

1. Introduction

The Waitematā Harbour is arguably the most important waterway in Aotearoa, yet it is an all too familiar sight to see it polluted. Frequent wastewater discharges into the wai diminish the wairua and mauri, disrupt the gathering of kai moana (Williams, 2025) and prevent swimming (New Zealand Herald, 2024), forcing Ngāti Whātua Ōrākei to place a rāhui (Radio New Zealand, 2023).

Nevertheless, the Waitematā is one of many examples of how, since colonisation, Māori values have been thrown to the wayside, at the expense of environmental protection. Examples like the Waitematā paint a clear and loud picture that, as the current policy framework stands, kaitiakitanga, whilst acknowledged, is in no way implemented to the extent it needs to be.

A concerted effort has been made to recognise and protect mana whenua rights under the Auckland Unitary Plan (AUP). Section B6 is dedicated entirely to issues, objectives, and policies that aim to uplift mana whenua and lay the groundwork for effective treaty relations.

However, looking at our polluted waterways and diminishing biodiversity, one must wonder whether the policies in B6 enable active protection of Māori interests or provide the appearance of Māori partnership while maintaining colonial power structures and outcomes.

Aotearoa has come a long way in acknowledging its past mistakes and transgressions under the Treaty, but the question is, where has that left us? Has the progress led to practical implementation, or tokenisation of tangata whenua? Has the well-established tino rangatiratanga of Māori been recognised and implemented sufficiently? Moreover, what can be done to progress Treaty relations past simple Treaty Settlements and tokenisation if not?

This report will analyse Section B6 of the AUP, critiquing it against Māori tikanga and the principles of Te Tiriti, to explore where the gap between the aspirational statements of Section B6 and the harsh reality of the Waitematā Harbour occurs.

2. Treaty of Waitangi Principles

While Te Tiriti is at the heart of this issue, Te Tiriti's principles are often utilised in discussions surrounding environmental and resource management.

Originating from the Treaty of Waitangi Bill 1974, the principles set out a way for the Crown's actions to be scrutinised as they related to Te Tiriti; these principles were derived from reports of the Waitangi Tribunal (Kelsey, 2024).

Whilst these principles were seen as a way to advance treaty relations, they point to the core issue of sovereignty, the principles acknowledge Māori rangatiratanga, whilst putting front and centre the Crown's sovereignty and right to govern, making the principles effectively a Crown tool to maintain the status quo of tokenising treaty relations, rather than giving full power to what was truly signed (Kelsey, 2024).

Analysing these principles gives a framework to analyse and critique Section B6; however, throughout the discussion, it should not be forgotten that this is a framework created by the Settler State, and not necessarily what Māori may think of as the principles or essence of the Treaty.

The principles that have emerged in the decades following the bill are numerous; however, the four Ps, partnership, participation, protection and prosperity, form the core (Kelsey, 2024).

Principle 1: Partnership

At the core of the treaty principles is the principle of partnership. The courts held that the Treaty signifies a partnership between Pakeha and Māori, and each Treaty partner has a responsibility to the other and must act in good faith (Hayward & Wheen, 2004).

There are, however, concerns over this principle, as it reframes the Treaty, arguably a case of historic rewriting, stating that the Treaty did mean a succession of sovereignty, limited by the special interests of rangatiratanga (Hayward & Wheen, 2004). Whilst this framing is concerning, it lays the groundwork for treaty partnership and suggests that active participation between treaty partners is essential.

The question stands, however, whether even this reframing of rangatiratanga has been sufficiently addressed through the integration of biculturalism in planning and resource management. Therefore, it will be explored whether tangata whenua are equal partners in resource management under Section B6, giving effect to the principles of the Treaty, or whether consultation with tangata whenua is a tokenistic exercise to sustain the status quo.

Principle 2: Protection

The second principle that has been developed throughout the years is that of protection. In essence, it is recognised that due to its power in Treaty relations, the Crown has a fiduciary duty to recognise Māori interests and actively protect them (Hayward & Wheen, 2004). Therefore, the question for this report is whether the Crown has been a passive participant or actively ensured that Māori can use their lands and waters to the fullest extent practicable to ensure Māori prosperity. Two issues arise from this reading:

The Treaty is signed between the Crown and Māori; however, the territorial authorities, which are in charge of resource management, are not the Crown, though they derive their power from the Crown.

