

I TE RŌPŪ WHAKAMANA  
I TE TIRITI O WAITANGIWai 1750  
Wai 87

KEI RARO I TE MANA

te ture o te Tiriti o Waitangi 1975

I TE TAKE O

the North-Eastern Bay of Plenty Inquiry  
District (Wai 1750)

Ā

I TE TAKE O

a claim by the late Claude Edwards and  
Adriana Sylvia Edwards for and on behalf of  
Whakatōhea hapū  
(Wai 87)

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AMENDED STATEMENT OF CLAIM  
WAI 87  
30 April 2024

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NGĀTAHI LAW

RECEIVED Waitangi Tribunal
1 May 24
Ministry of Justice WELLINGTON

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**The Claimants say:**

1. This Wai 87 Amended Statement of Claim (ASOC) is filed by Adriana Edwards and the (late) Claude Edwards on behalf of Te Whakatōhea uri, Ngā hapu, blood kin groupings of all relevant times (Claimants).<sup>1</sup> . This amended statement of claim adds additional matters<sup>2</sup>to the originating Te Whakatōhea claim filed on 22 May 1989.<sup>3</sup>
2. The claim provides Whakatōhea as a whole tribe incorporating all its constituent members named from the list of owners to the Reserves out of the confiscated lands on the 1st of January 1874 which identify the Ancestors and hapū of Whakatōhea in whose name their descendants comprise Whakatōhea today.<sup>4</sup>
3. Whakatōhea claim is premised on the 1865 invasion of the common Whakatōhea tribal estate. The net result inflicting immediate loss of life, sacking of property reducing a once wealthy Whakatōhea community to overnight impoverishment.<sup>5</sup> The Crown Apology in the Whakatōhea Claims Settlement Bill as set out in the deed of settlement is testimony to that historical account<sup>6</sup>.
4. Whakatōhea exclusive territorial estate is commonly understood to those parts of Eastern Bay of Plenty whenua<sup>7</sup> given by Te Hoeroa Horokai and Heremaia Hoeroa at Ōpōtiki 14 July 1920 when they recited the tribal boundaries were against a background context of Whakatōhea community displacement. Whakatōhea customary interests and rights shared with other tribal groups outside the exclusive customary rohe zone particularly reaching past Whakapaupakihi and Takaputahi ranges over and past Toa Toa into the Waipāoa and Mangatū land blocks are Whakatōhea customary estate of which forms a significant section of this ASOC.

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<sup>1</sup> Wai 87, 1.1

<sup>2</sup> Wai 87.1.1

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Ibid

<sup>6</sup> <https://legislation.govt.nz/bill/government/2023/0261/latest/LMS379260.html> The Crown apologises to the rangatira who died at its hands. The Crown apologises to ngā uri o Te Whakatōhea, who have lived with economic, cultural, and spiritual loss and deprivation as a result of the Crown's actions. The Crown has failed to uphold its obligations under te Tiriti o Waitangi/the Treaty of Waitangi and brought dishonour upon itself. For its breaches of te Tiriti o Waitangi/the Treaty of Waitangi, and for the pain it has caused Whakatōhea through its acts and omissions, the Crown is deeply sorry.

<sup>7</sup> #A3 Raupatu and Compensation in the North-Eastern Bay of Plenty 1865-1874

5. The Whakatōhea foreshore from Maraetotara including Ōhiwa Harbour in the west to Te Rangi in the east is both exclusive to Whakatōhea and shared with other iwi Ngati Awa, Ngai Tai then out to the 12-mile territorial limit and beyond Whakaari island shared with iwi Ngati Awa and Whanau A Apanui.<sup>8</sup>
6. This amended claim concerns matters therein which lie inside and outside the Whakatōhea Treaty Settlement Bill.
7. This amended claim concerns formerly owned Māori land in the East Coast Inquiry District as particularised in the seventh amended statement of claim.

### **Treaty of Waitangi Act 1975**

8. The claim is filed under Section 6 of the Treaty of Waitangi Act 1975 provides, inter alia:
  - (2) The Tribunal must inquire into every claim submitted to it under subsection (1), unless—
    - (a) the claim is submitted contrary to [section 6AA\(1\)](#); or
    - (b) [section 7](#) applies.
  - (3) if the Tribunal finds that any claim submitted to it under this section is well-founded, it may if it thinks fit having regard to all the circumstances of the case, recommend to the Crown that action be taken to compensate for or remove the prejudice or to prevent other persons from being similarly affected in the future.
    - a) the claimants are Māori; and
    - b) state Te Whakatōhea Wai 87 claimants have been and continue to be prejudicially affected by the various ordinances, acts, regulations, orders, proclamations, notices and other laws and by various policies, practices and omissions adopted by or on behalf of the Crown, its agents or its successors; and

9. The claimant states.

*That the aforesaid prejudices are inconsistent with the Principles of Te Tiriti o Waitangi; and further, the claimant says the Crown has failed in its duties towards Māori by way of acts and omissions, practices that were or are inconsistent with the principles of Te Tiriti o Waitangi, to wit:*

- a) breach of partnership*

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<sup>8</sup> Attached Map CIV 2017-404-817

- b) *breach of treaty article three*
- c) *breach of active protection*
- d) *breach of real redress*
- e) *breach of fiduciary duties*
- f) *breach of right to culture development*
- g) *Breach of human rights*

### **Whakatōhea Diaspora**

10. The diaspora of Whakatōhea has its genesis in an exploratory people of the Pacific to that part of the Eastern Bay of Plenty they would make home. Whakatōhea whakapapa without seeming repetitive along with those acknowledged Crown breaches are a necessary part of the Whakatōhea claim given some matters yet to be determined.

### **Whakapapa Te Whakatōhea**

11. Te Whakatōhea Rohe unique in the number of waka and tīpuna heke (migration), canoes and founding ancestors that came from Hawaiki.<sup>9</sup>

12. The Mataatua waka final landing after arrival from Hawaiki was at Whakatāne. Iwi who claims their waka and mana as Mataatua are Ngāti Awa, Tūhoe, Whakatōhea, Ngāiterangi, Whānau Apanui who also acknowledge Horouta waka. The tīpuna on the waka Mataatua were Toroa the kaiwhakahaere, Puhi, Muriwai and Toroa's daughter Wairaka.<sup>10</sup>

13. Muriwai is the eldest, then Toroa, followed by Puhi and their senior is Taneatua the first born of their father Irakewa.<sup>11</sup>

### **Nukutere (Te Wakanui)**

14. Nukutere waka landed at Kotukutuku a little east of Ōpape. The tīpuna was Tauturangi and his wife was Rangitaka who came with him.

15. Tauturangi settled at Ōpape, the kainga was called Taiharuru and Kapuarangi was the sacred ground at Waiaua where the Atua was placed. The Hapū name of Tauturangi and his people down to Tunamu was Wakanui the name ceased in

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<sup>9</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2482

<sup>10</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2489

<sup>11</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2489

Tūtāmūre’s day when the people were called Panenehu. Te Wakanui tribe lived on the land extending from Waiaua to Whitikau.<sup>12</sup>



Figure 22 Wakanui and Panenehu Rohe. Taururangi – Tūtāmūre

16. Nukutere is a waka tradition in the same manner as Mataatua, Te Arawa and Tainui bringing atua, mauri, mana and tapu from Hawaiki.
17. The Whakatōhea Hapū Ngai Tamahaua, Ngāti Ruatakenga, Ngāti Patumoana and Ngāti Ngahere all claim descent from Tārawa.
18. Te Whakatōhea have a number of tupuna origin that are specific to their area, Taururangi (Nukutere waka), Tarawa and Tamatea (Tūwhenua waka). Hapū Oneone and Tini O Toi relate to Ōhiwa harbour tīpuna of Tūhoe also and Muriwai is the Te Whakatōhea source of the mana from the Mataatua waka.<sup>13</sup>

### **Te Whakatōhea Iwi**

19. Tūtāmūre, who was Kahungunu was six generations from Taururangi whose marriage to Hineīkauīa daughter of Muriwai of the Mataatua waka, an alliance between the tribes laid the foundation for the Iwi of Te Whakatōhea<sup>14</sup>.
20. The iwi of Te Whakatōhea by A.C. Lyall in ‘Whakatōhea of Ōpōtiki’ lays out his narrative history as Te Whakatōhea-centric whereas Ranginui Walker emphasises Muriwai as a central figure for Te Whakatōhea.<sup>15</sup>

Tūtāmūre returned from there and married Hineīkauīa, the daughter of Muriwai which laid the foundation on the western and northern side of Whakatōhea and the mana ariki (chiefly authority) of the Mataatua waka. It is from this union that the hapū of Whakatōhea derives its lineage.

