WAI 1750 – NORTH-EASTERN BAY OF PLENTY DISTRICT INQUIRY

HEARING WEEK 7

HELD AT ŌMARUMUTU MARAE, TOATOA

MONDAY 23 FEBRUARY 2026 - FRIDAY 27 FEBRUARY 2026

Tribunal:	Judge Michael Doogan Dr Robyn Anderson Professor Tom Roa Prue Kapua Basil Morrison Dr Grant Phillipson (via AVL)
Crown Counsel:	Craig Linkhorn KC Daniel Hunt Kura Moeahu
Claimant Counsel:	Karen Feint KC Hannah Swedlund Meg Lamont-Russell Alice Madsen Annette Sykes Matthew Kennelly Tania Te Whenua Carmen Mataira Michael Sharp Jack Potaka Tatijana Simon-Larsen Raewyn Clark Caitlin Fellowes Dr Season-Mary Downs Eve Rongo Kalei Delamere-Ririnui
Interpreter:	Paiheke McGarvey
Witnesses:	**Day 1 - 23 February 2026** Dr Te Riaki Amoamo Te Aroha Rutherford Soraya Parkinson **Day 2 - 24 February 2026** Suzanne Woodley

Day 3 - 25 February 2026
Dr Andrew Brown
Lynda Walter
Jonnina Temple
Linda Grave

Day 4 - 26 February 2026
Sharon Campbell
Mihiterina Williams
Hohepa Hei

Day 5 - 27 February 2026
Dr Te Riaki Amoamo
Mereaira Hata

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HEARING COMMENCED ON MONDAY 23 FEBRUARY 2026 AT 9.01 AM

KARAKIA TĪMATANGA (DR TE RIAKI AMOAMO)

(09:05) DR TE RIAKI AMOAMO: (MIHI)

Nō reira, whakatau mai e Te Rōpū Tiriti o Waitangi i runga i Ōmarumutu i tēnei rā, whakatau mai te whakaminenga, whakatau mai, whakatau mai. **Greetings to the Waitangi Tribunal to Ōmarumutu. Greetings, greetings, greetings.** Whakatau mai te āhuatanga o ngā mate mai te haukāinga ki a koutou kua tau mai ki runga i tēnei o mātou marae, e kore e warewaretia te hunga kua rūpeke atu ki te pō. Ka pari ko te tai moana, ka timu ko te tai tangata, e timu ana te tai tangata i runga i te tai timu roa, te tai opeope tangata ki te pō. Nō reira ko koutou ki te pō, ko mātou āpōpō, takoto, moe mai, okioki **rest, rest in peace**.

Ki te kaupapa i whakahuihuitia nei tātou i runga i tēnei o tātou marae whakatau mai ngā waewae tapu. Whakatau mai Te Rōpū Whakamana Te Tiriti o Waitangi, e te tumuaki, e te Tiati tō rōpū kua tau mai ki Ōmarumutu nei i roto i te tupuna whare a Tūtāmure kua tukituki te manawa o Tūtāmure i tēnei rā. Nō reira kai konei te mihi, te whakatau e ngā mana, e ngā reo, e ngā mātāwaka kua tau mai ki Ōmarumutu i roto i tēnei o ngā hapū o Te Whakatōhea a Ngāti Ruatakenga i tēnei rā. **To the matter that brought us together today to acknowledge those newcomers, to the Waitangi Tribunal, the presiding officer the Judge and your party that have arrived here in Ōmarumutu and the heart of Tūtāmure is beating on this day. To the voices, to the authorities, to the people who have come to this hapū of Te Whakatōhea and to Ngāti Ruatakenga on this day.**

Nō reira kai konei te whakatau, te whakamihi ki ngā waewae tapu kua tau mai. I rongo ake i haramai tētahi o ngā waewae tapu, nō reira whakatau mai, whakatau mai ki Aotearoa nei. Nō reira, kai konei ngā whakatau o te haukāinga ki a koutou, nō reira tēnei te mihi whakatau ki a koutou i tēnei rā. Nō reira, tēnā koutou, tēnā koutou, tēnā tātou katoa. **I stand to acknowledge and greet you. I heard the newcomers came greetings, greetings, greetings to Aotearoa New Zealand. On behalf of the home people we want to**

acknowledge you, greet you and so I formally greet you today. Thank you, thank you, thank you one and all.

WAIATA KOROUA (TĒRĀ TE AHI TE KĀ MAI)

(09:09) PROFESSOR TOM ROA: (MIHI)

E tapatapa tū ki te rangi, whakaeaea kau ana. Kei runga i te kotipū, kei raro i te koti-hono ki konā koutou mihi mai ai, tangi mai ai, ka mau te hono. Whiti tua, whiti rere, whiti arorangi, te rangi e tū iho nei, te papa e takoto nei. Tātou e pai nei, e koro Te Riaki, me pēnei pea te kōrero, ehara Te Rōpū Whakamana i te Tiriti te waewae tapu ki runga ki tēnei o tātou pā, ngā whakakanohitanga o te Karauna ehara i te waewae tapu ki runga ki tō tātou pā, nō reira whakatau mai, whakatau mai, mihi mai. Mihi mai i roto i ngā āhuatanga katoa o te wā tēnei ia te huinga tuatahi o te tau. Ko te 2025 kua poroporoakitia ōna mate, ōna piki, ōna heke, haere rā. Heoi anō tēnei tau te tau 2026, e koro mā tauhou me ngehe te tau, me ariki te tau kia tau pai te tau, heoti rā, ngā mahi e mahia nei e tātou i roto i tēnei wiki te whakarongo ki ngā nawe engari te whakarongo ki ngā hiahia mō āpōpō. Nō reira karanga mai, mihi mai. **(It's a tauparapara incantation) To you the elder Te Riaki may I say it like this, the Waitangi Tribunal are not newcomers to these grounds, the Crown representatives are not new to these grounds and so greet us, greet us and welcome us. Welcome us in the current circumstances where this is our first hearing of this year. We've already bid farewell to 2025 with all of its ups and downs, all the dead who have passed on we bid them farewell. In this year 2026 to the elders a new year and it must be a great year, a settled year so all of the things that we're doing this week to hear the grievances but also to hear the desires for the future. And so call upon us and welcome us.**

Kāre e kūmea kia roa tēnei mihi. A, nō roto o Te Rōpū Whakamana i te Tiriti kotahi noa te waewae tapu. Tā mātou kōtiro nō roto o Te Tairāwhiti tētehi waewae, nō roto i āu i a Tainui waka tētehi waewae. Heoi anō rā, ki reira ko taua mihi anō ki a koe e koro me te ātaahua i wō kupu whakatau i te wairua, whakatau i te tinana, whakatau i te hinengaro heoti rā te whakaaro ki te

whakaeanga, te whakatūtukitanga wēnei tūāhuatanga kei runga kei a koutou, kei a tātou. Nō reira, mihi mai, karanga mai, huri noa tō tātou whare tae atu ana ki ngā rōia ngā māngai o Ngāti Rua, Te Whakatōhea huri noa tō tātou whare, tēnā koutou, tēnā koutou, tēnā huihui tātou katoa. **I won't prolong these acknowledgements but on behalf of the Waitangi Tribunal within us there's only one newcomer here. That is our young woman from the East Coast and also belongs to Tainui as well. And so here I want to acknowledge you once again elder and how beautiful your words were settling our spirits, our bodies, and our minds and also accomplishing those things that are before you and before all of us. And so welcome us, call upon us, and so to everyone in our house including the lawyers, the representatives of Ngāti Rua and of Te Whakatōhea to everyone in our house thank you, thank you, thank you everyone gathered.**

WAIATA TAUTOKO (E PĀ TŌ HAU)

(09:15) KURA MOEAHU: (MIHI)

Ara kia whiti mai te rā karohi korimako kei konei te ata, karohi korimako ka rere a Tāne, karohi korimako kia whiti te rā. Kia whiti te rā e tangurunguru mai ana ki runga i te mata o te whenua kei raro i te parirau o tō maunga tapu kei tāku matua. E te pāpā Te Riaki he matua te mana, ko koe tērā tēnei ka mihi rawa atu rā i huakina atu rā ara tēnei hui tātou e tae mai i hoki mai ki waenga ki koutou, ki waenga ki koutou e kui mā, e koro mā e whakairi mai rā ki runga i te pakitara o te whare, koutou e te āhua ūhia mai ara e te kapua ūranga, ara me o rātou kōrero. Kei te tangi tonu atu rā tō tātou mate, kei te tangi tonu atu rā ki te whakairiiri mai rā ki roto i te kupenga wairua o rātou, arā, koutou kei ngā puni o te ao wahangū, arā huri atu pō, nau mai te ao. **This is an old karakia. As the sun shines, the sun shines upon the face of the land under your mountain elder. To you senior elder Te Riaki, I stand to acknowledge you and thank you for opening this gathering for all of us who have returned amongst you, amongst you elders those hanging on the walls of this house, those of you from the world that have passed on. I also want to bind together our dead, bind together those who have been captured within the spiritual net, those who have passed, and those whose voices**

have been silenced, you have turned to the world of darkness, we come back to the world of light.

E Ngāti Rua tēnā koutou, tēnā koutou i whātoro atu rā i ō koutou tatau o tēnei whare arā mō tātou, mō tātou, arā e Te Rōpū Whakamana i te Tiriti o Waitangi, kei te Kaiwhakawā, kei ngā mema, koutou ngā ringaringa, ngā waewae tēnā koutou. Tēnei mātou o te Karauna ka nukunuku, ka nekeneke, ka nekeneke, ka nukunuku ki koutou. Kāre i te kūmea roa tēnei, arā kua hoki mai mātou ki te āta whakarongo. Kei te tika tō tātou pāpā ki te whakarongo atu rā ki o koutou nawe, arā ki o koutou moemoeā mō te hunga o ngā mokopuna. Nō reira e moko, haramai ki te rekereke o tō tau eke nei kia whakarongo atu rā ki ōna kōrero, nā te pāpā i poipoi atu rā i a koe e kawe atu ōna moemoeā, ōna wawata. Nō reira, arā, kei te rūhā kei pāpā tēnā koe, Ngāti Rua, koutou ngā rōia, arā, tēnā koutou, tēnā koutou, tēnā tātou katoa. **To Ngāti Rua greetings, greetings to you who have extended and opened the doors of this house to us, to us and to the Waitangi Tribunal, to the Judge and to the members and to the staff greetings. We from the Crown move and act and move and act. I don't want to prolong my stand but we have returned to listen carefully. Our elder was right, we are here to listen to your grievances and to your dreams for the grandchildren. To the grandchildren come to the feet of your elder so that you can hear what he has to say and that elder will nurture you and convey his aspirations and dreams. And so to the esteemed elder thank you, to Ngāti Rua, the lawyers greetings, thank you, thank you one and all.**

WAIATA TAUTOKO (EHARA I TE MEA)

(09:19) JUDGE MICHAEL DOOGAN: (MIHI)

Mōrena tātou. Ko Kaiwhakawā Doogan ahau. Me kī, kei te tino harikoa mātou ki te hoki mai ki konei i waenganui i a mātou Ngāti Ruatakenga tae atu hoki Whakatōhea, ngā hapū. E tautoko ana ahau ngā mihi kua mihia me ngā whakaaro a matua Tame Roa, Ahorangi Roa, ehara mātou i a waewae tapu ki konei, nō reira, he mihi nui ki a koutou. E koro Te Riaki tēnā koe. Nōku te hōnore kei te tū or kei te noho ki te taha i tēnei rōpū mātanga. **Good morning**

everyone. I am Judge Doogan. We are very happy to return here amongst Ngāti Ruatakenga, Te Whakatōhea, the hapū. I endorse the acknowledgements made and the sentiments of Professor Tom Roa. That we are not newcomers here, and so, I want to thank you very much. To you elder, Te Riaki, thank you. It is my honour to sit alongside this panel of experts.

First, I just wanted to introduce the Tribunal panel that I have the privilege to sit with. On my immediate left Ahorangi Professor Tom Roa. And while I'm introducing Professor Roa, I just also wanted to acknowledge his award of the Companion of the New Zealand Order of Merit in the New Year's honours. Tēnā koe Tom. If I may say, a long overdue recognition of Professor Roa's mahi. The award was for services to education and te reo and I should add it should also be for services to this Tribunal as well for Professor Roa has given tremendous service to the Tribunal on a number of panels and in some very difficult inquiries over a number of years. Ka nui te mihi ki a koe Ahorangi Roa. Dr Robyn Anderson one of our historian members next over and then Mr Basil Morrison at the end of the table. I have got to stop saying the far left and the far right because in these sensitive times my panel don't like my labelling of the politics. But Mr Morrison has extensive experience, as you all know, in local government and various leadership roles over many years. To my right, Ms Prue Kapua who will be well-known to many not only for her legal work but for her long-standing mahi with the Māori Women's Welfare League among many other pōtae. Dr Grant Phillipson this week is joining us from Wellington, online. Mōrena Grant. Dr Phillipson is the other historian member on the panel.

I know this is not particularly ordinary order of introducing our hearing week, but I cannot go past also acknowledging Jack tēnā koe and our mihi for your birthday which I think was either just yesterday or the day before. Jack, we are very grateful for the very skilful way Jack ushered us around the Motu Road and many very remote areas in the site visits, I think, nearly two years ago. Yes, I didn't believe it was possible to get a van in some of those places so tēnā koe Jack, ka mihi.

HOUSEKEEPING (MEREAIRA HATA)

(09:26) MS KAREN FEINT KC: (MIHI, APPEARANCE)

E rau rangatira mā tēnā koutou katoa. E te whare e tū nei ko Tūtāmure tēnā koe. Ki a koe matua Te Riaki kua whakatūwhera tō tātou hui i te karakia tēnā koe. Tēnei te mihi atu ki te haukainga ngā uri o Ngāti Ruatakenga kua huihui mai nei ki te tautoko tēnei kaupapa whakahirahira e kui mā, e koro mā tēnā koutou. Tēnā hoki koutou e te Karauna. Huri noa i te tēpu tēnā koutou e ngā rangatira o Te Rōpū Whakamana i Te Tiriti o Waitangi. Ki a koe e te whetu matua Tame tēnā koe. Ka tū māua ko Karen Feint, ko Jack Potaka hei māngai rōia mō Ngāti Ruatakenga. Tēnā rā tātou katoa. **To the assembled leaders greetings. To the house standing Tūtāmure I acknowledge you. To you elder, Te Riaki, who opened our gathering with karakia thank you. I want to also thank the local people, the descendants of people of Ngāti Ruatakenga who have gathered in support of this most important matter to the elders thank you. I also want to acknowledge the Crown. To the panel, greetings to the leaders of the Waitangi Tribunal. To the star elder, Tame greetings. I Karen Feint and Jack Potaka counsel for Ngāti Ruatakenga. Thank you all.**

Greetings Judge and good morning everyone. My name is Karen Feint and I'm appearing with Jack Potaka as the lawyers for Ngāti Rua. And we have also got a special guest with us, Melanie Mills. Melanie is a British barrister who practices in London and she's with Thorndon Chambers on an exchange as a Pegasus scholar. I said to her she should certainly come to a Waitangi Tribunal hearing because it will be something quite unique that you have never seen before.

MS FEINT KC ADDRESSES JUDGE DOOGAN – LEAVE GRANTED, MIHI, ACKNOWLEDGEMENT (09:28:27)

(09:28) MS HANNAH SWEDLUND: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, anō hoki ki a koutou ngā mema o Te Rōpū Whakamana i te Tiriti o Waitangi. **May it please, your Honour, and**

the members of the Waitangi Tribunal. Ko Ms Swedlund ahau **I am Ms Swedlund** and I am joined by Mr Lyall online who will be appearing intermittently throughout the week. Ka tū nei ahau mō **I appear for** Wai 1092 the Te Ūpokorehe iwi claim, Wai 1787 the Rongopopoia hapū claim, and Wai 3272 the Ūpokorehe settlement claim. Tēnā koe, tēnā koutou **thank you all**.

(09:29) MS MEG LAMONT-RUSSELL: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā tēnā e Te Rōpū Whakamana i te Tiriti o Waitangi. **May it please, your Honour and greetings to the Waitangi Tribunal.** May it please the Tribunal, counsel's name is Ms Lamont-Russel. I am joined today by my senior Ms Rongo. We appear for Wai 78, a claim brought on behalf of Ngāi Tai. Kia ora **thank you**.

(09:30) MS ALICE MADSEN: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā Te Rōpū Whakamana i te Tiriti o Waitangi tēnā koutou katoa. Ko Ms Madsen ahau nō te tari o Wackrow Panoho and Associates. **Greetings your Honour and the Waitangi Tribunal greetings all. I am Ms Madsen from Wackrow Panoho and Associates.** We appear on behalf of 1781 Ngāi Tamahaua hapū. The named claimants are Tracy Hillier and the late Rita Wordsworth, Wai 1895 Mr Tāwhirimatea Williams for and on behalf of himself and his hapū, and the hapū of Ngāti Ruatakenga, Wai 203 Te Whānau a Mokomoko, Wai 1827 Tania and Rachel Wolfgramm the descendants of Te Rangihaerepō, and Wai 1920 Tania and Rachel Wolfgramm an economic development claim.

Ms Clarke is unable to attend in-person today and will be in attendance in-person tomorrow and Wednesday, Sir. With your leave, I will leave the Zoom at the next break and attend via livestream for the remainder of the day.

JUDGE DOOGAN ADDRESSES MS MADSEN – LEAVE GRANTED (09:31:17)

(09:31) MS ANNETTE SYKES: (MIHI, APPEARANCE)

Mōrena e te Kaiwhakawā, koutou o te pānara i noho mai nei kei Te Whakatōhea. Aroha mai i tae mai tūreiti mai i te ata nei. Ka huri au ki tērā o ngā reo. **Good morning your Honour and the panel who are in Whakatōhea. Apologies I arrived late. I will speak in English.**

May it please the Tribunal, Ms Delamere's father has been admitted to hospital. Therefore, on that basis, she will not be appearing today, Tuesday, and Friday, but she will be appearing on Wednesday and Thursday as she is scheduled to lead the main witnesses. This information has just been conveyed to me. I'm actually in an Environment Court hearing today and tomorrow so I am unavailable but Mr Potaka from our office is who I will now hand to, or let you know who we are appearing for this week. I apologise for our tardiness, Sir, but it has just been a morning of trying to organise substitution in light of the personal matters relating to Ms Delamere at this time. Kia ora.

JUDGE DOOGAN ADDRESSES MS SYKES – MIHI, ACKNOWLEDGEMENT (09:32:26)

(09:32) MR MATTHEW KENNELLY: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā tēnā koutou e Te Rōpū Whakamana i te Tiriti o Waitangi. **May it please, your Honour, and greetings to the Waitangi Tribunal.** Counsel's name is Kennelly. We appear on behalf of two claims, Wai 2066 a claim by Takaparae Papuni and Wai 1789 a claim on behalf of Bella Savage. Your Honour, we don't have an active role in this week's hearing so we also seek leave to watch via livestream during the next break.

JUDGE DOOGAN ADDRESSES MR KENNELLY – LEAVE GRANTED (09:33:28)

(09:33) MS TANIA TE WHENUA: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā huri noa tō pae rangatira, ki te whare ngā haukainga kei te mihi atu au ki a koutou, aku hoa rōia me te Karauna. Ko Te Whenua

tēnei, kei te noho mai hei rōia mō Wai 1511 koirā te kerēme o Ngāi Tamatea ki Waiotahe. **May it please, your Honour, the esteemed panel, the house, the local people greetings to you all and my fellow counsel and the Crown. Te Whenua speaking, appearing on behalf of Wai 1511 the claim of Ngāi Tamatea at Waiotahe.**

Sir, I am not playing an active role in the hearing, other than we have sought leave to cross-examine our technical witnesses. On that basis, if I may be granted leave to join by livestream, atu i te wā te patapātaingia ngā kaikōrero **aside from when I ask questions**.

JUDGE DOOGAN ADDRESSES MS TE WHENUA – LEAVE GRANTED (09:34:21)

JUDGE DOOGAN ADDRESSES MR BRYCE LYALL – APPEARANCE (09:34:31)

JUDGE DOOGAN ADDRESSES ALL COUNSEL – FORWARD HEARING PROGRAMME, TIMETABLE UPDATE (09:34:46)

(09:35) MR CRAIG LINKHORN KC: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā. E Te Rōpū Whakamana i te Tiriti o Waitangi tēnā koutou. Ka huri au tēnā koutou, tēnā tātou. Kei konei mātou mō te Karauna. Ko Craig Linkhorn ahau, ko Daniel Hunt, ko Kura Moeahu. **Thank you, your Honour. To the Waitangi Tribunal, greetings to you. To everyone greetings. We are here appearing on behalf of the Crown. I am Craig Linkhorn with Daniel Hunt and Kura Moeahu.** Just to very briefly enter an appearance, your Honour, Craig Linkhorn with Daniel Hunt as lawyers for the Crown and we are accompanied by Mr Moeahu. Kia ora. Thank you.

JUDGE DOOGAN ADDRESSES TE MINENGA – TIMETABLE UPDATE (09:36:26)

MS FEINT KC ADDRESSES JUDGE DOOGAN – MICROBREAK (09:37:52)

HEARING ADJOURNS: 9.38 AM

HEARING RESUMES: 9.43 AM

(09:43) MS FEINT KC: (#3.3.039)

Tēnā rā tātou **greetings all**. It is my honour and privilege to present the opening submissions for Wai 1782 which is the hapū claim for Ngāti Ruatakenga.

I do apologise for overlooking bringing hard copies of the submissions. I know I said I would but in accordance with my usual chaotic approach to life somehow Jack and I each thought the other was bringing them and neither of us did.

REFERS TO #3.3.039

The Wai 1782 claim is brought by the claimants Dr Te Riaki Amoamo as pou tikanga for Ngāti Rua and Mereaira Hata who is the secretary of Ōmarumutu Marae. They have been authorised to represent the hapū by resolution passed at a hui ā-hapū on 23 June 2019. When she gives evidence Mereaira will sort of give their background to how the claim came about. It started with support from matua Te Riaki but also Babette Papuni-Turetahi, who is a kuia of Ngāti Rua, and Danny Paruru, who was at that time the chair of the marae.

The claim is a comprehensive one, but there can be no doubt that the singular catastrophic event in Whakatōhea history is Te Rau o te Patu (or the blade of the weapon) – the confiscation of most of Ngāti Rua's customary land, which resulted in landlessness, impoverishment, and the undermining of the mana and rangatiratanga of Ngāti Ruatakenga.

That is something that is common to all of Whakatōhea of course. But the unique aspect of the Ngāti Rua claim relates to the Ōpape 'reservation', as matua Te Riaki calls it, the fact that all the hapū were forcibly relocated on to Ōpape Reserve. And that, of course, is the customary rohe of Ngāti Rua, meaning that Ngāti Rua not only lost their land, they had their customary title

extinguished by the raupatu, but they were required to extend their manaakitanga to their whanaunga who were allocated reserves at Ōpape and some of whom relocated permanently.

(09:46) JUDGE DOOGAN TO MS FEINT KC:

Q. Ms Feint, I'm sorry to interrupt, but it just might be convenient to just raise one question now –

A. Of course.

Q. – and it maybe something that the witness to come can expand on. But I just wanted to be clear whether the Ngāti Rua claim is that the entirety of the Ōpape Reservation as established encompasses or is part of Ngāti Rua customary lands. So that is just a point that I would appreciate-

A. Yes, that is correct. And matua Te Riaki will be speaking about that after the morning break.

Q. Thank you.

(09:47) MS FEINT KC: (CONTINUES)

CONTINUES #3.3.039 FROM PARAGRAPH 3

Ngāti Rua say that there has been a lasting legacy resulting from this upending of the customary landscape. It has been a revision of traditions and resulted in other hapū establishing themselves here permanently because this is the only land that they have still got and so that is going to be a big theme of the tangata whenua evidence that you will hear this week.

I turn now to the ***Crown acknowledgements***

Just to explain how I am going to approach these submissions, because I apprehend the Tribunal has not seen them, I will stick fairly closely to the script so that I don't confuse you. And when I drafted these submissions, I wondered what the best approach was, and what I settled on is to look at where we are now in terms of what the Crown has acknowledged to be breaches of Te Tiriti o Waitangi through the Whakatōhea historical Treaty claims settlement and then looking at what is still to be covered in terms of what they haven't

acknowledged to be Treaty breaches and also what we think is valuable for the Tribunal to specifically focus on in its report. So I will come on to those aspects but first cover what the Crown has acknowledged to be a breach of te Tiriti.

Of course, the North-Eastern Bay of Plenty inquiry is in the unusual position of taking place after the historical Treaty settlement has been entered into. That's something the Ngāti Rua claimants would have preferred not to have happened. They would have preferred to have had the Tribunal inquiry take place before the settlement but, nonetheless, we are where we are. The Crown has made quite lengthy concessions in this settlement which, I say, is necessary given the indefensibility of the Crown's actions. If we concentrate purely on what they have said in the Crown acknowledgements are concessions of Treaty breach, the Crown's formal acknowledgements concede that the following actions or omissions were breaches of Te Tiriti o Waitangi. I will just read these out in full to remind the Tribunal of the magnitude of the Treaty breaches:

(a) The killing of Ngāti Rua rangatira Te Āporotanga while he was held prisoner in the custody of Crown forces after the battle of Te Kaokaoroa in April 1864. Āporotanga is up on the wall there behind matua Te Riaki and Mereaira.

(b) Sending Crown forces to attack Ōpōtiki in September 1865 without sufficient prior warning or explanation, and without justification, which resulted in the loss of Whakatōhea lives.

(c) The Crown forces' occupation of Ōpōtiki in 1865, and the reckless disregard shown for Whakatōhea through the use of scorched earth tactics (and that's the expression that the Crown use in their acknowledgements, they concede they were scorched earth tactics) that included extensive looting, killing of livestock, and destruction of property, including ships. I don't know if the Tribunal recalls but one of the Ngāti Rua rangatira who signed the Treaty, Te Rangimātānuku, had a ship that was destroyed at this time.

(d) The Crown forces' occupation in 1870 during the pursuit of Te Kooti, and again the use of scorched earth tactics which resulted in the loss of life, extensive looting, and destruction of houses, crops, and livestock at Ōpōtiki and Ōpape.

(e) The confirmation of the 'old land claim' at Pākihi as a fair purchase.

(f) Unfairly labelling Whakatōhea as rebels and confiscating their land, taonga, and other resources under the New Zealand Settlements Act 1863, which had a profoundly harmful impact on the welfare, economy and developments of Whakatōhea and devastated their mana and mauri.

(g) The confiscation of customary title over a wider area of land and the subsequent retention of a significant proportion of the land in which Whakatōhea had interests, which was unjust and unconscionable. Again, these words are all direct quotes so the Crown concedes the confiscation was both unjust and unconscionable.

(h) Inadequacies in the Compensation Court process which was the process by which land was returned at Ōpape and other places for Whakatōhea.

(i) The operation of the Native Land laws, including the conversion of customary tenure into individualised title, the costs and operation of the Native Land Court (and those costs included the survey costs that were born by the hapū) in which resulted in a quarter of the 28,825-acre Ōamaru block being taken just for survey costs.

(j) Acquiring Whakapaupākihi land under the Public Works Act for the quarry, which caused great prejudice to the owners, who were already enduring economic hardship.

(k) The cumulative effect of the Crown's Treaty breaches which has left Whakatōhea virtually landless, with insufficient land for their present and

future needs, and this has hindered their economic, social, and cultural development.

(l) The Crown concedes that the failure to actively protect te reo Māori by strongly discouraging its use was a breach of the Treaty.

The Crown has also acknowledged, without admitting a breach of the Treaty, that it compounded the impact of the raupatu by requiring Whakatōhea hapū to move to the Ōpape Native Reserve, which was established on traditional lands of Ngāti Rua which have been included in the confiscation, and which contributed to tensions between the hapū as they competed for limited resources.

And then finally, in its formal apology, the Crown apologises for betraying the trust of Whakatōhea, whose seven rangatira signed Te Tiriti o Waitangi on the 27th and 28th of May 1840 at Ōpōtiki, and that included the Ngāti Rua rangatira, Te Āporotanga and Rangimātānuku. The Tribunal will recall their signatures are on the banners as you come into the wharenui here. The Crown in its apology also paid tribute to the resilience of ngā uri o Te Whakatōhea, and again the resilience of Ngāti Rua is a theme of this week and comes through strongly in the tangata whenua evidence.

Turning to this Tribunal inquiry, of course, the Tribunal will be aware that the Claims Settlement Act finally settles the historical claims but reserves your jurisdiction to complete your inquiry and release a report that 'makes any findings in relation to the historical claims' but excludes your jurisdiction 'to make recommendations for those historical claims'.

Now, in the Mandate Inquiry, matua Te Riaki gave evidence saying that he opposed the settlement taking place at the time it did, because he thought the most important part of this whole exercise is to ensure that the history of Ngāti Rua and its relationship with the Crown is properly recorded for posterity. As a historian himself, he is strongly of the view that recording the history is a

valuable exercise in its own right and has value, and that the Tribunal's report will be a taonga tuku iho for Ngāti Rua and the other hapū of Whakatōhea.

We say, in addition to that, the Waitangi Tribunal can add particular value in three key respects:

(a) First, by producing *comprehensive* findings on the Crown's breaches of te Tiriti and, in particular, those issues that have *not* been the subject of Crown acknowledgements in the historical Treaty settlement. Because, although those acknowledgements are lengthy, they are not comprehensive. There are still other issues in the Ngāti Rua, Wai 1782 statement of claim that need to be inquired into, and I will come to that shortly.

(b) Secondly, we say the Tribunal can legitimately consider the lawfulness of the Crown's raupatu.

(c) Thirdly, by making findings and recommendations in relation to contemporary breaches of te Tiriti; that is, those that post-date 21 September 1992. And that will be another theme of the tangata whenua evidence this week. Because, notwithstanding the historical settlement, there are still significant issues that Ngāti Rua face. We are hoping that the Tribunal's recommendations can facilitate a further settlement with the Crown that will enable some of these contemporary grievances to be addressed.

If I take each of those three topics in turn: "First, comprehensive findings on the Treaty breaches," of course, the Settlement Act does not preclude the Tribunal from making findings as to historical Treaty breaches, even though you can't make recommendations. We say, it is important for the sake of the Treaty relationship and the mana of Ngāti Rua that comprehensive findings are made.

I reviewed the Wai 1782 statement of claim and came up with a list of claims that have not yet been the subject of Crown concessions in which, we say, therefore, will need to be subject to the findings from the Tribunal:

(a) The first claim is the overarching claim of the failure to respect the mana and tino rangatiratanga of Ngāti Rua, and to recognise the tikanga in Te Whakatōhea of mana ā-hapū. And that's a particular issue in relation to the settlement because it's of course in accordance with the Crown's large natural grouping policy an iwi settlement not a hapū one.

(b) Secondly, compounding the impact of the raupatu by allocating Ngāti Rua's customary lands to all six hapū, thereby compromising tikanga and undermining the relationships between the hapū. You will recall, I said the Crown has acknowledged that that compounded the impact of the raupatu but it doesn't appear to be a specific concession of Treaty breach.

(c) Thirdly, the failure to ensure that Ngāti Rua retained an adequate economic base, and failure to promote the economic development of Ngāti Rua. One of the Crown concessions goes someway in that regard by acknowledging that Ngāti Rua were left with an insufficient economic base because they were left almost landless but I think the need to promote the economic development of Ngāti Rua is a much broader topic.

(d) Fourth, providing a 'bush block' as part of the Ōpape Native Reserve and counting that as land available for the sustenance of the hapū, despite the fact that it was landlocked and too rugged to be economically productive. The Tribunal will recall from the takahi whenua that that land is completely unhabitable because it is so steep and bush covered. When the Crown says it returns however many thousands of acres the Ōpape Native Reserve was, they don't take into account that over half of that land was not economically productive. It is useless for those purposes and so the amount of land that was returned that is productive is far smaller and that goes to the prejudice suffered by Ngāti Rua.

(e) Fifth, the failure to protect the maunga tapu of Ngāti Rua, the wāhi tapu and sites of cultural significance. One of the anomalies of the Ōpape Native Reserve system was that Ngāti Rua's maunga tapu Mākeo is in the reserve granted to other hapū so Ngāti Rua no longer own it.

(f) Number of Public Works Takings, including the roads that were laid out on the Ōpape Reserve (before title was granted so effectively that amounts to an acquisition) and the Moutohora Quarry on the Whakapaupākihi No 2 block amongst other Public Works Takings.

(g) The suppression of mātauranga Māori and the outlawing of tohunga.

(h) The failure to provide adequate education, including the failure to remedy education inequities.

(i) Specific claims relating to Ōmarumutu Native School, in relation to both the land for the school. The first site was gifted but when it was no longer used for the school the Crown retained that land and then a second site was effectively acquired through a forced sale under the Public Works Act. Finally, the current principal of Ōmarumutu School is going to be appearing this week, Jonnina Temple. She is going to give evidence about the obstacles that she has faced in trying to set the kura up as a kura ā-iwi and the red tape that has made that effectively much harder than it needs to be.

(j) The failure to remedy health inequities and the failure to provide adequate health services, including kaupapa Māori models of care. Sharon Campbell is appearing this week and she has her own claim but I understand her evidence is going to focus on health issues.

(k) Environmental issues, including environmental degradation, the failure to mitigate the regular flooding of the Waiaua River, and the failure to recognise the kaitiakitanga of Ngāti Rua over the environment.

(l) Local government issues, including the practical disenfranchisement of Ngāti Rua from representation, imposing rates on Māori land; and discriminating against Ngāti Rua in the provision of services. You will hear this week that everyone in Ōmarumutu pays rates but they don't get council services here and they say that the council should be looking after Māori land as well as the land in the town.

(m) The failure to actively protect the relationship of Ngāti Rua with their rohe moana by undermining their ability to exercise tino rangatiratanga and kaitiakitanga over the takutai moana.

I suppose if I could sum up what all those claims mean, coming back to where I started, the overarching claim is the failure to recognise the tino rangatiratanga of Ngāti Rua and that really comes back to the ongoing failure of the Crown to recognise the place of tangata whenua in the constitution and the guarantee of tino rangatiratanga that, we say, constrains the kāwanatanga of the Crown. That is something we can come back to in closing submissions but it is interesting that the courts are starting to make tentative steps in recognising that the Treaty principles must include (as the Tribunal has long recognised) the terms of the Treaty itself and in particular Article II. The courts have for 30 years been talking about the Treaty principles but only just started to acknowledge that those Treaty principles include the Article II guarantee of tino rangatiratanga. We say that the next logical step is to then turn to consider what that means in terms of New Zealand's unwritten constitution and the failure to address that from a structural perspective in terms of having a clear legal framework which has left the courts to start to fill in the gaps.

(10:07) JUDGE DOOGAN TO MS FEINT KC:

Q. Ms Feint, again, just while we are on that topic just so I do not overlook when we come back to any pātai. But just on that point of the courts tentatively recognising that the actual terms of the Treaty or te Tiriti operate in addition to the principles. At a future point in closings or when legal submissions are being prepared, could you expand a little please on

the nature of that development. I ask simply because I recall that in the *Lands* case one of the judge's noted in a fairly short passage that the principles of the Treaty must include the terms of the Treaty, so there is a recognition right back then that that must be so. Although, I accept your point that the way that that is developed in the jurisprudence of the courts is not particularly clear. It would assist if you could expand a little in terms of how you see that jurisprudence evolving and in what respects. Thank you.

A. Yes, of course. Your Honour is right that was said in the *Lands* case but my submission is that what that means has not yet been unpacked. The Tribunal has addressed it, in particular in the Te Paparahi o Te Raki Inquiry and it logically must mean that Māori retained political authority of some sort. But it is not until the Trans-Tasman Resources case in the Supreme Court that the Supreme Court has mentioned the guarantee of tino rangatiratanga and intriguingly also in the Cabinet Manual actually which is authored by Sir Kenneth Keith in his introduction to the constitution; he questions whether there are constraints on the law-making abilities of the Crown. But it is something that hasn't been fully landed yet and I think that is where the jurisprudence needs next to go.

(10:09) MS FEINT KC: (CONTINUES)

CONTINUES #3.3.039 FROM PARAGRAPH 12

The next major topic I wanted to address is the **Lawfulness of Te Rau o te Patu** and I want to start by talking about why this is important.

In its acknowledgements, the Crown accepts that it was 'unfair' to label Whakatōhea as rebels, and it accepts that the confiscation was 'unjust and unconscionable', but it does not explicitly accept that its actions were unlawful.

Of course, the Waitangi Tribunal is a commission of inquiry, not a court, and its role is to determine whether the Crown has acted in breach of the principles of te Tiriti. You might say: "Well, why then do we need to examine the legality of

the Crown's actions?" Well, I submit that the lawfulness of the Crown's conduct is relevant to whether it has breached Treaty principles because it goes to the egregiousness of the Crown's behaviour. This is a topic that was addressed in the *Tūranga Tangata, Tūranga Whenua* report in relation to the Tūranganui-a-Kiwa Inquiry and the Tribunal summed up its report by focusing on the importance of three ideals in the Treaty: "*The rule of law, just and good government, the protection of Māori autonomy*." It concluded that the Crown had transgressed all three ideals through actions that were '*not just arbitrary or capricious*', but *'brutal, lawless, and manipulative and they were committed in the name of the Crown of New Zealand'*. The Tribunal concluded that if we are *'truly a country respectful of the rule of law, these matters must be acknowledged and put to right*'. In my submission, that is why it is also important for this Tribunal to address those matters.

I am going to come onto there is a recent decision of the Court of Appeal in *Minhinnick v Attorney-General,* which I say is wrong but in any event it is under appeal, which examines the legality of the New Zealand Settlements Act confiscations. The 1863 New Zealand Settlements Act was the Act used to confiscate Whakatōhea land. It empowered the Governor in Council to declare a district to be subject to the Act if he was 'satisfied that any Native Tribe or Section of a Tribe or any considerable number thereof' had, since 1 January 1863, been 'engaged in rebellion against Her Majesty's authority'. This would have the consequence that eligible sites for settlement could be set apart within that district for the purposes of colonisation. The idea was that settlers would be brought in to keep the peace.

The Waitangi Tribunal has examined the legality of confiscation in relation to the other raupatu districts (and in particular, Taranaki, Tauranga Moana, the Ngāti Awa report), and it has done so relying upon Professor Brookfield's seminal opinion that the Crown could not lawfully declare war inside its own dominions by attacking Māori and forcing them off their lands. In his opinion, Professor Brookfield concluded that Māori were not in rebellion if the Crown was the aggressor, since logically Māori were entitled to meet force with force, by applicable standards of *reasonableness* (namely, the right to act in

self-defence of you and your people) or *necessity* (the right to act in defence of your dwellings and property). Hence, confiscation would be unlawful if there was no evidence of rebellion; or the evidence showed that Māori were acting in self-defence or necessity; or where the number of Māori involved in allegedly rebellious conduct was too small to constitute a conceivable threat to national security or public peace (since these draconian powers should only be exercised where there is a threat to national security or public peace).

The Brookfield opinion has been adopted by all the Tribunal reports that have examined raupatu. The first Tribunal to do so is the Taranaki Tribunal which concluded that the 1863 Act was not unlawful, but the confiscations themselves were, because they were carried out without sufficient evidence of rebellion and without proper regard for the statutory purpose of achieving peace (which required placement of a sufficient number of settlers on the land in order to maintain peace), and so they concluded that more land was taken than the Act provided for. In other words, the Tribunal was saying because the 1863 Act was passed by parliament as a piece of legislation it is lawful but the application of it was not.

When the Ngāti Awa Tribunal considered the Eastern Bay of Plenty confiscation, it observed that the distinguishing feature was that there was not war in the district at the time that the Crown considered there was rebellion. I am not so sure about that because I think Waikato would say there was not war in the Waikato district until the Crown invaded and the same happened here but nonetheless, the timing of those events, I submit, is highly relevant. So when the Tribunal, in the Ngāti Awa report considered the Eastern Bay of Plenty confiscation, which of course is the same confiscation that took Whakatōhea's land, the four key points it reached in conclusion were as follows:

(a) The land was taken for 'rebellion'. However, the murder of Reverend Volkner is not rebellion but a crime, a crime of murder.

(b) The Crown could not have been taken for any alleged act of rebellion prior to 5 September 1865, since the proclamation of peace pardoned all prior acts of rebellion not already punished. The Tribunal is considering Ngāti Awa's actions in joining the Kīngitanga and the same would be true of Ngāti Rua at least they got as far as Kaokaoroa but they sent warriors in support of the Kīngitanga. But since that occurred prior to 5 September 1865 that cannot logically be the act of rebellion for which you are taking land under the 1863 Act.

(c) The land was confiscated under the 1863 Act for the purpose of installing military settlers in order to keep the peace, but in reality only a comparatively small part of the land taken was actually used for that purpose. So that's the same point the Taranaki Tribunal made that more land was taken than was needed to meet the statutory purposes.

(d) Confiscation was applied indiscriminately, since it included the land of hapū who were not involved in the acts complained of and included the lands of hapū who actually supported the government, in addition to the lands of hapū who were allegedly implicated in the rebellion. In other words, the Ngāti Awa Tribunal also concluded that the Act was applied unlawfully.

I turn now to the recent decision of the Court of Appeal in *Minhinnick,* which has upended the settled Tribunal jurisprudence somewhat. This decision came out at the end of last year and it concerned a challenge by Ngāti Te Ata to the legitimacy of the raupatu in Waikato. It is brought by, as I understand it, the sons of Nganeko Minhinnick. The Court of Appeal ruled that the Waikato confiscation was lawful, even though it was unfair and even though it is a 'dark reminder of New Zealand's colonial past'. The Court considered that the 1863 Act has to be interpreted in the context of the government's plans of confiscation, and the 'broadly cast' description of rebellion in the Act. The Court explicitly rejected the approach of the Waitangi Tribunal and cited the opinion of Professor Brookfield, which it also rejected, on the basis that the 1863 Act was clear in its meaning. The Court of Appeal held that:

> The Act makes no distinction between offence and defence; *it is directed to resisting the authority of the Crown*. On the face of it, the 'rebellion' appears to encompass what Māori may have considered to be self-defence, and perhaps even people who resisted the Crown's authority through means which were not violent, such as giving assistance or comfort to those who were carrying arms.

The Court of Appeal concluded that 'the statutory scheme makes it clear that any engagement in the Waikato War by Māori against the Crown was intended by Parliament to constitute rebellion'. In other words, acting in self-defence was in itself rebellion and that meant that the Crown was legally justified in confiscating the land.

Now, I say, it might be thought surprising that the Court's analysis of what constituted 'rebellion' turned on its conclusion that Parliament had already decided in passing the legislation that Waikato Māori were in rebellion and in their reasoning they cite what the Preamble says, it states that Māori had 'taken up arms' and are 'engaged in open rebellion against Her Majesty's authority'. The Court of Appeal went on to hold that:

> It is clear in accordance with our analysis above that when both the New Zealand Settlements Act and the Suppression of Rebellion Act were passed, it was the view of Parliament that there was a rebellion. It is a fact that there were hostilities in which armed Māori were ranged against the forces of the Crown. We think it would be unrealistic for this Court, over 160 years later, to conclude as a matter of law that there was no rebellion, contrary to what Parliament asserted.

I say, this reasoning appears, with respect, to sidestep the courts' constitutional role in interpreting and applying the law. To expand on that submission, I say, that it is fundamental to the rule of law that the courts apply legal standards in

determining the meaning of the legislation and it is sidestepping the courts role to say, because Parliament declared in the 1863 Act that Māori were in open rebellion that it necessarily follows that all Māori who took up arms against the Crown, even in self-defence, were rebels. In other words, I think the decision is wrong and of course it is binding on this Tribunal but I will go on to tell you why I think it is wrong.

I say in paragraph 21, it is even more troubling that the Court did not consider Te Tiriti o Waitangi in its judgment, even though the Supreme Court has held in its *Trans-Tasman Resources* decision that te Tiriti is of 'constitutional significance', and the Supreme Court has said the presumption of legality requires a rights-consistent meaning to be sought when interpreting legislation that impacts on fundamental rights. Thus, it is presumed that Parliament will not intend to legislate inconsistently with Te Tiriti o Waitangi (or Human Rights) that are fundamental, unless that intention is made quite clear.

And that is what the *Trans-Tasman Resources* says in relation to the Treaty, but also in the Human Rights space the *Fitzgerald* decision relating to the New Zealand Bill of Rights Act also makes the same fundamental point about the presumption of legality. In other words, the courts are beginning to weave in the common law the principles relating to these presumptions of legality together. And of course, the application of the common law method means that it falls to the courts to determine the meaning of legislation, even 1863 legislation in accordance with these principles.

Of course, the 1863 Act did make quite clear that Parliament's intention was to empower the expropriation of Māori land which is directly contrary to the Treaty. It was clear to that extent. However, I submit, it does not follow that that means the Crown is entitled to indiscriminately confiscate whatever land it wishes without cause. There is a strong argument that the drastic and sweeping nature of the powers should be carefully circumscribed to strictly aligned with the statutory objective of maintaining peace and security, in order to ensure that there is only reasonably necessary interference with the Article II guarantee in te Tiriti.

In relation to the *Minhinnick* decision, of course, those conclusions are binding on the Tribunal as a matter of law but they are not the last word because I understand that an application for leave to file an appeal in the Supreme Court has been filed but not yet determined. Irrespective of the legal position, the Tribunal is entitled to rely on the Crown's concessions that the raupatu was a Treaty breach, and was unjust, unconscionable, and excessive.

Turning now to the ***Eastern Bay of Plenty confiscation***

I say, even if you assume that *Minhinnick* stands, on the facts of the Eastern Bay of Plenty confiscation, it is arguable that the confiscation was unlawful because it does not comply with the terms of the 1863 Act. The first issue is whether Whakatōhea could be classed as being in rebellion. The Tribunal will recall that the historian Tony Walzl argued in his evidence that the Crown settled on a military response as soon as news of the Reverend Volkner's killing reached officials, as early as 9 March 1865. As the Ngāti Awa Tribunal pointed out, while Volkner's killing was certainly a crime of murder, even on a broad definition of rebellion, it is hard to see that it constituted an arm challenge to the authority of the government that disturbed national security, even supposing that Whakatōhea were implicated in the killing (which is in itself disputed on the facts).

Next, there is the landing of a large number of military troops in Ōpōtiki six months after the killing, allegedly to apprehend those responsible for Volkner's killing, but without any warning or explanation being given to Whakatōhea in advance of what the purpose of the expedition was, so it came as a complete surprise to them to have hundreds of troops land on their doorstep. In that context, there is a good argument that the rangatira reasonably apprehended that their rangatiratanga, communities and lands were under attack and acted through both self-defence and necessity. Further, an analysis is required of whether all the hapū, or considerable sections of them, were engaged in the military conflict in the first place (an analysis that it seems the Crown did not bother to undertake at the time).

The Order in Council under which the land was confiscated does not even specify what the act of rebellion it is relying on is, meaning that the objective of the confiscation is less than clear. The rationale given for the confiscation changed over time, and you will recall that Walzl argued that the 'strategy had changed from one that was initially completely focussed on it being a police action to catch murderers, to one where a supposedly belligerent Pai Mārire community was to be subdued by military invasion'. Tony Walzl's view was that that new objective was adopted virtually on the eve of the invasion. The plan initially was to use the Outlaying Districts Police Act 1865 and then that was switched to the Settlements Act 1863 instead, potentially with a deal between central and provincial governments being an influential factor in the decision to confiscate (because the confiscated land was going to be transferred to the provincial government). Without a clear articulation of why confiscation was required for security purposes, it cast doubt on the official position (and in particular, there must be a legitimate argument about whether the killing of Volkner could be constituted as a threat to national security).

Further, there is a significant issue as to whether the confiscation was excessive in proportion to the amount of land required for the purposes of settlement under the 1863 Act. It is highly arguable that far more land was taken than was necessary to keep the peace and establish a Pākehā settlement at Ōpōtiki.

In conclusion, these factors all suggest that the Tribunal will need to carefully scrutinise the legality of the raupatu. It is submitted that the Tribunal will be eminently justified in concluding that the Crown's actions were 'not just arbitrary or capricious', but 'brutal, lawless, and manipulative and committed in the name of the Crown in New Zealand'.

MS FEINT KC ADDRESSES JUDGE DOOGAN – MICROBREAK (10:30:39)

HEARING ADJOURNS: 10.31 AM

HEARING RESUMES: 10.42 AM

(10:42) MS FEINT KC: (CONTINUES)

Tēnā anō tātou.

CONTINUES #3.3.039 PARA 28

We are up to the third of the foci that I'm submitting the Tribunal should pay attention to in its report and that is **Recommendations for contemporary claims**, since that is something that can still be the subject of remedies from the Crown.

We say that particular attention should be devoted to making recommendations in response to contemporary claims. The Tribunal will hear in the evidence this week that Ngāti Rua have multiple contemporary grievances that require resolution. While this is not an exhaustive list, they include the following issues:

(a) Name changes are sought in relation to Huntress Creek and Moutohora, which matua Te Riaki will talk about after the morning adjournment.

(b) Proper access to the Nukutere Lands Trust blocks. Mereaira Hata talks about that in her evidence.

(c) The shortage of suitable housing in the district and the difficulties in accessing funding to build papakāinga. The chair of Ōmarumutu Marae, Tina Peters, talks about that and, in fact, a number of witnesses do because one barrier to the diaspora of Ngāti Rua coming home is that there is nowhere to live when they get here.

(d) The shortage of suitable employment in the district.

(e) There are unfair obstacles that I've mentioned already that Ōmarumutu School is facing in its objective of becoming an independent kura ā-iwi. The principal of the school Jonnina Temple is going to talk about that.

(f) There is a need to reconnect the Ngāti Rua diaspora to their ancestral roots. That is something that Ngāti Rua are doing through holding wānanga which there is huge demand for, but they are really constrained by the lack of resources because as a hapū the only assets that Ngāti Rua have are Ōmarumutu Marae and the urupā of Rangimatanui. But they don't have an economic base to speak of so they are dependent on getting money from Te Tāwharau as the PSGE.

(g) I've mentioned already, the lack of council services provided at Ōmarumutu, even though landowners here have to pay rates.

(h) There are a number of environmental problems, including flooding in the Waiaua Valley and coastal erosion. There are flood protection works at Ōpōtiki township but not on the Māori land, as I understand it. And then a number of places in the Ōpape Reserve district is facing coastal erosion and there are whare built in those areas. There may be other issues that come out through the evidence as we go through.

Turning to the **Witnesses**

The Ngāti Rua Wai 1782 witnesses giving evidence this week are as follows. As I have already mentioned, we also have Sharon Campbell's claim being heard on Thursday and her claim is Wai 2728; she has got two witnesses for her claim as well. But the Wai 1782 ones are matua Te Riaki. Now, of course, the Tribunal will recall that he has appeared before you a number of times already and, in fact, I have been joking if the Tribunal handed out frequent flyer miles matua Te Riaki would have achieved gold status by now because he's appeared for about three days on this stand, including in the Ngā Kōrero Tuku Iho process, and then he gave an overview brief of evidence #D008 which was mostly about the war and the raupatu and the consequences of that. His evidence today is going to be a lot briefer because he is just filling in the gaps of issues he hasn't covered. His primary topic is the whenua ā-waho and that relates to Jane Luiten's report about the whenua ā-waho or the blocks that went through the Native Land Court that were beyond the confiscation line. Then we have kuia, Te Aroha Pearl Rutherford. We are also probably going to have

Soraya Parkinson today. Because we think we will have some time this afternoon to fit one more witness in, she has agreed to come up the batting order. Linda Grave will be appearing I think on Wednesday or Thursday, along with Hohepa Hei, Tina Peters, who is the chair of the marae, Jonnina Temple, as I said, is the principal of Ōmarumutu School, and Mereaira Hata is going to close the evidence for Ngāti Rua on Friday. So that concludes my opening submissions.

When I've finished I understand that there is going to be a waiata tautoko because Te Kura o Ōmarumutu has arrived but if the Tribunal has questions perhaps we should do that first.

(10:49) PROFESSOR TOM ROA TO MS FEINT KC:

Q. Kia ora **thank you** Ms Feint.

A. Kia ora.

Q. This is big but I just have an ignorant layman's question. What's the difference between unlawful and illegal?

A. There is no difference. It has the same meaning.

Q. I see that you're careful in using the word unlawful instead of the word illegal. Is there some reason for that, or am I not reading that properly?

A. No, there's not a reason for that. I think the main distinction between unlawful or illegal on the one hand is 'in breach of the law' and 'unjust, unfair, unconscionable' on the other hand. The Crown in relation to both the Waikato raupatu and the Eastern Bay of Plenty raupatu has accepted its actions were unjust and unconscionable and that it was unfair to label Whakatōhea as rebels but it has not accepted that the confiscation was illegal or unlawful and I say it is both.

Q. Am I reading this right again, you appear to be suggesting that the Treaty of Waitangi can be used as a measure of that unlawfulness illegal status?

A. Exactly.

Q. Ka pai.

A. Part of the reason why the courts have not done that yet is because the place of the Treaty in Aotearoa's constitution remains somewhat opaque, can I put it that way. There are a range of views as to whether the Crown's

ability to pass legislation in Parliament is constrained by that Article II guarantee of tino rangatiratanga and that is a major topic.

Q. I like the word 'sniffing, opaque, unclear'. Thank you. That's very clear for me.

A. Ka pai.

(10:52) PRUE KAPUA TO MS FEINT KC:

Q. Kia ora Ms Feint.

A. Kia ora.

Q. Thank you for your submissions. Just on the *Minhinnick* decision, you referred to the fact that it may still be a little bit up in the air. Can you just clarify what the present status is of the proceedings in *Minhinnick*?

A. The Court of Appeal decision came out just before Christmas 2025 and an application for leave to appeal to the Supreme Court has been filed but the Supreme Court has not yet granted leave.

Q. Thank you. I note in your submissions about being troubled by the fact that the court didn't consider Te Tiriti o Waitangi in its decision. Is that a reflection of the way in which the case was presented? Were the issues around the status and the impact of te Tiriti a major part of the case that was put, or was it put on a more commercial lines basis?

A. That's a good question. I have looked at the submissions but not for a long time. I think it wasn't put squarely that the Treaty has constitutional force but it was argued that the presumption of legality means that, as a matter of statutory interpretation, you would read down those draconian powers to expropriate land in accordance with the principles of the Treaty, which means that you wouldn't accept uncritically that Māori were in rebellion just because they were bearing arms. Professor Brookfield's opinion is far more nuanced than that. I apologise I should have filed it with my submissions; that would have been helpful. I will file it after this hearing. But if you read the Court of Appeal judgment they don't apply critical legal standards to whether Māori were in rebellion. They say – and this is the issue I had with the judgment – because it says in the Act itself that Māori are in open rebellion that means that Parliament has determined they were and the courts cannot second guess that or judge

according to the legal standards in the Act whether Māori were in fact in rebellion in relation to those particular factual circumstances.

Q. Thank you. But it is your submission that in any event the concessions that have been made may have some influence on the interpretation for this Tribunal in relation to Ngāti Rua?

A. Yes, I think they will be relevant to that question. The Court of Appeal in *Minhinnick* looked at the concessions made to Waikato Tainui and effectively used that against the argument by saying: "Well, the Crown said in the Waikato Settlement Act that the actions were unfair but it hasn't said they were unlawful." Therefore, the Crown conceded effectively that it was unfair to label Waikato Tainui as rebels but that doesn't affect the legality however unpalatable that conclusion may be.

Q. Kia ora. Thank you Ms Feint.

(10:56) DR GRANT PHILLIPSON TO MS FEINT KC:

Q. Tēnā koe **greetings** Ms Feint. Good morning everyone.

A. Tēnā koe.

Q. Apologies that I'm not able to be there this week. I did have a couple of questions. The first one was about the breadth of issues that you are asking us to make comprehensive findings about. I'm wondering, are we going to get comprehensive evidence about all of those different issues that you've listed, to enable us to make comprehensive findings about them? I'm thinking for example about the foreshore issue, the lack of employment, erosion, why there's no access to those Nukutere land blocks, all of those issues, are we going to get comprehensive evidence on those?

A. I hope so. But the answer is some issues are better covered in the evidence than others. I would have to admit, in relation to the environmental problems for instance, the issue of flooding you probably need expert evidence in relation to that and I'm not sure whether there is any before this Tribunal as matters stand. But the other issues are all going to be discussed by witnesses this week, including in relation to housing in particular but also employment and the issues that the school faces. But I accept that the Tribunal may be constrained because of the

breadth of the issues that are before it may mean that not absolutely everything can be covered in the depth that we would like.

Q. Yes. Well, that is tricky because you can have people say: "We can't get housing," but it takes a lot more than that to sustain that as a breach of the principles of the Treaty, as I'm sure you know. One I was particularly wondering about in your list was the lack of employment opportunities and how that is a Treaty issue. It's just you've this list and I'm not quite clear on how we are going to deal with all the items on that list and whether we are going to be fully equipped to, and that was one I wondered in particular how that was a Treaty issue.

A. There is evidence in relation to the difficulties with housing in the district and in particular, the issue of accessing funding to be able to build papakāinga. So that is an issue that recommendations could be made in relation to solutions that would assist in unlocking resources.

Q. Susan Woodley has covered some issues about zoning and control of preventing papakāinga et cetera. So there is some stuff but I'm just, yes.

A. Yes. Again, some of these issues are issues that are being addressed in more depth by the kaupapa inquiries because there are housing and education inquiries. But there are particular issues that face this district which I say that this Tribunal can particularly have regard to and that relates to the smallness of Ōpōtiki and its distance from main centres and the difficulty in, yes, establishing a viable economic base here. It may be that the breadth of evidence needs to be drawn from the other hapū as well, as well as the expert reports.

Q. Thank you. Those issues have been argued in other inquiries and it can be very difficult to separate something like geographical distance to link that to specific Crown acts or omissions. Are all these matters going to be covered more fully in your closing submissions?

A. Yes, they will be.

Q. Okay, thank you. And yes, we may get more evidence from other hapū as well. Thank you very much. I found those opening submissions very helpful Ms Feint, especially that *Minhinnick* decision, which seems to have come out of left field, as far as I understand.

A. Correct.

Q. One quick question on that. The unlawful argument, because I haven't had an opportunity to read it yet, the unlawfulness argument is about whether Māori were in rebellion or not. The other interpretation that has often been made is that the Crown acted unlawfully because it didn't carry out the terms of the New Zealand Settlements Act properly and that's another argued source of unlawfulness. Is that also addressed in that *Minhinnick* decision?

A. Yes, it is.

Q. It is. So it is both. Okay, thank you.

A. It's the same issue effectively. Because in order to confiscate land under the 1863 Act you first need to establish Māori were in rebellion and then secondly, in accordance with the purpose of restoring the threat to national security you need to work out how much land is required in order to provide a military settlement –

Q. Yes.

A. – and then place settlers on the land. So there are a number of issues that fall out of that, whether there is rebellion, what the threat to national security is, and how much land is required to restore peace by establishing a settlement.

Q. Yes, and failure to do those things properly that wasn't considered to be unlawful.

A. Correct. Effectively, the Court of Appeal didn't interrogate each of those legal standards. It just said: "Well, it must have been lawful because Parliament passed the Act and said Māori were in rebellion." I think in terms of the separation of powers and the role of the courts in judging what the legislation means and how it should be applied that that's a derogation of responsibility by the court.

Q. Well, the courts are almost looking at whether ministers have acted lawfully and carried out their statutory powers properly and lawfully. So that surprises me but anyway I'll have to read that decision. Thank you very much Ms Feint and I look forward to hearing all the evidence from the claimants this week. Kia ora.

A. Thank you sir. I will file the judgment. I apologise for not thinking of doing that earlier.

(11:04) JUDGE DOOGAN TO MS FEINT KC:

Q. I tautoko the mihi from my colleagues Ms Feint. That is very helpful. Just on the *Minhinnick* decision, like Dr Phillipson, I am sort of just a bit struggling to follow the logic of the Court of Appeal. I will read the decision but I think it is around paragraph 20 of your submissions. I think there is a passage in there where you describe what I think is the logic and I might have got the paragraph wrong.

A. No, that is right.

Q. I do not have it yet in front of me. I don't know whether you can answer this question but it seems to be the Court of Appeal are saying that by passing the Act, Parliament had come to a view that there was as a matter of fact instances or a state of rebellion at various places to which this Act needed to respond and then the Act itself sets out a set of decision points and processes to be followed. So I don't quite follow the logic of – what Dr Phillipson was asking is the question I would ask also that if there is an obvious inquiry as to whether compliance with the terms of the Act once passed has occurred and the relevant criteria had been met and that's how you assess the lawfulness of the conduct. But it doesn't seem to me logical to say that simply because Parliament has set up such a structure that mere fact answers the question as to whether or not there isn't one, in fact, a rebellion at this particular place at this particular time and that the criteria of the Act are therefore available and have been used lawfully. Do you follow?

A. Yes, I agree with your Honour.

Q. All right. Thank you. I just wanted to test that and then we will have a look at the decision. Thank you.

I have truncated their reasoning somewhat but I thought this was the most striking passage them saying: "It was the view of Parliament that there was a rebellion." I think in relation to the timing of it, they passed that Act before they invaded the Waikato or about the same time. But they passed it in preparation to invade and they point out that there's no definition of rebellion in the Act, but then they go on to assess how you interpret the Act and they note that in relation to the provisions for the return of land to either Māori who weren't implicated or Māori who were surrendered

rebels, it appeared from those provisions that the definition of rebellion was very broad. So they basically said: “It's anything that can be construed as resisting the authority of the Crown.” The fact that you’re bearing arms is enough or the fact that you’re whānau or assisting. If you are the whānau of the warriors, then you are assisting your warriors by feeding them so that was enough to implicate everyone who was involved. That’s the way I read it. They say it's a very, very wide definition.

Q. Okay, thank you.

A. I say that can’t be right. That they're not properly applying those standards to determine the legality of those particular circumstances.

Q. All right. Thank you that is helpful. As I said, we will have a look at that decision when we have the opportunity. Thank you for bringing it to our attention and thank you again for your submissions.

JUDGE DOOGAN ADDRESSES TE KURA O ŌMARUMUTU – MIHI, ACKNOWLEDGEMENT (11:08:47)

WAIATA TAUTOKO (TE KURA O ŌMARUMUTU)

(11:11) MS CARMEN MATAIRA: (MIHI, APPEARANCE)

I just wanted to record my appearance for today’s hearing formally. And ask that, with your leave, your Honour, I attend or watch the rest of the hearing via the livestream link.

JUDGE DOOGAN ADDRESSES MS MATAIRA – LEAVE GRANTED (11:11:58)

(11:12) MR MICHAEL SHARP: (MIHI, APPEARANCE)

Kia ora Sir. Apologies for joining late. On the timetable I think it was 10 o’clock that the hearing start. I can record an appearance now your Honour. Yes, I appear for the 2170 claim on behalf of Ngāti Muriwai.

JUDGE DOOGAN ADDRESSES TE MINENGA – ADJOURN (11:12:40)

HEARING ADJOURNS: 11.12 AM

HEARING RESUMES: 11.44 AM

(11:44) MS FEINT KC: (CALLS)

Tēnā tātou. Our first witness is our gold star speaker Dr Te Riaki Amoamo. He's got a brief that is registered #F011 on the Wai 1750 record of inquiry.

(11:46) DR TE RIAKI AMOAMO: (#F011-(a))

REFERS TO #F011 PARAGRAPH 3

Maps of Ngāti Ruatakenga rohe

Two maps titled 'Ngāti Ruatakenga Hapū Customary Landscape Map' have been provided as plates 117 – 118 in the hearing week 7 map book (Wai 1750, #F002) depicting the customary pā tawhito and wāhi tapu within the Ngāti Rua rohe. I am the author of these maps, and I have located the sites according to my customary knowledge of where these places are. The boundaries of the rohe and the pā tawhito named are based on those recorded by Hoeroa Horokai and Heremia Hoera in the Native Land Court.

These maps record the living history of the places our ancestors discovered and named, where they lived, and the wāhi tapu that came into being over the years.

Whenua a waho

Dr Jane Luiten gave evidence about the 'whenua a waho', that is, the land outside the raupatu boundary, and its passage through the Native Land Court. If the Tribunal studies the Ngāti Rua maps, it is clear that prior to the raupatu-

(11:47) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. Sorry, Dr Amoamo, it's Judge Doogan here. Before you move on, I just want to make sure we're looking at the right maps. You'll see on the screen up here and I think this is page 891 of the map book that's the first map. That's correct. That's the map you're referring to the first map.

A. Yes, that's the first map.

Q. And then the second one was I think over the page.

A. It's a map of giving the ancient pā sites and wāhi tapu.

Q. Āe, and that's the one showing on the screen now.

A. Āe.

Q. Āe, thank you.

A. Kia ora.

Q. As we move through, we will try to bring up these maps.

A. During the discussion.

Q. Yes, to help us follow.

A. Āe.

Q. And if at any stage you want to go to the maps or ask for us to look one of the maps that would be helpful too. Thank you.

A. Āe.

Q. Kia ora.

(11:49) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 6

Ngāti Rua customary lands

Historically, the Mōtū River is the boundary between Te Aitanga a Māhaki and Te Whakatōhea, and that's at Whakapaupākihi what I'm referring to. Te Aitanga a Māhaki is to the east of the river and Te Whakatōhea is to the west.

The maps show that our pā were concentrated on the coast. That is where we primarily lived, where we grew crops, and where we harvested the bounty of the ocean. However, under our tikanga the bush covered hills in the hinterland the Raukūmara Ranges were as much part of our customary landscape as the coastal strip of land where we lived – it was land that our ancestors discovered, named, and travelled to for the purpose of harvesting resources. The land is not habitable. It is steep rugged land covered in native timber and it is cold especially in wintertime. However, as I said in my earlier evidence, the ngahere

was our pātaka kai **food store house** where our ancestors went for birds, eels, berries, rongoā and timber according to the bounty of the season. For instance, in the wintertime the kererū were fat from feasting on the miro berries and apart from the miro berries the hīnau berries.

The Ngāti Rua rohe extends south to the Whakapaupākihi Stream which runs into the Mōtū River. The name references the area in which the headwaters of the Pākihi Stream are located, which is named in turn after the Pākihikura waka (that landed at Ōpōtiki at the mouth of the Waioeka and the Otara River confluence to the sea). This name confirms that our ancestors have occupied this landscape since the landing of that waka.

(11:51) MS FEINT KC TO DR TE RIAKI AMOAMO, MEREAIRA HATA:

Q. Matua Te Riaki, taihoa. Can you locate where the Whakapaupākihi Stream is? If we scroll down on that map. Are we able to enlarge that so that the Tribunal is clear where we're talking about?

A. [Dr Te Riaki Amoamo] I can't see on the screen from here. But it's way into the hinterland I think from the coast to the south.

Q. There are names of streams written on that map but you need to enlarge it to be able to see them.

A. They are really so minute for me to see.

Q. Yes. Can you see it from that one Mereaira.

A. But it's not from the coast. It's way to the end of the customary landscape.

Q. We need a pointer, don't we.

A. [Mereaira Hata] Uncle, the Otara River, the Pākihi Stream.

[Dr Te Riaki Amoamo] Going to the source of the Pākihi Stream.

Q. Yes, and then can we go south. We-re looking for the Whakapaupākihi Stream where it runs into the Mōtū.

A. And from the source of the Whakapaupākihi Stream you reach Whakapaupākihi and the Moutohora mountain and from the Moutohora mountain it goes into the Mōtū River.

Q. Yes.

A. [Mereaira Hata] Kei te pai?

Q. Āe. Mereaira is pointing to the Whakapaupākihi Stream, matua, can you see that?

A. [Dr Te Riaki Amoamo] Yes. What I mean it's not only just for Ngāti Rua but is the six hapū of Te Whakatōhea there and I'm talking on Ngāti Rua's participation in that area. Because Whakapaupākihi was given in the Māori Land Court to the six subtribes of Te Whakatōhea and the six subtribes is Ngāi Tama, Ngāti Ngahere, Ngāti Rua, Ngāti Whatu, Ngāti Ira, and Te Ūpokorehe that makes up the subtribes up at Whakapaupākihi.

Q. Ka pai.

A. And I'm speaking on the Ngāti Rua sector being up there with them.

Q. You are now at paragraph 9. And while you read that out, I will ask Mereaira to look for the Waitukuaruhe Stream which is referred to in paragraph 10.

A. The Waitukuaruhe is in the Whitikau sector. The Ōpape Native Reserve commences from the coast and goes to the confiscation line at the back and just beyond the confiscation line is the Whitikau block, a portion of the Whitikau block. From there is the stream what Ngāti Rua calls Te Tahora, it flows down and meets up with the Waiapu Stream and further on it meets up with the Waitukuaruhe Stream. At that stream, there are summer camps where they go up there for eeling and the name of that summer camp is Waipae. We have been there. I was taken there and stood on the place to know where these places up there at Toatoa.

Q. Ka pai. Mereaira has pointed out those places while you were talking. Now, if you go back to paragraph 9 and start reading from there please matua Te Riaki.

(11:56) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 9

The Tribunal will recall that we visited Toatoa on our takahi whenua and that this was the place where Ngāti Rua took refuge in the 1860s after the military invasion under the leadership of Awanui Te Āporotanga. We have maintained our presence in Toatoa even after European settlement came into the area.

Te Taanga o Tunamu is another place located in this southern area at the mouth of the Waitukuaruhe Stream (the stream is marked on plate 117) and we just spoke of actually where it was. Tunamu was an ancestor who descends from Tautūrangi and he belonged to Te Wakanui. Te Taanga was named as the place where he rested to catch his eels. There was a camp next to the Waitukuaruhe and the name of the camp was Waipae (Tuakana Āporotanga spoke of this name in the Native Land Court).

The hinterland was an area in which a number of Whakatōhea hapū shared customary rights not just Ngāti Rua. A C Lyall's map shows Ngāi Tū occupying the interior in the region of the Waioeka River (Ngāi Tū later evolved into Ngāti Patu, Ngāti Ngahere, and Ngāi Tama hapū). For convenience, I attach that map as appendix A. Te Panenehu lived to the east of the Pākihi Stream and they are our forebears, so we know that this land belongs to the Ngāti Rua landscape. Ngāi Tai were located further to the east. Whakatōhea hapū secured the land through winning battles against Ngāi Tai.

(11:59) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Ka pai. Taihoa for a second, and we will just see if the Tribunal can bring up that A C Lyall map. It is either appendix A to this brief or it's in the #D009 map book. Can you see the map on screen matua?

A. Yes, I can see the map on the screen.

Q. Yes.

A. The Ngāi Tū subtribe of Whakatōhea started with Te Wakanui and Te Wakanui is the Nukutere canoe. The Nukutere canoe landed and embarked Tautūrangi at the Kotukutuku at Ōpape; it's not too far from here. Tautūrangi stayed as an ancestor. The captain of the Nukutere, Te Whironui, gave him the kaitiaki of the waka, a stone invoked with powerful prayer into this stone and the name of the stone was Tamaiwaho. Tamaiwaho the stone was interred on Kapuārangi at Waiaua, the first act of claiming the land.

And from Te Wakanui, it came down to the name Panenehu. Panenehu came from when Tūtāmure was at Māhia and his weapons broke in trying

to enter the Pā Mangakahia and when his weapons broke the Panenehu was given that name. The name Te Wakanui ceased to exist and the Panenehu took over.

After the Panenehu, because we weren't entitled for the Mātaatua waka yet and later on the ancestors wanted to bring the Mātaatua waka bloodstream into the Ngāti Rua subtribe, it came down in the whakapapa to the Mātaatua waka, and Repanga left Kāpū-te-rangi at Whakatāne and came and settled here in the Whakatōhea area and married Ngapoupareta. From Ngapoupareta you get Repanga, from Repanga you get Ruamatarangi, Ruamatanui, Ruamataiti, Ruataurau, Ruapawa, Ruaputake, Ruakaweka, and they got Ruatakenga, a male. We are named after Ngāti Ruatakenga; the short name Ngāti Rua.

We have been here eight generations before the Mātaatua descendants came into this area from the Nukutere waka. That's the name in the meeting house. Tūtāmure comes from the Nukutere connection the waka and he married Muriwai's daughter, Hine-i-kauia. His pā site is at Rāhui called Poutotara. Also in the court minutes, he was asked: "Where did Tūtāmure die," and Heremia Hoera answered the question: "He died at Poutotara and interred at Te Kapuārangi."

In the year 2001 we went up there and placed a memorial stone on Kapuārangi to have the meeting house here 100 years on the marae. It was opened in the year 1901 and in the year 2001 we had a stone of remembrance of him and he's buried up there; also Tamaiwaho is buried up there in memory. So that's Ngāti Rua coming from Te Wakanui to the Panenehu to Ngāti Ruatakenga.

Q. Ka pai. Just before we leave the Lyall map, you say that Te Panenehu lived to the east of the Pākihi Stream. Mereaira can just point out where the Pākihi Stream is on that map.

A. It is shown there on the map.

Q. Āe.

A. The Panenehu goes right back to Whakapaupākihi.

Q. Ka pai.

A. That's to the east of the Pākihi Stream.

Q. And then before we move on to paragraph 12, can I ask the Tribunal to then bring up appendix B which we are now going to talk about. Can you go to paragraph 12 please matua Te Riaki.

(12:04) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 12

I would like to note that Lyall's map records a pinnacle name 'Moutohora' in the Whakapaupākihi area. This name is reproduced on the New Zealand topographical map (I attach an extract from appendix B). The quarry that we visited on the takahi whenua is at the base of the mountain. The Moutohora name is wrong and needs to be remedied. 'Motuhora' is the correct name for the area meaning the base of the mountain spreads out east to the Mōtū River. The tohora is a whale and you cannot have a whale inland so it is a whale of a mistake! I would like the Tribunal to make a recommendation that this name be corrected.

Because we've got two islands out on the coast here, White Island and Whale Island. The Māori name for Whale Island is Moutohora. The right place is where the sea creatures live around Whale Island. The Māori name for White Island is Whakaari. E whakaari mai ana i a ia ki te taha tū o te moana **showing itself on the side at sea**. I want the names changed. There's no whale inland such as Moutohora. Even the road Moutohora Road should be Mōtūhora because it's in the Mōtū district of Te Tairāwhiti land district. We are here in the Waiariki land district but the Whakapaupākihi lands are in the Tairāwhiti land district and everything was taken to the Gisborne Land Court of that Whakapaupākihi.

(12:07) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Ka pai. We will just ask Mereaira to point out the Mōtūhora peak with the quarry at the base on the map up on the screen. You see the peak and then there is the quarry.

A. If you can see on that map it is Moutohora.

Q. Āe. And then when we go into paragraph 13, can we come back to plate 117, please. You start reading at paragraph 13 please.

(12:08) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 13

I grew up on our family farm in the Rāhui Valley. The Māori name for our family farm was Ōrangiwhakakino. That's where I was born on 17 April 1937. I was born at home not in a maternity home. I was born at home with my older brother and the brother after me at Ōrangiwhakakino on our farm right beside the beginning of the bush; really it's the bush blocks.

The Ōpape Native Reserve you have six coastal blocks and six bush blocks. Ngāi Tama was given the No 1 block at Ōpape. Ngāi Tama's bush block is No 11 on the mapping system on the Nukutere Land Trust. The No 2 block was given to Ngāti Ngahere the coastal block and that's the Ōtanemutu Land Trust. No 10 on the bush block was given to Ngāti Ngahere. No 3 was given to Ngāti Rua coastal block and that's here at Ōmarumutu. Ngāti Rua got No 12 right at the confiscation line of the bush blocks. Ngāti Muriwai were given 600 acres in the No 3 block that Ngāti Rua got but they didn't have a bush block. Their other land was over the confiscation line in Ngāi Tai that bush block called Whitikau. No 4 was allocated to Ngāti Ngahere that takes in Makeo the maunga of Ngāti Rua and the Waiaua lands at Makeo. The Ūpokorehe bush block was No 7 at Ōturewa to Ōiratītī . No 5 on the Ōpape Native Reserve was allocated to Ngāti Patumoana. Ngāti Patumoana their bush block was No 10. No 11 to Ngāi Tama. The last one was the No 12 bush block to Ngāti Rua. That comprises the Ōpape Native Reserve.

The entirety of the Ōpape Reserve is Ngāti Rua customary landscape. The Ngāti Rua customary landscape commences from Tarakeha the headland in Ōpape and follows the coastland waist to the harbour entrance at Ōpōtiki at Pākihikura. All the lands from Pākihikura to the headlands are the Ngāti Rua customary landscape and it goes inland right to the Pākihi and takes in Te Wakanui area, Panenehu, and Ngāti Ruatakenga.

I've already put names along the road. The council are wanting names in new housing blocks and I've got Te Wakanui Road between here and Tirohanga and I've also got Panenehu Road at Tirohanga. They are to be left out on the landscape today and it's just part of our history of Ngāti Ruatakenga customary landscape.

(12:12) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Ka pai. The Tribunal has the map up now which shows No 43 and 48. So you were about to talk about those pā. We are still in 13 on the second sentence there.

A. Yes. But before we move away from that area, the Ngāti Muriwai lands was given here on the Ngāti Rua No 3 block. One of the families of Ngāti Muriwai sold their shares and I'm backing they are a 2/3rd shareholder. Because the Edwards estate sold their shares from the Ngāti Muriwai block and the Whakatōhea Māori Trust Board bought a 1/3rd share, Nukutere Lands Trust bought another 1/3rd share, and Rāwea Lands Trust bought the other share to take in the Edwards estate because they sold their lands in the Ngāti Muriwai block. The Edwards have got nothing to stand on. If they go to the court to contest and dispute they got no land to stand on. It is up to the other families of the Ngāti Muriwai landscape to progress their report on it.

Because I was born at Ōrangiwhakakino and we know the countryside that resides Te Waiti and Rāhui Valley. So that takes in the Ngāti Muriwai **(inaudible 12:14:27)** and we are back there and the Whakatōhea Trust Board buying a share on the Edwards estate and the Nukutere Lands Trust buying another share on the Edwards estate again. Rāwea they've got a foot in the camp up Ngāi Tai.

(12:14) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. Tēnā koe koro. The farm that you were born on –

A. Ōrangiwhakakino.

Q. – Ōrangiwhakakino is that shown on this map or is it close to one of the places that are shown on this map?

A. It's really just behind the maunga in the valley called Rāhui Valley. It's part of the Ngāti Rua customary landscape. It's close to Poutotara. If you can see Poutotara up there.

Q. Yes, āe.

(12:15) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Matua, if you read out the sentence that says: "Our land was opposite to Poutotara," No 43 on the map.

(12:15) JUDGE DOOGAN TO DR TE RIAKI AMOAMO: (CONTINUES)

A. Yes, because from our land we can see the ancient pā site of Tūtāmure, Poutotara.

Q. Yes. Thank you very much.

(12:16) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. So you're on number 13.

A. Yes, I've brought that one up.

Q. And then you've got Puhikōkō Pā was on the other of the river."

A. Yes, really those are the ancient pā sites of Te Wakanui and the Panenehu people. They are in our area where we grew up. They are pā sites just south of Ōrangiwhakakino is Waikurapa. Within Waikurapa, there is another pā site Te Kokotu and another one Puhikōkō, and another one Kowhetewhete and then you cross over the Wairua Stream to Poutotara, and Poutotara you get to Pakarukaru, Pakarukaru you get to Horonui, Horonui you get to Whakapapa, Whakapapa you get to Turamoe. They are still in the Rahui Valley those areas. Those areas we can see it from our homestead.

Q. Ka pai. So now you're up to your father would take you hunting in the hills, you see at the end of paragraph 13.

A. Yes. Where he takes, especially to the kererū hunting grounds in the winter time. When the kererū is fat with the miro berries, it's got a creamy yellow fat on the kererū. If the kererū eats the hīnau berries, it's got a white fat on the kererū; we know it's been eating hīnau berries. It's part of growing up and knowing the delicacies that we've been eating before

it was closed not to be taken conserved. We've been through that area. We've seen it and we've been through it. And to know of the hunting grounds at Meremere, Mangaongaonga, and Waiapu. Karen the next one.

Q. Now you're at 14.

JUDGE DOOGAN ADDRESSES MS FEINT KC – MICROBREAK (12:19:11)

(12:19) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 14

The old Mōtū Road goes over to Matawai and on towards Gisborne. Prior to that, there was an ancient Māori trail called the Kōwhai track which linked Whakatōhea to Tūranga-nui-a-Kiwa. The Kōwhai track is between the Pākihi Stream catchment and Te Waiti Stream catchment. The confluence of the Waiti Stream catchment and the Pākihi Stream catchment is the beginning of the Otara River that flows closer to the township of Ōpōtiki. But the source begins within the Raukumara Ranges. In between those two streams is the Kōwhai track, the ancient Māori trail from Tūranga-nui to this coast here. We've already been on a hīkoi. Ngāti Rua has been on that hīkoi to let the next generation see the contours of the land and where are these places to familiarise.

Later on, Ngāti Rua went up into the ranges to raise money for the ancestral meeting house constructed at Ōmarumutu in 1901. It's speaking of this meeting house here. Ngāi Tai had sold the land to Pākehā at Toatoa. Our people got paid for felling the bush. It was sold to the Europeans. Ngāti Rua went up to bush fell on the (inaudible 12:21:22) day at Toatoa. The money they got from felling the bush is the construction of this meeting house that we are in today.

The tāhū or ridgepole for Tūtāmure came from a single tree felled in the Ōiratītī Stream catchment. The tāhūhū is the ridgepole here. It is one single tree. It is not collected by another tree to another one. It is one single tree right from the tuarongo to the outside of the wharenui. I came from the

Ōiratītī Stream. When they brought it out from the Ōiratītī Stream they camped at Tokomanawa at Rāhui . The next day they camped at the mouth of the Waiaua River here at Awahou and then they brought it up here on the marae. They put it up here and constructed it as part of this wharenui Tūtāmure on the Ōmarumutu Marae.

I used to shear sheep at Whitikau and this area was well known for the kiwi. I can recall going to work early for a 5 o'clock start and coming across an adult kiwi on the road with a beak that was about 12 inches. I can remember hearing the kiwi calling at night. There is a mountain called 'Ngatapuwaekiwi'. At the base of Ngatapuwaekiwi at Toatoa is the commencement on the eastern base of Ngatapuwaekiwi mountain is the Waitukuaruhe Stream that flows into the Tahora.

Native Land Court proceedings for the 'whenua a waho' blocks

(12:23) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. I think taihoa matua we might have a break now because we've been talking for a while. We'll give you five minutes off.

A. Yes, at least we've got the map systems here to go with our kōrero. We've also got the ancient pā sites on the maps to go with our kōrero and even the wāhi tapu for our kōrero because you've got to have habitations for each generation of people and to know where each generation of people were living in the named places. We have put it down on maps also to go with the wording that's been spoken.

(12:24) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. Āe, kia ora and thank you. Counsel has just suggested we have a short break for what we call a little microbreak.

A. Okay.

Q. Just before we do that and so we don't lose track, just one matter. You said in paragraph 15 when you were talking about this –

A. Āe.

Q. – the ridgepole that: “Ngāi Tai sold some land to Pākehā and our people got paid for felling the bush.” Where was that land?

A. Those lands that were sold to the Pākehā –

Q. Yes, and where were they?

A. – and that’s at Toatoa.

Q. Toatoa.

A. We came back from Whakapaupākihi through Toatoa to Meremere to get back to the coast here on the takahi whenua.

Q. Āe.

A. Āe.

Q. That’s fine. I'll look on the map. Did I understand you to say that some of the rākau that were felled were from that Toatoa land, including this ridgepole, came from that land?

A. No, this ridgepole is from a different area.

Q. Yes, because I see on the map-

A. It's closer to where we are today the ridgepole.

Q. Yes, that’s right. All right. So that is just what I just wanted to get clear. And then the Ngāi Tai land that you’re talking about where there were some more bush felling is well back.

A. Ngāi Tai was given that land through the Māori Land Court but they sold it to Europeans.

Q. All right.

A. I'm sure they sold it to the Crown and the Crown sold it to the Europeans.

Q. All right. So we’ll leave that take for now because I follow.

A. And that’s where the money came for the building of this thing.

Q. Right, okay. Thank you that’s helpful. I follow.

HEARING ADJOURNS: 12.26 PM

HEARING RESUMES: 12.32 PM

(12:32) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Just before the break, the Judge had asked where the ridgepole from Tūtāmure came from, and I'm not sure if you noticed that Mereaira

pointed out the Ōiratītī Stream on the map. We'll just get her to show it again so that everyone is clear.

A. Āe.

Q. And then kōrero is the Native Land blocks and they have a number of places in them as well, so as we go through we'll see if Mereaira can point those out too. Matua Te Riaki we're up to paragraph 18. You're about to talk about the Native Land Court proceedings.

(12:33) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 18

As Dr Luiten records, Ngāti Rua and Whakatōhea were not successful in obtaining title to many of the whenua a waho blocks in the Native Land Court. Ngāi Tai won the battle of words in the court; I would say pertaining to Whitikau. The court failed to comprehend that we did not have to be permanently living on the land to maintain our ahikā in those places.

Whitikau block

Ngāi Tai won the Whitikau case and put their names to the land and the streams which took away the names we had before them as the tangata whenua. We were the tangata whenua; it was our back door. They heard the names from the tangata whenua but they removed the names from the right place and put them somewhere else. I am speaking of the proper names.

Ngāi Tai were awarded the land at Toatoa, I'm not sure about Meremere, but Papamoa by the Native Land Court and they renamed the block Whitikau. However, the name 'Whitikau' was not in the Toatoa or Meremere area. Whitikau proper was to the south beyond the Papamoa Stream. Ngāi Tai only kept the land at Whitikau proper which is further south than Toatoa and Toatoa was sold to the Crown.

(12:35) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Ka pai. Taihoa. We'll just pause on those places. Mereaira, can you point out Toatoa and Papamoa Stream.

A. Āe.

(12:36) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. The Toatoa lands are around this Papamoa Stream?

A. Papamoa Stream is part of it –

Q. All right.

A. – and Toatoa is the other part of it.

Q. All right.

A. We came through it from Whitikau when on the takahi whenua.

Q. Āe.

A. We had to come through Whitikau to Papamoa to Toatoa to Meremere and Meremere down out to the coast here.

Q. Yes.

(12:37) MS FEINT KC TO DR TE RIAKI AMOAMO, MEREAIRA HATA:

Q. Mereaira, is Toatoa marked on the map?

A. [Mereaira Hata] (microphone switched off 12:37:02).

[Dr Te Riaki Amoamo] The stream in that area and goes out to the Mōtū River. Eventually, it finds its way to the Mōtū River and enters the ocean at Maraenui.

(12:37) PROFESSOR TOM ROA TO DR TE RIAKI AMOAMO:

Q. E koro, Tom Roa tēnei **Tom Roa speaking**. I hear you saying Mōtū not Motu.

A. Mōtū.

Q. Mōtū, therefore, the spelling should have a macron.

A. There should be a macron over the O.

Q. Thank you.

A. M-O, Mōtū.

Q. And that's the same with Mōtūhora.

A. Āe.

Q. It should have a macron over the-

A. Āe.

Q. We will just get this accurate.

A. That's right. Otherwise it's just Motu.

Q. Āe, ka pai. Thank you.

A. Āe.

(12:38) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. I don't think Toatoa is marked on that map for some reason.

A. The name Toatoa is not on the map, but it's in the area.

Q. So which area do you say Toatoa is in?

A. Closer to Papamoa.

Q. Ka pai. All right. So you're up to paragraph 21.

(12:38) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 21

The main river was called Tahora to Ngāti Rua and Ngāi Tai changed the name to Te Whitiwhiti. It's not Te Whitiwhiti. It's Te Petipeti. P-E-T-I-P-E-T-I, it's got a spelling mistake here. The confluence of the Whitikau and Tahora Streams is known to Ngāti Rua as Te Petipeti not Te Whitiwhiti on this paper here. When Ngāi Tai won the contest for Whitikau they rubbed out the name Tahora. Te Weraakaunga is where the Petipeti (and now the name is spelt right) Stream finishes and the rest of the stream is called Upokotangata. Ngāi Tai referred to it as Kapuārangi (a cloud in the sky) but that is the name of their mountain at Tōrere. Not at Tōrere but at Rāwea behind Tōrere.

(12:40) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Ka pai. If we just pause there then. So you're talking about the Tahora River and you say Ngāi Tai changed the name to Te Petipeti. Can we point to where that is on the map please.

A. Yes, the Waitukuaruhe flows into the Tahora. We've already spoken about the Waitukuaruhe.

Q. Mereaira, can you see Waitukuaruhe right below there. Āe, and that flows into what was named Tahora.

A. Yes, Te Tahora. Te Tahora flows down until it hits Te Petipeti the outlet of the Whitikau Stream from Whitikau proper. But they removed the name

Petipeti where the Whitikau Stream meets the Tahora and became a commencement of another stream within Toatoa.

Q. Just to be clear, where it says Petipeti Stream on that map is that what used to be called Tahora or are you saying that's what Ngāti Rua call Petipeti?

A. No, the Tahora Stream flows up to the Whitikau Stream called Petipeti and from the confluence of those two streams meeting the Takaputahi Stream takes over. From Takaputahi, it flows a long way until it reaches the Mōtū River catchment.

Q. To be clear, when you prepared this map that's up on the screen plate 117 you put the Ngāti Rua names on the map, correct?

A. Yes, because the Ngāti Rua were the descendant of those places before Ngāi Tai won them in the court battle.

Q. You're saying that Ngāti Rua were the tangata whenua but they lost it only in the Native Land Court.

A. Āe.

Q. Āe. And then you say that Ngāi Tai changed the names on the landscape.

A. They removed the names to a different area on the landscape.

Q. Why do you think they did that?

A. It's not my way telling them what they should do and what they should not do. That's how they acted at that time.

Q. Right. Ka pai. So we're up to the Whakapaupākihi blocks paragraph 22.

(12:43) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 22

The five hapū contested the land for Whakapaupākihi, with Heremia Hoera speaking for Ngāti Rua, Rewita Niwa for Ngāi Tama, Warana Mokomoko for Ngāti Patu, Paora Te Pākihi for Ngāti Ngahere, Mini Tamaipaoa for Ngāti Ira. The hapū were speaking on behalf of the hapū – this reflects the tikanga of mana ā-hapū. This was the land where Ngāi Tū had formerly had mana whenua but they were no longer in existence.

Ngāti Rua and other Whakatōhea hapū were successful in obtaining land in Whakapaupākihi blocks. I have been a trustee on Whakapaupākihi blocks 6 and 7 for a very long time. Mangatū Incorporation bought shares from the Whakapaupākihi shareholders (blocks 2, 6, 7) living in Gisborne but really the incorporation's owners are not the original owners, as Te Aitanga-a-Māhaki were on the other side of the Mōtū River.

Some of Te Aitanga-a-Māhaki have Whakatōhea whakapapa and that's how Mangatū got into it with the Whakatōhea whakapapa on Te Aitanga-a-Māhaki descendants. What they did they sold their shares to Mangatū Incorporation.

There was a time when there was no registrar for the Māori Land Court at Gisborne registering for the Tairāwhiti land district so the Waiariki Land Court sent a registrar from Waiariki. His name was Bill Patrick, Māori. It was when Bill Patrick arrived he could see what was going on about the land at Whakapaupākihi. He came back to Whakatōhea to create a Whakapaupākihi Lands Trust committee. He said: "Otherwise, the land will be lost because it's in the Tairāwhiti land district not in the Waiariki land district."

It was up to Bill Patrick. He lived in Whakatāne, Ngāti Awa, but he had Ngāi Tama whakapapa interests. He brought the message from Gisborne what was happening with the lands at Whakapaupākihi and that is when Whakatōhea created the Whakapaupākihi Land Trust.

Because whenever we have an AGM with the Whakapaupākihi no AGMs go to Mangatū. It comes to Whakatōhea. They'll have one AGM at Ōmarumutu and then another AGM they'll have it at Ōpape Marae. Another annual general meeting at Waiaua Marae at Ngāti Patumoana and also at Terere Marae at Ngāti Ngahere. It is more or less incorporating the hapū that were given Whakapaupākihi of Te Whakatōhea. The AGMs went as far as Waioweka Marae as Ngāti Ira pertaining to the Whakapaupākihi lands.

(12:47) DR ROBYN ANDERSON TO DR TE RIAKI AMOAMO:

Q. Excuse matua, it's Robyn here. Over here.

A. Okay.

Q. Can I just backtrack a bit. When you say: “They sold the shares,” are you talking about Te Aitanga-a-Māhaki selling shares to the incorporation?

A. Yes, some of Te Aitanga-a-Māhaki people that are put in the Whakatōhea camp they got shares in Whakatōhea.

Q. And then they sold their shares.

A. They sold their shares to Mangatū Incorporation.

Q. Okay, thank you. And since we’re on this topic, we’ve heard quite a lot about the relationship with Ngāi Tai but less about your relationship going that side. Can you tell us a bit more. Is it generally a close relationship?

A. Because on that side Te Aitanga-a-Māhaki the land Whakapaupākihi falls within the Tairāwhiti land district. Here on the Ōpape Native Reserve, it's in the Waiariki Māori land district. The Waiariki Māori land district Ngāi Tai is our neighbours to the east. Our neighbours to the west is Ngāti Awa and Tūhoe. Our neighbours to the south is Te Aitanga-a-Māhaki.

Q. Historically, was that a close relationship? You’ve talked about whakapapa links which suggests that it was traditionally quite a close relationship.

A. The relationship with Te Aitanga-a-Māhaki you are talking about.

Q. Yes.

A. There is a relationship because Tūtāmure’s younger brother they came of Tamataipunua, Te Aitanga-a-Māhaki. When Tamataipunua married Tauhei the daughter of Kahungunu they had two children, Tawhiwhi and Māhaki. Tawhiwhi died in the battles in Tūranganui. Māhaki the younger brother took over and that’s Te Aitanga-a-Māhaki. Tamataipunua is the brother of Tūtāmure. That’s the relationship.

Q. All right, thank you. That’s helped me understand a bit more. Thank you.

A. Kia ora.

(12:50) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. Kia ora Te Riaki. Judge Doogan here. Just on the same question, while we are just discussing this, so I understand what you are saying about the boundaries of the court the Tairāwhiti and Waiariki boundaries but just

coming to the customary boundaries between Ngāti Rua or Te Whakatōhea and Te Aitanga-a-Māhaki. Am I right to understand that when we are looking at the Whakapaupākihi lands and the lands that are in that trust now, we would be right to understand that they fall within the customary lands of Ngāti Rua or other Whakatōhea hapū and that the Māhaki interests only arise because of marriage into those Whakatōhea hapū? Is that what you are saying?

A. Āe, the Māhaki interest is either a female or male Te Aitanga-a-Māhaki. The other issue is Whakatōhea.

Q. Āe.

A. Therefore, the child has one foot in Te Aitanga-a-Māhaki and another foot in Whakatōhea.

Q. Āe.

A. The name Whakapaupākihi stems from the Pakihikura canoe landing at the mouth of the harbour entrance to Ōpōtiki.

Q. Āe.

A. The harbour entrance is called Pakihikura. The Pakihikura descendants settled on the Ōtara river catchment. And also they went inland by naming the stream Pākihi Stream.

Q. Āe.

A. And they went further inland to Whakapaupākihi and they've run out of Pākihi, kua pau. Whakapaupākihi is the end of any Pākihi names further southwards. The name came from the Bay of Plenty side.

Q. Thank you. That's helpfulnrl thank you.

(12:52) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Ka pai. Now you're up to paragraph 24 where you say: "Oamaru is the block between the Waioeka and Otara Rivers."

A. Yes, really that falls under the ambit of the Ngāti Ira subtribe of Whakatōhea. It's in their customary landscape.

Q. Ka pai. That was going to be my question actually so you have just answered it. Now, you're up to paragraph 25.

A. Yes, there was a contest and dispute for this one and Whakatōhea lost the contest and dispute to Ngāi Tai.

Q. So with the Takaputahi block, are you saying it's really in the Ngāi Tai customary sector?

A. Really the back door in the Raukumara Ranges. Because beyond Takaputahi is Te Aitanga-a-Māhaki to the south and to the east of Takaputahi to the Mōtū River is Te Whānau-ā-Apanui. Te Whānau a Te Harāwaka was the subtribe of Te Whānau-ā-Apanui at Hāwai.

Q. That's helpful thank you. I think we have finished that topic. We move now on to the relationship with the local authorities so you're at paragraph 26.

(12:54) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 26

After the Europeans came to our district, our names were erased from the landscape. The town of Ōpōtiki did not use Whakatōhea names to name the streets and parks. More recently, however, the Ōpōtiki District Council has been coming to Ngāti Rua to ask for names when there are new roads or housing developments in the Ngāti Rua sector.

I am trying to revive our old names to keep them alive for the benefit of future generations. For instance, I have named four bridges. But before these four bridges, there are names (as what I just said) between here and Ōpōtiki is Te Wakanui and also on the signpost, Te Panenehu, and on another signpost before you get to Hikuwai is Wairakaia. They were the names that I have given to the Ōpōtiki District Council for new housing developments.

And also, the council want to name the bridges that's on the Ōpape Native Reserve. Yes, the Ōpōtiki District Council want to name the bridges. If anything happens within the area of those bridges on the road, if there's a fatality or a crashed car went over the bank, they will come to the name of those bridges.

I have given the names on the Ōpape Native Reserve, Te Whataakao. The full name is Te Whataakao-ā-Ūpokohapa but the short name is Te Whataakao.

Kao is a kūmara being put out into the sun, it becomes like a banana to eat. The next bridge I named was Te Ākona because Te Ākona Stream flows underneath it. Further up the road, I named another bridge, Te Wairoa, because Te Wairoa Stream flows underneath it. At the foot of the Meremere hill, the last bridge before you start climbing the Meremere hill is called Tauwhare. The full name is Tauwharepukatea named after a tree that grows in the area. The name Tauwhare is put there.

Those names are left with the Ōpōtiki District Council to put it on the mapping systems within the Ōpōtiki District Council. If there are happenings of significance, if there's a crash or a car went over the bank or over the bridge they would state the place where these happenings happened.

Everything is on the Ōpape Native Reserve. The whole Ōpape Native Reserve is Ngāti Rua. Not just a portion, the whole Ōpape Native Reserve. But Ngāti Rua's customary landscape is from the headland at Ōpape named Tarakeha. The Ōpape Reserve starts from Tarakeha coming along west to the coast to the Waiaua River and it comes inland following the Waiaua River to Komakopuku and from there, it crosses inland to the confiscated area in the background making up the 20,769 acres of Ōpape Native Reserve.

We are familiar because I was born on the Ōpape Native Reserve. Not too many of my generation was born on the Ōpape Native Reserve. Robert Edwards is one. But he just followed my pattern when I stated I was born on the Ōpape Native Reserve. There is only two generations of Ngāti Rua that knows about the Ōpape Native Reserve.

The hapū was given six coastal blocks and six bush blocks. The Ngāti Muriwai hapū was just given a coastal block. To me, the hapū that have a leg in the coastal block and a leg in the bush blocks stands upright. If you just have a leg in the coastal block you're not really upright, your other leg is in another block that belongs to another iwi. In Māori terminology you're not Whakatōhea tūturu **true Whakatōhea**, Whakatōhea tūturu **true Whakatōhea** have two legs on the block.

(13:01) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. So you were at paragraph 27. I just want to check something. You said the Tauwhare bridge is named after Tauwharepukatea and then you said that's a tree that grows in the area. Is that wrong where it says that there is a stream called Tauwharepukatea?

A. The name of the tree is Pukatea but it's in the Tauwhare region. It's a native tree –

Q. All right, okay.

A. – that grew in the particular area of Tauwhare.

Q. So there's not a stream with that name.

A. The stream is named after Tauwharepukatea.

Q. All right. So you were about halfway down paragraph 27, I think, where you're looking at the names Wairakaia and Tama Ariki.

A. Yes, those names are at the Tirohanga Stream catchment that goes out to the sea. I just mentioned Wairakaia that's a new housing development road was given to the council. It's there also on the signpost Wairakaia Road. Tama Ariki is the name of the taniwha in the Tirohanga Stream.

Q. Āe, ka mārama **yes, I understand**. Now you're up to paragraph 28.

(13:02) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 28

Now that we have a good relationship with the council, we hope that they will keep coming to Ngāti Rua and not bypass us and go to Te Tāwharau. The mana comes from the hapū not from the post-settlement governance entity. And really, Ranginui Walker caused that when we were the Whakatōhea Trust Board. The Whakatōhea Trust Board was a creature of the Crown. It had no mana really pertaining to land. The mana belongs to the hapū. It's up to the hapū to come as an iwi. When it combines to become an iwi that's Whakatōhea.

JUDGE DOOGAN ADDRESSES MS FEINT KC – ADJOURN (13:04:12)

HEARING ADJOURNS: 1.05 PM

HEARING RESUMES: 2.04 PM

MS FEINT ADDRESSES TRIBUNAL PANEL – FILED #D008(a) (14:04:52)

(14:05) DR TE RIAKI AMOAMO: (CONTINUES)

CONTINUES #F011 PARAGRAPH 29

Ngāti Muriwai

I have already provided a response concerning 'Ngāti Muriwai' in my answers to written questions dated 27 June 2024 (#D008(a)) and I do not want to repeat that in detail. In that evidence, I stated that Ngāti Rua do not recognise Ngāti Muriwai as a hapū. They do not have a pepeha. They do not have a marae. They are not represented on Te Tāwharau because they are not recognised as a hapū by Whakatōhea.

Since then, Peter McBurney and Nepia Tipene have given evidence (#A003, 1 August 2025) referring again to a hapū called 'Ngāti Muriwai a Rua'. For the record, I refute that evidence. I have never heard of a hapū by that name and I do not know of any oral tradition that speaks of 'Ngāti Muriwai a Rua'.

McBurney's statement that 'Ōmarumutu originally belonged to Ngāti Muriwai, who offered to share it with Ngāti Rua when the wharenui of the latter burned down is absolutely wrong (#A003 at [1185]). I have already provided the whakapapa of our ancestors on this whenua from the arrival of Tautūrangi on the Nukutere waka. Our meeting houses have been named after our illustrious ancestors, Tūtāmure, and prior to that, Ruatakenga. The house that burned down was named Puketapu and it was located near the Ōpape Stream.

The only written record that Messrs McBurney and Tipene can provide for the name 'Ngāti Muriwai a Rua' is some handwritten notes recorded by the Registrar at a Māori Land Court hearing in 1976 in which my father Tiwai Amoamo is recorded as referring to 'Muriwai a Rua' in his kōrero. I was

present at that hui but I was a ringawera in the wharekai so I did not hear what he said. It is not clear what he meant by this. He was an old man at the time and may simply have made a mistake. On the other hand, if he spoke in te reo the 'a' may have meant that Muriwai 'belonged to' Rua. This would make sense as the context of the hearing was to bring 'Paku's people' back into the marae reservation; they had been excluded as owners after the 3A block was cut out. As they have Ngāti Rua whakapapa, it was agreed that the Porikapa and Edwards' families should be included in the ownership list in the marae reservation so that the marae would represent all of Ngāti Rua.

As a matter of tikanga, any discussion about 'Ngāti Muriwai' should be held on Ōmarumutu Marae where their views can be debated not brought before the Tribunal and the High Court. Ka mutu.

(14:09) MS FEINT KC TO DR TE RIAKI AMOAMO:

Q. Not quite because I've got one more question for you. Can I ask the Tribunal please to bring up #A035 which is the archaeological report for Ngāti Rua. Can we go to page 31 and we'll get the photos brought up on the screen. If we look at Figure 14 it says: "Image of a coastal pā just east of Ōmarumutu Marae." Are you able to tell us what the name of that pā is?

WITNESS REFERRED TO ARCHAEOLOGIST REPORT #A035

A. That's the ancient pā site of Ōtanemutu.

Q. Ōtanemutu, thank you. And then if we go down to the next photo Figure 15 it says: "Coastal fronting pā, with a large rampart…over a piece of high ground." Do you know the name of that pā?

A. It's another ancient pā site called Puketaro. I've been on both of them on different excursions for being there. The first one on Ōtanemutu is to take the Ōmarumutu School children there and the other one was for a Ringatū karakia purpose to be held on Puketaro.

Q. Why was that?

A. That was for things that were happening in the area of the Ōtanemutu Lands Trust.

Q. Ka pai. Those are all my questions matua Te Riaki but the Crown and the Tribunal may have some for you.

(14:12) MR LINKHORN KC TO DR TE RIAKI AMOAMO:

Q. Tēnā koe matua **greetings elder**.

A. Kia ora.

Q. Craig Linkhorn here for the Crown. I just had two areas that I wanted to follow-up on, but in the course of your presentation today and the questions from other people one of those I think has already been addressed so we will see how we go. The first area that I wanted to follow-up on was at paragraph 6 of your evidence today where you start: "Historically, the Mōtū River is the boundary between Te Aitanga a Māhaki and Te Whakatōhea," and I think you added when you spoke 'at Whakapaupākihi'. I just have a couple of questions about this and they kind of follow on from some questions that the Tribunal members asked you. I want to acknowledge not only your evidence today but also all of your other evidence in the inquiry so far where there is a bringing together of the threads in your evidence today from all of it, I think. When you say sir that the Mōtū River is the boundary between Te Aitanga-a-Māhaki and Te Whakatōhea, I wanted to explore with you what were the reasons and how did that come to be the understanding of the boundary as between the affected groups?

