	99	214	316	338	373
Net Income	-	52	75	41 note 5	(10) note 5	141	305	325	368
Advances to Companies	861	1000	900 note 6	900	10 note 2	10	10	10	5
Waitangi Claims									
Gross Income note 7	136	137	54	-	-	-	-		-
Net Income	(2)	44	(29)	(3)	-	(1)	(12)	(6)	-

Table 6 : Financial measures of Te Rūnanga o Raukawa activities, 1994-2002

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Notes to Table 6 : Financial measures of Te Rūnanga o Raukawa activities, 1994-2002

1. The income and costs that the Rūnanga derived from administering the various activities are not shown here. These are substantial and explain why the combined net incomes listed do not correspond to the change in accumulated surplus.

2. The decrease in accumulated surplus reflects a write down of $890,000 on advances to companies in 1998 (see discussion of commercial activities for more detail).

3. The figures for social services and health are the sum of a number of activities and in some cases the way they have been grouped is somewhat arbitrary e.g., disability services have been grouped with health, rather than social services. In 1998 and 1999 'mother and pēpe (baby)' services were offered and added to social services (although I was later told that the funding was in fact through the District Health Board). In 1996 through to 1999 health included disability services (although these were called Māori liaison in 1996), mental health, and miscellaneous health. In 2000 mobile nursing services commenced and were also added to the health figures.

4. Fisheries here refers to monies derived from on-leasing Te Ohu Kai Moana quota and does not include the income of Raukawa Tauranga Ika Ltd, which is set out separately in Table 7 below.

5. These figures are lower because of fisheries disputes legal costs of $54,000 in 1997 and $99,000 in 1998 (see fisheries section for more details).

6. The drop from 1995 to 1996 reflects a write-down of $100,000 that was Ngāti Raukawa's contribution to the unsuccessful Māori consortium bid for the Auckland Casino licence.

7. The income consists of Crown Forestry Rental Trust Grants of $135,000, $135,000 and $54,000 in 1994, 1995 and 1996.

Summary of Table 6 : Financial measures of Te Rūnanga o Raukawa activities, 1994-2002.

The table shows a slow but steady growth in the accumulated surplus of the Rūnanga over the period 1994 to 2000. It also shows the fifteen-fold increase in the gross value of the social service and health contracts delivered by the Rūnanga. These services contribute to the Rūnanga by paying for the cost of administering them, but they do not contribute significantly to the net surplus.

The loan portfolio has had diminishing activity over the period, and is currently frozen until a lending policy review is complete. It has always had surpluses, although these have been somewhat variable. The surpluses have not been spent but remain in the loan pool. The on-leasing of Te Ohu Kai Moana quota since 1994 has generated a rapidly growing income (a six-fold increase) although the net surplus has been variable depending on the costs of legal action. The Rūnanga's policy has been not to spend these funds, except as necessary for legal action relating to fisheries disputes.

The figures detailing the advances to subsidiary companies show the diminished expectation regarding their capacity to pay any dividend, most notably with the 1988 write-off of $890,000 worth of advances to Raukawa Investments and Raukawa Ventures. The early activity in Treaty land claims research is visible from 1994-1996, funded by the Crown Forestry Rental Trust, as is the subsequent inactivity. (There has been activity in the fisheries settlement negotiations, as noted above, and also in claims relating to the treatment of Wānanga. These are discussed below.)

Commercial activities

The 1984 Hui Taumata was heralded as the start of a decade of Māori economic development and the early years of the Rūnanga reflect this belief that increasing Māori business activity could pave the way for the increased well-being of the tribe. The Commercial, Economic Development and Education Committee (CEDEC) was subsequently established to recommend MANA loans to Te Rūnanga Whaiti and to look at economic investment opportunities. The 1989 SGM minutes discuss a number of business opportunities including Kānga Wai (fermented corn) production, security officer training, marketing of computer services, surf clam processing and a rest home joint venture. By 1990 the Rūnanga had interests in commercial fisheries, a housing project, a paving products company (Waterloo Management/ Horizon International) and a loans portfolio.

Within a few years the search for business opportunities became tempered by what the 92/93 Corporate Plan refers to as the 'need to make the companies more self-reliant' (Te Rūnanga o Raukawa 1992). By the mid 1990s there was a general disappointment that apart from the Te Ohu Kai Moana related fisheries and the loans portfolio, none of the

business interests were producing dividends. In his 1995 annual report (Te Rūnanga o Raukawa 1995a) the CEO states: '[t]he performance of our companies has been disappointing and dividends from them nil or minimal except for Mokau ki Turakirae Fisheries Limited, the success of which arises from the management of readily saleable fishing quota.' Another Rūnanga member reflected that '[p]eople in the Rūnanga dream of the day when its business ventures will start to pay dividends which can be channelled back to hapū or towards the social needs of the people' (Walsh-Tapiata 1997, 229).

Despite the disappointment about the lack of performance of some companies and the associated write-off of their advances others have made a profit and overall there has been a slow increase in the Rūnanga's accumulated surplus. Thus the Rūnanga has weathered its financial losses, even if the days of significant dividends to fund hapū and social needs remain on the horizon. In early 2003 the Rūnanga made its first new commercial investment for over a decade when the opportunity arose to purchase a share in an abattoir in Levin. Considerable debate was reported in Te Rūnanga Whaiti leading up to the decision to invest reflecting, in part, a caution born out of the earlier disappointments.

In addition to concerns about business performance, the underlying premise of the decade of economic development, that business growth would ease social hardship by increasing jobs, came into question. The CEO observes in his 1995 annual report that:

> The expectation was that by making finance available for Iwi to provide business loans to Māori through the MANA loans scheme, jobs would be created and unemployment and its associated social ills …reduced. This did not happen. Successful businesses do not necessarily create employment. (Te Rūnanga o Raukawa 1995a)

Although it was not successful in creating jobs, the CEO goes on to point out that the MANA scheme did provide a financial base for the Rūnanga to become established as the representative voice of Ngāti Raukawa and to take on government contracts for service delivery.

Commercial fisheries[173]

The Rūnanga is involved in commercial fisheries in two ways. It is the sole shareholder in a quota holding company, Raukawa Tauranga Ika (established 26/1/90), and it receives and on-leases quota annually from Te Ohu Kai Moana.

Raukawa Tauranga Ika Ltd (1990)[174]

Raukawa Tauranga Ika Ltd was established with $1000 worth of share capital from the Rūnanga and a $50,000 loan to buy quota, which has since been repaid. It also has a $5000 working capital advance from the Rūnanga. It owns paua (black abalone) quota with a market value estimated at $501,000 in 2000 and a small amount of wet fish quota with a market value of $21,000. The book value of the same quota was $293,000. In 2001 the estimated market value of the company to the Rūnanga was $420,000 plus the accumulated administration fee provision of $174,000.[175] The gross and net income for the years 1997 – 2001 are shown in the table below. (The net income is after provision for the $15,000 annual administration fee in all years except 2001. All values are in thousands of New Zealand dollars.)

Year / Measure	1997	1998	1999	2000	2001
Gross income	28	39	39	88	106
Net income	(1)	8	1	39	63

Table 7: Gross and net income Raukawa Tauranga Ika ltd.

The 1998 Annual Report (Te Rūnanga o Raukawa 1998a) raises the possibility of Raukawa Tauranga Ika managing the quota obtained annually from Te Ohu Kai Moana and a number of people suggested that this was the intention when establishing the

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[173] These issues were spoken of in general terms in interviews but the detail comes from the Rūnanga's annual reports.

[174] Most of this material is from Te Rūnanga o Raukawa 2000b.

[175] An administration fee of $15,000 is set aside annually in recognition of the Rūnanga role in providing governance and administrative support.

company. The Rūnanga enjoys charitable tax status, however, while Raukawa Tauranga Ika does not. It was agreed that the fishing company needed to gain charitable status before it took over the management of the Te Ohu Kai Moana quota.

Raukawa Tauranga Ika has investigated other fishing opportunities such as processing of surf clams, eel farming and seaweed cultivation. Although none have been proceeded with, it remains interested in moving into aquaculture in some form. The 2001 Chairperson's report notes the potential to mortgage the quota in order to fund further fisheries investments.

There was also some discussion in interviews about how far the fishing company should be motivated 'solely by profit'. Speakers had a variety of opinions on this issue. One said unequivocally that commercial activity should be imbued with tikanga, another said with equal certainty that there must be 'separation' (a short-hand for the belief that commercial activities must remain free of social considerations such as employment). There was some indication that 'tikanga' issues did affect decisions. I was told that there was some reluctance by Te Rūnanga Whaiti to agree to the sale of quota that had been purchased as a commercial investment because it had become imbued with something of a 'taonga' status. There was also a certain reluctance to purchase quota in the rohe of other iwi (although most of the quota held is not in the Raukawa rohe).

Te Rūnanga o Raukawa management of Te Ohu Kai Moana fisheries quota

The fisheries committee of the Rūnanga deals with the quota that is made available to iwi annually from Te Ohu Kai Moana. The returns from the on-lease of Te Ohu Kai Moana quota are as set out in above Table 6 under 'fisheries' and the discussion that follows discusses how the quota has been managed to achieve these returns.[176] Ngāti Raukawa initially combined their quota with those of surrounding iwi and fished it through a consortium called 'Mokau ki Turakirae' (Mokau and Turakirae are locations

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[176] The reports from the fisheries committee are dominated by issues of allocation, that is, what the tribes entitlement should be rather than how the quota should be managed but allocation issues are discussed below under Treaty Settlements. The fisheries committee is made up of the three fisheries negotiators: Iwikatea Nicholson, Whamaro (Mark) Kiriona and Whatarangi Winiata. That their work is dominated by the allocation debate, rather than fisheries management issues, is evidenced by their title as 'negotiators'. I spoke with Whatarangi Winiata as part of a group interview and had an informal discussion with Iwikatea Nicholson as an adjunct to a meeting with Rupene Waaka.

marking the edges of the rohe of the tribes of the consortium). The consortium aimed to bring together all the tribes with coastal boundaries in FMA8 (Fisheries Management Area 8). Raukawa participated in the consortium in order to get better returns from combining their quota into a bigger parcel. 'We found that to have divided quota for some of us would have rendered some packages uneconomic and difficult to maximise returns' (Te Rūnanga o Raukawa 1995a). The consortium was also a pragmatic response to the fact that Te Ohu Kai Moana made quota available on an FMA basis, with it left to the tribes claiming coastline within each FMA to agree on how the quota should be divided between them. (Difficulties in reaching such agreement are discussed below under Treaty Settlements.)

Within a few years the Mokau ki Turakirae consortium broke down because of dissatisfaction with the returns achieved. From this time Ngāti Raukawa employed a broker to organise the on-leasing of their quota. After some experimentation, they now use an individual who gives them a guaranteed price and pays for their quota at the time of the agreement (they had occasionally experienced difficulties in getting payment). The broker is also able, when given sufficient notice, to arrange for the catching of fish for important tribal hui as part of the tribes customary entitlement.[177] One speaker explained that there had been some criticism of the Rūnanga for simply on-leasing their quota (they had received the colloquial insult 'Ngāti Flick') but explained that they received a secure return from utilising their quota in this way and that it was their prerogative to do what they chose with their own fish.

After the break up of Mokau ki Turakirae some consideration had been given to forming commercial fisheries arrangements with the other iwi of the Confederation. These had not eventuated, essentially because the three iwi had already established and were satisfied with other relationships. It was explained that Raukawa was likely to continue with their current broker at least until allocation occurred and they were in a position to consider longer-term options.

The tribe had a hui-a-iwi in 1998 (Te Rūnanga o Raukawa 1998b) that involved a presentation and discussion on the issues relating to the fisheries treaty settlement

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[177] The success with on-leasing may reflect the increased experience of this broker in dealing with tribal organisations, that is, the nature of the packages they receive and their particular way of operating.

process. The hui considered possible uses for the income derived from the quota including marae development, education, employment initiatives, commercial investments and tribal insurance plans. The hui resolved that a trust should be established to hold Raukawa's fisheries entitlement, that only the income should be distributed (i.e., not the capital) and that the Rūnanga Whaiti should develop a policy on how the income should be used (Te Rūnanga o Raukawa 1998 a&b). In an interview I was told that the Rūnanga accepted the importance of ensuring that the benefits were accessible to all members of the tribe.

Raukawa Loans

The origin of the loans portfolio is in the MANA scheme initiated in the mid 1980s.[178] Ngāti Raukawa managed this on contract from the government from 1986 until 1993 initially through Kōmiti Whakatinana and then through the Rūnanga. In 1993 ownership of the fund was transferred to the Rūnanga when it comprised $1.2 million in cash and $0.9 million in active loans. In 2000 the balance was $1.8 million of cash and $0.2 worth of loans. Some $430,000 worth of loans had been written off and $320,000 paid to the Rūnanga for administration costs over the period.

There have been no new loans in the period 1997-2000 (apart from one to the Rūnanga to buy offices in Levin) and at the time of the interviews work was underway to formulate a new lending policy (Raukawa Loans Committee Report, Te Rūnanga o Raukawa 2000a). In early 2003 the loans committee was collapsed into the finance committee, there was discussion on the weakness of loan repayments and work continued on a new lending policy.

A number of speakers commented that there was some tension around the terms on which loans should be made and repaid, with the Rūnanga caught between the need to make the loans perform to protect the income stream of the Rūnanga and the expectation of some tribal members that loans should be cheap (or free). The Chair's 1998 annual report discusses the issue bluntly: '[l]oans from our iwi resources must not be seen as a soft touch' (Te Rūnanga o Raukawa 1998a).

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[178] As explained earlier, MANA was a government loan scheme established to assist Māori into business.

Raukawa Investments and Raukawa Ventures Ltd

Raukawa Investments Ltd was established in 1988 in order to manage the MANA funds. It was envisaged that it would grow to offer other financial services to iwi members such as tangihanga (funeral) insurance. Raukawa Investments was also the parent of Raukawa Ventures and launched the participation by Ngāti Raukawa in the Māori consortium bid for the Auckland Casino licence.

By 1995 the Rūnanga Whaiti had decided to transfer control of the funds back to the Rūnanga to be managed by a committee established for this purpose. They also decided against the development of a Raukawa financial services company. Without a rationale for its existence, the recommendation was made that the company be wound up (Te Rūnanga o Raukawa 1995a).

Raukawa Ventures holds a half a share in a paving company, known originally as Waterloo Management and then Horizon International. The original investment was made in the late 1980s with the financial encouragement of the then Iwi Transition Agency via a $500,000 MANA loan. (The other partner in the venture was a member of Ngāti Raukawa.) The subsequent ten years saw difficult market conditions and a lack of tangible evidence that Horizon could repay the Rūnanga's advances. This led to their write-off in 1998, taking $891,000 off the Rūnanga's balance sheet. The 2000 report for Horizon International announced new sales but still no confidence of a dividend (Te Rūnanga o Raukawa 2000b). In early 2003 it was reported to me that the Rūnanga was reviewing the investment and it was sold in early 2004 with the Rūnanga recouping its original investment of $100,000.

Housing

Raukawa housing began in response to the decision by the Labour Government in 1988 to provide Ngāti Raukawa with a $800,000 low interest loan for emergency housing. As a result 'the company was given the responsibility for searching out homelessness, searching out emergency housing, and at the same time had the job of saying how would we fulfil the housing needs … in our rohe' (Royal 2001, para 30).

Another major task of the company was also related to government policy. This was the decision to sell government railway houses that had become surplus to requirements during the process of privatising the railways. Using the emergency housing loan the housing company bought 15 houses at $4000 each, moved them south from Taihape, renovated them, and then resold them at between $46,000 to $60,000 (compared with a market rate of $70-80,000). Both the Wānanga and the Otaki and Porirua Trust Board purchased these houses.

There was some thought that the housing company might take on the housing programmes run by the Department of Māori Affairs as part of devolution (Te Rūnanga o Raukawa 1989), but this task was instead transferred to Housing New Zealand. This has left the company relatively inactive, although the 2000 annual report (Te Rūnanga o Raukawa, 2000a) talks about seeking funding to do a survey of housing needs and potential, and the possibilities that might come about as a consequence of the successful Wānanga claim to the Waitangi Tribunal. The 2002 annual report notes that government funded opportunities for activity had not materialised and suggested the future of the company be reviewed.

Levin abattoir investment

In early 2003 the Rūnanga made its first new investment in over a decade when it put two million dollars into a local abattoir, Levin Meats Ltd. It holds a one third share and has one director on the board of five. The opportunity to invest arose when the company went into liquidation and it appears the receiver was able to offer terms that the Rūnanga considered attractive. They carried out a feasibility study using Community Employment Group (part of the Department of Labour) funding over a period of 10 months.

Considerable debate took place within Te Rūnanga Whaiti prior to the decision to invest in part, it seems, because of the previous commercial disappointments. The abattoir employs a number of tribal members and while this was a factor in favour of the investment, it was realised that it might raise tensions for the Rūnanga as an owner. Some also expressed environmental concerns. The Chair of the Rūnanga explained that concern over the investment would likely continue but that he believed the important

issue was that a proper process had been followed by Te Rūnanga Whaiti in debating the opportunity and reaching the decision to invest.

In early 2004 I was told that considerable work had been done in 2003 in order to improve the abattoir's financial performance and the plant was still operating (contrary to some expectations). The Rūnanga's interest payments had been met, and they were expecting the company to generate a profit in the near future.

Social services and health

Social services and health had become the dominant work of the Rūnanga by the mid 1990s although the possibility of such activity was being discussed a decade earlier. In 1986 a sub-committee of the Raukawa Trustees, Toko i te Ora, was established and it formed a joint working party with the Department of Social Welfare to discuss how a partnership for service delivery might be formed (Walsh-Tapiata 1997, 77). In 1988 a 'Proposal for a programme of hapū and iwi management and development' was presented to the working party on behalf of the Raukawa Trustees (Te Rūnanga o Raukawa 1990). The report argued that Whakatupuranga Rua Mano had shown that individual and particularly youth well-being was related to hapū/whānau well-being. The report recommended, therefore, that the government fund hapū development workers because in the medium-term this would reduce the need for crisis funding directed towards individuals. The Department of Social Welfare declined the recommendation on the basis that it was outside the scope of their work, although they suggested that there might be other programmes they could devolve to the Iwi (Walsh-Tapiata 1997, 78).[179]

In 1989 the Rūnanga established a Social Policy Committee which absorbed the tasks that had been undertaken by Toko i te Ora and which was originally intended to focus on policy rather than service delivery. The Social Policy Committee was to be responsible for health, welfare, justice and education, highlighting the holistic rather than sectoral approach that the Rūnanga wished to take towards service delivery (Te

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[179] The proposal for government-funded workers for individual hapū had re-emerged as a possibility by the time that interviews were conducted in 2001. In early 2003 this proposal had progressed and they were awaiting government approval for the funding to be split equally between the 24 hapū, to be spent by the hapū, within agreed criteria.

Rūnanga o Raukawa 1989). The 1992/93 Corporate Plan suggests that planning should reflect the priorities and goals of the people but also stay flexible to government policy. This is an example of what was to be the fundamental tension for the Rūnanga in the area of service delivery; balancing iwi expectations with government requirements. As well as having secured contracts for MANA and training and business development, the 92/93 Corporate Plan talks about seeking contracts in social services, health, justice and education, and accessing money for claims research. The Rūnanga already held small contracts for Matua Whāngai and health.

By 1995 the Chairman and CEO both acknowledged that service delivery had become the dominant work of the Rūnanga and that expansion was 'potentially unlimited'. They expressed concern, however, that this expansion was stretching the Rūnanga's administrative base and bringing with it some financial risk. There was also a complaint by the Chair about the short-term nature of the government contracts (Te Rūnanga o Raukawa 1995a).

A further development occurred in 1998 when the Health Strategic Planning Committee was established. The aim was to ensure that the Rūnanga was not simply reacting to new government programmes but was developing a strategic plan and evaluating new contract proposals against this plan. In 2001, after it had run its initial 3 year term, it was reconfigured as the Social Policy Strategic Committee, doing a similar job but covering both health and social services. Supporting this desire to be more proactive in policy and planning, a research and development unit was established in 2001 called 'Marama Te Ao'. It was charged with researching the needs and status of whānau, hapū and iwi in order to provide the background information for formulating strategic plans and pressing for particular programmes. The unit's short life ended in 2002 when promised government funding failed to materialise, but the Rūnanga remains committed to carrying out such work and has since secured funding for a research project on rangatahi in conjunction with a researcher at Massey University (who is a Rūnanga member).

One speaker described the advantage of the services provided by the Rūnanga in this way: 'people who work under contract with the Rūnanga know the people who they are serving, they need no induction training to be done, they know the community, they

know the relationships, and in my view it's a very useful way of providing services that are culturally appropriate to them' (Royal 2001, para 40).[180]

By Jan 2001 (when the interviews took place) contracts included:

- Social Workers in Schools (started June 2000): The Rūnanga employed two social workers to work in six lower decile schools. They were being approached by other schools wanting the programme and were in talks with the Minister of Social Welfare about extending it;

- Whaioro Trust (started 1999): This is a joint venture with a mental health organisation, which sees the Rūnanga employ three 'mental health clients' doing work such as gardening;

- Te Rōpū Manāki (started Dec 2000): This programme employs a sports coordinator to work for three iwi, Raukawa, Muaupoko and Rangitane, organising iwi sporting events and developing a strategic plan to include iwi walks, marae games etc;

- Family Start: This programme provides assistance to new parents;

- Contract with the Department of Children, Youth, Parents and Families.

Health and social services and the relationship with government

The rejection of the request for hapū-based workers by the Department of Social Welfare in the late 1980s highlights the tension between the Iwi and the Crown over the nature of the services and process of devolution. The tension was multifaceted and pervasive through interviews and documents. As the Convener of the Social Services Committee succinctly commented: '[w]hat Raukawa Social Services would like to do and what they are funded to do are two different things' (Walsh-Tapiata, 1997, p103).

The Iwi would like to deliver services that support individuals by strengthening their whānau, hapū and iwi; are holistic (looking at the health of the whole person); and proactive (promoting well-being). By contrast, government programmes are and were predominantly concerned with the individual, are departmentalised, and focus on

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[180] I have changed the tense of some of verbs in this quote so that it reads consistently, without change in meaning.

managing crisis and failure (Walsh-Tapiata 1997, 89&98). Thus, despite the catch cry that the decade of economic development should see a shift from 'negative to positive funding' little had changed from an iwi perspective.[181]

The continued control by government over the devolution process led to scepticism over their motives. Thus the Rūnanga CEO reflected in 1995 that 'the emphasis has changed from economic to social development, not necessarily because of any philosophical belief by Government that the community can provide better social services than the state but because competition for the contracts will probably cost it less' (Jacob in Te Rūnanga o Raukawa 1995a).[182]

More fundamentally, the failure of government to release any real control to iwi has been criticised as a failure to acknowledge Māori as partners under the Treaty of Waitangi. This was raised as a reason why the Rūnanga declined an invitation by the Department of Social Welfare to become an 'approved Iwi Social Service' when it was initially made (although as of 2000 this offer was being reconsidered). As one speaker put it: '… they say come back and see us; why won't you sign? And we say we want to deal directly with the Crown. Let's talk about the relationship, let's talk about the Treaty and our understanding of it. It's not us subservient to you' (Emery 2001, para 59).

There is a frequent comment that the insecure nature of government funding makes it extremely difficult for the Rūnanga to plan or to give secure environment for its staff. In his 1995 annual report the Chair points out that:

> … [i]t is clear that if the Rūnanga is to provide consistent and reliable social services then it must have equally reliable sources of funding. Government policies which operate on a year by year basis, or even shorter periods of time, are unsatisfactory since they do not allow a long-term approach to development. (Durie in Te Rūnanga o Raukawa, 1995a)

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[181] The 'closing the gaps' (between Māori and Pākehā) policy of the late 1990s is a classic example of the way government defined Māori policy issues. The statistics on which it is was based related to individuals sectoral performance (health, education etc) and the policy issue was the failure of Māori to achieve relative to Pākehā (i.e., it was remedial).

[182] Of course, those who advocate more extensive use of the market would argue that a cheaper service is a better service. The divergence in assessment criteria is again evident here.

The divergence between the services that the Iwi would like to offer and those the government is prepared to devolve has also led to what was referred to by a number of speakers as 'the contract-chasing dilemma'. The dilemma is essentially whether to accept the contract because of the overlap with Iwi objectives, or to reject it because of its divergences. Both were reported by speakers to have occurred and both to have received criticism.[183]

Another consequence of having to deliver programmes not of their making is that the Rūnanga has received criticism from hapū whose expectations about both content and level of funding are different from what the Rūnanga is able to secure from government. By implication it is not always clear from a hapū perspective whether the fault lies with the Rūnanga or the government. There is desire by some hapū for more direct involvement in the delivery of services, but this is constrained by the government preference for delivering through iwi (Walsh-Tapiata 1997, 193&255).

Treaty claims

Treaty claims – overview

Ngāti Raukawa has been involved in a number of Treaty claims. They have an umbrella land claim and have been active in the debate on the allocation of resources from fisheries settlements. Ngāti Raukawa has also been involved in a claim relating to the government sale of the radio spectrum (which was supported by the Tribunal, but not the government) and one calling for equity between Wānanga and mainstream universities (which has led to successful negotiations with the Crown and which is discussed in more detail under Te Wānanga o Raukawa, below).

There has been an ongoing awareness and sadness about the impact of settlements in causing disputes between and within iwi. In his 1995 annual report, the CEO reflects that: '[t]he years 1984 to 1994 have been referred to as a decade of Māori development. The next 10 years might well be a decade of disputes between Māori and the Crown and

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[183] The 2002 annual report for example notes the decision not to continue with the Iwi Probation Officer position because '[w]hile the Te Wairua programme, run at several of our marae, had been highly successful, the hapū development around justice issues had not occurred.'

Māori and Māori as Treaty settlements are negotiated'. Hui-a-iwi relating to treaty claims in both 1994 and 1998 discuss both inter and intra iwi distribution with the hope expressed that internal distribution between hapū will be less disputatious than the distribution debate between iwi. There is a keen awareness that it was important to discuss and get some agreement on internal distribution issues before assets were returned.

There was a common view among speakers expressed both explicitly and implicitly that, while the resources returned through settlements would be useful, the settlement processes and outcomes should not dominate or divert the work to the Rūnanga. Mason Durie put it this way:

> I think that if we existed only to receive the results of a settlement I think we'd be in trouble. I think settlements will certainly contribute to the general thrust of Raukawa development but I don't think they should be seen as "now we've got the settlement, all things can happen". It will help things happen. (Durie 2001, para 58)

Mason also expressed the hope that settlement income would be used creatively, rather than being absorbed by the immediate need 'to fix up the marae toilets and car park' (Durie 2001, para 58).

Treaty claims – fish

Ngāti Raukawa were involved early in the national fisheries debates and have been active since that time. In 1985/86 there were regional hui to discuss fisheries issues with one large one hosted by Kōmiti Whakatinana.[184] Raukawa were involved in the legal action that led to the 1987 High Court injunction which prevented the Crown from allocating new fisheries quota until Māori fisheries interests had been evaluated and provided for.

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[184] The hui included tribes whose rohe stretched from north Taranaki, down the western seaboard to Te Tau Ihu (the top of the South Island).

Since the 1989 and 1992 fisheries settlements, Raukawa have been active in the debate on the final model for allocation between iwi and the allocation of the annual lease quota within their fisheries management area (FMA8). This process has at times been both litigious and frustrating for them. At the time of my interviews in 2001-2002 the fisheries issue was on a 'back burner' with the Iwi waiting to see what would eventuate from the new fisheries commissioners.

There was considerable discussion, particularly in the group interview with Whatarangi Winiata, Te Maharanui Jacob and Gabrielle Rikihana, on the impact of the allocation debate on relationships between tribes. There was a sadness that while tribal representatives struggled to apply tikanga to the debate a lack of generosity or a fear that generous concessions would be misinterpreted had hampered this application. There was a clear recognition of the irony that struggles with the Crown had been replaced by inter-iwi struggles and a keenness not to see a shift into intra-iwi disputes. Against these negatives, they suggested that through the many hui about the fisheries issues they had come to know and exercise whanaungatanga (kinship bonds) with other iwi, particularly those in their own region.[185]

The details of the involvement in the fisheries debate is set out in the annual reports. The first lease round in 92/93 began with an equal sharing of the FMA8 package between the eight iwi and the second in 93/94 between 16 iwi.[186] The negotiators explain that while they reluctantly agreed to this in order to get the tribes in the region fishing, they had never accepted equal sharing as representing Raukawa's proper entitlement. At a hui-a-iwi in late 1994 they had been instructed to negotiate for a fairer share for Ngāti Raukawa based on coastline, population, marae and tribal needs (Te Rūnanga o Raukawa 1994).

The negotiators lodged their protest to equal sharing in 1995 and from then the region has been 'in dispute'. The equal sharing arrangement continued, however, on the basis of a majority decision by the iwi involved. Court action by Ngāti Raukawa against the

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[185] This is an intriguing feature of inter-iwi relationships - that processes that are highly disputatious can nonetheless increase whanaungatanga (kinship relationships). The positive aspects of whanaungatanga are evidenced in the calls, for example, for the Wānanga to expand to the marae of surrounding iwi.
[186] The increase occurred both because groups that had previously taken one share, such as the Taranaki Trust Board, broke into their constituents who took a share each, and because new groups entered; Tainui pointed out that the northern boundary of FMA8 was in fact north of Mokau, in their rohe.

Fisheries Commission for accepting the majority, equal-sharing decision was heard in 1997. The result was unsuccessful for Ngāti Raukawa both initially and after appeal. The crux of the Ngāti Raukawa concern is highlighted in their 1998 fisheries report where they show that they have some 22% of the total population of the area in question, but were by now receiving only an 18th (5.6%) share of the returns.

Subsequent to the impasse presented by the failed court actions, the reports shift to the national debate, where Raukawa has consistently argued that a wider range of factors should be researched and discussed for possible inclusion in the national allocation model. They do not consider that allocation proportionate to coastline can be justified by tikanga and at a practical level have supported models that placed a higher weight on population as a proxy for tribal need. When I spoke with Ngāti Raukawa in April 2003 they opposed the then current model (He Kawai Amokura) consistent with these concerns and were considering how to make their opposition felt. They were also reviewing their constitution to ensure they were ready to receive assets if and when allocation finally occurred.

Customary fisheries

A customary fisheries sub-committee of the Rūnanga was formed in July 1999 to work on draft regulations, consider how to calculate marae needs, and seek for funding to address customary fisheries issues within the tribe. The Chairman of the Rūnanga reported that the Customary Fisheries Committee was well attended, indicating the importance with which hapū representatives regarded its discussions.

Speakers suggested that eels were regarded as 'the customary fishery' in the rohe and that the approach was likely to be one that saw local control of local eel fisheries, with traditional catching rights being closely guarded. There was a clear difference expressed in how customary and commercial fisheries were viewed now, with the former remaining as a food source, and the latter having become an asset generating income which could be used to fund other projects.

Treaty claims - land

The tribe has an umbrella claim (Wai 113) relating to lands and waterways in the rohe, which is managed by the Waitangi Claims sub-committee of the Rūnanga.[187] The many specific claims of Raukawa's hapū and whānau are ancillary to this umbrella claim and the Rūnanga seeks to support these ancillary claimants as well as providing coordination so that no group misses out or is misrepresented in the hearings process. Speakers referred to the claim as 'modest' (compared presumably to some of the well publicized Raupatu claims) but important to the iwi nonetheless.

In the mid 1990s research for the claim was carried out with the help of grants from the Crown Forestry Rental Trust but little happened in the second half of the decade once this funding ceased. The Chairperson of the Rūnanga indicated that the research was not yet complete, so they were not seeking a hearing date, but the work done had been reviewed by their legal advisors. He reported a need to get the research underway again (Waaka 2002, paras 84-86). The 2000 Annual Report notes that the neighbouring iwi of Rangitane was progressing their claim so that Raukawa needed to move to ensure its interests were protected (Te Rūnanga o Raukawa 2000a). In early 2003 I was told that the Rūnanga had approved some funding to finalise the research and that they would seek reimbursement for this from the Crown Forestry Rental Trust.

Resource management

In the area of resource management Te Rūnanga acts as an intermediary between local bodies or government departments, and hapū. Resource management consents come to Te Rūnanga from local councils and are passed to the representative of the affected hapū. The hapū may then choose to respond to the consent themselves, or seek Rūnanga assistance.

Te Rūnanga supports clusters of marae meeting with their local council. I was told, for example, that the Manawatu District Council had formed a Marae Consultative Committee as a standing committee of their Council and that this was seen as a model for other areas. In his 2002 annual report the Chair noted that whānau and hapū

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[187] Wai 113 is the number allocated by the Waitangi Tribunal.

relations with regional and district councils were progressing, but that some were more proactive than others and there was a need to ensure rohe wide involvement. In another example of the intermediary role, Te Rūnanga entered a contract with the Ministry for the Environment to prepare an Iwi Management Plan for the Otaki River catchment (Te Rūnanga o Raukawa 2001). The final report was described as being 'prepared by Ngā Hapū o Otaki, for Te Rūnanga o Raukawa, on behalf of Ngāti Raukawa-ki-te-Tonga'.

Te Wānanga o Raukawa

Te Wānanga o Raukawa is not part of the Rūnanga but it is not possible to tell a story about Ngāti Raukawa without reference to the Wānanga. Speakers described the Wānanga as being necessary to achieve the vision set out in Whakatupuranga Rua Mano.[188] The Trustees saw that they needed a body that would work to bring about the renaissance in Raukawatanga, Toarangatiratanga and Te Ati Awatanga and assist with building the other skills the tribes needed to take them into the next century. When Te Wānanga o Raukawa was established in 1981 the initial focus was on Māoritanga (Māori culture) but consultation with marae revealed that they also wanted to improve their skills in administering their marae, hapū and other iwi organisations. Thus the first degree was a Bachelor in Māori and Management. One speaker reported the excitement and commitment of those involved in the first programme: '[s]o, that was the first degree and there were 3 people there and probably about 10 tutors hanging around to teach them, you know all they wanted to be part of it…' (Royal 2001, para 17).

A number of speakers noted that what is distinctive about the courses offered by the Wānanga is the hapū studies component, which, along with te reo, is included in every programme. Computer literacy has since been added as a core subject. In hapū studies students 'learn about themselves'. They must go back, study, and record the stories of their marae: its people, history and taonga. The records go on to become an archive for the marae.

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[188] In comparing Te Wānanga o Raukawa and Te Rūnanga o Raukawa one gets the impression that the Wānanga has been able to remain closer to the Whakatupuranga Rua Mano focus on marae and hapū development, in comparison with the Rūnanga's ongoing struggles with the strictures of government programmes. The Whakatupuranga Rua Mano programme is widely known in Māori circles (the two other tribes I worked with both referred to it in positive terms, for example) and its profile is due in no small measure to the success of Te Wānanga o Raukawa.

Another feature of the Wānanga is a commitment to imbuing their work with tikanga. Thus they seek to take care not just for their students intellectual needs but their whole person, as evidenced by the strategies in place to help them give up smoking. In another example, a speaker described the Bachelor of Health Studies as being concerned with maintaining 'wellness', rather than treating illness.

At the time of the research interviews in 2001 the Wānanga was in the midst of a major new initiative which involved taking their teaching to marae around the country. This had involved five external marae and 105 students in 2000; 13 external marae and 330 students in 2001; and was proposed to increase to 33 external marae with 700 students in 2002. If the 2002 numbers were realised, the off campus work would involve similar numbers to those on campus. A number of reasons were given for the initiative. One was requests from other iwi as the work of the Wānanga became more widely known. Another speaker suggested it was a way of repaying the assistance they had received from Māori outside their rohe in establishing the Wānanga, such as tohunga (experts) who had come and shared their knowledge with the Wānanga, or those who had helped seek the release of Te Rauparaha from the government (in the nineteenth century). Other reasons for the initiative included making courses accessible to a wider group of students and the logistical limits to expanding the Otaki campus. Marae based learning is also a manifestation of the commitment of Whakatupuranga Rua Mano to hapū development (although in this case, it spreads beyond Raukawa hapū, to other iwi).[189]

The Wānanga has been active in the area of Treaty Claims, bringing a case to the Tribunal along with two other Wānanga, that the government had not treated Wānanga fairly as 'Māori University', that is, comparably to mainstream universities. The Tribunal report was favourable and at the time of the interviews negotiations with government were underway on a fair response to the Tribunal's findings.[190]

The geographical expansion of the Wānanga courses is just one indication of its success, in this case among its primary audience, Māori students. The success of the parity

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[189] One speaker noted that courses on the marae of other iwi were motivating these other iwi to think about setting up their own Wānanga, something he viewed as positive.
[190] Agreement had been reached that the Crown would pay for past capital costs (some $5.5 million to Te Wānanga o Raukawa) and court costs, but negotiations continued on the issue of comparability with respect to the total capital value per student (where the Wānanga has calculated there is a deficit of some $28 million).

claim to the Tribunal and the ease with which it received NZQA (New Zealand Qualifications Authority) recognition are evidence of its positive profile with government. The outcome that speakers spoke about most eloquently, however, was the impact within the Iwi.   The theme expressed in the statement below, of the success in Te Wānanga o Raukawa in assisting in marae and hapū development, was repeated many times by speakers.

> One of the programmes is hapū development, so they've really made people think about what it means to belong to a hapū and how you manage hapū activities and programmes; and then by having this increasing number of people who come through with good reo skills. I mean the paepae is not deserted, you've got people who are strong in waiata and that shows on all the marae. It's had a huge impact.' (Durie 2001, para 56)

Relationships

Two key themes emerge from the story of the establishment and changing activities of Te Rūnanga o Raukawa. The first is that events are driven by an interplay of Raukawa aspirations and external opportunities, primarily arising from the actions of government. The second is the importance of relationships, especially those between the Rūnanga and the State, and the Rūnanga and its hapū. These two relationships reflect the two factors influencing change: aspirations for hapū development and the need to interact with the state in order to take up the opportunities it offers.

The importance of relationships and their structural manifestations are reflected in the following two statements:

> The years 1984-1994 have been referred to as a decade of Māori development. The next ten years might well be a decade of disputes between Māori and the Crown and Māori and Māori as Treaty Settlements are negotiated. (Jacob in Te Rūnanga o Raukawa 1995a)

> The Decade of Māori development witnessed the re-emergence of tribal structures. The continued development of such structures in the next decade will

require both hapū and iwi to create a plan which focuses on the visions that are particularly important for their development. (Walsh-Tapiata 1997, 266)

Iwi – state relations

The relationship between Ngāti Raukawa and the New Zealand State was the one most frequently referred to in the interviews. At least one speaker noted that it was a long-standing interaction, with government legislation after the second world war (Māori Social and Economic Advancement Act 1946, Māori Welfare Act 1952, NZ Māori Council 1962) providing Māori with a means of organising themselves:

…[these Acts] spelt out a lot of the ways in which Māori, with some assistance from government, could organise themselves into groups that tended to care for themselves. …and also gave Māori a sense of their tribal and regional differences. …All of those sort of things, I think, gave Māori a feeling that they could actually take part in developing their own futures differently but retaining many of their customs and tikanga. (Jacob 2001, para 12)

Although the relationship with government brings both opportunities and frustrations, the frustrations tended to be aired more frequently.[191] These arise because the opportunities offered by government rarely meet tribal expectations in full. Thus while the Rūnanga was eager to take on the delivery of services to their people, continued government control of both the content and level of funding left the iwi disgruntled. They face the constant dilemma of whether the contracts offered are sufficiently compatible with their objectives to warrant taking them on, and do not feel that they are being respected as Treaty partners.

The tension with government is both an issue of who has control and of differing world views. The latter is displayed in the reluctance of government to fund hapū development workers. The need for the Rūnanga to comply with government requirements can cause tensions with its own constituents (linking this relationship with the Rūnanga - hapū relationship discussed below). Walsh-Tapiata (1997, 259) points

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[191] In all the interviews and documents consulted, nowhere did I come across a statement congratulating the government on their assistance, or approach to iwi organisations.

out that workers are often left trying to fulfil tribal and hapū aspirations in the margins after meeting government requirements: '[t]his indeed is where the creative aspect of the work of the kaimahi [workers] arises in terms of interpreting contracts creatively, fulfilling the requirements of the contract and their roles as hapū and iwi members'. The objectives of the Rūnanga stem from Whakatupuranga Rua Mano which preceded the so-called 'decade of economic development'. This clear and early articulation of the objectives of the Iwi may have strengthened their hand in negotiating with government, but it also heightened their awareness of the inadequacy of the results.

Iwi – hapū relations

This was the second most prevalently spoken of relationship (and it is possible that it is viewed as the 'private' affair of the Iwi, meaning it was spoken of less than its importance warranted). The statements varied from a neutral 'need for clarification on roles', to a concern that there was insufficient trickle down from Rūnanga programmes to the hapū level, to the question of whether Rūnanga workers should be accountable to the Rūnanga or to their hapū.[192] The 2002 annual report notes proudly that many of the Rūnanga's health and social services were now being delivered from marae (sometimes through a mobile service).

The relationship between hapū and iwi was a dominant theme in the work of Walsh-Tapiata (1997). She states in her introduction that:

> An initial premise leading into this research was the importance of the relationship between the Iwi organisation and the State but involvement with the Social Services Committee and Te Rūnanga o Raukawa would reveal the potency and strength of the hapū voice in affairs that directly affect them. (Walsh-Tapiata 1997, 1)

Walsh-Tapiata argues that hapū are not questioning the underlying unity of the tribe but they do want to discuss the appropriate nature of the relationship with the Rūnanga and there are calls for greater hapū control over their own affairs. She concludes that:

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[192] Some Rūnanga workers e.g., those delivering social services contracts must be from Raukawa and must get endorsement from their hapū when applying for positions.

'[s]urvival may not be about negotiations with others but about strengthening relationships among ourselves' (Walsh-Tapiata 1997, 217).[193]

One speaker noted that Ngāti Raukawa has traditionally had a decentralised structure relative to other iwi (implying that the Rūnanga needs to reflect this). Whakatupuranga Rua Mano embodies the decentralisation in its elevation of marae and hapū development. If the aim of hapū development is successful (as many speakers argue is the case) and hapū do develop, it is unsurprising that relationships will need to be renegotiated. With greater competency, hapū are likely to call for greater responsibility.

The 1997 Annual Report by the Chair (Rupene Waaka) records that 'Ngāti Kauwhata [a hapū of Raukawa] after considerable debate have decided to look after their own affairs. The Rūnanga and Ngā Kaitiaki o Ngāti Kauwhata Inc therefore needs to develop a working relationship.' In the same year, the CEO observes that:

> The basic duties, some might say obligations of the Rūnanga, are not dissimilar to those of its constituent hapū. Whereas the Rūnanga is bound to act in the best interests of the collective good of the hapū, the hapū are expected to focus upon the collective good of their whānau and individuals. The objectives are similar, the scale is different. (Jacob in Te Rūnanga o Raukawa 1997a)

There were many references both in the interviews and the documents for the need to clarify the principles for distribution among iwi of the assets returned from Treaty settlements. Speakers were keen to avoid an internal repeat of the disputes that had taken place between tribes over both fisheries and land assets. In view of this, it is notable that the decision by hapū representatives on Te Rūnanga Whaiti to hold fisheries assets centrally appears to have been relatively uncontentious (in contrast to some other tribes). The discussion on how the income from these assets should be dealt with continues.

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[193] There are strong parallels between this assessment by Walsh-Tapiata and one made in the Australian context. Sanders (2004, 8) reports the following conclusion made by Rowse (1992): '[i]f there is one lesson that must be drawn from an anthropological consideration of Aborigines' emerging instruments of self-determination, it is that 'autonomy' refers not only to Aborigines' relationships with non-Aboriginal society, but just as important, it refers to their relationships with one another'.

Relations internal to Rūnanga

Relations between members of the Rūnanga Whaiti were mentioned in passing by one speaker. His main message was that the Rūnanga's framework was a mixture of Māori and Pākehā and that representatives had differing degrees of experience in these two tikanga. He also referred to issues habitual to group decision-making such as letting everyone speak, the need for adequate notice for agenda items, and presenting items with a recommendation.[194]

Relations between hapū and whānau

This was mentioned by a small number of speakers, referring to the concern of hapū to restore and strengthen ties with all their members. One person spoke specifically of the need to remain connected with whānau members overseas.

Relations between the organisations of Ngāti Raukawa

All speakers referred to the fact that Te Rūnanga o Raukawa was only one of a number of Raukawa organisations (although it is the only one that is exclusively Raukawa). Surprisingly perhaps, only one speaker suggested that it would be useful to clarify the roles of these different organisations in order to avoid duplication and realise potential synergies.

Relations between Ngāti Raukawa and other iwi and other Māori organisations

Relations with other iwi and other Māori organisations tended to be referred to obliquely, but often. Thus, the importance of relations with the other iwi of the Confederation (Toarangatira and Ati Awa) is implicit in any discussion of the Raukawa Trustees, Whakatupuranga Rua Mano, Te Wānanga o Raukawa, Rangiatea, the Racing Club and the Otaki and Porirua Trust Boards. The District Council involves a relationship with Muaupoko and Rangitane and the discussions on fisheries allocation

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[194] Although this issue was mentioned by only one person, another suggested that more could be written about it. Speakers may not have raised this area because it was not a salient point, or because they viewed it as a relatively private affair.

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matters involve the tribes from north Taranaki to Wellington. In addition to this there were a small number of references to Raukawa involvement in national Māori organisations such as the New Zealand Māori Council, Māori Congress and the Anglican Church in which it has a high profile, relative to its size.

Cross cultural tensions

Te Rūnanga o Raukawa, like all Māori organisations, has to operate simultaneously within two cultures. Its role is to provide an interface between the traditional Māori institutions of hapū and iwi and mainstream pākehā society. It is not surprising then that the theme of cross-cultural tension is present in the interviews. This is both implicit and explicit. It underlies much of the tension in the relationship with the Crown, for example, and was raised in reference to the choice of formal structure, internal Rūnanga decision-making and the fisheries allocation debate.

One speaker mentioned that all of the institutional forms provided for by legislation were 'somebody else's model' and that this meant taking on rules of conduct which were irksome and an affront to tino rangatiratanga in order to be 'recognised'. The adoption of external models sometimes led to a tension in how business was done within the Rūnanga, because: 'there is always a clash in doing the business in a tikanga Māori way and a tikanga Pākehā way … So there we have those who want to play the tikanga Māori card versus those who want to stick, because we're incorporated, to tikanga Pākehā…' (Waaka 2002, para 9).

Tensions between tikanga Māori and tikanga Pākehā were also evident in the fisheries allocation debate. One speaker (Winiata 2001, para 23) made this comment while reflecting on the allocation discussions among tribal representatives:

> I think it's very difficult to graft one system onto another. And I think we're in recovery mode, that our people took on Pākehā culture and they must have loved it, aye? How exciting that must have been. But they underestimated the loss, the rapidity of the loss and the difficulty of recovery. And so we are in recovery mode; I believe that now. But we've been infected and it wasn't a physical infection. … I'm talking about the cultural infection and it is going to take quite

a while and it's going to take a concentrated effort. Maybe institutions like this can help. But when you're subject to one set of laws and you're trying to make decisions that are consistent with another set of imperatives, then confusion is going to occur. And that's where we are.

Chapter Four: Cross-case comparison: explaining the establishment and evolution of new iwi organisations

Cross-case model

A comparison across the case reports suggested a model of organisational establishment and development containing four key influences:

1. The fundamental explanation for the creation and development of iwi organisations is the desire by Māori to live as Māori;

2. The immediate motivation for creating the organisations is external opportunities and the transfer of resources for particular activities negotiated with government;

3. Iwi are chosen over other Māori collectives because of their intrinsic, or pre-existing advantages of tradition and large scale;

4. The survival and growth of iwi organisations depends their developing skills that support and enhance their members' desire to live as Māori while meeting external requirements and negotiating new resources from government.

In discussing their organisational activities, those interviewed constantly referred to the competing demands of their members and external parties, such as government. The role of iwi organisations was to mediate between these two sets of demands. Due to their role as intermediaries, the success of iwi organisations was crucially dependent on the successes with which they managed their relationships.[195]

The four key influences and their relationships are depicted in Figure 2 below.

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[195] The term intermediary or interface organisation is used here in a lay person's sense, without a discussion of its theoretical definition or relation to existing concepts in the literature. This discussion occurs in Chapter Five: Comparison of the empirical findings with the new institutional economics-social capital literature.
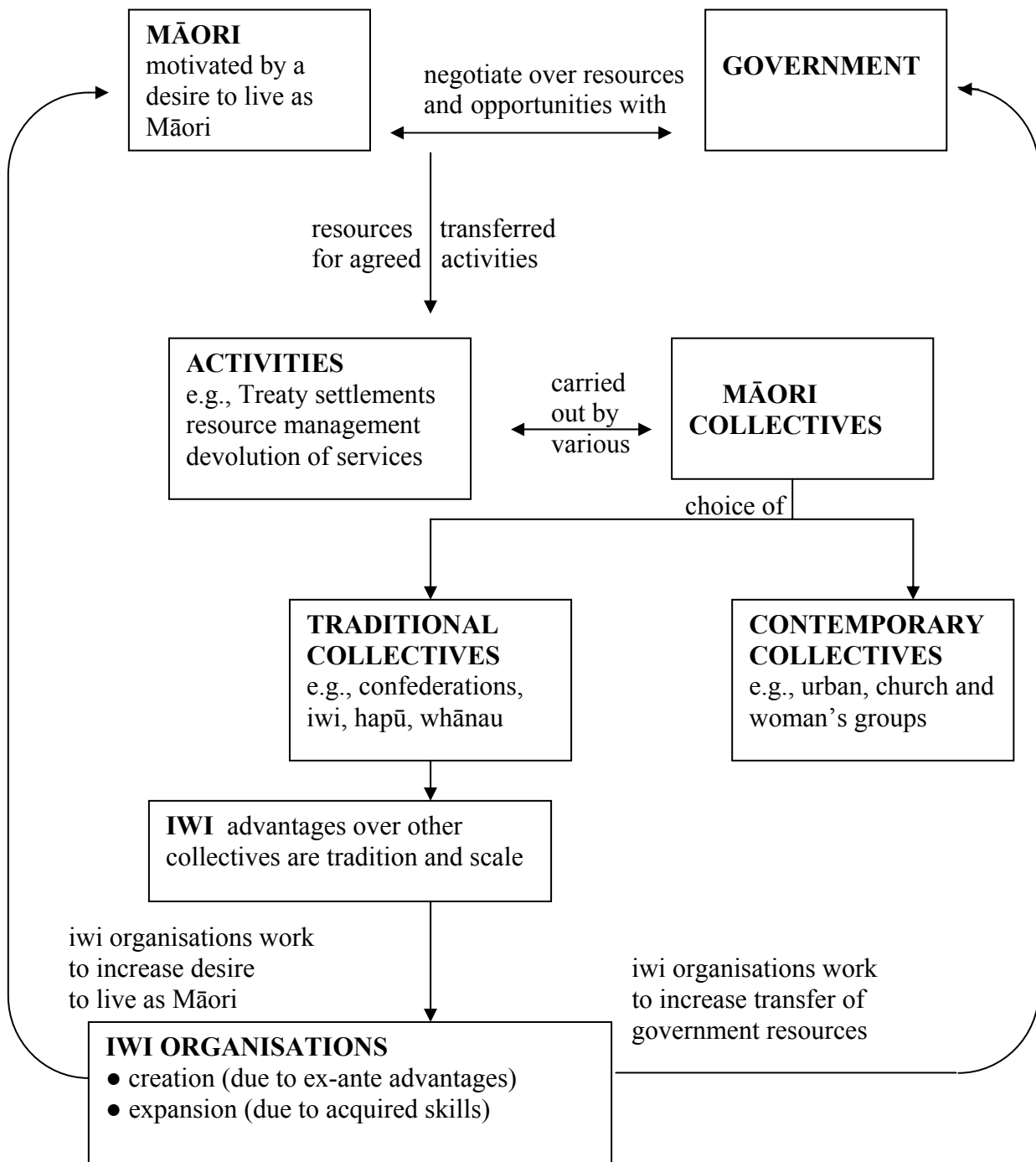
Figure 2: The cross-case comparison model: the desire to live as Māori and the establishment and development of new iwi organisations

Desire to live as Māori

When those interviewed were asked what it was that iwi organisations did the simplest most encompassing answer was that it made it possible for Māori people to live as Māori.

> I think all of them, the Rūnanga, Wānanga, District Council and Trustees are making it possible for Māori people in this area to live as Māori and that wasn't always the case. Now when I say live as Māori, I mean that marae are meaningful, they're not just places you turn up to, that being Māori is important, the networks are increasingly good, so that people know of the Māori networks and share them and have fun in them. I think that's what's happening. (Durie, 2002, para 65)

This is the fundamental answer to the research question: why was the organisation established, what does it currently do, and where do you see it going in the future? Tribal organisations are created by people of Māori descent who want to express a Māori tribal identity and the organisations are sustained if they succeed in doing this.

In expressing what it meant to live as tribal Māori the core objectives of the organisations all voiced a desire for tribal rangatiratanga and member well-being. Member well-being included both mainstream and Māori dimensions and because it included Māori dimensions, tribal well-being and member well-being were considered inseparable. The more detailed tribal objectives showed some variation in priorities reflecting their particular histories. In Ngāti Whatua there was an emphasis on building kotahitanga (tribal unity) while respecting local autonomy and using this unity as a basis to manāki (care for) others. There was a strong emphasis on good relationships, both internal and external, and in ensuring these manifest a distinctly Ngāti Whatua tikanga. In Waikato, tribal unity and well-being were intimately linked to the Kīngitanga and had a practical manifestation in a concern for land, marae and education. In Raukawa the

well-being of the tribe was to be increased by building the mana of hapū, marae and individuals, where the last required developing both Māori and Pākehā elements.[196]

The observation of similarity and difference between tribal organisations is more than just the random manifestation of general and particular, it is linked to the forces creating them. Similarities are intrinsic to tribes (they share ultimate descent from Ranginui and Papatūānuku) but so are differences.[197] If tribes had the same history and identity there would be little rationale for multiple organisations to sustain them. There would be no need for iwi, only Māori. On the other hand, similarities are reinforced by interactions with the mainstream. Negotiating generic opportunities with government in Treaty settlements, resource management and devolution has depended on tribes presenting a unified approach based on their similarities. Bestowing iwi with legal personality also increases the homogeneity of their organisations. The growth and survival of tribal organisations requires that they sustain both their similarity and difference from one another.

For iwi organisations to be created it is not necessary for all or even most potential members to be actively involved (although it seems unlikely it would happen if most were actively opposed). The three case studies all suggest that the creation of tribal organisations was initiated by a small and very active leadership (of perhaps 10–50 people) with the active support by a wider group of tribal members (numbering in the hundreds) and the majority of potential members (numbering in the thousands) not actively involved.[198] In both Ngāti Whatua and Waikato I had evidence of a small number of members who were actively involved in voicing opposition to the creation. (In the former an alternative tribal body was supported and in the latter sub-tribal groupings were favoured.)[199]

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[196] The tribes also had distinct cultures, although the distinctions are not easy to define. For example, my interactions suggested the following, as one possible set of *comparative* labels: Ngāti Whatua are Diplomats (they survive by being negotiators), Waikato are Leaders (they survive by being resolute) and Raukawa are Intellectuals (they survive by being smart). The role of tribal pepeha is to epitomise tribal culture/identity.

