

# TAINUI



## ORAL AND TRADITIONAL HISTORICAL REPORT

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Marleina Te Kanawa and James Rickard  
for Tainui Claimants (Wai 125) in the Rohe Potae District Inquiry  
August 2012

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Waitangi Tribunal

**1 Oct 2012**

Ministry of Justice  
WELLINGTON

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## **Mihi**

E ngā mana, e ngā reo, e ngā karangatanga maha, nei rā te mihi ki a koutou katoa. Ka mihi hoki ki a rātou kua hinga atu nei, kua hinga atu rā i tēnā rohe, i tēnā rohe. Nō reira haere atu rā, moe mai rā. Ki a tātou ngā kanohi ora o rātou mā kua rūpeketia atu ki tua o te ārai, ki a tātou e whikoi tonu ana i te mata o te whenua nei, ka nui te mihi ki a tātou. Tihei mauriora!

Ka nui te mihi i ki a koutou kua whakatakotoria tēnei kaupapa hei raukura mō ngā uri whakatipu o te hapū o Tainui o Tainui ki Whāingaroa

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## List of Abbreviations

AJHR	<i>Appendices to the Journals of the House of Representatives</i>
ANZ	Archives New Zealand Wellington
ATL	Alexander Turnbull Library
BBP NZ	<i>British Parliamentary Papers from the Colonies: New Zealand</i>
CFRT	Crown Forestry Rental Trust
DB	Document Bank
DNZB	<i>Dictionary of New Zealand Biography</i>
illeg	illegible
n/d	No date
LINZ	Land Information New Zealand
MB	Minute Book
MLC	Maori Land Court
MTO	Maori Trust Office
N	Ngāti
No.	Number (of a publication)
NZG	New Zealand Gazette
NZJH	New Zealand Journal of History
NZPD	New Zealand Parliamentary
O & T	Oral and Traditional
p	page
pp	pages
Pt	Part
RM	Resident Magistrate

SO	Survey Office plan
Vol.	Volume (of a publication)
Wai	Waitangi Tribunal Record of inquiry number

**Māori Land Court minute book abbreviations (MLIS)**

JVSMB	Judge Von Sturmer
MMB	Mercer
OTMB	Otorohanga
WMB	Waikato
WMNMB	Waikato-Maniapoto

## **The Research Team**

Co- authors of the report are:

**Michael (Malibu) Hamilton** has affiliations to Ngāti Te Wehi, Ngāti Koata, Ngāti Mahuta and Ngāti Toa Rangatira. He is a Planning Commissioner, has a Bachelors degree in Iwi Environmental planning is humbled and privileged to have had this opportunity to work with CFRT and Tainui to produce this Tainui Report.

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**Sean Te Pohe Ellison** is of Ngāti Tuwharetoa, Ngāti Porou, Ngai Tahu and Tainui descent. He has presented evidence numerous times in courts and before the tribunal, on generic claims, like the Foreshore and Seabed and presented evidence for Tainui at the Ngā Kōrero Tuku Iho hearings of the Waitangi Tribunal at Poihākena Marae, Whāingaroa on April 13th 2010. He also assisted with the scoping report *Mana Whenua, Mana Moana* for this project.

**Marleina Hine Kahukura Te Kanawa** of Tainui and Ngāti Porou. Ex- teacher and Principal. Now an educational contractor and a provider of teacher professional development with the School of Māori and Pacific Development (SMPD) at the University of Waikato. Has been involved in land block administration and was secretary for the Te Kōpua 2B3 Block Incorporation for 15 years. Tertiary qualifications include TTC, B.Ed, Cert Māori Studies, and PGSLT.

**Taonui ā Kupe James Rickard** is of Tainui, and Ngāti Porou descent. He is a tohunga whakairo (master carver), trained by the late Hone Taiapa at New Zealand Arts and Crafts Institute Whakarewarewa in 1966, the first intake in modern time of traditional carvers. One of the requirements of such carvers is knowledge of whakapapa acquired during their life's work.

## **Preliminary Remarks**

For the purposes of this claim, Tainui, are the Wai125 claimants in the Te Rohe Potae Inquiry. The original Wai 125 claim was lodged in 1989 by the late Hāmi Whakatari Kereopa at a time when his ancestral land, Te Pae Akaroa, was about to be sold by the Raglan County Council for a subdivision. Following objections from Hāmi and others, the scheme was dropped and the land turned into a Recreation reserve. Through his tūpuna, Hāmi is connected to several of the hapū who have claims and these are acknowledged in some of the whakapapa charts included later in the report. Following his death, Te Ūranga Kāwharu Morell of Ngāti Koata, Ngāti Toa and Ngāti Te Wehi became the claimant. Riria Rapana Kereopa, mother of Hāmi, and cousin to her father Wiremu Kāwharu, legally adopted her.

Tainui, Ngai Tainui, Ngati Tainui, and more recently Tainui Awhiro, have been used to identify the Tainui hapū of Whāingaroa<sup>1</sup>. The Tainui hapū described in this report include twelve hapū:- Ngāti Koata (ki Whāingaroa), Ngāti Te Ika/Ikaunahi, Ngāti Pūkoro, Ngāti Kahu, Ngāti Te Kore, Ngāti Hounuku, Te Paetoka and Ngāti Te Karu, Ngāti Tira, Ngāti Ruaruhe, Ngāti Tahau, and Ngāti Heke/Haki.

The rohe of Tainui lies between Waipapa (Papanui Point) south of Whāingaroa moana, to Waipohutukawa north of Whāingaroa including the adjacent coastlines, north, and south of the harbour entrance. Tainui considers this area to be the “homeland of Marutehiakina, Pūnuiatekore, and Tāwhao, all significant tūpuna in the whakapapa, histories and traditions of Tainui hapū.”<sup>2</sup>

This Tainui oral and traditional historical report, is a compilation of kōrero gathered from Tainui whānau through interviews and hui, or sourced from personal papers, Native Land Court minute books, government publications, case law, tribunal reports, and newspapers. This report establishes the basis for the Wai125 claim against the Crown, and provides evidence of breaches of te Tiriti o Waitangi, that prejudicially affected Tainui.

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<sup>1</sup> Pei Jones identified Tainui as a sub-tribe of Waikato in 1840, then as an Iwi in 1946.

<sup>2</sup> Aroha Apiti-de Silva, George Barrett, Sean Ellison, Miromiro Kelly Hepi-Te Huia, Anthony Pātete, Gareth Seymour, Frank Thorne. ‘Draft Mana Moana , Mana Moana Scoping Report for an Oral and Traditional History Project for Te Tai Hau-a-Uru’, 2011, p.12.

The main purpose of the report is to give an insight into the identity and origins of Tainui, its traditional rohe, taonga, and relationships. The second purpose is to illustrate using an environmental case study, Tainui responses to decisions made by Crown delegated authorities that have breached te Tiriti o Waitangi.

The report complements evidence given by Tainui claimants at Poihākena Marae on the 13 April 2010. It also builds on kōrero contained within the *Mana Whenua, Mana Moana Scoping Report*, and on the lived experiences of current descendants who, despite adversity and deliberate government acts of dispossession, have managed to maintain ahikā status on the remnants of Tainui lands.

Tainui whakapapa to numerous common ancestors, from Te Manuka to Te Tau Ihu o te Waka. The claimants are the ahikaroa, who have occupied Whāingaroa moana, and the coastal catchments from Karioi maunga to Te Ākau from 1840 when te Tiriti o Waitangi was signed, until today.

Litigious events spanning decades, have, challenged the mana and tikanga of the claimants and affected their relationships with the environment, whanau, hapū, iwi, communities and the Crown. Relationships with ancestral lands established over centuries have been adversely affected and in some instances severed completely because of deliberate acts and omissions of the Crown or its delegated authorities. Outlined below is evidence of these acts and omissions. Further evidence will be submitted as witness briefs to the Waitangi Tribunal when the hearings into the Wai 125 claims take place.

### **The Challenges**

Oral and traditional histories are handed down through whakapapa, waiata, moteatea, kōrero, haka, pūrākau and through whaikōrero on the marae. However, Crown actions severed the transmission of such knowledge and traditions leaving a void from which Tainui are still recovering. In order to complete the report, researchers reviewed tūpuna kōrero captured in minute books, and secondary sources such as *Tainui* by Leslie Kelly and *Nga iwi o Tainui* by Bruce Biggs.

This report is not a comprehensive oral traditional history but rather an introduction to the Tainui hapū of Whāingaroa specifically for the Wai 125 claims.

Most of the contemporary comments contained in this report have come from one on one interviews in the homes of hapū members, or from evidence already given in the Oral and Traditional hui.

Several reports have material that focus specifically on Tainui hapū issues. For example, A063 *Public Works and other Takings in the Rohe Pōtae* by David Alexander, covered relevant issues relating to the confiscation of land for roading, gifting of sites for the Te Kopua (Whāingaroa) Native school and the Raglan Aerodrome and Golf Course; A065 *Te Ākau D Alienation history* by Jamie Mitchell and Craig Innes, and A070 *Land Alienation 1840-1865* by Leanne Boulton. Further responses regarding other relevant technical reports will be referred to when the claim is heard.

## **Executive Summary**

### **Introduction**

The Tainui Oral and Traditional historical report establishes the whakapapa and sets the framework for the Wai 125 Tainui claims. It begins with the evolution of Tainui from the beginning of time to the confederation of hapū who make up Tainui today. The three main influences that contributed to the formation of the Tainui hapu were the inter-tribal wars of the early 1800's, the gift of land by Riki Korongata to Tutuira and Te Ikaunahi, and the exodus of some of Ngāti Koata to Kawhia.<sup>3</sup> The report then traverses colonial history discusses relationships, taonga, customary practices, environmental breaches, laws, impacts and Tainui responses.

The report contains six chapters.

**Chapters one and two** focus on the origins of the Tainui claimants, some key Tūpuna, their relationships with their environment and with other hapu and iwi prior to the arrival of Europeans to Aotearoa and the signing of te Tiriti o Waitangi.

During this period, Tainui are a vibrant people, living life as coastal dwellers and cultivators of the soil, in a society controlled by tikanga based on mana and tapu. Respect and reciprocity are two cultural values that guide relationships with atua, tangata and taonga. Te reo Māori is the common language, education is gained through experience and wananga, and life is about living and sustaining oneself and

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<sup>3</sup> Hillary & John Mitchell, *Te Tau Ihu o te Waka Huia* Publishers, p.113.

whanau, rather than working a seven-day week for minimal wages for someone else. Maintaining the balance between whanau, hapū and iwi at this time is an art, with relationships being negotiated through processes requiring leadership and a high level of diplomacy. Alliances between hapu and iwi are negotiated in times of both war and peace with women playing a pivotal role.

Comments made by living descendants demonstrate the continuing existence of traditional knowledge and values in Whāingaroa.

**Chapter three** focuses on British contact, beginning with the arrival of Wesleyan missionaries, Christianity and a message of salvation and everlasting life, which gradually colonises the minds and lives of whanau and hapu. As rangatira become christians, whanau and hapu inevitably follow their example. The christian message resonates with Māori in that pono, aroha, and manaakitanga, are already key values within Māori society. In the next chapter rangatira discover that many pākeha settlers do not embrace the same christian values but are covetous for their lands.

**Chapter four** examines the stance taken by Tainui in response to Crown actions, from the establishment of the Kingitanga through to the present day. While some of Tainui supported the Kingitanga, others pledged loyalty to the Queen. Those who supported the Kingitanga saw no difference between upholding the honour of the Crown who had signed the treaty and establishing the Kingitanga to uphold mana Maori. The chapter comments on the experiences of Tainui men who fought at Rangiriri, and the aftermath of that engagement. Despite the war, Tainui were strong supporters of the Kingitanga up until the mid 20<sup>th</sup> century when Crown actions destroyed Miria te Kakara, the main poukai marae at Te Kopua.

The chapter concludes with brief histories of Te Kōpua, Te Ākau, Te Whaanga and Rākaunui. These blocks were subject to Native and Maori Land Court processes, which heard evidence, and made decisions that divided the whenua, whanau and hapu. The individualising of titles and carving up of the lands facilitated the alienation of whenua, without notice, consent, and mainly without compensation up to the 21<sup>st</sup> century.

**Chapter five** provides a case study on the Whāingaroa environment with specific emphasis on the experiences of Tainui. It provides factual accounts of Tainui responses to threats and impacts on nga taonga tuku iho and fills a gap in the technical report. It illustrates the practice of kaitiakitanga in a modern context and argues that

despite te Tiriti o Waitangi, the Crown introduced laws like the Town and Country Planning Act, Local Government Acts, Historic Places Act, and Resource Management Act and others, that undermined the rangatiratanga of the hapu.

**Chapter six** concludes the report with a brief summary of the Crowns acts and omissions and their negative impacts on Tainui today.

# 1 CHAPTER ONE: NGĀ KŌRERO TUKU IHO MŌ TAINUI

Ko Tainui te Waka,

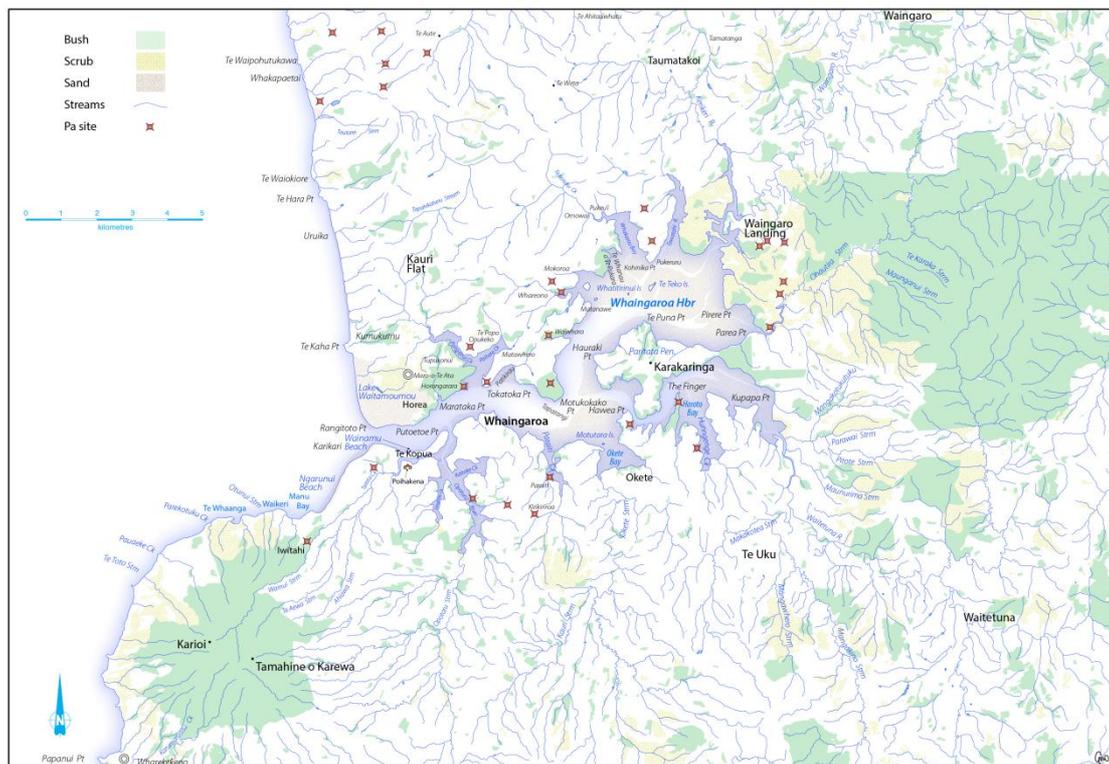
Ko Tainui te Hapu,

Tainui Awhiro ngunguru te pō, ngunguru te ao

## Introduction

The map below shows the location of the Whāingaroa moana, Karioi Maunga and Tainui sites of significance within the context of a cultural landscape shared by other neighbouring hapu and iwi.

Map 1: Karioi maunga, Whāingaroa Moana



Tainui acknowledge the name Tainui has many meanings, depending on the context in which it is used. Tainui is a Tūpuna, a waka, a confederation of iwi (Ngati Haua,



In 1857, Fenton produced a list of tribes and families. In this list, Tainui, Kura, Koata, and Te Ika were recognised as families of Tahinga<sup>6</sup>. In both the 1908 and 1949 Maori electoral rolls, some electors self-identified as Tainui, Hounuku, and Te Ika<sup>7</sup>. In 1995 however Tainui became redefined as Tainui Awhiro one of the 33 hapu of Waikato.

Tainui Awhiro is a name that has been used synonymously with Tainui to communicate with the Crown and other entities. The Raglan aerodrome case is one example, where Tainui Awhiro was adopted in order to avoid confusion with the Tainui Māori Trust Board (TMTB). TMTB, based in Ngāruawahia, were at one time incorrectly considered by the Crown as the appropriate organisation in whom to vest Te Kopua, the turangawaewae of Ngāti Hounuku, Ngati Te Ika and Ngati Koata.

Another example is the name, Tainui Awhiro Ngunguru te Pō Ngunguru te Ao, Environmental Management Committee. This committee, established in 1989, dealt with resource consent applications and fisheries matters affecting hapu along the west coast from Whāingaroa to Port Waikato until recently. The name, which compares the people from the west coast area to the sea, which groans and rages by day and groans and rages by night, was suggested by kaumātua, Hone Haunui, Mina Whare, and Peter Thompson and endorsed by representatives from all coastal marae who attended a hui at Pukerewa for that purpose.

When claimants around the Whāingaroa Moana formed a legal entity for their cluster to progress these claims to a hearing before the Waitangi Tribunal, Tainui Awhiro was again the name chosen by the three claimant groups showing its broader application as an identified rohe and a descriptive name encompassing more than just the Tainui hapū. Tainui Awhiro is the name of the marae at Waingaro, is part of a kōrero attributed to Potatau in reference to Te Awaitaia<sup>8</sup> and was identified with the 1978-1990 Te Kopua land issue better known as the Raglan golf course affair.

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<sup>6</sup> *Appendices to the Journals of the House of Representatives (AJHR)1857*(vol : Government Printer, Wellington,) pp.

<sup>7</sup> New Zealand Government, *Western Maori Electorate: List of Maori Electors who voted at the General Election in Above-named Electorate in 1908*, Government Printer, Wellington, 1908.

<sup>8</sup> Pōtatau at Paetai, "Ka pā tāu ko Tainui a Whiro, ngunguru te Pō, ngunguru te Ao" Pei te Hurinui Jones, , *King Potatau*, 2<sup>nd</sup> ed., Wellington, 2010 ,p208.

In recent times Tainui hapu have revived the term Tainui o Tainui ki Whāingaroa, (meaning the Tainui hapu of Tainui waka at Whāingaroa), to ensure there is no further misunderstanding as to which Tainui is being discussed.

Moana Jackson in discussing identity politics and the politics of difference remarked:

“Colonisation is a process of identity theft. To dispossess a people you have to take away who they are”.<sup>9</sup>

Tainui have suffered the dispossession of its lands, but have consistently resisted being robbed of its identity by government acts and imposed frameworks that refuse to recognise the legitimacy and mana of Tainui whose tūpuna signed te Tiriti o Waitangi.<sup>10</sup> A current example of such flawed frameworks is the Crown preference to recognise artificial clusters, cultivate relationships with ‘iwi male leaders’ and provide redress to corporate Iwi through settlements such as the Treaty of Waitangi Fisheries Settlement of 1992.

Quota and pūtea were distributed to Waikato, an inland mandated iwi organisation, while Tainui, a coastal hapū were deprived of their mana and livelihood from the inshore fishery that they inherited from tūpuna. Although Tainui legally challenged the Waikato Land Settlement process to settle the treaty claim, which included Tainui interests, they were excluded and unsuccessful because the Crown intervened.<sup>11</sup> Five days after the High Court decision, the signing of the Deed of Settlement for Waikato took place without the endorsement of the Tainui-Tahinga representative.

The Tainui hapu of this report are the confederation of hapu who inherited the name Tainui from tūpuna; who chose the coast as their tūrangawaewae, and who remain on approximately 1000 hectares of scattered whenua. This is all the whenua left as a legacy for future generations. This chapter traces the origins of Tainui, and establishes the whakapapa relationships between hapū and iwi of Whāingaroa, its neighbouring moana, and iwi confederations of Waikato and Te Rohe Potae. Map 2 outlines what remains of te rohe o Tainui today.

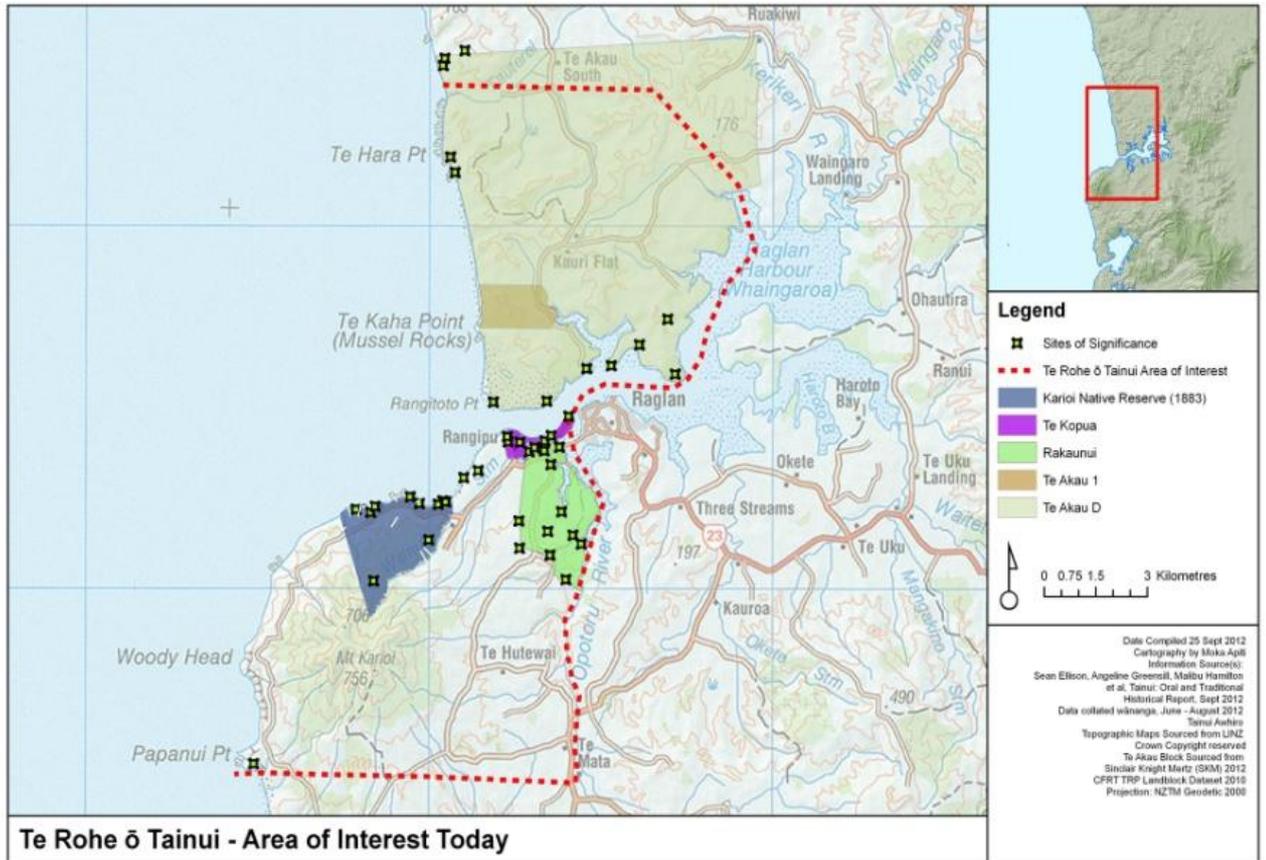
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<sup>9</sup> M. Jackson, during a keynote address at Nga Pae o Te Maramatanga Conference, 2010.

<sup>10</sup> Waikato Raupatu Land Settlement Act 1995, and the Treaty of Waitangi Fisheries Claim Settlement Act 1992.

<sup>11</sup> *Greensill v Tainui Maori Trust Board* (Unreported, High Court, Hamilton, Hammond J, M117/95, 17 May 1995)

Map 3: Te Rohe o Tainui 2012



## **Ko Tainui O Tainui Ki Whāingaroa**

### **He Kupu Whakataki**

Uea! Waerea te one tapu.

Ka hura tangata a uta,

Me turaki atu ki tangata a tai;

Ka hura tangata a tai,

Me turaki atu ki tangata a uta.

Pērā hoki rā te korepe nui,

Te korepe roa.

Te wāhi awa,

Te totoe awa,

Whakamau, tama, i te ara!

Whakamau, tama, i te ara!

Ko Tū, ko Rongo,

Tama i āraia te ara!

Kauraka tama e ūhia,

Tukua atu tama kia puta

I waho i te tāwhangawhanga.

He putanga ariki nō Rongo,

Ki te ata tauira mai, e.

Mai ea, mai ea, te tupua!

Mai ea, mai ea, te tawhito!

I haramai ra koe i whea?

I haramai ra koe i te whakaoti nuku,

I te whakaoti rangi;

Ko tō manawa, e-e, ko tōku manawa, e-e.

Tāne ka irihia!

Whano, whano! haramai te toki

Haumi e-e, hui e-e,

Tāiki e-e!<sup>12</sup>

Ko te karakia tēnei i tākina ai e tō mātou tūpuna e Ngatoroirangi i te wā i wehe mai ai ngā tūpuna i Hawaiki, ā i tākina anō ai e Kaihū, tama a Te Ataiōrongo, hei waerea i te huarahi, e tutuki ai tāna kaupapa, e ea ai tāna mate.

### **Tainui o Tainui**

E kīa ana te kōrero,

“Ko Karioi te maunga,

Ko Whāingaroa te moana,

Ko Tainui Awhiro ngunguru te pō, ngunguru te ao”.<sup>13</sup>

E rangona ana tēnei kōrero i runga i ō tātou marae, ā e mau nei te ingoa ki te whare e tū nei ki Poihākena. Engari ko te ingoa tūturu o te hapū nei ko Tainui, arā ko Tainui o Tainui, Tainui hapū o Tainui waka. I ētahi wā ka karangahia ko Tainui Tahinga mō ngā hononga ki tērā iwi o tātou ki a Ngāti Tahinga. Tēnei ingoa a Tainui, mō te hapū e kōrerohia nei, ehara i te ingoa Tūpuna pērā i tō ētahi o ngā hapū, engari he ingoa i whakamahia ai, i whakahuatia ai hei whakakotahi i ngā hapū o tēnei pito o te tai

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<sup>12</sup> Pei Te Hurinui Jones, *Ngā Iwi o Tainui*, 1995, pp. 31-33.

<sup>13</sup> Tainui o Tainui, Pepeha

hauāuru, arā ngā hapū kua whakarārangitia nei i roto i tā mātou kerēme, a Ngāti Koata (ki Whāingaroa), Ngāti Kahu, Ngāti Tahau, Ngāti Te Kore, Ngāti Pūkoro, Ngāti Te Ikaunahi, Ngāti Tira, Ngāti Heke, Ngāti Rua Aruhe, Ngāti Hounuku, Te Paetoka me Ngāti Te Karu. Arā noa atu ētahi i uru ki raro i tēnei karangatanga o Tainui o Tainui i ōna wā.

I kī ai a Wirihana Te Aoterangi, ko Tahinga he tangata, ko Tainui he waka i haere mai ai ngā tūpuna. Ā i utaina taua ingoa ki runga ki te iwi i noho ki te takiwā i ū mai ai te waka ki tōna takotoranga.<sup>14</sup>

Ko te Tainui Awhiro nei he mea tapa nā Pōtatau Te Wherowhero, te kīngi Māori tuatahi, i te hui ki Paetai mō te whakatūnga o te Kīngitanga, nā runga i tōna riri ki tōna hoa o mua ki Te Awaitaia mōna i huri ai ki te whakarata atu ki te Pākehā, ā i tīmata ai ki te hokohoko haere i ngā whenua. I te pātaītanga atu ki a ia mō Maniapoto, i kī ai a Pōtatau “E pai anō Te Nehenehenui; he wai kōharahara.”

Kātahi ia ka huri ki a Te Awaitaia, ka mea, “Ka pā tāu ko Tainui Awhiro, ngunguru te Pō, ngunguru te Ao!”<sup>15</sup> Mōna kē te aronga o tērā kupu Tainui Awhiro, arā ko Tainui Awhiro (te tipua). Nā tō mātou whaea, nā Tuaiwa Hautai Kereopa Rickard i hahu ake te ingoa nei hei whakakotahi i te iwi ki te kōkiri i te whawhai kia whakahokia mai ai te whenua o Te Kōpua, i te whakamahia hei papa haupōro i taua wā, ā kia mārama ai hoki ko Tainui hapū o Whāingaroa tēnei ehara ko Te Poari Kaitiaki o Tainui.

Ko Whāingaroa ngunguru te pō, ngunguru te ao. Ko ngā tai ērā e ngunguru nei, e rongoro atu nei tātou, arā ngā tai whakarongo. Inā hoki he reo tonu tō te tai. Ki te rangona mai i tētahi pito he kōrero ōna, ā i tētahi pito he kōrero anō.

Ko Whāingaroa ngunguru te pō, ngunguru te ao. Ko te reo anō hoki tērā o te hapū o Tainui e rangona ai i ētahi wā. Inā hoki ehara tēnei hapū i te rite ki te kāhui hipi e whai kau noa iho ai i ngā tohutohu a wai rānei. He iwi kaha ki te tautoko i ngā kaupapa, pērā i te Kīngitanga i ōna nei rā, engari ki te hē tētahi kaupapa ki a ia, ki te kotiti rānei ki tāna titiro, kāore e ārikarika ki te tū ki te kōrero, ki te whakaputa whakaaro. He pērā tō mātou whaea a Tuaiwa i ōna wā, he pērā anō hoki ōna mātua, ōna tūpuna.

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<sup>14</sup> Wirihana Te Aoterangi, to Judge von Sturmer (JVSMB) 12, 4 July 1894, p.135.

<sup>15</sup> Pei Te Hurinui Jones, *King Potatau*, 2010.

## **Ko Te Atuatanga O Te Ao**

Kei roto i tā Pei Te Hurinui Jones pukapuka a “King Pōtatau” e whakamārama ana i ngā akoranga o te wānanga o Tainui mō te orokohanganga mai o te ao, mō Io-matua, mō Hani rāua ko Puna, mō Ranginui rātou ko Papatūānuku, ko ā rāua tamariki, nā reira kāore mātou mō te hoki tuarua atu ki aua kōrero. Engari hei tāpiritanga atu ka hoki ki ngā pou kōrero o te iwi nei o Tainui.

Ki ngā tūpuna o konei ko te tāne tuatahi a Papatūānuku ko Tangaroa. Ka moe a Tangaroa i a Papatūānuku ka puta ko ō rāua uri. Ngaro atu ana a Tangaroa i tētahi wā ka noho a Papatūānuku ki a Ranginui. Nō te hokinga mai o Tangaroa ka whawhai rāua ko Ranginui ka tū ngā kūhā e rua o Ranginui i te tao a Tangaroa ka hinga. Ehara i te mea ka hinga kia mate ēngari i ea te mate a Tangaroa ka mahue iho a Papatūānuku rāua ko Ranginui ka whai uri.<sup>16</sup> Ka puta ko te atuatanga o te ao. Ka tokona ko Ranginui ki runga, ko Papatūānuku ki raro ka puta ko Te Whaiao, ko Te Ao mārama.

Ka tiritiria, ka poupoua ngā atua, ngā poutiriao, ngā kaitiaki ki tēnā wāhi, ki tēnā wāhi, ka whakatōkia te mauriora ki ngā āhuatanga katoa tae noa mai ki a tātou te tangata.

Kāore he tino wehenga i te ao i ngā atua, i ngā mātua tūpuna, ki te ao e noho nei tātou. Ko rātou ko mātou, ko mātou ko rātou. Ahakoa e kīa ana ko Tangaroa te moana, ko Tāne te ngahere kāore he tino wehenga hāunga kei te hinengaro o te tangata. Ko tātou nei te whakatinanatanga o rātou. Ko te hā ora, ko te wai ora, ko te mauri ora kei roto i a tātou i ahu mai i ngā atua, otirā i a Io matua tonu. E awhi tonu ana a Tangaroa i a Papatūānuku. E awhi tonu ana a Ranginui i a Papatūānuku. E kitea ana tēnei āhuatanga i ngā rā katoa i konei i Whāingaroa. Ka ngaro atu a Tangaroa i te timunga o te tai, kua riro anō a Papatūānuku i a Ranginui. Pari mai ana anō ko Tangaroa tērā kua hoki mai ki te awhi i tōna hoa. Ko Papatūānuku te whenua, ahakoa kei runga i ngā wai, kei raro rānei i te moana. Ko mātou ngā uri.<sup>17</sup>

Anei e whai atu nei ki tā te wānanga o Tainui te whakapapa o ngā atua tae mai ki ngā kai hautū o ngā waka o Tainui me Te Arawa.<sup>18</sup>

## **Te Aho Tuatahi**

Te Kore

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<sup>16</sup> Tuaiwa Hautai Kereopa Rickard, Kōrero ā waha.

<sup>17</sup> S Ellison, Tono mō Te Takutai Moana, 2004.

<sup>18</sup> Jones, *ibid*, pp. 249-256.

Kotahi Te Kī

Kotahi Te Kōrero

Kotahi Te Wānanga

Te Kore Whiwhia

Te Kore Makiki Hī Rere

Makaka

IO

### **Te Aho Tuarua**

IO

Te Whetū

|

Te Rā = Tau Ana Te Marama

Ao Nui = Te Pō Nui

Ao Roa = Te Pō Roa

Ao Papā Kina = Te Pō Papā Kina

Ao Pakō Rea = Te Pō Pakō Rea

Ao Ki Tua = Te Pō Ki Tua

Ao Ki Roto = Te Pō Ki Roto

Ao Ki Tawhiti = Te Pō Ki Tawhiti

Ao Ruru = Te Pō Ruru

Ao Āio = Te Pō Āio

Ao Whero = Te Pō Whero

Ao Mā = Te Pō Mā

Ao Pango = Te Pō Pango  
Ao Whakarito = Te Pō Whakarito  
Ao Kumea = Te Pō Kumea  
Ao Ki Runga = Te Pō Ki Runga  
Ao Ki Raro = Te Pō Ki Raro  
Ao Ki Katau = Te Pō Ki Katau  
Ao Ki Maui = Te Pō Ki Mauī  
Te Rangi Nui E Tū Iho Nei = Papa Tū Ā Nuku

### **Te Aho Tuatoru**

Rangi = Papa  
Tūmatauenga = Hineahuone  
Aituā  
Aitu Ere  
Aitu Kikini  
Aitu Tāmaki  
Aitu Whakatika  
Te Kore  
Te Kore Nui  
Te Kore Roa  
Te Kore Parā  
Te Kore Tē Whiwhia  
Te Kore Te Oti Atu Ki Te Pō  
Ngana

Ngana Nui

Ngana Roa

Ngana Rūrū

Ngana Maa

Hotu Wai Ariki

Tāpātai

Tiki

Tiki Te Pou Mua

Tiki Te Pou Roto

Tiki Ahu Mai i Hawaiki

Whirotetupua

Toi

Hātōngā

Rākeiora

Tahatiti

Tamakiterangi

Piro

Kaitangata = Whaitiri

Hema = Urutonga

Tāwhaki = Hāpai

### **Te Aho Tuawhā**

Tāwhaki = Hāpai

Matire Hoahoa

Rutu Pahū

Tangi Pahū

Ngai

Ngai Nui

Ngai Roto

Ngai Peha

Hauraki Ki Te Rangi

Māpuna Ki Te Rangi

(Te Kuraimonoa) = Pū Hao Rangi

Ohomairangi

Ruamuturangi = Hapaikura

Tarao Taunga = Rangitapu

Tarawhaene Tuamatua = Waiheketua

Kokuotepo Rākauri Houmaitawhiti Rangitu

Hoturoa (Tainui) Ngātoroirangi (Te Arawa) Tamatekapua (Te Arawa)



Figure 1: Karioi maunga

### **Ko Karioi te maunga**

Ka titiro ake ki Karioi, maunga kōrero o tuawhakarere. Ko ia tērā i noho ki tuawhenua rāua ko tōna hoa wahine ko Kārewa. Ka whānau ā rāua tamariki, ā ka huri te mata o Karioi ki Pirongia, pūremu ai. Nō te kitenga o Kārewa ka rere, puta atu ana ki te moana. Ka whai a Karioi i a ia engari ka hopukia e te rā, ka kōhatungia, noho tonu mai ana ki uta, ko Kārewa ki tai.

Nā, ko Kārewa ki tā te Pākehā whakahua ko ‘Gannet Island’. Ko Pirongia ia ka noho ki tuawhenua i roto i te whakamā ki te hē o ā rāua ko Karioi mahi, me tōna mōhio kua pirongia ia.

Koia tēnei ko te kōrero a ētahi o ngā hapū. Ko tā mātou ia o tēnei pito o Whāingaroa e mea ana he wahine kē a Karioi rāua ko Pirongia, he tuakana he teina. Noho tahi ana rātou ko te tāne a Karioi, a Kārewa, ki tuawhenua, ā kaikairau ana a Kārewa rāua ko Pirongia. Nō te rerenga o Karioi ka whai atu a Kārewa, ā tukuna ana ia e Karioi kia puta ki waho ki te moana, noho tonu atu ai ki reira. Kei a ia ētahi o ā rāua tamariki, kei a Karioi ētahi.<sup>19</sup>

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<sup>19</sup> S.D..Ellison, Te Wharekura 66 “*Tuaiwa te wahine, Te Kopua, Whāingaroa te whenua*”, 2001, p.5.

Ko ēnei tū kōrero he paki waitara noa iho pea ki ētahi. Engari ki ō mātou pākeke ki te kōrero koe mō ngā maunga, e kōrero ana koe mō te iwi. Kāore he rerekētanga. Ko te whakapapa tēnei o te maunga e tū nei o Karioi. Ko mātou te hunga e noho nei ki ōna tahataha, ki raro anō i tōna maru, ā ko mātou āna tamariki.

### **Ko Maui**

He nui ngā kōrero, ngā mahara, ehara i ēnei rangi noa iho nei, ēngari nō mua noa atu. Kei tēnā hapū, kei tēnā hapū āna kōrero. Ka hoki ngā mahara ki a Māui, tērā Tūpuna rongonui. He atua, he tangata. He tangata titiro ki tua o te paerangi. I haere huna mai ia i runga i te waka o ōna tuākana kia tae ki runga tonu i te marae o Tangaroa rāua ko Hinemoana. Nā te mana o āna karakia, nā ōna pūkenga, nā ōna pūmanawa, nā ōna mōhiotanga, ngā mātauranga i āta whāngaia ki a ia e ngā atua, e ngā tūpuna, ka hīa ake e ia te whenua nei, ka tapangia ko Te Ika a Māui. E ai ki ngā kaumātua o Tainui, ko Māui te kaitoro tuatahi o ēnei motu, ehara ko Kupe.<sup>20</sup>

### **Ko Kupe**

E mōhiotia whānuitia ana ngā kōrero mō te tūpuna nei mō Kupe, mōna i whakawhiti mai ai ki ēnei takutai ki te whai i te wheke a Muturangi. Heoi anō he kōrero anō mōna nā Tainui kāore e tino kōrerotia ana i ētahi atu takiwā. Nō te taenga o Kupe ki Aotearoa he iwi tangatawhenua i te takiwā ki Karioi maunga e noho ana, ko Ngāti Matakore tō rātou karangatanga. E ai ki Te Aoterangi “He aruhe te kai nui a taua iwi, keria ai ki te kō.” Nō te wā i whai whakaaro ai a Kupe ki te hoki ki Hawaiki ka mahue mai i a ia tāna mōkai a Pōwhetengū me ētahi atu ki te tiaki i te whenua. Ka puta a Kupe ki waho o te pūaha o Aotea ka whiua e ia tōna tātua ki te moana, ā ka karakiangia e ia kia āraia atu a Pōwhetengū mā e te ngaru kei whai mai i a ia. Ka noho ko tērā hei ingoa mō te moana i waho nei i ngā rā i muri mai, arā ko ‘Ngā Tai i whakatūria e Kupe ki te marowhara’. Ka huri a Pōwhetengū ki te tārai waka mōna. Kāore hoki ia i te pīrangi ki te noho i te taha o te tangatawhenua. Ka oti te waka ka tapangia ko Rewatū, ā hoea atu ana e Pōwhetengū mā. Nō te taenga ki te pūaha ka tahuringia e te ngaru ka totohu. Kei reira tonu ināianei, kua kōhatungia.<sup>21</sup>

### **Ko Tahinga**

Ka eke ki te tihi o Karioi, ka titiro ki tawhiti. Ka pā mai te reo ki ngā taringa.

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<sup>20</sup> Leslie G.Kelly, *Tainui*, 1949. p.8.

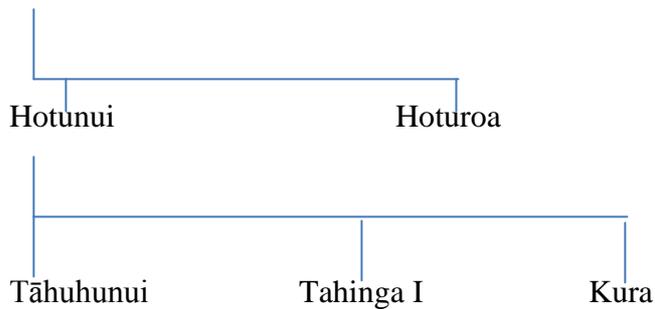
<sup>21</sup> Wirihana Te Aoterangi, *Fragments of Ancient Maori History*, 1923, pp 3-4.

“Nā wai i kī i haere mai mātou mā runga i te waka o Tainui? I uta kē mātou e mātakitaki ana i a Tainui e tere ana ki tai.”