A. The answer to that is from where the source of the Mōtū River came from Maungatapere and the boundary of Te Whakatōhea goes to Maungatapere and it follows the source of the Mōtū River which is at the northern base of Maungatapere and it more or less flows in the northerly fashion to the ocean. Maungatapere is a boundary between Whakatōhea, Tūhoe, and Te Aitanga-a-Māhaki.

Q. So you've just helped me with understanding more about where that is-

A. Maungatapere is a significant hilltop in the Matawai area the source of the Mōtū River. Te Whakatōhea participation in the Mōtū River is Maungatapere to Kaitaura Falls on the Mōtū River.

Q. So I guess the thing that is left for me to ask you to elaborate on is why was that chosen as the point marking where the interests meet? What events happened, if any, to mean that that was the important place?

A. First of all, it's between two brothers, Te Aitanga-a-Māhaki come off Tamataipunua and Whakatōhea come off Tūtāmure. Not all Whakatōhea but five subtribes of Whakatōhea come off Tūtāmure. That's the reason of the boundaries between the two brothers at Maungatapere coming from the west from Tūhoe into Te Whānau-a-Kai, Te Aitanga-a-Māhaki sector.

Q. So, sir, am I understanding you correctly that this was a matter that was agreed between those brothers?

A. It was agreed because it was mentioned by Hoeroa Horokai the boundaries within the Whakatōhea. Hoeroa Horokai and Heremia Hoera they set out the boundaries in 1926 in the Māori Land Court.

Q. Yes, thank you. I suppose to explain the thinking behind the question is to check with you that this is a boundary place is from before colonisation. Is that correct?

A. That's right.

Q. When Ms Feint took you to the maps with the pā sites and where those ancient pā sites are, I was trying to follow along to check whether those pā sites fit in with the idea of that river being a natural boundary as it were. Did I follow along correctly that the ancient pā sites you were describing are consistent with being on this side of that river?

A. There was no pā sites up there because of the contour of the land was in the Raukumara Ranges. Native forest no habitations. It was camps that went up in that area. When I talk about pā sites, I talk about fortified villages and the fortified villages are on the coast.

Q. Yes, let's make sure we are not getting trapped in the terminology that I happen to have given it. You were taken I think to some archaeological evidence about ancient sites inland and I was just wanting to check with you that the sites you were referring to were all on this side of that Mōtū River area.

A. Yes, Whakapaupākihi was allocated to Whakatōhea. I was a delegate on the Whakapaupākihi 6 and 7 Trust in that area. If I was a delegate in that

area, it is Whakatōhea. I'm part Whakatōhea. Other Whakatōhea delegates were there with me and I'm representing Ngāti Rua. I was a delegate with Whakapaupākihi 6 and 7. For so many years, the longest delegate on the Whakapaupākihi 6 and 7 ever told and brought up and I'm familiar with the area being a delegate.

JUDGE DOOGAN ADDRESSES MR LINKHORN – MAP BOOK PLATE 12 (14:20:14)

MR LINKHORN TO DR TE RIAKI AMOAMO: (CONTINUES)

Q. If you have that in front of you, sir, it is plate 12 page 20 of the map book, you will see on their matua that the Whakapaupākihi blocks are shown and you also see that the nearby township name Mōtū is shown there and the blue line running north there is the river, is it not?

A. Yes, that is the river commencing from Maungatapere.

Q. With the inland sites that you talked about before with your lawyer, I am assuming but please tell me if I'm not correct, that the sites are all on this side of the Mōtū River line the sites you were discussing inland?

A. Especially Whakapaupākihi.

Q. Especially, those Whakapaupākihi sites.

A. That’s right.

Q. Yes, thank you. And really the point of me wanting to clarify this sentence with you at all was to try and get a better understanding on our parts as to how longstanding this boundary zone has been based on the river, rather than for example based on a peak. I take it that it is your evidence that it is longstanding but if I haven't got that right please tell me.

A. It's longstanding.

Q. Thank you very much. Well, the other topic was really over at paragraphs 24 and 25 because you discuss two blocks there but in very short form but other questions have already covered why that is. I now understand that so I don’t have any further follow-up questions on that.

A. Kia ora.

Q. But I just thank you again for your evidence today, sir. Kia ora.

A. Kia ora.

(14:23) PROFESSOR TOM ROA TO DR TE RIAKI AMOAMO:

Q. E koro tēnā koe. E whakamahia ana tēnei kupu ‘taonga’, he taonga ēnei kōrero, ki āu he taonga te kaikōrero. Tēnā koe. **Elder thank you. You are using the term ‘taonga’, this information is a taonga and the speaker is that taonga. Thank you.** My question starts with, I understand that mana waxes and wanes and overtime there may be boundary markers but circumstances arise and so the boundaries change. Today, we have these clear boundaries as outlined by you that have come overtime. The first question that I have is what do you, Ngāti Rua, and the other hapū do about this waxing and waning of mana? How do you address the question of this group saying that they have mana here over this other group? How do you address that?

A. If it is pertaining to Whakapaupākihi the matter was over the five hapū of Te Whakatōhea. I'm part of that mana. I'm part of that five.

Q. Ka pai.

A. Because Ngāi Tū was in that area but later years there is no existence of Ngāi Tū in that area. Generations come and go and, as what you say, it changes. And exactly how it changed on the coast when Te Rangi was the landing of the Nukutere canoe. But the boundary is not at Te Rangi, it is at Tarakihau; it changed. It changed with Christianity coming in to colonise and to operate the kaupapa.

Q. One of your statements is that it's about the mana ā-hapū not the PSGE. What are the boundaries?

A. As Māori evolve each hapū has its region whether it's on land or whether it's on sea in front of that land. If I went fishing in an area that wasn’t part of my landscape, I will be told not to enter again is the last kōrero to you. That’s mana ā-hapū.

Q. Ka pai.

A. It's the hapū landscape not the iwi.

Q. Ka pai.

A. But if the hapū want to combine to become an iwi that’s when it becomes an iwi. Because the hapū will have allies to help if there is confrontation and those allies is the iwi. But if you’re working by yourself it won’t happen. You’ll be overtaken.

Q. Ka pai **good**. So the nurturing of the relationships, the looking after of the relationships –

A. Āe.

Q. – good luck.

A. Because with our other hapū, we look after one another –

Q. Āe.

A. – whether it's confrontation or whether it's a meal.

Q. Ka pai.

A. We can tell them to come and fish in our fishing grounds and vice versa we can go into their fishing grounds. We work together. It's team work. It's team work to operate.

Q. Tino pai **very good**. My last question really goes back to this waxing and waning of mana. I'm amazed at the number of pā that we've seen. And I've got in here plate 26. Now that must have meant the mana flying in that space.

A. The mana is the legacy that they have lived. There are some whānau within Whakatōhea they don't know who or where they come from. It's how you have been brought up, how you have been taught. The English terminology if you've got academic experience to tackle this knowledge will get you there.

Q. Thank you. These pā would you say that they existed at the same time as each other or was there some kind of a timing element in how those pā were established?

A. This is why, because there are generations of people, another generation will live somewhere else. Exactly what has happened today with the disperse of the Ngāti Rua subtribe of Whakatōhea right throughout the world. It happened in their days in a minimum sort of a kaupapa because the population of today is greater than the population of yester year.

Q. I guess my question kind of touches on the other question Mr Linkhorn asked –

A. Kia ora.

Q. – because if we have a look at the map that is on the screen now –

A. Āe.

Q. – the bottom left-hand corner those pā are so close together, if they were defensive pā and they existed at the same time what's the mana, what's the dynamic in that space at that time?

A. They are looking for the interest of their landscape where they are living. Not to be overtaken by others to come into their landscape to take over.

Q. Had they fought amongst themselves?

A. That's how they lived the legacy leaving the names of those pā sites and then I'm putting it with technology on mapping systems to be seen on the screen like what we see today. It's something that I marvel at because I haven't got a mobile phone. I've got a landline. Otherwise, I'd become addicted to this and not addicted to tikanga.

Q. Kia ora.

A. Next thing I'll be addicted by talking like this, instead of tikanga Māori e tū koe ki te kōrero **stand and speak**.

Q. Tēnā koe, tēnā koe. Ka nui ngā pātai ki āu. **Thank you, thank you. Those are my questions.**

A. Kia ora.

Q. Engari kei te nui te mihi tonu **but I want to thank you very much**.

A. Kia ora te kaumātua. **Thank you elder.**

Q. Āe, tūturu pou tikanga, pou kōrero, taonga tēnā koe. **True tikanga, expert, orator thank you.**

(14:34) PRUE KAPUA TO DR TE RIAKI AMOAMO:

Q. Kia ora matua. I just had a little question about your reference to Ngāti Rua sector when you talked about the relationship with the local government with the council and so on. When you refer to it in your evidence you talked about wanting them to come to you directly, wanting them to come to Ngāti Rua for issues around names for example, rather than going to Te Tāwharau. When you're talking about the Ngāti Rua sector in your written questions you talk about the Ngāti Rua sector on Ōpape area but I guess in your evidence you were talking much wider. You're talking the rohe of Ngāti Rua as a whole.

A. Āe.

Q. Āe. In terms of that, and I think in answer to your questions about the mana and the hapū and the iwi, do you have any agreement with Te Tāwharau about how that process of coming to Ngāti Rua would work? Is there any informal or formal arrangement with Te Tāwharau?

A. The six subtribes of Te Whakatōhea have two delegates for Te Tāwharau. Ngāti Rua has two for Te Tāwharau.

Q. Would you be happy with Te Tāwharau representatives or is there another process that you see in relation to that relationship with the council? Or is it those on Te Tāwharau that are your two Ngāti Rua representatives or should there be a wider group or process?

A. The council comes back to the hapū not to Tāwharau.

Q. Right.

A. We've told the council that our lands was confiscated the subtribes of Whakatōhea not from Te Tāwharau.

Q. So it's a direct-

A. The lands of the subtribes has been confiscated and the monies of those lands that were confiscated should be first allocated if there was a koha to the hapū.

Q. Right, okay.

A. The Tāwharau got no lands that were confiscated. As Ranginui Walker states, the Tāwharau is a creature of the Crown.

Q. Yes, pai ana. I understand that kua mārama.

A. The Crown only want to go up to one body of people not to six body of people within Te Whakatōhea.

Q. Yes.

A. Tikanga Pākehā.

Q. Āe.

A. Tikanga Māori is different, mana ā-hapū.

Q. Āe. All right. Kua mārama **I understand**. Thank you.

(14:38) DR ROBYN ANDERSON TO DR TE RIAKI AMOAMO:

Q. Tēnā koe **thank you** Dr Amoamo. I want to talk to you about names. How old were you when you found out that the names you knew hills and places weren't the names that were to be found on a map?

A. When I was a tiny tot growing up at home the first thing I heard there was a karakia being conducted in Māori early hours of the morning. And I thought to myself in later stages of life I'll follow that portfolio. Otherwise, if I don't follow it, I'm leaning more to the colonisation of Europeanisation.

Q. Āe.

A. I've lost my identity.

Q. I think that's pre-empted my next question which was how does it make you feel when you go into Ōpōtiki and there are no Māori names on the streets?

A. That's quite true. That's through colonisation with the killing of only one person. The killing of one person was confiscation and even the names of the Ōpōtiki township.

Q. All right. Well, thank you. I just wanted that on the record.

A. Kia ora.

Q. Thank you for coming and talking to us yet again. It's always so informative and entertaining as well. Thank you very much.

(14:40) DR GRANT PHILLIPSON TO DR TE RIAKI AMOAMO:

Q. Tēnā koe Dr Amoamo. I'm up on the screen.

A. Kia ora.

Q. I'm sorry about not being there in person. Actually, in your various things that you've said you've answered are most of my questions. But there are two things. The first is you mentioned the names of some land trusts and I just wondered is most of the land in the Ōpape Reserve and that you know of that has Whakatōhea owners is it mostly now run by trusts or are there still blocks of land that have no committees?

A. These are the land trusts that are controlled by a group of people representing the owners –

Q. Yes.

A. – and the owners is a multiplicity of names. You cannot count them.

Q. Yes.

A. That's another confiscation.

Q. Yes.

A. They belong to the lands and that's kua moana te whenua i te tangata the land is just a sea of owners. That's another confiscation. I heard it from my mother telling us around the table: "Kei te moana te whenua i te tangata." In English: "The land is just a sea of owners." By the time you succeed, this generation and another succession of another generation it's going down to 0.00 per cent and that's confiscation; you'll just walk away from it. But if you have a land trust that egg is still whole. It is not cut up. It's including all the whānau within that land trust of the family. To me that's another confiscation multiplicity of ownership.

Q. Thank you. My other question was whether we could get the maps that you've done very helpfully with all the pā sites and all the rivers whether we could get another layer onto that map of block names. Is that possible?

DR GRANT PHILLIPSON TO MS FEINT KC – REVISED MAP

Yes, no, those are all my questions. Thank you very much Dr Amoamo. I have learned a lot today.

(14:43) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. Kia ora. And you'll be pleased to know just one final pātai from me. Just again to clarify some of the discussion about the land and the Ngāti Rua customary interests. On this map I'm just looking at the Takaputahi block and you were speaking earlier about that land and you were saying that it got awarded to Ngāi Tai. I don't know whether the entire block. But, as I understood, you were saying that through a contest in the court Ngāi Tai substantially were awarded and that this effectively cut off some of the Ngāti Rua customary interests. From the maps you have provided with your brief, I'm just wanting to check this with you that the Ngāti Rua interests and the traditional boundaries take us right back to the Mōtū River at the back of the Takaputahi block or part of that block. That is correct.

WITNESS REFERRED TO MAP PLATE 120

A. It's beyond the Takaputahi block.

Q. All right.

A. Because the Mōtū River is one of the longest rivers in the Eastern Bay of Plenty.

Q. Āe. We'll do a little bit more mapping and then it will be clear I think on another map where the Ngāti Rua customary boundaries go in relation to these Native Land Court blocks.

JUDGE DOOGAN TO MS FEINT – REQUEST FURTHER MAPPING

A. It finishes at Kaitaura.

Q. Kaitaura.

A. Kaitaura is the waterfall at Mōtū just below Whakapaupākihi 6 and 7.

Q. All right. Āe, thank you.

A. The waters that's flowing onwards from Kaitaura to the sea this is where Ngāi Tai comes in because the river is going into another region of the Eastern Bay of Plenty. On the western side of the river is Ngāi Tai. On the eastern side when it leaves, Te Aitanga-a-Māhaki, Te Whānau-ā-Apanui right to the sea coast.

Q. All right. Because it is quite important that we understand this clearly, I might ask Ms Feint just to have a discussion with you, so that on one of the maps we can just mark those markers you're just describing between Apanui, Māhaki, Ngāti Rua-

A. Āe, the Kaitaura Falls.

Q. Āe.

A. Āe.

Q. And then if need be we'll get another map made up. Just for our help so that we have the clear markers before us.

A. Āe.

Q. But thank you very much again for your evidence not just today but, as our colleagues and Crown council have said, for all of the evidence you have given us.

A. Kia ora.

Q. I know Ms Feint says that you're a gold level frequent flyer. I think I prefer Professor Roa's description of not just the evidence as a taonga for Ngāti Rua for the uri to come but also a taonga for us in our inquiry. We are deeply appreciative of your time and the commitment you have made to bring this information to us. He mihi nui ki a koe **thank you very much**.

A. Kia ora.

Q. Thank you.

WAIATA TAUTOKO (HE TAONGA)

HEARING ADJOURNS: 2.50 PM

HEARING RESUMES: 2.58 PM

(14:58) MS FEINT KC: (CALLS)

Our next witness is Te Aroha Pearl Rutherford. Her brief is #F005 on the Wai 1750 record of inquiry. Ms Rutherford, or Aunty Pearl as I know her, I've got a very soft spot for her because when we were doing the MACA hearing in the High Court the hearing went for eight weeks and Aunty Pearl turned up with boxes of kai every single day, enough food to feed a small army. She kept us in very good heart all the way through the hearing so her manaakitanga **hospitality** is second to none.

Q. But tēnā koe **greetings** Te Aroha. Can you please confirm that your name is Te Aroha Pearl Rutherford?

A. Yes, I can confirm Te Aroha Pearl Rutherford is my name.

Q. You have prepared this brief of evidence dated the 11th of February 2026.

A. Yes.

Q. Can I ask you please to read your evidence for the Tribunal.

MS FEINT ADDRESSES TRIBUNAL STAFF – INSTRUCTIONS FOR PRESENTATION APPENDICES (14:59:59)

(15:00) TE AROHA PEARL RUTHERFORD: (#F005-(a), (b))

REFERS TO #F005 PARAGRAPH 1

My birth name is Tangi Te Aroha Mokemoke Wākainga Collier but I am now known as Te Aroha Pearl Rutherford. I was born on 1 January 1942 to my mother, Te Rehina Iriaka Heremia (Edith was her Saint name but everyone called her Kui) and my father, Dick Teki Mautoko Collier, who was of

Ngāti Porou descent. My birth name is significant, it was given to me by my paternal grandmother to express how homesick she was for Ngāti Porou after moving to Ōpōtiki. I was given the name Pearl when I started school. We were not allowed to be registered with our Māori names and so my father had to come up with a Pākehā name quickly and he thought of Pearl because I was born just three weeks after Pearl Harbour was bombed by the Japanese in World War II. Everybody calls me that now. It says it's not my real name but, yes, it is my real.

Our parents had an arranged marriage. At the time, Sir Apirana Ngata was helping our people to develop our whenua and he brought Ngāti Porou men over from the East Coast to help. Our elders decided in their wisdom to marry some of those men to our Whakatōhea women so that their children would have a whakapapa to the land. My mother was like an ariki in having a lot of whenua in her name because she was an only child. My mother had never met my father before she married him but it was a successful union. I can remember my father explaining to me what love meant and saying that he and my mother came together and grew together and did everything together. They worked so hard and their crowning achievement was bringing 22 children into the world, 18 of whom survived.

My father worked with our help on breaking in our mother's land at Ōmarumutu just up the road from the school (total area 68.3 acres and the block was Pt3W5B2). He was never allowed to own the land but he was a guardian of it for his children.

I was very close to my mother. She was a beautiful gentle mother and loved us dearly. She was very ngāwari and not ever did she raise her voice. Looking back on it, she must have had endless reserves of patience. She took everybody into her arms. She also raised whāngai and loved them like her very own children. For instance, Mereaira's father – there's a correction there.

(15:04) MS FEINT KC TO TE AROHA RUTHERFORD:

Q. Āe. So you want to correct the name of Mereaira's father.

A. Yes.

Q. And what should it be?

A. It's supposed to be James Whakaruru Hata. But we called him Jimmy. That was our name for him. It kept coming up with John. We tried to correct it. We don't know why. But it was really James Hata but we called him Jimmy.

(15:05) TE AROHA RUTHERFORD: (CONTINUES)

CONTINUES #F005 PARAGRAPH 4

He was like our brother and also all of the Coleman brothers.

Through my mother we were taught our whakapapa, our responsibilities to the whenua, and our obligations to our people. Even as land was lost and whānau were pushed out, she never let us forget who we were. She was humble but she was proud to be Māori.

Ōmarumutu has always been home to me. Our mother used to tell us how strong our roots were here and that is a lesson I have never forgotten. Even when I lived elsewhere my connection to the whenua, the marae, and my whānau never left me. What I speak about here comes from my own life and from what I was taught by my elders.

Whakapapa and identity

Taku karangarua ki a **me genealogy to** Ngāti Rua. Ko Mākeo te maunga. Ko Waiaua te awa. Ko Nukutere rāua ko Mātaatua ōku waka. Ko Ōmarumutu te marae. Ko Tūtāmure te whare tipuna. Ko Hineikauia te wharekai. Ko Tūtāmure te tangata. Ko Ngāti Ruatakenga te hapū. **Makeo is the mountain. Waiaua is the river. Nukutere and Mataatua are my waka. Ōmarumutu is the marae. Tūtāmure is the ancestral house. Hineikauia is the dining hall. Tūtāmure is the ancestor. Ngāti Ruatakenga is the hapū.**

Taku whakapapa ki a **my genealogy to** Ngāti Rua. Tūtāmure married Hineikauia. And then their children, Manutaurehe, which is over there. We've

got these all in our marae, which is beautiful, named after Tūtāmure's children. Manutaurehe, Rongoteake, Urekaka, Ruawhare, Te Kopu a Ruawharo, Upokohapa, Kuwhāingoingo, Tipoti, Pokihauora, Hikapakoko, Te Auroa, Hineari, Werahiko, Waana Te Kaui, and our great-grandfather, Heremia Hoera, and off him became his son, Hōta Heremia, who married Te Rara Kere. And then from there, they had Te Rehina Heremia and she married Dick Teki Mautoko Collier and along comes me, Tangi Te Aroha E Mokemoke Wākainga Rutherford (nee Collier).

Heremia Hoera

My mother was the only child of Hōta Heremia and Te Rara Kere. Our mother was raised by her maternal aunt, Te Wairata Kere, because her own father had died in the influenza epidemic just before she was born. The reason her mother wasn't around to bring her daughter up was because she had to work in the shearing sheds in Te Karaka as a cook (in those days there was no financial assistance). Heremia Hoera (my mother's grandfather) was very learned in Māori whakapapa and knowledge. His whare was just below the marae and he lived there with his daughter, our Nanny Ripeka Mihaere, and his mokopuna. To this day, the chimney still stands between the Paruru and Porter homesteads. My mother was raised fully in te ao Māori by her grandfather and elders. She did not even learn English. She knew who she was and where she came from.

Heremia Hoera is well known for his kōrero to the Sim Commission describing the traditional tribal boundaries of Te Whakatōhea. This 1920 boundary description has become the authoritative account of our traditional rohe. My cousin Te Riaki Amoamo already set those out in his Māori and English brief of evidence (Ngā Kōrero Tuku Iho a Tākuta Te Riaki Amoamo dated 15 June 2023).

My mother was very concerned to ensure that her maiden surname Heremia would be carried on the old Māori way, as it was the name that linked the whakapapa to the whenua **land**. I remember her telling me this because I was always interested in whakapapa and how people's names came about. So my

mother decided that her eldest child and first eldest son would take the name Heremia. The eldest child was my sister, Vivienne Hinemokai Heremia, and the eldest boy was named Raymond Rangihaerepo Heremia (Rangihaerepo after the chief that signed the Treaty of Waitangi). The rest of us were Colliers.

Growing up at Ōmarumutu

Our whānau initially lived in a small one-bedroom house with a dirt floor on our Ōmarumutu land. And then as we outgrew that house, a new house was built on the same land. The new house was built approximately 72 years ago and still stands to this day where my sister now lives. There was a row of beds along one wall for the girls and then another row of beds along the other wall for the boys.

Our home was always open. All tamariki were fed first. My mother and father strongly believed in feeding the tamariki first. My mother shared what little we had. That is how she was taught and that is how she raised us. Tikanga was not something we talked about. It was something we lived. She was a humble woman but proud to be Māori.

We grew up poor by today's standards but we did not think of ourselves that way. We always had kai. We worked hard from a young age. We ploughed the land, cut hay, and milked cows by hand. That was just part of life. My father made sure we knew how to work and how to survive. By the time I was around 14, I started working after school in the telegraph department at the Post Office and I had to bike into town with the assistance of my cousin Taku Williams. It was a gravel road then but at the time I thought nothing of it. I never opened my pay packet. I would give it to my parents.

MS FEINT KC ADDRESSES TE AROHA RUTHERFORD – MICROBREAK (15:13:09)

HEARING ADJOURNS: 3.13 PM

HEARING RESUMES: 3.14 PM

(15:14) TE AROHA RUTHERFORD: (CONTINUES)

CONTINUES #F005 PARAGRAPH 14

Around the marae, our whānau worked together. There were big māra kai **gardens**, acres and acres all around the marae on the papakāinga blocks, not just one garden for one family but gardens that fed many. We would plant by the moon. It was all natural, no sprays, and the crops never ever failed. People helped each other. Everybody came down and helped at kūmara time, sweetcorn time, sugarcane time. We had plenty of food. We even grew peanuts. If people didn't have land of their own, they would be allocated a plot to work on someone else's block. That was how we could feed big families and everyone had big families in those days, although our whanau was bigger than most! That whanaungatanga **relationships** kept us close and kept us strong, but that way of life is gone now. All the factories in town got closed down and the men had to leave for jobs elsewhere and then it was hard to keep the milking going. They'd take their families with them, slowly but surely it all fell away. That change has been painful to watch.

I should add that we did not pay rates then. We didn't get any council services anyway. I don't think people knew we were supposed to pay rates and some land was taken for not paying.

The loss of our language

Our mother spoke te reo Māori as her native tongue. She couldn't speak English. She only had a sort of pidgin English. The world outside our pā was not kind to her. I recall vividly that the shopkeepers in town refused to serve her. They would look past her as if she was not there, so she relied on us children to do the shopping for her. We didn't know what racism was then, but now I think about it the shopkeepers knew exactly who she was. The Colliers were a well-known family. So I wonder if it was not just because of the language barrier but also had something to do with her being very dark. She was full blooded Māori. We loved our mother dearly but the way she was treated hurt deeply. Even if she did not always show it, those moments stayed with me.

They taught me early about the way Māori were treated simply for being who we were.

Mum would only speak the reo to us, so her language was the last thing in our heads as we walked down the road to Ōmarumutu School. When we arrived at school, we were told: “Don’t you dare speak that language here.” We were punished, and I still remember it to this day. You got the cane or the leather strap but the worst punishment of all was having “Taniwha” soap shoved down our throats and being told we were swearing. I remember the fear. I remember the shame. Those experiences never leave you.

My mother saw what was happening to us. Because of the punishment we faced at school, she began to encourage us to speak English. She believed that was the only way to keep us safe in a Pākehā world. She even told us to marry Pākehā so that we would be looked after. Those sentiments seem strange today but she was trying to protect us.

The cost of that protection has been high. We lost our confidence in who we were. It has affected all of us to this day. We have a fear of the language. We want to speak it but a blockage comes up when we try. Just the other day we were at a tangi and my brothers were saying, they wished they could sit on the paepae but they won’t. It was always my desire to be a kaikaranga **caller**. I even went through training but a blockage kept coming up even though I am outgoing. Some of my siblings have assimilated into the Pākehā world because that felt safer, and they do not come to the marae. It is just as well that our mokopuna can speak the reo. I watch them at the kōhanga reo and think: “I should be speaking Māori to them not them teaching us.” It is terrible that our language was taken from us.

Land loss and ongoing burden

Through my mother our whānau held rights to many blocks of land. Our mother died in 1973 but out of respect for our father we did not go to the Māori Land Court to succeed to the land until he died in 2002. Then we found out that some of our land had been lost through conversion to general title, poor

management, and decisions made without us. For instance, in 2003 we succeeded to our papakāinga block, Ōpape 3Q2 next to the marae, only to discover it had been changed into general title and sold by other people claiming rights without our knowledge. That really hurts because of what the land meant to us. Trying to reclaim what was already ours took time, money, and strength. My niece has just bought one section back, but not everyone in the whānau can afford to do that.

Carrying this responsibility has been exhausting. From a young age, I knew it was my job to remember, to hold onto the records, to keep the whakapapa alive, and to speak up when something was wrong. Often it felt like fighting a system that was never designed to hear us.

Coming home

After I left school, I went into nursing and I ended up leaving Ōpōtiki and living in Whakatāne, Kawerau, and Taupō, and then I went home to Ōpōtiki. I had a family of seven children, although sadly we lost one at 23 years of age. There are many nieces and nephews in the Collier whānau and now mokopuna as well.

I have moved back home now. My sister is in the family homestead. My brothers Brian and Peter have never left. My late brother Tom was living here as well. However, overall, very few of our whānau are here. Our people are hungry to come home but there is not enough work and nowhere for them to live. There is a huge need for housing. Rental housing is expensive and hard to find. If we had our whenua, we could put them all on our whenua and then our people could come home.

The best thing about home is being able to tautoko anything to do with our marae or Whakatōhea. I will be at the marae whenever there is a hui on. When Ngāti Rua applied for customary marine title in the MACA proceedings, my brothers and I travelled to Rotorua for the High Court hui throughout the eight weeks that it was on. My brother Tom's daughters came up from the South Island to tautoko **support**. My role was making the kai. I used to get up

at 5 o'clock in the morning and make the sandwiches for our lawyers and then travel from my home in Taupō to Rotorua to watch the hearing. When Te Riaki Amoamo was giving evidence, he told the judge that Heremia Hoera's mokopuna were in the back of the courtroom and there were seven of us siblings sitting there. It meant everything to us that Ngāti Rua won that case. What a victory! I wish people would appreciate the hard work that was put in to have the mana of Ngāti Rua recognised by the courts.

Closing

My life has been shaped by what I was taught at Ōmarumutu and by what was taken from us. The loss of land, the loss of language, and the way my mother was treated for not speaking English have stayed with me, but so has her strength.

I continue to hold onto our whakapapa, our whenua, and our history for those who come after me. I have not been in good health lately, but I have been absolutely determined to stand to represent the Collier whānau and give evidence in the raupatu claim for my hapū Ngāti Rua. I do so in honour of our ancestor Heremia Hoera, my beautiful mother, and her many, many descendants.

Dated the 11th day of February
Te Aroha Pearl Rutherford

Yes, so that's it. If you turn to the photos that's our great-grandfather Heremia Hoera. That was my mum's.

(15:25) MS FEINT KC TO TE AROHA RUTHERFORD:

Q. We'll ask if the Tribunal can bring them up on the screen so that we can look at them.

A. Okay.

Q. So that's your great-grandfather Heremia Hoera.

A. Yes.

Q. And then if we go to the next photo.

A. Now the next photo that's our mum. That was taken over 70 years ago. She was hapū with our youngest sister. Yes, so that sister is in her 70s and there she was. This is Gloria, yes.

Q. And there's one more photo after that.

A. There's our mum. She wasn't a photo person. She used to always say to us: "Everyone look at you and those are my photos that will live on." And that was her hard working. We lost her at a very young age. She was only in her very early 60s. The baby of her 22 children he's 69; he was the baby. He's even older than what mum was when mum passed.

Q. Tēnā koe **thank you**. Aunty Te Aroha I should call you not Aunty Pear.

MS FEINT KC ADDRESSES JUDGE DOOGAN – ADJOURN

JUDGE DOOGAN ADDRESSES TE AROHA RUTHERFORD – MIHI, ACKNOWLEDGEMENT (15:26:53)

HEARING ADJOURNS: 3.27 PM

1553 hb

HEARING RESUMES: 3.52 PM

QUESTIONS FROM MR LINKHORN KC – NIL

(15:53) PROFESSOR TOM ROA TO TE AROHA RUTHERFORD:

Q. E kui, tēnā koe, tēnā koe ki tō manawanui, tō maia, tō manawa kuaka. **Greetings and thank you for your resilience, your courage, and your perseverance.** Thank you for your evidence which is evidence of experiences and with those experiences your resilience and the resilience of your whānau. I just have one question. What do you want for your mokopuna **grandchildren**?

A. I want a better future for my mokopuna **grandchildren**.

Q. What would that future look like?

A. That future would look like being back here on their own roots being surrounded from who created this, the suffering of our great-grandparents

and great-great-grandparents. To make it a place that they can stand up and be proud of. I don't want them saying: "I'm going to go and live in Australia because we don't like it here; there's nothing for us here." That's one of my biggest things. For them to have what was their birthright handed back which is the big loss of the whenua, our reo. We are just so blessed now with the kōhanga our mokopuna can speak the reo. But everything else that's not what it's all about. The reo is a big one but there are others. Living as real Māori.

Q. The last bit of that is what is a real Māori.

A. A real Māori is being very ngāwari.

Q. Okay.

Q. The example is you never closed your doors back in our day. Everywhere was open. Everyone was helped and looked after. That was the Māori way of life. Now you don't even know your neighbour.

Q. How can you love your neighbour if you don't know them.

A. That's right.

Q. Tēnā koe.

A. Yes.

Q. Thank you.

(15:56) BASIL MORRISON TO TE AROHA RUTHERFORD:

Q. Whaea, thank you most sincerely for your evidence and echo what matua Tom said "courage" and I found it very moving. And in the world in which I live in and have worked in for 40-odd years in local government –

A. Yes.

Q. – to hear some of the stories already said today and in evidence for the rest of the week in what you have alluded too. It reminds me, as I have often given addresses on, we're not talking about 1066 and Harold with an arrow in his eye.

A. Yes.

Q. We are talking about my grandparents and great-grandparents' days coming here from Ireland –

A. Yes.

Q. – so that's how recent it is. To hear these stories that happened when you were a kid – I think we might be a similar age, a bit of the same hair colour there, and I think back to growing up in Hikutaia –

A. Yes, that's right.

Q. – between Paeroa and Thames in a small rural community where 60% of the kids were "maowry", they weren't Māori, growing up in that environment and not really fully understanding things. So I just want to say that and I just want to thank you for your courage. I could see it wasn't easy and I can assure you it wasn't easy to hear it, so thank you most sincerely.

A. All right. Thank you very much.

(15:57) DR ROBYN ANDERSON TO TE AROHA RUTHERFORD:

Q. Tēnā koe Pearl.

A. Kia ora.

Q. It's Robyn over here. Thank you for bringing the photos.

A. Yes.

Q. It's always lovely to see the photos. I can see where you get your good looks from. How old was your mum when she got married?

A. Mum was 20.

Q. All right. And your father.

A. Dad was a little bit older, dad was 23.

Q. Okay, thank you. You have mentioned that your mother had a lot of land.

A. Yes.

Q. When you say that, what do you mean? Is it lots of little bits scattered all over the place?

A. No. Well, there is my example of the 3W Block A –

Q. Yes.

A. – that was 60-odd acres.

Q. Yes.

A. It wasn't little weeny bits scattered everywhere. She had big lots because she was the only child and the mokopuna of Heremia Hoera. That was her land on her Heremia Hoera side. She was the only child to her dad and her dad was the only son of Heremia Hoera.

Q. All right.

A. All that was gifted to her. Like I say, it still stands today. My young sister still lives there but we have lost a lot of it.

Q. Have you ever sort of calculated how much it added up to and how much was left?

A. It would be a large sum. I mean I know where it ranges from, you know, how big the area was. It was just about all of Ōmarumutu from right by below Makeo across the road. I have told Judge Wainwright, I said to her: "That was our whenua. It belonged to our mum and we called it the 14 acre." She was very surprised to hear that. I said: "Yes, and it got turned into a general title." But she was lovely. She said to me: "I will tell you what, I'll look after it for the way you looked after it." You see those things were taken, yes. But it wasn't her fault and the gentleman before. That's just the way it was back then, yes.

Q. All right. Well, thank you for-

A. Like here the papakāinga, we have lost there and what we call down the flats by the Motu Bridge and it says Motu a lot of land. That all joined up to our home the farm all the way down. That was only some of it. We've got a lot at Ōpape. Yes, that was only some of the whenua.

Q. When you say "lost" it was taken as uneconomic interest.

A. Yes.

Q. Yes.

A. Yes.

Q. So that's very recently really, isn't it?

A. Very, very, very recently. Like I said, I did the successions in 2003 and in the Māori Land Court we have succeeded and then next minute people are there with a "For Sale" sign up and they sell it. It got sold. But my young brother, if he was here, he would speak on that. He spent thousands to try and get it back because that's our papakāinga but he ran out of money. So what I say, I'm not nice, I say: "Those Tūhoe people what are they doing here on our land." But we went to see them and they said: "It got sold to us."

Q. I see.

A. It's not their fault either.

Q. No.

A. I actually blame the Crown. They did work, we didn't know. All we knew you work hard and you look after our whenua. I mean our mum was a person and she always said: "It's not mine. I didn't buy it. It's handed down." She said: "And down to you, down to my moko, and the moko to come." She always told us: "Don't go selling it because you didn't buy it, I didn't buy it," so that was our way of looking at it. It wasn't about selling and making money from it.

Q. All right. Well thank you. I was interested in you talking about the old Māori way of naming people.

A. Yes.

Q. Did you want to expand on that a little bit?

Yes. Now you will see a name there, Vivienne. Because Granny Collier she was a Spanish descent my grandmother. That's my dad's mum. Because our mum had respect for her mother-in-law – she said she was lovely – when mum was hapū with our older sister, Granny Collier asked can she name her or name the baby and mum said yes. She gave her a name that either way whether she's a boy because the Vivian is spelt differently and Vivienne for the girl. But mum said as she was going to register her, because in those days they registered them in the Catholic church, she thought: "This is my first born," and she wants to keep her side of the name there so that's how she added on Hine Mokai, which was her grandmother on her mum's side, and she put Heremia, which was our great-grandfather Heremia Hoera's name. She wanted to keep that alive because back in those days they did. It didn't have a surname. It had just those first names.

And then my eldest brother to keep that name so that's why he got named after her tipuna Rangihaerepo but not the Collier. Because everyone said: "Weren't they married?" "Yes, they were definitely married." Now why I know about this, when my oldest sister time to get the pension, she rang me up and she said: "Sissy, they can't find me. I haven't been born." It became like a joke but I always remembered what mum told me. I said hang on, I'll get on to them. And sure enough, there it was. The same

with brother, Raymond. Yes, and that was the ao Māori way because mum said to keep that name going.

Q. All right. Well, thank you very much for coming and talking to us today. It was very interesting and very helpful too.

A. Yes.

Q. Thank you.

A. Thank you.

(16:05) JUDGE DOOGAN TO TE AROHA RUTHERFORD:

Q. Kia ora Pearl. I just wanted to follow-up on one question that Dr Anderson was just talking to you about and that's some of this land that was lost. The Part 3 5B2 land –

A. Yes.

Q. – did I understand you correctly that that's the land on which you grew up and was that run as a farm the whole 63 acres?

A. Yes, we did all sorts on there because that's how you survived. Our cow shed still stands. Now we are in our 80s but our cow shed is still there. We milked by hand. You put all of these things together to survive.

Q. Āe.

A. Yes, so we are milking cows and we milked by hand. We had no machines. Yes, everything was done by hand. That was the homestead.

Q. All right.

A. It's always been our homestead.

Q. Your mother was the sole owner of that land.

A. Yes, there was eight of them. I have a report there was actually eight all together in all that land but those others were her cousins.

Q. Right.

A. Because she belonged to the only son Heremia Hoera because she was his mokopuna, her other cousins they come off the sisters, so they left her all that whenua.

Q. All right. The cousins left to your mother –

A. Yes.

Q. – their shares so she became at one point the sole owner of that whole land.

A. Yes, and she was.

Q. All right. Today, I know you have whānau still living in the homestead, how much of the 63 acres remains as part of your whānau?

A. Very little.

Q. All right.

A. Very little.

Q. As far you know, the major parts that were lost, this was in the last 20 years or the last 30-40 years?

A. Yes. Mum died in 1973 we still had her for a little while then. Yes, very little.

Q. All right.

A. But the cow shed, our cow shed is still there on the paddock. We call this other paddock our pump shed paddock where we got our water from. We have lost all that.

Q. I'm just asking your lawyer a question to just clarify.

(16:07) JUDGE DOOGAN TO MS FEINT KC:

Q. If you're able Ms Feint, could you just establish the extent to which, I don't know what the history of this particular block is and whether it was the '67 kind of process or something else, but if there are aspects of this that fall within the post-1992 contemporary period, then it would be helpful just to understand that if there are any issues in there that we ought to be having a closer look at.

A. Yes, that's a good point Judge so I'll do some homework and do some digging and see what we can find out.

Q. All right.

(16:08) JUDGE DOOGAN TO TE AROHA RUTHERFORD: (CONTINUES)

Q. So that was my only pātai.

A. Yes.

Q. I just wanted to echo the mihi that Professor Roa and my other colleagues have given to you to thank you for your evidence. As Professor Roa was saying in terms of the resilience that you are describing, it echoes a lot of what we have heard from the few years that we have been privileged to

come within your rohe and other hapū of Whakatōhea. It is quite remarkable given the severity of the history –

A. Yes.

Q. – and the relocation to these places from all over the wider rohe that whānau such as yours still –

A. Yes.

Q. – I don't know if the word "thrive" is the right word but it is still held fast to values.

A. Yes, very much.

Q. The final thing that sprung to mind when you were talking to Professor Roa about the hopes for your mokopuna, before I started this mahi I did some work in the North for Ngāti Hine –

A. Yes, okay.

Q. – and on one of the walls in one of their whare they had a phrase from Tā Hemi Henare which is very similar to the point you were making and it was something like: "It's preposterous for any Māori to aspire to be like a poor Pākehā when their true destiny ordained by the creator is to be a great Māori." I will leave that with you and thank you again for your evidence.

A. Yes.

Q. Kia ora **thank you**.

A. Kia ora **thank you** Judge Doogan.

WAIATA TAUTOKO

MS FEINT KC ADDRESSES JUDGE DOOGAN – MICROBREAK (16:13:01)

HEARING ADJOURNS: 4.13 PM

HEARING RESUMES: 4.15 PM

(16:15) MR JACK POTAKA: (MIHI, APPEARANCE, CALLS)

Tēnā koe e te Kaiwhakawā, otirā, tātou e pai nei. Kāore anō tēnei Māori kia mihi atu ki tēnei whare, nō reira, e tika ake kia toro atu ngā mihi ki tō tātou nei

whare a Tūtāmure e tāwharau nei i a tātou i tēnei rangi, otirā, i tēnei wiki. E mihi ana ki ngā maunga whakahī, ki ngā awa whakatere waka, whakatere taniwha o tēnei whenua taurikura o Ngāti Rua. Anei rā he māngai o te tari o Annette Sykes kua tae mai hei reo hāpai mō tēnei hapū, mō ngā ahi kā o tēnei marae o tātou. Me tika hoki aku mihi ki ngā pūkenga, ngā wānanga kei mua i taku aroaro i te pae e te Taraipiunara, nōku te whiwhi ki a noho ki mua i a koutou i tēnei haora. Kāti ake, tēnā tātou e te whare. **Greetings your Honour and everyone gathered. This Māori has not yet acknowledged this house and so it is correct that I extend my acknowledgments to our ancestral house Tūtāmure for providing shelter to us today and this week. I also want to acknowledge the prominent mountains and rivers of this precious land of Ngāti Rua. I am a counsel from Annette Sykes and Co that has come as a helper for this hapū and marae of ours. It is also appropriate that I acknowledge the discussions and the talents before me on the Tribunal panel, it is my privilege to sit before you at this hour this afternoon. Greetings to the house.**

Our next witness is Soraya Parkinson. Her brief is recorded as #F008 on the Wai 1725 claim for this inquiry.

Q. Nō reira tēnā koe **greetings** Soraya. Can you please confirm your full name is Soraya Rebbeca Jane Parkinson?

A. Soraya.

Q. Mō tāku hē e hoa. Tāku reo tuarua ko te reo Pākehā heoi anō. **Apologies my friend. My second language is English nonetheless.** You have prepared your evidence dated the 13th of February 2026.

A. Āe, tika **yes, that's right**.

Q. Ka pai. Ka tukuna te rākau kōrero ki a koe. Kei a koe te tikanga, e hoa. **I pass it over to you. You have the floor my friend.**

(16:17) SORAYA PARKINSON: (MIHI, #F008)

E mihi ana ki te Waitangi Tribunal, ki te Karauna, me ngā kaitautoko katoa e tautoko ana i te kaupapa i tēnei rā. Tēnā koutou. Ka tuku mihi aroha ki taku kuia, kei konei ia, kua wehe atu ki te pō ki a Kahora Maaka. E kui, e mahi ana koe i tāu i whakaaro ai he pai mō āu tamariki, i patu koe i ngā uauatanga o te

wā mō rātou, a, he nui tōu whakapau kaha me tōu ngākau tapatahi. Ahakoa he rerekē ngā wā, nāu i whakatō te aroha me ngā tikanga ki roto i āu tamariki, ināianei kei te whai hua āu mokopuna i aua taonga i waiho mai e kui. E mihi ana, e mihi ana, e mihi ana ki a koe mō tō aroha me tō whakahaere. Haere, haere, haere atu rā. Tēnā koutou. **I want to acknowledge the Waitangi Tribunal, the Crown, and all of the supporters here to support the matter before us today. I also want to extend my love towards my grandmother who has passed on, to Kahora Maaka. You did what you thought was best for your children and you addressed all of the difficulties that they faced and you gave it everything and you were very fair. Although it was a very different time, you planted love and tikanga within your own children and at this time your grandchildren are benefitting from the taonga that you left. I want to thank you, thank you for your love and (inaudible 16:18:12). Farewell, farewell, farewell. Thank you.**

REFERS TO #F008

Ko Mākeo te maunga
Ko Waiaua te awa
Ko Ōmarumutu te marae
Ko Ngāti Ruatakenga te hapū
Ko Te Whakatōhea te iwi
Ko Nukutere me Mataatua ngā waka
Makeo is the mountain
Waiaua is the river
Ōmarumutu is the marae
Ngāti Ruatakenga is the hapū
Te Whakatōhea is the iwi
Nukutere and Mātaatua are the waka

Anei hoki tōku whakapapa te taha o tōku pāpā. Ko Maaka Pera Te Toa tōku tipuna koroua, nō Ngāti Rua ia. I moe a Maaka Pera Te Toa ki a Rangihuatake Parehe ka puta ko Kahora Maaka. Ka moe a Kahora Maaka ki a Frederick Charles Parkinson ka puta ko Leopold Emanuel Parkinson. Ka moe

a Leopold Emanuel Parkinson ki a Anita Stewart ka puta ko Wallace Edwards Parkinson. Ka moe a Wallace Edwards Parkinson ki a Coral Kelsil ka puta ko au ko Soraya Rebbecca Jane Parkinson tōku ingoa. **Here is my whakapapa on my father's side. Maaka Pera Te Toa is my ancestor. He is from Ngāti Rua. Maaka Pera Te Toa had a union with Rangihuatake Parehe and they had Kahora Maaka. Kahora Maaka married Frederick Charles Parkinson and had Leopold Emanuel Parkinson. Leopold Emanuel Parkinson married Anita Stewart and they had Wallace Edwards Parkinson. Wallace Edwards Parkinson married Coral Kelsil and they had me, Soraya Rebecca Jane Parkinson which is my name.**

My name is Soraya Rebbeca Jane Parkinson. I am Ngāti Rua, Te Whakatōhea. I hold a diploma in Early Childhood Education and a Bachelor of Education from the University of Waikato. I have worked in early childhood education for 19 years.

I make this brief of evidence to describe the intergenerational loss of te reo Māori in my whānau, my experience reclaiming language as an adult, my exposure to language learning overseas, and my professional experience in early childhood education. My evidence speaks to the realities faced by Ngāti Rua whānau who want to return home, give back, and restore te reo Māori, but encounter structural and practical barriers.

Background and Upbringing

I was born Tāmaki Makaurau however I raised in Ōpōtiki within the rohe of Ngāti Rua, Te Whakatōhea. My whānau the Parkinson whānau have deep roots in the area and our whakapapa connects us to generations of tūpuna who lived, worked, and cared for this land. Growing up, I was surrounded by whānau who valued culture and identity, even though te reo Māori had largely disappeared from daily life due to historical suppression and intergenerational language loss.

My early life in Ōpōtiki shaped my understanding of the importance of whānau, hapū, and marae. I saw first-hand the pride and strength of whānau gatherings, and the way knowledge and tikanga were passed through stories, whanaungatanga, and shared responsibilities. These experiences instilled in me a deep commitment to supporting whānau and preserving our language and culture.

Today, I live locally in Ōpōtiki in Awaawakino which is between Torere and Ōpape and remain actively involved in my community. My ultimate aspiration is to ensure that our tamariki and mokopuna grow up grounded in their language, culture, and identity. I want them to be confident, resilient, and proud of their whakapapa, able to navigate the world while remaining connected to their Ngāti Rua roots. This vision guides my work in education, kōhanga reo, and wider whānau initiatives.

Whakapapa and Intergenerational Language Loss

Te reo Māori was once a natural and living language in my whānau. My tipuna kuia Kahora Maaka Pera Te Toa was a fluent speaker of te reo Māori. The language sat naturally within her daily life, her relationships, and her identity.

My koroua Leopold Emanuel Parkinson however was punished at school for speaking Māori. Those experiences left a lasting impact. He learned that speaking Māori brought shame and punishment rather than pride or opportunity.

Because of this, he chose not to pass the language on to his children. This decision was not made lightly, but it was shaped by fear and survival within a system that actively discouraged Māori language and identity.

As a result, my father and his siblings were raised without te reo Māori. By the time my generation was born, the language had almost completely disappeared from our everyday whānau life.

This loss did not occur because our whānau did not value te reo. It occurred because Crown education systems actively suppressed it. The effects of those policies compounded over generations, leaving gaps in language, tikanga, and cultural confidence that we are still trying to repair today.

Reclaiming Te Reo Māori as an Adult

I did not grow up speaking Māori. I came to te reo Māori later in life. Learning the language as an adult required significant effort, emotional resilience, and commitment.

Reclaiming te reo meant confronting feelings of whakamā, fear of getting things wrong, and the pressure of learning a language that should have been mine from birth.

When I became a parent the importance of te reo Māori became even clearer. I made a conscious decision that I did not want the language loss in my whānau to continue into the next generation.

Raising a child in te reo Māori without having been raised in the language myself was challenging. It required constant intentionality, seeking out reo spaces, and often doing this work without adequate structural support.

My experience reflects that reo revitalisation is often carried by individuals and whānau, rather than supported systematically. The burden of repair sits heavily on those already affected by loss.

International Exposure to Language and Learning

I have lived and worked overseas, including time in Italy, Azerbaijan, and Mongolia. During those periods, I learned to speak Italian and Mongolian to a functional level.

What stood out to me was how accessible language learning was in those contexts. Language was supported by the environment, daily interaction, and

societal expectation. Speaking the local language was encouraged, normalised, and supported.

In contrast, reclaiming te reo Māori in Aotearoa has been significantly more difficult. Opportunities are limited, immersion spaces are scarce, and Māori language speakers often carry the responsibility of teaching and translating for others.

It is deeply telling that I found it easier to learn foreign languages overseas than to reclaim my own language at home.

These experiences reinforced for me that language survival depends on environment, opportunity, and collective commitment, not just individual effort.

Career in Early Childhood Education

I have worked in early childhood education for 19 years, including leadership, and programme development. Over this time, I have led initiatives that support both tamariki and whānau to engage confidently with te reo Māori and tikanga and developed strategies to embed cultural learning into early childhood programmes.

My work in kōhanga reo experience, although brief, has been particularly significant, not only as a teaching role but as a leadership position where I coordinated whānau engagement, curriculum delivery, and compliance with regulatory standards. I have successfully implemented strategies that maintained participation and learning outcomes, even within highly resource-limited environments.

Beyond teaching, I bring expertise in programme planning, stakeholder engagement, and sustainable project management. This experience positions me to contribute meaningfully to hapū-level initiatives, provided that structural support, consistent resourcing, and whānau collaboration are in place.

Over time, I observed how the cumulative pressures on kaiako and whānau—especially when resourcing and institutional support are limited—can lead to burnout and impede sustainable language revitalisation. I know from experience that strong governance, collaboration, and adequate systems can transform these spaces into sustainable environments for tamariki and whānau learning.

Returning Home to Ōpōtiki and Nukutere Kōhanga Reo

After spending years working throughout the country in early childhood education, my dream was to return home to Ōpōtiki and give back to my people through kōhanga reo. I wanted to work within my own rohe, support our tamariki, and contribute to rebuilding te reo Māori where it had been lost.

I did return home to Awaawakino and I worked at Nukutere Kōhanga Reo on Ōmarumutu Marae. The kōhanga was established in the early 90s to serve all three marae in the rohe, Ōmarumutu, Ōpape, and Waiaua. It has had a challenging history, opening and closing multiple times, and at its best has had around a dozen tamariki at one time.

I came home filled with hopes and dreams believing I could contribute to revitalising te reo Māori for Ngāti Rua tamariki. I quickly discovered a stark reality. Many whānau, even though they had formally enrolled their tamariki at the kōhanga, were not fully committed to engaging in the learning process or supporting the day-to-day running of the kōhanga. This lack of commitment was not due to a lack of desire for their tamariki to learn but rather the practical pressures, competing responsibilities, and disengagement that have emerged over generations of language loss. The result was that tamariki did not consistently benefit from the full support of their whānau in their reo learning, which in turn made sustaining momentum within the kōhanga extremely difficult.

This gap in whānau participation has wider implications. It affects tamariki learning outcomes, limits the transmission of tikanga and cultural knowledge, and weakens hapū cohesion. For those of us responsible for teaching and

running the kōhanga, it increased emotional labour and professional pressure as the work of sustaining the language and cultural practice fell disproportionately on a few committed individuals. The small scale and fragility of participation highlight how historical losses, structural barriers, are ongoing.

As of January 2026, I am no longer employed at Nukutere Kohanga. I am now caring for my father full-time. While I am no longer employed there, I do have hopes to return there one day. If the kohanga undergoes some systemic and operational changes to better the management of the kohanga so we can provide the best learning environment for our tamariki and mokopuna.

Closing Reflections

My evidence demonstrates that the loss of te reo Māori in Ngāti Rua is intergenerational and ongoing. Reclaiming the language is possible, but only if systemic barriers—such as limited access to resources, inconsistent whānau engagement, and the absence of sustained operational support for kōhanga reo—are addressed.

Individuals and whānau continue to carry the burden of repair at personal cost. With appropriate structural support, collaboration across the hapū, and strong engagement with institutions such as Te Kura o Ōmarumutu, the kōhanga could become a sustainable and transformational space for tamariki and whānau, embedding te reo Māori in everyday life and fostering long-term cultural continuity.

My ultimate aspiration is for my mokopuna to grow up grounded and confident in their language and identity. I envision a Ngāti Rua where whānau are actively participating, hapū-led initiatives are supported, and the kōhanga reo movement thrives as a centre of learning, cultural practice, and intergenerational connection. With sustained investment, collaboration, and community commitment, te reo Māori can survive and flourish within our hapū. Nō reira, tēnā koutou, tēnā koutou, tēnā koutou katoa **so thank you, thank you, thank you all**.

MR POTAKA ADDRESSES SORAYA PARKINSON – MIHI, ACKNOWLEDGEMENT (16:31:17)

QUESTIONS FROM MR POTAKA – NIL

MR LINKHORN ADDRESSES SORAYA PARKINSON – MIHI, ACKNOWLEDGEMENT (16:31:45)

QUESTIONS FROM MR LINKHORN – NIL

(16:32) PROFESSOR TOM ROA TO SORAYA PARKINSON:

Q. Tēnā koe **greetings** Ms Parkinson. Soraya ko taua mihi anō ki a koe **I want to thank you**. E mōhio ana ki te taimaha o tēnei mahi whakarauora i te reo ki te hāpori ki roto o te whānau. Heoi anō kia kaha, kia māia, kia manawanui, te take ko ōna hua, nē, kei te tamaiti nei kei āpōpō. **You know and understand how onerous it is to revitalise the language in the community and within the whānau. Nonetheless, be strong, courageous and persevere because there are many benefits as you can see the child is the future.** The system, I wonder if you might explore more in your experience how as a worker in the kōhanga and, if I'm correct in my assumption, a parent of the kōhanga how the system, the education system was or was not helpful.

A. In my opinion, the system – I have to be careful how I say this – I felt from my experience that there was a lack of system. A lack of a baseline of what should happen on a day-to-day basis with our tamariki but then also how it is run. But for me it was more a frustration about the day-to-day lack of following regulations that help to keep tamariki safe and the kaiako safe. Also not employing kaiako matua but allowing two kaiako, myself and another kaiako, who have experience but not a great experience in kōhanga reo to lead something as important as that without having a kaiako matua as the knowledge-holder of te kaupapa o te kōhanga reo. That's where I think we were let down in terms of Nukutere. I know that in the past that has also been a case of – and this is the tari of this rohe not the individuals in the kōhanga – yes, not holding people accountable

to the regulations that should be followed every day. If we're going to be seen as a quality education for te reo but also for looking after tamariki, then I feel that that's where I struggled.

Q. Thank you. That was well done. That's not pointing the finger at individuals which we don't want to do but honing in on a system which should be fulfilling our aspirations for our future. In terms of our job and our reporting that has been very helpful. I wonder if you might now turn to what do you think is the ideal.

A. The ideal scenario for kōhanga. Like what does the ideal kōhanga reo look like?

Q. Ka pai.

A. Well my aspiration for when I started, especially at Nukutere because we're based on the marae so we're already here so we can be part of everything and anything that happens on the marae, but also that kuia mā, koro mā, everybody can feel that they can come to the kōhanga reo. It is not a place where you have be invited. It is an open door policy where you feel if you want to whakapakari tō reo come and join us or if you know something about mahi māra then come and share that with us. You don't have to be able to speak te reo. You have to have that want inside you, yes, to be part of it. It is not necessary you have to know te reo. And if you don't, then you can't be in there, otherwise, I wouldn't have been there myself. You have to learn somehow and you have to feel that it's a safe place for whānau, for ngā kaumātua, for anybody to come and participate because these are all ngā uri o Ngāti Rua. They are all whānau. They are all cousins. They are all siblings. It is a space where everyone feels they can come and they can learn te reo, learn tikanga, and be on the marae and learn how to be a participant in the marae. Because I feel like these tamariki that go to kōhanga, especially our kōhanga, they will grow up to be the ringawera or the kaikaranga or te kaiwhakapaipai o te wharenui or te kaiwhakarite o te wharenui. That's what we want them to feel confident to participate in those things.

Q. I think I've said in another time good luck. But really it's not about luck. I really like what you've said about having that commitment but it's not one person by themselves. In fact, it's not a small group by itself. It requires

ehara taku toa i te toa takitahi **my success is not measure individually**. Kia ora **thank you**.

(16:39) DR GRANT PHILLIPSON TO SORAYA PARKINSON:

Q. Tēnā koe Ms Parkinson. Thank you very much. That was really helpful actually and I thought especially with the answers to Professor Roa's questions really insightful. Some of the issues that I was going to ask you about have been covered. I guess when it is about communities rather than individuals it is easier to see you know possible solutions on a bigger scale. I am left with one very small point which is paragraph 28 of your brief. You finished halfway through a sentence and I just wondered how you were going to finish that sentence.

A. I think it's actually a typo and it is supposed to say-

Q. It looks like it was going to say "and ongoing" something or other.

A. I'm not sure.

Q. Do you want to have a think about it and do it in writing or do you just want to leave it?

A. I think I'll just leave it because, yes, I don't know.

Q. Okay, cool. Okay thank you very much.

(16:41) MR POTAKA TO SORAYA PARKINSON:

Q. Just to clarify that point, I heard when you were saying that sentence were saying "are ongoing" rather than "and ongoing"?

A. I think that's probably correct, yes.

Q. Ka pai.

DR GRANT PHILLIPSON ADDRESSES MR POTAKA – ACKNOWLEDGEMENT (16:41:30)

(16:41) JUDGE DOOGAN TO SORAYA PARKINSON:

Q. Thank you. I also just support the mihi from my colleagues. I just had one question. I understand what you're saying about what is essentially the fragility of some of the things that you're grappling with. But when it comes to what you describe is the need for structural support, I just was

going to invite you to elaborate on what that would encompass? Structural, that's right. Look, it's not easy doing this, yes. By that I mean, not so much what forms has the burden on a community supporting and running the kōhanga, but structural in terms of the central government agencies the bigger system what kind of support should or could that system be wrapping or at least having some sort of resource or support for the mahi that the kōhanga are doing.

A. I think my answer would probably be a bit controversial. Because I come from early childhood and then I've come into kōhanga and I know that a lot of kōhanga and kaimahi **workers** and kaiako and kaiako matua **teachers** have been in kōhanga for 40-odd years will say: "We don't need those Pākehā ideas within our structure."

Q. Yes.

A. But I feel like we can take a little bit of those ideas and it would actually ensure that we are maintaining for me health and safety for tamariki but also the quality of education. I know it's tricky because every kōhanga is run as their own entity as well. Each kōhanga will look different but that is also the same for any kindergarten looks different because each hāpori is different. So each community needs something, or the tamariki or the whānau that are involved look different. However, I feel that there does need to be, yes, a baseline of how it should be on a daily basis in terms of policies and also the structure of our committee. Because each kōhanga has a committee and that's made up of whānau but that can be taken advantage of and has done; we've had it at our own kōhanga but also around the motu as well. So there needs to be someone that I suppose is keeping an eye on making sure that things are happening but I know that that's a very controversial whakaaro because –

Q. Kia ora.

A. – it is seen as: "Yes, we don't need those whakaaro Pākehā in our whare." Heoi, I feel like it's not about the whakaaro Pākehā. It's about maintaining standards. And sure, we don't want to fall into the stereotype of: "That's what kōhanga reo does," because that is a lot of what people who maybe have not participated in kōhanga reo have already preconceived ideas –

Q. Āe.

A. – and sometimes kōhanga fall into those.

Q. All right, thank you. These are big kaupapa and yes, I thank you for your insights. I won't carry on anything further. I think you've got another mahi to do. Just again, he mihi nui ki a koe **thank you very much**. Thank you and we'll let you carry on.

A. Āe.

Q. Kia ora **thank you**.

WAIATA TAUTOKO

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (16:47:06)

KARAKIA WHAKAMUTUNGA (DR TE RIAKI AMOAMO)

HEARING ADJOURNS: 4.49 PM

HEARING RESUMES ON TUESDAY 24 FEBRUARY 2026 AT 9.01 AM

KARAKIA TĪMATANGA (DR TE RIAKI AMOAMO)

(09:03) JUDGE DOOGAN: (MIHI)

Mōrena koutou. Tuatahi, he mihi tēnei ki a koe Koro Te Riaki, nāu i whakakākahu tō tātou nohoanga ki te korowai o te atua nō reira tēnā koe. Ka mihi hoki ki a koutou kua huihui mai nei ki te rā tuarua o te wiki tuawhitu, nāu mai. **Good morning. Firstly, I want to thank you elder, Te Riaki, for you cloaked our sitting with the cloak of God and so thank you. I also want to acknowledge those of you who have gathered on day 2 of week 7, welcome.** It's great to be back on another beautiful day. Welcome Ms Woodley. We are looking forward to hearing your evidence today. Kia kaha **be strong**.

I just note there are a few counsel who have arrived this morning, so I will just take appearances of those counsel who were not here yesterday. Just starting with Mr Potaka's junior. Tēnā koe **greetings**.

(09:04) MR POTAKA: (MIHI, APPEARANCE)

Tēnā anō tātou e te whare. Whai hoki ana au i ngā mihi ki tō tātou nei pā whakawairua, nāna i taki i ngā kupu karakia e te paihere te rangi ki te whenua, te whenua ki te rangi e whai niho ai tēnei kaupapa i tēnei rangi. Nō reira kei taku pāpā e Koro Te Riaki ka nui ārikarika ngā mihi ki a koe. **Greetings once again to the house. I want to follow from the acknowledgements to our spiritual pillar who bound the heavens to the earth and the earth to the heavens where this matter has gained teeth, so to speak. To the elder, Te Riaki, I want to thank you very much.**

E tū ana a Mr Potaka ki te taha o tōku nei hoamahi a Rangipurei Manley. Ms Rangipurei Manley kua tae hei whakakī i te whāruarua a Ms Delamere, e riro tonu ana ki te hōhipera ki te taha o tōna pāpā. Kua tae māua tahi hei rōia mō Wai 1750. Heoi anō, tēnā tātou katoa. Kia pai te rā. **I arise Mr Potaka alongside my colleague Rangipurei Manley. Ms Rangipurei Manley is**

appearing to fill the gap left by Ms Delamere, who is still in the hospital beside her father at this time. We have both come as counsel acting on behalf of Wai 1750. Nonetheless, thank you all. Have a good day.

JUDGE DOOGAN ADDRESSES MS MANLEY, MS DELAMERE-RIRINUI – MIHI, ACKNOWLEDGEMENTS (09:05:45)

(09:06) MS TATIJANA SIMON-LARSEN: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā ki a koutou ngā mema o te Taraipiunara. **May it please your Honour and the members of the Waitangi Tribunal.** Counsel's name is Ms Simon-Larsen, and I appear with Dr Downs from Tukau Law. We represent Wai 1884, a claim for and on behalf of Ngāti Ngahere. Tēnā koe **thank you**.

(09:06) MS RAEWYN CLARK: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā me ngā mema o Te Rōpū Whakamana Te Tiriti o Waitangi. Ngā haukāinga kia ora, ngā rōia tēnā koutou katoa. **May it please your Honour and members of the Waitangi Tribunal. To the local people greetings and to fellow counsel greetings all.** Counsel's name is Ms Clark. My colleague Ms Madsen gave our appearances yesterday, including the various Wai numbers that we act for, Sir, so I won't repeat them now. Thank you Sir.

(09:06) MS CAITLIN FELLOWES: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā tēnā koutou e Te Rōpū Whakamana Te Tiriti o Waitangi. E te whare tēnā koutou katoa. Ko Caitlin Fellowes māua ko Rox Soriano kei konei. He rōia māua nō te tari o Mahony Horner Lawyers. **May it please your Honour and greetings to the Waitangi Tribunal. To the house greetings all Caitlin Fellowes and Rox Soriano appearing. We are counsel from Mahony Horner Lawyers.** Your Honour, we appear on behalf of two claims, Wai 339 and Wai 1865 which are both claims about the Hiwarau C Block. Our apologies to the whare for not being here yesterday as we were travelling. Sir, we will only be attending in person today and see your leave to attend the rest of the hearing via livestream.

JUDGE DOOGAN ADDRESSES MS FELLOWES – LEAVE GRANTED (09:07:28)

JUDGE DOOGAN ADDRESSES COUNSEL/WITNESSES – MICROBREAKS (09:07:32)

MS FEINT KC ADDRESSES JUDGE DOOGAN – LEAD COUNSEL (09:08:25)

JUDGE DOOGAN ADDRESSES SUZANNE WOODLEY – TRIBUNAL PANEL INTRODUCTIONS (09:08:49)

(09:09) MR POTAKA: (CALLS)

Tēnā tātou katoa **greetings everyone**. This morning I have the privilege of welcoming back one our country's leading experts in her field of study. Ms Woodley has extensive experience writing research reports and providing research advice and analysis to historians contracted to the Crown Forestry Rental Trust and the Waitangi Tribunal Unit. She has authored a number of reports for many district inquiries across the country. I won't go into detail on all of them because I am sure she will. But they are include district inquiries in the Taihape, Te Paparahi o te Raki, Porirua ki Manawatū and obviously, the North-Eastern Bay of Plenty Inquiry which is in front of the Tribunal today. Her summary evidence is recorded as Wai 1750, #A026.

Q. Nō reira tēnā koe Ms Woodley. Thank you again for making yourself available to present today. Before we commence, can you please confirm that you prepared your summary presentation dated the 19th of December 2025?

A. Yes.

Q. Thank you Ms Woodley. Ka pai. Well, I will hand it over to you to kick off.

A. Kia ora.

Q. Tēnā koe **thank you**.

(09:10) SUZANNE WOODLEY: (MIHI, #A026, (a)-(m))

E ngā mana, e ngā reo, e te tāngata whenua o te marae o Ōmarumutu tēnā koutou katoa. E te whare e tū tēnā koe. E te Kaiwhakawā Judge Doogan kei te mihi. E ngā mema o Te Rōpū Whakamana i te Tiriti o Waitangi kei te mihi. Ko Suzanne Woodley tōku ingoa. Kei te Whanganui-a-Tara au e noho ana. Nō reira, tēnā koutou, tēnā koutou, tēnā koutou katoa. **To the authorities, to the voices, and to the people of the marae of Ōmarumutu greetings all. To the house standing here greetings. To the presiding officer, Judge Doogan greetings. To the members of the Waitangi Tribunal greetings. Suzanne Woodley is my name. I reside in Wellington. And so thank you, thank you, thank you all.**

REFERS TO #A026(e)

My report discusses the key local authorities in the North Eastern Bay of Plenty Inquiry District and the impact rating and other local government legislation, policy and practice on Māori. It discusses Māori representation on the various local authorities, assesses the level of engagement with Māori by local authorities and evaluates the effectiveness of the vehicles for Māori local government provided by the Crown. The report covers the time period from 1871, when the first local authority was established in the inquiry district, to 2021. There is little evidence to suggest that Māori were involved at all with the establishment of any of the local authorities introduced in the 19th and 20th centuries in this inquiry district, and certainly the legislation did not facilitate this.

The first local authorities established in the inquiry district were the Ōpōtiki Highway Board and the short-lived Town of Ōpōtiki Highway Board in 1871, which were amalgamated in 1872. The establishment of the two boards was driven by Pākehā residents and were represented solely by Pākehā. Similarly, the Whakatāne Highway, later Road Board and the Whakatāne County Council (which were both established in 1876), the Ōpōtiki Town Board (established in 1882), the Ōpōtiki County Council (established in 1899) and the Ōpōtiki Borough Council (established in 1911) were all Pākehā focused and at their inception, all the councillors or trustees were Pākehā.

When the Ōpōtiki District Council was established 1986, its early years were largely a copy at the county council with a similar area of jurisdiction and representative structure. While relationships with iwi do not appear to have been a priority in 1986, demonstrated by the outgoing county chair's annual report containing no reference to Māori, in 1989 the district council began to engage formally with iwi of the inquiry district.

No Māori were elected to any of the local authorities in the inquiry district until 1923 and this appointment was of one person for one term of three years only. It was not until 1941 that Māori were consistently voted onto the county council and later the district council. Apart from when Māori made up half of all the councillors in the period from 2013 to 2019, the number of Māori councillors was always disproportionate to the Māori population of the county or district. Māori representation on the borough council came even later in 1956, but again this was for one term only and no other Māori borough councillors appear to have been elected during the borough's lifetime.

The almost total absence of Māori highway board, road board and town board trustees and county and borough councillors until 1941 meant that Māori were largely absent from road board, county and borough decision-making and their views not effectively represented at this time.

One of the key reasons for Māori lack of involvement when local government was established in the inquiry district and subsequently, was that the system set up by the Crown was not designed to ensure that each and every Māori adult had the opportunity to vote and have their views represented. From 1871 until 1944, only ratepayers named as 'occupiers' in the valuation roll for a board district or county could vote. This was generally one or two people which meant the exclusion from the voting process of co-owners and those who had not been awarded title to land.

This is illustrated by the 1874 Ōpōtiki Road Board election. Of the 222 people in the district entitled to vote, just twelve were Māori. One of the twelve was

Hira Te Popo, a Ngāti Ira rangatira, who put himself forward as a candidate to become a board trustee. Unlike many Māori in the district, he was a 'ratepayer' having been allocated Crown grants to land in the Ōpōtiki township in the early 1870s. It was also during this period that Māori land with a title could be rated. With weighted voting, where those with more valuable land were given extra votes, Māori had 14 votes between them. However, Hira Te Popo received just four votes which was insufficient to meet the number of votes required to beat the other candidates. His lack of votes reflected an absence of support from Pākehā on whom he had to rely to get elected.

Local authority legislation contained no requirement in the nineteenth and twentieth centuries, of providing a means for iwi or hapū representation. Inquiry district rangatira asked for Māori representation on the Whakatāne County Council in 1899. In response, the government did not acknowledge this as an issue stating that all county electors were qualified to become county councillors. This did not take into account, however, the different reality for the rangatira and other Māori of the inquiry district who at this time had not been awarded title to land allocated after the confiscation or were one of multiple owners. The government's response showed a lack of desire to change a system that actively disadvantaged Māori.

Initially, at least, the extension of local body franchise to residents in 1944 saw an increase in Māori elected to local government in the area. From the late 1940s, tribal executives, komiti marae, the Returned Servicemen Association, and the Welfare Officer of the Department of Māori Affairs promoted Māori representation on both the council and hospital board. This, together with Pākehā support, including from the local newspaper, contributed to increased representation in local bodies in 1947. Two councillors promoted themselves as Māori who wanted to work together with Pākehā just as they had during the second world war. Despite an 'anomaly' with the voting process, where the government had not ensured that each and every Māori who was entitled to vote in local body elections could be enrolled, the two candidates received sufficient votes to be elected to the county council and hospital board.

However, even after 1944, weighted voting remained. Those with more valuable land were effectively entitled to extra votes. This bias in favour of wealthy land-owners tended to favour Pākehā and continued until 1974. As well, plural voting, which continued until 1986, meant that a person who owned properties in more than one riding of a county was entitled to additional votes.

Māori representation on the Ōpōtiki County Council was also affected by changes to the overall number of councillors. Between 1962 and 1977, there was just one Māori councillor and this coincided with a reduction in the total number of councillors to seven. It was not until 1977, when the number of councillors was increased to 12, that the number of Māori councillors increased to two and then to three in 1980. Most Māori councillors up until at least 1977, were representatives of the Coast riding which had the largest proportion of Māori land in the county and the largest number of Māori residents. However, although some inquiry district Māori land such as the Tōrere block was located in the Coast riding, blocks such as Ōpape and Hiwarau were not.

The voting process for borough councils such as Ōpōtiki was different to that of counties so that at its establishment, those resident in boroughs could vote and every adult, regardless of how much their property was worth, were entitled to one vote only. Despite Māori making up 12 per cent of the population at its establishment in 1912 and 36 per cent by 1966, there only appears to have been one Māori ever elected to the borough council. The Pākehā focus of the council may have been one of the reasons why.

Māori representation on the Ōpōtiki District Council has fluctuated since its establishment in 1986. The proportion of Māori councillors was impacted by the reduction in the number of councillors overall from 10 to six (plus the mayor) in 2004. This was as a result of a representation review by the Local Government Commission. For the period up until 2013, there was just one Māori councillor who represented the Coast ward. The establishment of the Coast Community Board in 2004, whose members appear to have been predominantly Māori from its inception, has provided further representation for that area.

The period between 2013 and 2019 marked the highest level of Māori representation. Three of the six councillors were Māori and they represented each of the three ridings. This was still disproportionate compared to the Māori population which was around 64 per cent of the district. This level of representation did not, however, continue. In 2019, while the first Māori woman was elected mayor, just one Māori councillor was elected. Māori wards had not been introduced at this time in the district as previous polls taken had not supported them. However, a poll taken in October 2022 supported the establishment of Māori wards.

Local authority rating helped support and direct the provision of services and infrastructure at a local community level. The rating of Māori land in the inquiry district began in 1871 by the Ōpōtiki Highway Board. There appears to have been no consultation with Māori about this but those who had been allocated land within the jurisdiction of the board, which was made up entirely of the confiscated area, and had their title formalised, were expected to pay rates. Such land was levied rates regardless of whether it was developed or capable of being developed or the owner in a position to pay the rates. It was not without controversy. Māori were frustrated about having to pay rates to the highway board, although Crown officials played this down arguing that Māori would eventually see the benefits of the local government system.

Māori land was then exempted from rates from 1877 until 1882 when Māori were 'notified' in the form of the publication of a gazette notice under the Crown and Native Lands Rating Act 1882. This claimed rates from owners of Māori land with title and located within five miles of a public road. It also established a scheme whereby the Crown guaranteed payment of the rates levied on Crown and Māori land. In this way, the Whakatāne County Council, Ōpōtiki Highway Board, and Ōpōtiki Town Board received at least £377 from the Crown under the Act. From 1888, the authorities were legally obliged to spend this money on roads that benefitted Māori land. Nothing specific has been located as to what the authorities spent this money on, although it is possible, given the timing, that the money received by the road board was used for road

improvements around the Waioeka Native School and Hira Te Popo's settlement at Terere. Funding was also given to Māori to make repairs to the Ōpape to Tōrere Road by the county council around this time. The 1882 legislation proved expensive for the Crown and was considered unsustainable. It was repealed in 1888.

Between 1888 and 1893, rating on Māori land was limited to Māori land leased to Pākehā. Rating was therefore not a major financial burden on Māori landowners at this time, apart from the owners of land within the highway district that mistakenly continued to be rated. It did, however, have another impact. Local authorities began to blame the exemption of Māori land from rates on its ability to provide services, particularly roads and bridges.

A pattern was therefore being established, by which local government in the inquiry district blamed their financial difficulties and their inability to provide more infrastructure, on Māori landowners not paying their 'share'. This was a problematic claim, particularly as Māori through their lost lands had already contributed a disproportionate amount to 'development' of the area.

In 1893, the legislation was changed so that all Māori land with a title and situated less than five miles from a public road was rated and other Māori land with a title subject to half rates. Yet this was not considered enough with the county and road board arguing that Māori should be rated on all their land. Wi Pere, for Eastern Māori, protested that it would be grossly unfair to increase rates on Māori landowners already suffering from lack of land and poverty. He said that many Māori land owners in the area were unable to derive 'as much as the value of a pair of boots from their land'. Despite Wi Pere's efforts, new legislation was passed in 1904 significantly increasing the amount of Māori land that could be rated and that continued to make no distinction between land that generated income for its owners and land that did not.

Subsequent legislation in 1910 provided for all Māori land with a title to be rated with exemptions given to marae and urupā in 1924.

Complaints about the non-payment of rates on Māori land by the Ōpōtiki County Council were also a feature of the twentieth century. Pākehā local body representatives frequently argued that Māori rates arrears were destroying the financial position of the council and generally 'keeping the county poor' and that Pākehā were 'carrying' Māori. However, the council also exaggerated the financial significance of Māori rates arrears. Rates on Māori land were a much smaller percentage of the council's potential revenue. Pākehā owned and occupied the vast amount of land in the area and it followed that they were charged and paid the great majority of the rates.

By the mid-1920s, the Ōpōtiki Borough Council had turned to the forced sale of Māori land for non-payment of rates. There was little indication of much direct contact with the Māori landowners or their leaders to try to understand why rates were not being paid and to find a constructive solution to the problem. Instead, the council relied on its solicitors to make application to the Native Land Court for the compulsory sale of Māori land. The borough council made four attempts to have Māori land compulsorily sold for rates arrears. One was successful. In this case, the council and its solicitors used early legislation (the Rating Amendment Act 1910) that did not require the approval of the Native Minister to have Māori land within the township compulsorily sold. The council was thwarted in its three other attempts because the legislation changed so that compulsory sales could only take place with the consent of the Native Minister. Upon investigation, the Native Department discovered that the correct legal process had not been followed by the council so permission was not given.

Compulsory sale was not the only way by which Māori land within the Ōpōtiki township was lost due to rates. Many of the undeveloped Māori owned lots in the town could not generate income for their owners. Rates in such a situation became a burden. As one landowner, Wiremu Kingi, commented, his land had 'eaten its head off in rates'. He became desperate to sell his township land 'at any price' rather than continue to be liable for rates. 'What I am afraid of', he stated, was that the 'land may fall back into our hands again and [I will] have to continue paying rates on these sections'.

The Ōpōtiki County Council's expectation that rates should be paid on all land meant that by the 1930, the Whakatōhea owners of the various Ōpape blocks and the Ngāitai owners of Tōrere lands were in arrears of rates comprising thousands of pounds. They and the Crown came under heavy pressure from the Ōpōtiki County Council for the money. Native Minister Sir Apirana Ngata understood that rates and others debts on the lands, if not dealt with, would have 'crippled…from the outset' the Crown's development plans for the Tōrere and Ōpape blocks. He met with inquiry district Māori about the issue and then mediated a rates compromise with the council. While the compromise resulted in the development of some lands, Ngāitai paid a heavy price. They were required to transfer money and 5,359 acres of the Tōrere block to the Crown to repay survey and rates debts that had been levied on their largely undeveloped land. Whakatōhea was required to pay back about £300 to the government in respect to unpaid rates on the Ōpape and Waiotahi Parish blocks. A system was set up so that every time the District Land Registrar registered a title change on these blocks, the Māori owners were required to pay their proportion of the rates compromise back to the government. This continued until 1974.

It was always possible under various legislation to exempt Māori land from rating. In 1927, the Ōpōtiki County Council exempted land under the Rating Act 1925. This included five Ōpape, Tōrere, and Kapuarangi blocks comprising around 12,000 acres. The only other occasion that inquiry district land was exempted was in 1958, when another Kapuarangi block comprising 3,000 acres was exempted. Exemptions of other inquiry district land were rarely considered by the council and nor was the council required to consider doing this on a regular basis.

Despite the county council's rhetoric that it supported the development of inquiry district Māori land, it insisted that the government's policy of not paying rates until development scheme units broke-even was keeping the county poor. It countered the government policy by applying for rates charging orders on development scheme lands. The council had first applied for charging orders in the 1920s, although the rates compromise had cancelled these out. In 1937,

the Māori Land Court, on the application of the county council, ordered hundreds of charging orders including on development scheme lands.

The council next applied for charging orders in bulk in 1957. The impact of charging orders for Māori land owners was that they had to be paid back when there was a title change. In the late 1960s when uneconomic small Ōpape and Waiotahi Parish blocks were amalgamated and leased so that they could be farmed as economic units, rates secured by charging orders from the 1950s had to be paid to the council out of the rental paid to the owners.

Receivership orders were also sought by the council in 1957. Where the council could not establish the names of the occupier of each piece of land, the county clerk was appointed as receiver. Although he had the power to compulsorily lease the land, he appeared to have concentrated instead on locating an occupier on whom to levy the rates. Some of these receivership orders were discharged within a year which suggests that the identification of the correct occupier meant that the rates were paid.

Although it had secured rates arrears through the charging order process in 1957, very few other charging orders were sought by the county council. This appears largely due to the Māori Land Court's practice during the 1960s of not agreeing to charging orders unless a detailed investigation of the land and its occupiers was made. Instead, the council gradually increased the number of judgments made against Māori land owners in the Magistrates' Court. This included the threat of prison. While there is no evidence that Māori did go to prison for non-payment of rates, it is clear that judgments were mistakenly made against those who were not occupiers or were one of multiple owners who had not been appointed by the Māori Land Court to receive rates demands. Unlike the Māori Land Court, the Magistrates' Court did not have the ability to check that the correct person had been levied the rates and instead relied on the county council's information which could be faulty. This change from securing judgments in the Magistrates' Court, instead of charging orders at the Māori Land Court, suggests that the council was not really interested in being part of a process whereby Māori land was assessed and occupier information

checked. The council was also critical of the Māori rates collector it employed at this time for checking titles at the Māori Land Court and travelling to visit Māori land owners. His employment was eventually terminated.

The council tried to engage with Māori about rates in the early 1970s and reduced the number of judgments it sought at the Magistrates' Court. However, by the late 1970s, it had again increased the number of applications for judgments at the Magistrates' Court. It also declined applications from Māori for rates remissions at this time.

The Ōpōtiki District Council began to address the issue of the non-payment of rates on Māori land in the early 1990s. It met with iwi of the inquiry district in 1993 to discuss the issue and implemented a policy that allowed for the remission of rates on a limited number of Māori land blocks in 1993 and 1994. It also introduced the Rates Postponement on Māori Land and the Māori Economic Adjustment Remission policies in 1999, which prioritised land that had development potential or where farming was already taking place.

This did not, however, solve the issue of the ongoing rating of unoccupied, non-revenue producing and multiply-owned Māori land, that either was not in the process of being developed or was not capable of development. Council records from this time contain details of undeveloped land that had accumulated thousands of dollars in rates debt but also where rates had been paid. The latter appears to be examples of what iwi leader Bill Maxwell noted in the early 1990s when he stated that the payment of rates was largely a burden on older Māori who felt obligated to keep paying rates even on undeveloped land.

As required under the Local Government (Rating) Act 2002, the Ōpōtiki District Council adopted a Māori land rates remission policy. As a result, during the period between 2005 and 2021, an increasing number of Māori land blocks were exempted from rates. By November 2021, about 47 per cent of inquiry district Māori land had a non-rateable status. This included marae, urupā, reserves and what the council called 'Māori Whenua

Land'. This land is what is categorised as 'unused' and therefore exempted under the Local Government (Rating of Whenua Māori) Amendment Act 2021. That almost half of the remaining Māori land in the inquiry district is now categorised in this way shows the extent to which land in the inquiry district was not capable of being developed and could not support the payment of rates.

The Pākehā focus of councils and the non-payment of rates on Māori land meant that local bodies were reluctant to provide services to Māori land. From their inception, the focus of local authorities was on providing services to Pākehā. The Ōpōtiki Highway Board for example, concentrated on ensuring roads were built to Pākehā farms with just two examples of roading to Māori land located in the course of my research.

Similarly, the Whakatāne County Council's focus was on Pākehā with contact with Māori limited to contracting them to repair roads such as at Ōpape and Tōrere. On some occasions Māori were given the funds to make the repairs and on others they had to pay for it themselves.

While Māori made up 12 per cent of the population of the Ōpōtiki township by 1910, they barely feature in the records of the Ōpōtiki Town Board. Similarly, apart from rates, which became a focus in the 1920s, Māori are not mentioned in early twentieth century Ōpōtiki Borough Council records either. The town clerk's submission to the Native Rates Committee in 1933, made it clear that he was disinterested in the process and he also made disparaging comments about Māori. This negativity towards Māori continued with the council's proposal to build separate restrooms for Māori and Pākehā women in 1941.

By the late 1920s, it had also become more apparent that the non-payment of rates was affecting the level of service received by Māori from the county council at this time. The Ōpōtiki County Council made it clear to government officials in 1928 that it would not fix a drain that ran through Māori land that was causing a public health issue because of the non-payment of rates. When inquiry district Māori did meet with the council to ask for roads and services, they were often berated for the non-payment of rates and told that their requests

would be looked on more favourably if they paid rates. Indeed, in the 1960s, the council's decision to supply a rubbish collection service to Waioeka Marae was because the residents of the papakāinga attached to the marae had paid their rates. While some requests were granted by the council, they were often with the proviso that Māori would contribute labour and that the government would provide funding. A comment from a government official in the 1970s, suggested that it was typical for a lack of services, such as in the Coast and Cape ridings of the Ōpōtiki county, to be due to the non-payment of rates.

Inquiry district Māori are still affected by the limited provision of services in 2021 with many of the roads around the Māori settlements at Ōpape and Tōrere still unsealed. Claimants state that roads are poorly maintained. Funding is the main barrier preventing the sealing of the gravel roads in rural areas of the district. Some Māori communities are also not provided with council supplied water or sewerage. In 2021, the provision of council supplied water and sewerage to such areas was considered by the council to be impractical and financially prohibitive.

JUDGE DOOGAN ADDRESSES SUZANNE WOODLEY – MICROBREAK (09:35:40)

HEARING ADJOURNS: 9.35 AM

HEARING RESUMES: 9.40 AM

JUDGE DOOGAN ADDRESSES SUZANNE WOODLEY – TRIBUNAL PANEL INTRODUCTION (09:40:30)

(09:41) SUZANNE WOODLEY: (CONTINUES)

CONTINUES #F026(e) PARAGRAPH 6

Another area of local government legislation and policy that impacted on Māori was the Ōpōtiki County Council's district plan which restricted new housing in areas zoned rural. From 1967, the Māori Land Court could not order a partition

of Māori land unless the owner had received the permission of the council. With most of the Māori land in the inquiry district zoned rural, Māori owners were generally unable to partition their land for housing purposes during the late 1960s, 1970s, and 1980s as the council would not agree to it. This is reflected in the almost total absence of partitioning for housing purposes at this time. This contrasted with the 1950s and much of the 1960s when many partitions were ordered for housing purposes by the Court.

There are few references during the nineteenth and early twentieth century that suggest that the various local bodies in the inquiry district worked with Māori to administer the area. They rarely, if ever, sought the opinions, participation, and partnership of iwi leaders and communities. Māori formed the clear majority of the area's population before and around 1900 and comprised about a half or more of the population in the decades afterwards, but they played only a marginal role in local government. They were subject to local government and Crown policy, especially on rates, but not involved in making that policy at all.

The Ōpōtiki Borough Council was a particularly Pākehā-centric body whose main engagement with Māori in its first 50 years was in respect to unpaid rates on Māori land in the 1920s and excluding Māori from a new women's restroom in the 1940s. While complaints published in the local newspaper prompted the council to change its decision about the restroom, it did not formally abandon or explain its policy of segregation. Some councillors appeared to justify or divert attention away from their decision implying that Māori had damaged the old restrooms and that as they used the old restroom should as a group financially contribute to the new restrooms.

The mid-1960s was a particularly problematic period for Māori-local government relationships. This was a period where there was minimal representation on the county council with just one Māori councillor out of a total of 12 elected to the council. It was also when the council responded to the non-payment of rates on Māori land by dramatically increasing the number of applications for judgments in the Magistrates' Court which also resulted in an increased number of Māori threatened with prison for non-payment of rates.

During the same period, the council's district plan prevented the partitioning of rurally zoned Māori land for housing sites and threatened a Māori land owner who had applied to the Māori Land Court for a partition with prison if she did not adhere to the council's rules.

When complaints were received about the number of Magistrates' Court judgments secured against Māori for non-payment of rates, the council was encouraged to meet with the Māori Land Court to consider alternative ways to proceed. This resulted in council organised meetings with Māori to discuss partitioning and rating legislation. However, these meetings were held in Te Kaha and it is not known to what extent they involved Māori of the inquiry district. Records of the meetings also suggest that they largely comprised the council telling Māori what to do. Nothing is recorded about what Māori wanted.

At its inception, there does not appear to have been any formal arrangement for engagement by the Ōpōtiki District Council with iwi of the inquiry district. However, in 1989, the then new mayor, Don Riesterer, organised meetings between the council and iwi leaders. The establishment of the iwi consultative committee followed and had its first meeting in 1991. The mayor emphasised that he wanted the committee to have real 'strength' and to be able to provide tribal input to the council on a range of issues, including rating. This committee continued to meet through the 1990s, although by 2007 it appears that iwi leaders were meeting individually with the council. As well, iwi groups attended council meetings and council meetings were held at marae. The council also worked with inquiry district Māori on economic and social development projects at various times in the 2000s.

In the twentieth century the Crown provided for the establishment of various Māori vehicles for local government. The key organisations for the inquiry district for the period from 1900 to the 1980s were the Mātaatua Māori Council (1901-1920), the Mātaatua Health Council (1920-1940), and the Whakatōhea Tribal Executive (1948-1980s).

The Mātaatua Māori Council had jurisdiction in the inquiry district from 1901 to 1920. The Crown intended that Māori councils and komiti marae would work together with sanitary inspectors to improve sanitation and conditions of kāinga. There is very little direct evidence about the impact of the Mātaatua Māori Council in the inquiry district but it is clear that Whakatōhea was involved with and represented on the council.

Komiti marae were established in settlements in the inquiry district. These komiti marae operated throughout the country and were often praised for the work they did in improving health, hygiene, and living standards in kāinga. There is some indication that they were also having a positive impact in the inquiry district. The chair of the council in the early 1900s, Pouwhare, called county councils his Pākehā counterparts and it is clear that he saw the Mātaatua Māori Council as a vehicle to make decisions about what was best for Māori and that would provide autonomy and independence for Māori.

Little is known about the Mātaatua Māori Council's later years, but the government's decision to stop funding councils generally and the absence of a sanitary inspector was likely to have reduced its effectiveness.

In 1920, the Māori council system was revived by the Crown under the title of Māori Health Councils. Again, there seems to have been considerable involvement and support for the Mātaatua Māori Health Council among the iwi and hapū of the inquiry district. Four marae komiti were established at Terere, Waioweka, Ōpape, and Ōmarumutu. They operated throughout the 1920s and 1930s. By 1941, the Waiaua kāinga also had an officially recognised komiti marae. An important impact of the Māori council and komiti marae system is that they provided North-Eastern Bay of Plenty Māori with opportunities for representation and involvement denied to them through the Ōpōtiki County and Borough Councils. However, as with the Mātaatua Māori Council, there were issues with funding. The council struggled to secure the finances necessary to carry out its work, particularly as the government had removed the collection of the dog tax from the remit of health councils.

The provision of adequate water supplies and new housing were promoted by the Whakatōhea Tribal Executive in the 1950s. The executive was also active in supporting tribal committees improve and develop their marae. It engaged with community groups and advocated on such issues as pollution and the need for more public health nurses.

The Mātaatua Māori Council, Mātaatua Health Council, and Whakatōhea Executive were active bodies that improved the lives of their Māori communities. However, they had a limited ability to determine government policy and were largely dependent on the government for what they could provide to them.

JUDGE DOOGAN ADDRESSES SUZANNE WOODLEY – MIHI, ACKNOWLEDGEMENT (09:48:31)

JUDGE DOOGAN ADDRESSES MS SIMON-LARSEN, DR DOWNS – COUNSEL CROSS-EXAMINATION (09:48:44)

(09:49) DR SEASON-MARY DOWNS TO SUZANNE WOODLEY:

Q. Tēnā koe Ms Woodley. My name is Season-Mary Downs and I am a lawyer that represents Ngāti Ngahere in this inquiry. I just wanted to start off by thanking you for your comprehensive report. It took me several weeks to get through and I am certainly no expert so I preface my questions with that acknowledgement. But I also wanted to acknowledge the history of your professional work that Mr Potaka canvased and how much work you have done in the area of Tribunal reporting for claimant technical research.

It is my privilege to ask questions on behalf of all claimants in the inquiry. It is a process that we do to truncate duplicate questions and to streamline things. I understand there are several counsel who have time after me but I will get the bulk of the time to ask questions. I think we will get a couple of microbreaks in between my session before handing it over.

I have several lines of questions that I have prepared. And bear with me, if some of them are questions of clarification and not strict cross. But I

wanted to start off at page 21 of your report. Some of these questions you might not actually need to go into the report because they are quite high-level and I'm sure you'll just understand the general tenor of them. But in this section you're working through your methodology and the scope of the project brief and at page 21 you identified that there was an inability to hold ā-kanohi or face-to-face claimant research hui because of the COVID pandemic. My question in relation to that is whether the level of claimant input was impacted by the nature of hui having to change because of COVID? Did you get the level of claimant input you were expecting?

WITNESS REFERRED TO #A026, PAGE 21

A. It's actually hard to tell. Yes, I mean certainly when you have research hui you do get more information and so the only research hui we were able to have was online and I did get information then. And I also got information after I had sent in my draft, I had – yes, I'm sorry it was difficult to tell. But it was a shame that we couldn't have a research hui face-to-face, yes.

Q. I was traversing the decades or even a century plus of legislation that you reviewed as part of your research in terms of local government and rating and I was looking in your research for whether you had comments about the general thrust of legislation emerging from government across that period. Are you aware of legislation being characterised in the mid-1800s as overtly assimilationist for example but more in the 1900s being characterised as integrationist? Are you aware of that kind of shift in the policy that underpinned legislation across time?

A. Yes, I didn't really cover that. I didn't really look at that, no.

Q. But is that in your understanding of how you assessed law and policy across that period as an expert or specialist in the area?

A. So when I look at the legislation I'm really looking at it in quite practical terms as to how it impacted on policy and what could actually happen in practice. I'm very much what's the legislation, what's the policy, and what happened in practice. I haven't really looked at it from that angle. Yes, it is a consideration but for the purposes of these reports, of this report it's

all about drilling down from the legislation to the policy and to what's happening practice.

Q. I was also interested in the extent to which you identified, based on your expertise in the area, what were unique factors for Te Whakatōhea. I note you reference multiple times confiscation being the backdrop. Did you have a method of identifying specific Te Whakatōhea differences which might have meant that the implementation of local government legislation and policy presented different outcomes and impacts?

A. Like two other inquiry districts you mean.

Q. Yes, potentially.

A. Yes, definitely that was a focus because I looked at local government in a couple of other inquiry districts and it does playout differently in different inquiry districts. Yes, it was definitely something that I looked at. Yes, that was the focus of what happened here as opposed to what happened elsewhere. I mean you can look at it is the same legislation and the same policy but things happen differently with different councils.

Q. I think it was obvious in your report that the war and confiscation were central standout features. Was there any others that I might have not picked up?

A. Still I think the biggest was the quality of the land that was left and its ability to support payment of rates.

Q. Another thing that somewhat relates to method, and I was trying to ascertain from my review of your report the extent to which Te Tiriti o Waitangi was a part of how you considered impacts for example and the best way that I can probably contextualise that question is that I searched Stirling's report in the Northland Inquiry the Wai 1040 –

A. Yes.

Q. – and his report, and I accept that Northland has a very Treaty-focused lens in that inquiry, but he has 200 references and in particular, he has a framework around discussing equality and equity which obviously emerges from the Treaty. I am just wondering did you have a similar type approach because I couldn't quite find it in my own review?

A. I see my role as setting out the legislation, the policy, and what happened in practice but also identifying where there's issues that affect Māori. I

see the Tribunal's role as the body that will look at this evidence in terms of the Treaty, so I'm not going to make statements as to whether something was contrary because I see that is the Tribunal's role. But what I do is identify the issues where there is questions on fairness and reasonableness as opposed to what I see as the Tribunal's role.

Q. When I did come across a reference to the Treaty in your report, it was in relation to Māori mechanisms for self-government –

A. Yes.

Q. – or Māori looking to other means to express the authority. I think in your report it was in relation to a declaration of loyalty to the Treaty. I don't think I need to take you into that report but I think it was around the Māori council period.

A. Right.

Q. Do you recall that in your report?

A. No, sorry, it's been a while.

Q. It was one of the ones I just came up with this morning so I don't actually have the page number. But, yes, it suggested to me that it found relevance within the Māori mechanisms and the way that they were seeking to rely on it in terms of asserting and recognising their authority to be represented for example in local government.

A. Right, yes. I'm guessing you're talking about the leader of the Mātaatua Māori Council, Pouwhare, who was quite adamant, yes, he made it clear that he saw the Māori council on a parallel level to the county council and that he wanted that body to be autonomous, yes.

Q. Yes. I think the interesting point in your research was that there was a request for the rangatira involved to declare their loyalty to the Treaty –

A. Right.

Q. – which I thought was an interesting concept –

A. Yes.

Q. – in terms of referencing where they saw recognition of their right to participate, right to be present. I should have found that page number probably. I'll find it in the microbreak and perhaps pass it on.

A. Okay.

Q. Still staying in the law and policy settings. I think you mention in your report that local government legislation was silent on the Treaty up until 2002.

A. Yes. Resource Management, although there is a legislation in one of the Town and County Planning Acts in 1977, yes, that basically it was saying that it didn't talk in terms of the Treaty but it talked in terms of having a consideration of Māori. I can't quite remember the exact words.

(10:02) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Relationship to land, water –

A. Yes.

Q. – wāhi tapu. A similar one came into the RMA.

A. Yes.

Q. The same sort of provision.

A. Yes. But it wasn't until the resource management act that the Treaty was-

(10:02) DR DOWNS TO SUZANNE WOODLEY: (CONTINUES)

Q. For the best part of 100 years, nothing.

A. Yes.

Q. I was wondering whether there was anything that you came across in the law and policy settings that clarified that local government didn't carry the Treaty responsibilities for the Crown.

A. Are you able just to ask that slightly different. I didn't quite get the…

Q. I'll certainly try. I'll do my best. I think where I'm heading is that there was a delegation of a substantial amount of authority to local government through legislation –

A. That's right, yes.

Q. -- and I'm trying ascertain where in the legislation was it explicit. That in that delegation local bodies weren't responsible for what the Crown was saying was their Treaty relationship to Māori.

A. Yes, I don't think there was anything in the local authority legislation that talked about the Treaty until '77, yes. And basically, if you're talking about the legal issue as to whether the local authorities were the Crown, I can't answer that because I'm not a lawyer, yes.

Q. But you talk about a general thrust of the legislation which is that there is a delegation of authority and no representation of Māori within the local government representative structures and you say: "There's little need from –

A. Yes.

Q. – what's viewed as little importance within Te Whakatōhea within the local government to rectify that," I think is the language you used.

A. That's right, yes. And you see that demonstrated in that 1899 request from the rangatira who said: "Can we have some representation here," and they were effectively ignored.

Q. I was wondering if across that period of time whether it was clear from your review of the material why there was little attempt or any real serious attempt from central government to do anything about it.

A. Yes, it just does not seem to have been an issue for the government to change anything. You know the whole voting system it wasn't until 1944 that you actual get people who aren't ratepayers who were able to vote. Yes, there's definitely a real reluctance to change anything there.

Q. But it's not also like there was a reluctance to change things because I was traversing your report and there's constant change in relation to rating over Māori land –

A. Yes.

Q. – so legislative change in terms of Māori land and rating was happening all the time but not in terms of representation.

A. No, that's right.

Q. I was interested in the notion of the delegation of authority from central to local government but also the relationship between the two. Does your research acknowledge the institutional relationship or dominance that is maintained between central and local government? For example, there seems to be a constant referral back to central government when things aren't happening locally on the ground in terms of what local government want for Māori and then a central government response to that, so that suggests to me a relationship. Is that acknowledged?

A. Yes, I think so. Yes, it's an interesting relationship because if you look at the rates compromise in the early 1930s that involved government

coming in to help resolve the situation with the council because so much pressure was put on government by the council in terms of the non-payment of rates on Māori land. The Native Minister Ngata comes in and negotiates that. So there's that relationship. And then there's also the relationship between the Department of Māori Affairs and the council when development schemes were underway in the 40s and 50s and the government policy is that rates shouldn't be paid on the Māori land that's being developed until it broke even, but the council insisted on continuing to rate that land and applied for charging orders in terms of that land. Sometimes there's a bit of a disconnect between the two. But because of the way the legislation was set up the council could still rate that land because it wasn't explicit in the legislation about the rating of development scheme lands but it was a government policy. But the Ōpōtiki County Council didn't like it so they continued to rate that land. Yes, there's a really interesting relationship between government and the local authorities.

Q. And that relationship existed not only for Māori issues, didn't it, but for broader regional issues or things that people on the ground here might have wanted to achieve in terms of their own interests –

A. Yes, that's right.

Q. – which may not have accommodated the Māori interests. It might have been a general Pākehā interest which you note.

A. Yes.

Q. I was interested in the place of the local leadership in that relationship and whether that was obvious.

A. Sorry.

Q. The local Māori leadership, sorry.

A. Yes.

Q. Yes, where did they fit in terms of that? Was that clear?

A. In terms of the Māori councils, the Health Councils, the Whakatōhea Tribal Executive that was all relationships with government. Yes, because those vehicles for Māori self-government were set up by the Crown so there didn't seem to be a lot of connection with the local authorities in those instances. Though increasingly, and perhaps the

more Whakatōhea Tribal Executive, there would have had to be more of a relationship with for instance the Ōpōtiki County Council because they were trying to put water in their marae and planning stuff which the council would have had to have some involvement.

JUDGE DOOGAN TO DR DOWNS – CLARIFY QUESTION

Q. Yes, I was trying to ascertain whether they had a mechanism for the equivalent type of relationship which would enable that back and forth over local issues, given that they are not represented. They can't do it through the local government.

A. Okay. So you're talking about the relationship between Māori and for instance the…

Q. Actually, in terms of central government.

A. Okay.

Q. You can consistently see, like I said, the relationship back and forth as issues arise the implementation of the legislation often concerning Māori matters –

A. Okay.

Q. – but I am wondering where in that relationship if Māori aren't represented, do they have the same or a similar or any type of ability to influence at the central government level-

JUDGE DOOGAN TO DR DOWNS – SIMPLIFY QUESTIONS

A. The first bit the extent to which, yes, that there's Māori relationship with government. Yes, I mean I guess you've got the Māori council, the health council, and the Whakatōhea Tribal Executive and they have a relationship with the Department of Māori Affairs or the Health Department in the 1920s so that's where there is an ability to communicate with government in those. But I can' really comment more on any other areas. That's just what I looked at.

Certainly, there were petitions. I think the Māori Land Court, for instance, when there were bulk – in the 1960s where there were a lot of non-payment of rates was taken to Magistrate's Court that's when the Department of Māori Affairs comes in and says to the council: "We've had lots of complaints about all of these judgments in the Magistrate's Court where people aren't the owners," and so that's where, yes, that

relationship with government is. So that seems to be where there's a mechanism for Māori to complain but it has to go via the Department of Māori Affairs who then takes it to the county council. I haven't thought about the second bit.

Q. In addition to the relationship dynamics that we've just explored, it's true, isn't it, that rates only formed a portion of the income required for local government?

A. Yes, there were some other. I couldn't tell you what the percentage was.

Q. That was my next question.

A. Yes, and I don't know them. But there were like for instance for roads the government came in with funding for roads as well. I didn't look at that specifically as to how much was available but there was definitely some policies in place whereby the council got money from the government in terms of roads. But I couldn't really tell you much more than that.

Q. I thought that the notion of funding was interesting on a couple of counts and could be looked at in a couple of ways which I just want to explore with you. But there's a sentiment that you identify in your report around a general attitude towards Māori non-payment of rates as –

A. Yes.

Q. – holding up the district. You talked about that this morning. I was wanting to understand, and you might not be able to answer it, but the extent to which that was true based on what income came from Māori rates general rating versus subsidies from central government.