[197] Ranginui is the 'sky father' and Papatūānuku is the 'earth mother'.

[198] In Ngāti Whatua for example, a 'well-attended' hui at Haranui in June 1990 involved 150-200 people (of an estimated 10,000) and representatives of 27 of the 32 marae.

[199] This section emphasises the relationship between tribal organisations and those with whakapapa links to the tribe. Tribal activities are not exclusively concerned with these people, however. Ngāti Whatua and Raukawa (and to a lesser extent Waikato) actively include others, particularly other Māori living in their areas. Ngāti Whatua clearly articulated that the manāki of other Māori in their rohe was an

The core objectives of the organisations are an expression of what it means for these people to live as tribal Māori and much of what tribal organisations do builds Māori tribal identification amongst those who can potentially claim it. The emphasis of tribal organisations on increasing participation in tribal and marae events, educating members about their unique histories, tikanga and whakapapa, and building the mana of the tribe through the breadth of activities undertaken, can all be related to this objective. Building tribal identification ensures tribal members' support in maintaining and expanding the work of the organisation and is thus both an objective and a survival strategy. Waikato has had the most unequivocal evidence of increased member interest (with a roll increase from 5000 to 49,000 in the ten years from 1992) but Whatua and Raukawa also reported increased member support as a result of their work.[200]

The fundamental work of tribal organisations is to support a process: living as tribal Māori. This is translated in a general way into the objectives of tribal organisation but the meaning in concrete situations is itself worked out through the decision-making processes of the organisation. A feature of organisations that are concerned with processes is that the distinction between means and ends is often not useful. Living as Māori is as much about how you do things as about what you do; indeed, how you do things *is* what you do. Tribal organisations have physical outputs and financial accounts but their work is not primarily to transform inputs into outputs, nor is it something that can be comprehensively valued on a balance sheet. The organisations' most important assets and liabilities are not found in the annual accounts. Thus, Haydn Solomon, co-Chair Waikato Raupatu Lands Trust, suggests in the 2003 Annual Report that:

> Whilst we are all duty bound to act in accordance with trustee and company law, the true measure of our success will not be found in a balance sheet or auditor's report but on our Marae, in our homes and amongst our children.

important expression of their mana and rangatiratanga. Support from non-member Māori arises both because there is enough in common across iwi to make these people comfortable within these organisations and also because all iwi have a strong tikanga of manāki of manuhiri (accommodating visitors). Non-members are never the principle drivers in these organisations but their participation supports the organisations directly, and indirectly, by increasing the acceptability of the organisations to government.

[200] The wide variation in degree of participation by potential members and the massive changes in tribal rolls (particularly following Treaty settlement) justify the importance placed on fostering identity as both an ends in itself and as an insurance policy (a store of support for a 'rainy day').

In organisations that are concerned with process, the way relationships are conducted is of paramount importance and 'relationship capital' is at least as fundamental as financial or physical capital in determining the success of the organisation.[201]

Consideration of the broad objectives of tribal organisations: tribal rangatiratanga and member well-being, suggests that there are no logical limits to the work of these organisations and the organisations were all looking to expand. The limits on what they do are determined by the four key influences outlined in Figure 2 above, that is, the breadth and depth of the desire to live as tribal Māori, the tribes own resources and the opportunities they are able to negotiate with government, the intrinsic advantages of iwi as a collective for organisation with respect to particular activities compared with other Māori collectives, and the relative competencies they are able to develop in carrying out these activities.

Opportunities negotiated with government [202]

The immediate purposes for which the three iwi organisations had been established: devolution, treaty settlements and resource management, all required negotiations with government for the return of resources or the right to participate in decision-making. Negotiations were necessary because iwi no longer had control over the resources they required to fulfil their desire to live as tribal Māori. The creation of iwi organisations would suggest that these negotiations were successful, but the view of the government

[201] The term 'relationship capital' is used loosely here, similarly to the terms intermediary and interface organisation. Its theoretical definition and location in the literature are considered in chapter 5, ahead. This quote from Tom Parore (2000, para 64) is an example of how the fundamental work of the Rūnanga in the life of the tribe is about nurturing processes: 'To maintain or enhance the mana of an iwi you have to work at it. You need to have a structure in place and you need to have people on the ground and you need to have kaupapa. You need to have tikanga that people understand and you just can't take tikanga and those things for granted it needs to be worked on every day of the week. Kotahitanga comes about because of participation and consultation. You need to get people involved so that they share in the decision-making and perceive that they've got some stake in it - they feel they belong'.

[202] The empirical material comes from the case studies which were the views of those working inside the organisations. The research did not seek out the government view and the comments in this section are limited by this. The issue of how or why government policy toward Māori has changed over the period of the research is outside the scope of the thesis. Note also that in the case studies the terms (New Zealand) government, the (New Zealand) state and the (British/New Zealand) Crown are used interchangeably, reflecting the usage of participants. Thus, the New Zealand 'government/state/Crown' is the Treaty partner (the representative of non-Maori New Zealanders in the Treaty relationship) and also performs various functions for all New Zealanders (including Maori) such as providing public goods.

relationship was generally poor across-cases.[203] There are suggestions in the interviews as to why this unfavourable view was held.

Firstly, tribes survive by keeping history alive and their attitude to the Crown is based on the accumulated history of the relationship over at least the last 150 years. In all three cases, the interplay with the Crown was discussed not in terms of the past 10-20 years, but a much longer period.[204] Second and relatedly, the way the relationship is judged depends on what benchmark is used. There were numerous references by speakers to the need to build a partnership with the Crown based on the Treaty that respected tribal rangatiratanga. Speakers referred to similar rhetoric being used by the Crown but indicated a markedly different understanding between themselves and the Crown as to what this meant. The tribal organisations were motivated by a vision of rangatiratanga and partnership rooted in the distant past when they still held their resources and a distant future when they would do so again. The relationship being offered by the Crown was a less balanced affair.

The differences in the aspirations of iwi and Crown, with some overlap and much divergence, give rise to a constant dilemma for iwi. They had to decide whether to accept what was currently being offered, hold out for more, or do both simultaneously. In all three cases an organisation had been established so there had been some acceptance but it was also clear that the rate of expansion had been slowed at times by the adoption of the 'hold out for more' position.

Another aspect of the relationship between iwi and the Crown that was evident from the cases is that it has both generic and specific dimensions. Thus iwi collectively lobby for, and are presented with, a general government policy towards tribal groups. (All three organisations were affiliated with national bodies such as Māori Congress, for example.) Individual iwi had then to negotiate the specific manifestation of the general policy with respect to their own organisation. The negotiating skills of an iwi will affect

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[203] In Whatua and Raukawa this was primarily voiced in frustrations arising out of contract negotiations whereas in Waikato it was most evident in the commentary on the Settlement Act (1995).

[204] Ran Jacob (2001), for example, talked about legislation passed in the 1940s period to support hapū and tribal development being partly a response to the contribution of Māori in World War II. Tom Parore spoke of devolution, Tu Tangata and the Waitangi Tribunal as being a response to the increased Māori nationalism and protest of the 1960s and 70s. In Waikato, the history of the Raupatu is the story of the interplay between Waikato and the Crown over the past 150 years and considerable effort is directed towards keeping this history alive in the tribal memory (and beyond).

its relationship directly, but the specific results may also influence general policy, and thus there is a constant interplay between general and specific opportunities.

In addition to the work of Māori leaders to influence government policy there was evidence that the degree of support that tribal organisations command with their own members (the strength of their mandate) was a consideration for government in particular cases.[205] It is reasonable to assume the strength of Māori support for tribal organisations also influences general policy (along with the attitude of the general electorate and the agendas of particular political parties).[206]

Intrinsic advantages of iwi over other Māori collectives

Tribal bodies are not alone. The 'desire to live as Māori' has led Māori to create a wide range of Māori collectives and organisations to carry out a wide range of activities. This raises the question of why iwi organisations were chosen to do the things they do rather than some alternative Māori body. The three cases considered were all active in three areas: Treaty settlements, resource management and devolution. The tribal organisations studied did not hold a monopoly in any of these areas; all were contested and the extent of sharing differed between activities and tribes. Their common presence, however, and even more the fact that they were all *created* to participate in one or more of these tasks suggest their suitability from the viewpoint of the two key parties: Māori and the Crown. The case material points to two crucial features, tradition (that is, tangata whenua status) and size, the combination of which has led to iwi organisations being chosen for a role in these tasks.

Traditional Māori groupings which are tangata whenua with respect to particular geographical areas include whānau, marae, hapū, iwi and iwi confederations.[207] All

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[205] There was evidence of this for both Ngāti Whatua (through the mandate findings of The Waitangi Tribunal, 1993) and Waikato (in the judgements of Hammond, 1995 and Savage, 1997).

[206] There seemed to be a tendency to expansion of activities despite changes of the party in government, that is , something of a ratchet effect, but the possibility exists that a party with attitudes strongly opposed to tribal organisations could be elected and greatly reduce their activities (independent of their competence) as service delivery and resource management participation are dependent on ongoing goodwill between iwi/Māori and government. The case studies suggest that resource transfers associated with Treaty settlements are as likely to increase the capacity of Māori to press their case for further resources and opportunities, as they are to 'settle the Māori problem'.

[207] The distinction between traditional and contemporary collectives is not absolute but rather a question of degree. Māori collectives active in the present day combine aspects of tradition (cultural practices

these groups have strong bonds - between individual members, to place, and to the past (including to their ancestral manifestations who signed the Treaty). Hapū and marae have arguably the most active bonds to place and the past. Marae have been the citadels of Māori cultural survival: the places where kin groups continue to meet, where tikanga Māori dominates, where connection to place is manifest and where knowledge is transferred from one generation to the next.[208] This puts them in a strong position to claim a role in Treaty Settlements regarding land and water, and in resource management decisions. What hapū lack is size. Although they vary enormously, in all cases they are smaller and more numerous than their respective iwi.[209] Their numbers make daunting the prospect of negotiating with each of them separately and their size limits their capacity to take on many tasks. This has elevated the role of iwi as a more suitable body to negotiate with and repatriate resources from government.[210]

Size can also be a disadvantage when trying to build strong bonds between people. There was evidence from the cases that iwi organisations see marae as the crucial link between themselves and whānau and individuals, and all worked to support marae and to foster these links. In Waikato, for example, beneficiaries must identify their marae

handed down from the past) and adaptation to present day circumstances. (Without some traditional behaviours they are unlikely to be identifiable as Māori; without adaptation they are unlikely to be functional in the present day.) The basis for the distinction made in Figure 2 between traditional and contemporary is whether the basis for membership is genealogical descent from historical ancestors. Alternative bases for distinguishing between traditional and contemporary can be argued for. As noted elsewhere, Ballara (1998) suggests that traditionally, hapu were functionally more important than iwi.

[208] Marae are strictly speaking a place, not a group of people, but the term is increasingly used as a shorthand to refer to those people who affiliate with the place eg. marae meeting, marae representative. The correspondence between marae and hapū differs between iwi, but I observed a general trend towards marae increasing in importance as the unit on which sub-tribal organisation is based. The fact that the urban groups that have challenged the claim of iwi and hapū to be the exclusive inheritors of traditional collective rights also have marae at their centre eg, Te Whānau o Waipareira and Manukau Urban Māori Authority, is testament to the centrality of marae to Māori collective identity.

[209] This discussion should not be taken to imply that there is an uncontested list iwi and hapū. Many groups that affiliate to larger iwi (so might be regarded as hapū) nonetheless refer to themselves as iwi also. This is a manifestation of the fluidity of the terms and the groups. What is happening somewhat controversially through the Treaty Settlement and resource management processes is that a list of 'the iwi' is being consolidated. This is clearly evidenced in the work of Te Ohu Kai Moana who have the task of dividing up the coast line between 'representative iwi organisations'. They define 'iwi' as having descent from a tupuna, hapū, marae, an existence traditionally acknowledged by other iwi, and as belonging historically to a takiwa (a definition largely following that in the repealed Rūnanga Iwi Act 1990).

[210] It is tempting to see marae and hapū as the most desirable group from a Māori viewpoint and iwi or confederations as suiting a government looking for scale. It is clear, however, that in organising amongst themselves, Māori have looked to tribally based representation (among other groupings). The prospect of convening a national forum of hapū representatives is daunting, even from a Māori perspective. The formal government position on dealing with hapū and iwi, as represented in key legislation, is summarised in table 8 below.

when enrolling on the tribal register. Marae are involved in the scholarship selection process and marae grants are the major part of distributions. Political representation in the Kauhanganui is marae based and social activities include games between marae sports teams. In Ngāti Whatua there are references to the need to balance kotahitanga against local autonomy and 'to work from the marae up'. The 1993 Railways settlement monies were passed on to marae and the Rūnanga Poupou of marae representatives is a critical reference organisation for the Rūnanga. In Raukawa, the objectives stemming from Whakatupuranga Rua Mano talked of marae as 'our principle home' and the mana of the iwi as dependent on the mana of the hapū.

There was an implicit (and at times explicit) message from the case studies that tribal strength was dependent on the strength of constituent marae (where this depended on the active support of individuals and whānau) and marae collectively (where this depended on the strength of the bonds between them). Although the iwi organisations made efforts to support their marae and hapū, this does not mean that marae and hapū were always satisfied with the results. The tension between hapū and iwi based development remains (and can be understood as a result of the former's claim to a stronger traditional role but the latter's size advantage in contemporary society).

A traditional connection to place brings with it a disadvantage comparable to the disadvantage of size. All iwi now have significant numbers, if not the majority of members, residing outside their traditional rohe. This has led to the need to bring people home regularly for key events, to build long distance communication and to develop taurahere groups. Iwi organisations aim to internalise their members' connection to place so that it is not dependent on their physical location.

Tribal confederations played a strong role in two of the three cases considered (Raukawa and Waikato) and a lesser role in the third (Ngāti Whatua). Confederations operate on a larger scale than iwi, and at times iwi make use of this. What confederations lack, however, is ubiquity: their importance differs markedly between areas (evidenced, for example, by the absence of a commonly used Māori word to describe them) making it difficult for government to deal with them systematically

across the country. Confederations also suffer the disadvantages of scale more intensely than iwi; most importantly the distance from whānau and individuals.[211]

How activities are shared between iwi organisations and other Māori collectives

Tangata whenua status is not the sole or even prime preserve of iwi and size does not convey an absolute advantage. What these two factors have done, in combination, is to give iwi a basis for arguing a role in settlements, resource management and devolution. The case studies show that this role is shared, through negotiation with other groupings: marae and hapū in the case of settlements and resource management, and a range of traditional and contemporary Māori groups in the case of service delivery. The manner in which roles are shared in the particular cases and the role suggested by government legislation is discussed below and then summarised in Table 8.

Treaty settlements

In Ngāti Whatua there are three claims by sub-tribal groups (two of which had been settled by May 2003). The tribal Rūnanga has significant concerns about the impact of Treaty settlements on tribal unity, has lodged a coordinating claim, and has begun working on a report demonstrating how unity flows from tribal tupuna and history. It is unclear what assets will be returned at tribal level.

In Waikato the tribal organisation was the sole negotiator of the 1995 land settlement and this is being repeated in the negotiations relating to the Waikato River, begun in mid-2005. Localised sub-tribal opposition to tribally based land and River settlements has not prevailed. The role of the tribal body in negotiating the claims to the West Coast Harbours is being contested by local hapū and the question of their representation remains to be decided.

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[211] The Te Ohu Kai Moana proposed fisheries allocation model contains an example of how the role of iwi can itself be reduced in the search for even greater scale (in this case for commercial reasons). The model allocates iwi beneficial, but not voting shares, in the organisations fisheries companies. Voting shares are to be retained by a central organisation representative of iwi.

Te Rūnanga o Raukawa has lodged and is researching an umbrella claim and claims by Raukawa hapū will be ancillary to this. It is unclear to which bodies settlement assets will be returned. Speakers voiced concern about the capacity of Treaty settlements to ferment disunity (although less so than in Ngāti Whatua).

The website of the Office of Treaty Settlements explains that:

> The Crown also prefers to negotiate with large natural groups. A large natural group is usually an iwi (tribe) or a cluster of hapū (sub-tribes) with a significant population, and a large distinctive claim area. Negotiating with larger rather than smaller groups allows the Crown to offer a wider range of redress. Many forms of redress work best when they apply to a large natural grouping of interests that is limited by customary association. Including a wide variety of redress within a settlement package also allows a wide range of needs to be met.[212]

The 1992 Fisheries Settlement will be allocated to iwi groups and a central body representing iwi.

Resource management

Te Rūnanga o Ngāti Whatua is working on a coordinating role in resource management e.g., an iwi plan, in conjunction with hapū. Much work on particular resource consents or MOUs (memorandum of understanding) with local councils is done by sub-tribal groups (particularly those that have resources from successful land settlements).

In Waikato, work on resource management was done initially by the Huakina Trust (representing a grouping of hapū) on behalf of tribal Trust Board, in consultation with hapū/marae. (This was due in large part to the presence of a relevantly skilled person at the Trust). Post-settlement, issues relating to the River and Harbours have been driven and coordinated by the Lands Trust, but marae/hapū are being encouraged to develop local management plans and respond to local resource consent applications. The roles

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[212] The Office of Treaty Settlements is part of the Ministry of Justice and is based in Wellington, New Zealand. This statement was found on their website at www.ots.govt.nz, created in 2002 and viewed in July 2005 on the page entitled 'Mandating for Negotiation'.

of the tribal organisation and local hapū with respect to resource management issues in the West Coast Harbours is still being negotiated.

Te Rūnanga o Raukawa acts as a 'post-box' for all resource consent applications in the Raukawa rohe. The Rūnanga passes them on to relevant marae/hapū and offers support to these groups in formulating their responses. The iwi organisation facilitates relationships between hapū and relevant local councils and between hapū and relevant government departments.

The Resource Management Act (1991) and other resource related acts make reference to both iwi and hapū having mana whenua but Iwi Authorities are favoured in formal rights of participation (where 'Iwi authority means the authority which represents an iwi and which is recognised by that iwi as having authority to do so').

Service policy and delivery

Ngāti Whatua has sought to define two distinct roles: a coordination role which is a manifestation of the Treaty Partnership and is thus carried out by the iwi in sole partnership with the Crown and a service delivery role that is shared between the iwi and other Māori organisations.[213]

The Tainui Māori Trust Board made a conscious decision not to participate in service delivery (because it refused to take on the role of Crown agent) and this was continued by the Lands Trust. A partnership between the tribal body and the Crown over policy and coordination was always envisaged, however, and as financial preoccupations have eased since 2002 these are being negotiated with various Crown agencies. Service delivery continues to be carried out by other tribal or hapū affiliated organisations (and non-tribal Māori groups).

Te Rūnanga o Raukawa has sub-committees whose role it is to formulate policy in different service areas and it has had some success in putting these proposals to government (despite them making no reference to formal MOU). There were no

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[213] Ngāti Whatua were the only iwi to make explicit this distinction between coordination/policy and delivery but the conversations with Waikato and Raukawa leave little doubt that they would agree with it.

references in Ngāti Raukawa to other Māori groups delivering services (although they may well exist). Some hapū were reported to be looking for role in delivery.

Social service related Acts make reference to the importance of whānau, hapū and iwi.[214] The only reference to involving Māori organisations in delivery is to 'Iwi Social Services' suggesting a preference for iwi based organisations. Large urban Māori groups have, however, also been major recipients of government service delivery contracts as have some large hapū groups. Government departments do not require that these groups have a representative (political) structure although community familiarity and rapport is clearly a criterion for awarding contracts.

A summary of how activities are shared between iwi organisations and other Māori collectives is contained in Table 8 below. The greatest role for iwi organisations is indicated by the term 'sole' followed by 'dominant', 'shared', and then 'support'.

Tribe \ Activity	Ngāti Whatua	Waikato	Raukawa	Government/ legislation
Treaty settlements (land)[215]	**shared** with hapū/ sub-tribal groups	**sole** (despite some hapū opposition)	**shared** with hapū/ sub-tribal groups	**shared** between iwi and large hapū
Resource management	**support** for hapū/ sub-tribal groups	**dominant** with hapū/ sub-tribal groups	**support** for hapū/ sub-tribal groups	**shared** between iwi and hapū
Service policy and delivery[216]	**sole** in policy; **shared** delivery with other Māori groups	**shared** in policy; **no role** in delivery	**dominant** in policy and delivery	**shared** between traditional and non-traditional groups

Table 8: How Treaty settlements, resource management, and services are shared between iwi organisations and other Māori collectives

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[214] These are many and include the Children, Young Persons and their Families Act (1989), Mental Health Act (1992) and the Criminal Justice Act (1985).

[215] All three organisations have a common status with respect to the fisheries settlement. This is not surprising – this commonality was the basis of their selection. Under the current model they will all have direct ownership of inshore quota after allocation and beneficial ownership (but not voting rights) in the companies currently owned by Te Ohu Kai Moana. Note that there are Treaty claims NOT based on land and water, such as the Wānanga claim, and the Radio Spectrum claim that were NOT led by traditional organisations.

[216] This row refers to service delivery by Māori groups. There are many non-Māori organisations delivering services in the rohe of these tribes, but, this discussion refers to those that would claim to be furthering 'a desire to live as Māori'.

The table above gives an indication of the importance of tradition (i.e., dominance of iwi and hapū) and large scale (dominance of iwi and large urban groups) for the various activities from both a generic government and particular iwi view.   An explicit assessment of this importance is set out in Table 9 below.

Characteristic / Activity	Tradition	Large scale (e.g., iwi)
Treaty settlements	**critical** sole preserve of tangata whenua	**not critical** larger groups favoured by government but hapū, tribal and pan-tribal, have all occurred[217]
Resource management	**critical** sole preserve of tangata whenua	**not critical** hapū and tribal roles both important
Services	**not critical** traditional groups favoured but both traditional and contemporary organisations active, particularly in urban areas	**critical** minimum number of 'clients' necessary and thus areas of high population can support multiple organisations

Table 9: Importance of tradition (tangata whenua status) and scale in Treaty settlements, resources management and devolution

It is not difficult to understand why tangata whenua have been able to claim a monopoly in land-based treaty settlements and resource management.[218]   This role flows from their rights and responsibilities in holding mana whenua. It is also clear that while the size of

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[217] The level of settlement seems to depend heavily on the nature of the particular claims eg, in Waikato, the Raupatu was the most significant breach of the Treaty and its impact unified the 33 hapū of the iwi; In Auckland, the grievance around Takaparawha / Bastion Point unified a sub-tribal grouping, Ngāti Whatua o Orakei in pressing their claim. This tendency is intimated in the Office of Treaty Settlement's comment that '[s]ome very specific claims may result in agreements with smaller groups'.

[218] This is self evident to many Maori, including all those I interviewed. It is NOT self evident to some urban Maori groups, who felt they should be included as recipients of fisheries assets returned as the result of the 1992 Treaty of Waitangi (Fisheries Claims) Settlement Act. These groups undertook a number of court proceedings to pursue this claim. Details of the claim are outside the scope of the thesis because the issue did not feature prominently in participant stories. (This is in marked contrast to the demands of hapū to self-governance which were repeatedly discussed.) The Ngati Whatua case report provides a summary of the general tribal response to the claims of urban groups (see 'Relationships with other Maori in the rohe'). Durie (1998) provides an overview of the fisheries settlement and questions of which Maori groups should benefit and Sissons (2004) presents the view that urban Maori groups have a valid but unrecognised place in the Treaty settlement process.

iwi makes Treaty negotiations more manageable, salient historical grievances are specific to particular groups and these may be hapū, or smaller. In resource management the need for local knowledge and a coordinating role is consistent with the inclusion of both hapū and iwi.

It is less obvious why traditional organisations should have been chosen as vehicles for devolution and yet two out of the three organisations considered were founded, in the first instance, for this purpose. My case material does not provide an explicit answer but the implied explanation is simply that they were favoured at the time among both Māori and government. Their preferred status with government is suggested by their numerous mentions in legislation.[219]

From a Māori perspective, given that organisations require considerable energy to establish and there is a limited pool of establishers, it is logical to use organisations established for one purpose (settlements, resource management) to take-up other opportunities (service delivery). The iwi organisations in the research had conceded a role for non-traditional Māori groups in delivery, but they still argued that they had a sole right to participate in policy and coordination, on the basis that this right stemmed from their tangata whenua status, their role as Treaty signatories and because they had explicit systems for political representation which were not required in non-traditional groups.

It has been argued that iwi organisations were created for particular tasks as a result of the aspirations of Māori, the acceptance of government, and their advantage as a tangata whenua of relatively large size. It has also been argued that their advantage is not absolute and this is evidenced by the sharing of tasks by the iwi studied. The stories of the organisations' creation also show a lack of inevitability about their individual emergence and the importance of the generic policy favouring iwi. Once an activity is

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[219] A word search of the New Zealand legislation database on the web came up with 179 references to hapū, 310 to iwi, and 22 to 'iwi authority'. There were no references to 'hapū authorities' suggesting that if a hapū wants to be recognised as an 'authority' they need to transmute themselves into an iwi. There were 156 references to 'Māori authority' but all were in the context of income tax legislation (where they have a special status).
Other indications of the focus of government on iwi are evident in the fact that the Department of Māori Affairs was replaced by the Iwi Transition Agency in 1989, the Rūnanga Iwi Act was passed in 1990, and the Electoral Act 1993 provides for questions about Māori ethnicity and iwi affiliation, but not any other groupings.

established at a generic level as one for tribal organisations there is a very high chance that a tribal body will move into it *in some capacity,* although the degree will depend on its competency, the competency of other possible participating organisations and its negotiations with those other organisations.

In Waikato the formation of a tribal body seems least in doubt. The practicalities of size which drive the general policy worked together with the historical weight of Raupatu and the Kīngitanga in unifying the 33 hapū in their push for a tribal settlement. These factors gave rise to the Tainui Māori Trust Board in 1946 and the Waikato Raupatu Lands Trust 50 years later. The close connection between resource management issues and the River Claim has led to the iwi body also taking the lead role in this area. The only curiosity is why this organisation didn't also take an early role in devolution. The case material offers three reasons for this. Firstly, the Tainui Māori Trust Board objected in principle to entering into relationships that cast the tribal organisation in the role of Crown agent. Secondly, the leadership was at pains to point out that the settlement would not be used to provide social services which remained the responsibility of government. Lastly, there is a possibility that the preoccupation with which the leadership pursued the settlement left less energy for these other areas. Once the settlement was secured there was a belief that the organisation could and should take a lead role in extracting further resources from government and coordinating their delivery in services within Waikato-Tainui. Although delayed, this is now beginning to occur.

The formation of the Rūnanga o Ngāti Whatua seems to have been the least inevitable of the three cases. Weighing against it were the fact that sub-tribal settlements had already begun to occur, that the tribe was split across governmental jurisdictions, that devolution programmes were already being devolved to non-tribal organisations (the Orakei and Taitokerau Trust Boards) and then, the cash defaultation. Ultimately the desire of at least some members to sustain a tribal body prevailed assisted by the external acceptance of a role for the tribe in Treaty settlements (in the form of the 1993 Waitangi Tribunal Report on the South Auckland Railway Lands and the Te Ohu Kai Moana's leasing of quota to iwi). Thus, although created for devolution it was the outcome of Treaty settlements that allowed the organisation to survive to realise this role.

In Ngāti Raukawa the formation of a tribal body seems also not to have been inevitable. Organisations based on traditional collectives are important for Raukawa but historically hapū and Confederation have been the organisational levels of choice. This was evidenced in the initial pan-tribal composition of Te Rūnanga o Ngāti Raukawa. The Rūnanga's transformation into a tribal body (unique among Raukawa's many organisations) was a curiously uncontroversial affair. None of those interviewed regarded it as remarkable, despite it being a departure from their usual habit and seemingly occurring in deference to the generic government policy. Perhaps the more fundamental Raukawa habit is pragmatism and comfort with respect to forming organisations for particular purposes, as opportunity or needs arise.

Traditional iwi did not have the sharp definition that has been forced on contemporary iwi organisations by interactions with government and the adoption of legal personality. Traditional forms were about expanding, overlapping networks of relationships with particular links being mobilised as required. Despite the tendency of legal form to delineate a particular boundary, none of the cases studied had a simple story of tribal dominance. In Raukawa, hapū and Confederation are at least as important as iwi. In Waikato-Tainui, the organisation is comprised of a grouping of Raupatu hapū (who are not strictly an iwi). Marae, Confederation and Kīngitanga affiliates remain important units of organisation. In Ngāti Whatua, the activism of sub-tribal groupings has been reinforced by settlements at this level and there was constant reference to kotahitanga respecting local autonomy. Current opportunities and activities pursued by Māori have tended to promote iwi and constituent marae-based collectives but they are still just two among many.

Iwi organisations: the legal form

Iwi have a traditional status and scale that makes them suitable candidates for particular activities but taking ownership of resources or entering into contracts has required iwi to take legal form. The three organisation studied were each constituted in different ways. Ngāti Whatua is constituted as a Māori Trust Board with subsidiary companies, Waikato has a combination of an incorporated society and trust with subsidiary companies and Raukawa is an incorporated society with subsidiary companies. Overall,

debate on which particular legal form should be adopted appears to have been modest and informal (extra-constitutional) rules on the distribution of decision-making power, particularly the balance between marae/hapū and iwi but also as to the role of kuia and kaumātua (and in the Waikato, the Kīngitanga), were more hotly contested. It seems that the legal expression was less problematic than agreeing on the substance of relationships with respect to the activities being undertaken.[220]

In Ngāti Whatua the key motivation for forming a Trust Board was the status it would confer and this outweighed concerns about its weak commercial powers and strong ministerial accountabilities. The real concern was about how the tribal body would respect the roles of marae, hapū and kaumātua and this was worked out, not in the legislation, but in the Kaupapa/ Charter (which is described as 'a legal undertaking by the board of Trustees to the Ngāti Whatua people') and in day to day practice.

Waikato displayed the most effort and complexity in organisational form but even here the formal results are not highly distinctive. The iwi has a parliament based on marae representatives which is constituted as an incorporated society, a trust to hold its assets and companies to manage them. There has been a highly publicised debate about how decision-making power should be distributed between the Kauhanganui (parliament), Tekaumarua (executive), management, and Kīngitanga but the greater difficulty has been in negotiating the substance of the roles and the relationships, not in giving it legal expression.[221] There has also been considerable commercial reorganisation in the wake

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[220] If this argument is accepted it has implications for the question of how far government can be blamed for problems in iwi organisations through its failure to provide a single legislative basis for iwi organisations (that is for failing to provide an update on the Māori Trust Boards as was envisaged in the repealed Rūnanga Iwi Act). The minimal concern with legal form suggests that a generic form, while useful, would not resolve the real debate for iwi which is how to balance kotahitanga with local autonomy (to borrow Ngāti Whatua's expression). This assessment notwithstanding, a generic form would save iwi some time and resources (e.g., legal fees) and would have assisted the legal understanding of tribal organisations in the external world. (I use the past tense, because the usefulness of a generic form is almost certainly past: the organisations are now established.) The above argument strongly suggests that more important now than a generic form is an agency to support organisational development and a forum for negotiations/dispute resolution on internal tribal relationships, both of which are sympathetic to their bicultural dynamics. The government has recognised this in recently by increasing the powers of the Māori Land Court to encompass a mediation/ dispute resolution role and allocating some government funding to organisational development (see NZPA article 19/1/04). This echoes Oliver Williamson's comment that different contractual (organisational) forms require different bodies of case law to support them. The other debate that a generic form is unlikely to be able to answer is on how the Treaty partnership between iwi and the Crown should be manifest in contemporary activities.
[221] The question of the role of the Kīngitanga is unique to Tainui but it is a manifestation of a broader issue which is shared by all tribal organisations. In all tribes, kuia and kaumātua are deferred to as the repository of tribal values, mana and identity. In Tainui this role seems to be shared between the elders

of the financial difficulties of 1999-2001 with the overall aim of asserting greater central control and a more conservative investment policy. It is not clear how far the problem was with the formal rules or with the failure to follow them (i.e., with the informal operation) but it appears that both have been targeted for change.[222]

In Ngāti Raukawa, the choice of an incorporated society attracted no comment from those interviewed (except one complaint about the need to fit into mainstream institutional forms). The change from a pan-iwi to a hapū-based, single iwi entity occurred with no change in legal form. Similarly, there has been debate on the appropriate relationship and the degree of autonomy of hapū and marae but this does not appear to have had an impact on the legal rules, but rather on how tasks will be allocated.[223]

Development of skills in iwi organisations: expanding by delivering on member and external requirements

It has been argued above that the iwi organisations studied were *created* because of an overlap in the aspirations of Māori and government and the relative advantage of iwi in delivering on these aspirations compared with other Māori collectives. It remains to be asked what governs their *expansion*, or the lack of it. Those interviewed painted a picture of iwi organisations continually reviewing areas of existing or potential activity and of constant change, either through the expansion or contraction of existing activities or movement into new areas. There was not constant change on all fronts. There were many examples of areas being left as 'not ripe for action' (meaning that they were unlikely to yield much return for their effort given external factors) and rationing due to limited organisational resources.

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and the Kīngitanga. In creating new structures tribes must wrestle with how these holders of tradition, influence or control tribal managers. A similar question surrounds how 'the people' are to exercise influence.

[222] As noted in the Waikato chapter, there was discussion of the need for accountability and conservatism from the time of the settlement but an apparent failure in practice – at least as judged by the outcome.

[223] The importance of ongoing processes relative to formal structures is echoed in the work of Sanders in the context of Australian aboriginal community goverance. Sanders (2004, 12) suggests that: '[s]tructures, such as electoral systems, boundaries and lists of functions, are at one level quite alluring and easy to focus on. But they are only the beginning of the Indigenous community governance story – a means to an ends. Sustainable ongoing processes of community management and decision-making within those structures are the ultimate end or challenge, and these are much harder to grapple with than structures'.

Organisations expanded along seams of negotiated opportunity in areas where they performed well, or, in some cases, along the enthusiasms of influential leaders. Expansion or contraction of existing activities could be explained in broad terms by the capacity of the organisation to simultaneously deliver on both member and external requirements. In commercial activity this meant being profitable but also meeting other tribal objectives; with services, it meant meeting both tribal and government objectives; and in resource management and Treaty settlements, it meant the capacity to negotiate a coordinating role acceptable to both hapū and government.[224]

Expansion into new areas most obviously involved a tendency to take on a role in all three areas that generic policy had indicated could involve iwi: service delivery, settlements and resource management. An organisation founded for one of these roles initially would look to move into the others. There were indications that success or failure in one area had overflow effects into others, not primarily because of a feed back through profitability (although there was evidence of this) but more because of the impact on relationships with both constituents and government, where these were common across activities.[225]

Meeting member and external requirements in commercial activities

One of the messages from the case material was that tribal organisations were wrestling with how to balance financial and 'other' objectives in commercial activities.[226] Reviewing the commercial areas in which iwi were active it is clear that they were governed by more than financial considerations. The extent to which a commercial activity delivers on non-financial objectives is defined as 'resonance' in the discussion

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[224] This discussion does not imply that iwi organisations had a list of clearly defined criteria which they used to assess and strictly decide the fate of activities (eg, a profit rating and tikanga Māori rating for commercial activities). The assessment process demonstrated in the case materials was much subtler than this. What was clear was that iwi organisations were consistently having to deliver to two constituencies with different values – one Māori (their own members and those using their services) and one mainstream (as represented by government or commercial imperatives). Their role was that of an 'interface organisation' and if they were not wrestling with meeting two sets of objectives, they were in the wrong place. (In the next chapter I discuss various theoretical concepts which might be used to describe this 'interface' role.)

[225] The clearest example of this is in Waikato, as discussed below.

[226] Thus while settlements have freed iwi from having to negotiate resources from government annually, they now have to balance tikanga and commercial imperatives.

that follows, as a simple parallel term to 'profitable' (although this does not imply that it has a simple definition).

'Resonant' activities for the iwi organisations studied include those which:
- use traditionally important resources (e.g., land and fish);
- create employment opportunities for members;
- raise the profile of the iwi (e.g., radio, Māori design clothing);
- involve partnerships with traditional allies (e.g., Raukura Moana Fisheries involve the iwi of the Tainui Federation);
- provide services which members required (e.g., Tahi Financial services).[227]

Table 10 below summarises the profitability, resonance and fate of the commercial activities in the cases studied. Profitability has been classified as 'low, modest and high'. These descriptions echo the terms of those interviewed but require some explanation. 'Low' profitability, for example, is a euphemism for negative. 'Modest', a term used by the accountant of one organisation, was a diplomatic way of saying 'just breaking even'. 'High' means positive but not necessarily high by mainstream commercial standards (e.g., a rate of return of perhaps 5-10%, rather than 10%+). The ordering of the activities in the table is on the basis of profitability (low to high).

Resonance has been classified as 'low, medium and high' depending on how far the activity displayed the five characteristics listed above (i.e., traditionally important resource; employment for members; tribal profile; traditional alliance; service for members). The resonance classifications are relatively subjective, so an explanation for this rating has been provided in the table (i.e., the ways that the activity displays the resonance characteristics listed).

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[227] One indication of what non-financial objectives are important in commercial activities is the non-financial issues covered when discussing those activities in the organisations' annual reports.

Feature \ Venture	Profit-ability rating	Reson-ance rating	Reasons for resonance rating (i.e., non-financial objectives)	Fate (e.g., contract/ expand)
MDC	low	low	MDC had a diverse portfolio but contained the least resonant ventures of organisation	ceased trading
Raukawa Ventures	low	low	paving materials company - only resonance due to partnership with an iwi member[228]	divested
Tahi Clothing	low	medium	Māori design clothing – resonance due to profile and employment	ceased trading
Raukura Moana Seafood	low	high	inshore fishing – resonance due to traditionally important resource and employment	divested (fisheries quota retained)
Raukawa abattoir	modest	medium	opportunity arose when abattoir went into liquidation - resonance due to employment	still being consolidated
Mai FM	modest	high	radio station - resonance due to profile, communication with members and use of te reo Māori	incremental expansion/ diversification
Raukawa Housing	modest	high	provided cheap housing via relocation of former government properties - resonance due to service	inactive (property sales cease so no opportunities)
Tauranga Ika Ltd	modest-high	high	Raukawa-owned fisheries quota - resonance due to traditionally important resource	maintained
Tahi Financial Services	modest-high	high	financial services to marae and other (small) Māori organisations - resonance due to service	incremental growth
Tainui Develop-ment[229]	modest-high	medium-high	TDL owns development properties (medium resonance due to land) and agricultural/forestry lands (high resonance due to tribal estate and employment)	TDL continues but portfolio mix changes
Tainui Corp.	high	medium-high	TCL owns developed properties returned in settlement – resonance because land in Tainui rohe	TCL continues but portfolio mix changes
Raukura Moana Fisheries	high	high	deep-sea fishing operation – resonance due to traditional resource and working with traditional allies in Tainui Federation	incremental growth
Raukawa & Whatua lease fish	high	high	fisheries quota on lease from Te Ohu Kai Moana – resonance due to traditional resource	maintained (awaiting allocation)
Raukawa Loans	modest-high	under review	work underway on a loans policy which balances financial and 'other' objectives – resonance due to service	maintained

Table 10: Profitability, resonance and fate of commercial activities

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[228] Entry into both Raukawa Ventures and Tahi Clothing was assisted by the favourable provision of funds from the MANA scheme. Entry into Mai FM was assisted by preferential access to the radio frequency.
[229] No recent data were available for Tainui beyond net profitability for the property portfolio overall and the profitability assessments of Tainui Development Ltd and Tainui Corporation Ltd are therefore limited.

The general trend in the table is the favouring of activities that delivered on both resonance and profitability. Activities which displayed both positive profitability and resonance were maintained and developed. (Examples from the table include Raukawa Housing, Tauranga Ika Ltd, Tahi Financial Services, Tainui Development, Tainui Corporation, Raukura Moana Fisheries, Raukawa and Whatua fisheries lease quota.)

There is a second group of activities where a lack of profitability led to divestment despite positive resonance. Thus, the table above shows examples of cessation of activities due to lack of profitability where there was low resonance (e.g., Raukawa Ventures and MDC); lack of profitability where there was medium resonance (e.g., Tahi Clothing); and lack of profitability where there was high resonance (Raukura Moana Seafood). Commercial activities were expected to at least 'break even'.

A third group of activities were those which were 'just breaking even' but which displayed medium or high resonance. These were maintained (e.g., Raukawa abattoir and Mai FM). Lastly, there is an example of an activity being held in abeyance until a profitability/resonance balance was decided (i.e., Raukawa Loans).[230]

Comparing the cost of financial mistakes

Commercial activity overall has been a mixed success for the three organisations studied. All had suffered significant financial losses, their expectations had been tempered as to what commercial activity might deliver in terms of both profitability and resonance, and they showed greater conservatism in their commercial ventures.[231] Looking across cases, however, there is a marked difference in the impact of financial losses on the organisation overall. All iwi had financial write downs that amounted to

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[230] Observing that activities that were resonant and profitable were favoured doesn't explain why these *particular* activities were chosen. The strong impression from the case materials was that many of activities were opportunities that presented themselves in some way to the organisations (rather than being activities which the organisations actively sought out) and which were resonant. This can be said of Tahi Clothing, Whatua fisheries, Raukura Moana Fisheries, Tainui Corporation, Raukawa Ventures, Raukawa Abattoir, Raukawa Housing, and Raukawa Loans. It seems less true for MAI FM, Tainui Development Ltd, Raukura Moana Seafood and Tauranga Ika, and least true for MDC investments and Tahi Financial Services. These seem to have been more actively pursued. There were probably other opportunities that organisations chose not to respond to, and when they did respond to opportunities that presented themselves, the nature of the response required active choices. There was clearly a view that diversification was an important risk reduction strategy, but it is unclear how far the organisations had systematic investment plans beyond this general principle.
[231] Raukawa, for example, explicitly recognised that it would be 'some time' before profits would fund iwi development and that commercial activities didn't necessarily deliver employment.

over 20% of equity (see table 11 below) but in Ngāti Whatua and Ngāti Raukawa this was absorbed with seemingly little disturbance, in stark contrast to Waikato. The question is why.

Iwi	Period	Change in equity	Starting equity	% Fall in equity
Ngāti Whatua	2000-2001	-$0.78m	$3.24	24%
Waikato	1999-2001	-$53m	$218	24%
Ngāti Raukawa	1997-1998	-$0.8	$3.9	21%

Table 11: Comparison of financial losses across iwi organisations

The most obvious answer to the question of the diverse impact of the financial losses is that the absolute value was much higher in Waikato. While true, this is symptomatic of a more fundamental factor, which was that the Waikato tribal organisation's overwhelming preoccupation at this time was to receive and manage settlement assets and expectations surrounding this task were high (both inside and outside the organisation). In Waikato, the success of the organisation became defined primarily in terms of what happened to the balance sheet, in a way that was not true for Ngāti Whatua and Ngāti Raukawa.[232] Waikato had not yet had time to diversify its portfolio into service coordination and delivery and in the commercial arena which was its core focus, activities were in crisis.[233]

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[232] This was certainly true in the media and while members and leaders may have believed in the greater importance of other aspects of tribal life, they could not help but be caught up in the financial storm.

[233] Waikato shows both the advantage and disadvantage of specialisation (in this case, in settlement negotiation and asset management). They are the only iwi who have secured a tribally-based settlement (advantage) but they were hit hard when it went awry (disadvantage).

This paragraph also suggests an indirect sense in which Raupatu might be argued to have affected the success of the Settlement. Because of its magnitude in the Waikato-Tainui consciousness, settling Raupatu became the raison d'etre of the Tainui Trust Board. It did not move into the delivery of services in the 1990s (in contrast to most tribal organisations) and this deprived it of the incremental increase in governance/management capacity which this brought about for other tribes, and also the spreading of risk when commercial operations turned sour. The fact that the Trust Board, and then the Lands Trust, did not deliver social services has probably exacerbated the tribal/public perception that it is 'too concerned about money' or it 'failed to deliver on the social issues'. Of course, Tainui as an iwi has spread its risk by having other tribal organisations that deliver services e.g., Tainui Hauora, but this gives rise to the need for the tribal representative organisation to work effectively with those other organisations which is only recently beginning to occur.

Secondly, in Waikato the financial problems quickly moved into and became overshadowed by an internal political crisis which was exacerbated by its unfavourable coverage in the media. The financial problems tested relationships within the organisation, between the organisation and its members, and between the organisation and the outside world. All proved vulnerable and Waikato has had to expend considerable effort to emerge from this political and media crisis.[234] The link between financial, political and media problems is not inevitable, as displayed by their absence in the Ngāti Whatua and Ngāti Raukawa examples.

Another example of how the impact of losses is context dependent was the misappropriation of funds in Ngāti Whatua in 1989. The value of the misappropriation was relatively low (in the region of $50,000) but it was catastrophic for the fledgling Rūnanga. This was both because of the impact on the organisation's credibility among members at a time when it was new and vulnerable and because it left the organisation bereft of funds, to the further detriment of its reputation, as it was severely hampered in its effectiveness.

Meeting member and external requirements in services

Service delivery dominates the balance sheet of both Te Rūnanga o Ngāti Whatua and Te Rūnanga o Raukawa. The steady increase in the value of contracts suggests their mutual acceptability to both the Crown and iwi.[235] The commentary provided by iwi, however, emphasised the tension between iwi and Crown objectives and the constant struggle they faced in negotiating contracts which delivered for both parties. Both iwi gave evidence that they had entered contracts when they were judged sufficiently in line with their needs and had declined contracts when they were not sufficiently in line. The research collected no direct evidence of the government's position but one can assume that the Crown offered contracts that met their objectives and offered them to iwi organisations because they had confidence that these organisations were competent to deliver. When the Crown declined iwi proposals this suggests these were not

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[234] Although the financial recovery dates from 2002, the political recovery is more recent, arguably only occurring from 2004-2005.
[235] In Ngāti Whatua the gross income from contracts increased from $1.3m in 1998 to $2.7m in 2002, and Ngāti Raukawa from $0.2m in 1994 to $3.1m in 2002.

sufficiently in line with Crown objectives and at times iwi services have ceased because Crown funding ceased.[236]

The difference between iwi and the Crown over contracts concerned both the nature of the services being offered and the nature of the relationship between iwi organisation and the Crown. Ngāti Raukawa offered a succinct summary of the differences between iwi and Crown approaches to the type of services being offered: the iwi wanted a holistic, collective, proactive approach, but found the Crown offering a sectoral, individualistic and remedial one. There was also complaint about the short-term nature of the contracts which made long-term planning by the iwi very difficult. Ngāti Raukawa's proposal for hapū development workers embodies their desired holistic, collective approach and their success in securing funding for it after over ten years shows their persistence in negotiations.

With respect to the underlying relationship iwi wanted to be treated as Treaty partners, not as Crown agents. Ngāti Whatua's distinction between their two roles in health demonstrates this difference. In Tihi Ora they act in partnership with the Crown to assess needs and then draw up contracts with Māori providers to meet those needs. This, they argue, is consistent with their obligation as tangata whenua to manāki manuhiri (care for guests) in their rohe. Ngāti Whatua also has Te Ha o te Oranga, which acts as a Crown agent, delivering health services under contract alongside a number of other Māori organisations in the region. Success in securing relationships that both Ngāti Whatua and the Crown judge satisfactory has resulted in an expansion in health. In education and social services, in contrast, Ngāti Whatua have declined to enter contracts until an appropriate partnership relationship can be agreed.

Ngāti Raukawa did not have an explicit MOU (memorandum of understanding) or joint venture charged with task of policy and coordination but the belief in their right to be involved in such work was evidenced in their creation of sub-committees charged with this task. They have had modest success in gaining government funding for proposals they had developed (with respect to hapū development workers, as noted above).

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[236] In these cases the implication from iwi was that the service was no longer required, rather than that the iwi organisation was incompetent – but this is as one would expect. The research collected insufficient information to distinguish between a contract that was discontinued because there were no longer mutually acceptable objectives and one where there was not a mutually acceptable delivery.

Waikato were also clear about the distinction between the treaty partnership relationship concerned with policy and coordination and the service delivery role, and restricting the work of their organisation to the former.

Meeting member and external requirements in resource management, settlement negotiations and distribution

The three cases studied showed markedly different roles in Treaty settlements and resource management. In all cases, however, the role achieved or being sought involved them working at the interface, coordinating between their constituent hapū or marae, and central or local government. All iwi had a role in receiving fisheries quota from Te Ohu Kai Moana but this was a result of the generic policy and thus of their collective rather than individual efforts. The generic policy requires iwi to interface between Te Ohu Kai Moana and individual members, rather than hapū or marae.[237]

Ngāti Whatua was encountering the most difficulty in carving out a role in Treaty settlements and associated with this it voiced the most concern about the impact of settlements on tribal unity. The tribal organisation wished to respond to the Crown's stated desire for tribally based settlements but contrasted this stated desire with the reality that three sub-tribal claims had been negotiated by the Crown and that the tribal organisation had only recently received Crown funding to support their coordinating claim.

Resource management was faring similarly in Ngāti Whatua. While the Crown argued for the need for a coordinated approach from tangata whenua they had not provided the Iwi with funding to carry out this role. Thus the majority of resource consent applications were being dealt with by tribal sub-groups. The iwi organisation was not opposed to this, but they keenly felt the need for a coordinated iwi approach and noted some difficulty in getting constituents to view things from an iwi-wide perspective.

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[237] It's interesting to ask why, when Te Ohu Kai Moana fought so hard to allocate to iwi (rather than urban Māori groups) because of their traditional rights, they did not do more to promote the role of hapū and marae as the traditional intermediaries between iwi and individuals. The answer is presumably one of practicality. Insisting on a role for hapū would have required that these be definitively listed before assets were returned, which is something Te Ohu Kai Moana keenly wanted to avoid. Although not problem free, identifying Māori individuals was regarded as a more straightforward process and is already being carried out in the national census and on the national electoral roll.

Thus while an objective in the 2002/3 Annual Plan was to develop an Iwi Environment Management Plan in conjunction with hapū representatives, the 2002/3 Annual Report explains that until the Rūnanga can find some funding for 'the planning and coordination of an environmental management strategy for Ngāti Whatua it will be difficult to achieve a cohesive, enabling approach for Ngāti Whatua marae, hapū and whānau to fulfil their obligations to Papatūānuku and the relevant New Zealand statutes'.[238]

Ngāti Raukawa, like Ngāti Whatua, had lodged an umbrella claim to coordinate the claims of their constituent and to act as an interface between constituent claims and government. Raukawa's task had been made easier than Ngāti Whatua's by research funding from government and the absence of sub-tribal settlements. While Ngāti Raukawa had a strong ethos of supporting hapū development, they too expressed concern about the potential of Treaty settlements to ferment disunity among hapū and a corresponding need for work to prevent this. In resource management the central body appeared to take a modest role, acting as a 'post office' to receive resource consent applications from the external authority, and pass these on to the affected hapū. The Rūnanga offered support in ensuring that responses to applications met external requirements and facilitated relationships between constituent hapū and external bodies (local councils and government departments).[239]

Waikato-Tainui were in the strongest position with respect to both Treaty settlements and resource management. Huge effort had been placed into negotiating the Raupatu settlement with the claim to a centralised role built on the unifying strength of the Kīngitanga who had maintained pressure to settle over 130 years. Even here, however, there was a need to remind both the Crown and some disaffected constituents of the Kīngitanga's right to settle for the whole tribe. The tribal body needed to extract the best settlement they could from the government and they needed to convince members they had done so.

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[238] This quotation is a neat example of the interface role and the bicultural objectives iwi face.
[239] There is an example of how the relationship works in the *Proposed Raukawa Otaki River and Catchment Management Plan 2000* which was prepared by Ngā Hapū o Otaki i.e., a group of constituents, for the Rūnanga, on behalf of the iwi, with funds negotiated by the iwi organisation from the Ministry for the Environment.

The Waikato tribal body's role in resource management was closely connected to the role of the iwi organisation in negotiating settlement of the River Claim (of which a central tenant is a joint Iwi-Crown role in managing the river). Waikato has had some difficulty in convincing government it has an adequate mandate from its constituent hapū and that it is the best equipped body for the role (although it appeared to have succeeded, as of July 2005). The task of proving mandate with respect to West Coast Harbour Treaty negotiations and resource management remained (as of July 2005).

Distribution of internally generated funds might be expected to respond to entirely Māori (tikanga and kaupapa) imperatives. Even here, though, there is evidence of a balance in funding projects that respond to internal (Māori) objectives and external (mainstream) priorities. Thus for all iwi, to the extent that they had funds to distribute, support to marae and mainstream education formed the core of their distributional activities. In Tainui, marae grants and educational scholarships comprise the bulk of tribal distributions. In Ngāti Raukawa, there have been limited distributions by Te Rūnanga, but Te Wānanga o Raukawa has aimed to balance traditional with contemporary skills, the Iwi has a separate trust to provide educational scholarships and Whakatupuranga Rua Mano has focused on rebuilding marae. Ngāti Whatua has had similarly modest funds to distribute but has maintained an annual scholarship programme, and passed on the funds it received from the 1993 Railway Settlement directly to marae.

Survival and the advantage of being the first organisation established to represent an iwi

The three case studies showed differential expansion related to the skills they developed to act as interface organisations between constituents and the mainstream. If the organisation did not develop successful interface skills for a particular task that task might not be carried out at all, or it might be carried out by an organisation of a different type (e.g., hapū or other Māori groups). The failure to develop skills in a particular area did not mean that an alternative tribal body could establish itself, however. Even in situations of crisis, there was evidence that the advantages conferred by being the first organisation established to represent a particular iwi made that organisation highly resilient to potential rivals (in the form of other organisations claiming to represent the

same iwi). This was because mainstream generic policies require a single organisation for each tribe and it appeared to be extremely difficult for a body seeking to represent the same tribe to displace the first-formed organisation in this role. The low risk of displacement stems from the difficulty in establishing a superior mandate and because settlement assets provide a resource anchor point unavailable to potential rivals.

In Ngāti Whatua the first mover advantage was displayed in the crisis of 1989-1991 which resulted from theft and a funding drought. Despite the Rūnanga being seriously hampered in its work by a lack of funds, rivals were not able to establish a superior mandate (as evidenced in the Waitangi Tribunal report of 1993) and eventually generic policy delivered the resources it needed to operate (i.e., Te Ohu Kai Moana lease quota). It is possible that the crisis delayed and thus hampered the Rūnanga's establishing a stronger role in Treaty settlements and resource management, that is, it limited its rate of growth, but did not cause its demise.

Waikato also survived the financial crisis that beset it at the turn of the millennium. This crisis delayed its growth but there was no challenge from a rival tribal organisation. The delayed growth was most obvious in Waikato's commercial operations and those depending on distributions such as the Endowed College but it was also evident in the West Coast Harbours Treaty Claim process and movement into article three services. The incumbent Waikato organisation survived, however, because despite its bruising it had a mandate and an asset base unavailable to any other organisation.