<sup>12</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 pp2483-2484

<sup>13</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2490

<sup>14</sup> A Edwards Historical archival material

<sup>15</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2482

## **Disruption to Whakatōhea Diaspora**

21. The natural diaspora of Whakatōhea from their tipuna Muriwai and daughter Hineīkauīa and son-in-law Tūtāmure would have continued within many communities and hapu to populate the entirety of their common estate except two significant events took place which collectively affected Whakatōhea tribal structure population and customary territory. The first is Gilling's account. A chronology of the Ngāpuhi and Ngāti Maru raids on Whakatōhea:<sup>16</sup>

The first came in 1823 in the aftermath of the Ngāpuhi raid under Hongi Hika on Mokoia. His force divided and 800 under Pomare attacked Opotiki from the sea, several major pa being destroyed and many killed or captured. A second raid took place in 1825. Ngati Ira and Ngati Kahu of Ngati Ngahere were the hapu most affected by the Ngāpuhi attacks. In April 1828, a CMS missionary party came upon the remains of a cannibalistic feast at Onekawa Blkuff [sic] near Ohiwa, victims of a Ngatiawa attack upon Whakatohea. Ngati Maru of Hauraki also mounted several assaults on Whakatohea in or just before 1830. In these Ngati Ira and Upokorehe were the greatest sufferers. The conflicts of the 1820s and 1830s apparently left the coastal fringe centred on Opotiki virtually deserted by Whakatohea.

The attacking tribes no doubt satisfied with utu returned from whence they had arrived leaving the lands unoccupied for the vanquished to pick up where they had fled off.

22. In spite of such attacks by 1840 Te Whakatōhea had regathered themselves from the depredations of Ngāpuhi and Ngāti Maru. The arrival and establishment of the Anglican Church Missionary Society in 1839-1840 in Ōpōtiki and Catholic missionaries in 1841 demonstrates one example because in establishing a mission station there had to be an element of viability in terms of population because of the costs in maintaining a mission. From a visit in 1828 Williams had a desire to establish a mission either at Whakatane or Ōpōtiki so it appears that ten years later Ōpōtiki was suitable.<sup>17</sup>

## **Whakatōhea Economic Powerhouse**

23. The period 1840 onwards for Whakatōhea was one of prosperity. The second event of 1865 quite distinct from the first calamity in which the natural spread of

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<sup>16</sup> Wai 87, #A3 Te Raupatu o Te Whakatohea: The Confiscation of Whakatohea Land 1865-1866 Dr Bryan D Gilling

<sup>17</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2515

Whakatōhea across their rohe is permanently removed. What was once common and collectively held estate would be confiscated dissected, privately distributed the social communal goods and means of living and sustenance. The mana and authority exercised through social political and cultural structures is removed, the tribal structure itself dismantled.

**Pre-1865 Whakatōhea as “an industrious, plodding, and commercial people**

24. In 1849, Wilson again had cause to record: “The increasing prosperity in the temporal condition of the Natives is generally apparent, who are fast acquiring property.” When the missionary George Clarke, visited Ōpōtiki in 1850 he too recorded the trade that was going on and the resulting prosperity describing Whakatōhea as “an industrious, plodding, and commercial people.”<sup>18</sup>

They are owners of six small vessels, which they navigate themselves, carrying on a large trade with Auckland and other places in pigs, potatoes, Indian corn, and wheat. They have horses, fine crops of wheat, which they have just harvested, and steel mills to grind it. They make their own bread and supply their visitors in considerable quantities.

25. William Williams who visited the area in February 1850 and recorded that just a mile from Ōhiwa he came across an encampment where Māori were harvesting potatoes for the Auckland market.<sup>19</sup>

26. On 1 February 1854, when Thomas Chapman visited Ōpōtiki he recorded:<sup>20</sup>

Everybody almost absent in their fields. This being as extensive and low valley, the crops looks exceedingly fine, suffering nothing from lack of moisture, but rejoicing in the sunny warmth, The crops of wheat look particularly healthy and the trader here is offering them 5.6d a bushel. This is to them is a highly remunerating price. No rent, taxes or poor rates.

27. In his annual report for 1854, Davies further explained that local agriculture was on the rise:<sup>21</sup>

The natives everywhere, with very few exceptions, seem more engrossed than ever in laying up for themselves treasures upon the earth. The great price of food at Auckland has induced them to extend their plantations, they have many hundred acres of wheat this year, besides other food.

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<sup>18</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para 2.288

<sup>19</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para 2.183

<sup>20</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para 2.183

<sup>21</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para 2.184

28. Several years later, after the Secretary of the Auckland Museum, J.A. Smith visited Ōpōtiki in 1857, he later recorded: “The natives here are certainly the most industrious I have ever met with in this district; three bridges for carts across streams and swamps, built most substantially of puriri, to open the country back to the wooded ranges give some indication of their advancement.”<sup>22</sup>

29. A year later, in a 15 May 1858 article published in the *Maori Messenger*, which reported on a feud between Ngāitai and Te Whānau-a-Apanui, the situation of Whakatōhea was set forth as an ideal for Ngāitai to follow:<sup>23</sup>

We hear of no quarrels of fighting about land among the Whakatōhea. The accounts which reach us of these people are most creditable to themselves and to the wisdom of their chiefs and leading men. Instead of squabbling and fighting about land, we hear of their convening meetings to decide upon measures to be adopted for the general good of the tribe, laying out roads and making regulations respecting them, making arrangements for the erection of mills, &c. We heard also that they are possessed of a good deal of property; that horses and carts are common among them, and in daily use. As men sow, so must they reap. Peace and industry will produce their own fruits of wealth and prosperity; and so also will strife and disorder produce their fruits of poverty and misery.

30. By November 1861, when Ōpōtiki was visited by Crown official H.H. Turton, he recorded local Māori ownership of 13 vessels.<sup>24</sup>

### **Whakatōhea Ship Owners and Freight Operators**

31. In addition to the records noted above local historians A. Van der Wouden and Heremaia Warren, using official source material, have identified local Pākehā shipbuilders, the ships they built and the history of those ships. They also identified Ōpōtiki Māori shipowners, their ships and the years they were registered. The historians note that these records should be seen as a minimum indication of shipping in this area. There would be ships that would not be registered, for example or there could have been additional smaller ships built that did not make the public record. The following table draws from the work of both historians. The table records ships known to have been built at Ōpōtiki or possibly built elsewhere

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<sup>22</sup>Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para. 2.186

<sup>23</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para. 2.186

<sup>24</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para. 2.196



but owned at Ōpōtiki or Ōhiwa. Unless otherwise indicated, the ships are Māori owned by Ōpōtiki or Ōhiwa chiefs. A total of 30 ships are recorded.<sup>25</sup>

32. A wide range of products were exported out of Ōpōtiki. Nevertheless, by far, the bulk of the exports coming out of Ōpōtiki in the sample of 212 post-1849 shipping records consists of key exports such as potatoes, pigs, products from pigs, wheat, corn/maize and to a lesser extent onions and flax.<sup>26</sup>
33. Using the newspaper articles as a small sample, it can be said that over the 15 years from 1850 to 1864, a minimum of just over two thousand tons of produce was shipped from Ōpōtiki.<sup>27</sup>
34. The following year Whakatōhea collective and common prosperity would be decimated.