A. Yes, I don't have that information about subsidies from central government. But certainly the amount of Māori land compared to the amount of European land was markedly different, so the amount of rates much more rates were coming from European land than from Māori land.

Q. I was tracking across your report that sentiment of I think you used the word 'indifference' that the Pākehā have against Māori who they perceive are not paying their fair share –

A. Yes.

Q. -- and it doesn't seem over time that that attitude shifts because in the later part of the 20th century we're talking about imprisonment for non-payment of rates.

A. Yes, that's right. I mean it does fluctuate a little bit depending I presume on the actual county council of the time as to the number of Magistrate Court's judgments. But yes, it does. There is a consistent or mostly a consistent attitude from the council as to not being impressed by the non-payment of rates on Māori land and not looking at the land itself in terms of its ability to support the payments of rate.

Q. I wanted to contrast that, and I will take you to page 5 of the bundle, which I'm not sure if you had the opportunity to read over the weekend and not essential that you did, but I will take you to page 5 paragraph 3. That is a part of the summary of Stirling from 1040 and he in that inquiry is navigating the same attitude or local dynamic. He puts, in my view, more strong so I just want to put that to you. If you go to paragraph 3 the second sentence he says: "Earlier historians have concluded that 'at the heart of the matter, and the real reason no serious attempts were made to share power or the-

A. I'm sorry, I've got the wrong.

Q. Page 5 of the bundle.

A. Is it his page 5?

Q. Sorry, it's page 5 of the bundle which will be his page 1 paragraph 3.

A. All right. Okay.

Q. Like I said, he's navigating the notion of this attitude but in a northern context

JUDGE DOOGAN TO SUZANNE WOODLEY – #A026(m) PARAGRAPH 3

Q. Paragraph 3. He says at paragraph 3 from the second sentence: "Earlier historians have concluded that 'at the heart of the matter, and the real reason those serious attempts were made to share power or the respective institutions of power, even at a local level, was the settler attitude or mindset'. In this case, 'mindset' is another word for racism. As a result of this mindset, there was little role for Māori, other than as supplier of cheap land needed for settlement and as the payer of rates to support local development largely geared to Pākehā priorities and interests." I mean from my sense of your report, it's not put quite that strongly. The language you use is somewhat different. But I wondered if

this descriptor resonates with you and whether in your view it would apply to Te Whakatōhea?

A. I think there's definitely the settler attitude but also the government attitude. Yes, just going back to that example of the rangatira in 1899 asking for some representation on the Whakatāne County Council and it just being ignored or downplayed, yes, there wasn't an appetite to change that legislation to have a representation system that would assist, or just even have a hapū/iwi representation or even just be able to vote. So there weren't so few Māori who could vote, there was a real reluctance. Yes, definitely at the end of 19th century there was a real reluctance to. This is also when the legislation is changing so more and more Māori land is subject to rates, yes.

DR DOWNS ADDRESSES JUDGE DOOGAN – MICROBREAK(10:22:19)

(10:22) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. A good time for a microbreak, thank you. But just while we are just on this particular passage, I understand your answer to the question but there's a couple of different propositions in the paragraph –

A. Right.

Q. – and I just wanted to test the different ones with you. From your research, and I appreciate that you are not in a position to comment on the Te Raki research in any detail because that's not your focus –

A. Yes.

Q. – but, as I understand, the question really is the extent to which you think there are valid comparable circumstances from your research in the Te Whakatōhea area. The first proposition, and this is over the period of the time you have examined, that no serious attempts were made to share power or the respective institutions of power. Would that be at a high-level a fair observation of the…

A. Yes, that's right.

Q. All right. And then in the last sentence: 'Little role for Māori…," and here talking about little role for Māori within the institutions of local government:

"…other than of a supplier of cheap land needed for settlement and as a payer of rates to support local development." Was that a fair proposition?

A. Certainly, there was little role for Māori. I haven't looked at.

Q. And the cheap land needed for settlement was largely essentially you've got the confiscation of course –

A. Yes.

Q. – which is acknowledged a dominant feature of the history here.

A. Yes.

Q. And the last one the priorities, I guess, geared for non-Māori priorities in terms of the development that's taking place.

A. Yes, and that's right. You know definitely the council was big on getting Māori to pay rates to support local development, but from the research that I did, I didn't find many examples where Māori were going to benefit from –

Q. All right.

A. – the work of the council. So, yes.

Q. Thank you.

HEARING ADJOURNS: 10.25 AM

HEARING RESUMES: 10.30 AM

(10:30) DR DOWNS TO SUZANNE WOODLEY: (CONTINUES)

Q. Kia ora anō **greetings again**. I wanted to touch on the difference between the way in which Māori perceive local authority and how local government is structured in terms of authority so looking at the different notions that Māori and central government for example might have in terms of what authority means territorially and locally. It is a big concept so let me break it down. But is it your assessment and evidence of impacts that the introduction or implementation of local government in the last part of the 1800s was a significant institutional shift locally for the inquiry district?

A. Yes.

Q. And at that time Māori still would have held their own views and practices in terms of authority.

A. Yes, that's right.

Q. I was looking in your report for how that might have been acknowledged and expressed and it wasn't particularly evident for me. So I'm wondering if you could explain how you identified the Māori view of things and how Māori exercised at a local level authority.

A. Yes, I didn't really cover that. So I know that there were, what Ranginui Walker talks about, a rūnanga but that's not something I really covered. I really looked at just the Māori vehicles of self-government that were established through the Crown. I didn't look at it like what Māori were doing on the ground in 19th century in terms of their autonomy.

Q. I have a series of questions on that but I will probably just deal with this one because it's chronologically earlier. It's in relation to the war and raupatu and the confiscation.

A. Yes.

Q. And then I will come to Māori mechanisms for local government –

A. Right.

Q. – and see if I can loop these questions back in. But at page 15 of your main report and you also deal with it in your summary, you note that local government in Ōpōtiki the backdrop to that is confiscation.

A. Right.

Q. I particularly wanted to look at that in respect of the Ōpōtiki Township –

A. Okay.

Q. – because I think at page 110 of your report you describe the Ōpōtiki Township as the centre of Te Whakatōhea territorial power –

A. Yes.

Q. – and from my read that aligns very much with claimant evidence before this inquiry but also of Professor Walker book *Ōpōtiki Mai Tawhiti*, and I might go there shortly. But we're in Ōpōtiki and it's acknowledged as the centre of territorial power but it's also acknowledged that the confiscation caused the pushing out of Whakatōhea from this centre.

A. Yes.

Q. You traversed in your research the establishment of the township and the legislation required for that and you say at page 117 ‘no Māori were ever elected to the Ōpōtiki Town Board’.

A. That’s right.

Q. So from that there’s an impact of total exclusion in what is the territorial centre of power for Te Whakatōhea.

A. Yes. A very small proportion of the land in Ōpōtiki is Māori land and a council is set up to administer the area that is predominately, as far as I could tell, all Pākehā.

Q. I was wondering if you would agree with the notion that this shift of establishing a township coupled with no Māori ever being represented on the town board as entrenching and embedding confiscation impacts?

A. Yes, it is definitely an impact of confiscation.

Q. There's another theme arising from the context of war in confiscation and it seems to me to be around that it's still relevant in this period where local government is being implemented because I think it's also in a report that there dealing with claims in relation to the confiscation and the concept of whether a Māori is loyal or rebel or where they align in terms of the Crown is still relevant in this early period.

A. What is relevant in terms of local authority is the delay in awarding title to land that was awarded after confiscation in the confiscated area because that has impacted on whether people could vote and if they had title, then they were rated at their various bits in the periods in the nineteenth century where the rating to Māori land was happening, yes.

Q. I'm more getting at, you reference leaders or people within Te Whakatōhea and you also note as you're doing that whether they're considered loyal.

A. So whereabouts is that bit where it says ‘loyal’?

Q. I’m sorry, one second.

A. Okay.

JUDGE DOOGAN TO DR DOWNS – TIMING

Q. I mean it's the labelling or the identification of whether Māori within Te Whakatōhea were a loyal to the Crown or not was a significant feature of the post-war period –

A. Right.

Q. – and I'm trying to understand the extent to which that might impact whether participating in a local government or seeking to be represented whether there is a tension there based on where Māori are perceived to sit.

A. I don't know. But if you look at Hira Te Popo who wanted to be a trustee for the Highway Board and put himself forward and I don't know if I can say loyal but he was definitely considered by the government as somebody who was developing land and who was supportive and I think it was from McLean and the Resident Magistrate were both complimentary about him. But even though they were complimentary about him, he was not able to be voted into that Highway Board. So he was still excluded because there just weren't enough Māori who were able to vote in that election in 1874 I think it was.

Q. Yes. I mean in your research you're identifying the willingness of some to engage but I was also wondering if there was a theme that might've emerged in your research or your read of the papers which suggest a reluctance to because of-

A. Right, yes. This isn't 19th century. This is a 20th century. There is one Ōpōtiki County councillor, a Māori Ōpōtiki County councillor who had a three-year term in the 1920s; the last name Delamere. I was quite interested in why he was only there for three years. He didn't seek reappointment. He possibly could have because no voting had to be had because there was just three nominees so potentially. But I couldn't really find out why it was that he didn't seek election for another term at that time. Yes, it was difficult to know. Apart from whether he was having difficulties travelling the distance to Ōpōtiki or because he had to raise issues about the rating of Māori land because he was the only Māori on that council and the first and maybe that was difficult.

Q. We touched on earlier the issue of the confiscation causing Māori to live on the outskirts and not necessarily within the centre of Ōpōtiki and losing that territorial dominance.

A. Yes.

Q. At page 11 of your summary you're traversing there the issue of partitioning and I think the broader issue there is zoning.

A. Right.

Q. This is a feature of the mid to late 20th century –

A. Yes.

Q. – and the local government's been in place for some time. It struck me that not only were they not able to maintain the territorial base in Te Whakatōhea but the impact of zoning that they also didn't have territorial authority over the portions of land that they were on.

A. That's right. Yes, there was restrictions on the land could be partitioned and that was mostly, I think, the impact was really around housing.

Q. At page 17 of the bundle that we provided at paragraph 42 (and again this is in Stirling's summary), and I'll give you an opportunity to read it, but it obtains a comment by Matiu Rata, who is obviously nationally representative in central government but it says – I'll just give you the opportunity to read it and I'll come back.

JUDGE DOOGAN TO DR DOWNS – #A026(m) PARAGRAPH 42

In the second sentence, he says: "As local government expanded beyond its initial focus on roads and bridges, local counties became fully fledged planning agencies, in charge of the zoning and use of land. This led to restrictions on the rights of Māori to manage and use their lands: from concern about being rated off their land, they progressed to feeling as though they were, as Matiu Rata observed, being 'zoned out of existence.'" It's a similar sentiment to the question I asked earlier, but does this type of characterisation bear reference in this inquiry district?

A. Because the county council records pre-1987 were all burnt, I haven't been able to look at zoning in the same way as perhaps Bruce Stirling was. But I was able to look at the impact of partitioning and you see almost a complete absence of partitioning in that period from 1967 through to the 1970s and there's also examples where Māori go to the Māori Land Court and ask for a partition and the judge is saying: "No, I can't do that." So in terms of partitioning, and I guess when Matiu Rata says about 'zoned out of existence' I mean the importance of housing if you can't partition land out for housing, then, yes, it must've felt like that.

(10:48) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Ms Woodley while you're just on this point.

A. Yes.

Q. If you don't mind Ms Downs just to clarify one matter. That period you're talking about from the 60s and 70s when the Māori Land Court was the period of declining partition applications.

A. Yes.

Q. Are you saying that was largely due to the court taking cognisance of the zoning restrictions and refusing applications that didn't come within the zoning requirement?

A. Yes. It is actually difficult to measure but there is an example in my report and it was Judge Durie. We're talking about partitioning in a larger block just with a small area for a housing site and that's where it declines and that's when the court starts saying: “You need to get permission from the council before I can make that petition order,” yes.

(10:49) DR DOWNS TO SUZANNE WOODLEY: (CONTINUES)

Q. I was interested in the fact that all of these things were at play but it didn't seem like there was ever an acceptance by Te Whakatōhea or the hapū here in relation to that pushing out. Like there seems to be an ongoing resistance in your report where they're seeking to maintain a presence despite some of the exclusions that are being overlaid.

A. Well, I think particularly from 1941, you do consistently get Māori representatives on the Ōpōtiki County Council. I'm not sure that's what you’re. So, yes, I'm sorry, I kind of lost that.

Q. Yes, I just thought it was important to note that, despite these institutional shifts and physical shifts of people, –

A. Yes.

Q. – it also correlates with notions of building of infrastructure and the economic increase of Ōpōtiki. Like these are the types of things I'm reading in the report, –

A. Yes.

Q. – despite that there were still ongoing claims or insistence from hapū here that they maintain a presence in the Ōpōtiki epicentre.

A. Yes.

Q. I'm going to move on to a conversation about infrastructure. If I can take you to the bundle at page 27 to 29 of the bundle itself. I hope I've got those numbers right. This is the deed of settlement, the Whakatōhea Deed of Settlement and your report talks about rating generally being used to support the development of local infrastructure. At several paragraphs starting at maybe 2.28, the deed of settlement is identifying a post-te Tiriti period 1850 (this is prior to local government) but it is traversing across the next few pages the nature of the economy and the opulence and the existing infrastructure in Ōpōtiki at that period of time. At 2.28 the language that stuck out for me there was the second sentence: "The iwi developed a thriving economy, largely based on flax, agriculture, produce, and pigs." Down at 2.29 the second sentence: "Beginning in the early 1840s, they acquired their own fleet of small schooners." There was at least two registered owners of ships. Significantly, over at 2.32 on the other page that paragraph starts: "Government officials visiting Whakatōhea rohe describe them as one of the most prosperous iwi in the Eastern Bay of Plenty." In the next paragraph at 2.33: "Whakatōhea also developed local and regional infrastructure. They were involved in the building of a new road." I just wonder if your report took account of this early contribution to infrastructure and the prominence that Māori had on it.

A. No, I didn't cover that. It's obviously important. But my report picks up and starts in 1871 when all of this has already occurred.

Q. I guess too the relevant part of that 1871 is the war context. And over at paragraph 2.87, which is not in the bundle, but it's talking about the consequences of war and the fact that a lot of the local area had been destroyed through looting and a scorched-earth policy.

A. Right, yes.

Q. I was interested in the fact that when you said page 110 of your main report that Ōpōtiki was regaining its economic strength that that didn't necessarily mean Māori, did it? Māori were not.

A. No, not in terms of land. I've got several instances of where there's some examples of Māori living in Ōpōtiki but it seems like it's a very small

number. Certainly, the number of sections/lots allocated after confiscation were minimal compared to the overall allocated to Māori was minimal compared to the sections that were occupied by Pākehā.

Q. You noted this morning in the presentation of your summary the fact that the Māori contribution to the development of infrastructure in the area through the confiscation of land wasn't generally acknowledged.

A. Acknowledged, yes.

Q. But I wondered if you considered whether there was a disproportionate contribution for other factors other than just the land confiscation.

A. I mean potentially Public Works but I haven't looked at. I think Heather Bassett is presenting her report in a couple of hearings' time and I think Public Works might be a factor there, but I haven't looked extensively at that report. That might be somewhere that has the contribution in terms of Public Works Taking but I can't say because I haven't examined that report in detail.

Q. What about roads being independently paid for or Māori contributing to the construction would that be considered as a…

A. As a contribution, yes.

Q. With reference to your comment about the Public Works the question that comes to mind is the need to consider the cumulative impacts of various legislation.

A. Yes. I mean it would add up, yes.

Q. There was a theme emerging in the Kōrero Tuku Iho hearings around the feeling that Māori carried about not having their own lands serviced or provided with infrastructure. One of the comments was that the power lines ended where the Pākehā land finished.

A. Okay.

Q. Did you get inputs from claimants in the feedback that you did get in relation to infrastructure>

A. Yes, particularly some Waiotahe, Ōpape, and Tōrere blocks in terms of gravel roads and concern over the lack of council supplied water supplies and sewerage. There's also examples in my report where Māori have asked the council for particularly roads and where that hasn't always happened or where there's had to be some government involvement. The

other thing too with the development schemes that's where a lot of the roads around Ōpape and Tōrere were developed because who was paying for it was the Department of Māori Affairs.

Q. This is my last question before we break. But while we're on the matter of the interrelationship between local government functions and other legislation and departments and whatnot, –

A. Yes.

Q. – I just wondered if you acknowledge in your report – I know you don't deal with resource management issues –

A. Right.

Q. – a consideration of local government as an institution and its impacts, given that it has the rollover that must be relevant. Is it the case that It's an and-and? It's your report what you say are the impacts plus –

A. Whatever the-

Q. – the needs report.

A. Yes.

Q. It was quite hard not to go into territory of resource use and management today because it's not actually covered in report –

A. No it’s not.

Q. – but most would say that it's a function of local government and therefore we want to question on it.

A. Yes, I was hopeful that it was covered in the environmental report.

Q. I've only got another line of question which I will do after the break.

A. Okay.

Q. I’m just signalling there’s one more primary line or perhaps two if I have time.

A. Thank you.

JUDGE DOOGAN ADDRESSES TE MINENGA – ADJOURNMENT (11:02:34)

HEARING ADJOURNS: 11.02 AM

HEARING RESUMES: 11.34 AM

MR POTAKA ADDRESSES JUDGE DOOGAN – TIMETABLE UPDATE (11:34:27)

(11:37) DR DOWNS TO SUZANNE WOODLEY: (CONTINUES)

Q. Kia ora. On the issue of rates and this is at page 9 of your summary and in the second paragraph you're talking about the Ōpōtiki District Council beginning to address the issue of non-payment of rates on Māori land in the early 1990s, so at this point there has been various iterations of rating laws applied over Māori land for a significant period of time and you cover those in the summary pages before. My question at that point is really in relation to the impacts and, notwithstanding the issue still needs to be addressed and it's a good idea to deal with iwi, whether it's a little bit too little too late. You know like there's already been significant impact from rating on Māori.

A. Yes, the expectation to pay rates on undeveloped Māori land in particular. One of the interesting comments is by Bill Maxwell and he talks about the obligation felt by older Māori to be paying rates on undeveloped land so certainly that was an impact on them.

Q. I think you noted in your report that that sense of obligation may have led to land having been sold in the preceding period.

A. Well, definitely in the 1920s, yes.

Q. Is there any real way of quantifying that in research terms?

A. Yes, I guess the examples from the 1920s the evidence I think it was Wiremu Kingi was selling because he had these undeveloped sections but he was having to pay rates on it. He was the one that said it was eating its head off in rates the land and he didn't want to hold onto that land. He wanted that land sold so he wasn't obliged to pay rates on those sections.

Q. Notwithstanding that there’s mechanisms for compulsory –

A. That’s right.

Q. – sale because of arrears –

A. Yes.

Q. – there is actually, in a sense, on the ground: “We just have to. There's pressure here as well as–

A. In that case, yes.

Q. Certainly, the Native Land legislation was geared towards individualisation, facilitating.

A. Certainly, there's lots of partitioning happening.

JUDGE DOOGAN TO SUZANNE WOODLEY – PARTITION NOT PETITION

Q. There was also petitioning but I won't go there. The notion that land had to generate an income or land should generate an income and should pay rate but Māori having land not viable for generating income is obviously relevant in your report.

A. Yes.

Q. And it's covered to the extent that you also work through the consolidation scheme policies and laws as a way of addressing rates arrears.

A. The consolidation happened in conjunction with the development schemes and the development schemes were part of trying to address the non-paying of rates by developing the land so that it could support the payment of rates.

Q. Much better put than my question. But the consequence of that was through the transfer of authority over that land to managers of that land.

A. Yes, the development scheme. I haven't looked at developments scheme land in this inquiry district but my understanding is that as soon as the Crown wants to put this particular land under a development scheme it comes under control of the Board of Māori Affairs.

Q. That's right. I was looking myself at the multiple ways in which Māori agency overland is being shifted.

A. Right. Yes, it certainly shifts with development schemes.

Q. Which brings me to my last line of question in relation to self-government verses local government is how I was kind of starting to frame it up. I'll take you into your research and hopefully you can navigate that discussion. But it's at chapter 11 of your research and it is even, I'm sorry, at paragraph 1 of your summary. It is just a use of language I wanted to clarify for myself and for the Tribunal. But you say that sentence that your report: "Discusses Māori representation on various local authorities, assesses the level of engagement with Māori by local authorities…," and the point that is relevant for this question is: "…and evaluates the

effectiveness of the vehicles for Māori local government provided by the Crown." I think my first question is to distinguish that Māori vehicles for local government instigated by the Crown or provided for by the Crown are just that, they're not Māori mechanisms for local government in a Māori sense, the Crown defined per legislation.

A. That's right, yes.

Q. But I was particularly interested in what appears to be a difference in mechanisms for local government versus mechanisms for self-government. Is that distinguished in your report?

A. No, because I don't cover Māori forms of self-government. That's not a Crown initiated…

Q. I think if I go to page 125 of your main report and its sealing there with the Māori Councils Act in the first paragraph under the title **Establishment of Māori Councils, 1900**.

A. I'm sorry, what page?

Q. Sorry, 525. The first paragraph of 525 of your main report says there: "Māori Councils Act provided for the establishment of Māori councils and local kōmiti marae throughout New Zealand to improve the health of Māori. The Act itself stated that its intention was to 'confer a limited measure of local self-government' on Māori." I'm trying to understand whether it's clear from your research whether it's understood that local government in a local government context and Māori self-government are quite different things. I'm trying to understand whether it's acknowledge that Māori self-government is not local government. Does that make sense? I'll keep trying to reframe it if I have to.

A. Yes, if you could.

Q. I mean if we talk about it in terms of relative authority, perhaps what each one does, the authority-

JUDGE DOOGAN TO SUZANNE WOODLEY – CLARIFICATION

Q. Yes, the question is whether your research distinguishes the difference between local government and Māori self-government.

A. Local self-government as provided by the Crown.

Q. Yes.

A. Yes, I've only looked at the Māori Councils, the Health Council, and the Whakatōhea Tribal Executive. That's all I've really looked at because they were provided for by the Crown.

(11:48) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Just to be clear, the focus of your report is on Crown initiated –

A. Yes.

Q. – forms of local government self-administration –

A. That's right.

Q. – whatever term you used, but your focus is on what the Crown's initiated by its policy or legislation.

A. That's right, yes.

Q. But you haven't looked in any other way at what local hapū in Whakatōhea –

A. That's right.

Q. – may have either in terms of pre-existing forms of hapū administration –

A. Yes.

Q. – or their own responses to some of this Crown policy.

A. Yes, that's right.

Q. Is that right?

A. Āe. Absolutely, yes.

Q. All right. Thank you.

(11:48) DR DOWNS TO SUZANNE WOODLEY: (CONTINUES)

Q. I guess what my question is trying to understand is what is the relevance between the two when the functions are very different? Local government is local government and mechanisms for Māori self-government are fundamentally different.

A. Right.

Q. They don't do the same things. If I put to you they don't, do you agree?

A. Yes. Well, I mean I haven't looked at it. But, yes, I would assume so.

Q. Well, I'm trying to understand the relevance of why it's examined as a whole chapter in a report on local government when Māori self-government through these mechanisms –

A. I see.

Q. – isn't actually local government. It's something else. It's very confined.

A. Yes. Well, I guess we're looking at actions of the Crown and these were set up as a mechanism for Māori to have some level of self-government in a different way to what you're talking about. Because there's resourcing here as well. There's resourcing for the Māori Councils in terms of sanitary inspectors and there's also the ability for those Māori Councils to collect the dog tax so that they're able to collect funds.

(11:50) JUDGE DOOGAN TO DR DOWNS:

Q. Just pause for a moment. Ms Downs, I'm just trying to be clear also about the distinction you're drawing. In the report, Chapter 11 is entitled *Māori Vehicles for Local Government Instigation by the Crown* and then it carries on and lists various mechanisms. You've used the term self-government-

A. The legislation uses –

Q. Māori self-government I think-

A. – self-government.

Q. All right. So you're wanting Ms Woodley to address the distinction between Māori self-government as an expression of tino rangatiratanga versus the Crown policy and legislation?

A. No. I think what I'm trying to understand is the relationship between the operation of local government through local government laws and policies. There's a correlating discussion around: "Well, here's the mechanisms for Māori self-government," but they don't address the same matters.

(11:51) DR DOWNS TO SUZANNE WOODLEY: (CONTINUES)

Q. They're not the same authority, are they? One's dealing with a territorial regional –

A. Right. Okay, yes.

Q. – land based authority and this one's dealing with a much more narrow – the Māori mechanisms for self-government are very confined to Māori

matters within the Māori domain and I'm trying to understand the relative level of authority that each has –

A. Right.

Q. -- because it seems to be relevant to the discussion of whether these are effective for the Māori need like at that time.

Q. Yes.

Q. Māori weren't only concerned about dog tax. They're also concerned about rating generally. But is it-

A. But these mechanisms don't deal with the rating. Yes, that's right, there doesn't seem to be that relationship with like Ōpōtiki County Council or anything.

Q. I just trying to also understand what was the purpose of conferring a limited measure.

A. Okay.

Q. This is that page 525 of your report.

A. In 1900 the focus was health and sanitation if you like. That was the focus of these Māori Councils so it wasn't all encompassing. There were wide-ranging responsibilities conferred on the Māori Council's, you know, water supplies, liquor consumption, I think, noxious weed control, dog tax, registration of deaths, births, and marriages. But I guess the key with these Māori Councils is that they were funded but only up to a certain extent and that's where the issues are with these Māori Councils. And also the degree of autonomy that the councils could have when there's a sanitary inspector and somebody at the Native Department saying: "No, you can't spend your money on this." So that's where I guess you're talking about that whole autonomous concept.

Q. Yes, I think you're heading there in the last answer where we're talking in terms of autonomy and authority –

A. Yes.

Q. – because you have through the Māori mechanisms of self-government identified in Chapter 11 Crown defined in form, in function.

A. Yes.

Q. You speak about funding but I also note you say that the primary reason Māori Councils fall over is because of the lack of funding.

A. That's right, yes, that the funding was taken away. I mean what is interesting about this Mātaatua Māori Council though is that they were very effective in raising money with using the dog tax. But the records for the Māori Councils is really limited so this is as much information as I could really find. For the 1900 and 1910 period, there's quite a bit of information available about what they did and the visits of the sanitary inspectors and this sort of stuff, but from about 1910 to 1920 those records they were quite limited.

Q. I mean I wonder if I can put it again whether or not these mechanisms outlined in Chapter 11 are forms of local government or forms of self-government.

A. I see. Right. Forms of local government.

Q. If the context of the main report up until now is local government being an authority…

A. Yes, I guess it is a limited form of local government. There are some, like levy dog tax for instance. There was some power to fine people for going against some of the rules that the Māori Council had come up with. Yes, I can't say one or the other really. I think it's a limited form but the thing is that it's restricted because the money runs out and so the effectiveness is reduced when the fundings withdrawn. I'm talking about the Māori Council 1900.

I guess if we're talking about the Whakatōhea Māori Executive from the 1940s the focus is on marae and improvements in marae and it's what Māori communities are wanting but equally you've got to balance that out with what the Department of Māori Affairs will allow, yes.

Q. So you'd accept that comparably the authority and autonomy in local government is much greater than that in the limited forms that you've identified in Māori self-government?

A. Yes, well they're quite different.

Q. Right. This is probably my last question so I might just put it before the microbreak and then that will be done. Page 26 of the bundle that is an extract from a recent report. I acknowledge this wouldn't have been before you, but it's the *Wai 1040 Stage 2* report that was released last year. I'm sorry, we should've put the citation on their fully or maybe it's

on the front page. Released in December last year. But I think in this page, the Tribunal is navigating the different notions of autonomy, self-government, local government, and right at the end there –

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Q. – it's talking about the Māori War Effort Organisation (and I note that that's canvased also in yours), but I thought the important point in that sentence is the Crown worked to bring the organisation under its control, effectively curbing its influence and potential as a vehicle for rangatiratanga. And what struck me about the mechanisms in your Chapter 11 is that all of them sit within the confines of legislative control and Crown determination of what that is.

A. Yes.

Q. So I'm wondering, did you explore in your research or did it come out in your research a similar sentiment to that where Te Whakatōhea was curbed in their ability to self-govern because of the legislative control that the Crown maintained?

A. Well, certainly, if we're talking about the Te Whakatōhea Tribal Executive what they were able to do was limited by how much funding was coming through and the parameters of what they were allowed to do which the focus was largely marae development. But in terms of Māori War Effort Organisation, I didn't look at that very much. But yes, the Māori Executives come out of that Māori War Effort Organisation so whatever autonomy was present in terms of that organisation was quite different to what was set up in the late 1940s.

Q. If I can just take you to page 3 of the bundle and that is a page from Professor Walker's book and at the final two sentences of the first paragraph he's talking about the mandating of leaders by the Crown. Notwithstanding that that's a comment in relation to Treaty settlement, it made me wonder whether or not the legislation which elected committees and representatives had a similar impact on traditional Māori leadership where these mechanisms were beginning to substitute the traditional leadership that would've existed here and whether that came out as part of your research in terms of impacts.

A. I mean it's possible. But yes, I really couldn't determine that. I mean it's quite possible that those leaders who were involved with the Whakatōhea Tribal Executive for instance that they were the leaders of them at their marae as well. Yes, it's hard to assess any impact. Yes, you can't really get that from the research, no.

Q. Okay. That was my final question. Thank you.

A. Thank you.

JUDGE DOOGAN ADDRESSES ALL COUNSEL – MICROBREAK, TIMETABLE UPDATE (12:05:00)

HEARING ADJOURNS: 12.05 PM

HEARING RESUMES: 12.09 PM

(12:09) MS FELLOWES TO SUZANNE WOODLEY:

Q. Tēnā koe **thank you** Ms Woodley. My name is Ms Fellowes and I'm here with my colleague Ms Soriano from Mahony Horner Lawyers. We are here on behalf of Wai 339 and Wai 1865 which are both claims about the Hiwarau C block. Firstly, I just want to thank you very much for your evidence and also for your answers to our questions of clarification.

I have a couple of questions to ask you today and it should not take longer than 20 minutes. My pātai will be mostly focused on your main report which is #A026 and your responses to my questions of clarification which is document #A026(h). Do you have both of those documents on hand?

A. Yes.

Q. On Thursday 12 February 2026, we filed a bundle of documents which has been placed on their record as #A026(i). Do you have that document in front of you?

A. Yes.

Q. From pages 1 to 5 you'll find the timeline that we have drafted using both yours and Ewen Johnston's report as a chronology leading up to the amalgamation of Hiwarau C. Before I continue, can you please confirm that you've had time to review the document?

A. Yes.

Q. I also ask the Tribunal panel to please keep the chronology in front of them while I go through my pātai with Ms Woodley. Ms Woodley, can you please confirm whether you think that that document accurately reflects your understanding of the lead up to the amalgamation of Hiwarau C?

JUDGE DOOGAN TO MS FELLOWES – #A026(i)

A. Yes, I think so.

Q. Thank you. Based on the timeline that we're discussing right now, based on that timeline that's derived from the evidence, it appears that the council support of the amalgamation of Hiwarau C was not in the best interest of the owners. It was already well recorded multiple times that the land was unsuitable for development, development would be expensive, the Department of Māori Affairs had reported about the owners do not wish to be part of a development scheme, and that the best land would not even be included in the amalgamation. Would you agree with that?

(12:12) JUDGE DOOGAN TO MS FELLOWES:

Q. Can I just unpick that question a little bit. The main question then is that the development was not in the best interest of the owners because of the various factors you've noted.

A. Yes, that's correct.

Q. Yes. Thank you.

(12:12) MS FELLOWES TO SUZANNE WOODLEY: (CONTINUES)

A. Yes, I'm not really comfort saying because I wasn't looking at it in terms of what was in the best interest of the owners in that sense. I was looking at it in terms of the local authority involvement and their motivation for being part of supporting that amalgamation and their motivation was so that land could be leased out and could pay rates. I guess in terms of knowing whether or not it was in the best interest of the owners, I didn't really come across it. Because of my focus on the local authority side, I didn't look at what were Māori saying, what were the owners saying. I

was looking at it from, as I say, that rating point of view. So I'm a limited in the extent I could say categorically or not, yes.

Q. So then would you say rather that the Ōpōtiki County Council was instead acting in its own interests?

A. Definitely. Yes, it was. I mean the council was motivated by rates. But equally, they saw the development or their amalgamation of various bits of Māori land as a way of – and they probably genuinely thought that that was helpful for Māori that they would be able to pay rates, that it's leased, so there's money coming in. But as we know it wasn't playing sailing.

Q. Thank you. Obviously, Hiwarau C was eventually amalgamated in 1969 and this was without the consent of many owners invested in the administration of the Māori Trustee who in turn was to lease the land. We have the chronology which is the #A026(i). Just from the concerns that were raised leading up to the amalgamation, do you think from the outset of the Māori Trustee's administration that it was going to be difficult for the lessees to effectively generate income or revenue from farming Hiwarau C in order to pay rates?

A. Well, I mean it was definitely a factor. I don't know enough about which areas were grouped together to be leased but there was certainly those reports talking about the limited ability of various Hiwarau C blocks to generate income. Yes, so it would have been a smart Māori Trustee to lease out areas that was going to generate enough income to pay rates.

Q. Just carrying on with the lessees paying rates, on page 7 of your answers to my questions of clarification, I believe that the top of page 7 you state that it was standard practice for all lessees of Māori land at the time to pay rates directly to the local authority concern.

A. Yes.

Q. Just for the record, could you please explain why this was standard practice and where this came from?

A. It had happened for a very long time. In the nineteenth century when only Māori land leased by Europeans were paying rates, it was the lessees who were paying the rates. I couldn't put a year on it but it was certainly standard practice for a very long time. That's why the council's keen for

land to be leased so that the lessee could take responsibility for paying the rates.

Q. And during just this time period that we're talking about, was it something more typical that you would see like you were saying with European lessees, or did you see this often for Māori lessees as well paying the rates directly to the council?

A. I mean the expectation was that the lessee Māori or Pākehā would pay the rates to the council directly. The issue sometimes I guess with Europeans as well but with Māori lessees was that the council didn't always know who the lessee was. So that was part of not having those valuation roles up-to-date and not having an accurate occupier in which to levy the rates. Yes, but it was definitely the expectation that the lessee Māori or Pākehā to pay the rates.

Q. Earlier you agreed that it was going to be likely difficult for the lessees to be able to generate income for farming and being able to pay the rates. Would you agree then that not only was the Hiwarau blocks unsuitable for development, the lessees who were mostly either owners themselves or they were descendants of owners or they were whānau of owners, those lessees also received no financial assistance from either the Crown or the council for developing the lands? Would you agree with it?

A. This is what I didn't really look at. I didn’t look at whether the way that the Hiwarau C was divided into the three areas that were leased. I didn't look at the extent to which that land was capable of producing enough revenue or had enough development potential and also I didn't look at the extent to which any development funding was not available. Yes, so I can't really answer.

Q. My last questions will just be more focused on the council's involvement in the hearings leading up to the amalgamation. On page 395 of your report, you state that: “At a council meeting of 14 May 1969, the council considered advice from the Māori Land Court that an application had been made to amalgamate approximately 30 Hiwarau blocks comprising 1,241 acres.” In the same paragraph, you then go onto state: “It was resolved that the council consent to the amalgamation.” Can you please clarify what you mean by the council consenting?

A. As well as having to consent to partitions, because this was a change in the title, yes, the local authority was obliged to give their consent to that. I can't tell you off the top of my head which legislation that would've been under but it would've been a Town and Country Planning Act. But yes, that appears to have been something that the council was also having to be involved with amalgamations as well as the partitioning.

Q. On page 12 of your summary, you state that: "The mid-1960s was a problematic period for Māori-local government relationship." You state that: "There was minimal no representation with just one Māori councillor out of the 12 elected." During your research, did you come across any records or evidence of the council consulting with the owners regarding the amalgamation of the Hiwarau C block?

A. No, I didn't have any. Yes, I mean on the one hand I didn't have access because so many of the local authority records were destroyed, and I would've imagined it would've been more of a Department of Māori Affairs role. But just in terms of what I was able to glean for the minutes, both Māori Land Court and the county council minutes, yes, I didn't find any.

Q. Thank you.

A. Yes.

Q. And also given with the minimal Māori representation on the council at that time, would you agree that this resulted in limited protection or preservation of Māori interest relation to the whenua?

A. Certainly, I think having a one person in a 12 person council would limit your ability to influence, compared to say if there was three Māori councillors. But, yes, it's too difficult to answer. But it would quite possibly have an impact but I can't say that categorically.

Q. During your time as a researcher, a lot of our clients say that a lot of the owners didn't have any input in the amalgamation. Have you come across many examples where a council has had more of an input because obviously they were attending the hearings and gave consent?

A. Yes.

Q. Have you seen many examples where the councils have more input in decisions relating to title of lands than the owners do?

A. The council was involved in-

(12:24) JUDGE DOOGAN TO MS FELLOWES:

Q. Ms Fellowes, there's a few different parts there. The first part, as I've heard it, is just limited owner involvement in the Hiwarau C amalgamation decision compared with close council involvement.

A. Yes.

Q. Was your question directed to whether if that's accepted as accurate for here, are there other examples Ms Woodley is aware of similar circumstances generally? Is that your question?

A. Yes, that's correct, Sir.

Q. Thank you. All right.

A. Thank you.

(12:25) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Are you able to answer that Ms Woodley?

A. Not off the top of my head, no.

(12:25) MS FELLOWES TO SUZANNE WOODLEY: (CONTINUES)

A. I could have a think about that, or perhaps a question in writing or something I could think about that more closely.

Q. Thank you, yes.

(12:25) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Just so that I'm clear on your evidence in relation to this particular amalgamation, did your research look at the extent of owner participation in the amalgamation?

A. No, it didn't.

Q. All right. Thank you.

A. Okay.

(12:26) MS FELLOWES TO SUZANNE WOODLEY: (CONTINUES)

Q. Thank you Ms Woodley.

A. Thank you.

Q. Those were all my questions.

MS FELLOWES ADDRESSES TRIBUNAL PANEL – FURTHER CROSS-EXAMINATION (12:26:32)

(12:26) MS CLARK TO SUZANNE WOODLEY:

Q. Tēnā koe **greetings** Ms Woodley. Kia ora.

A. I'm sorry. Kia ora.

Q. My name is Raewyn Clark. We act for a number of claimants in this inquiry. One of those claimant groups is Ngāi Tamahaua who are based on the Ōpape block –

A. Right.

Q. – and their marae is at Ōpape. Some of the questions I have, have a more general focus to them and some of them are specific in particular to that Ōpape block to try and elicit the experience of Ngāi Tamahaua.

A. Okay.

Q. Your report in one of the earlier chapters gives a legislative overview –

A. Yes.

Q. – of the development of rating legislation from the very early days through to present day. There were three periods within that time that I wanted to delve into you with a little more detail because it seemed to me that these three periods were particularly prejudicial to Māori. The first period is what I have termed the treasury reimbursement period and that's the 1882 to 1888 period. This period, or pursuant to the Crown and Native Lands Rating Act, this Act made large areas of Māori land rateable and set up a scheme where the colonial treasurer paid the rates that local bodies demanded on behalf of Māori, didn't it.

A. Yes.

Q. But of course there was no intention that they would pay that for good. There was an intention that that would be repaid by Māori to the state –

A. Yes.

Q. – at the point of sale. Is that correct?

A. Yes, I think it was at the point of sale.

Q. I think I heard you say in your summary that some £377 were paid to the council as a result.

A. Yes, various councils.

Q. Was that various councils?

A. Yes.

Q. Because that wasn't specific. I thought I heard you say it was specific to this district.

A. It is specific to this district. But I meant the Highway Board, the Town Board, and the Whakatāne County Council which was the precursor to Ōpōtiki County Council.

Q. Right.

A. Yes.

Q. Thank you. So that's reflective of that money having been recouped over time at the point of sale. Is that correct?

A. So that's the money that was paid out by the Crown to those three local authorities in respect to rates over Māori land for that period from sort of loosely 1882 to I think they had to stop in 1890. The 1888 legislation – I just need to remember rightly. Yes, so they were no longer able to levy rates under that scheme until 1 April 1890, yes.

Q. And in short, this legislative scheme did impact Māori of this district, didn't it?

A. Well, yes. Yes, they were rated.

Q. Thank you. It is correct, isn't it, there was no notification to Māori that they have been rated pursuant to this legislation?

A. That's right. It's just the notice was in the form of a gazette notice and it didn't specify. The only thing it specified was that Māori were to go to the various council offices and ask to see the valuation roles and see that said if they were subject rate. So that was the notice, yes.

Q. Okay, thank you. Is it also correct that the Crown inflated evaluations of Māori land under this scheme?

A. I'm aware that that's been talked about in other inquiry districts and I think Alan Ward talks about that as well in some of his Rangahau Whānui reports but I couldn't assess that. I didn't find anything about that specifically for this inquiry district.

Q. But there was nothing, since Māori were unaware that even been rated in the first place, unless they went to check the role, there was no

mechanism of scrutiny to enable Māori to check or query the value that had been applied to their land for the purposes of rates, was there?

A. Unlikely, yes.

Q. It is correct, isn't it, that the Crown paid the bill without any knowledge of Māori effectively attributing a debt to the Māori owners of that land without their knowledge?

A. Well, there didn't seem to be any mechanism for letting Māori know that rates had been paid on their behalf and that it would be a debt that remained on the land until it was sold, yes.

Q. And of course in this district there are or there will be examples of land where at the point of sale Māori received vastly less, than what they thought they had earned at that point of sale.

A. Well, yes, I mean that's the theory. The records about this are really limited so I wasn't able to find out the process by which this deduction happened. But we do know that a lot of money was paid back generally across the country so it would follow that Māori were in the same position in the inquiry district as they were over the entire country. But I wasn't able to go in and have a look at a land alienation to find out whether it was rated because the records just weren't there to check it and to say definitively, yes.

Q. But I think you've agreed that clearly money was recouped –

A. Yes.

Q. – in this district so this must have occurred in this district.

A. Yes, definitely money was paid by the Crown to the local authority in respect of land in this inquiry district.

Q. Okay, thank you.

(12:35) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Sorry, just to be clear, did you find any record of the £377, or whatever this figure was, evidence of the recoup of that sum over time by the Crown in this district?

Q. No, I didn't and that’s the-

Q. State of the records.

A. Yes.

Q. Okay.

A. The records just didn’t show the specifics.

Q. All right.

A. Yes.

Q. Thank you.

(12:35) MS CLARK TO SUZANNE WOODLEY: (CONTINUES)

Q. I see what you're saying is that £377 was paid to local government.

A. Yes, for the Crown.

Q. But the question of the extent to which it was recouped from Māori is unclear –

A. Well, it unclear.

Q. – from the records.

A. Yes.

Q. Thank you for clarifying that.

A. Yes.

Q. Okay. The second period that I want to highlight from the legislative chronology is what I'm terming the lien period, L-I-E-N, period.

A. Right.

Q. It is correct, isn’t it, that under the Rating Amendment Act 1913 if Māori land rates remained unpaid for greater than nine months that council could register a lien on that property.

A. Yes.

Q. The effect of the lien was that it prevented the owner from leasing, selling, or otherwise dealing with the land until the lien was discharged. Is that correct?

A. Yes.

Q. Do you agree that this had the effect of immobilising the titles? The owner couldn't do anything with it due to the lien.

A. I don't have enough information really.

Q. Well, they certainly couldn't lease it or sell it.

A. Yes. The Ōpōtiki Borough Council had liens registered on Māori land. I didn't find evidence of the Ōpōtiki County Council doing that. But in terms of Ōpōtiki Borough land, I'm thinking about Wiremu Kingi the three

sections that he was involved in in the 1920s that land had liens on it and so when that land was sold that those liens were deducted. It just added to the amount of rates that he had to pay on that land and that was deducted from the purchase price. The issue sometimes with the liens is that the land wasn't registered with the district land registrar so the liens couldn't stick and that's why you get the Māori Land Court involvement. A Māori Land Court title like a charging order could stick.

Q. So that's an issue of there not being title issued to certain lands.

A. There is title but it is not registered. There is an issue with the registration with the district land registrar so that's why those liens couldn't be registered on the title. But come the Native Land Rating Act 1924 charging orders could be registered on a Māori land title.

Q. Okay, thank you. That's going to be the third period that I'll highlight.

A. Yes.

Q. Is it correct that they are part of what led to the rates compromise that you've referred to the issue of liens on titles?

A. No, not necessarily. Because I didn't find the Ōpōtiki County Council had used the 1913 Act liens. It was more just that there was a lot of unpaid rates but they weren't in the form of a lien.

Q. But there was still very much the expectation that those rates would be paid –

A. Yes.

Q. – even if, as you say, they didn't stick to the title.

A. Yes, the liens was a different process to the levying of rates. Yes, it’s a different process.

Q. Okay.

A. Yes.

Q. The levying of rates is what prompted the rates compromise.

A. Yes.

Q. Alright. It is correct that this compromise was negotiated in respect of the Ōpape lands in the late 20s.

A. That’s right, yes.

Q. Under the rates of compromise it is correct, isn't it, that rates were still being recouped under this compromise right through to a couple of decades later?

A. That's right. Until 1974 I think it is, yes.

Q. Is it correct that the owners never knew that such a compromise had been agreed?

A. I don't know the extent to which they were aware of the compromise itself. Basically what happened is every time there is a change in the land title, there is a partition order or an amalgamation or a sale, a small amount from the rates compromise was deducted from that purchase price, or had to be paid before that partition was registered. There is an example in my report where one of the owners involved wasn't aware that this was still happening thing in the 1960s because this had happened in 1930s that those amounts were deducted up until about 1974. So that amount of the rates compromise a proportion of that was paid back to government.

Q. Yes, thank you. Your report does say at page 297 that: "These rates liens do not appear to have been something that most owners of Ōpape or Waiotahi Parish lands were aware of. In August '51, the Chief Surveyor noted to the District of Lands that the Māori owners had 'never been notified of the compromised amounts due on the land'."

A. Yes, that's right.

Q. So you'd agree that it is quite likely –

A. They didn't.

Q. – that it was only at the point of sale, some two decades after –

A. Yes.

Q. – the original compromise had been agreed, quite possibly by their forebears –

A. Yes, that's right.

Q. – that they were made –

A. Made aware.

Q. – before it.

A. Yes.

Q. With regards to the charging orders period, this period would you agree was a significant and prejudicial period for Māori in the way that they were affected by rates on their land?

A. From 1924 you mean or?

Q. Correct. That's the period I'm referring to.

A. Well, certainly. I mean I wouldn't even pinpoint it down to that legislation. There is a gradual increase in the amount of Māori land that is rated and in 1910 basically all Māori land is rated, except for customary land. In 1924 you get urupā and marae exempted and there are exemption provisions in the 1924 Act.

The practice of the Ōpōtiki County Council was to rate all of Māori land and as they gradually know more and more who to levy rates to it gets more of an issue. I think it's kind of a gradual progression as the legislation enables more Māori land to be rated but you've got this issue right from the beginning of this undeveloped land that doesn't support the payment of rates. But certainly in the 1920s it becomes such an issue that the government comes in and organises this rates compromise.

Q. The charging orders that council can now register on the title, –

A. Yes.

Q. – you've commented on the sort of step up, this sort progressive rating of Māori land, and would you say that the charging orders demonstrate a progressive sort of strength of the enforcement of rates against Māori?

A. Yes, certainly the charging orders stay as a charge on the land title. It is a more effective means of ensuring those rates are paid than the 1913 legislation, yes.

Q. The charging orders certainly bring more pressure to bear on specific Māori owners than previously.

A. Well, yes, I suppose it does. But I guess the thing is that with the charging orders they stay as a charge on the land, unless like the council in this they cancelled out some of the charging orders. But the charging orders stayed until there was a change in the title. If there was a partition or if there was a sale or a lease, those charging orders needed to be paid before for that change in title could occur. They could stay on that title for a long time.

Q. But you also give examples of where charging orders followed a change in title. Because that happened as well, didn't it, if they weren't paid they remained on the title?

A. That's right, yes, correct.

(12:46) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. I'm sorry, can I just clarify. From what your research shows, can title transmit if the charging order is not satisfied? Can it change?

A. Actually, yes, I thought the charging order needed to be paid before that change in title. That was my understanding, yes.

Q. All right. Yes, thank you that's clear.

A. Yes.

(12:47) MS CLARK TO SUZANNE WOODLEY: (CONTINUES)

Q. Well perhaps on that point, if we go to page 347 of your report, there is an example there in respect of Ōpape 1.

A. Yes.

Q. This is an example, isn't it, of a charging order following a title even while that title is transformed and in this case, it is amalgamated.

(12:47) JUDGE DOOGAN TO SUZANNE WOODLEY:

A. Yes, sorry, Judge Doogan. Yes, I think this is quite unusual.

JUDGE DOOGAN TO MS CLARK – #A026 PAGE 347 PARAGRAPH 2

Right. On this instance, they did. They kept the charging orders on so that they could pay be paid from the proceeds of the alienation post amalgamation.

Q. So that's what last sentence says about the charging orders will be paid from the proceeds of the lease essentially.

A. Yes. So that was different, sorry, to what I said. But my understanding was that in most instances when there was a change in the title those charging orders needed to be paid. So this is a bit unusual.

Q. I think what it seems to show is that there are two possibilities. One, or the more common one in your research, is that the charging on a needs to be discharged –

A. Yes.

Q. – to enable the title to transfer either by way of lease or alienation to another lessee or an owner.

A. Yes.

Q. But there are circumstances like this where the court might allow a change in title but on the condition that the charging order is met subsequently.

A. Yes.

Q. All right. Thank you.

(12:49) DR GRANT PHILLIPSON TO SUZANNE WOODLEY:

Q. It's Dr Phillipson here. Can I ask a question? Sorry, I just note here that in this instance the council was asked for its approval. It says in that paragraph: “The council was asked for its approval.” It looks like it was asked for its approval for the charging orders to be carried over to the new title after the amalgamation. Am I reading correctly?

A. Yes, I think they were being asked for their approval to the amalgamation and in the same but acknowledging that there was still charging orders on the land that would be paid once it was leased.

(12:50) JUDGE DOOGAN TO DR GRANT PHILLIPSON:

Q. And thank you Dr Phillipson. I think that accords with at least my general understanding that it is the holder of that security that would hold the power to agree to an arrangement like this and the court is unlikely to approve it without that the consent of the holder of the benefit of the charging order so that does make sense. Thank you.

(12:50) MS CLARK TO SUZANNE WOODLEY: (CONTINUES)

Q. Would you agree that charging orders and the pressure to repay them created a pressure on Māori that led to the alienation of land and here is an example that the land had to be leased for the charging order to be paid?

A. Definitely. I think the pressure to pay rates it impacted on that leasing not so much the sale in this instance. Yes, I mean this example it is

amalgamated so that it becomes a more economic unit so that it can pay rates and economic unit so it could be leased the land so the rates can be paid by the lessee to the council.

Q. So you would agree that charging orders created a pressure on Māori to alienate the land whether by sale or by lease?

A. It's really hard to say categorically that it was the charging order that did this. I think it is more there was pressure to make – the council was involved in the 1960s in encouraging the amalgamation of land to make it revenue producing. Whether the charging order was a factor I don't know.

Q. Suffice to say that your report presents a number of tables that concern the use of charging orders.

A. Yes.

Q. I won't take you to them.

A. No.

Q. But just looking at your list of tables at page 9 and 10 of your report, there are a number of tables there, Table 22 and 23. You would agree that these refer to the use of charging orders in the period which is 1927?

A. 1927, yes.

Q. And then over the page Table 36 and 37 relate to the period 1937 to ’38.

A. That's right.

Q. And the Tables 38, 39, and 40 all relate to the 1957 period, don't they?

A. Yes.

Q. We could say that the council used charging orders in this district across a lengthy period and to quite a significant extent.

A. They did. So just to clarify though, the 1927 charging orders were cancelled out by the rates compromise.

Q. Thank you.

A. Yes.

Q. Okay, thank you. And just harking back to the point that I made earlier that I've been trying to follow through what I see as significant periods in the progression of rating legislation, do you agree that the three periods I’ve highlighted do indicate that the significant prejudice to Māori are rising from the rating regime across those three periods?

A. I would couch it in terms of all of those periods and going up until the 1990s, it was all about rating Māori land that included land that wasn't necessarily developed or incapable of development and so that had to have an impact on Māori and those rates would've been a burden. Those periods they're all distinctive periods of the whole rating regime but equally, it remained the same that all this Māori land was rated despite its ability to support payment of rates.

Q. Will you go further to say that that rating pressure acted as a precursor to alienation in a number of instances.

A. Yes, I think there was pressure on owners to be able to pay rates in terms of leasing, yes.

Q. Okay, thank you. I want to touch briefly on the use of the Magistrate's Court track –

A. Right.

Q. – which is relevant to the charging order period and the use of charging orders on titles. There were two pathways for the enforcement of rates by council, either through the Māori Land Court or through the Magistrate's Court. That's correct, isn't it?

A. That's right, yes.

Q. The Māori Land Court pathway meant there was a greater likelihood of checks and balances, including that there would've been an assessment of the land and the owners ability to pay.

A. In the later period, yes, from about the 1950s. The 1927 charging orders there didn't look like there was a lot of checking going on there. But definitely from the 1950s there seemed to be the court was more interested in trying to figure out, first of all, who was the occupier and what the land was being used for and its ability to support paying the rates.

Q. Okay. I think this was touched on with my friend, with regards to the Magistrate's Court having in some instances led to threats of imprisonment for certain owners.

A. Yes.

Q. I think another issue with the Magistrate's Court was that they were less likely to have access to accurate title information, weren't they?

A. That's right, yes.

Q. Would you say that the Magistrate's Court pathway was clearly the more draconian and coercive pathway that was available to council between these two pathways?

A. In terms of fairness, the Māori Land Court had the ability if they chose to check whether the right people were getting levied with rates to the extent to which the land could support the payment of rates more and more in the 1950s. They didn't in the 1920s or 1930s but in the 1950s they certainly did. The Māori Land Court said the court said that they were reluctant to put charging orders on titles where that land couldn't support the payment of rates. Whereas the Magistrate's Court, it was just the person that they thought was the occupier and there was no checks and balances. So I would talk more about fairness.

Q. Fairness and checks and balances.

A. Yes.

Q. Okay, thank you.

JUDGE DOOGAN TO MS CLARK – TIMING

Two more questions on the Magistrate's Court pathway. It is correct, isn't it, that the law did not require council to use the Magistrate's Court pathway. That was a choice that council made wasn't it?

A. That's right. It was a choice, yes.

Q. Thank you.

MS CLARK ADDRESSES JUDGE DOOGAN – ADJOURN (13:00:57)

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (13:01:03)

HEARING ADJOURNS: 1.01 PM

HEARING RESUMES: 2.01 PM

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (14:01:12)

(14:02) MS CLARK TO SUZANNE WOODLEY: (CONTINUES)

Q. Kia ora anō **greetings again**.

A. Kia ora.

Q. The next section of my questions relates to the link between rating and a service provision to Māori and Māori communities. Now you discuss the early units of local government in the district being the highway boards and that's broadly from the period of the 1870s to the 1900s. Is that correct?

A. That's right, yes.

Q. Do you agree that from your review of the board's activities over that period that there was a clear favouring and concern of opening up access to Pākehā land?

A. Yes.

Q. And a clear skew in the service provision of these early local government units toward Pākehā with a disregard for Māori?

A. Yes, there wasn't a complete disregard but what was provided or what I could locate was just a very small amount of roading that was particularly beneficial to those Māori land holders.

Q. Are you referring to the Gaskill Road when you use that example?

A. I was referring to the road to one of the Native School's and up to Hira Te Popo's Marae, I think, yes.

Q. Okay.

A. That's the examples that I found.

Q. Okay.

A. Yes.

Q. For the purpose of Native Schooling, you have found an example of roads for that purpose –

A. Yes.

Q. – and for the limited purpose of servicing Hira Te Popo's marae.

A. Yes.

Q. Thank you. And of course you've already made the link that Hira Te Popo was a very prominent and had strong and positive connections with Pākehā at this time –

A. Yes, yes.

Q. – so that follows on from that, doesn't it?

A. Yes, I think so.

Q. I mentioned the Gaskill Road that this seems to have been discussed around 1887 and 1888. Are you familiar with what I'm referring to there?

A. Is that something that's…

Q. It's at page 76 and 77 of your report. This is a situation where an early settler James Gaskill is wanting to have a road put through the Ōpape Reserve –

A. That's right, yes.

Q. – in order to service his farm. Is that correct?

A. That's right, yes.

Q. Okay. And because this is something that affects the Ōpape Reserve, I wanted to ask you a couple of questions on that. Is this is a good example of early pressure being brought to bear on Māori at this time to open up their lands in this way, should I say, to have roading pass through their land for the benefit of Pākehā?

A. I mean, yes, certainly it's a good example of where a European settler wanted Māori land to be opened up but he was certainly unsure about process and approaching Māori to do so.

Q. Wouldn't it be more fair to say that he absolutely did not want to approach Māori and instead –

A. Yes, he did.

Q. – wanted to go straight to the Crown Ministers?

A. Yes, that's right. He wanted to bypass Māori that's for sure.

Q. He engaged with the council around his desires to have his road pass through his land or to have this road pass through Māori land to access his land, didn't he?

A. Yes, he liaised with the highway board I think it was, yes.

Q. And you'd agree that there was absolutely no desire on the part of local government to engage with the Māori owners on this matter?

A. No, they didn't want to either.

Q. There's no record of him having done so.

A. Not that I found, no.

Q. Okay. Now you give an example of where council refused to remedy a public health drain that ran through Māori land and this is 1928.

A. Yes.

Q. So you're familiar with the example you aren't referring to.

A. Yes. Have you got a page number as well?

Q. I have noted page 268 in my notes. Let's hope that that is where we find mention of this. It might be slightly further on. I believe it's mentioned on page 270.

A. Okay. Yes.

Q. Do you agree that this is an example of where services were withheld from Māori as leverage for non-payment of rates?

A. Yes, it is.

Q. And then another example which is perhaps the other side of the coin is that you refer to rubbish collection at the Waioweka Marae being supplied in the 1960s only because the papakāinga had paid their rates.

A. That's right, yes.

Q. So you'd agree that's almost the other side of the coin withholding services for non-payment of rates –

A. Yes.

Q. – and the other side of the coin is that Māori receive services only when they have paid their rates.

A. That's right, yes.

Q. And you've collected, in the course of your research at page 370 to 379, a number of examples regarding when council did and didn't choose to provide services to Māori.

A. Yes.

Q. Do you agree that there was a pattern whereby council selectively provided services and it was based around whether or not rates had been paid by the community?

A. Yes, certainly the non-payment of rates was a factor in whether it was agreed to provide services.

Q. And you would agree that that was a pattern that you saw repeated?

A. Yes, that's right.

(14:10) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. I'm sorry Ms Woodley, in the answer just brought, what did you say the relationship between the payment of rates and the services?

A. Yes, that there is all these examples of where the non-payment of rates was a factor in whether those services were provided.

Q. The 'factor' that was the word I missed. Thank you. I'm sorry, just an afterthought. The dominant factor.

A. Yes, it was a large factor in their decision-making.

(14:11) MS CLARK TO SUZANNE WOODLEY: (CONTINUES)

Q. On page 512 at the bottom of that page the bottom paragraph we're in the modern era now and you refer there to a council document which was 'its call for submissions on its long term plan for 2021 to 2031', –

A. Right.

Q. – and you say that in this council document council noted their need to 'apply the principle of equity' in that there needs to be a fairer level of service provision to the wider rural sector outside the Ōpōtiki Township to Ōpape, Tōrere, the Coastal Zone, Waiotahe and the Ōhiwa Zone of Te Ūpokorehe iwi. It was submitted that the scoping of development and 'lack of service provision', essentially the lack of service provision is being acknowledged by council.

A. Yes.

Q. Do you agree?

A. Yes, that's right.

Q. And you would agree that this modern day document prepared by council is essentially an acknowledgement by council itself of the longstanding disparity in the provision of its services to Māori communities?

A. Yes, certainly, it's an acknowledgement that there needs to be a fairer level of service.

Q. Yes. And that disparity exists right through to the present day.

A. Yes.

Q. I want to explore with you the effect of being allocated the rural zoning.

A. Right.

Q. Because of course the Ōpape community is zoned rural and has been zoned rural since that zone existed. Is that correct?

A. Okay. I was looking at zoning in terms of 1960s, 1970s, and 1980s in terms of that whole partitioning process so I haven't really looked at zoning in today.

Q. That's fine.

A. Yes.

Q. You would accept that it was zoned rural throughout the 60s, 70s, 80s?

A. Yes, until that plan the council plan change. I haven't followed through the various council plans at all so I can't say for certain but I would assume. Yes, and sometimes councils had different sorts of rural zones as well which allowed some things and not others. For instance, I think the seaward side of the highway was zoned as slightly different rural to this side at the road.

Q. Do you agree that the impact of being zoned rural was essentially that residential development was discouraged in a rural zone?

A. Absolutely, yes.

Q. I think you mentioned in your summary that throughout the 60s, 70s, and 80s, there were very few examples of partitions on Māori land.

A. Yes, for housing sites post-1967 and I wasn't really able to assess past about the mid-1980s what that effect was. But certainly there is not the partitions that there were in the 40s and 50s. It certainly didn't happen to the same extent in the late 60s and 70s.

Q. Do you agree that one of the effects of being zoned rural would have been to discourage residential development and settlement of a community such as Ōpape?

A. Well, yes, there would've been difficulty in partitioning.

Q. Thank you. Do you also agree that council would not affect **(inaudible 14:16:16)** would have also created a barrier or a lack of priority in council's eyes to servicing such a rural community with services such as water and well-maintained sealed roads?

A. I probably couldn't make that link. I don't have enough information.

Q. Is it your understanding that today the community of Ōpape does not have council reticulated water supply?

A. Yes, well, I knew that about Tōrere. Have I got that about Ōpape as well?

Q. Okay. Is it also your understanding that there remains unsealed roads around Ōpape and Tōrere –

A. Yes.

Q. – and that locals complain that the roads are badly maintained.

A. Yes.

Q. Thank you. I'm going to test a point with you now. It's concerning the general attitude of council in this district towards Māori over the course of its existence.

A. Yes.

Q. Do you agree that there was an early pattern of blaming Māori for degradation of council infrastructure, and I'm referring to the Waioweka Bridge example?

A. Okay. Yes, certainly there's examples of that. I don't think I've got that many. They were more intent on complaining about non-payment of rates.

Q. Okay.

A. Yes.

Q. So you would agree, I think, you have used the words that council was complaining constantly about non-payment of rates.

A. Yes, that was more their focus.

Q. Do you agree that at the Native Rates Committee hearing of 1933, this is an example of a very senior council official who, in an official environment, used demeaning and dismissive language about Māori?

A. The Ōpōtiki Borough Council's Town Clerk, yes.

Q. That would be probably the most senior council official.

A. Yes, it's like your CE equivalent.

Q. I think you referred earlier in questioning with my friend, and I think you agreed with her, that there was a general attitude that Māori non-payment of rates was holding up the district.

A. Yes.

Q. We've also discussed, and you've agreed, there was somewhat of a pattern of council delaying or selectively providing service into Māori communities.

A. Yes, or there was a resistance to supplying services when asked for.

Q. Yes.

A. Yes.

Q. Thank you.

A. I guess that's the thing is that they had to be asked for.

Q. Right.

A. Yes.

Q. You give two quite potent in my view examples, being the War Memorial for Pākehā soldiers who died in the Māori wars –

A. Yes.

Q. – and the segregated restroom idea. Do you agree that both of those examples demonstrate discriminatory and insensitive attitudes towards Māori on the part of council?

A. Yes, I think it demonstrated a mindset that didn't take into consideration Māori at all.

Q. Thank you. Because I've seen throughout your report there is constant examples and I have just named or just discussed a number of them and you've agreed that those did occur.

A. Yes.

Q. Do you agree that the evidence in your report demonstrates that there was something of an entrenched institutional hostility on the part of council towards Māori in this district?

A. Yes, I could say there is certainly examples. Like I would say that the borough council, the town clerk has attitude in that 1933 committee. That was fairly hostile. There is certainly examples of hostility. There is also examples of indifference. Yes, there's examples of that, but then there is also examples of more than indifference to Māori needs.

Q. While there might be some examples of hostility, you're essentially saying that you feel it is more at the level of indifference to Māori.

A. I would say there is indifference and there is hostility. It just depended on the time and the person and there is certainly examples of it.

Q. There is examples of both you’re saying.

A. Yes.

Q. You would agree that that was noticeable for its duration throughout the entirety of local government existence in this district?

A. There is an example in 1986 of one of the councillor's trying to get the law changed so that Māori land could be sold for non-payment of rates more easily. So you've got that example but then in the 1990s that is when it dials back a bit and then you've got a new mayor coming in and asking for iwi to come and have more of a consultative role. Yes, so it is really that 1980s and 90s is when things start to change.

Q. Thank you. I want to talk briefly about the Māori vote in this district. It's correct, isn't it, that weighted voting existed from the 1880s to the 1940s.

A. Yes, I'll check. Actually, I haven't got that to hand but I've got plural voting ending in the 1970s.

Q. Okay.

A. No, sorry, in 1986 plural voting but I haven't got any weighted voting. It is in my report but I haven't got that.

Q. Weighted and plural voting were quite similar in their effect, weren't they?

A. Yes. It just gave more votes for people who had more land or more valuable land.

JUDGE DOOGAN TO MS CLARK – TIMING

JUDGE DOOGAN TO MR POTAKA – TIMETABLE UPDATE

Q. I think you said a very helpful comment about weighted and plural voting –

A. Yes.

Q. – that they favoured wealthy land owners –

A. Yes.

Q. – or people with valuable land or multiple blocks of land.

A. Yes, who had land in different ridings.

Q. You would agree that there was a clear favour and that had the equivalent effect of clearly favouring Pākehā over Māori in this district?

A. Given the contrast between the value of Māori land and the value of European land, yes, the disparity between the two I mean.

Q. Okay. In the period up to 1907 the Ōpape Reserve did not have a title.

A. Yes.

Q. You would agree that that meant that everyone who was an owner in the Ōpape Reserve did not have the right to vote up until 1907?

A. That's what the legislation says.

Q. Okay.

A. I don't have the valuation rolls for that period so I cannot check. But that's what the legislation said.

Q. Okay. So we can assume –

A. Yes, I think so.

Q. – that if there was no title there was no franchise.

A. Yes, so then they weren't been rated. Yes, they shouldn't have been rated anyway because there was no title.

Q. Okay. While they had the benefit of not being rated, the reverse side of that was they could not vote or not influence-

A. That was the legislation, yes.

Q. Thank you. The nominated occupier model, would you agree that this also due to the nature of multiply owned Māori land had the effect of leaving the vast majority of Māori owners off the voting roll?

A. That's right, yes.

Q. Overall, and we can check, but if weighted voting, which you've agreed, favoured Pākehā vastly over over Māori, if that existed up until the 1940s alongside the nominated occupier model, would you agree that overall the ability of Māori to vote was dramatically limited in this district up until the 1940s?

A. Yes, that's right. And also from 1920 you've got legislation that says 'the people who don't pay their rates aren't entitled to vote either' so you've got their factor in there as well.

Q. Okay, thank you. And you would agree further that this dramatically limited the influence that Māori could have in local government.

A. Well, certainly, when you look at how many people got voted on to the council and how many Māori got voted, one in 1927 and then not until the early 1940s, yes.

Q. Would you agree, this might be quite a general question, that your review of council minutes of meetings et cetera, do you agree that that probably

reflected the fact that Māori did not have a voice or an influence in this district?

A. Yes.

JUDGE DOOGAN TO MS CLARK – REPETITION

Q. Okay, my final line of questioning concerns exemptions.

A. Right.

Q. So there was the ability under legislation to exempt Māori land from rates, wasn't there?

A. Yes.

Q. Do you agree however that the exemption as it existed in legislation was pretty narrow?

A. Not necessarily. In other inquiry districts large areas of Māori land were exempted from rates, I'm thinking in Taihape. It was up to the council whether they pursued that line of exemptions. It kind of depended on the council, yes.

Q. Okay, thank you. But certainly it wasn't a grounds for an exemption in the legislation to consider the capacity of the land and its existing state to produce a revenue sufficient to pay the amount of rate claimed.

A. That's right. There's no classification system, yes.

Q. Okay, thank you. I think you've already made the point that, while there was capacity to an extent in the legislation to exempt Māori land from rates, in this district the practice of council was not to exempt very much Māori land at all.

A. Well, not in this inquiry district. There was exemptions further up the line but not within the inquiry district. I think it was about 12,000 acres in total exempted under the 1924 legislation.

Q. But not within this district, you say.

A. Yes, the 12,000 acres was within this district. But there was other exemptions elsewhere across the county. Not within the inquiry district.

Q. My question to you is did the council make use of the exemption provisions to the extent that it perhaps could have-

A. No, it didn't.

Q. Okay, thank you. And that was also commented on by onlookers such as judges and others.

A. Yes.

Q. Thank you I'll leave it there. Those are my questions. Thank you very much for your assistance today.

A. Thank you.

JUDGE DOOGAN ADDRESSES MS LAMONT-RUSSELL – TIMETABLE UPDATE (14:32:55)

MR POTAKA ADDRESSES JUDGE DOOGAN – TIMETABLE UPDATE (14:33:58)

(14:34) MS LAMONT-RUSSELL TO SUZANNE WOODLEY:

Q. Tēnā koe Ms Woodley.

A. Kia ora.

Q. My name is Meg Lamont-Russell. I'm here with my senior Ms Rongo. We represent Wai 78 which is a claim brought on behalf of Ngāi Tai. We would like to thank you for your hard mahi on this report and your responses when Ngāi Tai provided feedback during your research some time ago now. I only have a few questions, due to the work that my friends have done, but I may pick up on a few previous questions but with a Ngāi Tai lens.

A. Okay.

Q. So you said in your presentation earlier today that Ngāi Tai paid a heavy price. A large portion of Tōrere land was transferred to the Crown to repay survey and rates debt. You touched on his earlier Dr Downs but I would like to take it a little bit further. If I could take you to page 290 of your report, here you touch on the Ngāi Tai rates compromise.

A. Yes.

Q. So you state further down this section just a few pages over at 294 in the second paragraph that these Ngāi Tai land blocks were ‘extensive areas of poor steep bush and hills that were obviously not revenue producing and could not support the payment of rates’. You then go on in the next paragraph: “It was apparent that it was deemed acceptable for the land to be exempted from rates when it was Crown land, but not when it was

owned by Māori." Do you have any insight into why this was deemed acceptable for the Crown to be exempted from rates and not Ngāi Tai on the same section of land?

A. Yes, it was just that's the way the legislation was written. Unless Māori land was exempted from rates it was levied rates but Crown land was not always ratable.

Q. Is this an example of how Ngāi Tai were treated unfairly in this situation?

A. I think so, yes.

Q. Further from that, would you agree this made it more difficult for Ngāi Tai to retain their lands?

A. Is there a bit in the middle?

Q. No. I was just saying that, yes, was it more difficult for Ngāi Tai to retain their lands due to losing out in this particular way with this section?

A. I probably haven't looked at the relationship there. I mean certainly that loss of land would've had an impact but whether it was on retention of the remaining land-

(14:38) JUDGE DOOGAN TO SUZANNE WOODLEY, MS LAMONT-RUSSELL:

Q. I'm sorry Ms Woodley and Ms Lamont. I think, if I've understood the question correctly, it's the link between the liability of the land for rates or the rate burden –

A. [Suzanne Woodley] Okay.

Q. – that is the factor in the risk of alienation. That is the pātai, isn't it?

A. [Ms Lamont-Russell] Yes, that's a much better way of putting it, Sir.

(14:38) MS LAMONT-RUSSELL TO SUZANNE WOODLEY: (CONTINUES)

A. I don't feel like I've looked at that relationship enough to comment.

Q. That's fine.

A. Yes.

Q. Thank you. So taking this into consideration, was everything that Ngāi Tai contributed for land development taken into account by the council, as you said earlier, when the council were complaining about Māori not paying their fair share of rates?

A. Yes.

Q. So what Ngāi Tai had already given, was this taken into account by the council?

A. Yes, right. I don't think so. No, it was never. I didn't ever see it commented on, apart from when the rates compromise happened.

Q. Thank you. So Ngāi Tai come under the Horouta Māori Council –

A. Yes.

Q. – which you didn't look at in your report. Would you agree this is an obvious gap for Ngāi Tai?

A. It could be a gap, yes.

Q. Thank you.

A. But I just wasn't able to in the time.

Q. Yes.

A. Yes.

Q. Thank you. I'd like to take you to page 515 of your report where you talk about the water supply in Tōrere. Here in the first paragraph, you mentioned how the Tōrere community established a water committe to provide water to about 45% of the community. You also state that the Ministry of Health provided funding to improve the water supply. Ngāi Tai pay rates to the local government, so isn't this something that the local government should be providing to Tōrere?

A. In an ideal world, yes. But I guess the council's perspective is they talk about whether it's practical and may talk about it being prohibitively expensive, yes.

Q. Thank you. Ngāi Tai were so desperate for these services that they had to take the initiative to source this funding and to provide Tōrere with safe water supply themselves. Would you agree with that?

A. Well, it would appear, yes, that there was a need and that they proactively went about addressing that need.

Q. Why is it that Māori have to go above and beyond just to get these basic services which they pay rates for?

A. Yes, that's a good question. I think it's just the priority that previous councils have given to the provision of services to Māori land which has been variable over the years and this seems to be the end result of that.

Q. Ngā mihi Ms Woodley. That concludes my questioning.

A. Kia ora.

JUDGE DOOGAN ADDRESSES TE MINENGA – MICROBREAK (14:42:34)

HEARING ADJOURNS: 2.42 PM

HEARING RESUMES: 2.46 PM

(14:47) MS TE WHENUA TO SUZANNE WOODLEY:

Q. Tēnā koe **greetings** Ms Woodley. My name is Ms Te Whenua. I appear as counsel for Wai 1511 today, Ngāi Tamatea ki Waiotahe hapū, who you have referred to in respective the evidence given by Kate Hudson at your page 505 with reference to rating of papakāinga. My questions will be with respect to rating of papakāinga today. Can I check that you have in front of you our cross-examination bundle appellation #F013 to refer to?

A. It's the brief of evidence of Kate Hudson.

Q. Yes.

A. Yes.

Q. Ka pai. The brief of evidence was provided to give some background or context or further detail to what you refer to at paragraph 10.18 of your report page 5050 where you note that Ms Hudson raised the issue of rating of multiple houses located on Waiotahe Parish 38A3, which has a single title, and you go on to note that she described eight houses within their papakāinga that are rated separately, despite that there are very few provisions of council services. You can see that.

A. Yes.

Q. Ka pai. You also at your page 509 note, the services that Keita sets out are water sewerage or the lack of services, I should say, wastewater, septic tank and sewerage disposal and also gravel roads or unsealed roads being a concern at page 509. You recall that?

A. Yes.

Q. Ka pai. The first question is with respect to the Crown's legislation and reference to papakāinga rating. At page 506 you set out, of your report,

the Ōpōtiki District Council policies from 2009 to 2020 and 2021. In the first instance, is it correct that they allowed for specific recognition of rating of papakāinga housing in that remissions could be made and papakāinga blocks could be amalgamated for the purpose of a uniform general charge or levy, one rating fee?

A. Yes, it was certainly discussed. Yes, the council passed a resolution that its rates policy be altered so that it read that Valuation New Zealand was responsible for valuing and the department took into consideration the nature of the land.

JUDGE DOOGAN TO SUZANNE WOODLEY – MICROPHONE

Q. I'm referring to page 506 with the sentence beginning: “From 2009, council policy in respect to the rating of papakāinga.”

A. Yes, sorry.

Q. Yes, it begins at the end of the page there.

A. Yes.

Q. As I read it, from 2009 Ōpōtiki District Council did have a policy that could potentially allow ‘one uniform general charge’, as you go on to say in your following paragraph –

A. Yes.

Q. – that's on the following page –

A. Yes.

Q. – ‘for all houses within a papakāinga’.

A. That's right.

Q. That is correct.

A. Yes, they did consider.

Q. And then immediately following you refer to the newly enacted Local Government (Rating of Whenua) and I think that should be Māori Amendment Act 2021 –

A. Yes.

Q. – in your report as opposed to (Rating of Whenua Land).

A. Right. I'd have to check, yes.

Q. Ka pai. In any case, that Act you note allowed for local authorities to rate individual houses on Māori land as separate rating units as opposed to a singular rating unit. So that was that legislative mechanism.

A. Yes.

Q. Is that correct?

A. That's right.

Q. And then you go on to note that immediately you would presume or in the same year, at the bottom of page 507, the Ōpōtiki District Council in July 2021 did indeed implement a policy enabling the council to rate individual houses on Māori land as a separate rating unit. That's correct, isn't it?

A. Yes.

Q. If I may also take you to, you may or may not be aware that section 98A(2) of that particular piece of legislation, the Local Government (Rating of Whenua Māori) Amendment Act 2021, expressly states that: "A local authority must determine a part of a rating unit—(a) comprises a dwelling and (b) is separately used from the other land in the rating unit." Were you aware of that provision?

A. Yes, I think should have put section 98A instead of 20(A).

Q. Yes, that's right because section 98A(2) is the mechanism it would appear that allows – it doesn't allow – the exact wording, would you agree, is that a local authority must determine a part of a rating unit to be a separate rating unit if the identified part of the rate of the rating unit comprises a dwelling?

A. Right. It's 'may' isn't it, yes.

(14:54) JUDGE WOODLEY TO SUZANNE WOODLEY:

Q. Just one moment. The correction you're noting Ms Woodley is the second paragraph of 507.

A. Yes.

Q. And you're saying the reference to 20(A) there should be 98A.

A. 98A(2)

Q. 98A. I'm sorry Ms Te Whenua, I just want to clarify that. And then, I presume, you don't have that provision in front of you the 98A. Ms Woodley you don't have that provision, do you?

A. I don't have that, no.

Q. All right.

(14:54) JUDGE DOOGAN TO MS TE WHENUA:

Q. Ms Te Whenua, you wanted to ask Ms Woodley to confirm what that provision requires.

A. Yes Sir. I put it to Ms Woodley and would seek that she confirms that the exact wording, as I do have the benefit of the provision in front of me, is that a local authority *must* determine.

Q. All right. So I don't think Ms Woodley can answer right at the moment and it is also verging into legal sort of analysis or submission outside of her expertise. But certainly for the purposes of the question, we understand the point you're making. Could you just perhaps file the relevant provisions subsequent to the hearing today?

(14:55) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. They can be made available to you Ms Woodley.

A. Thank you.

Q. And if you wish to consider the provisions in light of your report and make any adjustments –

A. Okay.

Q. – then you can do that in writing.

A. Yes.

(14:55) MS TE WHENUA TO SUZANNE WOODLEY: (CONTINUES)

Q. Ms Woodley, would you agree that, regardless of the wording, the effect has been for Ōpōtiki District Council to change its policy, as you've noted, in July 2021 to individually rate homes on Māori land as a separate rating unit?

A. I had a look at the Ōpōtiki District Council rates database and it looked to me like the Waiotahi Parish Lot 388A3 had had about eight or nine rating units since at least 2002. It actually looks like it's been rated as separate units for at least 20 years.

Q. Thank you Ms Woodley. The situation worse than I initially presumed then.

A. Yes.

Q. My line of questioning was around the impact that the 2021 Amendment legislature had on council policy and whether it had the effect of making things worse in fact for the rating of papakāinga homes.

A. Yes, it is interesting because Te Puni Kōkiri in their documentation surrounding the 2021 legislation, they see the rating of individual home owners on Māori land separately as like a benefit because of the access to the rates rebate scheme but I can't find out from the sources that I have whether the rates rebate scheme is relevant in this example. Basically, I looked at the nine rating units within the block and essentially, you were looking at in 2002-2003 a total rates bill of about 3,500, whereas in 2025-2026 you've got a rates bill of about over 10,000. I think the value has gone up and the amount of rates looks like it has gone up. Yes, there is a real difference in that 20-year period about the amount of rates. Yes, I can't really comment too much more.

Q. Thank you for that. That is relevant. Particularly because not only does it provide us with perspective as to the tangible difference that we're talking about in monetary terms for land owners, in particular Ngāi Tamatea, but also it is interesting that Te Puni Kōkiri should describe the amendment as a benefit. Can I explore that line of thinking with you.

A. Yes.

Q. Particularly with respect to, what has been covered to some degree by my learned friends before me, the comparative provision of services for Māori land owners. You discuss this to some degree at page 516 paragraph 1020 in your conclusion, I believe, where you talk about the provision of services remaining an issue for Māori within the inquiry district at the lack of council water supply and the prevalence of gravel roads in Māori communities are of particular concern. And can I ask you just to expand on why it is a concern?

A. Why do I think it is a concern?

Q. Yes, if you had any further comment on why the lack of provision of services is a concern, as opposed to, for example, a benefit as put by Te Puni Kōkiri in your analysis.

A. I'm not sure I've quite got the gist. But obviously water supply, sewerage, all those services would be of benefit so not having that must be of concern. In terms of what Tupuna Kōkiri are saying about there being a benefit in terms of the rates rebate scheme, I can't really comment too much more on that because I don't really know the ins and outs of the legislation to that level of detail. But I just noticed, I just printed it out from the Te Puni Kōkiri website, it does say: "Before the legislation multiple home owners on the same block of Māori land are treated as a separate rating unit. Upon request, local authorities can rate individual houses on Māori land is a separate rating unit."

Q. Thank you. I'm struggling also to see the benefit as I think you are.

(15:02) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. That document, is that part of your document bank?

A. No it's not.

Q. All right.

A. I just went and had a look recently.

Q. We might just ask that that just be added to any other matters you might be filing –

A. Okay.

Q. – in terms of subsequent.

A. Yes.

Q. If we could just have those papers please.

A. Sure.

JUDGE DOOGAN ADDRESSES MS TE WHENUA – TIMING (15:02:46)

(15:02) MS TE WHENUA TO SUZANNE WOODLEY: (CONTINUES)

Q. Isn't it the case Ms Woodley that the services that the council fails to provide, the two examples, Ngāi Tamatea the majority Māori land owners, rural land owners in Ōpōtiki, are the dominant services for which rates are in fact collected?

JUDGE DOOGAN TO MS TE WHENUA – CLARIFY QUESTION

If I can even put it in Ms Hudson's words at page 4 of our bundle paragraph 19, Ms Hudson says there: “Despite that our papakāinga is on a single parent block, each house is charged separate rates as though we were living on general land block receiving the fuller range of council services. This is absolutely not the case. We receive no services in Waiotahe which is rural whenua. We have no rubbish collection. Little road maintenance. We are off-the-grid with respect to water and we have our own sector tanks.” Those would be the services that I refer to as the dominant services for which rates are collected. Would you agree with that?

A. From my understanding, and I don't know if this was always the case, is that the Ōpōtiki District Council now when it sends out its rates, it factors in whether that property is serviced with water. I’m not sure about sewerage and potentially rubbish but I'm not certain that as well. I understand that they do differentiate between like what they call that uniform rate and then there is services on top of that. Water wouldn't necessarily be part of the rates bill for this papakāinga from what I understand but yes, obviously, I haven't looked at the rates bill.

Q. Ka pai. Is it a concern to you that none of the services outlined by Ms Hudson for which rates are generally collected are provided to her and their communities? Is that a concern?

A. Well, I think it's a concern for those communities, yes.

Q. Would you agree that it's a concern that the introduction of the Local Government (Rating of Whenua Māori) Act potentially worsened the situation for Ngāi Tamatea and Māori land owners like them and that the council *must*, I put it to you, rate papakāinga dwellings as separate units, yet there is no corresponding necessity on local government to increase the service provision to papakāinga developments? Not even to an equal level of those of general land owners.

A. Yes, that's right, the provision of service isn't covered by the legislation. Because I don't know about whether the rates remission, that $665 in 2021, was part of rating individual home owners of Māori land separately scheme, it's hard for me to assess how much worse off those owners are. But what I have done is had a look at how much rates have been paid

and the increase over the last 20 years which is significant. Yes, it's a lot of rates. Well, it's quite a marked increase, I should say.

Q. Yes. Would you agree that it is concerning that it's a further extenuating factor that Māori land owners, such as Ngāi Tamatea, they're often the ones who can least afford to pay effectively twice for services. One in terms of rating and then of course, the second payment is when they are in fact developing papakāinga and have to establish that infrastructure themselves.

A. It must be-

Q. Is that a concern?

A. Well, I would imagine it's a concern for those owners, yes.

JUDGE DOOGAN TO MS TE WHENUA – LINE OF QUESTIONING

JUDGE DOOGAN TO SUZANNE WOODLEY – CLARIFICATION

When I make that comment and the report, it's because I have seen your submissions and what your clients concerns were and I've put that in the report to highlight that to the Tribunal. So that's what I'm talking about in terms of concerns.

Q. Ka pai. My second to last question is in reference to Ms Hudson's brief of evidence that's provided in the bundle again at paragraph 13. There she says: "We have another three whānau who have tabled their intention with our ahu whenua trust to return and build on our lands. However, the infrastructure currently cannot sustain the extra housing requested by the whānau, to be able to fulfill this requires the ahu whenua trust itself to develop robust papakāinga infrastructure." I wondered if that was something that presented itself as an issue for Māori land owners and papakāinga developments but also again that provision of services and the actual impact that it's having in grassroots Māori communities within that inquiry district.

A. I haven't looked at this any further than the concerns that you've raised.

Q. Okay, kei te pai. I think I'll leave it there, Sir. Thank you Ms Woodley.

A. Thank you.

(15:12) MR LINKHORN KC TO SUZANNE WOODLEY:

Q. Kia ora.

A. Kia ora.

Q. Tēnā koe **greetings** Ms Woodley. I hope you're holding up. I'm standing because someone told me that we'll get through it faster and I'll be more crisp, rather than if I'm slumped in my chair or something. I wanted to just start with where my colleague was Te Whenua left off just while it's fresh and then tell you how I propose to go through the sections of your report that I want to alight upon. Just while it's fresh, members of the Tribunal, you'll be relieved to know we're going to address section 98A of this 2021 amendment legislation in submissions. But I think we can clear up a little bit of a confusion perhaps about whether someone makes a request and what the council must do. Am I correct that you have recently consulted sort of eight page brochure with a green cover put out by Te Puni Kōkiri?

A. That's correct, yes.

Q. That is the document that the judge hasn't seen yet, but his honour said: "Well, if you could supply that at the end of that."

A. That's right, yes.

Q. In that document, it says that trustees might make a request –

A. Yes.

Q. – for separate rating units within a larger property where there are a separate residences. Without you and I having to worry about making a legal submission about what the Act requires, the brochure is saying trustees can make a qualifying request and then the council, on receipt of a qualifying request, must do some stuff or must act in a certain way.

A. Right.

Q. Is that your understanding?

A. That sounds, yes.

Q. Do you remember the portion of the brochure –

A. Yes.

Q. – where the department articulates what it sees is the benefit for occupiers of separate homes from this?

A. Yes.

Q. Do you want me to refresh your memory?

A. No, I've got that.

Q. You've got it there –

A. Yes.

Q. – where it says ‘benefit’?

A. Yes.

Q. It is something along the lines of the fact that the person won't have to be concerned about whether other people who own homes on the same title level also paid their rates, right.

A. Yes, that’s right.

Q. And there is also this rebate scheme.

A. Yes.

Q. Okay. I think we can probably leave that there and then as lawyers pick it up in legal submission. But thank you very much for clearing that up for me.

A. Thank you.

Q. All right. Back to the top. Thank you very much for all of the research and the work to produce this report and the many resources you've assembled of relevant information for the Tribunal to use as it goes about thinking on these issues, preparing its report, and making findings. It really is an enormous labour. Yes, I just wanted to make clear that I know that from having read it.

A. Read it.

Q. Yes. I can only imagine the work to go and carefully check all of those things so thank you. If someone had told me when I was a kid that I'd be here on a Tuesday afternoon in beautiful Ōmarumutu and talking about the details of local authority rating, I just wouldn't believe them but here we are.

I think I don't need to go through it sort of theme by theme with you because you're writing is so clear, but there are just a few points I want to alight on in the next few minutes.

A. Okay.

Q. If I'm going too fast, just say and we can slow it right down. I suppose the first area is a sort of methodological element to it really and I picked this up at pages 20 to 21 of your report where in the bottom paragraph on page 20 you give some information about sources really that you are aware of where the county council, the borough council, and the

district council will use in the Ōpōtiki Magistrate's Court, latterly the District Court, to prosecute Māori for non-payment of rates and you talk about investigating civil record books. It got me thinking about how we can sort of triangulate this across different sources as research method and so I just wanted to quickly check with you that we're aware of the same sort of sources here.

A. Right.

Q. The first I thought of was the plaint books I think they called. You know of those, don't you?

A. Yes, I did check I think.

Q. Yes, no, I think you did check those.

A. Yes.

Q. Now they tell us why the judgment was sought, don't know?

A. It's been a long time since I looked at that. I used this civil record books. I don't recall the plaint books being particularly useful.

Q. Right.

A. But I could go back and check.

Q. Do you think it's fair to say that the plaint books also often tell us if a defendant was Māori, particularly in the early books?

A. I don't know. Apart from where there was a Māori name.

Q. I realise it's a long time ago now so let's not get stuck on it.

A. Right.

Q. We can always go and check these things.

A. Yes.

Q. But can you recall if there's a column that says 'occupation'? For the early books in particular, quite often the occupation says 'native'.

A. Okay. No, I don't recall that.

Q. No, you don't recall that.

A. No.

Q. Okay. What about the minute books because they tell us the outcome of the suit, don't they?

A. They could. I didn't look at them. They were early. The minute books only went up to 1927 I think.

Q. That you were able to get access to, do you think?

A. Well, that is what was available to Archives New Zealand –

Q. Right, I see.

A. – and even they had some restrictions on them because I think it was 100 years.

Q. Yes. So the later ones might still be held by the court you mean.

A. They were probably held at Archives New Zealand but they had restricted access.

Q. Right.

A. Well, it said that there may be restricted access. That there was a 100 year restriction. I guess those later ones-

Q. Okay. Well, that explains then.

A. Yes.

Q. But if we sort of come back to the method issue –

A. Yes.

Q. – you're aware of the two sources and the ability to sort of correlate and triangulate the situation using both of them.

A. Yes, I mean that would have been.

Q. Okay, I got you. Thank you. At page 85 you give an example about, I call it, the Captain Kennedy case –

A. Okay.

Q. – and you say 'the outcome of the court hearing can't be deciphered from the civil record book' but the minute book shows the case was dismissed is my understanding. I just wanted to check that when you wrote that I'm assuming you just never had an opportunity to link up the minute book outcome with the record that you had relied on there.

A. That's right, yes. It was dismissed, was it, right.

Q. Just to be clear, you're aware it was dismissed or you're not aware. That's my understanding but I just want to be clear as to what yours was coming into today.

A. I don't think I had that information about it being dismissed. I've got: "Unfortunately, the outcome of the court hearing cannot be discipled."

Q. Yes.

A. Yes.

Q. All right, okay. There's an opportunity there for the Tribunal's researchers perhaps to just go and look at that minute book.

A. Were you able to look at the…

Q. I don't have a copy with me, sorry, but that's my understanding is that the minute book shows the case was dismissed.

A. All right.

Q. Then, and it is still within this general heading sort of approach and method, you had to grasp this quite tricky dimension to your research, which we've touched on slightly already, when I mentioned this column in the books –

A. Right.

Q. – about whether it identified someone as Māori or not. And you have an explanation, don't you, about working inferentially on a number of occasions to decide or try and decipher whether your litigant is Māori or not based on their name –

A. Yes, that's right.

Q. – and I suppose you give the Tribunal some caution about that. But it's fair, isn't it, that we do need to be quite cautious, because until you develop an understanding of the names of the communities in this district, you might sail past lots of family names that are Māori people, right.

A. Well, that's right and that's what I've said in the methodology. So it could be an undeestimate potentially because I haven't been able to capture all the Māori with European names.

Q. Yes. This is where I wonder, and I suppose it's the source thing and we can finish on this soon, is that this opportunity to sort of use the other columns in the folio –

A. Right.

Q. – would help here.

A. Yes, I haven't seen the minute books so I don't know how helpful they – and so I guess this was one way of seeing some extent of the issue.

Q. Yes.

A. Those minute books only got up to 1927 and I was interested in the period in the 1960s where the civil vehicle books do have some indication it might be rates related because it has the names of the blocks written.

Q. Yes.

A. But I guess when you're doing a report like this you factor in how much time you've got.

Q. Sure, yes.

A. And I guess with the whole Magistrate's Court issue, it was an issue that sort of came to light a bit later. I wasn't something that I did assumed. For instance, from having researched other inquiry districts, you can go into block order files to see whether Māori Land Court has done charging, receivership, and vesting orders for non-payment of rates, whereas Magistrate's Court isn't something that's necessarily somewhere or something that I've looked at other inquiry districts. I was really looking at the minute books and some of the correspondence from the Department of Māori Affairs, particularly in the 1960s, about Māori concerns with the Magistrate's Court –

Q. Yes.

A. – that I thought: "Okay, I can see if I can see what sort of-

Q. Right. Although I'm sure that's very useful for the Tribunal to know. Just before we break in a few minutes for you to have a chance to have a cup of tea and a breather, I just thought there's one more topic perhaps on this which is really this issue of the relative prevalence of Māori in the Magistrate's Court in debt cases generally in this district.

A. Right.

Q. I think you give an example in 1916, is it, about sort of the numbers from memory. I don't have a page number I'm sorry of your report and hopefully I won't need it. Because the quick point I wanted to check with you is that that's not just rates debt litigation. That's debt for all sorts of things, isn't it, –

A. Right, yes.

Q. – where there's a Māori defendant.

A. Yes.

Q. That's partly going to reflect the economic circumstances of the local economy at the period and it's partly going to reflect the demography of the district, isn't it, in terms of your proportion of Māori defendants?

A. Yes, so we're talking about the county as opposed to the inquiry district.

Q. Or the district for the Magistrate's Court.

A. Right, yes.

Q. – based in Ōpōtiki is servicing an area way up the coast, isn't it?

A. Yes, I guess I used the plaintiff as whatever council. So that's how I measured it. So you are going to have Māori included there who weren't in the inquiry district.

Q. Yes.

A. Yes.

Q. Other sorts of debt as well though, right.

A. Well, possibly. I think I have raised some potential debt issues. Because if the debt is to the Ōpōtiki County Council or the borough council, it's going to be either rates or there's like I can't quite recall-

Q. Hopefully we're not talking library fines.

A. No.

Q. Yes.

A. There's two or three other possibilities that I've set out.

Q. Okay, thank you very much.

A. Yes.

MR LINKHORN ADDRESSES JUDGE DOOGAN – ADJOURNMENT (15:27:34)

(15:27) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Just before we go, a couple of questions back you mentioned as a way of cross-checking using the other columns in the folio. Could you just clarify what the folio reference is in relation to, please?

A. Yes, thank you your Honour. Yes, I think these are in the plaint books.

Q. The plaint books are the Civil Court's record of proceedings, are they?

A. I've just got a note of headings here: "Folio Year, Plaint No, Defendant, Occupation, Cause of Action."

Q. All right.

A. As I mentioned to the witness for the early period under 'Occupation' the person is listed as Native.

Q. All right.

A. But, for example, Wiremu Kingi is listed as licensed interpreter and the cause of action tells us whether it's rates or debt or taxes or so on.

Q. Is that example from Ms Woodley's document bank?

A. No, I don't believe it will be.'

Q. All right.

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (15:29:23)

HEARING ADJOURNS: 3.29 PM

HEARING RESUMES: 3.49 PM

(15:49) MR LINKHORN KC TO SUZANNE WOODLEY: (CONTINUES)

Q. Ms Woodley thanks for coming back. We really are going to jump through it now in terms of dashing from page to page and what have you. Page 42 please, you've got a heading there halfway down 'Magistrate's Court' paragraph beginning: "While it appears that it was the intention," this is about Native Land Court or Magistrate's Court. And obviously, in the legal submissions to come that the lawyers working on the inquiry can go through with the Tribunal why it was that both avenues were still available for debt recovery for a local authority, the particular point I wanted to just test with you was whether you've considered whether the difference and emphasis between the Māori Land Court and the Magistrate's Court pathway could be whether it was the owner or the occupant who was being pursued for the rates demand.

A. So are you suggesting that it would be the owner under the Māori Land Court and the occupier in the Magistrate's Court?

Q. I'm saying both avenues are clearly still there.

A. Yes.

Q. You're voicing a sort of policy intent really about you say 'intention of the legislators'.

A. Yes.

Q. Well, I don't think it's quite that because both avenues were still there.

A. Yes.

Q. So if we come back to what is the policy dimension to this, have you considered whether the pathways could be, in a policy sense, giving the council the option, the local authority option where the most logical place to pursue an occupant, a lessee for example, would be in the Magistrate's Court and the most logical place to pursue an owner might be in the Māori Land Court?

A. I haven't seen it set out like that anywhere. Nothing comes to mind in terms of the intent of the two options. And certainly, where you've got a bit more information sometimes with the Māori Land Court like charging order applications – yes, I haven't seen anything to suggest that.

Q. Right, okay.

A. Yes.

Q. The example you give though of a Māori Land Court actual charging for a water application that's where one of those avenues was taken.

A. Yes.

Q. But you're clear that both remain available.

A. Yes, that it wasn't whether if somebody was an occupier or somebody was an owner.

Q. Right.

A. I didn't see that. I've got a table that outlined some of the information given at the charging order hearing and-

Q. I understand that that's for one particular avenue.

A. Yes.

Q. I'm sort of up higher at a policy level just for now.

A. Yes.

Q. So just staying up at that level, have you considered for the situations where the land was unoccupied and if there's no representative owner identified by the Māori Land Court, it wasn't possible to go to the Magistrate's Court was it?

A. Yes, you wouldn't have been able to go to the Magistrate's Court. I guess the issue with the Magistrate's Court is that the owner or occupier information wasn't kept up-to-date.

Q. Yes. I understand that you give evidence –

A. Yes.

Q. – and I'm not needing to take you to that evidence about how this played out with pursuit in the Magistrate's Court of out-of-date people.

A. Right.

Q. I'm back several steps at the thinking about why do these mechanisms exist and in a policy sense how might they be made use of in ways that are complementary. If for example a Magistrate's proceeding required a nominated person on behalf of the owners before you could even commence that proceeding but if there was no representative owner, then if you look in the legislation it's pretty hard to see how to even commence the proceeding.

A. Right, yes. It would be very difficult to go to the Magistrate's Court without an owner even that owner wasn't the actual.

(15:55) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. And that includes an occupier.

A. Yes. I should have said occupier actually.

Q. All right. So it could be either.

A. It was the occupier who was levied the rates.

(15:55) MR LINKHORN KC TO SUZANNE WOODLEY: (CONTINUES)

Q. All right. I can move on from that. At page 46 you're referring to some terms of reference there, at the top of the page at the end of that first paragraph: "Of note is that nowhere did it specify that the committe should speak to Māori." I think you're referring to the terms of reference for them. But I think you're aware, aren't you, that they did in fact consult with Māori so I just thought we could clear about quickly.

A. Yes, there was evidence given by W T Pitt at Ruatōria. But it didn't appear to be any evidence given from Māori of this inquiry district to that committee.

Q. In the AJHR it says: "Held meetings, heard evidence and statements from local authority and Native representatives at Wairoa, Gisborne Tologa Bay, Te Puia, Ruatōria, Te Araroa, Ōpōtiki, Whakatāne, Tauranga, Rotorua, Te Aroha, et cetera, et cetera, et cetera.

A. Right.

Q. So-

A. That may have been talking about the evidence given by –

Q. Āe.

A. – W T Pitt at Ruatōria.

Q. And Ōpōtiki.

A. In those minutes, I didn't see anything about any Māori giving evidence at that, or any of the borough council or the county council.

Q. Okay, thank you very much. Page 47 you're saying: "Evidence given to the committe, however, was largely from local authorities."

A. Yes.

Q. And I thought that was very similar to what Tom Bennion said in Rangahaua Whānui where he said: "The committee was mainly a forum, however, for the views of local bodies." So I thought there is not accusation of plagiarism. I thought you're tracking Tom there. Is that likely what's happened?

A. Well, I used Tom extensively, yes.

Q. Yes.

A. Tom Bennion.

Q. This is page 60 of the *Rangahaua Whānui* report. Just when we went back to it, I noticed there's actually quite an important paragraph immediately before that. I don't need to take you to it. But I'm just noting it out loud for anyone interested to go and look at. We will probably make use of it in due course in submissions, where Tom (Mr Bennion) speaks about the Māori speakers and their emphasis. Yes, there's a preceding paragraph on the Māori perspective that he's captured there.

A. Right.

Q. Do you recall that?

A. No.

Q. Okay. We'll move on. At page 55 you are talking about the section 155 provision for the appointment of a receiver.

A. Yes.

Q. I was a bit puzzled because Mr Bennion makes clear in the *Rangahaua Whānui* report that that was regarded as a dead letter

provision. That's at pages 72 to 73 of his report. He seems to be telling readers that it hadn't been used and I just wanted to check whether you had a different view from him on that.

A. The receivership orders under the 1967 Act.

Q. Section 155 provision for appointment of a receiver.

A. Well, I didn't find any evidence of its use in this inquiry.

Q. Of its use.

A. No.

Q. Okay, thank you. We'll move on. At page 75 please, now here we're talking about the board, aren't we, and the settler focus predominantly, the highway board. You mentioned there that in 1883 the Waiotahi Road was built by the board with a £500 grant by the government and that that road runs through Te Waru's allocations in the Waiotahi Parish, doesn't it, the land that Ms Te Whenua's clients have their claims about?

A. Yes, I would need to check.

Q. Okay. So you're not aware of that now?

A. No.

Q. No, okay. All right then. At page 81 you're saying that – this is midway down the page, the paragraph beginning: "He was also the trustee," this is after the bullet points –

A. Yes.

Q. – and you have a second sentence: "This meant that by 1876, Hira Te Popo had only been granted title to the quarter acre sections but he was levied rates for so much more." And without wanting you to make a legal submission obviously, I wondered if you were aware of the provisions that talked about rating over land that was promised but had yet to be granted.

A. No, I wasn't aware of that.

Q. And land which was not necessarily going to be granted but might be leased or occupied under licence, you're aware of that.

A. No.

Q. Okay. All right. Moving to page 100 please the paragraph beginning: "Several years later," and there's a sentence there: "In June 1893, the council reported that the Department…," I think you might mean: "…had

agreed to grant £25 for the road and that the county engineer was awaiting a decision from Māori as to whether they would maintain the road for six months." Now I read that, and this is what I want to check with you, as being that the county was proposing to contract Māori for that maintenance. Is that how you read it?

A. Sorry?

Q. Page 100 paragraph beginning: "Several years later," the second sentence.

A. Right. And what was the…

Q. I read that as the county waiting to find out whether it's offer of a contract for maintenance would be taken up. Is that how you read it?

A. Yes.

Q. Thank you. At page 102 please second paragraph in the middle of the paragraph: "Although title to the larger blocks such as Whitikau, Oamaru, Kapuarangi, and Takaputahi were investigating formalised, the land was likely to have been exempted given its lack of proximity to roading." Look, I've had the benefit of going on a site visit and passed land like Whitikau and matua Te Riaki yesterday was also drawing our attention again to Whitikau. I just thought I'd check with you whether you're aware that there's a public road running through Whitikau and it's an ancient road as well.

A. Yes.

Q. I'm sorry, not ancient in our waka traditions sense. It's an old road.

A. Right. And whether or not it was a public road, I wasn't able to-

Q. Yes, okay.

A. Because the legislation was proximity to public roads.

Q. Yes.

A. So whether or not that was a public road then, I wasn't able to-

Q. You're suggesting it might be a private road.

A. Yes.

Q. Okay. Well, we can certainly run that to ground. Yes, I'm thinking that's the Mōtū Road.

A. Yes.

Q. I've just had the nod from over that direction so I think it's probably a pretty good guess.

A. Yes.

Q. That's a long established road. Do you know that?

A. I wasn't really able to look at that.

Q. Okay, thank you. Page 125, this is quite a nice illustration perhaps of this method point we were just talking about before at the start, at the paragraph beginning there: "Ōpōtiki residents George Shalfoon…," and then after the brackets: "…and William Oaks (a property and business) owner." You're aware, are you, that Mr Oaks was Māori and a landowner?

A. No.

Q. Okay. And then page 132 please final paragraph the second sentence: "Following the confiscation, around 45 sections or 'lots' within the township comprising about 19 acres were allocated to Māori by the Crown. This land appears to have been treated as Māori land." I thought that was a great point to pick up on something where there's ideas I think throughout quite a few chapters of your report about whether land was being treated as Māori land or general land if we can use that modern terminology.

A. Yes.

Q. So the way I wanted to ask you about it was to just perhaps offer you the opportunity to elaborate on whether you think there was a consistent understanding and consistent treatment of whether the township parcels granted to Māori were regarded for rating purposes as general land or Māori land.