Conclusion

The case reports contain the response of individual iwi to the first research question: 'how and why was the organisation established, what does the organisation currently do, and where is the organisation going in the future?' This chapter compares the reports from the three iwi organisations to respond to the more general question of how the establishment and development of iwi organisations should be explained. The comparison suggests the importance of four factors. The fundamental motivation for the establishment and development of iwi organisations is the desire by Māori to live as Māori. The immediate stimuli are negotiations with government leading to

opportunities and resources for activities such as service delivery, resource management and Treaty settlements. Māori choose iwi for these particular activities, over other Māori collectives, because of their traditional status and their size but these advantages are not absolute and activities continue to be shared with other collectives. Finally, the survival and growth of the organisations established depends on the skills they develop to support and enhance their members desire to live as Māori, while meeting external requirements and negotiating new resources from government.

In the next chapter, the results of this cross-case comparison will be used to select theories and concepts from new institutional economics which appear useful in deepening the understanding of iwi organisations' establishment and development. This leads into a detailed comparison of the inductive findings from both the cases and the cross-case comparison with the selected new institutional economics literature.

Chapter Five: Comparison of the empirical findings with the new institutional economics-social capital literature

5.1 Creating a new institutional economics-social capital framework to explore new iwi organisations

The empirical research in chapters three and four explored the factors influencing the creation, operation and success of contemporary iwi organisations. New institutional economics is concerned with the causes, characteristics and consequences of socio-economic institutions.[240] The aim in approaching the literature was to work from empirical findings to theory, looking for theoretical propositions that appeared useful in understanding the case studies. Given its focus, new institutional economics seemed to be a promising field in which to start.

Commenting on the growth of the economics of institutions, Mathews (1986, 903) noted that:

> A body of thinking has evolved based on two propositions:
> (i)   institutions do matter, [and]
> (ii)   the determinants of institutions are susceptible to analysis by the tools of economic theory.

Mathews observed that economics now encompasses a substantial amount of work concerned with the origins, nature and impacts of institutions. The body of institutional

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[240] Many new institutional economists restrict the scope to economic institutions, but the approaches found most fruitful for studying new iwi organisations have been those that view economic institutions as a subset of all social institutions.

economics literature is, however, one of diverse and uncoordinated limbs. Significant differences exist with respect to starting assumptions, methods, terminology and subject matter. Economic theorising on institutions includes: game theories on the evolution of norms; analyses of the emergence of property rights and common law; public choice analysis; studies of social capital; contract and agency theories; transaction cost economics; the economics of co-operatives; institutional economic history; Austrian and neo-Schumpeterian evolutionary theories; and competency models of organisations.[241]

Given the diversity and abundance of the institutional economics literature there was a reasonable chance of finding individual theories and concepts that could used to explore particular aspects of my empirical findings. This proved to be the case. Theorising on the nature and role of institutions, relational contracts, organisations, transaction costs, asset specificity and principal-agent relations all yielded interesting comparisons. Much more difficult was finding a framework for organising and relating the diverse concepts and comparisons. When the concept of social capital was encountered, as set out by Ostrom and Ahn (2003), this formed the basis for such a framework.

Ostrom and Ahn 'view social capital as an attribute of individuals and their relationships that enhances their ability to solve collective action problems' (2003, xiv). In the framework adopted here, social capital is the accumulation of socio-economic institutions that coordinate activity and align incentives, making collective action possible. Where incentives are aligned, individuals are able to make credible commitments to one another. Social capital is required for all forms of activity involving more than one person whether it takes place in the market, the firm, the state, the family or the tribe. Social capital theory provides a framework to consider what combination of institutions is operating in any particular collective action situation.[242]

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[241] The diversity in approaches is the subject of considerable discussion in the literature. There is debate about the 'programmatic unity' of new institutional economics and its relationship to neoclassical economics. Coverage of this debate is outside the scope of the thesis (although by choosing certain areas of theorising it votes indirectly).

[242] Subsequent to encountering the work of Ostrom and Ahn (2003), a paper by Nelson and Sampat (2001) was discovered. In it the authours 'develop the notion of institutions as standard "social technologies"' and argue that 'economic growth results from the co-evolution of physical and social technologies' (Nelson and Sampat 2001, 31). In Nelson and Sampat's discussion, "social technology" is virtually synonymous with social capital, as used here. The only difference is that by including the qualifier 'standard', Nelson and Sampat seem to exclude highly idiosyncratic routines. Given that the development of idiosyncratic rountines may be an important source of advantage for a particular organisation, I would argue they should be included (albeit with their localised nature acknowledged).

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There are a number of reasons why Ostrom and Ahn's definition proved particularly useful for the analysis undertaken here. Firstly, defining social capital in terms of the economically familiar concept of collective action makes it easier to integrate with other institutional economic theories. Secondly, Ostrom and Ahn adopt an inclusive, holistic definition of institutions which includes social norms, personal networks and formal rules (2003, xvii). They argue that a broader, synthesizing definition is required:

> …because in the real-world, collective-action situations, the success or failure of collective action is determined not by any single factor but by a complex configuration of various factors that we categorize as forms of social capital. (Ostrom and Ahn 2003, xiv)

The broad definition encourages a comprehensive consideration of what types of social capital institutions are operating; how they interact, whether they can substitute for one another and whether they are mutually compatible. The social capital framework seeks to provide clarity not by reduction but by organising the entirety of factors influencing the collective action being undertaken. A broad definition of institutions is particularly important in considering new iwi organisations because much of what is distinctive about them is manifest in their norms and networks not in their formal or explicit institutions. Theories that focus on formal institutions, leaving norms and networks in the *ceteris paribus* parentheses, exclude the most interesting findings of the field work from consideration.

Finally, social capital attempts a universal exploration of collective action based on a generic description of human nature and an inclusive definition of institutions. As there appeared to be no theory developed from assumptions or empirical situations closely resembling the subject matter in chapters three and four the most promising way forward was to work with general theories of this sort. The core concepts used to compare the empirical findings with the literature: institutions, social capital, relational contracts and organisations, all aim for this generality.

Ostrom and Ahn's definition (2003) of social capital was adopted here because it provided a useful framework for organising the diversity of institutional forms that arise

in the literature. It is important to emphasise however, that the social capital literature is characterised by diversity and debate with respect to how the concept should be defined, what theoretical claims it makes and how the components of the theory should be measured empirically. The continuing ambiguity surrounding the term social capital and the difficulties this causes in measuring both the presence and impacts of social capital are summarised by Ostrom and Ahn (2003) and explored more deeply in a symposium of social capital published in the Economic Journal (Durlauf 2002). Hunter (2004, 18) is another who expresses concern about of the lack of theoretical clarity in the use of the term social capital and the limits this places on prediction and empirical testing. Some question whether the concept is in any way redeemable. Others follow Durlauf (2002, 418) and conclude more optimistically that '[t]hese differences and disagreements are a good measure of the intellectual excitement of the current social capital literature'.

The particular definition of social capital used here is a development of that provided by Ostrom and Ahn (2003). Following this definition, social capital is not so much a theory (in the sense of a tightly specified relationship between empirically well defined concepts) as a loose network of concepts within which more specific theories can be located. This formulation was chosen because it provided a useful framework for developing the explanatory theoretical propositions that were drawn from the holistic, qualitative stories told by insiders.

In explaining the particular definition of social capital adopted here, it is important to note that most social capital theorists take different and narrower view than Ostrom and Ahn (2003) and exclude formal institutions from their analysis. Putnam et al. (2003), Coleman (1988) and Hunter (2004), for example, include norms and networks; Fukuyama (2003) and Coleman (2003) restrict their focus solely to norms; and Dasgupta (2003) focuses on networks. The use of the label 'social capital – new institutional economics framework' is adopted to emphasise the particular (minority) way in which social capital is defined in the thesis. This definition is elaborated on in the rest of chapter 5.1. A note reflecting on the viability of this particular definition is included in the conclusion.

The relationship of social capital to the other core theoretical concepts used in this chapter is summarised in the figure below.[243] Ostrom and Ahn's (2003) contribution is to define social capital in terms of the problem of collective action and to argue for a broad definition of social capital. Their work is developed here by linking the social capital concept to new institutional economics. This development has led to the modification of Ostrom and Ahn's categorisations of social capital and to the insertion of new institutional economics theory into the social capital framework. This chapter proceeds to consider each of these four concepts in depth and then compare them to the findings of the case studies.

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[243] It should be noted that in this figure social capital institutions mediate relationships between groups of people, but the group may be any size, from two upwards. The institutions referred to occur therefore at a variety of societal levels.

Figure 3: A new institutional economics - social capital framework

institutions – are regularities in behaviour which facilitate action in a world of bounded rationality

social capital – is the accumulation of institutions which constitute regularities in interactions between individuals and which, in concert, facilitate collective action (coordination and incentive alignment)

relational contracts – are particular configurations of institutions which provide a stable framework of processes for groups to make decisions on an ongoing basis, allowing them flexibility to respond in an uncertain future

organisations – are bundles of relational contracts between individuals with a common purpose (collective action task)

Defining institutions as 'recurrent patterns of behaviour'

> The fundamental concept of an institution ultimately boils down to the idea of recurrent patterns of behavior – habits, conventions and routines.
> (Langlois 1995, 1)

> [Institutions are] regularities in the repetitive interactions among individuals. They provide a framework within which people have some confidence as to how outcomes will be determined. … they are the customs and rules that provide a set of incentives and disincentives for individuals. (North 1986, 231)

These two passages are typical definitions of institutions as 'regularities in behaviour'. The regularities in behaviour may manifest across a society, within a particular organisation, or they may be unique to an individual. They may be regularities that are part of an interaction with others, or solitary behaviour.[244]

Institutions derive from many sources and are classified in a variety of ways. The three categories into which social capital theory groups institutions are norms, personal networks and formal or explicit rules. North uses the terms formal and informal institutions to differentiate between those which are enforced by a third party (and are usually written) and those which an individual internalises as a self-imposed constraint or which are enforced by a second party (Sjöstrand 1995, 32). Institutions called routines are developed by individuals (Simon 1976) or groups (Nelson and Winter 1982) to economise on the deliberative effort required in performing activities.[245]

The definition of institutions used in the thesis is a broad one and this can make comparisons with the literature confusing. This is because the descriptions of

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[244] Many writers exclude solitary behavioural regularities from their definition of institutions. The definition adopted here includes these in the broad definition of institutions, but excludes them from the definition of social capital institutions. Thus institutions are all regularities in behaviour, and social capital is the subset of institutions that regulates interaction between individuals as part of collective action. It is unlikely solitary regularities in behaviour would be of interest to social scientists, unless they reflect or impact on broader social events, i.e, unless they can in some way be viewed as collective behaviour. The behaviour may be performed alone but still be part of an interaction. The regularities in how I work on my computer to write this thesis would be included in this category.

[245] All of these categorizations are discussed more fully in subsequent sections of chapter 5.1. Simon and Nelson and Winter develop the *concept* of routines, although they use a variety of other terms to describe them.

institutions provided by the literature often apply to only a subset of what are defined here as institutions. For example, North (1990, 3) suggests that '[i]nstitutions are the rules of the game, or more formally, are the humanly devised constraints that shape human interaction'. In the schema proposed here, some types of institutions may be a conscious response to an explicitly stated rule and these are consistent with a 'constraining framework of rules' definition of institutions. Some institutional norms, however, are subconsciously internalised and acted out such that they act to 'inspire' behaviour rather than 'ruling' it. Similarly, institutions such as routines (habits, or skills) are 'learnt by doing' in a partly deliberate, partly sub-conscious process and thus these also do not fit under the label of 'constraining rules'.[246]

Another source of confusion arises because the literature uses the term institutions in two slightly different ways. This is evident in the definition provided above by North (1986, 231). In the first phrase, institutions are described as behavioural regularities; later however, they are referred to as the framework or rules that give rise to the regularities. It is more common (and arguably more consistent with daily usage) to use institutions to mean the rules, framework, or situation that give rise to the regularities. Norms, networks and formal/explicit rules are all factors that create patterns of behaviour.[247]

A commonly stated task in new institutional economics is to explore the relationship between institutions, incentives, and behavioural regularities. This task makes little

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[246] North includes general social norms in institutions so his statement that institutions are 'devised' needs qualification to make it clear that this is only true for some of his institutions. North does not include institutions (behavioural routines) relating to smaller groupings – organisations, teams or individuals; e.g.: 'Conceptually, what must be clearly differentiated are the rules from the players. ... Separating the analysis of the underlying rules from the strategy [routines] of the players is a necessary prerequisite to building a theory of institutions' (1990, 4&5). The strategy, or strategic routines, of a team of players would be included in the definition of institutions adopted here (although the need to differentiate them from the formal rules of the game is also accepted).

[247] If there is a close correlation between the influence and the actual behaviour the conflation of the two is of no great concern. However, if there is a rule which is routinely flouted, one would hesitate to call such a rule an institution. Rather, one would find a name for the actual behaviour (routine flouting) and call that the institution. Thus, if institutions are rules, they are only those rules that actually give rise to behavioural regularities. Nelson and Sampat (2001, 39) note this dual use of the term institutions: '[s]ome use the term [institutions] to refer to the standardized behavior patterns per se. Others use the term to refer to factors and forces that constrain or support these patterns of customary behavior'. Their judgement on this dual use is the same as that made here, i.e., 'in some cases, it may be convenient to refer to a particular standardized social technology by using the name of the particular background factor or structure associated with it. ... [t]his is a legitimate use of the term as long as the supporting structure and pattern of behavior are closely linked' (2001, 42).

sense if one is using a definition of institutions as the actual regularities in behaviour. (If institutions and behavioural regularities are the same thing, the relationship is hardly worth exploring.) What this task involves in practice is taking a specific institution (most commonly a formal rule, contractual arrangement or constitution) and considering the range of behavioural regularities with which it is associated. A variation of behavioural regularities can arise within the formally stated rule because of other institutions that have not been stated, or which are unknown to outside observers. In addition, behaviour in specific circumstances may vary from the behavioural regularity because of individual choice or thoughtlessness. The relationships which this analysis envisages between a specific institution, behavioural regularities, and behaviour in specific instances are expressed in the figure below.

specific institution:
eg, norm, network, formal rule

add all other institutions operating

which in combination, create

behavioural regularities
in interactions between individuals

all institutions operating in combination

plus individual choice and thoughtlessness, creates

behaviour in specific circumstances
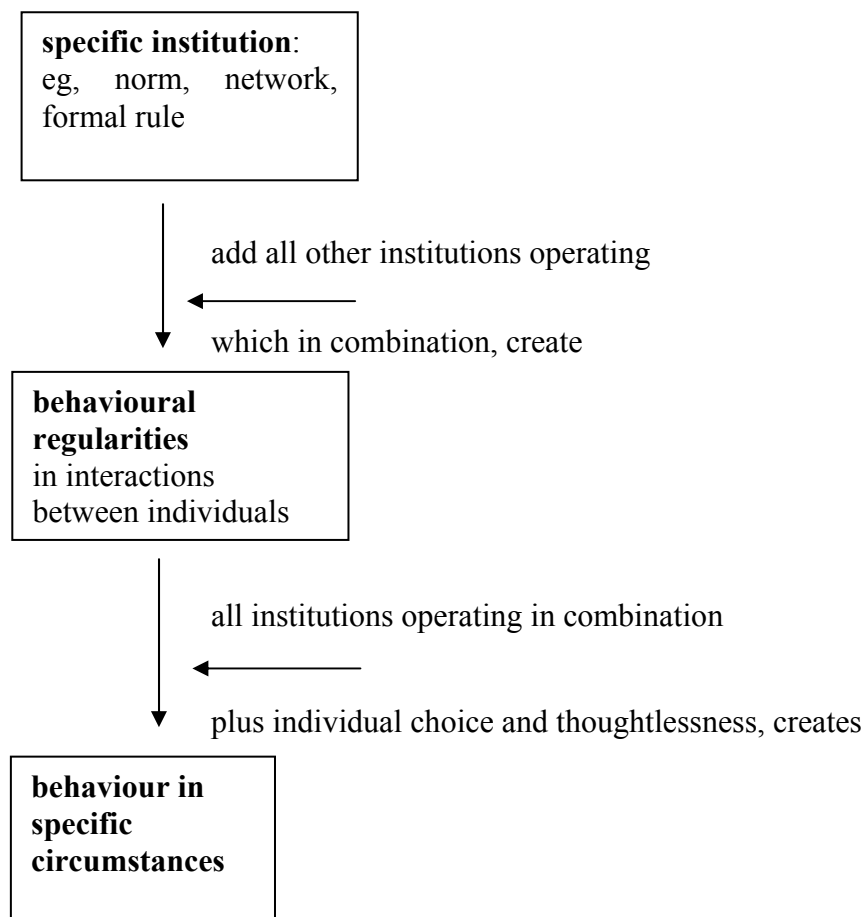
Figure 4: The relationship between specific institutions, behavioural regularities and behaviour in specific circumstances

In the thesis, as in the literature, the term institutions is used to refer to both specific institutions and the behavioural regularities that are the result of all the institutions that are operating in a particular context. It needs to be remembered, however, that a specific institution will only be associated with regularities in behaviour to the extent that it is the dominant institution operating. Behaviour in specific circumstances will also reflect individual choices. The distinction between a specific institution and all the institutions associated with observed behavioural regularities reinforces the need to adopt a comprehensive definition of institutions in order to explain behaviour.

Function of institutions: boundedly rational individuals and credible commitments

In new institutional economics, individuals live in a world about which they have incomplete information and their capacity to process the information they do have is limited. In economics, Herbert Simon (1976; 1998) is most well-known for linking bounded rationality to 'procedures for making reasonable choices' (1976, 140).[248] Simon argued that in the real world, decision makers could not acquire all the information they needed to make perfectly rational decisions and that even if they could assemble it, they did not have the computational capacity to process it all. In a world of incomplete information where the mind is a scarce resource bounded rational individuals employ routines for making decisions and performing tasks. Routines are employed because:

> To gather the information and to do the calculation implicit in the naïve
> description of the rational choice model would consume more time and energy
> than anyone has. … Anyone who tried to make fully-informed, rational choices
> would make only a handful of decisions each week, leaving hundreds of

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[248] Simon referred to these procedures as 'skills, behaviour patterns, problem-solving repertoires, and perceptual habits' (Simon 1976, 144), indicating the routine-like nature of these institutions. He suggested that such procedures or institutions could enable an actor 'to react "intuitively" without much awareness of his own cognitive processes' (Simon 1976, 145). Although Simon is the name most commonly associated with bounded rationality in economics the concept is used by other writers. For example, as early as 1950 Alchian (1950, 218) suggested that in situations of uncertainty 'modes of behaviour replace optimum equilibrium conditions as guiding rules of behaviour'. Simon's view on boundedly rational decision-making draws heavily on the development of cognitivism in psychology, where an individual has innate interpretative frameworks through which phenomena in the external world are viewed. Frameworks are adapted as new external phenomena are encountered (Rizello 1997, 106).

important matters unattended. With this difficulty in mind, most of us rely on habits and rules of thumb for routine decisions. (Rutherford 1994, 68, citing Frank 1987)

Individuals require routines (regularities in behaviour or institutions) to carry out the activities required to sustain and enjoy life. Many of these activities are not individual, however, but social. Groups of individuals also require regularities in the way they interact to make collective action possible. They require regularities not just to reduce complexity and deliberative effort but to ensure the types of behaviour that sustain superior outcomes for the group. It is not enough for behaviour to be predictable; it has to be predictably positive. Ostrom and Ahn's (2003) conceptualisation of social capital explicitly links the problems for groups trying to act collectively to the need for institutions.

The problem of collective action has a number of manifestations in the economic literature including the tragedy of the commons, the supply of public goods, the (il)logic of collective action and the prisoner's dilemma. The 'problem' is that the objectives of individuals as a group and the objective of any one individual are not identical. The general structure of these situations is one where, for a self-interested individual:

1. the best course of action is if the whole group cooperates and contributes to a collective goal, but the self-interested individual free rides;
2. the next best course of action is that everyone cooperates (the self-interested individual included);
3. the third best is that no one cooperates;
4. the worst course of action is if the self-interested individual contributes and others do not.[249]

The critical feature of these situations - the problem of collective action - is that unless there are means for insuring everyone cooperates, the dominant strategy for any particular individual is to free ride, even though the optimum strategy for the group is

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[249] The fourth option moves into third place as the number that cooperates increases and the numbers that free ride decreases. As the number cooperating moves towards totality, option four moves through option three towards option two.

for everyone to cooperate. Only if behavioural patterns are developed for blocking defection and coordinating cooperative action can the optimum outcome be achieved. Social capital is the combination of institutions or behavioural regularities that allows groups to do this. Social capital provides groups of individuals with the means for aligning incentives so that they can make credible commitments to each other in order to act collectively.[250]

The classical solution to the problem of collective action, as proposed by Hobbes and taken up by early collective action theorists, is third party stipulation and enforcement. However, even Hobbes recognised the difficulty of creating a neutral, fully informed, inexpensive Leviathan (Putnam, Leonardi et al. 2003, 222). Ostrom and Ahn (2003, xiv) suggest that a second generation of collective action theorists has recognised that there are a diversity of ways that groups mediate the relationships between their members, i.e., that there are diverse forms of social capital.

By organising activity, particularly interactions between people, institutions bring some order to an otherwise chaotic world. Viewed in this way, institutions are not just constraints as commonly described, but also enabling. They increase predictability by coordinating and simplifying interaction. Institutions generate a common understanding between individuals about how their interactions will proceed. The dual nature of institutions as both constraints and enabling factors is evident in some theories of institutional change where existing institutions form the building blocks from which new ways of acting can be crafted. Campbell (1997, 26) provides an example when he argues that:

> On the one hand, actors creatively recombine and extend the institutional principles at their disposal to devise institutional solutions to their problems. In this sense, already existing institutions are enabling because they provide the technical and symbolic means with which actors build new institutions as active subjects. On the other hand, the relative availability of different principles also

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[250] The presence of collective action is far more pervasive than the problem areas listed because all social activity, economic activity included, involves collective action. Neoclassical economic analysis usually takes for granted the institutions or social capital required to make collective action possible except where it is 'problematic' (generally where private ownership and markets may not lead to an optimum outcome).

constrains in a probabilistic sense the range of solutions that actors are likely to envision.

Social capital, as defined here, is required for all forms of activity involving more than one person whether it takes place in the market, the firm, the state, the family or the tribe. All forms of collective activity require at least coordination and usually both coordination and incentive alignment (blocking free-riding, defection or cheating).[251] The question in each of these situations is what forms of social capital are present, how they came to be, how they interact, and their combined adequacy for the tasks to be undertaken. These questions parallel those asked by new institutional economics on the causes, nature and consequences of institutions. Social capital, however, provides a framework for organising, integrating and comparing different institutional forms and combinations.

Social capital institutions as public goods

Social capital institutions are sometimes referred to as public goods (Cornell and Kalt 1997, 119). The archetype public good is jointly consumable or non-rival in consumption, so that once provided the marginal cost of supply to an additional person is zero. They are also often non-exclusive, meaning it is not possible or prohibitively costly to prevent an additional person enjoying the good.[252] The non-exclusion feature means that it is costly or impossible to directly charge users and the non-rival feature means that it is not efficient to charge additional users once the good is provided. These features combine to mean that providing the good from a compulsory general levy and making its use free may be the most efficient means of provision.

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[251] The paradigmatic example of a pure coordination activity (at least in societies with two lane roads) is which side of the road everyone will drive on. It does not matter which side is chosen, what is important is that everyone agrees and drives on the same side. Hardin points out (1997, 23) that '[t]here is no coherent meaning for "free-riding" in the driving and other conventions, except for thrill seekers for whom risking accidents is a source of pleasure'.

[252] Note that some authors e.g. Blümel, Pethig et al (1986) consider that joint consumability is the only necessary condition for a public good although such goods also often show some difficulty in exclusion. Goods that are jointly consumed but easy to exclude people from are referred to as club goods in the literature. Blümel et al also point out that joint consumability may be a question of degree i.e, that goods may be congestible, with an individual's enjoyment dependent on the number of other users. Still other public goods are *only* enjoyable jointly – a field for team sports or a marae are examples.

Social capital institutions are substantially non-rival in consumption; that is, compared with the sunk cost of creating the institutions, the marginal cost of including an additional person is low. The marginal costs include the costs of the new entrant becoming familiar with the norm, network routines or formal rules and the cost of monitoring their compliance. This is equivalent to a low level of congestability displayed by many essentially public goods.[253] Also, while a cost is incurred by the additional person to become familiar with the institutions, effective entrance costs are common for users of public goods. A consumer needs transport to get to a national park, for example, or a radio to listen to broadcasts.[254]

The second characteristic common in public goods is difficulty in excluding additional users.[255] Difficulty in exclusion is not generally a characteristic of institutions. Thus at the cost of identifying particular individuals it is usually possible to exclude them from both networks and formal institutions. Norms, strictly defined as 'giving the stranger the benefit of the doubt' cannot exclude new comers, by definition. In practice, however, strangers usually have to meet certain tests to be eligible for such norms implying that they are not complete strangers. Only truly universal norms, such as the Buddhist injunction to 'show compassion for all sentient beings', are truly non-exclusive. Such social capital institutions are in practice, however, rare and fragile.

Consistent with their public good characteristics formal laws protecting personal and property rights are publicly funded in modern states. Public funding of education is also justified in part for its role in socialising young people into the society's mores. Within

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[253] Note that while it is generally true that social capital institutions display public good characteristics, given their enormous diversity this may not be true for all forms. For example, the cost of trying to introduce an additional person to the routines that constitute a domestic partnership or marriage are likely to be high – past two, the relationship will usually be regarded as congested.

[254] Another way of addressing this question is to view social capital institutions as providing the information required to escape the prisoner's dilemma, with information being the archetype public good. Still others have argued that institutions are not public goods but rather, that they display considerable positive externalities e.g. Dasgupta (2003, 314). Glaeser, Laibson et al. (2002, 439) explore social capital as a propensity for individuals to participate in networks (analogous to other investment decisions made by individuals) but nonetheless acknowledge that 'the path from individual to aggregate social capital is difficult, because of the extraordinary importance of social capital externalities'.

[255] Some literature focus' on the impact of social capital as a resource for individuals, and some in terms of the benefits they provide to groups as a whole, but in all cases the social capital is mediating relationships and in this sense is not the exclusive property of one person. For example, Coleman (1988, S98) suggests that '[u]nlike other forms of capital, social capital inheres in the structure of relations between actors and among actors … whether persons or corporate actors'.

private organisations such as the corporation central funding of social activities is similarly justified by the need to build 'networks' within (and outside) the organisation.

Classifying institutions

Some of the diverse ways of classifying institutions have been outlined above. This section discusses these classifications in greater depth.

Social capital's norms, networks and rules[256]

Social capital comes in three broad forms according to Ostrom and Ahn: trustworthiness, networks and formal or explicit institutions (Ostrom and Ahn 2003, xvii).[257] They argue that all three forms of social capital act to increase the trust that individuals have that others will act in a predictable and positive fashion making collective action more likely. Social capital increases positive behavioural regularities and thus the expectation (trust) of such regularities occurring. All three forms assist individuals to make credible commitments to each other, but for different reasons.

Networks are groups of people who know each other personally. They are the primordial incubator of social capital for both individuals and communities.[258] In networks, individuals have repeated interactions with one another which allow information to accumulate that is useful both for coordinating behaviour and blocking cheating. Knowledge of others' preferences and habits makes their behaviour more predictable and repeated interaction allows a group to develop routines for making decisions and taking actions.[259] The ability to reciprocate both good and bad behaviour raises the pay-off for good behaviour over cheating. Cooperative behaviour dominates

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[256] Most of the social capital literature was sourced from the compilation of key articles provided by Ostrom and Ahn (2003) thus it has 2003 as its reference date. The date of the original articles are as follows: Coleman (1987); Dasgupta (2002); Fukuyama (2000); Gambetta (2000); Granovetter (1973); Putnam, Leonardi et al.(1993); Woolcock (1998); Woolcock and Narayan (2000).

[257] Ostrom and Ahn (2003, xiv) do not claim that these are the only forms of social capital,\ but imply that they are the most important. Note that strictly following the definitions developed earlier, norms, networks and formal rules are *sources* of institutions and social capital, but, as discussed, they are used as a shorthand and substitute for the latter.

[258] Primordial is used to indicate that they precede both formal institutions and social norms that apply to unknown individuals. Individuals start life in families (usually, but at least in some sort of social group, if they are to survive) and human society began in small clan groups.

[259] The distinctive feature of networks, and the relational contracts & organisations with which they share many features, is the capacity to allow routines to develop. This feature is returned to below.

defection in networks, even for selfish individuals, because bad behaviour risks expulsion from the network and its collective benefits.[260]

Networks increase trust among individuals who have personal experience with one another, but trustworthiness is an increased propensity to give those you don't know the 'benefit of the doubt'. 'Trustworthiness is defined in terms of preferences that are consistent with conditional cooperation even in the absence of material incentives. Trustworthiness is an independent and non-reducible reason why some communities achieve collective action while others fail'(Ostrom and Ahn 2003, xvi).[261]

A higher level of trustworthiness in a society means individuals are more likely to adopt a strategy not of unqualified cooperation but of conditional reciprocity. Ostrom:

> …defines reciprocity as involving a family of strategies in collective action situations including:
>
> 1. an effort to identify who else is involved,
> 2. an assessment of the likelihood that others are conditional co-operators,
> 3. a decision to cooperate initially with others if others are trusted to be conditional co-operators,[262]
> 4. a refusal to cooperate with those who do not reciprocate,
> 5. punishment of those who betray trust. (cited in Ostrom and Ahn 2003, xxi)

A general tendency to reciprocity or trustworthiness in a society allows one to wager that a stranger will not hold defection as their dominant strategy. It does little, however, to direct the cooperative action that blocking defection makes possible. For the purpose of the discussion here, it seems useful to extend this category of social capital to include other generalised norms that help direct cooperative behaviour. Examples can be found in the cultural norms that organise collective decision-making processes and reduce an

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[260] A critical question in group networks is the extent to which they increase ease of collective action within the group, as well as, or at the expense of, ease of collective action with people outside the group. This issue is taken up in a subsequent section on bonding and bridging capital.

[261] Although it is not reducible to other forms of social capital, it is clearly related to them, as discussed in the next section.

[262] To be consistent with 'giving the stranger the benefit of the doubt' cooperation would be forthcoming as a first play provided there was not evidence to suggest it was inappropriate. Strangers are 'innocent until proven guilty'.

impossibly large range of options to a manageable number from which a group can choose.

Ostrom and Ahn's (2003, xxii) third category of social capital is 'institutions' which they suggest includes 'formal and informal rules' or those 'prescriptions that specify what actions (or outcomes) are required, prohibited, or permitted, and the sanctions authorized if the rules are not followed'. They include both third-party enforced laws and the endogenous rules that groups devise. For the purposes of the thesis a third category of social capital is defined equivalent to Ostrom and Ahn's comprising rules which are explicitly stated and formally enforceable. This category includes both those rules that arise from a centralised source, and those which are endogenously derived but have given legal backing through contract, deed etc. Endogenously derived rules include policies and procedures which might not be directly enforceable by the courts but which have indirect, legally sanctioned consequences for non-compliance, such as being dismissed from one's job. (The term semi-formal is also used in the thesis to refer to this latter category of endogenously derived policies and procedures.)[263]

North's formal and informal institutions

Douglass North makes a distinction between formal and informal institutions and this has become widely used in the literature.[264] Formal institutions are enforced by a third party (and are usually written) and informal institutions are either enforced by a second party or internalised, becoming a self-imposed constraint (Sjöstrand 1995, 32). In the schema proposed here informal institutions include general societal habits and norms, and a particular individual's or group's habits, skills and decision-making routines.

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[263] Ostrom and Ahn's use of the term 'institutions' as a category of social capital is narrower than that used in the thesis, and, I consider, somewhat confusing. For example, they use institutions as a category distinct from the norm of trustworthiness, yet they include informal rules in institutions. Norms are part of informal institutions, however, following North's definition (and he seems to have coined the phrase). In the schema used here, all forms of social capital give rise to institutions and thus it is not useful to use this term as a category within social capital. This third category is called explicit or formal rules (with a broad meaning of formal, as explained in the main text). This solution seems consistent with Ostrom and Ahn's (2003) explanation of institutions as a category of social capital, if not their terminology.

[264] Note that although it is widely used, it is not consistently used. Thus, while North includes norms in informal institutions (North 1990, 4), Ostrom and Ahn talk about formal and informal rules as a category of social capital distinct from the norm of trustworthiness (Ostrom and Ahn 2003, xxii).

Ostrom and Ahn's categories of norms and networks are essentially informal, whereas their formal/explicit rules are essentially formal.[265]

The differences between formal and informal, or general and specific, are continua rather than polar contrasts. For example, the legal enforcement of formal laws may involve consideration of current social norms, i.e., informal institutions, such that it is difficult to say where one begins and the other ends. Similarly, informal institutions may be peculiar to a couple, a small exclusive group, or to a large group where it is possible for new members to enter and be inducted into the group's specific institutions. Different institutional forms interact and are constantly evolving. Examples of formal and informal institutions, and general and specific institutions are set out in the figure below.[266]

<figure>

general (large group) institutions

●New Zealand culture   ●New Zealand law

●tikanga Māori (lore)   ●Māori Trust Board generic legislation

informal institutions ←————————————————→ **formal institutions**

●tribal tikanga (lore)   ● organisation's constitution

●organisation's routines   ●individual employment contract

specific (small group) institutions

</figure>
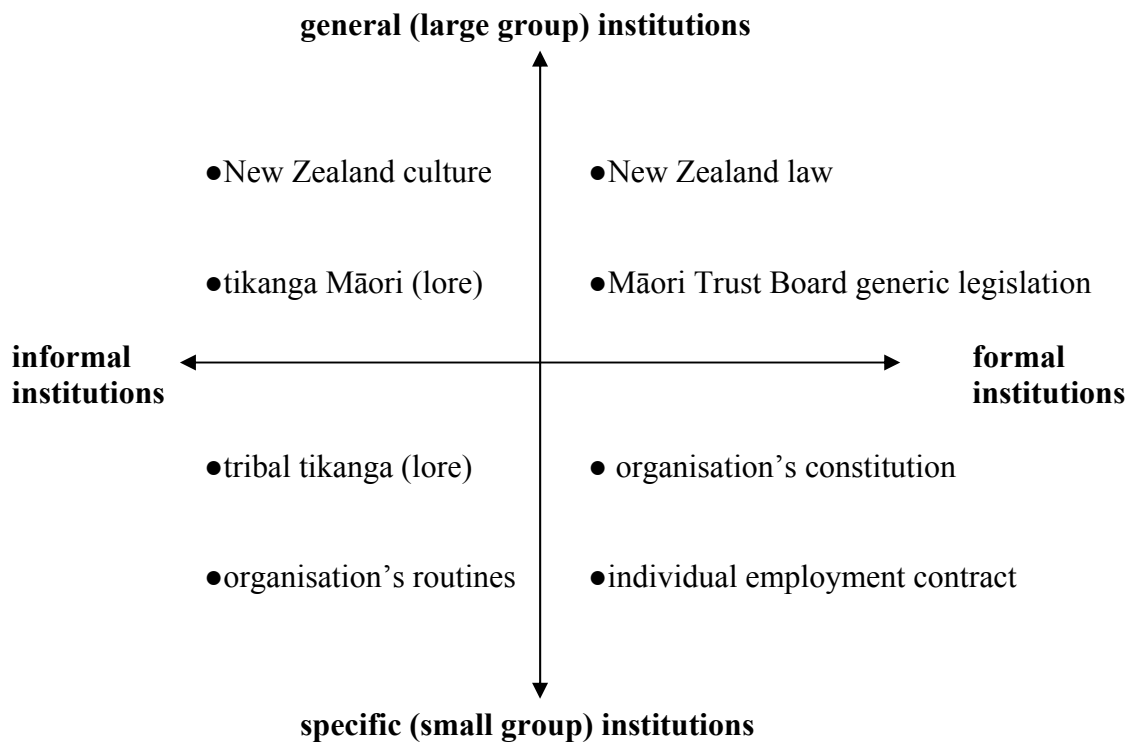
Figure 5: Continuity between formal and informal, general and specific institutions

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[265] Norms and networks are used here interchangeably with informal and explicit rules interchangeably with formal. There is some ambiguity in the correspondence as the terms are used by Ostrom and Ahn. Also, while a norm or network's distinctive feature is its informality (1st or 2nd party enforcement) this does not mean it does not have a formal manifestation or dimension.

[266] There is some correlation between (in)formality and scale, with a tendency for large scale institutions to be formal, but this is not a strict relationship. There are widespread social norms for example, such as the desirability to acknowledge a greeting or smile, which are entirely informal and formal contracts can be highly idiosyncratic and restricted in their applicability to only two persons.

The seemingly innocent inclusion in informal institutions of self-enforced behaviour has profound implications for theorising. It blurs the line between preferences and institutions, between individuals and collective culture, and between voluntary and involuntary behaviour. Individuals can no longer be understood as prior to all institutions and thus are not free to voluntarily choose all their institutions. An individual with *no* self-enforced informal institutions has no identity, no preferences and no basis for making any choices. Somewhere there has to have been some involuntary socialisation into, or genetic inheritance of, the informal institutions that drive choices.

Routines, competencies and networks

The concept of routines, or institutional habits employed by individuals to economise on the deliberative effort required in performing tasks, is associated with Herbert Simon (1976; 1998), as noted earlier. Nelson and Winter (1982) develop the idea of routines to support a competency model of organisations and evolutionary organisational change. In the analysis of the thesis, the distinctive feature of the network of relational contracts which make up organisations is their ability to foster the development of routines. It is the effectiveness of routines relative to fully articulated, fully deliberative interactions that account for the success of relational, relative to classical contracts, and thus the concept of the routine is expanded upon here.[267]

Nelson and Winter (1982, 73) describe a routine as 'a capability for a smooth sequence of co-ordinated behavior that is ordinarily effective relative to its objectives, given the context in which it normally occurs'. Many of the action steps in the routine are essentially automatic, according to Nelson and Winter, and involve a high degree of tacit knowledge. An actor is employing tacit knowledge when the action is being carried out faster than it can be consciously directed, causation is unknown, or causation is too costly to be fully articulated. Where tacit knowledge is being used choices are being made without being articulated, and indeed, a shift to making choices consciously may impair performance. Driving a car on 'auto-pilot' or playing sport are examples of

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[267] A fuller explanation of the relational contract concept occurs in section 5.3 'Relational Contracts in theory'.

the use of routines with a high degree of tacit knowledge. A characteristic of tacit knowledge is that it is acquired and retained by 'doing'.[268]

Routines may be learnt from others, in which case they will come with prior social testing and they are also subject to personal testing and revision. If a routine no longer delivers a satisfactory outcome because the individual has revised their standards or because external circumstances have changed, the actor will seek to modify the routine by innovating or by imitating routines used by others. Modified routines that are successful in meeting the standard will be retained. The incremental revision of routines in the light of revised objectives, new information about an easier way of achieving the standard, or poor performance constitutes a process of adaptive learning. Routines deliver outcomes which are judged satisfactory, rather than optimal, and their use is sometimes referred to as 'satisficing behaviour'. With optimal behaviour, all alternatives are known and ranked and the best is chosen. With satisficing behaviour, criteria exist to define a satisfactory outcome and the option chosen will meet these criteria (Kay 1997, 12; Simon 1998a, 243).

The shift from boundedly rational actors to a competency view of organisations and an evolutionary model of institutional change is based on the argument that groups of actors also employ routines and use adaptive learning processes to modify these routines. Thus '… the individual acts in situations of problem solving by enacting processes of imitation of already tried procedures, or generating new routines. Simplifying, we can state that firms, too, act using more or less the same mechanism'(Rizello 1997, 98).

The routines that an organisation employs involve a high level of tacit and social knowledge. As with individuals, tacit knowledge exists when a group has learnt to

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[268] Nelson and Winter actually use the word 'skill' when referring to individuals, as distinct from 'routine' which they use in the context of organisations, where '[i]t may refer to a repetitive pattern of activity in an entire organization, to an individual skill, or, as an adjective, to the smooth uneventful effectiveness of such an organizational or individual performance'(1982, 97). Here, the word routine is used for both individual and organisational action to emphasise the similarity in both contexts (while acknowledging that they are not identical). In the thesis, routines are a subset of institutions generally (recalling that institutions are 'regularities in behaviour'). Routines can be ascribed to an identifiable individual or group and are employed to carry out a particular task. The word 'competency' is also used in the literature to emphasise the outcome of the routine, or what it is that the routine enables the group to achieve. Nelson and Winter's (1982) discussion of skills and routines draws heavily on the work of Michael Polanyi.

perform a task, but knowledge of the interactions required are not fully articulated or consciously employed. Social knowledge refers to that which is held in common and, like language, is valuable because it is shared. Tacit and social knowledge assist with both co-ordination and incentive alignment and are worth more than the sum of individual knowledge because they are shared and agreed within the group. Routines are described as embodying the organisational memory and the internal political equilibrium of an organisation.[269]

The competency view considers that an organisation is defined by the routines it is able to perform to carry out particular tasks whether the organisation is a firm, a sports team or a community group. The shared character of group routines makes change more difficult for a group than for an individual because knowledge and control is dispersed. In both firms and individuals routines can be viewed as economising devices where the flexibility of deliberate choice is traded for ease in carrying out the routine. Indeed, for some authors it is the routinization of activities which is critical to expansion as it frees up deliberative managerial resources. Dispersion of control in the firm means that the balance between deliberative and routinized activity is more heavily weighted toward the latter, compared with the individual (Nelson and Winter 1982, 125). This means that reintroducing deliberation, as is required when routines are to be altered, is correspondingly more expensive.

The tacit knowledge embodied in an organisation's routines makes the routines difficult for others to imitate or trade and this accounts for the organisation's persistence in the competency view. The competencies that result from the most difficult-to-imitate routines are sometimes referred to as the 'core' of the organisation in contrast to those more easily imitated which are 'ancillary' (Langlois 1995; Foss and Knudsen 1996, 10). Routines may be the target of replication by the same firm, or imitation by another, but their high component of tacit knowledge and automaticity makes imitation a difficult and uncertain process.[270]

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[269] Nelson and Winter (1982, 105) offer the following example of the value of a routine arising from its being shared and agreed: '[w]ithout the crane operator's ability to interpret the hand signal for "down a little more" and to lower the hook accordingly, the abilities to perceive the need for the signal and to generate it are meaningless'.
[270] Langlois argues that the 'core' of the firm consists of capabilities which cannot be duplicated, bought or sold. At the core of the firm the 'make or buy' decision of transaction cost economics is irrelevant. '[T]he business firm arises because it can more cheaply redirect, co-ordinate, and where necessary create

Routines draw on general norms and formal/explicit rules but are considered here to be best understood as belonging to networks of particular people, as are found in the relational contracts of an organisation. This is because their tacit, idiosyncratic knowledge component resides in a group's experience, rather than in any formal rules or general norms. (They might also be thought of as group human capital, as human capital is similarly person specific.) Given their group specificity, if one replaced the participants of an organisation *en masse*, leaving the rules and norms unchanged but without any transmission of knowledge from old to new participants, one would expect to see different routines develop.

After word: Classifying institutions in theory and distinguishing them in practice

The above discussion has considered the ways institutions can be categorised conceptually. In empirical settings, however, it is often difficult to say which form of social capital is directing behaviour, particularly if different forms of social capital are consistent and a particular behaviour is consistent with them all.[271] (If the different conceptual forms are inconsistent and the behaviour is consistent with only one form, the operative influence is more obvious.) I may choose, for example, to repay you because I adhere to a generalised social norm of reciprocity, or because we are part of a personalised network, or because the law requires me to and I am afraid of being caught. I may choose to repay you and find it hard to say which of these is motivating my action.

Conclusion

This section has discussed the definition, purpose and classification of institutions. It sets out a schema for organising different types of institutions based on the concept of

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the capabilities necessary to make innovation work' (Langlois 1995, 3). Langlois (1995, 7) agrees with Williamson that whether the ancillary functions are carried out inside or outside the firm may depend on the relative production and transaction costs.

[271] Of course, this empirical difficulty is unsurprising, given that the original justification for considering different forms of social capital collectively was the empirical observation that they tend to operate in concert.

social capital defined as 'the accumulation of socio-economic institutions that coordinate activity and align incentives, making collective action possible'. The schema links the theoretical concepts of social capital, relational contracts and organisations. The following three sections (5.2. 5.3, 5.4) consider these three concepts in greater depth and then consider how they apply to the empirical findings on new iwi organisations.

5.2 New iwi organisations as social capital

Social capital in theory

Institutional change by evolution and design

Institutional change may be the result of deliberate human choice or it may arise spontaneously 'as the result of human action but not of human design'.[272] Change that is the result of human design is relatively discrete (i.e., can be located at a specific time) whereas spontaneous change tends to be incremental and evolutionary. With regard to the different types of social capital institutions, changes in norms and network routines are relatively spontaneous and incremental, while formal rules are subject to deliberate, discrete change.[273] North (1990, 6), for example, explains that:

> Although formal rules may change overnight as the result of political or judicial decisions, informal constraints embodied in customs, traditions, and codes of conduct are much more impervious to deliberate policies. These cultural constraints not only connect the past with the present and future, but provide us with a key to explaining the path of historical change.[274]

The distinction between institutions that change by design and those that evolve is important in empirical investigations of organisations because:

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[272] This phrase is attributed to Hayek, paraphrasing Adam Ferguson. Hayek's view was that '[t]he structure of prevailing institutions is far too complex for human beings to comprehend, hence there is no way people could actually have designed them' (Nelson 1995, 82).

[273] Although the changes in norms and network routines have been described as spontaneous and incremental, this is not to suggest that there are no deliberate efforts made to change these two types of institutions. The point is, rather, that *relative* to changes in formal rules, norms and networks are less amenable to deliberate manipulation. In the case of norms this is because they are partially internalised i.e, people believe in them, rather than adhere to them because they are useful. For network routines it is the substantial element of tacit knowledge which is learnt by trial and error, rather than chosen.

[274] As noted in the previous section (chapter 5.1) North considers norms and formal rules as institutions, but not network routines.

[H]ow an organization actually operates and the results it does achieve will depend on much more than the components that are deliberately designed. Organizations, too, develop their own informal rules, traditions and customs. Corporate "cultures" can vary widely. The informal rules that make up these cultures may be extremely important in the functioning of the organization, but were not designed by anyone. (Rutherford 1994, 90)

Evolution and design in the creation of the state[275]

Socio-evolutionary accounts of the state suggest that states have developed historically in a mix of evolutionary and discrete processes. There is a gradual shift from the informal norms and networks that mediate the relationships in small communities, to increasingly formal institutions mediating the relationships in large, modern states.[276]

The socio-evolutionary account argues that the institutions required to effectively coordinate behaviour and align incentives differ depending on the size of the group. In small communities interactions are repeated and individuals come to know each other personally, or through second parties. This means that informal institutions which rely on first and second party enforcement can be sufficient to regulate behaviour.[277] In large groups where members cannot know everyone personally defectors can escape sanction by moving to where they are unknown. In large groups, cooperation will not be stable without third party enforcement which can identify and sanction individuals who are not known personally. The economies of scale that are possible in large modern societies rely on formal institutions which make it tolerably safe to deal with those who are not known personally but who are identifiable by the formal institutions.

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[275] In the literature considered here the 'state' is taken to be synonymous with national governments who have a role as representatives of their citizens in international relations, and in providing public goods (such as national defence, and law and order). It should be noted that other disciplines in the social sciences draw a distinction between the nation state (and national governments) and 'state-like processes' which may be performed by entities other than national governments (see for example Trouillot 2001). They also consider how power is manifest in state processes and whether the interests of all citizens are being represented equally.

[276] Socio-evolutionary theories contrast with contract theories of the state. Contract theory suggests a group of rational individuals in the state of nature (i.e., unrelated by norms or networks) would deliberately create the formal institutions of the state because of the universal benefits of the rule of law (Mueller 1997, 125).

[277] It is both the long time-frame and the intensity of interactions that make first and second party enforcement feasible (Bowles and Gintis 2002, 424).

Hardin (1997, 31) summarises the socio-evolutionary approach by noting that:

> [I]n a primitive hunting society … there are reciprocal, iterated interactions among all the members of such a society, so that they can successfully sanction one another to act appropriately. In a pastoral society, the scale is greater and there may be need for specific leadership and authority to sanction miscreants. In more advanced societies, there is finally a need for law and its regular application. Somewhere between a small pastoral society and the more advanced society … we cannot be engaged in reciprocal, iterated interactions with more than a small percentage of our fellows.[278]

In the socio-evolutionary account of the state, complex industrial societies are characterised by an increase in formal institutions but most authors acknowledge that informal rules continue to be important. Fukuyama (2003, 296), for example, argues that:

> [C]oordination based on informal norms remains an important part of modern economies and arguably becomes more important as the nature of economic activity becomes more complex and technologically more sophisticated. Many complex services are very costly to monitor and are better controlled through internalised professional standards than through formal monitoring mechanisms.

North also emphasises the importance of informal institutions such as norms.

> If it were not costly to measure and enforce performance, people's attitude toward the contract would make no difference at all, since violators would be punished. But the higher the costs of measurement, the more the attitudes of the individuals concerned make a difference. (North 1986, 233)

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[278] By 'advanced' societies Hardin clearly means those with too many members for all to know each other personally. By law, he means a source of effective third party sanction to operate in the absence of effective first and second party sanction.   Note that although the shift from small to large scale community is a ubiquitous phenomenon globally, this does not mean that it is simple or inevitable. Woolcock (2003, 355) notes in the context of developing economies that both small village economies and large industrial economies are embedded in social relations but 'the transition from coordinating exchange in the former to the latter was highly problematic, since it entailed gaining knowledge of how to participate in, construct and maintain new institutional forms'.

> [Indeed] the measurement costs of constraining behavior are so high that in the absence of ideological convictions to constrain individual maximizing, the viability of the economic organization is threatened. (North 1981, 44)

Lastly, Arrow suggests that:

> In the absence of trust … opportunities for mutually beneficial co-operation would have to be foregone … norms of social behaviour, including ethical and moral codes (may be) … reactions of society to compensate for market failures. (Arrow 1971, cited in Bowles and Gintis 2002, 423)

Despite the acknowledgement that informal rules continue to be critical in modern societies characterised by the 'rule of law', theorising in the literature on the relationship between the two types of institutions is undeveloped. The relationship suggested by the empirical material is considered later in this section and in the next section on the relational contracts of the new iwi organisations.

Evolution and design in the creation of the firm

In contrast to the evolutionary development of the state firms have discrete beginnings and endings. They are created by individuals coming together to form voluntary, formal contracts. The contrast between the creation of the firm and the creation of the state is not as marked as it first seems, however, because the individuals that come together to form firms are not as separate as they might at first appear. Firms can only be created where individuals have joint access to social capital which is evolutionary in origin, such as a third party enforcement and informal institutions such as language.[279] In addition, they are often formed by small networks of people who know each other and who may already have been carrying out the activity for which firm subsequently becomes responsible. From a social capital perspective, the origin of an organisation

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[279] This point is discussed ahead in considering 'Relational contracts in theory' (chapter 5.3).

such as the firm has both discrete and evolutionary processes in common with the institutions of the state, although the balance between the two processes may vary.[280]

Trust and path dependence in institutional change

A feature of social capital emphasised both by game theorists and some empirically orientated writers such as Putnam, is that both trajectories of trust and distrust tend to self-reinforcing. Once a path is taken it is difficult to go back.

> Stocks of social capital such as trust, norms, and networks, tend to be self-reinforcing and cumulative. Virtuous circles result in social equilibrium with high levels of cooperation, trust, reciprocity, civic engagement, and collective well-being. These traits define the civic community. Conversely, the absence of these traits in *un*civic community is also self-reinforcing. Defection, distrust, shirking, exploitation, isolation, disorder, and stagnation intensify one another in a suffocating miasma of vicious circles. This argument suggests that there may be at least *two* broad equilibria toward which all societies that face problems of collective action (that is, *all* societies) tend to evolve and which, once attained, tend to be self-reinforcing. (Putnam, Leonardi et al. 2003, 234)

Gambetta is even more pessimistic suggesting that distrust is a more stable situation than trust.

> Trust is a peculiar belief predicated not on evidence but on lack of *contrary* evidence − a feature that … makes it vulnerable to deliberate destruction. In contrast, deep distrust is very difficult to invalidate through experience, for either it prevents people from engaging in the appropriate kind of social experiment, or worse, it leads to behaviour that bolsters the validity of distrust itself. … Once distrust has set in it soon becomes impossible to know if it was ever in fact justified because it has the capacity to become *self-fulfilling*, to generate a reality consistent with itself. (Gambetta 2003, 287, emphasis in original)

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[280] International commercial contracts similarly depend on pre-existing social capital and thus are only likely where there is capacity for inter-jurisdictional enforcement and institutional 'translators' - linguistic/cultural etc.

Interactions between bonding and bridging social capital

The most powerful and complex question that the social capital framework addresses is how different forms of social capital interact. Of these interactions, considerable attention has been placed on the relationship between the social capital binding together small groups internally and the social capital linking these groups to outsiders. 'Bonding' capital is used to refer to the institutions internal to societal sub-groups and 'bridging' capital to the institutions linking these groups to outsiders in the broader society (Woolcock and Narayan 2003, 421).

The importance of dense networks of personal relationships to the cohesion and collective action capacity of groups is undisputed. It is a stylised condition for cooperative solutions in game theoretic modelling (Putnam, Leonardi et al. 2003, 223). Where there is debate, however, is on the impact of small cohesive groups on the social capital of the societies in which they exist. Does strong social capital, and a resulting capacity to act collectively within societal sub-groups, increase or decrease the social capital and collective action capacity of society as a whole? The debate hinges on the attitude of groups with strong internal bonds towards outsiders and the relationship between the trust that exists in networks and the trust that exists as a society wide norm.