#### **(1865) The killing of a Christian Minister**

35. The killing of a Christian minister outside of any field of combat brought shockwaves to Pākehā and Māori throughout the colony. Over the course of April 1865, just a month from the killing, the Government recorded a statement of position. This essentially declared the government's absolute intention to do something about those who had killed Völkner.<sup>28</sup> Whakatōhea were to blame whether they were involved or not the whole community of Whakatōhea at Ōpōtiki were complicit in the murder and were subsequently punished by the Crown.

#### **Raupatu Te Whakatōhea**

36. On 17 January 1866, the Crown confiscated land in the eastern Bay of Plenty under the New Zealand Settlements Act 1863 and extending from Otamarakau to Te Kaha. All Whakatōhea's fertile coastal plans were included in the confiscation.<sup>29</sup>
37. The New Zealand Settlement Act set out a three-stage process. Firstly, an area was proclaimed. Secondly, sites would be identified that were suitable for settlement

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<sup>25</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para. 2.212

<sup>26</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para. 2.212

<sup>27</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl para. 2.217

<sup>28</sup> Wai 1750, A030 War and Raupatu 1840-1871 Tony Walzl p. 525

<sup>29</sup> Tony Walzl, Whakatōhea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1750

and set apart. Finally, those sites that were deemed necessary for these settlements would be formally confiscated. In eastern Bay of Plenty, “all of the three steps were telescoped into one.”<sup>30</sup>

### **The New Zealand Settlement Act Crown Act unlawful**

- 38.** Lawyer and historian Richard Boast had concluded that the Crown proceeding in this way was unlawful. He drew on the Ngāti Awa Tribunal’s finding with respect to the intention of the 1863 Act that only land considered “necessary to keep the peace” through the settlement of military settlers should have been confiscated.<sup>31</sup>
- 39.** Similarly, the Urewera Tribunal stated that ignoring the three-stage process contravened the Act’s intention of only taking a discrete amount of land for military settlement. The Urewera Tribunal also found the declaration of the entire district for settlement to be unlawful.<sup>32</sup>
- 40.** In the Urewera district inquiry, the Crown’s concessions with respect to the eastern Bay of Plenty confiscation were that it was “a breach of the Treaty, unjust and excessive”<sup>33</sup>
- 41.** Except for a few small reserves, Whakatōhea permanently lost their land within most of the confiscation block. The traditional hapū of Whakatōhea were relocated from their ancestral lands onto one 20,000-acre block at Ōpape where they were realigned under six hapū names. Gilling has characterised Ōpape as “New Zealand’s closest equivalent to a North American reservation”<sup>34</sup>
- 42.** Crown agent John Alexander Wilson on his arrival in Ōpōtiki in April 1866 first tasks were arranging the establishment of the military settlements at Ōpōtiki and Ōhiwa and the survey of Ōpōtiki township. The day after Wilson arrived, he “informed them they were to move from Ōpōtiki; and to their evident relief, told

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<sup>30</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1751

<sup>31</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1751

<sup>32</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1751

<sup>33</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1751

<sup>34</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1751

them that their future country would be Ōpape”. They asked for eight days to make their arrangements for this relocation, which Wilson agreed to.<sup>35</sup>

### **The New Zealand Settlement Act 1863**

43. The New Zealand Settlement Act 1863 provided for the return of land not required for military settlement to Māori through the Compensation Court. The Court’s role was to determine “claims for compensation”. As with Native Land Court titles, land returned came back not as Māori customary land but as a Crown grant.<sup>36</sup>
44. Both the Urewera and Ngāti Awa Tribunals were very critical of the extent to which Crown agent, J A Wilson, controlled the compensation process. The Urewera Tribunal remarked that “the Crown secured almost unlimited power to decide where Māori would be placed within the huge districts it had confiscated”. Māori had no independent advocate and were subject to the arbitrary power held by Wilson in negotiations.<sup>37</sup>

### **Compensation Court Flawed**

45. In terms of the Compensation Court’s processes, the Urewera Tribunal concluded that they were “deeply flawed”. The court lacked a proper venue, its hearings were cursory, with little opportunity to investigate claims. Binney characterises the Court’s role as one of “rubber-stamping” many of Wilson’s arrangements.<sup>38</sup>

### **Raupatu Fallout; Disputes Overcrowding**

46. There were ongoing delays in finalising the Compensation Court awards and other arrangements for the confiscated land. In 1871, J A Wilson was reappointed to return to the district to negotiate further grants and resolve issues that had arisen from these delays. In the interim, Māori had begun cultivating land that was not yet surveyed, which had raised hopes among some that this land would be returned to them. There were also disputes amongst Whakatōhea at Ōpape. Ngāti Rua

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<sup>35</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1752

<sup>36</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1752

<sup>37</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 pp 1754-1755\

<sup>38</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1755

claimed the whole block as it was their ancestral land; this was opposed by the other hapū who had been left with few other interests outside of this iwi reserve. Wilson proposed the block be partitioned; the cost of surveying was expected to cost £450.<sup>39</sup>

47. As well as the Ōpape reserve of 20,000 acres, on which most of Whakatōhea would be located, several other iwi reserves had been confirmed by Wilson by mid-1867. This included a reserve for Ngāti Pukeko and Ngāti Awa and reserves at Ōhiwa “for surrendered Rebels and loyal Natives of the Upokorohe hapū”. These reserves were named Hiwarau and Hokianga Island. The Hiwarau block was estimated to be 1500 acres and Hokianga Island was comprised of approximately 30 acres. Wilson did not state who from Upokorohe he had negotiated these reserves with. Johnston notes that this lack of clarity “was to become a significant issue” in later years.<sup>40</sup>

48. A balance of 151,558 acres was retained by the government. Military settler allocations had been arranged in over half this area. Stating that “land has been provided for all the Military Settlers”, Wilson noted that there was a further “75,000 acres of saleable land” available for further settlement.<sup>206</sup> Land allocated to the military settlers included both Whakatōhea and Ngāti Awa land, although Gilling has stated that most of it was Whakatōhea’s. It contained all the best agricultural land in the district.<sup>41</sup>

### **Small Reserves for Whakatōhea Rangatira**

49. During the 1871 negotiations, Wilson also arranged some new small reserves for Whakatōhea rangatira. A total of 250 acres were encompassed in reserves in Ōpōtiki township, Waiaua and Tirohanga.<sup>42</sup> A further 175 acres were allocated to individuals in Otara, Waioeka and Waiaua. Wilson also arranged small reserves for Ngāti Ira. They received a 102-acre block at Ōpōtiki, which was bounded by the Otara River and the town belt of Ōpōtiki township, and a 300-acre block at

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<sup>39</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1755

<sup>40</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1754

<sup>41</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1754

<sup>42</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 pp 1755-1756

Waioeka. Both these blocks were granted under the Confiscated Lands Act 1867. Trustees named were Hira Te Popo, Pera Makau, Wharenuī, Tuwhakia, Maka Rangiihu, Hane Tapatahi and Mihaka Mataika, on behalf of 64 Ngāti Ira members.<sup>216</sup>Two further small reserves were also later awarded to Ngāti Rua (11 acres) and Ngāti Ngahere and Ngāi Tama (32 acres) near Ōpōtiki township.<sup>43</sup>

**50.** On 17 May 1866, less than 6 months after the Ōpōtiki correspondent for the Daily Southern Cross wrote:<sup>44</sup>

There is nothing particularly interesting here. The [Wh]akatohea natives are preparing their land (allotted to them by the Government at Ōpape for cultivation and carrying on fishing operations. They are finding a ready market for their surplus fish among the officers and men of the expeditionary force here and appear contented.