A. I think they were treated as Māori land but…

Q. Okay.

A. Yes.

Q. I mean that's useful.

A. Just from the 1920s examples in particular of being treated as Māori land. But then there was that last example the Shalfoon and –

Q. Oaks.

A. – who talk about those Māori who'd come into the town and bought land and in that instance where the Ōpōtiki Borough Council tries to vest land in the Māori Trustee for non-payment of rates and be compulsorily sold and they weren't able to do that because actually it was considered to be general land.

Q. Yes.

A. Yes.

Q. So just to tease this apart in a couple of respects.

A. Yes.

Q. Can we first offset to one side what I'll call after acquired sections –

A. Okay.

Q. – not township grants as a result of the confiscation process playing out. If we think of our category that we really want to focus on here as the rating treatment of township sections that were granted in the aftermath of the confiscation, –

A. Yes.

Q. – we've got a contextual wrinkle, haven't we, in that there was a confiscation and the Crown officials were running around with the idea that the Native title had been extinguished and people were getting Crown grants. What I'm wanting to test with you is whether that flowed through it all into assumptions on the part of those levying rates that this was just general land.

A. Yes, so why I would suggest that it was considered to be Māori land is the 1933 Rates Commission Inquiry. When the Ōpōtiki Borough Council Town Clerk gives evidence, he talks there's about 40 Māori owned sections and so he's differentiated between the two.

Q. Is that our inference though on top of his evidence? If he says something like a phrase like ‘Māori owned sections’ is he clearly articulating –

A. Well, yes, I take the point that he was a bit-

Q. – the title as it were.

A. Yes. Well, I-

Q. Thank you though also because the time period you've just referenced is quite late in some respects, isn't it, –

A. Yes.

Q. – so that's a marker of time when it's articulated a certain way. Do you have any other comment on that?

A. No. I mean, yes, certainly just from what was happening in the 1920s in the Ōpōtiki Borough Council in terms of going to the Māori Land Court, the sale of Wiremu Kingi's land, and the involvement of the Waiariki Māori Land Board suggests that land was being as Māori land.

Q. Yes.

A. Yes.

Q. Again, not for legal submission but more just to say something out loud in front of the Waitangi Tribunal, there is of course a much more recent decision of the Māori Appellate Court I think that contemplates what the situation was with confiscated land grants and when and how it should be treated as Māori land.

A. Yes.

Q. But before I said that out loud in front of you, I just wanted to test what you'd found from the evidence itself.

A. Right, yes.

Q. Mr Hunt's going to provide that reference for the Tribunal of this Māori Land Court case.

A. Okay. Yes, I worked on the Block Narratives and it was on the Ōpōtiki Township. Just thinking about that, at times it was a bit tricky to know, this is more in the 1950s and 60ss, whether what had been Māori land was still being treated as such.

Q. Right. Just to be clear, that's before the 1967 amendments that might convert land.

A. Yes.

Q. Okay, thank you. All right. I'll move on. I should've said thank you also for your answers in writing to our questions of clarification, which means I can move over a whole bunch of stuff, as well as other things that other people have already asked today.

A. Yes.

Q. All right. Page 205 please, we're talking about people here who weren't enfranchised is the assumption I think you're working with in the paragraph beginning: "This response did not take into account the

different reality for Māori land owners," who weren't entitled to be county electors. I absolutely take you point. But I just wondered, whether in making it, you had considered that the Oamaru and Whakapaupākihi blocks had been determined by this point –

A. Yes.

Q. – which would mean that someone like Te Awanui Āporotanga, who had shares in those, would've been entitled to vote.

A. Yes, and I addressed that in the questions of clarification.

Q. I beg your pardon.

A. Yes.

Q. You're right. I must thank you for that.

A. Yes.

Q. I've repeated one, sorry.

A. I mean I just didn't have enough time to look. I established that he didn't have interest at that time in the Omaru blocks because they'd been sold. But the Whakapaupākihi blocks, I just wasn't able to get to the block order files in order to establish that.

Q. Right. But if he had been, –

A. But if he had been…

Q. – he would be entitled to be an elector.

A. If he had been the nominated occupier.

Q. All right. Page 216 this is a topic that other counsel have already taken you to about the rates compromise. I just thought there's a risk of skipping over the big news here because, even though it's completely proper of course to talk about how was even the compromised paid, the compromise that was agreed ended up being 10% and 20% on the rates owed, wasn't it?

A. Yes, that's right.

Q. For the Waiotahi lots and the Whakatōhea Scheme Lots at Ōpape it was 10% --

A. Yes.

Q. – and for the Ngāi Tai Scheme it was 20%, wasn't it?

A. That's right.

Q. All right, thank you. The next one is at page 245 to 246 where the Minister of Finance is commenting to the Native Minister about a proposal. I suggest that in light of the time we don't go to it now. But I just simply reference that your document bank Volume 1 pages 179 to 180 and then 181 to 182 is worth people looking at to get the context of the correspondence and the exchange there and in effect the proposal that squarely identified that ratable values aren't reflecting the productive capacity of the land.

DR ROBYN ANDERSON TO MR LINKHORN – VOLUME 1 PAGES 179-182

There's exchanges there that I think flesh out the situation. Page 268 please. Another counsel before took you to the issue of how much had been exempted and I think I got a note that where you had given in answer today it was 12,000 acres in the inquiry district.

A. Yes, approximately.

Q. And that's out of about 85,000 acres across the local authority district. Is that your understanding?

A. Was it 85,000 plus the 12,000? Yes, I'd have to have a look.

Q. Right.

A. But yes, there was a larger proportion of land –

Q. Yes.

A. – exempted outside the-

Q. And today you are clear about what the acreage was within the inquiry district.

A. Yes.

Q. Okay, thank you. I think I can skip over most of this stuff. There's a lot of material in your report that we'll be able to make legal submissions on in terms of using the factual material you've set out.

A. Yes.

Q. Look, I don't really want to finish on a minor point, but just to sort of clear it away. You know that Bruce Stirling wrote a report about twentieth century stuff, don't you?

A. Yes.

Q. And you defer to him on whether there were any partitions of land after 1940 in Tōrere for example.

A. Yes, his report was written after mine.

Q. Yes.

A. Yes.

Q. No, I assumed that.

Q. Yes.

Q. Okay. Thanks for your patience with my questions. I really appreciate your work again. Thank you.

A. Thank you.

Q. Kia ora.

A. Kia ora.

JUDGE DOOGAN ADDRESSES MR LINKHORN – FILE FURTHER EVIDENCE (16:18:32)

(16:19) DR ROBYN ANDERSON TO SUZANNE WOODLEY:

Q. Tēnā koe **greetings** Ms Woodley.

A. Kia ora.

Q. Nice to see you over the screen almost. I don't have many questions actually. Obviously, the valuation rolls are absolutely crucial and they're prepared by the Property Tax Commissioner.

A. Yes, up until I think the early twentieth century when it was the Valuation Department.

Q. Okay. I don't quite understand the process. Do you know, did they do the whole of the country district by district? Is that how it worked?

A. I wasn't really able to find out terribly much about the process. I guess you're talking about the 1882.

Q. Yes.

A. Yes. All I know is that it wasn't immediately. It took a while, because the Whakatāne County Council, who had jurisdiction at that point, didn't start rating until about 1884 I think it is, a couple of years after the legislation because they didn't have the valuation rolls prepared for the county. There must've been a process but I didn't find anything more about it.

Q. I understand the nominated owners system.

A. Yes.

Q. But initially, how does a name get on the valuation roll?

A. Yes, that's something that I wasn't really able to find terribly much about either. With the valuation rolls just not being available until about 1913, –

Q. Okay.

A. – I wasn't able to check. In other inquiry districts you do have access to a valuation roll. And really the only example I found was the highway board in 1874 and 1877 I think it is, when I got those list of rate payers and it includes the likes of Hira Te Popo and I think it's 22 Māori in total in 1877. But how the highway board went about that, I'm not sure either.

Q. Okay.

A. Yes.

Q. Okay, thank you. It's quite impenetrable actually I have to say. Just the process between rating of Pākehā and how they're notified that owed rates, are they told directly versus Māori through the gazette notices? Do you know how that works in this early period?

A. Yes, I presume so. Yes, the 1882 legislation was obviously specifically for Māori land and that gazette notice was the notification. But yes, I didn't really look at how Pākehā were notified.

Q. All right.

A. Yes.

Q. Okay, thank you. They are operating and sometimes they're operating on the same legislation.

A. Yes, and not in this instance.

Q. All right, thank you. Now wearing my mana wahine hat, at first I was kind of struck: "Here's a woman's name, here's a woman's name," –

A. Yes.

Q. – and then my next thought: "Well, there actually weren't that many women," when you think the succession they were able to inherit. I just wondered whether you thought about the impact of Māori rating laws on Māori women and whether you think that the impact was different for men and women.

A. I don't know if I've got enough information to make a call on that. What is interesting is that in that highway board list of rate payers is Māori women

listed there. I guess the extent to which Māori women were appointed the nominated occupier I mean that could've been an issue but without having those early valuation rolls I really can't make an assessment. But I mean there are valuation rolls between 1913 and 1944 so there's potentially room to look at who the nominated occupiers were there.

Q. Just to go back, is that a decision made by Māori owners or is that a decision that's imposed upon them or can it vary?

A. I think it just depended. It's 1896 that it kicks in. In 1896 when Māori land liable for rating and the number of owners was more than four, then notice was to be given, if it fit by notice in the gazette and *Kahiti* and also in a local newspaper require the owners to nominate one person for the purpose of rating. If not, the local authority could nominate that person.

Q. Yes.

A. Yes.

Q. Sorry, I was about to cut you off.

A. I'm sorry. And then in the County's Act 1908 it just specified where there was more than one person appearing on the county valuation roll as the occupier of any one property for the purpose of voting, only the person whose name appeared first on the roll was entitled to vote. But in the 1924 legislation there's a section that the council could use to identify a nominated occupier.

Q. All right. I guess we remain the realms of theory really.

A. Yes.

Q. But clearly it could have an impact on franchise if nothing else.

A. Yes, that's right.

Q. Yes. All right, thank you. Just to carry on but to leap ahead in time, when we get to the 1970s and the valuation roll is still of importance –

A. Yes.

Q. – and then there could be appointed a court nominee on unoccupied land. So that court nominee is that an owner of that land or is it an official if you like?

A. Yes, I don't know. Yes, I would have assumed it would be an owner. But yes, I'm not really able to…

Q. Okay.

A. I'll need to look at that a bit more closely.

Q. Do you think that information is available to you?

A. I'm not sure.

Q. Okay.

A. Possibly.

Q. Okay, thank you. Maybe I'll ask a question in writing and then you could have a look –

A. Yes, I'll have a look.

Q. – and see if the information is available.

A. Yes, that would be good.

Q. Okay, thank you. I just wondered, could you clarify for me, I thought Crown land couldn't be rated but clearly there are instances when it can be? I didn't quite understand how that worked.

A. The Crown land was rated at the same time as Māori land was rated in 1882. The Crown paid rates on their land to the local authority as well.

Q. Yes.

A. But then that legislation was repealed in 1888 which came into effect in 1890 I think. And then I think it's been Crown land not being rateable from then.

Q. Did you find much discussion in the county council about the unfairness of not being able to collect rates from Crown land after that period?

A. It's possible but I can't quite recall. I was kind of concentrating on the council's attitude towards the rating of Māori land and how they were constantly talking about that unfairness, yes.

Q. Maybe this is a bit outside what you've concentrated on and my final question really is when you look at that constant complaining of the local authorities about the capacity or the lack of capacity to collect rates from Māori land, is it your opinion when you look at the legislation that there was sympathy within the central government to those views?

A. Yes, on the one hand there's instances where government officials complain about the Ōpōtiki County Council's constant complaining and they call it something they do every year, but equally they don't change the legislation so that those complaints stop. When that 1924 exemption legislation comes in they do suggest that the council uses it. But they

don't then go and suggest exemptions or have a policy whereby the council has to assess land, depending on its ability to pay rates or whether certain land should be exempted. It's not something that the government seems to suggest very often. So there's kind of two sides to that.

Q. But my impression is that more and more Māori land is ratable, more and more categories of Māori land-

A. Yes, it gradually increased until 1910 really. You've got all Māori land apart from customary Māori land is rated.

Q. All right. Well, thank you those are all my questions. I do thank you for your report. The amount of research in there is very impressive and it will be very helpful for us and for the poor unfortunate report writer who has to write the rating issues up and I'm sure you'll be quoted very frequently. So thank you very much.

A. Thank you. Kia ora.

JUDGE DOOGAN ADDRESSES TE MINENGA – MICROBREAK (16:32:26)

HEARING ADJOURNS: 4.32 PM

HEARING RESUMES: 4.35 PM

(16:35) PRUE KAPUA TO SUZANNE WOODLEY:

Q. Kia ora Ms Woodley. Thank you for your report. I've just got a couple of small questions of I guess clarification or interest or whatever. In the beginning of your summary, you talked about representation and so on and I know your reports up to around 2021. Just in terms of representation, you make reference to Māori wards for example on page 4. Are you aware of what it occurred obviously last year in 2025 –

A. Yes.

Q. – with this particular inquiry district in relation to Māori wards?

A. Yes. I haven't looked at in depth but I was aware from newspaper articles.

Q. Yes.

A. Yes.

Q. And what's your understanding of the response I guess to the 2025?

A. I'm sorry I have written it down somewhere what happened. My understanding is that there are now several Māori wards and I can't quite remember the exact numbers. Two or three Māori wards and I think it's three general awards plus the coast community boards so the representation has increased with that.

Q. All right. Just in terms of not so much the numbers of boards but obviously there was an ability to have a poll –

A. Yes.

Q. – and my understanding is that in this particular district there were some exemptions from having to participate in that poll. I think for Ōpōtiki and in relation to the Bay of Plenty Regional Council. Were you aware of that?

A. No. Look, I'm sorry, I haven't really covered that.

Q. No that's fine. The second matter, and it's around about page 257 of your report, and there's been lots of questions on this issue of the exemptions and you do refer to the fact of the direction for the councils to look at Ōpōtiki County Council to look at exempting land. Was there any process that allowed Māori to take the first steps in some form of application for exemption?

A. I'm not aware. I think the Māori Land Court Judge could perhaps have instigated that in cooperation with the county council but I didn't see any evidence of that. But yes, I have seen in other inquiry districts exemptions happening and it's been at the instigation of the Māori Land Court as opposed to the county council.

Q. Has it?

A. Yes.

Q. But do you think in this area it was more the county council?

A. Yes.

Q. Thank you. Kia ora.

(16:39) BASIL MORRISON TO SUZANNE WOODLEY:

Q. Thank you most sincerely Ms Woodley. First of all, for your presentation and my absolute admiration in writing that report. It certainly brought home to me a lot of things that I've been involved in. As I mentioned to

you, I became a county councillor in a by-election in January 1971 as a 23-year-old, –

A. Right.

Q. – a county chairman in ’83 and mayor in ’89, so lived through the living experience of a lot of things that you have raised here that were relevant to where I lived up in the Coromandel and the Hauraki.

A. Right.

Q. So thank you most sincerely that’s tremendous. I just really have a couple of questions in regards to when we had the reforms that led ultimately to the ‘89 Local Government Reform and then the Resource Management Act in ’91 et cetera. We had prior to that, the issues of the abolition of the Ministry of Works –

A. Right.

Q. – and the creation in those days of Transfund and Transit and that change fundamentally the support that local government and that applied here for Ōpōtiki Council.

A. Yes.

Q. It fundamentally changed the track, if you like, of funds from central government to local government and that I know in my experience had a major impact on what was called the Funding Assistance Rate. The question to you is in your studies did you come across any difficulties that that that brought to the funding of in particular roads through Transfund and Transit?

A. No, I probably didn't focus on that. It would be interesting to go back and look in some minutes around that period and see what sort of impact it had but I didn't really look at that.

Q. Okay. So with the creation in ‘89 of the regional council from old catchment boards and catchment commissions, did the Bay of Plenty Regional Council how did that impact on the funding of functions that went from the district council (i.e., pest, weeds, et cetera) and catchment schemes and that?

A. Right.

Q. How did that impact on the rating structure of Ōpōtiki that you saw?

A. Yes, I probably didn’t focus on that.

Q. Okay.

A. Because a lot of the records aren't there, I was scanning minutes to see any reference to Māori and Māori land rating, zoning, those sorts of issues.

Q. Okay, all right.

A. I wasn't really looking at how that funding change impacted on the council.

Q. Okay. Because that would've fed down into Māori and their issues of land ownership or non-occupying.

A. Yes, and the provision of services.

Q. Okay. Look, other questions that I had have been asked and answered.

A. Okay.

Q. And once again, congratulations. Tremendous.

A. Thank you.

Q. I really appreciate. Thank you.

A. Thank you.

(16:44) DR GRANT PHILLIPSON TO SUZANNE WOODLEY:

Q. Tēnā koe Ms Woodley. Thank you very much for your report. It's a pleasure to see you again.

A. Kia ora Grant.

Q. I just have to echo the sentiments offered by claimant counsel and others that you've made an enormous contribution over a long period of time to the work of the Tribunal and your various reports and offices and this report is no exception to that rule. It has been very, very helpful.

Due to the time, I will have to put most of my questions in writing so I have to apologise for that. I don’t think I have as many as the Crown did in its questions of clarifications so there we are. But one of the things I wanted to ask you about because I found this particularly fascinating is having read your report in the Porirua ki Manawatū district how completely different the histories were in terms of the twentieth century where the Horowhenua County Council and others they went after the land.

A. Yes.

Q. You know all these vesting orders to vest the land in the Māori Trustee and sell it for non-payment of rates. Whereas it seems like the

Ōpōtiki County Council went after the people using the Magistrate's Court to pursue them and sue them. I was thinking to myself possibly it's because the land that was left to people in this district, to the Māori people in this district was so poor that the council didn't even want it. That's a possible explanation. But I wondered you must have thought about this. Why do you think there was such a big difference in approach?

A. Yes, it was different definitely. The Horowhenua County Council they were all about tidying up Māori titles. They had a thing about where there was very small little pieces of land which weren't paying rates and didn't necessarily have an occupier and it was a tidying up exercise. The Ōpōtiki County Council and the Magistrate's Court seems to have come from a reluctance to use the Māori Land Court. In the 1950s, and in my view because they wanted so much, and this is interesting because I don't think this happened in Horowhenua, but in this particular court the judge wanted more information so it didn't want to put charging orders on multiple blocks of land. He seemed to be quite keen on actually having a bit more information than that was normally provided when charging orders were made. And then there just seems to have been then a reluctance for the council to use that charging order process and instead go with the Magistrate's Court.

Q. Okay, so it was because of the court rather than land. Okay, that's helpful thank you. I was also wondering one aspect that you don't talk about but which might be important is with that whole system of nominated occupiers and maybe one or two owners of the incoming occupiers and not knowing and the valuation rolls being wrong and out-of-date and everything. One consequence of that could've been that for owners of general land who got sent rates notices, there was the opportunity to object.

A. Yes.

Q. You could object to the valuation. You could object to all sorts of things. That opportunity to object was available under several pieces of legislation to owners of general land, but if I'm reading your report right that would not have been available to the owners of Māori land. Is that mostly correct?

A. I think they could've objected but had-

Q. Had they known about it.

A. Yes, but to what extent that actually happened. And that was one of the things that the court could do is actually provide that information like in a charging order process, yes. Whereas, yes, they – I'm sorry I've completely lost my…

Q. So what I'm getting at is when you get the valuation, the information about what your rates are going to be, under various legislation you could file an objection.

A. An objection, yes.

Q. What I'm suggesting is that if Māori didn't even know that they were the occupiers on the list and because the valuation rolls were wrong in that, they might not have the same opportunities to file rejections. That's what I'm suggesting.

A. Yes, quite possibly. But I guess the other issue is the whole succession process was often quite delayed so there might've been all this late rates levied on this land where that nominated occupier had not been appointed or there hadn't been a succession.

Q. Yes.

A. Y.

Q. So there were a plethora of factors that would have influenced that.

A. Yes.

Q. Thank you. I just wanted to take you to page 41 of your report where you talk about exemptions where you talk about section 34 of the 1926 Act. I thought this was really important because this was introduced by Ngata as Native Minister –

A. Right, yes.

Q. – and this enabled the Native Minister (i.e., the Department) through the Minister or Commissioners of Crown Land to recommend that there be exemptions and I thought when I read this the first time that that would've been in the legislation right through till the 1960s law change.

A. Yes.

Q. The Crown actually did have this big role of recommending exemptions, which I thought was really important, –

A. Yes.

Q. – and then I discovered, which I'm not sure if you knew this, that this particular piece of legislation was repealed in 1931 so it wasn't actually in the rating legislation for very long. But that's an example where the Crown was supposed to be leading the exemptions process, isn't it? Do you think it should've remained in the legislation, I guess that's my first question about it?

A. There was still provision to exempt land under section 104 of the Rating Act 1925 passed 1931. But yes, I think that's one of the issues I raise is that there was no process for classifying Māori land and the Crown isn't saying to the county council: "You need to do this," or there's no legislation that says: "This must be done every year," an assessment.

Q. Right.

A. Yes.

Q. Yes. Well, I guess my point here is that this would've been the Crown's role through the Native Department, the Native Minister, and Commissioners of Crown Land –

A. Yes.

Q. – that this had stayed in the legislation. Do you think that's right?

A. Well, yes, they could well have done that. But, yes, like it didn't seem to happen.

Q. No, and I thought should've but then I realised that was repealed soon after. Okay, thank you. Page 209 of your report, there's this very peculiar massive decline and value of I think it's the coastal land from £196,000 to £34,000.

A. Yes, that's right.

Q. Do you know why that happened?

A. There was a re-valuation of what they called third class land in the county. At that particular time, a lot of the Māori land was in Otara and coast ridings and so you see a real difference in the amount of the unimproved value over particular years.

Q. Yes, but that's a huge drop.

A. Yes, and then that's where the council complains about that. And then what they do to counter it is they bump up the riding rates for that

particular year in particularly the coast and Otara ridings which is where a lot of the Māori land in the inquiry district is located.

Q. Yes, thank you. Do you know if the Crown consulted Māori at all before that Native Rates Act was passed in 1924 or before the May 1925 Act was passed? Did they have any consultation with Māori about rating for that?

A. Yes, I didn't see anything in the inquiry district. There may have been. There was likely some discussion in parliament about it but I haven't really covered that.

Q. Thank you. One of the other big issues that struck me is you've made the point that rating on unimproved value of land made a big difference for Māori because the wealthier owners of general land weren't being rated on the improvements that they'd done.

A. Yes.

Q. Do you know was it common at the time to rate on unimproved value and why did they do that?

A. I think it was common. I'm just trying to think whether it was legislated or whether accounting or a borough had to do a vote on it. Certainly, the borough council had to vote. The borough council had rate payers vote on whether it should be the unimproved or the capital value and people voted for the unimproved value presumably because it was better for those wealth here land owners.

Q. And you didn't see in the research you did, any evidence of considering whether that would have a disproportionate impact on Māori?

A. No that wasn't ever mentioned.

Q. All right, thank you. Page 383 of your report, and this is sort of a follow on from my earlier question about exemptions. One of the things that occurred to me when I was going through your report was how incredibly useful the Stout Ngata Commission was in terms of going around the country assessing how much Māori land was left, what it could be used for. I wondered, given that there were these exemption provisions in the legislation through this whole period, why the Crown didn't sort of introduce some kind of every five or six years there was a survey, a

Stout Ngata kind of survey of all Māori land? To determine those kind of things, whether it could be rated et cetera.

A. Yes, that would've helped with some of the issues in this inquiry district certainly.

Q. Yes, thank you.

A. It's interesting though, one of the judge's in the 1930s, Judge Carr, he suggested a classification system but it was never taken up. And then in the 1990s Māori who were talking with the Ōpōtiki District Council they too suggest a classification system. It's really in that 2021 legislation that basically all unused Māori land can be exempted. So it's taken that long.

Q. Taken that long.

A. Yes.

Q. Yes. I did wonder about that why it took so long. My questions sorry about page 383 was whether the Land Use Capability Survey talked about there was done and whether a Land Use Committee was actually formed.

A. I don't think I've got anything more about that apart from what's in the page.

Q. You don't know –

A. No.

Q. – whether it was done. No, okay, thank you. In terms of the general approach, and I might ask you this question both personally and writing if you want to do a full of response, but I was struck by your discussion of how you went about your report and you said you looked at fairness and reasonableness. I was wondering if you would like to give a general assessment of the local government and rating system or a piece of legislation by piece of legislation or just generally how fair and reasonable you think it was in terms of Māori and Māori land.

A. I guess I could make a general comment. I might've mentioned this before, I can't remember. But I think the biggest issue here in this inquiry district to me is all that legislation. It didn't ever differentiate between land that could support the payment of rates and land that couldn't. I think none of the legislation did any sort of differentiation but there was levels of rating up until 1910 when it was basically everything, except for

customary land, and then in 1924 there is marae and urupā exempted. But the biggest issue is that there was a lot of Māori land in this inquiry district that couldn't support the payment of rates. That's backed up by when I was given a spreadsheet of all the Māori land in the county and I broke it down into what was in the inquiry district and what was now determined as unused and therefore not ratable is like 47% of the inquiry district in 2021. But all that time that land is getting rated and I think that's the one of the biggest issues in this inquiry district.

Q. Are there any others? I know it's been a long day and to ask you a very generation question like this could be quite hard at the end of it.

A. I guess one of the big issues in terms of representation up until the 1940 the legislation didn't facilitate the election of Māori into the various councils and really it's only in the 1940s that that starts to change. But they're still disproportion numbers of Pākehā on councils compared to the population breakdown.

Q. Yes.

A. I actually think the whole partitioning that that was quite an issue for this inquiry district as well. Just the number of partitions gradually greatly reduced in that period from that 1967 legislation and that has still impacted on the ability of Māori to have housing sites on their land.

Q. No that's helpful thank you.

A. Yes.

Q. It helps to crystalise it.

A. Yes.

Q. I'll put it in writing as well in case you want to –

A. Okay, yes, and I can expand.

Q. – yes to give a fuller answer.

A. Yes.

Q. No that's really helpful. Because I think it's important to keep in our minds what are the really key issues here.

A. Yes, that's right.

Q. Yes, and those are clearly really major things for Māori in this district.

A. Actually, yes, and I just think the state of the valuation roll was a big issue for a long time –

Q. Yes.

A. – and then it culminated in the 1960s where Māori were taken to the Magistrate's Court on information that wasn't correct. So the Magistrate's Court I think is a big issue.

Q. Yes.

A. Yes.

Q. That's incredibly unfair. And that is the responsibility of the Valuation Department, wasn't it?

A. Yes.

Q. Not of local government to keep those rolls accurate. Is that correct?

A. That's right. They were supposed to get the information from the Māori Land Court to keep those up-to-date but it seemed to be sometimes a disconnect between the county council, the Valuation Department, and the Māori Land Court about keeping that information flowing. But equally Māori Land Court, because of the succession process, there wouldn't necessarily be somebody on that to be put on that role.

Q. Yes.

A. So there's lots of factors in that issue.

Q. And just on that, while you've raised that, Ms Clark asked you about this I think, and I wondered if it was a contributing factor this whole fact of two land systems. Of the fact that all Māori land was supposed to be registered on the District Land Register but in fact most of it wasn't, even though the law required it to be.

A. Yes.

Q. Was that also a factor in the issue about the valuation rolls or is it not relevant? It wasn't clear to me.

A. Yes, I don't think that's relevant.

Q. Okay.

A. Yes.

Q. Thank you that's helpful. Another issue, and this follows on from what you just said actually about the unfairness of the partitioning situation where the law required council consent, do you know why it took from

1967 to 1993 that's 26 years to come up with the idea of occupation orders and licenses in Te Ture Whenua?

A. No, I don't know why. Yes, it was quite a different approach with the occupation orders et cetera. I haven't actually looked at the discussions around the 1993 Act and occupation orders.

Q. No. You mention it in section 9.12 in your conclusion.

A. Yes, I did.

Q. You did.

A. But I haven't done any further work on looking at why there was this gap.

Q. Yes.

A. Yes.

Q. Do you know when they were brought in would that breach the council's district plans or did it simply step over it?

A. Well, I think by that time the councils under the Resource Management Act 1991 they would've had to take into consideration the Treaty and then in 1977 there was to be some consideration about Māori values. There's definitely a softening in the 80s and 90s of that quite strict adherence to not having small areas of rurally zoned land. And perhaps, that is what has led into the 1993 Te Ture Whenua Māori kind of that gradual progression.

Q. Well, I wondered because the title doesn't change with those orders and licenses –

A. No that’s right, yes.

Q. – but that would've been all right for the councils.

A. Yes.

Q. Yes.

A. But then they would’ve had to allow the building of houses on that land.

Q. I see.

A. Yes. So that does change.

Q. Right.

A. If you're getting an occupation order you need to – unless it was for an existing house.

Q. I see, thank you.

A. But if you were to build further housing, yes.

Q. Yes, right. And you do talk about the Town and Country Planning Act, that change in 1977 on page 451 of your report. I have to admit, I struggled to see that it made any difference whatsoever the introduction of the – as a principle of national importance Māori relationships with their lands and Māori values in respect to their lands. Do you think it made any difference?

A. I guess all I could really comment on is the partitioning in the inquiry district for housing purposes. I think I've commented there it remained minimal in the Ōpōtiki Country throughout the late 1970s, 80s, and the early 1990s.

Q. This provision.

A. Yes, but I can't categorically say it had a minimal effect because I probably haven't looked at enough. The issue with this is that it was relatively straightforward to look at Māori Land Court minutes from the 1960s and 1970s when judges go: "No, you can't partition out." But from that later period, I don't know if there was any applications and then they were declined for partitioning from that later period.

Q. Okay, right. Page 468 of your report. It's worrying that the advisory committee just seems to disappear after 1995. I wondered if we could perhaps ask Mr Linkhorn or Mr Hunt to find out from the council what happened to that committee. Because you weren't able to find out, were you?

A. No.

Q. It's page 468.

A. Yes.

Q. This brand new advisory committee seems to disappear after three years.

A. Yes, I think it transitions into meetings with individual iwi in May 2007.

Q. That's a big gap though between 1995 and 2007.

A. Yes. I mean I guess there may have been some files on that, but in terms of looking at minutes I didn't find anything further.

Q. And that perhaps leads into my next question which is section 10.8 of your report on council engagement with Māori in the district is extremely thin. Is that because the evidence doesn't exist or because the engagement is very minor?

A. I guess by the time I got to 2000 I didn't really have the capacity to look at every single bit of minute books. Yes, that section is quite general because it's based on council minute books.

Q. Okay, thank you.

A. Yes. It's probably not as full as it could be.

Q. There may be more evidence.

A. Yes, absolutely.

Q. Yes, okay.

A. But I guess I was concentrating on the period before that.

Q. Yes, okay. I will put the rest of the questions in writing I think Ms Woodley. Except just one last one and it's a very small question. It's not small. It's quite important. Section 10.12 of your report where you discuss the pilot project and I'm wondering whether the pilot project had any success in actually leading on to encourage more development in the Ōpape blocks.

A. I didn't find anything about that. I mean certainly having a rates remission like that had to be beneficial for the owners but in terms of long-term development, yes, I'm not sure.

Q. Actually just one more quickly. Page 487 the council's rates review committe in 2002, do you know if that had any Māori representation on that committee or any Māori involvement in that committe?

A. I don't. But given that there was Māori representation on Ōpōtiki District Council, I don't know if you can assume, given the council was a lot more sympathetic towards the issues of Māori land rating, it's quite possible that there was. But yes, I didn't find specifics.

Q. Yes, okay. I'll just leave it there and put the rest in writing.

A. Okay.

Q. But I just want to thank you again for this really helpful report and for your wonderful voluminous document back.

A. Kia ora.

Q. So thank you very much Ms Woodley.

(17:15) JUDGE DOOGAN TO SUZANNE WOODLEY:

Q. Ms Woodley, I've just got one very quick question –

A. Okay.

Q. – so I won't prolong the day further. But in response to Dr Phillipson's questions around the quality of the land in the district, you said that you had been given a spreadsheet that showed that. I think you said 47%, as I understand it, is it of the Māori land in the district?

A. In the inquiry district, yes.

Q. Is-

A. Now non-ratable.

Q. And because that is not used or is it-

A. Yes, they define it as unused.

Q. All right. Is that spreadsheet in the document bank?

A. No, it's not. It was something that the staff at the district council gave me.

Q. Okay.

A. Yes, and I just differentiated between what was in the inquiry district and what wasn't and then just did some…

Q. Analysis.

A. Yes. There's a database in the Ōpōtiki District Council that you can go on to using their valuation numbers and you can find out the area of the land and that's how I've calculated.

Q. All right. Because there's a very important behind this –

A. Yes.

Q. – which you commented on in your summary presentation and you said something like: "One of the features that struck you in this inquiry district was the quality of the Māori land."

A. Yes.

Q. You've been asked a number of questions about this and perhaps either in your follow-up questions in writing, and I know Dr Phillipson is going to cover some of this, –

A. Yes.

Q. – I just wanted to test with you this sort of proposition that, what seems striking from your research from the time local government is first established here, 1871 or thereabouts, –

A. Yes.

Q. – and then its various iterations the confiscation, as you know, occurred not that long before 1871 –

A. Yes.

Q. – and it's one of the defining features of this district so that the very best quality land effectively is taken from Māori in the lead up to the establishment of local government or what's quite striking in much of what you document is at the local government level there seems to be very little understanding or appreciation of that history.

A. Yes, that's right.

Q. If that is correct and a correct assumption because there seems to be a move fairly quickly to consider that such Māori land as remains is something of a burden on the development of the district. And if there isn't a direct correlation between the ability to pay for local government services, then it's not the council's business to put roads or services to those blocks.

A. Yes.

Q. I'm generalising but that's a thesis that I can sort of see emerges from some of what you cover. That's fair.

A. Yes, I think so.

Q. All right. I just should add that we've had the benefit over inquiry of travelling much of the district including the land behind us and that very steep hinterland –

A. Yes, right.

Q. – so we are acutely aware of how difficult that land is for development or use or even occupation in certain places.

A. Yes, that's right.

Q. I just wanted to add my tautoko to the mihi that my colleagues have given you and that counsel have given you for your research thank you. Thank you also for your stamina today.

A. Thank you.

Q. That's quite a long day so well done.

A. Yes, it is.

Q. You're free to go.

A. Kia ora. Thank you.

Q. Ngā mihi nui ki a koe **thank you very much**.

A. Kia ora.

MR POTAKA ADDRESSES JUDGE DOOGAN – TIMETABLE UPDATE (17:19:44)

KARAKIA WHAKAMUTUNGA (DR TE RIAKI AMOAMO)

HEARING ADJOURNS: 4.35 PM

5

HEARING RESUMES ON WEDNESDAY 25 FEBRUARY 2026 AT 9.00 AM

KARAKIA TĪMATANGA (DR TE RIAKI AMOAMO)

(09:02) JUDGE DOOGAN: (MIHI)

Mōrena koutou. Tuatahi, e koro Te Riaki ko koe te kaiarataki i te hui, nāu i tuku atu ngā whakamoemiti ki tō tātou kaihanga, nō reira tēnā koe. Ka mihi hoki ki a koutou kua huihui mai nei ki tēnei te rā tuatoru. **Good morning. Firstly, elder Te Riaki, you have led us in this gathering and you gave thanks to our creator and so I thank you. I also want to acknowledge all of you who have gathered on day three.** I'm losing count. Welcome to our third day and welcome to our expert witnesses, Dr Brown, Ms Walter.

I'll just introduce our panel. Professor Roa, who sits normally just to my left, because of the many hats he wears and had received the New Year's honour we were acknowledging at the start of the hearing, anyway, one of those mahi he's just detained for about an hour this morning. He'll be joining us a bit later this morning. Ms Prue Kapua, who has long experience in law and also extensive mahi with the Māori Women's Welfare League. Dr Robyn Anderson is next over on this side, one of our historian members and has been on many panels of the Tribunal over a very long period. Mr Basil Morrison at the end of the table with, again, a long and distinguished career in local government in particular. Joining us online is Dr Grant Phillipson our other historian member. And I'm Judge Doogan. Actually, I forgot to introduce myself the other day too.

JUDGE DOOGAN ADDRESSES ALL COUNSEL – TIMETABLE UPDATE (09:04:56)

(09:05) MS FEINT KC TO JUDGE DOOGAN:

Q. Ata mārie ki a tātou katoa **morning everyone**. So just to explain what's happening today. As you've just explained judge, we are starting with the expert evidence of Lynda Walters and Dr Andy Brown and then we're going to have Jonnina Temple who is the principal of Te Kura o Ōmarumutu. We are hoping that she can go on in the session before

lunch because she wants to bring the tauira with her. And then we will finish the day with the evidence of Lynda Grave.

Now we had scheduled Soraya Parkinson on today as well. But she was heard on Monday so we may finish a little bit early. We tried to get other witnesses to come this afternoon but no one can. So possibly, we could start with the opening submissions for Sharon Campbell's claim if there is time available this afternoon. I'm not sure.

A. All right, thank you.

Q. Yes, so we will just see how we go maybe.

A. Yes, we will just see how we're going and then decide a bit later. Thank you.

Q. Still it's a nice day, so we could all go to the beach if we finish a bit early perhaps.

A. Tautoko, yes.

Q. And I have to report on my homework as well. Dr Grant Phillipson asked where the reference that koro Te Riaki gave about his mother saying that they were lost in a sea of owners. I've looked up his main brief of evidence which is #D008 on the record of inquiry has that quote in it at paragraph 85 and his mother's name is set out in paragraph 2 of that affidavit. We have that information on the record already.

A. Yes, thank you Ms Feint.

MS FEINT ADDRESSES JUDGE DOOGAN – CHANGE LEAD COUNSEL (09:07:08)

(09:07) MR POTAKA: (MIHI, CALLS)

Tēnā tātou e te Taraipunara. Ata mārie ki a tātou katoa. Tuatahi ake, e rere hoki ana ngā mihi ki tō tātou nei pā whakawairua kei taku rangatira e koro Te Riaki māu i tuku i ngā kupu karakia ki te matua nui te rangi e tau iho ai ngā manaakitanga o te wāhi ngaro ki runga ki tēnā, ki tēnā o tātou kua huihui mai nei i tēnei rā. Kāore e ārikarika ngā mihi ki a koe e te pā whakawairua, otirā, ki a tātou katoa e pae nei mōrena ki a tātou katoa. **Greetings to the Tribunal. Good morning everyone. Firstly, I want to acknowledge our spiritual pillar, to the chief, to the elder Te Riaki who recited the karakia**

to our Lord in heaven for the blessings of the hidden realm to be placed upon everyone gathered today. I want to thank you very much spiritual pillar and indeed, everyone in attendance today.

This morning I have the privilege of welcoming not one but two leading experts in archaeology here in Aotearoa. They have presented many times in the Environmental Court and in District Courts in the past but I understand that today is their debut here in the Waitangi Tribunal. Their summary evidence is recorded as #E008(a) for their summary of their report, *The Archaeological Landscape of the Waioweka River Catchment*. They also have their summary report of *The Archaeological Landscape of the Ōhiwa Harbour Catchment* and then they also have #A035(a) the summary of their report for *The Archaeological Landscape of the Ngāti Ruatakenga Rohe*.

Q. Nō reira, tēnā kōrua **greetings to you both** Ms Walter and Dr Brown. E mihi ana ki a kōrua kua tae mai i tēnei rā **I want to thank you for coming here today**. Thank you for making yourself available to present this morning, to what I can see is a nice and fresh Tribunal. Before we commence, can you please confirm that you both prepared the three summary presentations dated December 2025.

A. [Dr Andrew Brown] Yes, we can confirm that.
[Lynda Walter] Confirmed, yes.

Q. Ka pai, tēnā kōrua **I thank you both**. I'll hand over the rākau kōrero to you both. E mihi ana **thank you**.

(09:09) DR ANDREW BROWN: (MIHI, #E008-(a), #A035-(a))

Kia ora, thank you very much Jack. Before we start, we just wanted to acknowledge the traditional warriors or the people of this marae. We've never been or I've never been in here before and it's a fantastic space. We had a lovely chat with Te Riaki this morning and got a little bit of a kōrero so that was really, really awesome. So we just really, really appreciate the opportunity to be here today.

REFERS TO #A035

My colleague Lynda Walter and I were asked to carry out pieces of research on three study areas in the inquiry district. We have a picture of those study areas here. But largely speaking, yesterday you would have seen the Ngāti Rua customary area that Te Riaki spoke about and so one of the study areas was there. And then we have two other areas and you can see in the blue which is our Waioweka area and then the Ōhiwa area in the orange.

Just a kind of note about those, the Waioweka and the Ōhiwa areas, we called them catchments in our study area. In this summary, we actually refer to them as rohe and that is something that we think we have done in error because these aren't rohe per say. They were actually derived through conversations with claimant counsel in order to provide a useful extent in order to carry out research, so we need a certain size I suppose to carry out meaningful research, but we were also trying to limit what we could do based on the timeframes we had available. Those two the Waioweka and the Ōhiwa areas are better conceived of as study areas and so that is what we will probably refer to them today. So just a bit of an explanation and a sort of amendment I suppose on our comments there.

(09:11) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. Thank you. Just while we're on that, are they or can they be characterised as catchments also?

A. Largely. Certainly, the Waioweka. The Ōhiwa has several catchments involved with it but most of them are flowing down that way.

Q. All right.

A. Yes.

Q. All right. But "study area" is the better term for the purposes-

A. For this area, I think, yes.

Q. Thank you.

(09:12) DR ANDREW BROWN: (CONTINUES)

CONTINUES REFERRING TO #A035

You can see in that image that there is a large amount of overlap or abutment between these areas and as such, a lot of the content in our reports is overlapping or repeats to some extent. So what we're going to do today is talk in general terms in order to avoid needless repetition and kind of tax the court's time. We're going to look to provide general comment about archaeology across those three areas because it is a sort of largely contiguous study area if you combine them and then we're going to drill down into the individual things as they relate to the summary areas.

We just wanted to start by talking a little bit about our archaeology, I suppose, and to some extent what it can and can't do and what it is as opposed to history which I suppose the Tribunal is more familiar with. Archaeology is really the study of the physical remains of the past. That is to say, taonga or those sort of features out in the landscape, ditches, banks, pits, garden soils those sort of physical things. And as such, it very much – this is something that I have come to at the bottom of the slide – presents a fairly limited view of a culture. It is the tangible things as opposed to all those intangibles. So that's something to be in mind here is that we're capturing only the remains and not the whole.

We focus on physical evidence but we do use other types of evidence and we'll come to these throughout the presentation. These include comparative studies, so we draw on known site distributions from across the motu. Similar environments can give you insight into where sites have been found elsewhere and that can be applied. We do use oral traditions. We use documentary sources, and particularly focusing on landscape evidence as well. There is quite a strong feedback between what we're doing and the landscape.

We have got some strengths, I would say that, but I think we do. I think, ultimately, what archaeology presents is a sort of summary of the everyday activities. It's not a record in large part of the big events that you might hear in the sort of great man histories that do come out sometimes. This is what people

are doing, cooking, collecting food, eating, where they are living those sort of things that is what we're largely presenting. The more those activities and behaviours are carried out, the more they tend to end up in the record or the more we're able to see them. Short term events tend not to enter the record for the most part. We are also I think fairly good at picking up chronological variation, both in terms of when there is a sort of event horizon, like the arrival of Europeans to Aotearoa, or internal kind of chronological variation through time. I'll talk a little bit about that in a minute.

As I said, where we are a bit weaker is that we are limited to the tangible. In large part because we are limited to physical and the remains you can see and touch, we're not going to be able to pick up differences that are largely cultural, so we can't tell the difference for example between an archaeological site generated from one hapū or another. That is not the strength of this discipline at all. Certainly, we can say that the vast bulk of archaeological sites in this landscape are Māori. They are certainly not Phoenician or Celtic or something crazy like that. It is Māori stuff. But inter-hapū stuff is not so easy to pick up or is impossible to pick up most of the time.

Just to give a bit of an overview. These are the archaeological sites that are recorded across the Whakatōhea rohe whenua as described by Te Riaki Amoamo in the purple there. The white dots are the sites that are inside that line and the green dots just represent the other sites that continue across to the west into the Whakatāne area.

We can kind of drill down a little bit on that and talk about a few of the different site types within that as well. So again, we're sort of crossing over those study area boundaries here for these purposes.

There are at least four sites that we know of that we would call settlement phase sites. These have been called different things over the years. Moa hunting sites, archaic, early, whatever you want to call them. They reflect the early phase of settlement. That first sort of 100 years or so of Māori in Aotearoa. These are probably as early as any site really in the country. I mean within the

limits of our detection anyway. We're talking around about that sort of AD 1300 mark. This just reflects the deep time with which Māori culture rests in this landscape.

We have four sites there. One is Port Ōhope. The other is Tokitoki. I'm working from left to right here on the screen. Tokitoki there is the second to the left and then we go across to the Paerata Ridge and then across to the Ōpōtiki harbour works. Three of these sites, the three left-hand side sites or the western sites are all marked as early sites largely on the basis of material culture evidence. These are things that are in the sites that reflect an early date.

There is toki you can see on the right-hand side here. I'm sorry, the toki you can see and the fish hooks, they aren't from these sites specifically, but they are just to give you an indication of the sort of thing that you might find. We get these beautiful large toki made out of basalts from Tahanga in the Coromandel or argillite from the Nelson mineral belt that are transported across the whole country. We have fish hooks. These fish hooks are made out of Moa bone in this example and that is the sort of thing we would see here. So they are the early sites.

One of the critical things though I think about the Ōpōtiki landscape and something that is emerging, we have a big focus on early sites in the South Island because they are generally speaking much bigger. One of the things that is coming out more, as we do more archaeology in the North Island, is that horticulture is a key part of the early settlement. The old story was Māori came, they hunted seal and Moa and were very reliant on wild resources. That is true but the horticultural economy underpinned everything, particularly in the North and so we have to start sort of adjusting the way we think about this and not have a South Island lens.

One of the critical things to think about is where you might grow taro, where you might grow kūmara. Taro is probably a really important part of the initial settlement. It's the main crop in Polynesia as people come down. And so within this environment, as you would have been driving out from Ōpōtiki to the marae

today, you would have seen the sort of wetland environments behind the dunes and they are environments that we would start to think about as being the places that early horticulture would take place, quite coastal but utilising those sort of wetland environments. Our expectation to a large extent is that you may not see these big artefacts everywhere in this environment but the more we look we should be starting to see that early settlement reflected in a different way.

We then moved forward, the majority of the sites from this area we would regard as being – again the terminology is different – sort of a later post-1500 AD period. These are pā sites that you can see here. These are recorded pā sites and then we have other sites related to that. The blue dots there are sites that are often an association with pā, terraces, storage pits, things of that nature.

To give you an indication of what some of these look like, just to sort of put some meat on the bone, so to speak. What you're looking at in this image is if you look in the hills immediately above the willows there, you can see terracing on those front hills. I hope you can. I don't know if my pointer will work. It probably won't. But anyway, on those small hills immediately above that flat land, there's a series of steps going up those hills. That's reflective of what we were call open settlement. They're terraces. People were probably living there. Exploiting a local environment using the repo and growing crops and things like that. So that's an example of a terrace site.

Here's a storage pit. It sort of two metres by three metres something like that. Fairly typical of the size that we get. That's the average size but you do get much bigger. This is a storage pit we excavated slightly west of the study area. There's a person sitting in that storage pit at the far end. I don't know if you can see that. That is about 11 by seven metres or something like that, so it's a big pit.

So you can see the holes dug out in the bottom of it. What they are is post holes. Just as this wharenui has a central post hole, you imagine that the roof of this wharenui is sitting over top of that pit and that's what we're picking up in

those holes. They are post holes that run through there. These are significant structures holding a significant amount of food.

This is what they look like from the air. Again, I'm sorry, I can't point. I should've thought about that. But the very, very dark area you can see to the right of frame is a storage pit. And then I hope you can see a series of sort of rectangular brown to grey features to the left of that, going towards the left-hand side of the frame there, they are all storage pits. So that just shows you the variety of different sizes that you can see here. I'm happy to do a Jim Hickey later and sort of a point to them if people are having trouble.

The other thing about this is if you look very closely in the middle of frame is a series of small approximately 300 millimetre-wide circles that are in a row and that's a structure of some sort. That's the post holes. And then to the north of the frame you can see some dark circles and that's the cooking area. This is sort of a small kāinga. We have some evidence of probably a shelter or something like that. The whare are probably elsewhere. But you've got a series of activities taking place here, storage, cooking. This is a living site.

The critical thing about this is that we've stripped the top soil off. You wouldn't have been able to see this on the ground so there's nothing clearly evident here. You can see a quarry just to the left-hand side the steps going down so that's the reason that this was excavated because they're extending that quarry.

This is another example. Again, this is just from our-

(09:23) DR ROBYN ANDERSON TO DR ANDREW BROWN:

Q. Excuse me, can I just interrupt –

A. Sure.

Q. – because otherwise it's going to be too difficult to ask questions later.

A. Sure. That’s fine.

Q. Are different things being stored in different sized pits?

A. No. I'll try and give you the short answer. No, it's normally kūmara.

Q. Okay.

A. What is reflected in the different size is this is anecdotal. But what you often find with the bigger pits is they sit over top of a set of smaller pits. My view would be – and again, I don't have any strong, you know, there's nothing absolutely saying that this is true – the bigger pits tend to sit over top of the smaller pits. And certainly, elsewhere in the world, there is a view that what you sort of tend to have is a sequence of storage is smaller pits that are serving one group of people, then in a glomeration of pits, and then often times people have still got their individual pits but they're in the same place –

Q. Okay.

A. – and then you build a big pit that has a lot of people going in it. So it's a sort of communal storage. It's reflecting the same underlying thing but maybe a different process going on or a different function.

Q. Okay, thank you.

(09:24) JUDGE DOOGAN TO DR ANDREW BROWN, LYNDA WALTER:

Q. So that process you're describing arises as the population grows and the bigger pits subsume the smaller pits.

A. [Dr Andrew Brown] Yes, I mean what I would say is you still get the smaller pits. Certainly, they're still going all the way through. My impression is though that it is population for certain but it is also as you're getting those structures social structures becoming stronger. Places like Hawai'i which are relevant, you know, you see that sort of thing happening where there's a lot more social control over time and with that comes the ability to dig bigger pits and to control or to have everything in one place as opposed to having it in the individual household control.

[Lynda Walter] Yes, my comment just was also this is about display in some cases where those large pits may be related to their ceremonial value and their ability to display mana.

[Dr Andrew Brown] And certainly, there are examples **(inaudible 09:26:03)** some quiet large pits that are associated with hākari and things like that where that's an important part of it as well. So, yes.

(09:26) DR ANDREW BROWN: (CONTINUES)

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I'll carry on. This is an example of what's feeding those pits. Okay, I know this is a bit vague, sorry, but this is one of the ones that we did. If you can make out the small white circles – I have a pointer if people can't see it. But there are a series of small white circles running across back towards the person excavating there. Now what they are when you excavate them they look like a bowl so they're a large bowl and then on top of that bowl people deposited or made a mound. If you go to the Hamilton Gardens today you'll see this in Hamilton Gardens. Known as a puke or a little hill and into that was where the tipu was placed the kūmara tipu.

So what you're looking at here is a garden and what those little circles are is the base of that garden that has been truncated by other activity. That would've been, if you can imagine, a sort of checker board type effect of small mounds maybe only 300mls high or something like that spread out across an area. What we are seeing here is the remains of that garden. Every single one of those white spaces would have been where there was a kūmara plant growing. We see this sort of activity across the Bay of Plenty and into the Waikato as well. You also get heavily mixed soils that don't have these individual planting pits but are where people were reusing that soil over time.

So that is sort of giving an overview what the sites look like. Lynda is just going to talk a little bit about it some of the biases in the actual recording process itself.

(09:28) LYNDA WALTER: (CONTINUES #A035)

Thank you Andy.

CONTINUES REFERRING TO #A035

What we are looking at here is a distribution map of the recorded archaeological sites within the study area. The white sites show those sites within the study area and to the side you can see just the edge the green ones which are outside

the study area and heading towards Whakatāne and similarly, on the eastern side.

Archaeological site distribution is an artefact of settlement where people were living and where those sites occur but it is also an artefact of the history of site recording. So I just want to talk briefly about the history of site recording because that results in a bias in the dots on the map.

Just to give you some historical context around that recording, archaeological site recording began largely in the Ōpōtiki district in about the 1950s. It was as a result of people seeing after the Second World War an acceleration in the loss of archaeological sites because land use became more intensive, people got access to larger earthmoving machinery so the pace of loss of sites began to accelerate. In response to that, a number of local individuals became concerned, both Māori and Pākehā, about the loss of sites.

Archaeological site recording began largely through the efforts of the Whakatāne District Historical Society and their local member who was very prominent in recording an early site recording is Dave White. Dave White was a local GP and he often had the opportunity to visit sites and record them because his patients would say: “You're interested in history so come and have a look at this pā that I've got on my property.” So what happened was that the early site recording efforts were focused on large conspicuous sites, such as pā and some of the midden. This rolled on to the early 1980s.

And in 1980, a key thing happened which was that the Historic Places Act was revised to incorporate the protection of archaeological sites, so formal legal protection came in. Shortly after that, two incidents occurred in the Eastern Bay of Plenty, one of which was significant damage to Onekawa Te Māwhai Pā because somebody bulldozed the house platform in the middle of the pā, and the second thing that happened was that the East Coast gas pipeline was proposed and so that was going to cut a significant scar through the archaeological landscape of the Eastern Bay of Plenty. So that prompted the Historic Places Trust to begin large area surveys in the Eastern Bay of Plenty

as a direct response to the threat of loss of sites and that led to a lot of those dots that you can see on the distribution map.

The next phase of site recording occurred in the early 1990s and 1994. When I was working for the Department of Conservation, I commissioned a survey of the Ōhiwa Harbour margins and you can see the effect of that surveyed by that big cluster of dots to the left of your screen around the Ōhiwa Harbour. We commissioned that survey again in response to increasing rural residential subdivision around the harbour. One of the important elements of that survey was that we had active involvement in the survey from mana whenua, Ūpokorehe were present, as well as some representatives of the wider Whakatōhea. As a result of their involvement in that work, they then started to request archaeological surveys routinely as a part of cultural impact assessment. And so what happens is you get this accumulative effect. You've got a dot on the map that leads to people asking for survey and so you get more archaeological sites being recorded and more people are looking.

Since that time, archaeological survey has largely been driven by (RMA) Resource Management Act processes. Where land development is proposed archaeological surveys are commissioned or where there is going to be ground disturbing activity archaeological surveys might be commissioned. So you get a pattern of surveys relating to where forestry activity is occurring for example or as you can see around Ōhiwa lots of development pressure for rural residential development.

Generally, the overall pattern for the Bay of Plenty is that there is far more development pressure in Western Bay of Plenty, hence, you have far more recorded archaeological sites. Overall, what we see as a pattern of less site recording in Ōpōtiki district because there has until recently been less development pressure.

(09:33) DR ANDREW BROWN: (CONTINUES)

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So that just gives your sense of some of the issues that are involved here in terms of how these things enter the record and also the site type is a major factor that Lynda talked about as well. We tend to see in these landscapes, I think, a marker of a relatively under surveyed landscape. It is when you've got a lot of pā and a lot of midden and not much else and that's effectively what a lot of Ōpōtiki looks like. For this work, what we tried to do was have the recorded sites but bring in that other evidence that I talked about earlier. So I just wanted to go through that process very quickly just to sort of explain it a bit more.

We're using historical maps, we're using landscape data, but we also use LiDAR quite heavily, and many of you will be familiar with LiDAR I'm sure, but it's taking lots of points, lots of laser scans of the ground and we can then digitally remove the trees. This is an example from Tirohanga Pā which you will drove past today. Tirohanga, you can see from the top down there with the trees on, this is the what it looks (inaudible 09:35:00) the LiDAR relatively unprocessed and then when we go to a hill shade, this is just processing of that tree cover, you can see really clearly. This is effectively like putting a lamp or it's sunset for example and you can see the rolls in the hills and all the shadows. The two large black lines you can see going down there are actually sort of the ditches and the banks the defences. We can render the LiDAR information in a variety different ways. This is an example of just a different render. That's just showing you the platform. And actually, in this case, you can zoom in quite closely to the tihi to the top platforms and you can see individual pit features up there as well.

Why this is useful is of course the vast bulk of the area that we were looking at is forested and it helps us do this kind of basic level survey and identify potential sites that lay outside the currently recorded range of sites in which we know has got some restrictions on it. So just to sort of show the process very quickly here's an example. This is Te Papa Pā. You can see the mission house, which

is the old mission house, Wilson's mission house, the Waioweka river is running on the right-hand side of this. So where the bridge goes across into Ōpōtiki, this is the area of landscape that we're looking at. There's sort of a polygon type shape there that you can see and that's Te Papa Pā. There's another smaller pā just to the south as well that's also noted.

This is a 1920 survey plan. I shall just go back for a second. You can see there's some dark writing just to the right-hand side of Te Papa Pā and that's marking a stream that goes through there, so just have that as your kind of reference. This is the next one and that stream is shown immediately to the east or to the right of the road coming in from the top of frame down and you can see the bridge going across the river, so what we're trying to do is peace together this landscape through time.

This is a 1940s aerial photograph of that of that landscape. You can't see a lot there. There are some shadows but we're not too sure. If we come down a little bit where that arrow is hopefully you can see this the grey line running north-south and it actually turns and heads off towards the river. It might be a bit tricky to see but that's the small pā noted on the earlier plan.

As I say, this is our process. Then we can look at the modern aerial. The arrow has disappeared but down the bottom the reason that this site isn't recorded is that it's been built over with houses. So we're just showing part of the process of why some of these things aren't recorded.

When we looked at the LiDAR – this is an example of the LiDAR – the bridge it's a bit of a shadow it runs off on an angle at the top of frame but hopefully you can see the large road or the road running down just to the right of that arrow and it then forks and goes down the hill or off to the left-hand side. The arrow is showing a really faint, you know, it looks more like now a benched-type track that's running north and then turns. We got called out. We actually made it most of the way to Ōpōtiki yesterday afternoon to come here, but we were called off. So we decided to make the best of it and we shot over to the site. The earthwork is definitely there, you can see it. That is probably the outer ditch of

Te Papa Pā. Hitherto unrecorded but this is the sort of process that you can go through. As I say, ideally, we have to confirm these things in the field to know that there's something there which we're able to do yesterday so there is always silver linings. It's sitting right in the golf course as well, so you can just have a look.

Of course in the exercise and the information I'm about to go into, when it comes to these individual study areas that phase of going out and looking and doing the engagement with mana whenua, which we often do field work with mana whenua, we obviously couldn't do that for this because it was a desk-based exercise. But hopefully going forward we would be able to. So that's the overview. That's taken a little longer than it should've, sorry.

HEARING ADJOURNS: 9.39 AM

HEARING RESUMES: 9.42 AM

(09:42) DR ANDREW BROWN: (CONTINUES)

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We now just want to speak on each of these study areas in turn. We will start with Ngāti Ruatākenga and Ngāti Rua area and move through it. I just wanted to start by just showing the distribution of recorded sites in the Ngāti Rua area. It's hard to see. Sorry, the yellow dots of the recorded sites we've already shown. You can see I've zoomed right in because they are predominantly on that coastal area reflecting what Te Riaki spoke yesterday about that being the sort of main area of settlement and then the back area being more sort of pātaka kai.

As I said, the critical thing here I think in some ways is that we've got a bush line shown there from approximately the 1880s and then the different rivers. You can see a bit more about the landscape. And again, I sort of probably harp on it a bit, but there are these awesome wetland systems in the front edge there which would've been hugely valuable I think for Māori – not seen in the same

way that Europeans see them, as a sort of unusable or wasteland. Very much the opposite. They provided food and of course fibre for cordage and things like that, so a really rich environment.

(09:44) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. I'm sorry, it may sound like a silly question. But just to be clear, the recorded sites encompass every type of archaeological site –

A. Yes.

Q. – pā, kāinga, midden, pit.

A. Yes.

Q. Everything that is recorded is captured here.

A. That's right.

Q. All right.

A. But what I would say about that Sir is that for the most part because of the poor recording these are pā and midden.

Q. All right.

A. Although at a kind of philosophical level, yes, or at a sort of theoretical level, they should record everything. In fact, they're really only recording pā and midden largely.

Q. And what you would expect with the opportunity to do further study would be a greater proliferation of sites similar to what you're seeing around Ōhiwa.

A. Absolutely.

Q. All right.

A. Yes.

Q. Thank you.

A. Just to sort of make that point, Sir. This is the recorded archaeological sites I've just shown you in the white on the left-hand side and through that process that I spoke about before using the LiDAR in the other maps, on the right-hand side these are the sites that we think are potential sites. Just to put some numbers on that, there's 68 recorded sites in that rohe and there's 220 potential sites that we've identified. We've done this sort of exercise before in places like Rotoehu Forest and we're finding there that the percentage might be something like 75% of the ones we identify

are sites. So it gives you an indication we're still dealing with hundreds of extra sites or at least probably 150 extra sites. But a lot of these we were recording with quite high confidence so we weren't necessarily recording the ones we weren't sure about.

Just to flesh that our little bit and to completely support what Te Riaki spoke about yesterday. The inland sites because this is quite interesting the distribution pushes the settlement much further in land but those only land sites they aren't big compared to the coastal sites and they do, to my mind, entirely support his kōrero about these sites being used kind of seasonally or as part of that system of going to the forest to get kai. There is one or two pā but they normally associate with the river systems as well.

(09:46) DR ANDREW BROWN: (CONTINUES)

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Just again to your point, this is the area that we might expect kāinga to be. We would describe them as low pumice hills coming down and they are perfect conditions from a soil point of view. They tiled down towards the coast so they are slightly tilted towards the nice sun aspect. These hills present really great conditions for horticulture and provide fairly excellent horticultural soils. These are the areas that we would expect the gardens to be. And generally speaking, the kāinga are located quite close or reasonably close to gardens or in this sort of location.

Now I just draw your attention to the two dots on the right-hand side. Red rectangle I've drawn there are two dots there. Without those two dots, we could extend those two basically together. Those two dots represent sites that we excavated that I'm about to show pictures of. That is some of the basis for our view that there is a lot more sites in this area that haven't been found.

The left-hand side is the area that we call table lands. There is an image down there from table lands which shows probably the reason there isn't a lot of sites there. It is full of kiwifruit and it is heavily developed.

(09:48) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. Can you just say again where the two dots that you're about to-

A. Sorry, Sir, yes. On the right-hand side, there is a red rectangle –

Q. Yes.

A. – and there are two yellow dots in the top left of that rectangle –

Q. All right. I see, thank you.

A. – on one of those low pumice ridges.

Q. I was getting my left and my right mixed up. Thank you.

A. That's all right. As long as I wasn't, yes.

(09:48) DR ANDREW BROWN: (CONTINUES)

CONTINUES REFERRING TO #A035

This is a UAV shot, a drone shot looking down towards the coast. This is at Te Wakanui Road. For the locals that will know where that is I'm sure, but this is on your way out to the marae today; you would have passed here. It looks very different now though. It has got a huge kiwifruit canopy sitting over top of it, a big white kiwifruit canopy. This is pre-kiwifruit. This is looking down that ridge and this is what the ridge looks like from the top down.

Now I'm asking you to squint a little bit here, I know, but again you'll have to take my word for it, there are a series of storage pits here. In the middle of the frame you can see a red and white scale hopefully, if you look immediately above that, you can see a grey sort of a lighter coloured rectangle, if you follow that line left and right you'll see the same size rectangles or maybe 2.5 metres long by around about 1.82 metres wide sort of thing. What we found in this site – this is just a small portion of it – is around about 25 of these storage pits. They're all very organised. We think they were open at the same time. Sometimes storage pits, like the last one I showed you, the pits were all overlapping with each other; it is being reused. This looks like it probably has been reused but it is a very organised site. Again, you would've had a series of little A-frame hut-type things over top of these features. It is a pretty substantial storage site.

On the immediately adjacent hill – that we don't have pictures off here, sorry – we found a really deep topsoil, a heavily mixed topsoil down to about 600 mils. That was almost certainly a garden soil. Unfortunately, we weren't able to get the scientific analysis that says absolutely that it was. But based on the archaeological evidence and observations and other garden soils I've excavated, I'm sure that it was.

So what we have here is gardening and storage in this area that we think there should be guarding and storage in. This is the first hillside east of table lands to be excavated. My suspicion is the more we do, the more we'll find. It is a very full landscape, despite the absence of dots.

As well as those pumice hills that presented great environments for horticulture and other things, obviously, the river land systems would've been great but largely speaking the sort of upper river terraces would've provided excellent conditions. We don't have any excavations there but you can see in the middle of his frame – this is in the map book as well – there is a native settlement noted just to the east of where it says "Makeo". And again, that's just sort of another form of evidence that we should see kāinga in these areas and probably far more than is currently noted.

I'm going to skip over this relatively quickly. This is some analysis we did, trying to use the available evidence that we had, as opposed to some of the unrecorded sites or potential sites. The idea here is really just to understand the levels of pā that we're dealing with. There is an argument within archaeology that was developed in Northland that there are some pā that are located are generally smaller and located closer to where the kāinga will have been. They may have been used for via relatively small group of people to move back to or to store things in and sometimes to live in. And then there are the big pā. There are the pā that are larger and they have got an entirely different outlook. The small pā tend to be located close to resources. The larger part tend to be located in central areas and in areas where they can see the kind of regional threats, so to speak. As I say, it is a slightly different outlook for want of a better term.

What you are seeing here is we have just called this an Intervisibility Index. This is just what pā can see what pā and the bigger the dot the more can be seen and the more you can see. You can see there is a fairly big cluster around Makeo Pā there and then there are a whole series of these smaller pā. It sort of suggests we have got a similar thing here. Makeo looks like the sort of regional hub or the catchment hub here.

We can look a little bit more at this. Makeo Pā is shown as the red dot there and this is just a cumulative view sheet. In other words, if you're standing on top of Makeo Pā where can you see and you can see that you can see a lot of the Waiau Valley and the associated areas but also you've got an excellent view of that coastal fringe. This point will probably be made a little bit clearer when I come to the Ōhiwa and the Waioweka areas where we have got a bit more contrast.

We also looked at the distribution of recorded and unrecorded. The recorded sites are the white. The unrecorded sites or potential, I should say, sites are the red within the Ōpape Reserve. The point here was just to show that this was a well-used landscape well before the imposition of the reserve in that rohe.

One of the critical things I suppose with the reserve is this idea of it being inappropriateness of the terrain for a lot of other things. This just shows you the sort of roughness of Ōpape just as a sort of rough view of that. As part of what we were doing, I mentioned earlier, we were trying to use landscape data to understand things a little bit more as well, so we look at soil maps and other things.

And one of the other things that we look at, when we are using environmental data, is the modern metrics around land use capability because they are quite a useful proxy for areas that would have been quite suitable for cropping in the past as well. This is, as I say, a modern metric. It runs from I think a zero score down to an eight score. The eight scores are – I'm paraphrasing here – plant native and leave it alone. The zero score are run dairy cows on it; a highly

productive environment and there aren't very many land use restrictions on it. It is the suitability of that environment for different levels of activity. To put it bluntly, the red areas are areas that are six or higher on that scale, so they represent areas that you may be able to get away with some forestry and things like that but very little else. It is just showing why the major part of settlement is located in that coastal strip. It also makes the point, I think that's been made elsewhere, of probably just how inhospitable parts of the Ōpape Reserve actually were.

We'll flick to the Waioweka study area now, and I'm conscious of time. This was again a derived study area. The northern area is where the majority of sites are. Again, mostly pā, some terraces.

You can see a couple of things here. You can see a cluster of pā, particularly at the mouth of the Waioweka Gorge which almost certainly reflects control of that landscape. There are also a series of dots running along the Waioweka river on the left-hand side of that river as we look here. The river is in the middle of the frame, the blue going through there. The eastern side of the study area, which is shown in blue, that's the Otara river just to sort of orient everybody. There is a very big cluster around the gorge itself and then heading along the river systems as well. And then as we go to the south, there is a big break in terms of the recorded sites and then there is a section of sites down the bottom, largely related to that later period, settlement of the inland areas after the raupatu.

Again, just going back to those same arguments around Pā. I've taken Tāwhiri Tahi Pā which you'll probably know where that is, just as you're coming around from the Waiotahi drifts, it's on the left-hand side as you're coming round the road there. It is an interesting Pā. It's one of the bigger individual areas of defence in this research area. There are collectively, like the Waioweka Gorge for example, a lot of those pā, there are some big ones there too, are quite small. This is, as I say, it's one of the bigger ones in terms of defended area.

This is again the view shed. The lighter areas represent areas that are sort of more easily seen from the pā. The blue areas are still fairly visible. You can see that it can look down into that catchment up the river systems. It's not so good looking across to the south-west. But again, it's got that beautiful view of the coastal areas.

In contrast, this is a pā immediately adjacent to the left-hand side of the west of the Waioweka River and you can see it is much different. It's visibility or it's view shed is much more limited to its immediate surrounds. Again, I'm just trying to make the point that I think there's different levels of pā happening here in this landscape and I think that's consistent with a lot of other places around the motu.

As well as the pā, we were interested quite a lot in the river flats because this is a hugely significant area obviously in terms of what was going on with the raupatu and the invasion. But also, a lot of the early European accounts prior to 1865, talk about the productivity of this environment, the number of kāinga and gardens, and things like that. And yet, you can see the white dots there, in general, there's an absence of recorded sites in this area as well. We were interested just to try and see if we could use the methods to understand this a little bit more.

This red rectangle that you can see runs from the outskirts of Ōpōtiki Township down to the mouth of the Waioweka Gorge near Waioweka Pā and its eastern boundary runs along what is now State Highway 2. That is the extent of Survey Plan SO2813 which was submitted to the survey office or accepted by the survey office in August 2, 1866, around about 10 months after the Battle of Te Tarata.

We were interested just to have a look at that survey plan and it shows an amazing array of things. I don't have time to go into them too much here but at the top of this frame where it says “William Turner” and then “50 acres” above that and just to the north of that, there's what you see it says “ruin” or “mill ruin,”

that is Ngāti Ira, that is Hira Te Popo's mill. That is obviously where the soldiers got some draft horses and dragged the mill stones away.

I think, interestingly, there is a line running from that mill up towards the north-west slightly and you can see the stream running around that represents the mill leat. If you know about mills, you know they have to have a constant supply of water. I can show on the pointer if it is easier, if it helps.

There is the mill in the red. There is a line running up here and this line that is the leat and this is the old course of the river. The new course of the river actually follows that leat. A leat is a channel that is taken off a river to direct waterflow towards a mill and it is designed to ensure that there is a constant flow of water to that area. This is early Māori civil engineering. It is like, I don't know, gets me fired up anyway; it's a sad life.

The other thing to note there is the main cart track running past that mill and coming down, coming through there. If we go down a little bit more – again I'll use my pointer – just to the west of there you can see another notation that is Kiorekino and then underneath it has got a condition of being burnt. We think that's a kāinga. Incidentally, that kāinga if you look at where it is now is under Apanui Farm for those people who don't know the area.

As we go down further, you can see again on the left-hand side of the path of the track, Māori cultivations marked there. This is a survey that has taken place quite soon after Te Tarata and it is still recording where these cultivations would have been. Again, this is entirely consistent with where we would expect these type of things to be.

Lastly at the bottom there, you can see Waioweka Redoubt is marked quite close to the bottom just there. We knew about the redoubt but previously the location wasn't known.

Topography

We used LiDAR for this. What you're looking at here is a map. One of the things when you're driving through these sort of so-called flat landscapes is you're experiencing them from a road that has been made to be flat, so you kind of naturally think of them as flat landscapes. They are flat but there's a lot more going on, there's a lot more undulations than you think. In order to try and understand, back in the past people tended to work a bit more with nature or more topography, so we're trying to understand why things are and where they are based on the local topography. Ignoring the Ōtara Catchment on the right -hand side which is white and just focusing on the Waioweka river, the white areas represent high ground and it grades down from the white areas to red, to yellow, into the greens, and into the blues. This is just trying to pick up the topographic changes.

Now you can see the river channels, you can see the oxbows, you can see the things that are going on here. If I zoom in a little bit more, this gives you a bit more of a picture. The current river course has got two, which is to the west, the current river course is here going up there and you can see the stock banks running up that side of them going along there. Here is State Highway 2. This red area represents a sort of upper raised river terrace. This is high ground relatively speaking. It is all relative here.

So that's what the topography from LiDAR shows. The value of this is that you can overlay them. In this image, you can see the red area and the high ground, and if you follow that cart track that I pointed out earlier, notice how the cart track absolutely follows that high ground. So that's why the road was there. They were making and taking the best path, they were utilising the high ground through this space and it's running along that place. If you were looking at it otherwise, you would sort of wonder why it wasn't more direct but it's about that landscape. So that's the value of reflecting between the survey plans and the topography.

I will just zoom in here, because this is one of the points that we made in our summary that is probably of the most significance and we make these comments, this is regarding Te Tarata. We make these comments

understanding the significance of this place and I suppose for us understanding also that there is a strong kōrero that there are kōiwi within the battlements of Te Tarata. And so as an urupā, it is a place that was important to try and understand where it is.

So you can see in this map a few different things. We can see the cart track running through and then forking into three areas. There is the main cart track running down here and then it forks here and here. And then we have two things, we have this mark here which is Hauhau Pā destroyed at the top and down the bottom we have another one called Te Tawa. Now on the right-hand side frame if we go across here, this is the modern aerial, this is the river lock cowshed under which Te Tarata is believed to be sitting.

I suppose the opinion that we have arrived at is that there's a possibility that the actual battlements of Te Tarata itself is actually further north at that area which is marked Hauhau Pā destroyed. I think the nomenclature around that the fact that it's the Hauhau Pā gives some sense of the timing for it. If it was labelled that, it should be this time as opposed to an earlier pā. There are reasons why I don't think it being called a Hauhau Pā necessarily discounts it from being Te Tarata either in regard to there being people who perhaps wouldn't have identified themselves as Hauhau in the pā.

The marker there, of it being destroyed, I think is quite critical. The references that I've read and Tony Walzl's stuff that he did for this inquiry that he presented on was really useful in this regard. Because I think it's Brassie I think or Staff, I can't remember, sorry, off the top of my head, one of the commander's talks about filling in the trenches basically and the kōiwi being placed in those trenches. In other words, the pā is destroyed as opposed to the kāinga where the likes of McDonnell will talk about them being burnt. I think it is a small distinction but it is probably quite important, so it sort of aligns possibly with the nature of how the pā was treated after the battle.

(10:07) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. I'm sorry, just while we're on that point, do you know approximately the distance between the Hauhau Pā and the cowshed?

A. 580 metres, I think.

Q. Okay, thank you. 580 metres.

A. I think so, yes. It's high 500s, judge.

Q. Thank you.

A. Yes.

(10:07) DR ANDREW BROWN: (CONTINUES)

CONTINUES REFERRING TO #A035

The other reason for possibly thinking it could be an alternative location is McDonnell in his report after the engagement talks about it being in command of the main cart track running down towards the gorge. I think if you take the position that it was underneath the cowshed, it is actually over a forked part in the track. I mean I don't know how much that really matters from a strategic point of view, but I suppose, from my point of view, I would want to be over where the cart track hasn't forked in terms of control. Because if it is forked, then people can still use the other tracks potentially if that makes sense.

The other location is closer to a position where you could control traffic. But then there is still the question of why it would be marked where it is. One suggestion, it's just a suggestion as well, is that we can see there is another notation there which is Te Tawa and I just wonder whether potentially there were burnt remains associated with that kāinga and that's the reason that it was attributed to that area.

Again, this is pretty new information for Ngāti Ira. I understand that they have had some kōrero about this and we'd be really interested to carry on talking to them about it as well. Obviously, as I say, this is very unproven but the key thing here is that that location where it says "Hauhau Pā destroyed" is not under a cowshed. It is ploughed but there's every reason to think that the remains, if they are there, are still there. As a significant place, if we could confirm that it

was there and protect it, that seems to be something that is important. So that's the reason really that we brought this up.

(10:09) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. While we're on that kaupapa is there a possibility of further analysis or research by you and your team on this?

A. Yes, I think there is. I mean the way to do it is using geophysical techniques basically, ground penetrating radar and things like that, that are non-invasive, that don't involve excavation but that do pick up trenches. I have a picture not in this PowerPoint, Sir, but I do have a picture that I can show you the results of that sort of thing where it's been done in the past so you can kind of see what could be done.

(10:10) DR ANDREW BROWN: (CONTINUES)

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But to your point about distances, this is a drone video that we took when we were doing some work on Harrison Road. That is Te Pua Pā that we've just flown over. It's still there. So that's where Te Pua Pā is where the reinforcements from the Battle of Te Tarata came from. That's where Te Tarata is marked currently underneath the cowshed and that's where the Hauhau Pā would be. It is five to 600 metres, for instance, I think high 500 metres. In some ways, I think maybe that gives you a sense of actually how close it is in real terms.

(10:11) DR ROBYN ANDERSON TO DR ANDREW BROWN:

Q. Excuse me Dr Brown. So just to go back to what the judge was asking, the technology is there. What's the bureaucratic process if you want to undertake further research on that site?

A. There's no real bureaucratic process because we wouldn't be disturbing anything.

Q. Right.

A. I think the critical process actually is the process of consultation.

Q. Yes.

A. That would be the big one. Because of the significance of the site, we wouldn't want to go anywhere near it unless we had really good buy-in and support. From a bureaucratic process, if you wanted to excavate there and disturb the ground, then absolutely there is a bureaucratic process but this would be about working with hapū.

Q. So can you describe a little, if you should decide that it was worth investigating further, then what would you do?

A. Do you mean in terms of-

Q. Actually physical disturbance of the area, what sort of permissions do you require?

A. Do you means in terms of excavation?

Q. Yes.

A. I don't know that I'd want to excavate it, to be honest.

Q. Okay.

JUDGE DOOGAN TO DR ANDREW BROWN – INAUDIBLE RESPONSE

A. Yes.

Q. I see.

A. The geophysics they were developed. There's a variety of different techniques but they were developed to pick up bombs (that's where they first came from). So you were literally walking grids over a landscape and you just need it relatively short.

Q. Yes.

A. There's no digging, there's nothing like that at all.

Q. All right.

A. So that's why there wouldn't be any, yes. And in terms of excavation, we wouldn't go near it.

Q. Okay, thank you.

A. Yes.

(10:13) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. Because I don't know how you do ground penetrating radar but it's a walk over, is it?

A. Yes.

Q. It can't be done by a drone or any other?

A. They're developing drone technology for sure.

Q. All right.

A. But at the moment, the more kind of solid reliable basis of it is on the carts whether with GPR or with other techniques that are equally useful.

Q. All right. Thank you.

(10:13) BASIL MORRISON TO DR ANDREW BROWN:

Q. Perhaps, Dr Brown, the issue really first up would be the willingness of the landowner to allow access.

A. Yes, absolutely. And it has implications of course, because if it was to be there, –

Q. Yes.

A. – then that has implications. If it was me, yes, I would wanting to protect it in some way –

Q. Yes.

A. – so it would take it out of rotation for them. But that's just me.

Q. Thank you.

(10:14) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. Just what is shown here, the land use on that Hauhau Pā currently is grazing or crop or dairy, is it?

A. Yes, it’s dairy. There's certainly a bit of ploughing that's gone on there for sure.

Q. All right, thank you.

A. But I think the critical thing is that you sort of have to imagine (and this is true of all the archaeology in this area), we’ve found in a variety of different sites we've excavated you can see the ploughing horizon. It's amazing what we'll survive below it, particularly if there's deep trenches.

(10:14) DR ANDREW BROWN: (CONTINUES)

CONTINUES REFERRING TO #A035

I just want to go on to the Ōhiwa study area and we'll try and get through this relatively quickly, sorry. A lot of the same comment supply here. This is the

recorded site distribution. You can see it is a lot denser and that goes back to what Lynda was talking about earlier in terms of the amount of survey that's taken place there. But we do have these holes like the yellow area that's shown there. Again, we went through process and this is the same site distribution.

Sorry, now I've pulled the pā and the midden to be now yellow and pink dots, which is unhelpful, and then the sites that we have identified as being potential are now red dots. Again, not as many as the Ngāti Rua area. Sorry, off the top of my head I'm not sure but I think it was around about 150 potential sites. What's interesting about them though is they actually more or less follow the existing sight distribution, unlike the Ngāti Rua which pushed the site distribution far more inland.

This is the distribution of midden as we talked about. Obviously, large resources around the harbour. This is what those sort of things look like. This is from the mouth of the Waiotahi what we call the pipi beds. The key thing about it is this is an example of midden about what we were talking about earlier about repeated behaviours. This is deep. There's layers to it. It represents a long term occupation of this area and some quite heavy processing of shellfish. This certainly isn't a one-off event. But you can see critically it's eroding out as many of them are.

This is an example from just around the corner from Tokitoki inside the Ōhiwa Harbour. And again, there's a sort of defensive wall against erosion but the middens are all coming out as well. We've got development processes and a whole lot of natural processes that are causing destruction as well.

I'm just going to skip over this relatively quickly because it's just really showing the same things but I'll go to this one. Earlier I talked about the visibility of pā as a course proxy for what they're sort of role is within that sort of hierarchy. Here we have the Onekawa Pā on the left-hand side and there is its view shed. From Onekawa Pā you can see very well into the Ōhiwa Harbour and then out into the broader coastal environment. On the right-hand side you can see a pā that I've taken quite a big pā from – in fact, one of the pā that I'll show in a

minute – inside the Waiotahi Valley and you can see the relative scales of where you can see from these places. So that's kind of what I'm talking about in terms of how they fit in this landscape. A pā isn't just a pā. There is some degree of hierarchy in that space.

This is just a bit of an example. One of the interesting things about this environment, in relative terms, there was far more historical notations of so-called native settlements or Māori settlements or whatever the cartographer wrote down in this study area than there were in other study areas. This is one that we found in the Waiotahi Valley. You can see on the left-hand side "native settlement" noted just south of the river. I've got an arrow there that shows where that would've sat in the modern environment and then through our process the red circle shows where that would've sat in that environment but I've zoomed out a little bit just to show you the pā in the immediate area around that settlement.

So that historical survey plan is capturing a moment in time where there is a kāinga there, but you can see the amount of activity in the immediate circle outside of that, so to speak. All those red polygons you can see there are platforms in between and sitting inside that environment. And if we zoomed out a little bit more, you would see an even more dense environment as well. So the likelihood in these sort of environments is that, yes, we have a settlement noted there in historic times but almost certainly that area would've been well used in the past as well. Again, it is just a show the fullness of this environment, of this cultural environment or cultural landscape.

I guess one of our last points is the process of loss here. On the left-hand side is the 1940s aerial where the Waioweka River is shown. This is in the eastern extent of our study area now which is the Waioweka River of the Ōhiwa study area. You can see an arrow pointing to a ditch. Hopefully, can see the ditch. It is a dark area running across that's cutting that land form off and there's another ditch to the north. The right-hand side is the same land form today. So that ditch has been filled in. I think probably in the 60s or something like that. It is now kind of one land form. You can barely see a pā there. When you look

at the LiDAR you can see the northern ditch is still there but a little bit battered and bruised. So that's one example.

This is another example. This is further up the Waioweka. At the bottom, again looking at the old 1940s aerial, you can see a pā shown in the bottom left. It's a bit fainter but it's there. That's now sitting under kiwifruit. I have visited that site. You can just make it out underneath the contouring and underneath the kiwifruit frames but it is still there; just hanging on. But the area to the north are the potential sites that I would say are most likely to be pit sites, like those ones I've already shown you. They are all gone underneath that modern contouring.

Lastly, you can see at the top there, I've got pits and urupā noted so we'll come to this one now. We are talking about an urupā here. I just want to assure everybody, there's no images of kōiwi in what we're about to talk about.

This is a project that we became involved with in 2020 and it's to do with kiwifruit contouring. Basically, what was happening, it is a dairy farm, and over time earthworks were being conducted underneath the RMA threshold in order for them to not have to get a consent. What that led to is you can see on the right-hand side frame quite a big cut running across the frame and basically what they were trying to do is cut down that hillside and just have a better contour for the kiwifruit. When they did that, they hit some shell and some shell came out and so did some kōiwi, the leg bones.

We initially weren't involved. Whakatōhea Māori Trust Board (as they were at the time) were advised and they came out, alongside another archaeologist and they collected the bones. And then Lynda became involved, when it was clear that there were other things going on there, other features going on there. So we went through a process at the time of not understanding that there was going to be as much, as I'll show in a second, to investigate the site a little bit more.

We were lucky. In this process, we had quite a powerful group of people. We had Dr Amoamo was there. We had other kaumātua Chippy Apanui, he’s not with us anymore and, unfortunately, Uncle Roger Trevor as well, Māui. We had

a group of kaumātua there, which was great in terms of cultural safety and just feeling good about doing the work.

I'm now going to just zoom in and this is what we found. Just for context, again I'll use the pointer. Just here, this line coming through here and then turning, if you keep that in your mind's eye with the next image – what I just showed you is that – now that's a ditch, so that would've been a low ditch about a metre across or so, perhaps a metre deep, and inside that are a series of burials. The white marks there are burials. The brown splodges or brown rectangles you can see that's a pit site, a storage pit site that was on that site in the 1500s and the urupā was placed on it much later.

A couple of things to say about this, just in terms of timing. You noticed that all the burials are arranged in a particular way. They are largely east-west and you can see that there's also some of those burials that are right on each of that cut. We ended up exhuming two of these individuals and then they were put back into the urupā later after analysis. When we did that, what we found was coffins and we also found aspects of the remains that were consistent with Māori lifeways. There are particular grooves that are worn in the bones that are consistent with squatting down as opposed to sitting as we are here and one of the individuals had them. It was more akin to that sort of earlier period but obviously after European contact. So you start to get into a pretty narrow window here where Christianity is in the area, so possibly the 1830s up until about 1865 where obviously the raupatu occurred. To my knowledge, and Te Riaki will correct me if I'm wrong, this was unknown about. This was an unknown site prior to our work.

What we found during the excavations, so we exhumed two individuals and then we reinterred them back further in the urupā, but what we did do was excavate the ditch because we knew there wouldn't be any individuals there. What we found when we did that, there was several smaller layers that you get with ditches, you get that general erosion and they fill in slowly and then when the water is sitting in them there is a little kind of narrow waterborne sort of

muddy-type layer that forms. We could see all that but the top layer, the top 250 was a really heavily mixed soil that had been pushed in.

My view is that it was bulldozed. My view is that the burials were so shallow or relatively shallow the ones we excavated. I suspect that a bulldozer came in and took the top off above the burials and pushed that material into the ditch. Certainly, the ditch fill, again from my own experience, it was a very, very loose mixed fill. It wasn't something that just sort of happened over time. It's a single event. Yes, and it's topsoil.

So what you got here is an urupā. As I say, the timeframes we had a quite. It maybe (because there wasn't a lot of memory of it) that that's the result of the raupatu. Perhaps, it's a relatively short term use of the urupā or perhaps associated with some of the disease that we know that was going around at that time. We don't know for sure. But then clearly at some point somebody has filled in the ditch and erased the site from visibility until we came back in and looked at it.

This is what that site looks like now. To his credit, the landowner didn't want to disturb the urupā. My suspicion is that our recommendations to him around how much that would have cost were also a significant part of that decision, if I'm honest. But it is still standing. I don't believe it has been planted in kiwifruit yet. But the remains of the people have been left as they are.

It is just an indication I think of that whole process of raupatu and the ongoing development pressure.

(10:27) JUDGE DOOGAN TO DR ANDREW BROWN:

Q. Thank you. I just wanted to confirm, I take it from what we're seeing on the landscape that this is well within the raupatu or the confiscation lands.

A. Absolutely, Sir, yes.

Q. Thank you.

A. I would have to check actually. I won't give you a number. But, yes, I can show you where it is on a map at some point anyway.

(10:27) DR ROBYN ANDERSON TO DR ANDREW BROWN, LYNDA WALTER:

Q. Sorry, I also have a question.

A. Sorry.

Q. This is intact because of the goodwill of the landowner. In this sort of situation, is he or she under any legal obligation to protect that site?

A. [Dr Andrew Brown] You're probably best to answer that.

[Lynda Walter] Yes, certainly now that it is known about and it is recorded, they have obligations under the Heritage New Zealand Act. If they were going to cause any disturbance to it, they would have to apply for an archaeological authority. Given the policies of Heritage New Zealand, it would be highly unlikely that they would grant an authority for it. And as part of that process, they would have to have gone through consultation with tangata whenua and obviously, tangata whenua would have a strong say in whether or not that archaeological authority would be granted.

Effectively, in that particular case, the landowner is somebody who has lived in the area for very long time and has good relationships with the local Māori community. Basically, they want to do the right thing so they have protected that site and they have talked about planting indigenous vegetation. I think that site is relatively safe. Its only formal legal protection is through the Heritage New Zealand processes, so it is not scheduled or covenanted in any way.

Q. All right. Thank you.

A. Yes.

(10:29) DR ANDREW BROWN: (CONTINUES)

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I suppose just to finish off, let's say that dispossession landscapes are kind of characterised by the removal and sometimes the replacement of communities with new people and new economies and new land tenure systems. That process is destructive in nature and can lead over time to the complete erasure of those sites. But I suppose the contribution that archaeology has made to

those sort of areas elsewhere in the world (particularly, places associated with the Scottish Highland Clearances, the Tulsa Race Massacre or the Tulsa Massacre, and Ireland as well) is that by digging into the ground and into the past you can actually see that those landscapes persist. They're battered, they're bruised but they're there. That is one thing that we wanted to just emphasise when you are looking around this landscape you can't help but see Pā; they are absolutely there. But there is also other things that answer obvious that we believe are still absolutely there.

Despite this, yes, there is an ongoing process of landscape change and progress, I suppose, if you want to view it in those terms, which probably has claimed in unknown number of sites that have been destroyed. In our view, lost past, present, and future is possibly the major theme that arises out of our work. Thank you.

JUDGE DOOGAN ADDRESSES DR ANDREW BROWN, LYNDA WALTER – MIHI, ACKNOWLEDGEMENT (10:31:35)

HEARING ADJOURNS: 10.31 AM

HEARING RESUMES: 10.38 AM

JUDGE DOOGAN ADDRESSES MR POTAKA, MS SYKES, MS FEINT KC – TIMETABLE UPDATE (10:38:08)

(10:41) MS FEINT KC TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua. Thank you very much for your evidence. It is very interesting. I just wanted to ask you some questions about the date of 1300 AD that you mentioned at the beginning of your presentation where you referred to a couple of sites that have been, as I understand it, carbon dated to that date. In a previous High Court trial I've done where we had expert witnesses who were archaeologists one phrase they used that struck me was: "The absence of evidence is not evidence of absence."

My question is can you please explain whether you think 1300 AD is necessarily the earliest date.

A. [Dr Andrew Brown] Sorry, a point of clarification first on that. The sites that we showed there, one of them has an early 1400s date which is still in what I would call the settlement phase. The others are marked as early on the basis of the presence of material culture that is most commonly early. They are not radiocarbon dated to the best of my knowledge. As I say, those particular material types, those taonga that I showed, they are typical of that early period so that is the basis for which they are applied to that period as opposed to C14.

Your question is really interesting. Am I right in saying that what you're asking is what's the basis for 1300 AD as opposed to perhaps earlier?

Q. Well, I think my question is the fact that you've found sites that you've dated to around 1300 AD doesn't necessarily mean that that is the earliest evidence. It's the earliest evidence that has been found.

A. Yes, those sites, as I say, there is a tilde there, so they're approximately 1300. I would they may be a little earlier. They may be late 1300s. For example, there is a range there on the basis of the nature of why they were ascribed that early period. We can't as certain as we can with an absolute date. There may be earlier sites. You're right, there may. But my suspicion is that what these sites represent is the earliest phase.

To some extent, I would also say it doesn't really matter, you know, if there are - I think there are probably more earlier sites in the area. It doesn't really matter how much earlier because the ones we have are from the period of initial settlement. In terms of a marker of when was this landscape settled we can absolutely say, I think, we can say, it is within that early period. The date archaeologists still argue about that 1300 date whether it is late 1200s for example or 1300 but 1300 is sort of a round number. But as a representation they represent the earlier sites that we would expect. Are there more of them, I suspect so. But yes, we haven't found them.

Q. We've had evidence from Dr Te Riaki Amoamo that he is the 30th generation since the arrival of the Nukutere waka. I've just been doing some maths. He's about to turn 89 in April he told us. If you assume say

that there has been 33 generations since the Nukutere waka arrived, I multiplied that by 25 years as a sort of average generation and I reached a date of 825 years ago. Obviously, that is only approximate but that is also relevant information to think about when considering earlier settlement, isn't it?

A. Yes, it is. That technique you've used that's been used including by archaeologists original if you go back into that sort of mid-twentieth century archaeology. Sir Peter Buck, Te Rangihīroa people like that used that very method to kind of cast back. I would say across the motu in areas where I've worked on average it works out about the same time as where archaeologists sit. Bearing in mind, that it is difficult to know in the past how short generations were and there is often times a slightly shorter generation length the further back you go.

Yes, I would say actually since the radiocarbon revisions in the 90s the archaeology in the oral traditions often line up quite nicely within errors but it's pretty tight. Again, I think our dates would certainly support approximately, yes. You could say if you wanted to take a really conservative approach, you could say anywhere between sort of 1200 to 800 years ago to 700 years ago, somewhere in that range would be where those sites are. I think in general terms they do line up quite nicely.

Q. No that's very interesting. When you talk about that early settlement period, what are the hallmarks of that period?

A. Okay. I'm just trying to limit myself here because this is the area of study I suppose. Okay. The early sites in terms of landscape they are in estuaries, river mouths, sheltered beaches. They're coastal always pretty much. There are very few inland sites at least in the North Island. They are concentrated in the North Island in the Coromandel, some on the Taranaki coast, and going up into Tamaki. In large part, they are focused again on those sort of settlement areas I've talked about but in those cases, there is normally some sort of resource fairly close by, Tūhua obsidian or something like that.

In the South Island, they are a little bit different. Still located in the same areas but they are bigger and they appear to be targeted over resources like moa, seal, things like that. You get large closeting of settlement in

the South Island and some really big sites. Sites like Wairau Bar which is generally speaking the kind of view that people have is that that is the first or one of the first early sites. But again, the material from our site is akin to that. But they tend to have a lot more faunal evidence in them and more remains, a lot of extinct species, clear evidence of exploitation of resources that have never been exploited before, for example, the green mussels might be this long. The sites they are probably relatively temporary; people are moving around the landscape a lot. They've got material in them from, as I said, argillite's from the Nelson mineral belt, and Southland as well. A friend of mine does some work down there and he has found a really good distribution of material coming up there. Mayor Island obsidian from off the coast here goes as far as Norfolk island and down to the Campbell and Auckland Islands, so that's a really mobile environment.

As I said, the one addition to all of that, I would say, is that we are finding more and more now that there is early settlement that doesn't look exactly like that. It is still coastal. It is still kind of close to those environments but it is exploiting areas, particularly around the Kaituna for example in the Western Bay as you come away from Mauao that stretch of land that is now being developed into Papamoa, there is a very early site at Pilot Bay and adjacent to that there is a series of wetland dune and wetland environments that appear to have been occupied and utilised really early on for that early horticultural phase.

I won't go into too much detail but the critical thing about horticulture in New Zealand is that you're coming from one day you're in the tropics and then the next day you're in like a subtemperate environment. As a step that is huge so you have to develop technologies to account for that, account for the lack of flowering of things. That's why we find people moving towards kūmara probably from the taro because kūmara suits the conditions of New Zealand more but you still have to be able to store it.

One of Lynda's common kōrero when she is talking to groups is the storage pit is something that is entirely made by Māori. There are some storage complexes and features in Polynesia but as they are in

New Zealand it is a local invention entirely to deal with the problem of kūmara storage.

So that is the big change here. Those early sites people are selecting environments to try and get those crops up and running and that is something that we are seeing more and more.

Q. All right. Thank you that is fascinating. My last question is you mention that at one point that you thought there is evidence of seasonal use in the hinterland which married up with koro Te Riaki's evidence. I just wanted to ask you to confirm that my understanding is there has been less archaeological research done in the hinterland than in the coastal strip.

A. That is absolutely correct. That is reflected in the distribution of recorded sites. There are vastly more recorded sites in the coastal area. And yes, when you look at the coastal sites, and I am just basing this on my viewing of the LiDAR data so it is not obviously being on the ground but based on the LiDAR data you can see quite clearly that the coastal pā are larger and generally denser. The settlements inland or the sites that we have identified inland that may be archaeology are generally smaller probably fairly isolated pit sites, possibly kind of that sort of storage that you do to keep it away from those main areas. As I say, there are a couple of pā in there for certain but they tend to be located there is a stream back there. I mean, as I say, the sites aren't big settlement sites by any stretch of the imagination. I would assume based on the absence of pā as opposed to the coast that that is being used in those ways. Certainly, you would have been able to grow crops in there and that is consistent with what Te Riaki was saying as well about it being cold and a place that would not have been suitable for those sort of things.

Q. Right. Very interesting and thank you very much for your evidence.

(10:52) MS SYKES TO DR ANDREW BROWN, LYNDA WALTER:

Q. Kei te mihi atu au ki a koe e te rangatira. Kua roa te wā e whakaaro ana ā Ngāti Ira mō ō kaupapa whakanui i a rātou, whakamōhio hoki te ao kei hea noa atu ō rātou nei kāinga, ō rātou nei papakāinga, ō rātou nei tātai ki te whenua i te tīmatanga o tā rātou nei taenga mai i tēnei o ngā rohe o Te Whakatōhea. **I want to thank you leader. For a long time Ngāti Ira**

has been considering your matters honouring them and informing the world where were their homes, their settlements, and their lineage to the land at the commencement of their arrival to this region of Te Whakatōhea. I have been asked by Ngāti Ira to convey our regards to you. They have had a long working relationship with you, like Dr Te Amoamo, and some of the information that you have provided to them over the many years that you have diligently worked in this has really added to the richness of their cultural re-understandings of these matters and we thank you for that.

My questions are really questions of clarification because I really want to understand what you are saying at the Te Tarata site and the Puapua Pā. I just really need to understand what we are getting there. If I could ask whoever is controlling the slide set, if we could go to those two slides that you took us to and discuss how you are talking about the need for us to be certain as to the location of Te Tarata Pā. This is the question. When you say "Te Tarata Pā" are you using that language to also mean the Te Tarata Battle?

JUDGE DOOGAN TO WTU STAFF – DISPLAY IMAGES

JUDGE DOOGAN TO MS SYKES – CLARIFICATION OF IMAGES

A. With respect to this, yes, I think what I'm talking about is the possibility that where it says: "Hauhau Pā," that that refers to the entrenchments associated with the Battle of Te Tarata but also recognising of course that the battlefield was much larger and went back towards Te Puapua. Does that answer your question, sorry, Ms Sykes?

Q. Yes it does. I'm a bit blind but I see the name Te Tawa there not Te Tarata. Can you help me understand how that nomenclature has arrived at that map and is it the same? I don't want to put words in your mouth –

A. No, yes.

Q. – but you know Te Tawa is quite different than Te Tarata.

A. It is and that is probably why I think that that's not marking Te Tarata. My view of it is that Te Tawa refers to a kāinga and in the same way that Kiorekino, which is further north, probably refers to a kāinga as well, and that these kāinga were burnt as part of the military activity. I mean

McDonnell for example talks about, when they first engage with people during the Battle of Te Tarata, it is when they are in and around a burnt kāinga and that those people then retreat back to the battlements. It is my view or my interpretation of this anyway is that Te Tawa is probably a kāinga, Kiorekino is probably a kāinga, and this Hauhau Pā destroyed marks the fairly newly built fortifications associated with the Battle of Te Tarata itself.

Q. That information is new to Ngāti Ira so we're not questioning it. But can I move to the questions that were asked by Dr Anderson to avoid repetition, we have not had the experience of easy access with the now owner of those lands where these matters are situate to actually access further examination. I just want to be clear you're saying that that further research on your part to clarify those issues can be done without walking the site.

A. No, it requires access.

Q. I'm not too sure if you're aware of this but, as recently as the centennial celebrations of this historical event, we were denied access to that place –

A. Yes, we're aware of it.

Q. – and it was a significant celebration and remembrance. Does that show a shortfall in the policy if we aren't given access to examine and to validate data and new information because of technology to validate our matters? That the policy itself relating to this from the Heritage site access should be changed. Lynda that is really a question for you but I follow on from what you said earlier.

A. [Lynda Walter] Āe, kia ora Annette. Yes, I think personally I would say it is a flaw in the legislation. Under the Heritage New Zealand Act, they do have powers of entry to property if they believe an archaeological site has been damaged or destroyed. They have powers of entry there. But they don't have powers of entry to investigate whether or not a site may be present on the land. If we could imagine I guess a bit of a nightmare scenario where somebody was about to take a bulldozer to that area where you think that Hauhau Pā is located on the survey plan and we were fortunate enough to alert Heritage New Zealand to the possibility

that that site is there and it could be damaged, then they would have powers of entry under those circumstances. But for us to just go in and do GPR survey to confirm whether or not it is there, it relies on the goodwill of the landowner.

Q. I wish you luck. We want the research. We value information and historical uncovering so good luck. You might be better looking than me that's all I can say. We didn't have much luck and I'll leave that.

Now my last question relates to your Ōhiwa slides and just some clarification. Were you aware of the evidence on this record from Bruce Stirling that discussed a lot about some of the traditional histories that augmented the oral testimony and knowledgeable affidavits from Dr Amoamo and Mr Te Rua Rakuraku? Were you aware of that evidence?

A. [Dr Andrew Brown] We were able to review some of it, but I am aware that some of it was produced after we submitted our report.

Q. Okay.

A. Yes, so we reviewed – I'm sorry, I'm just speaking from memory – some of Bruce Stirling's work for certain. But I'm sorry, I can't provide a real because it was a wee while ago.

Q. No. It is just one of the things he talks about (and I think it was very helpful in your oral testimony) is the shared exclusivity of sites where there is an abundance of food baskets like Ōhiwa. I think you talked about some this morning also, and his utilisation I think of the oral testimony and his own records around Te Moana o Tairongo being something that was shared not just by one hapū but by all of the hapū because it was a place that I think Dr Amoamo described it as his supermarket or it was their fridge. And so, therefore, it became very much part of access for it being required to maintain staple diets and health and wellbeing of different occupants pre-contact. Were you aware of that notion shared exclusivity?

A. Yes, and we would support that. The archaeological evidence from the midden distribution shows a clear dissemination into the hinterland for certain up those river ride systems. The other thing of note, Lynda told me this, she had worked on Moutohora Island for example and there are midden from Ōhiwa there and so it just shows that kind of access or the

scale of the access and things like that. So we were aware and would probably extend that across to some of the areas around the Waiotahi mouth as well potentially.

Q. So that segways nicely to my last set of question. Are you aware of the residential housing development underway at Waiotahi Drift? There are some that have finished and there are some proposed, are you aware of that –

A. Yes.

Q. – and the urupā sites there?

A. Yes.

Q. First of all, I have to ask, was an archaeological assessment undertaken for that area?

A. [Lynda Walter] We actually were discussing this this morning as we drove past. At the beginning of that subdivision, there wasn't any archaeological assessment. I actually vividly recall the day I drove past there on my way back from Gisborne and saw shell midden pouring out and the machines in there. As a consequence of that Heritage New Zealand did intervene and asked for archaeological assessment of parts of the subdivision. I wasn't involved in that process. they had another archaeologist. My understanding is that parts of the subdivision have been investigated but large parts of it have not.

Q. Are you familiar with the urupā site there?

A. Āe.

Q. Are you aware of what has occurred post-consent for that development?

A. Āe, I am familiar with the fact that there is a recorded urupā there and that kōiwi and coffin burials have been recovered from within sections of that subdivision in the past.

JUDGE DOOGAN TO MS SYKES – TIMING

Q. I just want to say that you're aware of the urupā. Are you aware of the Ōhope Harbour development project also which involves infrastructure works occurring in the same area, including channel dredging reclamation and marine farming expansion in the Waioweka and Otara river mouth area which are significant areas for Ngāti Ira? Were you aware of that?

A. The Ōpōtiki Harbour development, yes, we were aware –

Q. Yes.

A. – and we were the archaeologists working on that harbour development, yes.

Q. And in assessing the risks of harm to those traditional wāhi tapu and urupā sites, what were your conclusions there? And if you can't do that today, I'm happy to take an answer in writing.

A. Perhaps we could give you an answer in writing because there are archaeological reports relating to that development. It's not a question that we could answer in two seconds leading up to morning tea.