At one end of the debate is the view that the existence of small tightly knit sub-groups, based for example on ethnicity or politics, fractures society. Fukuyama (2003, 294) suggests that 'group solidarity in human communities is often purchased at the hostility toward out-group members. There appears to be a natural human proclivity for dividing the world into friends and enemies that is the basis of all politics'. Olson (1982) also argues that 'small interest groups have no incentive to work toward the common good of society and every incentive to engage in costly and inefficient "rent seeking"' (cited in Putnam, Leonardi et al. 2003, 233).[281] At their worst, it is argued, small tightly-bonded groups are detrimental to broader society, to central government, and even to their own members. They work for redistribution rather than creation of wealth; usurp

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[281] Woolcock and Narayan (2003, 418) quote an expression of this idea that strong bonding capital is detrimental to economic development from a 1951 United Nations document which suggested that for development to proceed 'ancient philosophies have to be scrapped; old social institutions have to disintegrate; bonds of caste, creed and race have to burst; and large numbers of persons who cannot keep up with progress have to have their expectations of a comfortable life frustrated'.

the role of government; inhibit mutually beneficial trading and information flows outside the group; and diminish individual incentives to wealth creation by spreading the returns of private effort across those inside the group.[282]

A more moderate position is adopted by Granovetter (2003, 103). He argues that small groups with strong internal ties need to be linked by externally orientated 'weak ties' to ensure general social cohesion and flow of information and resources between the group and broader society. Bonding capital needs to be associated with bridging capital to benefit the group and broader society. Even those who argue for the importance of societal networks concede that these have to be 'dense' or overlapping to generate generalised societal benefits. Putnam et al. suggest, for example, that:

> Dense but segregated horizontal networks sustain cooperation *within* each group, but networks of civic engagement that cut across social cleavages nourish wider cooperation. This is another reason why networks of civic engagement are such an important part of a community's stock of social capital. (Putnam, Leonardi et al. 2003, 232)

> Generalized reciprocity refers to a continuing relationship of exchange and that is at any given time unrequited or imbalanced, but that involves mutual expectations that a benefit granted now should be repaid in the future. … The norm of generalized reciprocity is a highly productive component of social capital. …[and *an*] *effective norm of generalized reciprocity is likely to be associated with dense networks of social exchange*. (Putnam, Leonardi et al. 2003, 229, emphasis added)

Fukuyama (2003) points out that a high level of internal trust within a group may be associated with either a trusting or distrusting attitude towards outsiders. He conceptualises the external effects of small groups in terms of their 'radius of trust'.

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[282] This is an example of a broader phenomenon. Strong social capital, i.e, a strong capacity to act collectively does not imply anything about the merit of the goals to which the collective aspires. Thus a mystical cult may have extremely strong internal bonds and capacity to act collectively but these may cause it to murder others or to commit mass suicide. Similarly, a nation with strong internal cohesion may use this to invade other nations or to foster peace in the world.

All groups embodying social capital have a certain radius of trust, that is, the circle of people among whom cooperative norms are operative. If a group's social capital produces positive externalities, the radius of trust can be larger than the group itself. It is also possible for the radius of trust to be smaller than the membership of the group, as in larger organizations that foster cooperative norms only among the group's leadership or permanent staff. A modern society may be thought of as a series of concentric and overlapping radii of trust. (Fukuyama 2003, 294)

Logically, the denser the areas of overlapping trust and fewer the groups with external radii of distrust, the greater the cohesion and collective action capacity of the society as a whole. Taking this view, it is a matter for empirical investigation whether for any particular group, strong bonding capital is associated with strong or weak bridging capital.[283]

Transaction costs: the costs of creating and operating social capital institutions

Definition and origin of transaction costs

Transaction cost economics is a core concern of new institutional economics.[284] Despite its centrality, the literature has difficulty agreeing on a definition of transaction costs, or even of transaction.[285] A definition of transaction costs is adopted here that is

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[283] Annen (2001) reports on empirical work investigating this question. Annen uses the terms exclusive and inclusive social capital, with the former referring to bonding capital in the absence of bridging and the latter to the existence of both. In this study, inclusive social capital is associated with positive economic outcomes.

[284] For example, a report on the 1997 inaugural conference of the International Society for the New Institutional Economics suggested that 'despite this rather broad outline, the center of interest of the Society will remain the approach to economics associated with transaction-costs, property-rights, and public-choice analysis'(Furubotn and Richter 1997a, 780). Transaction cost economics is associated most famously with Oliver Williamson whose work explores how transaction costs drive institutional choice. Williamson's work is considered ahead in the section on 'Matching governance institutions with institutions: Williamson's discriminating alignment hypothesis', chapter 5.3.

[285] Logically, one should start with a definition of transaction, but this seems to be something of a dead end in the literature. For example, Williamson (1985, 1) suggests that '[a] transaction occurs when a good or service is transferred across a technologically separable interface. One stage of activity terminates and another begins'. Commons, by contrast, talked about transactions as 'the alienation and acquisition between individuals of the rights of future ownership of physical things' cited in Furubotn and Richter (1997, 42). I find neither of these definitions useful. The first is obscure and the second is too narrow. To the extent that the definition of transaction costs is unclear in the new institutional economics literature, it is unclear how far the definition adopted here is consistent with it.

consistent with the creation and use of a new institutional economics – social capital framework. Thus transaction costs are defined here as the resources required to create, maintain and operate the institutions of collective action. These institutions must provide a way for groups to decide on a plan of collective action, to define the rights and obligations of individuals with respect to this action plan, and to enact mechanisms for ensuring individuals enjoy their rights and meet their obligations.

In the schema adopted here, transaction costs are the costs of creating, maintaining and operating social capital. This definition of transaction costs is broadly consistent with that provided by Furubotn and Richter who suggest that '… transaction costs include the costs of resources utilized for the creation, maintenance, use, change, and so on of institutions' (1997, 40). Defining transaction costs as the costs of social capital, and social capital as the institutions that mediate the interactions between individuals carrying out collective action tasks, 'transactions' are being defined indirectly as 'the interactions between individuals required to carry out collective action tasks'.

Furubotn and Richter (1997, 39) discuss the relationship between transaction and decision-making costs as follows:

> But insofar as people are conceived as possessing limited and bounded rationality, it is clear that they must incur what we call "transaction costs" and that nonzero transaction costs will be incurred no matter what sector of an economy decision makers are conducting operations in and what type of activity they are performing. Because of their human limitations, their restricted knowledge, and their tendency to make errors, real-world decision makers will always function inefficiently relative to the hypothetical decision makers of neoclassical theory. In short, transaction costs attributable to this inefficiency must arise. Transaction costs are encountered *universally* because of the character of the individuals who make decisions. (emphasis in original)

Transaction costs are unavoidable for boundedly rational human beings. They are costs which arise because in the real world decision-making, including collective decision-

making, is not free.[286]   This argument is consistent with the social capital based definition of transaction costs outlined above. In the previous section (chapter 5.1) it was argued that social capital institutions are required to overcome the problems arising from bounded rationality. Thus the transaction costs of social capital institutions are ultimately the result of bounded rationality.

Difficulties with the definition of transaction costs

The definition of transaction costs as the costs of social capital institutions is attractive for its theoretical simplicity but its breadth does create problems. Firstly, because social capital has been broadly defined, a complete account of transaction costs should include all the costs of the background institutions supporting collective action. This includes the institutions of the state (legislature, judiciary, army etc), social norms (and thus, the costs of socialising children) and resources spent developing network routines. In practice, the costs of background institutions are usually taken as given and only the variable costs of different types of formally designed institution are considered, e.g., market versus the firm. This is not satisfactory, however, when comparing situations where these background institutions differ e.g., across cultures or time, that is, *ceteris imparibus*.[287]

The second difficulty with the definition of transaction costs above is that the costs of exercising one's rights and obligations with respect to particular tasks can be difficult at the margin to distinguish from any of the other costs of performing the tasks. The cost of drawing up a formal contract might be easily identified as the transaction costs of creating social capital, but it is not clear whether the costs of ongoing consultation on

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[286] It is common in the literature to define transaction costs in contra-distinction to neoclassical economic assumptions. It is also somewhat paradoxical that, despite the efforts to show that the world of new institutional economics is fundamentally unlike the neoclassical world, the former is still often described with reference to the latter. The tendency to define transaction costs in contrast to the neoclassical model is evidenced in the following analogy with physics: 'transaction costs are the economic counterpart of friction' (Williamson 1985, 2); that is, just as friction arises because events in the everyday world do not take place in a vacuum, transaction costs arise because information and deliberation in the everyday world are not costless.

[287] The exclusive focus on formal institutions is also not satisfactory in the light of statements such as 'corporate culture lowers transaction costs' (compared with explicit monitoring, for example). This statement seems to ignore the costs associated with creating and sustaining corporate culture, which are a type of transaction costs under the definition used here. A better approach is to recognise that some institutions (such as corporate culture) might have relatively higher sunk costs and lower operating costs than others (such as explicit monitoring).

how a job is progressing are production costs or coordination and monitoring (i.e. transaction) costs. Similarly unclear are the costs of training a team to work together.[288] Furubotn and Richter (1997, 41) point out that 'in practice, transaction costs are not easily distinguished from production or transport costs, or indeed any other type of cost'.

Examples and estimates of transaction costs

Furubotn and Richter (1997, 42-49) consider examples of transaction costs in the market, the firm and the state. Market transaction costs include the resources required for search and information, negotiation and deliberation, and monitoring and enforcement. Firms participate in and thus incur market transaction costs but also expend resources in establishment (e.g., drawing up constitutions etc.) and ongoing management (acquiring information, deliberating, communicating and monitoring). The costs associated with physical transfer of goods (ordering, checking, storing etc.) are also classified by Furubotn and Richter (1997, 46) as transaction costs.

The costs of maintaining a polity to protect property and personal rights, or, 'the costs of supplying public goods by collective action' are termed political transaction costs by Furubotn and Richter (1997, 47). These include the resources expended in running the legislature, state administration, police, judiciary and army. Furubotn and Richter (1997, 47) include the costs of education in political transaction costs. They do not mention the 'private' costs of maintaining informal institutions, however, for example the considerable resources associated with educating and socialising children within the family.

Furubotn and Richter (1997, 49-54) move on to discuss the task of 'guesstimating the size of transaction costs' in the economy. Among other examples, they consider the work of Wallis and North (1988) who estimated that some 50% of GNP of the 1970 United States economy was being spent on transaction costs, up from 26% in 1870. Wallis and North attribute the rise to increased specialisation (associated with increased impersonal exchange and search for information), an increase in the efficient scale of

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[288] As noted earlier, group human capital and social capital institutions such as routines are difficult to distinguish in either theory or practice.

technology (requiring wider coordination of resources) and the increased size of government. Furubotn and Richter point out that given the magnitude of transaction costs indicated by these estimates, the work of the institutional entrepreneur to develop new institutional forms which reduce transaction costs can have a major economic impact.

Furubotn and Richter (1997, 48) suggest that '[f]rom what has been said so far, it appears that transaction costs are, essentially, the costs of specialization and the division of labor'. As noted, the preference here is to view transaction costs as the costs of the institutions of collective action. It is accepted, however, that transaction costs grow as the size of the collective grows and tasks become more complex, i.e., they grow with specialization and division of labour, which are hallmarks of modern economic organisation. Transaction costs increase with increasing complexity of tasks because more resources have to be put into defining the minutiae of rights and obligations. Transaction costs increase with increasing numbers because formal institutions must be added to informal and because social norms become more diverse as social experience becomes more diverse, reducing their ability to coordinate behaviour.

Social capital, transaction costs, rights and obligations

Social capital institutions channel individual behaviour in directions consistent with the collective good by attaching consequences to an individual's actions. The consequences created by institutions shape what you are allowed to do (your rights) and what you must do (your obligations). Institutions create rights and obligations and the costs of creating, exercising or transferring these rights and obligations are the transaction costs of running the institutions. The three elements: institutions, rights and obligations, and transaction costs are inextricably linked. The inter-relationship between these three elements, as envisaged in the thesis, is depicted in the figure below.

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┌─────────────┐
│ social      │
│ capital     │
│ institutions│
└─────────────┘
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transaction costs influence institutional choices ex-ante
and institutions determine transaction costs ex-post[289]

┌──────────────────────┐
│ **transaction costs**   │
└──────────────────────┘

mutually define

transaction costs are the costs of creating, exercising and
transferring the rights and the obligations associated with
social capital institutions

┌──────────────────────────────────┐
│ **rights and obligations**   │
│ of parties, with respect to particular│
│ tasks/processes/situations   │
└──────────────────────────────────┘

Figure 6: Relationship between institutions, rights and obligations and transaction costs

When interpreting the above diagram, it must be remembered that social capital institutions evolve; they are not created at one point in time, for all time. Thus, the choice of new institutions will be influenced by transaction costs, but the marginal transaction costs of the new institutions will depend on what social capital already exists, that is, on previous transaction cost expenditures. These relationships generate path dependence in institutional change in addition to dependence arising from the stability of trust and distrust.

Evaluating institutions – the question of efficiency

'Efficiency' criteria are commonly cited as a factor driving institutional change, or used to assess whether a particular change is desirable. For example, North (1981, 33) suggests that 'under the ubiquitous conditions of scarcity and therefore economic

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[289] Transaction costs are held to influence the choice of designed institutions (where conscious choices being made). How the influence the creation and survival evolutionary institutions is a matter of theoretical conjecture and empirical investigation.

competition, more efficient forms of economic organisation will replace less efficient forms under *ceteris paribus* conditions'.[290] Oliver Williamson similarly suggests that 'the argument relies in a general, background way on the efficacy of competition to perform a sort between more and less efficient modes and to shift resources in favour of the former' (1985, 22).

Despite the common use of the term efficiency, its meaning in the context of new institutional economics is unclear. As Furubotn and Richter (1997, 477) point out:

> Economists frequently speak of "efficiency" but one consequence of the movement into the territory of the New Institutional Economics is that we are left without a standard that can be described as comprehensive in its applicability and rigorous in its formulation.

The world of new institutional economics is one in which boundedly rational individuals have a partial, subjective knowledge of the world, such that they make satisfactory, not optimal decisions. It is a world in a state of evolution, not equilibrium. It is a world where institutional change usually involves redistribution for which compensation does not, or cannot occur.[291] In new institutional economics writing, efficient is used to mean 'better', but it is not used as a short-hand for Pareto optimal efficiency, as in neoclassical economics.

The inadequacy of the Pareto optimality of neoclassical economics for the world of new institutional economics has led some to dismiss it in favour of the 'comparative institutional' approach. The difference between the two approaches is explained by Demsetz:

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[290] This was North's early position. Later he cautioned against assuming more efficient forms would dominate although he continued to measure institutional efficiency in terms of economic growth [see North (1990, 6)].

[291] Compensation may not occur because it is costly to measure or implement. It may not be possible if the rights being lost have an intrinsic value, that is, they are ends in themselves, as may be the case for political rights or those that reflect ethical values. Analyses such as Williamson's focus on property rights which are fully transferable, rather than political or human rights which are not. For a more detailed explanation of why the neoclassical concept of inefficiency is not applicable to the world of new institutional economics see Furubotn and Richter (1997, 458-464).

The view that now pervades much public policy economics implicitly presents the relevant choice as between an ideal norm and an existing "imperfect" institutional arrangement. This *nirvana* approach differs considerably from a *comparative institution* approach in which the relevant choice is between alternative real institutional arrangements. In practice, those who adopt the nirvana viewpoint seek to discover discrepancies between the ideal and the real and if discrepancies are found, they deduce that the real is inefficient. Users of the comparative institution approach attempt to assess which alternative real institutional arrangement seems best able to cope with the economic problem; (1969, 1, emphasis in original)

Social capital has been defined here as the institutions that allow groups to act collectively. Better or more efficient institutions are those that yield better collective outcomes for the same effort (or the same outcome for less effort). This definition leaves open the question of how better collective outcomes are assessed. Some, such as North, use economic growth as a proxy indicator for social welfare and thus for institutional efficiency. For North higher economic growth rates are, by definition evidence of superior institutions.[292] The weaknesses of this measure of institutional efficiency are the weaknesses of economic growth as a measure of collective welfare.[293]

Intrinsic versus instrumental value of social capital

Implicit in most discussion of institutional efficiency is an instrumental view of the role of institutions; institutions are a means to achieve a previously defined outcome. The instrumental view of institutions predominates in the literature. Nelson and Winter (1982, 73), for example, describe a routine as 'a capability for a smooth sequence of co-ordinated behavior that is ordinarily effective relative to its objectives, given the context in which it normally occurs'. A few authors explicitly depart from this instrumental

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[292] As an example of this North (1990, 8-9) suggests that '[w]e can expand on this characterization of institutional change by contrasting a successful path with one of persistent failure. The first is a familiar story in U.S. economic history – the growth of the economy in the nineteenth century. … [the second story is that of] many Third World countries today as well as those that have characterized much of the world's economic history'.

[293] The debate on the adequacy of economic growth measures as a proxy for social welfare include its exclusion of activities that do not have monetary values attached, failure to take account of distributional effects (including those on other countries or future generations) and positive valuation of 'negative' activities such as incarceration or war.

view and consider institutions designed to facilitate the collective discovery of ends, or as ends in themselves. Institutions that are ends in themselves are intrinsically valued. Which of these views is taken of an organisation's institutions has implications for how they are evaluated.

A view of political institutions as a means for discovering collective ends, and in the process, to discover individual ends, is presented by Linder and Peters (1995). They distinguish between the individualist tradition expressed by Locke and Kant where self-fulfilment is the freedom to design and choose one's own ends, and the communal traditions where self is a process of discovery that can only occur in community. Linders and Peters (1995) suggest that:

> For others, like Habermas, social rationality only emerges from public dialogue that meets universal requirements for open discourse and equal participation (140). ... This process of discovery cannot be done in isolation but entails both reflection and dialogue with others who share, and hence mutually constitute, the same context. From this perspective, autonomous choice regarding ends is a misleading and potentially disabling fiction (147). … For critical theorists, the intersubjective process lies at the heart of true moral judgement; its adoption and operation are crucial to sorting out of individual ends but, more important, to the rational direction of the community. … democratic participation in public deliberation … is thought to build the character necessary to harmonise one's ends and guide the community (148).

The mainstream literature at times makes references to the possibility that institutions may hold some intrinsic value, that is, be ends in themselves. For example, Furubotn and Richter (1997, 272) discuss social transactions where '[t]he "relation" becomes, within limits, an objective of its own'. Some discussions of 'organisational culture' also contain an implicit reference to an intrinsic element in the organisation's institutions. Successfully inducting an organisation's members into the cultural code occurs when they view this way of behaving not just as useful for the organisation, or themselves within the organisation, but as the *right* way to behave (Miller 1992, 2). Thus the exhortation to behave 'professionally' is not just followed because it is required, but

because the individual is a professional and that is how professionals behave. Behaviour consistent with the institutions is an expression of identity.

Whether one views an organisation's institutions as instrumentally or intrinsically valuable has implications for design and change. For example, in an institution that has been created to deliver on clearly stated ends it is reasonable to focus on reducing the agency costs of meeting those ends. If it is an organisation created to formulate ends then a small representative sample of individuals is sufficient to carry out this task. If, however, it is an institution where participation is an end in itself (that is, central to developing identity, collective culture and belonging) then the aim is for as widespread participation as possible. One of the sources of confusion in evaluating new iwi organisations is that different groups have different views on which of these situations describes the organisations.

If an institution is instrumental it can be changed to better produce a desired outcome but if the institutional processes are themselves important (i.e. a reflection of values) then changes must be consistent with these values. Thus it is more difficult to define efficiency or effectiveness for institutions where both means and ends are important. (This will always be true where institutions are delivering on several non-commensurate objectives). The intrinsic component of an institution cements the compromise and coordination functions and increases its prospects for survival. The longer an institution has been around, the greater the tendency for intrinsic and instrumental values to become entwined.

The question of whether institutions are of instrumental or intrinsic value is related to the discussion of whether social capital is deliberately created through investment or whether participating in social capital institutions can be a consumption activity. To fit into the category of 'capital', it is argued, social capital should be restricted to an investment activity. With respect to creation, Ostrom and Ahn (2003, xxxi) suggest that 'all uses of time are fundamentally purposive … [and the] … real puzzle is not whether these choices are self-conscious, but whether they are self-conscious investment rather than simply a consumptive activity with an unplanned flow of benefits'. The answer they provide is that some forms of social capital are more obviously investment than others.

The creation of formal institutions is most easily understood as investment but the resources put into teaching and learning social norms is an investment analogous to the accumulation of human capital.[294] It is the time spent building networks which is most ambiguous with the majority of personal relationships having both immediate or intrinsic benefits, as well as future returns. Even here, though, it is difficult to argue that the cultivation of business relationships by organisations is not partly investment activity (jokes about corporate social events notwithstanding) and that the energy individuals put into family and friends in difficult times carries an expectation of future reciprocity.

Social capital in new iwi organisations

Nature of the social capital in new iwi organisations

New iwi organisations are constituted from all three forms of social capital: general norms, personal networks, and formal rules. The establishment of the organisations is associated with the legal registration of their constitutions, but this process is carried out by a core group of iwi members who have a dense network of personal relations and a shared inheritance of cultural norms. The ongoing election of tribal representatives onto the board of the organisation is similarly carried out by members individually, or marae collectives, who are linked by long established norms and networks.

The norms and networks of tribal organisations are evolving forms of social capital, passed down over generations. Most individuals involved in new iwi organisations will have been born and raised into them (although ongoing participation is a matter of conscious choice).[295] Norms and networks exist prior to the constitution of the formal

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[294] It is not only analogous, but often inseparable, as anyone raising young children will testify.

[295] Dasgupta (2003, 325) provides the following explanation of why traditional 'ethnic' networks are so persistent from one generation to the next: '…investment in channels is *irreversible*: one can't costlessly redirect channels once they have been established (such investments are inevitably specific to the relationships in question). Moreover, if trust begets trust, the cost of maintaining a channel would decline with repeated use (witness that we take our closest friends and relatives often for granted). So, using a channel gives rise to an externality over time, much as in 'learning by doing' in the field of technology use. The benefits from creating new channels are therefore low if one has inherited a rich network of

organisation and a role of the formal organisation is to maintain and build them further.[296] The norms and networks of the iwi would persist even if the formal organisation were to dissolve.

The formal constitutions of new iwi organisations have specific establishment dates but even here there are evolutionary processes at work. All the iwi studied had previous experience in similar formal institutions and thus had pre-existing routines for operating such institutions. In addition, discrete establishment takes place against a backdrop of evolving mainstream organisational practice (norms), legal forms and third party enforcement (which supports all the formal rules).

In addition to their norms, networks and formal constitutions the new iwi organisations studied had numerous formal contractual relationships connecting them externally such as those underpinning Treaty settlements, service delivery, employment and commercial ventures. Many of these were also based, however, on long standing and evolving relationships (i.e. networks) with the Crown, or with other tribal groups. Finally, tribal organisations also have rights that have been specified in domestic legislation (such as the right to be involved in resource management processes) and in international treaties (such as the UN Declaration on the Rights of Indigenous Peoples), which constitute part of their broadly defined social capital.[297]

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relationships. This is another way of saying that the cost of not using inherited channels is high. Outside opportunities have to be especially good before one severs inherited links'.

Dasgupta suggests a persistence of inherited channels, but the question then is why many with whakapapa have not maintained these networks and norms. The obvious answer is that as whānau and hapū lost economic (and political) power, members had to shift to find economic opportunities. Some maintained old networks even after shifting (for social and cultural, if not economic reasons), but others formed new ones – both Māori and non-Māori. The diversity of new Māori networks from those based around religion, to sport, to social development (eg the Māori Women's Welfare League), to motorbikes (eg Black Power, Mongrel Mob) is testament to the persistent of a network-forming tendency. The return of economic resources to iwi and hapū has allowed them to again supply their member networks with some modest economic returns but the social, cultural and political benefits still dominate (as argued ahead).

[296] The new iwi organisations studied put considerable emphasis on maintaining networks and norms where they already exist and into incorporating new-comers - 'distant relatives' - who have whakapapa links to the tribe but have only weak effective connections. These may be people raised in the networks and norms who have not maintained them or those whose parents chose not to maintain them. The emphasis placed on tribal hui (political, social, cultural, historical and sporting), funding marae activities and direct sponsorship of language programmes fall into this category. These events are intended to be fun but also are investments in building networks and norms among iwi members.

[297] International treaties only form part of the organisation's social capital to the extent that they actually mediate collective action which is obviously dependent on the attitude of the NZ government to such treaties.

Social capital theory suggests that the three forms of social capital work together to determine the effectiveness of the organisation, but that these three forms are logically distinct. In iwi organisations, while it is possible to describe norms in a generalised, impersonal way, networks are so dense that it is unlikely that cultural norms alone will be mediating a relationship. One is unlikely to have to 'give a stranger the benefit of the doubt' because if you do not know someone personally, you will know someone who does. If it is important, you can get references. In addition to contemporary networks, individuals are networked through their whakapapa (i.e., genealogy) and these connections matter for such individuals. The converse of this is that if someone is not found to be connected through the network, it is highly unlikely that they are immersed in tribal norms. Individuals who have whakapapa but are immersed neither in the networks nor the norms are relatively easily identified and are subject to different rules of interaction (considered further below). Thus in the area of this research, norms and networks do not operate in isolation from each other.[298]

An example of the overlap between norms and networks can be found in the way the Māori principle of reciprocity works in a tribal context.[299] The general norm includes an understanding that the closeness of the connection determines the size of the support one might expect to receive or supply; an acceptance that those who command more resources can hope to give and receive bigger favours; and an awareness that those in positions of relative power and influence are expected to support particular categories of the less powerful, e.g., younger people, even where not closely connected. When the norm is exercised, however, it is with respect to a particular individual and that individual becomes part of one's network, which contains a web of specific reciprocity relationships each with its own specific history of account.

The cases provide other examples of this overlap of norms (generalised institutions) and networks (institutions mediating relationships between specific individuals). Tribal histories, for example, such as commence each of the case reports, relate to figures

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[298] This is not the same as saying that norms are subsumed within networks. Tribal networks will develop social capital such as routines, in relation to their frequency or use, in the same way as any other network. Tribes will similarly have norms of behaviour (tikanga) that apply in a general way to all members. The point is that the norms will be mediating relations between individuals who can and will determine the specific identity of the other party.

[299] This is an example of what Putnam et al (2003, 229) call 'generalized reciprocity' where there is a 'continuing relationship of exchange that is at any time unrequited or imbalanced, but that involves mutual expectations that a benefit granted now should be repaid in the future'.

important to the tribe as a whole. Through whakapapa, however, individuals will be able to link themselves in specific ways to these individuals and stories. Similarly, when the advantage of the services provided by the Rūnanga was explained to me, knowledge of the community's culture was placed alongside knowledge of the community's families/individuals: 'people who work under contract with the Rūnanga know the people who they are serving, they need no induction training to be done, they know the community, they know the relationships, and in my view it's a very useful way of providing services that are culturally appropriate to them' (Royal, 2001, para 40).

Bonding and bridging social capital in new iwi organisations

Propositions emerging from the case studies about the relationship between bonding and bridging capital[300]

The interviews and documents that gave rise to my case reports were laden with references to relationships. These relationships were of two broad kinds: those that constituted bonding capital internal to the iwi, and those that concerned the bridging capital between the iwi and external parties. A key proposal emerging from the empirical work is that new iwi organisations are centrally concerned with both bonding and bridging social capital, that is, with relationships both internal and external to the iwi, and their task is to manage the tensions between the two.[301] More specifically, the case reports spoke about the importance to new iwi organisations of:

1. Nurturing the bonding capital within hapū;[302]
2. Building bridging capital between hapū, with such capital constituting the bonding capital of the iwi, along with bonding capital internal to hapū;

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[300] This section begins with some broad propositions induced from the field work, using the terminology and concepts introduced in the discussion of 'Social capital in theory' in the previous section. The next section provides empirical examples of the broad propositions, drawn from the case reports.

[301] This proposition casts new iwi organisations in the role of intermediaries, and this way of conceptualising their role is discussed later in the section on 'New iwi organisations, qua organisations' (chapter 5.4).

[302] For reasons discussed in the case reports, 'hapū' as used here, should be understood as a shorthand expression for 'marae and hapū'.

3. Building bridging capital between the iwi and external groups (particularly government, but also other iwi, other Māori, commercial parties and community groups).

Iwi bonding capital is the fundamental driver creating new iwi organisations and its nurture is their fundamental purpose. Bridging capital, or external opportunities, are the immediate reason for the creation of new iwi organisations, however, and maintenance and expansion of bridging capital their most visible activity.

New iwi organisations, in their narrow, formal sense, are instrumental social capital institutions. Their role is to provide bridges along which resources and opportunities can be secured. The ultimate aim of securing these resources is, however, to build the internal bonding capital of iwi and hapū and these are institutions with intrinsic value. New iwi organisations are instrumental institutions for building intrinsically valued institutions.[303]

New iwi organisations are made up, it is argued, of norms, network and formal institutions. These different types of institutions are not, however, uniformly spread across the bonding and bridging capital of new iwi organisations. In the bonding social capital which mediates relations within and between hapū, informal norms and networks continue to dominate. In the bridging capital that mediates relations with external parties, formal institutions are more evident.

In the discussion of the literature above, formal institutions were argued to be important for regulating relations with relatively unknown parties. This is evident from the case-studies. Formal institutions are used to underpin new commercial relationships, and also to mediate the relationship with potential members who are, as yet, largely unknown. As the relationships develop, informal institutions develop to supplement these formal entrance points. All three iwi discussed the importance of personal relationships (and by implication, informal institutions) to successful dealings with Crown entities, commercial parties, and other iwi.

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[303] The nature of the intrinsic and instrumental benefits associated with participation is discussed in the section entitled 'Structuring costs and benefits to facilitate coordination and block defection in new iwi organisations' below.

The case studies also suggest that formal institutions are more important the less the overlap in objectives between the two parties, and this may or may not coincide with the party being unknown. Thus even where the Crown and iwi have a long standing relationship such that they have intimate interpersonal knowledge, the divergences in their objectives make formal agreements necessary. Lastly, in contemporary society, formal institutions are universally used to underpin relationships which involve ownership of physical and financial assets, regardless of the degree of intimacy of the parties. The most important relationships of the iwi have pre-existing informal institutions mediating their interactions but the introduction of formal institutions coincides with the transfer of physical and financial assets. This appeared to be the primary reason why new iwi organisations were required to have a formal institutional basis to both their internal and external dealings.[304]

The characteristics of the bonding and bridging capital of new iwi organisations discussed above are summarised in the table below.

Type of Social Capital / Characteristic	Bonding social capital	Bridging social capital
Intrinsic or instrumentally valuable	primarily intrinsic	primarily instrumental
Longevity	relatively long term	relatively short term
Formal or informal institutions predominate	informal (networks and norms) more evident	formal more evident

Table 12: Characteristics of the bonding and bridging capital of new iwi organisations

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[304] One might speculate that the reason that relationships involving the ownership of physical/financial assets invariably attract formal regulation is that our collective experience is that such assets often become associated with disputes (regardless of current harmony between parties). Thus relationships involving property are a subset of relationships with (at least potential) goal incongruence.
The role of formal and informal institutions in mediating relations is returned to in the section below on relational contracts (chapter 5.3).

It was proposed earlier that new iwi organisations were not just concerned with both bonding and bridging capital but more particularly, with managing the tensions between these two types of relationships. There were many examples of this in the case reports. The tensions were not just between the demands of members and the demands of the Crown but equally in the balance between hapū autonomy and tribal unity.

The tension between bonding and bridging capital arises if the bonding capital gives rise to the question: 'are you in or out?'. The most fundamental strategy for resolving this tension in the case reports was to transform this enquiry into the question: 'how are we connected?'. The latter question allows for the possibility that links differ in their nature, but that all are of value. This strategy, of emphasising connectedness to all the parties with which one had dealings, was evident from the case reports.[305]

The tension between hapū and iwi can be understood as a tension between the relative strengths of small groups in sustaining bonding capital via dense networks and larger groups in securing resources and realising economies of scale in activities. The challenge for iwi is to capture the bonding capital advantages of hapū by building strong bridging capital between hapū, so that these two together (inter and intra hapū social capital) become the bonding capital of the iwi.[306] One of the ways they do this is to convince hapū of their superior capacity to build external relationships and to secure resources as a result.

The advantages of small groups in sustaining bonding capital through informal institutions raises a dynamic dilemma for iwi organisations. They begin life with relatively small groups of active participants (tens and hundreds), but their objective is to increase the level of active participation into the thousands (or for the large and ambitious, into the tens of thousands). The mechanism for coping with this is an extension of the above strategy of linking hapū bonding capital into iwi bonding capital.

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[305] In addition to the case examples, there is a strong Māori norm which regards networking as an art form. This is evident in the veneration of those who can connect anyone and everyone they come across either by whakapapa, or by chains of personal connection. I am not alone in having a kuia who would do this, even for people she met when overseas.

[306] This is generalisable to all 'confederation' situations. That is, confederations must build bridging capital between their constituent parts that becomes the bonding capital of the confederation as a whole. In the Australian Aboriginal context the need to balance central and local power has been discussed by Sanders (2004, 15) who suggests that 'Indigenous localism and autonomy has [sic] to be seen in the context of, and balanced with, Indigenous regionalism and relatedness'.

The new iwi organisations provide the formal institutions to mediate participation of newcomers and conducts activities to foster an 'iwi identity' amongst members. In addition, however, they provide bridges for initiating newcomers into the small group norms and networks of constituent marae and hapū.[307]

In summary, new iwi organisations utilise the social capital of iwi, which in turn brings together the social capital of whānau and hapū.[308] Moving from whānau and hapū, through iwi to new iwi organisations, one shifts from a relative strength in bonding capital to bridging capital (or, to use Fukuyama's (2003) terms, from a narrow and dense, to a wide and loose radius of trust). Whānau and hapū embody the densest social networks and have the greatest role in transmission of cultural norms. They are the most important custodians of bonding capital and this is their primary role. Iwi link the bonding capital of hapū into a larger, looser network, in order to interact effectively with other groups. These may be other iwi, other Māori, government, community or commercial parties. The distribution of bonding and bridging capital in whānau and hapū, iwi and new iwi organisations, and the way these groups are related, is set out in the figure below.

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[307] Waikato has a considerably larger membership than both Ngāti Whatua and Ngāti Raukawa (some 50,000, compared with around 10,000). It is tempting to question how this impacts on the balance and efficacy between formal and informal institutions. While the case material does not provide sufficient evidence to do more than speculate, it is notable that Waikato's traditional institutions (particularly the Kīngitanga) are much more structured than those in the smaller iwi (consistent with their larger size) and the presence of these more structured traditional institutions created tensions when a new formal structure was established. In addition, one would expect a larger tribe to have greater difficulty coordinating and resolving conflict through informal networks which rely on intense interpersonal contact, and this has certainly been the case in Waikato.
[308] The relationship between whānau and hapu is not discussed here because it was not raised by those interviewed or in iwi documents. It seems likely that hapū also face issues in unifying and managing tensions between their constituent whānau, just as whānau face issues in managing their individual members.

Iwi : both bonding and bridging capital important
(bridges between hapu become iwi bonding capital;
iwi social capital has both intrinsic and instrumental
value; unified iwi establishes external informal relations)

NIO
builds
support
for iwi
via hui,
scholarships etc

Iwi
delegates
rights
to
NIO

hapū
link
to
form
iwi

New iwi organisations : relative strength in bridging capital
(formal, instrumental institutions for dealing
with external parties; instrumental aim is to
receive, manage and build physical/ financial
capital)

build
external
relations

marae
elect NIO
representatives

new iwi organisations provide support to
marae and hapū via marae grants,
culturally appropriate services, work to
reconnect 'distant relatives' and provide
assistance in resource management
processes

Whānau and hapū : relative strength in bonding capital
(dense social networks fostering cultural
norms; intrinsic value dominant)

Figure 7: Bonding and bridging capital in whānau and hapū, iwi and new iwi organisations (NIO)

Empirical evidence from the case studies about the relationship between bonding and bridging capital

The role of iwi organisations in nurturing the bonding capital within hapū

Ngāti Raukawa provided the most explicit examples of the importance to the iwi of building hapū institutions and this emerged from the Whakatupuranga Rua Mano programme. At Te Wānanga o Raukawa every course contained a hapū studies component in which students 'learn about themselves'. They must go back, study and record the stories of their marae, people, history and taonga. The impact of the hapū development drive was referred to by a number of speakers, as in the example below.

> One of the programmes is hapū development, so they've really made people think about what it means to belong to a hapū and how you manage hapū activities and programmes; and then by having this increasing number of people who come through with good reo skills, I mean the paepae is not deserted, you've got people who are strong in waiata and that shows on all the marae, it's had a huge impact. (Durie, 2001, para 56)[309]

For Te Rūnanga o Raukawa, a similar focus on hapū development was reflected in the 'Proposal for a programme of hapū and iwi management and development' (Te Rūnanga o Raukawa, 1990). The proposal argued that Whakatupuranga Rua Mano had shown that individual, and in particular youth well-being, was related to hapū/whānau well-being. The report therefore recommended that the government fund hapū development workers because in the medium-term this would reduce the need for crisis funding directed towards individuals. My last discussions with Raukawa indicated that after a decade of perseverance the search for funding for hapū development workers had finally been successful.

In Ngāti Whatua, the Chief Executive led into a statement of the importance of hapū to the iwi as follows:

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[309] As noted earlier, case materials are listed in the case bibliographies in appendix one.

[People think] that you've taken control away from marae which they previously had but that's not what's happened … what's happened is that marae and hapū have become more impotent over time and what they've done is that they've had to delegate their authority off somewhere else to a place like a Rūnanga. They've delegated the authority to deal with issues on their behalf until they're potent enough to deal with them themselves, so what happens when they're up and fully fledged and running, that delegation should be returned. … *This Iwi doesn't have a choice about supporting its hapū, it doesn't have a choice; ... it's gotta do it'*. (Allan Pivac, 2000, para 63; emphasis added)

The role of iwi organisations in building bonding capital of the iwi

The Ngāti Whatua case report contained the most references to the importance and challenges in building bridging capital between hapū which would form the bonding capital of the iwi, i.e., to balancing unity with local autonomy. Thus, '[t]he Charter explains that the Rūnanga is 'the authorised voice of Ngāti Whatua, and for this function will operate through a consultative process with the Iwi, recognising the local autonomy of each marae'. (Te Rūnanga o Ngāti Whatua, 1995)

The legislation under which Te Rūnanga o Ngāti Whatua is constituted also makes explicit reference to the desire for kotahitanga, balanced against decentralised authority, stating that:

In performing the functions conferred on it by section 24 of the Māori Trust Boards Act 1955, Te Rūnanga shall consult with other tribal authorities concerned with the administration of resources for the benefit of members of the Ngāti Whatua tribe, with the objective of bringing the assets of the whole tribe under a unified administration, thereby reaffirming tribal identity, while still preserving local autonomy. (New Zealand Parliament 1988, s6)

Lastly, in an annual report the Chairman explains that:

The task of representing the Iwi has not been easy and continues to be difficult. The challenge is to provide a balance between the interests and aspirations of

whānau and hapū, and those of Iwi. If there is too much emphasis on Iwi, whānau and hapū feel disenfranchised. If there is too much emphasis on whānau and hapū, to the detriment of Iwi, the identity and unity of the Iwi will suffer. I see it as my major role to support whānau and hapū but within the context of the interests of Ngāti Whatua as a whole. (Te Rūnanga o Ngāti Whatua, 1999a)

In Ngāti Raukawa, the emphasis in Whakatupuranga Rua Mano on hapū development is balanced in the objects of the Rūnanga with references to the need to advance and raise the mana of the whānau, hapū and Iwi. The objectives refer to the need to ensure that members know their whakapapa, reo, their place to stand (turangawaewae) and that they can all contribute to their whānau, hapū and Iwi. The Rūnanga is to assist members to strengthen their taha tinana, hinengaro, wairua and whānau and ensure their children are raised under the influence of their whānau, hapū and Iwi.

The role of iwi organisations in building bridging capital between the iwi and external groups

The vision statements of all iwi contain references to the importance of building internal relationships (i.e., bonding capital). The immediate reason given for the creation of the organisations was, however, to realise opportunities to secure resources from government (primarily for service delivery, in the case of Whatua and Raukawa, and to receive a Treaty settlement in the case of Waikato). The annual reports of Ngāti Whatua and Raukawa, in particular, are reports on activities made possible because of frustrating but ultimately successful relationships with government.[310] (The frustrations largely arise because of the conflicting demands of building bonding and bridging capital.[311]) The resources that flow into new iwi organisation from the relationship with the Crown fund the core tasks of the organisation and the bulk of staff effort goes into

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[310] The annual reports from Waikato placed more emphasis on the distribution, resource management and the commercial activities of the iwi organisation. This was because they were from the post-settlement period when the focus had shifted from the relationship with government.

[311] As was neatly summarised in the Raukawa case report, the iwi would like to deliver services that support individuals by strengthening their whānau, hapū and iwi; are holistic (looking at the health of the whole person); and proactive (promoting well-being). By contrast, government programmes are and were predominantly concerned with the individual, are departmentalised, and focus on managing crisis and failure (Walsh-Tapiata, 1997, p89,98). In addition, the Crown often wished to cast the iwi organisations in the role of the agent, while iwi viewed themselves as equal Treaty partners and were looking for relationships that reflected this. The nature of this relationship is discussed in more depth in the later section on the relational contract between iwi organisations and the Crown (chapter 5.3).

securing or utilising these resources.   In addition to the relationship with the Crown, the other external relationships that were important (to varying degrees across cases) were commercial and with other Māori or iwi groups.

References to external relationship could be found in the constituting documents of both Ngāti Whatua and Raukawa, although they were secondary to internal relationships (in contrast to their position in the annual reports). For example, the Ngāti Whatua Charter refers to the need for 'good relations with all other people in the community of our rohe; …friends and loved ones from other Iwi and nationalities; [and] …reciprocal arrangements with other Iwi for Ngāti Whatua people in their rohe'. The Charter makes reference to fostering the special relationship with other Taitokerau Iwi and pan-tribal organisations, while emphasising that Ngāti Whatua will manage its own affairs. There is a commitment to providing assistance, if possible, to Ngāti Whatua taurahere groups and consideration to the relationship with other Māori in the rohe. The relationship with government is mentioned only briefly, in the context of asserting the right of the Rūnanga to appoint representatives to ensure that Ngāti Whatua's 'interests and views as tangata whenua are considered by Government, local bodies and organisations'. The objects of the Raukawa constitution similarly make reference to the need for the Rūnanga to promote productive relationships and cooperate with other agencies to promote employment, training, housing and systems for social advancement.

Bonding and bridging capital in Waikato

Waikato show a somewhat different pattern from the other two iwi, with marked changes over time in the amount of energy spent on internal and external relationships.[312] In the first half of the 1990s when Treaty settlement negotiations were at their most intense there was considerable energy put into the relationship with the Crown and a lesser amount into consulting with and gaining approval of members. Post-settlement, from 1996 to 1999, there was an explosion of activities aimed at building internal relations both within hapū and between members and the iwi

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[312] This section is based on the table in the Waikato-Tainui case report (chapter 3.2) entitled 'Changes in the prominence of different relationships over time'.

organisation.[313] Externally, the emphasis shifted from the Crown to building effective commercial relationships. During the financial storms of 1999-2000 there was equally spectacular collapse in the focus on both internal bonding and external bonding relationships. The predominant work seemed to be on managing political tensions within the narrow core of the organisation. The period of recovery dating from 2002, has seen renewed attention in activities to rebuild both internal faith (bonding capital) and external relations (bridging capital) with the Crown, commercial parties and other iwi.

Waikato's story shows a waxing and waning of relationship emphasis, in comparison to the steady growth of Ngāti Whatua and Raukawa. The story supports the proposition, however, that a healthy, effective new iwi organisation is one that is concerned with building both bonding and bridging social capital (and more specifically one that is building bridging capital to secure resources in order to build bonding capital). When Waikato's iwi organisation stopped doing this, it was widely acknowledged to be in crisis. Furthermore, while there is often a tension between internal and external relationships, in Waikato the health of both has tended to move together. An effective iwi organisation is one that is able to manage the tension of internal and external demands and build both types of relationship in tandem.

Transformations and relations between bonding, bridging and financial capital in new iwi organisations[314]

Of the three constituents of new iwi organisations: whānau and hapū, iwi, and the formal iwi organisation, the last holds the most substantial physical and financial assets.[315] The formalisation of the iwi is to a significant extent for the purpose of negotiating and receiving the property rights of iwi and hapū and managing them on behalf of the collective. The new iwi organisation also holds the formally recognised political rights of the tribe (e.g. the right to political consultation) and their cultural

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[313] Note that the two major areas for distribution in Waikato are marae grants (designed to assist marae to build their bonding capital) and educational scholarships, which are described as part of 'tribal development' (Waikato Lands Trust media release, 27/2/05).

[314] I use financial capital to include physical capital that has an asset sheet valuation, in contrast to social capital which does not (apart from asset sheet 'goodwill', where it exists).

[315] These three constituents were set out in figure 2, above. Most hapū will, however, be associated with marae, which have some physical and financial assets, as well their other forms of capital (social/cultural).

rights (e.g., to culturally appropriate services). Figure 7 above also represents a flow therefore, with capital being transformed between the different entities. The bonding capital (social networks and cultural norms) of the whānau and hapū is transformed into the bonding and bridging capital of the iwi and this is translated into both the bridging capital of new iwi organisations (their formal institutional links) and the organisation's financial capital. The bridging and financial capital of the new iwi organisations is then used to reinforce the bonding capital of hapū and iwi, to further build bridging capital to external groups and increase the tribe's financial capital.[316]

The case reports suggest an ambivalent attitude toward the relationship between financial capital and social capital, in contrast to the standard economic wisdom where more financial capital is always better (albeit with diminishing returns). While financial capital was being sought to build iwi social capital, all three iwi expressed concern about the impact of Treaty settlements on relations within tribes (i.e., between hapū) and between tribes.[317] The message seemed to be that extra resources are not positive per se: they are positive in combination with the social capital to effectively utilise them.[318] Without social capital, incoming financial capital can have a pernicious effect, testing and even damaging existing social capital. The research suggests that this problem is exacerbated by the different accumulation rates possible for the two forms of capital. Social capital in the form of norms, networks and routines can only be built up incrementally. By contrast, financial capital can be transferred almost instantaneously.[319]

A third theme from the case reports relates to the relative importance of social and financial capital to the organisation. It is common to measure the value of a commercial organisation by its financial balance sheet. The case stories universally suggested, however, that their greatest asset was their people. In Raukawa, Whakatupuranga Rua

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[316] Reinforcing the bonding capital of hapū and iwi takes place via marae grants; social, cultural and political hui, mechanisms for bringing in 'distant relatives' and support for hapū to express their cultural norms in resource management processes. Bridging capital is enhanced by deepening relationships with government, other iwi and Māori organisations in general, and the commercial sector.
[317] Little concern was expressed about the impact of negotiations on the relationship with government, although this impact also seemed ambiguous.
[318] There are numerous anecdotal examples of this internationally as, for example, in some African nations with enormous reserves of minerals and precious stones whose citizens suffer some of the lowest living standards in the world.
[319] Witness the forty-fold increase in Waikato equity from $4.7m in 1995 to $191m in 1996.

Mano stated that 'our people are our wealth and their development and retention is of the utmost importance; our activities must guarantee the revival of the Māori language'; and, 'the marae is our principal home.' In Ngāti Whatua, the Charter outlines that the first priority is to the unity, wairuatanga, development and well-being of the Ngāti Whatua people. Even in Waikato, where financial capital had greatest prominence, the greatest casualty of the 1999-2001 financial storm was argued to be the loss of a common vision, and the post 2002 recovery was marked by a reassertion of the place of the people at the centre of the organisation's concerns.

> The lesson to be learnt here is that the social prosperity of Waikato is not determined by economic rationalism alone but by the initiative and commitment of its greatest socio-economic asset, its people. … Waikato development and prosperity will be driven by the vision of the people. (Chair Report in the Waikato Raupatu Lands Trust Annual Report, 2002-2003)

In the case reports, iwi prioritise their people along with their language, marae, unity, wairuatanga, vision, initiative and commitment. The tribe's people are the carriers of its social capital, and its language, marae, unity, wairuatanga, vision, initiative and commitment are manifestations of this capital. Thus while the new iwi organisations are concerned with securing financial resources, the underlying strength of the organisations and purpose for securing the resources is the maintenance of bonding capital of the iwi.[320]

The endogenous development of collective action institutions and the bonding – bridging conundrum

Ostrom and Walker (1997, 48) focus on effective, endogenously developed institutions for the management of club and common pool resources, but their findings have some comparative value for new iwi organisations. They also have a link to the challenge of managing tensions between bonding and bridging social capital. Ostrom and Walker suggest that groups need to have the autonomy to graft institutions that fit local circumstances, but which benefit from external recognition. This seems generalisable to

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[320] This is a reiteration of earlier comments that the financial balance sheets are at best partial descriptions of the organisations, and at worst, distractions. Work by Whatarangi Winiata as part of Whakatupuranga Rua Mano to build a comprehensive hapū and iwi balance sheet are manifestations of this view.

all organisations including markets, corporations, not-for-profits and new iwi organisations. All such organisations have to find a balance between endogenously developed and externally crafted institutions.

A critical point (which Ostrom and Walker do not emphasise) is that there is generally a trade-off between endogenous customisation and external recognisability. A highly idiosyncratic organisation may be well suited to local conditions and internal group preferences - it may well be sympathetic with internal bonding capital - but it will require considerable effort for external parties to understand and trust. It may be antagonistic to the task of building effective bridging capital. If cooperative relations with external parties and potential third party adjudication are important, which is clearly the case for new iwi organisations, external recognisability cannot be ignored.[321]

The new iwi organisations studied were keenly aware of the importance of being externally recognisable. Thus the choice of a Māori Trust Board structure by Ngāti Whatua was in part because of the external status of such an organisation. The company structure was partly chosen to house business activities by iwi organisations because it is a signal commercial seriousness. All three organisations accepted the need to meet constitutional standards as prerequisites to receiving fisheries assets (albeit with some degree of exasperation).

A number of factors discussed by Ostrom and Walker (1997) as conducive to the efficient management of institutions underline the reality that the success of new iwi organisations is dependent on their being inhabited by relatively small groups of people with a common cultural commitment and personal knowledge of each other. Factors included in this list are homogeneous preferences, common understanding, generalised norms of reciprocity and trust, group stability and low cost monitoring and sanctioning. The reliance of the new iwi organisations on institutions suitable for small, relatively cohesive groups influences the way they interpret the Ostrom and Walker's (1997, 48) dictum that: 'collective choice rules [should] fall between the extremes of unanimity

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[321] The importance of external recognisability for Australian Aboriginal organisations is discussed by Martin (2003, iv), who argues that 'it is no longer defensible to resort to the mantra of "cultural appropriateness", nor solely to traditions and customary practices in determining principles by which effective indigenous institutions should be established and should operate. Rather, the challenge is to develop distinctively indigenous institutions which nonetheless facilitate effective engagement rather than limiting it'.

and control by a few'. Participation by all iwi members is encouraged, but it is channelled in ways that assists the conversion of newcomers into insiders (as noted above).

The social value of the bonding capital of new iwi organisations

The above discussion argues that new iwi organisations are investments in bridging capital, with the ultimate aim of building bonding capital. They are not manifestations of bonding capital in the absence or at the expense of bridging capital and theory suggests therefore that they will be valuable to their members.   The question of their social value remains.

The two polar positions on the social consequences of new iwi organisations are either that new iwi organisations are incorrigible, unproductive, rent-seeking vehicles or that they are part of the process of restorative justice, i.e., they act to restore Māori faith in the system of property protection so as to induce them to participate productively. The latter argument holds that, following the transfer, individual Māori will be more inclined to socially productive behaviour, that iwi will have reason to work constructively with mainstream government and society, and that new iwi organisations will manage the resources they receive effectively.

The thesis does not have sufficient empirical material or space to form a comprehensive response to this question, but it does provide anecdotal support for all these effects.[322] In support of the rent-seeking view, for example, it is clear that while new iwi organisations may be established to receive what the government views as full and final treaty settlements, iwi regard this as part of an *ongoing* attempt to restore the full extent of their Treaty rights. However, new iwi organisations are committed to managing their assets as productively as possible and encourage their members to be more self-sufficient, both through scholarships and by building their sense of self-worth. There is also evidence of a cascade effect, with constructive relationships with government being formed in an increasing number of fora.

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[322] The divergent positions of the mainstream New Zealand political parties on whether the externality effects of new iwi organisations are positive or negative suggests that in the absence of concrete economic information, judgement on this complex issue is more a question of politics than economics.

Structuring costs and benefits to facilitate coordination and block defection in new iwi organisations

Social capital theory argues that norms, networks and formal rules are all institutions employed by groups to act collectively, that is, to block defection and achieve coordinated outcomes. This section considers the structure of the 'game' being played by the members of new iwi organisations, the costs and benefits of various actions, and the institutions to coordinate and block defection.[323]

The cost of being a member of a new iwi organisation is the time and energy involved in participating in the networks, practising the norms and advancing the group's projects.[324] Participation is not directly remunerated but has benefits which are both tangible (instrumental) and intangible (intrinsic). Tangible individual benefits include the possibility of a scholarship or a culturally appropriate service.[325] Tangible collective (or club) benefits include marae grants, positive resource management outcomes and some services (e.g., health open days). Intangible benefits are the social and cultural rewards of participation. The existence of a wide range of participation rates suggests that the valuation by members of the benefits offered by iwi organisations is also wide ranging.[326]

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[323] This section does not consider coordination and defection-blocking in the relationship between the organisation and employees or government. This is considered in the next section on relational contracts.

[324] Participation is described as a 'cost' in the sense that all activities have an opportunity cost to the time spent performing them. From a different and equally valid viewpoint, participation is seen as a 'right' or a 'benefit' of membership of an iwi. This discussion emphasises how for those who belong to the iwi by virtue of genealogical descent, the extent of their benefits will be related to the extent of their participation (with the exact nature of the relationship having both explicit/formal and tacit/informal elements). Most iwi will also have some who participate in iwi affairs but who are not genealogical members of the iwi. They have a separate participation-to-benefits relationship (which is also a mix of explicit/formal and tacit/informal). Some benefits are not available to participants who are not genealogical members, whatever the level of their participation. While these two schedules might be the basis of confusion, cases of non genealogical participants seeking benefits to which they are not entitled are rare. Establishing the difference between the two schedules is no more difficult than understanding the tacit elements of the individual schedules.

[325] The services delivered by iwi organisations do not, and cannot, formally require participation as a 'payment' by recipients. Their attractiveness, however, in comparison with their mainstream counterparts, is their delivery consistent with Māori norms and networks. Thus, in practice, they be will attractive to those who value the tangible and intangible fusion of benefits that iwi services provide: they will be attractive to those who value participation.

[326] In general, it is true that participation is not directly remunerated. Exceptions are the usual practice of reimbursing travel costs for representatives to travel to board meetings, and paying flat rate per diem allowances. Also, some individuals may come to be employed by the organisation (particularly those from the core group). They are generally those with qualifications such that they are not receiving a premium over their other employment options and thus it is not recompense for their participation, but rather for their skills. The one group this is not true for is those who are well-endowed with cultural

By participating in the tribe's social institutions, an individual contributes to the social capital of the iwi organisation. The maintenance of social capital is, it has been argued, the underlying aim of the organisation, and it is for this reason that it is taken as the individual's 'entry fee'. Participation is evidence that an individual values the intrinsic social and cultural benefits of the institutions and is a means for building this valuation in newcomers. Participation has both coordination and free-riding reduction effects. Coordination occurs through dialogue and immersion in common norms. Free-riding is reduced because it allows networks a chance to monitor behaviour and exercise informal sanctions.[327]

A core group of particularly active individuals is responsible for negotiating opportunities from government and for establishing the formal organisation to receive these. The coordination task of the core group of activists is to decide what the interests of the collective are in the current environment and to form strategies for advancing this interest. The task of the remaining participants is to offer their view of the collective interest, to constructively criticise the work of the core group, and ultimately to endorse this work. Most coordination is achieved through traditional networks guided by traditional norms (as argued earlier), but these have become interwoven with the practices of formal organisation over some decades, with all iwi having prior experience with formal organisations.