**51.** This short extract is important to consider for a number of reasons aside from the reporter's indifference to Whakatōhea's real experience of having been invaded and having had their land taken from them but assuming that they were now contented. Instead, the article shows that in the aftermath of these terrible events, that fishing was as normal and usual an activity to return to as it was to again plant and raise crops. It also shows that fishing provided essential sustenance along with cultivations for these people that were rebuilding their lives. Neither war nor the taking of land had interrupted ancient traditional practices. The article also shows how fishing could support the people in their time of turmoil by providing an unexpected resource to contribute in some small way to the iwi's recovery as the very invaders who occupied their land, were now also a market for the sale of surplus fish.

**52.** Dr Rangi Walker described what happened to the Whakatōhea hapū:<sup>45</sup>

The dispossessed hapū from the confiscation of the Ōpōtiki heartland-Ngāti Ira, Ngāti Patu, Ngāti Ngahere and Ngāi Tama – were moved off their traditional hapu lands at Waiōtahe, Paerātā, Hikūtaia, Pakōwhai and Waioeka and relocated to the Ōpape Reserve along with its original owners, Ngāti Rūa. The Panenehu were subsumed under Ngāti Rua by the Crown as a matter of administrative convenience. The drastic effects of the arrangement of Whakatōhea on the Opape Reserve included the disconnection of Upokorehe from the other hapu as an isolated enclave and the loss of some of the iwi's coastline(sic) of twent -one(sic) miles.

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<sup>43</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1756

<sup>44</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1757

<sup>45</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p302.00832

This loss encompassed Ōhiwa Harbour, Waioeka River, Waioeka River, Otara River and the Hikuwai Beach right to the mouth of the Waiaua River. That left Whakatōhea with less than one and a half miles of the coastline between the Waiaua River and Opape. Ngāti Rua, as the incumbents of Waiaua lands, were centred on Omaramutu. Ngai Tama. As the next largest hapū settled at Opape, and the other refugee hapū fitted in where they could on the undivided reserve.

**53.** The refugee hapu of Whakatohea are a mixture of blood kin groupings for example Ngati Muriwai dual whakapapa, Maromahue carries dual whakapapa with Kahungunu, Turangapikitoi a member of Whakatohea and others, Kutarere members have dual whakapapa. These matters remain extant. A further breakdown of Ūpokorehe shows it comprising of three functioning marae. They are Roimata, Kutarere and Maromahue. In effect hapu. Each marae runs independently having ownership of and managing their own complexes. There is a group of interrelated whanau who whakapapa to each marae and one another. The other two marae Rongopopoia and Turangapikitoi are not functioning marae. Yet they have a historical significance still talked about today<sup>46</sup>

**54. The road to peace and reconciliation would be a long one.** The first hints of Whakatōhea wishing to move on past the difficulties is shown when they met with Native Minister McLean at Ōpōtiki on 21 January 1871 and Piahana Tiwai agreed with Ngāitai's Wiremu Kingi that bygones ought to be bygones and that the people should be forgiven and allowed to live in the security of knowing that matters of contention with the Crown were over. McLean gave a less than encouraging response when noting that the law was the law and surrender did not necessarily mean forgiveness from the Crown.<sup>47</sup>

**55.** Despite this, housebuilding in all settlements and land being brought under cultivation. A road from Ōpōtiki to Torere, which would pass through Ōmarumutu and Ōpape, had been started. The Magistrate reported a good relationship with

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<sup>46</sup> A Edwards Archival Records

<sup>47</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p1758

Māori in his district but also noted that at hui there was intense political debate especially about the confiscation and political representation.<sup>48</sup>

56. By February 1872, Whakatōhea were discussing the possibility of establishing a school at Ōmarumutu. Noting the failure of their cash crops, Whakatōhea asked to be allowed to be employed on the public works schemes that were occurring in the district so that they could raise the usual contributions towards building a school that was expected in these times. They also offered to erect some of the school buildings. Their offer was accepted.<sup>49</sup>
57. The Magistrate also reported on general matters in his district. Roads in the district were progressing with Whakatōhea being subcontracted to work on the roads for a time. Most important was the recovery in the growing of crops such as wheat, maize, potatoes and kumara by Whakatōhea and others.<sup>50</sup>
58. Already, by this time, merchants in Ōpōtiki had purchased a yacht named *The Four Brothers* to handle the “native trade” from and with Ōpape and nearby Torere.<sup>51</sup>
59. Whakatōhea economic trade had been removed no longer mobile and land locked without means of transporting either goods or people by sea.
60. Crown official reports for 1874 similarly recorded an improving condition for Whakatōhea in respect of crop growing and other matters. Also reported, however, was the effect of the different hapū being placed on the one reserve at Ōpape, the Resident Magistrate reporting that disputes were occurring, especially between Ngātirua and Ngāitama, as to where their interests were actually located on the land. Not surprisingly, the Magistrate felt that although relations were good, Whakatōhea were discontented with the post-confiscation land reserves and were generally suspicious about Government intentions.<sup>52</sup> The relationship tensions between the hapū are in contrast to that mentioned previously.

### **Transient customary lifestyle to transient indentured labour**

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<sup>48</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 **p1758**

<sup>49</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 **p1758**

<sup>50</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 **pp1758-1759**

<sup>51</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 **p1759**

<sup>52</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 **p1759**

61. Whakatōhea maintained a mobile lifestyle within their district in response to employment opportunities. As the following article shows the increasing Pākehā population in the rural districts was advancing on the back of local Whakatōhea labour.<sup>53</sup>

The corn season is now almost over, and it has been a busy one, shewing a marked improvement upon previous seasons. This is partly attributable to the very favourable weather, but chiefly to the systematic manner in which the natives of the different surrounding tribes have taken up European lands on short leases and at nominal rents. This plan has been found to answer admirable in most cases, as the natives have the advantage of going on to land already substantially fenced, also good roads into the township, while any of them that are inclined to work are pretty sure of getting casual employment from the owner of the land. On the other hand the European gets his land cleared for nothing, his crops and fences protected night and day, as the natives live upon the land, which in many cases the European does not ; then the native labour is cheap and handy, and after two or three years he retakes possession of the land thoroughly cleaned and cleared and ready for crop or grass. So largely has this practice obtained in Ōpōtiki that the surrounding native settlements of Ōpape, Omaramutu, Waiau, and Ōhiwa are almost entirely deserted.<sup>54</sup>

62. By this time, the Resident Magistrate was reporting the district as quiet with crops being grown at a level to provide surplus for sale. The one new detail was that sheep flocks were beginning to appear in the district including one owned by Te Paku at Ōmarumutu.<sup>55</sup> The matter involving Te Paku sheep would plague the hapū of Ngāti Rua and its relationship of Te Paku hapū Ngāti Muriwai for generations as commonly understood within Whakatōhea.<sup>56</sup>

63. The Resident Magistrate recorded good crops at Ōmarumutu as well as other coastal kāinga to the north. Kumara had done well, wheat crops at Te Kaha were good and were being snapped up by a local storekeeper maize commanded even better prices. The signs of activity and commerce, however, somewhat hid the real lack of economic growth for Māori as the Magistrate remarked: : “These natives are not so well off as they might be, owing to their living on credit until the harvest comes in, when nearly the whole of their produce is taken up to pay their debts.”<sup>57</sup>

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<sup>53</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p1761

<sup>54</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 pp1761-1762

<sup>55</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p1762

<sup>56</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p1762

<sup>57</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p1763



The need to live on credit more denotes a subsistence economy than a prosperous growing cash economy.<sup>58</sup>

### Whakatōhea Tribal Restructure

64. In 1984 Sissons drew upon a statement following the confiscation of 1866 from Karauria Edwards, a leading Whakatōhea rangatira has written:<sup>59</sup>

Our people were now well and truly under the control of Government legislation. The Whakatōhea at the height of its power was comprised of numerous hapū, many more than the six hapū we know, these being Ngai Tama, Ngati Rua, Ngati Patu, Ngati Ngahere, Ngati Ira and Te Upokorehe. The courts now began the task of resettling the Whakatōhea on the poorer marginal lands that they had been reduced to. It was the courts that decided that the Whakatōhea would now be comprised of six hapū (Edwards, n.d.)