(11:05) JUDGE DOOGAN TO MS SYKES:

Q. All right. I guess the question there is-

A. Sir, could I have leave for that question?

Q. Pardon.

A. My question is could we have access to those reports and could they be placed on the record of inquiry, Sir.

Q. Yes, that was my question as well.

(11:06) JUDGE DOOGAN TO LYNDA WALTER:

Q. I don't know what conditions may be around their availability, but if you could clarify if they are available to be provided that would be helpful.

A. Those final reports are a matter of public record.

Q. All right.

A. They are in the Heritage New Zealand digital library.

Q. Okay.

A. Yes.

Q. Yes, it would be helpful if we could arrange through counsel to have them filed on our record. That would be helpful, thank you.

(11:06) MS SYKES TO DR ANDREW BROWN, LYNDA WALTER: (CONTINUES)

Q. I thank you for the opportunity to meet you both through the Zoom. I haven't met you both but again we reiterate our thanks for your evidence. Kia ora.

A. [Lynda Walter] Kia ora.

(11:06) DR GRANT PHILLIPSON TO MS SYKES:

Q. Tēnā koe Ms Sykes. I'm just wondering which Bruce Stirling research you were referring to.

A. I think it's #A007(a), (b), (c), and (d).

Q. Okay.

A. It is all of the discussions in there about Te Moana o Tairongo and his conclusions that it was a shared food basket. There's about seven paragraphs in there.

Q. This is in the material that was prepared for the Takutai Moana case.

A. Yes.

Q. Okay.

A. It is actually that I think report that helped with the factual findings in the Supreme Court.

Q. Okay. I have #A007(a) on my list but I don't know if I have the others so I'll just check that. But thank you Ms Sykes.

(11:07) JUDGE DOOGAN TO MS SYKES:

Q. Thank you Ms Sykes. Just to confirm, in addition to those archaeological reports in relation to the harbour development, it was the harbour development and the river mouth. Is that all related?

A. Yes.

Q. Was there two developments?

A. They're all related. I was fishing a little bit. I thought that they had done those. But all of those reports, Sir.

Q. All right.

(11:08) JUDGE DOOGAN TO DR ANDREW BROWN, LYNDA WALTER:

Q. But also if there are matters in relation to Ms Sykes questions that you could answer in writing as well as filing the reports that would be helpful. If there are particular matters to respond Ms Sykes if you wouldn't mind filing in writing as well.

A. [Lynda Walter] Yes, we'll follow that up. Thank you.

(11:08) MS SYKES TO JUDGE DOOGAN:

Q. Sir, from a funding perspective if we're going to have more research on Te Tarata, I will need a direction from the Tribunal to that effect so that we can make representations to the funder, Sir.

A. All right. I can take that as an application and we can look at that. Thank you Ms Sykes.

JUDGE DOOGAN ADDRESSES MR POTAKA – ADJOURNMENT TIMING (11:08:59)

HEARING ADJOURNS: 11.09 AM

HEARING RESUMES: 11.40 AM

JUDGE DOOGAN ADDRESSES JONNINA TEMPLE – MIHI, INTRODUCES TRIBUNAL PANEL (11:40:34)

MS FEINT KC ADDRESSES JUDGE DOOGAN – MR POTAKA LEAD COUNSEL (11:41:04)

(11:41) MR POTAKA: (MIHI, CALLS)

Tēnā anō tātou. Tēnei te tuku i ngā mihi ki a koe e te māreikura, e te tumuaki o Te Kura ō Ōmarumutu, e te pūkenga kua tae mai i roto i tō whare, i tō tupuna whare ā Tūtāmure ki te whakawaha i ngā kōrero ōu, o tō kura, otirā, o ō tina mātua tūpuna kua mene atu ki te pō. Tēnei te karanga ki a rātou kia hoki wairua mai ki a koe ki tō taha i tēnei ata kia noho hei taituarā mōhou i a koe e taki ana i ēnei kōrero. Nō reira, e te whaea tēnā koe. **I want to acknowledge you esteemed woman, the principal of Te Kura o Ōmarumutu who has come into your house, your ancestral house of Tūtāmure to give voice to yourself, and to your kura, and your many ancestors that have departed to the world of death. I call on them to return spiritually alongside you today this morning as a backbone for you as you provide this evidence. And so whaea greetings.**

This is Ms Temple here, the principal of Te Kura o Ōmarumutu which is I understand 1.3 kilometres up the road if you haven't been there yet. Her tamariki the ākonga **students** of the kura are going to be coming down to support their tumuaki this morning or afternoon shortly, to tautoko their tumuaki **principal**.

Q. Before I hand it over, Ms Temple, can you please confirm your name is Jonnina Temple.

A. I can confirm my name is Jonnina Temple.

Q. Ka pai. No middle name. That is the full name.

A. No middle names.

Q. Ka pai. And you prepared your brief of evidence with the appellation of #F010. Is that correct?

A. Yes.

Q. I just need to confirm exactly what the date of that was, sorry, your Honour. It was 16 February 2026. Is that correct?

A. Yes that is correct.

Q. Ka pai. Without further it adieu, ka tuku te rākau kōrero ki a koe **I pass it on to you**, Ms Temple. Tēnā koe **thank you**.

A. Tēnā koe **thank you**.

(11:43) JONNINA TEMPLE: (MIHI, #F10)

Tēnā anō nei te whare. Me tū ake ahau kei muri i āhau taku pāpā ko Te Riaki. E tika ana te kōrero ā Jack, nau mai, haere mai koutou ki tōku taurikura, tōku whenua taurikura ki a Ngāti Rua ki roto i tōku tupuna whare ā Tūtāmure. Kāre e nui aku mihi, engari nau mai, haere mai ki waenganui a tātou, a, nau mai, haere mai ki waenganui i ngā parirau atawhai o tōku hapū ngā uri ā Tūtāmure, ngā uri ā Muriwai hoki. Nā reira, tēnā koutou, tēnā koutou, tēnā tātou katoa. **Greetings to the house. I must stand because my Uncle Te Riaki is behind me. Jack was right, welcome to my precious lands to Ngāti Rua within my ancestral house of Tūtāmure. I won't prolong my acknowledgements but welcome amongst us, welcome back amongst the nurturing wings of my hapū the descendants of Tūtāmure and of Muriwai. And so greetings, greetings, greetings all.**

He uaua te kōrero. Engari homai kē he atamira Matatini ka taea e au te tū ki te waiata. Nā reira, me tīmata pea au i te waiata o te kura. **It's difficult to speak. However, if I have a Matatini stage I can sing and it's quite easy for me. So let me commence.**

WAIATA (MAKEO)

He waiata tēnā i titohia e Hemi Hill rāua ko tana ipo ā Te Rina Ransfield. He waiata tērā hei whakaaturia i te āhuatanga o te kura. He kura kai raro i ngā rekereke o te maunga o Makeo me Makeo e whakaruruhau i a tātou katoa ngā kaiako, ngā tamariki, ngā mātua ā te hāpori. Ko te tikanga ā Makeo koia i whakaruruhau i a tātou katoa i roto i tēnei hāpori. Nā reira, tēnā tātou katoa. **This is a song that was composed by Hemi Hill and his darling Te Rina Ransfield. That was a song which demonstrates the nature of the kura. It is a kura that lies beneath the mountain Makeo the base, Makeo that provides shelter for us all, the teachers, the children, the parents, and the community. The purpose of Makeo is it provides shelter to all of us in this community. And so greetings all.**

REFERS TO #F010

My name is Jonnina Temple. I am the tumuaki **principal** of Te Kura o Ōmarumutu. I have worked in Māori-medium education for a few years. I wouldn't say "few" because I have done teaching in auraki setting as well. This is my nineth year in Māori-medium. I'm currently the lead at Te Kura o Ōmarumutu and our kura is a kura ā-iwi **iwi school** serving our rohe **region** Ōmarumutu alongside our three marae of Ōpape, Ōmarumutu, and Waiaua. I provide this brief of evidence to outline my personal background and connection to Ōmarumutu, the development and operation of Te Kura o Ōmarumutu, and the ongoing Crown-imposed barriers that restrict our ability to exercise iwi authority and tino rangatiratanga in education.

Ko Nukutere rāua ko Mātaatua ōku waka. Ko Makeo tōku maunga. Ko Waiaua tōku awa. Ko Ngāti Rua tōku hapū. Ko Ōmarumutu tōku marae. He uri ahau

nō Te Whakatōhea. Kei reira aku whakapapa ki te tuarongo o te whare. Ko Waiapu Te Tawhiro ka moe ki a Makoha Kīngi ka puta mai ko taku mātua tīpuna ā Tarumaitawhiti Waiapu. Ka moe ā Tarumaitawhiti Waiapu ki Takirau Pene ka puta mai ko taku kuia ā Harete Temepara. **Nukutere and Mātaatua are my waka. Makeo is my mountain. Waiaua is my river. Ngāti Rua is my hapū. Ōmarumutu is my marae. I'm a descendant of Te Whakatōhea. Over there is my lineage on the back wall of the house. Waiapu Te Tawhiro had a union with Makoha Kīngi and they had my ancestor Tarumaitawhiti Waiapu. Tarumaitawhiti had a union with Takirau Pene and they had my grandmother Harete Temepara.**

Don't let her photo fall you guys. She might have a beautiful smile but she was pretty strict. Yes, my kuia and my koroua are over there. Many of our whānau members say I look like my grandmother and my little brother looks like our grandfather. Her name was Sally Temple but she also had a name called "the Hun" as in the hunter. Āe, he morehu kuia ia ū ana ki āna tikanga i runga i te marae. **She was a surviving matriarch who was committed to tikanga marae.** Short tongue, very sharp too but I respected my kuia for that.

Āe, mai i aku tīpuna kaumātua, ka moe ā Harete Temepara ki a Hoani Temepara nō Te Aitanga ā Hauiti. Taku koroua nō Ūawa. Ka moe rāua tahi ka puta mai ko taku pāpā ā Hoani Temepara, otherwise known as JT. Ka moe ā pāpā ki a māmā te putiputi nō Ngāti Ira taku māmā. Nō te whānau Kūrei. Rua tekau mā rua ngā tamariki a ōku tipuna kuia ā Te Ratahira Tai rāua ko Te Iwi Ware Kūrei. **Yes, from my ancestors, my elders, Harete Temepara had a union with Hoani Temepara from Te Aitanga ā Hauiti. My grandfather is from Ūawa. They married and had my father Hoani Temepara. Dad married mum the beautiful flower of Ngāti Ira. She belongs to the Kūrei whānau. Te Ratahira Tai and Te Iwi Kurei had 22 children.** My mum comes from a family of 22. My mum passed away about eight weeks ago and there is only one left my Uncle Jacob. Yes, and ka puta mai ko ahau **and then they had me**. Ko Bonnie te mātāmua o te whānau. Ko Te Haukairi te teina o te whānau. Kei au tētahi tamāhine ko Tahlia Temple tōna ingoa. Kei Te Whare Wānanga o Waikato ia. **Bonnie is the eldest of the**

whānau. Haukairi is the youngest of my whānau. I have a daughter Tahlia Temple. She is at Waikato University. Kei roto ai ia i te **she is in the** DVC Māori Department i raro i a **under** Sarah Jensen. Tēnei ahau e mihi atu **I acknowledge you all**.

My parents are Hoani and Tarere Temple. I was born and raised here in Ōpōtiki and completed my schooling here in Ōpōtiki. Attended Waioweka Playcentre as a toddler. Attended Ōpōtiki Primary School and then on to Ōpōtiki College. I left Ōpōtiki at the age of 18 and I couldn't wait to leave to go and seek my teacher training in Rotorua. I lived in Rotorua for 22 years and I only recently moved back in 2015. But I spent most of my childhood here at Ōmarumutu Marae and Ōpeke Marae at Waioweka. I was raised closely by both my kuia Harete rāua ko Rata **Harete and Rata**. My upbringing was, yes, truly grounded in their teachings Hāhi Ringatū, ngā tikanga o te marae **tikanga of the marae**, ngā tikanga i roto i te kāuta **tikanga in the back**, and every day was, yes, and I believe with those teachings my grandmother nurtured myself in all those values. So from a young age, I understood that belonging to my marae Ōmarumutu and Ōpeke carried responsibility.

My Nan maintained a large māra kai **garden** which is just at the back of the dining hall. It's an L shaped paddock. At the moment, it is thick with rubbish bush. Yes, so just imagine that my grandmother she had a māra, a huge māra that she worked with her own hands. One of my fondest memories of my grandmother is her rough hands and her black finger nails because she didn't use gloves back then, she just used her hands. But my grandmother was also a farmer. I remember dad saying that they had to milk the cows before they went to kura to get the milk and the cream.

Yes, I used to love touching my grandmother's hands because if we had like a sore joint or something she would rub our joints and those big rough hands would soothe our ailments. I believe as a woman she had big hands; they were really, really huge, and my father possesses those big hands.

Yes, my grandmother worked her whenua at the back of the marae. Built her māra and her māra was a community māra. If there was anything happening here at the marae, her huarākau **fruit**, huawhenua **vegetables**, kūmara, she would give to whatever was happening here or to any whānau around the community.

One of my memories of the garden was my older brother and I would walk down the hill and the road side to go to the urupā there is a well, a spring, so we had to carry buckets and containers now to fill those with water and then hike back up what we thought was a huge hill but as we grew up it wasn't that big. Yes, so we would hike back up the hill and bring the buckets and containers for Nan to sprinkle over her māra **garden**. And then as time progressed Nan got a tap, she got a tap and a hose. Yes, we had fun hosing ourselves, then the māra came second. We would see strawberries pop up and yes, eat the strawberries, then get a growling later.

Nan's māra kai **garden**, I believe, was central to the wellbeing of the hapū. Through her teachings, it taught me to be more responsible about our taiao **environment** and bringing that forward to now and the resilience I suppose back in their days because they had to be pretty resilient in order to survive. Yes, I thank my kuia for that.

My father was also connected to all marae in Te Whakatōhea. My father was one of the main cooks here. He was the one that ran the diesel oven when we had a diesel oven. My father would also go out and provide kill, like poaka **pigs**, tia **deer**. My father also hunted many of these hills, these mountain ranges and that was due to filling up freezes for any kaupapa that would be happening within Te Whakatōhea. Just from his teachings of that taking care manaakitanga, koirā te mea nui manaakitanga te tangata ahakoa ko wai **hospitality, that is what is most important looking after people no matter who they are**. He hunted Takapūtahi Valley, Whitikau, Toatoa, Rawea, Manganuku, Waioweka Gorge, Motu, and it was mainly by horseback and by trekking, hīkoi. Often, he would befriend people who had a jet boat and they would travel up the Motu River to go deep into the mountain range to go

hunting. Yes, I believe with his experiences, it shaped my understanding of leadership as well. Manaakitanga **hospitality**, wēnā momo, āe **those sorts of things, yes**.

My teaching career began in Rotorua. I was enrolled in the Te Rangakura Bilingual Teaching Diploma under Te Whare Wānanga o Raukawa. There was an outpost in Rotorua when I was 18, so as soon as I left Ōpōtiki I moved straight to Rotorua to live with my cousin in Ngongotaha. Teaching overall, not just in Māori-medium but in auraki **mainstream** as well, built a perspective of what education was back then. But my time now teaching in Māori-medium, I believe, it has opened my eyes up to what the struggles are and what I didn't see when I was working in a mainstream kura for nine years in Rotorua. There are, yes, some struggles. The balance is not balancing properly.

I lived in Rotorua for 22 years and then came home in 2015 due to my father been sick. I basically ended up giving up my life to come back and teach and look after my father and raising my daughter at the same time. I left my daughter in Rotorua to finish off her intermediate schooling and then brought her back to Ōpōtiki. I actually didn't school her here in Ōpōtiki but schooled here in Whakatāne at Te Kura o te Taoroa at Trident High School.

Throughout this time, as I lived in Rotorua, I remained close with both hapū and my iwi because I was also a committee member of the Ngāti Rua Sports Club and had been part of the committee for 15 years. I've only just resigned from the committee about five years ago. Yes, remaining close to my ties was very important and also remaining close with my kaumātua when we had plentiful, when there were many kaumātua back in my rā **in the day**. But even with the close relationship when moving back, I realised how important it was to strengthen my understanding of Māori education and where it thrives.

When I first taught at Te Kura o Ōmarumutu, I taught in the new entrance part of the kura. I had never been a new entrant teacher in my entire teaching career. I've always been a senior teacher. When I came back to Ōmarumutu and the principal, my boss then, had suggested I start back in the new entrance

class I was pretty scared but I knew I could do the job. And then I don't know what I was worried about when I first started teaching in the new entrance class because five year olds, six year olds are the best. I believe they shape you to become a better teacher and to have a better insight to what we need to provide for years to come for them, yes.

At that time, Te Kura o Ōmarumutu was then Ōmarumutu School so it was a mainstream school. Although the kura was small, the whānau aspirations for Māori-medium education were strong and longstanding. Under the leadership of the principal at the time Maria Sheriden, the kura began a deliberate phased transition toward Māori-medium education. This process began with year one students in 2016 and progressed year by year allowing students, whānau, and staff to transition with stability and confidence. By 2022 the kura had become a fully immersed Māori-medium kura and that was due to Maria's leadership.

I want to say, Maria, she had outstanding foresight for the vision of the kura. Maria broke barriers where she came and spoke to our kaumātua. She made it her job to book an appointment to see Uncle Te Riaki, Nanny Bobbette and to get their feedback because, before my time at Ōmarumutu School, the kura had no connection to the hapū or the marae. They had no connection to any of the hapū of Te Whakatōhea. So I bless Maria's cotton socks that she took that first step and broke the ice and came and spoke with Uncle Te Riaki and Nanny Bobbette and them. Yes, Maria's leadership was very visionary and she transformed the foundation of the kura and laid the groundwork for what Te Kura o Ōmarumutu has since become.

In 2023 Te Kura o Ōmarumutu became a registered kura ā-iwi. This status reflects the groundings iwi and an iwi authority hapū mandate and accountability to the people of this rohe. The kura exists to serve our whānau and hapū and are shaped by their histories, values, and aspirations.

Under Maria's leadership, myself, and another senior teacher, Bonnie Taia, we developed the Marau ā-Kura (local curriculum) and it was grounded by the importance of being surrounded by our three local marae of Ōmarumutu,

Ōpape, and Waiaua. The curriculum is built around whenua **land**, whakapapa **lineage**, hītori **history**, and te Hāhi Ringatū **the Ringatū faith**. These are not abstract concepts but lived realities for our students and their whānau. Te Kura o Ōmarumutu was the first kura in the region to develop and implement a fully localised curriculum of this nature. Yes, we were the first kura in Ōpōtiki to have our own local curriculum and a working local curriculum at that too. Our Marau ā-Kura has been used by the Ministry of Education, Bay of Plenty office to help guide other kura Māori within the Mātaatua region to formulate their own. This document, alongside our Māramataka Marau has also been used to help guide other kura Māori.

I just want to put a plug in there. My staff and I had a brief kōrero about this kaupapa, the hearing on this week, very well knowing that ngā mata o te marama o tēnei wiki ki roto i a tātou are the Tamatea moon phases. As I get more in-depth and in the brief, for us the Tamatea moon phases are actually tukituki moons so any hui you may have constant battles. But we also know that it is not a good phase to have hui, yes, because of the difference of opinions that will clash and then you won't be able to find an equal ground. We have that in our kura that any Tamatea moon phases that fall during the week, we don't have hui. We don't assess our children because the Tamatea moon phases affect our boys the most and affect our tāne the most. So we did have a slight giggle knowing that the Waitangi Tribunal hui is being held on the Tamatea moon phases. Yes, so that’s just an āwhina mā koutou ki te ū ki te Māramataka mō o ratou māramatanga, āe **assistance for you to remain committed to the calendar and all its phases, yes**. It is also low energy moon phases, so if you are feeling a bit lethargic, koirā **that is why**. Koirā te painga o te Māramataka ki roto i a tātou **so that’s the benefits of the calendar amongst us.**

The Māramataka marau activated within Te Kura o Ōmarumutu is based on the behaviours each moon phase has on the behaviours of our tamariki. Like I just gave an example that it affects the emotions of our boys. I can also say that it does have an effect on our girls and wāhine. That for women they are very mouthy. They can get ketekete, very mouthy, could be smart, and could also

be gossipy. Koirā te āhuatanga o ngā Tamatea ki konei **that is the nature of these Tamatea phases**. I'm not saying that it happens in Te Arawa, Tainui, or Te Taitokerau but ki konei **here**.

We did a five-year research before we implemented this rautaki **strategy** at the beginning of 2025 into the structure of how our school day is timetabled. Our school day is also we use Tamanuiterā **the sun** and his two wives Hine Takurua and Hine Raumati. This term is in Hine Takurua. Hine Raumati is term one and four and Hine Takurua is term two and three **representations of summer and winter**. We change our timetable, like our timing when school starts because during terms two and three it is starting to get a little bit colder. When our children come to school, they go straight into their classrooms because, yes, it's very cold out here in the rural areas. So that's why we changed our timetabling schedule based on all of that research that we did.

This work is particularly significant given Ōmarumutu's history as the site of a Native Land School which was established in 1861. I have a timeline here just speaking on when we changed our name from Ōmarumutu School to Te Kura o Ōmarumutu. It was Ōmarumutu Native School. Then in 1884 the name changed to Ōmarumutu Māori School. In 1940 the name changed from Ōmarumutu Māori School to Ōmarumutu School. And then in 2021 the name changed from Ōmarumutu School to Te Kura o Ōmarumutu. Education in this place has long been used as a mechanism of control and assimilation. The current form of Te Kura Ōmarumutu represents a deliberate reclaiming of education as an expression of iwi authority, cultural continuity, and self-determination.

At the beginning of the transition 2016, the school roll sat at approximately 63 students. From 2016 onward, enrolments increased steadily, and by 2022 the roll exceeded 100 students. Approximately 99% of our students whakapapa to our three local marae. Our main feeder kōhanga are Terere Kōhanga and Te Whare Aroha o te Hūmārie Kōhanga based in the township of Ōpōtiki.

Since transitioning to Māori-medium education, curriculum outcomes have improved consistently year on year. As a transitional kura from mainstream to Māori-medium, te reo Māori is a primary focus. Instilling the basic fundamentals of reo in regards to te puna kupu (vocabulary), rautaki reo (language strategy), and āheinga reo (language capabilities). These fundamentals set the foundation for the reo growth throughout. I did include a data table in my brief which is taken from my tumuaki reports that were tabled at our most recent Poumarumaru hui. The December report is scheduled for our end-of-year outcomes. These must be formally presented at the Poumarumaru hui to inform and set annual targets for the upcoming school year.

Student engagement has strengthened, and whānau confidence in the kura has grown. Our pedagogy, grounded in te ao Māori, supports both academic achievement and the development of strong cultural identity. Te Kura o Ōmarumutu has become a kura that whānau actively choose for their children and in this sense, we're very lucky with our designation that we have a full bus that comes from town. If we didn't have the designation, the zoning is from Tirohanga Road to Ōpape Road, Hinahinanui. With our designation, we are very lucky to have children coming from town. But children that come from town whakapapa back to our whenua. I'm able to name students in the kura and say: “You're so and so’s grandchild, you're so and so’s grandchild,” because 99% of them come from here.

We do have one student from America. Their father is from Te Arawa who married an American. They believe that mātauranga Māori was what suited their whānau. I must say their older son that left for college last year was a very outstanding tamaiti ki te tū ki te mihi **a child that stands and make acknowledgements**, so he could think of things on the spot. Their whānau is a prime example on the importance of why whānau want their children to be immersed in mātauranga Māori.

Te Kura o Ōmarumutu is fortunate to have a teaching staff who are uri o Te Whakatōhea, born and bred. This is appropriate as all staff have experienced the same upbringing and have been taught history, pūrākau

stories et cetera from their mātua tīpuna **ancestors/forebears**. Yes, all my staff have been brought up in Te Hāhi Ringatū **the Ringatū faith**. They know the history of Te Whakatōhea. My staff are Ngāti Ira, Ngāti Ngāhere, Ūpokorehe, Ngāti Patumoana, Ngāi Tamahaua, Ngāti Rua, and also Ngāi Tamatea of Maromahue Marae.

Structural Barriers and Impacts on Tino Rangatiratanga

Despite these outcomes, Te Kura o Ōmarumutu continues to face significant structural barriers imposed by the Crown. Our intention is to establish a wharekura so that our students can continue their education within a Māori-medium, iwi-led pathway in their own rohe. However, the primary pathway presented by the Ministry of Education is that we must first operate as a satellite school under another kura before we can be considered for independence.

We also struggled just to get our name changed from Ōmarumutu School to Te Kura o Ōmarumutu. That process took at least three years. And in that process, we had to notify all the local schools within the Ōpōtiki district region. Schools as far as Nukuhou all the way to Whangaparaoa. We had three kura also oppose our name change, yes. That was the same with informing them that the direction of the kura we were wanting to head towards a wharekura so there were a lot of opposing there as well.

We are deeply apprehensive about this approach, I'm talking about the satellite schooling. Being required to operate as a satellite school places governance, strategic direction, and decision-making outside of our rohe and outside of our iwi authority. It treats iwi capability as conditional rather than inherent and requires us, in practice, to relinquish control over our kura in order to later "prove" that we are capable of exercising that control ourselves. This directly undermines the principle of our tino rangatiratanga and fails to recognise the outcomes we have already achieved as a kura ā-iwi **iwi-based kura**.

We have been told repeatedly that we're only eligible for satellite school arrangement until the Crown is satisfied that we can operate independently.

That's not the only stepping stone. We also have a house crisis, homing crisis, and we also have a teacher shortage. Yes, so this position does not reflect our existing governance structures, our locally developed Marau ā-Kura, our stable and growing roll, or a clear mandate of our whānau and hapū. There is no educational justification for requiring Te Kura o Ōmarumutu to operate under another kura before being recognised as capable of independence.

In seeking to establish a wharekura, we were also required to obtain support from neighbouring schools, these include Ōpōtiki College, Ōpōtiki Primary, St Joseph's Primary, Woodlands School, Ashbrook School, Waiotahe School, Kutarere School, Te Kura o Waioweka, Te Kura o Tōrere, Te Kura Mana Māori o Maraenui, Te Kura o Te Whānau ā Apanui, Te Kura Mana Māori o Whangaparaoa, and Nukuhou North School. The schools that did not support the proposal Ōpōtiki Primary, St Joseph's School, and Waiotahe School. The requirement that iwi must seek approval from another institution to educate their own children entrenches Crown control over Māori education and places external interests ahead of iwi authority and aspirations. Yes, I was very sad that Ōpōtiki Primary opposed our tono to seek becoming a wharekura because I was actually educated at Ōpōtiki Primary School.

The kura also operates within broader socio-economic pressures, including housing shortages and restrictive zoning in Ōpōtiki. At present, we are limited to enrolling five-year-olds students, and students without reo Māori cannot enrol in order to protect language integrity. While this is necessary for language revitalisation, it further constrains our ability to respond to whānau need and limits growth in ways that are not educationally justified.

Conclusion

Te Kura o Ōmarumutu has developed through whānau aspirations, hapū mandate, and demonstrated success. Its growth, locally grounded curriculum, and improving educational outcomes show the strength and effectiveness of an iwi-led education in this rohe.

The barriers, the kura continues to face are structural rather than educational. They reflect ongoing constraints on iwi authority and the exercise of tino rangatiratanga in education. I provide this evidence to assist the Tribunal in understanding both the development of Te Kura o Ōmarumutu and the ways in which Crown process continue to limit Māori control over Māori education in our rohe. Ngā mihi **thank you**.

JUDGE DOOGAN ADDRESSES JONNINA TEMPLE – MIHI, MICROBREAK (12:21:36)

HEARING ADJOURNS: 12.21 PM

1227sn

HEARING RESUMES: 12.27 PM

JUDGE DOOGAN ADDRESSES JONNINA TEMPLE – TE KURA O ŌMARUMUTU (12:27:49)

(12:28) MR HUNT TO JONNINA TEMPLE:

Q. Tēnā koe **greetings** Ms Temple. My name is Daniel Hunt and I'm a lawyer for the Crown. I only have a few quick questions for you. First, I wanted to check, this is just a clarification question, you referred to a document before that had a timeline. Do you know if that's been filed with your materials? I couldn't see it but I wonder if it would be helpful for the Tribunal in any way.

A. Are you referring to the data?

Q. When you referred to it, it had a timeline for Ōmarumutu School.

A. For the school, changing of the school name.

Q. Possibly.

A. Yes.

Q. It was a timeline.

A. Yes, it was but that hasn't been filed.

Q. What was the document?

A. This is our kawenata, the kura kawenata, so the school charter.

Q. I see.

A. Yes.

Q. Okay, thank you. To my questions, they are in relation to paragraph 16 and onwards under the heading 'Structural Barriers and Impacts on Tino Rangatiratanga' and the purpose of my questions really is to check your understanding of some matters that I'll put to you. Check whether we have the same understanding or if you have a different understanding that sort of thing.

A. Okay.

Q. In relation to the kura becoming a wharekura, our understanding from the Ministry of Education is that, while the kura may decide to operate under the satellite model or I think it is also referred to as a teina, –

A. Tuakana.

Q. – a tuakana model that's an option but it's not necessarily a requirement or the primary pathway. Is that your understanding?

A. That's the only option that we were given.

Q. Given in discussions with the Ministry.

A. Yes.

Q. I see. Okay, so we'll go away and check that out.

A. Yes.

Q. But the Ministry's understanding, and I'll just say our understanding, is that a kura can go straight to applying to become a wharekura. They don't need to go through the…

A. I thought that would be the case but that's ever only been the option that has been discussed while meeting with my principal advisor.

Q. Okay. We'll go away and check that and then –

A. Okay, thank you. That'll be cool.

Q. – see what we can do. In terms of how the teina-tuakana model operates, and you talked about having to relinquish governance, our understanding the way it works is the kura would retain governance of its year 1 to 8 students. Is that your understanding?

A. Yes.

Q. And then in relation to year 9 to 13 students-

A. Their governance sits with the satellite school.

Q. Yes, and the satellite school I think they provide support and access to NCEA and things like that.

A. Yes.

Q. That's your understanding as well.

A. Yes, that's my understanding.

Q. Sorry, I'm just going through my notes. One final topic and it's in relation to your paragraph 19 but we don't need to go there but it's where you talk about the requirement to seek the approval of other schools. Our understanding is that that is a requirement where other schools roles might be affected by the kura becoming a wharekura. But otherwise, if that's not the case, the Ministry doesn't hold – it's not a requirement but its consultation is sort of best practice. A sort of 'no surprises' thing for other schools in the area. Is that your understanding of that process as well?

A. Yes, it is an understanding. But when you live in Ōpōtiki it's all about integrity too within the kura. Protection, they want to protect their number, their roles as well as we do.

Q. I see.

A. Yes. If you live in a small community like Ōpōtiki there is a saying: "It's every man and their dog," in Ōpōtiki. If we can protect our school roles as much as possible that's what happens here.

Q. I see.

A. Yes.

Q. Thank you. I said one final matter before but that was a penultimate matter, I've decided; the intricacies of a cross-examination that the judge was referring to before. I don't think that an application has been submitted for Ōmarumutu to become a wharekura. Is that correct?

A. There was an application submitted. Don't quote me, I could be wrong. In possibly 2020 but that's when COVID also struck too.

Q. I see.

A. Yes.

Q. Okay.

A. I am aware at the time that Mr Waru was the advisor in regards to all of this but he has now since moved to property. He could possibly still have that application somewhere filed, Louix Waru.

Q. Louix Waru at MoE –

A. Yes.

Q. – or Ministry of Education.

A. Yes.

Q. So you don't know what became of the 2020…

A. No, because at that time I was only the beginning principal. I might've been six weeks into my job then.

Q. I see.

A. Yes.

Q. Okay. Those are all my questions. Thank you very much for your evidence.

A. Ngā mihi **thank you**.

(12:35) PROFESSOR TOM ROA TO JONNINA TEMPLE:

Q. Āe, mārika. Tēnā koe. Me te nui o te mihi i tō manawanui, koutou kei roto ngā kura pēnei. **Yes, indeed. Greetings. I want to thank you very much for your tolerance all of you in schools like this**. Yes, he manawa kuaka **stamina and persistence**. I've just got a few small pātai. If I go to your paragraph 11, I really like that wording: "These are not abstract concepts but lived realities." Can you expand on that lived reality with respect to whenua **land**, whakapapa **lineage**, hītori **history**, Hāhi Ringatū faith **the Ringatū faith**.

A. Walk the talk. I'll give for an example last year. Our kaupapa last year was all about poropiti **prophets** and our main poropiti at that time is Te Kooti. Our four terms of the year were broken up into sections that hāngai to Te Kooti and his travels. Last year, the kura, and we had probably 90 children, we travelled all over the motu. We ended up in Ngāti Maniapoto.

Q. Ka pai.

A. Āe. We stayed at Rereāmanu Marae. We had a week there and we visited the significant sites and heard Ngāti Maniapoto's kōrero in regards to Te Kooti. Living experiences e pērā ngā experiences, ngā wheako. Another example is tangihanga. When there are tangihanga at our three marae, the tamariki we bring them down ka whakarite i te marae **prepare and get the marae ready**. Nanny Bobbette, I mentioned her earlier, when the kura was transitioning from auraki ki te kura mātauranga Māori **mainstream to a Māori medium school**, at that time, Nan was our guider in how to prepare the whare for tangihanga, how do the mattresses lay, which way the pillowcase openings sit. Having Nan here to teach our tamariki that tikanga. That was a few years ago. I'd say about five years ago. When we get told that there's a tangihanga possibly coming to any of our marae, we bring our tamariki down and they take about half an hour to prep the marae. They set up the wharenui for the tūpāpaku **corpse**. They set up the dining hall for the manuhiri to sit and eat.

Another example is te Hāhi Ringatū, **Ringatū faith**. Our children do the rounds every month, every 11th and 12th of the month. We attend the Hūrai. Because the tuatahi o Hānuere **1st of January** is generally not during school terms but myself and some of my staff attend the Hānuere, because if we're not practicing what we're preaching he aha te pūtake ki te whakaako i ngā tamariki **what is the foundation in terms of teaching the children**. Those are the lived experiences that we want to provide our tamariki.

And another example, and I always tell this kōrero, and it was about karakia. We had a little five-year-old boy who lived just up the road here. His great-grandfather was Koro Isaac Mareroa and his name was Niwa. Niwa was five and his father just bought them a calf. Niwa had watched the calf grow up into be a cow and at that time his cow had to become meat for the freezer.

With mum and dad's explanations: “Niwa, e mōhio koe ehara tēnei kau i tō mōkai **Niwa, you know that this cow is not your pet**. Never think that the cow that we have in the paddock is your pet because he mīti hei whāngai i a tātou **that’s meat to feed us**.” Niwa was very upset at the

time. He thought his pet cow was becoming meat for the freezer so Niwa had an inoi takutaku **prayer**.

His mum videoed him. Hotuhotu ana tana tangi looking out the window and he's having his inoi takutaku to his cow. “E te Atua tiaki pai i a Sponge Bob nā te mea kei te kuhu a Sponge Bob ki roto i te pouaka makariri hei whāngai i ahau me tōku whānau. E te Atua e aroha nui ana ki a Sponge Bob te kau. Ana i runga i tō ingoa tapu, Āmine **God, take care of Sponge Bob because Sponge Bob is going into the freezer to feed me and my whānau. God, I love Sponge Bob very much, the cow. Under your holy name, Amen**.”

So those are lived experiences and we must practice what we preach. If we are setting whāinga **goals** for our tamariki to learn, we must also walk those whāinga. It’s imperative.

Q. Ka pai **good**. Beautiful. Yes, waiwai ana ngā whati ki a **eyes are filled with tears about** Sponge Bob.

A. Yes, there's been a lot of examples where our tamariki have conducted karakia. Jonah was his name, Jonah Wiremu, his grandmother passed away. The week after her tangihanga his mum came into the kura and she was full of tears but also full of pride that her son at the time was 11 and he conducted karakia whakamoemiti **giving thanks** for their grandmother at their whare. Āe, so those are just a few examples.

Q. Mīharo **wonderful**. I'm glad to asked that question. And again, practicing what you preach with Tamatea, we have the same understanding at home about this time and I do apologise that I was late this morning. I had another hui and it's tiring tūturu. Thank you.

In terms of that, you have a phrase again on paragraph 11: “Based on the behaviours each moon phase has on the behaviours of our tamariki.” Can you give us examples of that also please.

A. Okay, Tamatea. So you’ll know I finished speaking about Tamatea but we also have other phases like the Tangaroa moon phases. The Tamatea moon phases are the times when our males there is underlying churning. They're unsettled. And if I could say this, and I don't want to upset any of our ladies, but you could look at the Tamatea moon phases

as the time of the month for males, like we have a time of the month for females.

We can also use the tohu **signs** of our moana **sea**, Te Moana-a-Toi. Tamatea-āio rose at 12.49 on Monday afternoon. At that time, he āio, he noho papa pounamu te moana **the sea is flat**. On Tuesday, Tamatea-ā-ngana rose at 1.20 pm in the afternoon. And if you look at the moana – we're very lucky at Ōmarumutu because we've got our moana and we use those tohu to teach our tamariki – you can start to see the moana is getting rough, so kei te huri, kei te huri, kei te ngana **it's churning and churning**. For us, the undertow in the moana is pulling feelings here, there and everywhere and that's how it is for our tama **boys** at kura.

One of the areas when we know it's coming on to Tamatea moon phases is that our teaching has to be short and sharp and has to be very interesting to keep our boys attention. Otherwise, the best place for us to take our akoako **lessons** is into the forest because that's the place where our tāne **young men** and our taitama **boys** should be on a Tamatea moon phase.

I can say the same put the Tangaroa moon phases. The Tangaroa moon phases are the opposite effect. They are give you pleasure. They give pleasure for the moana **sea** males. Those are the best times for men, for our taitama **boys** to go fishing and do water activities because kua hakua. They are connecting back to the taiao **environment** and they are refreshing their energy through being immersed in the water and being immersed in things that they want to do and not having 20 hui a day. He Tangaroa pērā **that's the Tangaroa phase**.

Orongonui are the cooking phases, so me tunu kai, me tunu ngā kai mai te whenua, mai ngā rākau **cook food from the land and from the trees**. We find the Orongonui moon phases are great times for our tamariki to cook. To have conversations over kai. Like we do when we go for us paramanawa, we sit at the table, we eat, we converse.

Otane in our research that we've done at kura is the balancing. We know is the balancing of your femininity. And for a tāne whether they just – and I'm not being offensive – want to relax and feel feminine. But if they also

are still holding onto their bravado as a man, they have to figure that out on that particular moon phase. We have that with our boys. One minute they want go round singing Taylor Swift songs me kii rā or ki te rere ngā poi **to use poi** and then half the day kua mau kē rātou i o rātou mau rākau and kei te mahi haka **they're using their weapons and the haka**.

He ōrite ki ngā kōtiro **that's similar to the girls**. The girls are exactly the same. One minute they want to play rugby and then the next they want to go and swing their poi, āe.

It could be opposite to anywhere else in New Zealand Aotearoa, we actually find the Whiro or Mutuwhenua Mata o te Mārama **moon phases** are actually our times where we do hui because new ideas, new moon. Even though it's a low energy mean phase, yes, the adverse effect is we're actually hype. Yes, so everybody is just on the same playing field when it comes to those moon phases.

Huna and Ari are definitely our spiritual moon phases. We do have a lot of our tamariki who have that tendency to rongo ā-wairua **feel things spiritually**.

Aroha mai, Ohoata, Ouenuku, Okoro are our kaumātua moon phases. When our tamariki need to be around our elders, we need to get them around our elders. Āe, hopefully that answer your question and I didn't rant and rave.

Q. Please rant, please rant.

A. Yes.

Q. Very good. I'm sort of in the conversation but out of it, there are also certain apps now that you can connect to link in where there are these same kinds of explanations about moon phases and that kind of advice.

A. Āe, yes.

Q. So it is clear to me that the kura has science, social study, Phys-ed, all of these mainstream areas of curriculum and well covered so kia kaha **be strong**.

A. Kia ora. Tēnā koe **thank you**.

Q. I have I think one more question. No, a couple more. Pages 5 and 6 of your table I don't understand the percentages.

A. So that data speaks on the growth of the reo throughout the kura and across the years we have started to become a kura Māori, āe.

Q. Ka pai.

A. The data in these tables show you where we began which was in 2016. As you would know, as a transitioning kura, we would've started low because we would've had a lot of our children coming in me te kore reo **not fluent**. As the years progressed through to now, we still have the odd up and down of our data.

One of the things I do, we have noticed that when our tamariki hit the puberty age and this is a rautaki that we have as a staff and as a whānau need to figure out what it is that at tau whitu, waru, which is 11, 12, 13 year olds, they actually start to fall out a love with the reo. That's a struggle not with just our kura but also with Te Kura o Waioweka, Te Kura o Tōrere, and same with the kura down the coast. I think we have to actively seek a rautaki **strategy** on how to remedy that.

The other thing also is our whānau also need to remember the importance of our reo me ana tikanga. We do have a core group of whānau that are committed to mātauranga **knowledge** Māori and te reo, āe. Because I often remind my whānau that: “We only have your tamariki for five and a half hours or six hours at the most and you have them for the remainder,” so it's a partnership. And in the enrolment process also is: “How are you going to show your commitment to the kaupapa of the kura and te reo?”

Q. Essential.

A. Essential definitely. I just want to also say the māramataka the majority of referencing and our noho all our research was done alongside Rangi Mātāmua but also our own people, Uncle Buster Mio from Ngāi Tai, his daughter Ashley Mio, and also ngā whakaakoranga a **teachings of** Koro Bill Tawhai nō Omaio **from Omaio**, Te Rina Ransfield also.

Q. And we mourned the passing of Bill.

A. Āe, yes.

Q. As I understand it, eight weeks ago your –

A. Taku māmā **mother**.

Q. – mother, ka aroha **I sympathise**. I've just got one more and that's the broader socio-economic pressures, so there's the education, the housing, employment et cetera. How do you and the kura address those?

A. Yes. I'm waimarie **lucky** that I do have a positive relationship with the Education Manager of our iwi and I know the iwi has supported our kura 100% and thank Hohepa for that, Hohepa Hei. But it is, it is a constant battle for housing in our rohe and I know that we are in a very demanding place where there are not enough kaiako **teachers**. I myself am having to do teaching too, if need be. Yes, the struggles are real but I don't know what else we could do economically, unless my whānau around here want to give us some whenua **land** to build whānau homes for kaiako. Because we do have kaiako from Ngāti Rua living in the biggest cities wanting to return home but we can't house them.

I think as kura Māori we just adapt, we're just resilient, and I can't thank my staff enough. Because sometimes when we don't have a reliever, we have to have double classrooms and you can get 30 something kids in one class and that's not healthy for a kaiako. I'm very thankful for my staff, for our staff, and they know that, even though ētahi wā ka amuamu mai te manawa **sometimes we'll complain from the heart** of course.

Q. Of course. Those are all my questions. I do note that, in his evidence Hohepa is also very complimentary of you and in that evidence too, he shows how he plans to address those broader issues –

A. Āe, yes.

Q. – that beset all of our kura in all of our iwi.

A. Yes.

Q. Heoi anō, tēnā koe **nonetheless, thank you**.

A. Tēnā koe matua **thank you elder**.

Q. Kia kaha, kia māia. And i kite atu ana au i ngā tamariki tō manaaki i a rātou me tā rātou manaaki i a koe. **Be strong and courageous. I can see the children look after you and you have looked after them.**

A. They are probably thinking: "Why is whaea speaking English?" I know they are.

Q. Te take ko te kaipātai i a koe ka kōrero Pākehā ana. Kia ora e kare. **The reason is because the questioner is asking in English. Thank you.**

(12:58) PRUE KAPUA TO JONNINA TEMPLE:

Q. Kia ora Ms Temple. Ngā mihi ki a koe mō tō kōrero **thank you for what you said**. I just had a question of clarification really, in paragraph 20 when you refer to the limits to enrolling five year olds and that students without reo Māori cannot enrol. In an ideal world, I suppose, in a world that isn't perhaps restricted by some of these conditions, I am assuming, first of all, that those were the conditions imposed on the kura operating. Would you see in the future to reflect the aspirations I guess of whānau that those would be less or that you would be able to determine yourselves what or who the tauira will be and so on?

A. Yes, kei te tika koe **you are correct** that's our aspiration and we are starting to see a change within our whānau who are committing to te reo Māori with their tamariki enrolling them in kōhanga reo and bringing them through. But I must say, if we do have a tamaiti who comes and has been totally immersed in English sit amongst akomanga **classroom** where it is daily te reo, it can actually become very frightening for them. It might also be unfair for our tamariki who have been immersed in te reo Māori for let's say three or four years and then we have a tamaiti like that comes in and is constantly kōrero Pākehā. There is a balance there that we have to protect, yes.

Q. Presumably, in a resourced situation, you would be able to meet all of those.

A. Āe, yes, and a teaching resourced way.

Q. Āe.

A. Yes, kia ora.

Q. Thank you.

(13:01) DR GRANT PHILLIPSON TO JONNINA TEMPLE:

Q. Tēnā koe Ms Temple. Thank you very much for your evidence and for your oral presentation as well has expanded on some issues. It wasn't clear to me when I read your brief whether you were trying to set up a new wharekura or expand your own school so that it goes all the way from year one through to the end of secondary.

A. Yes, expand the kura.

Q. I see.

A. Yes.

Q. Yes, thank you. How many teachers and students do you currently have?

A. I have five staff and at the moment our roll is at 70. We have just had an influx of eight five year olds just the past two weeks and we've still got more five year olds starting in Term 2. The new entrant class is actually where the growth is in our kura. Yes, every term we're likely to have at least five or six tamariki start at the beginning of each term.

Q. The aspiration to establish a wharekura is it because at the end of your period there is nowhere for them to go to carry it on?

A. That is one of the issues. We do have Ōpōtiki College and they do have the Maurua unit. I'm also a foundation student of the Maurua unit at Ōpōtiki College. That unit was basically put in place for us because we came from Te Kura Kaupapa Māori o Manaakitia Ōpōtiki. There were 13 of us and we were the first 13 year olds in Aotearoa to pass back then our school certificate. The principal then, Muriwai Jones, she had gone into discussions with the principal of Ōpōtiki College at the time, to establish a space where we could continue on with our reo. However, on enrolling my mother was told that it was a bilingual unit so it was 20% Māori, 80% English. As we did our schooling there, we only had te reo Māori and maths in Māori at the time and everything else was done in English.

That still is the only option in Ōpōtiki at the moment, hence, why a wharekura is necessary for our kura. In discussions, kanohi-ki-te-kanohi discussions which other tumuaki have stated that this is not an iwi wharekura. It is not a Te Whakatōhea wharekura and I've always stated that. This is Te Kura o Ōmarumutu. Everything will continue to run as Te Kura o Ōmarumutu not an iwi wharekura.

Q. Okay, thank you. I have to think about that. Because that distinctions not quite clear to me from what you've already said about how you operate.

A. Yes.

Q. Yes.

A. Because we're a kura ā-iwi, it makes more sense to sit as an ā-iwi. But our authority in kura ā-iwi is the mana whenua which is Ngāti Rua.

Q. Yes, right. Just my last question, I did have a question about why you needed the consent of those other schools but I think that's been cleared up.

A. Yes.

Q. It is about something you said not in your written brief but you said that your kuia taught you about the taiao –

A. Āe.

Q. – and I'm interested to know more about how she did that, how that process worked, and how that might've shaped how you operate now as a teacher in the school yourself.

A. Living experiences just like what Matua Tame Roa said. Everywhere my grandmother went we went and everything was whenua, taiao based. All her teachings: "This is how you plant the kūmara. This is your maths how far part can you plant your seeds. This is your science and it can be math as well, how much litres of water do you put on your māra." Living experiences I believe is what my grandmother had also instilled. Not just my grandmother from here but my grandmother from Waioweka, her skillset was based around the awa, tuna **eel**, inanga **whitebait**, the proper moon phases on when to go and hī **catch** tuna **eels**. I thank my grandmothers for that and I only wish that I had taught my daughter about what I was taught. But as the generations change so do we, yes, technology comes in and so does she.

Q. Yes. And of course it depends where you are as well.

A. It depends where we are, yes. And because I was lucky to be born and bred here in Ōpōtiki and then I was ready to leave Ōpōtiki to go and seek a career. Because my father was: "You're not staying here. You need to go and get a career." Yes, he was very strict like that. Even when I would pine to come back to Ōpōtiki, he was like: "No, you stay over there. Nothing back home yet." But my father would always reiterate: "When you do spend your final times in Te Arawa, come home and give back to your people," and that's what I've done. I absolutely loved my time living in Te Arawa and I thanked Te Arawa for nurturing myself and my daughter. My daughter was born here but bred in Te Arawa. She believes she is Te Arawa, even though me kimi whakapapa **find her**

whakapapa, and that's all because of their teachings. Living experiences pai tērā kupu **that's a good word**.

Q. Yes. Āe, kia ora. And because of where you are with Ōhiwa Harbour and everything you were lucky enough to be able to pass on some of those lessons now.

A. Yes.

Q. Yes.

A. And because our tamariki-

Q. Because those resources survived.

A. Āe, and we're very lucky where our kura is situated we're just half a kilometre up the road. We utilise our awa and our tātahi all the time. We utilise our forests. It's not just in the whenua of Ngāti Rua but we also go out of the district. Our tamariki of our kura have climbed Onekawa Te Māwhai. A lot of the tamariki are hands on children so a lot of our teaching still has to reflect them. We've got fishermen, we've got divers in our children and they like to still be children and ride their scooters and skateboards or bikes and go swimming. Yes, we're lucky where we are here in Ōpōtiki.

Q. Thank you very much for your evidence. Those were all my questions.

A. Ngā mihi.

(13:09) JUDGE DOOGAN TO JONNINA TEMPLE:

Q. I've only got just a couple of very quick, if you don't mind. One is just following on from Dr Phillipson, and I think you covered it in your brief and in the kōrero, about essentially the mandate of the kura as a kura ā--iwi for the Ōmarumutu rohe and that encompasses the three marae and you also describe what I think are the boundaries out towards one of the roads towards Ōpōtiki. What road was that?

A. Tirohanga Road.

Q. Tirohanga.

A. So that was their original school zone.

Q. Okay.

A. If we didn't become a designated kura, not the kura ā-iwi, I think it's 156, then we wouldn't be able to get any students past that school zone.

Q. Right.

A. Yes. I would've had to ring the principals in town, because a lot of our kids come from there, and if they live near those schools in town, my job was to ring the principal and ask them: “Can this student please come to our kura.”

Q. Āe.

A. That was the process.

Q. Āe. And that issue you talked about, I know Mr Hunt is going to file a little bit more information –

A. Yes.

Q. – about the Ministry policy in terms of whether or not those other kura have a power to consent or veto or whether it's a bit different. But as I understand the big picture, the issue for all of the kura and it's not the issue can find to here, but the policy that the resources follow the student numbers affects all schools –

A. Āe.

Q. – in that kind of anxiety that if the role varies significantly year to year you're vulnerable to quite big resource shifts in your funding.

A. Yes, āe, you’re right.

Q. And that I think is one of the issues driving this problem, –

A. Yes, it is.

Q. – let alone all the other issues about trying to keep the integrity of the kaupapa which is quite distinct from some of the other kura.

A. Āe.

Q. I've understood the issue, all right.

A. You’re right, Judge.

Q. Just lastly on that point you raised about what you see when the tamariki reach puberty and the loss of love for the reo, one of the privileges we have when we sit in this Tribunal is the range of members we're fortunate to sit with. I just wanted to note because I'm aware from some presentations and kōrero I've heard from Professor Rawinia Higgins that her team and others have done quite a lot of research around this very issue.

A. Yes.

Q. You're probably aware of it but if not I simply mention it.

A. Yes.

Q. And what struck me, and I'm way over-simplifying the research, but what they were finding was a lot of the factors are in fact the pressures that tamariki feel from the wider society. It is not what is happening here. It is what they are receiving and what they are hearing.

A. Yes, that is definitely part of it.

Q. Yes.

A. We have had that experience at a community event where our tamariki have attended a netball tournament in town. At the time, one of my Year 8 were helping coach a Year 1 and 2 team (five and six-year-old team) and she knew that she had to speak te reo Māori to our tamariki so she did that. She was approached by the opposition team, a parent from the opposition team, and she was told: "Stop speaking that reo. How do we know you're not telling your tamariki to kick our tamariki." When she came back very upset, and I assured her: "You didn't do anything wrong but I need to know which kura it came from." As soon as I was informed of the kura, I was straight on the phone and speaking to their tumuaki. He was absolutely appalled at the behaviour of one of his parents.

Q. All right.

A. Another thing is we're very lucky that we've got a good Principal Association and a lot of us we know each other. Yes, that is an example.

Q. Āe, thank you. I just wanted to tautoko the mihi Professor Roa and others have given you for your evidence and for the mahi you and your team are doing. Thank you very much. You've shared a great deal of light on a whole range of issues and we're very grateful. I probably just finished by wishing the tamariki well for the regionals, kia kaha **be strong**, and thank you.

(13:15) MR POTAKA TO JONNINA TEMPLE:

Q. It is simply to follow from what the Crown had raised earlier just around the process of becoming a wharekura from the kura ā-iwi. I just wondered whether Ms Temple if you can expand on that process of who you met

with from the Ministry and how long it took in terms of expressing your wish to expand from that kura a-iwi to a wharekura.

A. There's a big difference between kura ā-iwi and wharekura. A kura ā-iwi they are kind of like our NZEI type. I raro mātou i a rātou hei hāpai i mātou ngā kura Māori **we're under them to support Māori schools**. In regards to that, my tumuaki advisors at the time were Puti Gardiner and what's his name Mr Messam. I can't remember his first name, yes, but his surname is Messam. Riria Kira was actually the Principal Advisor but she's left to go to another department within the Ministry. She was actually very good in trying to hurry or find avenues where we could get the process kicked off properly, yes.

Q. And since then-

A. Ramon Messam is his name.

Q. Ramon Messam, ka pai. All right. Since the time that process kind of kicked off, how long has that journey been for the kura?

A. Seven years.

Q. Ka pai, seven years. As you mentioned earlier, the only option you've been provided –

A. At this point, yes.

Q. – at this point is to go under the tuakana-teina satellite model.

A. Āe.

Q. Ka pai. That concludes my questions. Tēnā koe, e rere hoki ana ki a koe e te whaea. Ngā mihi nui. **I want to thank you whaea. Thank you very much.**

HAKA TAUTOKO (TE KURA O ŌMARUMUTU)

MR POTAKA ADDRESSES JUDGE DOOGAN – TIMETABLING MATTERS (13:20:52)

JUDGE DOOGAN ADDRESSES MR POTAKA – CONFIRMATION OF UPDATED TIMETABLE (13:21:50)

HEARING ADJOURNS: 1.21 PM

HEARING RESUMES: 2.18 PM

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (14:18:46)

(14:19) MR POTAKA TO DR ANDREW BROWN, LYNDA WALTER:

Q. Thank you Dr Andy Brown and Ms Lynda Walter for your flexibility in your schedule this afternoon. I hope you've enjoyed your time looking out to the vista of Ōmarumutu. I wanted to touch on the points we were raising earlier around Te Tarata and I've got a couple of questions there and then I'm going to turn to some more local sites here, in particular Mākeo. But first things first, the LiDAR review identified 220 potential unrecorded sites across the study area. Did any of those potential sites fall within the immediate vicinity of Te Tarata? And if so, how do you categorise them? Are they consistent with pre-existing Māori occupation pre-dating 1865 before the battle?

A. [Dr Andrew Brown] The 220 sites were the sites that we found in the Ngāti Rua study area. Alongside that, I don't know the precise number but I'd speculate, were 150-odd sites in the Ōhiwa area and not that many more in the Waioweka. Let's just say for the sake of argument, 300 extra sites across the three study areas as a conservative number. The 220 specifically refers to Ngāti Rua study area.

With respect to the second part of your question, aside from the historical references the survey plan that I showed, which shows the location of what maybe say for instance kāinga, and then we used the topography to map that and found that they are consistent with the underlying topography and sighting those on high ground. But there's no direct physical evidence of those per sé from the LiDAR. In the immediate vicinity of Te Tarata, there weren't any new sites. But in keeping with the broader kōrero, we would expect there to be far more sites there, than we can set at the moment. And reflecting the fact that it's a fairly well ploughed environment, a lot of the sites will be heavily masked.

Q. This may be somewhat repetitive from what my senior Ms Sykes said earlier but, do you think you're able to commit further research in that particular location to discover that?

A. I mean we certainly could. We're not suggesting necessarily as part of this that we do but we could certainly do it, either a separate kōrero, as I say, associated or a separate kaupapa associated with the Whakatōhea post-settlement entity or the appropriate people for sure. I'm not necessarily suggesting as part of this inquiry, although it could be done for sure.

There's instances I have. I can show a couple of instances of what the geophysics looks like, if people are interested or if that's relevant, which is ultimately what we'd be looking to do around somewhere like Te Tarata. Sites outside of that, it's a little bit of a needle in a haystack situation in as much as, you can certainly say, this is the general area that you'd expect sites but doing keyhole things may or may not find them. The better management option would be having things, like they have in the Tairāwhiti where they have like, what's the proper name for it?

[Lynda Walter] It's the archaeological alert layer. In Tairāwhiti, the Tairāwhiti Regional Management Plan, which is their district plan essentially, they have a system called the archaeological alert layer which is part of Tairāwhiti Maps and it's part of their planning processes. It's a predictive layer of where you might expect unrecorded archaeological sites to be and they have rules associated with that layer in their district plan. So that's a planning remedy to deal with, as Andy says, searching for individual sites is a needle in haystack process but there are some planning remedies that can be taken.

[Dr Andrew Brown] What we'd really prefer is to have a one of a bit of term a target that we can apply research to. For instance, that Te Tarata alternative location would be excellent because that's where you can deploy a set of resource on a specific area for a specific outcome. If people want to see the geophysics, I do have a picture of that up. I appreciate that it may not be relevant to the court.

JUDGE DOOGAN TO DR ANDREW BROWN – DISPLAY PICTURE

This is an example. There's several different ways you can carry out geophysics. It sort of empathised that these are techniques that are non-invasive. They are involved with just sort of walking in grid patterns across a grass area.

The thing on your screen – I can try and make it a bit bigger – if you know what a redoubt looks like, it's a square structure with bastions on each corner to provide the ability to fire along these edges.

This is an example from near where I whakapapa to in Taranaki. This is the Normanby Redoubt. What you're seeing there that that light shade going across here that's the outline of the old redoubt and that's just sitting there. This is example is geomagnetic so it's measuring the difference between the ambient magnetics and that that's coming from the ground. These big polarities here the black and the white that represents metal. This is particularly useful when you're looking at sites with a lot of hāngī for example. The hāngī will show up really clearly. This is just an example of one such site that's of a similar date and a redoubt site; it's European albeit. So that's the sort of thing that you can get that provides you with a little bit more of a target.

And then I do have another example but it's probably not really as clear but I think you probably get the point that that's the possibilities. And there is another example of ground penetrating radar as well that does more or less the same thing.

Q. Thank you that's very helpful. As I was walking across the marae ātea just before, I was looking up at Mākeo and it made me think of this next question I have. Mākeo is identified as the dominant central pā in the rohe with the total defended area of approximately 5.3 acres and it has the highest intervisibility values in the study area you mention. How does Te Tarata relate spatially and functionally to Mākeo within your landscape analysis? Was it within Mākeo's zone of visibility and influence?

A. No. This is all the recorded archaeological sites in New Zealand so we're a bit far out. I can turn on the aerial base map and hopefully it will come up in a minute. Sorry, the aerial base map is not coming up. Basically, where Hanaia is the large hill country over there, Mākeo's visibility is effectively stopped by that, at the Tirohanga Point and that's what I would

call the edge of the catchment. Te Tarata is obviously down in that next Waioweka-Otara kind of area. The visibility analysis from Mākeo would have stopped at roughly Hanaia. Yes, they're sort of different catchments.

Q. Ka pai, thank you for that. I want to turn now to your comments around the raupatu. You draw a direct connection between Te Raupatu o Te Whakatōhea and the subsequent destruction and masking of the Māori cultural landscape. In your expert opinion, to what extent did the military activity at and around Te Tarata contribute to the destruction of pre-existing Māori archaeological sites in that immediate area?

A. I think the military activity, it is evident from the histories, had a significant impact on kāinga for certain because they were burnt. Obviously, Te Tarata itself was destroyed. But I think the extent to which the military activity destroyed the sites is interesting or destroyed the majority of the cultural landscape because – I don't know Lynda might disagree – my view on that would be that, in actual fact, it was probably the process that that military activity started, which is the land development over the last 160-odd years that's probably more responsible for it, which is about soldier settlement and land clearance and all that sort of thing. You can see in that 1866 map that there's elements of that. The Māori cultivations are shown in that survey plan, so there's obviously aspects of that landscape that are still sitting there that haven't been totally destroyed, even though they may have been heavily altered. My suspicion is that probably if you're mapped it, it would be in the period post-1865 that would have more of an impact. It's just an impression.

Q. That's very helpful, thank you. I've just got one last line of questioning for you and it's more of a modern question. In your oral submissions today, you referred to work you've conducted in the likes of Whakatāne and Tauranga where additional sites have been identified or are well-recorded in the data. But in comparison here in Te Whakatōhea it's not quite the same. Can you explain why that maybe?

A. [Lynda Walter] As I alluded to in our presentation, you start off with a process early on of our volunteers basically recording archaeological sites in the 1950s and some of that initial recording was determined by

how active historical societies might be. For example, in the Eastern Bay of Plenty, you have the Whakatāne District Historical Society based in Whakatāne. Immediately, the first things they did were record the sites that were close to home and then it depended on if you had interested people in other areas. So that recording process starts, you start getting some dots on the map. And then over time, as it moved into the pace of land development accelerating, the surveys that were being driven by then Historic Places Trust concern about loss of sites was driven in combination with land development pressure.

One of the things that happened in the 1980s in the Western Bay of Plenty was the kiwifruit boom which was one of the first major systematic modifications of the land form. There were lots of archaeological surveys done in conjunction with that kiwifruit boom. The development of large scales subdivisions, like the Papamoa Dune Plain in the early 1990s. There were large archaeological programmes in conjunction with those sorts of developments so you get lots of archaeological site recording going on.

Whereas in the Eastern Bay of Plenty the pace of development has been slower over that period and so there hasn't been the impetus for primarily Heritage New Zealand (or the former Historic Places Trust) to drive that need for site recording. We end up in the situation we are now where the Western Bay of Plenty ongoing heavy development pressure, lots of archaeological survey happening.

I'm sorry, can we have the map up and this is illustrated. What we've ended up with now is this desperate recording and under-recording of archaeological sites in the Ōpōtiki district compared to the rest of the Bay of Plenty. I'm just trying to illustrate that. I'm sorry we're not having much luck.

TECHNICAL ISSUE – LINK CRASHED

Q. That's fine. We can accept that for now. That concludes my questions that I had prepared for you at this stage. Thank you both.

(14:39) MS EVE RONGO TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua **greetings to you both** Ms Walter and Dr Brown. My name is Eve Rongo. I represent Ngāi Tai, the iwi that are just to the east of Ngāti Rua. I want to thank you for your evidence. It really feels like you're peeling back the effects of time to help us see what we've only read and heard about so I really appreciate the mahi that you've done.

We have a urupā back home in Porirua that's been used for 200 years and the problem we had is that we still use it. There are times where we go to dig it hole for a whānau member that has passed and we come across kōiwi there, our whānau that are already there. We hooked up with some Victoria University researchers that helped us to identify what they call anomalies in the ground. Is that type of scanning that they did to help us identify our whānau members is that what you were thinking that could be done at Te Tarata?

A. [Dr Andrew Brown] Yes.

Q. Āe, okay. It's quite beneficials, isn't it, because it's non-invasive and you just need to be over the land. That's right.

A. That's right, yes.

Q. Do you know how far away the technology is that can do that through a drone where you don't actually have to be on the land?

A. There are some techniques. Like the map that I showed was done not with GPR but with another type of equipment called Geomag and that can be done with a drone now. But, in essence, it doesn't really matter. I mean from the perspective of the technique it doesn't make it better than being done by a drone, nor does it make it less invasive or anything like that, as long as you don't consider walking on the whenua invasive. But yes, the drone technology is largely there because it allows you to fly. These techniques rely on walking pace and keeping a constant walking pace across a 20-metre grid. The drone of course automates that and creates really level even data.

Q. Okay.

A. The technology is there now but it's probably not hugely different in terms of results for this sort of work.

Q. Okay, that's really helpful. You say in your report that archaeological data is too core screened to distinguish between subgroups, for instance, different iwi or different hapū. Were you able to analyse the material that you found in the middens?

A. No, this exercise was purely desk-based so we didn't look at them. We have done some midden analysis for other projects that we've been involved within this area. But for this project it was just about counting where they are and kind of considering the landscape as a whole. No, we didn't look at the middens specifically for this.

Q. Okay, that's brilliant. Those are all my questions. Thank you.

(14:42) MS SWEDLUND TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua. Ko Ms Swedlund tōku ingoa. **Greetings. My name is Ms Swedlund.** I represent three claims from Te Ūpokorehe, which is Wai 1787, Wai 1092, and Wai 3272. I've just got a few questions relating specifically to your report on Ōhiwa, which for the record is at #C043(e). As you've said previously, this was largely or entirely a desk-based exercise to prepare this report. Just to clarify, in the preparation of this report whether you held any hui with claimant groups.

A. [Dr Andrew Brown] No, yes, including the claim of groups that commissioned us.

Q. Āe. Did this mean that to construct sort of the historical narratives of Ōhiwa as distinct from the archaeological data and interpretation of that data you relied largely on secondary sources? Would that be correct?

A. Yes, I guess so, if I understand your question.

Q. Yes. There is the archaeological data and then the interpretation of that data and what that can tell you and then there is the historical narratives around the-

A. Absolutely, yes. I'm sorry, yes, absolutely.

Q. Yes, perfect. And then just turning to page 18 of your report and just the third paragraph down your reference to a battle between Te Whakatōhea and Ngāti Awa in the Ōhiwa Harbour. Let me know when you've got to that. Okay. You would accept that this reference to Whakatōhea isn't intended to be exclusive of other iwi that took part in this battle?

A. Yes, we accept that absolutely.

Q. Great. It was taken directly from that source the Lyall, *Whakatōhea*.

A. That's right.

Q. Great. Thank you very much. Those are my questions.

(14:55) MR SHARP TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua. **Greetings to you both.** My name is Michael Sharp. I represent some claimants from Ngāti Muriwai and they got one of the blocks in the Ōpape Reserve 3A which is within the area that you're looking at. The first question I have it relates to Mākeo Pā, which you talked about. I wonder if we could bring up the figure 25 on page 43. The question I have is you've got a number of pā sites marked there and you've got a very intense area around Mākeo Pā. Are you able to say which one is Mākeo Pā?

A. [Dr Andrew Brown] That's a good question. The big one at the top there. This probably seems a bit odd and to get in the weeds but what we tried to do with this is to be conservative. In order to be conservative in this sort of analysis, you need to treat individual units as individual units. You can see that cluster, there's two larger clusters in the middle or two larger dots in the middle, and they represent the uppermost part of the Mākeo Maunga so you might call them Mākeo Pā. But you can see the sort of halo of other sites around that that are still on that maunga but for this analysis what we did was split them off and treat them as individual entities.

You could argue that if we amalgamated them, it would affect the distribution a little bit but I think it would still end up being more clustered. We would still have that large cluster.

To answer your question the bigger dots represent the two highest points on Mākeo maunga and so I suppose you call them Mākeo Pā. But the precise naming of that, I would leave to somebody like Dr Amoamo because he would know off the top of his head, I'm sure.

Q. Thank you. Obviously, that's a very intense area of settlement in days gone past.

A. Yes.

Q. So that map would seem to indicate that.

A. Absolutely.

Q. The epicentre of whatever settlement was there.

A. I think so, yes.

Q. The other question I had is you talk about different aging of the different sites. Is there any specific aging of those sites there that you could refer to?

A. No. In general terms, I think it's slightly limited. But the evidence that we have in general terms across the North Island of New Zealand is that pā come in somewhere about 1500 AD. There is a period of time there, perhaps 200 years, where you could consider people settling into the landscape before they begin to defend elements of it. In general terms, the sites you're looking at there are palimpsest or could be regarded as palimpsest existing within that period and also re-existing. What I'm saying is you could have pā there from 1550 and pā there from 1750 and they might be the same pā that is reused; there might be new ones. But what we generally find on the landscape is even the sort of defunct sites have got some bearing on where other ones are placed. Age-wise the simple question is post-1500 but there is no specific radiocarbon dates that would lock that down further, nor is there really material culture that would provide any reliable sense of 1750 or 1800 or something like that.

Q. Thank you. Now the next map I want to refer you to is, if we can go to page 50 of your report at figure 28, and that is a map from the nineteenth century. You've got a little rectangle around an area that's called Native Settlement. I'm just trying to identify in the sort of system of pā sites that you marked for Mākeo Pā, does that extend into that area?

A. Yes, it does. Hard to explain. The system that we showed you before, you can see Mākeo actually marked on that map. Just immediately left of the red circle, we probably cut the 'O' off in Mākeo. I can get the pointer; it's easier. That there is Mākeo. This is the Hanaia Range coming along here, or Hanaia there coming down to Tirohanga, and here's the Ōtara River over here. This map is very similar to the previous map in terms of its scope or in terms of what it's showing. You have

Mākeo and then the river system is going back and then Ōpape is sort of up at the coast.

Q. Now my clients tell me that that settlement there in the nineteenth century was called Te Waiti or Te Whaiti because it's along Te Waiti stream.

A. Stream.

Q. It was a settlement there where some of their tūpuna lived but it's not there at the moment. Did you come across those references?

A. No is a short answer.

Q. Yes.

A. No.

Q. My understanding of the geography of that area is that it's a river flat area with them cliffs nearby. That's your understanding.

A. Yes.

Q. Now, the other part of your report, I just want to refer you to page 27 of your report. Sorry, under the heading '4.4 Post-1870' you're talking about the Native Land Court in the area and you're talking about the Whitikau hearing and you say in the sentence: "Though Whitikau was traditionally Whakatōhea land, it was awarded by the Crown to Ngāi Tai. It's a similar questions to Ms Swedlund referred to you, that you're just making observations on secondary sources. Is that correct?

A. That's correct, yes.

Q. Yes. The two sources that you refer to is Ranginui Walker's book. I was just trying to locate the page of that because the only reference I can see in Ranginui Walker's book to that is pages 138 and 139 refer to Whitikau, refers to Panenehu occupation, loss to Ngāi Tai, then the court preferring Ngāi Tai given their defeat to Panenehu. Is there any other reference you can point me to in Walker's book that it was Whakatōhea?

A. We'd have to check. I think, we'd have to go back and check that reference to be honest, yes.

Q. Thank you. The other reference you've got note 54, you refer to Paku Eruera's evidence at the Ōamaru hearing but once again, the only reference I considered Whitikau there was at 3 OPO 265 when Paku discussed how the Whitikau block was claimed through his descendent, Whareru, and awarded some Ngāi Tai, including himself. Once again, I

can't find a reference to it being a Whakatōhea area but actually, can you check that for me as well.

A. Yes, absolutely.

Q. Yes, thank you. Thank you for your answers to all my questions.

(14:51) MS CLARK TO DR ANDREW BROWN, LYNDA WALTER:

Q. I will also stand since we're in the afternoon dead zone in an attempt to bring a little bit of dynamism to this. Tēnā kōrua . Ko Clark tōku ingoa. **Thanks to you both. My name is Ms Clark.** The questions that I have for you today are on behalf of Ngāi Tamahaua. As you may or may not be aware, their central marae and pā is at Ōpape just along the road from here. My first question is that you would agree that your report does not differentiate at the level of hapū distinctions in the landscape that you reviewed for this report?

A. [Dr Andrew Brown] Yes, we would absolutely agree with you.

Q. Thank you. Do you agree that we can use your report as proof of the cultural landscape that existed in this area and that perhaps we've only up until now heard of her traditional kōrero about, we can use your report as proof of that cultural landscape's existence in this area?

A. Certainly, the physical remains of the cultural landscape, yes.

Q. Ka pai, thank you. Do you agree that your report demonstrates that Māori of this area had a dense and extensive system of settlement, resource use and management, and indeed, authority over this area?

A. I think certainly the first bit. We could confirm in the second bit there's clearly a large amount of defended settlements and things like that which suggests some degree of control over certain areas and that's probably as far as I could go with it.

Q. I think you also have mentioned strategic positioning of pā, which are clearly for the purpose of surveillance of comings and goings, et cetera.

A. Yes, I agree with that. Particularly, probably the most obvious one that comes to mind is somewhere around the Waioweka gorge the mouth of that where there's big concentration at what would've been a really critical part in the landscape to control and to be able to surveyal from I imagine.

Q. Along with some other examples.

A. Yes, there would be others. I would just have to search my brains a little bit more but, yes, there would be others certainly. I think all pā are sited with some degree of strategy in mind, be it being close to resources for immediate retreat or something like that and then there are obviously those bigger ones where, as I say, it's about control and visibility and things like that. Yes, there are certainly others here.

Q. Thank you. You had something of a conversation with my friend Ms Feint earlier regarding dating of certain sites. The narrative, as I have heard it and as I understand it, is that this area has been settled from the very earliest times of settlement in New Zealand and by that, I'm referring to the arrive of the Nukutere waka, which I understand is one of the earlier waka arrivals, which was then subsequently followed by later waka arrivals and the people of those later waka intermingled with the existing people of this area and increased presence in this area. Does your report and the sites that you've investigated and to the extent that you're able to put a date on those sites, does that narrative line up some very early sites flowing through to later and more intensive settlement?

A. I think the general narrative around there being certainly very early settlement followed by what you might call an infilling of the landscape as population increases and people start using more of the landscape and clearing trees and what not to allow them to do that is certainly true. My expertise wouldn't extend to their association of things like the Nukutere waka. I'd leave that to Dr Amoamo and others. Yes, that's that intangible element that we can't get to. But certainly, the archaeology suggests that general trajectory that you're talking about from a small number of early sites to a larger number of later sites and what was fairly dense occupation.

Q. Thank you. I want to touch on wetlands because that is something that we Ngāi Tamahaua has brought evidence on the traditional importance of wetlands and tell me if you agree that *your* research has confirmed the importance of wetlands to Māori. Would you agree with that?

A. I wouldn't say that this particular research confirms the importance of wetlands. What I would say is that the general increase in archaeology, particularly in the Western Bay and moving across to here, has clearly

given the impression that wetlands are very important in the past and we have evidence of sites that sit very near those wetlands, and you would have to I think connect those wetlands as a source of resources, both in terms of food and cortege and whatnot. But this particular research, I wouldn't say that this particular research confirmed that. I would say the research that has gone on in its entirety, across particularly the Bay of Plenty, plus what's gone on here with the site distribution, helps us apply some of those concepts from elsewhere to this landscape in that sort of predictive way. I don't know if I'm selling ourselves short here, but I don't know that this particular research is what would drive my view of that. I think it's the accumulation of the evidence from the different areas that we work in.

Q. Okay. So that accumulation would confirm what I said the importance of wetland to Māori.

A. I think so, yes.

Q. Thank you. Do you have any figures or understanding on the extent of the loss of wetlands that has occurred since pre-contact times until now?

A. I don't have any figures. But certainly, looking at historical survey plans, we do have a map with wetlands in it for the Ngāti Rua study area. It shows a wetlands. Obviously, as you're driving through Ōpōtiki and to the west of Ōpōtiki, there was an extensive Kukumoa. I mean, as I say, I don't have a precise number but it's significant.

Q. A significant loss of that land-

A. Yes, particularly in the coastal fringe.

Q. Thank you. You gave a very helpful explanation at the start regarding the reason for the concentration of sites in the Western Bay versus the much far fewer sites in the Ōpōtiki area. Would you agree that there's a much greater risk of loss or damage to wāhi tapu as a result of that lack of survey and research in the Ōpōtiki area?

A. [Lynda Walter] Absolutely. I mean we're seeing it. This isn't a process that we're saying has stopped. This is an ongoing process. Every time we drive through this district, we see earthworks that we know have not been subject to archaeological assessment. I would say that, yes, there is ongoing loss of archaeological sites and it's directly linked to the fact

that there has not been the amount of archaeological survey that there has been elsewhere. As I said before in our presentation, when there's a dot on the map it leads to more dots. And often, if planners are looking at a proposed development, if there's no dot, often there's no action. And because of Ōpōtiki District is under surveyed, I think that poses a significant ongoing risk of loss to sites.

[Dr Andrew Brown] I'm sorry, could I just add to that? I think one of the big differences that we have to consider here is that also if you look at something like kiwifruit, if you look at the process of putting in the kiwifruit block now versus the 80s or the 90s even, the 90s they tended to smooth the surface and put in the vines. Now you see large-scale contouring. It's not just cut and fill. It's dropping the levels really far down.

Whereas, in the past, we've made this argument that these sites are present and that they're sitting underneath things. The big change now is both agricultural machinery is bigger and kiwifruit holes or kiwifruit contouring is deeper. As process, the problem now is supporting everything Lynda said but our issue now is that we're not going to have a little site surviving underneath. Those sort of battered and bruised sites that are masked sitting in that landscape that's just not going to be the case from now I think, and probably as of five years ago or some figure like that. So that's the other factor in that site loss thing.

Q. Kia ora.

A. [Lynda Walter] And that also applies to residential development. The way that they do subdivisions now you're not going to get remnants of sites surviving underneath those. If you look at say, for example, 1940s-1950s housing – and then we're actually doing this actively with Kāinga Ora and we have done some in Ōpōtiki but also primarily in Whakatāne – when those older houses that were built immediately after the war, or into the 50s, they were pretty much plonked on the existing ground surface, so they're masked archaeological sites.

What we get now with development is that you have to have a clean site so they remove all the fill. When you see redevelopment of housing areas, redevelopment of the CBD of Ōpōtiki, what we're seeing is basically the Ōpōtiki buildings that are in the CBD now are the ones that

have been there for most of the last 100-plus years. We can be reasonably confident that Pākōwhai at least in part is sitting underneath that town.

Q. Yes.

A. Redevelopment of that landscape will result in that site being exposed. We've seen that already with some of the work that's gone on. Essentially, this current count caps that site.

What we've seen in Tauranga and Whakatāne with development is that redevelopment leads to the complete loss of those underlying sites. So what I'm saying or what we're saying collectively is that process is happening now and it will be happening in the immediate future in Ōpōtiki.

Q. With that in mind, would you like to see more structure or control around site examination prior to earthworks commencing?

A. That is starting to happen. There are individual cases where that has happened in a Ōpōtiki with the redevelopment. For example, the recent redevelopment of the court house, there was an archaeological authority associated with that, to see if there was material under the courthouse but it is hit and miss. Again, it goes back to is there a dock nearby.

Q. Thank you. I was interested in your discussion with my friend of Ms Sykes regarding the Waiotahi drift subdivision and the harbour mouth development. These are two developments that we have brought evidence on and will also do so in the next hearing week, which is on environmental issues. I guess my first question is that your research indicates that the use of the sand dunes as urupā was common in this area. Would you agree with that?

A. [Dr Andrew Brown] Yes.

Q. You had a discussion regarding providing the cultural assessment for the harbour mouth development. Could I clarify whether to what extent there was a cultural assessment associated with a Waiotahi drift's subdivision and would you be able to provide that as well?

A. We weren't involved at all with Waiotahi drifts, so I have no knowledge of what went on there. The answer in that case is no. We also didn't provide cultural advice at all. We provided what was there from an archaeological perspective –

Q. Right.

A. – and we're happy to provide those reports. Yes, in terms of the Waitangi drifts, we can't really. Yes, we just have no insight into that.

(15:09) JUDGE DOOGAN TO MS CLARK:

Q. I'm sorry, Ms Clark, I presume you meant archaeological reports not cultural reports?

A. I think we discussed cultural reports in respect of the harbour mouth development and I was wondering if there were equivalent reports that could be provided in respect of the Waiotahi drift subdivisions.

Q. All right. The discussion this morning was about archaeological reports and the answer is clear and they are publicly available will be filed.

A. Okay, thank you.

Q. But I wasn't aware either that these authors had any involvement in cultural reports.

A. Thank you Sir.

Q. That's correct, isn't it?

A. Yes.

Q. Yes, thank you.

A. Thank you. That's an important distinction to make. Thank you for that.

(15:09) MS CLARK TO DR ANDREW BROWN, LYNDA WALTER: (CONTINUES)

Q. Could I briefly touch on something that we will be bringing some evidence on the next hearing week? It's the kōiwi protocol. Are you familiar with the kōiwi protocol which I understand maybe a Heritage New Zealand document? Do you have any familiarity with that document at all?

A. [Dr Andrew Brown] We are familiar with kōiwi protocols in general when it comes to the application to the archaeological authorities we're involved with, but there can be variation based on tikanga. If you've got one in front of you that is specific, I couldn't say I've absolutely seen that. But in general terms, we understand the protocols associated with that.

[Lynda Walter] We are certainly familiar with Heritage New Zealand protocol. It is normally a condition in archaeological authorities. As part

of their policy documents, they have a kōiwi protocol which is normally conditioned but with the acknowledgement that there may be variations to that protocol based on local tikanga. In terms of the work we do, how kōiwi are managed when they reveal themselves, if they do reveal themselves, that is a matter where we are led by the tikanga that we are guided by through mana whenua.

Q. Okay, thank you. Broadly speaking, that protocol comes into play perhaps with distinctions specific to the particular area if and after kōiwi are discovered at a particular site.

A. Absolutely. In the context of work being done under an archaeological authority in the case of what is sort of termed accidental discovery. For example, if somebody is doing a piece of work somewhere and they don't have an archaeological authority and kōiwi are exposed or kōiwi are found eroding from sand dunes, for example, there are initial legal requirements around the police involvement. That is the first step. But normally Archaeologists quite often are not actually involved in those processes at all. The police work directly with tangata whenua. But if it is determined that there is likely to be an archaeological context, then we may become involved and we become involved through the Heritage New Zealand process.

Q. Okay, thank you.

A. Yes.

Q. That's something that we'll bring in our evidence in the subsequent hearing week –

A. Yes.

Q. – but I just wanted to see if you could shed any further light on that for us. My final line of questioning is concerning evidence that my client Ms Hillier has previously brought and I refer to her brief of evidence, which is #C031, and I believe Ms Downing may have a copy of that, but really I was wanting to draw a parallel between what Ms Hillier has mentioned in this brief of evidence and what you have discussed today. If I could take you to paragraph 86 to 87 of that brief of evidence which may be coming up in a moment. This concerns the Te Tarata Pā and the Te Puia Pā which you discussed earlier. You had a very clear photographic image

from the top of the hill of I think you had it termed Te Pua Pā looking down towards the plains and the site of Te Tarata, as we understand it at the moment. Possibly, it maybe a little further towards the coast. But the evidence that my client Ms Hillier has brought on that matter because, of course, this is also a very important site, both of these pā are important pā to Ngāi Tamahaua as well, and I wanted to draw a parallel really between what you were saying regarding Te Puia Pā, as Ms Hillier calls it. The fact that that was a vantage point high on the hill looking down towards the plains where Te Tarata was located and that from the vantage point of Te Puia Pā, Ngāi Tamahaua were able to look down on Te Tarata and sent reinforcements down to that pā for the purposes of the battle. Really, I wanted to get your agreement that her traditional kōrero there that she has provided marries quite perfectly with the archaeological sites that you have uncovered or had looked into as part of your research. Would you agree with that?

A. [Dr Andrew Brown] Yes, we would certainly agree that Te Puia Pā is sitting at the top and that's overlooking Te Tarata. For certain, yes.

Q. Āe, thank you. The second parallel that I wanted to draw at paragraph 75 to 76. This was evidence that Ms Hillier brought regarding the site of what she terms Titoko's Gardens and she describes them as having been located on the Waioweka straight, adjacent to State Highway 2 as you drive out of Ōpōtiki in the direction of the Waioweka. She says these were very big gardens that were operated almost on a commercial-type basis by the hapū broadly. Would you agree that this is exactly the site that you have identified as being highly likely to be area for māra?

A. Yes, it's on that raised platform that we talked about. If I can think back to that area, I'm fairly confident that it is. If I'm thinking in the right place based on your description that it is part of that high ground running back through that we'd expect there to be some form of māra, yes.

Q. Yes, and here we have the traditional kōrero associated with that, so thank you. Those are my questions.

JUDGE DOOGAN ADDRESSES MR HUNT – CROSS-EXAMINATION TIMING (15:16:32)

MR POTAKA ADDRESSES JUDGE DOOGAN – TIMETABLE UPDATE (15:16:41)

HEARING ADJOURNS: 3.16 PM

HEARING RESUMES: 3.22 PM

(15:22) MS TE WHENUA TO DR ANDREW BROWN, LYNDA WALTER:

Q. Ki a kōrua anō ngā kaikōrero kei te mihi au ki a koe **to both of you the speakers greetings**. My name is Ms Te Whenua. I appear on behalf of Wai 1511, Ngāi Tamatea hapū who occupy areas in the Waiotahe rohe, te rohe o Waiotahe **territory of Waiotahe**. I have just a couple of questions for you. I've also filed a cross-examination bundle. Do you have that in front of you, the appellation is #F013? I can read from that for you.

A. [Dr Andrew Brown] Yes, please, if you could.

Q. Yes, sure. Within that cross-examination bundle is a letter written by one of the tipuna of our claimant community, Te Waru Tamatea, in 1874. He writes this letter to a government official in Wellington. The relevant part is where he says: “E Pā, tēnā koe,” greetings: “Kua tae mai ahau kei Waiotahe.” Taku kupu **my words**, I have arrived and am writing from Waiotahe. And then he asks: “Ki a koe tētahi nohonga…,” do you have settlement for me: “…mōku ki te pūau o Waiotahe…,” at the Waiotahe river mouth: “…hei kāinga mōku…,” as a settlement for myself: “…kia whiwhi ai ahau i tētahi rākau māku hei taiapa, hei whare, hei wahie,” so that I can take from that area trees to use and utilise in the building of fences, for whare, for housing, and timber.” It was fascinating to our claimant group that the area at the river mouth of Waiotahe was forested in this way. I wondered if that was something that in the 1870s accords with your research.

A. [Dr Andrew Brown] I think we're basing this on survey plan data. We know where Te Waru’s settlement was, because it is in survey plans with him marked Te Waru and others. It is sort of effectively where the

campground is now by the pipi beds, or that's where we understand it to be based on the survey plans.

With respect to the respect to the bush line I think it was slightly further back at the time. But surveyors often recorded just, what you might call, a hard bush line. In other words, the big old timbers. They didn't tend to record things like kahikatea or woods that perhaps were down in the wetlands or closer to the wetlands. But certainly, it was close enough that you could access those rākau fairly easily, I would have thought. I can check the maps if you would like me to. But it's not very far away, no.

Q. It's possible then, because we were wondering the lands that were eventually afforded to Te Waru Tamatea and his community include, as you note, the area of land near Te Ahiaua the pipi bed, but also the area further inland near or at Maromahue Marae and surrounding blocks. Is it the case that there would likely be forested area at the Maromahue site further inland as opposed to Ahiaua site?

A. Yes, there are. I'm sorry, I'm just looking at the map which is actually in the report and it is on page 24 figure 7 and that shows what we see the bush line as which is much further back. It actually is a wee way away and is further back than I originally thought. Yes, but there certainly would have been rākau further back in that other settlement.

Q. It means a bit of a curiosity to us as to why he is seeking to obtain rākau from the river mouth but that's an interesting aspect we will continue to investigate. I wondered what type of rākau in your knowledge would have been used for the purposes of housing and the other purposes outlined by Te Waru.

A. A variety. There is evidence of totara being used. Very much the same as it was later by European farmers for posts and things like that. Kahikatea as well because it is long and straight. But to be honest, there would be carvers and other people with traditional knowledge that could probably speak to that a lot better than I can. But those are the things that we sort of find archaeologically is often it is tōtara and things like that.

Q. Thank you so much. Those are my questions.

(15:28) MR HUNT TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua. We met earlier and I just want echo feedback others have given to thank you for your report. I think the evidence you have given it has been very interesting. I think it will be really valuable and helpful for the Tribunal.

I only have two very quick questions because the questions I did have have been covered off by others. I was ticking them off frustratedly as that happened. The first one is Ms Walter in particular you spoke about the phases of survey, if I can call them, that have happened since sort of 1950 onwards. I'm sort of just checking my understanding with you. Those would have mapped archaeological sites in the district. Am I right to understand that your report at the time it was completed brings together all of the recorded sites in the district that had been mapped at that point? Your three reports, I should say.

A. [Lynda Walter] That's correct.

Q. Okay, thank you. No, I'm not saying it maps all of the sites of course because, as you've discussed, there are concerns with under mapping and that sort of thing. The second question, in terms of dating, which some of my learned friends have spoken with you about, is my understanding right that, unless in your report you've given a specific period in relation to a particular site, we should be cautious about assigning any sort of dating to a particular site that might be discussed in your report?

A. [Dr Andrew Brown] Yes, I think so. I mean, aside from those four sites that we showed, the majority of the other ones would be like what I would call kind of later period, the latter half of the Māori sequence. But to get more specific on that, you would need to look at the individual radiocarbon dates for which there aren't that many in this survey area. I think, yes, you would be right to be cautious.

Q. Okay. This is kind of question of interest. But the radiocarbon dating, does that require you to go to the individual sites or is how does that work?

A. Yes, radiocarbon dating is just a means by what you measure the decay of carbon in a particular item. You need to have samples be it shell or

charcoal normally and collect them from what we would term a secure context so you would want it from somewhere that is going to be reliably from the place that you're dating. You don't want to just do it in the top soil for instance because it could've come in from anywhere. But yes, you have to go, collect a sample, and then carry out analysis on that sample. And ideally, the more the better but we often are restricted by money so we might get one or two dates from each site or something like that.

Q. Having asked the question, I realise the word is intuitive but thank you very much for your answer. Thank you for your answers.

JUDGE DOOGAN ADDRESSES TE MINENGA – ADJOURN (15:32:21)

HEARING ADJOURNS: 3.33 PM

HEARING RESUMES: 3.52 PM

JUDGE DOOGAN ADDRESSES DR GRANT PHILLIPSON – TRIBUNAL CROSS-EXAMINATION (15:52:32)

(15:53) DR GRANT PHILLIPSON TO DR ANDREW BROWN, LYNDA WALTER:

Q. Just in the interest of time, I'll put most of them in writing. I've just been during the break looking through and seeing what I needed to go through. Tēnā kōrua **greetings**. Thank you for your evidence and I have to say for your fascinating presentation this morning. That really helped to see it visually as well as read it in a more static form, so thank you for that.

I guess my first and main question for the inquiry relates to all three reports. That is that you have said at the beginning of each report that you've already gone through the district plans and the New Zealand Heritage list. My question for all three reports is which sites are listed in the district plan and protected in some way and whether any of the sites are in fact on the New Zealand Heritage list, so that we can ,

from the research you have already done, start to get an appreciation of many of these sites, if any, are protected through those two mechanisms?

A. [Lynda Walter] I'm sorry, I can't give you precise number. But my general understanding is that the sites are likely to be on schedules in the district plans. The recorded sites are likely to be in schedules. The difficulty with that is that those schedules are static. As new archaeological sites are recorded, they are not necessarily being added to the district plan schedule. As far as I'm aware, we don't have any listed archaeological sites in Ōpōtiki, no. Andy is just checking. But I'm pretty certain we don't have any of those sites that are actually listed in the Heritage list. All of those archaeological sites are of course protected under the archaeological provisions of the Heritage New Zealand Act. But whether they're recorded or scheduled-

Q. Yes, but perhaps you get a greater level of protection if they are known about in the district plan et cetera. Okay, well, the reason I asked is because you said that you went through them. For each of the reports, you went through those two sources. For example, paragraph 3 on page 9 of #A035.

A. Yes, we collected or we did review those documents. I don't know actually we would have specifically identified sites of anything left out from those reviews.

Q. I see.

A. [Dr Andrew Brown] Yes, we certainly reviewed them. Again, I'd have to go back and just check the record just to see the precise numbers. But most of the sites were archaeological sites anyway, if that makes sense. Our analysis was done by treating those Heritage New Zealand sites as another dot on the map, so to speak. There may well be some – yes, we would have to check, sorry, Dr Phillipson, just to confirm the precise numbers.

Q. I will put that in writing then –

A. Yes that would be useful, thank you.

Q. – because it is quite important to know as the baseline for this inquiry district, not the whole district of course but the areas you've looked at, whether there are any sites. Because there is a process to put a site on

the New Zealand Heritage list whether any have gone through that. And if so, what that does for them. And then whether any are listed in the district plans and therefore have some form of protection or recognition through that. So if I put that in writing would you be able to do that?

A. Yes, we would.

Q. Great. That would be helpful, thank you. My other general question about the three reports is you have obviously through your long career had various access to various Department of Conservation materials and stuff that I couldn't find online when I went looking for them, and it may just be my or online research skills. But it would be helpful for anything that you've used that's not in the public domain, like a thesis and things like that, to provide a document bank with those. There was one I was thinking in particular in *The Archaeology of Waioweka River* report on page 29 of that there is a thesis referred to in footnote 53 that I couldn't find online. So if you wouldn't mind preparing a document bank of those resources that would be helpful.

A. [Lynda Walter] We refer to Ken Phillips' master's thesis from the University of Auckland. My understanding is that that thesis should be available through the University of Auckland. But, yes, it's quite old. I have a paper copy of it basically.

Q. Right.

A. Yes.

Q. Yes, I couldn't find it online and that's why I'm asking

A. No, sorry.

Q. Yes. And while we're on that, so that's on page 29 of that report, it referred to faunal remains at the Paerata Ridge site. I was wondering if you'd be able to expand on that and tell us what kind of birds they found there.

A. Sorry, I'm just trying to find the exact reference on page 29.

Q. Yes, page 29 of #E008. It's the last line of the page in my copy.

A. Okay. So when we refer to faunal remains there, we would be referring to midden and probably fishbone. I was part of that investigation, although it was an investigation that Ken Phillips led. But my recollection

is that we were talking about when we say “faunal remains” we mean marine shell species and fishbone.

Q. I see.

A. From my recollection, there wasn’t bird bone at that midden.

Q. Right. Okay, thank you. I took fauna –

A. Yes.

Q. – to not mean what you've just said then, so that's helpful. Thank you for that clarification.

I won't ask any questions about the Te Tarata issue because that's already been covered. Carrying on with that report, on page on page 13 figure 5 of that report, you refer to a green polygon and I'm just wanting to work out exactly what it is you're referring to on that figure 5 on page 13.

A. [Dr Andrew Brown] Yes, you can see where it says: “Waioweka Pā,” –

Q. Yes.

A. – the green polygon, it follows sort of where that Waioweka Pā is noted, you can see it is sort of, I don't know, a very broken polygon that goes all the way out to the east to meet the red line, so it’s a darker green colour.

Q. Okay.

A. And then that runs-

Q. (inaudible 16:01:31) for a square more imposed on it. But is it just that line there? Is it that line you're talking about?

A. Yes, I mean it is probably easier to actually see to the west of where it says Waioweka Pā. So you can see the river going through there and the green polygon I’m talking about is immediately west of the river and it runs adjacent to the river where the cursor is and it goes to the north up there like that and then turns to the west and is quite staggered in the valleys. So that's one of them and then that's the same on the other side. So that's just reflecting where we think based on historical survey plans –

Q. Yes.

A. – that sort of hard bush line, so to speak.

Q. The other sort of green smaller patches-

A. They are small patches of ti tree, kahikatea. Only one section of bush in that flatland.

Q. Okay, thank you. I think I might've just misunderstood what you meant by polygon there actually. On page 13 of that report, you refer to a former wetland with the name Kukumoa and on page 14 you refer to fishing grounds et cetera. There's no references there. Where did you get that information from?

A. I suppose working in the area people refer to that area as Kukumoa, so it is sort of probably us having a sense or carrying over knowledge and not citing it because we assumed it was general knowledge.

Q. I see.

A. For the purposes of finding a citation, there is a survey plan of the Wilson claim in Hikutaia, you know, associated with mission lands in the west of the Waioweka. That has the ground running out towards Tawhitirahi Pā and it has more Kukumoa wetland, the Kukumoa Swamp labelled on it. So that's a pre-1900 survey plan.

Q. I see.

A. For the purposes of that, it would give you a rank name or a list of name.

Q. Thank you for that.

A. I don’t know the survey plan number, sorry.

Q. No that’s all right. We can find that. Can you just explain to me also on figure 16 why you used the term potential pit in terrace sites? I wasn't quite sure what you mean by that?

A. The process that we went through, in this figure we've got two sets of dots. We've got the white dots I think which are the recorded sites and then through that process of looking at the LiDAR, looking at historic survey plans et cetera, we identified a series of features that we think are consistent with archaeology. But we're always a bit wary to say that they are absolutely archaeological sites until we go out there and have a look at them. Some of them are clearly archaeological sites, there's no doubt about it, based on general experience of doing this sort of work and going out into the field. Others you can perhaps be a little bit less certain, so for the sake of being conservative we call them all potential sites. These are sites that I would wager – I’m not a betting person – are sites. But, as I say, for the sake of this work, we leave them as potential sites, until such time as they could be confirmed in the field.

Q. No, that's helpful. In fact, I wrote some of these questions before I heard your oral explanation this morning which I think to clarify some of the points for me. Thank you. I was going to ask what is this specific evidence that you have that taro was cultivated in this area? Is that more a sort of a general archaeological knowledge rather than specific evidence from this area?

A. Yes, my suspicion is we spoke to local people that they may be able to identify where there is taro. I'd be surprised if that wasn't the case. But yes, you're right in saying it's a general archaeological observation, particularly in northern areas. Our assertions around that being an important early crop are based on some work that's been done on Ahuahu (Great Mercury Island) where they've found what looks like a sort of progression from a greater importance of taro early toward kūmara late or not late perhaps in the middle of the sequence. That would accord with the general distribution of sites in a lot of a North Island, with a possible exception of areas like Northland where wetland taro systems are massive around the likes of Kaitaia for example.

There is I guess in terms of proximity we excavated a site where we actually showed that the garden site that we showed in our presentation in our oral remarks included microfossils consistent with taro. We know there was taro gardening in that. That was a wetland site in the Rangitaiki the Thornton area. It's not that far away from here. I don't know exactly how far but just west of Whakatāne. Again, a formal wetland environment. Yes, we certainly know there was taro there. We know it's grope being grown in this area for certain. As I say, it is an inference based on general archaeological knowledge, I would say, or data.

Q. Yes. It is just as a historian when I go through these reports, I go: "Where's the reference for that? Where did they get that?"

A. Fair enough.

Q. But no, you've explained that. That seems a reasonable extrapolation so thank you for that. With the Ōhiwa Harbour report, it may just be for the questions about this that I'm not familiar with Department of Conservation classifications, but on page 15 of that report you referred to outstanding site of special wildlife interest and wetland of international importance.

I'm just wondering where do these classifications come from and what do they mean?

A. [Lynda Walter] The outstanding site of special wildlife interest is an international classification relating to wetlands. It's one that the Department of Conservation uses. The reference to it being a wetland of international importance for wading birds that also comes from an internal Department of Conservation document.

Q. I see.

A. Yes.

Q. What kind of protection or status does that afford those particular sites?

A. Yes, none to the archaeology. But certainly, there are statutory protections under the Conservation Act relating to the wetland and obviously, the species, the wading species that are present in the harbour. But that doesn't actually have any impact on archaeological site protection.

Q. Okay. So it's conservation, thank you.

A. Yes.

Q. You refer there to a vast food resource and to wading birds. I was wondering if you could specify what some of those waiting birds are in that area that gives it that special wildlife interest.

A. Ōhiwa Harbour is well known internationally as a migratory wading bird resting place during their breeding season, I should say. In about October each year there is an enormous influx of Godwit and those northern hemisphere species that come via Siberia. Basically over summer here and feed in the harbour. They represent a huge influx of potential kai of very significant value, I guess, yes. It still goes on now and certainly, we can assume that it went on throughout human occupation of Aotearoa. Bittern are resident. Yes, there is a whole range of wading bird species but Godwit of course are the ones that people would most easily identify with, I guess.

Q. Thank you. In that same report on page 35, this is the Ōhiwa Harbour report, figure 15 some of the place names in that are in red and I just wondered why those place names are in red.

A. [Dr Andrew Brown] I don't remember, sorry, Dr Philipson. I suspect it's to do with areas that are marked on a particular plan or something like that. If you're happy to put that in writing, I can clarify that.

Q. Yes, sure. I'll do that.

A. Thank you very much.

Q. There's nothing in the key to say.

A. No.

Q. So I just thought I'd check that.

A. You're dead right about that.

Q. I'll do the rest in writing. My final question is actually about the Te Tarata. I'm sorry, I said my questions would be left about that. Do you still need the permission of the landowners to do it by drone?

A. Yes, you do. I mean it's the whole question of good practice. The actual operation of drone geophysics is actually still pretty close to the ground. It's hovering a couple of metres up –

Q. I see.

A. – or a metre off because it has still got to get the difference between kind of magnetism in the air and the magnetism in the ground. It is a low flying operation so yes, you would need to.

I suppose the one thing I would note with respect to what Ms Sykes commented on is I think actually one of the possibly good things about this is where we're talking about it being is on an adjacent landowner's block. It's not on the same land and the landowner block is where it sits at the moment. Potentially, the opportunities there are greater or perhaps easier to access it for usual type of survey.

Q. I see. Thank you very much. Yes, I'll stop there in the interest of time. But I do want to thank you for all the work you have put into these three reports. Thank you very much.

(16:14) PRUE KAPUA TO DR ANDREW BROWN, LYNDA WALTER:

Q. Kia ora kōrua **greetings to you both**. I just have one very brief question. I think it was in relation to a question and it was about the flaw of legislation I think that you referred to in relation to historic sites and so on. I just wondered if you had a comment on how that flaw in the legislation

how you would perceive that that could be corrected to ensure you weren't dealing with – because I think what you talked about was you had to find kōiwi or whatever before you then triggered the process. Do you have a thought about how that could be changed so that there was, I guess, an earlier intervention or an ability to do it without having had that trigger?

A. [Lynda Walter] There are planning remedies. What I've mentioned earlier about the Tairāwhiti Management Plan how their heritage alert layer operates that, even without people necessarily being involved in land development, the effect of having that layer is that landowners generally are more aware of whether they're in that alert zone or not and so they're more likely to seek advice before they undertake earthworks. So I think there are ways that risk can be better managed and it is. I think when I was talking about the flaw in the legislation, it was that you can't use the Heritage New Zealand Act to walk on to people's property to check whether or not there might be archaeological sites there. It needs to actually be in response to – the powers of entry relate to the possibility of sites having been damaged. It was off the cuff to say that it is a flaw, but I think there is a loophole around how the Heritage New Zealand Act operates in relation to protection of sites, particularly unrecorded sites.

Q. But would you favour a power of entry kind of provision where by some other means there was an identification not necessarily a physical uncovering? Would that be possible?

A. I think if you use that in combination with the planning tools that some councils have proactively utilised that that would probably tighten up protection of sites.

Q. All right. Okay, thank you.

(16:17) DR ROBYN ANDERSON TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua. I'm still talking about Te Tarata at some level. This question of interference in an archaeological site before you can intervene, is there a sort of a standard of interference that triggers that intervention? I mean

does it have to be wholesale destruction. I mean putting a concrete helicopter pad. I mean what trigger something like that?

A. [Lynda Walter] I'm kind of speaking a little bit on experience and interactions with Heritage New Zealand. Quite often Heritage New Zealand are contacted by people who are driving past a property where they think there are heritage values and they see an excavator operating for example or they see evidence that a new houses being built and so often that will trigger a phone call to the Heritage New Zealand office in Tauranga for example if we're speaking locally. That will often set off a process of somebody in the Heritage New Zealand office then tracking down who the landowner is and giving them a ring and saying: "Hey, there's been a report of earthworks on your property, are you aware that there are archaeological sites or the potential for archaeological sites to be on your property?" Heritage New Zealand are very focused on awareness, you know, raising awareness and taking that line first.

Q. Yes.

A. The difficulty is that, yes, it does actually rely often on people just driving around and spotting something happening. We are fortunate in the Eastern Bay of Plenty that we have reasonable awareness amongst regional council staff and those sorts of people who often act as eyes for Heritage New Zealand.

Sorry, the scale like the act of planting trees can impact on archaeological sites. Obviously, the scale of disturbance can impact on the amount of damage that is being done but often it can be very minor activity that can trigger the need for archaeological assessment at least to determine if there's been damage.

Q. And in this situation where essentially it is an old map that indicates that there might be something worth looking into, would that be enough to trigger a positive response if somebody complained?

A. In the case of the Bay of Plenty and in our experience, we'd have to say, yes, that Heritage New Zealand would take that seriously if we said: "Hey, we've got reason to believe that there is an unrecorded archaeological site in this area," they would investigate, yes.

Q. Alright. Thank you that's cleared that up for me. This is probably an ignorant historian question, you've discussed the charcoal deposits showing human occupation and intervention in the landscape. In terms of bush clearance and firing bush, is there any way other than old maps of assessing whether it was pre-European or European intervention?