I puta ēnei kōrero i a Honehone Kereopa i te hui whakanui i te ono rau tau o te ūnga mai o ngā waka i Hawaiki i tū ki te Pā o Tūrangawaewae i Ngāruawāhia i te tau 1950. He hokinga mahara nōna ki ngā kōrero tuku iho a ngā mātua tūpuna.<sup>22</sup>

E ai ki ngā kōrero ko ētahi o ngā tūpuna o Tainui i whakawhiti mai ai i mua i te hekenga mai o Tainui waka.<sup>23</sup> Ko Moekakara te ingoa o tō rātou waka, ko Tāhuhunui te kaihautū. Mōna te ingoa o Ōtāhuhu e mau mai rā ki tētahi pito o Tāmaki-mĀkau-rau.

Kokuotepo



Whakatangaroa

Hotu

Rongomai

Reitu

Te Aooterangi

Tahinga II<sup>24</sup>

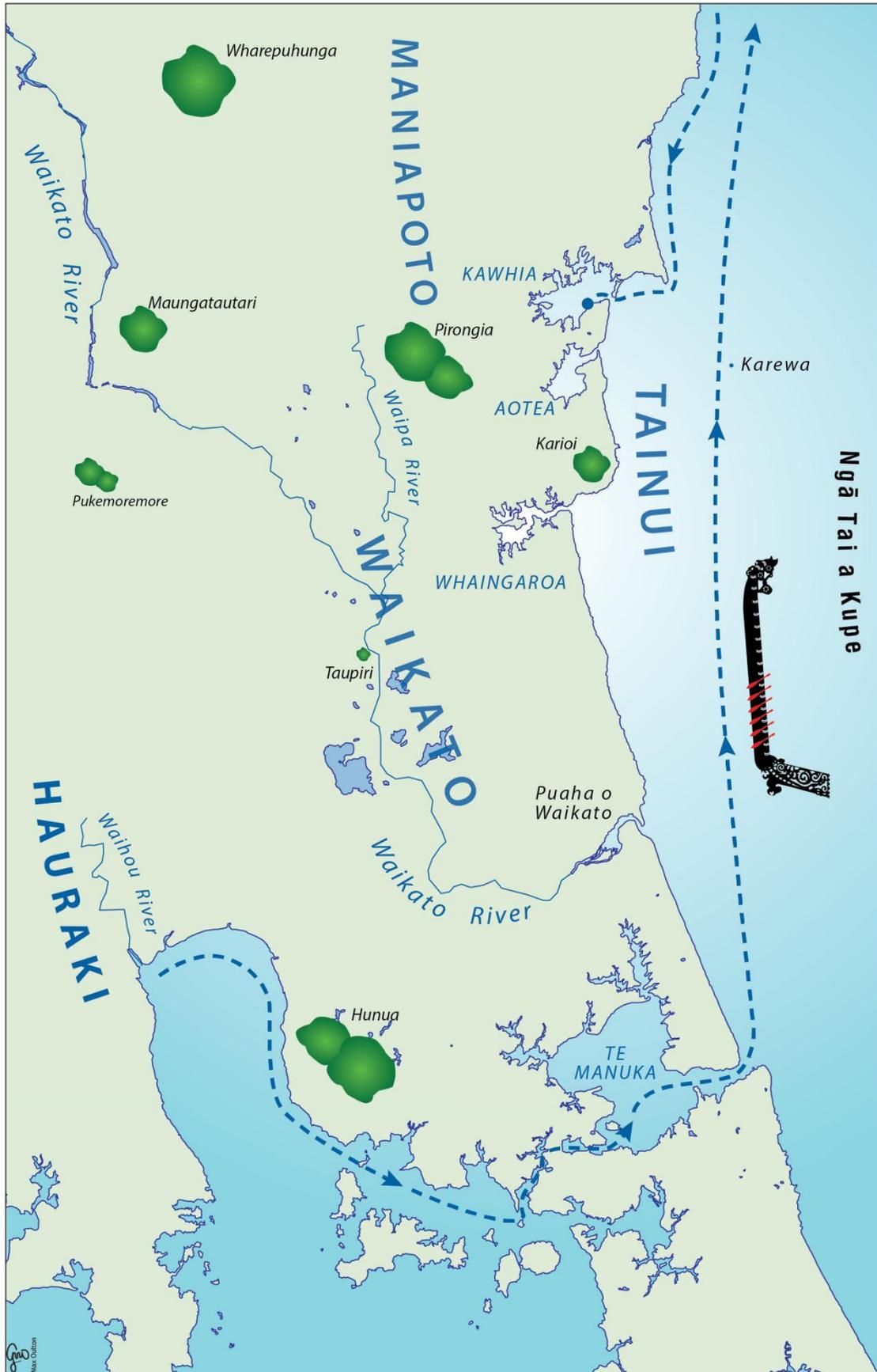
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<sup>22</sup> Ellison, *ibid*, p. 6.

<sup>23</sup> Jones, *ibid*, pp. 40-41.

<sup>24</sup> Richard Thompson, Hauauru Mā Raki Wind Project – Cultural Values Assessment Field Report,, 2008.

Map 4: Tainui Waka Settlement Area. Source Max Oulton .



## **Ko Tainui te waka**

Ko te waiata nei he mea tito nāku mā te kapa haka o Te Whare Wānanga o Waikato hei waiata mā rātou i roto i ngā whakataetae kapa haka ā rohe o Te Matatini, hei ako anō i ngā tauira ki ngā kōrero mō te hekenga mai o Tainui. <sup>25</sup>

Tainui he tamaiti whakatahe

Nā Hinekura, nā Tinirau

Tāpukengia ana ki Maungaroa

Ki te takiwā ki Motutapu

Ka tupu he rākau whakahirahira

He nehenehe nui nā Tāne-mahuta, nā Hinewao

Kotia iho ana ngā uaua o Papatūānuku

Ngā taero o Tainui, ngā tau rori o Hinekura

Ngā tohutohu a Māhurangi

Kia ara ā mua, kia ara ā muri

Tāraia ana e te tokowaru e Rakatāura

Ki Hahau-te-pō, ki Paopao-te-rangi, ki Manu-tawhio-rangi e

Tōia Tainui tapotu ki te moana

Mā wai e tō? Māku e tō

Utaina ki runga ko Tainui tāngata

Hoturoa i te kei, Ngātoro i te ihu

Te rironga o Ngātoroirangi i a Tama

Tāpapa ana a Riukiuta

Ko Mawake-nui-o-rangi, ko Paneiraira

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<sup>25</sup> Sean Ellison, Waiata Mōteatea “*Tainui*.”

Ko te waru ngahuru a Tangaroa a Hinemoana  
Ko te manu nui a Ruakapanga me tōna kāhui  
Ko te hoe tapu ko Hauhauterangi  
Ko Maninitua, ko Maniniaro  
Ka tangi te kura ka tangi wawana  
Ka tangi te kura ka tangi wiwini  
Ka ahu a Tainui ki Aotearoa e  
Manawatia e koe te kura pae a Māhina  
Ngā taonga whakarere a ngā tūpuna  
Kei Whangaparāoa te tūāhu hunuhunu  
Kei Ahuahu te ūnga mai o Tōrere  
Kei Whitianga ko Te Rā o Tainui  
Kei Wharenga ko Kōhatu-whakairi  
Kei Hauraki ko Tīkapa  
Ko Wai-whakapukuhanga, ko Wharekawa  
Kei te raki ko Te Motutapu o Taikehu, ko Rangitoto  
Kei te moana o Waitematā ko Te Kūrae a Tura  
He tauranga mō tōku waka mō Tainui  
Kei te awa o Tāmaki ko Ōtāiki  
Ko Te Pane o Horoiwi, ko Taurere  
Kei tua o Maungawhau ko Te Tātua o Riukiuta  
Tāmaki-mĀkau-rau, nohoanga o te tini, o te mano  
Ngā mātua tūpuna o tuawhakarere e

Tākina te kawa ki Paritaiuru  
Nō Whāngai-makau, nō Ōtāhuhu  
Nō Te Tapotu o Tainui ka kitea te hara o Marama  
Kei te uru ko Te Mānuka o Hotunui  
Ko Ngā Pōtiki a Taikehu  
Ko Rarotonga, ko Waihīhī, ko Waihāhā  
Ko Ngā Rango e rua o Tainui  
Kei te awa o Waikato ko Te Piko o Hiaroa, ko Poroaki  
Ko Tāne-kaitū, ko Moe-kakara he tūāhu manu  
Kei Whāingaroa ko Takere Aotea, kei Karioi ko Tūāhu-papa  
Kei te awa o Mimi te pōhutukawa, kei Mōkau te puna o Tainui  
Kei Kāwhia ko Ahurei e  
Ka ū ki Maketū, ki Te Tumu o Tainui  
Ko Puna-whakatupu-tangata, Ko Hani  
Ko Hawaiki, ko Te Kete-rukuruku-a-Whakaotirangi  
Whai pakiaka ana ka tupu a Tainui  
Ka toro ōna peka ki ngā tōpito o te motu  
Tainui ana mai ngā tini o iwi, ngā mano o tangata  
Ka puta ki te Whaiao ki Te Ao Mārama  
Tihe Mauriora!

E nōhia tonutia ana te whenua e Ngāti Matakore mā ka tae mai a Hoturoa me te waka o Tainui. Nō te tōanga o te waka i Te Tapotu o Tainui ki te moana o Manukau, ka puta i Te Mānuka o Hotunui, ka anga ki te tonga. Ka kite rātou i te tihi o Karioi, ka mea a Hoturoa kia tae rātou ki reira ka whakatā, ka karioi. Koirā hoki tētahi tikanga o te kupu karioi, he noho mō tētahi wā, he āta tau rānei. Nā te roa o te hoe mai i Te

Mānuka o Hotunui, arā i te moana o Manukau, ki Karioi ka tapangia te moana nei ko Whāingaroa, mō te roa o tērā whaingā a rātou. Tukuna mai ana e Hoturoa a Takere Aotea, te ama o Tainui, ki uta ki Kawa ki te tiki wai. Kāore te hunga i haere mai mā runga o Takere Aotea i hoki ki te waka o Tainui, ka noho tonu i te taha o te tangatawhenua. E ai ki ngā kōrero ko ngā uri anō o Tahinga i uta i Te Ākau e mātakitaki ana i a Tainui e tere ana i te moana.

### **Ko Rakatāura – he tohunga, he Tūpuna**

Kāore a Tainui i ū mai ki Whāingaroa. E ai ki ngā kōrero i whati te ope o Tainui waka i Tāmaki-mĀkau-rau nā runga i te ngākau kino o Hoturoa ki a Rakatāura, he hiahia nōna nō Rakatāura ki te tamāhine a Hoturoa ki a Kahukeke. Ko Rakatāura tētahi o ngā tino tohunga o runga o Tainui, nāna hoki i tārai i te waka. Ki tā ētahi kāore a Rakatāura i haere mai mā runga o Tainui ēngari mā runga kē i a Paneiraira. Ko Paneiraira tētahi o ngā tino taniwha o Tainui nāna i ārahi mai i te waka. Otirā ki te whakaaro ake ko te nohoanga o te tohunga ko mua o te waka, ko te tauihu. Ka mutu ko tērā taniwha a Paneiraira i mua tonu i te waka e patupatu haere ana i ngā ngaru. Heoi anō ko tērā tērā, nō te takiwā ki Ōtāhuhu ka whati te ope, ka weherua, ko Rakatāura mā i haere mai mā uta, ko Hoturoa mā i haere mai mā tai mā runga i a Tainui. Nō te taenga mai ki konei ka piki a Rakatāura i te maunga e tū nei i a Karioi, ka hanga i tana tūāhu i a Tūāhu-papa, ā ka karakiangia a Whāingaroa kia kore a Tainui e uru mai. Ka pērā anō ia i Aotea me Kāwhia, ka haere tonu a Tainui ki Mōkau. Nō te hoki pēneitanga mai ka tūtaki anō a Hoturoa rāua ko Rakatāura ki te takiwā ki Moeātoa, ki te tonga o Kāwhia. I kite a Hoturoa i ngā takahi i runga i te one, ā mohio tonu ia ko Rakatāura, nā te mea he hape te waewae. Kua mutu te riri o Hoturoa i tērā wā, ka hoatu i tana tamāhine i a Kahukeke hei wahine mā Rakatāura, ā ka hoki ngātahi mai ki Kāwhia, ū rawa ana ki Maketū, ki Te Ahurei. Ko Rakatāura rāua ko Kahukeke i hoki ki te takiwā ki Whāingaroa, ki Karioi maunga, noho ai ki te taha o Ngāti Matakore. Ki tā ētahi nā Rakatāura te ingoa o Whāingaroa i tapa mō tāna whai i a Hoturoa, me te whāinga roa kia riro i a ia tāna tamāhine a Kahukeke.<sup>26</sup>

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<sup>26</sup> Jones, *ibid*, Pg 29

Hoturoa



Hotuope

Kahukeke = Rakatāura

Hotuāwhio

Ngare

Hotumatapū

Hape

Mōtai

Rangaiho

Uetapu

=

Kahupeka

Rakamaomao (Rakatāura II)

Ururangi

=

Kākati

=

Kurawakaimua

(Kurahaupo)

|

(Tainui)

|

(Aotea)

Korotewhao

Tāwhao

Uetapu

Tuhianga

I te taunga ki te wā i a Uetapu, ka moe i te mokopuna a Rakatāura i a Kahupeka, ā ka tūhono anō ngā tātai whakaheke i a Rakatāura rāua ko Hoturoa.<sup>27</sup> Nō te take o Karioi ki Whāingaroa a Kahupeka. Ka puta i a rāua ko Rakamaomao, arā ko Rakatāura II, nāna ko Kākati. Ko Kākati anō tētahi i noho ki Karioi, ki Whāingaroa, i ōna rā, engari ko tōna takiwā i hora atu ki Aotea me Kāwhia. Ka moe a Kākati i a Ururangi, nō te waka o Kurahaupō, rāua ko Kurawakaimua, nō Aotea, ā ka whiria te taura whakapapa ki ērā waka, ki ērā iwi puta i Taranaki whānui.<sup>28</sup>

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<sup>27</sup> *Ibid*, p.58

<sup>28</sup> Kelly, *ibid*, p. 68

## **Ngā Kaitiaki, ngā taniwha**

He nui ngā kaitiaki o te takiwā nei, o te moana me te maunga. Ko te whai tētahi, he kāinga hoki a Whāingaroa nō te whai. Haere mai ai tēnei ika nui a te maki ki te rapu i te whai hei kai māna. Ko te makimaki anō tētahi. Otirā ko tō mātou tino kaitiaki ko Te Ataiōrongo.

Tērā tētahi wā ka haere a Te Ataiōrongo rāua ko tōna taokete a Horeta ki te hī ika. Ka nui ngā ika a Te Ataiōrongo, engari kāore a Horeta e mau i tētahi. Ka pā pōuri a Horeta ka karanga atu ki tōna taokete kua mau tāna aho ki te toka, māna e ruku ki te unu i tāna aho. Nō te rukutanga o Te Ataiōrongo ka tākiritia e Horeta tāna aho, mau tonu atu ki te māhunga o te taokete, ka mate. Ka whakarerea a Te Ataiōrongo ki te moana, ā hoea ana a Horeta ki uta. Nō te taenga ki uta ka kitea e Rangiwaea, te tuahine o Horeta, kāore tōna hoa tāne a Te Ataiōrongo i hoki tahi mai. Ka pātai atu ki te tungāne kei whea tōna hoa? Ka whākau e Horeta kāore ia i kite. Heoi anō, i te pō ka pupū ake he wai tai i te papa o te whare ā ka puta mai te wairua o te ringa o Te Ataiōrongo ki te whakamōhio atu he aha ngā mahi a tōna taokete ki a ia, me te kī atu kia haria e Rangiwaea tā rāua tamaiti ki Kāwhia. I te hapū ia i tērā wā. Ka mutu āna kōrero ka puta anō te ringa wairua nei mā te tāhū o te whare. Kāti, nō te ata ka wehe a Rangiwaea, ārahi haeretia ana e te ringa wairua o Te Ataiōrongo, whakawhiti mai ana i te moana o Whāingaroa ki Rangipū i runga ake nei, tae atu ana ki Kāwhia moana. Whānau mai ana tā rāua tamaiti ka tapangia ko Kaihū. Nōna ka pakeke ka hoki ki te pā o Horeta, o Rakapāwhara mā, ki te ngaki i te mate o tōna matua. I riro mā Kaihū tonu hei taki i te karakia whakaputa i te waka ki te moana, ahakoa tōna taiohitanga. Ko tana karakia ko tērā i tākina rā i te tīmatanga o ēnei kōrero. E kīa ana te kōrero, i te toru o ngā whakahuatanga o te karakia ka hipa rātou i Whāingaroa, mai i Kāwhia, ā ka tau atu ki te tai whakararo, ki te iwi nāna tōna matua i patu.<sup>29</sup> Ka noho a Te Ataiōrongo hei wairua kaitiaki, hei taniwha i Whāingaroa, otirā i ēnei moana e toru, mai i Te Pūaha o Waikato, tae atu ki Mōkau, ki Rangitoto ki te Tonga. Kei Te Kōpua, kei te awa o Te Tarata tōna rua. Hei muri ake nei kōrerotia ai a Te Rua o Te Ata me tōna tūkinotanga i roto i ngā tau.

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<sup>29</sup> Te Aoterangi, *ibid*, pp 13-15

Hoturoa

Hotuope

Hotuāwhio

Hotumatapū

Mōtai

Uetapu

Rakamaomao

Kākati

Uetapu

Maniaōrongo

Te Ata-i-ōrongo = Rangi-waea

Kai-ihu

### **Tāwhao**

Ko Tāwhao tētahi o ngā tūpuna rongonui o Tainui i noho ki Whāingaroa. I Te Whaanga tōna pā. Ka moe ia i a Pūnuiatekore engari kāore i whiwhi uri. Mea atu a Pūnuiatekore ki tāna tāne kia moe ia i tōna teina i a Marutēhiakina. I Te Hōrea a Marutēhiakina e noho ana i te taha o ōna mātua. Ka tākina e Tāwhao tāna ātahu ki runga ki tāna au rei ka whakamaua ki te mōkī ā tukuna ana e ia ki te moana. Nā te mana o āna karakia ka tau ki te onepū ki Heahea ki raro iho o Te Hōrea ki tōna ipo. Nō te rironga i a Marutēhiakina mōhio tonu atu ia nā wai i tuku mai, ka haere ia ki Te Whaanga kia noho ki a Tāwhao hei wahine punarua māna. Nāwai rā ka hapū te tuakana rāua ko te teina i a Tāwhao. Ka whānau mai ko tā te teina tā Marutēhiakina i te tuatahi, ko Tūrongo, kātahi ka whai muri mai ko tā te tuakana tā Pūnuiatekore, ko Whatihua, e mōhio whānuitia ana e te motu. Nā te āhua o tō rāua whānautanga mai ka noho ko tērā hei take tautohetohe i waenga i a rāua, tae noa mai ki ngā uri, ko wai te tuakana? He tino tūpuna a Tūrongo rāua ko Whatihua ki ngā iwi katoa o te waka o Tainui, i roto i ō mātou tātai whakaheke.



**Figure 2: Horea**

Heoi anō ko te aronga nui o ngā tātai o ngā hapū o tai ko Whatihua, o uta ko Tūrongo. Ā noho tonu mai ana rāua tahi hei ara hononga i waenga i ngā iwi – i a Waikato Tainui me Taranaki i te moenga o Whatihua rāua ko Ruapūtahanga, i a Waikato Tainui me Te Tai Rāwhiti i a Tūrongo rāua ko Māhinārangi.

I te hokinga mai o Tūrongo i Te Tai Rāwhiti ka whakawehea e Tāwhao te whenua i waenganui i āna tama e rua, ka riro i a Whatihua ngā whenua o tai nei, otirā o te raki o tōna nei rohe, i a Tūrongo ngā whenua o uta, puta atu ana ki roto i Te Nehenehenui.<sup>30</sup>

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<sup>30</sup> Kelly, *ibid*, p.75.

Hoturoa

Hotuope

Hotuāwhio

Hotumatapū

Mōtai

Uetapu

Rakamaomao

Kākati

Marutēhiakina (2) = Tāwhao = (1) Pūnuiatekore

Tūrongo Whatihua

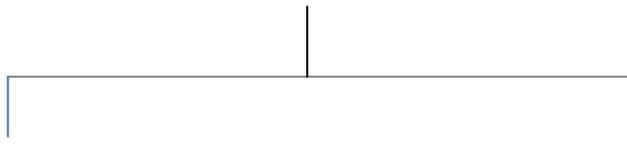
Hoturoa

Kapa-a-rangi

Papa ahuahū

Te Aopiki

Te Aorere



Pūnuiatekore (1) = Tāwhao = (2) Marutēhiakina

Whatihua Tūrongo

### **Kārewarewa**

Ko Tūrirangi tētahi o ngā tino tūpuna i noho ki Kāwhia i tōna wā. I tōna patunga i Aotea ka huri ngā iwi o Kāwhia ki te whakarite i a rātou ki te whai i te tangata nāna ia i patu, i a Whanowhanoake. Ka riro mā Kārewarewa e ārahi.

“Ka tukuna e Kārewarewa he karere ki a Te Āti Awa i Taranaki kia haere mai hei ope taua ki te rapu utu mō Tūirirangi. E rua mano ngā toa o Te Āti Awa i haere mai ki Kāwhia, ā, i reira ka hui atu ki ngā iwi o Kārewarewa.

Ko te haerenga o te ope taua ki Aotea, ā, ka whakaekea ngā pā i Te Rua-o-te-huia, i Puangi, i Puke-rangaranga, i Puke-whārangī, i Manu-aitu hoki, ā, horo katoa aua pā i te ope a Kārewarewa. I mua i te horonga o Manu-aitu ka oma a Whanowhano-ake, te tangata nāna nei i patu a Tū-irirangi. E toru tekau rātou ko ana hoa i puta, ā, ka oma atu ki te takiwā ki Whāingaroa. Ka whāia atu e Kārewarewa, ā, ka whawhaitia e ia te pā o tētahi rangatira i reira, arā ko Tuku te ingoa o taua rangatira, ā, ko tana pā ko Ō-takahi. I roto i taua pā a Kirirua, tana wahine a Potete me ā rāua tamariki tokorua, me Tū-whakahau-taua rāua ko Hine-ake. Ko Potete he tamāhine nā Kārewarewa. Nō reira, i te horonga o te pā ka whakaorangia rātou me te tamaiti a Tuku, me Koropake, me te tuahine o Tuku, me Rua-waenga te whaea o Kirirua. Ko ētahi katoa atu i whakamatea hei utu mō te patunga i te iwi o Tahinga.”<sup>31</sup>

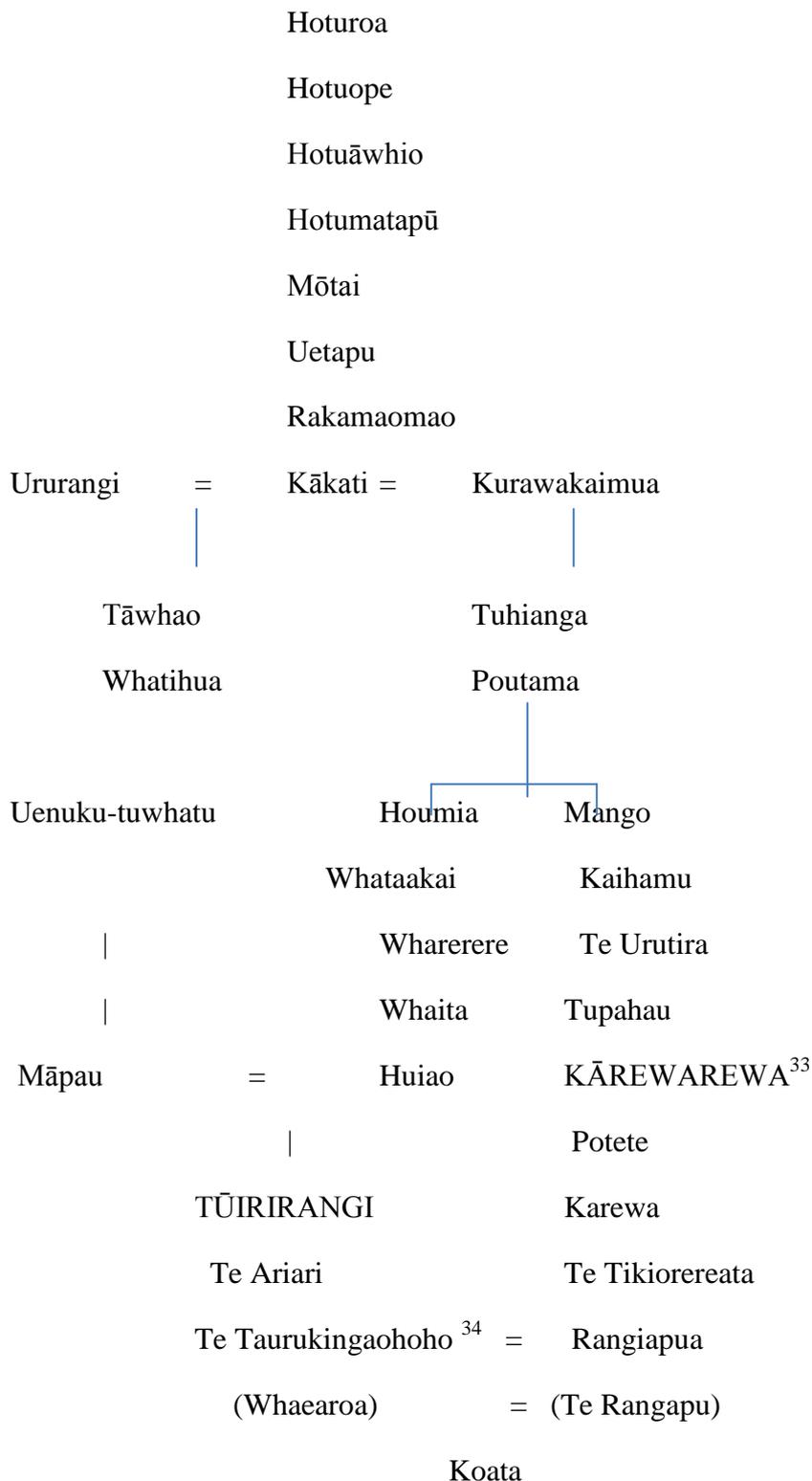
Ka whaia tonutia a Whanowhanoake tae atu ki Muriwhenua, ā, nō te kore e kitea ka huri te ope a Kārewarewa, ka hokihoki mai anō ki ō rātou kāinga.

“Ko Tū-whakahau-taua rāua ko Hine-ake, ngā tamariki a Potete, i noho ki te pūwaha o Waikato, ki Te Ākau, ki Whāingaroa, ā, tae atu hoki ki Aotea.”<sup>32</sup>

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<sup>31</sup> Jones, *ibid*, p. 225

<sup>32</sup> *Ibid*, p. 227



### Te Rangapu

Ko Te Rangapu te matua o Koata. I Te Whaanga tōna kāinga. I tētahi wā i heria ia ki Kārewa, ā, ka mahue atu ki runga ki te moutere e tōna taokete. E āhua tekau mā waru marama ia i reira, ka karanga atu ki ngā tūpuna kaitiaki ki a Te Aopiki rāua ko Te Aorere, nā rāua ia i whakahoki mai ki uta.

<sup>33</sup> Jones, *ibid*, p. 227

<sup>34</sup> Te Aoterangi, *ibid*, p. 138

Kārewarewa

Potete = Tahinga

Tuwahakahautaua = Hautai <sup>35</sup>

Kārewa = Huapiri

Te Tikiorereata = Atutahi

Te Rangapu = Whaearoa

Koata

Hoturoa

Kapa-a-rangi

Papa ahuahu

Te Aopiki

Te Aorere

Pūnuiatekore (1) = Tāwhao = (2) Marutēhiakina

Whatihua Tūrongo

Uenuku-te-rangi-hōkā

Te Mangō-hiku-roa

Mōtai

Kuranui

Rereiao

Hekemaru

Mahuta

Huapiri

Te Tiki-o-Rereata

Te Rangapū

Koata

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<sup>35</sup> Wahu Kereopa, (JVSMB) 12.p.61

## Kāwharu

Ko Kāwharu te mātāmua o ngā tamariki a Koata. Puta katoa mai i a ia a Ngāti Koata. Nō Ngāti Tamainupō tōna matua tāne a Ngaere, engari i whakatupuria mai ai e te tāne tuarua a tōna whaea e Pakaue, te matua o tōna teina o Te Wehi. He tangata tāroaroa a Kāwharu, ā, he tino toa, he nui te kōrerotia ōna. Nōna ka pakeke ka whakamoea ki ngā tamāhine a Toarangatira, ki a Motemote rāua ko Waikauri. Nā reira i kaha ai te piri o Ngāti Koata me Ngāti Toarangatira.

			Hoturoa (Tainui)
			Hotuope
			Hotuāwhio
			Hotumatapū
			Puhaanga
Toroa ( <i>Mataatua</i> )			Putetere
Ruaihona			Uetihi
Tahinga-o-te-ra			Uenoho
Awa-nui-a-rangi			Ueraki
Awatope			Taipu
Kaiahi			Tamapoto
Manu-tongatea			Tuheitia
Kōkako			Mahanga
Tama-inu-pō	=		Tu-kotuku
		Wairere	
Whenu			Te Kāhurere
Te Kete-iwi			Tūhorotini
Ngaere	=	Koata	= Pakaue
Kāwharu			Te Wehi <sup>36</sup>

<sup>36</sup> Jones, *ibid*, p 269

Hoturoa

Hotuope

Hotuāwhio

Hotumatapū

Mōtai

Uetapu

Rakamaomao

Kākati

Tuhianga

Poutama

Mango

Kaihamu

Te Urutira

Tūpāhau

Korokino

Toarangatira



### **Whareiaia**

Ko Whareiaia te tino tangata i tōna wā o tēnei takiwā. I a ia te mana o ēnei whenua katoa, i puta ai te kōrero,

“Ko Karioi te maunga,

Ko Whāingaroa he moana,

Ko Whareiaia te tangata”.

He maha ngā pā o Whareiaia, nāna anō i whakatū, mai i Whāingaroa, puta atu ki Aotea, ki Kāwhia.

He rangatira a Whareiaia, he toa taua, i noho ki Karioi, ki tōna pā ātete rākau ki Pikirangi. I roto i ngā pukapuka mō ngā nohoanga o ngā tūpuna o Tainui he whakaahua o ngā pā o Whareiaia, engari kāore ā rātou whakaahua o Pikirangi, i te mea kāore ngā kaituhituhi i aua pukapuka i te mōhio mō taua pā. Ka hōhā te rangatira nei ki te noho ki tōna pā e kore e taea e te tangata, nā reira i tētahi rangi ka puta ia ki waho ka hoki ki Kāwhia ki te hanga i tētahi pā anō ki reira. Ka patua ia ki roto ki tōna pā ki Rangahua ki Kāwhia. Ka riro mā Te Ikaunahi te mana rangatira, māna hei ārahi i te iwi i Whāingaroa, ā ka puta i a ia ko Ngāti Te Ika.

Ko te kaupapa i whāia ai e Whareiaia ko te koiora tonu: arā kia ora, kia mate hei toa taua kia ora ai tōna iwi.

Koata

Kāwharu

Te Wiwiniorongo = Tuaiwa

Whareiaia

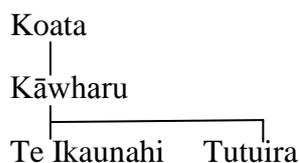
### **Tahinga Tainui**

He nui ngā hononga i waenganui i a Tainui me Ngāti Tahinga e karangatia ai te iwi nei ko Tainui Tahinga i ētahi wā. I ngā wā o mua ko Ngāti Koata (Tainui) i noho ki te taha tonga o te moana o Whāingaroa, ko Ngāti Tahinga ki te taha raki. Ka tau ki te wā i a Riki Korongata o Ngāti Tahinga, ka whakatūria e Ngāti Koata me Ngāti Toa he hakari nui mō Ngāti Tahinga i Kāwhia. Nō muri mai ka karangatia e Korongata ngā hapū o Ngāti Tahinga ki te heri mai he kai ki Waiwhara i te taha raki o Whāingaroa hei whakanui i a Tutuira rāua ko Te Ikaunahi o Ngāti Koata. Ko te ingoa o taua hākari ko Kakaho Kapua i te Waru.<sup>37</sup> Whakamā ana te rangatira o Ngāti Tahinga i te korenga o ētahi o ngā hapū e heri kai mai, ka huri ki a Ngāti Koata, ka kī atu, “Māu te whenua me ōna tāngata katoa”. Ka riro i a Ngāti Koata (Tainui) aua whenua tae atu ki Tauterei, ki Waipohutukawa. Nō muri mai ka noho tahi ngā iwi nei ki runga i ēnei whenua. Ko te nuinga o ngā hapū o Tainui nō Ngāti Tahinga anō, ā he pērā hoki ngā hapū o Ngāti Tahinga, nō Tainui anō. E ai ki a Wetini Mahikai kāore he wehenga i waenganui i a

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<sup>37</sup> Paekau, (JVSMB),12, 25 June 1894, pp.85,88. Giving evidence at the Raglan Rehearing of the Te Akau Block, pp 85-88.

Ngāti Tahinga me Tainui. Ko ngā wehenga whenua kei waenga kē i ngā hapū iti. Engari mō Ngāti Tahinga me Tainui, i noho tahi. <sup>38</sup>



### **Tukutukumarū**

He nui ngā whawhai i waenganui i ngā hapū o Tainui waka, tētahi ki tētahi, i roto i ngā tau. Ko ngā hononga ā whakapapa te take i tino kaha ai tētahi hapū ki te āwhina i tētahi atu i roto i āna raruraru. Ka moea haeretia ngā tamāhine a tētahi ki ngā tamatāne a tētahi, ka puta ko ngā uri, he taharua nō rātou. Koinei i tū kotahi ai a Ngāti Koata ki a Ngāti Toarangatira i roto i āna whawhai. Ko Ngāti Te Wehi ia i huri kē ki te tautoko i a Ngāti Mahuta me Ngāti Mahanga – nā runga anō i ngā moetanga, i ngā here ā whakapapa i roto i ngā whakatupuranga. Kāore mātou mō te whakahuahua haere i ngā kakari ā hapū, ā iwi, i tū ki konei puta atu ana ki Kāwhia moana. Kua nui noa atu te kōrerotia i roto i ngā pukapuka. Heoi anō te kī ahakoa he kaha te tautoko a Ngāti Koata i ōna whanaunga o Ngāti Toa Rangatira, arā anō ōna hononga ki ngā iwi i ōna taha e noho ana. Ā mō ētahi o ōna hapū, o ngā hapū o Tainui o Tainui, he kaha kē atu te whanaungatanga ki tētahi, pērā i a Ngāti Tahinga. Nā reira i te pakarutanga mai o ngā whawhai me Te Rauparaha, ko ētahi i piri kaha ki a ia, ko ētahi kāore. <sup>39</sup> Ka mutu i tōna wehenga ki te tonga, ki Kāpiti, ko ētahi i haere tahi me ia, ko ētahi i noho tonu mai ki konei. I runga anō i te āhua o ōna herenga, ka whakatauria e tēnā hapū, e tēnā hapū tāna huarahi hei whai māna, mā ōna tāngata. Ko ngā mea he tino kaha te piri ki a Ngāti Toa Rangatira i heke ki te tonga. Ko ngā mea he kaha kē atu te piri ki a Ngāti Tahinga me ōna whanaunga i ōna tahataha, i noho tonu mai. Ki tā Wētini Mahikai, ko ētahi o Ngāti Koata i haere, ko ētahi i noho mai, ko Tainui i noho mai. I mea anō ia, ehara a Tainui i te ingoa hapū tawhito, ko Ngāti Koata kē te ingoa tawhito. (Sturmer, S.W Von., 1894) <sup>40</sup> Ki tā Hone Kāora, “Ki taku mōhio, i rite tonu ngā mea i haere ki ngā mea i noho o Ngāti Toa me Ngāti Koata.” Ki tāna anō, “Nō te haerenga o ētahi ki Pōneke, ka mahue iho ētahi, ka huaina ko Ngāti Hikairo me Ngāti Maniapoto. Kotahi rau te toenga iho, nā reira i huaina ai he ingoa mō rātou. Kāore e eke atu ana te ingoa o Ngāti Hikairo me Ngāti Maniapoto ki runga i ngā iwi o Kāwhia i mua o ngā riri ki

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<sup>38</sup> Wētini Mahikai, (JVSMB),12, 19 June 1894, p.42.

<sup>39</sup> Jones, *ibid*, Pg 55

<sup>40</sup> Mahikai, *ibid*, Pp 50-51

reira.”<sup>41</sup> “Ko aua iwi i heke atu rā ki Pōneke e pā ana rātou ki te tonga me te hauāuru o Kāwhia, e pā ana anō ki Whāingaroa me Aotea. Ko Ngāti Whangaparaoa te ingoa iwi e karangatia ana ki Aotea, ko Ngāti Tahinga ki Whāingaroa. Ko Ngāti Te Wehi kei te taha ki roto o Aotea.”

E ai anō ki a Hone Kāora, “Ko ngā patu ki Kāwhia, he riri nā te teina ki te tuakana. He tukutukumarū te tikanga o ēnā patu. Ehara i te raupatu.”<sup>42</sup> “Ki taku whakaaro ko te riri tangata kē te riri kino, he pai te riri whanaunga. Ko te riri tangata kē te riri tango whenua.”<sup>43</sup>

### **Tono Kia Hoki Mai**

I muri mai i te heke o Te Rauparaha mā, arā o Ngāti Toa Rangatira, o Ngāti Koata, o Ngāti Rārua, o Ngāti Raukawa mā, ki te tonga, he nui ngā tāngata i haere ki reira ki te tono ki a rātou kia hoki mai. Kāore pea rātou i pīrangi kia whati atu ētahi o Tainui kei noho waka pakaru noa. Ko tā rātou kē ia kia hokihoki mai ai ērā i heke atu rā i runga anō i te ara whanaunga.

“I te maungārongo a Te Rangituatea, ka mea a Ngāti Maniapoto ki a Te Rauparaha kia ahu mai ki Waipā nei noho ai. Kāore a Te Rauparaha i whakaae, haere ana ki Pōneke. I tae atu anō a Ngāti Maniapoto ki te tiki i a Te Rauparaha kia hoki mai i Kāpiti ki Kāwhia, kāore i hoki mai. I tae atu anō a Kiwi o Ngāti Tahinga ki te tiki anō i a Te Rauparaha. I muri mai ko Ngāti Hikairo ka haere anō ki te tiki, kāore i hoki mai.”<sup>44</sup>

I te tau 1840 ka haere a Pōtatau Te Wherowhero rātou ko Te Heuheu Tūkino, me ētahi atu o ngā rangatira, ki Ōtaki ki te tono ki a Te Whatanui kia hoki mai a Ngāti Raukawa ki tō ratou whenua tūpuna ki Maungatautari. Kāore i whakaaea e Te Whatanui. I waiatatia e ia tāna whākau, ko ētahi o ngā kupu ko ēnei,

“Koia rānei, Raukawa,

Me hoki anō te whenua

Kua warewaretia nei e te Ngākau?” (Jones P. T., 2010)<sup>45</sup>

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<sup>41</sup> Hone Kaora, *MB Kawhia*, Pp 650-651

<sup>42</sup> Kaora, *ibid*, Pg 618

<sup>43</sup> *Ibid*, Pg 651

<sup>44</sup> Kaora, *ibid*, p 651

<sup>45</sup> Jones, *King Potatau*, 2010, p.149

Ko te whanaungatanga te mea nui. He whanaunga katoa rātou, nō te waka kotahi, ehara i te tangata kē.