Does the active protection of Māori's land, waters and other resources refer to historical or current lands? This is a key contention that can make or break the application of these principles, and the vagueness of the matter is likely not unintentional.

Principle 3: Participation (Rangatiratanga)

The third principle aims to address the issue of rangatiratanga, whilst not defined as full sovereignty in this context, the principles acknowledge that Māori should control their own tikanga and taonga, effectively granting self-determination, though in a severely constrained setting, which allowed for Māori self-management, but not wider management of resources, however the duty to consult is recognised (Hayward & Wheen, 2004).

A hierarchy has been proposed based on the twin concepts of kawanatanga and tino rangatiratanga, where first in the hierarchy is the Crown's obligation to control and manage resources in the interest of the wider public, and second, the tribal interests in said resources (Hayward & Wheen, 2004).

This separation of interests points to an othering of Māori issues and interests, rather than proper integration of Māori tikanga into resource management, or Māori rangatiratanga in resource management decisions.

The question is whether Section B6 enables Māori to self-manage and sufficiently requires participation and partnered decision-making with tangata whenua.

Principle 4: Prosperity (Remedy/Redress)

The fourth relevant principle is that of prosperity. It is recognised that Māori have the right of redress for past injustices. An interesting transaction of this principle with the active protection principles is whether the right to development of Treaty Settlement lands is provided under the redress principle. Put simply, does redress go as far as restoring authority, or simply lands?

It will therefore be paramount to examine whether Section B6 provides for the development of Treaty Settlement lands, in the pursuit of economic prosperity, and in acknowledgement of the redress and active protection principles.

3. Māori Values

Section B6 claims to embrace the integration of mātauranga Māori and tikanga. To critique whether Section B6 sufficiently promotes Māori aspirations, values and interests, a framework for what these values are must be created. Houkura is the Independent Māori Statutory Board, created under the Local Government (Auckland Council) Act 2009 (Houkura, n.d.-a). Houkura's duty is to advance the interests of Māori in Tamaki Makaurau; however, it has limited powers to achieve these outcomes (Houkura, n.d.-a). Two members of Houkura sit on the Council's committees; however, Houkura's primary role is to provide guidance and direction on addressing significant Māori issues (Houkura, n.d.-a).

In promoting the interests of Māori in Tamaki Makaurau, Houkura develops reports on issues of significance and on Māori values, which can be of significant assistance in creating a framework for the critique of Section B6 against Māori values and aspirations.

Houkura (n.d.-b) sets out five central values based on a Te Ao Māori worldview, which include:

Kaitiakitanga

Rangatiratanga

Wairuatanga

Whanaungatanga

Manaakitanga

Kaitiakitanga is about intergenerational reciprocity, ensuring that sustainable management of resources, to leave the environment in an improved state for future generations. Kaitiakitanga acknowledges the inherent mana and wairua of resources and the duty to protect, maintain, and enhance them (Houkura, 2019a, n.d.-b).

Rangatiratanga is the expression of Māori autonomy, leadership and participation. It is a chance to integrate mātauranga Māori in resource management, participate in political and planning processes, and self-manage or co-manage where possible (Houkura, 2019c, n.d.-b).

Wairuatanga is the connection between the physical and spiritual; it recognises wairua and, in an environmental setting, leads to enhancing Māori taonga. However, Wairuatanga is not only constrained to the environmental realm but also involves protecting and promoting tikanga, kawa, and mātauranga Māori in cultural, economic, and social realms (Houkura, 2019d, n.d.-b).

Whanaungatanga is about relationships and attaining, maintaining, and strengthening community ties; therefore, ensuring that communities are connected to one another and the environment is essential to realising whanaungatanga (Houkura, 2019e, n.d.-b).

Manaakitanga is about nurturing relationships and a spirit of community care, enabling each other's wellbeing, manaakitanga is a way to express caring and nurturing relationships, ourselves, and the environment (Houkura, 2019b, n.d.-b).

Ngāti Whātua Ōrākei (2018) in their iwi management plan also provide valuable lessons into what Māori values and aspirations are. The iwi management plan's principal values and desired outcomes are kaitiakitanga and rangatiratanga. That means that water quality must be fit for swimming and safe for gathering Kai, full engagement as treaty partners in spatial planning, face-to-face mana whenua engagement, greater statutory power under RMA, greater co-governance and transfer of powers and more (Ngāti Whātua Ōrākei, 2018).

