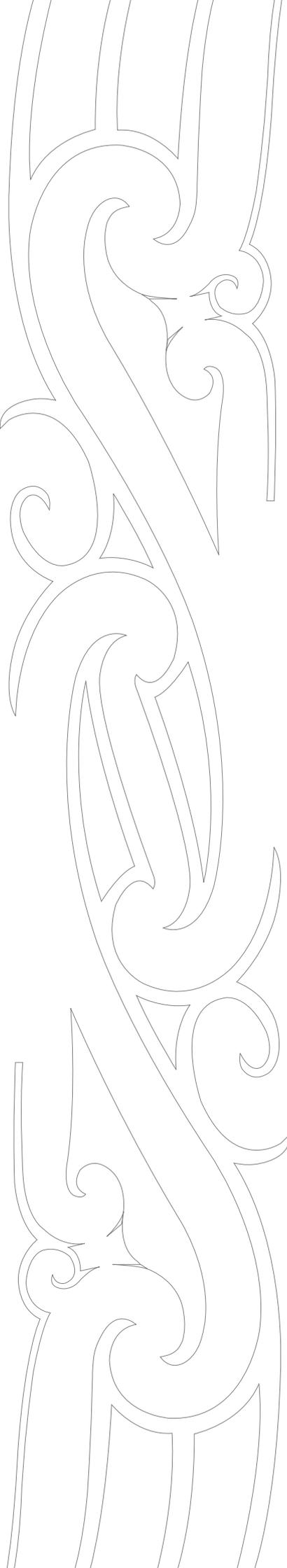


**Jeff Mahuika (Kāti Māhaki) has spent many days searching for pounamu along the waterways of Te Tai o Poutini. He has also passed on his knowledge and skills of working with pounamu to his children.**





## Section 5

# Collection Policies

### IN THIS SECTION

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**Section cover photo by Tremane Barr (Kāti Māhaki).**

# 5. Collection Policies

## 5.1 OBJECTIVE

To allow for the fossicking and collection of small amounts of pounamu by the public, Ngāi Tahu Whānui and members of Kāti Māhaki and their immediate whānau.

### Background

In 2002, Te Rūnanga o Ngāi Tahu authorised Te Rūnanga o Makaawhio to exercise all customary and commercial kaitiaki rights over pounamu in its takiwā (see sections 1.2 and 1.3).

This was reflected in the decision of Judge G. S. Macaskill in 2007:

*"While the tribal collective is the "owner" of the tribe's customary rights, its role is one of guardianship and management of the rights, together with the exercise of the control of access to the resources. An individual's right to pounamu is a right of access, derived from whakapapa. It is not an unfettered or absolute right. It is subject to the tribe's responsibility to protect the resource and to decide how that access can be affected."*

*"In practice, Te Runanga o Ngai Tahu generally devolves this responsibility, as well as the authority to manage and control the exercise of customary rights, to the appropriate Papatipu Rūnanga ... The Papatipu Runanga that manages and controls the exercise of customary rights to pounamu in South Westland is Te Rūnanga o Makaawhio. In order to exercise their customary right to pounamu, therefore, an individual has to obtain permission from the collective of Te Rūnanga o Makaawhio."*

(R v Saxton, CRI-2004-002-000741, paragraph 313, 25 October 2007)

### 9. POLICY – KAITIAKITAKA RIGHTS TO POUNAMU

All rights to control, manage and extract pounamu within the Makaawhio takiwā rest exclusively in Te Rūnanga o Makaawhio (see sections 1.2, 1.3 and 1.4).

Te Rūnanga o Makaawhio has set the following policies and rules relating to fossicking of small amounts of pounamu by the general public, Ngāi Tahu Whānui and whānau of Kāti Māhaki:

## 5.2 CUSTOMARY COLLECTION RULES FOR DIRECT DESCENDANTS OF KĀTI MĀHAKI

### 10. POLICY – KĀTI MĀHAKI AREAS FOR COLLECTING POUNAMU

Direct descendants of Kāti Māhaki and their immediate whānau can collect pounamu within the Makaawhio takiwā in these locations (see section 1.4):

- (a) On beaches below the mean high water spring tide mark to the sea water's edge; and
- (b) In and along rivers, estuaries and lagoons (but not within 10 metres of whitebait stands in the season); and
- (c) Within the public conservation lands as per the Tribal Access Arrangement outlined in Appendix N; and
- (d) To all other land, providing access with the landowner has been arranged prior to collecting pounamu.