## TAHINGA

Tuwhakahautaua		MAHUTA	
Karewa	=	Huapiri	MAHANGA
Te Tiki o Rereata	=	Atutahi	TAMAINUPO
		Te Rangapu	WAIRERE
			Whenu
			Te Keteiwi
		KOATA	=
			Ngaere
			Kāwharu

### **Ka Tāmokotia Anō Te Whenua**

Nō muri mai i te whawhai o Huripopo i te puwaha o te awa o Waitetuna ka hūnuku mai a Ngāti Māhanga me Ngāti Hourua ki runga ki tētahi pito o ngā whenua o Ngāti Koata ki Whāingaroa. Ko tētahi wāhanga o Ngāti Koata i heke atu ki te tonga i te taha o Te Rauparaha me Ngāti Toa Rangatira, ko tētahi wāhanga i noho tonu mai i raro i te karangatanga hapū o Tainui <sup>46 47</sup>, ā i runga anō i ō rātou hononga ā whakapapa ki a Ngāti Tahinga, Ngāti Mahanga me Ngāti Hourua. Ka whakaritea mai e ngā rangatira o Tainui me Te Awaitaia o Ngāti Mahanga, ko te awa o Ōpōtoru hei waenganui i a rātou, ko Ngāti Mahanga Hourua ki tētahi taha, ko Tainui ki tētahi taha. <sup>48</sup>

I te hekenga atu o Ngāti Toa Rangatira me Ngāti Koata mā ki runga, kāore a Ngāti Mahuta mā i noho roa ki runga ki ngā whenua i mahue mai nei i muri, ka hoki ki Waikato. Otirā i te taenga mai o te Pākehā ka hokihoki mai anō ki te hokohoko. Ka mutu i te whakaekenga mai o ngā whenua o Waikato e Ngāpuhi i Mātakitaki ka marara

<sup>46</sup> Mahikai, *ibid*, p.51

<sup>47</sup> Kereopa, *ibid*, p.80

<sup>48</sup> Tuaiwa Rickard, kōrero ā waha

te iwi ki ngā tōpito ki te whakaora i a rātou.<sup>49</sup> Nāwai nāwai i te tomotanga mai e te Karauna ki Rangiriri me ētahi atu wāhi ka rere mai anō ko ngā toiora ki tai nei. He āhua nui ngā mea i kāwhaki anō i a rātou kia rere mai ai i te pakanga ki Rangiriri, ka tau ki Whāingaroa, ā ka manaakitia e te iwi. Ko Wētini Rāpana o Ngāti Koata tētahi, i mate ai ōna mātua i Rangiriri.<sup>50</sup> Ko Ngāti Hounuku anō ētahi. He iwi kaha hoki a Tainui o Tainui ki te tautoko i te Kīngitanga me te whawhai kia pupuri tonu ai ki te whenua me te mana Māori. Ko ērā tāngata katoa i rere mai ai i ngā tōpito ka tauawhitia mai, ka manaakitia, ka tāwharautia, ka whāngaia, ā ka uru ki raro anō i te karangatanga iwi o Tainui.<sup>51</sup>

### **He Kōrero Whakakapi - Te Ahí Kā Roa**

He nui ngā nohoanga o ngā mātua tūpuna, ngā pā tawhito, ngā urupā, ngā wāhi tapu, ngā mahinga kai, huri i ngā tahataha o Whāingaroa tau atu ana ki te maunga tapu ki Karioi. Mā ōku rahi anō o Tainui o Tainui ētahi o aua wāhi e kōrero. Ko Tainui o Tainui te ahi kā o tēnei pito o te tai hauāuru, o tēnei moka o te moana e ngunguru nei. Ko Tainui o Tainui te maunga e tū nei a Karioi. Ko Tainui o Tainui te moana o Whāingaroa e hora nei. Ko Tainui o Tainui te whenua e takoto nei. Ehara i ēnei rā noa iho nei engari nō tuawhakarere. Nō mua noa atu i te taenga mai o te Pākehā. Nō mua noa atu i te taenga mai o ngā waka. Nō tuaukiuki whāioio. Nō ngā mātua tūpuna heke iho mai ana ki ngā uri. Kei konei tonu e pupuri tonu ana ki te ahi kā roa o rātou kua mene atu ki te pō.

Kua motuhia te here ki te nuinga o ngā whenua i roto i ngā tau. Nā ngā mahi a te Kāwanatanga e whakatakoto tonu nei i āna ture hei tāmi i a tātou, hei tango i te whenua, i te wai, i te takutai, hei whakakāhore atu hoki i tō mātou kaha ki te kawē tika i te kaitiakitanga o tō mātou rohe, i pērā ai. Kua noho wehe kē te tangatawhenua i ōna whenua, te tangata i ngā papa nekenekehanga o ōna tūpuna, o ōna mātua. Me te aha? Kua marara kē te iwi ki ngā tōpito, he kore nō rātou e kaha ki te noho tonu mai.

Hei whakamutu atu i ēnei kōrero, i ētahi wā ko ēnei tū momo mahi he mea whakawehewehe i ngā hapū, i runga anō i te hāngaitanga ake ki a ia anō, ki tōna ake mana whenua, ā ko tērā anō ki tōna. Kāore e tino aro atu ki ngā hononga, kua kōrero aukati kē. I kī ai a Harry Dansey, “E kore e taea te momotu rawa i ngā kōrero o tētahi wāhi i ngā kōrero o ngā whenua kei ngā taha, te whakawehe rānei i ngā kōrero o te iwi

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<sup>49</sup> Kaora, *ibid*

<sup>50</sup> Tuaiwa Rickard, kōrero ā waha.

<sup>51</sup> Ellison, *ibid*, p. 10

kei reira e noho ana i ō ngā iwi o ētahi atu wāhi, o ētahi atu wā”.<sup>52</sup> E tika ana kei tēnā hapū tōna mana whenua, tōna mana moana, kei tēnā hapū anō tōna. Engari he mea nui te whanaungatanga. Kia kua rā tātou e wareware he whanaunga katoa tātou ā whakapapa nei puta i te moana o Whāingaroa, otirā i ēnei moana e toru o te uru. E kīa ana te kōrero,

“Ko Whāingaroa he moana,

Ko Aotea he whenua,

Ko Kāwhia he tangata”

Tēnā tātou katoa

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<sup>52</sup> H.D.B.Dansey, āna tuhinga whakapapa

## Ngā Tūpuna Me Ngā Hapū O Tāinui

*“He aha te mahi a te rangatira nei a Kākati?*

*”I ōna rā ,he tangata”*

*Kī mai ai tētahi o ō tātou koroua a Momo Rene<sup>53</sup>*

Tainui, acknowledge the korero that revered ancestors like Kākati, were once ordinary people, confronted by the challenges of living at that time. Challenges like finding food, shelter, clothing, friends and allies and negotiating with neighbours occupation and territorial rights to resources in a particular area.

Tūpuna established kāinga, along the coast and on the foothills of Karioi within full view of Ngā Tai a Kupe. As already mentioned, Rakatāura, climbed the maunga, and erected Tūāhupapa<sup>54</sup>. He named the maunga dominating the Aotea and Whāingaroa moana, Karioi, and offered karakia and other placatory rituals to conceal the moana entrances, from Hoturoa and the Tainui waka that was travelling from Te Manuka to explore new lands along the west coast. Having succeeded, Rakatāura proceeded to Kāwhia where he met up with Hoturoa, married Kahukeke (the daughter of Hoturoa), and came back to Karioi to live. On his return, he named the moana, Whāingaroa. Several generations later his mokopuna Kahupeka married Uetapu the mokopuna of Hoturoa thus joining the two lineages.

Kākati, a mokopuna of Uetapu and Kahupeka grew up and occupied the lands between Kāwhia and Whāingaroa but had his main Kāinga at Karioi. He formed lasting alliances with Kurahaupo, by marrying Ururangi, (the mother of Tāwhao) and with Aotea, by marrying Kurawakaimua, (the great-granddaughter of Turi and mother of Tuhianga, the tūpuna of Ngāti Toa).<sup>55</sup>

When his sons grew up, Kākati divided the lands between them with Tuhianga being given the lands to the south and Tāwhao the lands to the north. He taught all the karakia to Uetapu destined to be a tohunga. Uetapu is also the tūpuna of Te Ataiōrongo, who became the taniwha whose domain is from Te Tai Hauauru to Rangitoto ki te Tonga.

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<sup>53</sup> Korero a waha from kaumatua Momo Rene of Ngāti Toa / Ngāti Koata

<sup>54</sup> pp. 29-30

<sup>55</sup> Leslie Kelly, *Tainui*, 1949.

This kōhatu at Te Kōpua is an acknowledgement of his mana and presence here in Whāingaroa. One taniwha is Te Ataiōrongo, the other is Tūheitia. The figure lying below Kupe and between the two taniwha is Powhetengū. Tūheitia is there because he died like Te Ataiōrongo at Te Ākau up the coast.<sup>56</sup>



The whakapapa below shows Te Pātete, a descendant of Te Ataiōrongo. Turi Te Pātete was one of the Ngāti Koata people who went south with Te Rauparaha. He signed te Tiriti of Waitangi at Rangitoto ki te Tonga in the South Island.

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<sup>56</sup> Taonui a Kupe Rickard, Oral and Traditional hearings, 13 April 2010, Poihakena marae, Whāingaroa

		Kākati
		Uetapu
		Ataiōrongo
Toarangatira	Koata	Ka Ihu
Waikauri	= Kāwharu	Tukoro
Wiwiniorongo		Rākaupukupuku
Whareiaia =	Kurakino	Wharemaukoro
Taetea		Namuiti
Kutikuti	=	Te Putu
		Te Pātete

### **Tāwhao**

At the oral and traditional hearing at Poihakena in April 2010, Taonui a Kupe Rickard explained some of the meanings behind the names of important tūpuna like Tāwhao and the events that shaped the relationships beyond Whāingaroa and other hapū and iwi

The Tainui version related above is that Tāwhao, another son of Kākati, lived at Te Whaanga, beside the lagoon on the foothills of Karioi with his wife Pūnuiatekore. After a while Tāwhao expressed his disappointment that she did not conceive, (hence her name the source of nothingness). Pūnuiatekore suspecting her husband might leave her to find another wife, suggested that he marry her younger sister, Marutēhiakina. Therefore, Tāwhao tied his kuru on a raft, recited a karakia, floated it out from Te Whaanga and went up to Tirohanga to watch<sup>57</sup>.

Now, that kōrero tells me that he knew the tides, he knew his moana. If you float the thing out at the right tide and the incoming tide catches it, it will end up across the other side. The kuru floated towards Heahea beach at Hōrea, which is at the moana entrance. Marutēhiakina, with other young women, were at Heahea at the time and saw the kuru floating. Many attempted to retrieve the kuru but Marutēhiakina was the only one strong enough to swim out to get it and she became the second wife of Tāwhao. Right there is where the raruraru begins. So Marutēhiakina I guess when she was pregnant – kai ia te kina – anyway,. they both fell pregnant at the same time and this is where the raruraru really sets in, because the second wife had the first-

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<sup>57</sup> Kelly states the launching was from Te Kaha which is on the Horea side of the harbour.

born, and there is Pūnuiatekore, number two again. That is where this argument between both factions of Tainui starts.<sup>58</sup>

Those from Whāingaroa descend from Pūnuiatekore and Whatihua, while their relatives inland descend from Marutēhiakina and Tūrongo. After the boys were born, the whānau moved to Kāwhia where they grew to adulthood. It is said, that the beginning of Kingitanga was conceived at Te Whaanga, Whāingaroa.

I remember sitting out on the grass here as a kid and Bob Maniapoto stood up and said “no matter where you go, when they ask where you have lived you tell them you lived where the King movement began.”<sup>59</sup>

The brothers spent their childhood living and maintaining relationships between Whāingaroa and Kāwhia. When they reached adulthood their father Tāwhao, to reduce their sibling rivalry after his death, divided his lands between his sons, just as his father had done.

According to Kamanomano Māhu, Ko te rohe a Tāwhao i whakatakotoria:

Tīmata i te Pūaha o Kāwhia, ka rere ki te Pūaha o Te Kauri, (Ki tētahi kōhatu, Ko Uenukutūwhatu. Kei rere tika ki Rangitoto – Ka huri ki te hauraro ki Maungatautari, ka rere ka puta ki te awa o Waikato i runga atu o Kemureti. Ka haere iho i te awa o Waikato, Tokomāpuna. Ka huri ki te Hauāuru ka puta ki te moananui ki Waipōhutukawa. Ka haere i te taha moana ka tae ki te tīmatanga. Ko te whenua i roto i tēnei rohe ia a Whatihua. Ko te whenua, i waho i te taha tonga i a Tūrongo. Ko te whenua tīmata atu i Moeātoa tae atu ki Tongaporutu i a Tuhianga. Tīmata i Waipōhutukawa ahu atu ki Karoroumanui kai te taha tonga o te Pūaha o Waikato i a Tūheitia.<sup>60</sup>

Tūrongo and Whatihua continued to stay together until rivalry over Ruapūtahanga caused them to separate and live apart within their respective rohe.

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<sup>58</sup> Taonui a Kupe Rickard, Oral and Traditional Hearing 13 April 2010 Poihakena Marae

<sup>59</sup> ibid

<sup>60</sup> Kamonomono Māhu, Moerangi Minute Book, (MMB), p.65.

Ka whānau ngā tamariki a Whatihua, ka pakeke ka noho ki te takutai moana me te tuawhenua. Ki taku rongō ko te whenua i a Kākati ko Karioi, i reira tōna tūāhu. I te wā i a Kākati kāore he rohe, ko tōna kāinga noho ko Karioi<sup>61</sup>.

Tuhianga (tohunga tā moko) who occupied the lands to the south is the tūpuna of Toa Rangatira and Te Rauparaha.

One of the things about Te Rauparaha, for a five foot nothing man, he changed the landscape big time. He caused raruraru everywhere, in Te Arawa, Mokoia. The demolition on Mokoia was the result of this man. Ka mate ka mate was part of that ongoing process, he was a little man with a big ego, and he practised it. Before he went south he bashed everyone in Whāingaroa and there was a running battle at Huripopo right through to Kāwhia. They wanted to get rid of him once and for all. So therein lies the kōrero. Ngāti Koata who were related to him, went with him. Those ones related to that side of the moana, (Te Ākau and Hōrea), the tribes here stayed amongst these people. It is important to mention him because he changed the landscape big time. Not just here. Around Kapiti, Poneke, the top end of the South Island. ... he had a huge influence on the way the tribal make-up is now<sup>62</sup>

Dividing whenua and associated responsibilities between children was a pattern that was repeated many times in the ensuing years, by tūpuna such as Pākaue, Kāwharu and others. Marrying children off to other tribes built strong alliances across the country. For example Uetapu, (who descends from Hoturoa) marries Kahupeka who descends from Rakataura joining the two rival factions together. Kākati marries two women and forms alliances with both Kurahaupo and Aotea waka.

The relationship between several coastal hapu is demonstrated in the whakapapa chart below.

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<sup>61</sup> Ibid 66

<sup>62</sup> ibid

Kākati=Ururangi

Tāwhao= Punuiatekore..

Whatihua= Ruaputahanga

Rangitairi = Uenukutuwhatu Uenukuterangihoka (Ue)

Huiao = Tewharemapou

Kinohaku = Tuirirangi = Maromuka

Te Ariari = Hinearō Te Tikiorereata=Atutahi

TeTaurukingaoko = Rangiapoa

Pākaue=Koata Takiri Puorooro

Kāwharu Motemote

According to Pouwharetapu (Manihera Kewene) at the Moerangi hearing, “Tainui and N’Koata owned the land to the north of Tuirirangi’s boundary. They are descendants of Tuirirangi, but that part was cut off for them.”<sup>63</sup>

### **Ngāti Koata**

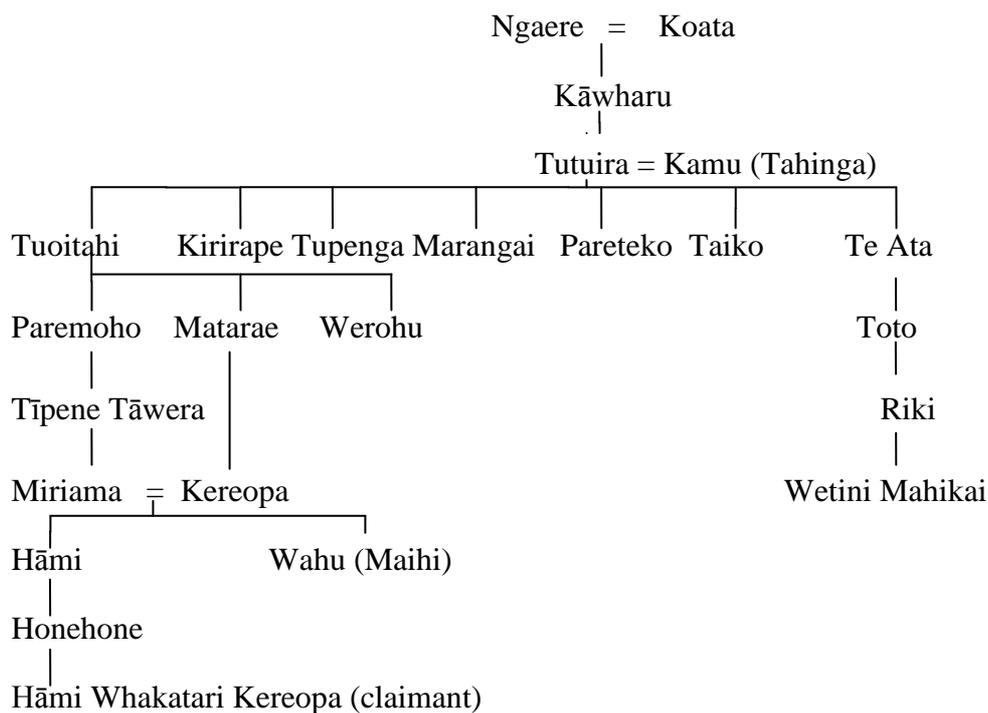
Ngāti Koata is the largest of the hapū of Tainui. Their whakapapa is linked to other coastal hapū, namely Ngati Toarangatira, Ngati Tuirirangi, Ngāti Tutuira, Ngāti Te Ikaunahi, Ngāti Hounuku, Ngāti Tahinga and Ngāti Tamainupō through Kāwharu and Te Wehi, sons of Koata, and her two husbands, Ngaere (the father of Kāwharu) and Pakaue (the father of Te Wehi). Pakaue and Koata raised the brothers in Aotea. As happened previously, on reaching adulthood, both sons chose different paths. Tainui of Whaingaroa trace their ancestry through Kawharu.

Stories abound about the exploits and strength of Kāwharu in battle, a reputation that saw him sought after as a fighting chief by hapū and iwi as far away as Kaipara where he died, fighting. He was also sought after as a husband and progenitor of future descendants by rangatira like Toarangatira, who gifted his daughters in marriage, creating lasting alliances between Ngati Koata and Ngati Toa.

The whakapapa chart below begins with Koata, and traces connections through Tutuira to Ngāti Tahinga, Hounuku and to other hapu and iwi that reside in and around Whāingaroa<sup>64</sup>.

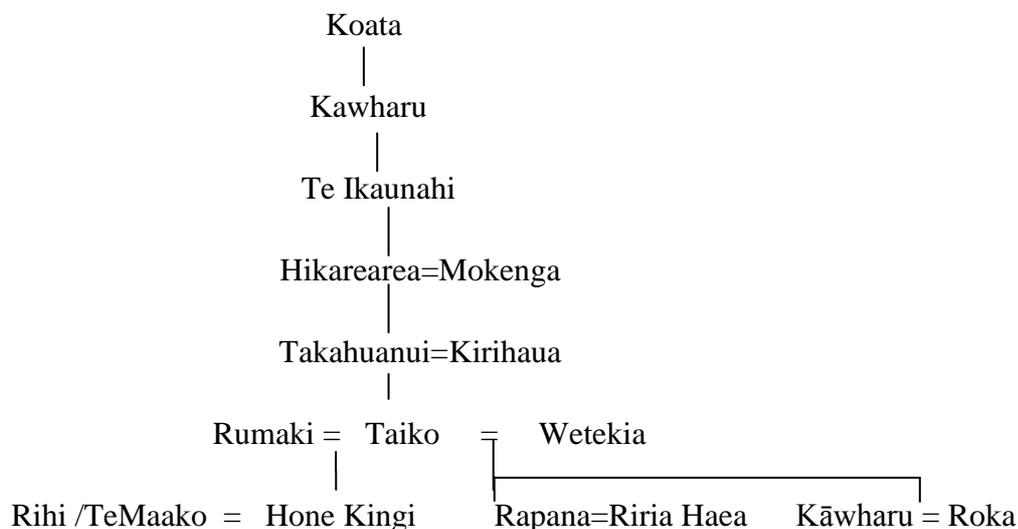
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<sup>63</sup> Mercer Minute Book (MMB).12. 6 October 1909, p.59.

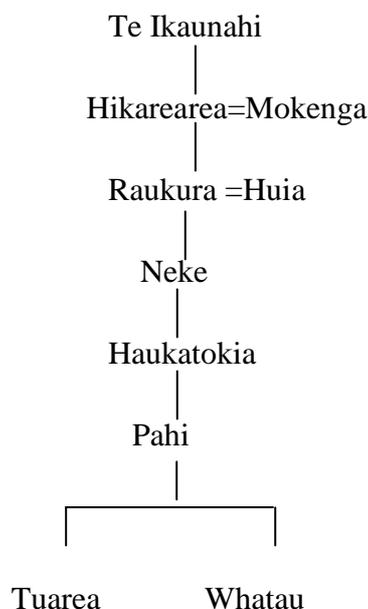


### Ngāti Te Ika/ Ngati te Ikaunahi

Ngāti Te Ika, takes its name from Te Ikaunahi, one of the sons of Kāwharu and Waikauri, a daughter of Toarangatira. He originally came from Kāwhia to Whāingaroa to catch fish, found he was good at it and stayed. He developed a reputation for being more than capable of defending himself especially if attacked in water. He could also be relied upon to manaaki people. He married Kuratauri and their descendants still occupy Ngāti Koata and Te Ikaunahi lands at Rākaunui, Te Kōpua, Te Ākau and Te Whaanga. (See whakapapa chart below).



<sup>64</sup> Ibid



### **Ngāti Pukoro**

Ngāti Pukoro is one of the hapū who occupied the area from Ōpūkeko to Mokoroa in the inner harbour. The most memorable event involving Ngāti Pūkoro was the gifting, by Riki Korongata, to Tutuira and Te Ikaunahi, the people and their whenua because they had failed to adequately manaaki manuhiri from Kāwhia who had hosted them well and had been invited to come to Whāingaroa for a return feast.

Aihe Mokomoko recalled the event

The feast is the only incident that we all know of when the lands were given and the people. Don't know which lands were given, but the hapū given were Ngāti Hāwea, Ngāti Rangi, Ngāti Tira, those are all I know. Ngāti Tira was of Ngāti Pūkoro. I did not hear that Ngāti Pūkoro was given away. Riki Korongata was a descendant of Tahinga<sup>65</sup>. ..Horomona did not object to Ngāti Koata getting the land as “they get their rights as descendants of Te Rākaupukupuku”.<sup>66</sup>

Both Aihe and Horomona are of Ngāti Pukoro descent. Hikarearea Hone Kingi commented below on the same matter:

I will explain the feast. Ngāti Pūkoro and other hapū went to Kāwhia to a feast there. Then they came back and Riki directed them to prepare a return feast. So food was

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<sup>65</sup> Mercer MB, 11, p.33

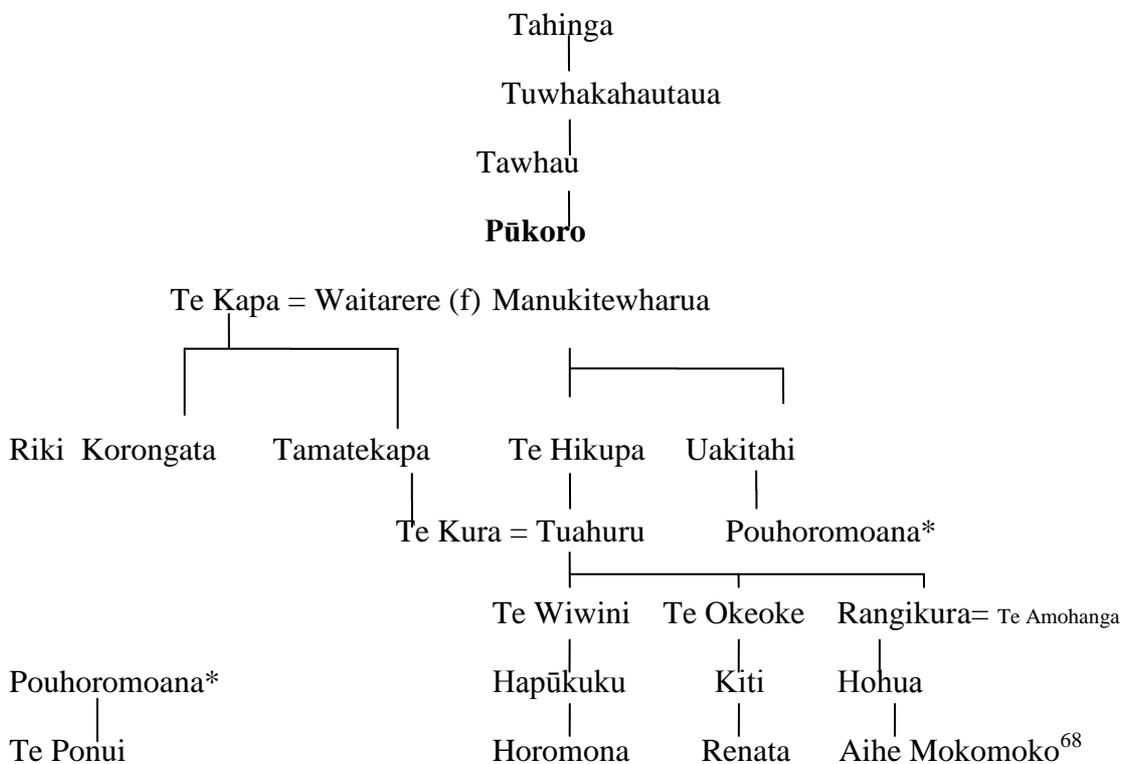
<sup>66</sup> Ibid, pp.42-49 .

prepared at Waiwhara and piled on the ground. Sections were set off to be filled with food. The hapū who failed to supply their proper quota were Ngāti Pūkoro, Ngāti Tāhau, Ngāti Kahumangemange, Ngāti Rangi and Ngāti Hāwea...Riki saw that they had failed so he gave them and their lands to Tutuira and Te Ikaunahi. So they lost their mana. The lands given were Waiwhara. This was the papa of the feast and Mokoroa, Waikōmako, Te Kawakawa, Hōrea, right down to Tauterei, including Motukōkako<sup>67</sup>.

In the years that followed the death of Riki Korongata different interpretations about the feast surfaced. Hone Kingi spoke first about the boundaries and then about the feast. He stated that:

Pariārara east to Kahuhuru thence south to Tawatahi, along the beach to the mouth of the moana and along the seacoast to Pariārara...The lands of Ngāti Hāwea were at Te Karaka and Kahuhuru. Waiwhara, Mokoroa, Motukōkako, Pātikirau, Te Tokatoka, Te Kōtuku, Waikōmako, Te Kawakawa were all Ngāti Pūkoro lands given. Ngāti Tāhau was really the one hapū with Ngāti Pūkoro. They have always lived together.

Some of the key tūpuna who are descendants of Pūkoro are included below.



<sup>67</sup> Ibid,p.78.

<sup>68</sup> Aihe Mokomoko, Mercer MB (MMB) 11, 1906 .p.21 Te Akau D case. Also Hapukuku Horomona p.42.



could not read. King's commentary follows in chapter 4. Her daughter Waiapu Haru who was a child when the eviction took place supports her mothers comments.

### **Ngāti Tahinga, Te Paetoka**<sup>70</sup>

Pei Te Hurinui Jones wrote extensively about Tainui rangatira, their waka, hapū and iwi. He identified key tūpuna, and traced the interconnected networks of whakapapa of their offspring within and beyond Te Tai Hauāuru and Te Rohe Pōtae. Te Aoterangi Wirihana of Ngāti Tahinga was another rangatira who narrated stories about the settling of Te Tai Hauāuru from Kupe through to the Tainui waka.

Wetini Mahikai, at a re hearing of the Te Akau block in 1894 explained the relationships between Tainui and Ngati Tahinga.

N'Tahinga and Tainui are one people, older and younger brothers – both these two hapū had mana over their common land. There is no division among them. The chieftainship of those “lesser hapūs” from Waikato to Horea...the subdivisions were between the smaller hapū's – The ancestor came from a common source.<sup>71</sup>

In 1894 in the Native Land Court, Te Wetini Mahikai and Wahu (alias Maihi) Kereopa both identified, Ngāti Koata, Te Paetoka, Ngāti Te Karu, Ngāti Te Ikaunahi, Ngāti Hounuku, Ngāti Heke, Ngāti Kahu, Ngāti Tāhau, Ngāti Pūkoro, Ngāti Rua Aruhe, Ngāti Te Kore, and Ngāti Tira, as hapū of Tainui with shared whakapapa and whenua between Whāingaroa and Te Pūaha o Waikato.<sup>72</sup>

In 1908, Wahu Kereopa explained to the Native Land Court his understanding of Tainui identity.

Ngāti Tutuira are pure Tainui, also Ngāti Koata, Ngāti Karu, and Te Paetoka. Those are the pure Tainui. I cannot explain how this is so - it was a new name given in Te Rauparaha's time. These four hapū were those called so. If I, or my father, go to visit the King, we are spoken of as Tainui. Kiwi Huatai was Tainui on one side. He was called Tainui though he came from Tahinga. Waikato came to live under Kiwi Huatai [Huatahi] because his Grandmother was Wera of Tainui<sup>73</sup>.

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<sup>70</sup> Haami Kereopa, 1908.

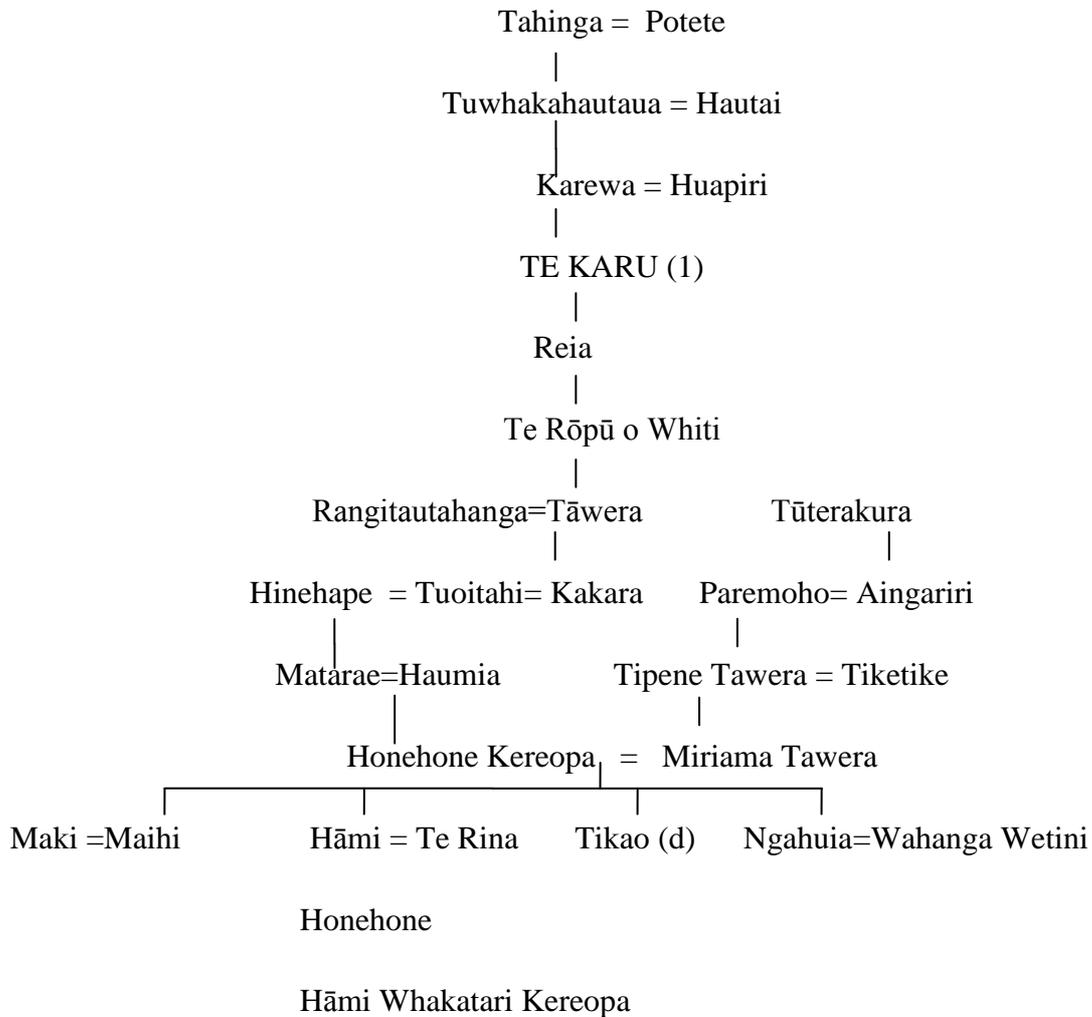
<sup>71</sup> WMMB,1219 June 1894, p.42

<sup>72</sup> *Ibid*, p.43 and 75.

<sup>73</sup> Wahu Kereopa explaining boundaries ,WMMB,12,25 June 1894, 80.

On the 7<sup>th</sup> May 1887, Mita Karaka stated, ‘Tainui was the name of one of the canoes from Hawaiiiki and was adopted by our tribe’<sup>74</sup>.

The next whakapapa chart illustrates the Ngati Tahinga, Ngāti Hounuku and Tainui connection to the original claimant, Hāmi Whakatari Kereopa. The whakapapa is common to all of those descending from Hounuku with links to Tahinga.



As mentioned earlier, this report merely introduces Tainui and does not purport to present all known whakapapa of all whanau.

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<sup>74</sup> Mita Karaka Manuaitu-Aotea case, (OMB) 1887, p 291.

Tahinga = Potete

Tuwhakahautaua = Hautai

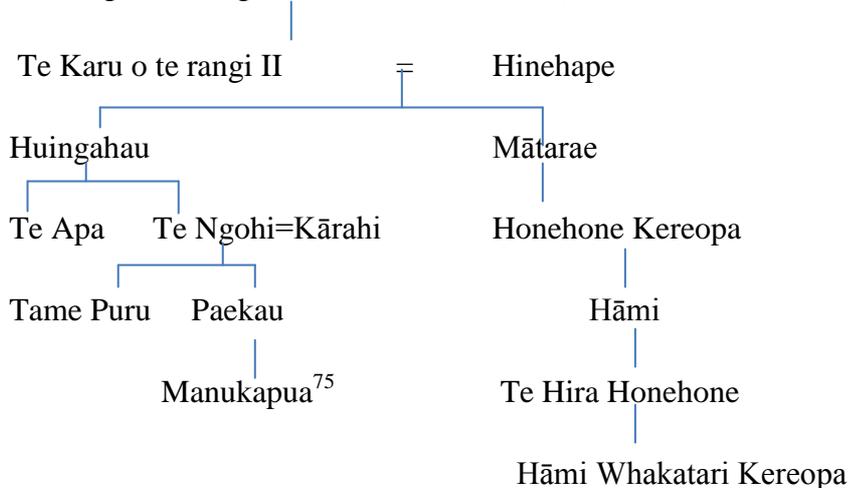
Karewa = Huapiri

Te Karu (1)

Reia

Te Ropu o whiti

Te Rangitautahanga = RANGITĀTUA(2w)



The descendants of Rangitātua are Te Paetoka, who together with Ngāti te Karu have interests in lands at Horea, Uruika, Tauterei, Pāponga, Te Rimu and Pātikirau.

Te Paetoka takes its name from an incident involving Huingahau who was killed in a battle in Taranaki. It is said that his severed head was found in a cave being tossed around on rocks by the waves.

### **Ngāti Tāhau**

Ngati Tahau is in the Te Ākau D case in 1908. At the hearing, Horomona said, “Manahi te Papaki should have Tauterei because it was the land of Ngāti Tāhau and he was the sole survivor of the hapū”. Many of the hapū who were survivors of war were absorbed into Tainui and lived on Tainui lands. Manahi lived at both Te Kōpua and Rākaunui. Horomona set out the boundaries but others acknowledged different boundaries.

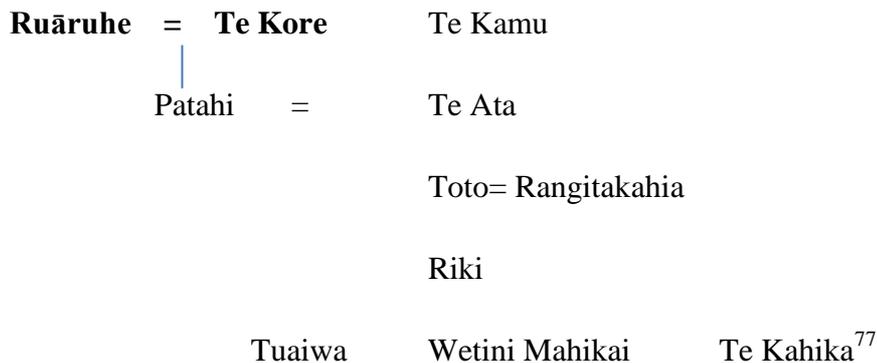
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<sup>75</sup> JVSMB, p.83.

The boundary between Ngāti Tahau and Ngāti Pukoro is from ŌPūkeko to Kōtare, Maramatikitiki easterly along the government road above Kawakawa along the ridge Tuhamahama. Then to Tauterei Stream, the E side belonged to Tahau alone and the Western side belonged to Ngāti Pūkoro alone<sup>76</sup>.

### Ngāti Tira/Rua Aruhe

#### Tira (f)



As is depicted in the chart above Tira, Ruaruhe and Te Kore are related through marriage.

### Ngāti Te Kore and Ngati Heke

These hapū migrated to Kāwhia following several battles in Whāingaroa and some headed south with Te Rauparaha. Taiawa (Ngati te Kore), the tūpuna of Honana and Wetini Mahikai came back to Whāingaroa with some of the Ngāti Koata who did not join the migration south.<sup>78</sup> Verna Tuteao has a claim in as a descendant of Wetini Mahikai, and has provided a submission on behalf of her Tūpuna Wetini Mahikai acknowledging his Ngati Te Kore lineage.

### Skirmishes and Battles

One of the events that changed hapu dynamics and composition were the whanau and hapu disagreements. While there were often skirmishes in Whāingaroa, where mana was slighted, these were resolved quickly without numerous casualties. Some rangatira and hapū participated in whānau and hapū skirmishes to acquire territory or women, assist relatives, assert mana, or avenge wrongs.

Those hapū that lived within the mountainous coastal forest of Karioi, were relatively unaffected by such battles and only became involved when called upon by whanaunga to

<sup>76</sup> ibid 51

<sup>77</sup> Mercer MB 11, pp.190-8 and Horomona, p.1

<sup>78</sup> Waikato Maniapoto MB 12 , 1894 , Rehearing into Te Akau Block.

assist. The topography of Karioi and the surrounding terrain made it an ideal space for the descendants of Hounuku, Te Rākaupukupuku and Te Ikaunahi to observe battles and plan strategies to defend their territory in the unlikely event that war reached them.

There was an instance related by Maihi Kereopa about a 'parekura' that took place around 1815, when Hounuku did become involved at the request of a Ngāti Koata rangatira, Marangai, in the defence of Paraiti and Kirikiripū pa from an attack by Ngāti Haua.

The first parekura was that of Te Ikamango of Ngāti Haua. He came 800 strong and attacked Te Paraiti Pā. Hounuku went from their pā to assist Marangai. Te Ikamango was defeated<sup>79</sup>

Hounuku returned home to Iwitahi, only to find some time later that one of those defeated had killed someone else, resulting in retribution by Waikato upon Ngāti Koata. It is during this period that some of Ngāti Koata moved to Kāwhia and later accompanied Te Rauparaha in his migration south to te Tau Ihu. Others continued to occupy Te Ākau, Te Kōpua, Te Whaanga and Rākaunui. Another instance of a parekura involved Pūhanga, a woman of Te Kanganui who had a row with another wife about the first fish caught for the season.

Pūhanga got the sulks, and went to complain to Whareiaia who sent her to Te Hope to help fix her hara. That failed so Whareiaia sent Wharemaukoro who was killed by Kaiapa. Whareiaia then joins the fray and leaves his taua to kill Kaiapa while he travels across Kāwhia moana to make peace with Kaiapa's father. There is a promise made between Ngāti Rārua and Ngāti Koata never to fight each other again<sup>80</sup>.

Another version of the story relayed by Maihi Kereopa stated that Puhānga was upset about the fish and went off with Te Hope of Te Ikaunahi and Te Rākaupukupuku. Hounuku and Te Kanganui, then took revenge by killing a lot of people at Tikomanu, Te Hutewai. Te Hope's hapū then retaliated. They went to Manuaitu. The people in the pā, who then treacherously killed two of the other side, made peace. So the ope then attacked the pā and Kaiapa was defeated. Tuwhakahiwa escaped and made an attack on Waikato, killing Wiri. The way it was done was to bring Waikato here to attack Hounuku and others.<sup>81</sup>

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<sup>79</sup> Maihi Kereopa, Mercer Minute Book, (MMB) 4,1896. p.72.

<sup>80</sup> James Rickard, personal communication.

<sup>81</sup> ibid (MMB),4, 1896, p.73.

Before Rauparaha left Kawhia about 1817, he attacked N Mahanga at Whāingaroa on Te Ākau. So N Mahanga had conquered N Koata before that. My father Wetini Mahikai told me about Rauparahas attack. N Mahanga were beaten by Rauparaha but Wetini was spared as he was nearly related to the victors. That was just before Rauparaha finally left Kawhia for the south. The permanent home of N Mahanga was at Kaniwhaniwha that is those that did not fight at Huripopo.<sup>82</sup>

It is interesting to note that the battle of Huripopo was fought at Waitetuna and Te Ākau not at Whāingaroa. The only land Ngati Koata and Tuirirangi lost through conquest was the land between Kaikai and the Waitetuna River. Hamuhamu Te Puke stated that

In former times Ngati Tuirirangi and Ngati Koata owned the land north of Kaikai and the bridge over the Waitetuna River. It was conquered from them by Ngati Mahanga, Ngati Kahuone, Ngāti Matarau, Ngati Uakau. The government...sold part of the land. I altogether deny that Mahanga laid down any boundary there. The land there belonged to descendants of Tuirirangi.<sup>83</sup>

Many accounts of battles where Ngati Koata were said to be conquered at Whāingaroa actually occurred on the east of the Raglan township. Whāingaroa at that time was the whole area from the moana as far as Aramiro and Waitetuna. There were no bridges across to the Tainui settlements on the southern shores as the river and moana acted as a natural boundary. According to Tainui korero, Tainui never lost land through conquest, as is evident from their continued occupation as ahikāroa of lands at Te Whaanga, Te Akau, Rakaunui and Te Kopua.

Settling scores was an expected part of life within the Māori world, because maintaining mana and tapu was important to them. Retaliation for insults or imagined wrongs was expected and once done, peace was negotiated and life returned to normal.