These five values, derived from Houkura and Ngāti Whātua Ōrākei, form the matrix that will be utilised to critique whether Section B6 sufficiently promotes Māori aspirations and values.

4. Auckland Unitary Plan Chapter B6 Mana Whenua

The Auckland Unitary Plan is a plan that combines regional and local planning documents into a single unitary document. The document is born from the amalgamation of councils into a single unitary council under the Local Government Auckland Act 2009.

The plan is structured hierarchically, setting out regional policy statements and region-wide rules before delving into more local matters. Section B6 is a regional policy statement on mana whenua. The inclusion of mana whenua in such a high-level policy, being a regional policy statement, suggests that there has been great care given to the construction of the policy, and work has been done to ensure the policy has enough weight to be correctly implemented.

This section of the AUP is the most direct addressing of mana whenua and treaty issues by the AUP. It contains most policies promoting Māori values and inspirations, hence the choice to analyse it.

Several key provisions in Section B6 set an aspirational tone for the partnership between the Auckland Council and mana whenua. Objective B6.2.1 (1) and policy B6.2.2 (1) aim to promote and provide opportunities for active participation of mana whenua in the sustainable management of resources, including ancestral lands, water, sites, wahi tapu, and other taonga, expressly acknowledging the role of mana whenua as kaitiaki (Auckland Council, 2025).

B6.3 explicitly acknowledges mana whenua values, mātauranga , and tikanga. Policy B6.3.2 (1) enables mana whenua to identify their values, which is a significant step as it allows Māori self-determination. B6.3.2 (2) also calls for integrating mana whenua values into managing natural and physical resources, including on ancestral lands and biodiversity and managing freshwater and coastal resources (Auckland Council, 2025).

Regarding Treaty Settlement lands, B6.2.2 (4) states that subdivision, use and development of land required as commercial redress must be enabled (Auckland Council, 2025).

Of particular note to this report is the inclusion of the enhancement of the mauri of freshwater in B6.3.1 (1) (Auckland Council, 2025). This begs the question: where has the policy gap resulted in this seemingly comprehensive, wide-reaching regional policy statement not being effectively implemented?

5. Critique of Section B6

Critique 1: Passive vs Active Protection

As discussed, it is a principle of Te Tiriti for the Crown to actively protect Māori interests and enable Māori to use their lands, waters, and other taonga to the fullest practicable extent to ensure Māori prosperity. Whilst Section B6 strives to make fundamental differences in how it incorporates mana whenua and mātauranga Māori and tikanga into resource management decisions, the specific language of these provisions poses a stumbling block for their realisation and implementation.

Section B6.2.2 Policy (1) uses the wording "provide opportunities" when discussing mana whenua participation. Moreover, Section B6.3.2 Policy (2) uses "integrate" when discussing the integration of mana whenua values and mātauranga. Whilst these provisions on the surface look substantial, the specific wording of these provisions points more so to consideration of mana whenua values, mātauranga Māori and tikanga, rather than an explicit requirement to do so.

In doing so, Section B6 fails to satisfy the active protection principle of Te Tiriti. Through passive language, the unitary authority, on behalf of the Crown, does not engage in active protection, and at best promotes consideration of active protection.

This weak language and failure of active protection lead to the kaitiakitanga value, identified as one of the most important values both by Houkura and Ngāti Whātua Ōrākei, not being upheld, as the vague and non-restrictive language of the policies allows for the status quo of profit maximisation at the cost of adverse effects on the mauri and wairua of the taiao, despite the consideration of mana whenua values.

Critique 2: Jurisdictional Limitations Violate Partnership

The Crown must consult and fully engage with Māori as Treaty partners, as discussed. Section B6 does provide multiple provisions to address this; however, policies such as B6.2.2 Policy 3-5 provide the strongest partnership with mana whenua in resource management decisions only on treaty settlement land that has been provided as commercial redress.

This leaves the entire rohe of mana whenua, which has been wrongfully alienated without strongly worded requirements for partnership, instead weakly worded policies such as B6.2.2 Policy (1) provide mana whenua with opportunities to participate in the sustainable management of resources, but do not go far enough to meet the partnership principle of the Treaty sufficiently.