The conditions for direct descendants of Kāti Māhaki and their immediate whānau in customary collection are:

- a) Customary collection is limited to what an individual can carry on their person either by hand or bag/backpack, and is limited to one such take in any 24-hour period.
- b) The immediate whānau of Kāti Māhaki can only collect pounamu in the areas specified in policy 11 when they are physically accompanied by their partner or parent who is a direct descendant of Kāti Māhaki (see section 5.2.1).
- c) The pounamu must not be cut, hacked or in any other way broken off or removed from larger pounamu stones in situ in the environment.
- d) The use of diamond saws and other mechanical means of extracting and cutting pounamu is strictly prohibited, for example hand tools, motorised tools, winches and cranes attached to vehicles/boats etc.
- e) The use of helicopters in customary collection for pounamu is strictly prohibited.
- f) Customary collection must not disturb the environment in more than a minor way to ensure that conservation values are protected at all times.
- g) Any policies and rules associated with rāhui or Pounamu Heritage Protection Areas as designated by Makaawhio must be complied with (see sections 4.4 and 4.5). It is the individual's responsibility to inform themselves of rāhui or Pounamu Heritage Protection Areas.
- h) A member of Kāti Māhaki can apply to TROM in writing for permission for a temporary variation or waiver of the above rules.

## Explanation

Members of Kāti Māhaki are those people who are direct descendants of the tīpuna specified in section 1.1 and in the constitution of Te Rūnanga o Makaawhio (see Appendix C). Members of Kāti Māhaki and their immediate whānau (see section 5.2.1) are allowed to continue the Kāti Māhaki tradition of collecting pounamu within the Makaawhio takiwā.

It is Kāti Māhaki tradition that whānau who are not members of Kāti Māhaki can only exercise their partner's or parental guardian's rights to access traditional natural resources when accompanied by their partner or parental guardian who is a direct descendant of Kāti Māhaki. These rights as defined in section 5.2 for the partner of the Kāti Māhaki member will no longer apply under any circumstance after the couple separate, divorce or the Kāti Māhaki member dies.

Customary collection is limited to naturally occurring pieces of pounamu and what an individual person can personally physically carry on their own. Kāti Māhaki members are not allowed to collect pounamu and then load it onto a helicopter. Pounamu must be collected on foot and carried out on the body of the person collecting it. Mechanical means and tools are not permitted under any circumstance, particularly where it involves breaking pounamu down into smaller pieces. This is to limit the potential for theft and unsustainable extraction.

Any application for a temporary change in the rules of section 5.2 for a person who is a member of Kāti Māhaki under subsection (h) will only be granted in rare and exceptional circumstances for a limited period of time.

Te Rūnanga o Makaawhio asserts that customary collection by members of Kāti Māhaki and their immediate whānau is a right granted to them in line with Kāti Māhaki tradition, but that if that right is abused then Te Rūnanga o Makaawhio reserves the rights to alter these rules in any way it deems necessary to protect pounamu for the current and future benefit of Kāti Māhaki.

## 5.2.1 DEFINITION OF TERM “IMMEDIATE WHĀNAU”

### 11. POLICY – KĀTI MĀHAKI MEMBERS’ IMMEDIATE WHĀNAU

The immediate whānau of Kāti Māhaki members who are not members of Kāti Māhaki by descent are, for the purposes of this plan, defined as the partner of the member, whether by marriage, civil union or de facto, and all their collective children, whether by descent, adoption or whāngai.

This policy and section 5.2 no longer apply to the non-Kāti Māhaki person once the couple have separated or divorced or the Kāti Māhaki partner of the non-member dies.

### Explanation

The above definition is meant to be inclusive of all members of a Kāti Māhaki whānau unit that an adult Kāti Māhaki member is part of. It does not extend beyond the immediate couple and their children. The extended rights of non-Kāti Māhaki people to collect pounamu under section 5.2 with their Kāti Māhaki member partner is no longer valid once they separate or divorce or their Kāti Māhaki partner dies. This also applies to the children of the non-Kāti Māhaki partner who are not of Kāti Māhaki descent.

## 5.2.2 CUSTOMARY RIGHTS NON-TRANSFERABLE

### Explanation

This resource management plan makes it clear that the only authority that can decide on the delegation and/or exercise of rights over pounamu in its takiwā is Te Rūnanga o Makaawhio (see sections 1.2 and 4.2). Furthermore, any customary rights granted to its members and immediate whānau apply to them only and cannot be transferred to anyone else.

### 12. POLICY – CUSTOMARY RIGHTS NON-TRANSFERABLE

Under no circumstance or in any way can a member of Kāti Māhaki or any of their immediate whānau transfer their customary rights to another person.