### **Musket Wars**

The acquisition of muskets by mainly Ngā Puhi changed the balance of power in the Māori world and wreaked havoc on hapū and iwi as far south as Ngāti Porou. While Tainui rangatira participated in these battles, details from those who survived are, however, sparse. There are stories, which state that because of his friendship and whanaungatanga with Te Rauparaha, through intermarriage between some of their uri, that Hongi Hika warned Te

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<sup>82</sup> Remana Nutana, Mercer Minute Book (MMB) 12. 2 November 1909 .p.198

<sup>83</sup> MMB 12, 12 Nov 1909, p.268

Rauparaha of his impending raids on Waikato and other areas and suggested he send some of his people north to ensure their safety.

In 1822, when the taua arrived at Mātakitaki, Waikato and their allies including Ngāti Koata were ill prepared to counter the attack. Hone Kingi, Rāpana, Taiko and Tai Rākena of Tainui survived to tell the tale. Once Te Rauparaha and other rangatira had formalised relationships with Pākehā and acquired muskets, the balance of power was restored and opportunities for peace could once again be contemplated.

During this time Europeans had not yet migrated to Whāingaroa and Tainui being west of the mountain range, were relatively unaffected by the musket wars, although some rangatira did go to Mātakitaki to assist their relatives there.

As mentioned earlier, settling scores was an expected part of life within the Māori world yet so was making peace with each other. Restoring peace often resulted in alliances through marriage or gifts of lands and other taonga. The interests and relationships between hapū changed because of these new arrangements.

### **Changing demographics – land and people**

Riki Korongata as mentioned previously, peevd at the lack of appropriate manaakitanga shown to his guests, Tutuira and his brother Te Ikaunahi, gifted the people and their lands on the southern end of the Te Ākau block to Ngāti Koata. While the hapū concerned ended up with diminished mana, their ancestral ties to Tahinga were still recognised and could not be severed. They continued to live as whānau and hapū on the lands of their ancestors even after the gifting, as a hapu of Tainui.

Other changes to hapū occurred because of aroha. For example, Hounuku, generously gifted lands on Karioi maunga and at Te Kōpua to landless whanaunga and refugees escaping the Waikato raupatu. He also adopted children. When children were orphaned or their parents' circumstances changed, or a couple were childless, arrangements were often made to whāngai. These children were brought up as whānau and often were unaware until adulthood that they had another whānau in the same town.

I was 18 months when I was whāngai'd[sic] by Jack Tāwera Hounuku who was also known as Kuku Tāwera Hounuku his wife was Puakerarangi-o- Hineaunui Tai Rākena ... I knew these two as my mum and dad until I became a teenager I was told

that I was a Gray wow!!! I couldn't believe it but hey, we were one whānau anyway<sup>84</sup>.

While whānau were important at the local level, hapū were “the most significant political unit in pre-European society.”<sup>85</sup> It was the rangatira of hapū who signed te Tiriti o Waitangi. Tainui comprised a number of family groups sharing common ancestry, who lived and worked together to ensure their survival within a defined territory until some events beyond their control changed hapū dynamics and identities. For instance, war, foreign diseases brought here by Europeans or environmental catastrophes all caused population decline, which forced smaller hapū to join related hapū for survival. At other times, a hapū could outgrow its resources and would have to leave the main hapū and begin anew in another area.

Ngāti Koata did exactly that. Following the battles and skirmishes and the departure of some of their whanaunga to Kāwhia, Ngāti Koata descendants who had remained due to intermarriage with Hounuku, Tahinga and Māhanga, gathered the remnants of other related hapū, from that moment on adopted the name Tainui, and remained in Whāingaroa.

Their links with their Ngāti Koata and Ngāti Toa whanaunga who travelled south have not been severed as their shared whakapapa binds them to the ancestral lands of their tūpuna, despite their absence from their former home.

This chapter explained the origins of Tainui, their relationships with their whenua and with each other. It also identified some of the natural boundaries that were agreed upon by our tūpuna and attempts to give an insight into the events that helped define and shape the people of Tainui.

Tainui are a people who have challenged the law and have been identified by their willingness to fight for what is right. They have always questioned boundaries, preferring instead to acknowledge enduring relationships that were established centuries ago between whānau and hapū, through Tūpuna, marriages, gifts, and negotiations especially within te Tai Hauauru.

Whāingaroa te moana,

Aotea he whenua,

Kāwhia he tangata

Ko te tumu hoki a te iwi e, he aroharoha nei ahau.

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<sup>84</sup> Raiha Gray, personal communication, 2012

<sup>85</sup> Rawiri Taonui, 'Tribal Organisation' in *Māori Peoples of New Zealand Ngā iwi o Aotearoa, Te Ara*, Wellington 2006.

## 2 CHAPTER TWO: NGA TAONGA TUKU IHO

Ko Karioi te Maunga

Whāingaroa te moana

Tainui Awhiro ngunguru i te po, ngunguru i te ao.

### **Introduction**

This chapter describes the ancestral relationship and cultural landscape occupied, and managed by Tainui prior to the arrival of missionaries. During this period, Tainui exercised absolute authority over our whenua, moana, ngahere and other taonga. Comments from kaumatua interspersed throughout the chapter demonstrate the continuity in the traditional knowledge and values handed down.

In order to survive within their environment, whānau and hapū established practices based on tikanga, to maintain resources both tangible and intangible. Those practices, manaakitanga and kaitiakitanga, conserved taonga and ensured a balance was maintained between humans and others who shared the environment. Māori cosmology governed daily life.

The coastal environment, tides and waves ruled the rhythms and determined many of the activities undertaken such as fishing, travelling by waka to visit whanaunga.

It was an environment that sustained whānau physically and spiritually, influenced their thoughts and emotions and provided them with a foundation for their culture to evolve. Each hapu, though related, maintained their own autonomy, caring for those taonga within agreed jurisdictions.

Practices learned from the wisdom of elders and the experience of living with the environment laid the foundation for practices and tikanga which ensured the survival of the species within the environment. It also ensured that it became an environmental ethic that ensured respect and non exploitation of everything in the environment.

Tainui Tūpuna, named significant parts of landscape as they journeyed down the coast and overland. Waterways, bays, hills, valleys, springs, rocks, and places where events occurred, created opportunities for the characteristics of a place to be remembered in stories to be handed down to successive generations.

Waikeri for example, contained a warning about the surging waves that could quickly transport an unsuspecting person away on a receding tide. Within names and stories were lessons for living with the environment. For example, the place with big waves is Ngarunui and a breeding place for sandflies is called Wainamu.

### **A Tainui Worldview**

It is generally agreed that Māori viewed the world and the universe as an interconnected and interdependent whole. The belief that the land owns you reflects the notion that land and people are inseparable and that there cannot be ownership of it but rather it is seen as the link between Papatuanuku, past and present generations.

Ownership of land is a pākeha concept, which is in stark contrast to the Tainui view of land ownership. Land is our tūpuna therefore cannot be owned per se, a concept that is foreign to pākeha and still not understood or accepted by local councils or the government.

In the past there were no lines or boundaries drawn across landscapes. Rather the maunga, awa, moana and other dominant features were reference points and boundary markers for neighbouring whanau and hapu. From the mountain to the horizon is a kōrero that has been heard as hapū and iwi try to sustain the mauri of the environment, maintain their mana whenua and practice kaitiakitanga in the face of threatened exploitation of remaining resources.

Like many indigenous societies, Tainui lived where resources to sustain life were plentiful, and easily obtained using traditional practices based on respect and reciprocity, tapu and noa. Whāingaroa moana is sheltered from the south by Karioi maunga, surrounded by rolling coastal lands adjacent to bountiful supplies of fresh water, fish nurseries, sandy beaches, rocky shores and safe anchorage; an ideal area for settlement.

Each whānau and hapū had obligations to look after their immediate environment, to uphold customs and traditions and to protect taonga inherited from ancestors for the survival of their descendants. Taonga such as rivers, mussel reefs, pipi beds, taunga ika, the moana, and whenua contained ancestral and cultural spaces that gave mana and identity to the people, and were jealously guarded.

Wāhi tapu were and remain an important part of the landscape to be looked after and to be treated with respect. One site known and respected by many Tainui is Te Rua o Te Ata, the domain of the local taniwha, Te Ātaiorongo.

Chapter 1 traversed the story of Te Ātaiorongo, the spiritual guardian of Tainui. While, media mock the spiritual beliefs of Tainui in relation to their taniwha, Te Ātaiorongo is known to appear in times of need or when the balance between the people, atua and marine environment is threatened. The following anecdotes record the experiences of some Tainui people.

One day I'll show you where that stone is, we respected it... that's where Te Rua o te Ata is. That was the red fish; they believed he was the one that looked after New Zealand. That was that taniwha... the old people, ..they knew exactly what was happening, they used to look down and see the water rippling, it was right out; with the water only up to your ankles, we were just playing around. Then next minute, the old people would yell out "*come out of there*". When they'd say that, we moved. So we'd all run back and go up and sit up on the side there by the cemetery and watch<sup>86</sup>.

A similar story was recounted by another kuia crossing the Pokohue creek.

..we were going to cross the creek at low tide with Mum. We saw this huge wave coming up...we were really excited.. We were getting ready to dive into it, but Mum told us to get behind her. She put her hands out to protect us and she started to karakia. Her nose started to bleed, one minute the creek was empty the next we were surrounded by water. Then the wave passed. Lots of fish came up with it. We respected him<sup>87</sup>

Another kuia had a similar experience in the same place.

Certain times of the year that they came down with sugar bags and their kete to catch the inanga, and butterfish. They came by the hundreds. Weti would karanga and you'd see him coming up the river. I remember seeing the ripples coming up as the tide came in<sup>88</sup>.

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<sup>86</sup> Raukura Waretini, Interview, 19 April, 2012. Whāingaroa.

<sup>87</sup> Hinemoa Laird, personal comment, 2004.

<sup>88</sup> Tanuwehe Tukiri, Interview, 18 March 2009.

Te Ataiōrongo did not just bring food for his descendants; he was also called upon to offer protection. One of the seven men who returned from the Second World War made this comment about Whatau Haukatokia, one of the Tainui tohunga.

Before we went to war, old Whatau called all the boys down to the river to karakia to the old fulla to protect us. A couple of Pakeha boys going over came down with us. He told the old fulla to bring us all back and that he would give his life when we returned home. We all came back and within a few months old Whatau died.<sup>89</sup>

Encounters that are more recent occurred in the late 1980's.

Pare and them used to come out in the weekends, and bring kai. We went floundering; hunting for an hour caught nothing. Stopped to have a smoke down by the urupa – cross from the wairushes.<sup>90</sup> Uncle had the lamp, Pare had the bucket. It was January. Felt all these things hitting our legs, and it was whitebait.... It was a nice quiet night. 1 o'clock in the morning. The whole moana was changing up the estuary. Rustling in the trees, and then the wind. The waves in the sea were rolling. You could see the foam of the waves. That's when we felt the whitebait. Filled up the 20-litre paint tin, with Aunty Pare's singlet. .. Aunty Eva came down, saw the fish in the fridge, and said 'oh no he's back'. Then she relayed the story to us about how Te Ataiōrongo brought kai back to the women during the war<sup>91</sup>.

His descendants have revered Te Ataiōrongo since his death, centuries ago. Despite vigorous objection from the Māori community, the local council made a decision to use Te Rua o te Ata to construct their sewage plant, thus desecrating the home of Te Ātaiorongo. When his domain was about to be desecrated for the towns sewage ponds, kaumatua went down to apologise and appease him<sup>92</sup>. When the pipe went in, several boat accidents and drownings occurred off the west coast. The idea that a taniwha could be involved was ridiculed through the media<sup>93</sup>. Following another wastewater hearing in 2004, he appeared to a group of people including Pakeha as a large log

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<sup>89</sup> Hami Kereopa, korero a waha, 1990.

<sup>90</sup> A meeting place beside the Pokohue river on the Rakaunui block, where the Kaa whanau are ahi kā.

<sup>91</sup> Rangimonehu & Piripi Kereopa, interview 16 April 2012, Whāingaroa.

<sup>92</sup> Kuru Riki visited te rua o te Ata to apologise for what was about to occur.

<sup>93</sup> Waikato Times, January 1978.





**Figure 3: Horea**

Pikirangi, Kirikiripū, Te Paraiti, Te Pae Akaroa, Rangipū, Horongārara, Otakahi, Tarapātiki, and Iwitahi are other pā, each with their own characters and histories.

Some of the kāinga that existed before raupatu on the northern shores of Whāingaroa were: Huriwaka, Te Papa Te Aute, Uruika, Kumukumu (Te Kaha), Te Kawe, Te Tiki, Puketūtū, Waikere, Tokihonihoni, Te Maro o te Ata, Te Koutu, Marotaka, Pungataka, Te Pīpipi, Te Karaka, Pātikirau, Hōrea, Waipara, Rarauhi, Waiwhara, Puketoa, Mokoroa, Paihere and Tauterei.<sup>94</sup>

Te Whaanga, Tauranga, Tuhikaramea, Manu Bay, Iwitahi, Te Pae Akaroa, Te Ūpoko, , Rākaunui, Te Kōpua, are kāinga on the south side of the moana where most of Tainui live.

The numerous and extensive burial grounds around Whāingaroa moana, are typical of coastal places that have been heavily populated by Tūpuna over centuries. There are over twenty main burial places within the Tainui rohe containing ancestral remains, many of them disturbed, desecrated and ransacked by trainee archaeologists, farmers and others who quickly established collections of taonga for private and public display and sale.

Such actions highlight an ignorance of customary practices and lack of respect. Furthermore, such activities have led to the creation of theories about when Māori

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<sup>94</sup> Wirihana Te Aoterangi. WM MB 12, 1894, p.144.

arrived and whether in fact the remains collected were indeed Māori. The theft of taonga and grave digging continues. It is for this reason that the urupa are not identified on maps in this report.

An example of the extent of Tainui occupation of Te Akau and Whāingaroa, and the coastal space north and south of the moana entrance is indicated in Map 4 above.

Several sites, such as Iwitahi, Tuhikaramea and Tauranga, which have been in hapu control since Rakataura named Whāingaroa, are not recorded on archaeological maps. It is in these areas where access is negotiated and taonga handed down from Tūpuna can still be seen. Karaka, miro, kiekie and cabbage tree groves, middens, rua pits and Kāinga are still evident on the landscape.

### **2.1.1 Ngahere**

Each hapū exercised mana within its own area, and had unimpeded access from the mountain to the sea. Cultivation areas were shared.

The heavily forested slopes of Karioi maunga provided everything needed to survive. Kauri, puriri, tawa, rimu, tanekaha, nikau, ponga, and totara provided timber for building material used for housing, fencing, waka and weaponry.

When a house or waka was contemplated, a visit to the domain of Tane Mahuta took place to ask for a suitable tree. Rituals such as karakia took place from the beginning of the process of entering the forest, to the disposal of chips after the log was felled..

Kiekie, pingao, and harakeke provided weaving material to adorn meeting houses, create korowai, clothing and twine.

Particular trees and plants such as manuka, koromiko, kawakawa, kowhai, karamu, and others provided rongoa. Tawhara, tiori, miro, karaka, and ti kouka provided food, while kanuka and manuka provided both medicine and cooking fuel. Tainui, (pomederris apetala) a shrub reported to have grown from the skids of the Tainui waka<sup>95</sup> was not evident in large numbers at Whāingaroa, however other rākau proved just as useful for traditional uses. Timber was taken out of the Karioi Native reserve in the 1920's.

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<sup>95</sup> H.W. Williams, *Dictionary of Maori Language*, 7<sup>th</sup> Edition Legislation direct. printlink, Wellington. 2005.

In the 20's, I believe they were getting sleepers for the railways from up the back of home. You can still see the scars, yes, they have grown back now; and they are enormous. The old man said some of them were thousands of years old. It was on a major scale too, all the kauri, all the good trees went including all the rimu and totara. I remember as a young fulla we used to take out a lot of rewarewa, because it is easy to split for fence battens. All the posts were pūriri. We would cut all the branches that were post size...Uncle Sunnah was an expert; they taught us how to split logs with an axe. It was a good skill to learn because we learnt how to make battens, boards for timber and just with an axe. Uncle Sunnah taught us how to harness a horse and how to haul logs out.... Uncle Sunnah gave us a horse way back when I was young and I went all over the maunga on that horse<sup>96</sup>.

Kereru, and Oi, (muttonbird), were plentiful and available to hapū, whose lands abutted the sea. Seasonal harvesting methods which had developed over time ensured that annual Oi numbers to allow conservative harvesting was sustained.

I know the old man and them used to go up once a year out in the bush and get a kereru, and that's all they would come back with... he wouldn't take any more than one. My understanding of that when he was talking about it was so that they would keep coming back<sup>97</sup>.

When the miro appeared, the kereru was fat and ready for harvesting; when the kowhai bloomed, the kina was fat. Kereru, a delicacy during the miro season were hunted conservatively and protected by tikanga to ensure the survival of the taonga

An observation of tangata whenua in recent time has been the lack of knowledge of translocated species.

You know DOC say there is plenty of pigeon up there but they can't trick me because I know animals. A lot of those birds up there have been introduced, because I've watched them and they don't know where the kai is like the Miro. Why? If the birds were from here, they would know. I've watched them eating leaf when the tree is just around the corner full of berry. I think the 1080 knocked all the old birds out and they introduced the young ones, or fly-highs. Old birds fly low and not very far. When I look in the morning I can see about

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<sup>96</sup> Sandy Hounuku 16 May 2012

<sup>97</sup> Waireti Paekau, 16 May 2012

20 of them fly over the reserve there by Malibu's. I believe they were let go there or introduced from there and then they go back up top. They have been there for the past 4-5 years<sup>98</sup>.

The Oi was also managed by the Hounuku whanau.

About 2000 birds would come in and in a season. We would take about 200. The olds would sometimes send me down to get one or two<sup>99</sup>

Pākehā/DOC have taken over the Oi (muttonbird) as part of DOC's research to try and help them recover. As a young fulla, I was privileged to go out and hunt with the grandfather and Uncle. In our time they were up where ..... is, now they down further..., about the early 60's. I was 11yrs old when my grandfather died. Right along the Coast, they used to harvest; I remember eating muttonbird back then and it never had salt on it<sup>100</sup>.

Whānau and hapū moved with the seasons to take advantage of seasonal shifts in food supplies, or to rest the cultivation and food gathering areas so their capacity to provide food was maintained. The Māori maramataka based on the lunar calendar regulated the use of resources; when they could be gathered successfully and when they should be left alone.

Cultural practices such as returning the first fish to the sea, and sharing the harvest with the rest of the hapu, were normal practices. Tangaroa was respected and not trifled with.

### **2.1.2 Cultivations**

Tainui were once great cultivators with every whānau engaged in producing huge paddocks of kumara, riwai and kanga. Whānau and hapū moved with the seasons to take advantage of seasonal shifts in food supplies, or to rest the cultivation and food gathering areas. This gave the land time to replenish itself so it could maintain its capacity to provide food.

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<sup>98</sup> Sandy Hounuku, May 2012

<sup>99</sup> ibid

<sup>100</sup> Ibid

Every activity from cultivating the land to growing food, fishing or gathering kaimoana, was governed by the maramataka. When food gathering commenced, or when they should be harvested were critical issues to keeping the resources plentiful

Seasonal cycles determined food production activities. When winter began, it was time to leave the frosty low-lying areas and move to the warmer lands on the maunga to clear and prepare land for the planting of winter crops.

The appearance of Matariki in the sky, in the middle of winter signaled that it was time to turn the soil in preparation for later planting.

During the winter time dad would turn the soil cause in the winter time, the frost kills the bugs and pests and then he would wait till it's time to plant the crops. He would have a kumara pit, shaped like a bowl. He would have dirt at the base, then a layer of fern and then a couple of inches he would cover with a netting, then repeat the process until the pit would be so high.<sup>101</sup>

Planting, weeding harvesting and storing kumara was an extensive undertaking that involved the whole village.

Every family had a garden. When we finished, planting or digging our crops before our neighbour we would go and help, so everybody would help one another especially at harvesting time. Once harvested, the kumara had to be stored for the year. We dug the sod up to an arms width high, in the side of a hill. A drain was put right around it so the water could get away. The kumara were laid out in rows not touching each other between layers of bracken fern, which were then covered with earth to keep the air out. They would keep for a whole year like that, as long as you keep the air off them. The longer you leave the kumara, the better they taste<sup>102</sup>.

The large number of rua pits, stone fences and middens, that dot the kāinga areas in the coastal landscape from Karioi to Waipohutukawa, indicate that at some time in the past, there were large Māori populations growing kumara and other staple crops.

The Ngati Koata pā, on the slopes of Karioi, took advantage of the sunny north-eastern slopes and underground springs to produce food for the hapū. The coastal strip of land

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<sup>101</sup> Taipari Kaa

<sup>102</sup> James Rickard Snr. Interview 150212

north of Whāingaroa moana at Te Ākau was another area that had numerous garden sites some dating back centuries.

These gardens were capable of producing enough food to feed a village for a year. Root crops like taro and kumara, and groves of native bush orchards containing karaka, tī kouka and kiekie dotted the coastal landscape from Karioi to Te Ākau.

The key to gathering food, or growing successful crops were the practices handed down by tūpuna.

Handed down from the olds to us, where all the kai is, how to get it and where and when to get it. We always had a mara kai, everything was staple. Before we went anywhere, it was always been a part of our protocols/kawa to karakia; especially going for kai<sup>103</sup>.

Dad had a big garden down the airstrip right across from the Poihākena Marae and we lived in a tent there, Dad Tawera had strawberries, watermelon galore, rock melon, peas, and beans. I distinctly remember waking one night and hearing brother Sonny yelling cos somebody came up the tide on a rowboat and was thieving water melon.<sup>104</sup>

Each whānau or hapū had responsibility to look after their own area, which was usually respected by all.

### **2.1.3 Whāingaroa moana, me ngā awa**

The lands of Tainui border Whāingaroa moana, and are separated from the Waikato and Waipa River basins by a range of hills, and catchment areas. Limestone stacks, basalt rocks and pingao-covered black sand provided a border between the whenua and moana.

Pingao, the eyebrows of Tane and peace offering to his brother Tangaroa, and Hinemoana, was a taonga species, which connected the sand with the land by binding the dunes together. In the summer, the beaches between Karioi and Te Kōpua were a blaze of gold, which was one of the reasons this plant was sought after for tukutuku work.

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<sup>103</sup> Sandy Hounuku

<sup>104</sup> Raiha Gray. personal communication.

The moana was of immeasurable importance in the histories, identity and culture of Tainui. In the 1830's Whāingaroa moana was a healthy nursery producing a variety of shellfish, such as mussels, pipi, tio, titiko, kokota, tupa; and fish such as patiki, kanae, tuna, and mako. Paua, kina, kōura wheke, rimurimu and other delicacies gathered from the rocky shores sustained the hapu.

Pipirua, a mussel reef adjacent to Te Kopua provided truckloads of kutai to feed large gatherings of people at the Koronēihana and as food for snapper. Stingray arrived to sleep in the bays or evade roaming Orca before heading back to the feeding grounds.

Pipiroa, and Oporu, provided kokota, tuatua, pipi, and tupa while Pokohue and Kaitoke provided titiko.

Every whānau had access to puna or awa, which were used for sustenance, and to perform rituals such as healing, blessings and baptisms. Each puna had its own purpose and those uses were never compromised.

The moana provided transport routes for waka heading into battles, commuting between kāinga in the inner moana or engaging in fishing expeditions in the areas between Papanui Point and Te Ākau. The moana was also a shipping route for traders from the mid 1800's. Rivers also provided migratory paths for tuna, kanae, and īnanga.

My dad ... he would park up there at certain times of the year ... when the fish were running, he would go and live there for a week or two. But it was all good because he knew where we were and we knew where he was; and that is just how it was. There were no worries, no one was sad; we knew we all had a part to play and we all played it very well<sup>105</sup>.

Reference points in the streams were named to describe the character of the river. The Wainui strea, whose fresh water source is from within the maunga Karioi, is an example of such a stream.

For centuries, it has meandered through the whenua bringing regular supplies of fresh water to the people living on the foothills below. Its journey begins in dense bush on the northeast slopes of Karioi. Two small streams, Te Ahiawa and Aewa join the

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<sup>105</sup> Sandy Hounuku, interview July 2012

Wainui as it journeys down to the bend below the Paekau homestead where it becomes the Te Tarata.

Te Tarata. We should still be using that name today. That was a main resource to our whānau. My father was the water boy, and the main source of that water was Te Tarata and he still called it that before he died. Now to do with that creek when I was a child I grew up on it. When I was, little you could see the bottom. There was river sand and shingles and the water was clear. Today, as an adult, I whitebait, but what do I see? Silt. I have been whitebaiting now for 19 years and in those 19 years, it has worse, because that creek was also a source for our Tūpuna. The black dye that they used on their piupiu that is the source of the dye, how do I know that? Because it was a bugger of stuff when I was whitebaiting, it used to come out and cover the creek and I could not see what I was doing. That creek is an absolute mess. It is that silted up, when the tide rises all I see is scum, foam and oil slicks. It is getting to the stage, I'll have to go somewhere else to whitebait because I can't see them coming up. It's really, really quite sad, only because I use a scoop, I don't set net – it's much harder with a scoop<sup>106</sup>.

The stream continues down past Te Rua o Te Ataiōrongo, a wāhi tapu site and changes its name to Pokohue. It journeys east to join and become Oporuru before heading into Whāingaroa moana and out into Nga Tai a Kupe.

Adjacent to the Wainui were small creeks and swamps, used for storing artifacts, sheltering spawning inanga, kokopu, and tuna. Flax, a highly prized fibre crop was planted in swampy areas and used for kakahu, sandals, kete, whariki, twine, rongoa and other purposes. In later years, many of the swamps like Rukuruku were stripped bare of harakeke, which was milled and then traded off-shore. The unsustainable harvesting destroyed the habitat of the pa tuna Ngararapai that had fed hapū for generations.

### **Customary Fishing Practices**

Tainui and its neighbouring hapū established agreements, which allowed each whānau access to and responsibility for protecting mahinga kai in designated areas. Mana and tapu ruled gathering practices and the behaviour of all fishers. If required

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<sup>106</sup> Glenda Dunn, O & T evidence 13 April 2010.

rahui or whakatupu time was imposed and enforced to allow seafood to recover to a sustainable level.

Fish traps and pa tuna were common especially in the estuarine arms of the rivers. Although the fisheries were abundant, they were also strictly managed according to season and occasion. Te Huareoreo, Rapikuku, Te Karo, Uruika, Te Kaha, Te Karaka, Matangāwhā, Te Here a Tangaroa, Haupōtaru, Te Kōtuku, Rarauhi, Wharepuna, Tangitiha, Ngā Tokora a te Taraha, Koiaiatahi, Ngāpokataringa, Paramauku, and Ngārarapai, Pīpīrua, Whatukupenga, Pīpīroa, Ōpotoru and Te Tarata were all places where particular species were gathered by whānau for domestic use, trading and for other special occasions.

### **Rāhui Fishing**

Manu Bay (reserve) to Whale Bay – this shoreline is the area our tūpuna laid a rāhui. Using specific parts of the whenua as markers for these closed areas, it was the only way our tūpuna knew how to replenish their food source. I believe today if our iwi/hapū tried to do what our tūpuna did centuries ago we would certainly come up against some very strong opposition.. It would be nice for us to be able to put a rāhui on the coastline, but it won't happen because the whānau no longer control Manu Bay reserve. Manu Bay reserve, to our Tūpuna was Waikeri<sup>107</sup>.

The practices and customs associated with the moana and the rivers were learned from a young age from parents or grandparents or others who had developed wisdom and knowledge of the fishing customs and practices. Learning how to make lines, and nets out of supplejack, and create whau floats was a prerequisite to fishing. Reading the maramataka and understanding the influence of the moon on the waves, hearing the tides, feeling the winds and observing seasonal patterns of fish, kaimoana and bush foods, came through practice and lived experiences.

... I remember we used to have this boat and ...we used to catch that outgoing tide to get underneath the Nihinihi bridge and it used to push us right to the entrance to the Bar, to Whāingaroa Moana there. We used to fish there and catch a lot of fish, and throw the line in. And we used to fill our boat up, and by the time we got enough fish the tide used to swing...we used to get up there

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<sup>107</sup> Glenda Dunn, O & T Hui, 13 April 2010.

and use the tide to bring us back and sometimes I think I remember the old man and I used to throw some fish off for those fulla's. They had big families.<sup>108</sup>

Fish were either netted, trapped in river fishtraps made of rocks, caught with hinaki, or on lines, using hooks designed for the particular species. Frost fish, could be picked up on the beach on frosty mornings while shark, and kahawai were collected, cleaned, smoked or dried, before being shared or stored for later consumption.

A Waikato Times newspaper correspondent travelling past Te Whaanga on 21 February 1882, observed:

...a number of canoes sailing about, and on enquiry found that the occupants were busy fishing for dogfish, which are numerous here, and are preserved by the natives for winter use<sup>109</sup>.

Those practices continued into the early 1960's.

... we would camp down Manu Bay and harvest kai moana while the tides were right for 2 or 3 days then go home and preserve our kai Māori style dried etc... In the month of June Mum and Dad would go and fish for Mango in the night and me and Barry both whaangai children would sleep in the sand where dad had already built a fire and moved it over after it had heated the sand, dug down and put us both in the warmth of that sand and buried us up to the neck or shoulders and I thought it was neat then..<sup>110</sup>

I did a bit of that too up there. Paua, fishing; we used to fish for shark<sup>111</sup>.

We'd go eeling down the creek (down below by the house). There was a rock down there that you'd never miss getting one. He used to make me put my hand in underneath the rock and chase them out. It was good to eat. ... At the beginning of the year about Feb, March we used to go up below Bryant home because that was when all the shark used to come out. We'd be up there for

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<sup>108</sup> Matua Paekau, korero a waha, 5 May 2012

<sup>109</sup> [Waikato Times 21 February 1882 Page 2](#) Issue 1503, p.2.

<sup>110</sup> Raiha Gray, personal communication, 3 May 2012.

<sup>111</sup> Steve Heitia, korero a waha, 9 May 2012

about a week, to camp and fish for the 'koki', and that was my job filling the koki bags up. Used to put a flax stick and tie them all up, hang them up. Hape used to come on the horse, pick them up and take them home. ...we used to thread pipi, it was just like chewing gum<sup>112</sup>.

The Kereopa whānau also migrated to the beach during shark fishing season.

A lot of people today remember our people migrating to the beaches. The reason they did that was that they knew the dogfish breed in the moana. This occurred in the months of March and April. They migrated to the beaches that are Ngarunui and the women and the children and the mokopuna mainly did Wainamu...This task. It was their winter food source to replenish the cupboards because after April apparently out here in the moana the pickings are very slim. ... That was our winter source of food for our Tūpuna and our mokopuna... using our Tūpuna methods of finding our kai moana was a lot better and accurate..<sup>113</sup>

Over time, through trial and error, tikanga developed customs and practices that ensured that taonga could be sustained. Rules such as when to fish, where, how and rules of reciprocity were followed. There was no need for a permit. What was permitted was what was required for the occasion and what was in season.

Customary fishing at this time was exactly that. Each whānau and and hapū settled certain areas and became custodians for all things within their customary influence. Whānau looked after their own rock or kaimoana area and those seeking to share the resource were expected to ask the whānau. Rahui to exclude an area or stop fishing was enforced especially if there were drownings.

The health of the moana and surrounding environment was reflected in the wellbeing of the people and their visibility within the physical landscape. Kaimoana known to be rich in fats, oils minerals and animal protein provided all of the dietary needs of the whānau. Kaimoana was also a source of mana for the hapū when hosting manuwhiri from other tribes.

In Whāingarua, Pīpīrua was the kūtai reef set aside for the gathering of kūtai for special occasions such as the Koroneihana, the annual celebration of the Kingitanga. A

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<sup>112</sup> Nellie Paekau korero a waha 9 May 2012

<sup>113</sup> Glenda Dunn, O & T hearing, 13 April 2010.

change in fisheries laws that allowed dragging in Whāingaroa moana destroyed this bed.

We had to get on to Parliament to our member, Mrs Ratana, to revoke that licence. But it was too late, the mussel bed had been damaged. Where we could go and get mussels at low tide and not get wet - and they were in big clumps, you could fill a boat in about 10 minutes - the water there now is about 1.2 metres deep where the island used to be. That island was only used for tangi, for hui and for the coronation celebrations at Ngaruawahia. <sup>114</sup>

While fishing and gathering at the low water mark has been a tradition, over the years these rights to get a feed have been eroded.

As a child, I used to go out to Te Whaanga. We used to light the fires, boil the copper while the young men went out and did the diving for the Cray's and the Paua's and the rest. It was like having a barbeque, but it was not. That was the only way we could get food. It was the only place we could fill our bellies. We were taught at a young age that that land at Te Whaanga, right down to low tide mark, was ours under the treaty and that we had rights. <sup>115</sup>

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<sup>114</sup> James Rickard (Snr) korero a waha, 7 April 2012

<sup>115</sup> Martin Rickard 13 April 2010 O&T Hearings

### 3 CHAPTER THREE: TE AO HURIHURI

#### **Introduction**

Tainui exercised absolute authority over their whenua, moana, ngahere and other taonga, until the British arrived. This chapter focuses on British contact and change. It discusses the signing of te Tiriti o Waitangi, colonisation and the critical events that systematically sought to dismantle and destroy the foundations of the indigenous nation that had evolved out of the land, and change it from a Tainui space into a replica of colonial Mother England.

#### **Contact and Change**

Tainui are a confederation of coastal whanau and hapū who share whakapapa from Rakataura, Hoturoa, Whatihua and other illustrious ancestors. Whanau from various hapū married uri from neighbouring hapū and lived together in relative harmony in Whāingaroa until the imposition of pakeha law following the signing of Te tiriti o Waitangi changed the balance of power.

In the late 1820s to the 1830's, British immigrants arrived on the west coast of the North island in sailing ships, bringing new ideas, tools, food, seeds, diseases, and expectations of finding land to settle on. They found a place where te reo Māori was the lingua franca, where the indigenous people were the majority of the population, and where Māori values influenced practices and dictated all relationships with people and the land.

Social relationships were disrupted by Crown divide and rule tactics. Invitations were sent to selected rangatira who were encouraged to support Crown views. The Kohimarama conference was one example of such tactics where rangatira, excluding those who supported the Kingitanga were encouraged to discuss and support the attack on Te Rangitake of Waitara, Taranaki. Similar tactics are used by the Crown today.

From the various sources one can deduce that when te Tiriti o Waitangi was signed, Tainui hapū were living relatively peaceful and productive lives on ancestral lands within areas they had designated amongst themselves. Everyone understood mana and tapu, associated with people and place and the repercussions of breaching these. Living was guided by values and beliefs handed down from generation to generation rather than by written laws enforced by courts, police and the military.

Te reo Māori was the lingua franca, education was through lived experiences and wananga, life was about living and sustaining oneself and whanau, rather than working a 7 day week for minimal wages for someone else. Money was at this stage not a major influence, but gifting and trading resources was highly developed. Maintaining the balance between whanau, hapū and iwi by navigating relationships, required a high level of diplomacy.

The law was Māori law, based on tikanga, with the related concepts of mana, tapu, muru, utu and rahui. People were actively engaged in living a healthy and active life, fishing, cultivating land and generally providing for the daily needs of their whanau and communities.

Coastal traders, missionaries and British settlers arrived with gifts which were soon adopted and adapted by Tainui to suit their needs. The beginning of the next phase in the era of colonisation of Aotearoa was about to begin.

Those exposed to christianity, saw value in its ideas and some became lay preachers spreading the word amongst their own whanau, but unbeknown to them, conversion was at the expense of Tainui mana, tikanga and whenua. English speaking christian values based education, and foreign laws protecting individual property rights and boundaries, invaded the Tainui world changing a people, confident in living with the environment as one, to people severed from cultural and physical relationships, through the myriad of laws imposed to preserve resources of the hapū for the profit of individual others.

While some missionaries genuinely worked to introduce christianity, others were implicated in witnessing signatures including those of children on deeds of sale which were then used to divest Tainui of thousands of acres of land. Turton's deeds are a typical example of this practice which would have made Tainui landless had it not been for the foresight, fighting spirit and a tradition of resistance to injustice, handed down from tūpuna to their descendants; like Herepo, Riria, Hāmi and his sister Tuaiwa, Hone Kingi, Hounuku, Manukapua to name a few.

From the 1830's onwards, boundary lines redefining the Tainui landscape would be introduced in order to create real estate and to separate the hapu from their lands.

Surveyors in England had already planned settlements of Aotearoa before they had visited the country. The grid system of streets would be imposed on the natural

landscape. Surveyors were highly sought after professionals whose job it was to triangulate and transfer measurements from their trig books to reality on the ground.

Papatuanuku would then be carved up into parishes, blocks and lots, creating permanent boundaries to divide rather than unite. Such bounded spaces could be used to corral hapu into a confined area or reserve, leaving everything outside the boundary for others to acquire and exploit for personal gain. It is interesting to note the connection between the church and real estate where the parish is defined as ‘a territorial division of a diocese, the congregation of a church, the geographical area assigned to a specific church’.<sup>116</sup>

The heavily wooded forests, were razed to make way for pastoralism so agricultural products from the colony could be sent back to the home country.

### **Missionaries**

In 1835 the first European and CMS missionary Reverend Wallis arrived and settled in Whāingaroa and with the help of Tainui and other local Māori built a mission house at Horea on the northern side of the Moana. Wallis opened a school there and within a short period of time 60 children were attending to be converted to Christianity.

The outdoor education system based on active experience was replaced with the model based on passively receiving new skills and knowledge from another land. Competition for souls to save, created friction between the Wesleyans and Anglicans which ended with Wallis being withdrawn for a couple of years before returning to set up another Mission, this time on Māori land at Nihinihi on the Rākaunui block.

On 27 February 1839, Wetini Mahikai and three others signed a deed, witnessed by Wi Nero selling Te Ikaunahi land at Nihinihi, to Wallis for another Mission station.

The whole purpose of the mission was to civilize and evangelise Tainui and convert then to Christianity. Te Awaitaia (William Naylor) was one of Wallis’ early converts and later became a lay preacher and friend to the Pākehā of the township of Whāingaroa. Many Tainui people including rangatira became lay preachers, spreading the word of a christian god while their own beliefs born in this land struggled to make sense of the new individualized world, where people went to heaven or were condemned to hell.

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<sup>116</sup> The Webster Encyclopedic Dictionary of the English language and compendium of Usable Knowledge, New York, 1971 p.689.

At this time collective responsibility to look after the lands, waterways and other taonga that sustained Tainui was still practiced, however within 10 years the disintegration of Tainui values became evident as whole whanau converted to Christianity giving Whāingaroa settlers a sense of security. The town became a popular destination for Pākehā and was seen as a safe place with ‘friendly Māori’.

Tainui initially embraced the new technologies like the plough, water-powered flour mills, boats, and flax mills introduced by the immigrants. Foods that complemented fishing and free range foods, like water-melon, potatoes, quince, cherries, peaches, pears, apples, grapes, were adopted and bread, tea and sugar became popular in Tainui homes.

Wheat maize, oats, barley and pigs were grown for export to Auckland and other places. Pigs raised by Hone Kereopa and others in Aotea were herded 30 miles to Whāingaroa to be shipped to Auckland to feed the immigrant population. The era of mass production of crops for trade, rather than sustenance and subsistence had arrived

While Tainui embraced opportunities to benefit itself by forging new relationships with the newcomers, the British settlers had one thought in mind, to colonise Aotearoa and assimilate the people. The potential to create wealth had captured the interest of some of the inland tribes like Ngati Mahuta who, desiring to capitalise on the trade began to encroach on the mana of coastal tribes and their lands.

### **Old Land Sales**

The first land sales that took place in Whāingaroa and Te Ākau prior to the signing of Te Tiriti o Waitangi, took place without the involvement of hapu at the time. The early deeds of sale for land were usually accompanied by maps of poorly defined boundaries, signed by men and often witnessed by missionaries.

In 14 December 1836, a Deed No 430, was signed by White purporting to purchase land for a mission station at Horea. He paid Ngati Tipa who willingly accepted his cash, even though they were not living there at the time. They attempted to hand the money over to Tahinga and Tainui who refused to accept it as they didn't wish to sell the land. Years later the same issue arose with different factions arguing over who had the rights at Horea. The issue erupted in 1849 with the burning of the Tainui pa by Ngati Mahuta.

One morning when most of the people had gone up the coast to tend their gardens, Ngati Mahuta arrived and set fire to the Tainui pa at Horea. Tipene Tawera and three kuia were present at the time but were unable to do anything to save the pa. Tahinga and Tainui hapu tending cultivations near Rangikahu, seeing the smoke returned and immediately set about building another pa. When Ngati Mahuta arrived the next day to take over the area, but found a new pa standing in its place, this time fully manned. They then followed the coast and erected a pa for themselves to the east of Horea so they could capitalise on the flax and other trade in Whāingaroa. The incident was followed with interest by the Pakeha media at the time with coverage spanning several weeks.

### **Te Tiriti O Waitangi**

Following its initial signing at Waitangi on the 6<sup>th</sup> February 1840, Te Tiriti o Waitangi was taken by ship along the coast and signed at places like Manukau, Port Waikato, Kawhia and Rangitoto ki te Tonga with missionaries as witnesses. Several rangatira, including Hone Kingi and Turi te Patete of Ngati Koata signed te Tiriti o Waitangi.

Few stories have been handed down, as to why some rangatira signed and others did not. What is clear is that the treaty signed between the British Crown and rangatira affirming tino rangatiratanga to nga rangatira o nga hapu, was signed in good faith. History has shown that te Tiriti o Waitangi was never honoured to the extent that it met their the signatories expectations.

Tainui experiences of life under successive governments since 1840 clearly illustrate that the supremacy given imported laws, undermined the rangatiratanga of Tainui on its own tribal lands. Consistent negative socio-economic and cultural statistics demonstrate that hapu do not have the same rights and privileges as other British subjects in Whāingaroa.

