

Trauma, dislocation, pollution: why Māori leaders want control of the South Island's water

New Zealand's booming dairy industry has polluted 95% of rivers in pastoral land – now Māori are taking the government to court



Gabrielle Huria, a prominent Ngāi Tahu leader, at Tūtaepatu lagoon, over which the tribe gained authority in 1998.

by Tess McClure in Rangiora
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On the eve of their tribe's settlement with the crown, Gabrielle Huria and Te Maire Tau walked out on to the cracked, dry earth of Tūtaepatu lagoon's bed.

The lagoon's edges, once thick with flax, had been choked by imported weed, spiralling blackberry and English willow. The streams that fed it had been giving up their waters to irrigate the surrounding dairy farms and having them returned in a swill of effluent. Finally, they had run dry. On the far shoreline was the place where the tribe used to give up their dead to the mud, lowering them into its dark, hidden reaches along the waterline. Now the mud had baked to concrete, cracked and cratered like a desert. On its surface, thousands of *tuna*, the native eels so valued by the tribe, lay dead or dying in the sun, their smell mingling with that of the drying silt. Above them, birds were circling – so large that Tau thought for a moment he was seeing eagles. But they were only hawks, fat from so much carrion.



Te Maire Tau, an associate professor at the University of Canterbury, is helping lead the fight for Māori authority over the South Island's waterways.

“We wondered if it was a *tohu*” – an omen or sign, Huria says, looking out at the lagoon more than 20 years later. “But Te Maire said it just signified a change – things were different.” The lagoon would be returned to them that year in the tribe’s 1998 treaty settlement, and in the decades since, volunteers have gradually transformed it: pulling out the introduced weeds and vines, replanting with harakeke flax and fern, nursing back plant species to help filter the waterways that feed it.

Huria and Tau are two prominent leaders within Ngāi Tahu, New Zealand’s largest southern tribe, and they now have their sights on a larger battle: authority over the South Island’s water. The tribe is taking New Zealand’s government to court, for what they allege have been repeated failures over successive governments to protect the country’s waterways. They argue that the crown must recognise their *rangatiratanga* – governing authority and self-determination – over waterways stretching across most of the South Island.

The legal case is unprecedented and dances across political, cultural and economic battles playing out across the country: New Zealand’s economic reliance on dairy, and a colonial legacy placing farming at the heart of its culture, is increasingly pitted against its clean green image, climate commitments and growing movements for Māori sovereignty over their natural resources. Those currents compete in the argument over South Island rivers, which flow through some of the country’s most fragile natural landscapes and its most prosperous farming country.



An outcropping of the Ashley River, or Rakahuri. Ninety-five per cent of rivers flowing through pastoral land in New Zealand are polluted.

‘Something broken and dying’

Te Maire Tau moves along the banks of the Ashley/Rakahuri River at a steady lope then pauses to hold up a hand. “This is good wind for eeling,” he says. The cold easterly sweeping down off the alps will dry a hanging eel fillet quickly. To his right the water flows, sluggish brown, its bottom thick with mud, algae carpeting the shingle. A blue heron moves slowly through the sludge then its beak spears down, the silver slip of a minnow catching the light. “You know what I feel sorry for? These poor birds, eating out of this bloody filth,” Tau says.

“Well,” says Huria, following him in a green raincoat. “We eat out of it.”

Many of the waters that flow through Ngāi Tahu lands have been contaminated. The fish and eels that the tribe has hunted for generations are threatened. The *puha* watercress they pull from the creekbeds reeks of effluent. The rivers bloom green and black with toxic algae, so poisonous that a clump the size of a coin can kill a dog in 30 minutes.

Their state reflects a much wider, long-brewing crisis with New Zealand’s fresh waterways. About 60% are unswimmable, 74% of freshwater fish are threatened or at risk of extinction and 95% of rivers flowing through pastoral land are contaminated. University of Otago research this year found 800,000 New Zealanders were drinking water with unsafe levels of nitrate contamination. In 2016, more than 5,000 people fell ill after a town’s waterways were contaminated with E coli.

In 2017, then prime ministerial candidate Jacinda Ardern made cleaning up the country's waterways a campaign promise. "Clean water is the birthright of all of us. I want future generations to be able to swim in the local river, just like I did," she said. Since then, however, progress has been slow or nonexistent. The government introduced stricter regulations last year, but they are expected to take five years to improve water quality.



Te Maire Tau breaks open an aruhe, or edible fern root. He says the gathering of food is intrinsic to the identity of the tribe.

The degradation of those waterways represents far more than the loss of a food source or recreational playground, Tau says. Rivers are woven deep into the fabric of Māori identity. A *pepeha*, the traditional form for greeting, begins by stating those foundational connections: this is my name, my tribe, my river, my mountain.

"Fundamentally to us, there is no other identity. This is who we are," Tau says.

"All our old people, they weep about it," says Huria, chief executive of Te Kura Taka Pini, the tribe's freshwater group. "When they get together and talk, they start weeping about what the river was to them and what it is now.

"Spiritual identity is tied up in it, their sense of place and our sense of place. For me what breaks my heart is our kids won't be able to do any of it [fishing, swimming or gathering traditional foods] because it's too dirty. As a parent your whole purpose is to pass on to your children the messages of your generation, and what do we pass on to them? Something broken and dying."