A. [Dr Andrew Brown] I think the maps are pretty helpful certainly. But yes, this short answer is yes there is. Again, it would be more at a site scale as opposed to a landscape scale as we're working it here.

Q. Okay.

A. But within a site for instance, not to get to in the weeds, but you can see what is land clearance and what's not and you can get a sense how that land clearance relates to the surrounding features.

Q. Okay.

A. The other thing about European land clearance it is often followed by ploughing, depending on where it is in the landscape obviously. Ploughing is really obvious. It was very clear when we were doing a site the other day with ploughing on it and you could see the individual furrows still. European land clearance tends to be, I don't know, you can see it, you can see what you're looking at. Māori land clearance are a little bit different. It tends to be more sort of mixed. You get the burnt sort of areas in the ground itself and things like that. It just looks very different than European land clearance often.

It is obviously in the upland areas where there is just firing bush that's a slightly different circumstance. But when you're down on flat areas and particularly coastal areas there tends to be quite a big difference between the two of them. So you can place a relative date on them and it is either European or Māori but within that, you could potentially do radiocarbon dates. The other one of course is you can look at the individual charcoal things and look at species –

Q. Okay.

A. – or plant microfossils is another one, pollen, things like that. You can get a sense of is that disturbance related. Like if you've got pine in the disturbance, you can get a clear sense that that's obviously

post-European. Like anything it's a sort of myriad of experience in the field and then using that science to back it up that gives you that sense.

Q. Okay. Well, it was partly prompted because the example you gave was a map in the late nineteenth century –

A. Yes.

Q. – so in that sense it-

A. That's right. I think actually when you look at some of those maps, we've used them as an indication. But in actual fact, you're dead right to pick that up because one of the things when you look at the site distribution is that the sites are often slightly further inland. Again, this is a bit anecdotal, but what you tend to see when you're seeing bush clearance when it's Māori bush clearance is that there is sort of these little concave pockets. If you imagine a hard line, the Māori bush clearance tends to occur in a small sort of pocket and then it extends out from there. There are some really good examples and it's all over the place. Parihaka is a really good example. If you look at some of the plans around Parihaka and coastal Taranaki that's exactly what you see. We probably see that in parts around here as well.

My suspicion is that European land clearance tends to go to some form of land boundary. Māori land clearance is more sort of organic. And I also think that there's a very good chance that, going back to your point, some of these bush lines have re-established themselves or moved back down towards the coast potentially during that time following the musket or the troubles of the 1820s and 1830s for example. It may be that that's going back down so the bush clearance doesn't look as much as it perhaps was prior to those survey plans being made. But they are the best proxy we have for where it approximately was.

Q. Okay. Have you a comment on the accuracy of the old cartographers and surveys?

A. I mean, look, the reason we can reference that SO2813 that we talked about with regards to Te Tarata is that the lines are still on the map. A lot of those old survey lines, okay, they may have been re-surveyed but they're still there. The process by which we can be fairly accurate with that is by using the old survey pegs and things that are in place and then

referencing the survey play on top of the existing survey lines. As I said, when you start looking at those landscapes, it is interesting that where the cartographers or where the surveyors have marked wetland areas for example, you see it associated with the LiDAR as being a low depression-type area within reason, I think, because some of those features that aren't directly connected to the survey boundaries are eyeballed. Particularly with houses and things like that, often they just eyeball the house in. So there's surveyors and surveyors.

Q. Yes.

A. I mean the detail that you get on them are absolutely amazing. They are clearly focused and interested in the history of Māori and yes, there are certain names you could mention. I don't know, I mean, I'm not a surveyor so I couldn't speak to their accuracy. But from my perspective, the information that they can convey and the accuracy that we need to enable us to use that information is very good, is really sufficient. As I say, the more you progress through time, the more stale they become and more focused on the land boundary or something like that. But some of the earlier land plans that we showed are some beautiful things on there that I think are really informative.

Q. Alright. My last question was that you commented that it's unusual to be so few middens on the coastline at Ōhiwa in the study area that you looked at. Is that because of the state of the survey or can you speculate or are you able to speculate why that might be so?

A. Just to clarify, I think it's unusual to have so few middens east of Ōhiwa.

Q. Okay.

A. So where we are here moving back towards the Waiotahe river mouth for example, there are fewer midden there than we would necessarily expect. My understanding (again from just speaking to locals) is that there were resources available, though not as much as there were in the Ōhiwa Harbour so we may expect more. A part of that almost certainly is survey but I mean it may go back to that point that was made earlier – I'm not sure and I can't remember precisely who made it – of the Ōhiwa as being that sort of food supermarket that people were going back to as opposed to being in that area over there.

Q. Yes, right. Well, thank you. I've found it all very fascinating and I'm getting a click in my neck looking at (inaudible 16:28:37). Thank you very much.

(16:28) JUDGE DOOGAN TO DR ANDREW BROWN, LYNDA WALTER:

Q. Tēnā kōrua. Just one question from me. The overall sort of impression from the data in the three studies and what surrounds it is that pattern of settlement from the likely earlier settlement time in New Zealand than cumulative sites over time, and then on your Waioweka report you make a general observation, which I think applies to the whole rohe of Whakatōhea, including these study areas, at page 16: "Population is difficult to estimate from archaeological evidence. However, based on the number and density of visible sites, it is not unreasonable to suggest that the number of people in the Whakatōhea rohe between AD 15oo and 1800 was much larger than the relatively small iwi that Ranganui Walker described from the nineteenth century." From your reports and the evidence that's certainly the impression we are left with and it's also the tenor of the oral evidence we've heard over time. If we take that period around about 1800 before there was displacement from the musket era and then the effects of raupatu and so on, but 1800 or thereabouts are you able to give any estimates of possible population in the Whakatōhea rohe from Ōhiwa over to here Ōpape?

A. [Dr Andrew Brown] I think the short answer is no not with any confidence.

Q. Āe.

A. Just to expand on that a little bit, I think there's some commentary around there being a general Māori population, a max population around 100,000 or something like that from (inaudible 16:30:49) that's been challenged more recently by Simon Chapman from Victoria –

Q. Āe.

A. – who has made I think some quite useful comments around that. I think even our sense more broadly across Aotearoa is actually quite –

Q. Limited.

A. – limited, yes. And archaeological evidence, as it stands at the moment, I think can't give you a number. I think we can give you a sense of the

relative pulse and it looks very much like a sort of sigmoidal sort of exponential rise and then a levelling off from about that 1500 in the upper part of the motu. As you go further down where conditions are perhaps a bit poorer for horticulture, there seems to be a sort of slightly lower shelf initially and then a flood probably which I think connects to some of the traditions of the heke coming down from Northland and filling in that area. But to give a precise number no is the short answer, Sir.

Q. Alright. It's an unfair question. All right, thank you. I just want to support the mihi my colleagues and others have given you for your research and for the very clear and helpful way you've been able to explain it to us today. Ka mihi nui ki a kōrua **thank you both very much**. Thank you also for your willingness to assist further in providing some additional information and possibly with a little more research if that opportunity arise. Tēnā kōrua thank you.

MR POTAKA ADDRESSES TRIBUNAL PANEL – TIMETABLE UPDATE (16:32:38)

HEARING ADJOURNS: 4.33 PM

HEARING RESUMES: 4.35 PM

JUDGE DOOGAN ADDRESSES LINDA GRAVE – MIHI, INTRODUCES TRIBUNAL PANEL (16:36:07)

(16:36) MR POTAKA: (CALLS)

Tēnā anō tātou **greetings once again**. I have the privilege of introducing our next witness today, Ms Grave is another prime example, like a Ms Jonnina Temple, who is another descendant of Ngāti Rua, who has gone into the world filled her baskets of knowledge with skills in teaching and has now returned to her Ngāti Rua people to assist them and give back where best she can. Her brief of evidence is recorded as #F009. I just wanted to highlight, there is a typo in the title of her brief. There is an unwanted “s” at the end of

her last name there is an additional “s” and I will correct that. Heoi anō, tēnā koe **nonetheless, greetings** Ms Grave.

Q. Before we commence, can you please confirm that your full name is Linda Aroha Grave.

A. Āe **yes**.

Q. Ka pai **all right**. Can you confirm that you prepared your brief of evidence stated 13 February 2026.

A. Āe **yes**.

Q. Ka pai **okay**. Well, without further ado, I will hand it over to you, the speedster. Kia ora.

A. The pressure.

(16:38) LINDA GRAVE: (MIHI, #F009-(a))

REFERS TO #F009

Ko Makeo te maunga. Ko Nukutere me Mātaatua ngā waka. Ko Waiaua te awa. Ko Ōmarumutu te marae. Ko Tūtāmure te tipuna whare. Ko Hine-i-Kauia te wharekai. Ko Ngāti Ruatakenga te hapū. Ko Whakatōhea te iwi. Ko Linda Aroha Grave ahau. He uri ahau nō Ngāti Rua. **Makeo is the mountain. Nukutere and Mātaatua are the waka. Waiaua is the river. Ōmarumutu is the marae. Tūtāmure is the ancestral house. Hine-i-Kauia is the dining hall. Ngāti Ruatakenga is the hapū. Whakatōhea is the iwi. Linda Aroha Grave is my name. I am a member of Ngāti Rua.**

I feel very honoured today to give evidence in support of Ngāti Rua within the North-Eastern Bay of Plenty District Inquiry. My kōrero today and my brief sets out my whakapapa, my professional background, and my governance experience. It reflects my lived experience of the realities Ngāti Rua faced when engaging with the Crown in the settlement process and it also touches briefly on the funding and marae development issues that we may have faced within the last decade since I've been back home. My evidence focuses particularly on the intersects between Crown systems and hapū realities, and

the impact that this had on Ngāti Rua cohesion, capacity, and the effective exercise of our rangatiratanga.

My connection to Ngāti Rua comes from my Papuni whānau, through my maternal grandfather, Takaparae Papuni, and my great-grandfather, Raimona Papuni, who was an inaugural Ngāti Rua representative on the Whakatōhea Trust Board in 1952, following the earlier work of the Whakatōhea Tribal Executive here at Ōmarumutu in 1947. Despite these strong ancestral connections, I was raised away from the marae, and my early memories of Ōmarumutu were shaped largely through visits for tangihanga and kawemate for my son, Te Akiruamatarangi, who hangs on the wall behind me, rather than through every day marae life of sustained engagement with the hapū.

One of the last strong links my immediate whānau had to the marae was through my grandfather Takaparae. He served as a vital bridge between our whānau and the marae. Following his passing, and like many who were impacted by urban drift, his children, my aunties and uncles including my mother, moved to urban centres in pursuit of education and employment opportunities. Despite this, my uncles returned home to lend their skills and their labour for kaupapa, such as the restoration of Tūtāmure in 1977 (and I have attached some photos of that mahi), and despite whānau coming home, in some respects our connection was still weakened because of the distance between where we were living and Ōmarumutu. This experience of distance from marae, whenua, and hapū is not unique to me. It reflects the wider effects of raupatu, urbanisation, and disconnection experienced by Ngāti Rua generations with more than 80% of Ngāti Rua whānau living away from home.

In terms of my early education and schooling, I grew up in Raetihi and educated in my early years at Ruapehu College. In 2005, I graduated from the University of Waikato which a Bachelor of Management Studies in Finance and Accounting and later qualified as a Chartered Accountant. My professional career has been largely around finance accounting in governance and organisational leadership. I bring those technical skills into every role I hold, particularly within the hapū and within my iwi.

I've held senior management roles across large corporate entities, including almost a decade with Moana New Zealand, the only pan-iwi organisation serving 58 iwi under the Māori Fisheries Settlement. My most recent role has been in based in Whakatāne. For the past five years, I've worked at Te Whare Wānanga o Awanuiārangi. I'm currently the Manager – Executive and Corporate Decisions there. I'm a current member of the Institute of Directors and most recently a recipient of the 2025 Emerging Director Awards for the Bay of Plenty Branch of the Institute of Directors.

Throughout my career, I've developed an understanding of Crown funding frameworks, compliance requirements, reporting obligations, and the operational realities of Māori organisations working within Crown-defined systems. This background is important because the challenges that Ngāti Rua face are not due to the lack of skill, education, or governance capability. Our people possess those qualifications and experience required to manage complex organisations and funding streams. The barriers we face is structural, arising from systems and frameworks that constrain Māori self-determination rather than any deficit within our own people.

Despite being raised outside of my traditional home, I've always had a calling to return home and contribute my skills like my whānau before me. My father had intended to return home to Ōpōtiki to retire along with my mother. Unfortunately, he passed before they could move back. However, my mother resides here now.

My re-engagement with Ngāti Rua occurred initially through governance roles and then later as project lead on marae development initiatives. Initially, via the Whakatōhea Fisheries Trust, before stepping back into hapū service. That role led to further responsibilities, including involvement in the Whakatōhea Pre-Settlement Claims Trust and later as an elected Ngāti Rua representative on Te Tāwharau o Te Whakatōhea and more recently, as a Director on Te Pou Tahua, the commercial arm of Te Tāwharau.

My commercial background across iwi settlement and commercial entities have given me a unique vantage point across and a clear view of where those systems align and where they fundamentally clash.

By the time Te Whakatōhea entered formal settlement process, Ngāti Rua carried long-term effects of raupatu, land loss, and generations of disconnection from whenua and marae. While historical dislike had created challenges for hapū cohesion, Ngāti Rua maintained a strong tradition of collective governance, active participation, and engagement. Prior to the Crown's treaty settlement process, hapū members attended hui in good numbers, actively contributed to decision-making, and supported projects such as marae development and construction. I personally engaged with the hapū during this period, bringing my professional skills to strengthen hapū-led priorities.

The Crown's decision to pursue a dual settlement pathway, running the Waitangi Tribunal process alongside the deed of settlement negotiations, created a challenging environment for Ngāti Rua. Within the hapū, there were differing views on the appropriate pathway forward. Some whānau supported continued engagement with the Tribunal, while others favoured moving directly towards settlement. This divergence was not merely a difference of opinion; it created significant internal tension and mamae. People were forced to choose sides and relationships fractured under the pressure of competing expectations.

While I appreciate Ngāti Rua is responsible for how Ngāti Rua responded during these times, it was the Crown’s slow response that contributed significantly to the impacts. The dual pathway, though a bold and innovative initiative to satisfy the different needs of the iwi at the time, was not executed in parallel. The settlement advanced ahead of the Tribunal inquiries and this caused additional trauma and eroded trust at a hapū level. It ignored the real and emotional cost for the hapū, leaving our people navigating complex processes while managing the fallout of historical grievances, including raupatu and earlier dislocations. These issues are not a thing of the past--they continue to affect Ngāti Rua today, in the post-settlement phase, shaping how our members engage with settlement matters.

In 2021, I was elected by Ngāti Rua to be the marae representative on the Whakatōhea Pre-Settlement Claims Trust. At the time of this proposed dual process, a marae decision was made to remove both the hapū and the marae representatives from the pre-settlement process. This was a difficult period for us all. Prior to the dual process, as representatives we had the full backing of Ngāti Rua. Following these events, the mandate was undermined, and the confidence in hapū governance was weakened. Many whānau disengaged entirely. Attendance at hui dropped, and fewer members actively participated in hapū decision-making. The contrast with earlier years is stark. When I first re-- engaged with the hapū of Ngāti Rua, there was strong participation, shared commitment, and a clear sense of collective purpose. Post-settlement, engagement remains to some extent divided, and the work of rebuilding trust and cohesion is ongoing.

The cumulative impact of these events across all aspects of hapū life. Marae development and governance initiatives were constrained. These challenges continue to the present day, and deliberate effort is required to increase engagement, restore the cohesion, rebuild participation, and strengthen hapū leadership as we navigate the post-settlement environment.

Moving on to **marae development**

The development of a formal marae development plan came about from Te Puni Kōkiri and the Internal Affairs, Oranga Marae programme. The development of the plan involved extensive hapū engagement, including surveys, strategy workshops, and consultation. Our plan was formally approved by the hapū in 2019.

My whānau have a long history of builders and skilled tradespeople. Growing up surrounded by people who understood construction, planning, and practical problem-solving. This naturally inspired me to put myself forward to assist with the construction planning, reporting, and oversight of the marae development. This background allowed me to bridge hapū aspirations with practical, technical planning requirements, ensuring that projects were both culturally aligned and

feasible. The construction of our Manutaureheu our whare manaaki and our wharepaku was completed in 2021.

One of the most difficult aspects during the funding stage was articulating our hapū values, aspirations, and tikanga in a non-Māori way. We had to come up with mission statements, visions, and values and that's not how we traditionally frame our whakaaro. The marae charter and development plan had to work together to translate tikanga into forms that Crown agencies would accept.

The plan has enabled us significant funding success, including feasibility studies, construction and renovation of our wharepaku, electrical upgrades, heating replacements, and other essential infrastructure. It also clarified future priorities, such as upgrading the wharekai, addressing water security, and improving overall marae resilience.

Despite these successes, Crown funding models remain misaligned with hapū realities and our way of operating. Funding varies according to the government of the day and it tends to prioritise short-term, project-based funding with short timeframes. These approaches fail to support the holistic, tikanga-based, and intergenerational priorities through which hapū operate to seek to sustain their people and their whenua.

Essential kaupapa are often the hardest to fund. Water infrastructure, governance capacity, maintenance, and succession planning do not fit neatly into some of the Crown funding categories, despite being critical to marae survival. Hapū are forced to reshape their priorities to meet funding criteria, rather than funding being shaped to support hapū.

Protecting hapū priorities requires constant negotiation and at times, saying no. This places an enormous burden on a small number of people who carry the governance roles across multiple entities. The same ahikā and individuals are repeatedly relied upon, creating burnout and limiting succession.

Current realities and pathways forward

Today, I continue to serve Ngāti Rua on to Tāwharau and Te Pou Tahua. I have the trust of my hapū, but the impacts of the past division remain. Rebuilding engagement will take time, consistency. Governance must improve, but the improvement requires investment in our people.

My personal aspiration is to see Ōmarumutu upgraded to a standard that allows us to fully serve our people for the next 50-100 years--hosting hui, supporting our whānau, and sustaining our cultural life. I want to see more people step into governance and project leadership roles, rather than the same few ahikā carry the load.

Once we have fully operational, state-of-the-art marae, we can continue to bring our people home, fill our pae and encourage active participation in Ngāti Rua. This will allow our people to thrive on our whenua and strengthen connections to our culture, our identity, and hapū life. We also hope to prepare our whenua for papakāinga development, fostering unity among our multiple whānau who collectively own land blocks, so that hapū can develop these lands in ways that benefit everyone.

For Ngāti Rua, a viable pathway forward requires Crown recognition that hapū are not simply delivery agents. We are rights-holders. Funding, settlement, and development process must support hapū authority, rebuild trust, and allow Ngāti Rua to determine our own priorities, pace, place, and future. Kia ora.

JUDGE DOOGAN ADDRESSES LINDA GRAVE – MIHI (16:53:19)

QUESTIONS FROM MR HUNT – NIL

MR HUNT ADDRESSES LINDA GRAVE – MIHI, ACKNOWLEDGEMENT (16:53:23)

(16:53) PROFESSOR TOM ROA TO LINDA GRAVE:

Q. Tēnā koe Ms Grave, Linda.

A. Tēnā koe.

Q. I'm sorry, I'm at this time of the day when I'm a slow thinker but will try. I have a couple of questions. So in paragraph 19 the last sentence reads: "The marae charter and development plan had to work together to translate tikanga into forms that Crown agencies would accept." How successful have you been with that?

A. We've been very successful and at the other end trying to get our hapū in a room and get them to articulate their mission, vision, values, and strategic priorities wasn't easy. Because you're getting them to put on a te ao Pākehā way of looking at things and I'm having a pull out: "What are your values?" They don't articulate it in that way. It's very oral. They know what their values are but I'm trying to get it in. We did a SWOT analysis in our marae development plan, could you imagine that –

Q. Yes.

A. trying to translate that at a hapū level. So whilst we were successful, we did get very good feedback from our marae development plan. And in fact, one of the architects wanted to use it as an exemplar for others. It was just the process that we had to go through to articulate that in a way that would get us the pūtea **money**. It's just not the way we would normally have done it.

Q. How would you normally do it?

A. Great pātai. Yes, wānanga orally.

Q. Ka pai.

A. Not in a 42-page document –

Q. Ka pai **very good**.

A. – that looks very commercial.

Q. Led by the hapū.

A. Āe **yes**.

Q. Ka pai **all right, good**. Thank you. I think that's a real key to this, whether it's kaupapa Māori for the hapū, by the hapū, with the hapū. But unfortunately, we're constrained by this, so people like you have the skills to translate that. So let you to do your job but bring the people, call the people in. Thank you.

Paragraph 24: “Governance must improve, but that improvement requires investment in people, not just structures.” Can you expand on that please?

A. It's probably around building our capability of our rangatahi and those coming through to take these seats at the table.

Q. Would you say that the pose-settlement governance entities not just here but in most iwi that I know anyway concentrate on structures?

A. We don't have a choice not to.

Q. That’s right. So how do we address that with the people?

A. I like that question. I don’t have the answer. But I mean we're forced to set up these structures.

Q. Yes.

A. We really should be defining what these structures look like in a way that works for us.

Q. Okay.

A. Not having to do an election process that costs us $50,000 a year that could be better spent on our people or having a commercial arm over here, the charitable here, the main trust up here. Significant investment has to go into legal tax. It's money better spent on our people if we weren't confined for these Crown structures that we have to set up. They give us the settlement and then we have to spend $100-200,000 setting up structures that meet their requirements. I’m sorry.

Q. I'd love to be a fly on the wall as you say that to your Tawharau and how that might translate to the grass flax roots.

A. I mean some of that we just can't get out of.

Q. Yes.

A. We have to follow trust deeds.

Q. Yes, we’ve got to be real but also dream.

A. Āe, tautoko **yes, I agree**.

Q. Ka pai. The last: “For Ngāti Rua, a viable pathway forward requires Crown recognition that hapū are not simply delivery agents. We are rights-holders.” I like that.

A. Well, we have the right to define our own future as Ngāti Rua and we should be able to do that.

Q. Yes. So how do we work with our partner to ensure that there is that understanding? I'm terrible, I'm sorry.

A. No, I didn't come a solutions but that's a really great pātai. I mean how do we do that.

Q. When you find a way, tell me, tell us all.

A. As Te Tāwharau, we get to meet with the Crown agencies but whether they're going to listen to us is another thing. I'll think about that one.

Q. Yes. Those were all my questions.

A. Thank you.

Q. Kei te nui te mihi ki te hunga pēnā i a koe right **thank you very much the calibre of people like yourself** at the heart of the matter bringing hearts into the matter. Tēnā koe **thank you**.

A. Kia ora.

(17:01) DR GRANT PHILLIPSON TO LINDA GRAVE:

Q. Tēnā koe **greetings** Ms Grave. Thank you for your evidence that was very helpful. I guess I've got two questions. The first is about the issue of – in your discussion today you've really focused a lot on what you can do about the people who are there in the rohe and at the marae and making up that core of the hapū, but also in paragraph 4 of your brief you talked about the disconnection that's happened through the raupatu and land loss with 80% of Ngāti Rua living outside of the tribal area. I wondered, especially as you have these leadership and governance roles both within the PSGE but also the hapū, what is the plan to help deal with that issue? Is that something that's been actively worked through?

A. At a iwi level or hapū.

Q. Both.

A. Both.

Q. Both or either.

A. I think at an iwi level we are well aware. In fact, the numbers are probably higher up around 90% of our people living away from home. We are in the middle of locking in our a strategic priorities at the moment and how we are wanting to engage with our whānau living away and how we can

best serve them. Those priorities or initiatives have not been locked in as yet so unfortunately I can't talk to that.

Q. I see, yes.

A. At a hapū level, we have wānanga on our agenda that our whānau are wanting to come back to and so at a hapū level we have a plan.

Q. Do you use online technology for those kind of things?

A. We have in the past.

Q. Yes.

A. Whilst we have the connection at the moment, we don't have the technology.

Q. I see. Thank you that's helpful. My second question is about, you just mentioned it briefly in passing, your role in the Whakatōhea Fisheries Trust. Can I just ask you to explain please what that trust is, what it does, and how it's governed?

A. What it was because it no longer exists with –

Q. No.

A. – the establishment of Te Tāwharau.

Q. All right.

A. It was basically to oversee the quota that the iwi held.

Q. I see.

A. Each of the hapū had a representative and I was that for Ngāti Rua.

Q. Right.

A. Just how we were investing our quota.

Q. Did it also have money, a share of the cash of the settlement or was is it just quota?

A. At that time, it was just fisheries settlement the quota –

Q. Quota, right.

A. – and the returns from investing those quota –

Q. I see, yes.

A. – with the iwi collective partnership and Aotearoa Fisheries or Moana New Zealand.

Q. Thank you. How long did that last for before it became incorporated in with PSGE?

A. As soon as we were established as Te Tāwharau, those entities were basically wound up and transferred to Te Tāwharau.

Q. Yes. I guess when was the Whakatōhea Fisheries Trust established.

A. When was the settlement.

Q. I can put it in writing if you can't remember.

A. – 2004 Fisheries Settlement or 2005. I couldn't tell you. I'd have to look.

Q. Okay, I'll put that in writing. Thank you very much. Those are all my questions.

(17:05) JUDGE DOOGAN TO LINDA GRAVE:

Q. Ms Grave just one or two pātai. I'm not quite sure how to phrase the these pātai so just bear with me. I'm very appreciative of your evidence, not only for the matters you've already been questioned about by Professor Roa, but also because of the fairly unique position you've had as a mandated representative in the pre-settlement and now in the post-settlement context. As a panel, we are acutely aware of those issues, as you'll be aware of, from the previous inquiry stages dealing with the challenges to the mandate.

In paragraphs 14 and 15, I think, you very clearly set out just how difficult those issues have been at the various stages, and you say: "The dual pathway, though a bold initiative, was not executed in parallel," and that that undermined and caused trauma, eroded trust. I think what you're saying also is previously Ngāti Rua had a clear path, a clear strategy, and you had a clear mandate. With this, that's caused, as I understand your brief, ongoing mamae and division that you're still having to work to overcome. That's correct.

A. Āe.

Q. That affects pretty much all of the mahi you're describing here, including things like marae development. As I understand it, that still means there's difficulty or you've still got to re-establish trust to bring some whānau back into engagement with the affairs of the hapū, –

A. Yes.

Q. – if I can put it that way, that's an ongoing issue. My pātai and the one that I'm having trouble articulating is really given this situation we are now

(and obviously, as a Tribunal, we are moving through our inquiry phases and inevitably with an historical inquiry of this nature, it's difficult to move at speed), but I just wanted to give you an opportunity to offer any thoughts or observations, if you feel you want to, about matters that as a Tribunal we should be conscious of as we move to complete our inquiry that can either assist or if not assist, at least not aggravate the issues you're describing.

A. I thought that question was going to come from a different angle. My issue initially or my point of that was with the Crown not so much the Tribunal.

Q. Āe.

A. Like if they were ever to do a dual process again to make sure the resource the Tribunal (inaudible 17:08:54) so that you truly do run in parallel. You know today we've got the Tribunal, we've been in governance and settled over two years ago, you know.

Q. Yes.

A. I thought it was great if it had truly gone in parallel and it's not – I'm not sure what the Tribunal can do. I mean we're having to rebuild our whānau those that haven't come back since and I'm not sure what influence, –

Q. Āe.

A. – unless you've got recommendations around supporting the hapū and engagement space or reconnection.

Q. Yes, I think that may have – I mean some of the matters that Professor Roa was just exploring with you but no thank you. I understand exactly what you're saying, yes. But again, thank you for your evidence. It's very helpful. Just on behalf of the panel, we wish you well for the mahi you are doing and for the mahi of Ngāti Rua and the rōpū you serve on, so thank you.

JUDGE DOOGAN ADDRESSES MR POTAKA – WITNESS RESPONSE, FILE APPENDICES (17:10:16)

MR POTAKA ADDRESSES LINDA GRAVE – MIHI, ACKNOWLEDGEMENT (17:11:47)

WAIATA TAUTOKO

MR POTAKA ADDRESSES JUDGE DOOGAN – FILE ARCHAEOLOGIST POWERPOINT (17:13:15)

(17:13) JUDGE DOOGAN: (MIHI WHAKAMUTUNGA)

Again, I just thank you counsel and particular acknowledgement again to our witnesses. Another very full and very enlightening day, ka nui te mihi ki a koutou **thank you very much**.

MS CLARK ADDRESSES JUDGE DOOGAN – LEAVE GRANTED (17:14:16)

KARAKIA WHAKAMUTUNGA (DR TE RIAKI AMOAMO)

HEARING ADJOURNS: 5.14 PM

HEARING RESUMES ON THURSDAY 26 FEBRUARY 2026 AT 9.00 AM

KARAKIA TĪMATANGA (DR TE RIAKI AMOAMO)

(09:02) JUDGE DOOGAN: (MIHI)

Mōrena, mōrena tātou. He mihi tēnei ki a koe e te pā wairua Te Riaki, nāu i tuku atu ngā whakamoemiti ki tō tātou kaihanga kia purea tātou i ngā hau tāhengihengi o te whakapono, nō reira tēnā koe. Ka mihi hoki ki a koutou kua huihui mai nei ki te rā tuawhā o te wiki tuawhitu, nau mai. **Good morning everyone. I want to thank you spiritual pillar Te Riaki for it was you who gave thanks to our creator that we may be cleansed by the winds of faith and so thank you. I also want to acknowledge everyone gathered on day four of week 7, welcome.**

Welcome. Welcome Ms Campbell or Sharon, koutou tō whānau whānui. For those who have just arrived today, I'll just introduce our panel. I'm Judge Doogan. I'm based in Wellington. Ahorangi Professor Tom Roa is also on our panel and sits just beside me. He's slightly late this morning. Because of the many pōtae he has, he is very much in demand. But he's just doing a Zoom hui for I think the New Zealand Tourism or the Māori Tourism organisation. He'll be with us fairly shortly. To my right is Ms Prue Kapua, who will be well known to many, who worked with the Māori Women's Welfare League, among many other areas of mahi in law over time. Dr Robyn Anderson to my left is one of our historian members. On the far end is Mr Basil Morrison who has a very long and distinguished career in local government. And online is Dr Grant Phillipson, who you can see on the screen there, is another of our historian members. So welcome.

(09:04) MR POTAKA: (MIHI, #3.3.040)

Mōrena tātou. E te Taraipunara ata mārie ki a tātou katoa. I mua i taku kuhu atu ki ngā mahi o te rā, e tika hoki kia mihi ahau ki tō tātou nei pā whakawairua kei taku rangatira e koro Te Riaki māu i taki i ngā kupu karakia i tēnei ata e tau iho ai ngā tauwhirotanga o te wāhi ngaro ki runga ki tēnā, ki tēnā o tātou i tēnei rangi e hui tahi nei i roto i te poho o tō tupuna whare ā Tūtāmure. Nō reira, hei

te kai paihere i te rangi ki te whenua tēnā rawa atu koe. E toro hoki ana ngā mihi ki a tātou katoa kua hoki mai rangi tuawhā a ka nui te mihi ki a tātou katoa. **Good morning everyone. To the Tribunal good morning to everyone. Before I delve into matters of the day, it is appropriate that I acknowledge our spiritual pillar to my chief elder Te Riaki, you led the karakia this morning so that the blessings of the hidden realm can be placed upon each and everyone of us today as we gather in the bosom of your ancestral house Tūtāmure. To the person who has bound together heaven and earth thank you. I also want to extend my acknowledgements to all of us who have returned on day 4 and I want to thank everyone here.**

MR POTAKA ADDRESSES JUDGE DOOGAN – TIMETABLE UPDATE, MS DELAMERE-RIRINUI, OPENING SUBMISSION COPIES (09:05:43)

MR POTAKA: (CONTINUES)

REFERS TO #3.3.040

Tēnā e te Kōti, may it please the Tribunal

These opening submissions are filed for and on behalf of Ms Sharon Campbell and her whānau, and for the benefit of ngā uri whakaheke a Rangihuatake rāua ko Haami Parehe, Patehepa Tāpono, Tipene Te Peha Tutaki Tamatea rāua ko Hana Konewa **the descendants of Rangihuatake and Haami Parehe, Patehepa Tāpono, Tipene Te Peha Tutaki Tamatea and Hana Konewa**.

The Wai 2728 claim has been consolidated for consideration within both the Wai 2700 Mana Wāhine Kaupapa Inquiry and the Wai 2575 Health Services and Outcome Kaupapa Inquiry. The original statement of claim dated 13 April 2018 and the amended statement of claim dated 12 December 2019 set out the foundational causes of action advanced by the claimants. Counsel subsequently filed a second amendment statement of claim dated 2 February 2024, which further particular the claimants' allegations within the scope of the Wai 1750 inquiry.

The claim concerns the continuity of Crown breach from the confiscations and invasion of 1865 through to the contemporary mental health system operating today. The claimants assert that they and their tūpuna have maintained an intergenerational association with various components of the mental health services sector. That association has involved sustained interaction with mental health institutions, statutory agencies, and service providers, encompassing varying degrees of engagement, treatment, and state intervention over time.

The claimants plead that the Crown enacted and implemented legislation and health policies that failed to recognise or give effect to Te Tiriti o Waitangi, its principles, and the corresponding duties owed by the Crown to Māori. The claimants contend that such measures were and remain inconsistent with, and in breach of, the principles of Te Tiriti o Waitangi, including but not limited to the principles of tino rangatiratanga, partnership, active protection, redress, and equity.

In particular, the claimants state that their experiences within the health sector, and more specifically the mental health sector, have included:

a) inadequate and inequitable access to appropriate health services;

b) systemic failures by health institutions in the timely recognition, diagnosis, and treatment of illness;

c) inadequate and ineffective support for the claimants and their whānau in circumstances of acute and chronic health need;

d) a failure to recognise, respect, or incorporate Māori values, tikanga, and collective models of wellbeing in assessment, treatment, and decision-making processes; and

e) a failure to meaningfully consult with, or involve, whānau in care planning and service delivery.

The claimants further state that these systemic failures have resulted in significant and ongoing detriment to their health, wellbeing, quality of life, and socio-economic positions.

This inquiry arises in the context of a completed historical Treaty settlement (that I'm sure the Tribunal is well informed about) in which the Crown has formally acknowledged multiple breaches of Te Tiriti o Waitangi in its treatment of Te Whakatōhea.

The Crown has admitted that it unjustifiably deployed military force at Ōpōtiki in 1865, occupied the district, employed destructive tactics, and wrongfully labelled Te Whakatōhea as rebels.

It has further acknowledged the unjust confiscation and retention of significant lands and resources, the inadequacies of the Compensation Court, the prejudicial operation of the Native Land laws, and the imposition of the Ōpape Native Reserve.

The Crown accepts that the cumulative effect of these actions rendered Te Whakatōhea virtually landless, severed them from their ancestral lands and taonga, and included a failure to actively protect te reo Māori.

The Whakatōhea Claims Settlement Act 2024 records the full and final settlement of the historical claims, while preserving the Waitangi Tribunal’s authority to complete its inquiry and issue a report containing findings on those claims. The Act expressly removes jurisdiction to make recommendations in respect of them. The Tribunal however retains the capacity to make findings and recommendations concerning contemporary breaches of Te Tiriti o Waitangi, namely, those arising after 21 September 1992. Further to this, nothing in section 15 limits the Tribunal's ability to determine and record findings on historical breaches; the restriction applies solely to the making of recommendations.

These submissions concerned the Crown's ongoing breach of Te Tiriti o Waitangi principles arising from its systemic failure to adequately implement strategies, recommendations, and structural reforms to address entrenched mental health inequities experienced by Te Whakatōhea.

The confiscations rendered Te Whakatōhea virtually landless, as I mentioned, severed their connection to whenua **land**, maunga **mountains**, awa **rivers**, wāhi tapu **sites of significance** and economic resources, and undermined traditional, social, and political structures. The Tribunal has consistently recognised that large-scale land confiscation produces long-term structural disadvantage, including poverty, social fragmentation, and cultural dislocation. These consequences are neither incidental nor historical; they are enduring.

It is submitted that the raupatu and associated Crown conduct in the Whakatōhea rohe caused profound social, cultural, economic, and psychological dislocation, the effects of which persist. Those effects are evidenced in disproportionate rates of suicide, psychiatric institutionalisation, incarceration, homicide, and intergenerational trauma within Te Whakatōhea. These outcomes are not the product of individual pathology. They are understood as the foreseeable and direct consequences of:

a) violent dispossession;
b) destruction of economic foundations;
c) erosion of collective authority and tikanga; and
d) intergenerational trauma transmitted through whānau and hapū.

The overrepresentation of Māori, including members of Te Whakatōhea, within mental health and criminal justice systems reflects structural inequity rooted in that dispossession. The persistence of such outcomes within Te Whakatōhea is consistent with, and traceable to, the original breaches.

The Crown's actions, and its ongoing failure to adequately remedy their consequences, further constitutes breaches of Te Tiriti o Waitangi.

Principles of Te Tiriti o Waitangi

The relevant principles of Te Tiriti o Waitangi engaged are:

a) **Partnership:** The Crown is obliged to act reasonably, honourably, and in good faith towards Māori as Treaty partners.

b) **Active Protection:** The Crown must actively protect Māori health, wellbeing, and taonga, including whakapapa, whānau integrity, and mental health.

c) **Equity:** The Crown must take positive steps to achieve equitable health outcomes where disparities exist.

d) **Options and Tino Rangatiratanga:** Māori are entitled to exercise authority over matters affecting their wellbeing, including the design and delivery of health services.

e) **Redress:** Where prejudice has occurred the Crown must provide meaningful effective remedies.

The Tribunal will hear from two witnesses today. The following briefs of evidence have been filed in support of the Wai 2728 claim:

a) The brief of evidence of Ms Sharon Campbell dated 11 February 2026; and
b) The brief of evidence of Ms Mihiterina Williams dated the 5 February 2026.

The evidence of Ms Campbell addresses the trauma of the 1865 Crown invasion and land confiscations (Te Rau o Te Patu) and states that it is not historical alone but continues as a living intergenerational reality for Māori. She links colonisation, land loss, and state violence directly to present-day crises of mental health, suicide, homicide, poverty, and incarceration affecting whānau,

hapū, and iwi, particularly in Te Whakatōhea, Ōpōtiki, Eastern Bay of Plenty, and Te Tairāwhiti.

The 2023 Deed of Settlement between the Crown and Te Tāwharau o Te Whakatōhea is described as a "hollow" and imposed resolution that ignored claimant opposition and failed to address this lived trauma. She rejects financial redress as "blood money", arguing that mana and historical injustice cannot be commodified.

Two major reports, the 1986 *Pūao-te Ata-tū (Daybreak)* report and the 2024 *Royal Commission of Inquiry into Abuse in Care*, are central to her evidence. Both identified structural and institutional racism within state systems, particularly in social welfare and childcare. Despite nearly four decades between them, both reports found the same systemic failures: disproportion harm to Māori, state prioritisation of reputation over safety, and the ongoing "pipeline" from abuse to suicide, incarceration, and violent crime.

Ms Campbell contends the successive governments, including the current Coalition Government, having ignored or dismantled reforms intended to honour Te Tiriti o Waitangi and improve Māori wellbeing (including the repeal of section 7AA and the disestablishment of Te Aka Whaiora). Instead of structural change, the state continues punitive and monocultural approaches.

The narrative interweaves personal whānau experiences of schizophrenia, suicide, bipolar disorder, addiction, forensic mental health care, prison, and homicide. These lived examples are presented as evidence that colonisation's violence has shifted from battlefield to psychiatric ward and prison system. The mental health system is described as reactive, negligent, and culturally unsafe, intervening only when crisis becomes criminal.

Suicide, particularly among wahine Māori aged 25-44 and rangatahi, is framed as a predictable outcome of historical land alienation, cultural dislocation, and entrenched socio-economic deprivation rather than individual failure. Similarly, homicide in Ōpōtiki, often sensationalised as the "Homicide Capital", is

contextualised as a manifestation of intergenerational trauma, poverty, gang entrenchment, and untreated abuse.

The brief of evidence concludes that the Crown's failure to implement recommendations from *Pūao-te-Ata-tū* and the Royal Commission represents a continuation of colonial disregard. The trauma that began in 1865 persist in modern statistics, community grief, and Ms Campbell's own PTSD diagnosis. However, alongside trauma exists resistance: remembrance (Rā Whakamaumahara), collective solidarity, and ongoing refusal to be silenced.

The war of colonisation did not end, it simply transformed. The violence that once took land now manifests through institutional racism, mental health crises, suicide, homicide, and ultimately systemic neglect.

Ms Williams' evidence examines the continuing harm experienced by Māori within the mental health system since 1994. Although much of the governing legislative framework predates that period, it remains operative and has become further embedded in contemporary policy and practice.

She contends that the system produces persistent inequities for Māori through coercive interventions, risk-focused decision-making, and the marginalisation of Māori authority, tikanga, and collective models of wellbeing. Her evidence is grounded in lived experience, clinical practice, and whakapapa responsibility.

Ms Williams presents this evidence as a descendant of Ōmarumutu Marae and Ngāti Rua, a clinician trained with the mental health system, and a member of a whānau affected by its intergenerational impact.

The evidence by both Ms Sharon Campbell and Ms Williams demonstrates that the harm inflicted through Te Rau o te Patu did not conclude with the cession of armed conflict. It transformed. The battlefield shifted, from whenua to institutions; from musket to statute; from invasion to intervention.

This is not a claim confined to history. It concerns the contemporary system, its legislation, its governance structures, its clinical frameworks, and its daily practice, and how those systems continue to produce inequitable and coercive outcomes for Māori. The evidence before the Tribunal demonstrates that, while policies have evolved in language, the underlying architecture of control, risk surveillance, and Crown dominance has remained intact. The evidence also demonstrates a sustained pattern of institutional racism, policy inaction, repeal of protective mechanisms, and failure to honour Treaty-based partnership obligations in the design and delivery of mental health services.

The social malice which has occurred in the claimants' whānau has resulted in intergenerational trauma that is clearly evident in the disproportionate numbers of their whānau represented in prison populations; mental health facilities and in dismal wellbeing, and education statistics. There are many whānau and hapū members who have suffered as a result of misdiagnosis of mental health issues by General Practitioners and the poor-quality health care services in rural communities. There are whānau and hapū members who have suffered from the mainstream health care professionals and their failure to cater appropriately and adequately for Māori principles and tikanga in the delivery of their services.

The Mental Health Act 1992 centres medical authority and state control. Despite reform discussions, it remains fundamentally coercive in structure. The continued reliance on the legislative framework, without structural redistribution of authority to Māori, constitutes a breach of tino rangatiratanga and active protection.

In 1986, the *Te Pūao-te-Ata-tū* report identified structural racism within state systems, particularly social welfare, and recommended devolution, Treaty-based partnership, and Māori-led solutions. Nearly four decades later, the *Royal Commission of Inquiry into Abuse in Care* confirmed systemic abuse and structural racism persisted, disproportionately impacting Māori. The repetition of identical findings across 40 years demonstrates systemic disregard rather than inadvertent policy failure.

The evidence demonstrates:

a) Suicide rates for Māori significantly exceed non-Māori rates.
b) Eastern Bay of Plenty and Tairāwhiti experience persistent suicide and violence rates above national averages.
c) Māori are overrepresented in forensic psychiatric units and prisons.
d) Crisis intervention models are reactive, often engaging only once behaviour becomes criminalised.

Despite the many times that the Crown was on notice of these disparities, they were sustained over years. Disparities of this magnitude, sustained over decades, are not accidental, they evidence systemic non-compliance within Treaty standards.

The Pae Ora (Healthy Futures) reforms created Te Aka Whai Ora to enable Māori-led health commissioning and address inequities. The subsequent disestablishment of Te Aka Whai Ora by the Coalition Government represents:

a) retraction of structural mechanism designed to give effect to tino rangatiratanga;
b) re-centralisation of power within Crown-controlled systems;
c) regression from Treaty-compliant reform.

It evidences bad faith regression rather than progressive fulfilment of Treaty obligations.

The prejudice suffered by the claimants includes:

a) loss of life;
b) loss of whānau integrity;
c) psychiatric institutionalisation;
d) criminalisation of mental illness;
e) intergenerational trauma; and
f) cultural alienation.

The Crown's breach is not historic, it is contemporary and ongoing. Failure to implement the recommendations of the reports mentioned by the witnesses constitutes continuing Treaty non-compliance.

In conclusion, e te Taraipunara, the violence of Te Rau o te Patu did not end in 1865. It transformed into institutional systems that continue to produce disproportionate mental health harm for Te Whakatōhea. A Treaty partner does not ignore 40 years of identical warnings. The Crown was warned in 1986. It was warned again in 2024. The harm persists. That persistence is the breach. Nō reira, tēnā tātou e te Taraipunara **thank you to the Tribunal**.

(09:33) DR ROBYN ANDERSON TO MR POTAKA:

Q. Tēnā koe **thank you**. In the deed of settlement, is there any recognition or concession of that idea of intergenerational trauma? It is discussed at paragraph 10 of the submissions but it is represented as virtually landless, severed from their ancestral lands and taonga, and then moves on to the question of language.

A. I understand your question, ma'am. I'm not too familiar with the entirety of the Te Whakatōhea settlement in its whole but I can check that and respond to you in writing, if that's okay with you.

Q. Okay. All right. Thank you.

(09:34) DR GRANT PHILLIPSON TO MR POTAKA:

Q. Good morning Mr Potaka and everyone. I think this is a really important claim. I guess my only question is asking for some guidance about how we should deal with the overlap between this inquiry and the Health Services Inquiry and whether there are particular findings or aspects of the claim that you want us to deal with, some guidance on that from claimant counsel. I realise you might not be able to answer that Mr Potaka.

A. Yes, I feel like part of that guidance is going to be answered today in the presentation of Ms Campbell and Ms Williams. But beyond that, you can

expect that we will provide further guidance in our submissions that will come later.

Q. It's just that I don't want to wait for closing submissions because we may need more evidence on particular aspects of the claim. For example, why *Pūao-te-Ata-tū* wasn't actioned that kind of thing.

A. I understand. Sir, I can consult with my colleagues on that, and we can provide some written responses to that, to give you an early indication of how this will all fit in the multiple inquiries that it sits in.

Q. Great. That would be very helpful. Thank you very much Mr Potaka.

(09:35) JUDGE DOOGAN TO MR POTAKA, MS DELAMERE-RIRINUI:

Q. Kia ora. Just following on from that, because that was one of the issues I wanted to raise also, the overlap to Mana Wāhine, Health Services, and this inquiry. I guess one idea that I just wanted to raise so that the witnesses we're going to hear today can, if they wish, address this idea which is that we have this inquiry into the North-East Bay of Plenty Whakatōhea rohe and, of course, we have already received a great deal of historical evidence concerning the critical historical events which are, as I understand it, the foundation for the intergenerational trauma which is one of the foundation stones of this claim. Certainly, we understand that and we understand that our focus on those historical events and the effects over time of that history is something that we expect to be focusing and reporting upon. But I guess where we would value some more guidance is the manifestations of that trauma that the witnesses today (and in other parts of our inquiry) have spoken about their whānau circumstances when it links up to the systemic problems, which are said to be Treaty inconsistent, a number of those are obviously clearly within the Health Services Inquiry and the Health Services Inquiry has already reported on some of those systemic matters, so some clarification as to where claimants expect this Tribunal to focus and where we should respect perhaps the fact that those other inquiries maybe better placed to advance aspects of the claims. Any clarification, as Dr Phillipson was saying, would be helpful.

Just finally, in terms of the *Pūao-te-Ata-tū*, as counsel are probably aware, in the Oranga Tamariki Inquiry 2020-2021 report, the Crown acknowledged in that inquiry its failure to implement *Pūao-te-Ata-tū* was inconsistent with the principles of the Treaty and there is quite a lot of data information being captured in that inquiry and report concerning the same kinds of structural issues that are being raised here. Again, it would be helpful to understand from counsel what we can take as "established" if I can use that word in terms of the jurisprudence of the Tribunal so that we don't have to go there again. And also the last point I just wanted to raise as a matter really of a signal is that I just simply don't know to what extent there is available data for this rohe, for the Eastern Bay of Plenty more generally, that helps this inquiry or the Health Inquiry understand the data patterns of the prejudice over time because I'm aware that that was quite a significant issue in the Oranga Tamariki Inquiry. Crown data over time is patchy, inconsistent. The standards of collection are difficult to track, and we had quite a lot of evidence from Lan Cook about some of those issues in that Oranga Tamariki Inquiry. So if there is data available and is an expectation that it would help us in our inquiry, then that will be good to know or, if it's going to be more of a matter for the Health or the Mana Wahine, then kei te pai we'll respond accordingly. So that is probably just a general heads up really about some of the issues. I tautoko Dr Philipson's observation, this is a very important claim and we would be very concerned to make sure we can respond appropriately within the particular jurisdiction we have. Thank you.

A. [Mr Potaka] Tēnā koe **thank you** your Honour that is duly noted. I will consult with my colleagues on that and hope to provide some further clarity around the positioning of this particular claim within this inquiry.

Q. All right, ka pai. I'm not sure if Ms Delamere-Ririnui is still online.

A. I'm not sure either to be fair.

Q. All right. But if she is there she is welcome to respond now if she wishes to.

A. [Ms Delamere-Ririnui] Tēnā koe **thank you** Sir. I just support what Mr Potaka has already noted. I think it is best to answer in writing and just to consider that with Ms Sykes first.

Q. All right. Thank you.

A. Thank you.

Q. Tēnā kōrua **thank you both**. Thank you.

JUDGE DOOGAN ADDRESSES TE MINENGA – MICROBREAK (09:41:43)

HEARING ADJOURNS: 9.42 AM

HEARING RESUMES: 9.48 AM

(09:48) MR POTAKA TO JUDGE DOOGAN:

Q. Your Honour, just during the microbreak, I had a quick look at the Deed of Settlement of Te Whakatōhea to respond to the question about whether there was any mention of intergenerational trauma that had been inflicted or imposed on the uri of Te Whakatōhea. Nowhere in the deed of settlement can I see that terminology of intergenerational trauma being used and I've noticed there's probably three key sections in there. I'm just quickly scrolling down to it. It's paragraph 3.18(a). That's a lot of paragraphs.

A. Probably just in the interest of time we will look at that in writing. If you identify the paragraphs in writing we'll have a look at that.

Q. Sure.

A. Thank you. I just don't want to cut our witness time.

Q. Absolutely, your Honour.

A. Thank you.

(09:50) MR POTAKA: (CALLS)

We will now turn to introducing Ms Campbell. Mōrena Ms Campbell. E mihi nui ana ki a koe kua tae mai i tēnei rā, ka mutu, kua haere tahi mai me tō whānau, otirā o mātua tūpuna e noho ana hei taituarā mōhau i tēnei ata i mua i tō whakapuaki i ō kōrero, i ō nawe i ngā take nui kei runga i a koe, otirā tō whānau. Nō reira, e te whaea tēnā koe. **Good morning Ms Campbell. I want to thank you very much for coming today and you have come with your whānau and your ancestors who are like the backbone for you before you**

share your kōrero, your grievances, and the important matters before you and your whānau. To the matriarch greetings.

E te Taraipunara **to the Tribunal**, it is my honour to re-welcome Ms Campbell, who is no stranger to this inquiry nor the Waitangi Tribunal. I said to her earlier I'm lucky to introduce a seasoned veteran who has presented a number of times in many different claims.

Q. Ms Campbell, can I get you to confirm that you prepared your brief of evidence on 11 February 2026.

A. Āe.

Q. I'll just get the appellation number in front of me. That appellation number was #F003 for the record. Ms Campbell ka tukuna te rākau ki a koe, kei a koe te wā **I pass it over to you Ms Campbell, you have the floor**.

(09:51) SHARON CAMPBELL: (MIHI, #F003-(a), (c))

E tangi mōteatea ana ki te mūrau o te mano, te wenerau o te mate, ki ngā mātua tīpuna e iri nei i roto i tēnei o tātou whare tipuna ā Tūtāmure, a, ki aku mātua tīpuna, ki a koutou katoa e kore nei e warewaretia tae noa ki ngā mate o te wā. E hia kē ngā tini mate o te wā te Hānuere e mahue ake nei. E taku tangi hotu ana ki a koutou, ki a rātou e wheturangihia, haere, haere, haere atu rā. **Turning to mourn and lament to the great and the thousands who have passed on. To the ancestors hanging on the walls of our ancestral house of Tūtāmure, to my ancestors and to all of you, you will never be forgotten, including all of the current deceased. So many who have died recently in January. We continue to grieve and mourn those of you have joined the stars farewell, farewell, farewell.**

Ki a tātau e tau nei e Te Rōpū Whakamana i te Tiriti koutou ngā mema me mihi, ka tika. Ki tō te ahikā koutou e pupuri ana i te mauri o tēnei a ō tātou marae, Uncle Te Riaki, koutou te whānau o Uncle Marnie ngā ringa hāpai, ngā ringawera, ngā kanohi kuia, i ngā kaikōrero i ngā rangi tata nei, Aunty Te Aroha, ahakoa e kaha māuiui ka tae ā-kanohi mai koe i tēnei ata, me taku mihi anō ki a koe. Tō mātou koroua Uncle Te Riaki kua roa e pupuri ana te mauri o tēnei o tātou marae, e kore te aroha e mimiti ki a koe. Ki a cousin Mereaira me te

komiti whakahaere o tēnei o tātou marae, he mahi nui. Ā, tēnā tātou, ki a koutou ngā rōia hoki. **To everyone present and the Waitangi Tribunal the members I must acknowledge you. To the local people upholding the mauri of our marae, to you Te Riaki and the whānau, Uncle Mannie and all of the helpers, the cooks working at the back, the kuia and all of the speakers over recent days, Aunty Te Aroha, although she is very unwell, she still came this morning so I want to acknowledge her. To our koroua elder Te Riaki who for a long time has upheld the mauri of this marae and my love for you will never dissipate. To my cousin Mereaira the chair of our marae here, I acknowledge her too. Greetings all and to all the lawyers.**

Koinei tētahi pepeha nā taku māmā anō i tito, a, ka whiriwhiri tētahi wāhanga noa iho: "Ka tū au ki te tihi o tōku maunga o Kapuārangi ka anga whakararo taku titiro ki te pou tōtara te pānui ā Tūtāmure, rangaranga te muri ka tū ngā tamatea ā Tūtāmure, ka anga whakawaho taku titiro ki Te Moana-a-Toi e ngarungaru ana ki waho." **This is a pepeha composed by my mother: "I stand on the peak of my mountain Kapuārangi and gaze downwards to Te Pou Tōtara…then Tūtāmure arises and looking out to the sea Te Moana-a-Toi and the great waves."**

A, me aro ake, ka tika, ki tēnei: "Tiwhatiwha te pō, te pākerewhā Te Arikirangi e haere ake." Nā, te Toiroa i kari, he poropiti o te Māhia, nāna i poropitihia ka ara mai ā Te Kooti Arikirangi Te Turuki. Koia te pou, te matua tangata e ara ake i te Hāhi Ringatū. **I must pay attention to: "It is a dark and intense night Arikirangi Te Turuki is coming." It was Toiroa the prophet from Māhia who prophesised that Te Kooti Arikirangi Te Turuki would rise up. He was the pillar, the matua tangata who raised the Ringatū Faith.**

He pononga aku mātua tīpuna o te Hāhi Ringatū. Pērā hoki anō au, ka haere ki ō mātou Tekau Mā Rua ngā pou o te tau i Te Tairāwhiti, a, hoki pēnei mai ki te rohe o Mātaatua. **My ancestors were followers, adherent of the Ringatū faith. Like myself, I attend our monthly twelfth gatherings in the East Coast and also come back here to the Mātaatua region.** Engari anei kē tāku e whakatakoto te mānuka ki te kāwanatanga nā Te Kooti anō i tito i

konei i Ōmarumutu **and so I will lay down the challenge to the government that Te Kooti composed it here at Ōmarumutu**:

> Hikohiko te uira, papa te whatitiri, whakahekeheke ana mai runga o Tūranga e. He aha tērā? Ko te mana o Kuini pea e awhi ana i te tikanga ka korikori te ture whakarunga ui atu ki Mita Renata. Nō wai tērā pere? Hei aha tērā pere, kei te kimi tonu ake te oranga mō te iwi Māori e. Arā, kei runga rānei, kei raro rānei, kei kō rānei, anei ake rānei. Aue, hi. **Lightning flashes and thunder roars and it falls upon Gisborne. It is the power of the Queen who is assisting in the tikanga and the law moves and shakes. Whose bell does that belong to? Never mind that bell, I am still searching for the salvation of the Māori people. Is it below or is it below, is it over here or is it here.**

Āe, nāna tēnei i tito i konei i Ōmarumutu. Pērā hoki te mōteatea: "Kāore te māharahara, kāore te mānukanuka, he mōteatea," nāna anō i tito i konei i a ia i tatū i waenganui i a mātou. And taku mōhio, Te Kapa ō OMT, nā rātou tēnei mōteatea i tuku ki te marea i Te Matatini i whakatūhia ki te "Cake Tin" i Pōneke i ngā tau e pahure ake nei and koirā, kei te kimi tonu he oranga mō te iwi Māori e. **He composed that here at Ōmarumutu. Like the mōteatea: "Kāore te māharahara…," that is a song that he composed here when he came amongst us. As I understand it, Ōpōtiki Mai Tawhiti they performed this traditional song at Te Matatini in the Cake Tin in Wellington in the past and so that continues to seek salvation for the Māori people.**

JUDGE DOOGAN ADDRESSES SHARON CAMPBELL – TECHNICAL ISSUE (09:57:24 – 09:58:05)

SHARON CAMPBELL: (CONTINUES)

REFERS TO #F003(c)

E heke iho mai te waka o Mātaatua ko te kāwai rua. Ana ko Muriwai moe tahi ko Tamatea Matangi ka puta ko Repanga. Ko tētahi o waku mokopuna ko tana

ingoa ko Repanga. Ana, ka heke ki Ruamatarārangi, Ruamatanui. Arā, koirā te urupā i raro iho nei. Kei reira taku māmā a Hinehou, arā kē ia e iri ana i te pakitara i te wāhanga ka kuhu mai ki tēnei o tātou whare. I reira hoki taku pāpā, taku tungāne, taku pāpā Barrie Campbell. He whakaahua e pā ana ki aku mātua, taku tungāne me tētahi o ngā mokopuna. Ana, ka heke ki Ruamataiti, Ruapūtake, Ruamataorau, Ruakaweka, Ruatakena, Ruakapua, koirā te kāwai rua. And koirā tā mātou e whakapono ko Ngāti Rua te ingoa o tēnei o tātou hapū. **I descend from Mātaatua. Muriwai lineage who had a union with Tamatea Matangi and they had Repanga. One of my grandchildren his name is Repanga. And then down to Ruamatarangi, Ruamatanui. That is the cemetery below. My mother Hinehou is there and her photo is hanging on the front wall. My father is also there and my brother, my father Barrie Campbell. There's a photo of my parents, my brother, and one of the grandchildren. And down to Ruamataiti, Ruapūtake, Ruamataorau, Ruakaweka, Ruatakena, Ruakapua and that is the lineage. Ngāti Rua is where the name of this hapū is derived from.**

E whakaatu atu hoki au ngā whakaahua o aku mātua tīpuna, arā, ko Rangihuatake Parehe rāua ko Ngaro Maaka Pera Te Toa, arā kei reira ia e iri ana i runga i te waha o tēnei whare. I whānau mai rāua i ngā tau kotahi mano waru rau rima tekau 1850s, okay. Ngaro Maaka Pera Te Toa Tuanui i pakeke mai, whānau mai ia i Ōpōtiki nei. Ko taku kuia Rangihuatake Parehe i whānau mai i Tūranganui-a-Kiwa. I wish ka whakaatu atu i tana whakaahua e whakarite ai **to show the photo that had been arranged**. **I want to show the photos of my ancestors, they are Rangihuatake Parehe and Ngaro Maaka Pera Te Toa and they're hanging on the wall of this house. They were born in 1850s. Ngaro Maaka Pera Te Toa Tunui was born and grew up in Ōpōtiki. Rangihuatake Parehe my grandmother was born in Gisborne.**

MR POTAKA ADDRESSES TRIBUNAL PANEL – FILED EVIDENCE (10:00:18)

SHARON CAMPBELL: (CONTINUES)

CONTINUES #F003(c)

Ko taku kuia me taku koroua. Ko taku koroua te kaitiaki o te māra tapu i te marae o Tapuihikitia mō tō mātou pāriha o te hāhi i Tūranga. **My grandfather and grandmother. My grandfather was the guardian of the sacred garden at Tapuihikitia Marae our parish of the Ringatū church at Gisborne.**

Ko Rangi Paatu Pera Te Toa tētahi whakaahua kei reira hoki te whakapapa tuku iho mai tēnei o tātou marae. **Rangi Paatu Pera Te Toa is one of the photos which shows the lineage down to our marae.**

Ko aku mātua a Hinehau Campbell rāua ko Barrie. **My parents Hinehou Campbell and Barrie Campbell.**

Me tuku mihi anō ki a koe Mr Pōtaka, nāu anō e whakamōhio tēnei kerēme ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti. **I also want to acknowledge you Mr Potaka who is lead counsel for this claim before the Waitangi Tribunal.** He's already explained what our claim is premised upon. I just want to mihi nui ki a **thank you very much** Mihiterina for presenting and preparing a brief of evidence because she works in that sector. I don't, but I've had a lot of personal involvement with the mental health service.

As I shared earlier, Te Rau o te Patu was not confined to the 1860s. Its legacy is lived daily through the social and psychological conditions affecting our people.

The trauma of invasion, land confiscation, and exile did not conclude with the cessation of armed conflict but it embedded itself within our whakapapa.

JUDGE DOOGAN ADDRESSES SHARON CAMPBELL, MR POTAKA – POWERPOINT PRESENTATION #F003(c) (10:02:20)

HEARING ADJOURNS: 10.03 AM

HEARING RESUMES: 10.05 AM

JUDGE DOOGAN ADDRESSES SHARON CAMPBELL – CLARIFICATION (10:06:26)

(10:06) SHARON CAMPBELL: (CONTINUES)

CONTINUES #F003(c)

Kia ora **thank you**. Ko taku pā harakeke tēnei **this is my whānau**. I read our kāwai rua, te kāwai rua me te ingoa Ngāti Rua te hapū **lineage, Ngāti Rua te hapū**. That's only for Mātaatua waka. We have Nukutere waka, Rangimatoru waka ērā atu o ngā waka **there's other waka**.

Ana, koinei ngā whakaahua o ōku mātua tīpuna. Anā ko Rangihuatake i whānau mai i ngā 1850s. **These are the photos of my ancestors, my forbears. That's Rangihuatake who was born in the 1850s.** They were definitely around. She would've been with our mātua tīpuna **ancestors** as well as my Tamatea mātua tīpuna at Waerengahika, which we commemorated the 160th for Te Tarata and the same for Waerengahika in October and November. We literally had hikohiko te uira at Te Tarata and Te Akaaka Rauwhero led by Paiheke's brother, Haturini McGarvey, me ngā iwi raupatu e whakawhāiti nei, e whakarauika nei i konei i tō mātou whenua taurikura **and the iwi whose lands were confiscated who came together and assembled here on our precious lands**. Me taku tipuna Ngaro Maaka Pera Te Toa Tuanui anā i whānau mai i Ōpōtiki. **My ancestor Ngaro Maaka Pera Te Toa Tuanui was born in Ōpōtiki.**

Ko waku mātua tīpuna ko Rangipaatu Pera Poata and ko taku koroua, he pononga rāua mō te Hāhi Ringatū. Ko taku koroua ko ia te kaitiaki o te māra tapu mō tō mātou pāriha o Ngā Pōtiki te marae o Tapuihikitia. **My ancestors were Patu Pera Poata and my grandfather they were both followers of the Ringatū faith. My grandfather was the guardian of the sacred garden of our parish of Ngā Pōtiki at Tapuihikitia Marae.**

And then ana, anei kē aku mātua whāngai **here are my whāngai parents** actually, ko Hinehou Campbell. Ko ia te mātāmua **she is the eldest**. She is

the oldest taku māmā whānau **my birth mother** and taku pāpā anā **my father** ko Barrie Campbell, a New Zealand born of Scottish and English descent.

Taku māmā whānau ko Tatarere tēnā. I whāngai a Hinehou i āu. And i konei aku mātua a Hinehou rāua ko Barrie i Te Rāhui me Ōmarumutu rāua tahi e noho ana i āu e whānau mai i te tau 1965. **That's my birth mother Tatarere. I was adopted by Hinehou. My parents Hinehou and Barrie were at Te Rāhui and Ōmarumutu and lived here when I was born in 1965.** Okay, i puta mai, I was born in Cooks Hospital i Tūranganui-a-Kiwa **Gisborne** and then my mātua **parents** came to get me. I was raised here for the first year i Ōmarumutu rā **at Ōmarumutu**. Before the wharekai that we have here, there was a little kāuta there and then one further down the paddock, and mum and dad lived in there.

I just want to pay homage to Julie Lux Cushla. She passed away recently. I didn't get back for her tangi. She would help mum, ki te manaaki, te tiaki i a māua ko taku tungāne **to take care and protect myself and my brother**.

The middle, she was the oldest, Matemaraea. My mother I think after I was born post-natal depression and then ended up living a very difficult life of undiagnosed schizophrenia for decades.

This is acknowledging the trauma and resistance at Te Tarata in October the 4th. Actually, October the 4th is the birthday of my dad Barrie Campbell.

That's my oldest moko Tamatea who was part of Te Akaaka Rauwhero. And Tama Hata, nāna e whakarite ngā wānanga mō ngā kairākau a Te Panene **who organised the wānanga for the warriors**. And then that's a photo of us underneath. We also attended the 150th at Te Tarata as well as at Waerenga-a-Hika.

The evidence of this legacy is visible in the disproportionate rates. That's already been made reference to. But to actually be able to access any data around suicide for the Eastern Bay of Plenty and the Tairāwhiti it's just not there;

it's not available. We certainly know what our statistics around incarceration and sadly our wahine **women** Māori dominate the incarceration rates. They're our mothers, they're our daughters, they're our sisters. Those statistics just speak volumes.

I must say, it's been really emotional writing this brief of evidence. Even though I've presented and prepared other briefs of evidence, and my daughter did the main big one for our NEBOP, this has been really, really emotional for me. It really hits home and I've been crying a lot actually. Even listening to Aunty Te Aroha the other day and your beautiful name, aunty, tō ingoa e tika ana **you have the right name**. I was very, very emotional. He mihi nui ki a koe **I want to thank you very much** aunty.

These are not isolated social failures. They are modern manifestations of historical violence which continues unabated.

Hoki ngā mahara ki **I remember** Te Rangihau. I had the privilege of meeting this uncle. Nō Ngāti Tāwhaki. Our whānau home is on Ngāhina Road and Ngāhina Marae is just further up the road where I went to school, Tāwera School. And Paiheke, we attended the same primary kura. Te Rangihau is he tōtara haemata, he rangatira **a great chief** of Ngāti Tāwhaki hapū. I remember him at Rūātoki.

I remember when he was leading this report, he was living in Waikato. We moved up there because mum wanted to do her formal teacher training and he was living there at the time. We would go to kapa haka practices with Tīmoti Kāretu, who was called Sam back then, Wharehuia Milroy, Hirini Melbourne, and he would be present from time to time at the practices.

Like Mr Potaka has read out, te ngako o tēnei mea te *Pūao-te-Ata-tū* **the essence of *Pūao-te-Ata-tū*** report and his significant role. He had a significant role in establishing Te Hui Ahurei o **festive of** Ngāi Tūhoe. As a whānau, we've been involved with the ahurei which i hokihoki mai ngā uri whakaheke o Ngāi Tūhoe ki Rūātoki, ki Ruatāhuna, ki Rotorua i ngā tau tata nei. And taku

mōhio Te Waimana Kaaku nā rātou Te Hui Ahurei i whakarite, ahakoa karawhiu mai te ua, kaha karawhiu mai te ua i tērā tau **where all the descendants of Ngāi Tūhoe go home back to Rūātoki, to Ruatahuna, or recently to Rotorua. As I understand, Waimana Valley they hosted the last festival, although there was heavy rain the other year.**

He was instrumental in a whole lot of grassroots kaupapa. That report reiterated exactly what the Royal Commission of Inquiry into State Abuse. I just want to acknowledge him and all the rangatira and wahine māreikura **chiefs and the esteemed women** who have influenced my life over the years.

I was fortunate that we moved from Ōmarumutu here in 1966 and I lived actually most of my life i waenganui i a **amongst** Ngāi Tūhoe. We do have whakapapa to Ngāi Tūhoe through Ngāti Ruapani. It was an absolute privilege but not without its challenges as well.

Yes, I just want to touch on Institutional State Abuse and how that's impacted on my own whānau. I think those are important points Judge Doogan you raised about there are other inquiries but we're not coined the "Homicide Capital" for nothing. We don't really know what our suicide statistics are. Those have been suppressed. We are not able to access that information.

You saw a photo of my māmā whānau **birth mother**, Tatarere. As a result of her illness, my two sisters, I'm the youngest of four, and brother had a very challenging childhood growing up with our mother. I recall calling in, mum and I would drive back from Rūātoki to Te Karaka and we'd stay from time to time overnight. I remember my mother would be pacing the passage and would be talking to herself and screeching at times and so just those times I thought by God. I knew and I was blessed to have been whāngai but I still felt for my siblings and my mother.

My oldest sister she at 15 had to contact our Aunty Matemaraea and ask her if she would sign the papers for her to be admitted into the Tokanui Psychiatric Hospital. During that time, that Te Rangihau and we were

living up in Hamilton, my brother and I attended Hillcrest High School at the time, we would visit my mother at Tokanui Psychiatric Hospital. So that opened in 1912 and didn't close until 1998. That's not so on ago people.

In 2016, a memorial. I remember seeing the documentary 457 psychiatric patients buried in unmarked graves. That's what happened in Canada and the US all those unmarked graves. That's our stolen generation and just the treatment of being buried in these unmarked graves. It is just the another indication of the abuse that happened in these institutions. I do remember seeing rangatahi **youngsters** and I do clearly remember, I have a very vivid recollection, there was a major incident and we were quickly moved out of that space. My sister informed me that our mother had to endure also the electric therapy. I've just forgotten proper name for it. It wasn't therapy back then. It was used for punishment, so she endured that.

(10:21) JUDGE DOOGAN TO SHARON CAMPBELL:

Q. I'm sorry, Ms Campbell, are you referring to, I think, it's called ECT.

A. Yes, that's it.

Q. Electroconvulsive Therapy.

A. Yes, she was endured that while she was in Tokanui.

(10:22) SHARON CAMPBELL: (CONTINUES)

CONTINUES #F003(c)

I remember her also being very fearful on a couple occasions when we went to visit her. She wasn't in there long-term and she was returned back to Te Karaka. My older sister says that there was not much change in our mother's mental illness state. They were still very challenged with their upbringing. Our father would take them on weekends because he was too busy working during the week. He was a bulldozer driver and knows all the back country of the Tairāwhiti whānui **East Coast**. My brother shares the story they went to Ngātapa – and Te Kooti three years later after the greatest escape in the history of New Zealand when they came back on the *Rifleman* ship – and

my brother had this jar full of round musket bullets that he picked up while our father was doing some of the bulldozer work close to Ngātapa.

Mate Whakamomori **suicide**

My oldest tamariki, Nick and I, we had five tamariki. Our second pregnancy I lost our baby through Placenta previa was the diagnosis. Nicholas became very unwell and his intergenerational trauma also kind of manifested with issues with alcoholism. Our oldest four tamariki are still earth side, my oldest four tamariki. Tawa, Mānia, Ngapo. My Ngapo still suffers. Just before I came, I had to message his case worker from Lowe Street Mental Health Service in Gizzy. I'm still right to this day dealing with mental health services; this week, I should say.

In 2025 also sadly one of my nephews who was living in Perth returned to his marae at Matakaoa. We all know that there's been a major weather event and State Highway 35 has just opened. But these losses are deeply personal and many whānau Māori have been impacted.

Last year, we had a gathering at the Kaiti Hub and we were all asked to take photos and so there was a big gathering of whānau who came with our photo. It was very emotional. We walked from the Kaiti Hub in Gisborne around to Te Pā Eke Tū. Te Pā Eke Tū was our courageous whānau that Shelly and them had a lot to do with and were there. The ahikā keeping the ahi going at Te Pā Eke Tū.

There was another one Te Pā Kāinga as well. Me mihi, ka tika, ki a koutou **I must acknowledge you all and**, Shelly. That was led by cousin Charlotte Gibson who is an Agassiz-Tai from Ngāti Rua as well. Her mum Aunty Rawinia is of Ngāti Rua descent and her father Toko Te Kani is of Ngāti Porou, Ngāi Tāmanuhiri, grew up with Ngāi Tāmanuhiri.

So these statistics are real and coming together enables us to keep mourning and to remember them. This is another opportunity to whakatakoto te mānuka **lay down the challenge** before the Waitangi Tribunal here. Today is to remind

that our statistics of the OECD countries are over the top and our women are topping it.

Okay, this one was a major. My nephew, who is named after his grandfather, Barrie Raymond Campbell Junior, he was very young when he was first diagnosed, about 16 (the same as my son Ngapo that I mentioned recently). He was diagnosed as schizophrenic. When I was living here, in the role as a principal at Te Kura o Tōrere, my nephew was very unwell for a period of time. I was constantly ringing the Whakatāne Mental Health Service and then I was ringing the crisis team.

The heartbreaking thing is the night before my nephew burnt our parents, his grandparents, house down because he was so psychotic and really unwell, I rang crisis again and I spoke to a Māori nurse, who we knew each other really well, Jamie, and I pleaded with them, and I said: “Look, my nephew has the legal right to health support.” And funnily enough the police Ōpōtiki would say to me: “Just quote that your whānau has the legal right to health assistance,” even that didn't work.

The next morning our whānau house was set a light and my nephew was charged with arson. He was incarcerated in prison. I had to work really hard and advocate very hard to ensure he was taken out of prison and placed in a mental health facility. He ended up being transferred to the Henry Bennett Rongomau that's why I’ve got a photo. That looks pretty flash. It wasn't that flash when my nephew was in that forensic unit.

Steven Franklin was his legal aid rep here in Whakatāne. I noticed in that system that unless you're like a bull to a red rag, I guess, that's all that can come to my mind at the moment, but I was regularly ringing him, I was regularly emailing him to make sure that my nephew was being well-represented. Because I noticed that a lot of our whānau who were going to court, the legal aid lawyers were just going through the motions essentially. That's certainly what I observed and so many of our whānau don't have advocates for them.

Nonetheless, my nephew spent almost four years in forensic. It's $200,000 a year for our whānau who end up in penal institutions. Well, it's much higher than that. If you think about the economic cost to the country and, how crazy, and now the Minister is going to start locking up our homeless, just on that premise it's unconscionable. So you do the math, work out how much it cost to have my nephew in forensics and that's without the loss of the whānau, okay.

And then my brother Alan the same again. He ended up really unwell. I was crisis calls again and again and I'm taking him to Whakatāne. Travelling back from Hamilton to try and kind of help him and take him to Whakatāne Hospital and to the psych ward and, yes, to no avail. He was so psychotic. He was walking up and down Ōpōtiki main drag in town, our little town main shops area and he would be ranting and raving and I walked with him a couple of times.

Some of our young tamariki were obviously afraid of him. And then others were very disrespectful only because they didn't know what was going on for him. But I would just explain to them that he was unwell.

And then he could have been one of those statistics because they rang the Armed Offenders Squad, because he had not a machete like a sword. He takes the sword out, you know, not when I was back but at another occasion, he took the sword out and then he was waving it down the main street in Ōpōtiki. And then one of the cousins messaged my son: "Your uncle, I just saw him with a sword walking down the main street in Ōpōtiki." And thank goodness somebody local or one of the police officers kind of managed to settle him down and bring him in. Otherwise, he may well have been shot on point if that police officer hadn't acted.

Like I will admit that the police here in Ōpōtiki were helpful at times. And I was thankful that they could help me with not just my brother but my son and my nephew. So I've had a lot to do with the mental health service.

My Ngapo he tried to commit suicide. We were in ICU in Whakatāne and he explained if he wasn't put onto fluoxetine, and he went from deeply depressed

to absolutely manic within three days, he said: “Thank God mum, because I would've just kept trying to top myself and overdose because I was so deeply depressed.” The journey continues with my son over 15 years later and definitely, the inept mental health service, social, and economic impact is beyond conscionable to be honest.

I just want to acknowledge, because earlier I made an acknowledgement to those who have passed recently, just in January has been the most horrendous January in my life the amount of people that have passed away in very tragic circumstances. One of our very well-respected, Tama Brown, died on his farm. I travelled back from Ōpōtiki to be there and taku aroha ki a ia me tana whānau pani **I extend my love to him and his bereaved whānau.** Tama passed just before New Year's Day. The end of last year and New Year was really traumatic to say the least.

We also had two young mothers from our marae that were brought back soon after his tangi in the New Year. One of the mother’s, I had travelled back to Ōpōtiki, I wasn't in Gizzy, she had nine tamariki and four of them under the age of five and one is six months old. I caught up with her mother at the second tangi of another niece and her mother and I were talking.

While I was back, we had tangi here. We had Hine Porter here at Ōmarumutu and Anameka's mum, Taku, who was another educator and kaiako that I knew well. And then went back to another tangi of a niece, who was attending meth wānanga, in a tragic accident in Rotorua and was brought home to our marae.

There is Te Kooti’s kōrero. Because our tipuna rode by horseback over to Maniapoto and our kuia from Tapuihikitia Marae, Oriwia Tuterangi Whaitiri, she was the only woman rider that rode with them. Wi Pere was one of the riders, his son Moanaroa, and our other tīpuna from our marae. Te Kooti’s kōrero to them was: “E hoki, whakahoutia te rongopai i runga i te ngāwari me te aroha **return and take the word of the gospel and aroha**.” Return home and spread the good word of the gospel and aroha **love** and manaakitanga **care** that's the essence of it. Our tīpuna returned home and built four marae, four whare in

remembrance. Our whare is called Te Aroha that part of that kupu whakaari a te matua tangata **the prophecy of Te Kooti**.

We have 12 tamariki who live in Gisborne that are bereft of their mothers just in January under very tragic circumstances. I just try to imagine how hard that's going to be for our tamariki. I felt that dearly and that's why I've been very, very emotional as well.

JUDGE DOOGAN ADDRESSES SHARON CAMPBELL – MICROBREAK (10:37:35)

HEARING ADJOURNS: 10.37 AM

HEARING RESUMES: 10.41 AM

(10:41) SHARON CAMPBELL: (CONTINUES)

Kia ora anō tātou **thank you once again**. Aroha mai **I'm sorry**, it's pretty depressing this presentation but it's our lived reality. I was just talking to my Aunty Te Aroha down there, two of her mokos have taken their lives. It's so common it's not funny.

CONTINUES #F003(c)

Now I'm not big on the statistics but this is the only thing I could find really. We don't know where Tairāwhiti and the Eastern Bay of Plenty come in that graph. But I just wanted to signify the grave concern of our mothers, our sisters, our daughters who are taking their lives and the impact that will have and no doubt the ongoing intergenerational trauma that our next generation are. I know my niece who died in the accident her tamariki attend Kaiti Primary just up the road from me. Those are the only ones I know about. I am also aware of another educator from the Tairāwhiti region a wahine Māori, her daughter a couple of years ago bereft of their mother. These are the only the ones we know of.

As I mentioned or I think I mentioned that I talked to my son's case worker very recently and I said: "How are suicide statistics measured here with your mental

health service?" He said: "We're only informed of the whānau who are registered with their service." There's a lot of other services in Tūranga and so they have no idea what the true statistics of suicide is, even for those working on the frontline in mental health.

(10:43) JUDGE DOOGAN TO SHARON CAMPBELL:

Q. Ms Campbell, can I just ask while we're on this topic, have you made enquiries of like Tairāwhiti and in this Eastern Bay of Plenty area have you tried to find more data from agencies?

A. I did. One of Hekia's nephews ex-partner works in a mental health service here in Ōpōtiki. She didn't divulge how many but she said they age from 14 years old to 65 those who had committed suicide. Yes, I have spoken to somebody that I know works in a service in Ōpōtiki.

Q. All right.

A. She didn't share what the numbers were though, okay.

Q. All right. The reason for my question is simply that you may not know and I can raise it so that counsel can have a look at the question as to who does hold the data and I'm thinking of this particular inquiry. In which case, we can make enquiries through the Tribunal of how that data may be accessed or under what condition. I'll leave it there because I'm not sure either. I know the Coroners Court will have some information.

A. Kia ora.

Q. I don't know where else it may lay. But I'll leave it as an open question for now. Thank you.

A. Kia ora. I have spoken to a police officer in the Gisborne region and like she didn't share statistics as per such, but she said that they attend a lot of suicides.

(10:45) SHARON CAMPBELL: (CONTINUES)

CONTINUES #F003(c)

This is harrowing being coined the "Homicide Capital" of New Zealand. I attended school – I don't have Andrew's name on this list, Andrew and Kūnere attended Tāwera School and they met a very violent death both of them. I only

have some here; there were others that passed way very violently. But for Ōpōtiki, John Rowe was of American descent actually. He helped us. I only got to know him because we had a campaign group for the Māori Party years ago here. He came to engage, he came to support for enrolling people, gathering memberships and dropping pamphlets. And then we travelled, there was a group of us from Ōpōtiki that travelled to Rotorua because Te Ururoa Flavell was our Māori Party candidate to door knock and John came with us. Sadly, he lived just diagonally to the house where my brother Alan, who is now lying in Rangimatanui.

Sorry, John Rowe was a retired teacher. Sorry, it is Brian Hilton I'm talking about. John Rowe was a retired teacher and he lived on our street not directly opposite me but diagonally to me. That was really sad. He was a retired teacher from Ōpōtiki College. I didn't really know him but I would see him outside and the other kaumātua who lived next door, the other elderly Pākehā gentleman.

It was two rangatahi that were charged with murdering him and they were incarcerated. These two rangatahi were well-known to all the services and to the police in Ōpōtiki. They came over home once. We had a bit of a barbeque and they were settled. Their grandmother Tangi and I studied at Awanuiārangi. Yes, in 1995 I started a degree there and Tangi their grandmother, the girls' grandmother, was with us for the first year. Her son Hata has worked with carving, with heke for some years now with my partner. Hata has been over in Perth for a couple of years and come home very recently and he's very unwell. He was opening up and sharing that he went through the state institutions as a child. The intergenerational trauma that they've impacted as a whānau is no doubt connected with Te Rau o te Patu.

I met Tracey McIntosh who is a niece of Te Wharehuia Milroy. She's a professor and works in that field. Her and I talked at this conference, this was some time ago, some years ago, and I asked her: "Do you know our girls?" She said: "Āe," she visits them regularly and very sad about what's happened to them and being incarcerated at such a young age.

Like our road was closed down. I remember driving out the drive (because I used to have to drive the school van and pick up our kids) and all these police were outside the house and I was thinking, God, what's going on? Next minute I'm getting called by my son that street is being closed down and there's police. Very sad.

Actually, it was young Danny Paruru that organised a rally and we walked around Ōpōtiki raising alarm bells and concerns. But that's the irony, all the services and the police knew our adolescent girls really well.

Hawea Vercoe, a fellow colleague, he died in sad circumstances. The perpetrator is a Tai from Ōmarumutu. I remember attending one of our hapū hui and raised it. I said: “What are we doing about our whānau and how do we support our whānau?” That was the bane of my request at our hapū hui. I must thank, what's his name, uncle, he worked for our social work, Geoff Bristow did organise a bit of a wānanga, an evening wānanga about: “What do we do as a hapū to address these sad statistics?” That whānau was absolutely devastated. I'm aware that Hawea's father has whakapapa to Whakatōhea as well. He was attending a Maisey Rika concert with his daughter and dropped her off. And then, yes, sadly, he was beaten and died on site.

Now this is young Jordan Herewini. I was previously the principal of Te Kura o Tōrere we were part of the kura ā-iwi collective and we were the early part of kura ā-iwi. Pem Bird would call meetings to his school at Tāwhiuau in Murupara and so we would go over there for hui to establish our legal entity, which is now being led by Watson Ohia and is doing very well. Young Jordan, I vividly remember this young student. He would come and he was one of the tuakana of the wharekura then and he would always come and be part of the whakatau and the manaakitanga. A beautiful young soul taken so tragically because he was wearing a yellow t-shirt and because the tribesmen yellow is their colour but he wasn't even connected with the tribesmen. The school had yellow shirts. That was their uniform. He was taken tragically outside of his home. Even

though he's not from Ōpōtiki that had a profound impact. I'm thinking about his whānau in him and the terrible tragic way he passed.

Brian Hilton, I shared about him. He helped us. Another violent death.

I didn't know Marie Harlick but I did know Ropere her partner. Ropere grew up at Rūātoki. His mother Linda and I are the same age. She attended Te Kura o Rūātoki and I attended Tāwera but we knew each other. Ropere was her son but he was raised by his extended whānau and father. They were living here in Ōpōtiki and that's some of the saddest things, the biggest secrets that everybody knows. We had women that would run to our house when we were on Matiu Road, and children, as well as when we lived on Ngahina Road who were being impacted by domestic violence. I take my hat off to my mum for being so courageous, she went to go and see the perpetrator and I remember him yelling and calling her all sorts. I thought how brave are you Mum going to just try and smooth the waters for these tamariki **children**. We all knew that Ropere was absolutely traumatised. He took his partner's life here in Ōpōtiki.

There are others that have passed like that. A pregnant mother, my neighbour Uncle Peter Collier one of his daughter-in-law sadly.

And then I make reference to Rawiri Waretini-Karena.

My beloved father Barrie Campbell alcoholic. He was a very good provider and cared for us but his alcoholism became a real problem as he got older. He served his first term in Waikeria and Rangipō Prison and he was 72 years old.

I went through the court system with him. We had Judge Wainwright and there was these three wānanga for the Justice System, and there was one at Mātaatua Marae. So I shared just a little about my father serving his first lag at 72. He was sly grogging. Mum and I would ring the police and they would just ignore us. Then he got too frail to be making the sly grog, he decided he was going to start selling tinnies and the rest is history. So that was traumatic.

And then on his release from Rangipō Prison, there were two major incidents that happened, one at Church Street before he was incarcerated and another major incident when he was living on the corner of Wellington Street in Ōpōtiki. And sadly, I know Willie Hardy well, because all our whānau who had addictions would be congregating at my father's house regularly. I would try and like be the adult and growling my father but it just went in one year and out the other. I understand what addiction looks like, sounds like, and feels like because it just doesn't register. Sadly, one of his friends, Tony Devlin, was beaten right in front of him in his house. Willie closed the doors of the house, locked them, and then beat Tony. He was lucky to have lived.

And then my daughter rolled up from kapa haka practice preparing for the Scottish Tattoo down in Wellington because she'd drive back from Rotorua. She was based in Rotorua. She drove back and she would stay with her grandfather. She walked into the house at 9 o'clock in the evening and Tony was lying in that blood everywhere in the house. Tony lying on my father's bed, blood in the shower. She told him to ring the ambulance in police immediately. He rang the ambulance and then the ambulance workers contacted the police. And she rang my oldest son and daughter-in-law and they travelled back from Hamilton to clean all the blood in the house everywhere. I can't even imagine what that looks like. Tony died of his injuries not so many weeks later.

This is Dr Paul Toko King just recently through E-Tangata. That just tells us what we already know. I'm not going to repeat that. The state prison and justice system does not work for our people and that's why I attended that wānanga that was led by Judge Wainwright, Hana O'Regan, Rāhui Papa, and others were there as part of that panel. It is so sad in this article that Paul has written at the age of 10 years old our tamariki are going through the prison system.

Mr Pōtaka gave a good intro about 7AA, so I don't think I need to go into that. But I do want to acknowledge the Ngāpuhi delegation who travelled to Parliament to protest about this section 7AA. When there was an iwi leaders meeting, they had the courage to walk out, and many of our other iwi leaders

stayed in the room. Our tamariki are the next generation. They're our rangatira into the future. I can't understand why you would stay in a meeting.

You can't go past this amazing rangatira, tōtara haemata **great leader** of the legal fraternity and his mahi and the report he did around Whaipānga. I'm not going to go into depth about that. But just like *Pūao-te-Ata-tū*, the *Royal Commission of Inquiry into State Abuse* that his report signals and alarm bells about the ongoing structural oppression that's happening. I attended his tangihanga and women were allowed to stand on the marae ātea and tuku he kōrero, he whaikōrero. I was one. My daughter and I travelled there to pay respects to this man, amazing tōtara haemata **great leader**. I stood on the marae, because our kōrero about our kuia Muriwai: "Muriwai tō ringa ki te waka kia whakatāne au i a au **took the waka and behaved in the manner like a man**." My mother talked about our wahine and our kuia from the Tairāwhiti that stood on the marae to tuku whaikōrero **perform oratory** so because of that legacy I felt very comfortable about standing up and acknowledging his passing.

Our mōteatea was *E Pā Tō Reo*, one of Te Kooti Arikirangi mōteatea **traditional song**. One line in it includes: "Kei te haere tonu mai ngā ture **the law continues to come**." It is the expression of literally we have a "Blitzkrieg of laws" that are being implemented by this Coalition Government. So that mōteatea was written generations ago. It still is relevant now as it was then. So is the haka that I performed earlier: "Kei te kimi tonu mātou te oranga mō te iwi Māori e **we are still searching for salvation for the Māori people**," and we literally are still.

I know there was a group with Matike Mai, Veronica Tawhai, I think Pania from Ihu Mātao who led that occupation. She was part of this Matike Mai Rā and the rangatahi. "IN OUR STRUGGLES, WE STAND IN THE LIGHT OF OUR ANCESTORS," and I tautoko that, and I'm privileged to be in our whare today with all our tīpuna e iri ana i roto i tēnei o tātou whare tipuna **hanging in our ancestral house**. Constitutional change is way OVERDUE.

I just cannot ignore what this current Coalition Government is up to, lest we forget, has definitely been sidelined and the rise of fascism is no doubt amongst

us and the whole Atlas Movement the New Zealand initiative the rich getting richer, the poor getting poorer. And me mihi, ka tika, ki a **I must thank** Carwyn Jones, Jane Kelsey amazing wahine in ringing alarm bells about the trade agreements and the Blitzkrieg of everything that we are witnessing as we speak, and when you got people like Jeffrey Palmer and the ex-Minister of Settlements, what's his name calling them out online. That speaks volumes people. So, ka nui **that's enough** I think.

Ka mutu **I'll conclude**, I just want to finish with when I came through the gorge yesterday, at the 1 o'clock convoy, I went to straight to Paper Plus in Ōpōtiki because I wanted to buy Pou Temara's book, but I found this book as well. This book is Leonie Pihama, edited by Leonie Pihama. I worked at Waikato Uni and Leonie Pihama led one of our kāhui rōpū **group** there and very well respected. When I did my master's at Te Whare Wānanga o Awanuiārangi, I did a post-grad paper iwi research with Professor Linda Smith. I have great, great admiration for her and Leoni. I want to finish with the waiata and it's just going to be part of it but *He kākano ahau i ruia mai i Rangiātea* **I am a seed dispersed from Rangiātea**, which is from Aotea, but in chapter 6 of this pukapuka, it's got: "*He Kākano Ahau Programme: A Collaborative Healing Modality For Prison*," and I just want to read an excerpt from the book:

> *He Kākano Ahau* programme examines a full range of legislative policies, including the Native Lands Act, the New Zealand Settlement, and so many more. Waretini Karena conveys that, while there is direct correlation between colonisation legislative policies and Māori deficit statistics alongside Māori experience of historical trauma, little acknowledgement is given by the New Zealand Government as to how legislative policies they create contribute to Māori crime and prison statistics. The intergenerational ripple effects of colonial legislation contribute to Māori deficit statistics in crime. These deficits, the statistics are symptomatic outcome of intergenerational poverty. This highlight psychological trauma not accounted for. Linda Smith noted in 2013 argues that it makes no sense of inequality is not addressed and

> instead becomes more stubbornly intergenerational marked by race, region, and the realities of poverty, then we are nation that have failed ourselves.

Nō reira, tēnā koutou, tēnā koutou, tēnā hoki tātou katoa **thank you, thank you, thank you all**.

Whakatōhea
Tēnā Whakatōhea
Whakatōhea ki runga
Whakatōhea ki raro
Tohetohe ake nei
Tohetohe ake nei
Taku tohe rau ariki
Taku tohe rau ariki
Ana hī!
Whakatōhea
Whakatōhea
Whakatōhea above
Whakatōhea below
Continuing to persist
Will persist
As the many leaders

JUDGE DOOGAN ADDRESSES SHARON CAMPBELL – BOOK TITLE (11:10:09)

HEARING ADJOURNS: 11.10 AM

HEARING RESUMES: 11.34 AM

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (11:34:47)

(11:35) MR LINKHORN KC TO SHARON CAMPBELL:

Q. Tēnā anō koe **greetings once again** Ms Campbell. It's good to see you again.

A. Kia ora.

Q. Kia ora. Thank you for this evidence and the seriousness of it is not lost on anyone of course. Like the Tribunal, I've been thinking about how what this inquiry does can deal with these issues at the same time as we have that report from the Royal Commission and the work on that. We also have among other things the Health Inquiry, which you're a participant in, and the mental health section of that is just starting. I thought I might make comment on, which you might like to comment, and your comment today need not be the last word on that of course but just to help us all kind of continue to progress our thinking on how that might work is why I'm saying this.

It seems to me that your evidence is showing us a contemporary manifestation of these issues of conflict in trauma and intergenerational trauma in the inquiry district. Although, as the Tribunal has said, that that can be hard to identify, I wonder if the purpose of having this claim heard in part in this inquiry is so that the Tribunal can get an idea of how these issues present here in this district and how they impact upon whānau and hapū. But this Tribunal can leave for the Health Kaupapa Inquiry the detail of technical evaluation of the mental health system for example or the interrelationship between the criminal justice system and the mental health system for example, which might be partly dealt with by the Health Kaupapa Inquiry or the Justice Inquiry, or the other places that you're participating in. If you don't mind, could I get your comment on that so far as you might have one?

A. Yes, definitely. I think this claim is important to be because it is our lived reality for whānau and hapū what I've shared this morning. It is as relevant as all of the other claims that have been and yet to come in our NEBoP because some of those tangi come back to our marae and just how traumatised the whānau are. For example, just Tapuihikitia Marae in Tūranga-nui-a-Kiwa close to Te Karaka three tragic deaths just in January alone and 12 children bereft of their parents, of their mother. So

because we don't know the statistics – and thank you Judge Doogan for signalling that there will be a request to the Coroner and those in the hierarchy so we have an idea – even though there is the Health Inquiry, the Justice Inquiry, Mental Health Inquiry, and Mana Wāhine that is general; it's broad.

We're here at our marae today in our whare tipuna **sacred house** and when I presented my first presentation under the umbrella of NEBoP, I presented in my whare at Tapuihikitia Marae surrounded by our kura that came to attend. I think that it should be acknowledged and recognised and be an integral part of this NEBoP claim because that's homogenising the reality if it's just going to be generalised. We are Ngāti Rua hapū, we are Whakatōhea. I'm glad Mr Potaka, because I'm still trying to come to terms with the settlement and I haven't even bothered to read the settlement legislation but Mr Potaka acknowledged that and didn't find anything about intergenerational trauma and even in our settlement that was signed off without the rest of the majority of the claimant groups supporting it. For me, it's integral because it impacts whānau grassroots and it impacts hapū grassroots. We're not a generic, generalised. These major trauma incidents and tragedies are specific and they're huge, they're huge within the Eastern Bay of Plenty and the Tairāwhiti Region but we're kept in the dark.

Q. Thank you very much. That was the only point I wanted to raise with you. Kia ora.

(11:42) DR ROBYN ANDERSON TO SHARON CAMPBELL:

Q. Tēnā koe **greetings** Ms Campbell.

A. Kia ora.

Q. You've brought to our attention this very important report that was produced in the 1980s and the findings but do you know what the terms of that inquiry were? Was it specifically looking at Māori treatment within the social welfare system or was it a broader inquiry?

A. Initially, social welfare system from what I understand.

Q. Okay.

A. But I know Te Rangihau visited prisons –

Q. Yes.

A. – and his son actually Te Rūrehe (because we were part of Tūhoe ki Waikato kapa haka group and he used to travel to Taupō for some of our practices and his boy, his son, he used to be called Poi but Te Rūrehe is his proper name) he shared with mum and I because he was our driver as we were driving over to our Aunty Waisie, who lived in Taupō at the time; we would go to different places. He shared about how he was imprisoned for a very minor offence and our elders were gravely concerned about the prison population back then as well as our children the stolen generation in social welfare; so you know the Royal Commission of Inquiry is 70 years of state oppression and abuse. Like in our communities, as I shared earlier, are the biggest secrets that we all know about. We are all aware of those things because of our whānau come home they're traumatised.

Actually, there was a wānanga here in our whare, Te Korowai Aroha, who was managed by cousin, Josie Karanga. Te Korowai Aroha was a ratonga an NGO that held wānanga around the country and I remember a group of our whānau who had been institutionalised coming here to share their trauma. So that is why I am saying when they came home we had an opportunity to acknowledge their trauma. That's why for me this is important to be part of the NEBoP. It's not generic. Yes, all those concerns were obvious.

My mum was quite politically involved with things, even around uneconomic shares. I remember Duncan MacIntyre coming to Te Rewarewa Marae, Tūhoe came together. Mum used take me and we would go and visit koro pāpā Heremia, koro Kino Hughes, and other elders of the community at Rūātoki and their discussions were always around political concerns and how it was impacting at grassroots. So they would take action, like call Sir Duncan MacIntyre to Te Rewarewa Marae and other instances. And then of course, as I shared, Te Rangihau led the *Pūao-te-Ata-tū* Ministerial Group of the time.

Q. Sorry, do carry on.

A. I vividly remember one of our Tūhoe Ahurei, there must've been a convention for one of our gang communities and they all rolled up on their

motorbikes and there was an air of fear. I remember feeling that. But one of our elders got onto the mic and settled everybody down by saying: "These are our tamariki that were disconnected as a direct result of government legislation and policy." We live and we breathe those reports, those statistics. They are not mere statistics, they are our lived reality. If I have lived it and Mihiterina will be sharing too every one of our whānau we live it 24/7. There is no relief from it. With the current blitzkrieg, man, it is really hard to come to terms because we have come a little way towards some form of partnership. The principles of the Treaty, for me, I actually think they should be the articles of the Treaty not the principles merely, but even that's being legislated away as we speak.

Q. My heart acknowledges your pain but I'm going to ask you one more technical question.

A. Yes, no, keep asking. I'm happy to answer any questions.

Q. It was just that Ministerial Committee you've got in your evidence that they visited marae.

A. Yes.

Q. Do you know whether they visited marae here?

A. I can't confirm that and you should never assume. I don't have a list of those marae that Te Rangihau would've gone to gather the voice of our people. But he definitely did that and I was aware of it.

Q. I'm just wondering whether the minutes of those meetings are available and maybe that's something we can look at.

A. Kia ora that would be really good.

(11:49) JUDGE DOOGAN TO SHARON CAMPBELL:

Q. I'm sorry, if it may help. My recollection of the report includes a fairly detailed account of what the working groups they set up did, who they consulted with, where they met. A lot of that detail is in the report.

A. Yes, okay.

Q. Although there may be further papers behind it, from memory anyway, there's a fairly good summary in that report of how they went about coming to the conclusions they came to and the process they followed. I

think they list hui in a number of centres all around the motu but I can't recall this district specifically.

A. Kia ora.

Q. There is a lot in that little report.

A. Okay. What's the name of that book?

Q. This is *Pūao-te-Ata-tū*.

A. Okay.

Q. Yes.

A. Well, I'll have a look at it. When was that heard and the report published?

Q. The report came out about '86 or '87 and the work for it was the preceding year.

A. Yes, when the report came out I knew.

Q. I think they were commissioned about 18 months or a year prior.

A. Okay.

Q. Reported to the Minister in '86 I think or '87.

A. Has it been included in a Waitangi Tribunal report?

Q. I think it's been referred to in a number of Tribunal reports.

A. Yes.

Q. It is examined in quite a bit of detail in the Oranga Tamariki report in 2021.

A. Okay.

Q. This is from memory from that inquiry.

A. Kia ora.

Q. Yes. The short answer I'm simply saying we can certainly access –

A. Yes, access.

Q. – some of that information relatively easily.

A. Okay.

(11:50) DR ROBYN ANDERSON TO SHARON CAMPBELL: (CONTINUES)

Q. All right. Well, thank you for coming in today. I mean it is very distressing to hear so it must be even more distressing when it is personal to you and your people and thank you for having the courage to come and talk to us today. Thank you.

A. Kia ora. Yes, it was actually a very emotional journey just to get here today.

Q. Āe.

A. I was thanking Mr Potaka during our morning tea because I was so unsettled but with him reading out the summary to everybody that helped me settle because I didn't want to be balling my eyes out all the way through so he gave me the kaha. Kia ora Mr Potaka.

(11:51) DR GRANT PHILLIPSON TO SHARON CAMPBELL:

Q. The internet connection here at the Tribunal is very unstable at the moment so I'm hoping that I'm coming through all right. Tēnā koe Ms Campbell. Can you hear me okay?

A. Yes, I can.

Q. Good. I just wanted to thank you very much for the evidence. It is a very important claim. There are a number of issues that I want to know more about but I'm going to have to go and look at some more stuff. I did read *Pūao-te-Ata-tū* a long time ago –

A. Yes.

Q. – and it is a very important report. And of course, John Rangihau was very important in the Urewera Inquiry as well. But I just wondered if you could tell us a bit more about what you just mentioned to Dr Anderson about how they called Duncan MacIntyre to talk about uneconomic interests. Do you have any more kōrero about that?

A. Yes, I was quite young at the time but-

Q. I know you didn't speak about that today but it's a very important issue in this inquiry.

A. Yes.

Q. It's a very important issue in this inquiry.

A. Kia ora. Yes, I was quite young at the time. I know mum and dad drove some of our elders to Rotorua. It must've been to the Māori Land Court in Rotorua. Koro Pāpā Heremia was one of them and Kupae McGarvey, I would say, would've been part of that as well. It was a big huihui. It was a big gathering of Tūhoe. It actually harks back to 'not one more acre of land'.

Q. Yes.

A. 'Not one more'.

Q. Yes.

A. As we are heard, I'm sorry, I've forgotten her name, Woodley, with the Public Works Act alone, let alone the other bylaws and other means of alienating us from our land. That's a word I heard a lot growing up actually 'alienation from our land' around our house and hui. I've never looked into research about the uneconomic shares but I know that there's a legacy.

I attended a kaupapa at Hopuhopu Marae up in Tainui and all the judges were there. That's first time I saw Judge Wainwright actually. It was in commemoration of Ngāneko Minhinnick and her mahi. Judge Sian Elias was there and sat opposite each other.

JUDGE DOOGAN TO SHARON CAMPBELL – MICROPHONE

Yes, Judge Sian Elias, who took their case, Ngāneko's case to court because she couldn't find a job. The patriarchy back then wouldn't employ even European women in the legal fraternity. She took up Ngāneko's case for her elders.

I met Ngāneko face-to-face. She came to my nephew's 21st birthday at Waiuku and her and I spoke for hours. It was absolute privilege to meet to her. She is one of the many of our ancestors here. Our ancestors put money, you know, shillings and any money that they could gift to keep challenging the state and taking legal cases out. It was during that hui that they talked about the numerous cases from the time that our land was stolen to today our people continue to challenge and take cases to court.

Q. Yes.

A. I don't know that I've answered your question.

Q. I think the key point really in some ways is that with the intergenerational trauma you've talked about is that it's not just the raupatu that the unfair alienation of land has continued on a lot longer and I think that must've had an impact. But I'll just leave my questions there. Thank you very much for your evidence and I have some more questions for the next witness. So thank you and that's all my questions.

A. Kia ora.

(11:57) PRUE KAPUA TO SHARON CAMPBELL:

Q. It doesn't appear that they visited marae here. But I do note that one of the submitters was Doreen McCorkindale from Ōpōtiki.

A. Kia ora.

Q. Yes.

A. Māori Women's Welfare League kia ora.

(11:57) JUDGE DOOGAN TO SHARON CAMPBELL:

Q. Kia ora anō Ms Campbell. I don't have pātai as such, other than to just follow-up on the discussion we had earlier and that Crown counsel had earlier about how we think about this important claim in our inquiry going forward and how we consider the relationship of the issues raised with those other inquiries which will have important take before them also. As I understand what you're saying, those bigger structural issues are going to be looked at in the Health Inquiry for instance, possibly Justice, possibly Mana Wāhine also, your wish for us is that we understand and capture the lived experience of that trauma in this rohe and that we have an understanding of the way that that links to the foundational prejudice arising from among other things the raupatu in particular. Have I summarise the idea that you're conveying to us correctly?