In 1850, ten years after the signing of the Treaty of Waitangi, the first Tainui land negotiations took place in Whāingaroa between Te Wherowhero, who later became the first Māori King and the missionaries. He tried to sell Horea (later Te Ākau 2) for £50, even though it did not belong to him.<sup>117</sup> Tainui and Tahinga objected, so the missionaries paid him off and he returned to Mangere.

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<sup>117</sup> Turton, H. Hanson. *Maori Deeds and Purchases in the North Island of New Zealand, Vol I*, Government Printer, 1877-1878, Deed 431, p. 596.

A year later Ngāti Hourua and Ngāti Māhanga, sold, the south-eastern portion of the Whāingaroa Block—to Queen Victoria for a township to the east of the Oporuru River.

In 1853, a government made up entirely of settlers was formed, laws were enacted, and the rangatiratanga that Tainui had been guaranteed in te Tiriti, was usurped. The laws failed to recognise Tainui rights and interests and instead interfered with the exercise of Tainui mana and disrupted the relationships of the hapu with their environment and each other. Numerous treaty related matters especially about dubious land acquisition to provide settlement space for immigrants were ignored by successive governments. Some of those will be examined in the next chapter.

## 4 CHAPTER FOUR: PUPURI WHENUA

### **Introduction**

This chapter discusses the stance taken by Tainui in response to Crown actions, which include the land battles and Tainui involvement in the establishment of the Kingitanga. Te Kōpua, Te Ākau, Te Whaanga and Rākaunui, are the remnants of Tainui land blocks today. All were affected by Crown actions which facilitated the taking of whenua without notice, consent, or compensation up to the 21<sup>st</sup> century.

With the establishment of a Parliament, opportunities to write laws to benefit settlers and control Tainui had arrived. By 1852 missionaries had managed to convert Tainui and other coastal hapu to Christianity. At the same time however, Tainui rangatira were observing the relentless hunger for land by individuals, in a system that was starkly different to that held by the majority Māori population at the time.

In order to secure land, under a Crown Grant or to acquire title, Tainui were required to allow their land to be surveyed, and then pay for the survey. Whether people were able to participate or not, this is the period where holding on to the land became a battle that inevitably led to resistance and a hardened resolve by Tainui to retain what was left.

### **History**

Turton, a missionary had been successfully plying deeds for the sale of lands within Whāingaroa for some years collecting marks [xx] from anyone who could hold a pen. Honehōne Kereopa and others were unwilling to accept prices offered and in fact were opposed to land sales. Despite this, sales of land apparently to military settlers took place using these dubious deeds.

Tainui and other affected hapu sought solutions to threats against mana using their own understanding of tikanga, by supporting the establishment of the Kingitanga.

### **Kingitanga**

The turmoil that was created by continuous land alienations, and breaches to te Tiriti o Waitangi, provided an opportunity for hapu and iwi nationwide to unite and consider strategies to stop the land sales and retain rangatiratanga over territories. In the early 1800's missionaries had begun suggesting to rangatira such as Hongi Hika that they should consider becoming a King. Māori were frequent visitors overseas including Te Akerautangi from Hikairo who brought the idea back to Kawhia, and to Potatau for discussion.

The Kingitanga movement provided a vehicle for Māori nationally to unite under a King, to resist further land alienations and encroachments into their communities.

Hui were held and approaches were made throughout the land for potential candidates. Twelve were approached and in 1856 at Pukawa, Potatau Te Wherowhero was chosen as the first Māori King. At the same hui, several chiefs committed the mana of their maunga, and in doing so, endorsed Potatau as King.

One of the maunga pledged by Tumanano as a pou for the kingitanga was Karioi that overlooks Whāingaroa and Aotea moana.

It wasn't until two years later that Potatau was formally installed as King and as expected, the idea of a Māori King, brought the ire of the settler government against Māori who were then seen as a threat to the mana of British sovereignty. A conference was convened at Kohimarama by the Crown to which selected rangatira were invited, a practice that continues today with the cultivating of relationships with "iwi leaders".

The pressure by settlers, the Crown, councils and military to alienate further land by legislation, supported if necessary by the bayonet, resulted in a full scale attack on Tainui treaty rights and interests.

As stated earlier since its inception, Tainui has had a relationship with the Kingitanga. A whare was built for Tawhiao at Te Kopua in the late 1870's, and Miria Te Kakara was built to commemorate the crowning of King Rata in 1912. Poukai which used to be held annually at Karioi (Manu Bay), Te Kopua and Rakaunui ceased, in the 1950's largely as a result of Te Kopua being taken by the Crown.

### **War and Raupatu**

In 1863 British forces under Governor Grey launched a military attack to raupatu Waikato lands including those owned by Tahinga-Tainui who at the time were considered "Frendlies". Hone Kingi, Rapana, Taiko, Hikarearea Hone Kingi, Te Whareiaia, Te Ponui, Renata Wharepuhi, Wiremu Hounuku, Aehe Mokokoko, Hone Karaka, Honehōne Kereopa, and others supported the Kingitanga at Rangiriri to resist British incursions and land sales during the wars of 1863.

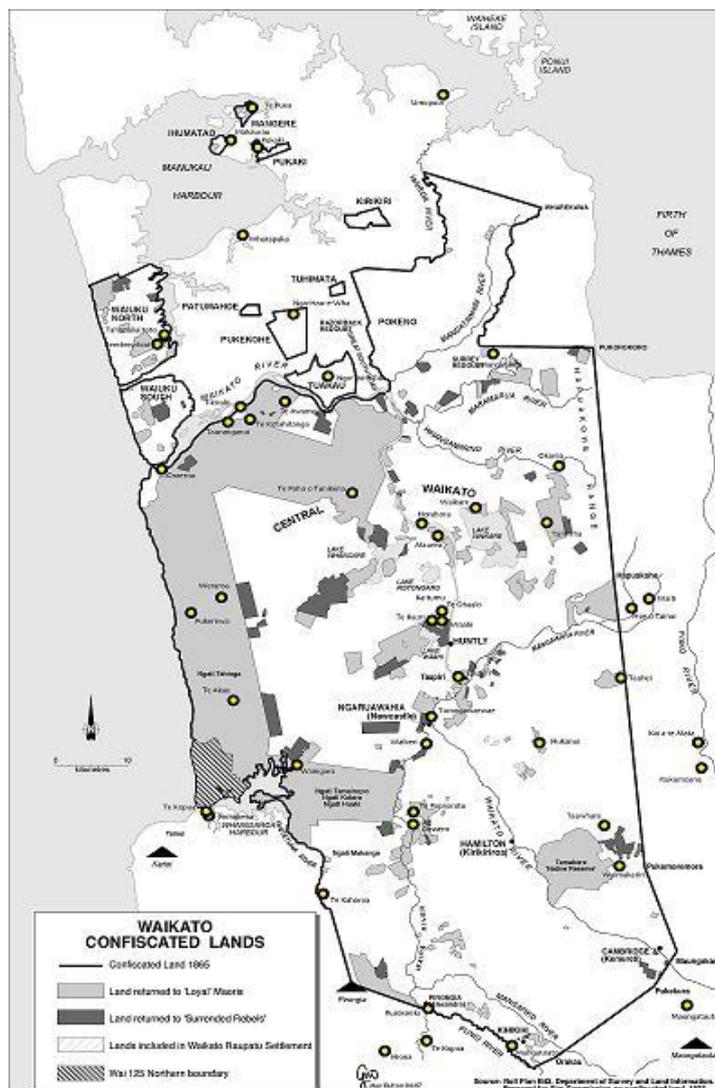
Many of the survivors had already fought at Matakītaki. Refugees from Ngati Hinetu, Rangiohia and other places ended up in Whāingaroa following raupatu.

The people who left Waikato came to their relatives and stayed amongst us. The only problem with that is that the land the hapu retained was largely marginal and insufficient to support a doubling of the population. The result was poverty because the moana could only provide so much food, before there was an impact on the sea. It can only give so much per season.<sup>118</sup>

### Native Land Court

The raupatu lead to a huge upheaval in the lives of whanau and hapu and resulted in turmoil, unrest, and seething discontent amongst those who had suffered for no reason.

Map 5: Raupatu area. Source: Max Oulton.



<sup>118</sup> Taonui a Kupe Rickard, Nga Korero Tuku Iho hearing in Whāingaroa, 13 April, 2010

The outcome of colonial wars is well known, with families decimated, orphans created and rangatira like Hone Kingi being imprisoned on a ship and sent to Kawau. Wetini Rapana lost both parents at Rangiriri, and joined Hika Hone Kingi and other whanau in escaping by swimming the Waikato river and heading back to Whāingaroa. Other children were returned to the hapū by the police and were taken in by whanaunga.

I fought at Rangiriri. Hone Kingi, my father, Rāpana, Taiko, Te Pōnui alias Hone Tikao, Te Whareiaia, Renata Wharepuhi, Wiremu Hounuku, Aihe Mokoko, Hone Kuruki and Rupena. (Reupena). That is all I can remember. I with some women escaped from Rangiriri by swimming. We slept in a rush islet<sup>119</sup>

Post 1863 to the early 1900's was a period when hapū were displaced and the Crown usurped power and control over Māori lives and lands. The Native Land Act 1862 provided for the setting up of the Native Land Court to individualise communal land for sale. In order to retain lands inherited from Tūpuna, Tainui were required to apply to the Crown for a land grant. The Crown implemented laws that required Tainui to have their lands surveyed in order to get their own land back through Crown grants. It is during this period that Tainui individuals, begin appearing in court to define land boundaries and claim land interests.

Wetini Mahikai, when asked in 1894 what boundary he would give on the raupatu lands at Te Akau between the two tribes Tainui and Tahinga, was reluctant to give any boundary but finally replied:

Te Waipōhutukawa to Omuwai where it goes into the Kōtuku - thence along the Whāingaroa River towards the sea - thence to Tauterei and back to Te Waipōhutukawa<sup>120</sup>.

When asked whether it was an ancient boundary? He agreed but could not remember that Tāwhao had laid a boundary to Waipōhutukawa. The land to the north belonged to Ngāti Tahinga and that to the south, the twelve hapū of Tainui.

Examples of how judges of Native Land Courts interpreted the testimony of rangatira claiming lands is seen from 1866 onwards as Tainui tūpuna are forced to go through

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<sup>119</sup> Mercer Minute Book (MMB) 10 April, 1907, p.11

<sup>120</sup> Responding to questions in the Te Akau Rehearing case. Waikato Maniapoto MB (WMMB),12,20 June 1894. p.52,

the Native Land Court processes to claim their own land individually; land that had been inherited as communal living places from tūpuna for the whānau and hapū to use collectively.

As noted by Stokes and Begg in their 1997 publication, the interconnectedness of the hapū, and the rights to occupy lands were determined through ancestry, occupation, conquest and gifting, with ancestry being one of the “principal rights of occupation...

An important related concept was ahikā roa, the principles of keeping the fires burning on the land as a symbol of long-standing occupation... It did not necessarily mean continuous settlement, but it did mean continued use, such as seasonal visits... Bound up with ancestral tenure is the concept of stewardship of land and resources, kaitiakitanga, an obligation to conserve this inheritance for the benefit of succeeding generations”<sup>121</sup>.

The court, in many instances ignored ancestry and made decisions granting land to competing Tainui claimants often based on evidence of occupation, burials, allowing surveys, selling land or trading resources unchallenged by whānau and hapū. Native assessors and hapū advocates highlighted these discrepancies to the court but often to no avail. In some cases, advocates enriched their own whānau by including childless couples in their lists of successors.

For instance, when Hema Te Piko (Manahi) died in 1905, the court was informed that her interests in Te Ākau 3B were a gift from Wetini who had two children. The court was asked that Hema’s interests go to them<sup>122</sup>. In another instance, the same issue arose during another succession case.

Karaka Ruuwai never lived at Horea or on any part of Te Ākau...Rihia Kahukoti never lived at Horea, but at Whatawhata and Te Mākaka. Had no rights to the land. Was put in, in 1866. Wetini put him in.<sup>123</sup>

The two examples above demonstrate failures in the land court practices.

While most land disputes between individual whānau and hapū could be resolved through negotiations, or alliances, occasionally agreements weren’t made and the disputed territory became a source of ongoing conflict, or was accepted as whenua

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<sup>121</sup> Evelyn Stokes & Margaret Begg: *Te Hononga ki te Whenua Belonging to the Land*. 1997, 5.

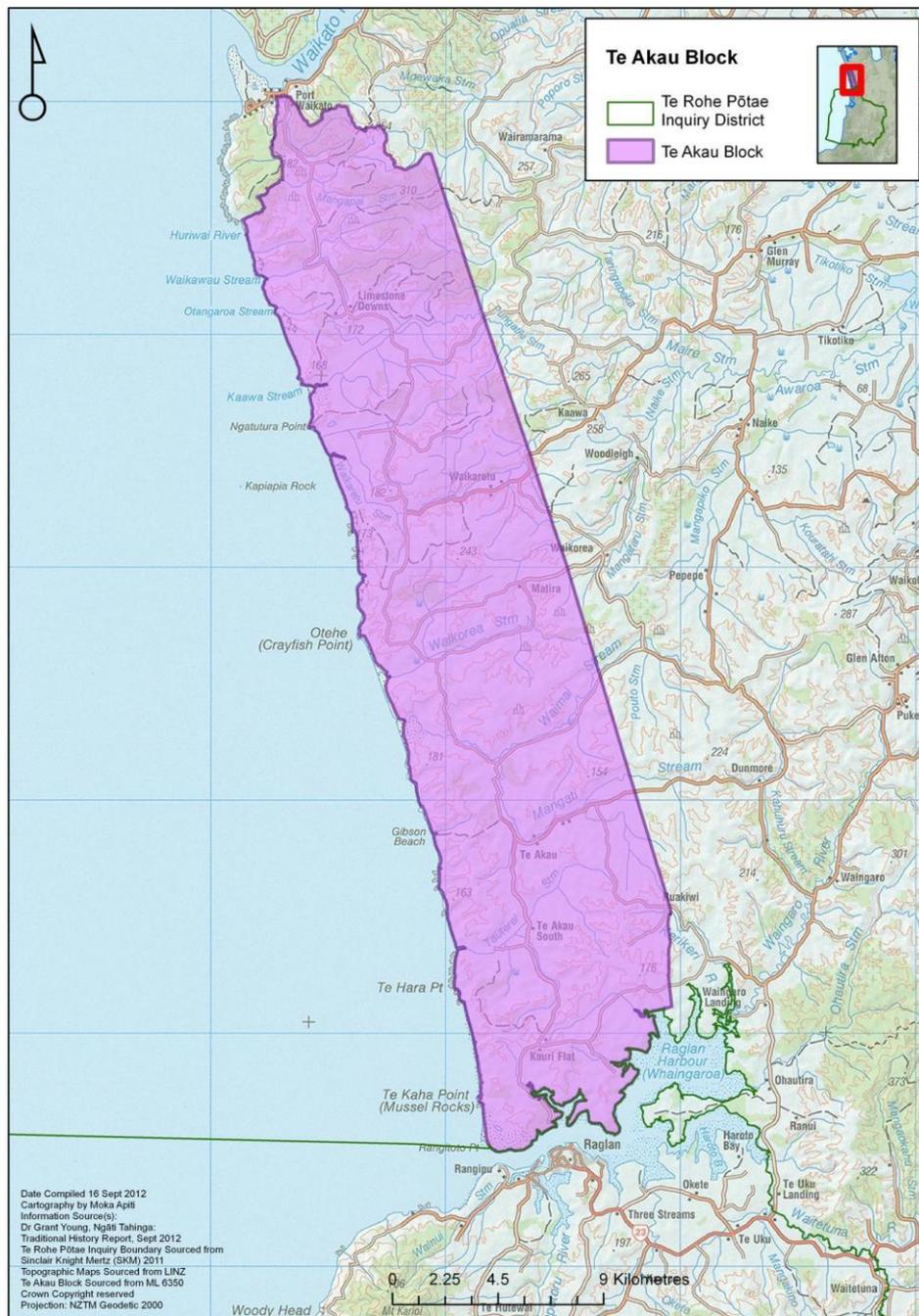
<sup>122</sup> Mercer Minute Book (MMB) 14, pp.134-135.

<sup>123</sup> MMB 11, 1908, p.1.

tautohetohe, a place belonging to no one but able to be used by all. Tainui inherited such areas largely because of Crown imposed boundaries.

What follows is a brief overview of some of the main land blocks and hapū affected by Crown actions during this period. Tainui lands affected by the raupatu have been identified as Te Akau D for the purposes of this claim.

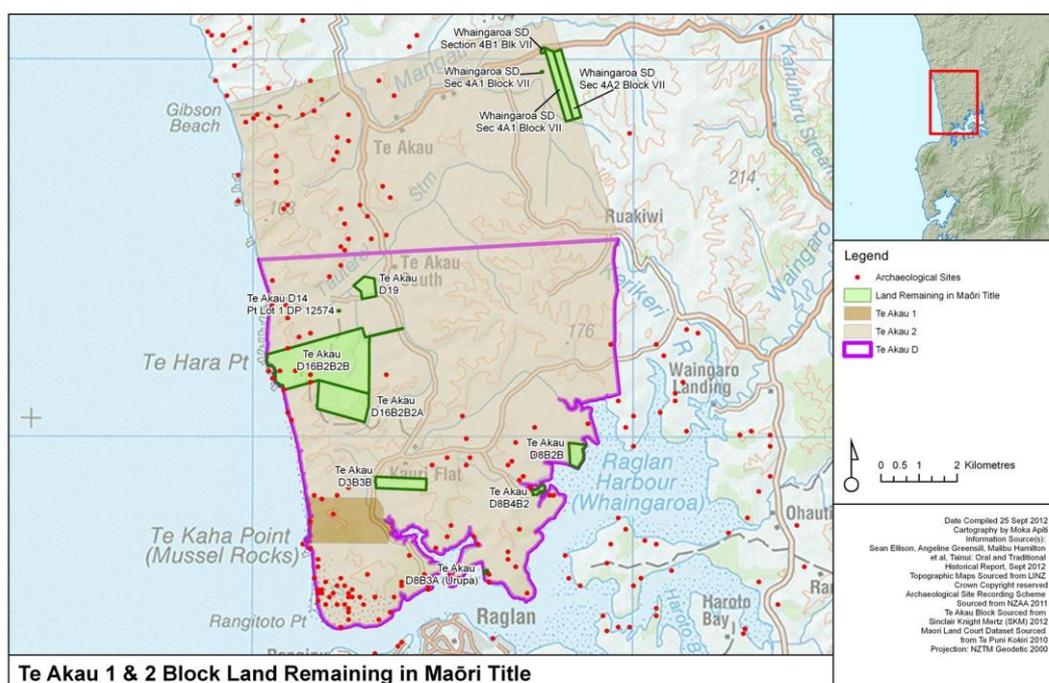
Map 6: Te Akau Block after Raupatu



## Te Ākau

Te Ākau is a block of land on the northern shores of the Whāingaroa moana. Although many Tahinga and Tainui people remained neutral during the wars, both hapū lost 150,000 acres through confiscation, and through initially being labelled rebels. The confiscated lands constituted almost their entire land holdings in the Parish of Tainui. The story of what happened to the people of Te Ākau and Tainui spans almost five decades.

Map 7: Te Ākau D and remaining today



In 1868 following a hearing of the Compensation Court, 90,000 acres at Te Ākau that was earmarked for return to Tahinga and Tainui was instead leased for 21 years with two rights of renewal to a Mr Young. The land, was the subject of further court hearings as Tainui and Tahinga attempted to get the lands, wrongfully confiscated, returned.

In 1894, Wahu Kereopa and others consistently asserted that there was no clear boundary between Ngāti Tahinga and Tainui:

“There is no subdivision between Tainui and Tahinga amongst the people or the ancestors,”<sup>124</sup>

Te Wetini Mahikai at the same hearing stated,

I commenced to speak about boundaries of Tainui beginning at Waipohutukawa and was then found fault with by Judge Fenton for doing so, he said I must not do so. I wanted to give the boundaries of the land so that [the] owner would be known. Judge Fenton said this land commenced at the East coast from there to Maungakohe to Hangawera to Pukemoremore, to Pukekura, to Orakau, through Te Puniu, to Tahuanui, Pirongia into Waitetuna down to the mouth of the moana of Raglan, then North. He said this land had been confiscated by Govt. No ancestral take, no right of individuals and no women would be allowed to be put in. – but all I will give you back is Horea land sold to the Govt by N’Mahuta – write down the name of your people who remained ‘loyal’.....he then suggested that European and Natives should be placed at intervals .<sup>125</sup>

Despite both Tainui and Tahinga stating there were no boundaries, the Judge used his power to determine and establish the boundaries, despite hearing evidence from witnesses who were still attempting to understand western legal processes. Wahu Kereopa in 1894 stated:

“I heard Te Wetini speak of a boundary at Pariarara. It was an ancient boundary of the elders between themselves.”<sup>126</sup> Remana Nutana stated that “I laid that boundary, not as an ancestral boundary, but as land for my people, about 15,000 acres, I thought.”<sup>127</sup>

The court ruled that Tauterei, the southernmost of these boundaries was the actual Tainui hapū boundary, a ruling that allowed surplus lands between the two boundaries to be alienated to the Crown.<sup>128</sup> This dispute of land boundaries continued through numerous appeals to courts for over 40 years. In 1913, a decision by the Privy Council on an appeal lodged by Manu Kapua Paekau, Wahanga Wetini and Hami Kereopa for

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<sup>124</sup> Angeline Greensill & Russell Kirkpatrick, ‘Tainui Defined: mapping uncertain boundaries and contested spaces’, p. 3.

<sup>125</sup> JVS MB 12 19 June 1894 p.41

<sup>126</sup> *ibid*

<sup>127</sup> *ibid*

<sup>128</sup> *ibid*

their ancestral lands north of Tauterei , was lost.<sup>129</sup> The reason for the loss was that by the time the case had reached the Privy Council, the Crown had already purchased the land from Ngāti Tahinga, auctioned and onsold it to settler farmers leaving Tainui no interests in the lands in question. Therefore, there was no case for the Privy Council to answer. They were left with interests only in what is now known as the Te Ākau D block, with its southern boundaries at the Waikato Raupatu boundary bordering Whāingaroa moana.

The majority of the lands retained were largely alienated to lessees through the Māori Land Court. The effect of this was that Tainui lost most of the land gifted to them by Riki Korongata. Lands whānau managed to retain, were later gained through deceit, by Native Land Court agents, or taken by the Raglan County Council, because they were unoccupied, landlocked and perceived to be unused, or lost through the inability of owners and non-sellers to pay compensation to lessees after the leases expired.

In such cases, Tainui landowners were forced to sell the land to the lessee.



**Figure 4: Patikirau where the Rongo Whanau lived before forced removal.**

In one instance, the whole of the Rongo whānau were dispossessed and physically removed from the lands they had occupied for generations at Pātikirau, a name given to

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<sup>129</sup> Privy Council appeal 1913. CL 172-1, Archives New Zealand, Wellington.

remind the whānau that according to Pakeha they were “only allowed to take 100 flounder.”<sup>130</sup>

Michael King in reflecting on an interview he had with Herepo Rongo in the 1970s wrote:

I had met her at that first tangi I had attended at Poihākena marae in Raglan in 1968. . . she was a beautiful and large hearted woman. But the course of her life had given her every cause for anger, and for distrust of Pakeha officialdom. In microcosm, her life mirrored the history of many Māori people and communities over eighty years.

She had been born, she told me, at Hōrea, site of an old Methodist mission station on the northern head of Raglan Moana, which she always referred to by its old name, Whāingaroa. Later, she had lived on family land (ownership of which eventually passed to her) high on the coast between Raglan and Whale Bay. (the land referred to was Waikeri now known as Manu Bay)

Later still, during the Depression, she joined her husband on her father-in-law's property at Pāitikirau on the northern side of the moana. She bore 9 children and buried 6 of them under the pine tree that was the family burial plot there. Then came further troubles. A Native Land Court agent, Tony Ormsby of Ngāti Maniapoto, persuaded her father-in-law, Mokokoko, to put his mark on a piece of paper, explaining that it would provide him with a pension. The old man was unable to read, but duly marked the document. In fact it was a deed transferring ownership of the land to Ormsby, who resold it to a Pākeha farmer. The whole family, angry but ignorant about how to seek redress, were forced to leave their homes.<sup>131</sup>

According to her daughter Waiapu Haru, none of the people could read the paper that Ormsby brought which was a paper to sell the land. They were forcibly removed from Pāitikirau by launch. Waiapu remembers her mother being chased and stockwhipped to get in the boat<sup>132</sup>. When Herepo moved south of the moana to other hapu lands on the west side of the Oporuru the family fared no better, because shortly

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<sup>130</sup> Waiapu Haru., Interview, 11 February, 2012.

<sup>131</sup> Michael King, *Being Pakeha now : reflections and recollections of a white native*, p.105

<sup>132</sup> Waiapu Haru, interview, 11 February 2012

after moving to Te Kōpua, the whanau were again removed so an emergency aerodrome could be built.

This story is a very good example of how Crown agents, particularly those attached to the Native Land Court, deceived and duped Māori elders into relinquishing their land. The story told is that Aihe never recovered from losing his tūpuna land.

A timeline of the events affecting Te Ākau and its people follows:

- 1836** Sale by Ngati Tipa to William White Missionary 14 Dec 1836  
Tainui and Tahinga collect £50 money to buy the whenua back.
- 1849** Ngati Tahinga and Tainui build a pa at Horea, to replace their pa burned down by Ngati Mahuta who coveted the land. They repelled further attacks, and the Crown finally paid Ngati Mahuta to leave.
- 1863** Ngati Tahinga and Tainui Te Ākau lands confiscated under Lands Settlement Act.
- 1865** Two Orders in Council made declaring block to be subject to the New Settlements Act 1863 and land to be set aside for settlers as per the Act
- 1864** Tainui rights taken away. No Māori women included as grantees.
- 1866** Compensation Court decision (Port Waikato/Putataka)
- 1868** Mr H.C. Young leases the block
- 1869** Certificate of issue for Crown Grant – not acted on
- 1874** Grant made to 87 persons, including Honana Maioha
- 1883** Native Land Court hearing at Mercer (see: <http://paperspast.natlib.govt.nz/cgi-bin/paperspast?a=d&d=WT18831113.2.8&l=mi&e=-----10--1----0-all> )
- 1891** Native Court sitting results in land division into 19 pieces
- 1893** Court of Inquiry at Raglan – rehearing granted
- 1894** Native Appellate Court decision on subdivision
- 1897** Native Land Court decision on subdivision

- 1903** Petition of Tuaiwa Ngatipare – Petition no. 774 (see AJHR 1904 G1)
- 1903** Petition of Honana Maioha – Petition no. 775 (see AJHR 1904 G 1)
- 1904 Enquiry under s14 Māori Land Claims Adjustment & Kaws  
Amendment act 1905
- 1904** Report of Royal Commission on Te Ākau Block (AJHR 1904 G 1)
- 1907** Court of Appeal decision
- 1909** Return relative to applications for sections in Te Ākau Block  
(AJHR II C 18)
- 1909** Native lands and native land tenure: interim report of Native Land  
Commission on native lands at Raglan County (AJHR I G 1B)
- 1909** Special report on certain of the Te Ākau Blocks (AJHR II G 10)
- 1910** Hine Charges Committee's report was presented to the House – Nov.  
26: [http://www.paperspast.natlib.govt.nz/cgi-  
bin/paperspast?a=d&d=HNS19101126.2.49&cl=&srpos=0&st=1&e=----  
mi--1----0-all](http://www.paperspast.natlib.govt.nz/cgi-bin/paperspast?a=d&d=HNS19101126.2.49&cl=&srpos=0&st=1&e=----mi--1----0-all) )
- 1913** The Privy Council determined, the extent of Tainui land on the northern  
side of the moana to be contained within Te Ākau D block. Te Ākau  
C, already auctioned by the Crown during the court case.
- 1937** Tutuira Waretini
- 1941** Māori Land court alienates Horea because Māori were doing nothing  
with it. Tuhoea Wahanga the last Tainui person to occupy there.
- 1975** Māori Purposes Act includes sections setting up new Māori  
Incorporation: Paenoa – Te Ākau Block, resulting in land amalgamation
- 1996** TV3 v WDC appealing a decision for a tv translator at Horea
- 2003** Contact Wind Farm application lodged.
- 2008** Appealed the application by Contact Wind to establish wind turbines  
along 34 km of cultural historic land at te Ākau.

- 2010**           Tainui Hapu v Historic Places Trust
- 2011**           Hauauru ma Raki windfarm approved

James Mitchell and Craig Innes authors of AO65, *Te Ākau Alienation History, Parts 1-4*, describe in further detail the circumstances surrounding the Te Ākau alienation with particular focus on the subdivisions of Te Ākau by the Native Land Court and the government awards to sellers and non-sellers.

From 1866 through to 1913 Tainui consistently tested their rights in one court after another eventually ending up in the Privy Council in England. While the cases were going through the courts, the Crown auctioned off the contested land. The court imposed divisions of Tahinga Tainui whenua, which resulted in inalienable lands being carved up, and individualised for sale. Tahinga and Tainui continue to live with the decisions that separated their lands and hapu, and severed their relationships with each other.

### **Karioi Parish - Te Whaanga Blocks**

The Karioi land blocks on the Whāingaroa side of Karioi maunga comprise Te Kōpua, Rākaunui and Te Whaanga. These three land blocks are situated on slopes of Karioi maunga and west of the Ōpotoru stream, which provides a natural boundary between the people of Tainui, and Ngati Mahanga. Prior to the sale and acquisition, by the Crown, of the Karioi Parish in 1855 people of the Tainui hapū occupied and resided on these lands.

Karioi, west of the Opotoru stream had attracted settler interest for a number of years, particularly after the sale of the Raglan township. Raglan became known by immigrants as an easy place to acquire land and as the demand for land grew the sale of Karioi was vigorously sought after by the Chief Land Purchase Commissioner, Doanld McLean.

I left London on the 12<sup>th</sup> June, 1880, sailing on the ship “Waimea”. There were 29 passengers including my dear old friends Mr, Mrs Ward, and family... Mr Ward had booked his passage to New Plymouth with the idea of taking up land under the Deferred Payment System, but one of the sailors on board, who had been in Raglan, said, “Why pay for land in New Plymouth when you can get land in Raglan district for just paying survey fees?”<sup>133</sup>

In July 1855 Commissioner John Rogan was advised by McClean that it was necessary to conclude the land purchases in Whāingaroa and that Rogan would be able to decide on the spot how the purchases should be made at prices varying from 6d to 1s 6d per acre in a part of the country that “promises to become such a valuable appendage to Crown territory”.<sup>134</sup>

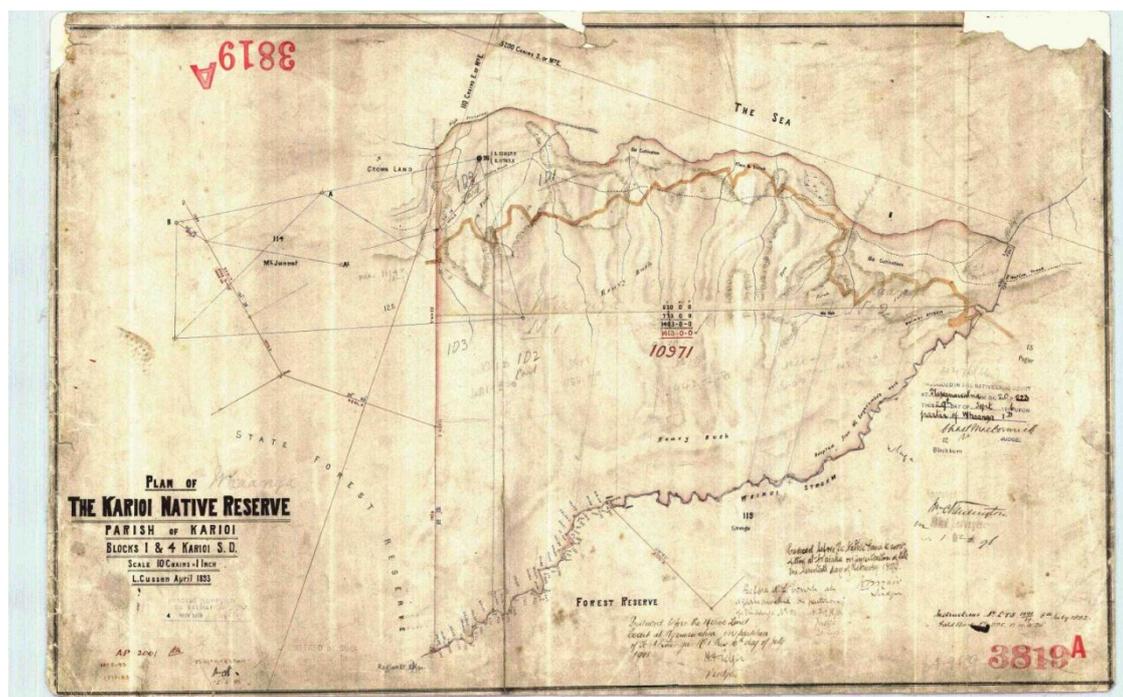
The result saw the Crown agents acquire 12,000 acres of land on and around Mt Karioi, through what can only be seen as a dubious sale, for a mere \$575 that included advance payments made by McLean of £50 to Kereopa and others on 12 April 1854, and a further £50 made to Wetini and others on the 5th July 1854.<sup>135</sup>

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<sup>133</sup> John F Jackson in Ruapuke the Early Days, F.J. Trollove p 17

<sup>134</sup> AJHR 1862 C-1, No 8, p.153

<sup>135</sup> Turton Deed 438



According to the official records, the original offer made to Māori was at first refused but eventually the price was agreed upon. It should be noted that the payments made to Kereopa, Wetini and others were recorded as being payment for Te Hutewai on the 12 April 1854 and not Karioi.<sup>136</sup>

The deed<sup>137</sup> that was finally signed included the names of children and others that were not of the hapū from the area. Children were generally excluded from any Māori decision making processes and it is difficult to comprehend that they had the ability to make the decision on their own behalf to sell the land.

I remember Mum and Dad talking about serious things like how to keep orphaned mokopuna in the whanau and out of social welfare. We weren't involved in those conversations or asked our opinions. It wasn't until I married and had children that my parents thought I was mature enough to have an opinion<sup>138</sup>.

The sale allowed the alienation of Karioi, (with the exception of an area of 600 acres reserved for the Natives), to proceed. The land was very quickly carved up for leasing or appropriation through proclamations, acts and other processes. However, Te Kōpua,

<sup>136</sup> AO70, Boulton Land Transactions, 1840-1865, AUC 730

<sup>137</sup> Turton's 'Karioi Deed' 5 November 1855.

<sup>138</sup> Korero a waha, Tuaiwa Kereopa 1986.

Rākaunui, and the Karioi Reserve at Te Whaanga were excluded from sales. The Karioi Native Reserve was an area set aside exclusively for the use of Ngati Hounuku, and Ngati Te Ika, by Kereopa and others.

Tainui rangatira stated to Rogan that, they wanted to ‘retain the whole of the coastal frontage, from the entrance of the harbour inland to the proposed town i.e. Kopua now known as Papahua and Te Kopua.

In 1896 the land was carved up into blocks, renamed and parts were later alienated. In the original agreement, the reserve boundaries were clearly identified by Tainui using their own Māori reference points. Tainui challenged the surveyed area and the block was finally resurveyed according to the boundaries agreed to at the time of the sale. Following the survey the reserve was actually found to be 1413 acres and not the 600 acres that was originally left. Nutana spoke of a survey dispute:

When the Karioi block of 12,000 acres was sold to the Crown on November 5, 1855 this piece was reserved for the hapus named. Mr Rogan was the LPO. ... In 1876 the Govt sent Frissel to survey it he was told to lay off six hundred acres, the people interfered but he persisted and made his survey for which the Govt paid him. Then the Maoris petitioned Parliament that the balance should be made up. Two petitions were dismissed by Parliament in February 1891. I went to Wellington and saw Mr P. Smith Surveyor General. I asked to be permitted to see the deed of sale there I saw that the Wainui was the boundary. He said that if the petition has made the matter as plain as I had done, he would have seen that the mistake was rectified. He then gave us a written document that our land would be returned to us and that as soon as a surveyor was available he would be sent to make the correction. In March 1893 Cussens came I went with him and he made the survey. ... It was part of the bargain that the Govt were to bear the cost of surveying the reserves.

Remana Nutana claimed the land for Ngati Hounuku and other smaller hapu by ancestry, permanent occupation and under a claim by conquest. This established the prima facie case.<sup>139</sup>

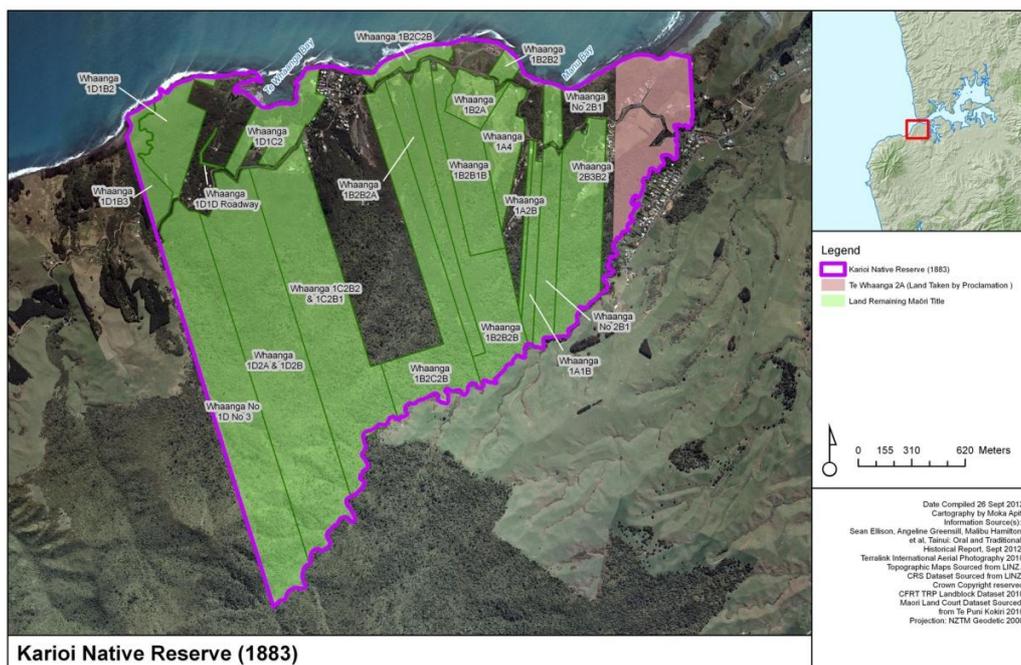
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<sup>139</sup> Mercer MB No.04, pp.47-49

In 1896 the reserve was resurveyed and divided into two Blocks known as Te Whaanga 1 and Te Whaanga 2, with 110 named owners. Māori owners in the Te Whaanga 2 Block were mainly people from the Ngati Hounuku hapū, whilst Te Whaanga 1 was allocated to those of Ngati Te Ikaunahi, a hapū of Ngāti Koata.<sup>140</sup> Since the survey the lands within the reserve have undergone a further partitions. Te Whaanga 1 has undergone thirty five partitions and Te Whaanga 2B six.

The Te Whaanga 2 block was partitioned into two, one part, allocated to Hounuku and the other to Kereopa. In 1921 a certificate of title was issued to Daniel Vickery Bryant to the portion of Te Whaanga 2, (2A), which had been allocated to Kereopa and his whānau in 1905. We challenge the validity of the transfer of this title and indeed all of the titles surrounding the Te Whaanga 2 Block <sup>141</sup>

**Map 9:Te Whaanga partitions**



Parts of these blocks, through various court actions, proclamations and orders of Council and numerous partitions, have been either sold by individual owners or confiscated for unpaid rates, or for having noxious weeds. The fact that some of those same lands are still growing imported gorse seems to have escaped the authorities gaze when the lands were transferred to General title.

<sup>140</sup> MB 04 pp165-168

<sup>141</sup> Certificate of Title under the Land Transfer Act Vol 325 Folio 63

Some settlers, who managed to acquire Karioi lands under the Homestead Act,<sup>142</sup> constantly pressured the government to form a road through Karioi, Te Kōpua and Papahua Māori land to town.

When the road opened up, there was competition in the bush for bush kai, because people could get up there quite easy. A lot of the good places were around the back, Te Toto Gorge, when I say kai I mean meat. And by opening up the road it made it accessible for people to get in and get that meat.<sup>143</sup>

Today every visitor to Whāingaroa/Raglan drives through Maori land, on roads that dissect the whenua, and allow intruding strangers access to Hounuku and Te Ikaunahi, and Ngati Koata lands.

We walked into Auckland to find out what blocks were available that could be taken up under the Homestead system and where they were situated. There were some in the far north but we decided to try out luck in Raglan. ..As I don't think it is generally known what is meant when we speak of the Homestead Act, I will give an idea of how it worked. There were two classes of land – first and second. One family could take up to 200 acres of first or up to 300 acres of second class land according to the number of children he had. ...On application a man with a family would pay £20 for the survey of the section. A bachelor could take up to 75 acres, for which the fee was £9/7/6.<sup>144</sup>

### **Karioi Parish - Te Pae Akaroa – Pilot Signal Station**

Te Pae Akaroa is a long promontory between Iwitahi and Te Kōpua overlooking Ngarunui beach. The area was renowned as a fishing pa with evidence of numerous Kāinga across the whole landscape. Hapu gathered annually up until the 1960 to catch the seasonal migratory influx of mango and other species. Kutai beds also provided food for daily harvesting.

When attempts were first made to purchase the Karioi block, rangatira wanted the whole area reserved to the township. Rogan, the surveyor reported that:

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<sup>142</sup> The statement in regards to the Homestead Act could be the Village Homestead Special Settlement Associations as identified in AJHR, 1891, II,C-05,p.1.