A rich and abundant food basket

The takiwā (tribal territory) of Ngāi Tahu covers almost all of the South Island. Lying at its centre are the Canterbury plains, New Zealand's largest area of flat land, formed over thousands of years as gravel and sediment washed down from the mountains of the Southern Alps. The debris formed a land of porous layers – soil, shingle, gravel, silt. An often-hidden network of water seeps endlessly through it via braided rivers and ribboning creeks, flood plains, wetlands, subterranean aquifers. For Ngāi Tahu, the plains were a jewel – a rich and abundant food basket, filled with eels, fish, bird life, cress and root vegetables.



Some rivers are polluted with algae so toxic a coin-sized piece can kill a dog in 30 minutes.

Today the plains are still a provider of food and prosperity: they form the heart of New Zealand's lucrative multibillion-dollar dairy industry, which accounts for 3% of the country's GDP and 20% of total exports. Over the past 30 years, Canterbury dairy cattle have increased 973% – from 113,000 to sit at 1.2-1.3 million in the last five years. Among them are Ngāi Tahu's own cattle – the tribe's business arm has a substantial farming investment. To transform the dry, wind-whipped plains into the lush grass expanses dairy cattle need to graze, farmers began pumping up vast quantities of water and pouring it out over the land, along with nitrogen-rich fertiliser. The region has become the most irrigated in the country.

The only way you fix this is to turn the gas off. You can't fix something while you're still polluting it

Dr Mike Joy

“The problem is not so much the irrigation, it’s what it allows,” says Dr Mike Joy, a freshwater ecologist at Victoria University. “It allows the intensification. It goes from a few scraggly sheep to thousands – actually 1.3 million – cows.” Courtesy of those cows, many of Canterbury’s fields are doused in nitrates twice, Joy says – fertiliser to grow the grass and then again with their effluent. In high concentrations, nitrogen becomes toxic: linked to cancer and blue baby syndrome in humans, and causing the algal blooms that suffocate life in the rivers.

Most proposed solutions, Joy says, are nowhere near radical enough – focusing on mitigation strategies when New Zealand needs to radically diminish the pollutants it puts into waterways. “If you have a pot of milk on the stove and it’s boiling over, the solution that seems to be the popular one is to get a tea towel – and then maybe buy some more tea towels,” Joy says. “The only way you fix this is to turn the gas off. You can’t fix something while you’re still polluting it.”

Ripples of outrage



Te Maire Tau says rivers are woven deep into the fabric of Māori identity.

Ngāi Tahu’s court case, they say, is a step towards a more radical approach. “For too long, governments have talked about addressing these issues but have made piecemeal progress,” Ngāi Tahu chair Lisa Tumahai said as the court case was filed. “That is not enough. Now is the time to act.” The argument is part of a wider raft of cases over water from iwi (tribes), and their claim follows a precedent-setting 2017 case, in which the Whanganui River was granted legal personhood.

Rangatiratanga, the tribe says, is not the same as ownership – it indicates governing authority and rights but also responsibility for protection. The office of David Parker,

the environment minister and attorney general, did not return a request for comment – the government does not typically comment on ongoing litigation.



Volunteers have worked to restore Tūtaepatu lagoon over the past 20 years, replanting it with native species.

But any possible shift in the balance of control of the water that feeds the country’s biggest export can cause ripples of discomfort or outrage. As the government floated a set of reforms towards co-governance with iwi over water, opposition leader Judith Collins claimed the tribes would “own” the water – and took to social media to stir controversy. “What is your view – should your local council have to pay iwi for drinking water? Who owns water?” she asked supporters online. “No one should have to pay iwi anything, for anything,” came one reply. “They are tearing our country apart,” said another, while others decried it as “separatism” and “racism”.

Collins subsequently accepted she had mischaracterised the tribe’s proposal, and that Ngāi Tahu has not proposed ownership of water. But her rhetoric set a tone that would continue over the coming months, and in 2021 “separatism” became an increasingly prominent thread in the centre-right of New Zealand politics.

Chris Allen, spokesperson on water quality for the lobby group Federated Farmers, says with hindsight there’s “a lot” of dairy conversions that wouldn’t have been carried out. “But there’s a free market and some decided to perhaps learn the hard way. We didn’t have rules or limits ... We now do.”

Farming alone was not responsible for water degradation in New Zealand, Allen said, adding some of the country’s most polluted rivers ran through cities. He said farmers were aware of the problems and focused on solutions. Some Canterbury farmers would have to dramatically reduce their nitrogen loss – some by up to 30% – or face penalties.

“We’re on a journey. And that journey has been going on for Canterbury for well over 10 years.

“We’ve got to get the balance right,” he says. “That’s really hard. If it was easy, it would have been done a long time ago.”

For Māori, Tau argues, the degradation of the waterways and the loss of healthy rivers and streams is another form of confiscation, layered atop the historic expropriation of land and waterways.

“The one traumatic event that featured in the lives of the grandparents and parents was dislocation from the land,” he says.

As the rivers die, he sees the resulting alienation from the natural landscape and waters as a similar process, repeating. “The same has happened with culture and identity in the landscape: you become more and more dislocated.”