65. What Edwards was referring to, and it is a common sentiment expressed by Te Whakatōhea today, is the administration of the confiscated lands and the operation of the Native Land Court created the scenario where there only six recognised hapū for Te Whakatōhea. The first known list was Wilson’s list of Hapū in 1867.<sup>60</sup>

Place	Tribe	Hapū	Total Hapū
Opape Mountains of Waioecka  Ōhiwa	Whakatōhea	Ngātimahana	125
		Ngātira	85
		Ngātirua	165
		Ngātipatu	51
		Ngātingahere	92
		Upokorehe	48

66. For the Whitikau No 3 rehearing Aporohanga gives evidence he was both Panenehu and Ngāti Rua. Paku Eruera’s claim to Whitikau No 3 was specifically as Panenehu. When cross-examined in the Whitikau No 3 hearing he responded to a question about the location of other hapū:<sup>61</sup>

Te Panenehu live at Omaramutu. When the war about Volkner’s murder broke out Ngāti Ira went from Ōpōtiki & settled at Waioecka on their own land. N.Ngahere and N. Rua lived together on their land at Otara also Ngāti Tama. Those hapū lived together. The Panenehu lived at Waiaua on their land at Toatoa close to the land before the Court. Te Toatoa is a fern ground. Peace made with the government, NRua went eastward to Torere or intended doing so, but were detained at Waiaua by the

<sup>58</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p1763

<sup>59</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p2524

<sup>60</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 pp 2524-2525

<sup>61</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p 2525

Panenehu. Eru said remain here while I go and interview Wiremu Kingi. – he went and told Wi Kingi Panenehu were coming he consented to receive them & they went to Torere and lived at a kainga called Tamuatatoatoa. They lived there for a long time they went there because they were afraid of Europeans. Some only went not those who consented to the European peace.

67. When asked a question about Ngāti Rua getting Opape No 3 and what hapū were Paku Eruera and Eru Pouahu. Paku responded they lived with Ngāti Rua and the hapū name they used was Ngāti Muriwai, from Muriwai the tīpuna of Te Whakatōhea, the sister of Toroa. They used the name Ngāti Muriwai because the land was given to Te Whakatōhea and if the land had been given to Panenehu they would have used that name.<sup>62</sup>

68. Karauria Edwards was a descendent of Paku Eruera and Paku raised an issue about the allocation of land and the identity of other Whakatōhea Hapū being submerged by the processes of the administrative policy of the confiscated land. It's a process which severs any link to papatipu (ancestral) land.<sup>63</sup>

#### **A Small Coastal Fringe**

69. Opape Reserve was the only land given to Te Whakatōhea with a coastal front or foreshore. Figure shows the hapū subdivision of Opape Reserve where Ngai Tama, Ngāti Ngahere and Ngāti Rua have coastal frontage.<sup>64</sup> The hapū included in the reservation included Ngati Muriwai Ngati Ira and Ūpokorehe all hapū of Whakatōhea.

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<sup>62</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 pp.2525-2526

<sup>63</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p 2526

<sup>64</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p 2531



Figure 29 Hapū Subdivision of the Opape Reserve and their Foreshore

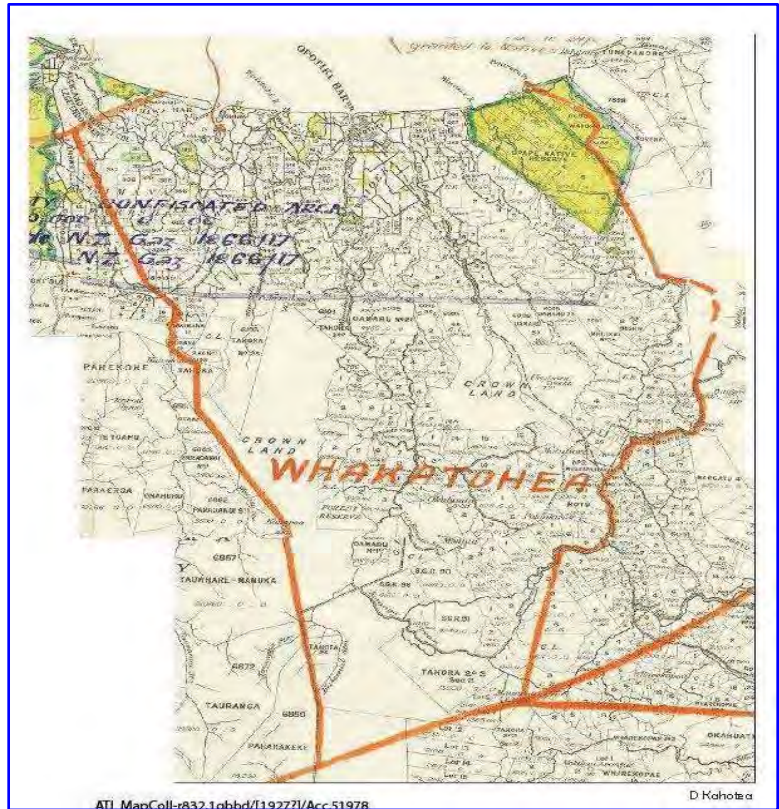
ML2671 1952

### The Sims Commission Whakatōhea Boundaries

70. The petitions of Mehaka Watene and 168 others, Paku Eruera and 210 others, and Whareora Renata and others with respect to certain confiscated lands claimed by the Whakatane tribe (petitions No. s 630/1914. 235/1915, and 336/1917). At the hearing Te Hoeroa Horokai (Whakatōhea [Ngāti ngahere]) provided the following description of part of Whakatōhea's ancestral tribal boundaries “as far as my section is concerned”:<sup>65</sup>

Commencing at Pakihi at the mouth of the river, along sea coast to mouth of Waiotaha stream, to mouth of Ōhiwa stream, to Te Horo (a hill), thence striking inland southwards to Puhikoko (a hill), by straight line to Pukemoremore (a hill), thence to Mapouriki (a hill) (at one time a fighting pa), then descending into Waimana stream Mapouriki being on the bank, following the Waimana stream towards its source at Tautautahi (a hill along the banks), to the mouth of the Parau stream, then following Parau stream to Tangata-e-roha (a hill), to Kaharoa (an old settlement).