<sup>143</sup> Sandy Hounuku, May 2012 interview

<sup>144</sup> John F Jackson in Ruapuke, The Early Days, F.J Trollove

The Natives decided on retaining the whole of the water frontage, from the entrance of the Moana inland to the proposed township, and following Mr. Ligar's boundary for about two miles, which comprises nearly the whole of the available land in this block. The land southward of the Native reserve is rendered unavailable owing to a great number of ridges and ravines running from the top of the mountain to the sea, and the land on the opposite side of the mountain, towards the inland boundary, is formed in a similar manner.<sup>145</sup>

The following is a chronological timeline for the Karioi Native Reserve and Te Pae Akaroa that was identified and surveyed out of the Karioi purchase for a Pilot Signal station. The amount of land taken was excessive for a signal station and illustrates the Crown's underlying agenda for purchasing Māori land and subsequent transfer to pakeha management and ownership. Despite a government position that may claim that it was partitioned out of the Karioi purchase this does not alter the fact that the sale was unethical, it left Māori with very little land and the fact that a Pilot Station was never built indicates that there was actually no need for a signal station. The irony is that the beacons, which were erected to guide ships in, were built on the Te Kōpua block, which is Tainui land.

The following is a timeline of events and occurrences up to the time that led to Hāmi Kereopa making a claim on behalf of his hapū to the Waitangi Tribunal.

- 1854** Advance payments totalling £100 made by Donald McClean to Māori
- 1855** McLean instructs Rogan to conclude the sale as quickly as possible
- 1855** November sale completed.
- 1860** Survey block for purpose for a Pilot Reserve  
Crown grants leases to various locals
- 1861** 228 acres set aside for a Pilot and Signal Station Reserve
- 1869** April 17 Kereopa Honehōne's claim to land and refusal to have land taken by Crown surveyed. Not a signatory to the Treaty therefore never ceded sovereignty.

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<sup>145</sup> AJHR 1862 C-1, NO9, P154

- 1877** Native reserve surveyed 630 acres
- 1896** Claim by Ngati Te Ika (Ikaunahi), Ngati Hounuku, Rākaupukupuku as to area of Native reserve and surveyed boundaries. Survey adjusted to 1413 acres. Reserve divided into two blocks, Whaanga 1 and Whaanga 2 with 110 owners.
- Pilot and Signal Station Reserve offered for lease by Public Auction
- 1915** Pilot Reserve vested in the Raglan County Council,(RCC), in trust, without power of sale
- 1924** 8 perches taken for road
- 1936** 4 acres taken for roading
- 1933** RCC apply for issue of title. New survey carried out for leasing purposes only
- 1938** Certificate of title issued to RCC with condition that if not used for a pilot and signal station land is inalienable except by lease.
- 1946** Land leased for a period of 21 years with right of renewal to three different people. 206 acres to E.G Tait, 19a 3r 13p to S.H Dando, and 22a 1 r 15p to Mrs C Jackson
- 1964** Submission presented by Council to Parliament asking them to withdraw opposition to the passing of the Moana Board Empowering Bill.
- 1965** Letter from Director General of Lands revesting reserve as Crown Land.
- 1965** 29 October Gazette notice cancels the vesting in RCC and revocation of the Reservation over the Reserve.<sup>146</sup>
- 1966** Lands And Surveys 28.1.66 Inspects the Tarata Creek and finds it a dirty, slow flowing stream.’ .Recommends that “no reserve be set aside along the banks of Te Tarata Creek due to the close proximity of superior resrves and beaches in the Raglan County which will lesson

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<sup>146</sup> Extract from NZ Gazette, 4 Nov 1965, No 64.p.1890.

the demand for such a Reserve and the undesirability of the area in question.

**1974** Letter from N Tyler in 24 April 1974 responding to Surf patrol Ces Gaukrodger for Access to Bryant Home Beach.

**1978** 12 12 1978 Ref R2/13/1 Letter from R.Brownlee RC clerk to Commissioner of Crown Lands Stating no more sand to be removed for private or commercial interests from Te Kopua near the Surf Club.

**1988** RCC.. Public notice authorising sale of allotments 234-235 Karioi Parish situated in Block 1 Karioi Survey District and Lot 1 DP 28849 situated on Wainui Road and Ocean Beach Road, Raglan. A Rogers CEO 3 Oct 1988.

19 October Correspondence from the Department of Lands to A. Greensill re Pilot Station ownership 228 acres acquired from Māori in 1855. Copy of original deed enclosed. C.Cayless for Acting DG of Lands

**1989** RCC 1 September Ref 64/90/90 regarding the Farm Park for Pilot Reserve. It is because of the RCC attempting to sell the Pilot Reserve to a developer for a subdivision, that Hami Whakatari Kereopa lodged the original claim.



Figure 5: Waikeri/ Manu Bay

## **Waikeri/Manu Bay**

Further along the coast and still within the Karioi Native Reserve is Waikeri, an area whose name, ‘surging water’ epitomizes its character. For Ngati Hounuku and Ngati Te Ikaunahi, this area was a traditional fishing ground, which fed their whānau. Each whānau had particular places that were known, used and managed by them.

The whānau and owners in Waikeri, or Manu Bay, were forced to sell the land to the Raglan County Council in the early 1970’s as payment for unpaid rates. The owners of the time did not agree to the sale and the old people did not understand why they had to continue to pay for land that was their birth-right and that they had been occupying for generations.

Manu Bay. We owned Manu Bay once. That’s when Mona and George Abbott stayed there for years. We used to all go down. Queenie and William. When Tilly and I went up to Māori affairs we received this money for Manu Bay. So I took it home to show Gillie. He said take it back and tell them you are not selling yours. He rang his nephew in MA Bobby Waretini and he came back.<sup>147</sup>

Part of the land adjoining the sea had been leased to a farmer Mr Sexton by Māori Affairs. He was responsible for paying the rates, however, when the Council chose to increase the rates it became impossible for him to pay so relinquished the lease and left the debt for the Māori owners to pay. When he arrived he was confronted with land that was covered in native timber and other plants, but the lease required him to strip the land of its cover and turn it into grass for pastoral farming.

During the period of the lease, the owners had allowed the public to access Manu Bay and share the enjoyment of the area with them at no charge for many years before the Council saw fit to confiscate through a forced sale. Although the Māori owners objected strongly to the sale they finally agreed by insisting that in the terms of the sale a public right of way to the beach be allowed, the sea being their main food source.

Council agreed to the terms but once acquired the bay they locked the gate and Māori were forced into challenging the Council. It appears the council were land speculators and envisaged subdividing it for residential housing. However, the actions that the Māori took and terms that they insisted upon prevented this happening and it remains to this day a public reserve.

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<sup>147</sup> Raukura Waretini, April 2012

Another incident that involved Manu Bay lands was the case of Kawharu Kereopa who was changed his Maori land to General land to get a mortgage to build a house. Shortly after their home was built his wife died in a taxicab accident leaving him to raise his children. Because he feared that the Social Welfare Department would take his children, he made a difficult decision and arranged for relatives to whangai them.

On the 10th of April 1963 an Alienation Notice, stated a mortgage sale, was under conduct of the Registrar of the Supreme Court. The alienee was her Majesty the Queen for the purpose of Māori Housing Act 1935. I had a young brother, David, he worked at the Raglan wharf to earn money to help pay off the mortgage to this home. He went with Mrs Rickard to the Māori Affairs Department, however, they refused to take the payment because he was not the owner, he just wanted to help my dad<sup>148</sup>.

There were rumours that a Mr McIntosh worked for the government at the time and benefitted by being the purchaser of the home.

The resolve by the owners to at least maintain some rangatiratanga over their land is a good example of the type of people Tainui were and still are. However, their goodwill was not appreciated by the Council and immediately began improvements to the road, which involved the taking of more Māori land. Waikeri quickly became a popular surfing venue and launching pad for a fishing club that had already built a boat-ramp without consent.

For years the hapu had gathered from the reefs and fished conservatively according to the fishing seasons. This was witnessed by a journalist on the 21 February 1882 who wrote about his experiences in the Waikato Times.<sup>149</sup>

However, the unfettered access has undermined the kaitiaki status of the hapū and resulted in the stripping of kaimoana, depletion of food species and pollution of the waterways. According to Sandy Hounuku:

Back in 1987 there was realignment done to the road and parts of the whenua were taken. No consultation and, to this day, we have still not been fixed up for that which is really what my takê is about, it is just the roading. Because it is opened up now, we have fishermen, surfies, camper vans, rough traffic, it is

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<sup>148</sup> Kuratauri Purnell, Oral and Traditional hearings, 13 April 2010.

<sup>149</sup> Volume XVIII, Issue 1503, 1882, An Account of a Days Ride Round the Western Side of Karioi .p.2.

dangerous for us now. Where I stay, we had a corner there. My olds told me the name of that corner was called Ongarehu. It is not recognised now<sup>150</sup>.

#### Whale Bay (Te Whaanga)

Whale Bay is another block, within the reserve, that has undergone a series of battles and litigations. The constant change in re-zoning has led to costly court cases.

In the 1970's Hāmi Kereopa and his family, who had inherited land through their mother Riria Rāpana, became embroiled in a battle with the local Council, who again tried to take the land off her whānau by declaring it first a recreational reserve, then later changing the status to a scenic reserve. They also increased the rates making them inequitable to rates being paid on adjoining properties. The reserve status meant that the whānau could not build or live on their own land. However, because this particular whānau had very strong connections to their land and refused to give up their rangatiratanga they managed to successfully challenge the Council and remain on their property.

The family had a long history of fighting to retain their lands beginning with their mother, Riria Rāpana Kereopa travelling to parliament to challenge the government attempt to seize their 37 acres under Second World War emergency regulations.

Mrs Riria Kereopa won that round – the Government withdrew and their attempts to annex the property were not brought to court.<sup>151</sup>

Two decades later the family were again embroiled in a battle to retain and protect their land from the Raglan County Council, a Council well known its for vigorous pursuit to acquire Māori land.

The family's resentment is against their 34 acres at Whale Bay being designated 'scenic reserve' in the county's scheme plan under the Town and Country Act. The family claims that Raglan Māoris have in the past had large areas acquired by the Government and county for public purposes, including Kōpua camping ground and the area leased to the local golf club. The family

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<sup>150</sup> May 2012 Interview

<sup>151</sup> Te Awamutu Courier, July 28, 1972

feels it was unfair that an attempt should be made to take the last land they own for public purposes.<sup>152</sup>

The Kereopa whānau managed to stave off the attempt to acquire their land.

The most recent court case was held in the Environment Court in 2010 to consider the right of a whānau member to build his house on land that was once tūpuna land but had to be bought from another whānau member in order to keep it in Māori ownership.<sup>153</sup> After 10 years and thousands of dollars spent on countless technical reports, he finally received the right to build within the restrictive resource management rules of the Waikato District Council. These rules are an intrusion in the place where Tāwhao lived and where his descendants are mana whenua.

The Crown, through the Māori Land Court, has established the legal conditions to alienate the land. The court has defined boundaries of the land and has then defined ownership to a set number of people, some of whom have then sold the land. As a result those whanau, have become divorced from their whenua, and hapū and cultural identity.

There are only a few whānau in Whāingaroa who have managed to maintain the whenua inherited from their Tūpuna but this has been difficult given that the Crown agents and Local government continue to impose policies on the owners, for the management of their whenua. As a result, Tainui has to be continually vigilant in opposing Councils development plans, which are detrimental to their tikanga and undermines their tino rangatiratanga over their own lands

### **Te Kōpua**

Te Kōpua is one of the main papakāinga of Tainui, which was originally estimated to be 148 acres and included what is now known as Papahua. While the Te Kopua land was known to be Maori land belonging to Ngati Hounuku and Ngati Koata, this did not stop local business people from approaching individual Maori to try to acquire the land as a recreation reserve. On the 28 May 1917 at a meeting of the the Raglan Town Board J.M Thompson ‘moved that we take steps to acquire Papahua Block of 44½acres

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<sup>152</sup> Waikato Times, July 31, 1972

<sup>153</sup> Hemi v WDC, 2010

for a Recreation Reserve'<sup>154</sup>. Those steps included holding meetings outside of Raglan and making decisions which were later ratified by the court.

Map 10: Te Kopua



Te Kopua has been subject to court processes and land laws for over 100 years. Its' story evolves around a land taking, a council, golf club and the Crown, and efforts by tangata whenua to have it returned in a manner consistent with Tainui aspirations. Additionally, it is an example of the individualisation of Māori land into shares, a practice that has proved contentious in the history of Te Kopua and its people.

An illustration of the forcing of entitled shares upon people is demonstrated by the history below.

In 1896 Te Kōpua was divided into two blocks, named Te Kōpua 1 and Te Kōpua 2 using boundaries agreed upon by the rangatira of the time.

The Te Kōpua 1 people were descended from Te Ata, Taioparenui and Te Pōtikitahi and had closer links with Ngāti Mahanga through intermarriage with Tainui. Te Kōpua 2, were of the Ngati Hounuku hapū as well as descendants of Te Ikaunahi, Huia

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<sup>154</sup> R.T.Vernon,Raglan. nd., p165.

and Mauriri. Eighty-eight people were named in the block and comprised of all those living there at the time.

The people of Te Kōpua 2, who were mainly Ngāti Te Ika and Hounuku, were also followers of the King Movement. Te Kōpua 2 also had a marae site, which was known as Te Kōpua 2A. Included in their list were the names of their whānau from other areas that had been left landless through confiscation of their lands and spouses from other iwi, demonstrating their own tino rangatiratanga. They refused to have shares allocated preferring to keep the land in tribal ownership. They continued to resist shares until 1924 when the court allocated shares.

When the land was finally vested back to the iwi, it was done so within the rules of the Māori Land Court. Despite the consistent request by the iwi to have, the land returned to tribal ownership the iwi voice was ignored.

Secondly, outstanding issues were not resolved and only part of the land taken has to date been returned.

Thirdly, when the land was returned it was again subdivided to become Te Kōpua 3 and 4. The problem arose because the original Te Kōpua 2 block has been absorbed into the part of Te Kōpua 1 block that had been returned and the shareholding allocated has disenfranchised those of Ngāti Hounuku and Ngāti Te Ika. .

The impact of this today is that the majority of the descendants of the people included in the list but not originally from these lands, left Raglan leaving the ahikā to look after their lands.

Those that left and those that were listed from other areas have a distorted view of their own identity and rights to ownership of the land without understanding the notion of responsibility in caring for the whenua for future generations. Pākeha structures in the form of an Incorporation and a Trust manage the whenua and the shareholders, who are not ahikā, see the role of these entities only as a commercial entity that pays a dividend to shareholders.

The narrative provides only a glimpse of Crown actions and those of their agents that breached the principles of the Treaty of Waitangi. Their actions severed our identity and our ability to belong to the land and thus weakened whānau and iwi relationships and the ability for Tainui to exercise tino rangatiratanga over land, as well as the

social/cultural loss, because of losing the economic base of the people, that economic base being the land.

The notion of tino rangatiratanga implies responsibility so tino rangatiratanga over land means executing responsibility, not ownership, over land. The land partitioning process and share entitlements disregards responsibility and instead gives entitlement to land, which is a totally Pākeha concept. As such, the possession of shares without the associated responsibility completely reverses the traditional whakaaro that Maori had in relation to whenua, and that is a breach.

### **Miria Te Kakara**

Ngati Hounuku people built their papakāinga, including a Tūpuna whare called Miria te Kakara which was destroyed in 1941 by the Public Works Department.



**Figure 6: Miria Te Kakara-remains**

The relationships with the land and the hapu underwent enormous change and while the people survived, they never recovered from the loss of the marae, orators and their community. The experience of Herepō Rongo as told by Michael King illustrates that loss.

They settled again on the Raglan side of the moana, at the Tainui Awhiro community around Miria Te Kakara meeting house and marae. Here they were disturbed again. With the approach of WW2, the Dept of Civil Aviation was establishing emergency landing strips down the coast and the Raglan County Council offered the land around Miria Te Kakara.

The whole community was paid (sic) compensation and shifted, though Herepo refused to accept any of the Government's money ('black pennies' she called it: tainted money). The only consolation was that Civil Aviation promised to return the land to Tainui Awhiro once it was no longer required for the war effort.

The end of the war brought further duplicity, however. The land was given to the Raglan Aero Club, who leased it to the Raglan Golf Club. Not only did Herepo not get her home and marae back, she was confronted by the sight of Māori and Pakeha golfers (but mainly Pakeha) hitting golf balls over the community's urupa. Not only had the living been insulted but the dead were now being desecrated.

When she tried to move back onto the land she had inherited on the coast she found that the Māori trustee had transferred her shares to a nephew. She had no legal right to live there any more. (She had been notified of the application for this transfer by letter but she, like her father-in-law, was unable to read.) Finally, she acquired a house below Eva Rickard's on the hill at Te Kōpua, overlooking the golf course whose very existence distressed her so much<sup>155</sup>.

The taking under the Public Works Act of part of the Te Kōpua land for war purposes rendered many people landless, without homes and without a Marae to hold tangi or to practice their tikanga. The Crown on another part of the Te Kōpua should, have rebuilt Miria Te Kakara, as agreed. This was never done.

The old people were still here, there were plenty of them. Don't know Karetuku's last name, there was a lot; Whare Paekau, Whatau Pahi, Hounuku; all staying just below your place there, on this side the old aerodrome. All covered in lupins. They all had little whare's, ponga houses. The only house is where your grandmother's house is. Tumu and Kaka's theirs was an old house, but they had it right next to the spring just further down from where that one is built. There was another one it was a teepee hut, it belonged to Mother Forbes, the old lady. And the next one was Kereopa's, the old house.<sup>156</sup>

Miria te Kakara was the name of the meeting house at Te Kōpua;

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<sup>155</sup> Michael King, *Being Pakeha now : reflections and recollections of a white native*, p.105

<sup>156</sup> Raukura Waretini

It was one big building; the windows were made out of board. It was always dark inside. They used lanterns. There was no power. When there was tangi's we were not allowed to go there, we were only allowed there when our parents were there. We were never allowed to go inside the whareniui. Had long mats.<sup>157</sup>



**Figure 7: Miria Te Kakara - Kapa Haka**

The confiscation had a huge impact on Tainui especially Ngati Hounuku.

With no homes, more people left the district and those that stayed were without a meeting place, so their homes were utilised for tangi until a replacement meeting house was built in the late 1950's and opened in the 1960's without help from the government.

The rebuilding of the marae was not without incident. Many meetings were held and people from the Te Kōpua 1 block wanted the marae to be built at Rākaunui, where they and Ngati Koata had land shares. However, Ngāti Hounuku and Ngāti Tahinga were not included in the Rākaunui land.

The Crown should have constructed a marae, as agreed at Rangipū but after a number of meetings with officers from the Māori land court they determined that the meeting house was to be built at Rākaunui, despite that site receiving a minority vote.

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<sup>157</sup> Raukura Waretini

To add insult to injury, in the early 1970's, a sewage pipeline to discharge the local towns effluent in to the moana, was installed across the site where Miria te Kakara once stood. The sewage discharges into the kaimoana basket of Tainui.

### **Raglan Golf Course**

The evidence of the taking of Te Kōpua under the Public Works Act, has been dealt with in some detail in the report by David Alexander titled *Public Works and Other Takings in the Rohe Pōtae District*.<sup>158</sup> In his report he traces the history of the engagement of Tainui with the Crown over the taking and eventual return of the land in June 1990<sup>159</sup>. The story of Te Kopua, and the Raglan golf course issue led by Tuaiwa (Eva) Rickard is also told in *Te Wharekura*, a school journal.<sup>160</sup>

The event, which resulted in the arrest of Tuaiwa and 16 other representatives from hapu o nga hau e wha, was a traditional ceremony called by Titi Tihu from Whanganui He had read media stories about the local taniwha in Whāingaroa and offered his assistance. He rang Tuaiwa and asked that 12 tōhunga be called to gather at Te Kopua on the 12 February 1978 at 12 noon to carry out a ceremony on one of the Tainui urupa.

Over a hundred and fifty people turned up to witness the ceremony, which never took place as police at the instigation of the Raglan golf Club, selectively arrested 17 people. Most of them were well known activists who were supporting the call of Tainui for the return of the land.

Five years later in a media interview, following a meeting with the Minister of Lands, Tuaiwa reflected on the impact of the struggle on her and her people to regain the land. She said:

I regret that we had to go through all that, and do all those things. We had to go to jail for it, we had relationships broken, hardships and divisions caused by it. I do not know whether we will be able to [a]mend it, and do not know whether Raglan will ever be the same because of the Raglan dispute.<sup>161</sup>

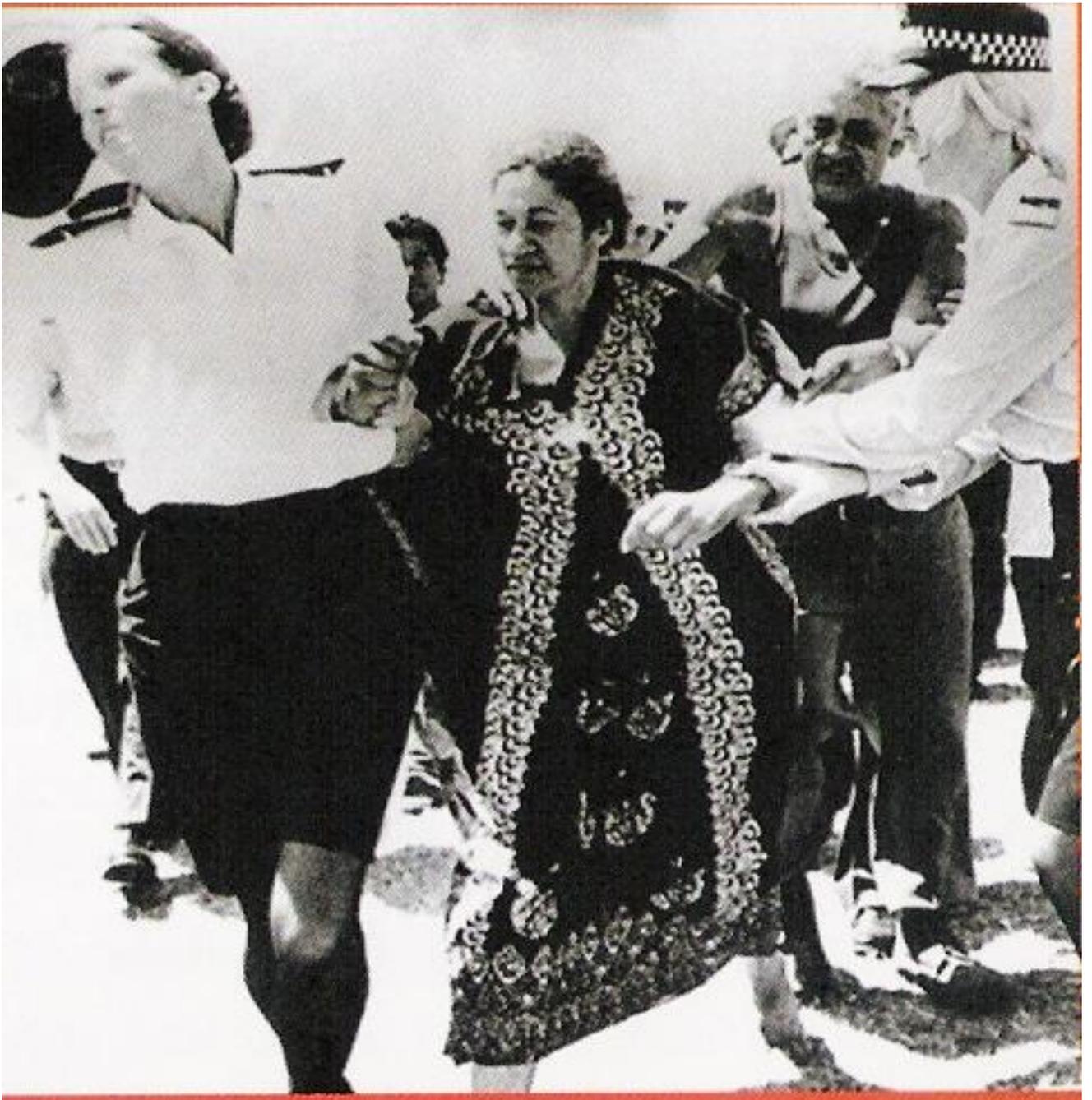
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<sup>158</sup> AO63 David Alexander pp.653-843

<sup>159</sup> *ibid* 843

<sup>160</sup> Ellison, S., *Te Wharekura* 66: Tuaiwa Hautai Kereopa (Eva) Rickard.

<sup>161</sup> AO63 David Alexander p828



**Figure 8: Tuaiwa Rickard & brother Hāmi Kereopa. Photographer unknown**

Five years later, in a letter to the Minister of Lands, in June 1983, Tuaiwa concluded:

Although the ancestral land of our Tūpuna will be returned, there is little joy for those of us who witnessed the heartbreak of our old people, who were rendered homeless by the action of the Crown in taking their land for war purposes for God, King and Country, and the enemy then grows rich and the blood of my

people spilt for what. My people became homeless, cultureless, jobless, and became orphans in a changing world.<sup>162</sup>



**Figure 9: Hami Kereopa and Steve Pairama 28th Maori Battalion.**

While Hami and his cousin Steve were fighting Germans overseas, their own homes were demolished by the orders of the Crown. Raglan was the catalyst for change and the forerunner to the current treaty settlements. The land was eventually returned with no apology or compensation.

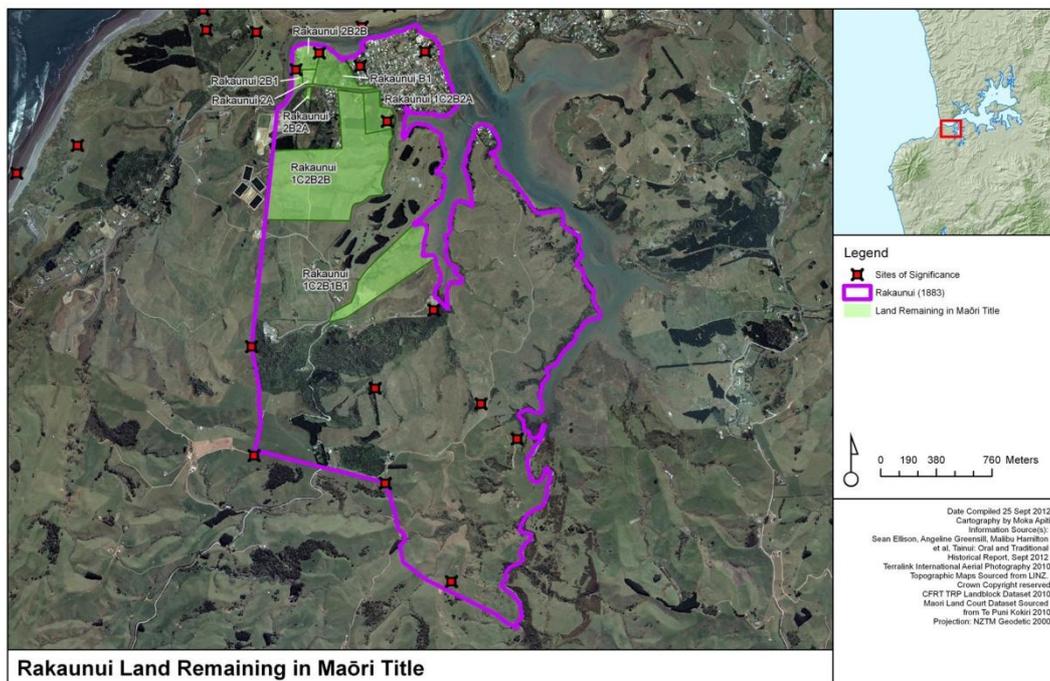
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<sup>162</sup> Ibid,p.827

## Rākaunui

Rākaunui is situated on the Karioi foothills, bounded to the east by the Opotoru awa, and on the west by the Pokohue awa, south of Te Kopua. Its' history, like all of the other blocks owned by Tainui, illustrate the role of the Native Land Court in alienating Māori land from related whanau and hapu by promoting the individualisation of communal Māori land which could then be onsold.

Map 11: Rākaunui



The history of this block is traversed in the Berghan report from 1896.<sup>163</sup>

Its' history begins much earlier than that. The first European settlers to occupy Nihinihi, Rākaunui were the Wallis family who acquired the land from Wetini Mahikai and three others for a mission station in 1839 prior to Te Tiriti o Waitangi being signed. Rangatira were quite capable of allowing others to share land and used their own understandings of relationship building to decide whether allowing settlement of land by Europeans was in the best interests of the people or not.

<sup>163</sup>Draft Block Research narratives, 2008, p370-376

Despite the land being excluded from the Karioi purchase by Kereopa, Wetini and other rangatira<sup>164</sup> lands were quickly alienated through the court. The pressure from pakeha settlers for land escalated following the raupatu of Waikato land in 1863. The Crown adoption of Domett's policy of settling military settlers<sup>165</sup> in a frontier zone including Raglan meant the alienation of more lands on the foothills of Karioi, including around Rākaunui. Once the surveys were completed, military settler farmers settled on Tainui lands.

In Waiuku in 1896, the Native Land Court investigated the title to Rākaunui to determine who should have interests in Rākaunui, Raglan. It is interesting to note that despite there being a Native Land Court in Raglan that this case was heard almost 100 miles away, making it difficult for those who had local knowledge and had an interests in the block to attend.

Map 12: Nihinihi Mission Station. Source: NZ Archives



Remana Nutana was present and gave the boundaries of the block as follows:

The boundary begins at Te Rua o te Ata to Te Kiripaka, Te Rape o Patiti Manukorihi, Rākaunui. Then Easterly Raumatirua to Waiwhatawhata, then on to Taimoremahoe and then to Hohana to Pukewhau into Poutoto stream and down it

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<sup>164</sup> Mercer M.B. No 04, 82-83

<sup>165</sup> AJHR1863, A-8

to Ngangaia then over a hill. <sup>166</sup> to Hoeiwiata swamp by the swamp to a mill dam called Waipatukahu along the tide mark to Te Waiwhero, then over a little hill, by a swamp to Ngahokowhitu, then along the tide mark to Poihākena and by the shore to the commencing point.”<sup>167</sup>

These boundaries became tools of exclusion, separating closely related whanau and hapu into particular areas on a block of land and discouraging any communal sharing of space and discounting or diminishing the interests of others.

Evidence given in the Native Land court identified, pa, Kāinga, urupa, cultivations areas, mahinga and hapu. Remana Nutana gave evidence about economic activities he observed happening at Rakaunui as stated below:

It was in 1873 that I first came to Rākaunui... at that time there was a flour & flax mill on the block. Te Wetini with Hikairo and other hapu were living at Te Aute, so were Te Kewene & co of “Haua from Te Makaka. They were growing wheat and cutting flax. The mill had been erected for many years... Poihākena was their great Kāinga.”<sup>168</sup>

Remana also spoke at length about the selling of timber off the Rakaunui block. Prior to the case, Maihi Kereopa had objected to the timber sales and appeared at court to counterclaim stating that the Rakaunui was part of Karioi, that there were a number of people who had an interest in Rakaunui. Maihi Kereopa traced his descent from Karewa to establish ancestral rights to the land.

On 28 February, the Court delivered its judgment in favour of Wetini whose evidence convinced them of his undisturbed possession of the land, that he sold portions of it without hindrance and that he had sold flax & timber and exercised full rights of ownership, further that he had the land surveyed without dispute until recently. The court ruled that the land did not belong to Karewa and that Maihi Kereopa had no rights by kaha or by occupation to the land.

Attempts to be recognised, as having rights in the whenua did not stop with this case. Maihi who descends from several hapu including Te Ikaunahi is entitled through ancestry, to occupy and use land at Rākaunui down by Poihākena.

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<sup>166</sup> Mercer M.B. No 04, p.62

<sup>167</sup> Ibid 64

<sup>168</sup> Mercer MB 4 77-79

This case illustrates the economic activities such as timber felling, wheat and flax growing, and pork production that occurred in the Tainui rohe.

Berghan<sup>169</sup> identifies in her report, a more detailed narrative of the Rakaunui block including the case above and disputes that arose over who had interest in the land and its resources. She clearly identifies the partitioning of Rakaunui block and the alienation of the land through 21-year leases and local government appropriation.

At the oral and traditional Hui, Chris Riki, an uri of Wetini Mahikai spoke about Rākaunui.

Ko te kōrero anō taku nei ka huri ake anō ki tō mātou whenua e tū nei ana ko Rākaunui kua kōrerotia nei e tātou. Kī ai te kōrero a ngā mātua ko tēnā he wāhi e tū ai he marae, he pā rānei I te wā I a rātou. E ai ki te kōrero ka haere katoa mai ngā rangatira katoa, ngā iwi katoa ki tērā wāhi ki tērā pā. Kī ai te kōrero ngā āhuatanga e haere nei ki runga ki tēnā marae i tērā wā ko ngā tangihanga katoa, ngā poukai katoa, tērā hoki te wāhi, te whenua i haere mai a Kīngi Koroki i tōnā wā

By the time the surveys had taken place and the investigation into the block had been completed all of the saleable rimu & puriri had been felled.

The current meeting house at Poihakena marae stands on the whenua of Ngati te Ikaunahi, and was built in the late 1950's at Wahanui to replace Miria te Kakara which was destroyed by the government in 1941. The division of lands has not been without controversy, which will be discussed in Chapter 4.

Te Whātau Pahi Haukatokia was the recognised tohunga during the years leading up to and during the war. He was responsible for ensuring the boys who left Whāingaroa to go to the Second World War all returned home safely by offering his own life to Te Ataiōrongo. Within a few months of their return, he died. It is interesting to note that despite his credentials as the local tohunga, his knowledge of whakapapa which he had reluctantly cited as evidence to support a claim to Rākaunui lands, was not accepted as credible by the Native Land Court.

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<sup>169</sup> Berghan. L. Wai 898 A060.pp.863-873.

## **Nga Wahine**

Tainui hapū is inextricably linked with stories of exceptional women such as Ruaputahanga, Punuiatekore, Koata, Herepo, Riria, Tuaiwa, and others whose leadership and efforts secured lands and resources currently retained by Tainui.

It is therefore interesting to note the impact of the imposition of the patriarchal system on mana wahine. One of the observations in reading the reports of government agents and Native Land Court Minute Books, is the deliberate exclusion of women, when inquiries into their lands were being determined. Such decisions had huge ramifications for both the future of the whenua and their whanau and yet courts which were patriarchal, packed with male judges and male native assessors, condoned the practice of excluding their voice.

Several of the Tai Hauauru hapū are named after women for example, Koata, Waikarui and Motemote. Punuiatekore, Ruaputahanga, Kahupeka, Potete, Paratai, and others held the ancestral links to the lands of their tūpuna. Women were responsible for ensuring whenua passed down to the next generation.

Prior to colonisation, both men and women had roles in decisionmaking. There was no such thing as a fixed paepae dominated by men in Whāingaroa. In the 1960's Kuia were constantly listening and monitoring kōrero, remembering the details for future reference and when compelled, would stand up, correct their chosen spokesperson, and make their own views known.

Peace was often negotiated and long lasting alliances formed between hapū through strategic marriages of puhi. Women not only nurtured whanau, and managed resources, they were also known to have fought and died beside their men to protect the future.

## **Economic Development**

Tainui, who had developed a successful land, based economy to meet the demands of missionaries, settlers and their own communities, suddenly found their enterprises threatened, as settlers gained land and began to compete with Tainui producers. During the late 1870's, Tainui and other local rangatira set up their own company called the "Raglan and Waikato Māori Company" to participate in the capitalist

economy.<sup>170</sup> The Company had rules and regulations and were trading goods such as timber, wheat, pork, flax and crops like wheat.

We have received the letter of A. K. Patene, Secretary of the "Raglan and Waikato Maori Company," informing us that the Company is about to be registered under "The Joint Stock Companies Act, 1860." As requested by the Committee, we shall not publish any communications with which they may favour us until the Company has been brought under the operation of the above Act—a step which we advise them to take without delay.<sup>171</sup>

They also owned a cutter named Dawn which travelled the coast between Whāingaroa and Kaipara.

Dawn, a cutter of 21 tons was owned by the Native Store Company, who had a two story building in Cliff Street near the residence of Harold Orr.<sup>172</sup>

It appears that Māori from Whāingaroa had begun trading long before the company was set up. Vernon states in a chapter titled ships and shipping to Raglan

In 1852 local Māori exported a cargo of wheat in the "Shepherdess" under Captain Swann. In 1852 records of the 'Matilda', owned by Captain Swann show that he paid local Māoris 451 pounds for wheat.<sup>173</sup>

The company traded for many years and it was not until the early 1900's the company wound up.

## **Local Government Alienations**

### **Roading**

Alexander identifies a process that was used to authorise surveying through Maori land and how a warrant issued in 1887 authorised the surveying and laying off of a road thorough Te Kopua and Papahua blocks at Raglan and through Whaanga block.<sup>174</sup> Additionally, an overview on Crown Grant roads in the Raglan district from 1850 was typical in the Rohe Potae district of blocks of Maori land being purchased by the

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<sup>170</sup> Te Wānanga 1874-1878: Pukapuka 4, Nama 27:p. 288.

<sup>171</sup> Notice. I H. R. Russell. Mount Herbert, Waipukaurau, May 2, 1677. 8 Te Waka Māori o Niu Tirani 1871-1877, Pukapuka 10, Nama15, p.181

<sup>172</sup> R.T. Vernon, Raglan, p.16

<sup>173</sup> Vernon p.18

<sup>174</sup> David Alexander *Public Works and Other Takings In Te Rohe Potae District* Wai 898, A63 A Report Commissioned by Crown Forestry Rental Trust December 2009 pg 145-146

Crown which allowed for the laying off of public roads as a fundamental part of the cutting up land.<sup>175</sup>

From that time onwards, local settlers and others were keen to access the traditional sites. Letters were sent to the Government asking for roads to be built through the Karioi Native Reserve. Neighbouring farmers were responsible for establishing a ramp to launch their boats, without asking permission of the Māori owners.

At the time the public assumed that they had a right to travel through the Karioi Native Reserve and through various laws, the Raglan County Council were able to appropriate land for roading, making access to Waikeri, Te Whaanga and other Tainui strongholds a reality. To accommodate the public to traverse Tainui land, the RCC and WDC applied to the Māori Land Court to continuously take whenua for roading without compensation. In some cases, ancestral boundaries were ignored as land was taken off one whanau to widen or strengthen roads, but the unaffected neighbouring whanau were given the surplus land.<sup>176</sup>

Even today, there is conflict between Waikato District Council and Maori landowners of Tainui on the Whaanga Coast, Te Kopua and Rakaunui blocks over the road takings, widening and maintenance plus changed access to Maori land. The access issue is just not shifting access from the landowner's ability to get onto their land, but the constant pressure from traffic that has now emanated as a direct result of carving roads through Maori land have created safety issues being quoted as a reason to not let Tainui members access their blocks effectively. Compensation issues have remained undressed for decades.

#### More Alienations

The Maori Purposes Act 1950 aimed to make leased Maori land more productive. The mechanisms to achieve the purpose of the Act focused on unoccupied land, land covered in noxious weeds, land that owed rates, unfarmed lands, or lands that had

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<sup>175</sup> Ibid 113

<sup>176</sup> Heather Bassett, Richard Kay Wai 898 #A75 Crown Administration and the Alienation of Maori Land in Te Rohe Potae Inquiry District. 1931-2010 A Report Prepared for the Crown Forestry Rental Trust August 2011

absent owners.<sup>177</sup> In 1951, the Raglan County Council aggressively utilised the Act to apply to the Maori Land Court for blocks of land at Whaanga, Manuaitu and Te Akau.

By 1952, the council had applied to the court for 46 properties of approximately 11,086 acres in the Raglan area.<sup>178</sup>

Comments by Bassett & Kay clearly describe the intentions of Council to obtain Maori land:

The Raglan Clerk recommended that ‘all Counties with Maori land should be asked to act immediately’ and implement Section 34 of the 1950 Act. He said a further 682 acres had been recently been leased to eight Pakeha in the Raglan area.<sup>179</sup>

And

In May 1952 the county Clerk, Brownlee Smith said that there was at least 20,000 acres of unproductive land in the district.

Furthermore, the report also indentified that the Council rationalised the need to obtain the land as illustrated by the comment below.

Brownlee Smith for the council said the ‘Maori owners did not wish the responsibility of farming their own lands.’ The council’s solicitor, Logan said his ‘general observation over a very long period of years was that – with the exception of a few –the Maoris in general did not appear as if they were ready and willing efficiently, to farm their own lands’

The report substantiates the vigorous nature that the Council set out to acquire Maori land through provisions of the Act including those held byTainui.

### **Landfill**

The local rubbish tip was established at Rākaunui next to the site that received human waste in the 1940-50’s.

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<sup>177</sup> Heather Bassett, Richard Kay Wai 898 #A75 Crown Administration and the Alienation of Maori Land in Te Rohe Potae Inquiry District. 1931-2010 A Report Prepared for the Crown Forestry Rental Trust August 2011p 232

<sup>178</sup> Ibid pp.227

<sup>179</sup> Ibid pp 232-243

## **Quarry**

The Raglan County Council acquired over 300 acres for a quarry.

## **Water Supply**

Rikiriki Wahanga previously owned 36 acres of land that the Raglan County Council acquired with conditions for the town water supply. The condition was that the whanau would continue to have free access to water from the Riki spring.

## **Wastewater and Treatment Plant**

Another Rakaunui block belonging to Tutuira Waretini, was acquired by the use of the Public Works Act when the town needed a new sewage system. The oxidation ponds were placed on Te Rua o Te Ata, with the pipeline running through Te Kopua papaKāinga to the moana entrance to discharge in the vicinity of Pipirua the main kutai reef..

Some of the examples above are part of a case study included in chapter 5 about the environmental challenges confronted by the hapu and the responses taken to protect the environment for future generations.