Free-riding (defection or cheating) - understood as trying to gain benefits without contributing, or gaining benefits disproportionate to one's contribution - might take two forms in the context of the new iwi organisation. Firstly, a member might try to gain benefits without participation. Secondly, a group of members might try to skew the

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knowledge (tikanga experts). This type of human capital unquestionably increases in value if tikanga is accepted as important by the mainstream. These people are only a small proportion of those employed, however, and often this type of input is unpaid.

Some iwi have moved to increase tangible individual benefits as their asset base increases. Te Rūnanga of Ngai Tahu, one of the largest and most financially successful tribal organisations, is reported to be establishing a co-contribution scheme to encourage private saving by iwi members (The Press, Christchurch, 2/2/05). Iwi might also increase the tangible collective benefits, e.g., Waikato's funding of the Endowed College.

[327] In the standard collective action situation, blocking defection (cheating or free-riding) generally refers to preventing individuals reneging on their previously agreed obligations, or appropriating rights which are not theirs. It is a monitoring and sanctioning task. Where the collective action task is also to formulate ends, this will also entail some conflict resolution, but this is more a task for dialogue and application of common norms i.e., it requires similar tools to those for coordination.

distribution of benefits in their favour. The two types of groups in the best position to do this (and who have been accused of doing so empirically) are dominant hapū, or the core leadership.

Blocking free-riding by individuals is achieved in a number of ways. There is, for example, a strong norm of reciprocity, or an understanding that obtaining benefits is linked to participation and contribution, either past or future. This norm is monitored through the networks. In addition, intangible benefits (cultural and social) can only be achieved through participation (and in this case reciprocity of cost and benefit is simultaneous). Thirdly, new iwi organisations employ mechanisms for linking the tangible benefits to participation and immersion in the norms and networks. Thus, scholarships often require an applicant to gain kaumātua or marae support and to attend hui to receive their award in person. Grants to marae will only be enjoyed by those using the marae, and the attractiveness of services is that they utilise networks and respect norms. These mechanisms are a subtle mix of unstated norms enforced through networks and formal policies which emerge consistent with the norms.[328]

Group cheating, meaning gaining benefits disproportionate to one's group entitlement, is more problematic empirically than individual free-riding. This is because there is not necessarily unanimity on what the fair distribution of entitlements across groups should be. If benefits are contingent on participation, it is possible to argue that those who participate more should benefit more. Even without making this argument, it is inevitable that the distributions will be decided by those who participate and control the organisation, even where they endeavour to act for the good of all.[329]

The empirical reality is that accusations of 'group cheating' are far more common in new iwi organisations (justified or otherwise). There were intimations of this in Waikato, both with concerns about the actions of the leadership and management following the financial crisis (that it was misguided and/or self serving) and with the

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[328] The linking of these tangible individual benefits to participation is precisely what Urban Māori Authorities objected to when they opposed the allocation of fisheries assets solely to tribal organisations. The Māori members of the Urban Māori Authorities could access the benefits, but only by participating in their tribal organisations, not by participating in the Urban Authorities. The reason for the linking is because participation is an individual's contribution to iwi social capital, as explained above.

[329] This risk applies to the core of tribal activists/leaders but once an organisation is formed it applies equally to the staff.

dissatisfaction of boundary hapū about whether their interests were being sufficiently represented, for example, in Treaty settlement negotiations.[330] In Raukawa there were hints from some that northern hapū felt the organisation was too focused in the south. In Ngāti Whatua, the need to ensure a visible presence across the rohe was referred to (presumably to avert the criticism that the Rūnanga was too centrally focused), but the more obvious problem was that some constituent hapū were willing and enabled through settlements to look after themselves. The problem was not group hijack but group exit. (This provides an example that formal mechanisms will not hold an iwi together if networks and norms cannot. It also shows a divergence in views on appropriate distribution of entitlements.)

Formally, there are mechanisms in the constitutions to prevent group hijack e.g., accountability of leadership to members (marae and individual) and the right of all marae/hapū to be represented. Where these problems arise, it seems, it is because in reality much of the business of new iwi organisations occurs via the norms and networks, not the formal institutions, and is guided by traditional views of fair entitlements which may be divergent between different groups.[331] With regard to collective action theory, the empirical findings show that while theoretical models tend to focus on action and options for individuals, for some organisations coordinating and blocking defection by groups is an equal or greater challenge. This is particularly true if the bonding capital within each group is stronger than the bonding/bridging capital between the groups, as has been argued to be the case for new iwi organisations, which can be understood as confederations of marae/hapū.[332]

Intrinsic and instrumental benefits in new iwi organisations

The distinction made in the literature between instrumental and intrinsic values for institutions was discussed earlier (see 'Intrinsic versus instrumental value of social

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[330] Boundary is used here in the figurative sense of being further from the power centre, but it is usually geographically true as well.

[331] This is a sanitised way of saying there are longstanding tensions and even histories of warfare between constituent hapū. Disputes between individuals die with the individuals concerned. Disputes between groups (networks) can become 'norms' and persist intergenerationally.

[332] This section has not dealt with the prevention of cheating by individual employees or elected office holders. This occurs in the next section. This is as critical an issue for new iwi organisations as it is for firms and government but even here informal controls seem to dominate. Formal sanction for formally labelled 'cheating' is rare.

capital'). The case studies suggest that for Māori, however, at least in the context of new iwi organisations, this distinction is not useful or even possible. In order to effectively mediate collective action, tribal institutions must be simultaneously instrumentally and intrinsically valuable. The inseparability of these two dimensions is the raison d'être of new iwi organisations. Iwi organisations want to secure resources so they can do things that are instrumentally 'useful' (support marae and education, provide social services), operating via institutions that are socially and culturally sympathetic (intrinsically valuable). They view well-being holistically, arguing that members' physical, mental, social and spiritual well-being must be improved simultaneously. They aim to improve individual well-being by improving the health of collective institutions.[333]

The mix of instrumental and intrinsic elements has helped Māori institutions to survive, but also means modifying them to take on new tasks is more complex. Attempting to change the instrumental aspects invariably will be seen as changing intrinsic aspects as well, causing debate within the group as to whether the benefit of the instrumental changes outweigh the losses of the intrinsic changes. Often the benefits and losses are not evenly distributed, making the change potentially divisive.[334]

The tight connection between tangible and intangible benefits, or even more, the impossibility of separating intrinsic and instrumental institutions, is the insider view of new iwi organisations. This is the nature of bonding social capital. The public face of new iwi organisations is their bridging capital, however, and this is primarily instrumental. Outsiders therefore might understandably conclude that new iwi

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[333] 'Physical, mental, social and spiritual is a translation of the widely quoted four dimensions of Māori well-being : tinana, hinengaro, whanaungatanga and wairuatanga. The interdependence of individual and collective welfare was evidenced in the 1988 'Proposal for a programme of hapū and iwi management and development' (Te Rūnanga o Raukawa, 1990) based on the finding that individual well-being was related to hapū/whānau well-being. Rates of participation also seem to be linked to the mix of intrinsic and instrumental benefits. When iwi were at their nadir in terms of resources, able to provide few instrumental benefits, only those with a high valuation of intrinsic benefits were participants. As they have rebuilt resources and associated instrumental benefits, those with a positive valuation of the new intrinsic/instrumental mix became involved. The influx onto rolls following Treaty settlements (as in Waikato) may be in this second group (or they may be those with a mistaken expectation of instrumental benefits without the cost of participation!).

[334] While the interwoven nature of intrinsic and instrumental benefits in iwi organisations are discussed here, it seems likely that this is also a feature of many 'mainstream' organisations including those of the state, sporting organisations, religious groups and even commercial corporations (in the sense that those firms that offer only instrumental and no intrinsic returns to workers are at a disadvantage in comparison to those that offer both). The longevity of all institutions is related to their ability to fuse instrumental and intrinsic benefits.

organisations are primarily instrumental organisations. Their understanding would lead them to expect that members should also benefit instrumentally, i.e., that they would gain direct financial benefits from their organisations, as a right of whakapapa (genealogy). Outsiders are also likely to be blind to the intrinsic benefits and the rationale for requiring participation as an entry cost to accessing extrinsic benefits. There is evidence that outsiders (including non-participating members, the mainstream media, general public, and in some cases, government) judge new iwi organisations primarily as institutions for the distribution of direct financial benefits. Taking into consideration the account of new iwi organisations set out in this section, it is unsurprisingly that they score poorly on this basis.[335]

Conclusion

This section has used the concepts from the literature on social capital to explore the empirical findings on new iwi organisations. Using these concepts, new iwi organisations have been described as vehicles for building bridging capital to secure resources, in order to build bonding capital. The next section considers the literature on relational contracts, and explores in depth the various relational contracts that make up the bonding and bridging capital of new iwi organisations.

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[335] The media focus on tribal financial balance sheets, but indifference to tribal participation rates, is an example of this.

Chapter 5.3 Relational contracts in new iwi organisations

Relational contracts in theory

Matching governance institutions with transactions: Williamson's discriminating alignment hypothesis[336]

New institutional economics is concerned with the reasons why different institutions arise, and the implications of these institutions once established. Williamson's 'discriminating alignment hypothesis' suggest institutions are chosen because of their expected ex-post performance. Williamson (1993, 40) proposes that 'transactions, which differ in their attributes, are aligned with governance structures, which differ in their costs and competencies, in a discriminating - mainly, transaction cost economizing - way'.[337] Elsewhere, Williamson suggests that '[t]he criteria for organising commercial transactions is … to economise on the *sum* of production and transaction costs' (1979, 245, emphasis in original).[338]

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[336] The coverage of Williamson's discriminating alignment hypothesis provided here is a highly summarised version of a substantial literature by Williamson, his supporters, and his critics. The intention is only to introduce the notion of alignment of transactions/task and governance types, as a prerequisite for discussing the relational contract concept in depth. The thesis is not seeking to test Williamson's entire schema; rather it is seeking to explore the relational contracts contained in new iwi organisations.

[337] Williamson defines governance structures as 'the means by which *order* is accomplished in a relation in which potential *conflict* threatens to undo or upset opportunities to realize *mutual* gains' [cited in Annen (2001, 320), emphasis in original]. This definition of governance structures clearly places them within the definition of social capital institutions employed in the thesis.

[338] This proposition echoes Coase (1937) who suggested that '[a]t the margin, the costs of organising within the firm will be equal either to the costs of organising in another firm or the costs of leaving the transaction to be "organised" by the price mechanism'. Williamson (1985, 1) suggests that a 'transaction occurs when a good or service is transferred across a technically separable interface. One stage of activity terminates and another begins'. This definition doesn't give much away. One is left to infer from the way Williamson uses the term transaction that it is loosely synonymous with a trade or exchange. This is evident for example when he states that '[v]irtually any relation, economic or otherwise that takes the form or can be described as a contracting problem can be evaluated to advantage in transaction cost economic terms' (1985, 387). As noted earlier, the thesis uses transactions to mean the interactions that occur between parties working to achieve a collective action task. Transaction costs are the costs of these interactions.

In Williamson's discriminating alignment hypothesis there are efficiency gains to be realised by the appropriate alignment of transactions and governance structures. Developing this hypothesis requires an account of the ways in which transactions vary and of the costs and competencies of different types of governance structures. Williamson argues that the dimensions of transactions which have a critical influence over appropriate governance structure are uncertainty, frequency of recurrence and asset specificity. Of these, he considers asset specificity to be the most important.

> [A]sset specificity refers to durable investments that are undertaken in support of particular transactions, the opportunity cost of which investments is much lower in best alternative uses or by alternative users should the original transaction be prematurely terminated … in these circumstances … continuity of relationships is valued … [and] … contractual and organizational safeguards arise in support of transactions of this kind. (1985, 55)

Assets may be non-specific e.g., standard equipment or supplies; of mixed specificity e.g., customised equipment or supplies; or highly specific e.g., machinery or supplies unique/idiosyncratic to a particular production activity (Williamson 1985, 73). Williamson (1993, 40) considers that unilateral or bilateral dependency, where investment in highly specific assets mean that one or both parties suffer significant losses if the contract is terminated, is a widespread feature of contracts. Investment in relationship-specific assets causes what Williamson calls the 'fundamental transformation' (1985, 61). An initially competitive market with a choice of many trading partners is transformed into one of incumbent advantage. Relationship-specific investments would be lost in a shift to a new trading partner.

Investment in relationship-specific assets means parties have an interest in the relationship continuing and the ongoing relationship will require ways of adapting to events that boundedly rational individuals could not foresee at the outset. In addition to being boundedly rational, however, Williamson also assumes individuals are prone to opportunism. As circumstances change the contract needs to be adapted but its incompleteness creates the space for one party to exploit the dependency of the other

party. This is particularly true if the dependency is asymmetric, with one party having more to lose than the other.

Common ownership, where relationship-specific physical assets come under single, hierarchical control, allows greatest ease of adjustment while providing the best guard against opportunism according to Williamson. Common ownership comes at the cost, however, of the high-powered performance incentives that exist when the economic agent is also the residual claimant of their actions. Williamson (1993, 49) proposes a basic dichotomy, therefore, between markets which have high powered incentives and hierarchical arrangements which allow low risk adaptability inside the relationship.

Uncertainty, a second critical transaction dimension, is assumed to be ubiquitous by Williamson (1985, 79), but its impact varies depending on the specificity of the assets. For non-specific assets, increased uncertainty does not alter a preference for market transactions because of their high powered incentives. There is no interest in specific relationship continuity, and adaptation to changing circumstances can be achieved by a new exchange with the current or a new party. Where assets are of mixed or high specificity, sunk costs make it desirable that the specific relationship continue, and there is a need to create governance processes for adapting to new conditions.

Transaction frequency, Williamson's third critical transaction dimension, matters because recurrent transactions make it possible to recoup the costs of developing governance structures specific to the relationship. For once-off transactions, where specificity requires some ongoing governance of adaptation, a pre-existing third party mechanism is less costly and more likely. For ongoing transactions with specificity, the creation of a unique governance structure can be justified.

In considering different types of governance structures, Williamson (1985 ch.3) follows Macneil in distinguishing between classical, neoclassical and relational contracts. Classical contracts are comprehensive, finite and fully embodied in their formal specification where 'all relevant future contingencies pertaining to the supply of a good or service are described and discounted with respect to both likelihood and futurity'(Williamson 1985, 69). In the classical contract the personality of the parties is

not relevant. Third party participation is not provided for and the contract is self-liquidating.[339]

Neoclassical contracts and relational contracts are both long-term relative to classical contracts. The long-term nature makes it impossible for boundedly rational individuals to fully specify all contingencies, that is, the actions to be taken by the parties under all possible future states. In neoclassical contracts, third party involvement is anticipated to assist in resolving disputes that arise when circumstances unfold that were not fully anticipated by the original contract. In the case of relational contracts an entirely new governance structure is created, unique to the relationship, to provide such assistance. The new governance structure may be unified (i.e., the parties become one), or bilateral, preserving the identity of the two parties.

The detailing of different types of transaction and governance structure leads Williamson (1985, 79) to set up the following schema for 'efficient governance', where there is an appropriate alignment of transaction characteristics and governance types:

1. Non specific assets with once-off or recurrent transfer – market governance (classical contract);
2. Mixed specificity with once-off transfer – trilateral governance (neoclassical contract);
3. Mixed specificity with recurrent transfer – bilateral governance (relational contract with identity of parties preserved); [340]

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[339] Although third party intervention is not anticipated, Macneil (1980, 10) points out that even classical contracts require some minimum social backdrop to provide the language of the contract and the protection of the property rights exchanged. In contrast to neoclassical contracts, however, third party involvement is limited to enforcement of contract provisions, not interpretation of those provisions (which are theoretically self explanatory).

[340] Williamson argues that bilateral governance will be employed where a mixed asset is sufficiently unspecified that there are some economies of scale to be realised by maintaining it outside the relationship. Where the asset is highly idiosyncratic, there are no such economies outside the unique relationship. Correspondingly, highly idiosyncratic recurrent transfers (case five) will tend to be contained within a unified governance structure. The extent to which the dependency is symmetrical would also influence the choice between unified and bilateral governance, with the former being favoured for unilateral dependence. This point is made strongly by Kay (1997, 53). In addition, where assets are not transferable, as is the case for politically held rights, bilateral relationships will be the only option. Note that human capital has a somewhat ambiguous position with respect to governance, as it is only possible to lease it, rather than purchase it outright, at least in non-slave societies. In non-slave societies labour is always under bilateral governance to some extent, even when a person is a full-time employee, because the individual retains the ultimate right to withdraw his or her labour. It is a mistake, therefore, to see a sharp distinction between internal employees who are directed by fiat, and external contract

4. High specificity with once-off transfer – either trilateral (neoclassical) or unified governance (relational contract);[341]

5. High specificity with recurrent transfer – unified governance (relational contract).

Hirschman (1970) discusses the relative merits of 'exit' and 'voice' as disciplines on organisational behaviour and this provides another way of understanding the difference between markets and relational contracts. Economics, he notes, lays emphasis on the disciplining effect of exit by disaffected consumers, as occurs in classical market transactions. Politics is more concerned with the effectiveness of voice 'defined as any attempt at all to change, rather than to escape from, an objectionable state of affairs'(1970, 30). Hirschman argues that both mechanisms may have a role in economic situations and that voice may be particularly important for some classes of economic goods, such as those with public good characteristics, where complete exit is difficult or impossible. The above discussion of relational contracts makes clear that they are situations where voice is important because continuity is valued. Hirschman notes that voice is most effective where it is coupled with the ultimate possibility of exit and this is similarly true of relational contracts.

Relational contracts as a governance institution

Organisations, it has been argued, are bundles of relational contracts (see Figure 3). Thus investigating new iwi organisations requires exploring relational contracts in greater depth. Relational contracts mediate long-term relationships with repeated interactions aimed at carrying out broadly agreed tasks. The long-term nature of relational contracts means there is considerable uncertainty about future circumstances. The contract cannot specify all actions to be taken under all possible futures and it is not efficient to try. Instead, the relational contract establishes processes for making decisions in the future, as that future unfolds.

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workers from whom contribution must be negotiated. How far labour can be directed and how far it must be persuaded depends as much on a particular worker's alternatives, as on whether she/he is contracted inside or outside the organisation.

[341] Case four, with highly idiosyncratic but once-off transfer may follow the logic of either case two, or case five.

Relational contracts may be pair-wise (between two individuals or groups) or they may create a network (between individuals and/or groups). Networks are more than just the sum of the individual relational contracts. The network allows for institutions to arise common to all the relational contracts involved (such as network culture) and for the sharing of information across relational contracts (about the idiosyncrasies of particular individuals, for example). These shared features assist with mediating relationships, i.e., they constitute network social capital.

The relational contract is made up of only a skeletal formal framework. Much of the work of the relationship is governed by semi-formal policies and informal routines.[342] The processes for ongoing decisions arise out of the combined formal, semi-formal and informal routines. The semi-formal and informal institutions are flexible and able to evolve while the formal framework remains relatively fixed. There is permanence of the contract, but flexibility within the contract such that there can be 'flexible but bounded responses to uncertain future conditions' (Furubotn and Richter 1997, 158). The combination of formal, semi-formal and informal institutions means that the relational contracts are held together by both external and internal sanctions.

Relational contracts involve repeated interactions and thus the specific personalities of the parties become known. The exact manner in which the relational contract operates depends on the exact personalities involved, so changing the identities of the parties changes the relational contract. For many relational contracts, however, it is possible to change the specific identity while keeping many of the institutions the same. For example, a new employee will do some things differently (in an idiosyncratic way), but will be encouraged to learn and comply with existing routines and rules. How much the specific identity of the parties influences the institutions of the relational contract varies from one relational contract to another. For most people, for example, a relational contract within a domestic partnership will be more person specific than a relational contract in the workplace.[343]

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[342] As explained earlier, the term 'semi-formal' is used in the thesis to refer to endogenously derived policies, procedures and rules for which external sanction might ultimately be sought, but which have not been formally specified in legislation or legal contract. The rules and guidelines in an organisational manual are examples of semi-formal institutions.

[343] Even in domestic partnerships, however, much of the interaction is guided by general societal institutions, rather than being dependent on the specific parties. Note that as a matter of definition, norms apply to generic individuals (i.e., categories of people, but not specific individuals), networks link specific

The relational contract has two advantages over classical contracts for long-term, personalised interactions.[344]   Firstly, a relational contract reduces the amount of specification that has to occur at the outset of the relationship, in favour of delaying specification until such time as the circumstances and issues requiring specification become clearer. Not all contingencies have to be anticipated, only those that have become likely. Specification is expensive, so a reduction in the overall amount required is an economising device. Moreover, full specification is impossible where all possible futures cannot be known, so in the absence of relational contracts, collective tasks facing such uncertainty would not be possible.

Relational contracts and classical contracts have different specification processes: ongoing, versus ex-ante and finite. The different processes represent a different balance between certainty and flexibility. Relational contracts provide a certain framework for dealing with any matter that falls within the broadly defined task. The exact manner with which the task will be performed is flexible, and therefore, somewhat uncertain. Classical contracts, by contrast, provide absolute certainty for matters specified and full flexibility - absolute uncertainty - for everything else.

Relational contracts and classical contracts embody different incentives, also related to their different specification processes. In classical contracts the tight specification means that a failure to comply can result in the contract being voided, with probable adverse consequences for the party at fault. In relational contracts, flexibility makes non-compliance more difficult to judge exactly and even where it is judged to occur, restoration is favoured over termination for all but the grossest violations.[345]

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individuals, and formal institutions may specify generic or specific individuals (e.g., an employment contract may be collective or individual).

[344] Although this discussion contrasts classical and relational contracts, Furubotn and Richter (1997, 144) point out that contractual forms are best thought of as being on a continua between the entirely formal (or transactional) contract of classical economic theory, and the strongest relational contract (which I would suggest is that between a mother and child although Macneil (1974, 721) considers is that within a marriage). Moving along the continua the contracts become increasingly governed by informal institutions, increasingly personal (non-transferable) and decreasingly voluntary.

[345] As noted earlier , Williamson (1985 ch.6) considers the trade-off between the relational contracts within firms and neoclassical contracts to be between high powered incentives and flexibility. However, the argument here is that it is more useful to distinguish between the differing nature of the incentives in relational contracts and classical contracts (remedy and continuance vs full compliance or termination), and the differing location of flexibility (inside relational contracts and outside classical contracts). This follows Macneil (1974; 1980).

The second advantage of relational contracts is that the space left by the formal framework allows for the development of informal institutions. Informal institutions based in personal relationships have available to them a range of relationship-mediating tools not possible in formal institutions. These include the extensive non-verbal means of coordination and control associated with personal, face-to-face communication, and the tacit, evolving skills embodied in routines. Informal institutions have been developed and tested over many millennia, in comparison with the relatively recent arrival of formal institutions.[346]

In comparing relational contracts and classical contracts, Furubotn and Richter (1997, 144) suggest that '[i]n the real world, actual contractual behaviour is orientated much more toward the "relational" approach than toward the "transactional"'. As an example, they cite a study of business relations by Macaulay (1963) who quotes a purchasing agent as saying '[y]ou don't read legalistic contract clauses at each other if you ever want to do business again. One doesn't run to lawyers if he wants to stay in business because one must behave decently' (Furubotn and Richter 1997, 144).

Similarly, Macneil notes that while relational contracts contained in bureaucracy often have extensive semi-formal rules, these are guidelines at best.

> Every bureaucratic effort to regulate in detail is putatively an effort aimed at presentation and discreteness. But much bureaucratic presentation and discreteness is spurious; everyone knows it will not work. Illustrative of this is that the very best way to bring almost any bureaucratic enterprise to a grinding, clashing halt is to work to rule, as many labor unions learned long ago. (Macneil 1980, 77)[347]

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[346] The argument here implies that the theory of the firm as a nexus of contracts (Aoki, Gustafsson et al. 1990) and the theory of the firm as bundles of competencies (Nelson and Winter 1982; Kay 1997) need not be in tension, as they are often portrayed in the literature (eg Foss and Knudsen 1996, 196). It is the relational nature of the network of contracts within the firm that allow competencies to develop (particularly the idiosyncratic core competencies) and this is the distinctive feature of organisations in comparisons with classical, market exchanges.

[347] Macneil uses the term 'presentation' to refer to efforts to specify all contractual decisions ex-ante i.e., in the present.

Macneil is not suggesting that the formal law underpinning the relational contract is unimportant, but rather that its role is as a backup and as a crystallisation of the most critical aspects of custom.

> Closely related to the notion of law as a back-up system seldom used actively, but always used passively, is law's function as a relatively precise expression - an index if you will - of the great underlying and diffuse sea of custom and social practices in which human affairs are conducted. This function of law is to tell society what is most important among its customs and practices. (Macneil 1980, 94)

For long-term relationships, where there are repeated interactions between the same parties, the economising on specification and utilisation of informal institutions make relational contracts superior to classical contracts. Relational contracts are a broad classification, however. Thus in addition to choosing a relational contract instead of classical (or neoclassical) contract, there are choices about what type of relational contract to design (i.e., what specific formal, semi-formal and informal institutions to include) and who to place inside the relational contract once it is constructed.

Asset specificity and relational contracts: which comes first?

Writers such as Williamson stress that relational contracts are formed to provide a governance structure for investments in relationship-specific assets. He discusses physical asset specificity but notes that 'there is more to idiosyncratic exchange than specialized physical capital. Human capital investments that are transaction-specific commonly occur as well' (Williamson 1985, 62). In addition, Williamson makes reference to savings resulting from increased familiarity, in terms that are reminiscent of routines. Thus, '[f]amiliarity here permits communication economies to be realized. Specialized language develops as experience accumulates and nuances are signalled and received in a sensitive way. Both institutional and personal trust relations evolve' (Williamson 1985, 62).

Here it is argued that the ex-post development of informal institutions is a ubiquitous and critical feature of relational contracts, because human beings interacting repeatedly

cannot help but develop routines based on their accumulated experience of each other. The most distinctive and important characteristic of relational contracts is their support for the evolution of network social capital with its superior capacity to deal with uncertain future circumstances.

All of the above types of relationship-specific asset arise as a consequence of the formation of the relational contracts. Williamson's work assumes that parties are unknown to each prior to contact associated with the transaction under consideration. Granovetter points out, however, that many 'attempts at purposive action are embedded in concrete ongoing systems of social relations'(1985, 487). Transactions often take place between parties who know each other. In light of this, Granovetter considers that how participants behave when they transact will depend on the pre-existing relationship that each has with the other party. If they have a relationship that involves a high degree of trust then the safeguards that Williamson argues come with a hierarchical governance structure may not be necessary. Granovetter (1985, 503) suggests that 'other things being equal, we would expect pressures toward vertical integration in a market where transacting firms lack a network of personal relations that connects them or where such a network eventuates in conflict, disorder, opportunism or malfeasance'. He concludes that 'what the viewpoint proposed here requires is that future research on the market-hierarchies question pay careful attention to the actual patterns of personal relations by which economic transactions are carried out'(1985, 504).[348]

Granovetter is suggesting that people who know each other (have made an investment in an 'informal' relationship) might not require any additional formal contract. (This is consistent with the argument made earlier that formal institutions are needed to deal with strangers.) Equally, a formally framed relational contract may be more likely between those who already know each other, compared with a formal relational contract between those who do not. Thus we are more likely to form a business partnership with or to marry someone whom we know. Similarly we are more likely to create a new iwi organisation with people with whom we already share personal and cultural bonds. In

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[348] Williamson (1985, 22) explicitly acknowledges Granovetter's contribution, although Williamson refers to the importance of social context (customs, mores, habits) whereas Granovetter is more concerned with specific social relationships i.e., whether the participants are part of a network so that they know each other personally, and whether this knowledge generates trust or distrust. In both cases pre-existing informal institutions are effectively substituting for formal ones; in the one case, social norms and in the other case, social networks.

these cases, informal social capital *precedes* a formal relational contract being created, and the formalised relational contract supports the *subsequent* development of further informal institutions.[349]

Principal-agent relational contracts

Principal-agent relationships have a high profile in the new institutional economics literature as a pervasive feature of specialisation and division of labour in contemporary societies (Furubotn and Richter 1997, 148).[350]   In this relationship the agent has information about both the task at hand and their performance of the task which is either too costly or impossible for the principal to obtain.   In addition, the outcome of the agent's actions in performing the task is dependent on external shocks but the impact of these shocks also cannot be fully known by the principal.   In this situation, a poor result by the agent may be a consequence of their own poor performance or external shocks and the principal is unable to distinguish between these two cases.   The information asymmetry creates space for opportunism by the agent (i.e., poor performance which they can blame on external factors) and a corresponding need to devise incentives for the agent to act in the principal's interests.

The separation of ownership and control in the modern corporation is a commonly discussed example of a principal-agent relationship.[351]   In this context, Jensen and Meckling:

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[349] In theory, relational contracts come into being when a formal contract is entered and informal institutions subsequently arise. Here it is suggested that formal contracts may often follow from informal institutional relationships. This raises the question of whether these pre-existing informal relationships constitute a relational contract, or whether both formal and informal must be present to qualify. If the relationship is between individuals, one could argue that a minimal formal relationship is always present, because there are legal constraints on what one person can do to another: individuals have legal personality. Informal groups of people such as an unconstituted iwi have no formal status, however, and thus two unconstituted iwi have no formal relationship. One of the effects of the universal establishment of formally constituted tribal organisations is to create a universal network of relational contracts (i.e., relationships that comprise both formal and informal mediating institutions).

[350] There are two distinct branches of the principal-agent literature. One follows a normative, mathematical approach, the other a positive, empirical and qualitative approach. The latter branch is used in the thesis for comparison with the empirical material. Positive agency theory has been termed the technology of monitoring. Furubotn and Richter (1997 ch.4) review relational contracts, agency theory and implicit contracts as three distinct areas of theorising, whereas here it is considered more useful to view the latter two as possibilities within relational contracts. This is possible because while not all principal-agent relationships considered by the literature are relational contracts, all those in new iwi organisations are.

[351] While this section considers the principal-agent relationship between owners and managers, Jensen and Meckling (1976, 307) acknowledge that 'there are agency costs generated at every level of the

> … define agency costs as the sum of:
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> 1. the monitoring expenditures by the principal,
>
> 2. the bonding expenditures by the agent [resources expended by the agent to guarantee the agent will not undertake actions harmful to principal], and
>
> 3. the residual loss, [the cost of the divergence between the agent's decisions and those decisions which would maximise the welfare of the principal]. (1976, 306)

Fama and Jensen (1983) suggest that positive agency theory must explain how the functions of decision control (choice between initiatives and monitoring of performance), decision management (initiation and implementation) and residual risk bearing should be allocated in organisations so as to minimise agency costs. They point out that there are trade-offs to be made in the decision to combine or separate the three functions. In small organisations residual risk and decision control can be combined, so that those with the incentive to monitor others' performance (the recipients of residual income) are given the task of doing so. 'Restricting residual claims to decision makers controls agency problems between residual claimants and decision agents, but it sacrifices the benefits of unrestricted risk sharing and specialization of decision functions'(Fama and Jensen 1983, 306). Alchian and Demsetz's (1972) article presents the limiting case of this combination, where the owner-manager-entrepreneur is the central player in all the relational contracts of the firm, the specialised monitor of all performance and the residual risk bearer.

In organisations with large aggregations of capital, there are benefits from spreading risk by making residual claims diffuse, e.g., across the many shareholders of a large corporation. In this situation it becomes efficient for decision-making to be delegated from the many risk bearers to specialised decision-making agents. If decision-making is delegated, it should also be divided between those managing decisions (initiating and

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organization …[and] the analysis of these more general organizational issues is even more difficult than that of the "ownership and control" issue because the nature of the contractual obligations and rights of the parties are much more varied and generally not as well specified…'. *Ceteris paribus*, the greater the number of principal-agent layers, the greater the agency costs are likely to be.

implementing actions) and those controlling decisions (choosing between initiatives and monitoring actions) as a check on agent opportunism. Spreading decision-making also has an advantage if knowledge is diffuse across the organisation because it allows decisions to be made by those with the relevant expertise. Fama and Jensen explain that:

> When residual claimants have no role in decision control, we expect to observe separation of the management and control of important decisions at all levels of the organization. Separation and diffusion of decision management and control - in effect the absence of the classical entrepreneurial decision maker - limit the power of individual decision agents to expropriate the interests of residual claimants. The checks and balances of such decision systems have costs, but they also have important benefits. Diffusion and separation of decision management and control have benefits because they allow valuable knowledge to be used at the points in the decision process where it is most relevant and they help control the agency problem of diffuse residual claims. (1983, 309)

Fama and Jensen (1983) assert that separation of decision and control reduce agent opportunism, but do not really explain why this is so. One is left to infer that this is because:

1. Opportunism now requires collusion between at least two and probably more individuals in the hierarchy (making it a collective action problem);
2. The ultimate supervisors of decisions (usually some form of Board) are chosen as specialist protectors of the principals' interests (shareholders, organisational members, donors etc) and they can be selected on the basis of their commonality of interests with those principals;
3. The discretionary powers of ultimate supervisors to redirect resources in their favour can be limited.

Despite these inferred benefits, the power of separation of decision management and control to limit agent opportunism is only as strong as the weakest monitoring link.

Although they start with a consideration of publicly listed companies (what they refer to as 'open corporates') Fama and Jensen also consider other large organisations including large professional partnerships, financial mutuals and not-for-profits, and conclude that 'our central hypothesis about the control of agency problems caused by separation of residual risk bearing from decision management gets support from the fact that the major mechanisms for separating decision management and decision control are much the same across organizations'(1983, 323).

Principal-agent theory emphasises the costs that arise because of opportunism on the part of the agent, that is, the agent's pursuit of their own agenda in the window of opportunity provided by asymmetric information. These are not the only costs of delegation, however, and they are not obviously the most important. Coordination costs also arise in principal-agent relationships because of the difficulties in communicating the principal's objectives to the agent. These will be particularly high if the principal is a collective and if the task of the agent is broad so that direction can only be given in general terms. Furthermore, because the agent is boundedly rational they can only deliver on the principal's objectives to their level of competence. These principal-agent transaction costs will arise even in the absence of agent opportunism. The literature on principal-agent relations focuses on reducing the costs from opportunism with coordination and incompetency costs receiving limited attention.[352]

Enforcing principal-agent contracts explicitly and implicitly

Principal-agent theory discusses the division and allocation of tasks and the need for appropriate incentive structures to be created to encourage agents to act in their principal's interests. Holmstrom and Tirole (1989) discuss the types of incentives that exist for motivating the managers of large corporations to act in their principal's interests. They consider internal disciplines (i.e., contractual clauses for both rewards and punishment); labour market discipline (i.e., the threat of being dismissed or not promoted); product market discipline (i.e. the need to sell goods in a competitive

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[352] In the same way that the literature pays little attention to coordination and competency costs in principal-agent relations, it neglects consideration of the collegial decision-making within organisations. For example, Holmstrom and Tirole (1989, 63) suggest that 'firm behaviour is the result of a complex joint decision process within a network of *agency* relationships' (emphasis added). Here it is argued that the need for collegial groups to make decisions, in the Board room, or worker teams, is equally as pervasive a feature of large organisations as are principal-agent relationships.

market) and capital market discipline (i.e., the threat of takeovers because of a poor share price).

Furubotn and Richter discuss the possibility of self-enforcing contracts where:

> … the only recourse of the party who discovers a violation of the contract is to terminate the agreement. No third party intervenes, no public reaction of disapproval is necessary. A self-enforcing agreement is designed so that the benefits from defaulting are always less than the long-term benefits of honoring the contract. (1976, 306)

The term self-enforcing contract is used for relational contracts that are sustained by mutual, unwritten promises which are believed or trusted by both parties. The desire not to lose the benefits from these informal promises is what sustains the relationship and prevents cheating. Investments in relationship-specific capital through social activities or brand-name capital may be undertaken to increase trust in the relationship. They are ways of making credible the commitment to a long-term relationship.[353]

Kreps (1990) is concerned with the role of reputation in making long-term contracts possible where one party has discretion to adjust to changing circumstances, as is the case in principal-agent relationships. Such contracts are advantageous in dealing with uncertainty, but in order for one party to grant such discretion to another, they must have reason to believe that the recipient will not abuse that discretion. If the recipient of the discretion has an interest in protecting their reputation for adhering to a specified set of principles (maintaining the 'corporate culture') this trust will be forthcoming. Kreps (1990, 93) argues that '[t]he organization will be characterized by the principle it selects. … In order to protect its reputation for applying the principle in all cases, it will apply the principle even when its application might not be optimal in the short run'. For

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[353] This is an interesting reversal on the association between relationship-specific investment and relational contracts. In Williamson's model, relationship-specific investments generate the need for bilateral or unified governance (i.e. some form of ongoing relational contract). In the self-enforcing model, relationship investments are made with the intention of convincing the other party that you will not default on the relationship, i.e., that the relational contract will be ongoing. In the latter case the question of why one wants an ongoing relationship still has to be answered. Self-enforcing contracts are held together by their internal, informal, disciplines.

Kreps, reputation provides an informal contractual discipline in a self-enforcing contract.

Furubotn and Richter (1997) discuss the difficulties in using organisational culture to fill in relational contracts as the scope of the organisation's activities increases. In this instance, either the statement of principles must increase, or the single principle must be stretched to inform an increasing diversity of tasks. In either case, it becomes more difficult to assess whether agent action or a proposed activity is consistent with the statement of principle(s).

Miller (1992) argues that the possibility of developing organisational culture gives principal-agent relationships inside organisations a critical advantage over market-like contracts. Managers who are able to inspire their employees to act in organisationally beneficial ways have an advantage over those who attempt to control behaviour with mechanical 'carrot and stick' incentive systems.[354] Thus '… in terms of efficiency, the advantages of hierarchy over the market (if it in fact it exists) exists because of the superior ability of the hierarchy to shape and mould individual preferences into patterns that are mutually consistent'(Miller 1992, 94). Miller agrees with Chester Barnard's proposition that: 'The Chief Executive's job is not so much to shape the self-interested behaviour of subordinates as to inspire them to transcend self-interest'(1992, 2). Miller argues that the advantage is not simply a result of the repeated plays that occur in long-term relationships, because cooperation is only one possible strategy in such interactions. The advantage arises if a good manager can inspire subordinates and make cooperation the dominant strategy (Miller 1992, 214).

Macneil's (1980, 78) work on modern relational contracts suggests a principal can be defined as one who has 'full and complete original domination'. He then points out that while 'it is quite common to recognise that agents conduct most of the modern world economy… less commonplace is the recognition that increasingly these agents have no principals'(Macneil 1980, 78). Instead, Macneil argues, agents have positions within a

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[354] Miller (1992) rejects the idea that contracts internal to the firm should be viewed as market-like, because of the critical role of inspiration over mechanical incentives. I agree that internal relationships should not be viewed as market-like, but would go further and suggest that external long-term relationships can have similarities with internal long-term relationships, with both being able to benefit from the trust and knowledge arising from repeated interactions.

hierarchy (superiors and inferiors), and constituencies (shareholders, banks, employees, customers/clients, politicians etc). Neither superiors nor constituents have the 'full and complete original domination' that defines a principal. Macneil is concerned with the effect of what he terms 'the death of principals' on enforcing the responsibilities of agents and suggests that:

> The role of law in such circumstances often becomes not that of treating a unitary relation, but of harmonizing conflict within a relation, sometimes by a kind of Geneva Convention. … The law of such a world is constitutional and administrative law and the law of political relations, more than the law of contract. (Macneil 1980, 81&84)[355]

Relational contracts in new iwi organisations

Summary of the relational contracts in new iwi organisations

New iwi organisations are large complex organisations with a variety of relational contracts of both a principal-agent and collegial nature. Although there is structural variation between the three new iwi organisations studied, there is enough similarity to model a generic new iwi organisation and this is set out in Figure 8 below. Where there are important nuances in the relational contracts of each individual new iwi organisation, these are considered in the examination of each specific relational contract.

The discussion that follows will consider four relational contracts in detail. These are the relationship between:

1. tribal members and tribal representatives;
2. tribal representatives and the organisation's chief executive officer;
3. the iwi organisation and the Crown;

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[355] Note that while I agree with Macneil that accounting to a hierarchical superior or 'proxy principal' is not the same as accounting to a genuine principal, I proceed to use the term principal to refer to these hierarchical superiors in the comparative discussion that follows, for reasons of convenience.

4. the iwi organisation and commercial parties.

The choice of these four is driven by the weight of the empirical material in these areas, i.e., these were the relationships most talked about in interviews and documents. The first (members-representatives) and third (organisation-Crown) were by far the most dominant concerns, and thus, receive most coverage in what follows. Two of the relational contracts in Figure 8 below, that between the chief executive and staff, and that between the organisation and subsidiaries, attracted too little comment in case materials to warrant separate consideration here.

The four relational contracts come from different categories. The first is a political relational contract marked by periodic elections and reporting; the second is an employment contract, formally similar to those of other mainstream organisations; the third is a looser political relationship punctuated with formal contracts to cover particular tasks; and the fourth are commercial arrangements of varying types. The first two are principal-agent relationships within the organisation; the third is a relationship with an external party and variously viewed as a partnership between equals, or a principal-agent relationship; and the fourth category contains a variety of external relationships, some of which cast the new iwi organisations as principal, some as agent and some as an equal.

MEMBERS

MARAE REPRESENTATIVES

TRIBAL REPRESENTATIVES

CHIEF
EXECUTIVE

SUBSIDIARIES

STAFF

CROWN

COMMERCIAL
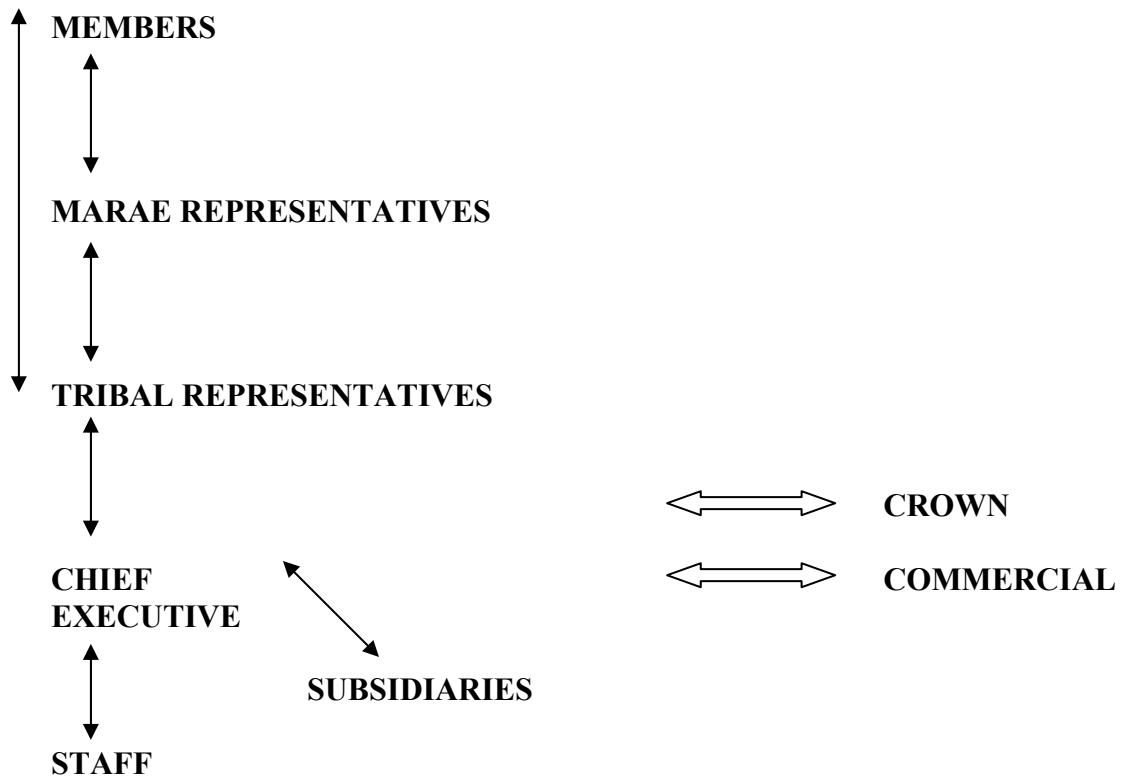
Figure 8 : Relational contracts in a generic new iwi organisation

The institutions mediating the relationship between members and tribal representatives provide both direct links, and indirect links via marae representatives. This is indicated by the parallel lines between members and tribal representatives. The block arrow connections from the iwi organisation to the Crown and commercial parties, is to indicate that these relational contracts are external to the organisation, unlike the others which are inside. (The boundary question, i.e., what is inside and outside the organisation, is dealt with further in the next section on new iwi organisations qua organisations, chapter 5.4.)

The investigation of each specific relational contract will be guided by questions about the characteristics of that relational contract, where these characteristics have been identified as important by the preceding theoretical literature. The questions are:

Who are the **PARTIES** to the relational contract?

What is the **TASK** of the relational contract, i.e.:

How far is there **goal congruence** between the parties with respect to the task?

Is it a **bilateral or unified** relationship?

Is it a **principal-agent** relationship?

How much **uncertainty** is associated with the task (arising from the longevity of the relationship and breadth of the objective)?

What **SOCIAL CAPITAL INSTITUTIONS** are mediating the relationship, i.e.:

What **norms, network, or formal rules** are present, and what is the chronology between the different forms?

How **frequent** are the interactions between parties to carry out this task?

Do the institutions specify **processes for future decisions or specific, once-off actions**?

Do these social capital institutions represent **relationship-specific assets?**

Have any investments been made in **physical relationship-specific assets**?[356]

Is investment/ownership in the relation specific assets **symmetric or asymmetric**, and thus, is the desire for continuity symmetric or asymmetric?

If the relational contract is a **PRINCIPAL-AGENT** relationship what **control or disciplinary role** is played by the contract (both formal and informal), labour market, product market and capital market pressures?[357]

Relational contract between members and representatives

Parties in the relational contract

Individual tribal members have rights within the new iwi organisations both as members of marae and as members of the iwi directly. Thus there are three parties to this

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[356]For completeness, the analysis should also consider if any investments have been made in human capital, but this is ignored, partly to simplify the analysis, and partly because of the difficulties in distinguishing between social and human capital.

[357] These four categories come from Holmstrom and Tirole (1989) in considering controls on corporate managers, hence the inclusion of labour market controls. In some cases the agent is not selling their labour, e.g., the new iwi organisation delivering services on contract to government, and in this case the relevant market is for a labour market team that can deliver the relevant service. Labour market teams come with network social capital, not just human capital.

relational contract: individual members, marae communities and their representatives, and tribal representatives. The balance of rights differs slightly between new iwi organisations (as discussed below) and there is some ambiguity as to whether the members of iwi should properly be viewed as marae or as individuals. Both Te Kauhanganui of Waikato and Te Rūnanga o Raukawa, for example, are legally constituted as incorporated societies but the listed members of these societies are marae, not individuals. In Ngāti Whatua individuals are technically beneficiaries, not members.[358]

Nature of the task of the relational contract

The task of the relational contract, broadly defined, is for members to select representatives to articulate policies and secure resources to advance the interests of the tribe. Representatives are expected to inform and consult members (who are correspondingly expected to stay informed and to offer their views).

There is an assumption that all parties have a common interest as members of the tribe. Thus despite the tensions around the degree of autonomy of constituent marae, this is a 'unified' relationship in that it takes place within the 'unity' of the tribe. If there were no unity, there would be no tribe, no relationship, and no organisation. Constituent marae retain their own identities, however, and so the unity is that of a confederation rather than that of a single body.

The relational contract between members and their representatives qualifies as a principal-agent relationship, where representatives are appointed to do a job on behalf of members as principals. (The principal-agent features of the relationship are considered below.)

The task which representatives are appointed to do is extremely broad, leading to a high degree of uncertainty about the circumstances under which it will be carried out. The

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[358]This ambiguity is arguably an issue of cultural evolution, that is, traditionally, individuals were members of whānau, who were members of hapū, and hapū were members of iwi. Contemporary lifestyles (and mainstream values) have elevated the direct individual – iwi link however. Ballara (1998, 282) discusses the suggestion that the most important affiliations for some contemporary Māori are whānau and iwi (rather than hapū).

period for which representatives are elected is generally three years, and some of the opportunities and issues that representatives will have to deal with will be apparent at the time of election. The high degree of uncertainty is mitigated by the relative continuity or conservatism in the tasks of new iwi organisations and the likelihood that where new types of activity are contemplated, they will be undertaken only after explicit consultation and approval by members of the broad parameters for action.

Social capital institutions of the relational contract

Norms, networks and formal rules

Members in all iwi have the same generic rights:- to receive information, exercise voice, select representatives, stand for election and access benefits.[359] Some of these rights are formally stated and some are voluntary, or informal. With respect to receiving information, for example, the right to the annual report and to attend the AGM are constitutionally prescribed. Newsletters, occasional hui, websites and media releases are all voluntary activities of the iwi organisation. There is also a clear but informal expectation that representatives will be prepared to discuss the work of the organisation at other times (e.g., hui called for other purposes, or in casual meetings). The case material suggested that as much information was disseminated through informal networks as through processes formally required of the organisation.

All members have a right to attend hui and articulate their views and the regulation of these hui is largely through Māori informal processes.[360] All members have a right to participate in selection of representatives, either by direct postal vote or at marae hui (where selection, after discussion, may be by voice or show of hands). All members formally have the right to stand for selection. Lastly, all members have a right to participate in benefits such as marae grants and scholarships, to the extent that these are made and within the criteria established for their distribution. Some criteria are only assessable through relatively informal processes, e.g., evidence of tribal involvement.

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[359] Although these are referred to as the rights of all members, some, such as the right to vote, are restricted to adults.

[360] I did encounter occasions when complaints or even legal challenges were made to decisions made at hui on the basis that they were not carried out 'by the rules'. These were aberrations, however, and signs of uncharacteristically divided marae or iwi communities.

There are ongoing tensions between informal and formal institutions and the new iwi organisations must balance these. An example of balance between Māori informal institutions and constitutional or legislative formal institutions arises in the question of assessing membership entitlement. The formal constitutional requirement is that all those who have whakapapa to the stated ancestors or hapū are entitled to participate in the organisation. The assessment of whether an individual has the appropriate whakapapa is informal and personal, however, being carried out by persons deemed expert in the particular case.[361]

The rights of members are matched by a corresponding obligation to participate (as discussed in the earlier section on social capital). Thus members have an obligation and must expend resources to acquire information, to attend hui, to speak, to offer themselves (or be nominated) for election and to vote. The obligations with respect to accessing benefits are more subtle. In the case of marae grants a member generally has to use the marae facilities to enjoy these, or participate in marae decision-making processes if they want to influence how the grant is spent. To receive a scholarship members must have shown their tribal affiliation (usually through marae or kaumātua endorsement) and often must attend a presentation hui. If a member opts out of their obligations, they effectively opt out of their rights.

The chronological relationship between the three types of social capital was discussed in the previous section on social capital. The norms and networks between members exist prior to the establishment of the formal organisational rules. The processes established by the formal rules are designed to support the development of these norms and networks.

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[361] Waikato provides another example of a tension between formal and informal rules. In this case, the constitution for the tribal parliament, Te Kauhanganui, proscribed election of those who had legal convictions which were punishable with jail terms. This resulted in the removal of an elected representative who it was found had been convicted for his part in land protests some 20 years earlier. The irony of a person being prevented from being a tribal representative because of his youthful activism on behalf of his people was not lost on the iwi and the rule is being reviewed.

Frequency of interaction

Interactions formally associated with the new iwi organisations are relatively infrequent. Thus the tribal board is only required to have an annual AGM of all members and board members are elected triennially. Formal marae meetings might take place bi-monthly, or quarterly, and marae representatives might meet with tribal representatives quarterly, biennially, or annually. The apparent scarcity of contact is augmented by meetings of the same people, explicitly for different purposes, but at which tribal business can be expected to be discussed. Thus every time there is a tangihanga (funeral) at a marae, that community will come together and current marae/tribal affairs will surface for debate. Sports and cultural events can be expected to provide the same opportunity (whether organised explicitly by the tribal/marae bodies, or simply in the communities in which these people live).

Institutions creating processes or once-off rights and obligations

The norms, networks and formal rules discussed above, which mediate the relationships between members and representatives, are entirely about process. The rights and obligations established create a structure for ongoing decision-making. Even where rules relate to specific events they govern how future decisions will be made, e.g., the requirement that the Waikato Lands Trust take the final decision on the settlement of the River Claim back to the people.

Relationship-specific assets

Investments in relationship-specific assets are investments which are of less or no value outside the context of that specific relationship, if that relationship were to terminate.[362] In new iwi organisations, relationship-specific assets are overwhelmingly social capital

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[362] The definition offered by Williamson and outlined earlier was: 'asset specificity refers to durable investments that are undertaken in support of particular transactions, the opportunity cost of which investments is much lower in best alternative uses or by alternative users should the original transaction be prematurely terminated…in these circumstances…continuity of relationships is valued … [and] … contractual and organizational safeguards arise in support of transactions of this kind' (1985, 55).

institutions (particularly norms and networks) and participants must invest time and energy in learning these.[363]

A complication in thinking about the specificity of social capital assets in the member - representative relationship, is that representatives are also members. Much of the social capital investment mediating the relationship between a representative and their members is made by the representative as a member (and it continues to be valuable to them, as a member, after they exit the position of representative). This investment is included in the social capital specific to the member-representative relationship, although it could be argued that only the incremental investment that members and representatives make over and above the member-member relationship should be counted.[364]

With respect to the 'member ↔ (representative-as)-member' relationship, knowledge of the iwi norms and networks may have some use outside the specific relationship, in other Māori contexts, or in dealings with parties that have an interest in the iwi such as the Crown. The greatest value of this knowledge, however, is in the context of the relationship between members. The formal rules generally have two components: a generic legislative basis, the knowledge of which might conceivably be valuable in another context, and a customised component which is unlikely to be so.

The investments in social capital made by ordinary members, and representatives-as-members, are broadly similar and symmetrical.[365] A desire for continuity of the

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[363] The only physical capital I can think of whose value is dependent on the continuation of the new iwi organisations, and thus on the continuation of a relationship between members and representatives, are things like stationery and cars bearing the organisational insignia. Investments in items like tribal rolls have a physical manifestation (or more probably, a space on a computer hard drive) but are more correctly thought of as social capital than physical capital. The relationship-specific capital of norms/culture and networks/personality-knowledge is utilised in the core tasks of the new iwi organisations i.e, delivery of culturally appropriate services, resource management participation and negotiating Treaty settlements. How far it can and should be used in commercial activities is still being explored.