## 5.3 FOSSICKING FOR POUNAMU BY THE GENERAL PUBLIC ON BEACHES

### 13. POLICY - PUBLIC BEACH FOSSICKING

The fossicking for pounamu by the general public is allowed on West Coast beaches below the mean high water spring tide mark to the sea water's edge. The beach area in the Makaawhio takiwā this covers is from the south bank of the Hokitika River to Okare (Hollyford) River. This is in line with the Ngāi Tahu Pounamu Resource Management Plan 2002.

Fossicking for pounamu by the general public is not allowed in or along rivers, estuaries, lagoons or any other part of the Makaawhio takiwā (refer to Map 1 on page two of section 1).

The following rules must be strictly observed when fossicking for pounamu under this policy:

- a) Fossicking on beaches is limited to what an individual can carry on their person either by hand or bag/backpack, and is limited to one such take in any 24-hour period.
- b) The pounamu must not be cut, hacked or in any other way broken off or removed from larger pounamu stones in situ in the environment.
- c) The use of diamond saws and other mechanical means of extracting and cutting pounamu on beaches is strictly prohibited, for example hand tools, motorised tools, winches and cranes attached to vehicles/boats etc.
- d) The use of helicopters in fossicking for pounamu is strictly prohibited.
- e) Any policies and rules associated with rāhui or Pounamu Heritage Protection Areas as designated by Te Rūnanga o Makaawhio must be complied with (see sections 4.4 and 4.5). It is the individual's responsibility to inform themselves of rāhui or Pounamu Heritage Protection Areas.

## Explanation

The general public are welcome to pick up small pieces of naturally occurring pounamu that they personally are physically able to carry from West Coast beaches. The public are not allowed to collect pounamu on a beach and then load it onto and carry it off in a helicopter. This is to limit the potential for theft and unsustainable extraction along with the ban on any use of tools and machinery. It is also illegal for the general public to remove any material, including pounamu, from public conservation lands (see Appendix M) and all other Crown land and privately owned land in South Westland.

Fossicking for pounamu on beaches within the Makaawhio takiwā is a privilege granted to the public, not an automatic right. If the privilege of fossicking on beaches for pounamu by the public is abused then TROM reserves the right to alter these rules.

## 5.4 FOSSICKING POLICY FOR NGĀI TAHU WHĀNUI AND NGĀ MATĀ WAKA

### Explanation

These policies are based on the need to sustainably manage the pounamu resource for future generations.

#### 14. POLICY – FOSSICKING BY NGĀI TAHU WHĀNUI

Ngāi Tahu Whānui are welcome to exercise the right to fossick as outlined in section 5.3 on the beaches of the West Coast. However, if a Ngāi Tahu Whānui member wants to collect pounamu in any other area of the takiwā of Te Rūnanga o Makaawhio (see section 1.2) then they will need to get written permission from Makaawhio. TROM reserves the right to accompany any Ngāi Tahu Whānui member granted a permit to collect pounamu under this policy.

#### 15. POLICY – FOSSICKING BY NGĀ MATĀ WAKA

Ngā Matā Waka (non-Ngāi Tahu Māori) are welcome to exercise the right to fossick on the beaches of Te Tai o Poutini (the West Coast) as outlined in the Ngāi Tahu Pounamu Resource Management Plan 2002. However, there is no collection right granted for Ngā Matā Waka outside of the West Coast beaches.

## Process

Ngāi Tahu Whānui who want to apply for a permit to collect pounamu outside of the beaches need to send their

application in writing stating their reasons and the areas they want to fossick in. This should be sent to the Te Rūnanga o Makaawhio office, which will then refer it on to the Kōmiti Pounamu for consideration (see Appendix E for contact details).

## 5.5 ACCESS ARRANGEMENTS WITH THE DEPARTMENT OF CONSERVATION

The Tribal Access Arrangement has yet to be confirmed. Once completed, a copy of the Tribal Access Arrangement will be included in this plan as Appendix N.

## 5.6 SHINGLE AND SAND EXTRACTION

### Background

The West Coast Regional Council's Regional Coastal Plan permits the extraction of small amounts of shingle, stones and sand from the Coastal Marine Area. The taking of up to one cubic metre of shingle, stones and sand is permitted without a resource consent, provided it is done according to the conditions of the rules.

#### 16. POLICY – SHINGLE AND SAND EXTRACTION IN WĀHI POUNAMU

Shingle and sand should not be removed from any wāhi pounamu which Makaawhio has an interest in (see sections 1.2 and 1.4) without prior permission being given by Te Rūnanga o Makaawhio. A commercial charge may apply depending on the likely amount of pounamu that could be caught up in any extraction of shingle and sand.

### Process

People or organisations who want to remove shingle and/or sand from a wāhi pounamu with or without a resource consent will need to contact the Makaawhio Taoka Protection Officer for an assessment of the potential liability of having to pay for pounamu (see Appendix E for contact details).