<sup>65</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p 2508



### **Whakatōhea Absent from Hearings**

71. The Te Whakatane Rohe has become a serious political issue with the Inquiry districts of Ngāti Awa and Te Urewera where Te Whakatōhea was absent where hearings were being held to participate because of the claims from Ngāti Awa and Tuhoe to Ōhiwa. A factor was they had not claimed because of the direct negotiations Whakatōhea was conducting with the Crown at the same time. Ngāti Awa has statutory recognition over much of Ōhiwa even along the foreshore of the Hiwarau Reserve of Upokorehe. They used the records of the Compensation Court to demonstrate their mana of the harbour, but the Compensation Court was a process to administer confiscated land does not determine rights and ownership..<sup>66</sup>

### **Whakatōhea Population Overtaken**

<sup>66</sup> Dr Desmond Tatana Kahotea, Whakatōhea and the Common Marine and Coastal Area 1840 - 1865, 1 October 2019 p 2572

72. In 1874, a national census of Māori had been completed. The following figures were given for Whakatōhea:<sup>67</sup>

Hapū	Residence	Adults	Children	Total
Ngātirua	Ōmarumutu	90	34	124
Ngāitama	Ōpape	52	42	94
Ngātingahere	Waiaua, Ōpōtiki, etc	83	41	124
Ngātipatu	Waiaua, Ōpōtiki, etc	50	12	62
Ngātiira	Ōpōtiki	68	23	91
Upokorehe	Ōhiwa	48	16	64
Total		391	168	559

73. At the same time 1874 the first recorded census figures for the Pākehā population were published indicating a population transfer within Ōpōtiki. The Ōpōtiki township, had a population of 300 persons, 158 males and 142 females, while in the surrounding countryside, a further 98 Pākehā were located – 68 males and 30 females<sup>68</sup>.

74. The 1878 Census<sup>69</sup> – Whakatōhea population indicates a further decline in the population given the political and social environment was unsurprising.

Hapū	Residence	Adults	Children	Total
Ngātirua	Ōmarumutu and Ōpōtiki	85	33	118
Ngāitama	Ōpōtiki and Ōpape	121	72	193
Ngātingahere	Waioeka	18	17	35
Ngātiira	Ōpōtiki and Waioeka	84	27	111
Upokorehe	Ōhiwa	47	20	67
Total		391	168	524

75. In 1881, a further Māori census was made where, again, the nomenclature of the census takers altered. Nevertheless, these are the figures published at the time.<sup>70</sup>

Hapū	Residence	Adults	Children	Total
Ngātirua	Ōmarumutu	108	82	190
Ngāitama	Ōpōtiki and Ōpape	132	66	198
Ngātingahere	Waioeka	35	9	44
Ngātiira	Waioeka	76	30	106
Upokorehe (Ngātikaratehe)	Ōhiwa and Waiotahi	51	32	83
Total		402	219	621

<sup>67</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1759

<sup>68</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1760

<sup>69</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1760

<sup>70</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1762

76. The hapu shown in the graph are those published by the government of the day. It is not reflective of the actual hapu in existence and if anything reflects the intention of the government to recognise only those hapu and none others as mentioned previously for administrative convenience.

77. The 1881 Census also returned the following figures for Pākehā:

Area	Males	Females	Total
Ōhiwa	2	-	2
Ōpōtiki township	234	206	440
Otara	79	50	129
Tableland and Road	17	12	29
Waiau[a] River	6	3	9
Waioeka River	24	7	31
Waioeka Road	43	33	76
Waiotahi River	5	-	5
Omarmutu	4	5	9
	414	316	730

1881 Census – Pākehā population: Ōhiwa to Ōmarumutu

76. It is clear by 1881 the Whakatōhea Maori population has been overtaken. In addition from 1906, only County figures are given without specifying iwi. Therefore, Ngāitai and most of Whānau a Apanui would be included rendering it difficult to gain a clear idea of Whakatōhea numbers. The policy of assimilation to homogenise the population to reduce the influence of distinct cultural values and tikanga.

78. On the other hand, from 1886 Pākehā census figures are available at the level of localities as follows:<sup>71</sup>

Area	1886 Total	1891 Total	1896 Total	1901 Total
Ōhiwa	5	12	-	19
Waiotahi	26	39	70	78
Tableland	41	39	35	54
Ōpōtiki Township	523	582	641	627
Otara Road and vicinity	150	180	188	179
Waioeka Road	92	137	182	152
Waiotahi Road (later Vicinity)	18	44	34	117
Ōmarumutu	28	9	7	
Tirohanga (later valley)		29	8	24

<sup>71</sup> Tony Walzl, Whakatohea and the Common Marine and Coastal Area 1865 – 2019, 20 October 2019 p 1765

Pairata		15	60	
Waiaua		5	-	17
	883	1091	1225	1267

Pākehā population: 1886, 1891, 1896, 1901 Census.

- 79.** In addition to the census providing no information about Whakatōhea from 1886, the readily available reports from local Crown officials also become less useful during the late 1880s as it appears that the Resident Magistrate responsible for the Ōpōtiki District was stationed in Tauranga.
- 80.** The population numbers for Pakeha rise exponentially settling on land cleared and prepared by local maori labour. The displacement and replacement of the local population is complete, 31 years or thereabouts from an unlawful invasion, prior to many generations who voyaged from Hawaiki aboard Te Mataatua waka landing at Whakatāne where Muriwai Te Ariki tipuna remains as Te Whakatōhea ancestress.

### **Typhoid Epidemic**

- 81.** The decrease in population in 1876 was in part explained as arising from a typhoid epidemic regarded as a disease.
- 82.** Of poverty associated with a lack of access to safe water or adequate sanitation .231 Typhoid remained an ongoing problem facing Whakatōhea. Typhoid would continue to break out at Ōmarumutu from time to time. When an outbreak was reported in the press in June 1897, it was noted that some years previously, there had been another outbreak at Ōmarumutu “when many natives were swept of the surface of the earth.”
- 83.** In addition to the census providing no information about Whakatōhea from 1886, And from 1891, there no longer are published reports from district officers.

### **Ōpape Partion Marginal Reservation**

- 84.** History is replete with examples of small land holdings squabbles arising overcrowding and conflict. In 1888, partition applications for the Ōpape blocks were heard by the Native Land Court. On 30 August the Ōpape 3A (660 acres) block was awarded to 21 persons of Ngāti Muriwai hapu.

### **The Ōhiwa Harbour and Maori Mana**

**85.** Access to food resources and resource management was a continuing concern for Whakatōhea. In the first two decades after 1900, Pākehā use of the Ōhiwa harbour for shipping and fishing began to increase. Historical reports are replete with examples of over exploitation of the food resource with little to no management plan by local authorities and no opportunity for maori management or autonomy over their food resource.

**86.** We the undersigned Māori's of the Urewera, Whakatōhea, Ngātiawa, Ngātikahungunu and Arawa tribes living at and near Ōhiwa Bay of Plenty, do most respectfully lay before you the following facts. We have heard with (sorrow) that some grasping European speculators have laid before you a scheme to reclaim a large area of the Ōhiwa Harbour [which was always a safe anchorage for our vessels] thereby closing the large Wharekura Channel.

**Starvation Prevention: 1907:**

**87.** Starvation: 1907: vulnerability of the Whakatōhea community is shown when, for several years in the period before 1907, the potato crop failed, and the government had to provide potatoes to Whakatōhea communities within Ōpōtiki district to prevent starvation.

**Crown Breaches against Te Whakatōhea Tikanga Mana Motuhake & Crown Te Tiriti Principles**

**Cause of Action**

**88.** The Crown breached its fiduciary duty to Whakatōhea economically socially culturally politically in particular reconstruction of the tribal structure to lose distinct identity, remove hapu structures to exacerbate division with competing intertribal conflict reducing economic stability undermining political tribal mana Motuhake/independence.