## 5 CHAPTER FIVE: ENVIRONMENTAL CASE STUDY

### Introduction

The Environmental chapter has been created in response to gaps in the CFRT Technical Reports and to correct an inference in the Belgrave Scoping Report March 2010 that highlights that the Environment Court did not find in favour of Tainui in *Greensill & Ors v Waikato Regional Council & Anor.*<sup>180</sup> A series of case studies will be advanced below including the Greensill case.

Tainui has been proactive for decades to ensure their voice is heard on matters that affect the mana and rangatiratanga status of their various whanau and hapu while trying to maintain Nga Taonga Tuku Iho no Nga Tūpuna.

The chapter below outlines the negative impacts on Tainui of wastewater, planning mechanisms, and case law, along with an overview of impacts to the Whāingaroa Moana under the Resource Management Act. In addition, discussion will take place of the systematic loss of cultural identity and the ability for effective decision making due to various mechanisms that have stemmed from Crown legislative and delegated authority.

The negative effects on the mauri of waterways and moana from sewage discharges has resulted in the loss of ability for Tainui to undertake effective kaitiakitanga and mahinga kai practices. Through that process, the mana and rangatiratanga of Tainui has diminished. The various Local Government decision making in planning matters, development and management of the Tainui rohe has resulted in a degraded landscape and moana with diminished traditional resources and the ability to resettle on traditionally owned ancestral land has been fraught and highly problematic.

Furthermore, the Local Government, Crown agencies and developers have failed to acknowledge, recognise and protect wahi tapu and wahi whakahirahira sites and to give effect to various legislative requirements including the Resource Management Act 1991.

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<sup>180</sup> Belgrave.M, Belgrave.D, Dr Anderson. C, Dr James. A, Dr Millner .J, Gardiner. S, Bennett .A

Te Rohe Potae Harbours and Coast, Inland Waterways, Indigenous Flora And Fauna, Sites Of Significance And Environmental Management And Environmental Impacts Scoping Report March 2010 pg 322-333 para 799

## **Wastewater**

This section of the report will deal with the loss of culture and severance of the Tainui relationship to the marine environment through the impacts of the Raglan town sewage system.

Raglan formerly had a night cart system for the disposal of human sewage. That system was replaced with septic tanks, which had on site field tile soakage. That on site field tile soakage system stayed in place for many years. A petition was sent to the Director General of Health and then to Raglan County Council (RCC) seeking that a scheme to fix the health issues be advanced.<sup>181</sup>

In 1971, the RCC was granted a permit by the National Water and Soil Conservation Organisation (NWASCO) to discharge treated sewage to Whāingaroa Moana for a ten year period.

In 1973, the RCC resolved to establish oxidation ponds, which included the taking of Tainui land utilising the Public Works Act. The Tainui Tribal Committee, Anderson, Dando and Waretini lodged four objections in opposition.<sup>182</sup>

Tainui Tribal Trust objected to the establishment of the oxidation pond in the area along with J. S. & M.D. Anderson. Mr. Dando objected to the taking of land for the oxidation pond. Mr. T.Waretini communicated to Council through his solicitor in relation to compensation for land the Council proposed to take.

By May 1973, the RCC had applied to the Local Authorities Loans Board for \$330,000 for the Raglan sewage scheme.<sup>183</sup> The loan was granted July 1973.<sup>184</sup> An application was sought from the National Provident Fund for a \$100,000 in June 1974. Also in 1974, the RCC continued to seek to obtain 9 acres of Maori land under the Public Works Act for the purposes of the oxidation ponds. Waretini opposed that. RCC then set in place a Memorial for the alienation of the land shown as S.O. Plan 47459 signed by the County solicitors June 1974.

Negotiations for compensation took place from February to September 1974. Waretini would not accept the price offered by Council and informed RCC that he seeks to go

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<sup>181</sup> Raglan County Council Minutes of Ordinary Meeting

<sup>182</sup> Raglan County Council Minutes of Ordinary Meeting- 23/10/73

<sup>183</sup> Raglan County Council Minutes of Ordinary Meeting- 28/5/73

<sup>184</sup> Raglan County Council Minutes of Ordinary Meeting- 28/7/73

before the Arbitration Court. RCC was not prepared to advance any compensation and accepted the matter be referred to Court. The Court awarded an amount and by late September, RCC approved the subdivision Scheme Plan No. 227 in respect to Rākaunui 1C2A2.<sup>185</sup>

### **5.1.1 Application 1974**

Applications by the RCC in 1974 were made to the Waikato Valley Authority to discharge sewage during emergencies to the sea. A number of objections were received to the scheme. Tainui lodged a submission in opposition.<sup>186</sup> The submission stated that:

- 1) proposed site is too close to the marae
- 2) too close to Maori residences and recreation areas
- 3) proximity and desecration of our sacred places.
- 4) further loss of Maori owned coastal lands
- 5) too much Maori land in Whāingaroa has been lost through acquisition for Public use.

The submission went on to seek that a delegation be heard on the matter and that despite the Health Department support for the project the Hapu disagreed that the shellfish would not be contaminated. Furthermore, there had not been enough research into providing Raglan with a better sewage system. All objections were disallowed.

In 1975 the Tainui Maori Committee wrote to the Commissioner for the Environment seeking intervention to address matters, as the ponds were about to be built. It was in response to the Commissioner for the Environment's previous correspondence that stated there must be extenuating circumstances to justify the preparation of an Environmental Impact Assessments or reports. The Tainui request went on to state a range of matters such as:

- 1) siting of the oxidation ponds
- 2) siting of the sewage outfall in the Whāingaroa Moanas waters
- 3) siting of the pumping station on the Poihakena burial grounds behind the Marae.

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<sup>185</sup> Raglan County Council Minutes of Ordinary Meeting 25/2/74-27/5/74- 22/7/74-26/8/74- 23/7/74

<sup>186</sup> Submission Rickard .Tuaiwa Waikato River Valley Authority - 21 February 1974

Map 13: Raglan County Council Oxidation pond at Rakaunui



The Tainui Maori Committee pointed out that a better alternative site would be further up the valley system next to the rubbish tip and would achieve a better outcome in both planning and environmental terms. Plus it would be away from the low lying estuarine wetland system right by the main road and immediately adjacent to the awa.

It was also stated, the ponds were only 66 feet away from the Pokehue awa, which flows into a popular swimming area as well as being placed in close proximity to the only Marae in the district.

Equally important, was that the oxidation ponds would be sited next to the main road leading to a popular recreational and scenic reserve, an internationally recognised surfing spot and that there would be no aesthetical value to be derived from the ponds which the public would unavoidably view.

There was also concern that underground seepage from the ponds had the prospect of polluting the awa. The Commissioner for the Environment was informed that professional advice was sought from the Chief Public Health Engineer in Wellington. This highlighted the pond system would only work properly if there was sufficient wind flow and that RCC had not undertaken any wind flow tests.

Furthermore, the oxidation ponds were sited in a relatively sheltered valley that was protected from the prevailing South Westerly wind by hills on both sides and that the lack of wind would cause problems through lack of air movement. It was also raised that the discharge point into the Moana entrance would be onto a shellfish bed known as Pipirua used by Tainui members for special occasions, and that it would be disastrous if the effluent discharge were to contaminate or pollute the shellfish beds.

The Commissioner for the Environment was also informed that at the RCC Hearing Tainui indicated that the exact area where the ponds were to be positioned had a significant Maori historical value. The area is known for hundreds of years as Te- Rua-o- Te Ata, the domain of Te Atai o Rongo, Taniwha protector of the local Tainui tribes, and as such had been acknowledged by reputable historical publications relating to the Tainui people and the Waikato area.

The Tainui Maori Committee sought the Commissioner for the Environment assist in delaying of the project until an Environmental Impact Assessment is undertaken and that the assessment should consist of:

- 1) wind tests at each of the pond sites for an adequate period including peak Christmas holiday period
- 2) Sub soil bore investigations to determine the susceptibility to underground seepage
- 3) Tests to confirm whether normal and extreme periodic tidal action will adequately carry peak effluent discharge on ebb tide out to sea
- 4) Tests to ensure that treated wastewater will not pollute or contaminate the shellfish beds or contravene the impending classification for the Whāingaroa Moana waters
- 5) Photographs showing markers indicating the full extent of each alternative pond sites so that an artist can accurately superimpose the proposed works. These photographs to be taken from any roads or other public places from where the ponds will be visible.
- 6) That specification for the various investigations and tests be approved by the Chief Public Health Engineer, Ministry of Works and Development Wellington
- 7) That the site be visited by representatives of the RCC, M.W.D, Health Department and other interested parties
- 8) A full cost comparison on all alternatives

- 9) The Environmental Impact report and all related documents made public
- 10) Opportunity be given for public submission, objections and queries on the report

That request to the Commissioner for the Environment for assistance in delaying the project until an Environmental Impact Assessment was undertaken was subsequently refused.

In late March 1977, the first reticulation and oxidation pond was commissioned with the second pond being completed by December 1977 when the whole system was commissioned. It was to serve a population of 1,200 persons with peak loading during the Christmas holiday of excess of 6,000 persons. The plant was expected to cope with that summer fluctuation.<sup>187</sup>

### **5.1.2 Application 1983**

In 1983, the RCC applied to the Waikato River Authority to renew the expired NWASCO Permit. It was publically notified and received no objections and a hearing was held. The Waikato River Authority in Permit number 840077 granted the consent for five years with several conditions. One of the conditions was to grant up to 1,000 cubic metres of treated sewage to Raglan Moana on an outgoing tide<sup>188</sup>

By 1990, Waikato Regional Council (WRC) took over the functions of the Waikato River Authority and Waikato District Council (WDC) took over the functions of RCC. In 1990, WDC was advised by WRC that Raglan Township sewage discharge permit would expire in June 1990. WDC replied in September inviting WRC staff to Raglan for a public meeting to discuss the communities' aspirations in respect of the discharge.

WDC then lodged an application to WRC in November 1990 under the provisions of the Water and Soil Conservation Act 1967 for the discharge to the moana of treated sewage. The application sought to discharge 3,400 cubic metres of treated sewage to the Raglan Moana approximately Wainamu Beach. The activity was deemed to be a Restricted Coastal Activity. A term of 35 years was sought.

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<sup>187</sup> Waikato District Council (Raglan Sewage Discharge-) Waikato Regional Council Hearing Agenda 1993

<sup>188</sup> Ibid

### 5.1.3 Application 1991

The application was publically advertised on the 29 January 1991. The closing date for submissions was 26 February 1991. Three submissions, opposing the application were received from the Minister of Conservation, - Regional Conservator -Department of Conservation, Tainui Awhiro Tribal Trust and Whāingaroa Ki te Whenua Trust. All wished to be heard at the hearing.

The submission by the Minister of Conservation stated:

- 1) The waters of Raglan Moana have high ecological , recreational and visual values which may be adversely affected by the proposed discharge
- 2) Being unclassified these waters may be more at risk from low quality discharges than classified waters elsewhere

The objections would be satisfied if Council:

- 1) Imposing on the right to discharge such conditions as necessary to eliminate any adverse impact on the ecological recreational or visual values of the Raglan Moana
- 2) Imposing conditions on the right to discharge such conditions requiring upgrading of the sewage reticulating system to the extent that overflows of untreated wastewater are eliminated and the need for emergency discharges are minimised
- 3) That the right be renewed for a short term only until improvements of effluent quality are achieved

Tainui Awhiro Trust reiterated some of the objections from 1975.

- 1) Siting of the oxidation ponds
- 2) Siting of the sewage outfall into Whāingaroa moana
- 3) Siting of pumping station

Added objections were:

- 1) Siting the pumping station beside the Rākaunui Urupa is totally insensitive

- 2) As a Treaty partner to the Crown and all its agencies , the Crown has a responsibility to give effect to the Treaty of Waitangi
- 3) There are alternative methods for effluent disposal
- 4) Polluting the sea with human effluent is culturally and spiritually unacceptable

Whāingaroa Ki Te Whenua Trust opposed for the following reasons:

- 1) No Environmental Impact report has been done
- 2) Discharging human waste into the sea is abhorrent and conflict with Maori values
- 3) The RCC (now WDC) did not adhere to the original Water Right conditions and ignored advice from local Maori people about the siting of the oxidation ponds in the vicinity of Te Rua o Te Ata
- 4) There are more suitable options available for disposing of sewage in Raglan than into the ocean
- 5) Storms cause overtopping of sewage ponds
- 6) Damage to ponds walls and storm water runoff entering the pond's system
- 7) Current ponds exceed capacity
- 8) That since 1975 the sewage system and discharges were approved there had been a significantly noticeable decline in the water quality to the point that it cannot be used for drinking, bathing and fishing, without fear of illness through pollution, and that a whole generation have grown up without those experiences.<sup>189</sup>

By March 1991, WRC requested further information in respect to what WDC intended. In September, WDC and WRC met. WRC staff considered that there was not enough information in terms of the requirement of the Resource Management Act 1991. WDC agreed to undertake an Environmental Assessment using consultants. A hearing took place on 5 August 1993 at Raglan Community House in Bow St., Raglan.<sup>190</sup>

Strong opposition by Tainui groups was advanced at the hearing that included more detailed information from a range of witnesses such as:

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<sup>189</sup> Submission Whāingaroa Ki Te Whenua Trust(Raglan Sewage Discharge-)1993

<sup>190</sup> Waikato District Council (Raglan Sewage Discharge-) Waikato Regional Council Hearing Agenda 1993

“---I have come to talk about the discharge of effluent into the sea of my ancestors, the place where they paddled their canoes in those times and today. It is a place where descendants still row their canoes. Hopefully with courage and determination into the year 2000 so that we can walk into the future with heads held up high ----so that we the parents did try to stop the pollution of our sacred places---“

“--I am going to wait and see if the government is going to pass an act to take our land again for your sewerage system, then we will go to war again. That, gentleman is the alternative. You find an alternative to your sewage scheme. Polluting the Moana of Whāingaroa is not on and you can try and convince me that treated effluent going into the moana is harmless. I am not thick. In conclusion, gentlemen, your sewage does not come across Te Kopua the ancestral land of my people.” – (Rickard Tuaiwa)

The decision was released on the 26 August 1993. It recommended that the Minister of Conservation grant the permit, subject to conditions and the discharge be limited to 2,600 cubic metres. The term was restricted to a period of 5 years only in order to ensure that WDC enacted system upgrades to comply with WRC policy and rules. In addition, WDC had to actively research alternatives.

The Hearing Committee noted that applicant’s witnesses identified that some aspects of the shellfish bacteriological studies were inadequate and did not allow for the effects of bacteria on shellfish and the public use of this area needed to be evaluated properly.

Furthermore, the colour and clarity of the wastewater would not meet the standards and numbers of bacteria would have the potential for adverse health effects. It was also noted during a site visit that the pond walls were eroding possibly due to cattle grazing on banks, and the banked area was wet with little freeboard in the ponds along with potential seepage from the system.

Plus when the ponds overflowed it entered into an inner moana estuarine area (Pokehue) which was of historical importance for food gathering in the past. And local people were aware of the possible human health problems associated with the overflows. Furthermore; water was noted at the base of the pond and information from the local residents confirmed the ponds were created on an estuarine wetland system.

Also noted in the decision was that the reticulation system was operated by a series of pump stations, two ponds and discharge to Raglan Moana mouth. That the system lacked storage, and emergency discharges from the pump stations resulted in overland flows to waterways. WDC stated that extra capacity would be built into the pumping stations scattered throughout the Township during this period.

Furthermore, the ponds and moana discharge had been sited in a location that is culturally insensitive, any system applied for now of that type, and location would be unlikely to get a permit in the Waikato region due to the adverse effects of amenity values and on aquatic biota due to the discharge into the Moana. Comment was also made stating that the discharge weir, which contained plastics and material, that would not easily decompose was only maintained by surface collection occasionally and was insufficient to stop the material entering into the marine environment through the discharge pipeline.

On noting the failures of the wastewater ponds, the Hearing Committee set in place conditions that would direct WDC to rectify the situation during the 5 year consent.

#### 5.1.4 Appealed To Planning Tribunal

That Decision was appealed by the Tainui groups, Tainui Tribal Trust and Whāingaroa Ki te Whenua Trust to the then Planning Tribunal.<sup>191</sup>

The Court Inquiry was set down for the week starting 13 December 1993. A prehearing meeting took place 1<sup>st</sup> December 1993 at Raglan with Interested Parties. Correspondence took place between the parties and an agreement for settlement was signed on the 17 December.

The agreement basically set out that a Consultative Group be set in place for a term of 1 year that includes members of the Tainui, community members and WDC. That a feasibility study of the options be undertaken and completed in that term and that WDC;

- 1) Acknowledges the cultural significance of the site that the sewage treatment plant sits on
- 2) Ongoing monitoring inclusive of Tainui will take place
- 3) Investigate alternative sewage treatment and disposal systems with a view to ending moana discharge<sup>192</sup>

Despite not having sought an appeal, both the legal counsel for the Department of Conservation and WDC highlighted the issue of the consent conditions being ultra vires in that it did not focus on the biological parameters of the point discharge to the Moana and that the conditions to “assess the ponds structural integrity” fell outside their jurisdiction. It was agreed that the Minister of Conservation make those changes. That agreement was worked out between those two parties as they drove back to Hamilton in the same vehicle. It is also noted that WDC then tried to become a party to the proceedings but was refused because procedurally it was out of time.<sup>193</sup> A change was also sought to the biological parameters.

The Planning Tribunal commenced on the 13 December 1993. The presiding was Judge. P.R. Skelton. Legal Counsel for WRC advised the Tribunal, that the parties had reached an agreement and was in the process of having it signed. The Tribunal agreed to the adjournment until the 17 December and on recommencement was informed that

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<sup>191</sup> Greensill and Rickard v Waikato Region 17/1/94,PT Decision C5/94

<sup>192</sup> *Greensill and Rickard v Waikato Region 17/1/94,PT Decision C5/94- Appendix 1*

<sup>193</sup> Tompkins Wake- 3 December 1993- Chief Executive Officer Waikato Regional Council

the appellants and WDC signed an agreement with a set of conditions attached in Schedule One to the matter.

The Planning Tribunal made its decision on the 27 January 1994 to the Minister of Conservation along with the recommendations. The Planning Tribunal accepted most of the changes sought by Legal Counsel for the Department of Conservation, WDC, plus the agreement by all the parties. The Tribunal did not accept all the changes and amended the biological conditions to bring more certainty to how it was to be monitored.

The Planning Tribunal went on to state that it recognised that an agreement was signed by the appellants and WDC and that the matters within the memorandum did not form part of any resource consents and had no value lodging for file keeping purposes with the Planning Tribunal.

The Minister of Conservation released the decision on the 14 February 1994. That decision confirmed the change to the biological condition q) and set in place the conditions to direct that WDC undertake remedial action to fix the sewage ponds structural integrity. The Minister for Conservation urged WDC to carry out the measures set out in the conditions, especially the maintenance and upgrade of the oxidation ponds.

WDC on 24 October 1994 sought a quote for an Intermittent Decanting Extended Aeration Unit from McCabe Environmental Services Ltd. It was to be used to assist in creating a reduction of the odours from Pond 1 that was the subject of many community complaints due to lack of wind flow over the two ponds.<sup>194</sup>

### **5.1.5 Consultative Group**

A Consultative group was set up on 1 March with the final meeting 14 December 1994. While a few alternatives were discussed, there was not full consensus on the final choices. Three alternatives were discussed. WDC narrowed the choices to the NIWA 3A option which was to build new ponds and use part of the existing ones for constructed wetlands and discharge to the Moana outfall. There was dissatisfaction associated with the choices and the manner in which the process was directed. The whole process was driven by WDC who chaired the meetings and had a casting vote. It

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<sup>194</sup> Communication- McCabe Environmental Consultants Ltd- Communication 24 October 1994 to Environmental Engineer Waikato District Council

also utilised the Raglan Community Board to its fullest extent by seeking approval through that process. Additionally WDC technical staff was engaged in the process along with the Waikato District Councillors. This will be discussed further below.

#### **5.1.6 Application 1997**

The 5 year Consent by the Minister of Conservation expired in 1998. New consents were sought. WDC applied for a range of Resource Consents including a Land Designation and Discharge to Moana. The designation, which was lodged with WDC, was publicly notified 15 October 1997 and the applications lodged with WRC and publically notified on the same date. The proposals were to upgrade the existing system that involved five new ponds south of the current ones. The ponds would contain six aerators to aid in odour control due to lack of wind on the surface of the ponds. The existing ones were to be filled in and converted to wetlands. The total upgrade was to be staged over a 10 year period.

11 submissions were lodged for the WDC Designation and 15 were lodged with WRC. The majority were in opposition, only one was in support, and one did not indicate support or oppose.

Two pre hearing meetings took place, one at Poihakena Marae on 18 December 1997 for the WDC Designation and the other was held at the offices of Waikato Regional Council on 23 January 1998.

Tainui submissions were from Te Kopua Incorporation, Whāingaroa Kite Whenua Trust and Tainui Awhiro Ngunguru Te Po, Ngunguru te Ao Management Committee along with other members of Tainui.

Tainui submitted that:

- 1) Customary rights reaffirmed in the Treaty of Waitangi are being ignored and ancestral obligations undermined
- 2) Cultural significance of the sewage site
- 3) despite seeking decommissioning of that area so as to be returned to a natural wetland as requested in 1993 the site is still going to be used
- 4) The area that the ponds are on have flooded in the past and are not suitable
- 5) The siting of the sewage pipe outfall into the Whāingaroa Moana

- 6) Matters referred to at the 1993 hearing and agreed to have still not been undertaken
- 7) No alternatives researched on ceasing discharge to sea as outlined in the terms of reference in Consultative group 1993
- 8) Only 3 out of eight on the consultative group voted for the outfall option
- 9) Tainui object to a new out fall pipeline to be constructed on their land
- 10) Granting the consent will continue to adversely affect the wellbeing of Tainui and the moana of Whāingaroa
- 11) The continuation of the discharge have impacted on the aspirations of the tangata whenua and adversely affected the relationship with their own land and moana
- 12) Concern for the stability of the ponded system into the future based on past continuous breaches in the past
- 13) Boats are being used on the ponds and occasionally whizzing around
- 14) The application does not meet the tests set out in Part 11 matters of the Resource Management Act 1991 and is conflict with the Proposed Waikato Regional Coastal Plan

The other submissions were a mix of similar objections but other matters were also raised such as:

- 1) Foul odours from the sewage treatment site
- 2) Affects to land values in the surrounding area
- 3) Site is located in a valley of springs that keep rising out of the ground
- 4) The site that is chosen is of cultural significance and sensitivity to Tainui
- 5) Wahi Tapu will be desecrated if the land use consents are issued
- 6) Seafood will not be able to be collected due to contamination from wastewater
- 7) Applicant has failed to explore alternative sites

The Joint Hearing was held on 15 February 1999. Tainui presented a more detailed approach and evidence at the hearing with a large contingent of supporters from Tainui and the community at large in the Town Hall.

The Decision for WRC was released on 16 April 1999 granting the consents and the Dissenting Minority Decision was signed on 14 April 1999 was opposed to granting consent. The WDC Decision by an Independent Commissioner was released on 14 April 1999 granting consent for the Designation.

The reasons for the Dissenting Minority Decision opposition to grant consent were that since the decision by the Minister of Conservation only a minor amount of the work had been undertaken to date plus a number of the conditions were not satisfactorily achieved. Plus the evidence by submitters show there was real concern over the validity of the Options Chart that was presented by the WDC witness. In addition the path for alternatives explored left the public consultation as inadequate and the option chosen was a result of a spurious vote taken by the Raglan Consultative Group as the Councillor Chairperson had the deciding vote which raises a conflict of interest as he was the Chair of the Engineering Committee. It was also stated that the main Tainui representative was not present and the one that was present abstained from voting.

And, the applicants witness stated that the wastewater discharge should not continue beyond 4.5 hours after high tide as the risk of shoreline impact and backflow into the moana of diluted effluent into the moana will increase rapidly during the latter stages of the ebb tide. What's more, there was no guarantee that pumping beyond that limit was going not going to happen due to heavy rainfall at times were the ponds would have to be pumped out to avoid overtopping as had happened in the past.

The opinion was that the discharge will have a significant adverse effect on the social and economic wellbeing of tangata whenua, and the public perception of the cleanliness of the moana, its adjoining beaches and the shellfish beds and inshore fishery.

The minority decision stated that Raglan Moana is identified in the Regional Coastal Plan as an Area of Significant Conservation value and any decision regarding development in Moana first must take account of the cultural significance to Tainui and at no time since during the five years of former consents has Tainui accepted ocean outfall into the Moana. Also Treated wastewater discharged to the moana mouth for 22 years have been in discord with the spiritual and cultural values of tangata whenua and since the 70's tangata whenua have lived with the desecration of waahi

tapu.<sup>195</sup> The last comment was in relation to the council placing the sewage ponds on a wahi tapu site which is the domain of Te Atai o Rongo, Taniwha protector of the Tainui tribes.

During the Hearing several issues were raised. One was that WDC had not provided the minutes to the last Consultative Groups meeting. The further information request revealed that those minutes were held “in Committee” which excluded the public and demonstrated WDC overriding influence.<sup>196</sup>

Other issues identified were that human waste discharge is not provided for as an activity status in the Proposed District Plan, and ongoing issues of the Datran SCADA System used for monitoring of pumping station to the moana outfall. Plus challenges to WDC technical staff on the issue of 100ha being required for land disposal despite their own witness stating that only 16 ha are needed on one of the options.<sup>197</sup>

Communication between WRC and WDC on 21 October 1997 in regards to the monitoring program stated there was is no evidence of any monitoring having taken place so far and as the application has been notified on the 15 October 1997, it can hardly be described in the AEE as supporting information. The communication states that it is of concern that an application that clearly provides insufficient baseline information, has not complied with the conditions of the existing consent, and received by an applicant with such poor track record of performance has been notified in such haste.<sup>198</sup>

### **Environment Court**

Tainui appealed the decision to the Environment Court. Court assisted mediation took place at Raglan on 3 May 2000. At the mediation, the views of both parties were too far apart. The parties agreed that a further meeting would take place at Raglan 8 June 2000 with an independent facilitator. WRC participated in a watching brief only. Further meetings took place from June to November 2000. A process to continue the facilitated process of mediation was established.

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<sup>195</sup> Dissenting Minority Decision Lois Livingstone of Decision by the Committee pp 17,18,19

<sup>196</sup> Communication to submitters -WRC 26 February 1999 released further information sought by Hearing Committee members.

<sup>197</sup> Waikato District Council and WaikatoRegional Ccouncil Raglan Wastewater Treatment System Staff report 7.5 pg 8

<sup>198</sup> WaikatoRegional Ccouncil- Communication to WDC 21 October 1997- letter- file number 6 0 66 83A

The Appellants key issues were:

- 1) Removal of front pond
- 2) No direct discharge to sea or natural water

WDC position was:

- 1) Affordability
- 2) Practicality and use of relatively proven technology
- 3) Proposals be sustainable and expandable for the design population

A range of options were developed for further investigation and a recent report on Raglan's population figures shows that earlier predictions were too high and that attention will be focused on storm water infiltration<sup>199</sup>

The mediation process continued into 2002. The parties had agreed to work towards a better water quality standard and land disposal within five years of the consent being granted. The process and relationship with WDC had become soured with part of the political body in Council. Leaked documents to the press were put about for an extended period. Tainui was publically denigrated for seeking the removal of the Pond 1 from the "Taniwha Den" and media attention focused on the supposed costs while the appellants were still trying to work through the process.

An Agreement in Principle was drafted July 2002 to try to resolve the issues. It sought to establish a five yearly review of the conditions to:

- 1) Progress on achieving zero discharge to natural water
- 2) Current performance of the treatment plant and resource consent compliance
- 3) Monitoring discharge parameters such as pathogens
- 4) Implementation of the Agreement

It also stated that a higher water quality will be set in the conditions and that both Tainui and WDC "intent" is that a land based system will be implemented within 5 years.

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<sup>199</sup> Brookfields Lawyers- Report to Environment Court 18 January 2001

Tainui still tried to find a solution along with the other appellants. Ultimately, Tainui rejected signing the Agreement in Principle. Factors that contributed to that decision were due to factions inside WDC becoming difficult to work with. Breaches of good faith, breaches of signed agreements including the current conditions not being complied with along with WDC did not wanting to embed any of the principles into the resource consent conditions, which would have given a legal context that could be relied upon to enforce.

The Environment Court was advised that Tainui had rejected the District Councils proposal on 10 September 2003. The Environment Court informed the appellants that a fixture to file documents with the Court being 24 October 2003 setting a time estimate, proposed timetable for the exchange of evidence and any other matters that the court must deal with prior to the hearing.<sup>200</sup>

As the case was now only focusing on the discharge consents to WRC, the other appellants could not participate as they had only submitted to the WDC Designation and not to WRC discharge consents.

#### 5.1.7 Environment court hearing

The Hearing was held in Hamilton between 23 February and 2 March 2004. Judge Sheppard presided over the proceedings.<sup>201</sup>

Tainui was supported by 6 witnesses including the then current District Councillor. Tainui witnesses started with an in-depth discussion on whakapapa from the beginning of Time to tikanga, kawa, and inherent responsibilities that stems from kaitiakitanga.

It was stated also that:

----We are the ocean that murmurs here, we are the mountain that stands here. If someone defecates in the sea, they defecate on the people. When sewage and pollution is released into the water, the water becomes polluted, and that

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<sup>200</sup> Fax to appellant 10.October 2003.

<sup>201</sup> Tainui Hapū Anors v Waikato Regional Council 2004

pollution spreads to all things in the water- physically, spiritually and energetically----

----Water is a medium we use to wash our bodies, and to cleanse our souls and our minds. If the water is polluted how can we wash, cleanse and purify ourselves? What about the seafood and fish, the storehouse of Tangaroa and Hinemoana? We are related to, and interconnected with, all things throughout the universe. If one thing is polluted and sullied, we to are polluted and sullied---(Ellison S)

And:

----The effect of the sewage accumulating in the moana was evident when we raised rocks where the original pipeline was –underneath the rocks there was a black sludge and strong odour. Mussels on Pipiroa continue to be inedible even after our attempts to reseed the mussel bed in 1990, within a short time the mussels had become contaminated. (Rickard J)

And:

----Our hapu are obliged to actively protect our area for future generations through the practice of kaitiakitanga no matter what the cost. It is our responsibility to keep and guard our hapu interests and taonga. It is us who are responsible for the preservation and guardianship of Whāingaroa moana. It is we who are obliged to nourish and control the relationship between our peoples and our natural world. (Greensill A)

And:

----Even though we see big mussels south of the pipeline we have to deprive ourselves of going and eating them, for us to do so would be a health risk--- it has been a long time since I swam at Te Kopua and Te Upoko and I will not be able to enjoy any of the activities such as swimming, fishing, gathering of kaimoana with my children and grandchildren (Kereopa J). ----

The case was also put forward of how the ocean outfall and pollution into the Pokehue awa has alienated a whole generation from participating in traditional cultural behaviour of swimming, fishing and gathering kaimoana and the loss of mana by not being able to provide robust manaakitanga to others as before. The relationship to

Papatuanuku and Tangaroa for the peoples of Tainui has been severed by the lack of being able to participate in a fundamental cultural behaviour.

Evidence was put forward on the economic operations of Tainui that stem from the Kokiri Centre at Te Kopua and the impacts and loss of economic opportunities associated with the sewage discharge right by their doorstep and into the Pōkehue awa.

The District Councillor spoke to the failings of WDC to address the issue effectively, and the propaganda and hypocritical behaviour displayed right through to the Mayor. Furthermore was the fact that WDC in its Plan and Policies were directing development to Raglan, which would in turn outstrip the capacity of the system to cope. Lastly, a comparison of Councils and their approach to sewage was also put forward and that no cost benefit analysis was undertaken by WDC. (Symes L)

The view from a long term surfer's perspective was put forward on how the behaviour of the coastal waters around many parts of the country and more particularly from the Whaanga coast took place. How the tidal currents flow and eddy, and that the effluent flows back into the moana with the tide and then flows onto the beaches and all along coastal waters on to the shores of the internationally recognised surf breaks. Also, the history of the ailments and illnesses associated with the discharges and:

----As one of oldest surfers in this area I am often looked to for advice from local surfers and international travellers. Many have asked me about the foam scum and dirty brown trail that goes from the bar to Manu Bay, Whale Bay and Tirohanga. I feel my mana as a local person is diminished, as I have to tell them that unfortunately, there is wastewater in the surf line and I do not think that it is good time to go surfing and wait for the incoming tide. I go red in the face when they say "why don't you fix up the mess"----

----Many times my wairua is affected and my taha hinengaro is put into a state where I feel hopelessness of the situation. Other surfers both tangata whenua and non maori who have had illnesses from the water and scratches that have gone septic suffer in the body and agree that the tinana cannot cope with this kind of pollution(Hamilton M)---

The Tainui evidence gave a view from the historical perspective of the broken promises, breaches of various agreements and consents that have taken place over the

many years of the sewage issue and the concern that this behaviour was expected to continue.

The significance of Te Kopua, Rākaunui and Whāingaroa was also presented and noted that the area was where people were raised; it was the turangawaewae of the peoples of Tainui who have lived there for generations.

The area known as Te Kopua was selected in 1988 as the site to provide for the economic base to provide for their social, spiritual and cultural needs of the whanau members into the future and how the “Tihei Mauriora Development Plan” was inserted into the first WDC plan and given a permitted activity status. Tainui also stated that the continuing discharge and disposal of human wastewater creates an obstacle to that development and to the people.

Lastly, WDC still maintains that there is no alternative to sea discharge and has therefore failed to recognise and adequately provide for the relationship Tainui have with the ancestral lands, waters and other taonga. The evidence goes on to state:

- 1) At no time have we accepted an outfall into our moana of the desecration of our wahi tapu sites
- 2) This travesty we have endured for more than a quarter of century in discord with our spiritual and cultural values
- 3) It is abhorrent to mix waste, particularly human waste with food
- 4) The discharge of wastewater into a kapata kai is repugnant to Maori. The idea that would go to the toilet in our fridge is utterly offensive
- 5) The practice of dumping human waste into a food source that reaches the mouth is a breach of tapu that upsets the balance and upsets the ability to gather healthy seafood.
- 6) Shellfish such as kutai(mussels) are filter feeders. They feed by letting water flow through them and by filtering nutrients. Any contaminants is then filtered out of the water and concentrated in our food
- 7) The food (kaimoana) then becomes the sieve that Raglans waste flows through
- 8) It is like washing your food in a public toilet bowl. It may look clean, but the idea of eating such food is utterly repugnant

The Waikato District Council had eight witnesses ranging from the Community Assets group Manager, Development Engineer Services Engineer, Environmental Engineering

Wastewater Consultant, Consultant Environmental Planner, and Mayor Harris along with Waikato Regional Council Resource Group Officer, Coastal Scientist, and Consultant Environmental Engineer along and legal Counsel for both Councils.

### **5.1.8 Judgment**

The Decision was released 10 May 2004.

The Court noted the salient points raised by Tainui on the existing system were:

- 1) Stormwater ingress in the sewage system
- 2) Leaks from breakages in the Marine Parade rising main into the estuary and moana
- 3) Algal blooms in the oxidation ponds
- 4) Overtopping of the oxidation embankments foam and discolouration in moana water
- 5) Faecal matter floating in moana water

The Court found that WDC did accept that there was ingress from stormwater into the sewage ponds and that there was overtopping of the embankment due to heavy rainfall events as well as the Marine Parade rising main had to be repaired. WDC did maintain the stance that foam and discolouration along with faecal matter floating in moana water did not arise from the sewage system plus since the aerator got installed in the late 90,s that there has been no algae bloom.

WDC undertook water weekly quality sampling between July 2000 and August 2002 for faecal coliform 50 meters upstream of the discharge and 100 meters downstream of the outfall during ebb tides that showed:

Of the 59 sets of samples analysed, 24 showed faecal coliform counts downstream of the outfall in excess of those upstream; 22 showed concentrations upstream of excess of those downstream; and 13 showed identical concentrations on both sides of the outfall<sup>202</sup>

In commenting on the breaches above, the Court stated:

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<sup>202</sup> Tainui Hapū v Waikato Regional Council Environment Court A063/2004[ 40] 11

The subject of this appeal is the discharge of treated effluent from the proposed treatment plan. The appeal does not provide an opportunity for airing criticism of the District Council for its past management of the existing system.<sup>203</sup>

Both WDC and WRC based one of their arguments on case law<sup>204</sup> and argued that the Court only has to consider the application of the existing environment as it is now, and not to the environment as it existed prior to the existing sewerage system. The Court agreed that it would assess the appeal on that basis and stated:

---we hold that Court has to have regard to the effects of allowing the proposed discharge on the environment as it exists at the time of the appeal hearing; and that it is not to judge the application by reference to effects it would have on the environment as it existed at a halcyon time in the past---<sup>205</sup>

In weighing up the relative arguments, the Court considered the Tainui factors as:

- 1) The fact those who raise it are undoubtedly tangata whenua in respect of Whāingaroa
- 2) The unchallenged sincerity with they urged that their cultural and traditional relationship with their ancestral water in accordance with tikanga Maori would be disrupted
- 3) Their unwillingness to take fish and shellfish from Whāingaroa while the discharge continues, and the cultural losses from that
- 4) Their insistence that the discharge would undermine their ability to fulfil their kaitiakitanga obligations, denying a legacy owed to future generations<sup>206</sup>

In weighing up all the factors, the Court findings were that: the upgrade and discharge to the moana will benefit the community at large providing the conditions as set out are complied with, overriding the Tainui objections on the grounds above.

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<sup>203</sup> Tainui Hapū v Waikato Regional Council Environment Court A063/2004[ 43] 12

<sup>204</sup> Marlborough District Council v NZ Rail [1995] NZRMA 3357(PT)

<sup>205</sup> Tainui Hapū v Waikato Regional Council Environment Court A063/2004 [103] 24-25

<sup>206</sup> Ibid p 44 para 186

## **Whaanga Coast Wastewater**

Created in 1965, the Whale Bay subdivision consisted of approximately 60 house lots ranging from 800m<sup>2</sup> to 1200m<sup>2</sup> and is surrounded by the Maori lands blocks as the area was part of the Native Reservation.

Over the years, it has grown from a holiday bach area to more permanent residential use. Several houses still operate as tourist venues for holidays. The area is mainly hilly ridges dropping steeply down to the coast running into the coastline with an underlying clay base. Several houses have onsite bore and spring water supply for domestic use. The rainwater runs off the hillsides during wet weather into several tributaries that are often dry during summer. Two of the tributaries maintain water flow during dry periods. One of those main tributaries discharges directly through Maori residential land to the sea.

The Whaanga coast area hosts a significant influx of tourists. Also there is increased occupation of resident's homes in the summer periods. There are two WDC septic tank systems in heavily used reserves on the Whaanga coast, both these over burdened systems discharge first to land then to sea. Both septic tank systems are within 50 metres of the coast. One is at Whale Bay and the other is at Waikeri or Manu Bay.

By 1973, Huntly College had acquired a 110 acre Native Reserve land in Whale Bay and built for education purposes.<sup>207</sup> The Huntly College operated the Karioi Outdoor Centre for a short number of years then taken over by the Trustees as a separate business.

Since 1990, Tainui has raised the issue of the Whale Bay subdivision causing septic tank wastewater impacts on the awa and kaimoana on the Whaanga coast.

The issue rose again in 1993 with more complaints including from the Whale Bay residents. Waikato Regional Council (WRC) water quality testing demonstrated that the subdivision was affecting water quality and that many systems have failed due to inadequate sewage disposal methods. Methods of disposal were into drilled offal holes and grey water from kitchen & ablution wastewater was being discharged directly to the awa or to groundwater along with surface water runoff.

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<sup>207</sup> <http://www.karioilodge.co.nz/Karioi%20Official%20Opening.pdf> Accessed 8. May 2012

Pressure from the community was applied to the Karioi Outdoor Centre as it was the only commercial operation that hosted a large influx of visitors. Elevated bacterial levels downstream of the site were identified and subsequently an upgrade of the wastewater system was undertaken.

By 2001 the Karioi Outdoor Centre facilities had been leased out for a twenty year period to another private business as a Surf school and Lodge for pack-backer (Karioi Surf Camp). That business applied for a liquor licence and the Whale Bay community and Maori objected over a range of issues including the likely increase in the sewage loading from increased tourism use.

That opposition forced the dropping of the liquor license application and forced an upgrade of the disposal area. Tainui and the Whaanga Coast ratepayers then applied pressure to Regional Council to undertake water quality testing on the surrounding awa.

Tainui, Whale Bay community and surfers complained to WDC of pollution and waste water issues at the Proposed District Plan consultation held in the Town Hall and sought redress through that mechanism.

The 2003 water quality tests showed dramatic increases of bacterial indicators of faecal coliforms, *Escherichia coli*, and *Enterococci*.<sup>208</sup> The sample points consisted of above and below the subdivision. The elevated levels of bacteria were of a magnitude that it was recommended that WRC advise both the Health Department and Waikato District Council (WDC) of the results along with Tainui and the community.<sup>209</sup> WRC also assessed the Wainui catchment. The Wainui awa had bacteria counts which were above the guidelines.

Tainui and the community were only informally told of the results and had to apply pressure on both councils to officially notify the results. WRC sent a letter to WDC April 2004 informing them of the results and the need to undertake a septic tank audit of the subdivision.

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<sup>208</sup> Waikato Regional Council -*Water Quality Investigation Wainui & Whale Bay Catchments*-September 2003

<sup>209</sup> Internal memo - *Water Quality Investigation Wainui & Whale Bay Catchments* File number: 56 30 04 -2 September 2003-

The Whaanga Coast ratepayers sent a request to the Medical Health Officer 9 May 2004 to intervene on behalf of the community.<sup>210</sup>

WDC undertook a septic tank audit in May –June 2004.<sup>211</sup> Sixty six residential properties were surveyed. The assessment had shown a significant number of sites had failed on site systems along with issues of inappropriate grey water and storm water disposal into ground water and to the coast. The audit identified that the methods for disposal highlighted in the 1993 report of offal holes and grey water from kitchen & ablution wastewater were being discharged directly to the awa or to groundwater had never been rectified and continued to cause adverse effects. It found that a few of the more modern advanced wastewater systems also were failing due to inadequate section size slope and placement of irrigations lines on the ground surface.