A. Yes, I'll consult with my legal team as well.

Q. Yes, all right.

A. Yes, I think it's definitely unique to the Eastern Bay of Plenty and the Tairāwhiti region –

Q. All right.

A. – and it should be part of NEBoP.

Q. All right. Just on the Tairāwhiti, just by the nature of our inquiry boundaries we're a little bit stuck.

A. No, yes, I know that they're not.

Q. Though there is an important wider point and it is one I wanted to just sort of raise and partly for counsel to think about. It was an issue we were discussing as a panel at the morning to break. We are not aware of much research or analysis in other Tribunal inquiries, including historical inquiries, of the effects or the intergenerational effects and those areas

where raupatu took place, Taranaki, Waikato, here. It seems to us an important question is there informational data which suggests that manifestations of that trauma are over time more severe in districts that have suffered raupatu. It seems a reasonable proposition that that might be likely, but whether or not there is enough information or data over time that enables that kind of conclusion we simply don't know.

I raise the question as a line of inquiry for you to discuss with your counsel. If there is something coming out of that where you wish us to focus our attention we're happy to consider that and to, if need be, call for information from agencies who may hold relevant information which is otherwise difficult to obtain.

A. Yes.

Q. But that's going to require a little bit of discussion as to the nature of the information that's required and what periods of time and who holds it. I'm going to leave it simply as a matter for further discussion at this stage with counsel and then for counsel to advise us in a reasonable time if there are steps for further information gathering which we can support by requesting of agencies relevant data. I just will leave that with counsel.

(12:01) JUDGE DOOGAN TO MR POTAKA:

Q. Mr Potaka subject to the ongoing resourcing battles within the Tribunal for time, as you're aware, we're trying to sort of keep our inquiry hearing timetable going or there is continuity. In light of what I have just outlined what sort of time period do you think you would need to come back to us with just an indication of what further steps might be contemplated here?

A. I would have to consult with my senior Ms Sykes on that matter.

Q. All right.

A. But maybe in the lunch break, if I have a chance to speak with her, I can give you an answer a little today.

Q. All right. I don’t think we need an answer that fast. But if you could perhaps within a week, maybe after consulting with Ms Sykes, just give us an indication of a date that we can include in a future direction to say that at a certain point you will advise us of any request for further information research gathering for which the Tribunal support is sought.

I loosely had in mind to say about a month from now or even if at the next hearing we can get an update. That was what I was thinking.

A. Absolutely, your Honour. Yes, that works fine for us. We can work towards that timeframe.

Q. Thank you.

(12:03) JUDGE DOOGAN TO SHARON CAMPBELL: (CONTINUES)

A. Can I just comment. I know for Tūranga claims there was an economic impact report written. Sian Daly wrote Poverty Bay report.

Q. Yes, there's one coming here too.

A. Kia ora. There was a social impact report.

Q. Just so you know, Mr Walzl, who did the *War and Raupatu* report has also been commissioned to do socio-economic. It's quite a broad ranging report. It was due to be filed by now but I've just granted an extension to the end of March.

A. Okay.

Q. It's not far away. We will have a fairly comprehensive report on covering socio-economic and other matters so that would be relevant too. Ms Campbell, I just wanted to add my mihi from my colleagues to you for your evidence and for your kaha **strength**. We well understand how difficult it must be to relay such personal and such hard trauma that you have personally gone through or experienced over time and we appreciate your courage in doing that and giving us a real insight into what can otherwise look like theoretical kind of issues. Ka nui te mihi ki a koe **thank you very much**.

A. Kia ora

Q. Thank you.

A. Thank you.

(12:05) MR POTAKA: (CALLS)

Tēnā anō tātou e te whare **greetings to everyone in the house**. I now call Ms Mihiterina Williams to take her seat at the pae kōrero.

JUDGE DOOGAN ADDRESSES TE MINENGA – MICROBREAK (12:05:36)

HEARING ADJOURNS: 12.05 PM

HEARING RESUMES: 12.07 PM

(12:07) MR POTAKA TO MIHITERINA WILLIAMS:

Q. E te whare tēnei ka tuku i ngā mihi ki tō tātou nei pūkenga kua tae mai ki roto i a mātou i tēnei ahiahi i te rānui nei. E te hoa ka nui te mihi ki a koe, māu kua whakawātea i a koe anō kia hoki mai ki tō whenua taurikura i roto i te poho o tō whare o Tūtāmure kua noho hei whakaruruhau mō mātou i tēnei wiki. Kawea mai nei ō pūkenga, ō māramatanga, ō mōhioranga maha kia whakawhārikihia i mau te aroaro o tēnei Taraipunara. Nō reira, e te hoa tēnā koe nau mai hoki mai ki tō wā kāinga. **I want to acknowledge our expert that has come today, this afternoon on this important day. My friend, I want to thank you very much for making yourself available, to return to your precious lands inside your ancestral house of Tūtāmure and has provided shelter for us this week. And so, bring forth your expertise, your understandings, your knowledge and to be presented before the Waitangi Tribunal. And so my friend, greetings, welcome back to your home.**

May please the Tribunal, we now have Ms Mihiterina Williams who is here to present her briefs of evidence. Mihiterina, can you please confirm with me that you prepared your brief of evidence which is dated on 5 February 2026.

A. Yes.

Q. Ka pai. Just for the record, the appellation number for that is #F004. Ka pai, ka tukuna te rākau kōrero ki a koe, Mihiterina, kei a koe te wā. **Okay, so I will pass it over to you, Mihiterina, you have the floor.**

(12:09) MIHITERINA WILLIAMS: (MIHI, #F004)

Tēnā tātou katoa. Ka tika rā hoki me mihi ki a koe e taku pāpā koro Te Riaki, nāu ngā inoi me ngā whakawhetai i kōaina ki a tātou i te rangi nei otirā tēnei wiki, nō reira, e mihi ana ki a koe. Tangihia ngā mate huhua o te wā, o te wiki o te marama, otirā, te tau. Rātou te hunga mate ki a rātou, tātou te hunga ora

ki a tātou. Me mihia ngā pou whakawhirinaki o tō tātou marae te ahikā, ngā puna o te kī, rātou mā e pupuri ana ki te mana me te mauri o tō tātou marae, otirā, tō tātou hapū, tō tātou iwi. Tahuri ake ki a tātou ki tō tātou kaupapa i te rangi nei i raro i te marumaru o tō tātou tipuna whare a Tūtāmure me ngā au o mihi e pari atu nei ki a koutou kei Te Rōpū Whakamana i Te Tiriti tēnā tātou katoa. **Greetings everyone. I must acknowledge my uncle, Te Riaki, you recited the prayers and gave thanks gifted to us today so I want to thank you. We mourn the dead, our current dead of the day, of week, of the month and of the year. We pay respect to the dead and to the living. We must also acknowledge the pillars of our marae the locals, the great orators, those who are upholding the mana and mauri of our marae and indeed, our hapū and iwi. Turning my attention to us and our matter before us today under the shelter of our ancestral house Tūtāmure and also acknowledging the Waitangi Tribunal greetings all.**

REFERS TO #F004

As I stand here to give this evidence today, I think about what it means to stand and speak these same words here within this whare tipuna here at Ōmarumutu. I'm standing on our marae knowing who is behind me and who I am accountable to and I carry that same sense of accountability into this space today.

I am an uri of Ngāti Rua, nō Te Whānau Nikora **from the Nikora whānau**. As I stand here my tīpuna hang on the wall behind that box thing that's sitting right in that corner but I know that they are there and I know that they are a reminder of what is spoken in spaces like this do not always sit in systems or documents alone. They live in whānau and they travel across generations.

When I think about who shapes how I stand here, I think first about those closest to home. My Nanny Mihiterina Honotanga, my namesake who was raised just down the road. I think about this beautiful tipuna whare who has held our people through generations of change, loss, rebuilding, and survival. I think about Tūtāmure, our esteemed chief and warrior who carried responsibility for our people in times where survival was not guaranteed. Hine-i-Kauīa, Muriwai, and our beautiful tīpuna wahine **ancestresses** whose presence continue to live

in the stories and whakapapa we carry forward. They remind me that endurance is not something we speak about only in history. It is something our people have lived and continue to live.

A big part of what has shaped me is a commitment to oranga and to the prosperity and wellbeing of our people, a commitment to the oranga and prosperity of my iwi, Te Whakatōhea. That commitment has not come only from study or training. It comes from what I have seen growing up and from what I continue to see in the communities and whānau I work alongside.

I am nearing the completion of eight years of training in the clinical psychology programme through Waipapa Taumatarau the University of Auckland. Over that time, I worked across adult services, infant, child, and adolescent services, NGO settings, kaupapa Māori, and secondary mental health services. In those spaces, I have worked alongside deeply committed clinicians as well as many beautiful whānau who are carrying a lot. But my professional experience cannot be separated from my whānau experience.

I was raised in a whānau where mental health challenges were part of our everyday reality. The mental health system was not something we encountered occasionally. It most definitely shaped how our household functioned. It shaped how safety was understood. It shaped how and when help was sought. Across generations in my whānau trauma, loss created distance between whānau members and distance from parts of our Whakatōheatanga **Whakatōhea identity**. In recent years, some of that reconnection has begun for parts of my whānau. We are finding our way back, but for others of my whānau that journey is still ahead of them. So all that kōrero kind of sits with me when I speak here today because I am speaking as someone who has trained inside the system and as someone whose whānau has lived alongside it.

Yes, ko wai au, so I just spoke to all of that kōrero.

Yes, these are the kaupapa or key areas that will shape my kōrero today, so beginning with system realities, examining disproportionate impacts, and ending with what genuine oranga could mean for Te Whakatōhea.

JUDGE DOOGAN ADDRESSES MIHITERINA WILLIAMS – TECHNICAL ISSUE (12:15:02)

MIHITERINA WILLIAMS: (CONTINUES)

CONTINUES #F004

My evidence today focuses on how mental health legislation and policy since 1994 have continued to produce inequitable outcomes for Māori. While many legislative foundations existed earlier, the effects have not reduced. In many ways, they have become more embedded into everyday practice shaping how care is accessed, how risk is understood and who holds authority and decision-making. The systems continue to operate through coercive intervention, risk driven decision-making, and the marginalisation of Māori authority and collective approaches to wellbeing.

This can mean entering mental health systems at crisis points rather than earlier points of support. It can mean whānau navigating services that do not always recognise whakapapa, collective care, or the border realities our whānau are carrying, like much of what Aunty Sharon has alluded to, including historical trauma, economic pressures, and intergenerational disconnection. Over time this contributes to patterns of mistrust, delayed engagement, and experiences of services as places of surveillance or control rather than places of restoration and support.

I want to be clear that, while I speak from my position as an uri of Ngāti Rua, of Te Whakatōhea, this is not an iwi-specific experience. This evidence, research, and national data consistently show that these patterns are present across Māori communities more broadly. What we are saying is not isolated to one rohe or one iwi. It reflects a border systemic issue within how mental health care has been designed, governed, and delivered across Aotearoa.

Across the services I have worked in, one of the patterns that has stuck with me is how often support arrives late, often at the point where distress has already escalated into crisis. It is really that distress appears suddenly and more often, there are months sometimes years where whānau are noticing changes, like a young person withdrawing from school, changes in sleep, changes in behaviour, increased isolation, growing anxiety, or early signs of hopelessness.

Often whānau try to hold this themselves first. They might talk to schools, they might reach out to primary care, they ask questions, and they try again and again and again. And then often, at the point at which services become fully available, is when something has already happened that cannot be ignored, like a suicide attempt, like a hospital admission, like involvement with crisis services, or behaviour that is now considered high risk or unsafe. When support arrives at that point, we are no longer working in prevention. We are working in response to harm that has already occurred.

For many uri of Te Whakatōhea, these experiences do not sit in isolation from history. The impacts of land loss, displacements, economic marginalisation, repeated state intervention have shaped how many whānau experience institutions, including health systems. For some whānau, there is already caution, already a learnt need to be self-reliant, already an understanding that systems can intervene in ways that do not always protect the wellbeing of whānau. When current mental health care is experienced as crisis driven or coercive, it can reinforce those historical patterns of mistrust.

Research in Aotearoa has consistently shown that Māori are less likely to be identified early for common mental health concerns and more likely to enter services once distress has become severe, often through crisis or harm-related pathways. What we see clinically reflects that pattern. It's not a sudden onset of distress. It's a delayed system response.

Crisis entry into services also shapes how people remember help. If the first experience of mental health care is during a moment of fear, loss of control, or coercion that can shape how safe services feel for years to come. For some whānau, it confirms existing fears about our system that system step in when risk is visible rather than when distress first begins.

Coercive pathways sit within this in complicated ways. There are times where immediate safety intervention is absolutely necessary, but when coercive responses are used frequently or disproportionately with Māori, it can reinforce longstanding experiences of control being exercised over Māori bodies decision-making and whānau authority.

We have talked a lot about intergenerational trauma today and it doesn't just sit only in memory. It can sit in how whānau respond to authority, how safe it feels to disclose distress, how early help is sought, and how much trust exists when the systems step in. When our current systems reproduce experiences of surveillance, control, exclusion from decision-making, they can compound trauma that has already been carried across generations.

This is not an issue about individual clinicians. Many clinicians I have worked alongside care deeply about whānau and want to practice in relational culturally safe ways. But they are working inside systems that are structured around risk thresholds, time pressure, and resource scarcity.

When I think about what genuine whānau partnership might look like, I think about care that begins earlier and that is built around relationships rather than eligibility thresholds. It might look like taking the time to understand who sits around a young person not only who presents to the appointment. It might mean speaking with grandparents, aunties, uncles, siblings, whānau friends understanding who holds the knowledge, who holds influence, who holds support. It might mean recognising that wellbeing is not only mental but spiritual, physical, relational, cultural and often current systems do not create enough space for this.

Whānau involvement can become structured or secondary to individual clinical processes. The place where this is this becomes especially visible is in how knowledge is prioritised. Western psychological models tend to sit as the default. They are often positioned as the primary way of understanding distress. While Māori knowledge systems are sometimes invited in, but as additions rather than equally valid foundations. That is a huge concern because many Western models built around individual experience, they are built around individual responsibility and symptom-based frameworks.

For many Māori distress is relational. It sits within whānau, within whakapapa. As we have heard this morning, within whenua and within lived realities shaped by colonisation, loss, structural inequity. When Māori knowledge is treated as optional, there is a risk that we misunderstand where distress comes from and what healing might need to look like.

When we move from lived experience in clinical observation into national data, we see the same pattern becomes visible at population level. Across Aotearoa Māori are disproportionately subject to compulsory mental health treatment. Some data indicates Māori are three to four times more likely than other groups to experience forced mental health treatment under current legislation.

Research examining community treatment orders also shows Māori experience higher utilisation and often remain in compulsory treatment for longer periods than non-Māori. We also see Māori overrepresented in restrictive practices such as seclusion. Independent monitoring has repeatedly highlighted the overrepresentation of Māori in seclusion environments within inpatient mental health units. Alongside this, Māori are more likely to enter services through crisis and statutory pathways rather than through early preventative care.

Population level studies of youth mental health show Māori experience similar or higher distress levels but are less likely to access early care and more likely to present later through self-harm or acute need. As Aunty Sharon mentioned this morning, at the most severe end of this pattern sits suicide. Across time suicide rates for Māori have remained significantly higher than for non-Māori.

For our Māori men the inequity is particularly stark. Māori males die by suicide at more than twice the rate of non-Māori males. Among rangatahi Māori suicide death rates are close to double those of non-Māori youth. These outcomes tell us inequity is not about service access. It is about survival.

I know that there has been acknowledgement that there is very little information specific to Ōpōtiki but I wanted to draw more rural based research. For whānau and smaller townships and rural communities, including places like Ōpōtiki, these inequities can be compounded by access barriers. Research consistently shows rural communities face greater difficulty accessing mental health services, geography, workforce shortages, transport, resource distribution. For many Māori living in rural communities, these access barriers sit alongside historical experiences of state intervention and longstanding inequities in health resourcing.

These patterns, as I said earlier, they are not unique to Te Whakatōhea. They are reflected across Māori communities nationally. When inequity appears consistently across service-use data, coercive practice data, rural access research, and mortality data, it tells us we are not looking at an isolated service issue. We are looking at system level inequity.

When we look specifically at tamariki and rangatahi Māori, the timing of systems contact become especially crucial. In my mahi with children, young people, and their whānau, it is rare for mental health services to become involved when distress first begins. More often early signs are noticed in everyday places like kura (school) or within whānau long before a referral is ever accepted. That might look like a child who is increasingly withdrawn at school struggling to regulate big emotions showing early signs of anxiety or trauma. It might look like a young person who is not sleeping, who is not eating, who is carrying whakamā, who is becoming more isolated from peers and whānau.

In many of these situations, whānau may already be trying to support their tamaiti speaking with teachers, seeking guidance from their GP, adjusting routines at home, and doing their best to hold things together. Often, it is only

once distress escalates into visible risk, like self-harm, suicidality, aggression, or significant disruption that service has become fully involved and by that point, the situation has already shifted from support to crisis management.

By the time services are involved distress is often severe, risk is already elevated. and whānau are already under significant pressure, emotionally practically. Caregivers may be juggling time off work, frequent school calls, transport to appointments and the constant fear of something going wrong. This matter is because childhood and adolescence are periods of rapid development. In these years, young people are forming their understanding of identity, safety, trust, authority, and whether help is something that can be sought early or only when things have become unmanageable.

When a young person's first sustained experience of mental health care occurs during crisis, it can teach them that support arrives only when things are falling apart. That care is reactive rather than relational and that system's respond to risk not to early distress.

For many whānau, this can be very overwhelming. In crisis situations, parents and caregivers are often navigating fear for their child’s safety. At the same time, they are trying to understand complex systems, language, assessments, and decision-making being made quickly under pressure. In those moments, whānau knowledge about their tamaiti, who has helped before, what has made things worse, who their child trusts can easily be sidelined.

Over time I have seen how repeated crisis-based engagement shapes a young person's relationship with services. Some young people become reluctant to speak openly about distress having learnt that disclosure leads to loss of control or heightened surveillance. Others disenage completely carrying their experience on their own rather than risking another crisis response. These patterns don't stop in childhood. They travel forward into adulthood influencing whether help is sought early, whether systems can be trusted, and whether distress is spoken about or held in silence.

For tamariki and rangatahi, these experiences sit within wider contexts of intergenerational trauma, uneven access to resources, and longstanding mistrust of state systems. When care continues to arrive late and primarily through crisis pathways, we risk reinforcing patterns that whānau have been navigating for generations.

As these young people grow older, early experiences of coercion can begin to shape how they relate to services altogether and beyond that, their help seeking capacities within their own iwi, hapū, and whānau. Most disengage choosing to manage distress on their own or within whānau rather than risking another experience where control is taken from them. Others present only once distress has escalated again to crisis.

Sometimes this avoidance can be misunderstood as a lack of insight or motivation. However, in many ways, it is a protective response shaped by earlier experiences of what happens when vulnerability was shown and how safety was or was not upheld.

Parents or grandparents they remember how their tamaiti was treated. Siblings witness what happens when someone becomes known to the system. Stories are carried about what to expect from services who to trust and when it might be safer to stay silent. This is how mistrust becomes intergenerational.

For our whānau, these experiences sit explicitly within colonial processes that have shaped our social and political realities, including raupatu whenua, economic marginalisation, the suppression of our reo and tikanga. displacement from tūrangawaewae, and repeated state intervention into Māori lives and decision-making. Those colonial processes disrupted collective structures of care, authority, and belonging. They have reshaped relationships between Māori communities and state institutions.

When contemporary mental health systems replicate dynamics of surveillance, control, harm, or exclusion from decision-making, those experiences do not occur in isolation. They sit alongside and echo those earlier experiences. In

that context, mistrust is not pathology. It is historically and socially patterned. The long-term impact is not only reduced service engagement. It is reduced opportunity for early support. When people ask: “How does intergenerational trauma show up in our people's lives today,” well, this is just one example.

Up to this point, I've spoken about patterns and practice, outcomes and data, and impacts across the life course. This slide speaks to one of the key drivers beneath those patterns which is legislation.

The Mental Health Act continues to shape how mental distress is understood, responded to, and governed in Aotearoa. While amendments and reviews have occurred, the core orientation of the Act remains largely unchanged. At its foundation the Act is built around risk surveillance. It requires clinicians and services to prioritise the identification, the assessment, and the management of risk, particularly risk to self or others.

While safety is important, this focus means that the care is often provided only once risk becomes visible. This reinforces a crisis response model whereby support is mobilised when thresholds are crossed rather than when distress first emerges and as a result the system is structurally oriented towards intervention at points of breakdown rather than prevention.

The Act centres medical authority. Decision-making power is primarily vested in clinicians with limited statutory requirement to share authority with whānau or to recognise collective models of care. Māori knowledge systems and whānau-led responses are not positioned as foundational within the legislation. Instead, they are often treated as supplementary.

For our people, this has significant implications because, when legislation prioritises individualised risk, crisis intervention, medical authority, it can marginalise Māori concepts of wellbeing that are collective, relational, and grounded in whakapapa. It can also reproduce dynamics where authority sits with the state rather than with whānau and communities.

This helps explain why Māori are disproportionately represented in compulsory treatment pathways, crisis entry points, and restrictive practices. Because these outcomes are not accidental, they are consistent with a legislative framework that empathises control and containment over partnership and prevention.

For uri of Te Whakatōhea and from Māori communities more broadly, the Act does not operate in isolation from history. Its emphasis on surveillance and control sits alongside longer histories of colonial governance where Māori authority was undermined and state systems intervened into Māori lives without consent or partnership. This is why inequity persists, even when individual clinicians or services are committed to doing better, because the legislative framework continues to shape what is prioritised, what is resourced, and who holds power in moments of vulnerability.

Legislation absolutely matters because it sets the conditions within which care occurs. Until those conditions shift, many of the patterns I have described will continue to be reproduced regardless of good intent at the practice level.

For many of our whānau, mental distress is not something that sits neatly in appointments or service hours. It is part of everyday life. It can look like parents, grandparents, caregivers waking up tired every day because they are checking on their child through the night, listening for movement, making sure they are breathing, making sure they have not left the house. It can look like locking doors, removing doors from door frames, hiding medications, or keeping sharp objects out of reach. Not for a day or a week, but sometimes for months at a time. It can look like aunties, uncles, siblings, grandparents, whānau friends stepping in so someone is always home after school because a child is not safe to be alone. Whānau reshuffle work, routines, and responsibilities to keep things together and this happens whether the services are involved or not.

At the same time, many whānau are dealing with everyday financial pressure, getting to appointments cost money, petrol, time off work, child care for other tamariki. Some whānau are living in insecure living conditions or crowded

homes where there is no quiet space to rest, no room to regulate, and very little privacy or safety.

Alongside this, whānau are often aware they are being watched, they may already be dealing with schools, housing services, Oranga Tamariki, the justice system and that means every decision can feel risky. What do you say? What do you hold back? Will asking for help bring more trouble? Whānau become careful. They have learnt to be hypervigilant, guarded, and tired.

For tamariki, this environment shapes how they move through the world. A child who is not sleeping well obviously struggles to concentrate at school. A child who is worried about what might happen at home obviously finds it hard to learn, to play, or to trust others. Some children become quiet and withdrawn. Others become angry, restless, disruptive.

What schools are seeing as misbehaviour is actually a child responding to stress they are carrying every day. When distress is part of daily lives tamariki can miss school. They can fall behind and learning. They disconnect completely from the people around them. Stop going to sports, kapa haka, activities that maybe they felt grounded in because the energy whānau have is channelled into survival.

Alongside all of this, many whānau are also carrying older pain, loss of land, loss of connection to tūrangawaewae, past harm from state systems. Even when it's not spoken about, it sits in the background shaping how safe it feels to trust help. This is the reality many of our whānau are navigating. Not crisis as a single event but pressure that builds day after day.

When services respond without seeing this full picture interventions can miss what tamariki and whānau are actually dealing with. Support can arrive too late or in ways it add to the load rather than easing it. This is not about whānau failing to care for their tamariki. It is about whānau carrying far more than is visible.

What I want to be clear about at this point is that the inequities I have described are not isolated failures of service delivery. They represent the continuation of historical harm through contemporary systems. At the centre of this is the ongoing loss of Māori authority, Te Tiriti o Waitangi affirmed, Māori authority over our own lives, wellbeing, and futures. Yet within the mental health system decision-making power continues to sit largely with Crown design structures, Crown defined thresholds, and Crown authorised professionals.

Whānau voice, collective authority, and Māori governance remain limited or absent at critical points of care. This is not a departure from history. It reflects longstanding patterns where Māori authority has been overridden by state systems, even when those systems are framed as being for our benefit. Alongside this sits the marginalisation of Māori healing knowledge, Māori understandings of wellbeing grounded in whakapapa and tikanga and collective care have consistently been positioned as complimentary.

In my clinical experience, Māori approaches are often invited in after harm has occurred, rather than resourced or empowered to lead prevention, early support, and restoration of oranga. This mirrors earlier colonial processes where Māori knowledge systems were dismissed, they were suppressed or treated as inferior to Western frameworks.

Finally, mental health legislation, policy, funding models, and accountability measures remain primarily shaped by Western medical and legal paradigms. These systems prioritise individual pathology, risk management, and containment over relational and culturally safe care. The result is a system that continues to intervene late, act coercively, and reproduce inequitable outcomes for Māori, despite decades of evidence, inquiry, and acknowledgement of harm.

This is why mental health inequity for Māori cannot be understood as accidental or temporary. It reflects a continual breach of Te Tiriti o Waitangi where authority has not been meaningfully shared, Māori knowledge has not been centred, and Crown systems continue to define what wellbeing looks like for our people.

Up to this point, I have spoken about systems that often intervene late and act through crisis but I want to talk now to what already sustains wellbeing for our people and for our people wellbeing has never relied solely on formal services. It has always been held within collective spaces through whakapono, ahurea, te reo Māori, and shared responsibility.

Within our iwi te Hāhi Ringatū continues to provide more and spiritual guidance. It brings our people together regularly across generations and in ways that affirm our whakapapa, our values, and responsibility to one another.

Alongside this kapa haka remains one of the most powerful living infrastructures of oranga within our community of Ōpōtiki. Kapa haka such as Ōpōtiki Mai Tāwhiti, Te Kapa Haka o Waioweka, Te Kapa Haka o Te Whakatōhea do far more than prepare performances. They create places of belonging where people are supported. For many in the community, kapa haka provides routine and purpose, like regular practices, shared goals, and a reason to show up even when life feels heavy. It is a space where identity is strengthened through reo, tikanga, waiata, haka, and where people are affirmed not for what they lack but for what they carry.

Collective care happens naturally in these spaces. People notice when someone is struggling. Support is offered without a formal referral. Tamariki are watched over by many. Rangatahi are held to expectations but also supported in their endeavours. Older members share knowledge and perspective.

For those living away from Ōpōtiki like myself kapa haka has been the main port of connection home. It has provided me a way to stay anchored to my whenua, to my people, even at a distance. Returning for noho, competitions or kaupapa act as a reset and a place where I am more than the pressures that I'm carrying.

What is important to recognise is that these are not informal or incidental supports. They are longstanding, sustained, and effective systems of care and maintained through collective commitment in spite of Crown support. So when mental health systems overlook or under resource these spaces, they miss an opportunity to support what already works. When they partner with them meaningfully, they have the potential to shift from crisis response to prevention and restoration of oranga.

I want to conclude by returning directly to the guiding statement I have presented today before the Tribunal. The evidence I have presented today shows that mental health inequity for Māori since 1994 has not diminished. Instead, it has been reproduced through legislation, through policy and practice that continue to prioritise risk surveillance, crisis response, and medical authority over Māori authority and collective care.

Through lived experience, clinical practice, population data, and whānau realities we see consistent patterns. Māori are more likely to enter services late. They are more likely to experience compulsory and restrictive pathways and more likely to carry the long-term impacts of coercive care, including mistrust, disengagement, and intergenerational harm.

These outcomes are not accidental. This represents a continuation of historical harm rather than a departure from it. In that case, the question is not whether inequity has been acknowledged because it has. The question is whether authority has been meaningfully shared. It has not.

At the same time, the evidence also shows that Māori wellbeing infrastructure already exists and is effective. Spaces such as whānau networks, communities grounded in whakapono or belief systems and kapa haka are just some ways of providing belonging, identity, collective care, and cultural grounding.

Taken together this leads to my conclusion, since 1994 the Crown has not met its te Tiriti obligations to actively protect Māori wellbeing, to uphold Māori authority and mental health decision-making, or to ensure equitable outcomes

for tamariki, whānau, iwi, and hapū. Until legislation, governance and resourcing shifts to genuinely centre Māori authority and Māori-led systems of care, the inequities described in this evidence will continue. Kia ora tātou **thank you all**.

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (12:48:45)

(12:49) MR LINKHORN TO MIHITERINA WILLIAMS:

Q. Tēnā koe. Is it Ms Williams or Dr Williams?

A. (microphone switched off 12:49:26).

Q. May I ask, are you at the tail end of a very long programme of study and you have a clinical focus at the moment, is that right?

A. Yes.

Q. Is that a doctoral programme?

A. It is a doctoral programme.

Q. Okay. So I'm just jumping the gun, aroha mai **I'm sorry**. Almost, yes.

A. Yes.

Q. My second question was going to be to check whether you would be happy to file the speaking notes that you were using just before.

A. Yes. Kalei informed me that that was the process.

Q. Kia ora. The reason is as I was listening to you because you have actually addressed quite a few of the things that were in my mind to ask you through your presentation today. I was, and perhaps along with a number of us, obviously, trying to sort of retain my composure while you were discussing such difficult material in really measured terms. But even more importantly, you have assembled what sounds to me like an enormous amount of knowledge from various disciplines and you have conveyed it to the Tribunal in everyday language that all us non-clinicians can follow along with readily. So I thought if we could have the notes, then that would be very powerful material for the Tribunal.

A. Yes.

Q. You might have covered this already in the presentation that you made today. But I came along today thinking I should check in with you about

whether as part of your study and training you've explored knowledge systems and how it is that thinkers and knowledge systems capture this notion of intergenerational trauma.

A. Yes.

Q. In a sense, your presentation today takes it as a given that this is a thing.

A. Yes.

Q. Yet, if there were any sceptics for that, either within or beyond this immediate process, what would be the kind of everyday language that you would use with them, to just give them a sort of grounding in why intergenerational trauma is a thing and more than one knowledge system recognises it.

A. Yes.

Q. I mean don't take it from me.

A. Yes

Q. I'm hoping to hear it for you.

A. No, yes. You have to acknowledge that it is an extremely complex experience. My experience in the programme and in my training, yes, trauma informed practice is something that is part of our training but what is also a gap in programmes is the concept of intergenerational trauma. There are many academics who have spoken to the theoretical, the definitions and the theoretical understandings of what intergenerational trauma is.

Yes, I too struggle I think to explain what that looks like. But essentially, it is a whakapapa. There is a whakapapa that our people carry that exists within them and that impacts how they walk and talk and be in their everyday life. To the point where it can put them at a disadvantage in terms of how they see the world, how they see themselves, how they see other people. A lot of that you can draw on from how you would speak to the threshold or the criteria for PTSD because all of that criteria can sit alongside the intergenerational impacts which we've talked to today. It's a combination of two things but they are ongoing. It's an accumulation of trauma and trauma events that our people experience. I don't know if that answered the question.

Q. No, thank you very much. I suppose perhaps a simple way is to articulate it in kind of un-PC terms which is that out there in communities some people will take the stance that someone should just toughen up or pull up your socks or what have you –

A. Yes.

Q. – and in your practice you must sometimes experience those kind of reactions.

A. Yes.

Q. I suppose the thing I hope you can unpack for the Tribunal is when you do experience that kind of reaction what is the safest way in lay terms to just help that person understand that there is more going on here?

A. Even that is a difficult topic because a lot of the whānau that come through our system, as I mentioned, there is a loss of connection to tūrangawaewae. Many people don't know who they are. They don't know that these events ever existed. They read about them and they might see them on social media but they don't feel that connection to some of these trauma events that we have experienced.

When you do raise concerns around intergenerational trauma or letting whānau know: "Actually, this is something that they have been navigating for a long, long time," beyond what they are presenting with, a lot of whānau don't actually believe that they are worthy of those experiences. It is extremely difficult to convince whānau, yes, they have made decisions that have led them into that space and they have been predisposed with a number of challenges that they are not even aware of but sit within their DNA.

Q. Kia ora, thank you. I think the only other topic really for me to raise with you now, given you covered so much and your presentation, –

A. Yes.

Q. – is about the overhaul of the Mental Health (Compulsory Assessment and Treatment) legislation. I just thought that we should just better check, to be clear, that you're aware that as a result or not just as a result but partly in response to the Royal Commission of Abuse and State Care that there is a Bill before parliament right now to overhaul the MHCAT legislation. You're aware of that, I presume.

A. No, I wasn’t aware of that. So that’s good.

Q. Okay. It's a sort of challenging jurisdictional area for the Waitangi Tribunal because the Waitangi Tribunal doesn't look at Bills unless they are referred to the Tribunal. In a sense, this is just context for the Tribunal but I wanted to check with you that that legislation is in the process of of being overhauled and there's a report back from the Select Committee. It is somewhere through those processes –

A. Okay.

Q. – and any submissions that we lawyers ultimately make to this Tribunal or the kaupapa inquiry into mental health services and outcomes will touch on that and the progress of that Bill.

A. Yes.

Q. Yes. Thank you very much for your evidence today.

A. Thank you.

Q. Kia ora.

JUDGE DOOGAN ADDRESSES MR POTAKA – TIMETABLE UPDATE (12:58:03)

HEARING ADJOURNS: 12.58 PM

HEARING RESUMES: 2.01 PM

JUDGE DOOGAN ADDRESSES TE MINENGA – APPEARANCE PROFESSOR TOM ROA (14:02:06)

(14:02) DR ROBYN ANDERSON TO MIHITERINA WILLIAMS:

Q. Tēnā koe **greetings** Ms Williams.

A. Kia ora.

Q. I indicated to the judge that I didn’t have questions. I might like the opportunity, after I’ve read your speaking notes, to see if something comes to me then that I need clarification of.

A. Ka pai, yes.

Q. But I just wanted also to compliment you not just for the depth of the information but I just thought that was lovely kōrero –

A. Kia ora.

Q. – especially when talking about the influences on you. I just thought that was very lovely and moving and giving us an insight as well as to where you're coming from.

A. Yes.

Q. So thank you very much for coming and speaking to us today.

A. Kia ora. Thank you.

Q. Appreciate it.

A. Thank you.

(14:03) BASIL MORRISON TO MIHITERINA WILLIAMS:

Q. Look, thank you. Look, I just really want to echo the comments from Mr Linkhorn and my colleague truly outstanding and look forward to your speaking notes. I just wish you could have stood alongside me in some of the fora that I stand and sit in for people to hear your address not only the content but the way in which you presented it. I am pretty sure this won't be the last time this Tribunal or other Tribunals hear from you. So thank you most sincerely.

A. Kia ora.

Q. Congratulations.

A. Kia ora. Thank you.

(14:04) DR GRANT PHILLIPSON TO MIHITERINA WILLIAMS:

Q. Tēnā koe **greetings** Ms Williams, soon to be Dr Williams. Thank you very much for your evidence. I did have two questions but I'm no longer sure. Well, the first one – because I wasn't aware of the Mental Health Bill that Crown counsel raised just before lunch, so my original question about your paragraph 19 of your brief was about the Mental Health (Compulsory Assessment and Treatment) Act and you referred there to periodic reform discussions. My question was what are those discussions? What role of Māori played in those discussions? And what reforms did you and the

claimants think should be done? So I'm not sure so I have to ask the Judge.

(14:05) DR GRANT PHILLIPSON TO JUDGE DOOGAN:

Q. Should I still ask that question Judge or is it not now?

A. Well I think the question as it relates to the brief is fine. So I think we should provide Ms Williams an opportunity to answer.

Q. Okay.

A. Issues around the Bill we can address in due course I think.

Q. Yes.

(14:05) DR GRANT PHILLIPSON TO MIHITERINA WILLIAMS: (CONTINUES)

A. Kia ora. Thank you for your question. I think for our people it would look like shared governance. It would look like sustained resourcing. Both Aunty Sharon and I have travelled from Gisborne and I was just recently talking to my cousin about what's available in Gisborne, and if there is very little that's available there, then it's likely there is very little that's available here. Sustained resourcing is something that I think our people would very much benefit from. Like if your question is alluding to reform in the Mental Health Act, I don't know if that's something I can speak to. I don't feel like that's my lane. But I can say, like I would just hope that it would include collective models of care and ones that are led and empowered by Māori decision-making.

Q. Thank you. No that is helpful. I'm sorry I'm just writing that down: "Led and empowered."

A. Yes.

Q. Thank you that's helpful. I will just leave that there, given the changes that are coming.

My second question was about paragraph 20 of your brief where you said that Māori have been disproportionately subject to compulsory assessment, detention, and treatment –

A. Yes.

Q. – and you didn't have any statistical information or references in your brief to support that statement but in your oral presentation you did refer to some statistics.

A. Yes.

Q. So I just would like you to give us some more information about that. What kind of disproportionate are we talking about and what are the sources for it? What's your information based on?

A. Yes. Specifically for compulsory mental health treatment that information has been sourced from the Ministry of Health, an annual regulatory report in 2020 by the Office of the Director of Mental Health and Addiction Services.

Q. Thank you.

A. And it has also been supplemented by another annual report made in 2021.

Q. What I might do then is put that in writing –

A. Yes.

Q. – and you could supply copies of those reports –

A. Yes.

Q. – and any further analysis or comments you want to make on the statistical disparity.

A. Okay, yes.

Q. That would be helpful.

A. Awesome.

Q. Thank you very much. Those were all my questions but I also wanted to thank you for your presentation. It can be very difficult –

A. Yes.

Q. – to present medical issues in a way that lay people like us can understand and I found it incredibly helpful so thank you.

A. Kia ora.

(14:09) JUDGE DOOGAN TO MIHITERINA WILLIAMS:

Q. Ms Williams, I just also wanted to echo the mihi my colleagues and Crown counsel have made. You are a very articulate witness and you have a real skill in conveying complex system-type issues in reasonably

and readily understandable ways for which we are most appreciative. And because you have that strength, I want to just ask a couple of questions that go to some of the more conceptual issues underneath your brief. And in particular, the theme you've really developed right throughout both your speaking notes and the written brief in terms of the structural or the systemic prejudice that Māori experience within this part of the health system. If you just bear with me because I'm probably not as good as you are going around this. But the first point, I was quite struck by just how close these kind of systemic structural features mirror what we (and this is another panel of the Tribunal) heard in the Oranga Tamariki Inquiry around the care and protection system.

A. Yes.

Q. So in that system the notify-investigate model of intervention for child welfare (and I'm paraphrasing) produces very similar outcomes in terms of oversurveillance –

A. Yes.

Q. – because reports of concern and there are thousands of them are reacted to typically at crisis points.

A. Yes.

Q. I know you have done some mahi with tamariki. Does that include the care and protection space?

A. Yes it does.

Q. All right.

A. Yes, there is lots of overlap in secondary mental health services with organisations such as Oranga Tamariki.

Q. All right. So that was something that struck me as the parallels are very strong.

A. Yes.

Q. The reason I asked whether you knew whether you were going to be asked to speak to the Health and Disability Tribunal is because I expect that evidence of this kind and other insights you may have to offer will be of great value to that Tribunal. As you have heard, we have a bit of a task on our hands here to determine the appropriate boundaries between our inquiry –

A. Right.

Q. – and the systemic and kaupapa base of the Health and Disability or Mana Wahine and even the Justice Inquiry. So that is partly why I'm just exploring a couple of issues with you.

A. Yes.

Q. The second one going back to the *Pūao-te-Ata-tū*, you're familiar with that report.

A. No.

Q. All right.

A. Not too familiar, no.

Q. You would have heard Ms Campbell referred to it this morning.

A. Yes.

Q. It was quite an important part of the picture in the Oranga Tamariki Inquiry and one of the aspects that the *Pūao-te-Ata-tū* report focused on was what they described as the faces of racism in our system and I just wanted to reflect to you one part of that because I think it actually mirrors quite a lot of what you are saying about the system. And then believe it or not, I have a pātai at the end of all of this.

A. Okay.

Q. They identified three aspects. You've got personal racism which is simply individuals carrying a prejudice and then you have a cultural racism which is negative attitudes to a culture or a lifestyle of a minority. But the most insidious and destructive form of racism they identified was what they described as institutional racism. "It is the outcome of a monocultural institutions which simply ignore and freeze-out the cultures of those who do not belong to the majority. National structures are evolved which are rooted in the values, systems, and viewpoints of one culture only. Participation by minorities is conditional on their subjugating their own values and systems to those of the system of the power culture." I just invite your comment. Does that fairly accurately capture a good part of what you're describing?

A. Yes.

Q. And you see it as still a very strong feature of the contemporary mental health system.

A. Yes.

Q. All right. The pātai that I finally arrived, we've heard evidence from both yourself and from Ms Campbell about intergenerational trauma –

A. Yes.

Q. – and the way that that manifests itself over time. I wondered about the extent to which this feature institutional racism –

A. Yes.

Q. – or institutional structures and the extent to which you can distinguish trauma and harm that arises from the operation of these systems from foundational trauma such as the raupatu.

A. Yes.

Q. I mean it's a very big question.

A. Yes it is.

Q. But I just wondered if you have any thoughts about that.

A. Yes. You know I think it is just a very complicated experience to put into words. When you have not just past events of trauma but there are ongoing experiences where institutional racism for me, if I think about it and how it is applied with the whānau that I work with, it completely conditions someone's environment to feel unsafe. One of the principles of any kind of trauma informed work is to ensure that someone's environment is safe first and foremost before you are ever undergoing any kind of trauma treatment.

When I think about institutional racism and I think about the environments that people are working in, schooling as well, or health systems or whatever the system is or whatever the space is until that is addressed I don't know how safe our people will actually feel going about their day-to-day life if those issues are still ongoing before you even get to the point where you can start to unpack and unravel the whakapapa of trauma that our people have experienced from raupatu whenua **confiscations**, from all these other horrific events. I don't know if that answers your question. But essentially, I think my understanding of your question is whether or not institutional racism is ongoing and how does it perpetuate maybe our people's experience is in their everyday life. I think it comes down to part of what I've talked about in my presentation is that

surveillance and that control and people not having the autonomy to exercise their own rights over their own wellbeing and what safety can look like for them.

Q. Āe, no, it does –

A. Yes.

Q. – answer my question and confirms the –

A. Yes.

Q. – thought that I have been trying to sort of work through. I think what that leads to is the observations you made and I think it's at the end of your presentation rather than the brief but the only long-term remedy to this kind of system problem is a system that looks very different essentially.

A. Yes.

Q. From your understanding of the system in the last few years since you have been doing your research and your clinical experience, –

A. Yes.

Q. – Te Aka Whai Ora and its emergence did you see that as holding promise of the kind of transformation that might…

A. Yes, I think it was symbolic in its emergence as a place of hope for our people in terms of what that transformational change could look like. But I can't say I saw the impacts of it because I don't think we gave Te Aka Whai Ora a chance.

Q. That's right, yes.

A. So in terms of any kind of change or possibility or hope for what an equitable mental health service could look like, a health service, I don't think we got the opportunity to see that in practice.

Q. You're speaking here of the current structures.

A. (No audible answer 14:19:23).

Q. Yes, all right. Again, thank you very much.

A. Thank you.

(14:19) PROFESSOR TOM ROA TO MIHITERINA WILLIAMS:

Q. Tēnā koe e hine **greetings lady**.

A. Tēnā koe.

Q. I'm kicking myself that I wasn't here for that presentation and that at lunchtime my fellow panel members regaled me with your amazing ability to express so clearly this situation from a person from Ngāti Ruatakena but also as a budding Doctor of Philosophy, nō reira, kei te mihi **so I thank you**.

A. Kia ora.

Q. I'm also sorry that I wasn't here for Sharon's. But I'm hopeful that as I watched the body language of counsel they appear to me to be totally enamoured with you, so perhaps they might find some way of including you in their health mental panel to come and I will look very much forward to making sure I'm there to hear that. Heoi anō kei te tautoko i ngā mihi ki a koe, ki a koutou **nonetheless, I endorse the acknowledgements made towards you and your people**.

A. Tēnā koe.

JUDGE DOOGAN ADDRESSES MIHITERINA WILLIAMS – MIHI, ACKNOWLEDGEMENT (14:21:14)

HEARING ADJOURNS: 2.21 PM

HEARING RESUMES: 2.24 PM

JUDGE DOOGAN ADDRESSES HOHEPA HEI – MIHI, INTRODUCES TRIBUNAL PANEL (14:24:44)

(14:25) MR POTAKA: (CALLS)

Tuatahi ake, tēnei ka mihi atu ki a koe e te pūkenga o te whānau Nikora. Kātahi anō tō whanaunga ka noho ki tēnei pae kōrero ki te whakapuaki i ana mōhiotanga maha i roto i te ao hauoram nō reira he ātaahua te kite atu i te tuku ihotanga o ērā māramatanga i roto i te whānau ake o te whānau Nikora kua taetae mai nei koe. Me te aha, ko koe tēnā e whakatinana ana i te kōrero he tangata ahikā kua hoki ki ō whenua taurikura i roto i ngā tau tata nei ki te whakakā ana i te ahi, kaua i roto i a koe anō engari i tō pā harakeke hei oranga mō o tini hapū o roto mai i Te Whakatōhea, ka mutu, i a Ngāti Ruatakena. Nō

reira, kei taku rangatira tēnā koe. **Firstly, I want to greet the expert of the Nikora whānau. Your relative has just taken the stand to share her extensive knowledge on health matters and so it is beautiful to see the passing down, transmission of that Nikora whānau knowledge. And that is you who has realised the statement that a person who grew up here has returned to your precious lands in recent years to relight the fire not just within yourself but amongst your own whānau for the wellbeing of your many hapū in Te Whakatōhea and indeed including Ngāti Ruatakenga. Chief, greetings.**

Q. May it please the Tribunal, this afternoon I have the privilege of welcoming Mr Hei to our hearing this afternoon. Mr Hei before I begin, can you please confirm with me that your full name is Joseph Hohepa Charles Hei.

A. Āe.

Q. Ka pai. Whakakāngia tō **turn on your** microphone.

A. Āe **yes**.

Q. Ka pai **all right**. And that you prepared your brief of evidence dated 13 February 2026.

A. Āe, kei te tika **yes that's right**.

Q. Ka pai. Just for the record, the appellation number of Mr Hei's brief is #F006. Ka pai. I tēnei wā, ka tukuna te rākau kōrero ki a koe. Kei taku rangatira kei a koe te wā. Kia ora. **Okay. At this time, I pass it over to you. My chief you have the floor. Thank you.**

(14:27) HOHEPA HEI: (MIHI, #F006)

Kia ora rā tātou. Tuatahi ake, tēnei ka tuku i te kara mihi o te aroha ki aku taipakeke, nā rātou tonu i whakarite tēnei wāhanga kia mātou o Ngāti Ruatakena, nō reira e mihi ana ka tika ki te kāhui rōia o tō tātou hapū, koutou e mahi ngātahi ana i tō mātou taha. Otirā, ki a koutou te Taraipiunara kia rere tonu i ngā mihi ki a koutou e noho ana ki raro iho i te tuanui o tō tātou nei whare ā Tūtāmure i tēnei wiki. Ki a koe e te pāpā Tom kia rere tonu i ngā mihi ki a koe, otirā, koutou ko tō whānau tonu. Roa nei koutou o Waikato, o Ngāti Maniapoto e manaaki pai nei i tēnei, otirā, tō mātou whānau i a mātou e noho ana ki waenganui i a koutou o Tainui waka, nō reira e kore rawa ngā mihi e mimiti noa ki runga i a koe. **Greetings everyone. Firstly, I want to**

acknowledge with love to my elders who organised this opportunity for us of Ngāti Ruatakenga and so I must thank the lawyers acting on behalf of our hapū, those who have worked alongside us. To the Tribunal, I want to acknowledge you also sitting under the roof of our house Tūtāmure this week. To you the elder Tom, I want to also acknowledge you and your whānau. For a long time Waikato and Ngāti Maniapoto have taken care of me and my whānau when we lived amongst you of Tainui waka, so we will always be thankful towards you.

Ka hoki mai ki wēnei kōrero kua whakaritea e wau **returning the statements that have been arranged by me**. I will probably go from reo Pākehā **English** to reo Māori. To be honest, I find it easier to articulate myself a little bit better i roto i te reo Māori **the Māori language** but I will try my best to speak te reo Pākehā as well.

JUDGE DOOGAN ADDRESSES HOHEPA HEI – TRANSLATION SERVICE (14:29:10)

HOHEPA HEI: (CONTINUES)

REFERS TO #F006 PARA 4

I whānau mai au i Heretaunga i te tau 1978 ki Pāharakeke. Ko waku mātua i taua wā i te mahi ngātahi rāua i ngā wiki katoa, i ngā rā katoa o te wiki. Ko taku pāpā e mahi ana mō social welfare i aua wā. I ngā rā whakatā noho mai ia hei probation officer. Ko taku māmā mahi ana ki roto o Watties mai te Mane tae noa ki te Paraire. I ngā rā whakatā mahi ana i roto i ngā orchards ki te mahi i ngā mahi. I runga i tērā i tuku i āu ki Tūranga-nui-a-Kiwa. I haere au ki reira mā runga tereina ki te noho i te taha o taku kuia, Dickie Hei, nō te whānau Hatiana o Ngāi Tamahaua ki Ōpape nei. I noho ai au i tōna taha ki Kaiti ki te taha o te marae o Te Poho o Rawiri. I aua wā he āhua koroua haere taku tupuna koroua nō reira hoki mai māua ko taku kuia ki Ōpape noho ai ki reira. Nō reira, waimaria au, me pērā waku kōrero, waimaria au i noho i ngā rekereke o tōku kuia me aku taipakeke i aua wā i au e pēpē tonu ana. Tata rā anō ka rima taku pakeke kātahi ka whakahoki au ki aku mātua nā te mea i kuraina au,

āe, ki te kura tuatahi i taua wā. **I was born in Hastings in 1978 at Pāharakeke. My parents at that time they were both working every week and every day of the week. My father worked for social welfare at that time and during the weekends he was a probation officer. My mother worked at Watties from Monday to Friday. On the weekends, she worked in the orchards. And with that, I was sent to Gisborne. I went there by train to live alongside my grandmother, Dickie Hei, from the Hatiana whānau from Ōpape here. I lived with her at Kaiti beside Te Poho o Rawiri Marae. At that time, my grandfather was quite elderly and so my grandmother and myself returned to Ōpape to live. I was lucky, I'll just put it like that, because I was lucky to live with my grandmother and my elders when I was only a baby. I waited until I was five and then I was returned to my parents because I was at primary school at that time.**

I āhua mokemoke rawa au mō aku pakeke mō tōku kuia me tōku koroua tipuna, nō reira i ngā rā whakatā i ngā hararei i hoki mai au ki roto o Te Whakatōhea ki te noho i tā rāua taha. Nā taku koroua tipuna tonu i whakaako i au me pēhea te whakatipu kūmara, haere ki te kohi i ngā pipi, ērā momo katoa i raro tonu o Ōpape nei. Ko tōku kuia ā Nanny Reedy he Ruru nō roto o Te Aitanga-a-Māhaki, nō reira, i pupuri i a ia te reo me ōna tikanga, a, i reira taku tīmatanga ake ki te ako i tōku ao Māori. Me pēnei waku kōrero, hipa atu i te waru tekau aku karanga tahi, a, tokotoru noa iho nei mātou e taea te kōrero i roto i te reo Māori i runga anō hoki i ngā pēhitanga. I ngā wā o waku mātua kāre e whakaae ana kia ākona waku mātua kēkē, waku whaea kēkē me ōku mātua tonu ki te ako i te reo. Nō reira, kua tata kore he tangata e mārama pai ki te reo i roto i o mātou reanga, heoi anō, mō wā mātou tamariki kua ora. **I was quite lonely for my grandparents and so on the weekends and on the holidays I came back to Te Whakatōhea to stay with them. my grandfather taught me how to grow kūmara, to collect pipi, all those sorts of things just below Ōpape over here. My Nanny Reedy was a Ruru from Te Aitanga-a-Māhaki and she upheld the language and its customs and so it was there I began to learn about my Māori world. I would put it like this, I have over 80 first cousins and only three of us are fluent in te reo Māori due to the suppressions. During the time of my parents, they**

weren't allowed, my aunties and uncles and my parents weren't allowed to learn te reo. There is almost no person within our generation that is fluent in te reo but for our children, yes, the language is alive.

Nōku te maringanui i aku pakeke me wā rātou akoako ki au. I tipu mai au i roto i tōku Māori, e mātau mōhio ana au ko wai au, nō hea au. Waku whakapapa katoa ki tēnei marae tonu, arā, kua mōhio whānuitia nō te whānau Nikora tēnei. Taku taha Ngāi Tamahaua he Hudson ahau, ki roto o Te Whānau-ā-Apanui he Hei, Ngāti Porou he Bartlett, Ngāti Konohi he Pahura, Ngāti Oneone he Rangiuia, nō roto o Te Aitanga-a-Māhaki he Ruru, nō reira, nō Te Tairāwhiti whānui tonu. **It is my privilege to live with my elders and to learn from them. I grew up in my Māori world where I knew who I am and where I'm from. All of my lineage to this marae, I know extensively that I belong to the Nikora whānau, my Ngāi Tamahaua side I'm a Hudson, my Te Whānau-ā-Apanui side I'm a Hei, on Ngāti Porou I belong to the Bartlett whānau, Ngāti Konohi I'm a Pahura, Ngāti Oneone I'm a Rangiuia, and in Te Aitanga-a-Māhaki I'm from the Ruru whānau, so I'm from throughout the East Coast.**

Kua roa nei au mātou ko taku whānau e noho tawhiti ana i tō mātou whenua nei ki Ōmarumutu. Tō mātou hokitanga mai ki te wā kāinga kua hipa atu i te kotahi rau tau kāore tētahi wā mātou whānau e noho ana ki runga i tō mātou whenua kai Herema. Ko mātou te whānau tuatahi ki te hoki mai ki te wā kāinga. I āu e taitamariki tonu ana, ko tētahi o ngā ōhākī me kī o taku kuia: "Kia kore rawa koe e warewaretia ki tō taha Whakatōhea," nā te mea tata ki te katoa tō mātou whānau e noho nei ki roto i Te Whānau-ā-Apanui i tēnei wā tonu. Nō reira, i runga i ōna hiahia i hoki mai mātou katoa ko taku whānau ki runga i tō mātou whenua i Herema nei. **For a long time, me and my whānau have been living far away from these lands here at Ōmarumutu. When we returned to the homelands it had been over 100 years our whānau members had not lived on our lands at Herema. We are the first of our whānau to return home. When I was a youngster, one of the remaining messages from my grandmother was that: "You must never forget about your Whakatōhea side," because nearly all of our whānau currently live in Te Whānau-ā-**

Apanui territory. Due to her desires, all of my whānau came back and moved back to our lands at Herema.

I tā mātou hokinga mai, nā te mate kowheori mātou i hoki mai ai ki te wā kāinga nei. Hōhā katoa mātou te whānau i ngā āhuatanga o te COVID ki roto o Waikato. Nā taku hoa rangatira tonu i tohutohu mai ki au: "Kei te hoki mātou ko ō tamariki ki Ōpōtiki noho ai. Ina e hiahia ana haramai, ki te kore noho mai ki Waikato," engari i hoki mai au. Waimaria au i whai mahi au ki Te Pou Oranga o Te Whakatōhea, nō reira, he mahi mō te iwi. I taua wā ko au te Kaiārahi Matua mō te kāhui mātauranga o te iwi. **When we came back, COVID-19 brought us back home. We were fed up our whānau with all the aspects of COVID in Waikato. It was my wife that instructed me: "Me and your children are going back home to live. If you don't want to, then stay in Waikato," but came home. Luckily I was able to gain employment as Te Pou Oranga o Te Whakatōhea to work for the iwi. At that time, I was the Kaiārahi Matua for the education collective of the iwi.**

Tā mātou hokinga mai ki te kāinga i whai mahi māua tahi ko taku hoa rangatira engari kua kore he whare, kore he whare. Nō reira, tā mātou hokinga mai ki te kāinga whakatū tēneti te mahi. Tokoono aku tamariki. I noho mai mātou katoa ki roto tēneti mō te rua marama. Kātahi, nā tō māua ko Mihiterina mātua kēkē i whakatūwhera tōna kāinga ā Hemi Williams kia mātou ki te noho ki tōna taha, ki tōna whare. He rūma noa iho nei i roto i tōna whare. Engari kua hipa atu i te tekau mā tahi mātou e noho ana ki te whare kotahi. I runga i tērā, ono marama mātou e kimi haere ana i tētahi whare kāre e whai wāhi nei. **When we returned home, we gained employment myself and my wife but there was no house, we had no home. When we came back home we lived in a tent, put up a tent and live in there. I have six children. We all lived in a tent for two months. And mine and Mihiterina's uncle, Hemi Williams, he opened his home to us for us to live with him in his house. Just in a room in his home. About 11 of us were living in the one house. And with that, for six months were trying to find a home and we couldn't find one.**

Nā tōku hapū tonu, nā Aunty Tina mā i tāpirihia mai taku ingoa ki te rārangi mō te hunga whai whare, whai Kāinga Ora. I runga i tērā i whai wāhi anō au ki te taha o taku whanaunga ā Willie Te Aho me tōna kaupapa hanga whare ki roto o Te Tairāwhiti, nō reira kia rere i ngā mihi ki a ia, otirā, Toitū Tairāwhiti, nā rātou i takoha mai tō mātou whare i raro iho o Toitū Tairāwhiti. Koia nei tētahi o ngā whare tuatahi i tū ki runga i tō mātou whenua i Herema. I roto i te tau kotahi i hoki mātou ki runga i te whenua ko te mahi tuatahi ki te whakatikatika, ki te whakapaipai i te whenua, te whakatū māra kai, ērā momo katoa, kātahi, ka kawea mai tō mātou whare ki runga i tō mātou whenua. Ināianei kua ono ngā whānau kei runga i tō mātou whenua i roto i ngā tau e toru i tēnei wā. Koia nei tō mātou tau tuawhā e noho nei ki runga i tō mātou whenua. **It was my hapū, Aunty Tina and others who added my name to the list for those seeking homes. I took an opportunity with my relation Willie Te Aho and his housing scheme on the East Coast, so I want to thank him and Toitū Tairāwhiti, and they donated my house under Toitū Tairāwhiti. It was one of the first homes that were built at Herema. And in only one year, we returned to the land and the first thing to do was to work the land to plant gardens and all those sorts of things, and then we brought our house onto the land. And now, my goodness, there are six whānau living on our land over the past three years at this time. This is our fourth year living on our land.**

Nō reira, e kore rawa e mutu ngā mihi ki runga i tōku hapū tonu. Nā rātou i whai whakaaro rangatira nei ki a mātou ko taku whānau ki te hoki mai ki runga i tō mātou whenua. Kua roa nei mātou e ngaro ana i tēnei marae hoki. I roto i ngā tau e rima kua paiheretia taua hono engari he mahi anō kei te haere. Engari kia rere tonu i ngā mihi ki ngā ahikā o tō tātou nei marae kua roa nei e mahi i ngā mahi. **Therefore, I will always be thankful to my hapū. It was them who came up with the noble thought for me and my whānau to return upon our land. For a long time, we have been missing from this marae. Over the past five years that connection has bound together strong but we have other things to do ahead of us. I want to thank our people of our marae who have been doing the work for a long time.**

Ko tētahi o ngā kaupapa nui ki ahau ko te oranga o te iwi. Ināianei ko taku mahi ko au te Operations Manager mō Te Pou Oranga o Te Whakatōhea. Kotahi rau rima tekau mā whitu ngā kaimahi kei raro i ahau. Ko ngā kaupapa kei te hāpaingia e mātou ko te taiao, ko ngā kaupapa hāpori, hauora, mātauranga, hanga whare tētahi atu kaupapa, engari he kaitiaki anō taua kaupapa i tēnei wā. Engari i roto i aku mahi katoa kei kitea whānuitia i ngā pēhitanga o te wā. Kei te mōhio pai au i te maha o wā tātou whānau o Ngāti Ruatakenga e kimi whare tonu ana i tēnei wā. Wētahi kei te noho kāinga kore. Ko te mea e ngau kino nei i āhau kei te kite i tō mātou whenua i runga ake nei kua ngaro katoa tō mātou whenua. Me kī, kua ngaro te nuinga o wā mātou whenua ki tō mātou iwi tonu i runga anō hoki i ngā mahi a te Karauna, nō reira kei te pupuri tonu tērā mamae. **One of the matters most important to me is the wellbeing of the people. At this time, I am the Operations Manager for Te Pou Oranga o Te Whakatōhea. We have 157 staff under my leadership. Some of the initiatives that we take care of in terms of the environment are initiatives pertaining to the community, education, health, housing, building houses, however, that has another kaitiaki. But wihtin my role, I can see extensively all of the oppressions happening at this time. I understand clearly the high number of our whānau of Ngāti Ruatakenga that are searching for homes at this time. Some are homeless. But what really pains me is I can see our land just above here our lands have been lost. Most of our land has been lost to our own iwi, due to the actions of the Crown and so I still hold onto that pain.**

Kei te kite i o mātou whānau o Ngāti Ruatakenga e noho tonu ana ki roto i te taone e māuiui ana. Nā te mea ko te nuinga o wērā whare, ko te katoa o wērā whare e noho nei ki roto i te taone e noho ki waenganui i ngā awa e rua, nō reira, kua pā kino rawatia te rheumatic fever, wērā momo katoa ki runga i wā tātou tamariki mokopuna, wā mātou mātua, otirā, wā tātou kaumātua. Kei te kite au ia te wiki i ngā tatauranga e hāngai pū ana ki te hauora o Te Whakatōhea. Kei te mamae rawa te ngākau ki te kite atu wērā momo, engari kei te kimi tonu i ngā rautaki kia kimi i te rongoā mō tō tātou nei iwi, otirā, tō tātou hapū a Ngāti Ruatakenga tonu. **I see our whānau of Ngāti Ruatakenga still living in town unwell. Because most of those**

homes, all of those homes in the township are between the two rivers and so they are afflicted by rheumatic fever and all those sorts of ailments upon our children, grandchildren, the parents and our elders. I see every week the health statistics pertaining to Te Whakatōhea. My heart is pained at seeing those sorts but we're still trying to find the strategy, the solutions for our iwi and for our hapū of Ngāti Ruatakenga.

Ko tētahi atu ko te mātauranga. Ina kua pānuihia i ngā kōrero, ngā pitopito kōrero kei te Karauna tonu, e mea ana tekau mā whitu pae hēneti te hunga tamariki kei te haere ki te kura ki roto o Te Whakatōhea ia te rangi. Nō reira, kei te ahatia ā te toenga? Nō reira, tata ki te katoa wā tātou tamariki kāre mō te haere ki te kura ia rā o te wiki. I te wā o te hōtoke kua māuiui katoa tō mātou iwi, te hunga e noho nei ki roto o taua taone tonu nā te mea kua waipuketia engari kei te kite kua matomato katoa tō mātou whenua engari kāre anō te nuinga wā tātou whānau kua whai wāhi nei ki te whakatū whare. Nō reira, ka tiro ake ki au anō kua rima tau i au e noho ana ki te wā kāinga nei, kua waimaria rawa au ki te whai whare engari kei te aroha atu ki tōku iwi me tōku hapū anō hoki. **One other issue is education. In particular, I've read the information from the Crown stating that 17% of children are attending school Te Whakatōhea every day. What is happening to the rest of them? Nearly all of our children are not attending school regularly every day. During winter our iwi is unwell those living in the township because it gets flooded but we can see that our land is growing abundantly but most of our whānau have not had the opportunity and have not been able to build their own houses. I look at myself for five years I've been living here at home and I'm most fortunate to have a home but I feel sorry for my iwi and my hapū.**

Ko te anga whakamua **looking forward**

Ka hoki anō au ki waku kōrero i tēnei momo āhuatanga o te Taraipiunara mō Ngāi Tamahaua. Ka puta mai te pātai, he aha taku whakataunga mō ngā kerēme o Te Whakatōhea? Ināianei ko tāku, ahakoa kei te mahi au mō te iwi, kei te pupuri tonu i āu, kei te whakapono au ki aku whakaaro mō tērā momo kaupapa mō te taha o ngā kerēme o tō mātou iwi kua wehe rua. Noho wehe

rua tō tātou nei iwi, kei te pupuri tonu i o mātou whānau, o wā tātou hapū i taua mamae tonu. Tae noa ki tēnei rā kei te mau tonu. Engari me pēhea te kimi i te rongoā e aua. Engari ko tāku e mea ana nā ngā tikanga whakahaere o taua kaupapa tonu me ngā pūnaha whakahaere a te Karauna i raru ai a Te Whakatōhea. Kāre e whai wāhi nei ki te noho tahi me te whai rautaki i runga i te kotahitanga mai i te tīmatanga. Kei te aroha atu ki ngā whānau nā rātou i te whakarite i ngā kerēme kāre i whai wāhi nei ki te waha i o ratou nawe engari ka waiho ake mā tangata kē atu hei kōrero. Nō reira, koirā tētahi āhuatanga kei te kitea whānuitia i roto i tō mātou iwi i tēnei wā. Nō reira kāre au e whakaae ana ki ngā kerēme, heoi anō, mātau mōhio ana au kore rawa mātou e taea te tātari mō te rua tekau hipa atu ki te tūtuki pai tērā wāhanga. **I want to go back to my statements on the nature of the Tribunal in terms of Ngāi Tamahaua. The question was posed, what do you think about the settlement of the claims for Whakatōhea? At this time, although I'm working for my iwi, I'm holding onto my own opinions on that matter in terms of the claims of my iwi it has divided our iwi. Our iwi are divided and our whānau and hapū are still holding onto that pain. Until this day, we still hold onto that. But how can we find the solution, I'm not sure. But I say that it was through the tikanga of the processes around that and the systems of the Crown that problems for Te Whakatōhea. We are unable to sit together to find a unified strategy from the beginning. I sympathise with the whānau who arranged the claims but were unable to give voice to their grievances, however, we leave for others to speak on their behalf. So that is one of the aspects that has been seen widely throughout our iwi at this time. Therefore, I do not agree with the claims, nonetheless, I understand implicitly that we will never be able to wait for another 20 years or more to accomplish that.**

I runga anō hoki i ngā āhuatanga kua kitea whānuitia e wau i roto i tō mātou iwi te taha hauora, te taha mātauranga, te taha taiao, te taha reo. Kei te aroha atu ki taku pāpā ā pāpā Te Riaki, koia anahe e noho nei i te nuinga o te wā ki runga i tō mātou paepae, kua ngarongaro haere tō tātou nei reo i roto i a mātou. Ko taku tino hiahia ki te noho ki te ako i tōna taha, heoi anō i runga anō hoki i te nui o ngā mahi o te iwi he uaua ki te whai wā. Engari ko tāku whakarite rautaki

kia pakari anō ai ngā uri o Te Whakatōhea, otirā, Ngāti Ruatakenga kia tū kahika ki te pae mō te āpōpō kia kore rawa mātou e hoki whakamuri nei. Nō reira, he momo ngā āhuatanga i roto i ngā tau e rima kua kite āhau ka rere tonu i taku aroha nui ki ngā pā whakawairua o tō tātou iwi kua e hia kē ngā tau e hāpai ana i ēnei mahi ngā piki me ngā heke. **And also in mind with all of the things that I have seen extensively throughout our iwi in terms of health, education, the environment, the language. I sympathise with my Uncle Te Riaki, he is the only one sitting here on our orator's bench, our language is becoming lost amongst ourselves. My real desire is to sit alongside him and learn from him but because of how much work I have to do for the iwi it is difficult to find the time. But we must have a strong strategy so that the people of Whakatōhea and Ngāti Ruatakenga are strong and stand like Kahikatea trees into the future so we don't go back to the past. There are many aspects over the past five years that I've seen and I have a lot of love for our spiritual pillars of our iwi for so many years who have been carrying all of these aspects the ups and downs.**

He aha atu? Kei āhau tētahi moemoeā mō tōku iwi. Ko tōku moemoeā kua tuhia ki taku mea nei. Ko tāku he pā oranga. Nō reira, he aha tēnei mea te pā oranga? Nō reira, ka tiro ake ki roto i aku mahi engari ka tiro anō hoki ki roto i a mātou o Ngāti Ruatakenga me o mātou hapū katoa o Te Whakatōhea ko tāku whakahokia te mana ki o tātou hapū. Ina e kōrero nei tātou mō te tino rangatiratanga mō te mana motuhake kei ngā hapū tonu. Kei a rātou tonu te mana. Ko tā mātou mahi o te iwi haere ki te whawhai i te whawhai me te noho ngātahi i te taha o te Karauna ki te whai i ngā pūtea whakahoki atu ki ngā hapū. **What else? I have a dream, aspiration for my iwi. My dream has been written in my document this thing. I want a pā of wellbeing. What is this concept pā oranga? When I look in my work and also look within ourselves Ngāti Ruatakenga and all of our hapū of Whakatōhea, I say return the mana to our hapū. If we're referring to tino rangatiratanga, to mana motuhake it lies with the hapū. They have the mana. Our role of the iwi is to go and fight the fight to sit alongside the Crown to seek the funding and return it to the hapū.**

Ina e kōrerohia nei mō te taiao kua kitea whānuitia a au i roto o Te Whakatōhea. He tauira pai ki roto wā tātou whānau o Ngāti Ira. Kore whai pūtea engari e hia kē ngā tau i a rātou e tiaki pai ana tā rātou taiao. Kai te pērā anō hoki a Ngāi Tamahaua, a Ngāti Ruatakenga anō hoki. A, ko Aunty Mereaira tērā mō te wai ora, mō te wai Māori. Nō reira kei ngā hapū wērā kaupapa. Ina kōrero ana au mō te hunga hanga whare ā kei a Aunty Tina tērā mō Ngāti Ruatakenga. Tuatahi mō Ngāti Ruatakenga, heoi anō, kei te mahi mō te katoa o te iwi. **Because when you're speaking of the environment, I've already seen widely throughout Te Whakatōhea. There is a great example within our whānau of Ngāti Ira. They did not have any funding but for a long time they have been taking care of their environment and that is also the case with Ngāi Tamahaua and also Ngāti Ruatakenga. That's Aunty Mereaira looking after fresh water. So the hapū have those sorts of initiatives. If I'm talking about those buildings houses, Aunty tina takes care of that for Ngāti Ruatakenga. First and foremost, for Ngāti Ruatakenga but she's working for the whole iwi.**

Nō reira kei ō tātou hapū ngā pūkenga. Ko taku mahi me taku whakapono i au anō ko taku mahi ki te tautoko i ngā tūmanakotanga kei waenganui i o mātou hapū. Ko taku mahi ki te tuitui i ērā tūmanakotanga hei tikitiki mō ngā mahunga o ngā mahunga o ngā mokopuna o te āpōpō koirā taku mahi. **Our hapū have the skills and expertise. My role and my belief is to support the aspirations amongst our hapū. My role is to weave those aspirations together as a tikitiki upon their heads so to speak for the children of tomorrow.**

Nō reira ko taua pā oranga he pā pēnei te hanga. He kura, he kohanga reo ki konei, he kura kai muri Te Kura o Ōmarumutu, he whare tākuta, he whare hauora, he papa kāinga kua korowaitia e te hapū me wā mātou taipakeke ki te ārahi me te whai rautaki mō tēnā whānau, mō tēnā whānau. Nō reira koirā te pā oranga ki āhau. **So that pā oranga is a village like this. A school, a kōhanga reo here, Te Kura o Ōmarumutu at the back, a health clinic, homes that's being cloaked by the hapū and our elders to guide and to**

have a strategy for each whānau. Therefore, that is what pā oranga means to me.

Ko taku moemoeā nui kia pērā ngā hapū katoa o Te Whakatōhea whānui hei ngā tau kai te heke mai. Kua rite wēnei ki te mahi i ngā mahi me te whai rongoā mō tō tātou nei iwi a Ngāti Ruatakenga anō hoki. Nō reira me mutu aku pahupahu i konei engari ko te manako nui kei te rongo i taku aroha me taku whakapono ki aku taipakeke. Nā rātou i whawhai tēnei whawhai mō te e hia kē ngā tau. He reanga anō kei te ara ake, kei te kite. Engari ko taku reanga tonu kei te āhua raruraru tonu. Nō reira e mihi ana ka tika ki aku pakeke otirā ki o tātou tīpuna kua whakairingia ki ngā pātu o tō tātou nei whare. Ina e noho taumaha ana, ka hoki mai ki te poho o tō mātou ā Tūtāmure ki te whai oranga anō hoki. Koirā tāku ko te pā oranga. Ehara kei a mātou o Te Pou Oranga o Te Whakatōhea, kei konei kē. Nō reira e mihi ana. **My great dream is for all of the hapū of Te Whakatōhea to be like that in the years ahead. So these ones are ready to undertake the work and to find a solution for our people and of Ngāti Ruatakenga. I might conclude my talk here but it is hoped that you can hear and feel the love and belief that I have in my elders. It was them who fought this fight for so many years. There is a new generation coming that is rising that I can see. But my generation is somewhat troubled still. So I want to thank my elders and to our ancestors hanging on the walls of our house. When you're feeling heavy I return to our house to become well and gain wellness again. So that is what pā oranga means to me. It doesn't belong to us Te Pou Oranga of Te Whakatōhea but it lies here. So thank you.**

MR POTAKA ADDRESSES JUDGE DOOGAN -CLARIFICATION (14:50:15)

HEARING ADJOURNS: 2.50 PM

HEARING RESUMES: 2.55 PM

(14:55) MR POTAKA TO HOHEPA HEI:

Q. Mr Hei, e mihi ana ki ngā kōrero kua whakawhārikihia e koe. He nui noa atu ngā kaupapa i tuhia ki tō tuhinga nei i tuku ki te Taraipiunara, ko tāku e hiahia nei kia āta wherawherahia ētahi o ngā kaupapa kāre i tino rukuhia kia mārama kehokeho ai te Taraipiunara ki ngā take nunui kei mua i te aroaro o Ngāti Rua. **I want to thank you for the kōrero that you have presented. There are many matters that were written in your brief that was provided to the Tribunal but I just want to look and consider some of the matters that weren't delved into so that it is clearly understood by the Tribunal to the important matters that lay before Ngāti Rua.**

A. Āe **yes**.

Q. Mō te taha ki ngā whare, i roto i tō tuhinga nei ka kiia he housing crisis kei roto tonu i tō rohe i roto i a Te Whakatōhea, i āta kōrerohia e koe mō au wheako i tō hokinga mai ki Ōpōtiki nei me te ngana ki te kimi whare. Kei te tiro au ki tō tuhinga ki ngā whiti 11 ki te 14 taua wāhanga kei te whārangi tuatoru me te whārangi tuawhā, kōrero mai mō ngā take uaua kei mua i te aroaro o te iwi ki te whakatū i ngā whare. He aha ngā taiapa kei mua i a koe? **In terms of housing, in your written brief it says that there is a housing crisis in your region in Whakatōhea and you spoke widely on your experiences when you returned here to Ōpōtiki and trying to find a home. I'm looking at your brief paragraphs 11 to 14 on pages 3 and 4, please speak about the difficult issues experienced by the iwi to build houses. What are some of the barriers before you?**

A. Tērā pea ko tētahi o ngā raru nui ko ngā whare kai te taone. Ina ka tirohia ake ki te settlement ka mōhio ai koe kāre he whenua mō te hoki mai. He whenua pai ki te hanga whare, nō reira ka raruraru tonu wā mātou whānau i runga i tērā mō o tātou hapū. **Perhaps one of the great problems are those homes in the township. When you consider the settlement, then you will understand there is no land to come back to. It is good land to build a house and our whānau and hapū are still troubled in terms of that.**

Ko tētahi atu o ngā raru nui ko te utu. Taku hokitanga mai ki te kāinga 2021, $250 te utu mō te three bed mō te wiki kotahi, ināianei kua $650. Nā te mea, e mōhio whānuitia ana ngā kaipupuri whare kāre he whare nō reira kua hikina te utu mō ngā whare, me tā rātou e mōhio ana ka utua wā mātou whānau nā te mea he maha kē ngā whānau e noho kāinga kore ana. Tērā, tērā. **One of the other major problems is the cost. When I came back home in 2021, it was $250 for a three bedroom home and now it's $650 per week. Because it is widely known those homeowners that they have no homes so they have raised the rent for those homes and they know our whānau will pay for that because many of our whānau are homeless. That's one issue.**

Ko tētahi atu nā te paku o te whenua me te noho wehewehe o te whenua. Kua pērā anō hoki wētahi wā tātou whenua o Ngāti Ruatakenga i tēnei wā. Nō reira mō wētahi wā mātou whenua he āhua uaua ki te whakatū papa kāinga nā te mea kua whakawehewehe i te whenua ki tēnā whānau, ki tēnā whānau, ki tērā taratī rānei. Nō reira he uaua. **Another issue is due to the lack of land and how the land is divided. That is also the case in terms of our lands of Ngāti Ruatakenga at this time. For some of our lands it is quite difficult to build communal homes because the land has been divided amongst different whānau, trusts. So it is difficult.**

Engari ko tāku e mōhio ana mō te kaupapa home ownership programme i raro iho o Toitū Tairāwhiti, nā te mea he māmā noa ki au ki te kōrero mō tēnei kaupapa. Kei raro tō mātou whānau i tērā kaupapa, nō reira ka tiro ake au ki aku nama ka utua ia te rua wiki mō taku whare hou e whā ngā rūma moe, e rua ngā rūma horoi, ko te utu kai raro iho i te $1,000 mō ngā wiki e rua, he $900 te utu ia rua wiki. Nō reira ka tiro ake $450 te utu ia wiki mō te whānau kotahi, ina ka rent koe i te taone $650 mō te wiki kotahi. Te nuinga o wērā whare kāre e hāngai ana ki te healthy homes ērā momo katoa. Kua pakaru katoa te nuinga o wērā whare. Te nuinga o ngā whare kei roto o te taone o Ōpōtiki i waihangatia i ngā tau kotahi rau hipa atu ki muri. Nō reira, āe, he nui ngā momo raruraru e hāngai pū ana ki wērā whare kei te taone. **But what I understand in terms of the home ownership programme under Toitū Tairāwhiti because it is easy for**

me to talk about that initiative. Our whānau comes under that kaupapa, so if I look at what I pay every week for my home, a new home, a four bedroom, two bathrooms the cost is below $1,000 per fortnight, $900 every fortnight. I look at $450 every week for one whānau but if you rent in town it's $650 a week. Most of those homes are not compliant with healthy homes all of those sorts of things. Most of those homes are dilapidated. Most of the homes in Ōpōtiki township were built 100 years or more ago. There are many problems in relation to those homes in the township.

Engari ko te tauira nei i raro iho i tērā kaupapa o Toitū Tairāwhiti i whai wāhi nei ki te whakatū tō mātou whare i runga i te whenua, ka taea tonu te utu, kei raro iho te utu o tō mātou whare ki ngā mea ka rent-hia i te taone. Nō reira ko tāku he māmā ake ina ka taea ai wā mātou whānau te hoki anō ki o rātou whenua ki te whakatū whare. Mōhio pai au ka whai oranga anō hoki ki te taha hauora, ka hono anō ai ki tō mātou marae, ki o mātou pakeke, ki ngā kura wērā momo katoa. Koirā tāku e moemoeātia nei ko te pā oranga kai konei engari kāre anō kia whai rautaki kia whai oranga i roto i te kaupapa nei. Nō reira he uaua. **But the example under that initiative Toitū Tairāwhiti, we were able to build our house on the land and the cost of our home is lower than what they're paying for rent in town. So that is easier where our whānau are able to go back to their lands to build homes. I know that they will also be well with their health and they will connect to our marae, to our elders, to the kura all those sorts of things. That is what I'm dreaming about as pā oranga, a well village but we have not yet had a strategy and initiative in terms of this matter. It is difficult.**

Q. E rongo ana i a koe e kōrero ana ko tētahi ko te pūtake pea o ngā raru nui e pāngia ana ki runga ki a koutou o Ngāti Rua, otirā tēnei hāpori o Ōmarumutu, o Herema ko te kore whare. E mea ana koe i tērā? **I can hear as you were speaking one of the basis perhaps of the great problems that Ngāti Rua are experiencing and of this community of Ōmarumutu and Herema is no housing. Did you speak on that?**

A. Āe.

Q. E whakapai ana koe ki tērā kōrero? **Do you agree with that statement?**

A. Āe.

Q. Nō reira e tiro ana au ki tō whiti 15 ki te 16 e kōrero ana koe mō ngā mahi e mahi nei a Te Tāwharau. Ka taea koe i te whakawhānui i tērā wāhanga? I meatu koe he 30 ngā whare kei raro i taua kaupapa i tēnei wā engari he nui noa atu ngā whānau e ngana ana ki te whai whare. **And so I'm looking at paragraphs 15 and 16 and you're talking about what Te Tāwharau is doing. Are you able to expand on that? You said that there are 30 homes under that initiative at this time but there are many other whānau that are trying to get a home.**

A. Āe.

Q. Tēnā kōrerohia mai **please speak on that**.

A. Āe, nō reira i whai wāhi nei a Te Tāwharau ki tēnei kaupapa i raro iho o HUD ko te progressive home ownership programme. Toru tekau ngā whānau o Te Whakatōhea engari me whaiwhai haere ngā whānau ki ngā paearu o taua kaupapa. Ko wētahi o ngā paearu, tuatahi ake, ina ka whai wāhi nei te hunga noho kāinga kore ana, noho ana ki tētahi whare e pakupaku engari tokomaha te hunga e noho ana ki te whare kotahi, ina he mokopuna he tamariki anō hoki kei te noho i roto i te whare, kei te whai mahi ngā pakeke o taua whānau, he whenua anō hoki, nō reira ko tētahi wāhanga kāre e taea te utu ko te taha whenua. Nō reira ko tētahi o ngā paearu me whai whenua taua whānau tonu, whai LTO (license to occupy), occupation order rānei. Ina ka tika katoa wērā momo whakaritenga ka tāpirihia mai taua whānau ki te rārangi. **Te Tāwharau engaged with this kaupapa under HUD and that's the progressive home ownership programme. Thirty whānau of Te Whakatōhea were involved but the whānau must meet the criteria of that initiative. Some of the criteria, firstly, those who have no home or are living in a small house, if it is overcrowded, if there are children and grandchildren who are living in the home, the adults of that whānau are seeking employment and also land and so one part is where you're unable to afford in terms of the land. One of the criteria is that the whānau must acquire land, must have an LTO (license to occupy) or an occupation order. When you meet all of those arrangements, then that whānau will be added to the list.**

Ko tō mātou 30 ngā whare i raro iho taua kaupapa. Heoi anō ka waiho ake mā Ngāti Ruatakenga ā Aunty Tina e kōrero nā te mea kei a ia ngā tatauranga. Engari ko tāku e āpiti ana kei a mātou ngā ingoa rima tau ki muri, toru rau hipa atu te hunga e whai whare ana ki roto o Te Whakatōhea. Engari he kōrero anō tō Aunty Tina mō Ngāti Ruatakenga ake. Nō reira he maha. **For us, there's 30 homes under that initiative. Nonetheless, I'll leave it for Ngāti Ruatakenga, Aunty Tina to speak on that because she has the statistics. But I just want to add that we have the names for five years back 300 plus people of Te Whakatōhea have been waiting for homes. But Aunty Tina has other information pertaining to Ngāti Ruatakenga. There are many.**

Ko tētahi atu raruraru i raro iho i te kaupapa o Kāinga Ora, rima tau ki muri tata ki te kotahi rau rua tekau ngā whare e noho kēhua nei i roto o Te Whakatōhea. **Another problem under the initiative of Kāinga Ora, five years ago almost 120 homes were ghost homes in Te Whakatōhea.**

Q. Kāre he tangata kei roto **there were no people**.

A. Kāre he tangata e noho ana. Ko te raru nui ko te healthy homes standards koirā tētahi. Nō reira i taua wā i panaia i ngā whānau mai wērā whare i runga i taua ture tonu. **No people were living in them. The great problem was the healthy home standards that was one problem. At that time, the whānau were thrown out of those houses due to that law.**

Q. Āe.

A. Ko tētahi o ngā mahi o te iwi ki te tuku tēneti ki o mātou whānau e noho kāinga kore ana. Ko tā mātou he kimi cabins mō wā mātou whānau and koirā tētahi āhuatanga and koirā tāku he housing crisis ki roto o Te Whakatōhea. Āe, āe mārika he housing crisis. **One of the things the iwi did was that they gave tents to our whānau who were homeless. We had to try and find cabins for our whānau and that's one aspect and that's why I say that there's a housing crisis in Te Whakatōhea. Yes, there's definitely a housing crisis.**

Ko te raru anō hoki ko te hunga kaiako. Kua hipa atu te kotahi tau te kāreti o Ōpōtiki e kimi ana i wētahi kaiako. Kua whai kaiako engari kāre mō te haramai kāre he kāinga. Kua pērā anō hoki tō mātou kura o Ōmarumutu kotahi te whare mō te kaiako engari ka aroha atu ki tō mātou tumuaki koia kei roto i te akomanga ki te whakahaere i te kura nā te mea kua kore he kaiako. Kua kore ngā kaiako e whai whare. Kei te pērā anō hoki mō ngā tākuta. Kua rua tau i au e whaiwhai haere ana i tētahi GP kua kore he whare. Wētahi wā mātou nēhi, kei te haere mai i Whakatāne, tētahi i tērā tau i haramai i Tauranga, nā te mea kua kore he whare i konei. Yes, he housing crisis. **Another issue is the teachers. For over a year, Ōpōtiki College has been trying to find teachers. They've found teachers but they're not coming because they don't have a home to stay in. That's the case with our school Ōmarumutu there's one home for the teacher but I feel sorry for our principal because she's in the classroom running the school because teachers can't find a home. That's also the case for the doctors. For two years, I've been trying to find a GP because there's no homes, no housing. Some of our nurses are travelling from Whakatāne, one of them last year came from Tauranga because there's no housing here. Yes, there's a housing crisis.**

Q. I a koe e kōrero ana mō au ake wheako i te wā i whakatu koe i tō whare ki Herema ko taua whenua rā nōu tonu, nō tō tonu? I te mea e rongo ana e ono ngā whare kei runga rā i tēnei wā, e āhei ana kia maha ake ngā whare ki taua paraka whenua? **When you were talking about your own experiences when you built your house at Herema did that land belong to you, your whānau? Because I heard that there are six homes there now, are you able to have more houses on that block of land?**

A. Āe, ko taku karanga tahi kei te noho mai ki taku taha kua hoki mai ia ki ngā whenua o tōna pāpā anō hoki kua kore he wai, kua kore he hiko. He long drop. Kei te noho mai ia me wāna tamariki i a rātou e hoki mai ana ki te kāinga i roto i ngā cabins e toru, ko tōna kīhini he container. Ko tāna mahi kei te mahi ia mō te iwi. **Yes, my first cousins are living alongside me returned to the lands of their father they have no water or**

electricity. They have a long drop. My cousin and his children when they came back they were living in three cabins and his/her kitchen is a container. His/her mahi is working for the iwi.

Q. E mārama ana. Nā i tēnei wiki i te Turei ka tae mai tētahi mātanga kairangahau a Susan Woodley, ko tana aronga matua he aro ki ngā rēti (ngā rates) a ngā whenua, a ngā whare puta noa i tēnei rohe o Te Whakatōhea. Heoi anō i tō tuhinga ka mea mai koe kāre koe mō te utu i o nama i o rēti, nā runga noa i tēnā whakawhānuihia ērā kōrero. He aha i pērā ai koe? **I understand. Now this week on Tuesday an expert researcher Susan Woodley and her main focus was on the rates on the land and homes of the territory of Whakatōhea. In your written brief, you stated that you will not pay for the rates so please expand on that statement. Why did you do that?**

A. Ko te take me pēhea au te utu i aku rēti kua kore au e whai tētahi paku aha mai te kaunihera. Kua kore he wai i runga i tō mātou whenua. Kāre mō te haramai ki te tiki wā mātou rāpihi. Kua matomato katoa i te Woolly nightshade ngā momo e māuiuitia ana wā mātou tamariki mokopuna. Kua kore tuku paku aha ki a mātou. **The reason is how can I pay for my rates if I do not gain anything from the counsel. There is no water on our land. They don't come and collect our rubbish. There's woolly nightshade covered all those things that make our children unwell. They don't provide anything to us.**

Ko te mea anō hoki, he aha te take me utu rēti i runga i tō mātou ake whenua nā te Karauna tonu i rāhuitia, me kī, reservation land, nō reira kei te āhua raruraru au ki tērā momo. Mō te hunga e noho ana ki runga reservation land he aha te take me utu i te kaunihera mō te nohonga ki runga i te reservation e mea ana. Kāre e tika ana. Kore rawa au mō te utu ki te kaunihera. **And also why should we pay rates on our own land because it was the Crown that created a reservation land so I'm quite troubled with that. Those living on reservation land why should we pay the council to live on the reservation. That's not right. So I will never pay the council.**

Waimaria mātou ko taku whānau, nō reira kua whai solar mātou. Nā Ranginui tonu i takoha mai i te wai ki a mātou. Kua 100% off grid mātou,

nō mātou te whiwhi kua pērā mātou. Ko mātou tonu e whakatikatika ana i te whenua me te huarahi, me te police tonu i te hāpori nei. Kua whakaritea tō mātou kāhui tirotiro, me kī, karu hōmiromiro o Ōmarumutu, ko mātou tonu e tiaki ana i a mātou anō hoki. Te nuinga o te wā kua kore he pirihimana haramai ki konei. Mā mātou tonu engari pai tonu tēnā. **We are lucky me and my whānau, we've got solar power. It was Ranginui who gave the water down to us. We're 100% off grid and so we're lucky that that's the case with us. We look after the land and the roads and to police this community. We established a group of sharp eyes of Ōmarumutu and we are taking care of ourselves. Most of the time no police come here. We do it ourselves but that's okay.**

Q. Ka pai. Kei te hiahia au kia tahuri te aronga o waku pātai kia kōrero mō au mahi ki roto tonu i Te Tāwharau me te hononga i waenga i a Te Tāwharau me Ngāti Rua. Kei roto i o whiti kei te whārangi 7 te whiti 29 tae rawa atu ki te 34, e āhei ana koe ki te āta whakawhānui i ngā kōrero i taua wāhanga o tō tuhinga? **All right. I want to turn the focus of my questions to your work with Te Tāwharau and the connection between Te Tāwharau and Ngāti Rua. Within your page 7 paragraph 29 to paragraph 34, are you able to expand on what you speak on there in your written brief?**

A. Kei au waku whakaaro. Heoi anō mō Te Tāwharau e rua ngā māngai me kī o Ngāti Ruatakenga e noho ana ki runga i Te Tāwharau o Te Whakatōhea. Heoi anō, he uri anō kei te noho i raro iho o Te Tāwharau i roto i ngā tūru general me kī, engari he Ngāti Ruatakenga tonu. Ko tāku te anga whakamua ki te āpōpō koirā tāku. **I have my own thoughts. But in terms of Te Tāwharau there are two representatives of Ngāti Ruatakenga sitting on Te Tāwharau o Te Whakatōhea. Nonetheless, other descendant in Te Tāwharau are in general seats but they are also Ngāti Ruatakenga. In my view, we must look forward to the future.**

Kei Te Tāwharau ōna herenga ki te Karauna. Ina e kōrerohia nei tātou mō ngā relationship agreements wērā momo ki te taha o te Karauna, te whai pūtea kia tae ai mātou ki te mahi i ngā mahi, engari ko wētahi o wērā

kaupapa kei te pupuri i Te Tāwharau engari ki te anga whakamua ko tā tātou te kimi rautaki, ki te kimi oranga i roto i a mātou anō hoki tuatahi nei. Ahakoa kua tau kē ngā kerēme me kī o Te Whakatōhea ko te mahi ināianei whai rautaki kia puta ai a Te Whakatōhea ki ngā kōtihitihi o Kapuārangi, o Makeo maunga kia tiro ake tātou ki tua o Paepae Aotea. **Te Tāwharau has its requirements to the Crown. If we are talking about the relationship agreements those things with the Crown to seek funding so that we're able to undertake our work, but some of those matters are being held onto by Te Tāwharau but if we look forward we must search for a strategy and a solution amongst ourselves firstly. Even though the claims have been settled of Te Whakatōhea, what we have to do now is to have a strategy so that Whakatōhea can reach the highest peak of Kapuārangi and Makeo mountain and look beyond Paepae Aotea to the future.**

Nō reira ko te kimi oranga o te iwi te mahi i te tuatahi. Ka rua whai rautaki, whai rautaki oranga o te iwi, arā taku moemoeā o te pā oranga, a, koirā te mahi tuatahi. Engari kei te mōhio, ahakoa kua hipa atu i te 125 ngā kaimahi kei raro i a mātou, he maha kē ngā raruraru. Ka kitea i roto i te taha pāpori hauora me whai tētahi rautaki e tae ai mātou te tino tiaki o mātou te hunga māuiui. Mental health, hika, kei runga noa atu. **Finding a solution for the iwi is first and foremost. Secondly, is to have a strategy for the wellbeing of the people and my dream in terms of te pā oranga and that's the first thing to do. But I know that even though we've got over 125 staff under us, there are still many issues. We see in terms of community health we must have a strategy where we're able to really take care of our people who are unwell. Mental health my goodness it's right up there.**

Ina e kōrerohia nei mō te Eastern Bay of Plenty te nuinga low to moderate. Te Whakatōhea severe, kai te pērā. Rua noa iho ngā kaimahi kei Te Whakatōhea tonu engari ko tā rātou mahi i te nuinga o te wā e tiaki ana i te hunga kore whai kāinga. I tēnei wā 14 te hunga e noho nei kāinga kore ana ki runga i ngā tiriti o Ōpōtiki i tēnei wā tonu engari e rua noa iho nei ngā kaimahi. Tērā, tērā mō te noho kāinga kore ana. Engari he wāhanga anō mō te hunga e noho ana ki waenganui i o mātou whānau

engari kāre e whai tautoko. Nō reira he kaupapa anō tēnā. **Now if you're talking about the Eastern Bay of Plenty most low to moderate. Te Whakatōhea is severe and it's like that. we only have two workers in Te Whakatōhea but their role most of the time is to take care of the homeless. At this time, there's 14 homeless people living on the streets in Ōpōtiki right now but there's only two staff. That's for those homeless. But then we also have those who are living with our whānau but are not getting that support. So that's another matter**

Nō reira ko te raru nui, ahakoa te 125 te hunga e mahi ana i ngā mahi, he maha kē atu ngā raruraru. Ki te taha pūtea he iti noa. Tēnei Karauna tonu tēnei kāwanatanga kua tāhae anōtia te pūtea kia tae ai mātou te mahi i wā mātou. **The main problem is that although we have 125 staff, there are many more problems. In terms of funding, there is a lack of funding. This Crown, this government has stolen the funding for us to undertake our work.** Nō reira wētahi o wā mātou whānau kei te mahi tūao **some of our whānau are volunteers**, he voluntary, i runga i tā rātou aroha nui **and that comes from great love**, engari **but** mental health addictions me kī Whakatōhea our district has the highest wastewater result for Methamphetamine in the country currently per capita. So if we're talking about the state of the nation kai te pērā **it's like that**.

Mental health high. Attendance, truancy, achievement in school all-time low. As I said, 17% of our kids go to school regularly every day, 17% not 70. These are the issues that Whakatōhea face on the daily and I will say we do it on the sniff of an oily rag and that is our reality. But, as I said, in order for us to find that oranga **wellness** Te Tāwharau and Te Pou Oranga can't do it on its own. Kāre e taea **we can't do it**. That oranga sits within our hapū and koirā tāku **and that's what I say**, ina e kōrerohia nei tātou mō te tino rangatiratanga kei o tātou hapū **whether we're talking about tino rangatiratanga it lies with our hapū**. Ko tāku whakahokia te mauri ki ngā hapū, whakahokia te mana ki o tātou hapū kai reira. Pai. **I believe we return the mauri and the mana to our hapū that's where it lies. Okay.**

Q. Tēnā koe, e mihi nui ana. Ka mātua aku pātai ki reira. Ka whakahoki te mauri ki a koe e te Kaiwhakawā. **Thank you. I want to thank you very much. Those are my questions. I'll pass the mauri back to you Judge.** I'll hand it back to you, your Honour. Thank you.

(15:17) MR HUNT TO HOHEPA HEI:

Q. Tēnā koe **greetings** Mr Hei.

A. Kia ora.

Q. Kia ora. As you were giving your evidence, I recalled our time at Waiaua I think it was three years ago now where you gave evidence and you told us about your work as Education Manager with Te Ara Tau programme.

A. Yes, that was at Ōpape.

Q. Yes. Ōpape.

A. Yes.

Q. My mistake, I'm sorry.

A. Kai te pai **that's fine**.

Q. I've been around the rohe so much. I only have one question of clarification or elaboration for you. You mentioned in your evidence and in questions from counsel, Toitū Tairāwhiti the housing company and Ms Peters, who is going to give evidence after you, I saw from the attachment to her evidence that it says that Te Whakatōhea is involved in that partnership. Are you familiar with that?

A. Toitū Tairāwhiti, Te Whakatōhea was a part of Toitū Tairāwhiti during the inception of our housing initiatives with Whakatōhea. Whakatōhea housing programme was developed from Toitū Tairāwhiti. Yes, that's probably all I could really say on the matter. But yes, definitely 100% supportive of what we've been able to achieve with Toitū Tairāwhiti. I know previously we also had representation from Whakatōhea that was sitting still with Toitū Tairāwhiti but I don't know what the current status of that is.

Q. You don't know the current status.

A. No.

Q. Is Te Whakatōhea housing initiative that spun out of that, is that what you've been speaking about in your evidence today the 30 homes or is that something separate?

A. So that was an arrangement directly with HUD. But if we go back to the inception of the housing programmes for Whakatōhea, it actually stemmed from Toitū Tairāwhiti and the relationships that were created through Willie Te Aho.

Q. Okay, kia ora. I'll see if Ms Peters has anything to add to that as well, so thank you very much for your evidence and that was all I wanted to ask you.

A. Ka pai, ngā mihi **okay, thank you**.

(15:20) PROFESSOR TOM ROA TO HOHEPA HEI:

Q. Tēnā koe Hohepa **greetings Hohepa**.

A. Kia ora pāpā.

Q. Me aua mihi ki a koe mō tō manaaki i a mātou mokopuna i a koe te kura māhita ki roto i a mātou Ngāti Maniapoto. **I thank you for taking care of our grandchildren when you were a teacher amongst us of Ngāti Maniapoto.**

A. Kia ora.

Q. Kāore e warewaretia taua mahi tahi. Nō reira, ki te wairua o taua mahi tahi te nuinga o waku pātai mō te whare kua pātaitia kua whakautua, heoi anō, me huri pea au ki te kura. He aha taua tatauranga 17% tamariki haere ana ki te kura ia rā, ia rā. E hoa, pewhea ngā tamariki o te kura o Ōmarumutu? **It will never be forgotten that work. And so that spirit of working together most of my questions have already been answered but I'll turn my attention to the school. What is that stat 17% of the children regularly attend school every day? My friend, how do the children of Te Kura o Ōmarumutu?**

A. Kua pai tō mātou kura o Ōmarumutu **our kura Ōmarumutu is good** –

Q. Ka pai.

A. – nā te mea he pai ngā kaiako **because the teachers are there**. He pai ngā kaiako. Kua pai te hono o tō mātou kura ki o mātou hapū katoa o Te Whakatōhea engari mātua rā ki konei ki Ōmarumutu. Heoi anō aua

hononga katoa ki te marae o Waiaua, o Ōpape anō hoki. **The teachers are good. The kura has a good connection with the hapū of Whakatōhea but first and foremost here to Ōmarumutu. Nonetheless, those connections are connections to Waiaua Marae, to Ōpape Marae.**

Ko tētahi o ngā raru nui ki tō mātou kura o Ōmarumutu, mau ai taku pōtae matua nei nā te mea kei te kuraina waku tamariki ki reira, i te wā o te hōtoke ka tino māuiui haere ngā tamariki. Heoi anō kei te whai rautaki, kei te whai whakaaro anō hoki te kura, tō mātou tumuaki whai rautaki, kia pai ai te nohonga o wā tātou tamariki i ngā marama o te hōtoke kia kore rawa e ngau kino nei i te māuiui, te maremare, wērā momo katoa i aua wāhanga o te tau makariri rawa atu me te māku. Me te kaha wā mātou hapū ki te kura, koirā te rerekētanga pea. **One of the greatest problems experienced in Ōmarumutu School, and I'll just wear my hat as a parent because my children are attending that school, during winter our children become very sick. Nevertheless, we're still seeking strategy and the kura are thinking about it and our principal to come up with a strategy, a plan so that our children are well and healthy during the winter months, so that they won't become very sick when it's very cold and wet. Our hapū strongly supports the school and perhaps that's the distinction.**

Ko aua tatauranga tonu kia tika tonu mō te 17% e hāngai pū ana ki o tātou rangatahi 13 te pakeke hipa atu. Ki te taha kura kua ora rawa ngā kura Māori o tō mātou iwi o Te Whakatōhea, ora rawa! Ahakoa kāre he wharekura kei te ora rawa ngā kura Māori i konei. **Those statistics must be correct 17% pertaining to our children 13 and up. In terms of the school, the Māori schools in Whakatōhea are doing very well. Although there is no secondary school, the Māori schools are doing well.**

Q. He nui ngā mihi ki te tumuaki inanahi nei me te mārama tō tautoko, te tautoko a Te Tāwharau, te tautoko o Ngāti Rua i te kura. Nō reira ka haere tonu taku pātai ki roto o taua me te wharekura. Me pērā ana te 17% kei ngā tamariki 13 tau neke atu he tatauranga hei tautoko i te tahuritanga o te kura kaupapa ki te wharekura. **I want to express many**

thanks to the principal yesterday and how clear your support was and the support of Te Tāwharau and of Ngāti Rua towards the school. And so I want to direct my question towards the wharekura. You have said 17% for those 13 years and up are there statistics that can support adding a wharekura to a kura kaupapa.

A. Āe.

Q. I whakaaritia ana pērā te whakaaro? **Do you have any thoughts on that?**

Mō wētahi tau noho rūmaki reo engari i te nuinga o te wā kei te noho reo rua. I tēnei wā he reo rua. Ko tētahi raru nui ko te hunga kaiako engari ka hoki anō ki tērā kaupapa mō te kore whai whare, tērā tētahi take. Ko tētahi atu he āhua noho wehe rua nei te noho rūmaki reo, te noho wharekura ki te kura auraki. Koirā tētahi raru nui. **For some years now, we have had a Māori immersion unit but most of the time it's bilingual. At this time, it's a bilingual school. One of the major issues is getting teachers but also the lack of housing and that's one issue. Another issue is that there's a kind of division between the Māori immersion unit and the wharekura and then to a mainstream school. So that's one major issue.**

Kei te wehe atu ngā tamariki mai ngā kura Māori o te iwi ka tae atu ki te kāreti ka noho ki roto i tō mātou whānau o Maurua te ingoa. Ko te manako nui ka noho rūmaki reo engari kia tika tonu te kōrero kei te noho reo rua i tēnei wā. Wētahi atu take kāre e hāngai ana te taha whakahaere a Maurua ki te taha whakahaere o te taha auraki. Nā te mea ki roto o Maurua kei te whai mātou i o mātou ake tikanga e hāngai pū ana ki tō mātou iwi o Te Whakatōhea engari i te taha whakahaere ki te taha auraki kai te noho auraki tonu me kī. **The children are departing from Māori kura and once they reach college they go to the whānau of Maurua. It's a Māori immersion unit but I must say correctly that it's bilingual at this time. Other issues are the rūmaki unit and Maurua are not in line with the mainstream part of the school. We're adhering to the tikanga of our iwi of Whakatōhea but how they run things on the mainstream are still done in a mainstream way.**

Q. Ka pai **good**.

A. Ko te moemoeā whakatu wharekura. **The dream is that we build a wharekura.**

Q. Āe.

A. Koirā tētahi o ngā moemoeā nui **that's one of the greater aspirations/dreams**, yes.

Q. Nō reira he pānga mai reira ki roto o te pā oranga. He aha te wāhi o te wharekura ki roto te pā oranga? **And so that is the relationship to the pā oranga. Where does the pā oranga fit in the wharekura?**

A. Ko te pā oranga, ko taua kura tonu, ina ka tiro ake au ki tētahi kura kei waenganui i te iwi ko tāku kei te tumuaki, kei ngā kaiako te mahi whakaako ka mutu ki reira. Ko te taha hauora, ko te taha pāpori kei ngā mātanga o wērā kaupapa kei a rātou te tikanga. Ina he pā oranga kei te noho ki te wāhi kotahi te kura, te marae, te papa kāinga, te whare hauora, te whare pāpori ki te wāhi kotahi ka korowaitia aua kaupapa katoa i ngā uri whakatupu. **The pā oranga and the school, if I consider school within the iwi it is up to the principal and teachers to teach and then that ends there. In terms of the health, the social responsibilities lie with the experts in those matters. And so if we have a pā oranga then the school, the marae, the village, the medical clinic, community centre is in the same place and all of those initiatives are cloaked by the people.** Me pēnei **I put it like this**, whilst the educational needs of our mokopuna are being met by our kaiako, the experts in social services and health, our GPs are working with whānau. It's not just about providing and learning outcomes. If we're talking about te oranga o te whānau **wellbeing of the whānau**, it is all aspects of whānau oranga. I believe ko taku whakapono kei reira whakatū pā oranga **that to establish and build a pā oranga/wellbeing village**. Tērā pērā koirā te rerekētanga ki wērā atu o ngā kura huri noa i te motu. **Perhaps that's the difference to other schools throughout the country.**

Q. Ka pai. Te āhua nei ko Te Tāwharau kei te nui te tautoko. I mea mai koe mō ngā relationships ki ngā manatū kāwanatanga, kua pēwheatia mai te whakaaro, te tautoko, kore tautoko mai rānei mai roto o ngā manatū? **Good. It appears that Te Tāwharau is supporting strongly. You talked about the relationships with government ministries,**

departments, what do you think, do they support it or not within those ministries?