**89.** The unlawful attack by the Crown and subsequent confiscation of Whakatōhea undermined immediately put Whakatōhea food security at risk. The actions saw Whakatōhea whanau hapu blood kin groupings creating refugee hapu now displaced persons landless valueless reduced to prospect their labour on land they once owned. They ploughed for others to fuel their own sustenance to benefit others prosperity. The matters raised above and set out below outline matters a colonial inspired construct is unable to, that the fundamental whakapapa and descent structure of Te Whakatōhea was systematically interfered with by a series of Crown policy to justify the taking of Whakatōhea land, as Whakatōhea tuturu tikanga were land holders;

- **Whakatōhea Diaspora – Muriwai to Te Whakatōhea**
- **Whakapapa Te Whakatōhea -**
- **Disruption to Whakatōhea Diaspora**
- **Whakatōhea Economic Powerhouse**
- **Whakatōhea Ship Owners and Freight Operators**
- **Crown Act unlawful**
- **(1865) The killing of a Christian Minister**
- **Compensation Court Flawed**
- **Raupatu Fallout; Disputes Overcrowding**
- **Whakatōhea Tribal Restructure**
- **The Sims Commission Whakatōhea Boundaries**
- **Whakatōhea Absent from Hearings**
- **Population Transfer**
- **Typhoid Epidemic**
- **Ōpape Partion Marginal Reservation**
- **The Ōhiwa Harbour and Maori Presence**
- **Starvation Prevention: 1907:**
- **The Ōhiwa Harbour and Maori Presence**

- 90.** The Crown Breaches of Te Tiriti Articles has been acknowledged in the Crown apology. An apology is the first step to reconciliation and recovery. The displacement of community and tribal entities reducing the number of hapus to a manageable number is nothing short of divide the community to exploit and control its inhabitants at best to open up an allegation through influenza and other spurious diseases to ‘ethnic cleansing’ at worst.’
- 91.** The most recent Tribunal hearings held at Turangapikitoi in the Cheddar Valley and Maromahue Marae is a credit to the courage and fortitude of Maromahue who exercised their independence turning back the error of colonialism making what they will and Turangapikitoi at the genesis of reclaiming what they once were and had.
- 92.** The claimants say, Whakatōhea rise and decline through the obvious invasion through Crown actions and then omissions to exercise their fiduciary duty to Whakatōhea to provide care against disease and poverty which drastically changed and altered our tribal structure and identity. The whanau hapu and blood kin groupings are a mixture of displaced recognised and unrecognised peoples in the eastern boundaries are more commonly known as the more central place for the tribe, the southern boundaries were largely abandoned as the Crown herded the Whakatōhea onto the reservations. The Southern boundaries are therefore to its neighbours and Whakatōhea grapple to regain their interests with the southern tribes.

**Mangatu Waipaoa Forest Blocks**  
***Mangātū Remedies Report 2021***

93. The Report included this map of the land blocks within and adjacent to the Tūranga Inquiry District.



94. The Mangātū Remedies Report recorded that there were 4 applicants for remedies in the inquiry:

- Alan Haronga, on behalf of the proprietors of Mangātū Blocks Incorporated (the Mangātū Incorporation) (Wai 1489)
- Eric John Tupai Ruru, on behalf of Te Aitanga a Māhaki and Affiliates (TAMA) (Wai 274 and Wai 283)
- the Ngā Ariki Kaipūtahai claimants, including Tanya Rogers, on behalf of the members of Ngāriki Kaipūtahi o Mangātū (Wai 499); Owen Lloyd, on behalf of Ngāriki Kaipūtahi Trust (Wai 507); and David Brown, on behalf of Ngāriki Kaipūtahi Tribal Authority (originally Te Iwi Ngāriki) (Wai 874); and
- David Thomas Hawea, on behalf of Te Whānau a Kai (Wai 892).

95. The Tribunal recommended resumption to the last 3 above-named Māori claimant groups of 7,676.8 ha of 12,474.5802 ha (62%) of the Mangatū Crown Forest licenced (CFL) lands.

96. However, the Tribunal could not identify an appropriate recipient entity for the transfer of land and compensation to those 3 claimant groups.

97. It is submitted that an appropriate recipient entity in the present application would be activated by the discussion undertaken by the Whakatohea tribe that has voted and agreed on the establishment of the Whakatohea Te Tawharau Post Group Settlement Entity [PGSE].

98. The Tribunal stated at para 1.3 (p 8) of the Background to this (Mangatū) Inquiry:

*We do not want to downplay the distinctiveness of the applicant groups, but we also think it is important to remember the ties that bind them together.*

99. It is submitted that the same consideration applies to this application by Whakatōhea Iwi claim that is kotahitanga, inclusive. The foundational iwi claim acknowledges the distinctiveness of each and all those recognised and unrecognised hapu;

whanau, hapu, blood kin-groupings, to nga uri o Te Whakatohea, nga tipuna nga mokopuna<sup>72</sup>.

***Location of resumption area***

100. The Mangatū Remedies Inquiry Resumption Area is shown at p 505 of the Ngāti Muriwai Authority Trust Oral and Traditional History Report of January 2024 (“McBurney report”) in the map captioned “North-Eastern BOP Inquiry District (Wai 1750) in relation to Mangatū CFL”.

101. The resumption area of Crown Forest Licensed Land is located entirely within the Turanga Inquiry District. It does not include the Waipāoa Blocks located in the East Coast Inquiry District. See map at p 6 of the Mangatū Remedies Report 2021.

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<sup>72</sup> Wai 87.1.1

- 102.** The McBurney report<sup>73</sup> at **p 553** shows a map of Whakatōhea rohe boundary as defined by the 1920 Royal Commission that lies east of the Motu River and does not encroach on the Mangatū Crown Forest Licensed Land at all.
- 103.** However, the same map shows the Whakatōhea - Ngai Tai Tribal District boundary as defined under the Māori Social and Economic Advancement Act 1945. The combined district extends into Mangatū Blocks 1, 5, and 6. Removing the Ngai Tai area leaves Whakatōhea with only a part of Mangatū Block 1. The Ngai Tai area of the combined district covers a miniscule part of Mangatū Block 2, which lies almost completely within the resumption area.
- 104.** The Whakatōhea Property Redress map at Te Tāwharau o te Whakatōhea website <https://tewhakatohea.co.nz/our-settlement/> shows that the Whakatōhea Area of Interest does not extend beyond the Motu River, which is the western boundary of Mangatū Blocks 1, 6, and 5.
- 105.** Nevertheless, oral and traditional kōrero indicates that Whakatōhea used and occupied blocks of land abutting and across the Mangatū and further to Waipāoa blocks across to Mātāwai and on east to Ormond.<sup>74</sup>

### **Whakatōhea interests in Mangatū and Waipāoa Blocks**

- 106.** The Tribunal noted at **6.3.1** at **p 108** of the Mangatū Remedies Report that just under half of the forest within the Tūranga inquiry district, that is, the Mangatū 2 block (4,080 hectares), could be the subject of binding recommendations in favour of other claimants.

### **Adriana Edwards**

- 107.** Adriana Edwards deposed in her affidavit dated 22 June 2020
- The Waipāoa blocks were owned by Whakatōhea hapū who resided there and owned the lands.
  - Appendix B consists of a partition order for Waipāoa Block 5A listing in the schedule of owners Whakatōhea

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<sup>73</sup> Wai 1750, #A33

<sup>74</sup> Affidavit dated 22 June 2020 of Adriana Sylvia Edwards, (Wai 87, #A6) para. 3.

chief, Matiu Ranapia of Ngāi Tamahaua, and other Whakatōhea members, Ani Ranapia, Ihaka Ranapia, Mere Ranapia, Maia Ranapia, Mihi Ranapia, Matiu Ranapia, and Taku Ranapia alias Ranapia Taku.