By limiting mana whenua's authority over the sustainable management of their resources across their ancestral rohe, their rangatiratanga is diminished, and they are tokenised to be mere consultancies rather than partners in decision-making.

The lack of significant measures for co-governance and meaningful consultation means that Māori can not exercise arguably the most central Māori aspiration and value, rangatiratanga.

Ngāti Whātua Ōrākei has previously identified this issue and is a prime example of the failings of Section B6 to sufficiently meet the principles of Te Tiriti and promote Māori aspirations and values.

Critique 3: Environmental Degradation as Evidence of Systemic Failure (200 words)

One must therefore question whether the state of the Waitematā, polluted, unable to be swam in, and unsafe for kai moana, promotes Māori values and aspirations and the principle of active protection.

This is our environmental reality, laid bare evidence as to the failure of Section B6, the breaches of the Treaty of Waitangi principles, and the tokenisation of mana whenua values, mātauranga and tikanga, without genuine interest, consideration and implementation.

Through weak language and placing jurisdictional limitations on Māori rangatiratanga, the Council contradicts its own policy of enhancing freshwater mauri in B6.3.1 (1), and Watercare, a Council-controlled organisation, working under a unitary plan, developed by the Auckland Council, continues the reality of environmental degradation and Treaty breaches.

The responsibility of active protection and duty to consult, be a faithful partner and remedy past wrongdoings, such as the pollution of the Waitematā, is shirked through weak language.

Moreover, in doing so, the values and aspirations of Māori are continually diminished, as kaitiakitanga is diminished through environmental degradation, rangatiratanga through limited autonomy, Wairuatanga by diminishing the wairua, whanaungatanga by making it impossible for communities to connect to nature and manaakitanga by not nurturing our relationship with the environment.

6. Conclusion and Recommendations

Conclusion: B6's Fundamental Inadequacy

In conclusion, Section B6 sets itself aspirational goals, and impedes progress through said goals through inappropriately soft wording, and unjust restriction on the rangatiratanga of mana whenua over their ancestral rohe. The results of the failure of B6 are apparent in the ongoing pollution of the Waitematā.

Whilst Section B6 provides recognition, integration, and consultation, without true rangatiratanga for mana whenua, the whole exercise is a tokenistic activity aimed at improving the image of the current status quo, without ceding power to a co-governance scheme.

In its failings, Section B6 paints the Auckland Council as an institution that has failed itself as a treaty partner, and violated the four principles and in doing so, not promoted the Māori values which its own independent Māori statutory board set for itself.

Recognition without power, consideration without implementation, appearance vs reality, are the actual failures of B6.

Recommendations: From Tokenism to Genuine Partnership

1. Immediate Priority: Strengthen B6 Policy Language
 - Replace passive language with mandatory requirements:
 - Change "provide opportunities" to "require implementation"
 - Change "integrate values" to "must give effect to mātauranga and tikanga"
 - Change "restore or enhance" to "restore mauri to pre-colonial ecological standards"
 - Specify consequences when Māori values are not adequately protected.
 - This addresses the active protection principle violation.
2. Medium-term: Build Institutional Capacity
 - Mandatory education for Auckland Council planners on:
 - Treaty principles and obligations
 - Māori values, mātauranga, and tikanga
 - How to meaningfully integrate these into decision-making
 - Strengthen Independent Māori Statutory Board (IMSB) powers:
 - Mandatory IMSB consent for developments with adverse environmental effects
 - Address accountability: Ensure IMSB serves Māori interests, not Council interests.
 - Reduces pressure on individual iwi resources while maintaining Māori oversight
 - This begins addressing the partnership principle violation.
3. Long-term: Genuine Co-governance Across Full Rohe
 - Extend mana whenua decision-making authority beyond Treaty settlement land to historical rohe
 - This addresses the jurisdictional limitation that prevents rangatiratanga
 - Recognise this requires a constitutional shift beyond RMA amendments:
 - True Treaty partnership means shared authority over environmental management.
 - Current landowners retain property rights, but environmental standards reflect Māori values.
 - Aligns with Ngāti Whātua Ōrākei's iwi management plan aspirations for co-governance

- This is the only pathway to genuine rangatiratanga and preventing future environmental degradation like the Waitematā.

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