[364] This incremental investment would include, for example, the additional information that members want to know about fellow members before they elect them, and the additional institutional knowledge that representatives must gain to function adequately as representatives. The justification for only counting the incremental investment is that only this is lost when a representative leaves the position. The argument against only considering the incremental investment is that it ignores the reality that an investment in member social capital is a prerequisite for the job of representative, i.e., for the establishment of the member-representative relationship. It is a necessary but not sufficient investment.

[365] I say broadly, because representatives are likely to be chosen from those who have made a greater than average investment in tribal norms and networks, i.e., from the core tribal activists.

member-member relationship is correspondingly symmetrical. This suggests that efforts will be made to repair relationship breaches. This occurred in Ngāti Whatua where the misappropriation of funds by a representative caused their expulsion from the representative position, but then their being given the opportunity to pay back the debt and thus restore their position as a member of the iwi.

With respect to the additional investment to support the member-representative relationship, the resources expended by members in finding out about representatives probably require less energy than that expended by representatives to become familiar with the functioning of the organisation and thus members might be expected to have less interest in continuity than representatives. This asymmetry is offset by the reality that members must find someone else whom they trust to make a similar commitment before they oust current representatives. In addition, the investment made by representatives puts them in a stronger position to monitor future representatives when they return to being simple members of the iwi (i.e., retains some of its value when they return to being simple members).

Institutional variation between tribes in selection of representatives by members: hui or voting; one layer or two?

There are two key differences in the specific institutions through which member select representatives. The first is whether selection takes place at marae hui or by postal vote. The second is whether there are one or two layers between individual members and the Rūnanga executive. Two iwi use both marae hui and postal voting as part of their institutional repertoire (Whatua and Waikato) and one uses only hui (Raukawa). One iwi has two layers between individuals and the executive (Waikato), one iwi has one layer (Raukawa), and one iwi has two processes in parallel (Whatua – the voting process involves one layer and the consultations process with marae involves two layers).[366] The variation between iwi suggests there are finely balanced, possibly

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[366] In Ngāti Whatua, election of the tribal Rūnanga (representative board) is done by direct postal vote on a triennial basis, with the constituency divided into 11 regions. Ngāti Whatua marae also elect marae representatives to form a Rūnanga Poupou which acts as a consultative body to the tribal Rūnanga, and a information conduit back to marae. In Waikato, marae communities select marae representatives to the Kauhanganui (tribal parliament) and the Kauhanganui elects an executive of twelve tribal representatives, the Tekaumarua. Individual voting via the tribal roll is used on some occasions, e.g., referenda on the Deed of Settlement and new constitution. In Ngāti Raukawa, marae communities select marae representatives directly to the tribal Rūnanga i.e., marae representatives are tribal representatives.

transaction-cost trade-offs, in the choice of institutions. This possibility is considered below. The variation also shows that despite the members of all three iwi having the same general right e.g., to select representatives, the exact nature of these rights is defined by the specific institutions for exercising those rights.

Attending marae hui to select representatives and keep informed about the iwi organisation's affairs requires considerable resources of individuals involving both travel costs and time. It also markedly favours those who live in the vicinity of their marae, so much so, that those who live considerable distances away are arguably disenfranchised.[367] (Many iwi have taurahere or urban based tribal groups to address the communication problem but few of these groups have direct rights of representation.) Postal voting is cheaper for individuals but more expensive for the iwi organisation. Maintenance of tribal rolls is a major expense and the cost of using them as a means of election an additional cost. This cost is particularly prohibitive for iwi who have no settlement-derived assets.

The significant costs associated with both hui and voting raises the question of why some iwi choose to use both (i.e., to incur both sets of costs). The transaction costs of using these two institutions cannot be explained in terms of a narrow requirement that member-principals have some minimum control over representative-agents. The cost of attending hui to exercise these rights can only be justified if it has other benefits, that is, if it is a cost that is being spread over other tasks, both tangible and intangible. As discussed earlier, marae hui happen to deal with practical issues and they are places where personal relationships and cultural practices are sustained and developed. In addition, the hui process is arguably one where discussion allows the emergence of individual and collective ends in a creative process, not simply the aggregation of independently formed individual ends (as discussed earlier[368]).

The additional benefits of a roll-based voting system are less obvious, but tribal rolls are increasingly becoming tools for gathering and storing demographic information about members (i.e., as a reference tool for new iwi organisation). Electoral rolls have

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[367] A classicist pointed out to me that this same situation applied to Athenian democracy in the fifth century BC.

[368] See section on 'Intrinsic versus instrumental value of social capital', chapter 5.2 and Linder and Peters (1995) in particular.

legitimacy in the broader society and mainstream credibility is critical for new iwi organisations seeking resources from government. Consistent with this, both Ngāti Whatua and Waikato have postal voting because the Māori Trust Board legislation under which they were constituted required it. If they wanted the status conferred by this legislation they had to compile rolls.

Recent initiatives have been made to reduce the transaction costs of maintaining tribal rolls by linking them to the national electoral roll. This initiative, along with the fact that rolls will be compulsory for iwi who want to receive fisheries assets, means their use is likely to become universal. Nevertheless, the centrality of hui (marae, iwi and taurahere) to the maintenance of culture and personal relations, and the intimate link between such maintenance and the purposes of new iwi organisations, mean these institutions will continue to be important. Thus even where founding legislation requires a tribal roll, they are a supplement to traditional decision-making at hui.

These two processes (hui and roll-based voting) are an example of the role of these organisations as intermediaries between Māori and mainstream institutions. Hui (an informal institution) cater to the former and electoral rolls (a formal institution) cater to the latter. It might also be argued that hui and roll-based voting represent a graduated level of cost/benefit for members with differing levels of commitment to the new iwi organisations. Those with a low level of commitment can get onto the roll with relatively little effort and will receive relatively limited benefits (in terms of effective voice, intangible benefits and tangible benefits such as use of marae facilities). Those who have a greater level of commitment and for whom participation kanohi ki te kanohi (face to face) has intangible benefits will be prepared to incur the greater costs of attending hui and will receive a correspondingly higher payoff.

The second feature that varies between the three cases is whether they have only one layer with members electing the Rūnanga executive directly (as in Raukawa) or whether they elect a parliament, which then elects the Rūnanga (as in Waikato). The critical factor in this choice appears to be the size and the transaction costs of group decision-making in the Rūnanga executive. Ngāti Raukawa create a Rūnanga of 24 when each marae elects a representative. While large, this is functional as a governance body (particularly in combination with a sub-committee system where preliminary decisions

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are made).[369] If Waikato were to do the same thing they would have a 65+ member executive, something they clearly decided was not tenable.[370] The cost of attenuating the link between individuals and executive decision makers was outweighed by the benefits of having a 12 member executive. (Note also that some of the reporting and policy development functions undertaken by Raukawa's Rūnanga subcommittees are carried out by Waikato's parliamentary subcommittees, so the difference between the two may not be as great as it at first appears.)

Ngāti Whatua has 32 marae. Direct marae representation would therefore create a large executive and is proscribed in any case by the Trust Board legislation (where Boards must have between 7 and 11 members). Ngāti Whatua have maintained an accountability to marae through the Rūnanga Poupou, the group of marae representatives to which the executive must report and from whom they must gain certain approvals (e.g., for amendments to the Charter).

Principal-agent issues in the relational contract

The relationship between representatives and iwi/marae members is a principal-agent relationship where members are the principal who collectively engage representatives as agents to govern tribal affairs on their behalf.   Fama and Jensen (1983) suggest that where ownership is diffuse, decision-making should be delegated from principals to agents for reasons of efficiency. It should also be accompanied by a separation of decision management from decision control to reduce the opportunity for agent opportunism.   In new iwi organisations ownership is diffuse across the tribal membership as in large corporations.[371] Decision-making is delegated, consistent with Fama and Jensen's (1983) argument, and it is separated between decision control (choice and monitoring by the Rūnanga) and management (initiation and implementation by staff).

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[369] At least it appeared to be functional, based on my observation of meetings, and the overall success of the organisation.

[370] In late 2002, 65 marae were sending representatives to the Kauhanganui out of the 68 who were potentially eligible.

[371] Note, however, that the reason for diffuse ownership is not the same. In the corporation it is the result of the voluntary, short-term grouping of assets by individuals (aggregation of capital, without aggregation of risk). In the new iwi organisation it is because the rights it holds: political, cultural and financial/physical, are a collective inheritance.

Earlier it was argued that separation of decision control and management will only be an effective control on agent opportunism if:

1. Decision controllers are selected on the basis that they have the same interests as principals/members (not the same interests as decision managers);
2. Decision controllers have limited discretion to usurp residual claims;
3. Separation requires collusion between decision managers and controllers to usurp residual claims.

It is clear in new iwi organisations that the intention in selecting tribal representatives (decision controllers) is to find individuals who have a commonality with and commitment to member interests. In new iwi organisations, chief executives are also tribal members as a matter of practice, reinforcing this means of controlling opportunism.

The discretion of the Rūnanga over remuneration seems to vary between iwi. If the affairs of the iwi are so substantial that the Rūnanga (or at least the Chair) is effectively an employee, they will be in a position to appropriate residual income.[372] If representatives are also employees (i.e., are both decision managers and implementers) then Rūnanga members must monitor each other. While theoretically satisfactory, the cost to collegiality of this practice can be high, at least as evidenced by Waikato, where at times legal action taken by some Rūnanga members against other members undermined their capacity for collective action. A trade-off is evident here. A diverse group of representatives will have greater difficulty reaching collective decisions but is likely to be more aggressive in their monitoring of each other and less likely to collude with decision managers.

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[372] One iwi I spoke to said that representatives were actively discouraged from also working for the Rūnanga, but even here I observed cases where the tikanga and diplomacy skills that made individuals appropriate representatives might also make them the most qualified for some work required by the Rūnanga (with regard to treaty claims or resource management applications, for example).

Political principal-agent relationships and the question of efficiency

Political institutions frequently draw poor marks from economists conducting an efficiency assessment, despite the cautions discussed earlier on applying the term to institutions. For example, Furubotn and Richter (1997, 469) note that '…uncertainty is generated because political markets are known to be even less efficient than economic markets are'. They cite the following assessment by North (1994):

> Measuring and enforcing agreements in political markets is far more difficult. What is being exchanged (between constituents and legislators in a democracy) is promises for votes. The voter has little incentive to become informed because the likelihood that one's vote matters is infinitesimal; further, the complexity of the issues produces genuine uncertainty. Enforcement of political agreements is beset by difficulties. Competition is far less effective than in economic markets. For a variety of simple, easy-to-measure and important-to-constituent-well-being policies, constituents may be well informed, but beyond such straight forward policy issues, ideological stereotyping takes over... (Furubotn and Richter 1997, 469)

The constituent-legislator principal-agent relationship is problematic, according to North because:

1. Objectives and directives are weakly specified and are fraught with complexity and uncertainty
2. The actions of individual constituents have limited impact so that they have limited incentive to participate and they suffer a profound information disadvantage;
3. Weak mechanisms exist for enforcement and competition between rival agents is limited.

New iwi organisations are subject to all the concerns expressed by North regarding the 'inefficiency' of the political markets relative to economic markets.   There are,

however, compensating factors to reduce the agency problem which are not present in economic markets and these are discussed in what follows.

Breadth of objectives, complexity and uncertainty as principal-agent issues

The representatives in new iwi organisations are elected to work towards a very broad objective which is typically some variant on the theme of exercising tribal rangatiratanga and advancing tribal interests. The objective is not only broad but its meaning in particular circumstances is as much a process of collective construction as it is of collective preference aggregation. The objectives are implemented in an environment of complexity, uncertainty and change.

The task of leadership is to inform and facilitate the process of collective construction of objectives. Collective culture and vision (tikanga and kaupapa) also inform and facilitate this process. Without them, agreement on how the broad objectives should be constructed and implemented would be extremely difficult. All the cases studied referred to the importance of tikanga and kaupapa in coordinating, resolving conflict and motivating action.

In Ngāti Whatua, for example, Tom Parore (2000, para 73) explained the need for the Rūnanga to take time out to articulate the tribe's tikanga or guiding principles '... so that we know that when you're dealing with Ngāti Whatua this is the way they're going to operate. We want to get something that's pretty specific, peculiar to Ngāti Whatua'. He suggested that tribal members needed to discuss the expression of the tribe's tikanga. 'You need to have tikanga that people understand and you just can't take tikanga and those things for granted, it needs to be worked on every day of the week' (2000, para 64).

Similarly, in Ngāti Raukawa the vision provided by Whakatupuranga Rua Mano was argued by many speakers to provide inspiration and guide decision-making, and the impact of the vision was described by one speaker as follows:

I think that it was a basis and a very important signal for our people, and for hapū and iwi to have those dreams, to visualise, to develop those dreams if they want to go somewhere together. And it was, it was a binding force. I guess it was a binding force for further development, to gather strength and inspiration. I'm sure that a lot of people measured their efforts along those particular lines. (Royal, 2001, para 17)

A core assumption of iwi organisations is a high measure of goal congruence (an implicit agreement on meaning due to common culture), otherwise the diversity of tasks and associated ambiguity of performance of the organisation overall would create almost insurmountable principal-agent monitoring problems. The importance of goal congruence in situations where objectives are very broad was discussed by Ouchi (1980) who provides the following comparison of markets, bureaucracies and clan organisation:[373]

Feature / Type of organisation	Performance ambiguity	Goal incongruence
Markets	low	high
Bureaucracies	high	high
Clans	high	low

Table 13: Ouchi's comparison of performance ambiguity and goal incongruence in markets, bureaucracies and clans.

The existence of kaumātua councils as a consultative adjunct to all the new iwi organisations studied is also an expression of the importance of tikanga and kaupapa in guiding the organisations work. Kaumātua are the repositories of tikanga and kaupapa, and their role is to ensure the work of the organisation is consistent with and supportive of these aspects of culture.

The tendency for new iwi organisations to act consistently with culture is manifest in an underlying conservatism in the tasks they undertake. Negotiating for Treaty settlements, participating in resource management, delivering services and delivering

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[373] Kreps (1990) also discusses the critical role that the need to maintain a reputation for acting consistent with organisational culture has in making principal-agent relationships feasible, as discussed earlier.

benefits via grants to marae and students are all traditional roles (although their manifestation evolves with the opportunities). Even in their commercial ventures new iwi organisations favour activities that resonate with traditional values (although the less direct link to maintaining culture makes these choices more controversial).

The role of voice is far more important in new iwi organisations (and political markets generally) than it is in commercial organisations. This is because participation is valued in itself (because of its cultural and social dimensions); because it is a way of being involved in the construction of the organisation's objectives; and because it provides a means for reporting on the organisation's affairs. To the extent that the specific manifestation of objectives is a construction (rather than an aggregation of preferences) the focus is on correct process rather than a correct outcome. The ways that new iwi organisations seek to increase participation by members and the importance they place on this has been outlined in the case reports.

Limited incentives for involvement and information disadvantage as principal-agent issues

The limited impact of one person's vote on the final outcome has been argued to present a puzzle as to why citizens expend the effort to vote in elections. This problem has some relevance to new iwi organisations although it is mitigated by a number of institutional features. Firstly, as noted earlier, voting usually happens in conjunction with hui which have other purposes (both tangible and intangible). It seems likely that those who bother to attend do not do so simply to vote but because they place importance on these other tasks. Secondly, one person can exercise considerable influence at such hui in expressing their support for a particular candidate or cause (that is, their influence is not 'infinitesimal', as suggested by North, above). [374]

The information disadvantage of constituents compared with their representatives and the impact of this on their capacity to effectively select and monitor their representatives is a critical issue for new iwi organisations. Constituents require two qualities in their

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[374] New iwi organisations do have a concern that many people who have the whakapapa to the iwi do not participate in any form. This seems as likely to be because they do not place much value on any of the benefits the iwi organisation/marae offers, however, as because they doubt the impact of their participation.

representatives: commitment to the marae/iwi and competency. The first quality is more easily evaluated by members as it is evidenced by a history of activism in the relevant fora (marae, iwi, local community).[375] Competency tends to be evaluated by proxy, as evidenced by an employment record in roles that require relevant skills, for example, or via communications from networks outside the iwi. The relative ease of evaluating commitment in contrast to competency raises the risk that members will give undue weight to this in their choices (and there was some concern expressed that this happens).

Weak enforcement and competition faced by agents

Formal enforcement in new iwi organisations as in other political principal-agent relationships is limited to periodic elections of representatives by members (a labour market control). Recourse to the courts is possible if unlawful action is suspected (a contractual control) but this is a costly exercise. Where court action has been initiated it has been by Rūnanga members against other Rūnanga members using Rūnanga resources, or occasionally by a collective constituent (e.g., hapū opposed to the Waikato settlement), not by an individual.

Being removed from office through election-loss is not in itself a serious punishment. Individuals frequently stand down voluntarily, or are shifted to make way for 'new blood' without suffering loss of face. Rather, it is the loss of reputation associated with being judged incompetent or corrupt that is to be avoided (an informal contractual control). This is particularly true in small communities (a term that applies to iwi, Māori society more generally, and even to New Zealand as a whole) and for individuals who have made long-term investments in relationship-specific capital (i.e., that have a history of involvement in the iwi/marae/Māori community, as discussed in the previous section[376]). For such people, loss of reputation will have repercussion in both future employment and social relations. This suggests that the overwhelming weight of

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[375] A history of activism in the relevant fora is another way of saying they have made large investment in relationship-specific capital and thus have much to lose if their poor performance leads to the severance of the relationships.

[376] Note that it does not much matter whether this involvement is paid or unpaid. In both cases involvement is voluntary and thus is assumed to generate rewards (tangible or intangible) and these will be foregone if incompetence or corruption causes the relationships to be damaged.

enforcement is borne by informal institutions of the relational contract and that this is possible because of the small size of the community.

Representatives face direct competition through the electoral process, but an indirect threat to the scope of their work arises from the fact that there are alternative producers (or providers) for all the tasks undertaken by the new iwi organisation. This is most obvious in their commercial activities, but it is also true for service delivery (where there are alternative Māori and non-Māori providers), resource management (where hapū or pan-Māori groups might supplant iwi, or Māori might be excluded from the process) and Treaty settlements (where hapū or pan-Māori settlements are possible, or the settlement process might stall completely). Capital market discipline may operate where organisations have extensive loan finance (as evidenced in the influence of the banks over the commercial activities of Waikato in 2000) but new iwi organisations which have not reached settlements have limited assets, and thus limited borrowing.

The discipline posed by product and capital markets has two indirect effects on representatives. Firstly, it will affect the scope of the activities that the representatives have jurisdiction over (i.e., they may retain their jobs, but the job will be smaller). Product and capital market verdicts are also likely to influence how members view the representatives and thus it will have an impact on their re-election prospects.

The major difference between new iwi organisations and corporations, as noted above, is that in the latter shareholders can exit and redeem the value of their shares. Tribal members can exit, but they cannot take a share of physical or financial capital with them. It has been argued in the previous cross-case model however, that member support is the most fundamental driver of new iwi organisations' existence and expansion. This makes member support the most important long-term asset of the new iwi organisation. If this is true, then the exit of members (the withdrawal of their support) has a medium to long-term disciplinary impact on a par with shareholder exit. If the representatives of the new iwi organisation are long-sighted, they will respond ex-ante to the potential loss of support and the organisation will survive. As with product and capital market influence, this is an indirect form of discipline.[377]

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[377] A related phenomenon exists for the state, where the loss over time of citizen support, or a loss of the legitimacy of the state apparatus, drives up the costs of maintaining the state. Ultimately this can lead to

Concerns of the principals in the cases

Principals, as noted in the theoretical section, might be concerned about agents' opportunism (graft), incompetence, or failure to understand their objectives (a coordination problem). There was limited comment in interviews on concerns of members with respect to the behaviour of representatives (but representatives and employees were interviewed, not members). There were comments, as noted, on the importance of increasing participation and this included increased involvement in the selection of representatives (although participation is clearly viewed as broader than this).

In Ngāti Whatua, apart from concerns at the time of establishment (because of the theft by a Board member, and the subsequent lack of resources to function) the main issue discussed was the balance between iwi and hapū responsibilities. This does not seem to reflect a judgement of opportunism or incompetence, but a difference in opinion on the appropriate balance between hapū autonomy and tribal unity (as discussed earlier under managing the bonding-bridging capital tensions). There was reference in Ngāti Whatua to the need to present financial figures in an easily understandable form (although this was as much for the benefit of the Rūnanga and Rūnanga Poupou, as for tribal members individually). In Raukawa, similarly, I did not find criticism that representatives were incompetent or dishonest. The concern was similarly with increasing the opportunities for hapū to control their own affairs.

In Waikato, the concern with decentralisation was expressed more forcefully than in the other two iwi, manifesting in court actions in opposition to the 1995 settlement. One reason it may be more forceful is because Waikato had a large centralised settlement, which is not the case in Ngāti Whatua or Ngāti Raukawa. In addition, the financial and political problems encountered by the organisation in 1999-2001 fuelled decentralist calls, as well as making government more cautious in accepting the organisation's

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revolution, but the costs of the decreasing efficacy of informal institutions that follows the loss of legitimacy rise long before this and wise governments seek to respond to this. Indeed, if the loss of faith is not just in government, but community in general, then the result will not be revolution (which requires an extremely high level of social commitment) but social break-down.

mandate.[378]   Finally, Waikato has a much greater population, increasing the distance between principals and agents.

The major difference for Waikato historically, however, has been the preoccupation of the media with publishing reasons why members should be discontented and apparent examples of this discontent. This stems from the 1999-2000 financial upheavals where, despite some suggestions of over-indulgence, the major charge in the media was incompetence. The evidence from the financial reports makes this charge difficult to dispel, whatever explanations were offered, although a subsequent recovery is also clear (but less reported). The media reports of this time about the inadequacy of the financial reporting suggest an asymmetry in concerns about information. When things go wrong, the media (and probably members) want to know why. They are less concerned with the detail when things go right.

In Waikato, there were also reports in the years following the financial difficulties of internal disputes within the representative body and senior management. Questions of accuracy aside, these suggest to members a weakness in the common vision and culture required to maintain cohesion. If these are feared to be weak within the Rūnanga, it seems unlikely members can rely on them to keep representatives acting in members interests. This again is what is implied by the cost of 'a loss of a common vision' reported above.

Principal-agent issues: conclusion

There is clearly a danger of falling into what Demsetz (1969, 1) termed the 'nirvana fallacy' when labelling political institutions inefficient relative to commercial ones. The representatives in commercial organisations are easier to monitor and control because the goals are much tighter and there are generally fewer people involved.   In commercial organisations, financial claims are transferable, so exit is an option for dissidents.   There are difficulties for member-principals in monitoring their representative-agents in new iwi organisations but there are also mechanisms of control

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[378] In an NZPA release on 14/10/04 entitled 'Land claims on hold until Tainui proves united backing', for example, it was reported that the government now required that Waikato show it had the backing of all groups before outstanding claims could be settled, not simply the majority as had been required in 1995.

which are not available to commercial corporations. Operationally, the important comparison for institutional design is not between commercial and political organisations but between different organisational options for carrying out the same task.

Relational contract between iwi organisations and the Crown

Parties in the relational contract

The relational contract between the iwi organisation and the Crown is the most complex of those in which the organisation is involved. It has evolved over some 200 years of contact between Māori and Europeans and currently involves a variety of tasks associated with a variety of manifestations of the Crown including the executive, departments, local governments and the courts. From the new iwi organisations both representatives and staff are involved in the relationship.

Nature of the task of the relational contract

At the time of the case study fieldwork, the three most important areas of activity in the relational contract between new iwi organisations and the Crown were the coordination and delivery of government services (social, health and educational), the negotiation of Treaty settlements, and resource management. In each of these areas, there is agreement between iwi organisation and the Crown on a broad definition of the task, and then divergence on the interpretation of this broad definition. In the area of service delivery, for example, the aim is to improve the well-being of people in the region, but for the Crown the emphasis is on improving the welfare of individuals, while for new iwi organisations the well-being of Māori individuals and Māori collectives are inseparable and must be supported in unison. In Treaty settlements the aim is to ensure a 'fair' settlement of claims, and in resource management to facilitate 'appropriate' iwi and hapū input, but there is divergence on the meaning of fair and appropriate.

Compared with an underlying unity in the interests of members and representatives, there is a low level of goal congruence between the iwi organisation and the Crown. Sometimes congruence is so low a task is not pursued (e.g. contract is not sought), or

cooperation gives way to conflict (with historical warfare having given way to protest and court action). Where there is sufficient goal overlap, joint action is possible but tension continues with the two parties accountable to the views of different constituencies.

The specific social capital institutions employed for each task are summarised in the next section. In some cases there is a bilateral relationship (i.e., a new entity is established to govern a particular task but the identity of the two parties is preserved) and in some cases there is a neoclassical contract employed (against the backdrop of an ongoing informal relational contract). In some cases, the relation is between two equals (both agents of their respective constituents or principals) and in some cases the iwi organisation acts as an agent and the Crown as the principal. The degree of uncertainty of the overall relationship, with its centuries-long time-frame and wide range of tasks, is very high. In the medium-term, uncertainty arises because of the three yearly national election cycle which can cause a change in the specific personality of the Crown, and an associated change in Crown objectives.[379] Levels of uncertainty relating to a specific task will be much lower, and will depend on the degree of specification in the institutions mediating that task.

Social capital institutions of the relational contract

The social capital institutions mediating the iwi organisation – Crown relationship are diverse. What follows is an outline of the institutions operating in each area of activity, and then some discussion of their overall features.

In service coordination and delivery there is a background government approach reflecting the philosophy (norms) of the party in government towards Māori and the Treaty of Waitangi. The broad philosophy of government becomes manifest in general statements included in sectoral legislation, e.g., on the importance of delivering health services appropriate to Māori (among others). New iwi organisations similarly have

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[379] It is also true that new iwi organisations have an election cycle, and correspondingly, the specific representatives and objectives of the organisation can change. There is generally more consistency in the representation on new iwi organisations than in national government. This is a result of the greater homogeneity in the iwi voting constituency and an absence of a system for organising representatives into ideologically distinct parties.

kaupapa and tikanga (vision and norms), and sometimes policy, from which their involvement flows. In service coordination there are MOU between particular departments and the iwi organisation, and sometimes a specific bilateral entity to carry out the work (e.g., the 'Māori Health Co-purchasing Authority' in which Ngāti Whatua is a partner). Cooperation in service delivery is mediated via specific short-term contracts. These are technically neoclassical in that there is no formal structure created to mediate disputes and the formal default is to take these disputes to the courts. There were no examples of this recourse in the case studies, however, suggesting the more common approach was to have discussions between the department and the iwi organisation (i.e., to utilise informal networks) and if these were unsuccessful, to terminate the contract.

In addition to the norms and formal institutions listed above, there were numerous references in the cases to the importance of personal rapport between iwi and departmental individuals in reaching mutually acceptable arrangements with respect to service coordination and delivery, that is, to the role of networks. In Ngāti Whatua, for example, the personality of one departmental official was held responsible for the failure of persistent negotiations with respect to social services, in contrast to the successes that had been achieved in health.

In Treaty settlements, a background is provided by government philosophy (norms) and is manifest in specific legislation, e.g., the establishment of the Waitangi Tribunal to hear claims, or the Office of Treaty Settlements to negotiate claims. The claims of individual iwi are dealt with through the processes outlined by the legislation and involve filing of claims by iwi, followed by intense negotiation between iwi and the relevant government agency. The negotiations take place through networks where the generic parties are formally prescribed by legislation, but the specific personalities from each side are also critical to progress. Settlements culminate in formal heads of agreement, deeds of settlement, settlement legislation and constitutions that meet government requirements.

In resource management the overall approach of the government is reflected in formal resource management legislation, requirements placed on local governments with respect to their planning processes, and establishment of processes for hearing disputes.

The cases had examples of informal networks developing between iwi organisations, local governments, and commercial entities making frequent resource applications (e.g., the power company generating electricity from the Waikato River). These networks might develop into formal cooperative bodies via the establishment of committees or MOU. Evolving norms concerning acceptable resource use also play a role in mediating the interactions over resource management between iwi and the Crown.

The above outline shows that norms, networks and formal institutions are all being actively used to mediate the interactions between new iwi organisations and the Crown. Norms in the form of government philosophy and iwi kaupapa have some consistency and coherence across tasks and time (changes in government notwithstanding), but the diversity of networks and formal institutions is considerable. Discussion and negotiation via networks linking iwi and government precedes the creation of all formal institutions, and to varying degrees, influences government philosophy towards iwi.[380] The networks continue to be important in the ongoing monitoring and evolution of the formal institutions.

There is considerable variation in the frequency of interaction with respect to particular tasks, although cumulatively, across tasks and time, the frequency is considerable (particularly from the viewpoint of new iwi organisations). There was some frustration expressed by iwi organisation that while they would like consistency in their accumulated interactions with Crown agents, they find that the relationship must be established afresh with each new Crown agent. Norms, networks and formal institutions are all involved in mediating processes, while once-off tasks are specified in formal institutions, e.g., short-term service contracts, deeds of settlement.

The social capital described above displays considerable variation in terms of relationship-specificity. Much applies to the relationship between the Crown and Māori/iwi generally, e.g., clauses in service delivery or resource management legislation, or treaty settlement legislation. Social capital specific to the relational contract between a particular iwi organisation and Crown agent include deeds of settlement, service delivery MOU, service delivery contracts and the substantial

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[380] Some governments/political parties are more open than others to dialogue and inclusion of Māori/iwi.

networks between the iwi organisation and the Crown agents that negotiate these formal arrangements.

The investment in the social capital specific to the iwi organisation – Crown relationship is *prima facie* symmetrical. Thus where an institution is generic to the Crown ↔ pan- iwi relationship, it is jointly created by the Crown and all iwi. Where an MOU or contract is specific to an iwi organisation and government department it will have been created with resources from these two entities. Despite this apparent symmetry there are two factors which create an asymmetry to the detriment of iwi organisations. Firstly, the proportion of their organisational resources that iwi invest in relationships with the Crown is far higher than the proportion of resources that the Crown invests in relationships with iwi organisations. (There are exceptions for individual specialised Crown agents, e.g., the Office of Treaty Settlements and the Waitangi Tribunal, but it is true on average.) The iwi organisation has proportionately more to lose if a relationship is terminated. In addition, the iwi organisation has to face the reality that the personality of its Crown partner can change at every election. The new Crown personality may place a different valuation on the investment made by its predecessor. In the extreme, it might decide the investment is a liability and write it off. Iwi organisations noted that the risk of a unilateral devaluation by the Crown of their mutual investment was a serious and ongoing risk for them.

The above discussion focuses on the *social* capital investments in the iwi organisation-Crown relationship. The Crown, however, also makes some significant *physical/financial* investments in the relational contract as part of the settlement of Treaty claims and in the supply of resources to deliver service contracts. The formation of the new iwi organisation at the time of treaty settlements can be seen as a protective mechanism (governance structure) to house the specific investment of financial settlement assets made by the Crown. The Crown needs iwi organisations to act as agents for tribal members because the Crown cannot settle directly with those members, but the Crown also needs guarantees the agent will be true to their members' interests (so that members, as principals, have no grievance against the Crown). The protections the Crown wants are: a settlement agreement by bona fide iwi representatives (i.e., a requirement that they show mandate); a settlement that is judged fair by member-principals (this comes in the requirement for a vote by members on deeds of settlement

or heads of agreement); and an agreement that the representatives will receive and manage the assets in the ongoing interests of members. It is this last protection that the new iwi organisation constitution must provide.

Contracts for service delivery can also be interpreted as a protection for a relationship-specific investment with the Crown requiring guarantees about the use of tax payer funds. In this case the investment is short-term (for the life of the contract funding – often only annual) and so therefore, are the contracts. Also, in this case the new iwi organisation is an agent to the Crown (not to iwi members) so guarantees are directly to the government.

Principal-agent issues in the relational contract

In the interactions between iwi organisations and the Crown outlined above, there are two distinct patterns of principal-agent relations (summarised in Figure 9 below). In service coordination, Treaty negotiations and resource management processes the iwi organisation and Crown party are both acting as agents for their constituents (the iwi membership in the case of iwi organisations, and New Zealand population in the case of the Crown). This is relationship 1 below. When the iwi organisations take up government contracts to deliver services, however, they are acting as Crown agents. This is relationship 2 below.

Relationship 1: Iwi organisations and Crown both acting as agents for their constituents (applies to service policy and coordination, Treaty negotiations and resource management processes)

NZ population   Iwi membership (subset of NZ population)

       ↓   ↓

Crown as agent   Rūnanga as agent

(exclusive right to tax)   ↔   (no right to tax so needs Crown resources)

                      ↓

        negotiations over services/ Treaty settlements/ resource management decisions

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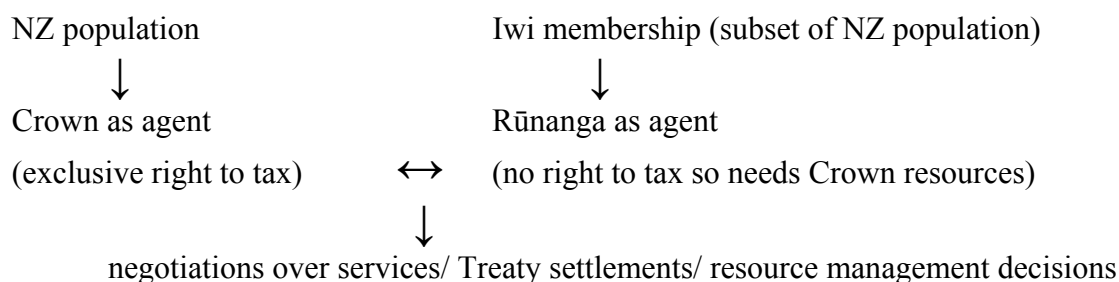
Relationship 2: Rūnanga act as agents for the Crown (applies to the service delivery)

(1) NZ population (including Māori/iwi members) are principals
     ↓
(2) Crown is their agent (provision of services is one task assigned to agent)
     ↓
(3) Crown acts as principal in paying for service contract
      ↓.
(4) Rūnanga acts as agent, delivering services on contract to Māori in their region

Figure 9: Two different patterns of principal-agent relations in the interactions between iwi organisations and the Crown

The reality that new iwi organisations have, in their different roles, two principals, is what generates the 'contract chasing dilemma' for iwi organisations.[381]   If there are difficulties ensuring agents are true to one principal, these are clearly surpassed by the difficulties in trying to be true to two principals who have divergent interests. Repugnance at being in an agency relationship with the Crown and the difficulties it generated was a expressed by all cases. All cases attempted to make it more acceptable by clearly distinguishing and separating the principal-agent relationship from the rangatira-rangatira (agent-agent) relationship between equals, which they viewed as the correct model for their relationship with the Crown.

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[381] This describes the situation where the iwi organisation must decide whether to accept a government contract because of the overlap with iwi objectives, or to reject it because of its divergences from those objectives, as discussed in the Raukawa case report, chapter 3.3, section on 'Social Services and Health'.

The controls on the iwi organisation as an agent for their members have been discussed earlier (and the controls on the Crown by its principals are outside the scope of the current discussion). With respect to controls on iwi organisations as agents to the Crown in the delivery of services there are formal contractual clauses outlining expected performance. As noted above, however, there were no examples from the cases of these clauses being formally evoked (i.e., of iwi organisations being sued for non-compliance). What seems to have been more common was 'informal' negotiation and ultimately non-renewal of contracts if agreement could not be reached.[382] Non-renewal is a 'service-delivery market control', or a control by the market for 'labour teams'. The Crown 'sacks' the iwi organisation as a service provider and replaces it with another. Product market controls operate indirectly i.e., if the iwi organisation is not offering a service that people in their regions want, this is likely to lead to non-renewal of contracts by the principals. Capital markets play no role, as the Crown-principal is the sole source of capital for the service activities being undertaken.

Relational contract between the board of representatives and the chief executive officer (CEO)

Parties in the relational contract

The relational contract between the Board of representatives and Chief Executive Officer (CEO) is formally a relationship between an employer and employee. In all the cases studied, however, the CEO was also a member of the tribe (as are the representatives). This means that the representatives-CEO relationship is also a relationship between tribal members.[383]

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[382] Informal is used here to indicate that the discussion was not aimed at discovering whether formal rights and obligations had been strictly met, but at reaching mutually acceptable outcomes. Of course, formal contractual controls may not have been invoked because they were always or largely met, rather than because they were unimportant.

[383] Staff members in new iwi organisations were a mixture of tribal members, Māori from other tribes, non-Māori with a history of working with Māori, and non-Māori with specialised skills (most frequently commercial expertise). The CEO was a tribal member in all the three case studies, however, and in my personal experience with other new iwi organisations this has also been true.

Nature of the task of the relational contract

The position of Chief Executive Officer was central in the new iwi organisations studied, both in theory and in the empirical evidence. The task of representatives was to make policy decisions and appoint, instruct, and pay the CEO to implement the policy. Correspondingly, the task of the CEO was to implement policy, including employing and managing staff, and report back on activities. Analysis and recommendations on policy seemed, as an empirical matter, to be carried out by both staff and Rūnanga committees, with recommendations going to the Rūnanga for approval.

The CEO is the link between the Rūnanga and staff, the two groups with greatest effective ownership (information and decision-making power) over the organisation.[384] An effective relationship between the CEO and the Rūnanga chairperson, in particular, seemed critical to the effective operation of the overall organisation. This did not mean that the two had always to be in agreement, but that they must be in frequent contact and be able to work through their differences, preferably through informal processes and not court action (as has occurred in Waikato[385]). The case materials suggested that where a CEO had earnt the trust of the Chairperson they were afforded a high degree of autonomy (which is evidence of the transaction cost saving role of trust).

Representatives and CEO are assumed to have a common interest in the well-being of the tribe because they are both selected from the tribal membership (and usually from the active tribal membership). The representative-CEO relationship is unified, or internal to the organisation, and it is a principal-agent relationship. The CEO has oversight over the full range of organisational activities (current and potential), and this breadth generates considerable uncertainty. The term of the relationship is short to medium, however, and there is substantial continuity in activity, reducing uncertainty associated with the work of the CEO.

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[384] The question of who 'owns' the iwi organisation, i.e., how information, decision-making powers and residual income are distributed, is discussed below in the section "Who 'owns' the new iwi organisations?".

[385] Waikato was the only case where there appeared to have been serious tension between CEO and the executive, but given level of tension within the executive it would have been exceedingly difficult for the CEO to be on good terms with all executive members.

Social capital institutions of the relational contract

The relationship between representatives and CEO is formally constituted by an employment contract. Prior to this, however, the two parties will be linked through the tribal norms and networks that exist between members and between the networks and norms that link them as Māori.[386] Subsequent to the formal contract being signed, the CEO will become familiar with routines (norms and networks) of the organisation, including those that mediate the relationship between CEO and representatives. The member-member derived social capital is relationship-specific and symmetrical, (as outlined earlier in the member-representative relationship). The formal contract and routines unique to the CEO - representative relationship involve an investment of time on the part of the CEO and money (legal fees and salary) on the part of representatives, and thus also display some symmetry (albeit of differing inputs).

The social capital institutions governing the CEO - representatives relationship outline the processes within which specific decisions and actions will be taken. There seemed, empirically, to be frequent contact (e.g., at least weekly) between the CEO and representative Chair, and monthly meetings between the CEO and all representatives.

Principal-agent issues in the relational contract

The formal employment contract of the CEO establishes processes for the CEO to work with and take direction from the board of representatives in carrying out his or her work. In addition to the monitoring and control routines of the organisation, the CEO's membership of the tribe implies a cultural literacy which assists both with coordination (i.e., understanding the directives of the Rūnanga and being able to make independent decisions likely to be consistent with Rūnanga objectives) and reduces the risk of opportunism (because it is a commitment to the continuance of the relationship). The labour market provides a background discipline on performance (although the pool of candidates will not be large) and the product and capital market provide indirect discipline in as far as a loss of clientele or difficulties with raising finance reflect poorly on the CEO and lessen their chance of continued employment by the representatives.

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[386] Thus representatives will have knowledge not just of the potential CEO's commitment to the tribe, but some idea of their work competence through the monitoring that takes place via national Māori networks.

There were suggestions of an information asymmetry between the Rūnanga and CEO (or staff more generally) which ran in both directions. Staff, for example, spoke of the need to educate Rūnanga representatives about the technicalities of the organisation's tasks, in order for them to make good governance decisions. Accessible financial reporting was also said to be important in this regard. By contrast, some Rūnanga members expressed concerns about the CEO's understanding of the demands of constituents. These asymmetries are consistent with the roles of these two parties (to conduct operations effectively and to represent constituent interests). There was variation in these information asymmetries, however, depending on the particular skills and experiences of both CEO and representatives. In all organisations there were examples of cross-over between CEO (or staff) and representatives, generally in that direction. Cross-over decreases the information asymmetry (Rūnanga representatives who are former staff members would be in a better position to understand operational issues) but increases the risk that the separation of governance and operations becomes blurred.

Relational contract between the iwi organisation and commercial parties

Parties in the relational contract

The cases studied were involved in a wide range of commercial activities with a diverse range of external parties. These included other Māori organisations (some tribal and some non-tribal, e.g., Te Ohu Kai Moana) and local, national, and international non-Māori entities. The research collected limited information on the details of this diversity and the discussion that follows is correspondingly concise. A significant amount of commercial activity was also undertaken by wholly-owned subsidiaries. The limited amount of case information related to this type of relationship is summarised in a separate paragraph below.

Nature of the task of the relational contract

The cases studied were involved in commercial activities relating to the delivery of services, fisheries, clothing, radio, loans and financial advice, an abattoir, a paving company, agriculture, forestry, commercial land development and commercial property management. In some cases these activities were conducted through wholly-owned subsidiaries of the organisation and in other cases through various cooperative relationships. Goal congruence with external parties varies from low to moderate depending on the other party (e.g., it was generally higher with other iwi bodies than with non-Māori). Some commercial activity was undertaken in bilateral (joint venture) arrangements and some neoclassical contracts were employed.

Iwi organisations were involved in some commercial relationships as agents (e.g., Waikato's Raukura Moana Fisheries Ltd acted as an agent for other iwi by managing their fisheries quota) and others in the role of principal (e.g., both Ngāti Whatua and Raukawa employed brokers to act as agents in managing their fisheries quota). The uncertainty of the relationship varied depending on the time-frame but in general objectives were more specific and thus less uncertain than in the other relationships discussed.

Social capital institutions of the relational contract

Commercial arrangements invariably have a formal contractual basis, but even the limited information provided by the cases suggested a preference for longer term relational contracts over impersonal, once-off market exchanges. This was evidenced in fisheries arrangements, for example, where despite different approaches by the three iwi organisations, and changes over time, all had long-term relational contracts in place. These were with other fisheries operators (e.g., Ngāti-Whatua with Leigh Fisheries; Raukura Moana/Waikato with a charter vessel company; Ngāti Whatua and Raukawa with a particular fisheries broker), and with other iwi (Ngāti Whatua and Raukawa initially belonged to tribal conglomerates; and Tainui had a tri-iwi company and ongoing brokering relationships with a range of other iwi).

Developing a relational contract with a fisheries broker (evident in both Ngāti Whatua and Ngāti Raukawa) is an example how new iwi organisations combine the gains from a long-term relationship and the benefits of market competition. The brokers were trusted because of the tribe's personal experience with them, the advice of colleagues, and because in a small market where information travels easily, the cost of their losing trust is very high (i.e., there is a self-enforcing element to the contract). The brokers, however, could spread market search costs over the large volume of quota that they traded and had the flexibility to seek out the best market price for the quota.

Ngāti Whatua speakers, in particular, emphasised that the importance of tikanga underpinning all relationships, including commercial ones. Allan Pivac (2000, para 3), the Ngāti Whatua CEO, summarised the importance of tikanga by saying: 'we want people to know us because … we will not shirk on our responsibilities and it doesn't matter how long it takes but we will honour our obligations and I suppose that's one of the strong points of difference in terms of how we're trying to do things'. In Ngāti Whatua, tikanga required building long-term relationships (with both organisations and individuals within those organisations), looking beyond price to the overall quality of the interaction, recognising the importance of the individuals involved on both sides, and behaving honourably at all times so as to protect the mana of the Iwi. There were a number of specific examples given of how tikanga impacted on the Rūnanga's commercial decisions.[387]

Commercial activity by wholly owned subsidiaries

Prima facie, one would expect subsidiaries carrying out commercial activity to have a high goal-congruence with their parent iwi organisation, as this is a rare example of a 'unified' relationship in the sense that Williamson uses the term, that is, of financial assets owned by a single hierarchical control system. What was observed, however, was that iwi organisations were still exploring how commercial activity could be conducted to best support tribal rangatiratanga and build tribal social capital. More particularly, they were experimenting with the balance between strictly commercial and

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[387] These are discussed in the Ngāti Whatua case report, chapter 3.1, in the section on 'Commercial Relationships'.

other 'resonance' objectives and how the parent organisation could most effectively use the profits from its subsidiaries.[388]

Commercial activity was carried out by subsidiaries, formally constituted as companies, with associated formal monitoring and control arrangements. The preference for having at least some directors on companies who were tribal members (and usually tribal representatives) suggests that informal controls exercised through common norms and networks remain important, however. Formal controls relate to process but require relatively infrequent contact. Contact via informal networks is likely to occur more often.

Summary and comparison of the characteristics of the relational contracts of new iwi organisations

The table below summarises the analysis in this chapter (5.3) of the individual relational contracts of the new iwi organisations guided by questions about the features of relational contracts identified as significant in the literature. It is followed by some discussion of these features based on a comparison across all the relational contracts examined.

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[388] See chapter 4, section entitled 'Development of skills in iwi organisations: expanding by delivering on member and external requirements'.

PARTIES / FEATURE	Members ↔ Representatives	Representatives ↔ CEO	Iwi Organisation ↔ Crown	Iwi Organisation ↔ Commercial
TASK	articulate and advance tribal interests	devise and implement policy to advance tribal interests	conduct Treaty partnership	commercial exchanges
goal congruence	high	high	low	low
unified, bilateral, or neoclassical	unified	unified	bilateral and neoclassical	bilateral, neoclassical, and classical
principal-agent	yes	yes	some are	some are
uncertainty	medium - high	medium - high	low, medium, high	low, medium
SOCIAL CAPITAL	prior informal, then formal, informal develop further	prior informal, then formal, informal develop further	usually prior informal, then formal, informal develop further	always formal but preference for informal also
frequency of interactions	infrequent formal, frequent informal	frequent formal, more frequent informal	frequent for iwi, frequency varies for Crown agents	preference for frequent interactions
process or once-off	process	process	process and once-off (in parallel)	process and once-off
relationship-specific social capital	symmetric specific social capital	symmetric specific social capital	asymmetric specific social capital	specific social capital possible
specific financial capital	no	no	some	possible
PRINCIPAL-AGENT CONTROLS				
formal and informal contractual	formal contractual controls rarely used; informal important	formal contractual controls rarely used; informal important	formal controls possible but preference for informal	formal controls possible but preference for informal
severance (labour market)	severance of formal contract possible, informal usually continues	severance of formal contract possible, informal usually continues	severance of formal contract possible, informal may ebb and flow	severance of formal and informal contract possible
product and capital market	indirect product and capital market control possible	indirect product and capital market control possible	indirect product market, no capital market control	indirect product and capital market control possible

Table 14: Summary of the characteristics of the relational contracts of new iwi organisations

Characteristics of the task of the relational contract

Two of the relational contracts above have been described as unified (member-representatives and representatives-CEO), with high goal congruence and two as bilateral or neoclassical (iwi organisation-Crown and iwi organisation-commercial), with low to moderate congruence. Both goal congruence between parties and whether the relationship is bilateral or unified are matters of degree, however. Thus while the relationships between members and representatives, and between representatives and CEO, have been described as having high goal congruence this does not imply there is no conflict in these relationships. Rather, it is possible to describe the interests of the 'generic member', tribal interests that all members share, even though the interests of individual members will vary.

Similarly, while the relational contracts 'inside' the organisation have been described as unified, this is not identical to Williamson's use of unified to refer to the ownership of relationship-specific physical assets under single-line, hierarchical, control. Social capital assets that reside in individuals cannot come under unified ownership in the way that physical assets can because individuals cannot be owned, and thus they always retain the right to exit the relational contract taking their share of social capital with them. Formal social capital assets (such as a constitution) *can* be owned by an organisation, but in general it is the knowledge of these formal rules that makes them valuable, not their existence per se, and this again resides in individuals.

In the relationships between the iwi organisation and the Crown, or the iwi organisation and external commercial interests, goal congruence has been described as low. If there is a collective action task, however, there must be some commonality of interests. Without it there is no reason for a relationship. In the relationship with the Crown there is an overlap in the Crown's interest in the well-being of Māori as New Zealand citizens and the iwi organisation's interest in the well-being of Māori as tribal members, even though the two bodies have different views on the nature of and means to this well-being. In the commercial arena both parties have a common interest in realising the 'gains of trade', but equally, there is a tension over how those gains should be divided.

In the relational contracts examined above, whether a relationship is unified or bilateral is not determined by the presence of physical, relationship-specific assets (as suggested earlier in Williamson's work (1985)). Instead, whether a relationship is unified or bilateral is driven by the degree of goal congruence and this goal congruence is closely associated with the degree of relationship-specific social capital, particularly intrinsically valued norms and networks. Thus the relatively high goal congruence in new iwi organisations results from their being collections of members with a shared, relationship-specific social capital. The rights and obligations stemming from 'ownership' of relationship-specific social capital belong to specific individuals and are not tradable and thus the specific owners must be brought within the relational contract. It is not possible for the assets alone to be transferred into unified control, as is the case with relationship-specific physical capital.

There are parallels, however, between the research findings and Williamson's proposal that unified control is driven by the presence of relationship-specific financial/physical assets. The similarity and differences are set out in Figure 10 below. The same elements exist in the two cases: relationship-specific assets, goal congruence and a unified relational contract, but the chronology or causation is different. For Williamson, relationship-specific financial/physical assets make it risky to have divided control with divergent interests, and the risk reduction response he suggests, is to bring the physical/financial assets under unified control. In new iwi organisations pre-existing relationship-specific social capital (including institutions with considerable intrinsic value) generate a high degree of goal congruence between the members who hold this social capital and imply a unified relational contract between them.

Figure 10: Comparison between Williamson's proposed relationship between asset specificity and unified relationships and the findings of the research

Relationship between asset specificity and unified control suggested by Williamson:

relationship-specific physical/financial → capital	makes divided control and divergent interests risky → i.e., *need* goal congruence	so, bring assets under unified control

Relationship between asset specificity and unified control suggested by the research:

intrinsically valued relationship-specific → social capital	*generates* high goal → congruence	which implies a unified relationship

The tasks associated with the first three relational contracts in the table all have a high level of uncertainty arising from the breadth of the objective and the longevity of the task. While they all fall within the broad definition of 'relational contract', the relationships show different institutional arrangements to cope with this uncertainty. In the member-representatives relational contract, uncertainty was reduced by the framework provided by a common vision and cultural norms (kaupapa and tikanga). There was a high degree of continuity in the activities which representatives oversaw and when there were significant changes being anticipated *ad hoc* consultation processes were invoked. Formal interactions were relatively infrequent but these were supplemented by informal contact through tribal networks (in addition to *ad hoc* formal consultation). In the relational contracts between representatives and the CEO a common vision and norms were also present, but there was a much greater frequency of interaction (both formal and informal) to deal with contingencies as they arise.

In the iwi organisation - Crown relationship, uncertainty was coped with by a creating multiple layers of institutions, with levels of specificity/flexibility matched to the tasks of different length. Thus the long-term relationship is governed by formal arrangements such as the Treaty of Waitangi and informal political alliances (as existed between the Ratana Church and the Labour Party). Medium-term interactions are mediated by legislation, MOUs, joint venture entities and informal networks between governments

and tribal representatives.   Short-term relationships were governed by ostensibly neoclassical contracts and specific departmental - organisational networks. The varying combinations of informal and formal institutions employed to manage uncertainty in these three relationships emphasise the necessity of taking a holistic view of social capital, confirming the recommendation by Granovetter, quoted earlier, 'that future research on the market-hierarchies question pay careful attention to the actual patterns of personal relations by which economic transactions are carried out' (1985, 504).

Characteristics of the social capital institutions of the relational contracts

Norms, networks and formal institutions were operating in all the relational contracts discussed above.   In all but a few commercial relationships that iwi organisations entered with external parties, informal norms and networks preceded the creation of formal institutional arrangements.   The creation of formal institutions supported the ongoing evolution of norms and networks and these informal institutions continued to have a major role in mediating interactions.

The theory discussed earlier suggested that formal institutional arrangements are important to mediate relations with strangers, but this does not seem to be primary reason for their choice by new iwi organisations, based on the detailed consideration of the relational contracts above.   Iwi organisations do use formal institutions to enter relations with relatively unknown commercial parties or potential members, but their preference is not to engage in formal arrangements with strangers.   Rather, formal institutions played a greater role in the relational contracts of new iwi organisations where there was less goal congruence, where there was transfer or ownership of property involved, and where there was a possibility that the relationship would be short-term. Examples of this tendency follow.

Relationships between tribal members, between members and tribal leaders (representatives) and between members and tribal administrators (CEOs) which are long-term and have high goal congruence, have traditionally been mediated by tribal norms and networks. It is the addition of property to these relationships, however, in the form of settlements, service contract resources or salaries that has been associated

with the introduction of formal institutions.[389] Informal institutions (both those that existed prior and those that are developed subsequently) continue to dominate, however, because the relationships are still based on continuity and goal congruence.[390]

The collective action task and relationship with the Crown are also long-term (favouring informal institutions) but display low goal congruence and a variety of property transfers (favouring formal institutions). This mixed set of relationship characteristics is associated with a mixed and complex set of formal and informal arrangements, with the balance between formal and informal still varying to the extent that specific tasks are short or long-term, have greater or lesser congruence, and involve more or less property.

The short-term delivery of services by iwi organisations, for example, shows the greatest weighting on formal contractual arrangements (with contracts that are ostensibly neoclassical, as noted above). However, where these contracts are repeatedly renewed, an increasing weight is carried by norms and networks (e.g., assumptions of continuity and phone calls to clarify misunderstandings). Conversely, the Treaty of Waitangi is a formal institution mediating the Crown-iwi relationship, whose text has remained unchanged since its signing in 1840. While the formal institution of the Treaty text has remained unchanged, the long time-frame has seen its meaning undergo substantial evolution through informal processes of political discussion and changing norms. The evolution of these informal institutions has then been translated back into formal institutions, such as Court judgements and legislation, when required to deal with more specific tasks.

The evidence about relational contracts in new iwi organisations suggested that formal institutions were used to prevent or manage conflict within relational contracts, particularly if there is a possibility of termination. Informal institutions were more

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[389]Pre-colonisation these relationships were also associated with property, but then they were managed by lore not law.