A. Wētahi kua pai. Wētahi atu kāre i te pai. Ina e kōrerohia nei mō te taha hauora maha ngā pēhitanga o te wā. **Some are good. Others are not good. If I'm talking in terms of health, there are many things oppressing at this time.** Heoi anō kua whai oranga i roto i te tau kotahi kua hipa atu nei ko tētahi o ngā raru nui i konei ko te obstetrics gynaecology and maternity services ki runga o te rohe o Mātaatua. Kotahi tau ki muri i aukatihia ki te hōhipera o Whakatāne tō mātou maternity ward. Raruraru katoa ngā whānau katoa o Te Whakatōhea tae noa atu ki roto o Te Whānau-a-Apanui. Wā mātou hapū māmā ina kai te whānau mai te pēpē, wētahi wā mātou whānau tata ki te rima haora kia tae pai atu ki te hōhipera o Tauranga Moana. Nō reira tohutohu a Te Whatu Ora kia mātou: "Me pēnei, me pērā." Ko tā mātou: "Kāo, ka hoki anō ki taua whakataunga kei roto i ngā relationship agreements e mea ana me noho ngātahi ki te waihanga me te whakarite rautaki," nō reira koirā tā tātou aronga. **It has been over a year and one of the major problems here is the obstetrics gynaecology and maternity service within the Mātaatua territory. One year ago at Whakatāne Hospital our maternity ward was closed and all of the whānau of Whakatōhea, including Te Whānau-a-Apanui caused great problems for them. When a baby is on the way some of our whānau have to travel almost five hours to get to Tauranga Hospital. Te Whatu Ora told us: "Do this, do that." We said: "No, we'll go back to the relationship agreement with state that we must work together to arrange for a strategy," and so that's our focus.**

Waimaria au i reira tētahi wahine Māori nei, me kī, Nicola Ehau. He pai ia, upoko mārō, ū ki te kaupapa. Engari whai rautaki noho ngātahi kua whai oranga anō hoki i tēnei wā. A tērā marama ka whakatū anō taua wāhanga, taua whare ki te hōhipera o Whakatāne. Ināianei kei te noho mai a Te Whatu Ora ki te whai rautaki anō hoki i tō mātou taha mō wērā atu o ngā kaupapa ki roto i Te Whakatōhea tonu, kia pai ai tō mātou tiaki i o mātou whanaunga kei Ngāi Tai, kei Te Whānau-a-Apanui anō hoki. **I was lucky that there was a Māori woman there, Nicola Ehau was her**

name. She is good and committed to the kaupapa. We made up a strategy and it is doing well at this time. The other month that service was re-established at Whakatāne Hospital. At this time, Health New Zealand is developing a strategy in terms of that matter in Te Whakatōhea so that we are able to take care of our whānau Ngāi Tai and also in Te Whānau-a-Apanui.

Nō reira he oranga anō kei roto wērā whakaritenga te relationship agreements. Wētahi atu karekau, i tēnei wā TEC tētahi (Tertiary Education Commission). Me kī kei te noho upoko mārō tonu rātou. Anō nei waimaria mātou a Te Whakatōhea he registered PTE mātou, Te Pou Oranga o Te Whakatōhea, nō reira kei te waihanga i o mātou ake hōtaka mō wā mātou whānau kia whai tohu rātou me te whai mahi. Heoi anō kei te āhua raruraru tonu mātou ki te taha o TEC i tēnei wā engari kua tīmata ake ki te noho tahi. Āe, i pērā mātou i te mutunga o tērā tau. **Therefore, there is also solutions within those relationship agreements. Others not so much and at this time TEC is one of them. They're still quite stubborn. But we of Te Whakatōhea are lucky we have a registered PTE Te Pou Oranga o Te Whakatōhea and we're developing our own programmes so that our whānau can gain qualifications and employment. Nevertheless, we are experiencing some problems with TEC at this time but we have begun to sit and meet together Yes, that's what we did at the end of last year.**

A, Te Papa Atawhai ā kua pai. Kei te noho, kei te wānanga tahi rātou i tō mātou taha, nō reira kua whai oranga mātou ki tēnā. A, Te Puni Kōkiri ā kua pai. Wētahi o rātou kei te pātoto mai kia mātou. **DoC we're doing good there. They held discussions with us and so we're doing well with them. Te Puni Kōkiri that's good and we're doing well. Some of them are getting in contact with us.**

Q. Ka pai **good**.

A. Tētahi atu kei te hunga engari te nuinga kei te haramai me te noho tahi **others are hiding away but most are coming to meet with us**, yes.

Q. Mīharo. E mārama ana ki te māia o Te Tāwharau i roto i a koe, i roto pea i a Ngāti Rua nō reira kei te nui te mihi. **Wonderful. I understand the**

courage of Te Tāwharau within you and perhaps within Ngāti Rua and so I thank you very much.

A. Kia ora pāpā **thank you elder**.

Q. Thank you for those responses. It is heartening that those relationships that were agreed to in the settlement are being followed through, albeit slowly –

A. Yes, tika.

Q. – but still there is promise. Kia ora **thank you** Hohepa thank you.

A. Ngā mihi **thank you**.

(15:33) DR ROBYN ANDERSON TO HOHEPA HEI:

Q. Tēnā koe **thank you** Mr Hei.

A. Kia ora.

Q. Yes, it's difficult. We'll have to swap to the unofficial language I'm afraid for my sake. You mentioned rheumatic fever in the community, can you tell us a bit more about the prevalence of that. I mean that's quite a shocking thing to hear.

A. Yes, it's become a long term issue for a lot of our people. We currently have two full time nurses that work in that space working with our whānau, working with our tamariki, coordinating clinics and so forth and then they also do a number of other things. We have had, and I will say that we have lost a lot of young ones to RF over the year and it was the implications attached to it –

Q. Yes.

A. – which brought on other health issues, in particular with the heart.

Q. Yes.

A. That is a bit of a sensitive one at the moment. I've lost a couple of nephews to it –

Q. I'm very sorry.

A. – that had heart issues.

Q. Yes, very sorry.

A. But again, the origins of those heart issues actually came from them having RF during infancy and as they got older those implications got worse. We know one of the main contributing factors to that is the location

of our township. The majority of our young ones that have RF reside in town, being in between the two rivers with a high water table is also one of the biggest contributing factors to RF and all the other implications around damp homes and so forth, yes.

Q. All right. Well thank you for answering that question. I mean it is tragic but it is also something that is a social indicator –

A. Yes.

Q. – so it puts it beyond tragedy. Yes, ngā mihi. I just want to go back to the 30 houses that are being developed and you've called it a progressive home ownership. Are people paying rent to ultimately own the homes?

A. Yes. How the scheme works through Toitū Tairāwhiti was that the funding was secured through Toitū Tairāwhiti. Budgets were allocated for each whānau build. On completion of the home, there were two contributing factors. You got a budget for the build and then there was another fund that everybody could apply for which was for infrastructure to cover those costs.

The debt itself doesn't sit with individual whānau. It sat with the provider so in this instance it would be Toitū Tairāwhiti. The debt would sit with Toitū Tairāwhiti. But again, the way that the programme was delivered was that as opposed to purchasing a building or a property through a bank and obtaining a mortgage through the bank which has significant interest rates, through this progressive home ownership programme the debt resides with the provider who charges out to the whānau. It is like rent but it is also interest free for a certain period of time.

Q. Yes.

A. Each arrangement is different based on the financial capability of the whānau ranging from a 10-year interest free home loan. For those that are less fortunate would probably work towards a 15-year interest free home loan. The expectation is in 10 years, or even if it takes you 15 years, to pay off your home loan, you would be repaying that debt back to the provider interest free for the first 10 years. During that 10-year period, the provider would be working with the whānau to help them with work, everything else, to make them more financially stable. But the ultimate goal come the 10th year they can either pay the remaining debt

outright or they will support them into a pathway where they can obtain a small mortgage from any respective bank to be able to pay off that remaining debt. That is why it makes it more affordable for a lot of whānau to be able to achieve that.

I think one of the other things to note is if you're looking at our community predominantly kiwifruit focused or based work is one of our main industries here. Even though we have aquaculture, which is a new industry that is developing here, we have a lot of seasonal workers that aren't necessarily paid to a certain a degree a good annual salary and because it is seasonal work as well, it becomes a bit problematic when you're dealing with mortgages. Under that scheme it works really well because they factor all of those issues when they develop the whānau plans.

Q. You say that Ngāti Rua were allocated eight houses out of the 30. How is that decided? Is that on a population basis?

A. No. There was no hapū allocation as such.

Q. Okay, yes.

A. We were fortunate out of the 30 that we had approximately eight whānau that were Ngāti Ruatakenga that were able to obtain a build, yes.

Q. And you say each hapū has their own criteria, I'm more familiar with what the late great Ricky Houghton's scheme up in Kaikohe. Included amongst their criteria were things like no domestic violence, no drug use. Is that sort of criteria in play here?

A. That's what we aim to do.

Q. Yes.

A. We work with our whānau regardless.

Q. Okay.

A. But it is very hard to monitor, especially when you have 30 different families that are very far spread throughout the iwi. You would definitely be able to achieve something like that if you were looking at papakāinga development.

Q. Yes.

A. It becomes a lot easier to manage whānau and to provide that support when they are living in that communal space as a community as opposed

to how it currently operates where everybody is far spread. The reason being is that whānau obtained the grant for their builds on the basis that they were able to secure a license to occupy or an occupation order on their particular piece of land as opposed to land that is owned by the iwi or the hapū for that matter.

Q. Okay. Are there more houses in the pipeline?

A. I would hope so but it's a bit slim at the moment. I know the iwi is working on other kaupapa.

Q. Yes.

A. But I think as far as home ownership is concerned it is not a government priority currently, social housing is. But there is still a lot of work that I know is happening in that space, especially with the restructure that has just been undertaken within Kāinga Ora and everything else of late. There is not necessarily much forthcoming but I know there is work coming through sometime soon hopefully.

Q. And what is happening with the social housing in Ōpōtiki? Is anything happening?

A. We have another provider in Ōpōtiki, Whakaatu Whanaunga Trust that support transitional housing initiatives. They are responsible for delivering that in the iwi. They are at capacity and that provider works tirelessly to be able to support whānau into housing. The issue that we do have is that only also have one provider locally –

Q. Yes.

A. – that does emergency housing. The issue that we have is with transitional housing between both Whakatāne and Ōpōtiki is maxed out and so we have a lot of transient whānau which becomes another issue that we have. Where we have whānau from Whakatāne that are moved over here because we have spaces in emergency housing but because we don't have any space in transitional housing, then some of our whānau get moved over to Whakatāne. The issues that we have is that when we start seeing our whānau become more transient accessibility to healthcare becomes an issue, education becomes an issue, and to be honest, gang issues has also become an issue. Because have a certain group of gangs here in Ōpōtiki but when the whānau are uplifted and

moved over to Whakatāne who also have a different gang over there, it becomes quite conflicting for whānau.

Q. Yes.

A. But the impact that it has is actually ultimately on our mokopuna because with those issues that is where again you start seeing the disengagement of our kids attending school regularly and everything else.

Q. Yes I was going to comment on that, the lack of stability in a home moving around you have to move schools –

A. Yes.

Q. – and there is no continuity.

A. Emergency housing we only have eight rooms available at the best of times.

Q. And I'm shocked at the rents that you're having to pay in Ōpōtiki.

A. Yes, the same as Hamilton.

Q. Yes. Anyway that is just a comment. Thank you very much for coming and talking to us and for answering my questions.

A. Ka pai.

Q. Thank you.

A. Ngā mihi **thank you**.

(15:45) BASIL MORRISON TO HOHEPA HEI:

Q. Tēnā koe **greetings** Mr Hei. And forgive me, I won't use this, it'll just echo through. Look, I had a number of questions and between the various questions and responses that you have given has satisfied those questions. I just have a couple. In regard to the regional council, you mentioned that tobacco weed, all of that sort of rubbish stuff. Do you have much of an interface with the regional council because that's their area of responsibility? Does that work at all?

A. No. Actually when you leave this afternoon, all you need to do is have a look on the side of the road from here to Ōpōtiki and you'll know exactly what I'm talking about.

Q. Okay.

A. Woolly nightshade is a big issue. And then we've got pampas is another one. And then you've got the other ones gorse, blackberry. But the

biggest issue is actually woolly nightshade. Again, the issues is it causes respiratory issues –

Q. Yes.

A. – and everything else. If we're talking about regional council and what they give out, they will have a station at our local council from time to time and they give out kits and you get a little thing about-

Q. Yes.

A. Yes, and that's it. Basically, the responsibility sits with our own whānau to be able to try and sort those issues out.

Q. Okay.

A. Yes.

Q. Well if you would sit in the car with me and my colleagues as we travel the roads, as a farmer, I see those weeds and I moan and groan about them all the time. Look, thank you for that response; you're not on your own on that.

The second one is really just a clarification. I understand on paragraph 9 you talk about service rates (i.e., reticulated water, waste water, et cetera) and I understand your argument of not wishing to contribute to that rating component. But then the last sentence, and I just wonder, you say there: "Therefore, I refuse to pay for these services." Now my emphasis on "these" and that leads me to the question. We have heard evidence that the funding assistance rate (FAR) for Ōpōtiki is 75%, so 75% comes from Waka Kotahi or NZTA and the other 25% for maintenance of local roads is by general rating. The question really is when you say "these services" you're talking about any rate not just the service rates.

A. Yes, anything.

Q. Okay.

A. And again, it is a personal thing –

Q. Okay.

A. – because I also say I pay, you know, -

Q. Yes.

A. – my taxes and everything else but when it comes to paying rates there is nothing. Like even driving up our roads it is very hard like just to get

the speed reductions done just up here by our school so our kids could walk along the side of the road presented its challenges as well.

Q. Yes.

A. The state of our roads. I could go into an argument if it was the roads. But point one is, as I see it, we live on reservation land.

Q. Yes.

A. As Ngāti Ruatakenga we lost our land to our people –

Q. Yes.

A. – eventually.

Q. Yes.

A. The second part of it is that I cannot find anywhere where it clearly states that we should be paying rates if we are still living on reservation land.

Q. Yes.

A. I've done research around that and particularly in Canada with our First Nations people and they do not pay rates as well, so I'm trying to still figure out what the legalities around that is.

Q. Okay. Look, thank you most sincerely for that.

A. Yes.

Q. I've had 40-odd years as an elected representative so I've heard your argument. I wouldn't mind a dollar for every time I had heard that. But it was just a clarification that I understand the service rates, I understand that.

A. Yes.

Q. I just wondered whether there was a separation.

A. Āe.

Q. Look, thank you for your submission and appreciate your comments. Thank you.

A. Kia ora **thank you**.

(15:49) DR GRANT PHILLIPSON TO HOHEPA HEI:

Q. Tēnā koe Mr Hei. I'm up on the screen. Yes, here I am. Tēnā koe.

A. Kia ora.

Q. We've covered housing and health and education. You also mentioned in your brief that for your Operation's Manager responsible for the delivery

of environmental initiatives. I'm just wondering if you could tell us briefly what's being done there?

A. Okay. Some of the kaupapa that's been carried out currently by the environmental team is that they have a forum The Taiao Tēpu which comprises of representatives from various hapū within Whakatōhea. They discuss various issues. One of the things that we're currently working on is working alongside hapū to be able to clearly identify what key environmental priorities are for each individual hapū because they do vary, being able to establish what that is, current initiatives that are being carried out by hapū, being able to see what exactly the supports that they require are and to look at avenues as to how we can best support hapū to achieve their own individual aspirations. And then if we're looking at local development, I can use the harbour development as a good example. Doing the revegetation along the waterways, once the western and the eastern side groins were put in place and dredging was being undertaken, there was another piece of work that needed to be done which was revegetating the banks and also the sand dunes. It wasn't as straightforward as a lot of people thought because there were a number of wāhi tapu sites of significance. Again, a lot of that work needed to be carried out with our taipakeke, with our tohunga, and also with mana whenua to be able to guide some of those processes that needed to be undertaken. That work is undergoing. I also do need to acknowledge the environmental team because I know if we're looking at the sand dune restoration project in itself was actually one of the largest sand dune restoration projects that have been undertaken in the southern hemisphere so that's something to acknowledge, yes.

Q. Yes. Well, the government's approach used to be plant pine trees on the sand dunes.

A. Yes.

Q. I hope they're doing something a bit more environmentally sensitive this time. Following on from that, did the settlement establish some kind of formal relationship with the regional council? Is there a committee or a partnership committee or some kind of body that has been established for partnership between the council and –

A. Yes.

Q. – Whakatōhea more generally on these matters?

A. Yes there is. Yes, we work with both regional council and our local council as well.

Q. What is the name of the committee?

A. That I do not know off the top of my head. That will be a question for our environmental manager.

Q. Okay, yes. We may hear more about that at the next hearing. It is just the main theme of this hearing this week is local government and so I was trying to get a bit more information on how that relationship works between Whakatōhea and local government, between the different hapū and local government, and Te Tāwharau and local government. Is there a good relationship going on there or a relationship?

A. There is a relationship. Are we talking about our local or regional, sorry?

Q. Both.

A. Yes. We work closely with our local council. We have a number of developments that the iwi is currently undertaking and then we also have a couple of environmental issues which have made the headlines of recent and particularly just down the road at Ōpape. Although we have a good relationship, the council does have issues with understaffing so we acknowledge and appreciate that. However, I do feel that lines of communication could be a lot better and that communications with iwi and hapū isn't just an afterthought and that's how I feel things have been for quite some time. We have our challenges working together in particularly around resource consents. We currently got one kaupapa that's siting with council. It has taken us near on two years to sort of get that particular project over the line. There are a number of issues but we do try our best to work with each other. And again, it is with that mindset that it's not about us, it's actually about our people.

Q. Yes, and kaitiakitanga. Yes, okay. Thank you. There's probably not time for more at the moment but we might hear more at the next hearing which is about focusing on the environment.

A. Yes.

Q. Thank you very much Mr Hei. I found your evidence very helpful.

A. Ka pai. Kia ora.

(15:56) JUDGE DOOGAN TO HOHEPA HEI:

Q. Just two very quick pātai, Mr Hei. I'm conscious of the time. The pā oranga vision essentially what you're describing is a papakāinga is the possible footprint in terms of the land that it might occupy in and around Ōmarumutu on Ngāti Rua lands or the lands that remain to Ngāti Rua under reservation allocations. Because the second part of the question is the bigger question about because you mention the difficulties at paragraph 18 that some of the land holding around the marae is held at the individual whānau level that creates complexity; you talk of the need for hapū decision-making. The particular complication for Ngāti Rua of course is that what was created here brought all of the hapū into the land –

A. Yes.

Q. – in and around the core rohe of Ngāti Ruatakenga. I'm just trying to get a sense of building on that vision for Ngāti Rua and how could that happen in an ideal sort of scenario where you resolve issues with individual landowners but then looking more broadly or longer term if other hapū in Whakatōhea wish to do something similar is the reality that the lands they would be looking to would probably be in the vicinity given the relative paucity of other Māori land in the whole rohe. Do you follow? It's a big pātai.

A. Yes, no, I understand your pātai. And again, for myself that determination sits with the hapū, it sits with the whānau as individual landowners.

Q. Āe.

A. But again, it's about the hapū being able to determine what those aspirations look like for our people. Again, like if I look at our hapū and how it currently functions, our hapū meet regularly; they work through their issues. Housing has always been a major kaupapa that is discussed by our hapū. We have a space where it is a topic of conversation. I think what needs to happen is that we find an arrangement or an agreement with our whānau as a hapū to enable any of that type of development to take place.

One of the biggest issues that we have, like if I was to refer to that 30 build because up here in Ōmarumutu because we've got approximately eight homes but all of those eight homes one of the biggest financial components of those builds was actually infrastructure because there is no infrastructure up here. When you're looking at papakāinga development, the only way you can make housing more viable for whānau is using papakāinga development which would mean that whānau as a collective would have to come together, whether they establish an entity or something. That would be the only way you'd be able to achieve it. I'm currently working with other developers. Well, I've been working with them for a couple of years now and that's one of the things that they've highlighted. In order for any type of development to be viable beyond the township itself, you would need a minimum of six houses to be able to confidently invest in any type of infrastructure.

Q. Thank you. Just to clarify, I think it's clear from what you're describing to Dr Anderson to pay off the debt after 10 years for those 30 housing project. That means at that point the ownership transfers to those whānau.

A. Yes.

Q. Āe, ka pai. Thank you. I'll leave it there but I just tautoko the mihi my colleagues have extended to you for your evidence. It is very helpful. We also wish you well for your ongoing mahi. Ka nui te mihi ki a koe **thank you very much**. Thank you.

A. Tēnā koe **thank you**. Tēnā koutou **thank you all**.

MR POTAKA ADDRESSES HOHEPA HEI – WITNESS EXCUSED (16:01:17)

MR POTAKA ADDRESSES JUDGE DOOGAN – SHORT ADJOURNMENT (16:01:22)

HEARING ADJOURNS: 4.01 PM

HEARING CONCLUDES ON FRIDAY 27 FEBRUARY 2026 AT 9.00 AM

KARAKIA TĪMATANGA (DR TE RIAKI AMOAMO)

(09:02) JUDGE DOOGAN: (MIHI)

Mōrena koutou. E koro Te Riaki ko koe te kaiwhakarite o tō tātou hui mai i te tīmata ā tae mai i te mutunga o te wiki nei. Nāu i whakakākahu tā tātou nohoanga ki te korowai o te atua nō reira tēnā koe. Ka mihi hoki ki a koutou kua huihui mai nei i te rā whakamutunga o te wiki, nau mai. **Good morning. Elder Te Riaki you have opened our gatherings since the start until the end of this week. You have covered our hearing with the cloak of God and so thank you. Greetings to everyone who have gathered on the final day of this hearing week, welcome.** Welcome to our final day of sitting. I'm just reflecting from the panel that it has been a real privilege this week to hear the evidence we have heard so far and we are very much looking forward Ms Hata and Mr Amoamo to our concluding session this morning.

(09:03) MS FEINT KC: (MIHI, RECALLS)

Tēnā koe e te Kaiwhakawā. Otirā, mōrena ki a tātou kua tae mai i te ata ātaahua nei. **Greetings Judge. Good morning everyone present on this beautiful morning.** Judge, with your leave, we are going to recall Te Riaki Amoamo because there are a couple of points that he would like to address that have arisen from the evidence that he has heard this week.

Q. Tēnā koe e koro **greetings elder**. Kei te pēhea koe **how are you**?

A. Pai **good**. Pai ana **I'm good**.

Q. Ka pai **okay**. This week we heard the evidence of the archaeologists and they talked about there being a large pā complex up on Mākeo. I understand that you know something about that and would like to tell the Tribunal about your traditions of Mākeo.

A. First of all, the name Mākeo. A name must have a meaning and you break it down into two syllables mā and keo. The name keo ko te keokeotanga tērā o te maunga **it's a pointed peak**. Before what it looks like today, it was a pointed peak. The whole maunga Mākeo it starts from the pointed peak and it goes back to the south a ridge and to the big pā

site at the back. The peak was taken off to have it shaped what we can see today looking from Ōmarumutu Marae to Mākeo.

It was taken off by the landing of the Nukutere canoe here by the descendants of the Te Wakanui, by the descendants of the Panenehu to level it off to the ridge that was behind it and that's how it's shaped today. The peak was taken off. Ko te keokeotanga tērā o te maunga the pointed peak.

The bigger pā site is along the ridge at the back where the water is. The water flows from that side is a puna wai. It's a drain that drained itself with the water coming down to the western side to the road.

Dave Boyd was a Pākehā historian and he walked up there and said that was the bigger part of the pā site at the back.

So that's the name Mākeo. It was by Te Wakanui people, Te Panenehu, and down to Ngāti Ruatakenga. It's the pepeha ko Mākeo te maunga, ko Waiaua te awa, ko Tūtāmure te tipuna whare, ko Ōmarumutu te marae, ko Ngāti Ruatakenga te hapū, Whakatōhea te iwi **Mākeo is the mountain, Waiaua is the river, Tūtāmure is the ancestral house, Ōmarumutu is the marae, Ngāti Ruatakenga is the hapū, and Te Whakatōhea is the iwi**, and that's Mākeo. **.**

Q. Ka pai. Do you know what the names of the pā were?

A. The whole part of it is Mākeo from the front to Mākeo to the back. But there are pā down on the spurs to the east and on the spurs that face to the west, Otirakehukehu, is on the western side and Puketauhinu on the eastern side the only two pā sites. There is a pā site at base facing the north and they're small pā sites but the main one is at the back. There was more homes at the back, because the contour of the land is like a big round hill at the back and they were closer to the water.

Q. Ka pai. I understand that-

(09:09) JUDGE DOOGAN TO DR TE RIAKI AMOAMO:

Q. I'm sorry, Ms Feint. E koro, it is Judge Doogan here, the first name of the smaller to the east on the spur was it called Tirokehu or? The first name that you mentioned of one of the smaller pā I think to the east –

A. Yes, āe.

Q. – what was the name of that pā?

A. Puketauhinu.

Q. That was the second one. I had Puketauhinu and then there was-

A. That's on eastern side.

Q. And then on the western side, there was a small pā…

A. Otirakehukehu.

Q. Āe, Otira, and the last-

A. It's on our mapping.

Q. Thank you. Ka pai.

MS FEINT ADDRESSES TRIBUNAL STAFF – MAP PLATE 118 (09:09:55)

(09:10) MS FEINT KC TO DR TE RIAKI AMOAMO: (CONTINUES)

Q. Am I am right in thinking that Tūtāmure was associated with Mākeo?

A. Tūtāmure lived in the Rāhui Valley. He lived in the southern area of the Ngāti Rua development block. His pā site was Poutotara.

Q. Ka pai.

A. Below Poutotara was a swamp where this kō was dug up by a machine draining out water for land development. This kō up on this post here came from that swamp. But the footrest on the kō came from tablelands, Papakanui. Tablelands Papakanui is in the customary landscape of Ngāti Rua.

Q. The Tribunal can't see the kō because it's one side of the pou.

A. It's the post beside where you are but it's facing out towards the door. It's got all the details in writing on the side of it.

MS FEINT KC TO TRIBUNAL STAFF – ZOOM-IN MAP

Yes, these names were mentioned in the court minute by Heremia Hoera. Especially from Tirohanga eastward, he named all the pā sites. When he named the pā sites, he goes from left to right or right to left. What I mean left to right because he didn't go up here and come back and then go back again. He completes it from left to right the name of the pā sites. Later we knew by our ancestors aware where the places were. We put it on a map for the future generations. It's a wānanga to take them there. Its pā site set up by different generations. It's not set up by one generation.

Elsdon Best, *Tūhoe* fortified villages map stating in Tūhoe. That map came right into Te Whakatōhea and came right to Tirohanga, so the informants are Whakatōhea informants giving the names. Especially when he came into Ōhiwa and he's come into Waiotahe, coming to Kukumoa, coming eastward the informants are Whakatōhea informants naming the pā sites.

We were lucky it was in the mapping system of Elsdon Best with *Tūhoe*. It helps us with the names of the ancient pā sites coming right to Tirohanga. He names all the pā sites in the Waioweka River Catchment in Ngāti Ira, in the Ngāi Tū Ōtara River Catchment, and the pā sites of western Ngāti Rua to the Ōtara River. It is completed by Heremia Hoera coming back to the head lands at Ōpape.

Q. Ka pai. Speaking of Ōpape, the second thing you wanted to clarify, you spoke earlier this week about Ōpape Stream. Can I ask the Tribunal to Zoom in on the map on the eastern border and perhaps Mereaira can point out where it is. You wanted to be clear that Ōpape Stream is what Ngāi Tamahaua calls Ōpepe Stream. Would you like to explain to the Tribunal why it is called Ōpape Stream?

A. I'll just sit down and read the court minute. The court minute Ōpōtiki, July 24, 1895, Whitikau No 3, Te Panenehu and Ngāti Rua case. The questionnaire was Paku Eruera from Ngāti Muriwai questioning Tuakana Āporotanga of Ngāti Rua. The question that's Paku Eruera: "You say you don't know of a pā named Ōpape. That pā is only a chain from the road." Tuakana Āporotanga answers: "There is a pā there but I deny there is one named Ōpape. Ōpape is the name of the stream. There is a pā where you mentioned but it is not named Ōpape. It is not one of those I mentioned. It is called Puketapu. That was the pā set fire to." So that's Tuakana Āporotanga's version of it.

On the next page on July 31, 1895, Whitikau No 3, Panenehu and Ngāti Rua case. Akuhata from Tōrere and Ngāi Tai cross-examining Heremia Hoera: "How many pās on the western side of Waiaua between it and Tirohanga to Tūtāmure's boundaries?" Answer by Heremia Hoera: "I think about 13." The questionnaire asked: "Will you name them?" The answer: "Puhikōkō, Poutotara, Turamoe, Pakarukaru, Horonui,

Whakapapa, Kapua-a-Rangi, Tapane, Pukeariki, Komakopuku. Taumatapātiki, Otirakehukehu, Te Pā o Tamariki, Waharua."

There are two pā named Te Pā o Tamariki at Tirohanga.

Akuhata Takatua from Ngāi Tai, Tōrere questioned: "How many between the Waiaua and Ōpape streams?" The answer: "I think there are near about 30." The question between Ōpape Stream and Tūtāmure's boundary, Tuterangi, answer number five.

The names Ōpape streams are mentioned here by two of the historians of Ngāti Rua. There's no Ōpape Stream. In 1895 Heremia Hoera, 31 August 1895. That answers that question of Ōpape.

Q. Āe. My final question is what is your understanding of where the Ngāi Tamahaua customary rohe was prior to the raupatu?

A. The Ngāi Tamahaua subtribe was put on the Ōpape Native Reserve. Their lands in the Ngāi Tū area, beyond the Otara River, the source of the Otara River where they really came from.

During the killing of Völkner, the six subtribes was put on the Ōpape Native Reserve. The Ōpape Native Reserve is Ngāti Rua customary landscape in its entirety. Ngāi Tama was put there at that end. Not only Ngāi Tama, Ngāti Ngahere was also put on the Ōpape Native Reserve. Ngāti Rua was also put on the Ōpape Native Reserve. And also Ūpokorehe, Ngāti Patumoana and Ngāti Ira were put on the Ōpape Native Reserve.

All the development blocks go from one to six. No 1 block was given to Ngāi Tama at Ōpape. No 2 block was given to Ngāti Ngāhere. No 3 block was given to Ngāti Rua. With the Ngāti Rua block, Ngāti Muriwai was allocated 600 acres in the Ngāti Rua block. No 4 block was given to Ūpokorehe. This is where Ūpokorehe on the Ōpape Native Reserve take our maunga Mākeo. No 5 block was given to Ngāti Patumoana. No 6 block development block to Ngāti Ira. They were the development blocks on the Ōpape Native Reserve. But really there was 12 blocks all up.

They had to have bush blocks also given to them. After the development blocks, the bush blocks commence with No 7. No 7 was allocated to Ūpokorehe. No 8 was allocated to Ngāti Ira. No 9 was allocated bush

block to Ngāti Patumoana. No 10 block was allocated to Ngāti Ngahere. No 11 block to Ngāi Tama. No 12 block, that's when it hits the confiscation line in the back, from the sea coast to Ōpape Native Reserve going south to the confiscation line is the Ngāti Rua block No 12.

Q. Ka pai. So you're saying that Ngāi Tamahaua descend from Ngāi Tū, is that right?

A. Really, they were put on by the Crown, the Ture, on the Ōpape Native. Really, Whakatōhea lands were confiscated. They came from a different area from where they are today. They came from the Otara catchment and going up into the Ōamaru catchment to Ngāi Tū. Ngāi Tū takes in three hapū, Ngāi Tama, Ngāti Patumoana, Ngāti Ngāhere. They have affiliations to Ngāi Tū.

As for Ngāti Rua, Nukutere. Because the Mātaatua canoe didn't land here in the Whakatōhea area. It landed at Whakatāne. But it was the Mātaatua, Muriwai's sons, Repanga, Rangikurukurua, Hine-i-Kauīa came to Te Whakatōhea. Two sons died at sea, Te Kōau and Tāne-Whirinaki. There is the whakatauki: "Mai Ngā Kuri ā Whārei ki Tihirau, te tapu o Muriwai e." The tapu was from Tauranga Moana to Cape Runaway when her two sons were drowned at sea the canoe capsized.

Q. Ka pai. Kua mutu ōku pātai **Those are my questions**.

MS SWEDLUND ADDRESSES JUDGE DOOGAN – LEAVE GRANTED (09:25:53)

JUDGE DOOGAN ADDRESSES MS FEINT KC – NATIVE LAND COURT MINUTES FILED (09:26:12)

QUESTIONS FROM PROFESSOR TOM ROA – NIL

PROFESSOR TOM ROA ADDRESSES DR TE RIAKI AMOAMO – MIHI, ACKNOWLEDGEMENT (09:26:47)

(09:26) DR ROBYN ANDERSON TO DR TE RIAKI AMOAMO:

Q. Tēnā koe Dr Amoamo. It's Robyn here. I think you said that Elsdon Best did have Whakatōhea informants.

A. Āe.

Q. Was Heremia Hoera one of them.

A. When Elsdon Best was mapping the Tūhoe area, he came more or less into Te Whakatōhea area as well. Not the whole Whakatōhea just as far as Tirohanga, coming from the west from Tūhoe to Tirohanga. But once it came into Te Whakatōhea area at Ōhiwa that's Waiotahe and that's Ōpōtiki and that's coming this way here but as far as Tirohanga only. It was good to see the names, especially the ancient pā site given by the Whakatōhea informants to Elsdon Best on the mapping system.

Q. Do you know who his informants were or has that been lost in time?

A. No, that's lost in time. At the time, it doesn't state on the mapping system where he got the informant. But I know it's not Tūhoe giving them the ancient pā sites in Te Whakatōhea.

Q. Okay.

A. It's Whakatōhea informants.

Q. All right, thank you. Those are all my questions. Thank you for that additional information today. It's very helpful. Thank you.

A. Kia ora.

(09:29) DR GRANT PHILLIPSON TO DR TE RIAKI AMOAMO:

Q. Tēnā koe **greetings** Dr Amoamo. I just have one really straightforward question. It may not be a straightforward answer. But you mentioned Tuakana Āporotanga. I just want to know was he the son of Te Awanui Āporotanga?

A. No, he's the son of Makawa Āporotanga.

Q. Okay.

A. Makawa was his mother. He's a half-cast. His father was Charles Frederick Leggett.

Q. Right. So what is his relationship to Te Awanui?

A. Tuakana Āporotanga where I got my name is a brother of Te Riaki Waikite.

Q. I see. Was he the nephew of Te Awanui Āporotanga?

A. That's right.

Q. Yes, okay. Thank you very much. That was my only question. Kia ora.

QUESTIONS FROM JUDGE DOOGAN – NIL

JUDGE DOOGAN ADDRESSES DR TE RIAKI AMOAMO – MIHI, ACKNOWLEDGEMENT (09:30:20)

(09:30) MS FEINT KC: (CALLS)

Now we're going to call the evidence of Mereaira Hata. Her brief is at #F012 on the record of inquiry.

Q. Ata mārie **good morning** Mereaira.

A. Mōrena **morning**.

Q. Can you please confirm for the Tribunal that your full name is Mandy Mereaira Hata.

A. Āe **yes**, I confirm.

Q. And you have a brief of evidence dated 17 February 2026.

A. I do.

Q. And that attaches a number of appendices, including your evidence from the MACA proceedings in the High Court.

A. I do.

Q. Do you confirm that your evidence is true and correct?

A. I can confirm that.

Q. Ka pai. Kei a koe te rākau. **Okay. Over to you.**

(09:31) MEREAIRA HATA: (MIHI, #F012)

Tēnei ka mihi atu ki a tātou mō te kaupapa o te rā. E te Kaiwhakawā Doogan tēnei ka mihi atu ki a koe. E te Ahorangi Tame Roa tēnā koe, te kaumātua o Pūrekireki anō hoki. Atu i ngā pōtae kei te mau i a koe te kaumātua o taku kōtiro, tō māua kōtiro ā Mere Te Rau Aroha tēnei ka mihi atu ki a koe. Ngā rangatira, ngā Tākuta, ngā māreikura tēnei ka mihi atu ki a koutou. A, ngā ringa kaha kei muri ngā hēkeretari tēnā koutou. E te Karauna tēnei ka mihi atu ki a koutou mō te tae mai ki te whakarongo ki te reo ki ngā mamae o

Ngāti Ruatakenga. Tēnei ka mihi atu e te iwi. Ngā mihi nui ki a tātou i eke mai i runga i te karanga o te rā. Kia ora tātou katoa. **I stand to acknowledge everyone in terms of the matter of the day. Judge Doogan I want to acknowledge you. Professor Tom Roa greetings to the elder of Pūrekireki. Aside from the other hats that you wear, you are the elder of my daughter, Mere Te Rau Aroha, so I want to acknowledge you. The leaders, doctors, and highly esteemed women I want to acknowledge you all. To the strong staff and secretaries acknowledgements. To the Crown acknowledgements for coming to listen to the voices, the pain, and hurt of Ngāti Ruatakenga. I want to acknowledge the iwi. Greetings to everyone who were called here on this day. Greetings all.**

I kī mai taku pāpā, Te Riaki, mēnā kei te mihi me tū. **My Uncle Te Riaki told me that if you are making acknowledgements, then you must stand.**

Hei whakaoti i taku mihi kei te mihi atu ki te tangata patu te pere, ko ia tērā mai i te tīmatanga rā anō o te wiki tae noa ki tēnei rā te tangata patu pere. Ahakoa nō Tainui koirā te pai o te hono ki a Ngāti Rua. Ki te tangata e huna mai rā kei tērā kokonga o te whare kei te mihi atu ki te whakapākehātia i te reo Māori tēnei ka mihi. E kore e wareware anō hoki ki a Alan mō ōna mahi tohunga katoa tēnei ka mihi atu ki a tātou. Ana, ka mutu taku mihi, kei te noho. **To complete my mihi, I want to acknowledge the person who rang the bell and that's been him since the beginning of the week until this day who has been ringing the bell. Even though he is from Tainui that is what is good about these connections to Ngāti Rua. To the person hiding in the corner of the house interpreting our te reo Māori, I want to thank also. I will never forget Alan and all his expertise and so I want to thank everyone. I conclude my acknowledgements, I will sit.**

Ko te kōrero i tīmatahia, te hōhonutanga o Ngāti Ruatakenga he tika hoki te kōrero ki te tīmata ki te koroua nei me te hōhonutanga o ōna kōrero o te hapū o Ngāti Ruatakenga. Waimaria tātou mō tēnei taonga e noho mai nei ki tōku taha i tēnei rā. Nō reira, kei te huri tōku reo i tēnei wā. **Let me commence with the statement, the depth of Ngāti Ruatakenga it is appropriate that**

we begin with this elder and the depth of what he said for the hapū of Ngāti Ruatakenga. We are most fortunate to have this taonga sitting by my side today. I will speak English at this time.

REFERS TO #F012

May it please the Tribunal

Ko Nukutere me Mātaatua ngā waka. Ko Mākeo te maunga e tū mai rā. Ko Waiaua te awa e rere atu nei. Ko Ngāti Ruatakenga te hapū. Ko Ōmarumutu te marae. Ko Te Whakatōhea te iwi. Ko Mereaira Hata tōku ingoa. **Nukutere and Mātaatua are the waka. Mākeo is the mountain standing proudly there. Waiaua is the river flowing. Ngāti Ruatakenga is the hapū. Ōmarumutu is the marae. Te Whakatōhea is the iwi. Mereaira Hata is my name.**

My name is Mandy Mereaira Hata but I am known as Mereaira. I live in Ōpōtiki, and I am currently working as a National Programme Co-ordinator for the Bachelor of Mātauranga Māori and the Wai Ora certificate at Te Whare Wānanga o Awanuiārangi.

I am the daughter of James Te Waiwhakaruku and Hope Te Aroha Hata. Mum's from Ngāti Ira. I am the granddaughter of Porena Hata of Ngāti Ruatakenga. and a great-granddaughter of Hata Te Riaki of Ngāti Ruatakenga.

Hata Te Riaki is a brother to Amoamo Te Riaki who are both direct descendants of Āporotanga who signed the Tiriti on behalf of Ngāti Ruatakenga hapū in Ōpōtiki on 27 and 28, 1840.

I was born at the Ōpōtiki hospital on 18 April 1965. My primary and secondary schools were in Whakamaru and Mangakino and our family travelled home as often as we could, especially during school and Christmas holidays. Although we lived far away from Ōpōtiki, we kept in touch with whānau and kept coming home for tangihanga and whānau events at the marae.

In 1989, I graduated with my first degree from the University of Waikato with a Bachelor of Social Science, double major degree in Māori and Sociology. I return later to the University of Waikato and graduated in 1995 with a master's degree, a double major and Political Science and Public Policy and Sociology.

I have a background in researching tribal history and raupatu history for Whakatōhea Iwi. I held the position as the Research Manager for two years on the Whakatōhea Māori Trust Board in 1990. At that time, the Wai 87 raupatu claim had been lodged by Claude Edwards, who was then the chairman of the trust board. My role was to set up the research team and train them in all aspects of research, from gathering oral and archival history to interviewing kaumātua and recording the kōrero. We established an archive of tribal history known as the Whakatōhea Research and Archives Trust for future use in the Tribunal inquiry. My thinking was that we needed to involve our people in the research, so I appointed two people from each hapū onto the research team. A lot of the kōrero recorded in those times has been put forward to the Tribunal in this inquiry.

In 2006, I began a research project to write a book which I felt was needed for our Ngāti Rua whānau to learn about our own tribal history. I interviewed Uncle Te Riaki and later printed and distributed the booklet *Ngāti Rua, Whakatōhea* and a copy has been attached for this inquiry. Copies were distributed free of charge to the local kōhanga reo, Ōmarumutu School, Ōpōtiki College, Ōpōtiki Public Library, and the local whānau living in Ōpōtiki. Uncle always handed it out as well to tourists who came to our marae.

In 2015, as my fiftieth birthday present to myself, I came home to live permanently and to be closer to my whānau, marae, and hapū. Like Hohepa Hei said: "I'm going home, are you coming," and Jack and I have been home ever since. My three children were mostly grown by then, but our youngest Te Riaki came with us and completed his seventh form here at Ōpōtiki College, where he came to appreciate that his classmates were all his cousins. I was employed as a Kaihāpai for Ngā Kura-ā-Iwi o Aotearoa, where my role was to work alongside the Board of Trusties on their policies and

procedures. I worked closely with Te Kura Kaupapa Māori o Waioweka and Te Kura o Tōrere and learned more about our mana whenua, our mana moana, and my own whakapapa connections.

In 2016, I became the Project Manager for the Ōmarumutu Marae Papakāinga and Waiaua Estuarine Restoration project for Ōmarumutu Marae. It was a three-year contract that extended into a five-year contract with DoC. My experiences around the restoration of our customary lands, urupā, and marae papakāinga have brought about great satisfaction and rewards in both my personal life and professional career.

Currently I am the secretary and treasurer at Ōmarumutu Marae, and I take an active role on the marae 'to keep the home fires burning'. I am one of the kaikaranga on the marae and one of the tohunga Ringatū for Ngāti Rua hapū and Whakatōhea iwi.

MS FEINT KC ADDRESSES MEREAIRA HATA – WAI 1782 CLAIM (09:40:35)

MR LINKHORN ADDRESSES MS FEINT KC – MEREAIRA HATA MACA AFFIDAVIT (09:41:05)

(09:41) MS FEINT KC TO MEREAIRA HATA:

Q. If we look at the first document, which is a letter from Danny Paruru dated 18 July 2019, and at that time, he was the chair of Ōmarumutu Marae, as I understand it.

A. That's right.

Q. The letter shows that he is resigning from Wai 1782 the Ngāti Rua Hapū claim, correct.

A. Correct.

Q. If you look at the first full paragraph in that letter it says: "The hapū have nominated Mereaira as the co-claimant," and he notes that when the claim was initially lodged the hapū committee had decided to add three

names, Mr Paruru as the chair, Te Riaki Amoamo, and Bobette Turetahi. Is that correct?

A. Yes, correct.

Q. And then the minutes of the hui on 23 June 2019, which is the Ngāti Rua hapū hui at Ōmarumutu Marae, if you turn over to the second page of those, there is a motion, a resolution passed to add you as the co-claimant on the claim.

A. Correct.

Q. Is it you're understanding that you and Uncle Te Riaki are therefore authorised by the hapū to represent Ngāti Rua in this claim?

A. Yes, supported and backed by the hapū.

Q. Ka pai. Now you're up to paragraph 11 of your evidence.

A. Ka pai.

(09:43) MEREAIRA HATA: (CONTINUES)

CONTINUES #F012 PARAGRAPH 11

Raupatu

Hiona Church

I remember having an interview with Nanny Ruahema Tairua in the 1980s. She was Anglican and she attended the Hiona church growing up as a child in Ōpōtiki. She shared with me when she was young, her job after church service was to clean up and sweep the floors. She recalls being asked to clean the stains that were on the timber floor. She knew stains where bloodstains from the Reverend Carl Völkner when he was murdered and she refused to touch them. Not even the Pākehā priests wanted to touch them. Instead, a carpet was laid over the bloodstain and has remained so today.

Given the violent history that took place in the church, the priests acknowledged the sensitivities between Māori and Pākehā parishioners. They recognise there was a need for peace and reconciliation of the people for the good of the community. In other words, *'kia hohou i te rongo ki te rongopai*,' which means to make peace for the good of the whole community. For the iwi of

Te Whakatōhea, we were labelled rebels by the Crown and we came under ‘te rau o te patu’ and we suffered as a result.

Loss of customary land and maunga

The impact of the raupatu upon Ngāti Ruatakenga hapū was sudden and brutal. We were unjustly punished for a crime that we did not commit. The raupatu resulted in the loss of most of our tribal customary land, native forests, maunga, rivers, and estuaries. It also resulted in the transformation of our hapū from an entrepreneurial people who were flourishing in the new economy, who owned ships and traded around the motu, to being impoverished overnight and thrust into survival mode. This has resulted in intergenerational trauma upon our whānau and hapū regarding our mana over our own tribal estate and our mana as people with many of our own languishing near the bottom of the socio-economic statistics.

And yet when I think of a word that be sums up the impact of the raupatu on Ngāti Rua, it is ‘resilience’. Resilience because we have not only survived but generation by generation, bit by bit, we are clawing our way back and resurrecting our mana. Without the help of the Crown. The resilience that impresses me the most is that of the whānau who stayed on their ancestral whenua when most of our people left. They stayed and cleared the land, they renovated the marae off the sweat of their own brow. They survived from sheer hard work, they grew extensive māra kai, and went fishing and hunting, with the children doing the chores before they went to school and then when they got home. They kept the home fires burning so that Ngāti Rua would not be displaced from the whenua we have occupied for a millennium. We owe them a debt of gratitude for their resilience.

I can remember my father saying that when the Depression hit in the 1930s, Māori weren't depressed, and certainly not starving, because they were used to living of the land, the bush, and the sea. He told me of finding a Pākehā swagger or a ‘taraawaara’ sleeping in their cowshed one morning by the boiler to keep himself warm. Dad collected duck eggs and put them in the billy to boil

and gave him boiled eggs and hot tea for breakfast. Māori weren't suffering during the Great Depression--Pākehā suffered.

The whānau who stayed home retained our tribal knowledge and practised our tikanga on the marae. Uncle Te Riaki was not the only one back then, there were other whānau living around the marae and supporting the marae. Not now. Many of them are gone, passed away or moved away in search of work. Some of them have aspirations of returning home or being buried at home, whereas others will never return home by choice.

Ngāti Rua Manaakitanga

The Ōpape Native Reserve of 20,789 acres was created in the aftermath of the raupatu or confiscation of Whakatōhea lands in the 1860s. The dispossessed hapū from the confiscation of the Ōpōtiki heartland – Ngāti Ira, Ngāti Patu, Ngāti Ngahere, and Ngāi Tama were moved off their traditional hapū lands at Waiotahe, Paerātā, Hikutaia, Pākōwhai, and Waioweka and relocated to the Ōpape Reserve along with its original owners, Ngāti Rua.

In pre-colonial times, Ngāti Rua were known as the hapū that maintained the eastern boundary of Whakatōhea. The Crown's decision to relocate all six hapū on the Ōpape Native Reserve effectively amounted to social engineering, although the Crown officials probably did not understand that at the time. However, from a tikanga perspective, relocating the other hapū onto Ngāti Rua's customary land has been enormously challenging, not only for Ngāti Rua, but for the other hapū as well. Ngāti Rua had to extend our manaakitanga to other hapū, and we did that willingly because they are our whanaunga. As Uncle Te Riaki always says, it was not their fault. However, even though the Crown created the problem, it has left a lasting legacy and we are the ones who have to navigate the tensions it caused in our hapū relationships and which still exist today. Our customary landscape has changed permanently by the Crown.

The other hapū took different approaches:

(a) Ngāti Ira did not want to live on someone else's customary whenua, so they stayed back at Waioweka, but they still retained their bush and development blocks in Ōpape.

(b) Likewise, Ūpokorehe stayed in Ōhiwa, but they retained their bush blocks at Ōpape.

(c) Ngāti Patumoana and Ngāi Tamahaua built marae and urupā on their Ōpape reservations and they have been there for over 100 years now. The reality is that they have made their homes on the reserve blocks and they are there for good. As I say, our customary landscape has changed forever.

(d) Ngāti Ngahere did not live on their Ōpape land. Instead, they made a decision to develop their land collectively for commercial purposes and they have generated wealth for the benefit of the hapū. I have been a trustee, Uncle and I, on the Ngāti Ngahere block trust, Ōtanemutu Lands Trust, so I know that they have a dairy farm, kiwifruit orchards, and a pine forest block, and they are prosperous enough to give regular grants to their marae and their marae-based kōhanga reo. I am happy that they have been successful but saddened on my Ngāti Rua side that they are generating wealth off our customary land when Ngāti Rua get nothing. By contrast, Ngāti Rua's Ōpape 3 coastal block was subdivided for whānau papakāinga, because that was where our people lived. Still, I should acknowledge the wisdom and foresight of the Ngāti Ngahere pakeke who made that decision to use the land collectively to grow in economic base for the hapū.

(e) Another strange outcome is that our ancient urupā, Te Rangimatanui, Ōpape 3Z (according to the Māori Land Court), which existed long before the reservation was created, was registered as a Māori Reservation for both Ngāti Ngahere and Ngāti Rua. It is most likely because the Ōpape 2 block was next to our Ōpape 3 block and we were not only neighbours but

we formed allegiances by marriage. I attached that as evidence to the court.

(09:53) MS FEINT KC TO MEREAIRA HATA: (CONTINUES)

Q. Mereaira, just to jump in there.

A. Yes.

Q. I understand in relation to 19C you've brought along a newspaper that gives an example of some of the consequences of having the other hapū on the Ngāti Rua customary land.

A. Yes, I have. This was only printed just this week where Ngāi Tamahaua have issued and declared a rāhui down on the beach and that's the impact of the soil erosion. So there's been no consultation with neighbouring tribes or neighbouring hapū, especially not Ngāti Rua who are the customary owners of that area. No consultation. My point being is they are already exercising their kaitiakitanga.

Q. Can you please give us the name of the newspaper and the date of it?

A. This is the *Ōpōtiki News* dated Thursday the 19th of February 2026.

Q. We will make sure to file a copy of that with the Tribunal. So what are you saying should happen?

A. Consultation with hapū, neighbouring hapū, local residents. Explain what the rāhui is for. Why? How it's going to impact on us in the local community? Kōrero.

(09:54) JUDGE DOOGAN TO MEREAIRA HATA:

Q. Just to be clear, the first you were aware of it was from the paper.

A. In the paper –

Q. Okay.

A. – that there's a rāhui down at Ōpape.

Q. All right. And it extends from the head land, does it, down to…

A. And this is what we don't know.

Q. All right.

A. The clarity. It would be appreciated from Ngāi Tamahaua, the Ōpape Marae trustees as to where is the extent of the rāhui, for what

purpose, or is this just a barricading of the area because it's slipping into the ocean. That's not a rāhui.

Q. All right.

A. Nobody drowned. So kōrero would be good.

Q. Āe.

JUDGE DOOGAN ADDRESSES MEREAIRA HATA – MICROBREAK (09:55:38)

HEARING ADJOURNS: 9.55 AM

HEARING RESUMES: 10.00 AM

(10:00) MEREAIRA HATA: (CONTINUES)

CONTINUES #F012 PARAGRAPH 20

Our maunga Kapuārangi has now been sold into private hands. Fortunately, we have a good relationship with the Pākehā owners who allow us to go and visit Kapuārangi and we must cross their land to get there. As Ngāti Rua, we practise kaitiakitanga by gorse spraying at our own expense every year.

Our maunga tapu Mākeo falls within the Ūpokorehe and Ngāti Patumoana blocks. Now I've heard the kōrero at Waiaua Marae that when the hapū were moved on to the Ōpape Native Reserve, Mākeo became everyone's maunga. Uncle Te Riaki said this is not right.

In the Whakatōhea Deed of Settlement for the historical Treaty of Waitangi claims, this kōrero is repeated with the deed named ‘Te Mākeotanga’ as the metaphor for the manaaki that Ngāti Rua extended to the other hapū. The deed states that the people of Whakatōhea were ‘forcibly removed from the ancestral lands and herded like sheep out east and on to the Ōpape Reservation’, where over time ‘Mākeo became recognised as the maunga or sacred mountain for the iwi of Whakatōhea. I don't agree. How can the Crown’s actions in forcibly

relocating our people rewrite our traditions? Mākeo is the maunga tapu of Ngāti Ruatakenga full stop.

The deed then goes on to say that it was decided that 'our maunga tapu' 'Te Mākeotanga' is the appropriate name for the deed of settlement for several reasons, including:

> to acknowledge Ngāti Rua for their love, graciousness, and humility in agreeing that all hapū of Te Whakatōhea be settled on the Ngāti Rua ancestral lands.

This kōrero makes me deeply uncomfortable. We did *not* agree that the other hapū should be settled on our lands – we had no choice in the matter and we all had to make the best of the situation. And while it is nice that our manaakitanga is acknowledged, I do think that they should have come to Ōmarumutu to ask us – Ngāti Rua – before using the name of our maunga tapu as the ingoa for the deed of settlement. At the time they finalised the data settlement, we had pulled our representatives from the Pre-Settlement Trust, so we were not consulted about the name.

I note that the Crown acknowledgements state the truth that 'the Crown compounded the impact of the raupatu by requiring Whakatōhea hapū to move to the Ōpape Native Reserve, established on traditional lands of Ngāti Rua which had been included in the confiscation'.

Mihi Marino is the name given to the marae ātea directly in front of Tūtāmure at Ōmarumutu Marae. The deed of settlement uses the name 'Mihi Marino' to represent the reconciliation process undertaken between Whakatōhea and the Crown. This process is part of the settlement of the historical Treaty of Waitangi claims, designed to provide a space for whānau, hapū, and iwi to formally present their grievances.

The settlement is supposedly complete. Where is the reconciliation between Ngāti Rua and everyone else? It needs to be addressed. People have taken

it for granted, assumed that it is no longer our land. There are some who don't know the history, but others who do. Beyond that, then what? Will you give us some of your fruits of the land? Would you consider a koha to Ōmarumutu?

If I could wave a magic wand, I would like Ngāti Rua to be in a position to buy the Ōpape land back off the other hapū.

Ngāti Rua ki uta, Ngāti Rua ki tai

Whakatōhea have always been hapū-centric, and the raupatu did not change that tikanga. I do not agree with those who argue that the impact of the raupatu was to merge the hapū into one iwi, Whakatōhea. The hapū have continued to represent their interests, such as selecting their representatives for the Whakatōhea Māori Trust Board (now called Te Tāwharau), and they continue to actively demonstrate their mana at their marae.

When deemed necessary, the hapū will form a strategic collect to support each other. Traditionally, this is how battles were won. A contemporary example is the Takutai Moana (the Marine and Coastal Area Act) applications to the High Court. The Whakatōhea applications were the first major ones to be heard, after Claude Edwards filed one of the very first applications on behalf of Whakatōhea back in 1999. After the MACA Act came into being, each of the hapū decided to file their own applications before the deadline in 2017. Ngāti Rua decided in a hui ā-hapū held on 19 February 2017 to file our own application. We decided to do that because customary rights are hapū rights and are therefore properly advanced by the hapū, and not the iwi. The other set of applications under Claude Edwards' original application was advanced by Adriana Edwards as the group 'Whakatōhea Kotahitanga Waka' and they argued that an iwi title should be issued.

However, although each hapū application was brought separately, the hapū also worked together in advancing our interests collectively as 'Te Kāhui Takutai Moana o Ngā Hapū me Ngā Whānau o Te Whakatōhea', a group which comprised the hapū of Ngāti Ira o Waioweka, Ngāti Patu, Ngāi Tamahaua, Ngāti Rua, as well as Te Whānau Mokomoko and Te Whānau a Tītoko (that

was Ūpokorehe representing themselves, and Ngāti Ngahere who didn't actually actively participate, although we included them in the final orders to acknowledge their customary rights). This arrangement recognises that, although each hapū had their own customary rights, we are closely related by whakapapa and our rohe moana overlap very significantly. We respected one another's mana, even when we did not agree, and we explained to the court how the hapū worked together as a matter of tikanga. As Uncle Te Riaki explained in his evidence to the High Court, the hapū can all fish in one another's sea territory because of our shared whakawhanaungatanga, and our manaakitanga responsibilities to each other, but if an issue of kaitiakitanga arises (say because someone drowns), then those duties are conducted according to whoever holds the mana in that place. Tikanga has governed the way our interrelated customary rights have been exercised mai rā anō within our rohe moana.

United with the same goal, collectively the hapū won. The High Court found in our favour and determined that 'Customary Marine Title' (CMT) was held by the six hapū on a shared exclusivity basis in two areas. CMT Order 1 was for the coastal area from Maraetōtara to Tarakeha stretching out 12 nautical mile limit, and Order 2 was for Ōhiwa Harbour (originally the western half of the harbour, in which certain Ngāti Awa hapū also have interests, but now amended by the Supreme Court to include the whole harbour for convenience sake). After appeals all the way to the Supreme Court, the position is that CMT Order 2 for the Ōhiwa Harbour has been upheld. CMT Order 1 is to be reheard, as the Supreme Court has upheld our appeal concerning Whakaari and Te Paepae o Aotea not being included, and it has also permitted the area between Maraetōtara and Ōhiwa Harbour to be reheard.

The MACA hearings were important for Ngāti Rua. It was the first time since our rangatira signed the Tiriti or Waitangi that Ngāti Rua had had our mana and customary rights recognised by the Crown. It also represented the first time since the raupatu that we had had an opportunity to tell our story, and that was truly meaningful for our hapū. Finally, it was also painfully clear that the moana and its bounty of kaimoana have been of the enormous significance in our

survival, since we had lost nearly all of our land. We have not yet reached the end of the journey, but we remain deeply committed to securing our CMT over our takutai moana, which extends out as far as Whakaari (or White Island). Succeeding in MACA was a positive outcome for all the hapū and showed us what kotahitanga was about. I attached that to my evidence.

Ōmarumutu Marae

Maru ana te marae i te tangata, kāhore he mutunga
The marae is overflowing with people and never ending

This whakataukī was left by our tīpuna as a reminder as to how Ōmarumutu Marae was named. Over the years, there has been many different occasions held on Ōmarumutu Marae where people gather, discuss, celebrate, or even more in the passing of whānau. The people and the occasions may change but the proverbial saying is timeless. Hence, the saying the marae is overflown with people and never ending.

I attached that too in appendix D.

In recent years, we obtained $890,000 Provincial Growth Fund grant to build a new ablution block. Now that we have that, our marae has always booked out.

Our Chair, Tina Peters, has shared in her evidence the hunger of our whānau who live away from home to learn more about Ngāti Rua. Since 2015, I run nine wānanga to teach wāhine how to karanga (with the support of my kaumātua, Uncle Te Riaki and Aunty Bobbette), and in 2016 Te Whare Wānanga o Awanuiārangi is sponsoring us to hold five wānanga on tikanga. We have also had wānanga on whakapapa and history. I have had our kuia and kaumātua attend every hui to tautoko. This is about capacity building, not just about infrastructure, but of building our own people, our whānau and our hapū. We need to strengthen them for future generations and show them how to run the marae, starting with the basics like learning how to lay out the beds and so on, and building up to whaikōrero and karanga. Last year, with only

two weeks' notice of the hui, we had 70 people turn up on a Friday, 150 on the Saturday, and that shows the interest is certainly there.

Economic position of Ngāti Rua

As a hapū, we are virtually landless. The only land Ngāti Rua can truly call its own is where our feet are today on the marae, for the living, and Te Rangimatanui urupā for the dead.

As the Ōpape 3 coastal block was subdivided into whānau papakāinga blocks, our economic base is primarily confined to our 'bush block', which is ultimately owned and now part of the Nukutere Lands Trust. We have no regular sources of income. We are dependent upon fundraising, grants, and koha.

I opposed the Treaty settlement because it has centralised the redress in the iwi and done nothing for the hapū. In my view, there will need to be consideration given to how the hapū can benefit from the full entitlements of the settlement. I think that resources need to be devolved to the hapū, because at the moment everything we do is based on voluntary labour and it is not sustainable. If we could employ our own people, we could get so much more done. The first step that has been taken in this regard is Te Tāwharau offering a one-off grant of $500,000 to each hapū and $500,000 to each marae, which you heard in Tina Peter's evidence, so Ngāti Rua will receive $1 million. I look forward to that when it happens. It hasn't happened yet.

Nukutere Lands Trust

When the Ōpape Reserve was created, six bush blocks numbered from – it should be 7 to 12, as uncle was saying earlier, and they were allocated to each of the hapū. The Ngāti Rua block was the largest block because land was allocated based on population size and we were and still are the largest hapū. A decision was made to amalgamate the six bush blocks into one trust back then when my father's brother, Tairongo Amoamo, was the chair. The aspiration was to find a pathway forward for the whole iwi by amalgamating the blocks so that they would be more economically viable. I can understand why

the decision was made, but the disadvantage is that, like Uncle says, we became ‘lost in the sea of owners’ as a hapū.

Nukutere Lands Trust is an ahu whenua trust with over 5,000 hectares. Ōpape 28 was first registered with the Māori Land Court on 5 June 1984 and held in trust by the Whakatōhea Māori Trust Board until 1996. The trust board then decided the hapū should run the trust so the standalone Nukutere Lands Trust was established. There are over 5,000 owners in that block. An annual general meeting is held every year. I have been a trustee for the last six years and I attach a strategic plan. Historically, most of the trustees are from Ngāti Rua, Ngāti Patu, Ngāi Tamahaua, and Ngāti Ngahere. I sit as the chairperson for Nukutere Lands Trust.

The Tribunal will recall from the takahi whenua how steep and rugged this territory is. The land is basically uninhabitable. It is also absolutely beautiful, with virgin native bush and clear running streams. It is a remote tranquil and isolated setting full of native wildlife, flora and fauna and endangered species. It is a taonga that we must keep protected for the benefit of our future generations.

Although the land represents half of what the Crown allocated to us after the raupatu for our sustenance, as an economic proposition the land is extremely poor. This is not only due to the topography, but the fact that the bush blocks were landlocked when the Crown allocated them to us. The Māori Land Court granted access at the back through private farmland on what was the Whitikau block to the south, but we have never used it for economic purposes because there is no forestry block there. It is still in native bush. It takes half a day to get there and you will need a four-wheel-drive and a key to the gate. We cannot use the whenua because it is so difficult to physically get there, unless you go by four-wheel-drive or a helicopter. Without proper access, there is little prospect of this land ever being economically viable.

Most of the land is kept in native bush, but a small proportion of the land is suitable for forestry so two blocks are leased out. On 27 May 1993 an

agreement was signed with (what was) Caxton Forestry Limited and the Whakatōhea Māori Trust Board for a term of 75 years from 1 March 1983 to 28 Feb 2058. Forestry rights were transferred for a period of 24 years from 1 March 1983.

In 1994, the Nukutere Lands Trust signed the Ngā Whenua Rāhui Kawenata with DoC, this provided an upfront payment based on the valuation 95.4% valuation of the land at the time which equated to $359,467. We used the money to purchase a dairy farm, Te Waiti Lands Trust. The owners of the farm are Nukutere Lands Trust, Te Tāwharau, and Rāwea Trust (who were originally the owners of the Ōpape 3A block).

The Nukutere Lands Trust has a modest income. We receive around $14,000 per annum for the two forestry blocks and we receive annual dividends on some invested funds of around 8,000 to 9,000. If funds permit, we provide marae grants every year. They are now called hapū grants. They are pro-rata according to the amount of land put in by each hapū. The Ūpokorehe grant goes to Roimata Marae as the original marae.

Under the kawenata, the Department of Conservation is responsible for the pest control, and they also look after the neighbouring Whitikau block. They put in three small baches at the top, the middle and at the bottom of the forestry. I attach the *Ecology Assessment Report* in my evidence.

We have had interests to put public access through the Nukutere whenua, similar to the Mōtū Trails, but we have not agreed because we don't want to lose our land to what is being described as ‘public good’ or walking tracks or cycle trails.

My dream for Nukutere is to open up the land for our people to come and use it. People could hunt pigs and deer in the roar season to feed their whānau, which they can't currently do because they are not allowed to use the forestry access roads. I would like to see our tamariki being brought up there and camp

and learn about our taiao, our mātauranga, and feel the wairua of our native forest.

MS FEINT KC ADDRESSES MEREAIRA HATA – PRESENTATION PAUSED (10:20:42)

MS FEINT ADDRESSES JUDGE DOOGAN – LEAVE GRANTED (10:20:38)

(10:21) MS FEINT KC TO MEREAIRA HATA:

Q. The next section you were going to come onto is about rates. I understand you have brought with you a rates bill. Can you tell us about that please.

A. I'm just responding to a question on the Ōpape Native Reserve, the people that reside here do we pay rates? I can confirm that we do. Next door to the marae is our block Ōmarumutu 1. I am a trustee on that block. Before we demolished our house, we were paying rates. I've brought the rates bill. We were paying rates, even though I support what Hohepa Hei says, we get no services. We don't get our rubbish picked up. We're not on a town supply of water.

Q. Yes, ka pai. And then in paragraph 55 of your evidence, you talk about the Ōmarumutu Restoration Project, and I see you've brought the board behind. Do you want to show the Tribunal that, please?

A. Whilst it is part of my evidence, I see hearing 8 is about the taiao so maybe it should be there, but it was all the mahi that was done. Like I didn't expect to come home and kill stoats, rats, and rabbits but I mean that is exactly what I did for the restoration. There is the before and after shots of gorse spraying, pest control, and the whānau with the hapū involved in planting trees all down the bottom. When I first came home all around Te Rangimatanui was yellow with gorse. It's not like that today.

Q. So what area were you covering with that restoration project? Was it the sand dunes?

A. So that included Ōmarumutu Marae papakāinga all the way down the hill to the urupā and all the way back to Waiaua River.

JUDGE DOOGAN TO MEREAIRA HATA – COPY OF RATES BILL

Q. Ka pai. So then you also mentioned that you wanted to speak about the influenza epidemic in 1980.

A. Down at Te Rangimatanui, I've got to speak for them who can't speak anymore, down there is a mass grave of our whānau who lost their lives during the influenza epidemic. They died so quickly they were buried all together in a grave down at Te Rangimatanui.

Q. Thank you. And then you've also done some homework, I think Dr Phillipson was asking for statistics and you have dug out the Whakatōhea Wellbeing Survey of 2010. Can you please explain to the Tribunal what that is?

A. In terms of forward planning to develop strategic plans for the iwi, and it was good to hear from Hohepa Hei yesterday, Te Pou Oranga, is this Whakatōhea Wellbeing Survey in 2010 was carried out using our own people as researchers. They researched and interviewed 750 respondents who all lived around here. The information they gathered in the data they collected is here. To obtain a digital copy, I'm sure we would be able to get that through Hohepa Hei since he's the manager.

Q. Ka pai. To be clear, that was undertaken by the Whakatōhea Māori Trust Board.

A. Yes, that’s right.

Q. All right.

MS FEINT TO JUDGE DOOGAN – WHAKATŌHEA WELLBEING SURVEY

A. The data gathered in here, it’s on te reo Māori, it’s on mental health and wellbeing, it’s on education, the pathways forward, kaumātua, health, yes.

Q. Ka pai.

A. Thank you.

Q. I understand, you were a trustee on the trust board at that time. Is that right?

A. I hadn't come home in 2010. I came home in 2015. I was on the Whakatōhea Māori Trust Board and this was the document we were using in terms of strategic planning for education, for health, yes.

Q. I understand that further to Tina Peters evidence, you have some information on what happened in relation to the Toitū Tairāwhiti Housing Initiative.

A. I can answer that question, yes. It was a governance issue, a governance decision to not go with Toitū Tairāwhiti, and for Whakatōhea to chase their own funding, apply for their own funding that was available. That was the decision. I didn't agree with it. I think Whakatōhea needed at that time to realise partnerships and relationships with our whānau. If they work well, go with it. That was one example where we didn't go with it, yes.

Q. Okay. What are your insights in terms of the housing needs of Ngāti Rua?

A. I totally support with what Hohepa was saying and I'll bring it back to, we need to stand on our own two feet. Hapū directives, hapū housing, hapū education, we need to be the makers of our own destiny in this space. I was actually grateful to hear him say: "We can't do it all," and it's for the hapū to be helping as well. The thing is we don't have the resources, so any support, any directive, any letters of support to help us obtain funding in this space would be appreciated.

Q. All right. That's helpful thank you. I understand in relation to the hapū management plan. So that has been filed, Judge. Although Mr Potaka tells me it's on the record already, I couldn't find it. But Mereaira is familiar with it in can answer questions in relation to it.

A. This is the kaumātua friendly version that we printed to distribute amongst the kaumātua at the time. We do, do them big like this. More visually attractive but the words are bigger for the kaumātua at the hapū hui. Linda Grave was taking us through the process. Yes, so we need to have something visually attractive for the kaumātua to be able to follow and read.

(10:29) JUDGE DOOGAN TO MEREAIRA HATA:

Q. Could you just read the title and the dates that that covers?

A. The name of this is *Ngāti Rua and Ōmarumutu Marae Development Plan 2019 to 2021*. This was prepared by Linda Grave. She was our Project Manager to access and tap into the funding. But the contents of it, the first part is all the history of Ngāti Rua taken from the *Ngāti Rua Booklet*, so that was a good start. The rest was obtaining feedback from whānau. The feedback was gathered online, in wānanga kanohi-ki-te-kanohi hapū hui. Yes, the survey is online. We have a

Ngāti Rua page which is comprised of two Facebook pages, the Ngāti Rua Sports Committee as well as the Ngāti Rua Ōmarumutu Marae page. Our followers in there number 4,000. Even the Whakatōhea Trust Board used to send us their pānui to put on our page because of the numbers of people in our page.

Q. Yes.

A. Our surveys were created digitally and put on as links on the page so we could reach further our Ngāti Rua out there.

Q. Āe. Does that strategic plan cover the papakāinga objectives?

A. Absolutely. As Linda was referring to what our legal entity is and all what is required by a funder.

Q. Āe.

A. But it also hits on our values, our mission, our goals, our strategic values as Ngāti Rua.

Q. All right. It may be on the record –

A. Yes, it is.

Q. – but if we could just ensure that we do have a copy the identity of the record number. It has been filed yesterday apparently. All right. I'll just ask a quick question. Is it being updated?

A. Yes. So that is our intention now is to update this.

Q. All right, okay.

A. Our mission, our goals, our strategic vision is not going to change. In fact, we've tagged what we need done, doing up our whare nui, our infrastructure. So a lot of the work and the repairs that we're wanting to do, those aren't likely to change. We just needed the money to hit those targets. But yes, update.

(10:33) MS FEINT KC TO MEREAIRA HATA: (CONTINUES)

Q. My final question, before I pass you over to the Crown and the Tribunal for pātai, is I understand you have some reflections on what you would like to see come out of this Tribunal inquiry that will be of assistance to Ngāti Rua.

A. In summarising the week, having heard all our Ngāti Rua come forward and speak, I was thinking how or what could I ask the Waitangi Tribunal

or even the Crown for what areas, and knowing full well we've already had a deed of settlement signed but it is also raising the fact that, and we've heard Uncle say, I'd like to bring it forward. We'd like to change place names, to change out those place names and we'd like the support to do that.

One example is Ōpepe Stream change it to Ōpape Stream, as uncle has already spoken about. Moutohora to change that one to Motuhora. Uncle's brief was also the hundredth to change that back to what it should be, Te Karaka.

The other one I would also like to ask that our maunga and our significant sites are acknowledged as wāhi tapu. (1) Mākeo, Te Kapuārangi, our wāhi tapu, Waiwhero, which was the last battle between Whakatōhea and Ngāi Tai, and Te Rangimatanui our wāhi tapu is an acknowledgement that these belong to Ngāti Ruatakenga.

Financial compensation. I know we can't ask for financial compensation that's already been done. However, that $1 million Tina Peters had mentioned it's not in the bank just yet, but I would like to ask for funding for development. This is to help capacity build our whānau come back. We've heard a lot about housing so funding for development.

I also looked at cultural redress. It's really the recognition of those traditional place names as the customary landowners of the Ōpape Native Reserve. I've just read those names out.

I'd also like an apology to Ngāti Ruatakenga for all what we've lost. It doesn't go so far in the apology in the Whakatōhea Deed of Settlement to name exactly. I'd like the acknowledgement as well that Ngāti Ruatakenga and our losses and our grievances have not been addressed.

The partnership and governance arrangements I think that really sits around te mana a te hapū, te mana ā-hapū. This is about supporting the hapū with hapū development, hapū self-determination, hapū housing, hapū education, and hapū health. That's what I heard throughout the week and if the Crown can acknowledge that. Because after all with two of our rangatira who signed the Tiriti we're Treaty partners, so we should

be in titled under Article 3 to equal funding. It would be interesting to see if I can put that plug in now before the $1 million drops in our account.

Actually, I do want to talk to that. It might sound like a generous drop. I don't think it's generous. I just want to remind or put it forward that this is a one-time drop. This was promised by the Whakatōhea Pre-Settlement Claims Trust when they were travelling around the motu, going out to our people that: “If you sign this deed and you agree you're going to get $500,000 for your marae.” They were held responsible and held to account. I appreciate and I'm very grateful for the fact that those trustees on Te Tāwharau followed it through and so we welcome that when it drops in our account. But it is a one-off, a one-off.

And might I say too, because I was on the trust board, it's the first time hapū are getting a grant. Prior to this marae were getting grants. My issue with that is there are three marae in Ūpokorehe who used to get $20,000 each. In Ūpokorehe they have three marae they got $60,000for their hapū. Ngāti Rua got $20,000. I raised the unfairness of financial distribution and grant distribution. I'll sit on that and I'll just keep waiting for another million to drop into our account. But we'll leave that with our representatives on Te Tāwharau to talk about the grant distribution.

Q. Why do you think that is unfair that it is done by marae and not by hapū?

A. I absolutely tautoko the fact that the marae are getting a grant. But before this has happened hapū were not getting grants. Marae get a grant and that's fine but everybody gets the same grant. There is no acknowledgement of large hapū versus small hapū. Ngāti Ruatakenga numbers over 4,000 tribal registered members, which equates matua Tame to Tūrangawaewae Marae in Waikato Tainui. Whereas Roimata, Maromahue, and Kutarere combined a less than a thousand. It's the numbers.

Q. Thank you. Now, I'm sure there is going to be lots of pātai so I will leave it there. I just wanted to add, I see you've got your father sitting in front of you and I don't think you introduced him. Did you want to?

A. Koinei tāku pāpā **this is my father**. Ko Hemi Te Waiwhakaruku Hata. He's responsible and our mum, might I say. Uncle would always say: “It takes two to tango, it takes two to make an issue,” so from Mum and Dad

came my sister Robyn, myself, and then Te Ringahuia. Three girls is enough for the world from this whānau. We have tamariki mokopuna **children and grandchildren** ourselves. But yes, koinei tāku pāpā **this is my father**, this is his marae. Mum is at Waioweka but she carries in our hearts.

JUDGE DOOGAN ADDRESSES TE MINENGA – MICROBREAK (10:41:15)

HEARING ADJOURNS: 10.41 AM

HEARING RESUMES: 10.44 AM

(10:45) MR LINKHORN KC TO MEREAIRA HATA:

Q. Tēnā koe **greetings** Ms Hata.

A. Kia ora.

Q. Thank you very much for your evidence. Everything is very clear in that. I don't have questions. Kia ora **thank you**.

(10:45) PROFESSOR TOM ROA TO MEREAIRA HATA:

Q. He pērā rā anō mārama katoa **I am the same, I understand completely**. Heoi anō taku pātai **nevertheless my question**, how do you maintain your energy?

A. You know, sometimes I have to turn around and I look at this fulla and then when I'm dragging my feet I'm thinking, what a cheek I've got to do that. You know in keeping up with him. But in all seriousness, seriously it's more about your passionate about your marae and when you know that and you feel that you do that whatever that takes. And I'm unfortunate I'm not alone here. I have a lot of cousins to pull in and help. I have a lot of aunties who begat lots of children and cousins and mokopuna who can bring them along.

We have an awesome tumuaki at Te Kura o Ōmarumutu who can bring the tamariki down and help us set up at the drop of a hat and at the same time they're learning it's that cultural relationship. I didn't hear Jonnina

mention it, but she was actually responsible for the transition programme between the Nukutere Kōhanga Reo and the kura.

So it's the linking between the marae, the kura, the wider community. The people energise me, the kaupapa energises me, but when you see the need you act.

Karanga was missing when I came home. Yes, with the help and support of the kaumātua around me. I think in total there must've been about 150 women that we have taught karanga. I wish those 150 were here at home but these were whānau who were coming home learning. That's what energises me matua. When you need to run away, I do run away, I run to Waikato. That's my second home mine and Jax and that's where our mokopuna are and then we come back energised.

Q. Ka pai **good**. I just had a thought from your reference to Tūrangawaewae, so benefits paid to marae are per capita. The 4,000 of Tūrangawaewae Marae get twice as much as the 2,000 at Pūrekireki. It's just a thought.

A. I know. My role with Waikato Raupatu Land Trust, –

Q. Yes.

A. – I was the policy analyst and I created grants. Some of those grants were around the – this is why I came back home when I saw the unfair distribution of funding based on that model. I've seen some great models from Waikato Tainui and it should be on per capita. It should be on population size. It's not back home.

If there is a grant under Nukutere, there used to be a 2,000 grant for all six hapū, if we had the money. That has now changed since I jumped on there. It's been hapū grants and it's based on the amount of land that was allocated per hapū back when it was created.

The largest hapū, the largest allocation being Ngāti Ruatakenga, we get something like $5,600 a year versus Roimata or Ūpokorehe they'd get something like $450 based on their slither of land that they were granted in the bush block. Uncle talks about bush block 7, 8, 9, 10, 11 and 12, yes. However, we have five trustees on Nukutere Lands Trust so it's easier to get a decision versus the Whakatōhea Māori Trust Board. I

came up against “the old boys club” on the thing which in their mind you give an even distribution to all and that's how it's been.

But thank you. I understand Te Tāwharau went over to speak with Waikato Tainui and Maniapoto to learn from them.

Q. Āe.

A. So I hope they've see that.

Q. Ko taua mahi tahi me taua horahora o ngā māramatanga kei te nui te mihi me te inoi pea kia whai kaha mai tātou i te wāhi ngaro. Kia ora rā. **Working together and spreading that understanding I thank you very much and pray that we seek assistance from the hidden realm. Thank you.**

A. Kia ora.

(10:51) PRUE KAPUA TO MEREAIRA HATA:

Q. Kia ora.

A. Kia ora.

Q. Ngā mihi mō tō kōrero i tēnei ata **thank you for your kōrero this morning**. I just had one question about the wellbeing survey that you referred to that we look forward to seeing in a digital form. Was there a breakdown? When you talked about it being the wellbeing survey of Whakatōhea, was there a breakdown into hapū?

A. Yes.

Q. There was. Ka pai, thank you.

(10:51) BASIL MORRISON TO MEREAIRA HATA:

Q. Kia ora and thank you Ms Hata. I want to say at the outset, I'm not here as an apologist for the Ōpōtiki District Council or the Bay of Plenty Regional Council. I just thought I’d make that tongue and cheek comment.

A. Okay.

Q. But in seriousness, okay, I have a couple of questions. I note on this rate invoice assessment –

A. Yes.

Q. – that you presented and I note it is for the 2017 rating year, right. Now in it, it says 24 Ōmarumutu Road it had a land value of 80,000 and a capital value of 156,000. Now in earlier times they used to be described as unimproved value and improved value. Now did I hear you say that there was a building on that property that has since gone?

A. Correct.

Q. Okay. Has there been a new valuation done that reflects that capital value?

A. No.

Q. Okay.

A. Not yet.

Q. But have you lodged an objection to the rating valuation?

A. No, not yet. Thank you.

Q. A wink or a nod is as good to a blind man. But when you get your new valuation, I'm saying something that's public knowledge of course, it would be, I think, helpful to you that you responded to that capital value, okay. That's the first thing. The second thing I note that both on the one rate demand, which is really good instead of having two bills, there are general rates for both the region and the district and then the uniform annual general charge rate. Now both of those are a rate that's charged for, I'll call it, the structure of the council and all those bits and pieces, whether it's the provision of public toilets in town or rubbish bins or sports fields or roading outside your gate not necessarily in itself, but for all of the bits and pieces to run what we call a democratic structured organisation, albeit Pākehā I acknowledge that. That is predicated on the capital value which we are saying and understand has changed from 2017 rate demand.

A. Yes.

Q. So that's just an observation, a wink or a nod to a blind man.

A. Yes, thank you.

Q. Thank you.

(10:55) DR ROBYN ANDERSON TO MEREAIRA HATA:

Q. Tēnā koe **thank you** Ms Hata.

A. Kia ora.

Q. I don't have any helpful advice, I'm afraid. Although I do congratulate you on presenting matters to your kaumātua and kuia in large print. It maybe advice to counsel some of us on the panel would appreciate a similar approach. Just at paragraph 20 you talk about the sale of Kapuārangi.

A. Yes.

Q. I don't know if we've heard about this. Can you tell us the circumstances of that? Is that a recent sale?

A. No it's not recent.

Q. It's not recent, right.

MEREAITA TO DR TE RIAKI TE AMOAMO – CLARIFICATION

A. Uncle, Kapuarangi, how did it come to be in the hands of the whānau over there, Kapuārangi?

[Dr Te Riaki Te Amoamo] You mean the Hermansen's whānau.

[Mereaira Hata] The Hermansen's whānau, yes, how did they come to have that land in their name, do you know?

[Dr Te Riaki Te Amoamo] No.

[Mereaira Hata] No.

Q. Okay. It might be in some of our block history information so we'll investigate further.

A. Likewise a lot of the land around here around the papakāinga, Tina Peters raised the fact that some of the land here is in general title. How do you take multiply owned land of the hapū and it end up in general title or even in one person's name. There is some trickery that happened for that to happen. Some of the whānau who are no longer here come back home thinking they have land shares and they're gone.

Q. That might be an effect of legislation-

A. That's permitted that.

Q. Yes.

A. That's right.

Q. Yes, indeed.

A. It's been allowed to happen.

Q. My other question is about MACA and you say how important it was for Ngāti Rua. Can you tell us a little bit about the resource and the drain on Ngāti Rua to present that case?

A. Uncle, myself, and Jack went over for 10 weeks. We stayed in Rotorua and we stayed there every day. It's a drain in itself showing up in court. We are fortunate for Ms Feint and who she had at her side at the time, plus Annette Sykes and the A-team beside her. Some of the guards there have change and we've got Mr Pōtaka here carrying some weight here for Ngāti Rua. But it really was a drain on us physically to go there to court, listen to everything, and then come back and report to the hapū what was going on with the MACA claim.

We had my aunties the one in the wheelchair that was here before, here she is and her sister daily coming in there with their wheelchairs and their things and the brothers were coming as well. Ngāti Rua who lived in Rotorua who were able to come to tautoko us through that journey. Yes, physically it was quite a strain.

We also had to pay our own way until such time as Te Arawhiti was able to reimburse. I was the project manager for that MACA claim as well, uncle and I, so sourcing the funding I often used my visa card, my own personal visa card to pay our motel and then wait to be reimbursed from Te Arawhiti. The drain then is sometimes the money didn't come for six months and so it was a personal strain on our own pockets.

And then luckily for our whānau who did come they would come with kai. They would bring us lunch, afternoon tea. This is the Collier family who came here that you heard from Aunty Pearl. So that helped the weight on our pockets when they were bringing that aroha and manaakitanga **hospitality**. We weren't only the only ones they were feeding. We were also feeding everybody else who came too. But that strain. So the kai, the manaaki, the petrol.

Sometimes when hearings were up in Auckland, we don’t like going into the big cities but we didn't even know where to park and that traumatised us where to go, where to park, how to get there. Yes, I'm glad that was all over but it was worth it in the end. It was worth it in the end. But for

Ngāti Rua I think what was great is we saw our extended whānau come to support us every day in there.

Q. All right. Well, those are all my questions but thank you very much for talking to us and thank you for the aroha that you've shown us personally throughout the week.

A. You're welcome.

(11:00) DR GRANT PHILLIPSON TO MEREAIRA HATA:

Q. Tēnā koe **greetings** Ms Hata.

A. Kia ora.

Q. It's a pleasure to see you again and to have your evidence. I do have some questions. I was wondering I wanted to start with the place name changes. You added one when you were talking before to what matua Te Riaki had asked for in his brief evidence and that was their Ōpape stream. So I'm just wondering with that and the others, are these particular name changes that are being requested are they supported by all the hapū of Whakatōhea?

A. That's not the first place we go to. The first place we bring it to is discussion around the table at our hapū hui as Ngāti Rua. Uncle would raise it that this is an error. People are calling it Ōpepe and it should be Ōpape and he gives the reason why in an educational way so that we understand ourselves. When you're talking and teaching at the kōhanga reo teach the right pepeha. So it's here with Ngāti Rua we talk about first is the first go-to.

That process there about going to the other hapū becomes something as a matter of process. "Have you been supported by the other hapū to do this," that's where that happens. We haven't been there. We haven't been.

Q. The reason I'm asking is really just about that one out of the three because –

A. Why?

Q. – we were told that the other hapū Ngāi Tamahaua has a different name for it –

A. Yes.

Q. – and that's why I'm thinking that could be tricky for the Tribunal to recommend. You know we would need to know that there had been some kind of process –

A. I understand.

Q. – and discussion about that.

A. Yes, I understand that. That's a talk between Ngāti Rua and Ngāi Tamahaua.

Q. Yes. But that hasn't happened yet.

A. No it hasn't.

Q. No.

A. Yes.

Q. Okay, cool, thank you to that. I don't see a problem. It's the same issue with the other two, thank you. I did want to know in paragraph 50 about the forestry access roads that you talk about there.

A. Yes.

Q. I'm just wondering why are the hapū owners not allowed to use those roads?

A. Under the forestry licensing agreement that was signed by earlier trustees –

Q. I see.

A. – the public are not allowed to use those roads. It is in the forestry lease contract.

Q. All right.

A. It is currently under review and with that review we're going to look into valuation and upgrade the valuation. Whilst we're reviewing it, start talking about a different lease amount for the Nukutere block.

Q. And that could involve also adjusting the access arrangements. Is that right?

A. Yes. The access arrangements – I think the one at the back it's nowhere near the forestry block – so where the forestry blocks are we have to ask our neighbours Ngāi Tai for entry. They currently have a contractor who has built roads and see if we can go to the Māori Land Court and arrange an easement but have that discussion with Ngāi Tai. On this other side, the entry is via Ōtanemutu on the Whakatōhea side and that's also asking

permission from Ngāti Ngahere who are the block owners for permission to cross their land, cross the farms in order to have access.

Q. Okay, thank you. Yes, it is a common problem and a very expensive one to fix. Yes, thank you. You mentioned the Rāwea Trust.

A. Yes.

Q. Can you tell me a little bit about, what is that trust?

A. You should have asked Tina Peters when she was on the stand, she's a trustee. Throughout the week you've heard Ōpape 3A. Uncle mentioned Ōpape 3A which is a carved out block from the Ngāti Rua Ōpape 3 block which was allocated to Ngāti Muriwai. It's not called Ōpape 3A anymore. It is now called Rāwea Lands Trust. It is now called Ruarākai Trust. The whānau themselves have dropped that name. You'll have to ask them but they've dropped the name and they've developed a trust and combined the blocks under those titles that's Rāwea Trust. They sit in the at the table with us as a third owner in that space, yes. But they are the uri of Eru Ponaho. They are Ngāti Muriwai trustees and owners in that space, Rāwea. They, like us, paid $75,000 equally to purchase the Te Waiti Lands Trust. I'm sorry I see your lips moving but I can't hear you.

Q. Yes, sorry. I just had to plug in my laptop for it to start recharging and somehow I muted myself.

A. Okay.

Q. Just generally on the topic of land trusts. Do you for Ngāti Rua most of the land that's been retained – now we heard about the 18 blocks near the marae which don't have any kind of management arrangements or land trusts from as Peters – is that a general problem for Ngāti Rua landowners or is most of the land now got trusts that can manage it? I thought you might know.

A. Yes, I would have agreed with you up to a couple of years ago. Willie Te Aho did some fantastic work with Māia Warren to call hui here at Ōmarumutu and set up trusts for those who don't have trusts over those blocks of land with the intention to build on them.

Q. Yes.

A. Yes, when I came home that is certainly the case. In terms of the 18 land blocks around the marae one of them has an ahu whenua lands trust and that's this one that I'm on is a trustee over the fence right next to the marae. All the others don't. Yes, getting people together when there's 300 owners in one block and you times that by 18 is difficult. It's hard. It's challenging. Almost impossible.

Q. Yes. Okay, thank you. Are you going to talk about the Waiaua estuarine restoration? Are you going to talk about that at the next hearing?

A. I will.

Q. Yes, okay, I won't ask you about that.

A. I'm just conscious of the time today. Otherwise, I would carry on today.

Q. Yes.

A. But I can bring it up at hearing 8.

Q. Yes.

A. The kaupapa is about the taiao, isn't it?

Q. Yes, that's right.

A. Sure you can hear about me killing rats, weasels, and stoats at the hearing in March. Kia ora.

Q. Then I might leave the erosion issue until then as well.

A. And the erosion issue.

Q. Yes, thank you. The booklet, thank you very much for the booklet, you've got a list of sources on page 12 of the booklet –

A. Yes.

Q. – some of which they no longer published. I was wondering if it would be possible for you to make copies of those available to the Tribunal.

A. Copies of the sources –

Q. Yes, the ones you've listed.

A. – or copies of the book.

Q. Yes, on page 12 you've got some that are no longer available.

A. Whereabouts is it? I'm sorry, what page are you looking at?

Q. It's on page 12 of your booklet.

A. Page 12.

Q. Yes.

A. There you go. Specifically the published sources are you talking about.

Q. The ones that you've got unpublished or limited publications.

A. The unpublished, sure.

Q. Yes.

A. Absolutely. Ōmarumutu War Memorial Hall so that's a little booklet that we did here when we opened it in 1961. Yes, I can provide that, a copy of that.

Q. Yes.

A. Yes.

Q. So those sources there, thank you.

Q. Yes, absolutely. The Ōmarumutu School Jubilee 125 years. Te Whānau a Te Amoamo, Te Riaki and their reunion book. I'll have to ask uncle for that. But yes, that's where the information came from.

Q. Yes, that would be helpful. Thank you.

A. Okay.

Q. While we're on that page, the 1894 Polynesian Society Journal article, which I couldn't find online, do you know who wrote that? That is, *The complementarity of history and art in Tūtāmure meeting-house*.

A. Roger Neich.

Q. Okay, thank you.

A. Spelt, **N-E-I-C-H**.

Q. Thank you that's helpful.

A. He specifically talked about you see in our whare is at the base of all the rafters. You don't see carvings in here. You see paintings and that depicts our history.

Q. Yes.

A. He covers it in his book.

Q. I do remember that from last time I was there, yes.

A. Yes. Which is typical of a Te Kooti house.

Q. Yes.

A. Which is a painted house.

Q. Also the same at the Ngāti Ira marae.

A. Waioweka, yes.

Q. I remember, yes.

A. Inside Irapuaia that's right.

Q. Yes.

A. Again, Te Kooti.

Q. Yes, thank you. My general question for you because this is our local government week, and I don't know if there's time – if there's not time, I'll put it in writing – but I'm interested in knowing more about the relationship that Ngāti Rua has had and has with the district council and the regional council and perhaps Whakatōhea more generally because you've been on the trust board and you've got a lot of experience. And Susanne Woodley's report is a historical report. She doesn't have that much about the more recent events –

A. Okay.

Q. – so I was wondering if you would be able to tell us something about that. But I can put that in writing if times an issue.

A. You're welcome to put it in writing but I can respond to that straight away. The two maps that have been filed, and I've got them in the larger version looking at the panel, is these came about as a result of a collaboration with Uncle Te Riaki and myself going over to the Bay of Plenty Regional Council and asking them for help to plot it on a map. Uncle was concerned there were a lot of place names that were in error and he wanted to fix them and sort it out and they can have these copies as reference. We were like a pilot to trial in the lead-up to we knew we were going to have this one day the raupatu and the MACA and identify the Ngāti Rua customary area, but more so for uncle was to identify the wāhi tapu, the pā tawhito, and all those names and getting them spelt correctly. That was a relationship that we worked with the Bay of Plenty Regional Council which was great and they printed up these maps for us. I think we kept it quiet at the time because they would've been inundated with requests from all hapū of New Zealand to have these kinds of maps done. Yes, this is an example of that.

Yes, it was a good relationship. But there is more that needs to happen, in particular around, here's one, we have a newly created hapū engagement committee and it follows from Ngāti Ira's mediation in court over the building of the marina opposite the Ōpōtiki wharf. We have that and we're working with the Pederson whānau but it's also around the local

government and those requirements. But particularly Ngāti Rua is on that committee alongside others.

The other one too is uncle is one of the first people they come to when it comes to naming areas around here, particularly in the Ngāti Rua sector in our area, whether it's new roads or bridges, yes, it's uncle they come to. He as a good relationship there. But sometimes we need to come together and talk: "Why are you asking us to put some kind of historical kōrero at the bottom of a place name when you haven't done that on any other signs? Why are you making it difficult for us?" Yes, we do need to talk out some of those things sometimes. I can think of a number of things but if you put it in writing maybe I can have a more thought out answer for you.

Q. Wonderful.

A. Is that okay for now?

Q. Yes, that's fantastic. Thank you very much.

A. Okay.

Q. Those are all my questions. Thank you very much Ms Hata.

A. Okay.

(11:16) JUDGE DOOGAN TO MEREAIRA HATA:

Q. Kia ora Ms Hata. Just a few quick questions on the brief. At paragraph 19(d) the Ngāti Ngahere developments you speak of and their commercial operations.

A. Yes.

Q. The operations you're talking of here, the dairy farm and the kiwifruit orchards, did they originally start on the Ōpape lands that were given to Ngāti Ngahere?

A. Yes.

Q. All right. They started there and they had since purchased elsewhere outside the reservation lands.

A. The Ōtanemutu Lands Trust is comprised with a single block and on that single block is the dairy farm and then up popped the kiwifruit orchards. But further back in the forestry block around is also leased blocks.

Q. All right.

A. There are leased blocks around it.

Q. The heart of the trust lands are on the reservation-

A. Is Ngāti Ngahere.

Q. Right, okay. It is from that base they built these operations.

A. Yes, they have built and they bring in the leased land to support the Ōtanemutu Lands Trust.

Q. Thank you. And then just at paragraph 27, there's an issue here about reconciliation between Ngāti Rua and the other hapū in the context of all of the history you've been describing. I just wondered if you could elaborate a little bit. You say it needs to be addressed. What do you see as a process by which that kōrero should happen and I just wanted any thoughts you had about that? I mean are you saying it in the context of a thought that there's a responsibility here not just within the hapū because of course it's a take for the hapū primarily but is there also some kind of role for outside agencies (i.e., the Crown) whose actions you're saying have contributed to this situation or not? Do follow my question?

Yes and no. Yes, I think some of this to address the kind of mamae I'm talking about can take place with ourselves. I raised the point about Makeo being the maunga belonging to all iwi because all the iwi were pushed over here. Therefore, Makeo belongs to the whole iwi. Actually, it doesn't but we've never had the opportunity to say that. "Actually, no, you all have your own maunga," and they will quickly say that but I think I do want to address that. It has got to be a case by case scenario. Makeo being the maunga of all will come up somewhere and that'll take place with ourselves. Please don't call it your maunga because it's not your maunga it's our maunga but we'll have that discussion amongst ourselves.

Q. All right. I understand.

A. But what I'm hoping for in terms of the acknowledgement that could come from here is acknowledging the fact that Ngāti Ruatakenga this was our customary land and just because everybody got pushed over here doesn't mean it's now one divided by six.

Q. All right. I think the point coming from that is before us the Tribunal.

A. Yes.

Q. What you're saying is it's important that we understand this –

A. Yes.

Q. – and whatever we write in our ultimate reporting function that we've understood this and we are accurate in what we say about that. So thank you.

A. And that's behind what uncle has been saying all the way along and why we wanted to come to the Tribunal was so that we could document and leave a legacy for those coming. Our mokopuna and tamariki to see an accurate record as told by Ngāti Rua.

Q. All right.

A. Everybody else can tell their own but as told by Ngāti Rua that we want this accurately recorded for our Ngāti Ruatakenga history, āe, tika.

Q. Kia ora. Just finally, the whenua rāhui is under review for the Nukutere Lands Trust the conservation mahi and I have an understanding in the wider Raukumara there is the big conservation work going on with Apanui, Porou. Is this trust or Whakatōhea linked up or going to be linked up with some of that ongoing work?

A. I try and put pressure on the kaimahi about that.

Q. Āe.

A. I can see how much you've given to them, so why is it you're offering us nothing? With the review of our land for Nukutere Lands Trust and the review came up Ngā Whenua Rāhui are saying there is no money. This government is not offering any money. They were saying that from the last government, they're saying that again. We can see all the legislative changes that are happening around the Natural Environments Bill and the changes in that space what was the Resource Management consent process or Resource Management Act, all those changes but I mean trying to engage in a discussion with Ngā Whenua Rāhui over the review-

Q. Those are the kaimahi you're talking about, the Whenua Rāhui kaimahi.

A. Yes, they’re the same.

Q. Āe.

A. So that's why we've sort of come to it halt.

Q. Yes, I see.

A. Yes.

Q. All right. Again, that might be something, depending on the nature of the evidence before us at our next hearing on te taiao, we might just explore that a little bit further.

A. Okay, all right. I must be speaking at the next one.

Q. Well said, yes. We're used to living timetables.

A. I better put my name forward.

Q. All right, thank you. I just wanted to add my mihi to you as well for your evidence and for the manaaki you and your team have extended to us. But, yes, ka nui te mihi ki a koe **thanks**. Thank you.

A. You're welcome.

WAIATA TAUTOKO (MĀ WAI RĀ)

(11:25) JUDGE DOOGAN: (MIHI WHAKAMUTUNGA)

Kia ora. I'm sorry, I didn't mean to suggest that I required a waiata tautoko. I just didn't want to carry on and cut across the tikanga.

I wanted to just do a very short acknowledgement to counsel for their assistance this week. I know there are a number of counsel who have returned to their various places but Ms Feint and Mr Potaka tēnā kōrua **thank you both**. Thank you for the mahi you have carried this week and the assistance you've given to the witnesses.

Ms Mills tēnā koe **thank you**. It's been a pleasure having you here to observe all the way from England. He mihi nui ki a koe **thank you very much**.

Crown counsel, I know I forgot you at the start because your presence has become so familiar but thank you again for your assistance this week. Tēnā rā hoki ki a koe Mr Moeahu mō tō tautoko te rōpū te Karauna. **Thanks to you also Mr Moeahu for your support for the Crown.**

I just want to also acknowledge the staff behind me, who it is very easy to completely take for granted, but they do an amazing job of keeping us not only organised and on time but also all of the immense organisation that goes into

these weeks and the record of our hearing and the documents. Emma on the far left, Caitlin in the middle, and Jazz just behind me. I also acknowledge Jazz's mahi because this is her last hearing with us because she has been promoted which is a good thing. But that means that mostly she'll be doing mahi in Pōneke not on the road. Alan, whose expertise you are all very aware of, but we're immensely grateful for the support that Alan gives us. Paiheke tēnā koe. In some patches this week, you've been quite busy. But ka nui te mihi ki a koe mō tō tautoko i a mātou **I thank you very much for supporting us**.

I just wanted to find the acknowledge the witnesses we had the privilege to hear this week. In the interest of time, I won't name all the witnesses but I know a number are here this morning. Aunty Pearl and I know that's not your real name but it's your given name but tēnā koe **thank you** for your tautoko this week and for the evidence you've given us. Ms Campbell also thank you. I'm not sure if there are other witnesses I missed who were this morning but Mereaira of course. Finally, the pou tokomanawa, pou tikanga o tēnei marae, Te Riaki Amoamo e koro tēnā koe **the centre post, the spiritual pillar of this marae Te Riaki Amoamo the elder thank you**. Thank you for your evidence for the assistance you've given us throughout this inquiry at various hearings and in particular this week.

And lastly to my panel who between us, I forget saying Mr Potaka said the other day, but having a team makes the dream or something like that. But certainly it's not only just a privilege but it's a real benefit to be able to receive the kōrero we receive but to share it as a panel and to share our thinking so ngā mihi **thank you**. I'll stop there and hand back to koro Te Riaki.

KARAKIA WHAKAMUTUNGA (DR TE RIAKI AMOAMO)

HEARING CONCLUDES: 11.31 AM

MINISTRY OF JUSTICE
Tāhū o te Ture

Notes of Evidence Legend

National Transcription Service

Indicator	Explanation
Long dash –	Indicates interruption: Q. I think you were – (*Interrupted by A.*) A. I was – (*Interrupted by Q.*) Q. – just saying that – (*First dash indicates continuation of counsel's question.*) A. – about to say (*First dash indicates continuation of witness' answer.*) This format could also indicate talking over by one or both parties.
Long dash (within text)	Long dash within text indicates a change of direction, either in Q or A: Q. Did you use the same tools – well first, did you see him in the car? A. I saw him through – I went over to the window and noticed him.
Long dash (part spoken word)	Long dash can indicate a part spoken word by witness: A. Yes I definitely saw a blu – red car go past.
Ellipses … (in evidence)	Indicates speaker has trailed off: A. I suppose I was just… *(Generally witness has trailed off during the sentence and does not finish.)* Q. Okay well let's go back to the 11th.
Ellipses … (in reading of briefs)	Indicates the witness has been asked to pause in the reading of the brief: A. "…went back home." The resumption of reading is noted by the next three words, with the ellipses repeated to signify reading continues until the end of the brief when the last three words are noted. A. "At the time…called me over."
Bold text (in evidence)	If an interpreter is present and answering for a witness, text in bold refers on all occasions to the interpreter speaking: Q. How many were in the car? A. **There were six.** Q. So six altogether? A. **Yes six** – no only five – **sorry, only five.** *(**Interpreter speaking** – witness speaking – **interpreter speaking**.)*
Bold text in square brackets (in evidence)	If an interpreter is present and answering for a witness, to distinguish between the interpreter's translation and the interpreter's "aside" comments, bold text is contained within square brackets: Q. So you say you were having an argument? A. Not argue, I think it is negotiation, ah, re – sorry. **Negotiation, bartering. [I think that's what he meant]** Yeah not argue.