- Waipāoa Block 5A later became 5A1 and 5A2.
- Block 5A became invested in the Crown. Chief Ranapia had a boundary line along the Waipāoa river in 1865.
- In affidavit (Wai 814, #P55; Wai 1489 #A56 para 25) produced a similar list of Whakatōhea owners named in the original Block 1 Mangatū land deed.
- Jack Takao, an elder of predominantly Te Whakatōhea/Tūhoe descent, grew up in the Whatatutu, Mangatū area, recalled that most of the people who lived in Whatatutu are from Whakatōhea and some from Tūhoe named Tiopera, Boytons, Biddles, and Mahia. The Ranapia whānau were just one of many Whakatōhea whānau living inland.
- Jack Takao recalled that the area was once Te Whakatōhea and the inland pā sites or marae that still stand today go right through to Ngātapa. At Te Karaka there are marae/pā sites that relate to Te Whakatōhea.
- The alienation of the Te Whakatōhea people from their pā sites in the Motu, Whakapaupākihi, Mangatū through to Te Karaka left mostly chiefs without their hapū, which eroded their customary ownership rights.
- Jack Takao remembered that during the 1860s confiscations, the Crown relocated a lot of people from that area on to a reservation at Mātāwai, a place on the opposite side of Trafford's Hill, a real steep place.
- The interests of Whakatōhea in Waipāoa were those of owners. Adriana Edwards expected that a well-founded claim would return the Waipāoa block to Whakatōhea. She stated that a research report inquiring into Whakatōhea interests in the Whatatutu Mangatū rohe including Mātāwai and down to Ormond is long and much awaited.

**108.** Even so there is enough evidence to show overlapping integrated whakapapa and customary interests. This is predominant in the Whakatōhea Wharenuī at Kutarere and Maromahue are located at Ohiwa rich in Ngariki whakapapa lineage.

**109.** The whakapapa prevalent puts huge doubt as to whether Whakatohea had been banished from the Turanga area certainly not until the murder of Volkner by another tribal member. Followed by the Crown Military Invasion, declaring Whakatohea rebels and confiscation of Whakatohea lands impacts of all this. The Court minute books portray going refusal and absolute bias of the Native Land Courts in their decision making consistently dismissing any customary rights claimed by Whakatohea.

**Ngāti Muriwai Authority Trust Oral and Traditional History Report – Peter McBurney (2024) – Wai 1750, #A030**

**110.** Peter McBurney writes in his report (“McBurney report”) under the heading **14.3 – Mangatū title investigation** at para 1472:

To accommodate the various parties [*in Gisborne in March 1881*] claiming different parts of the greater 160,360-acre Mangatū block, and to enable the payment of survey costs, the block was divided into six parts .... Mangatū 1 of 100,000 acres was awarded to a group comprising members of Ngāti Wāhia and ‘Ngariki’ represented by Wi Pere. The Ngariki section included the descendants of Rawiri Tamanui, the chief of Ngā Ariki Kaipūtahi.

**111.** At para 1473:

In the opinion of the Court,

*... the land originally belonged to Ngariki and ... they were completely broken as a tribe in the time of Ihu and his sons and again by Te Whiwhi Grandfather or Waaka Mahuika, and that since then, though they continued to dwell on the land they can only have done so in subjection of the conquerors.*

**112.** At para 1475:

*Mangatū No 2 of 11,000 acres, was located on the eastern side of the parent block adjacent to the Waipawa (Waipāoa) block, which it was heard in conjunction with. Title to these blocks was awarded to Ngāi Tamatea hapū of Te Aitanga a Māhaki after an uncontested hearing. Mangatū No 3 was a sliver of land to the south-east of Mangatū 1 and was awarded to the hapū Whakauaki without contest. Mangatū No 4 of 6,000 acres, commonly referred to as the Te Whānau a Taupara block, was awarded to a group represented by the chief Wi Mahuika, the main counterclaimant to Wi Pere. The latter had set aside the 20,000-acre Mangatū 5 block to cover the survey costs of all the blocks.*

**Hokimate Matchitt**

**113.** The McBurney report records at **para 1558**:

... In an affidavit prepared for the Wai 1750 inquiry, Hokimate Matchitt speaks to her whakapapa, as follows:

*My grandmother was Erena Matekino Whakamiha. She was one of the biggest land shareholders in the Mangatu blocks and Waipaoa blocks. My nanny Erena was the wife of Koopu Erueti. She carried her own distinct chiefly whakapapa in her own right. Erena was also [off] Upokorehe- Whakatohea and Tuhoe descent. Koopu Erueti his whakapapa includes Te Whakatohea, Te Whanau a Apanui, Ngati Porou, Ngati Kahungunu and Te Aitanga a Mahaki.*

**114.** At para 1559:

Mrs Matchitt's account continues:

*My mother was Eileen Mauri Koopu (nee Biddle). She was Tuhoe and Whakatohea. I was brought up down in Maraenui. My mum and her family had more relatives down the East Coast than my father did. My mum had also lived with her family in Whatātutu that's in the back of Mangatu and Waipaoa Forest block areas. When you look where Whatātutu is they had a long distance to travel. They took the Old Motu Road, it was tracks; it took several days to travel these tracks.*

**115.** At para 1561:

*Through the union of Koopu Erueti and Erena Matekino Whakamiha they became big shareholders in the Mangatu blocks, the Waipaoa blocks which adjoins the Whatātutu lands.*

**116.** At para 1564:

Hoki Matchitt states that her rights in the Waipāoa block are through her whanaungatanga with the Rānapia whānau:

*The Waipaoa blocks are full of my whanau, my whanaunga. The original shareholders list has listed out Ranapia whanau. The Ranapias are part of my whakapapa. The Ranapias are part of my late husband Frank's whakapapa. Matiu Ranapia is a shareholder in Waipaoa. He is also a shareholder in Opape No 1A No 18. That block is one of the reservation blocks and Matiu is the same Ranapia named in Waipaoa.*

**117.** The claimant repeats paragraph 8 of the seventh amended statement of claim., which stated:

**118.** The claimant repeats paragraph 10 of the seventh amended statement of claim.

**119.** The claimant seeks the following relief:

- a) That the Tribunal urgently commission a discrete historical inquiry for Wai 87 claim into Te Whakatōhea customary use rights and interests in Waipāoa Blocks 5, 1A1, 1A2, and 2, all those Waipāoa blocks currently administered by Crown Forest Lands including any customary use rights and interests Whakatōhea had overlapping in



Mangatū Blocks 1-6 and in Mātāwai reservation blocks and to Ormond in Tūranganui-a-Kiwa as made out in the seventh amended statement of claim;

- b)** A finding that the claim is well founded.
- c)** A finding that the customary use rights and interests of Whakatōhea have been inquired into and found that Whakatōhea hapū indeed have a customary right to the Crown Forest lands in Waipāoa lands in the East Coast Inquiry District.
- d)** That the Whakatōhea Wai 87 claim be heard before the Waitangi Tribunal as the only pathway to attain a well-founded claim for the purposes of s 8HB on matters stated within the seventh amended statement of claim.
- e)** Whakatōhea Wai 87 Waipāoa and Mangatū blocks being blocks outside the boundaries set by the Waitangi Tribunal Whakatōhea District Inquiry Wai 1750 may be held either as:
  - i.** discrete inquiry for Wai 87 Waipāoa and Mangatū blocks.
  - ii.** Waipāoa and Mangatū blocks heard inside the Wai 1750 Whakatōhea Historical Inquiry.
  - iii.** Waipāoa and Mangatū blocks discrete but parallel to Wai 1750 Whakatōhea Historical Inquiry.
- f)** Wai 87 claimants prefer option c)

**120.** Any further recommendation the Tribunal may deem appropriate.

**121.** Whakatōhea have not had an opportunity to be heard concerning claims in the Mangatū and Waipāoa blocks and are prejudiced as a result of the loss of land in the resumption area.

**122.** Leave is reserved for additional matters to be added to Wai 87 claim in the future as reports and or other information becomes available.

Dated this **30 day** of **April 2024**



**Tony Sinclair**  
Counsel for claimant



**Brett Cunningham**  
Counsel for claimant