[390] Thus, there was relatively little concern among members about the exact form in which their organisations would be constituted, in contrast with considerable concern in how much *effective* autonomy marae would have, and what role kuia and kaumātua would play (and the Kīngitanga, in Waikato). Similarly, while formal legislation requires that all those with ancestry must be given rights to participate, the assessment of such ancestry is still carried out largely by informal processes. Finally, it should be noted that in Waikato, which has a significantly larger population than the other iwi studied, there was markedly more structure (formality) in the traditional informal institutions. This is consistent with the theory that larger groups need more formality to mediate collective action tasks.

important for managing coordination, and conflict where there was a common interest and assumption of relationship continuity. This is consistent with the theory discussed earlier.[391] In long-term relationships, formal institutions were a form of insurance. They were rarely invoked, and when they were, this suggested that disaster had struck.[392]

The theory contrasts the institutions of relational contracts, which primarily establish processes for ongoing decision-making, with neoclassical contracts, which specify actions embodying a completed agreement. The evidence from the cases, however, shows that ostensibly neoclassical contracts may run in parallel with relational contracts.[393] Thus, the two contractual forms may be complements, not alternatives. This situation is evidenced when a short-term, neoclassical contract for the leasing of fisheries quota is agreed between two iwi organisations with a long-term relational contract between the two iwi. It is also evident when an iwi organisation signs a short-term service delivery contract with a government department with which it has a long standing relationship embodied in an MOU.

The relationship-specific capital in the relational contracts above was overwhelmingly social capital and, to a considerable degree, symmetrical. There was evidence that new iwi organisations seek relationships with symmetry of investment, and thus a common

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[391] See, for example, Furubotn and Richter (1997, 144) quoting Macaulay in 'Relational contracts as a governance institution': 'You don't read legalistic contract clauses at each other if you ever want to do business again. One doesn't run to lawyers *if he wants to stay in business* because one must behave decently' (emphasis added).

[392] Cornell and Kalt (1997) provide a rare example of a study of indigenous government through the lens of new institutional economics, based on their work with American Indian governments in the United States (see for example Cornell and Kalt 1992). They argue that in successful societies 'a form of implicit social contract founded on durable cultural norms of political propriety undergirds the formal institutions' (1997, 118). According to Cornell and Kalt, formal institutions will only be successful if the are built on strong informal ones (an 'implicit, extra-choice social contract' (1997, 117)). They report that in the US, generic formal constitutions were imposed on Indian tribes with diverse informal institutions, and argue that the degree of match between the imposed formal institutions and the underlying informal ones has been an important determinant of economic success. The findings of the thesis research on new iwi organisations are consistent with Cornell and Kalt's argument, and go further, suggesting that if informal institutions are robust, formal institutions will be little used (taking on an insurance role of last resort) and that they will be chosen to reflect the informal institutions of the iwi, limited by the need for these formal institutions to act as a bridge (and therefore be recognisable) to external parties. Note that the argument that formal institutions are a form of insurance in relational contracts does mean they are unimportant, but rather that they are not directly organising most day-by-day interaction.

[393] As explained earlier, 'ostensibly' is used to indicate that although the contracts allow formal resort to a third party (the courts), negotiation, and failing that, termination, were more likely methods for dealing with disputes.

interest in continuity. This is evidenced in the appointment of members as representatives and chief executives and the formation of commercial relationships with other tribal groups. The relationship with the Crown shows that symmetry is a complex matter, as it depends on how the parties value the social capital institutions. This is not simply a matter of the financial value of the resources invested, but also depends on the changing preferences of the party (and thus on the specific identity of the government), and the scarcity value of those resources to that party (which depends on the size of the fund from which they are drawn).[394] There was one activity which involved investment in financial relationship-specific assets, made by the Crown in the settlement of Treaty claims, and here there were unique institutional structures put in place to guarantee the security of this investment against ex-post opportunism (as discussed under this relational contract).

Characteristics of the principal-agent relational contracts

Principal-agent relationships predominate in the relational contracts considered above, consistent with the theoretical assertion of their importance in modern economic and political organisation. In all the principal-agent relational contracts considered informal contractual controls were apparent. If formal disciplines were being invoked inside the contracts, it was not significant enough to make its way into the case materials (although this may have been because they were routinely complied with). Formal contractual rules were rarely litigated, although such action had a high profile in Waikato, where disputes within contracts for the CEO and representatives have at times led to court action.[395] The resort to this form of control was widely viewed as unfortunate, however, not least by those concerned.

Termination (i.e., a labour market control, or equivalent) was a ubiquitous, albeit background possibility in all contracts, consistent with Hirschman's (1970) suggestion that voice is most effective when combined with the possibility of exit. Product and capital markets exercised some control over representatives, CEO, and the iwi organisation acting as a service delivery agent, but this control was indirect and acted by

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[394] This is analogous to an accounting valuation of assets in comparison with an economic valuation of assets.

[395] There were also examples of such litigation from Ngāti Whatua but it did not have the media prominence of those in Waikato (as discussed in the case reports).

influencing the attitude of the principal towards the agent. Control of representatives and CEOs was enhanced by choosing people to fill these roles from the ranks of iwi members. This allowed the norm and network controls that exist between members to operate in tandem with the controls specific to the principal-agent relationship.

Who 'owns' the new iwi organisation?

A feature common to all large organisations is that ownership, meaning rights to information, decision-making, residual income and transfer, is diffuse. The institutional structure determines the distribution of these rights and obligations across the individuals within the organisation and this distribution affects incentives, transaction costs and behaviour. The division between ownership as a right pertaining to a group (or individual) and ownership as a property of relationships is somewhat artificial, however, because the rights of a group generally have a parallel obligation in other groups. Ownership is therefore as much about relationships with others as it is about relationship to information, decisions and residual income.

A comparison between the distribution of rights to information, decisions and income in the standard public corporation and the new iwi organisation is set out in the following two tables. Also considered is whether participants can transfer their rights, and what the balance is between their right to exit or exercise voice.[396]

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[396] The distinction between the right to exit and the right to exercise voice is drawn from Hirschman (1970) as discussed earlier in chapter 5.3, section entitled 'Matching governance institutions with transactions: Williamson's discriminating alignment hypothesis'.

Right \ Group	Information	Decisions	Residual Income	Transfer	Exit/ voice
Shareholders	**minimum**	**minimum**	**yes**[397]	**yes**	**exit possible, voice limited**
Board of Directors	**medium** (managers are gate keepers)	**medium**	**possible** (via incentive packages)	**no**	**exit and voice**
Senior Managers	**maximum** (although subordinates are gate keepers)	**maximum** (constrained by directors and need to delegate tasks)	**possible** (via incentive packages)	**no**	**exit and voice**

Table 15: Ownership in public corporation: distribution of rights to information, decision-making, residual income, transfer, exit and voice[398]

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[397]The right is attenuated, however, because shareholders don't control the dividend to retained-earnings split.

[398] The assessment of ownership in the large public corporation comes from Milgrom and Roberts (1992, 314). It assumes that shareholders have limited influence and thus applies to situations where shareholdings are small and dispersed, rather than held in the hands of a few fund managers or family members.

Right ⟍ Group	Information	Decisions	Residual Income [399]	Transfer	Exit/ voice
Tribal members	**minimum**[400]	**minimum** [401]	**yes (but indirect**[402]**)**	**no**	**exit possible and some voice**
Board/ Rūnanga	**medium** (managers are gate keepers)	**medium**	**no**	**no**	**exit and voice**
Senior Managers	**maximum** (subordinates are gate keepers)	**maximum** (constrained by Board and need to delegate tasks)	**possible**[403]	**no**	**exit and voice**

Table 16: Ownership in the new iwi organisation: distribution of rights to information, decision-making, residual income, transfer, exit and voice

The above two tables shows that no single group or set of rights defines ownership of the organisation. Thus, statements like 'the organisation belongs to shareholders or iwi members' are misleading simplifications. The reality is that ownership, meaning rights

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[399] In the literature relating to the corporation, rights to residual income belong to those who have invested financial capital and are synonymous with being the bearers of residual risk. In new iwi organisations, however, financial capital is only one and arguably not the most important form of capital held by the organisation. The social capital is created from the investment of numerous tribal members and its erosion is as much a risk as the loss of financial capital.

[400] Although the table indicates member and marae representatives as having minimal access to information relative to representatives and mangers in new iwi organisations, it is probably greater than that of a small shareholder in a large corporation. Certainly it comes in a wider variety of forms including annual reports, newsletters, tribal and hui, word of mouth and the media.

[401] The main decision-making power of members is to collectively select representatives.

[402] As with shareholders, members don't control the distribution/retained-earnings split, but they are also not entitled to receive the residual income directly but rather must enjoy it by participating in the collective projects funded by the new iwi organisations.

[403] It should be noted however that the research did not find any remuneration packages based on the performance of the iwi organisation overall, or of subsidiary companies (despite the fact that they are theoretically possible).

to information, decision-making, residual income and transfer, is diffuse in both corporations and new iwi organisations.[404]

The Rūnanga (tribal executive) has broadly the same rights as the board of directors in a large corporation (i.e., to set policy, appoint, monitor and instruct the CEO). While the degree of activism of both boards of directors and Rūnanga representatives is variable, the field research suggested that Rūnanga representatives are more active in debating policies than the boards of directors in corporations.[405] Representatives may be on policy committees, or be actively involved in areas of activity in which they have a particular interest. The Chair of the Rūnanga is likely to be in regular contact (i.e., at least weekly) with the organisation's CEO. Rūnanga representatives are routinely called upon to represent the iwi or iwi organisation at important hui (e.g., facing leaders of other groups or organisations).

The senior managers in both corporations and new iwi organisations have a similar position. In terms of rights to decisions and information they are the most significant parties.[406] Corresponding to the above comparison between Rūnanga members and company directors, managers in new iwi organisations can expect more involvement from Rūnanga representatives than those in corporations. The CEO was clearly the most significant manager acting as an intermediary between the Rūnanga and the rest of the organisation for example, by organising and attending Rūnanga meetings.

The most significant contrast between corporations and new iwi organisations is in the rights and obligations of shareholders and tribal members. They have similar formal rights to decision-making and information but the nature of the benefits they can expect

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[404] Rights in the state are even more diffuse, not least because the number of parties is far greater. In common with new iwi organisations, no one has the right of transfer in the state.

[405] This comparison is based on the researcher's attendance of Rūnanga meetings, observations of the board meetings of Te Ohu Kai Moana subsidiaries, and statements such as that by Holmstrom and Tirole in the next footnote. An explanation for this relatively greater involvement is that while the board of directors in a corporation has the role of *monitoring* management to ensure they are optimising the profit/risk function, the Board of the Rūnanga are has the role of *constructing* the objectives of the organisation (i.e., constructing the meaning of 'maintenance and exercise of rangatiratanga') in specific circumstances.

[406] Holmstrom and Tirole (1989, 86) suggest that '[i]n reality, firms are mostly controlled by managers. The typical owner [shareholder] will have very little if any influence on the course the firm takes. Even though there is a formal channel of influence and monitoring through the board of directors, anecdotal evidence suggests that boards rarely take a very active role in running the firm. Also, the choice of directors is often influenced more by management than shareholders'.

varies considerably. In the new iwi organisations, tangible benefits to tribal members are not an individual financial dividend but a collective benefit from marae grants, or possibly an educational scholarship. For most tribal members, however, a sense of pride, belonging and identity are likely to be the most important benefits they can expect from the new iwi organisations. Participation is valued as an end in itself.

Both large corporations and new iwi organisations have the incentive problem that the only group with any rights to the residual income (performance based compensation aside) has limited voice. In new iwi organisations this problem is exacerbated because tribal members cannot transfer any of their rights in the new iwi organisations as shareholders can (that is, they cannot exit with their share of the asset base). *Ceteris paribus*, this increases the importance of voice by tribal members and of other forms of control e.g., a shared vision or culture. The position of tribal members and shareholders most directly reflects the differing purposes of new iwi organisations and commercial corporations.

Conclusion

This section has considered in depth the four relational contracts which the case materials suggested were most important to new iwi organisations. These were the relationships between members and tribal representatives, representatives and the CEO, iwi organisations and the Crown, and iwi organisations and commercial parties. Features of the relational contracts considered included the nature of the task, the social capital institutions operating, and whether the relationship was between a principal and an agent. Some conclusions were drawn about relational contracts in general by comparing the different relational contracts in which iwi organisations are involved. The next section shifts from a focus on relational contracts to a consideration of new iwi organisations as a whole. In particular, it analyses their purposes, boundaries, internal structure, and growth and development.

Chapter 5.4 New iwi organisations *qua* organisations: purposes, boundaries, internal structure and growth[407]

Organisational purposes

> [O]rganizations are generally understood as structured groups of individuals who seek to achieve common goals. Firms, markets and states are organizations in this sense. … The individual members of an organization have their own objectives which partly coincide with the common target and partly do not. Externality problems are solved by an explicitly or implicitly agreed upon limitation of the range of feasible individual decisions, a formal or informal "constitution". … we regard an organization (in the economic sense) to be a network of (more or less) relational contracts between individuals whose purpose is to regulate economic transactions (including transactions in information) between individual members of the organization. (Furubotn and Richter 1997, 269-270)[408]

The above definition of 'organisation' is very broad. It includes all those linked by relational contracts to a particular purpose, or collective action task, whether in the market, firm or state.   This section considers the types of purposes to which organisational activity might be directed, how we might understand the boundaries of the organisation, internal structure in iwi organisations, and organisational growth and development.

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[407] There is less theoretical work on organisations qua organisations, so the material in this chapter is not divided into theory and theory-empirical comparison, as in the previous two sections. Instead, both theory and comparison are discussed together under the headings of purposes, boundaries, internal structure and growth.

[408] The common dichotomy between incentive alignment and coordination is evident here. Incentive alignment is necessary because individuals have some divergence in objectives; coordination is necessary because individuals have some divergence in knowledge/understanding/creativity. Note also that while Furubotn and Richter (1997) discuss organisations as structured groups of individuals, organisations usually also organise individuals into sub-groups. Sub-group coordination and incentive alignment is also an important task e.g., between directors, management, employees and shareholders in a corporation, or members, board, management and employees in a new iwi organisation.

New iwi organisations: production of public or private goods?

Social capital has been defined as the combination of norms, networks and formal institutions that allow a group of individuals to act collectively. The functional capability of the state, the firm and the new iwi organisations are all dependent on the quality of their social capital according to this definition. If all three entities are aimed at facilitating collective action, this raises the question of what distinguishes the purposes to which the collective action of the state, firm and new iwi organisations are directed.

Economic analysis usually responds to the question of purposes in terms of the types of goods an entity produces. The classic dichotomy is between the state, whose purpose it is to produce public goods and the firm, whose purpose it is to produce private goods. The provision of the public goods of 'order' (protection of personal and property rights, and facilitating exchange) and national defence are considered primordial explanations and justifications for the state by Hobbes and Hume respectively (Hardin 1997, 23). In addition to the provision of pure public goods, contemporary states are generally involved in the provision of quasi-public or merit goods such as health, education and social services.[409] The state's role is to provide the public good framework in which private activity can take place.[410] Firms and markets are places where this private activity actually occurs.

The nature of public goods means that inputs are compulsorily acquired and outputs may be compulsorily consumed. (It is not feasible, for example, for a citizen to exclude

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[409] Just, Hueth et al (2004, 559) introduce a discussion of quasi-public goods as follows. 'Some goods have both public and private benefits, as in the case of public health and education. In other cases, capital goods, whether owned publicly or privately, produce both public and private service flows simultaneously. Such goods are called *quasi-public* goods. In many cases, these public and private goods are technically tied so that independent production and consumption are not possible' (emphasis in original). The economic definition of quasi-public goods in the literature is somewhat vague, but the aim here is to compare the types of goods that new iwi organisations produce with those produced by the state and the firm, not to justify or criticise this provision. Quasi-public (or merit) goods feature prominently on the agenda of both the state and the new iwi organisation, warranting their separate listing, despite the murkiness of their economic definition. This discussion classifies educational scholarships as quasi-public goods as this is how they are regarded by iwi organisations (where in addition to the private benefits of scholarships, a better educated membership is considered likely to increase the tribe's collective strength through the potential paid and unpaid contributions of those members to tribal affairs).
[410] Constitutional economics starts from the individual and then asks what rights they might voluntarily delegate to the state. Historically, it seems more accurate to start from groups and ask how the private rights of individuals develop.

themselves from the benefits of national defence.) By contrast, inputs to the firm are voluntarily supplied and outputs are voluntarily consumed. How then do new iwi organisations fit into this schema of public and private goods; compulsion and voluntarism? This is considered in the table below.

Entity / Feature	State	Firm	New Iwi Organisation
Does it produce public goods?	yes e.g., order, defence, infrastructure and amenities	No	yes e.g., rangatiratanga, settlements, marae grants, resource management advice, iwi radio[411]
Does it produce quasi-public goods?	yes e.g., education, health, social services	sometimes e.g., private educational and health facilities	yes e.g., scholarships, health, education and social services
Does it produce private goods?	sometimes e.g., state run utilities	yes e.g., food and cars	yes e.g., commercial activities produce private goods (but as intermediate output)
Is the supply of inputs compulsory or voluntary?	compulsory i.e., funded via taxation **political participation may be voluntary or compulsory**[412]	voluntary i.e., inputs purchased in market exchanges	compulsory i.e. collective rights are compulsorily held **political participation voluntary**
Is the consumption of outputs compulsory or voluntary?	compulsory in some cases e.g. order and defence **voluntary in some cases** e.g.,infrastructure	voluntary i.e., outputs purchased in market exchanges	compulsory in some cases e.g., rangatiratanga; **voluntary in some cases** e.g., marae facilities and scholarships

Table 17: Types of goods produced by the state, the firm and new iwi organisations (public, quasi-public, private) and nature of input supply and consumption (compulsory or voluntary)

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[411] It could be argued that new iwi organisations are more correctly providers of club goods, given that membership is largely restricted to those with whakapapa rights. However, the public goods supplied by the state are largely restricted to those with jealously guarded citizenship rights, so these might equally be described as club goods.

[412] In New Zealand, for example, voting in public elections is voluntary. In Australia, by contrast, citizens are legally obliged to vote.

The most obvious feature of this table is how little new iwi organisations resemble firms and how similar they are to the state with respect to the type of goods they produce. The provision of public and quasi-public goods is, as noted above, a defining feature of the modern state and it is also a defining feature of new iwi organisations. Marae grants are most obviously public goods but rangatiratanga, meaning the representation of the collective interest and the negotiation of Treaty settlements also display zero marginal cost when including an additional person and the impossibility of excluding eligible individuals. New iwi organisational involvement in resource management is effectively a subset of representing the collective interest, so is a public good from the view point of members.[413] One obvious difference between the state and the new iwi organisation is that the latter are not empowered to administer justice or military defence. New iwi organisations may be involved in mediating internal disputes within the tribe, however, and are responsible for the political and legal defence of their tribal rights.

The production of private goods and services from voluntarily acquired private inputs is the defining function of the firm. New iwi organisations are also involved in commercial activities, with the extent largely determined by the size of Treaty settlements. Commercial activity, however, is an intermediate function. Thus the core inputs are the compulsorily held collective assets of the iwi and while there are private sales, the returns are not privately but collectively held by the new iwi organisation. The commercial functions of the new iwi organisations generate income for the provision of public and quasi-public goods and in this sense are equivalent to the taxation function of the state. Similarly, while both new iwi organisations and state engage in voluntary trades to carry out their functions (e.g., employment of labour or purchase of supplies) these trades are funded from compulsory sources and are for the provision of public and merit goods.

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[413] Note that marae grants, rangatiratanga, Treaty negotiations and resource management input are being classified as public goods from the view point of iwi members. Their broader social benefit is a matter of political debate, much the same way as a country's foreign and defence policy may be a public good from the viewpoint of its citizens, but of mixed impact on other nation-states.

With both new iwi organisations and the state core inputs are compulsorily acquired (albeit with the right to voice by members). The state has the right to tax and new iwi organisations hold the collective political, property and cultural rights of iwi. (The actual as opposed to claimed content of these rights depends on the success of new iwi organisations in negotiating with the mainstream.) In the state, participation may also be compulsory e.g., voting in Australia, whereas in new iwi organisations and most contemporary states it is voluntary.

In both new iwi organisations and the state the consumption of some outputs is effectively compulsory: order and defence in the case of the state and rangatiratanga in the case of new iwi organisation. (Rangatiratanga is compulsory in the sense that a tribal member 'enjoys' having their interests represented by the new iwi organisation in external fora, despite any desire to the contrary.) Other benefits are subject to the discretion of members in both the state and new iwi organisations. Infrastructure and amenities fall into this category in the case of the state; marae facilities, scholarships, and hui in the case of new iwi organisations. Unlike the firm, however, where non-consumption is matched by non-payment, those tribal members or citizens who choose not to consume these discretionary benefits are not refunded their share of the cost provision.

Organisations as intermediaries

Spulber (1999) proposes an intermediation theory as a rationale for the existence of the firm. He summarises this theory as follows:

> Firms are formed when the gains from intermediated exchange exceed the gains from direct exchange. Intermediated exchange can have advantages over direct exchange for many reasons. … These include lowering the costs of transacting through centralization of exchange, reducing costs of searching and bargaining, reducing moral hazard and opportunism, alleviating the effects of adverse selection, allowing buyers and sellers to make credible commitments, and reducing the costs of monitoring performance through delegation. (Spulber 1999, ix)

In the absence of the firm, an individual who wanted a particular good or service would have to negotiate a myriad of exchanges with all the factors required to produce the good or service. Firms specialise in exchange, centralising the process of negotiating exchanges on behalf of a large number of suppliers and consumers, and they do so on an ongoing rather than a once-off basis. Transaction costs are the cost of creating and operating social capital and firms centralise these costs for a particular collective action production task and spread them across many iterations. Firms provide the social capital that supports the production task at a lower cost than applies in the absence of intermediation.

The specialised intermediary function, as described by Spulber, can be broken down into two components. Firstly there is a technical component with the intermediary able to realise transaction cost economies of scale, scope and longevity. A specialist intermediary can spread fixed costs such as those associated with search and bargaining, R&D and other investments across the simultaneous production of multiple copies of the same item, other items which require similar fixed costs, and over time. Secondly, organisational longevity and production volume increases the interactions with both suppliers and customers, increasing the returns to the intermediary of building a good reputation (or the costs of opportunism).[414] The scale and longevity of the intermediary enable it to build network and norm social capital which make its commitments more credible. They enable it to substitute relational for classical contracts.[415]

Spulber expounds his intermediary theory in relation to firms. Generalising this proposition to the new institutional economics - social capital framework however, all organisations can be viewed as intermediaries that specialise in the task of creating and operating social capital to carry out the collective action tasks which have been delegated to them. Intermediaries operate institutions to identify the overlap in objectives (the 'win-win' space) between two parties and negotiate the location within that space. Thus the state is an intermediary. This is evident when it mediates between

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[414] The intermediary view is consistent with Kreps' view of the corporation as 'an intangible asset carrying a reputation' (1990, 94) as described earlier in chapter 5.3, 'Enforcing principal-agent contracts explicitly and implicitly'.

[415] In addition to building relational contracts with specific customers or suppliers, the intermediary may be able to build a reputation for reliability that is accessible to those contemplating a once-off transaction with the intermediary. Some of the benefits of relational contracts are thus available to once-off transactions.

its citizens and foreign parties, musters the resources needed for supply of order and other public goods, or negotiates with iwi for the settlement of Treaty claims.

New iwi organisations also have a role as intermediaries, in their case between government and other external parties, and tribal members (individual, marae and hapū).[416] Thus new iwi organisations are needed not only because the rights concerned are collective, but also because it would be impractical for the Crown and tribal members to deal with each other on an individual basis. Without collective organisations, entitlements to restitution for breaches of Treaty rights would have to be negotiated on an individual basis. Individual views on resource management would need to be sought and each individual's particular culturally appropriate service assessed and supplied. In the absence of either new iwi organisations or government intermediaries, each iwi member would have to negotiate their rights with all other individual members of New Zealand society. In the relational contract between the new iwi organisation and New Zealand government two intermediaries deal with each other on behalf of two large groups. This view of new iwi organisations as intermediaries is consistent with the argument made earlier (chapter 5.2) that the job of new iwi organisations is to bond individuals/marae/hapū into a strong iwi and provide bridging capital from iwi to external groups. It is also consistent with the cross-case comparison analysis (chapter 4) where it was argued that the advantage of iwi over hapū and marae is the ability to realise economies of scale.

The main difference between the firm, state and new iwi organisation as intermediaries is the nature of the relationships being mediated. The relationship between citizens and the state is political and citizens have limited scope to withdraw from it. By contrast, the firm's relationships with both consumers and suppliers are generally voluntary,

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[416] In discussing the role of tribal organisations (and the Ngai Tahu Maori Trust Board in particular) Sissons argues that 'as an intermediary between a tribal life-world of participatory democracy and a state system of legal control, the [Ngai Tahu Maori] Trust Board was to be positioned at the confluence of two potentially opposed forces: democratization and bureaucratization' (1995, 69). He argues that '[t]hroughout the 1980s there remained a real danger that tribal development, pursued in accordance with established bureaucratic agendas, would 'simply facilitate the systematic colonization of Maori tribal life-worlds … [and that] …[f]or this reason it was crucial that, as a social movement, the Maori renaissance adopted and experimented with new forms of participatory democracy at the same time as it sought greater participation at the system level' (Sissons 2004, 72). Sissons argument is consistent with that made here that the fundamental role of the new iwi organisation is to act as an intermediary between external parties such as the state and the tribe's members, but that the logic of these two relationships is different, creating a tension which the organisations must negotiate if they are to be successful.

market exchanges. Even where they develop into long-term relational contracts they remain voluntary. In common with the state, but unlike the firm, the dealings between new iwi organisations and both mainstream government and members are political relationships.[417] In common with the firm, but unlike the state, members or the government may exit the relationship with the new iwi organisations.

Organisational boundaries

If new iwi organisations are understood as bundles of relational contracts this raises the question of how one understands the scope of the organisation. Usually definitions of scope seek to clarify boundaries, i.e., 'what is inside and what is outside?'. Confusion arises in defining boundaries because different perspectives on what constitutes the organisation generate different boundaries. An organisation may be viewed in terms of its financial and physical assets, employees, formal constitution, or activities, and in each case the boundary will be different. In this thesis, organisations are viewed as bundles of relational contracts and the following discussion of boundaries reflects this view.

Earlier in this chapter it was suggested that the core role of new iwi organisations was to provide bridging capital between the internal bonds of the iwi and external parties with whom alliances were critical for the survival and growth of the iwi.[418] Implicit in the division of relational contracts between bonding and bridging capital is a notion of insiders and outsiders based on the degree of goal congruence and intrinsically valued social capital (as discussed in the 'Summary and comparison of the characteristics of the relational contracts of new iwi organisations', section 5.3). Links to outsiders are a raison d'être of the organisation, however, and thus both bridging and bonding social capital institutions are part of the social capital of the new iwi organisation. When viewing iwi organisations as a form of social capital it is less useful to look for a boundary than it is to explore the nature of the relational contracts between both insiders

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[417] Both new iwi organisations and state do engage in market transactions, as noted above, but the discussion here concerns their core intermediary role with respect to citizens or members.
[418] See section entitled 'Bonding and bridging capital in new iwi organisations', chapter 5.2.

and outsiders. The bonding capital - bridging capital distinction is one way of doing this. Another is to use the core-periphery model.[419]

Langlois (1995, 7) presents the core-periphery model in the context of a capability model of the firm.[420] He suggests that firms have an 'intrinsic core' of capabilities which are idiosyncratic, synergistic, inimitable and non-contestable.   Beyond this they have ancillary capabilities which are contestable and which can be duplicated, bought or sold. Reve (1990, 137-8) applies the core-periphery concept to relationships, arguing that a firm is comprised of a strategic core of internal contracts with high asset specificity and strategic alliances in their external contracts which have medium asset specificity. Market transactions which have little or no asset specificity are not considered part of the organisation in Reve's model.

Building on the core-periphery models, the relational contracts of an organisation can be understood as radiating outwards from a core, creating alliances within groups of increasing size, but with decreasingly intense bonds. The core contains relational contracts with greatest social capital asset specificity, intrinsic value, commitment to the organisation's purpose, and importance to the survival of the organisation. Moving outwards, the group expands to bring in new resources but the relational contracts have decreasing asset specificity, intrinsic value, goal congruence and importance to organisational survival.

The relational contracts that are in the core of the new iwi organisation are not substitutable. If they did not exist, neither would the organisation. They represent the greatest investments in relationship-specific institutional assets (social capital), built up over the lifetimes of the individuals and groups concerned, and the lifetimes of their

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[419] The core-periphery theorists are not the only ones who have suggested it is more useful to look at the nature of the relationships than to try to define a sharp boundary. Jensen and Meckling, for example, suggest that 'emphasizing the essential contractual nature of firms and other organizations focuses attention on a crucial set of questions – why particular contractual relations arise for various types of organizations, what the consequences of these contractual relations are, and how they are affected by changes exogenous to the organization. Viewed this way, it makes little or no sense to try to distinguish those things which are "inside" the firm (or any other organization) and those things that are "outside" of it. There is in a very real sense only a multitude of complex relationships (i.e., contracts) between the legal fiction (the firm) and the owners of labor, material and capital inputs and the consumers of output' (Jensen and Meckling 1976, 311).
[420] Langlois' use of the term capability is equivalent to Kay's (1997) concept of competency, which was referred to in the earlier section 'Routines, competencies and networks', chapter 5.1.

ancestors. The institutions of the core relational contracts have both instrumental and intrinsic value and thus shared social capital and commitment to purpose are inseparable. Greater investment in the institutions stems from and generates greater commitment to their purposes.

For new iwi organisations, a critical network of relational contracts exists between the group of tribal activists who are the organisation's core proponents. These are the people who work first to create and then to sustain the organisation. An equally critical network is between iwi members (meaning both individuals and marae/hapū). The strength of the new iwi organisation is built on the strength of the bonds that tie iwi members to one another. Two sets of relationships are distinguished here; those between the new iwi organisation's core proponents, and those between active iwi members, because these are theoretically discrete. In practice, however, the greater the overlap between these two groups the stronger the new iwi organisation and the task of the core proponents is to build this overlap.

For the new iwi organisations to survive, the organisation's proponents must convince iwi members to place their network of relationships at the organisation's disposal, i.e., they must gain the iwi mandate. Mandate is the process by which the organisation's proponents 'lease' the social capital of the iwi. Thus in addition to the relational contracts amongst the group of core activists and amongst iwi members, the relational contract between members and the organisation's core activists is also at the core of the new iwi organisation. Together these three relational contracts comprise the 'inner core' of the organisation, meaning that they have the most substantial investments in relationship-specific social capital, the greatest intrinsically valued institutions, the strongest commitment to the common purpose, and the most importance for the organisation's continuance. A loss of any of these relationships would be fatal to the organisation's survival.

Beyond the inner core, an outer core is distinguished which contains the relationships between employees (including subsidiary employees) and the organisation. The bond is between employees and the organisations goals, core activists, members, and other employees. The strength and functionality of the network of employees is critical to the organisation's long-run survival because they do most of the work of the

organisation.[421] These relationships are set outside the inner core, however, because the organisations studied began life with no or few employees and a fluctuation in their number does not automatically threaten the viability of the organisation. Employees make a more intense investment in their relational contracts with the organisation, but it is over a shorter time than those in the inner core, and it is less specific (i.e., some of their investment is likely to be transferable). In addition, those who are not tribal members are less likely to place an intrinsic value on the organisation's institutions and have a correspondingly weaker commitment to the organisation's purposes.[422]

Beyond the core are relational contracts which constitute strategic alliances which might be substitutable in theory, but are probably not in practice in the foreseeable future. For new iwi organisations the multiple relationships with government can be placed in this category. These relationships are so important that if they disintegrated (service contracts were ended, treaty settlements were reversed and resource management consultation ceased) the organisations would probably follow suit.[423] The relationship with government is one that has been built up over many generations, in addition to personal relationships within one generation. There has been a history of overlap between the concerns of iwi and the concerns of government. Overlap is not coincidence, however, as was evident in the land wars and subsequent history of Treaty negotiations.

Relationships with other iwi and other iwi organisations in particular are also part of the strategic alliances of the new iwi organisation. They have a long history and have built up considerable relationship-specific social capital. They share an intrinsic valuation of tribal institutions and have a common need to negotiate generic opportunities from government. They also have competing interests at times, as has been evident in the debate over the allocation of fisheries assets, or in territorial disputes as part of Treaty settlements with respect to land.

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[421] Employees do most but not all of the work, because core activists or leaders continue to work for the organisation throughout its life (in both a paid and unpaid capacity).

[422] This view was implicit in the employment policies of the new iwi organisations studied, in their preference for hiring tribal members as employees, but preparedness to hire non-members with critical skills. It is also supported by the apparently greater willingness of non-iwi ex-employees to criticise their former organisation, evident in the case of Waikato-Tainui (see case report chapter 3.2).

[423] If the relationship with government disintegrated, the organisation would most likely follow. The *iwi* however, would continue. If the relationship between members disintegrated, both the organisation *and* the iwi would disappear.

Finally, in the peripheral relational contracts are shifting alliances that wax or wane, depending on the priorities of the new iwi organisations or the relationship partner. Commercial links, those with other (non-iwi) Māori organisations, or international indigenous groups can all be placed in this category. Beyond the shifting alliances are neoclassical and classical contracts with little relationship-specific investment and a commonality of purpose which consists solely of completing the brief exchange. [424]

The discussion of core-periphery classification applied to the relational contracts of the new iwi organisations is summarised in the table below.

Category of relational contract (in theoretical core-periphery scheme)	New iwi organisational relational contracts which fall into this category
Inner core (relational contracts with greatest relationship-specific social capital, commitment to the common purpose, non-substitutability and intrinsically valued institutions; informal institutions predominate over formal)	●between core activists/ organisational proponents; ●between tribal members; ●between core proponents and tribal members (mandate)
Outer core	●between iwi organisation and employees
Strategic alliances in periphery	●between iwi organisation and government; ●between iwi organisation and other iwi organisations
Shifting alliances in periphery: (relational contracts with least relationship-specific social capital or overlap of purpose; relationship may be substituted to another party; mediating institutions are predominantly instrumental; formal institutions more important than informal compared with those relationships closer to core)	●between iwi organisation and key commercial parties, other community groups etc

Table 18: Core – periphery relational contracts in new iwi organisations

Organisations for which both bonding and bridging capital is central do not have boundaries but instead have linkages, fading into the horizon. There are ways of

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[424] While classical and neoclassical contracts are not part of the organisation's specific social capital they do indicate the presence of another boundary within which sufficient social capital exists to allow effective collective action. Somewhere there is a boundary beyond which live those with whom there is *no* shared social capital i.e., no shared norms, networks or formal institutions. In the modern world economy there are fewer and fewer people dwelling beyond this distant frontier.

defining the relationships of new iwi organisations that might appear to yield boundaries, but in practice they involve similar dissipating connections. Thus membership formally yields a well defined set of people, but in practice members can be divided into a core of activists, moving through regular participants, to occasional attendees, interested non-participants to those indifferent to their genealogical connections. The fading relational contracts reflect diminishing commitment to the common purpose and diminishing relationship-specific social capital.

The core-periphery classification of the relational contracts of the new iwi organisations is consistent with the proposition made in the 'Cross-case comparison' (chapter 4), that traditional Māori relationships were viewed in terms of expanding networks, not boundaries. Taking this view, debate focuses on which links (relationships) should take priority in any particular circumstance (e.g., who to ally with in a dispute between hapū) not on where the boundary is (i.e., who is in and who is out).

Internal structure of iwi organisations

New iwi organisations include a diversity of tasks of a political, social, cultural and commercial nature. The grouping of such a diversity of tasks within one organisation is unusual compared both with the literature and in comparison with mainstream society. The commonality across these functions, or the dimension in which they are specialised, is their performance consistent with and in support of tribal tikanga and kaupapa (culture and vision). The political side of the organisation is charged with ensuring this consistency and its fixed costs - the costs of collective governance - are spread across the wide range of social, cultural and commercial tasks that they perform.

The three iwi organisations studied all have a separation between the political side of the organisation (the representative structure) and the operational structure. Tribal representatives are the link between the two sides of the organisation. This separation and linkage is represented in the figure below (which is a modified version of the earlier figure setting out the relational contracts of the organisation).

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  ↕ MEMBERS                                    ⎫
    ↕                                          ⎪
    MARAE REPRESENTATIVES          ⎬ representative structure
    ↕                                          ⎪
    TRIBAL REPRESENTATIVES         ⎭
    ↕                                          ⎫
    CHIEF          ↖                           ⎪
    EXECUTIVE         ↘                        ⎬ operational structure
    ↕         SUBSIDIARIES                     ⎪
    STAFF                                      ⎭
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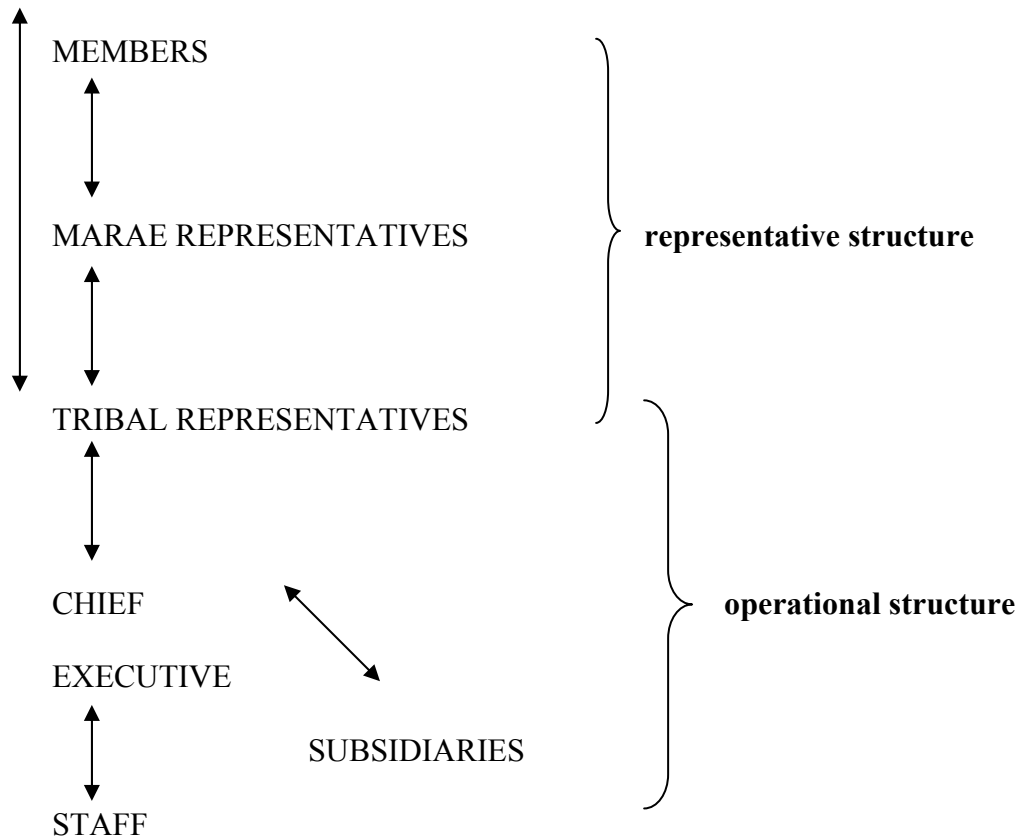
Figure 11: Separation between representative and operational sides of new iwi organisation

The structural differences on the representative side were discussed above in the section of the relational contract between members and representatives. On the operational side, there are similarities and differences amongst the new iwi organisations in how they divide their tasks between those carried out in the main body of the organisation (i.e., 'in-house') and those carried out by subsidiaries. These subsidiaries are usually wholly owned but in some cases share-holdings are less than 100%.

The allocation of tasks between the main body and the subsidiaries of the three organisations is shown in the table below. (The table does not consider the extent to which the organisations share the tasks with other bodies. This was considered in the previous 'Cross-case comparison', chapter 4.)

Task \ Iwi	Ngāti Whatua	Waikato	Ngāti Raukawa
Treaty claim negotiation	in-house	in-house	in-house
Resource management	in-house	in-house	in-house
Distribution	in-house	in-house	na
Management of Te Ohu Kai Moana fish quota	in-house (currently)	subsidiary	in-house (currently)
Services negotiation and delivery of contracts and Memoranda of Understanding (MOU)	in-house for negotiation of new contracts and MOU; **subsidiaries** for delivery of established contracts and MOU	in-house for MOU negotiation; contract delivery not carried out by organisation	in-house for negotiation and delivery of contracts (currently)
Commercial activities	subsidiaries	subsidiaries	subsidiaries

Table 19: Iwi organisation internal structure: allocation of tasks between in-house and subsidiaries

In the three new iwi organisations studied the most clearly political tasks were carried out in-house. These include Treaty negotiations, resource management and distribution. The Rūnanga/executive is the body with specialist responsibility for balancing political objectives and keeping these tasks in-house keeps them close to the Rūnanga. It would be difficult, and probably viewed as inappropriate, to specify to a subsidiary agent what objectives and trade-offs should be made in such tasks.

In service delivery there are some differences between iwi organisations. In Ngāti Whatua negotiation, being a more political task, occurs in-house. Once contracts are established, however, i.e., have clear parameters and are financially independent, they are delegated to subsidiaries. Occasional contracts are managed in-house in Ngāti Whatua because the overhead costs of establishing a subsidiary structure were not considered justified. Waikato also retains MOU negotiation and policy development in-house because these are seen as relatively political tasks and the organisation had no

service delivery role. Raukawa have in-house Rūnanga committees to develop policy on service delivery (although they have not developed MOU to my knowledge) reflecting the more political nature of this task. Raukawa currently manage all service delivery in-house, although a strategic review in early 2002 identified corporatisation of service delivery as a proposal for consideration.[425]

Commercial activities take place in subsidiary companies in all iwi. This seems to be firstly because this is a mainstream expectation (and the company structure is used to signal seriousness of commercial purpose) and also because the objectives can be more clearly stated. It has been noted earlier, however, that all the iwi organisations tend to include tikanga parameters (or resonance criteria) in their commercial decision-making and include Rūnanga representatives on the boards of commercial subsidiaries, so, there is not an absolute separation of commercial activity from the broader aims of the organisation.

In all iwi the political task of participating in the fisheries allocation debate took place in-house. In Ngāti Whatua and Raukawa, Te Ohu Kai Moana lease quota is also managed in-house, primarily because of the insecurity of having only annual tenure of the quota. It also seemed to be an issue of scale, in that these iwi were not receiving sufficient lease quota to justify splitting the jobs of participating in the allocation debate and managing the quota, but instead, the two tasks were managed by a group who could develop expertise in fisheries tasks in general. Both iwi suggested that once the allocation debate was over and they had secure ownership the quota would be held by a subsidiary company.

Unlike the other iwi, Tainui manage their Te Ohu Kai Moana lease quota in a subsidiary company. They have obtained sufficient volumes of quota, firstly by combining the lease quota of the Tainui Federation and secondly by taking on the task of managing the quota of other non-Federation iwi. The decision to develop expertise in quota management can be explained firstly because Tainui are historically accustomed to act in a leadership role (after 140 years of hosting the Kīngitanga) and also because they

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[425] Dennis Emery, personal communication, 25 November 2004. The model being considered was one where the Rūnanga oversaw operations and remained the representative face of the tribe, and had below it a charitable corporate arm for services and a commercial corporate arm for their businesses.

were in a commercially expansive mood in the mid-1990s due to their substantial Treaty settlement. The separation of commercial quota management from organisational politics required some subtle negotiation and institutional arrangements (as the Tainui-Waikato case report discusses, chapter 3.2).

The empirical evidence from the three cases suggests three trends in the decisions on internal separations. Firstly, tasks are grouped according to whether they are essentially political (in which case they are kept in-house), commercial (in which case they are delegated to subsidiaries), or they progress from political to operational (contract and MOU negotiations are political and kept in-house, whereas contract operation can be delegated). A second factor is whether there is sufficient security or longevity in the task to justify establishing a subsidiary unit to carry it out. This was evident in the decision to retain once-off contracts and management of lease quota in-house. The third factor is the scale of the activity. The tendency to increased separation with increased scale is most evident in Waikato in both their fisheries arrangements and the complexity of their overall commercial structure.

The grouping of tasks between political, commercial or transitional (political to commercial) can be usefully understood in terms of the core-periphery model discussed in the previous section. Political tasks involve the construction of strategies and short-term objectives consistent with iwi tikanga and kaupapa (culture and vision). They are tasks best carried out by individuals immersed in the social capital institutions of the iwi, particularly those institutions that carry greatest intrinsic value. Political tasks are in the 'intrinsic core' of the organisation's work, requiring capabilities which are 'idiosyncratic, synergistic, inimitable and non-contestable'. Success in these tasks is central to the success of the organisation.

Commercial tasks, by contrast, rely on ancillary capabilities which are contestable and which can be duplicated, bought or sold. They have a less direct link to the maintenance of social capital and have objectives which are easier to specify, delegate and monitor. They also require specialist, tradable skills (e.g., commercial acumen) which might not be present among iwi members or representatives.

The second two factors which the empirical findings suggest influence the 'in-house versus subsidiary' choice (longevity and scale) are both examples of the influence of transaction frequency on the decision as to whether the costs of a separate governance structure can be justified.[426] The influence of frequency on choice of governance structure was pointed out by Williamson (1985) in his discriminating alignment hypothesis.[427]

Organisational growth and development

An examination of new iwi organisations as organisation would be incomplete without some brief reflections on what constitutes organisational success in this context. This encompasses questions such as: 'what does organisational growth and development look like and what is driving it?'; and 'what situations create organisational crises and what does survival depend on?'. The theoretical literature considered above pays relatively little attention to the causes of organisational growth, development and success. Two suggestions that have been made utilise the concept of core competencies. Kay (1997) provides a model of growth where firms expand into activities which utilise their successful core competencies and Nelson and Winter (1974; 1982) provide a model of development where there is evolutionary adaptation of core competencies to better achieve organisational objectives.

Kay (1997) characterises firms as being growth orientated, seeking to expand into areas where they can capitalise on the use of their core competencies. For example, if a firm has a successful marketing infrastructure for rapid delivery of one product it could exploit this competency by expanding the range of products it delivers using this infrastructure. The basic imperative is to expand along a path which maximises the sharing of successful core competencies between existing and new business units. Kay considers that scope for this type of expansion will eventually become limited, if not by market demand, then by anti-trust legislation. More fundamentally, Kay says that while this specialised expansion maximises the use of a limited set of core competencies it

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[426] Longevity could be referred to as 'dynamic scale', i.e., repeating a task over a long period of time. The term 'scale' as it is used here refers to 'static scale'; that is producing large numbers of the same good at one point in time. Both result in high transaction frequency.

[427] This was discussed in chapter 5.3, section entitled 'Matching governance institutions with transactions: Williamson's discriminating alignment hypothesis'.

also increases vulnerability should these core competencies become obsolete. This vulnerability provides a counter argument for more diversified expansion.

Nelson and Winter's (1974; 1982) evolutionary model of economic change is another example of a competency model of the firm and contains an adaptive model of firm learning. In Nelson and Winter's model firms have operating routines for producing goods, routines for modifying the level of capital stock in response to profit levels, and routines relating to innovation. The decision rules embodied in routines are not optimal but they generate improvement with respect to the underlying firm objective which is to generate profits. Firm routines involve a double loop feed-back system with a search rule governing technological change, which is itself subject to adaptive learning and modification over time.

In Nelson and Winter's firms, learning and improvement result from the routine relating to innovation. Motivated by a desire to make profits, firms retain existing production routines and the technological processes they embody, provided these generate profits above the target level. If returns fall below the target level firms begin a probabilistic search for new technological processes. As they come across new technological processes (by innovation or imitation) these are assessed and adopted if expected returns exceed the target. The new routine is retained if the expected returns are realised.

Applying these two models of growth and development to new iwi organisations requires identifying the core competencies of these organisations. In earlier sections it was argued that new iwi organisations could be understood as intermediaries whose job it was to manage the tension between bridging and bonding social capital. It was concluded that new iwi organisations are, in their narrow, formal sense, instrumental social capital institutions. Their role is to provide bridges along which resources and opportunities can be secured. The ultimate aim of securing these resources is, however, to build the internal bonding capital of iwi and hapū and these are intrinsically valued institutions. This conceptualisation generates the model below of the broadly defined core competencies, or tasks, of new iwi organisations.
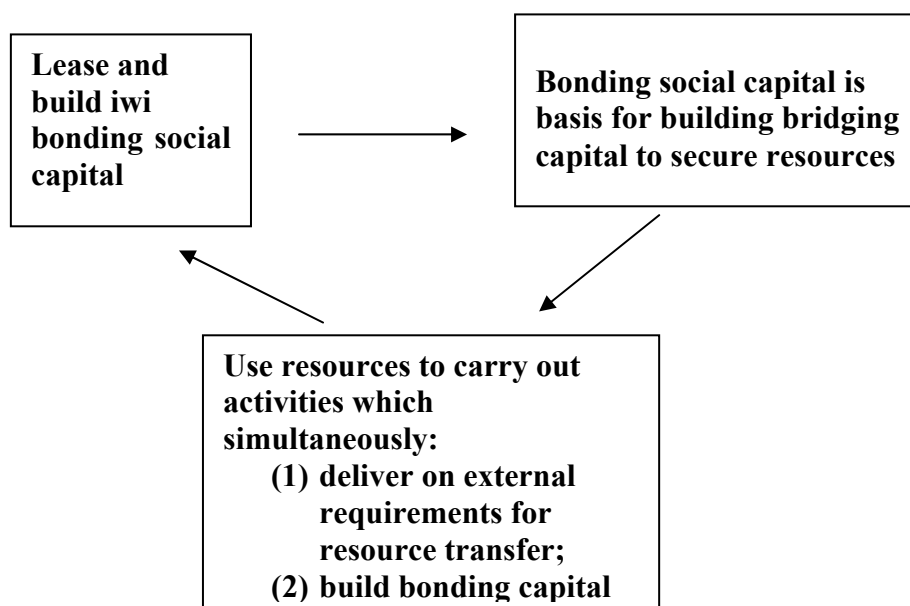
Figure 12: Core tasks of new iwi organisations

The first core task for new iwi organisations is to establish a mandate. They are then in a position to negotiate resources from government. Once resources have been secured (in the form of service contracts or Treaty settlements) new iwi organisations must use these to carry out the task for which the resources were transferred and they must do so in a way that builds internal bonding capital. The case studies suggested that managing the tension between delivering on external requirements and delivering on the internal requirement to build bonding capital required considerable skills and resources and utilised competencies that evolved over time. The figure above shows the circular nature of the relationship between bonding and bridging social capital, that is, bonding capital is the basis for building bridging social which is used to secure resources to further build bonding social capital.

The skills required to perform the core tasks are first and foremost the creation and operation of social capital (internal and external), but the development of the more technical skills associated with service delivery, commercial operations, resource management and benefit distribution are also important. Organisational competencies utilise social, human and physical/financial capital. The competencies of new iwi

organisations are developed sequentially, and weighted first towards social capital, then human capital and then physical/financial capital.[428] Thus while authors such as Kay (1997, 29) follow Schumpeter in viewing technical change as the key strategic variable, for new iwi organisations innovations in social capital institutions are crucial.

In the case studies, growth, meaning the expansion into activities which use existing core competencies, is evident in the steady increase in service delivery in both Ngāti Whatua and Ngāti Raukawa. While additional service contracts require the development or employment of some new technical skills, they predominantly utilise existing bonding and bridging capital, and organisational administrative routines. Distribution activities also appear to have largely involved the expansion of existing programmes. (The preference for existing programmes over more innovative ones is evidenced in Waikato, where the marae grants and scholarships were the last to be cut, and the first to be reinstated after the period of financial crisis). Resource management activity draws heavily on the existing iwi capacity to bring constituent opinions and traditional knowledge together and, but it has also required the development of new technical skills (human capital) to successfully participate in external processes.

Evolutionary development of core competencies has occurred in service delivery and resource management, as noted above. In the commercial area, however, competencies have had to be created with little or no prior experience. It is not surprising then, that this has also been the area of most problematic growth. All case studies had suffered financial losses but had emerged with increased commercial realism and were now enjoying some commercial success.

Financial losses indicate a failure to deliver on external conditions but there are contrasts evident in the case materials in the impact of financial losses on overall organisational health.[429] Financial losses became crises when they impacted seriously on bonding and bridging capital. This was most evident in Waikato over the 1999-2001 period when financial problems led into political disputes and a collapse in both

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[428] Even in Waikato, which had the highest physical/financial capital, the types of physical/financial capital successfully employed were relatively unsophisticated e.g., land and property. The more 'high tech' commercial operations were held by MDC and were not a success for the organisation. This may of course change as the organisation develops greater expertise in the commercial area.

[429] These were discussed in detail in the chapter 4, section entitled 'Development of skills in iwi organisations: expanding by delivering on member and external requirements'.

bonding and bridging capital maintenance.[430] Positive financial results re-emerged in 2002, but it was not until bonding and bridging capital restoration work gathered pace that organisational recovery was evident.

In the late 1980s, Ngāti Whatua also suffered the experience of a financial loss becoming a crisis when it impacted on bonding/bridging capital. A relatively small cash defaultation might not have been problematic in itself but it led to a weakening of bonding capital, with members questioning the organisation's integrity. This coincided with a failure of bridging capital to deliver resources and the combined effects threatened the organisation's survival. The crisis was not resolved by the return of the misappropriated funds but by the strenuous efforts to rebuild faith amongst members and the eventual success of bridging capital in securing external resources. In marked contrast to these two examples, balance sheet write-downs in Ngāti Whatua in 2000-01 and Ngāti Raukawa in 1997-98 had little impact on bonding or bridging capital, and as a consequence, little impact on the growth and development of the organisations.

Conclusion

This section has compared the empirical findings with new institutional economics theory relating to organisations as a whole. It considers the purposes to which new iwi organisations' activity is directed, how we should understand the boundaries of the organisations, their internal structure and their growth and development. The next chapter contains the conclusion to the thesis overall and discusses the methodological lessons, the empirical findings and the results of the comparison of the empirical findings with the new institutional economics- social capital literature.

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[430] These were discussed in detail in the 'Changes in the prominence of different relationships over time' in the relationships section of the Tainui case report, chapter 3.2.

Chapter Six: Conclusion

Overview

The thesis research was inspired by a recognition of the economic, political and cultural importance of contemporary Māori tribal organisations. It was also motivated by the absence of any evaluation of iwi organisations from a new institutional economics perspective and the acknowledgement by new institutional economics of the need for more empirical development of its theories.

The activity of new iwi organisations has increased during the period of the research. New Treaty of Waitangi settlements are being agreed, fisheries assets are being transferred to tribal organisations, service delivery is increasing and iwi organisations are becoming more vocal in representing the views of their members. The increased profile of new iwi organisations has not led automatically to an increased consensus on their role within New Zealand society, however. Rather, it has highlighted the diverse understandings of their nature and appropriate assessment. Conflicting opinions on the place of Māori and iwi within New Zealand society were central to the debate leading up to the New Zealand parliamentary elections in September 2005, for example.

