

Case Study: Tikanga Māori and Water – The First Lore of Aotearoa

Introduction

Any discussion of Maori rights and interests in water must begin with tikanga Maori. Long before the arrival of Pakeha and their legal systems, tikanga was the foundation that governed our relationships with the natural world. It set out who the rights holders were, what responsibilities they carried, and how the collective wellbeing — of both people and the environment — was to be protected.

Tikanga Māori as the First System of Lore

Tikanga Maori was the system that determined how water was valued and protected. Rights were never about ownership; they were bound with responsibilities of kaitiakitanga — the duty to care and maintain the mauri (well-being) of water. This system pre-dates pakeha law and continues to hold authority today.

Recognition in Te Tiriti o Waitangi

Te Tiriti o Waitangi affirmed and protected these rights and responsibilities. Article Two provides explicit recognition of Maori Tino Rangatiratanga. In relation to water, this acknowledged that hapu retained authority to decide how their taonga, including rivers, lakes and springs, were cared for and managed. These Article Two guarantees were reinforced through the unwritten Fourth Article, which was a guarantee of the protection of tikanga Maori.

Ahi Kaa a Key Principle

A key principle within tikanga is ahi kaa — the right that comes from continuous occupation, connection, and responsibility for the land and waters where people live and are nurtured. Those who maintained ahi kaa were recognised as the primary rights holders. Their authority was not just a matter of possession, but of obligation: to uphold the wellbeing of their kainga, marae, and surrounding environments, and to act in the collective interest of both people and the waters they relied upon.

Enduring Recognition of Tikanga

While colonial legal processes — including common law and statutes — have since emerged, they cannot displace the fact that tikanga Maori was the first lore of this land. Maori rights and interests in water existed long before Pakeha law and have been recognised continuously, including through Te Tiriti. Any modern legal or policy framework that addresses water must therefore begin with tikanga Maori. To fail to do so is to start in the wrong place and dismisses the enduring foundation of tikanga Maori that has always defined our relationship with water.

Annette Sykes
Ngati Pikiao, Ngati Makino
Annette Sykes and Co
Barrister and Solicitor