New institutional economics is also in a state of creative turmoil. There is considerable debate within the discipline on what the unifying assumptions should be, on the relationship of new institutional economics to neoclassical economics and other fields of the social sciences, and on the appropriate methods to further theoretical and empirical work.[431]

The thesis presents a view of new iwi organisations from the perspective of those working within them and translates this view into the concepts of new institutional economics. In doing so it aims to contribute to two discussions. The first is on the

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[431] See the concluding chapter in Furubotn and Ritcher (1997, 435-482) for an introduction to this extensive debate.

appropriate way to understand new iwi organisations. The second is on the appropriate way for new institutional economics to understand society's economic institutions.

The research began by asking broad questions. The first was a composite enquiry directed at those establishing and working inside the iwi organisations:

> How and why was the organisation established, what does the organisation currently do, and where do you see the organisation going in the future?

The second question was directed to the new institutional economics literature:

> How do insider stories about the factors influencing the evolution of new iwi organisations compare with theories of institutional design offered by contemporary institutional economics?

In seeking to respond to these questions it became apparent that there was no existing methodological formula that could adequately guide efforts to answer them. Thus the first task of the research was to review a range of methodologies and methods and create a synthesis appropriate to the research questions being asked. The conclusion begins by summarising the methodological synthesis employed and the reasons why it was necessary.

The conclusion moves on to summarise and reflect on the results of the research methods employed. It begins by considering the response to the first research question, which is contained in the inductive findings of the case reports and cross-case comparison.   The conclusion then addresses the process of selecting the new institutional economic concepts that offered the most fruitful basis for comparison with the inductive findings, and the need to work this selection into a coherent framework. Lastly, the conclusion considers the two outcomes of the comparison between the theoretical literature and the empirical findings. These were firstly, an explanation of new iwi organisations through the conceptual lens of new institutional economics, and secondly, a summary of the elements new institutional economic theory needs to contain if it is to adequately explain new iwi organisations. The conclusion finishes with some possibilities for future work.

Methodological synthesis

The choice of methods to use in the research was guided by both methodological and ethical considerations. The research opened with a question and subject matter for which there was no obviously suitable institutional economics theory. This suggested that working from subject matter to theory, using an inductive approach, would be a more effective method for answering the questions than the deductive approach more familiar to economics. Ethical guidelines consistent with a kaupapa Māori approach argued that the voices of insiders or participants should be given primary importance. This also suggested an inductive approach beginning with an examination of the views of those participants. Qualitative data were the most suitable medium for participant voices to be heard and the treatment of each iwi organisation as a case (in the first instance) allowed the integrity of participant stories to be maintained.

A review of economic methodology revealed no existing approach that could be used to guide an inductive investigation and little discussion of the use of qualitative data. The research methodology adopted in the thesis was obliged to draw on approaches from elsewhere in the social sciences. No single approach was encountered that could guide the entire research process, so an eclectic set of methods was assembled involving three stages, with different methodological pedigrees. The first stage was the creation of case reports, co-constructed with participants, consistent with the methods of naturalistic enquiry. The second stage used the methods recommended for producing grounded theory to create a cross-case comparison model. The cross-case model also resembled the pattern model of holism with themes connected into an explanatory system by low-level generalisations. The third stage involved a comparison of the inductive findings of the first two stages of the research with the new institutional economics literature. A search of the methodological discussion of the social sciences yielded no guidance for this stage of the research, so it was necessarily the most inventive.

A stated aim of new institutional economics is to 'to develop theory that is concerned with real issues, by cross fertilization of the social sciences, and by ensuring an intimate relationship between theory and empirical work' (Furubotn and Richter 1997a, 12). The methodological synthesis constructed and deployed in the research was successful in investigating the research questions and ensuring such an 'intimate relationship'.

Despite this, the research experience suggests that there would be substantial benefits if the discipline were to broaden the methodological tools at its disposal by discussing qualitative, inductive methods more seriously. The creation of the methodological synthesis needed for the research was a time consuming process which involved a high degree of serendipity.[432] The synthesis created proved difficult to explain to other economists. Given the considerable energy expended by economists in developing econometric methods, and by other social scientists in developing qualitative methods, it is difficult to believe that greater consideration of qualitative methods and methodologies would not improve new institutional economics research practice.[433]

The research practice of new institutional economists suggests that they reject the notion that the quantitative evaluation of mathematically expressed theory is the only true way to do economics. The experience of the thesis suggests that new institutional economics has yet to embrace alternative methodological approaches that complement or provide alternatives to the widely used quantitative methods.

Case reports and cross-case findings

The case reports were a response to the first research question, where those working inside the organisation were asked about the establishment, current work, and future prospects of the new iwi organisations. Consistent with the methodology chosen, the case reports were a co-constructed response, meaning that their content depends on the contribution both of participants (contained in both interviews and documents) and the researcher. The acceptance by participants that the case reports accurately reflected their views validates their success as co-constructions. The case reports were also intended to provide the rich description that allows 'outsiders' reading them to gain

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[432] I stumbled over the constituent methodologies used in the research after casual conversations with sociologist and management colleagues, rather than through consultations with economists or courses in economic methodology.

[433] The value of qualitative data, and the need to develop agreed standards for its use, is argued by Alston (1996) and Acheson (2000) and was discussed in the introduction and methodology chapters. Acheson suggests that '…the domain of story telling has to expand to test, imperfectly but with more power, the parts of this theory of the firm that are currently subject only to the test of logical consistency. Basically, *we need more disciplined empirical stories to guide theoretical efforts.* …[and]… *NIE would be well served by developing a set of professional norms for disciplined story telling…*' (Acheson 2000, 360, emphasis added). Even Acheson, however, seems to be arguing for better methods for deductive testing using qualitative data and does not mention the use of inductive methods to test new institutional economics theories.

sufficient 'insider' knowledge to assess the validity and transferability of the subsequent inductive findings. Initial readings of the reports by outsiders suggest that they were also successful in this respect.

A comparison across the case reports suggested a model of organisational establishment and development containing four explanatory influences:

1. The fundamental explanation for the creation and development of iwi organisations is the desire by Māori to live as Māori;

2. The immediate motivation for creating the organisations is external opportunities and the transfer of resources for particular activities negotiated with government;

3. Iwi are chosen over other Māori collectives because of their intrinsic, or pre-existing advantages of tradition and large scale;

4. The survival and growth of iwi organisations depends their developing skills that support and enhance their members' desire to live as Māori while meeting external requirements and negotiating new resources from government.

The four explanatory influences are depicted in the figure below.
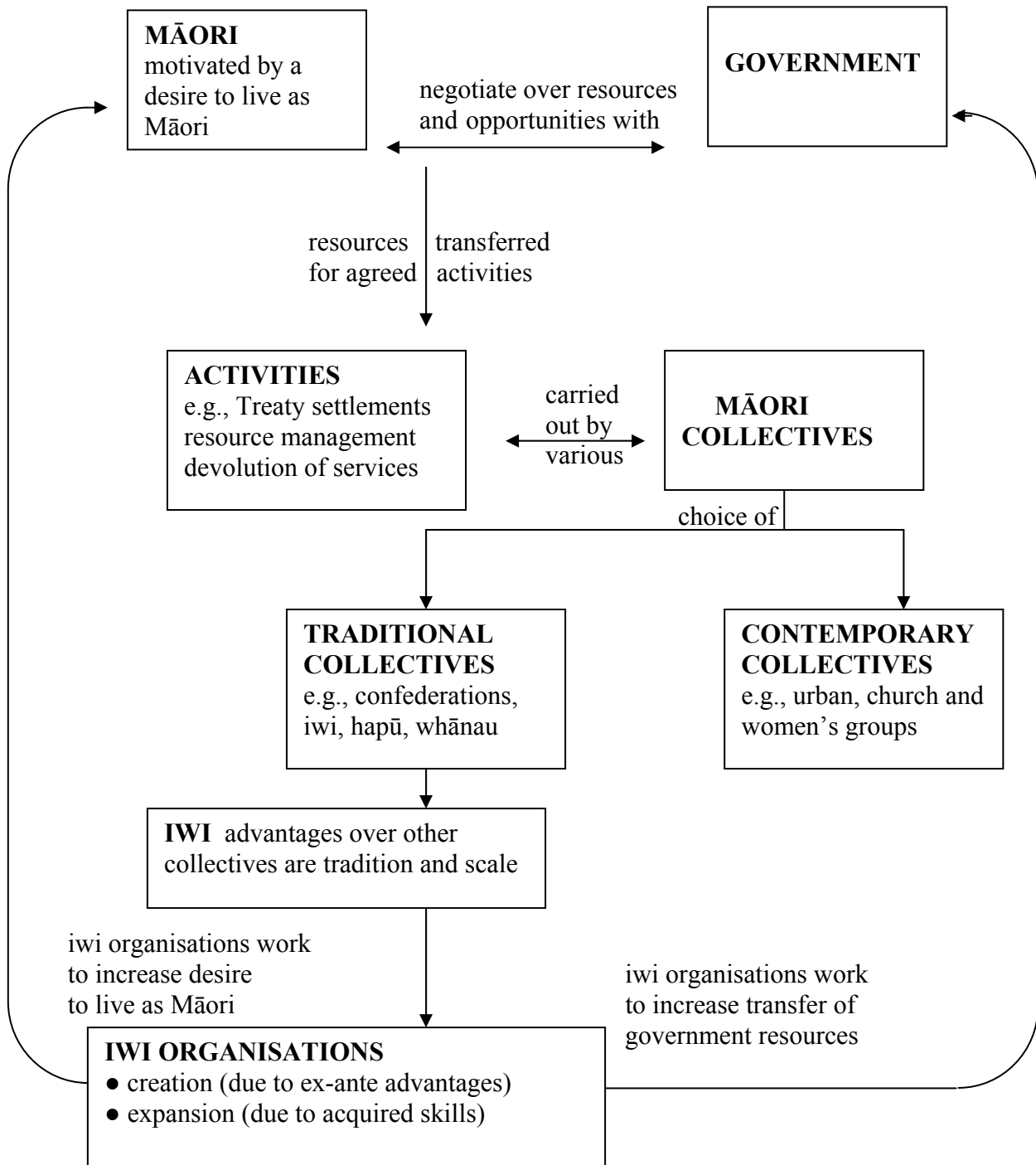
Figure 13: The cross-case comparison model: the desire to live as Māori and the establishment and development of new iwi organisations

The cross-case model corresponds to the pattern model of holism. It contains a number of themes, linked by low level generalisations into an explanatory system. Despite the small number of cases there were sufficient similarities between the cases to allow creation of a model that captures the key themes from all the case reports. The level of generalization in the inductive findings of the model was sufficient to guide the selection of new institutional economics literature required in the third stage of the research, and along with the case reports, to support a detailed comparison with this literature.

Constructing a theoretical framework

Comparison of the empirical findings with new institutional economic literature began serially, that is, theories and concepts were considered and compared with the findings one at a time. At the end of the process of serial comparison the research had uncovered a number of theories and concepts that were useful in understanding the inductive findings from the case reports and case comparisons. What was not clear at the end of this process were the relationships between the theories, or how the serial comparisons might be organised to reflect the integrated, systemic nature of the findings.

Serial comparison was necessary because in new institutional economics individual theories are developed in relative isolation from each other. They have diverse starting assumptions and terminology and the relationships between them are often unclear. Isolation is not a problem for deductive work, where one starts with a particular theory and sets out to look for empirical material that supports, develops or disproves that theory. It does pose difficulties for inductive work, however, where one develops propositions or findings from empirical material and then seeks to develop them through systematic comparison with a range of existing theories. It is particularly problematic if the inductive findings are in the form of a pattern model, that is, they are presented as a system where individual aspects can only be understood by explaining their place in the whole.[434]

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[434]The relative isolation of new institutional economic theories was symptomatic of a more general inconsistency between the approach of new institutional economics and the theoretical approach the research needed to take in order to adequately reflect insider accounts of new iwi organisations. Much work in new institutional economics still reflects the approach of neoclassical economics. It focuses on individuals (institutions are the result of individuals' collective actions to meet instrumental aims), is

Moving from comparison of isolated theories with the individual inductive findings to a more holistic and systematic comparison required that the economic theories were organised in an integrated, holistic framework. This framework needed to make clear the assumptions common to all the theories and the relationships between the different theories. The idea of social capital, defined as 'the combination of socio-economic institutions that coordinate activity and align incentives, making collective action possible' was used to create such a framework for the research.

It was noted in chapter 5.1 'Creating a new institutional economics - social capital framework' that there is considerable debate over the definition, theoretical claims and measurement of the social capital concept. Hunter (2004, 3) suggests, for example, that '[w]hile the general notion of social capital shows promise … the panoply of definitions and lack of theoretical clarity threaten to undermine its potential contributions…'. The thesis adopts a definition of social capital useful for the purposes of the research: the development of an explanatory theory of new iwi organisations from holistic, qualitative, insider stories using concepts from new institutional economics. In doing so, it provides an example of how a very broad definition of social capital can be used in empirical work. The theory developed is explanatory and qualitative. It would require further development and discussion on how the concepts employs might be measured before it could used to make the empirically testable predictions considered desirable by some such as Hunter (2004, 18).

In retrospect, the difficulties of trying to redefine an already circulating concept were clearly underestimated, by either Ostrom and Ahn (2003), or myself. Given the diversity of existing definitions and the tenacity with which they are held it may have been better to use a new term (such as institutional capital). This concern aside, the

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reductionist (i.e., it studies different institutional types in isolation), and views institutions as constraints in response to the problems of bounded rationality and opportunism. An approach consistent with the approach of my cases needed to allow institutions to have independent influence and value; employ a comprehensive and systemic definition of institutions; and view institutions as indispensable to individual and collective action.

There was a parallel between the approach of the research in contrast to that of the new institutional economics literature, and the vision of new iwi organisations in contrast to that of the government. Iwi organisations, I was told, wished to deliver services that were collectively orientated, cared for the whole person and were proactive. They were faced, however, with a government offering programmes which were individually orientated, sectoral and reactive. (This comparison comes from 'Health & Social Services and the Relationship with Government' in the Raukawa case report, chapter 3.3).

thesis analysis demonstrates the need for a term to describe all the institutions that mediate collective action and social capital was the best existing option encountered in the literature. Whether social capital can and should be redefined in the way described is a question for future debate within the discipline.

The integrated theoretical framework was crucial for the methodological approach of the research, that is, the exploration of inductive findings about new iwi organisations using new institutional economics concepts and theories, and the use of inductive findings to evaluate and develop new institutional economics. The integrated framework allowed the new iwi organisations to be considered as whole systems rather than fragmented into isolated features, as occurs with serial comparison. The integrated framework meant that it was not necessary to choose one existing theory as providing the best explanation of new iwi organisations, but rather to explore which theories worked best to explain which features of new iwi organisations and how these theoretical explanations were related.[435]

Theory and empirical findings compared

New iwi organisations viewed through the social capital-new institutional economics framework

The core elements of the insiders' descriptions of new iwi organisations, viewed through a new institutional economics-social capital framework, are set out in Figure 14 below. The comparison cast the iwi organisations as intermediaries. The pre-existing bonding capital within the iwi was used as a basis for establishing the organisations, whose aim was to build bridging capital relational contracts with external parties in order to secure resources, which were used to build bonding capital relational contracts with and between members. [436]

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[435] More detailed conclusions on the elements of the framework are discussed ahead in the section entitled 'New institutional economics configured to explain the inductive findings on new iwi organisations'.
[436] Strictly speaking, the relationship *between iwi members* is one of bonding capital, and the relationship *between members and iwi organisation* is a matter for negotiation. The figure assumes that the organisations proponents are successful in building and transferring bonding capital between members to the iwi organisation (as discussed in the section on organisational boundaries, chapter 5.4). This implies that members feel they 'own' the organisation to such an extent that their affiliation to the iwi is synonymous with their affiliation to the iwi organisation.

NEW IWI ORGANISATIONS AS
INTERMEDIARIES:

Organisational aim is to build

relational
contracts
with

and
relational
contracts
with

MEMBERS

EXTERNAL
PARTIES

● relational contracts with
(and between) members
constitute **bonding capital**

● relational contracts with
external parties constitute
bridging capital

● bonding capital institutions
intrinsically and instrumentally valuable[437]
(built with secured resources)

●bridging capital institutions
instrumentally valuable[438]
(built to secure resources)

● bonding capital institutions
dominated by informal,
relationship-specific norms and networks,
with **formal overlay**

● in bridging capital
both **formal and informal**
important

●**ex-ante advantages of iwi** are tradition (prior bonding capital) and scale (prior bridging capital)
●**ex-post advantages of new iwi organisations** are developed competencies to manage tensions between and deliver on both internal and external requirements, and build internal demand and external supply.

Figure 14: New iwi organisations viewed through the social capital-new institutional economics framework

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[437] Bonding capital relationships are both intrinsically and instrumentally valuable (as discussed in the text) but it is their intrinsic value which is distinctive.

[438] Relationships with external parties are overwhelmingly instrumentally valuable so this is what is emphasised in the figure. External relationships representing bonding capital were possible, (such as those with other iwi in a confederation) but these relationships did not explain the creation of the new iwi organisations (as argued ahead in the text).

The distinctive feature of the bonding capital institutions (compared with bridging capital relationships) was their intrinsic value, that is, the value derived from their observance, independent of the ends achieved. The institutions also have instrumental value, because stronger collective institutions allow the group to carry out tasks for particular ends e.g., negotiate the transfer of increased resources and opportunities to tribal organisations; conduct commercial activities for profit; deliver services to improve health outcomes. The formal organisation overlaid the pre-existing informal institutions of the iwi which were relationship-specific norms and networks.

The diversity of the tasks of the new iwi organisations makes little sense unless the joint intrinsic and instrumental value of their institutions is recognised. The reason for grouping the diverse tasks together is because their intrinsic value can be repeatedly appreciated when the base institutions are used to perform additional tasks. The iwi organisations are able to realise scale economies in the use of their institutions (i.e., the overhead costs are spread over a number of tasks). The instrumental value of the iwi organisations also shows some economies of scale. Realising scale economies in *instrumental* institutions does not provide an argument for *iwi* organisations, however, as there are many other ways that activities could be grouped to realise such economies e.g., health services divided by region, client group or illness. The intrinsic values, however, are unique to traditional Māori organisations such as iwi.

The intrinsic value of collective institutions arises because, for (practising) iwi members, individual well-being is partly dependent on the strength of individual identity, which is in part dependent on collective identity, which is largely determined by the strength of the tribe's collective institutions (i.e., their social capital, and in particular, their norms and networks). The relationship between individual well-being and the strength of collective institutions is summarised in the figure below.

| strength of collective institutions | → determines | strength of collective identity | → partly determines | strength of individual identity | → partly determines | individual well-being |
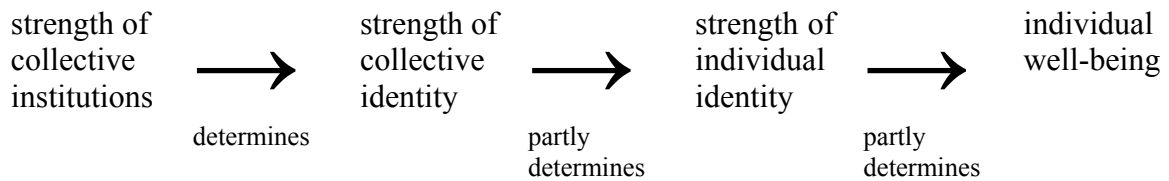
Figure 15: Relationship between the strength of collective institutions and individual well-being

Just as both intrinsic and instrumental values are important to explaining new iwi organisations, the formal structures must be understood as being founded on the enduring informal institutions of iwi. While the role of the formal organisation is to nurture the informal institutions, the latter have a life independent of the organisation.

The external relationships of the new iwi organisations had great prominence and diversity in the three cases. Their primarily instrumental nature makes them more familiar to new institutional economics theory, but even here both formal and informal were important, and displayed a complex pattern of interactions. Little or no intrinsic appreciation was expressed with respect to the external relationship with government or commercial parties. The relationships were instrumental, aimed at securing resources and opportunities. The transfer of these resources and opportunities required formal institutions and thus the external relationships were driving the establishment of the formal institutions of the organisation (constitution etc). Where external relationships were ongoing, however, informal institutions were developed both to coordinate actions and resolve tensions.[439]

The model in Figure 14 above does not include any external relationships that constitute bonding social capital. Such relationships do exist and include those with other tribes, (particularly those with close historical and cultural bonds such as those within a tribal confederation). Bonding capital relationships are not the most common type of external relationship, however, and they are not the primary reason for the establishment of iwi

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[439] The development of ongoing, informal institutions with government and commercial parties suggests that intrinsic value might arise in these relationships, associated with social activity, for example. The intrinsic value was not expressed in interviews and documents, however (in contrast to the intrinsic value of internal tribal relationships).

organisations. They are not the primary reason for the establishment of the *formal* institutions of iwi organisations because these bonding capital relationships are predominantly mediated by *informal* institutions between iwi. This is true both before and after the formal organisations are established. The formal relationships between iwi organisations are largely associated with transactions involving property (e.g., fish quota leasing arrangements).

The competencies or institutional routines of new iwi organisations had two sources. Firstly, some were derived from the pre-existing institutions of iwi, which were 'leased' by the organisation through the mandating process. In the cross-case comparison these were described as the advantages of tradition and scale, but they could equally be understood as the pre-existing bonding and bridging capital of the iwi. These competencies of iwi led to the establishment of the iwi organisations. Secondly, the success of new iwi organisations was determined by their capacity to develop institutional routines for simultaneously delivering on internal and external objectives. The internal objectives involve improving individual and collective well-being by satisfying and building the desire to live as Māori (internal demand), and external objectives involve meeting requirements for resource transfer and negotiating new opportunities (external supply).

The discussion of relational contracts (chapter 5.3) considered a continua of contractual forms dealt with in the literature, from the entirely formal contracts of classical economic theory (which are finite and entirely embodied in their formal specification), through neoclassical contracts (with third party involvement to resolve disputes and address omissions in the formal specification), to a variety of relational contracts (where a new governance structure is established, unique to the relationship, to make ongoing decisions and develop the contract terms over time). The concept of a relationship continuum, applied to the various relations of the new iwi organisations, is set out in the figure below. The double headed arrow is used to indicate that bonding and bridging relationships can be viewed as on a continua or axis along which the characteristics listed (informal/formal mix, degree of relationship specific social capital etc) vary steadily.

BONDING CAPITAL RELATIONSHIPS   **BRIDGING CAPITAL RELATIONSHIPS**

tribal relational contracts e.g., between members	political relational contracts e.g., iwi organisation - government	commercial relational contracts	commercial neoclassical contracts[440]
●informal dominate (formal overlay)	●formal + informal	●formal + informal	●formal
●considerable relationship specific social capital[441]	●some relationship specific social capital (asymmetric)	●some relationship specific social capital	●no relationship specific capital
●not person transferable; task transferable	●relatively person transferable; not entity transferable; task transferable[442]	●relatively person/ entity transferable; limited task transferability[443]	●entity/person transferable; not task transferable[444]
●exit most costly; voice encouraged	●exit costly (asymmetric); voice discontinuous	●exit possible at some cost; voice possible	●exit at low cost; voice limited
●intrinsic value high (high goal congruence and unified relationship); also instrumental	●instrumental primarily; (low congruence; bilateral or neoclassical)	●instrumental primarily; (low congruence; bilateral)	●instrumental (low congruence; neoclassical)

Figure 16: The new iwi organisation bonding–bridging contractual continua

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[440] Classical contracts are not included here because they didn't have a profile in the case reports, but they would be described as formal, without relationship-specific social or physical capital, person and entity but not task transferable, costless to exit, without provision for voice, and instrumental. These features would locate them to the right of neoclassical commercial contracts in the above diagram.

[441] It was argued earlier that networks generally have the highest relationship-specific social capital, followed by norms, followed by formal institutions. Networks and norms dominate these relationships.

[442] The relationships between new iwi organisations and government are complex, and there is both person-person specific social capital built up, and iwi organisation- government (entity-entity) specific social capital. The focus here is on the latter.

[443] These relationships are person/entity transferable relative to the relational contracts with government, because there are generally other parties with whom the partnership might be formed, whereas there is only one New Zealand government. Similarly, task transferability is limited relative to the relationship with government.

[444] Neoclassical contracts have costs to transferability/exit because of the relationship-specific physical, not social capital (see 'Matching governance institutions with transactions: Williamson's discriminating alignment hypothesis').

Moving from left to right, from bonding relational contracts to commercial neoclassical contracts, there is a shift in importance from informal to formal social capital institutions. In bonding capital relationships informal networks and norms dominate. In bridging relational contracts both formal and informal are important, and in neoclassical contracts only formal are important.

Networks, as noted earlier, are associated with the highest levels of relationship-specific social capital, followed by norms, followed lastly by formal institutions. This means the left to right movement is also associated with a decrease in the importance of relationship-specific social capital. In bonding capital relational contracts, social capital identifies and is specific to named individuals. In the bridging capital relational contracts it becomes less specific to individuals than it is to entities. Commercial neoclassical contracts are least person or entity specific, with specificity relating to physical assets (the ownership of which can be transferred). Balancing this increase in the transferability of social capital across persons and entities is a decrease in its transferability across tasks. The kaupapa (mission statements) of new iwi organisations entitle them to approach an extremely broad range of tasks (including anything that can be construed to contribute to well-being), whereas commercial contracts are restricted to the specified areas of activity.

Given the high levels of relationship-specific social capital in bonding capital relational contracts, exit (for the initiated) is costly, continuity is valued, and voice is encouraged for its intrinsic and instrumental values. In the relationship between iwi organisations and government exit is costly (particularly for the organisations) but can occur periodically with respect to particular activities, or particular government regimes. Voice is correspondingly important, but discontinuous. (Discontinuous is used here to reflect the turbulent and episodic nature of discussions between iwi organisations and the government.) Voice is present in commercial relational contracts, but exit is not unusual. Exit from commercial neoclassical contracts is the least costly and voice is limited to that which is mediated by the appointed third party.

Only bonding capital relational contracts have social capital institutions with significant intrinsic value, generating high goal congruence and unified relationships. This is in

addition to their instrumental value and is what makes them distinctive (as discussed earlier in this section.) Bridging capital relationships are primarily instrumental with bilateral, neoclassical or classical relationships that preserve the identity of the original parties.

Comparing new iwi organisations, the firm, and the state, as intermediaries

Comparison of new iwi organisations with theories from the new institutional economics-social capital literature often involved contrasting them with the literature's conceptualisation of the firm or the state. Although this juxtaposition did not drive the analysis, its frequency allows a tentative comparison of the features of iwi organisations, the state and the firm as intermediaries, viewed through a new institutional economics - social capital lens.

Iwi organisations, the state and the firm all act as intermediaries between a constituency (members, citizens or shareholders) and external parties.[445] The transactions with external parties are conducted so as to deliver benefits to constituents: public and merit goods in the case of members or citizens, and financial returns (dividends or increased share value) in the case of shareholders. With respect to types of benefits to constituents, new iwi organisations bear a marked similarity to the state. The differences between the three entities with respect to whether the relationships they mediate are primarily bonding or bridging social capital, are summarised in Figure 17 below.

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[445] Initially firms were considered as intermediaries between customers and suppliers, but their role as intermediaries between shareholders and external parties (both customers and suppliers) provided a more logical basis for comparison with the intermediary role of both iwi organisations and the state.
As noted earlier in chapter 5.2 'Evolution and design in the creation of the state', the 'state' here is considered synonymous with national government despite the fact the state-like processes can be performed by other entities (of which tribal organisations are one example). The focus here is on new iwi organisations and the simple conceptualisation of the state as national government is sufficient for the comparison presented in this section. Comparison between new iwi organisations and more complex models of the state is one possible area for subsequent research.

CONSTITUENTS	nature of relational contract	ENTITY	nature of relational contract	EXTERNAL PARTIES
MEMBERS	← bonding capital	**IWI ORGANISATION**	→ bridging capital (mainly)	VARIOUS e.g.: government; commercial
CITIZENS	← bonding or bridging capital	**STATE**	→ bridging capital (mainly)	VARIOUS e.g.: suppliers of public goods; other nations;
SHARE-HOLDERS	← bridging capital	**FIRM**	→ bridging capital	SUPPLIERS AND CUSTOMERS

Figure 17: Bonding and bridging relational contracts in iwi organisations, the state and the firm

A more detailed comparison of the similarities and differences between the three intermediaries, based around the core distinction between bonding and bridging relational contracts (in the above figure) is set out in the table below. (Explanations of both Figure 17 and Table 20 follow the table.)

ENTITY / FEATURE	New iwi organisations	State	Firm
Purpose	use bonding capital to build bridging capital to secure resources to further build bonding capital	conduct processes for deciding on and delivering public and merit goods	transforms inputs to outputs to be sold at a profit
Relationships of intermediary (bonding or bridging capital)	**organisation↔ members** (bonding)	**state↔citizens** (bonding in some theories, bridging in some theories)	**firm↔ shareholders** (bridging)
	organisation↔ external (mainly bridging)	**state↔external** (mainly bridging)	**firm↔external customers/suppliers** (bridging)
Relationship Institutions	**organisation↔ members**	**state↔citizens**	**firm↔ shareholders**
informal or formal	informal dominant	formal and informal	formal dominant
specificity	high specificity	medium/high specificity	limited specificity
task/person/entity transferable	task transferable, person specific	task transferable, person specific	person transferable, task specific
exit or voice	exit and voice possible	exit difficult, voice possible	exit possible, limited voice (if small share)
	organisation↔ external	**state↔external**	**firm↔external**
informal or formal	formal with varying informal	formal with varying informal	formal with varying informal
specificity	specificity varies	specificity varies	specificity varies
task/person/entity transferable	task/entity specificity varies, person transferable (relative to task/entity)	task/entity specificity varies, person transferable (relative to task/entity)	person/entity transferable, task specific (relative to state/iwi)
exit or voice	exit possible with or without voice	exit possible with or without voice	exit possible with or without voice
Ownership rankings	senior managers representatives employees members (least)	senior civil servants government civil servants citizens (least)	senior managers directors employees shareholders (least)
Efficiency assessment	difficult (multiple measures)	difficult (multiple measures)	relatively simple (financial and technical measures)

Table 20: Comparing new iwi organisations, the firm and the state as intermediaries

The external relationships of the three intermediaries are various, but similar in being overwhelmingly instrumental, bridging capital. For iwi organisations these include relationships with government and commercial parties, which yield the resources and opportunities to support the individual and collective well-being of members. For the state they include relationships with other nations and international bodies, and with suppliers of goods and services required to produce the public goods required by citizens. For firms they include the relationship with suppliers and customers, with inputs being purchased from the former and sold to the latter to yield the profit required by shareholders. All the intermediaries share a variety in their external relationships. The main difference is that the external relationships of iwi organisations and the state will include political relationships with specific parties (which will be task but not entity transferable) whereas the external relationships of the firm with customers and suppliers are generally formed in a market (where a number of alternative entities exist but tasks are likely to be specific).

The possible exceptions to the instrumental external relationships are, as noted earlier, those between iwi organisations and closely related iwi, or the state and closely related neighbours. These relationships may share significant intrinsically valued social capital e.g., history and culture, so much so that they are more akin to bonding than bridging capital. (The description of the external relationship institutions that occurs in the table does not refer to these intrinsically valued institutions.)[446]

The key difference between the three intermediaries lies in their relationship with their constituents. In the firm the relational contracts with shareholders are instrumental, bridging capital. They are governed primarily by formal rules with little attempt to develop informal institutions and voice. The relationship is specific to the task of providing capital and transferable across the providers of that capital, i.e., exit occurs with relative ease.[447]

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[446] States may also share intrinsically valued social capital with other states who are not neighbours. Geographically disparate states with a common religion or ideology would come into this category.
[447] This discussion assumes that shareholding is dispersed across a large number of individuals who trade their shares frequently and have no interest in developing informal or intrinsically valuable relationships with the corporation. Where a corporation's capital is concentrated in the ownership of a small number of long-term shareholders, informal relationships may well develop. If the shareholding is concentrated in families or other communities, such as a religious movement, an intrinsic valuation might also be present.

By contrast to the relationship between the firm and its shareholders, the research found that the relationship between new iwi organisations and members is one of bonding capital.[448] Although new iwi organisations provide a formal overlay, informal norms and networks continue as the main institutions mediating collective action, and their use is intrinsically as well as instrumentally valued. Norms and networks are specific to individuals but transferable across tasks, and while exit is possible, voice is favoured as a means of expressing dissent.

With respect to the state, there are two contrasting theories about the relationship between citizens and the state as an intermediary.[449] Contract theories of the state view the relationship as essentially formal and instrumental. It is a relationship of convenience between isolated individuals. The relationship has features similar to the other bridging capital relationships discussed and makes the state comparable to the firm, or any other voluntary, instrumentally valuable intermediary.

Socio-evolutionary theory, by contrast, sees the formal institutions of the state being grafted onto previously existing networks and norms between individuals who are part of an existing community. Formal institutions allow for communities to grow in size beyond numbers where networks alone are sufficient to mediate relationships, but the evolving networks and norms remain critical to the effective collective action of the community of citizens who constitute the state. Implicit in socio-evolutionary theories is the view that the intrinsic value of norms and networks remains crucial to the effective functioning of the state, in addition to the protections of formal institutions.

In contract theories of the state individuals come together voluntarily, so there is little rationale for preventing them from voluntarily shifting states. In socio-evolutionary theory the loyalties associated with shared norms and networks means that transferability is tightly controlled (although exit is not usually prevented per se, but

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[448]As noted earlier in the discussion of Figure 14, the relationship between iwi *members* is one of bonding capital, and the relationship between members and iwi organisation is a matter for negotiation. The discussion assumes that the organisations proponents are successful in building and transferring bonding capital between members to the iwi organisation. Thus, members feel they 'own' the organisation to such an extent that their affiliation to the iwi is synonymous with their affiliation to the iwi organisation. This transfer of allegiance is directly paralleled in the question of citizens' allegiance to, or alienation from, the institutions of the state.

[449] These two theories were considered in the section 'Evolution and design in the creation of the state' in chapter 5.2.

rather limited indirectly because of the lack of entry options into other states). The comparison in the previous three paragraphs shows that the member - iwi organisation relationship closely resembles the citizen - state relationship in the socio-evolutionary theory of the state, but contrasts markedly with the account provided by contract theory.

Ownership, meaning control over information and decision-making, is shared within the intermediary organisations in a pattern that shows considerable similarity between intermediaries. The major difference (not shown in the table above) is in rights to residual income, which are held by shareholders in firms, but by no one (or everyone) in the state and the new iwi organisation. Efficiency in both iwi organisations and the state is relatively difficult to assess, because of the complex multi-dimensional nature of their activities. By contrast, efficiency in the firm is relatively simple, and both financial and technical measures of efficiency are commonplace.

The above table is tentative and restricted in the scope of its comparison, but it suggests that while there are differences between the key relationships of all three intermediaries, there is greater similarity between the new iwi organisation and the state (at least as described in socio-evolutionary accounts) than between the new iwi organisations and the firm. The key differences between the new iwi organisation and the state are in the formal ease of exit for members from the iwi organisation, and a lack of authority in the use of force (either to provide formal third party enforcement or external defence). In these two respects the iwi organisation resembles the firm.

New institutional economics configured to explain the inductive findings on new iwi organisations

The comparison of new institutional economic theories with the inductive findings began by comparing individual theories in isolation. The first innovation required to make the comparison more effective was the integration of the disparate theories into a unified framework. The framework allowed the analysis to respect the integrity of the new iwi organisations as systems. It assisted the inductive development of the theories by allowing their interrelationships and relative strengths in explaining the findings to be explored. The framework also assisted in assessing the commonality between theories and distinguishing between disputes arising because of differences in substance

(e.g., in starting assumptions or in relationships between theory components), different levels of analysis (e.g., individual relationships versus organisations versus society wide institutions) and differences in terminology.

Differences in terminology and levels of analysis are pervasive in new institutional economics but should be able to be resolved through improved communication. Differences in substance require more fundamental theoretical debate and empirical testing. The thesis research suggests that in addition to trying to advance new institutional economic coherence through theoretical debate it would be valuable to consider what theoretical syntheses are most useful for understanding inductive empirical findings. The 'empirical usefulness' test has particular merit in a field attempting to achieve 'an intimate relationship between theory and empirical work' (Furubotn and Richter 1997a, 12).

The core assumption in all the theoretical work included in the framework was that institutions are regularities in behaviour which are necessary because of the bounded rationality of human actors. In group situations shared institutions coordinate behaviour and align incentives, making collective action possible. The framework set out the nested relationships between the core concepts from the theories and in it:

- **organisations** are bundles of relational contracts between individuals with a common purpose (collective action task);
- **relational contracts** are configurations of institutions which provide a stable framework of processes for groups to make decisions on an ongoing basis, allowing them flexibility to respond in an uncertain future;
- **social capital institutions are** the accumulation of behavioural regularities in the interactions between individuals which coordinate and align incentives making collective action possible.

A second necessary feature of a new institutional economic framework useful for explaining new iwi organisations is a comprehensive definition of social capital institutions. A comprehensive definition of institutions is critical because in new iwi organisations different forms of institutions operate in concert, sometimes reinforcing, sometimes substituting and sometimes competing with one another. For example, in

contrast to the discriminating alignment hypothesis where formal unified control (common ownership) is the assumed response to specific asset investments under uncertainty and opportunism, the research found that a wide variety of institutional arrangements were used to mitigate these combined challenges involving different combinations or multiple layers of institutional types. The impact of one type of institution could not be understood without considering the other types of institutions simultaneously operating. If new institutional economics is being used to explore empirical situations where the type of institutions operating are not known *ex ante*, only a comprehensive definition will ensure that critical institutions are not overlooked.

Once a comprehensive definition of institutions is adopted, it can be subdivided into the categories most powerful for explaining the research findings being considered. The definition set out above ('regularities in behaviour which coordinate and align incentives making collective action possible') was divided in a number of ways which were important for understanding new iwi organisations. A crucial distinction was between informal institutions (norms and network routines) and formal rules. The formal institutions of the new iwi organisations were built on the informal norms and networks of iwi. Informal institutions dominated both coordination and conflict resolution in all relationships where continuity was assumed. Formal institutions were used if short-term relationships were anticipated, or as an insurance policy in case conflict arising from goal incongruence or property disputes threatened to end long-term relationships prematurely.

A second important institutional distinction was between intrinsic and instrumentally valuable institutions.[450] The establishment of new iwi organisations could only be explained by the existence of and desire to build the intrinsically valuable institutions of iwi. In new institutional economics, theorising concentrates on the instrumental role of institutions. Where the possibility of intrinsic value is recognised in the literature (e.g. North 1986, 233; Miller 1992, 2; Furubotn and Richter 1997, 272) the relationship between instrumental and intrinsic values is not well considered. This parallels the scant attention to the relation between informal and formal institutions.

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[450] The two pairs are intimately linked, because intrinsic valuation is primarily associated with informal norms and networks, not formal institutions.

When exploring new iwi organisations where intrinsic and instrumental values are inseparable and informal and formal intimately linked, the lack of consideration to the relationships within these pairs is a major weakness. This gap in the literature causes problems in understanding not just new iwi organisations but also the institutions of the state and the firm. In both state and firm there are considerable transaction cost advantages if individuals act in collectively beneficial ways because of internalised norms (an intrinsic valuation of a particular institutional routine) rather than because of external monitoring and sanction. Indeed, some have argued that economic (and by implication, social) organisation is not feasible without such internalised constraints (e.g., North 1981, 44). The new institutional economics-social capital model created and used in the research allows the interaction between formal and informal institutions and between instrumental and intrinsically valuable institutions to be explored.

A third development of new institutional economics theory that occurred through the research was the usefulness of distinguishing different types of relational contracts. This is a refinement of the 'contractual continua' concept (Williamson 1985, ch. 3; Furubotn and Richter 1997, 144). In particular, the distinction between relational contracts that constitute bonding capital and those that constitute bridging capital proved extremely valuable. It was used to summarise the differences between the internal and external relationships of new iwi organisations and the differences between new iwi organisations and the state and firm. Bonding capital relational contracts are characterised by a dominance of informal norms and networks, considerable relationship-specific social capital, institutions which are task but not person (or entity) transferable, a preference for voice over exit and high intrinsic value. Bridging capital relational contracts are much more variable. They are usually characterised by formal institutions and are valued for their instrumental role. Variable features include the extent of: informal institutions; relationship-specific social capital; transferability across entity and task; ease of exit; and the exercise of voice.

Associated with the distinction between bonding and bridging capital was a fourth feature new institutional economics required in order to adequately explain new iwi organisations. The internal and external relationships of the organisation need to be considered together, in order to understand the purpose of the organisation. The research showed that in new iwi organisations external relationships were valuable

because of their contribution to internal relationships. Neither set of relationships was sufficient on its own to explain the establishment of the organisation. A loss or weakening in either set was seriously detrimental to the growth and development of the organisation. This supports an intermediary view of new iwi organisations, which can be placed alongside the intermediary views of the firm and the state.

In much of the new institutional economics literature institutions are viewed as instruments created to manage physical and financial capital (Williamson's discriminating alignment hypothesis (1993, 40) is built around this view, for example). In this research social capital institutions were found to have independent influence and value. This is evidenced in the findings that:

- the new iwi organisations described by insiders were best conceived of as intermediaries for creating and managing social capital between members and external parties (not primarily for managing physical/financial capital);

- the boundaries of new iwi organisations were most usefully understood in terms of social capital institutions (not financial or physical assets);

- strong social capital institutions within tribes, and between tribes and government, gave rise to transfers in physical/financial capital;

- from the viewpoint of those within the organisations, the value of physical/financial capital to iwi was determined by the existence of iwi social capital institutions to effectively manage it;

- physical/financial capital benefits for members were dependent on their contributions to social capital;

- the relationship-specific assets determining such things as whether relationships were unified or bilateral and the value placed on continuity, were social capital, not physical/financial assets.[451]

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[451] These findings are contained in the following sections of the thesis: bullet one, chapter 5.2 section on 'Bonding and Bridging social capital in new iwi organisations' and chapter 5.4 section on 'Organisations as intermediaries'; bullet two, chapter 5.3 section on 'Organisational Boundaries'; bullet three and four, chapter 5.2 section on 'Transformations and relations between bonding, bridging and financial capital in new iwi organisations'; bullet five, chapter 5.2 section on 'Structuring costs and benefits to facilitate coordination and block defection in new iwi organisations'; bullet six, chapter 5.3 section on 'Summary and comparison of the characteristics of the relational contracts of new iwi organisations'.

New institutional economics, it was earlier noted, is motivated by the propositions that:

(i) institutions do matter, [and]

(ii) the determinants of institutions are susceptible to analysis by the tools of economic theory. (Mathews 1986, 903)

Evidence for the independent influence and value of socio-economic institutions, contained in the inductive analysis of the thesis research, reinforces the basic premise of new institutional economics that 'institutions matter'.   The analysis also supports the proposition that the causes, nature and consequences of institutions are susceptible to analysis using the theories and concepts of economics.

Future work

There are a number directions in which the empirical scope of the thesis research could be extended. For example, the research restricted its viewpoint to the voices of insiders who were core proponents of the organisations, with roles as leaders or as employees (or both). A more complete picture of iwi organisations would include the views of other representative groups such as participating but non-leader/employer tribal members; non-participating or dissenting members; and external parties. A second way of extending the analysis would be to work with other iwi organisations to see in what ways their stories compared and contrasted with those documented here.   Thirdly, greater attention could be paid to particular internal details of the new iwi organisations, such as the exact manner in which representative selection took place, patterns of participation, or the basis for choosing and constructing commercial relationships.

At a theoretical level and consistent with the claim of its importance, more work is required on developing a comprehensive framework for organising the new institutional economics-social capital literature. The research suggests that a key criterion in the development of such a framework should be its usefulness for understanding empirical findings. This requires the development of common terminology and that the areas of the framework relevant to a particular subject matter should be easily identified (e.g., level of social organisation, types of institutions operating).   A comprehensive framework would support the empirical development of theory through both inductive

and deductive testing, in contrast to the theoretical refinement of isolated theories the empirical relevance of which is difficult or impossible to assess.

Finally, the experience of the research suggests that the empirical development of theory would benefit from greater debate within the profession regarding the use of qualitative materials and inductive methods. Such debate needs to involve an active dialogue between researchers and methodologists in economics, between economists and other social scientists, and between economists and their students.

Appendices

Appendix One: Case study bibliographies

Contacts with participants from the three iwi organisations involved in the research were numerous and included emails, telephone conversations, letters and face-to-face discussions. Some of these contacts were explicitly about the research and some were situations where the research was discussed incidental to other matters. Some contacts occurred in work situations and some at social events. The bibliographies below contain the most important interviews and telephone conversations relating to the research, but these occur against a backdrop of ongoing communication.

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[452] This report uses Tainui 'Māori' Trust Board rather than 'Maaori' but I have ignored this difference in ordering the bibliographic entries.

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Ngāti Raukawa: Case bibliography

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[453] Note that in 1997, 1998 and 1999 the reports of the Waikato Raupatu Lands Trust and its subsidiaries were included in the Tainui Maaori Trust Board Annual Report.

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Appendix Two: Glossary of Māori terms

The use in the thesis of words from the Māori language raises a number of technical and practical issues. These are discussed below.

Italicisation

Māori words in the text of the thesis are not italicised. Formally, this practice derives from the fact that Maori is an official language in New Zealand, not a foreign language. I am advised that while the University of Auckland does not have an official policy on the matter, the Departments of History and Maori Studies do not expect Māori words to be italicised. At a more practical level, Māori words are increasingly being integrated into New Zealand English. (Words such as Māori and pākehā are examples) Any attempt to divide the words of Māori language origin between those that qualified as New Zealand English and those that do not would be arbitrary.

Translation

In general, the thesis does not include in-text translation of Māori words. Rather, these words are included in the glossary that follows. The exception is the treatment of whole phrases or quotes in Māori, which are translated into readable English (rather than a literal translation) in the text or in a footnote. The individual words in these phrases or quotes do not appear independently in the glossary. Names of persons, places, organisations or documents are not translated in either the text or glossary (unless important to the content of the thesis).

Macrons

The Māori alphabet includes both long and short vowels and the use of such vowels changes not just the pronunciation, but the meaning of words. The treatment of these vowels varies considerably between tribes, organisations and individuals. The three common approaches are to use macrons to indicate a long vowel (i.e., ā, ē, ī, ō, ū),[454] to use double vowels (aa, ee, ii, oo, uu), or to simply ignore the length in written Māori and allow the reader to determine the meaning from the context. My personal practice has been to ignore the length in written Māori, but I am advised (by my Māori adviser) that this is equivalent to misspelling these words. Thus, I have included macrons retrospectively. I apologise for imperfections in this process. It has not been possible to check the use of macrons in all cases (in personal names for example, which do not appear in the dictionary). In addition, I have not changed the use of macrons in direct quotes or in the names of organisations.

Glossary

The English translations of the terms below are based on personal knowledge, clarified with The Reed Dictionary of Modern Māori (Ryan 1995). Maori words frequently have a number of meanings and only those meanings relevant to the use of the words in the

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[454] Microsoft Word provides no way of indicating the 'i' consistent with the other vowels. The use of 'ī' was the second best option available, and has been used here.

thesis are included in the glossary. In addition, many Māori words can be used as both nouns and verbs. Again, I have given the translation that is relevant to the use of the word in the thesis. Finally, the translations should be taken as approximations. As with any language, their true meaning can only be understood by understanding the cultural context in which they are used. Many Māori words have no exact conceptual or linguistic translation in English.

Māori   **English**

awhi	embrace, help
āwhina	help, assist
hapū	sub-tribe, clan (some translate hapū as 'tribe' – see footnote 46 on page 63; also means pregnant)
hinengaro	mind, intellect, conscience
hui	gathering, meeting
hui-a-tau	annual general meeting
iwi	tribe, nation, people (also means bones)
kaimahi	worker
kaitiaki	guardian, custodian, trustee
kanohi	eye, face
karakia	chanted prayer
kauhanganui	parliament (literally an open passage)
kaumātua	elder; male elder
kaupapa	theme, strategy, purpose
kawa	protocol
Kīngitanga	the Maori King movement (see Waikato-Tainui case report; spelt Kiingitanga in Waikato)
koha	gift, offering, donation
kohanga	nursery, nest
komiti	committee
kotahitanga	unity, solidarity
kuia	female elder
mahi	work
mana	status, prestige, authority (note that 'MANA' is also the abbreviated name of the government programme of the 1980s which provided loans for Māori entering business)
mana whenua	having authority (mana) over the land (whenua) - an attribute of the tangata whenua of a locality

manāki	care for, host, provide hospitality for
manuhiri	guest, visitor
Māoritanga	Māori culture
marae	meeting area/buildings of community (whānau, hapū or iwi); also used as a short hand for the community itself
matua	parent, principal (mātua in plural)
matua whāngai	Matua Whāngai was the name of the government programme concerned the placing of Māori children into Māori foster families
mihi	greeting
moana	sea, lake
ngā	the (plural)
Ngāti	the people of …(used in tribal names)
paepae	orators' bench (particularly at meeting or marae); threshold
Pākehā	non-Maori; especially non-Maori, Caucasian New Zealander
pānui	announcement, newsletter
Papatūānuku	Mother Earth
pēpe	baby
pepeha	motto, proverb
poukai hui	hui of the Kīngitanga
poupou	anchor posts, ancestors
rangatahi	youth
rangatira	chief, noble
rangatiratanga	sovereignty, chieftainship
raupatu	seize or confiscate land ('the Raupatu' is used to refer to land seizures by the Crown during the nineteenth century land wars)
reo	language, voice (may be used as a short hand for 'te reo Māori', i.e., the Māori language)
rohe	territory (especially tribal territory)
rōpū	group, society
rūnanga	assembly, council
taha Māori	Māori side, dimension
takiwā	area, zone
tangata	person (tāngata in plural)
tangata whenua	person indigenous to particular place, locals, native
tangi	mourn

tangihanga	mourning, funeral
taonga	treasure, property
tapu	sacred
tau	year (hui-a-tau is used for annual general meeting)
taumata	orators' bench (particularly at meeting or marae); brow of hill
taurahere (or taura here)	link, linked group (used to refer a group of tribal members living outside the tribal rohe, but organised to maintain links with tribe)
tikanga	customs
tinana	body
tohunga	expert, priest, artist
tonga	south
tumuaki	principal, head
tupuna	ancestor (tūpuna in plural)
tūrangawaewae	home ground (literally, a standing place for the feet)
waiata	sing, song
wairua	soul, spirit, mood
wairuatanga	spirituality
waka	canoe, vehicle (also used to refer to confederate tribes descended from one ancestral canoe)
wānanga	seminar, place of learning (used as a translation for university)
whakapapa	genealogy
whakatauākī	proverb
whakatinana	implement, mandate, embody
whakawhanaungatanga	build familial bonds or relationships
whānau	(extended) family (also to give birth)
whanaungatanga	kinship, familial bonds, relationship
whāngai	adopt, care for
whānui	wide, extended
whenua	land, country (also placenta)

Appendix Three: Notional iwi populations

This schedule is taken from the Māori Fisheries Act (2004), viewed on the Te Ohu Kai Moana website at www.teohu.Māori/mfa/legislation.htm on 2/9/05.

These 'notional' iwi populations are derived from the 2001 census will be used in the distribution of fisheries settlement assets to tribes.

Schedule 3
Iwi (listed by groups of iwi) and notional iwi populations

Name of iwi and group	Notional iwi populations	Percentage of total notional iwi populations	Number of members required on register of iwi members to meet requirements of section 14(d)
A TAITOKERAU			
Ngāti Whatua	13 113	1.931	3 000
Te Rarawa	11 998	1.767	2 800
Te Aupouri	8 168	1.203	2 100
Ngāti Kahu	7 244	1.067	1 900
Ngāti Kuri	4 841	0.713	1 400
Ngāti Wai	4 115	0.606	1 300
Ngapuhi/Ngāti Kahu ki Whaingaroa	2 040	0.300	800
Ngai Takoto	509	0.075	200
	52 028	**7.662**	
B NGAPUHI			
Ngapuhi	107 242	15.791	21 400
	107 242	**15.791**	
C TAINUI			
Waikato	46 526	6.851	9 300
Ngāti Maniapoto	30 857	4.543	6 100
Iwi of Hauraki(1)	13 622	2.006	3 100
Ngāti Raukawa (ki Waikato)	9 051	1.333	2 300
	100 056	**14.733**	
D TE ARAWA WAKA			
Te Arawa(2)	40 533	5.968	8 100
Ngāti Tuwharetoa	34 226	5.040	6 800
	74 759	**11.008**	
E MATAATUA			

Tuhoe	29 726	4.377	5 900
Ngāti Awa	13 252	1.951	3 000
Ngaiterangi	10 451	1.539	2 500
Whakatohea	10 107	1.488	2 500
Ngāti Ranginui	6 631	0.976	1 700
Ngai Tai	2 266	0.334	900
Ngāti Manawa	1 567	0.231	600
Ngāti Pukenga	1 243	0.183	500
Ngāti Whare	701	0.103	300
	75 944	**11.182**	

F   POROURANGI

Ngāti Porou	63 613	9.367	12 700
Te Whānau a Apanui	10 113	1.489	2 500
	73 726	**10.856**	

G   TAKITIMU

Ngāti Kahungunu	53 478	7.874	10 600
Te Aitanga a Mahaki	4 501	0.663	1 400
Rongowhakaata	3 728	0.549	1 300
Ngai Tamanuhiri	1 207	0.178	500
	62 914	9.264	

H   HAUAURU

Te Atiawa (Taranaki)	14 147	2.083	3 200
Te Atihaunui a Paparangi	9 780	1.440	2 400
Taranaki	6 001	0.884	1 600
Ngāti Ruanui	5 675	0.836	1 500
Rangitane (North Island)	3 321	0.489	1 200
Ngā Rauru	3 285	0.484	1 200
Ngā Ruahine	3 276	0.482	1 200
Ngāti Apa (North Island)	2 461	0.362	900
Muaupoko	1 901	0.280	800
Ngāti Mutunga (Taranaki)	1 652	0.243	700
Ngāti Tama (Taranaki)	1 201	0.177	500
Ngāti Hauiti	1 039	0.153	400
Ngāti Maru (Taranaki)	907	0.134	400

		54 646	8.047	

I   TE MOANA O RAUKAWA

Ngāti Raukawa (ki te Tonga)	19 698	2.900	3 900
Ngāti Toa Rangatira	5 202	0.766	1 500
Te Atiawa (Wellington)	1 761	0.259	760
Te Atiawa (Te Tau Ihu)	1 965	0.289	800
Ngāti Kuia	1 266	0.186	500
Rangitane (Te Tau Ihu)	1 258	0.185	500
Ngāti Koata	885	0.130	400
Ngāti Rarua	805	0.119	400
Ngāti Apa ki te Waipounamu	649	0.096	300
Ngāti Tama (Te Tau Ihu)	628	0.092	300
Atiawa ki Whakarongotai	493	0.073	200
	34 610	**5.095**	

J   WAIPOUNAMU/REKOHU

Ngai Tahu	41 496	6.110	8 200
Ngāti Mutunga (Chathams)	1 132	0.167	500
Moriori	601	0.088	300
	43 229	**6.365**	

Total notional iwi population	**679 154**

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