The audit identified that the failed systems and steep sloping sections were spreading effluent throughout the community in wet weather<sup>212</sup> contributing greatly to health risks such as Giardia, Cryptosporidium plus Campylobacter. It also found that the disease causing protozoa cysts were able to survive in the receiving environment for considerable periods of time and the statistics demonstrated that the infectious diseases showed an upward trend in the Waikato. The audit identified that because of the surf at Whale Bay, surfers were at risk from the, adverse health effects which could accelerate the spread of diseases into the community.

The audit recommended the Council begin a community consultation process to address the Whale Bay sewerage disposal and options. The audit was presented to the community at a meeting attended by both WDC & WRC and members of the Whaanga Coast Ratepayers September 2004. It was resolved to form a working party that would investigate potential solutions.

The working party set out a brief for engagement for a Consultant to undertake the research for the options. In March 2006, the consultant MWH carried out the research and reported the findings June 2006. Three collection options were investigated along with three treatment options. WDC preference was to pump and pipe through a

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<sup>210</sup> Email- Whaanga Coast Ratepayers to Dell Hood Medical Health Officer 9 May 2004

<sup>211</sup> Waikato District Council- *Whale Bay Sanitary Survey* 2004

<sup>212</sup> Ibid p 20

conventional gravity system the sewage wastewater to the town main treatment station that discharges to the moana mouth.<sup>213</sup>

In May 2007, MWH produced a supplementary Options report on the cost estimates. The average cost per property was \$33,000.00.<sup>214</sup> The report and cost was presented to the Whaanga Coast ratepayers in 2008. That was resisted by the Whale Bay residents. The price was dropped to \$15,000.00 which was acceptable.

By then WDC had included another rural subdivision Upper Wainui, which is located 6 kilometres from town immediately along the main road. It was included to assist to offset costs. That subdivision was also below the required section size of 2500m<sup>2</sup> as permitted in WRC wastewater rules although the upper end has rural sections that are bigger.

The issue was put on hold by WDC so it could be addressed in the upcoming Raglan Structure Plan which was designed to identify future development of the Raglan area. The Raglan Structure Plan strategy was later withdrawn by WDC. More discussion on the Raglan Structure Plan strategy will be advanced below.

Opposition to the setting aside of the issues of sewage contamination came from Tainui and the Whaanga Coast community. For a number of years through a variety of processes such as the Long Term Plans, review of the Raglan Naturally and the Raglan Structure Plan that opposition was portrayed through submission to WDC. The community sought the setting aside of funds to be allocated through the Long Term plans for a number of years but was ignored until 2011.

In April 2011, WDC Water & Facilities Committee resolved to support consulting on a low pressure wastewater system the with the Whaanga coast residents.<sup>215</sup> By then WDC had also included another small rural subdivision Earls Place that consists of about 15 houses on one road that leads of the main road to the Whaanga coast to Whale Bay.

A consultation open day meeting with the Whaanga coast residents was held at the Raglan Surf Club 16 July 2011 informing the affected residents of Whale Bay, Earls Place and Upper Wainui road of a low pressure system that would pump and pipe to

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<sup>213</sup> MWH Preliminary Design & Options Report June 2006 p3

<sup>214</sup> MWH Supplementary Options Report May 2006 Appendix A Cost Estimates

<sup>215</sup> Waikato District Council Water & Facilities Committee report April 2011

the town wastewater treatment Plant. The WDC system was to only cater to the houses that fitted into the “living zone” of the District plan and not include the slightly larger sections deemed “rural” in the District plan.

The community argued for the inclusion of all the houses in Whale Bay; including the rural houses that are on the main road to town, stating that if the intent was to fix the wastewater issues the Council needed to include all the houses. WDC refused and kept with the Living zones areas only stating that a bylaw in the near future would ensure those houses will need to comply and have their systems fixed or upgraded then.

The cost of the system was to be \$22,500.00 for each resident affected. WDC sought feedback from the residents. Again the community stated that the cost was too big a burden. Further meetings were held with a core group to advance the issues and WDC agreed to lower the cost to \$15,390.00.

Another open day meeting was held at the Raglan Surf Club 27 January 2012. From that meeting more issues were raised and answers were sought on why the two large commercial tourist operators and the Bryant Home camp were not included and that those tourist operators and the Bible camp have not been monitored for many years by either Council's. WRC has the responsibility to monitor resource consents. Pressure by Tainui and the Whaanga coast community recently forced WRC to investigate those operations.

The Karioi Surf Camp is located at 5A Whaanga Road at Whale Bay and the consent was reviewed by WRC in 2006 and again in June 2011 by WRC. There were no compliance issues at that time. No water quality testing took place. The Resource Consent expires in 2014. Solscape located at 611 Wainui Road upgraded their system in 2004 and checked by WRC June 2011. There were no compliance issues at that time. No water quality testing took place at that time. The consent expires 2019. The Bryant Home camp is located at 578 Wainui Road has not had consent for many years and yet discharges close to the Wainui awa onto the surface of a small bush block.

D.V Bryant purchased the land for the Bryant Home camp in 1924. It was operated as a Children's camp run by a Trust until 1968 when the Children's Bible Crusade bought it. The land purchased in 1924 by D.V Bryant was previously part of the Native Reservation that was set aside for Maori.

The community pressure resulted in WRC undertaking a compliance check on the 19 April 2012 of Solscape and Bryant Home camp. Solscape had no issues but WRC admitted the Bryant Home Camp has no consent and that they will be assessing their system.

The community took a water quality test on the 4 May 2012 that demonstrated that the Karioi Surf camp operation was again malfunctioning. That test showed the faecal coliform count to be elevated well above the limits allowed. With publication of those results, WRC took water quality tests on 17 May 2012 of both Karioi Surf camp and Bryant Home camp.

The Bryant Home camp had faecal bacteria counts of 1.900.00 with 50.000 counts discharging into the Wainui awa. The counts amounted to raw or near raw sewage that was discharging. The Karioi Surf camp had faecal bacteria counts of 42.000 emanating from the ground with 14.000 discharging into the waterway. The bacteria counts were significantly higher than acceptable. WRC issued enforcement notices to both operations to fix the problems. By 16 June 2012, both organisations had fixed the broken pipes and had their faecal bacteria counts down to the permitted levels.

Without the constant pressure from the community, neither Council's would have taken any action. It took members of the community to take their own water quality testing to prove to the Council that effects were taking place.

Worse still; WRC had not taken any water quality testing since 2003. More alarmingly is the fact that WRC knew that the septic tank systems on the Whaanga coast at Whale Bay were malfunctioning since 1993 and again in 2003 because they produced the reports. The communities desire to include the larger tourist operations in the Whale Bay project has proven to be well founded and based on fact. Most at risk are Maori, divers for kaimoana, surfers, wind surfers, kite surfers and bathers that swim for longer than 30 minutes.

The awa and coastal waters of the Whaanga coast and Wainui awa were previously utilised for traditional spiritual and cultural practices along with being a focus of ongoing use for whanau and hapu for many generations. With near raw sewage entering into Wainui awa and inefficient water quality on the Whaanga coast has seen those traditional practices cease.

Tainui consider that WRC has failed in their duty to undertake the requirements as set in Section 5 (2) Resource Management Act 199. The Act requires Councils to enable people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety. WDC has a duty to avoid, remedy or mitigate effects that impact on Tainui and the community at large, particularly is it charged with monitoring for adverse effects of waterways and wastewater systems.

The Whaanga Coast community and Tainui have lost confidence in WRC to effectively carry out their responsibilities and consider that the above illegal discharges will continue into the future.

To date, WDC refuses to consider those large operations as part of the wastewater solutions and instead focus on just the 110 houses plus the 60 houses that are able to further subdivided when a reticulated system is in place in District plan “Living Zone” areas. Tainui and the Whaanga Coast community consider that is short sighted and will fail to reduce the adverse effects or rectify the wastewater problems effectively as there are approximately a further 60 houses on the Whaanga Coast to the Raglan West area.

Twenty-two years have gone past since Tainui has raised the issue of sewage wastewater impacts to the whenua, awa, kaimoana beds and Whaanga coastline. Previously it was possible to drink water from the awa that ran through the Maori land blocks and Wainui awa. Year by year and decade by decade degradation has taken place. Year by year, decade by decade there has been opposition from Tainui. All to no avail as those with authority have failed to address the issues for Maori effectively.

#### **5.1.9 Wastewater summary**

The impact of the Raglan town’s sewage treatment and sea disposal has a history that has stemmed from 1971 to the current day. The taking of 9 acres of Tainui land at Rākaunui under the Public Works Act for the purposes of the oxidation ponds and discharge to sea has systematically severed the traditional and cultural identity of Tainui and its descendants by affecting the mauri of the awa and moana. Additionally, it trampled on the mana of Tainui and denied the right to exercise kaitiakitanga duties. The loss of the ability to carry out kaitiakitanga duties has resulted in cultural practices of such as mahinga kai, mahinga mataitai areas being polluted to point that it is not safe to consume traditional food sources.

The act of taking Maori land under the Public Works Act has been pivotal in the establishment of a sewage system on an estuarine ecological area that has been highly valued by Tainui for generations. The sewage ponds have been the major source of pollution into the awa and moana for over 40 plus years.

WDC has consistently refused to locate the sewage treatment to an alternative site, despite Tainui demonstrating in 1971 that such a site exists further up the valley system that Council has jurisdiction over.

The Commissioner for the Environment ignored the professional advice that Tainui obtained from Chief Public Health Engineer in Wellington 1974 that highlighted the pond system would only work properly if there was sufficient wind flow and that RCC had not undertaken any wind flow tests. Those tests only ever took place some 23 years later when WDC was requested to by WRC during the 1997 application. In fact, the advice from the Chief Public Health Engineer in Wellington was proven correct as WDC had intended to set in place large surface aerators in the sewage ponds in the latest upgrade.

The system that is in place today is completely different to the one that was agreed to in the Environment Court. It now comprises of four aerobic, two anaerobic ponds, a small holding pond and a UV disinfection unit at the discharge point from the site. The four ponds have small plastic pipelines stretched across the whole width and laid across the bottom of each pond. Air is pumped into those lines to create the aerobic conditions. That confirms the stance that Tainui and Chief Public Health Engineer had since 1974. For all those years, the pond system did not work efficiently. Nor did it produce a water quality discharge that was acceptable for the receiving environment.

Environmental impact assessments and sub soil bore investigations are now common practise when dealing with sewage wastewater and discharges. Ironically, Tainui outlined that same process in 1975 to the Commissioner of the Environment as a method for dealing with the problems.

Even the Minister of Conservation through the Regional Conservator -Department of Conservation (DoC) opposed the WDC application in 1991 stating that:

- 1) The waters of Raglan Moana have high ecological , recreational and visual values which may be adversely affected by the proposed discharge

- 2) Being unclassified these waters may be more at risk from low quality discharges than classified waters elsewhere

While the Department did have qualifying statements to that opposition, WDC have not eliminated adverse impacts on the ecological, recreational or visual values of the Raglan Moana as requested by DoC.

Yet as late as 2003, WDC has failed to either enact all the procedures or comply with consent conditions set by the earlier Planning Tribunal Court directions and subsequent hearing decisions. That view was expressed as part of the Dissenting Minority Decision on the Hearing Panel that sat in 1999 as set out above.

The Committees in 1991 and 1999 hearings identified similar matters to Tainui that adverse effects from lack of maintenance and care has resulted in damaged pond walls plus seepage out of the base of the ponds into the nearby awa. The Committees found that there has been history of the sewage ponds overflowing during heavy rain periods plus stormwater ingress through aged leaky pipes, throughout the reticulated system, along with surface water on the pond during heavy rain.

The current upgraded sewage plant has now been operational for about four years. During that period, there have been unacceptable consistent breakdowns and faults that have resulted in discharge pumping out of consent limits on the incoming tide as well as operational plant failures to switches, pumps and pump stations throughout part of the township. An example of those breaches is:

- 1) 11 September 2008 - Discharge pumps operated 24 hours for four days on incoming tide due to heavy rainfall.

When challenged, WDC stated that they have a consent that allows for 20 of those incidents. During the Environment Court mediation, the agreed position was to be no discharge on incoming tides. Of issue is that both regional and district councils can alter the conditions. Tainui and the community are not included in any review of sec 127, s 128 of the RMA 1991. Also of relevance is that the agreed large holding pond prior to discharge did not get included in the new upgrade and a much smaller holding pond was fitted with less capacity, which results in the need for extra pumping outside the consent limits.

- 2) 16 March 2011 - Marine Parade pump station discharging into the moana- signs erected to not eat shellfish plus kayakers and bathers were told to stay clear of the water in that area in moana.

17 March 2011- Complaint by Tainui for not being informed and denied the opportunity to inform members to not gather shellfish or participate in the water.

- 3) 10 January 2012- discharge pumps left on after maintenance.
  - a. WDC informed Tainui 28 -29 December –Alarm alert failed.
  - b. 25 January 2012 WDC informed Tainui/ others that the alarm switch has been fixed and SCADA Datran control and alarm system will be upgraded at a cost of \$750.000 to improve reliability of the system plus record keeping.<sup>216</sup>

Since 1994, WDC have continually been stating that upgrades have taken place to the SCADA Datran control and alarm along with repairs to the aged reticulated system that traverses throughout the township. Minimal allocation of funding has been set aside and still today, it is only the low manholes covers that have been rectified. Storm water ingress and illegal household storm water connections are still rife.

From 1971 till the last upgrade, Tainui have argued the merits of the Town & Country Planning Acts and the Resource Management 1991. Both have provisions that should have been recognised and should have placed more emphasis on Maori values and ethics. The RMA 1991 in section 6(e) states that it is a matter of national importance to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. Section 7 (a) states that authorities take into account kaitiakitanga.

Tainui has consistently argued the merits of Section 7 (a) and sec 8 to allow for kaitiakitanga and to have the principles of Te Tiriti o Waitangi to bear weight on any of the decisions. Even the environment court ignored the strong provisions of the RMA 1991 and instead agreed to apply the case law precedent of the Marlborough District Council v NZ Rail-1995 that allows for the judgement to apply to the environment as it was then and not from some halcyon time in the past.

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<sup>216</sup> Email communications from WDC 2011-2012

In 1971 kaimoana were able to be harvested from the Whāingaroa moana. That practice has now ceased due to the pollution from the wastewater discharges that enter into the mouth of the moana. The wastewater travels out to the coast then comes back in on the incoming tide then travel up the moana again. WDC have now got a consent condition that allows for 20 heavy rain events to discharge on the incoming tide.

Tainui consider that the decision by Judge Sheppard 2004 erred in law when commenting:

“The subject of this appeal is the discharge of treated effluent from the proposed treatment plan. The appeal does not provide an opportunity for airing criticism of the District Council for its past management of the existing system”

The Resource Management Act 1991 is effects based legislation and Tainui had a right to provide evidence of effects that emanated from the sewage treatment plant and more particularly causal links to the aquatic life forms and the cultural alienation from those resources. Due to the prohibitive costs of the High Court, Tainui were forced to accept that decision and comment.

Tainui are arguing that the delegated authority from Crown to the Local Authorities has breached Tainui Treaty rights. Tainui consider that the placing of the town sewage treatment plant on Maori land (obtained by the Public Works Act) and established right by the awa close to the Marae along with discharges into or onto the food basket of Maori amounts to environmental racism and cultural genocide.

## Whāingaroa Moana

### 5.1.10 Potential Waste Water Health Effects

Known viruses that cause ill health from wastewater are:

Table 4.1- The Type and Potential Health Effects of Pathogenic Microorganisms Found in Domestic Sewage

Microorganism	Source/ Reservoir	Disease/Impact in human
Bacteria		
Shigella spp.	Humans, Shellfish	Gastroenteritis
Salmonella spp.	Humans, Shellfish	Gastroenteritis, enteric fever
Vibro spp.	Humans, Shellfish	Gastroenteritis, cholera, septicaemia and skin infections
E Coli	Humans, Shellfish, fish	Gastroenteritis, haemolytic uremic syndrome
Yersinia	Humans, all warm blooded animals	Gastroenteritis
Campylobactor spp	Humans, animals, birds	Gastroenteritis
Leptospira	Domestic animals, pigs, sheep, cows	Leptospirosis (Wells disease)

Table 4.1 (Cont;d)- The range of pathogenic microorganisms found in domestic sewage

Microorganism	Source/ Reservoir	Disease/Impact in human
Viruses		
Enteroviruses, Poliovirus, Echo virus, Coxsakievirus A & B	Humans, Shellfish, Fish	
Hepatitis A	Humans, Shellfish	Infectious hepatitis
Rotavirus	Humans, Shellfish	Vomiting, Diarrhoea
Andenovirus	Humans	Respiratory disease, eye infections
Norwalk virus and other small round structured viruses (SRSV)	Humans, Shellfish	Gastroenteritis
Parvovirus	Humans	Gastroenteritis
Protozoans		
Cryptosporidium parvum	Humans, Animals	Cryptosporidiosis
Giardia lamblia	Humans, Animals	Giardiasis

Source - Gisborne District Council New Zealand

### 5.1.11 Epidemiological Research

An epidemiological research project was undertaken in 1995 that included the Whāingaroa Moana as part of the assessment.<sup>217</sup> The aim of the research was to establish a usable relationship between illnesses risk and measurable index of water quality and the ideal index is the density of pathogens but due to cost and availability in wastewater, it would be problematic. Enterococci, Faecal coliforms and E. coli were the three indicators used as a basis for the research. In reporting the overall pattern that emerged of the three indicators, enterococci showed a clear pattern of illness risk to those paddlers and swimmers who swam for more than 30 minutes.

The findings of the research project were that enterococci are more appropriate as an indicator in marine water and that the most significant association between illness risk and enterococci density were found to be for respiratory systems for paddles and long duration swimmers(30mins +) along with gastro-intestinal illness to a lesser degree.<sup>218</sup>

The report also stated that there were 163 cases of other significant people related illnesses of eye/ ear/ throat and skins infections.<sup>219</sup> That study assisted the Ministry for the Environment (MFE) to set in place the Marine water quality guidelines 2003.<sup>220</sup>

The Whāingaroa section of the epidemiological report took place at Putoetoe point, which is located at the lower end of the township at the exit of the Opotoru estuary well away from the discharge point for the wastewater plant, which is at the mouth of the moana. That location was chosen due to the availability of swimmers rather than at the source of the pollution at the discharge point of the sewage plant.

The 2003 MFE guideline accepts that there would be 19 in every 1000 bathers contracting an illness in marine waters as a level of risk.

MFE readily acknowledges that despite meeting the guidelines, there will still be health risks with recreational activities in the sea because scientists are not directly

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<sup>217</sup> [Mcbride](#), G.B, [Salmond](#), C.E, [D.R. Bandaranayake](#), [Turner](#), S.J [Lewis](#). G.D ,& [Till](#) D.G, *Health Effects of Bathing at Selected in New Zealand Marine Beaches* December 1995

<sup>218</sup> Ibid p 40

<sup>219</sup> Ibid p 2

<sup>220</sup> <http://www.mfe.govt.nz/publications/water/microbiological-quality-jun03/> Accessed 10 May 2012

measuring the pathogens and it is not possible for a zero risk especially where there are known human and animal faeces. Additionally illnesses associated with toxic substances of heavy metals such as PCBs are not measurable with indicator bacteria.

The Ministry also acknowledge that where the community sewage is discharged directly into or close to recreational waters without adequate treatment, the guidelines that Councils use are not suitable due to the level of pathogens being elevated to an unacceptable risk to the public health.<sup>221</sup>

#### **5.1.12 Wastewater tracking**

ASR is a global coastal and marine science consulting firm. It started from humble beginnings in Hamilton Waikato to later become an international consulting firm. ASR established an office in Whāingaroa several years ago. The company employs a team of coastal scientists and under graduates through to PHD levels.<sup>222</sup> ASR developed a detailed hydrodynamic model of Whāingaroa (Raglan) Moana<sup>2009</sup>.

It included a calibrated numerical model covering the full moana area, including the open ocean to the west using a 3DD modelling suite. It integrated a variety of environmental factors such as wind, offshore waves, tides and freshwater inputs to drive the hydrodynamics. Hydrographic charts and aerial imagery with extensive bathymetric surveys over the upper reaches of the moana were used along with tide gauge data recorded at the Raglan Wharf and the Manu Bay boat ramp for sea levels.

The model was used to investigate scenarios related to the sewage discharge of treated effluent from the Raglan sewage treatment plant as a Case Study. The report highlights that:

Under normal conditions the Raglan wastewater treatment facility processes 20 L s<sup>-1</sup> in summer and 42 L s<sup>-1</sup> in winter. The higher winter flows are due to increased infiltration and inflow by stormwater to the system during rainy periods. The maximum permitted daily discharge of treated effluent in to the moana is 3400 m<sup>3</sup>.

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<sup>221</sup> Ibid Fact sheets pp 133, 136 <http://www.mfe.govt.nz/publications/water/microbiological-quality-jun03/html/appendix5.html> Accessed 102May 2012

<sup>222</sup> Harrison S R, Borrero. J C, Klinginger C, Mead, S.T., Phillip. David J *Hydrodynamic Modelling of Whāingaroa Harbour*, ASR Limited, Raglan New Zealand

And

Under normal conditions, the treated effluent is discharged over a period of 5.5 hours starting half an hour before high tide. This is done to minimise the up-moana transport of the effluent. However, during peak periods of high flow rates due to the increased summertime population or to periods of prolonged rainfall, discharge may continue in to the following tide.<sup>223</sup>

In concluding the report found that:

The results of the model showed that if discharge requirements are adhered to, the bulk of the plume is moved out of the moana on the falling tide. However, if effluent discharge continues into the rising phase of the tide, a significant fraction is drawn in to the moana. This presents a public health hazard, since extended discharges correspond to periods of high flow rate and increased turbidity at the sewage treatment facility when the disinfection process will be at its least efficient.

### **5.1.13 Shellfish Monitoring**

The Community Health division of Health Waikato undertook bacterial quality monitoring of the shellfish in the Whāingaroa moana between May to August 1994.<sup>224</sup>

It was aimed at assessing the safety of eating shellfish from the moana. Four sites were chosen. South Ngarunui beach (RH1); adjacent to the sewage outlet (RH2, Raglan Wharf (RH3) and up the moana at the Narrows (RH4). Mussels and oysters were the two species chosen for the tests.

Testing took place 5 times on a fortnightly basis irrespective of weather conditions. The flesh samples were analysed at the NZ Communicable Disease Centre at Porirua for compliance with the microbial guideline. Test results show RH1 = 230, RH2= 700, RH3= 1100, RH4=1300.

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<sup>223</sup> Ibid p 4

<sup>224</sup> Cumming.D.A. An Assessment of the Bacterial Quality of Shellfish, taken on a recreational basis from Raglan Harbour 1994 Community Health

The assessment noted that it was significant that non complying results came from all four sample sites and more particularly during periods of rainfall. A disclaimer was added that site RH2 could not be categorically linked to the oxidation pond outlet.<sup>225</sup>

The non complying samples were significantly above the guidelines to the point that the Medical Health Officer issued a news release for immediate use for a public health warning titled ‘Warning for Raglan Shellfish Fans’.<sup>226</sup>

The news media release stated that there will be an element of risk eating shellfish from Raglan Moana during rainfall periods and that 15 or more millimetres of rainfall in a day will lead to raised levels of bacteria and to wait for at least five days following the rainfall to allow shellfish to self cleanse. Moreover, raised faecal coliform levels are a result of rainfall and the resultant runoff from farmland and movement of water currents, state of tide and wind direction. In addition, shellfish are filter feeders and concentrate bacteria when water is contaminated.

#### **5.1.14 Summary**

The above section demonstrated that Tainui has cause for concern that is justified. ASR scientific research has tracked the wastewater flow back up into the moana. WDC monitoring for the resource consent above in 1997 also demonstrates that adverse wastewater quality from the sewage outfall does flow up into the moana. The Community Health research on the flesh of shellfish demonstrates that it only takes 15 or more millimetres of rainfall in a day to make shellfish gathering a real health risk.

More alarmingly is that emerging contaminants, organochlorines, endocrine disrupter’s, viruses and pathogens are not monitored and only the basic bacteria are used as indicators species.

#### **5.1.15 Emerging Contaminants**

Tainui have long held concerns about organochlorines and mimicking hormones or endocrine disruptors in wastewater, storm water and farm chemical leachate entering the moana and the food chain.

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<sup>225</sup> Ibid p 2

<sup>226</sup> Ibid p4

The Ministry for the Environment initiated the Organochlorines Programme <sup>227</sup> in June 1995 as the first stage of the programme with the aim to develop national environmental standards for dioxins in air, soil and water along with environmental guidelines or standards for selected organochlorine contaminants. The range selected were persistent organochlorine pesticides including DDT, aldrin, dieldrin, chlordane, and pentachlorophenol (PCP).

The programme was in response to an international meeting of experts held in Vancouver in June 1994 that found there was enough scientific evidence to phase out and or place severe restrictions for certain POPs and even ban out right. POPs are environmentally persistent, bio-accumulative, toxic and pose risk to human health and the receiving environment plus resist physical, biological and chemical degradation.

MFE subsequently set in place mechanisms from those studies that saw outright ban of several of the POPs to regulations that now fall inside the Resource Management Act 1991 and the Hazardous Substances Act 1996. Schedule 2A of the HSNO Act on Persistent organic pollutants was inserted in 23 December 2004. Much of the focus has remained with contaminated land plus the HAIL list of hazardous activities in industries although endocrine disrupters have been discussed by the Ministry including identifying the issue in the Handbook for Small Communities on wastewater in 2003

### **5.1.16 Landcare Research workshop/ Seminar**

Landcare Research had workshops and a seminar 13 October 2009 titled “Developing a New Zealand strategy for emerging contaminant issues” <sup>228</sup>

The workshops and a seminar were seen as an opportunity to move the focus from the conventional POPs to bioactive anthropogenic chemicals. It was acknowledged that there was a lack of monitoring for adverse environmental effects of industrial, agrichemicals and veterinary pharmaceuticals.

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<sup>227</sup> <http://www.mfe.govt.nz/publications/hazardous/organochlorines-bulletins/bulletin-3-jun96.html#objectives> Accessed 12 May 2012

<sup>228</sup> Landcare Research *Developing a New Zealand strategy for emerging contaminant issues* 2009 <http://www.landcareresearch.co.nz/news/conferences/contamination/index.asp> Accessed 12 May 2012

The introduction to the seminar, identified that there have been several decades of unrestricted discharge to the environment with little idea of potential effects in non mammalian organisms, and that there was potential of human health risk from exposure to sub therapeutic doses in drinking water. In addition, the contaminant levels were comparable to those overseas and a number exceeded EU limits for land application with emerging contaminants (EC) levels in some sediments surprisingly high and:

- 1) steroid estrogens in Wastewater treatment plant effluents are comparable to overseas levels
- 2) steroid estrogens and estrogenic activity are widespread in dairy catchments waterways
- 3) estrogenic steroids are leaking from agricultural landscapes from point discharges and diffuse sources potential to exert detrimental effect on aquatic organisms
- 4) urban areas represent a source of ECs to NZs coastal environments

The Landcare Research presentation(Sarmah A. K) covered the issue of Veterinary antibiotics (VA) being used, stating that 60 tonnes are used annually in NZ with potential for leaching & run-off and possible measurable presence of antibiotics in streams, lakes, and groundwater along with a further potential for the occurrence of resistant genes. Plus frequent application of effluent on same location can give rise to extended bacteria survival. As well VA's are poorly adsorbed in the gut of the animal with 80-90% excreted in urine and 10-20% in faeces and we should be concerned as they may lead to the development of antibiotic resistant microbes and impact on non-target organisms (aquatic and terrestrial).

Dr Susan Jobling<sup>229</sup> presented on Endocrine Disruption(ED) in the aquatic environment in the UK and that contaminants in water are from pharmaceuticals and personal care products, endocrine disrupting chemicals, nanoparticles, industrial chemicals along with biological metabolites and toxins. Jobling stated that ED

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<sup>229</sup> Institute for the Environment, Brunel University. Also Representing Chemicals & Nanotechnologies Division UK Department for Environment, Food and Rural Affairs

contaminants can interfere with important bodily processes in reproduction development growth, appetite, immunity, brain function and metabolism.

Jobling also presented examples of fish studies that demonstrated intersex behaviour in many species including flounder, and feminisation of cod in the open sea along with the collapse of a fish population after exposure to synthetic estrogens. Of concern, humans and wildlife are exposed to the same mixture of chemicals and WWFs national bio-monitoring survey identified more than 300 man made chemicals in human bodies including being found in breast milk and in food with many found in sewage effluents and in sewage sludge as well as found in drinking water and in soil.

Jobling, states that ED are not new and that in 1874 & 1881, DDT & PCB were synthesised plus between 1930-77 there was widespread PCB use in transformers & as cutting oils. Additionally, in 1962 the publication of “Silent Spring” by Rachel Carson and the 1996 publication of “Our Stolen Future” by Colborn, Dumanoski & Myers) indentified ED as an issue along with the 1998 International Conference on Endocrine Disruptors that was held in Kyoto.<sup>230</sup>

Jobling states that:

“No evidence of Harm” is not the same as “evidence of no harm”

Dana Kolpin<sup>231</sup> presented on the EC contaminants in the environment from the United States perspective and the measurable capabilities are for illicit drugs, glucocorticoids, antidepressants, fibrates, barbiturates, cytostatics, psychoactive drugs, muscle relaxants, beta-blockers, PCPs / wastewater chemicals, antiphlogistics and antibiotics. The potential pathways are from wastewater treatment plants, sewer overflows, septic tanks, land application and industrial and commercial activities.<sup>232</sup>

### **5.1.17 Gisborne wastewater**

Gisborne City is now potentially leading the way in monitoring for Emerging Contaminants despite its history.

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<sup>230</sup> Ibid p9

<sup>231</sup> Research by the USGS EC Project Toxic Substances Hydrology Program U.S Department of the Interior/ U.S. Geological Survey

<sup>232</sup> Ibid pp5, 13

Te Runanga O Turanganui A Kiwa have held concerns about the chemical makeup of the Gisborne City wastewater sewage and discharge effects on both land and the sea over a large number of years.

Minimal treatment took place since 1964 when the ocean outfall was established. In 1991 milliscreens were installed that screened only large objects. In 1993 and 1999 when Resource consent applications for ongoing use of the outfall large opposition from the community contested those consents. Te Runanga O Turanganui A Kiwa appealed to Environment Court on the ground that raw wastewater discharge to the ocean broke their relationship with the sea and kaimoana.

In 2007, Commissioners heard consents for primary and secondary treatment and by December 2010 Gisborne District Council (GDC) city's new treatment plant was operating, as required by a condition of the resource consents granted in September 2007. The treatment plan is a Biological Trickling Filter system. Clause 4A of the resource consent established the Wastewater Technical Advisory Group (WTAG)

The WTAG comprises representatives from the Medical Officer of Health, Tairāwhiti District Health Board, Department of Conservation, Te Runanga O Turanganui A Kiwa, Ngāti Oneone, Oho Ake (Environmental group) and GDC staff.

This groups main is task plant monitoring and investigation study of the Biological Trickling Filter (BTF). The study will run for 3 years and is to determine the effectiveness of the treatment process and the amount of biotransformation being achieved.

The study will also assess the scientific rational and effectiveness of various clauses in the consent.<sup>233</sup> Studies will be on the physical, chemical, biological, atmospheric, social, economic, cultural, carbon footprint.

The assessments will also monitor a variety of potential adverse chemical constituents that are likely to be in the wastewater stream. Potentially measurements will be to assess reproductive dysfunction, endocrine disruption, toxicity to aquatic species, toxicity through contact plus cancer risks and pharmaceuticals.

The WTAG has compiled a Sin list specifically for Gisborne based on the International Chemical Secretariat who produced a "Substitute It Now" (SIN) List of 356

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<sup>233</sup> <http://www.gdc.govt.nz/wastewater-technical-group/> Accessed 2 June 2012

substances, all of which are “Substances of Very High Concern” according to the REACH criteria<sup>234</sup>. Approximately 77 of the substances have the potential to be in a modern urban wastewater. GDC tested 13 of the chemicals that appear in the list of chemicals and only found one previously.<sup>235</sup>

This study is a direct result of Te Runanga O Turanganui A Kiwa and Ohu Ake, who have had grave concerns about the chemical makeup of the sewage and discharge effects on both land and the sea over a number of years. The information from the research should assist other local bodies and the policy makers to draw attention to the chemicals in wastewater and form effective policies.

### **5.1.18 Summary**

New Zealand lacks sufficient regulation on ED & EC and continues to fail to address the issue effectively despite knowing about potential for adverse effects to the environment and humans. There have been several academic studies that have been done and Landcare Research and HortResearch have been to the forefront of undertaking research since 2005. Cawthron Institute has also done research. Waikato and Hawkes Bay Regional Councils have participated in that research. The Ministry for the Environment have been aware of the issue for many years. Currently the Environmental Protection Agency does not have a list of ED or EC as part of the Hazardous substances list and refers only to the internationally agreed system of the Globally Harmonized System of Classification and Labeling of Chemicals or GHS.

Tainui are not alone in raising the issue of ED & EC. There was agitation and protest about the high level of toxins, chemical pollution and ED in the Waikato and Auckland areas when it was discovered that Watercare services were going to pipe water from the Waikato River in a \$155 million treatment plant after the drought in Auckland in 1994.

During the recent Whāingaroa wastewater treatment plant upgrade by Waikato District Council (WDC), the old pond sludge was placed onto land in one of the disused ponds without a clay liner. That pond is close to the awa. There is high potential for leaching into the waterways and moana.

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<sup>234</sup> <http://www.chemsec.org/get-informed/eu-chemicals/reach/lists-of-substances-of-very-high-concern/candidate-list> Accessed 2 June 2012

<sup>235</sup> Information and Sin List provided by Gordon Jackman –member of WTAG

Whāingaroa Township has a veterinary practice, chemist, medical centre, light industrial, engineering workshops, garages, spray painters, garden centre along with a variety of shops that are connected to the sewage treatment plant. The supermarket has a full range of products including chemicals for gardens, farms and household use that would either go to the sewage plant or be discharged to surface water flow and urban stormwater systems.

Also the now closed old landfill site that serviced the town dump leaches into the valley catchment. It is sited less than 1 kilometre from the awa, sewage treatment plant and moana. That landfill was the only landfill in the wider catchment. Farmers and residents dumped old cans, drums into the landfill. DDT and PCP and agricultural chemicals along with household chemicals were all potentially dumped at the site.

The evidence above demonstrates that there is a high potential that EC and ED contaminants in the wastewater, urban storm water and farm runoff are being discharged into the moana.

No testing or monitoring has taken place to ensure that adverse effects to human or aquatic life forms are not happening. Jobling above comments that “*No evidence of Harm*” is not the same as “*evidence of no harm*”. Alternatively it can also be stated the absence of science does not mean absence of effect.

### **5.1.19 Sedimentation**

The scoping study by Belgrave (2010) identified the effects from large scale deforestation and conversion to pasture since 1890 has resulted in sediment from forested stream catchments in the Whāingaroa Moana catchment to deposit approximately 45 tons/km<sup>2</sup>/year. In the deforested stream catchments, sediment deposits about 230 tons/km<sup>2</sup>/year due to 50% of the catchment being cleared of forest for farming.<sup>236</sup>

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<sup>236</sup> Belgrave.M, Belgrave.D, Dr Anderson. C, Dr James.A, Dr Millner.J, Gardiner.S, Bennett .A

In addition, the sediment load transports significant nutrients and faecal bacteria into the moana, which has resulted in shellfish being unsafe after rain. Furthermore, the Waitetuna arm receives sediment at approximately 2.5 mm/year with Okete Bay receiving 8 mm/year.

The Waingaro arm remains at pre-forested levels due to wave action. The Waingaro sediment traverses into the wider moana and eventually discharges out the moana mouth with the more sheltered parts of the moana not being subject to sediment suspension.<sup>237</sup>

In addition, comment was made on the Environment Waikato's Regional Estuary Monitoring Programme from 2001 to 2006 that found that after five years of the monitoring program, the fine sand and mud content of the sediment has increased at all the permanent monitoring sites in Raglan Moana plus the macro faunal trends were difficult to link to those changes.<sup>238</sup>

However; the review by Singleton in June 2009<sup>239</sup> of the work done in 2006 above, did raise further concern, particularly about the negative effects from the increased rate of sediment that resulted in fewer animals found at the muddiest sites in Whāingaroa Moana than at the more sandy sites.

More concerning was that Singleton states:

It is likely that if mud levels continue to increase, it is only a matter of time before this will start to impact the benthic animal communities, and the fish and birds that eat them.<sup>240</sup>

Lastly, Singleton shows in graph form that Okete and Haroto Bay show minimal bivalves and other species occupy the area<sup>241</sup> and only small patches of seagrass are found near the town centre.<sup>242</sup>

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Scoping Report Commissioned by the Crown Forestry Rentals Trust for the Waitangi Tribunal's Rohe Potae District Inquiry March 2010

<sup>237</sup> Ibid pp 180 -181

<sup>238</sup> Ibid p 199

<sup>239</sup> Singleton. N. Review Regional Estuary Monitoring Programme 2009

<sup>240</sup> Ibid p 4

<sup>241</sup> Ibid p 22

<sup>242</sup> Ibid p 11

The Belgrave study also comments on the biota<sup>243</sup> in the Whāingaroa, Aotea and Kawhia moanas and that Whāingaroa is threatened by the weeds *Spartina* and saltwater *paspalum* which is so widespread that eradication is difficult. Also, both weeds grow in open estuary areas where they compete with native estuarine plant species and trap sediment, contributing to sediment accumulation.

Begrave also outlines the contaminants in Whāingaroa and that no trace elements within the sediment were in concentrations that exceeded the Australian and New Zealand Environment and Conservation Council (ANZECC 2000) ISQG-low guideline values although trace quantities of PAHs were found in sediment close to the township. Also, no organochlorine pesticide residues were found in the Moana sediment.

While the Rumsby report (2009)<sup>244</sup> did arrive at the findings above that Belgrave used; Rumsby also stated:

The concentrations of trace elements tended to be higher in the samples collected in the southern part of the moana than in samples from elsewhere in the moana.

The monitoring points for the trace element study are the same as for the Regional Estuary Monitoring programme and are located at Whatitirinui Island, Te Puna Point, and Okete Bay, Haroto Bay, as well as Ponganui awa. Ponganui awa is across the Moana from the township and up an inlet and is distance from the town.

In dealing with ANZECC (2000) ISQG-low guideline, the report states that:

Concentrations between the ISQG-low and ISQG-high are thought to pose a moderate level of risk to aquatic organisms. Concentrations of trace elements or other chemicals either below or above the ANZECC (2000) trigger values

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<sup>243</sup> Belgrave.M, Belgrave.D, Dr Anderson. C, Dr James.A, Dr Millner.J, Gardiner.S, Bennett .A  
Te Rohe Potae Harbours and Coast, Inland Waterways, Indigenous Flora And Fauna, Sites Of Significance And Environmental Management And Environmental Impacts Scoping Report March 2010  
Scoping Report Commissioned by the Crown Forestry Rentals Trust for the Waitangi Tribunal's Rohe Potae District Inquiry March 2010 p201  
Ibid p 200

<sup>244</sup> Rumsby, Andrew Trace Elements in the Sediment of Waikato West Coast Estuaries, Environment Waikato Technical Report 2009/08, Environment Waikato, Hamilton, 2009

should not be thought of as safe or unsafe, but rather posing a lower or higher level of risk.

And

Values below the ISQG-low do not guarantee that the concentrations are safe, because complex chemical mixtures of certain compounds are more toxic than their individual chemical components, and the ANZECC (2000) guidelines are not designed to protect against those mixtures.<sup>245</sup>

The report noted that there was no endocrine disrupting compounds tested in Whāingaroa, the tests only took place in Port Waikato, and the ANZECC (2000) guidelines were designed to protect aquatic ecosystems rather than to protect human health.<sup>246</sup>

#### **5.1.20 Summary**

The sedimentation of the Whāingaroa moana from the catchment are showing that effects are taking place with significant faecal bacteria impacting on shellfish and fine sand and mud content of the sediment has increased at all the permanent monitoring sites in moana. Moreover, it is only a matter of time before it will start to impact the benthic animal communities with impacts to fish and birds and worse still, minimal bivalves and other species occupy the area of Haroto and Okete Bays.

In addition, *Spartina* and saltwater *paspalum* are a threat to the moana with saltwater *paspalum* so widespread that eradication is difficult. Both weed species are threatening native estuarine plant species, trap sediment, contribute to sediment accumulation, and have the potential to smother seagrass beds. Seagrass beds are important as habitat for various benthic communities including shellfish and planktonic fauna both birds and fish.

The ANZECC (2000) guidelines are designed to protect aquatic ecosystems rather than to protect human health and also the guidelines concentrations of trace elements or other chemicals either below or above the ANZECC (2000) trigger values should not be thought of as safe or unsafe, but rather as a higher or lower level of risk. Plus the

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<sup>245</sup> Ibid p 5

<sup>246</sup> Ibid p 6

values below the ISQG-low do not guarantee that the concentrations are safe, because complex chemical mixtures of certain compounds are more toxic than their individual chemical components, and the ANZECC (2000) guidelines are not designed to protect against those mixtures.

Tainui remain concerned with organochlorines in the moana along with trace elements and the potential impacts of the cocktail of chemical mixes. There has never been any testing in the Pukehue awa where the old rubbish dump and sewage plant is located nor has there been testing at the sewage discharge point at the moana mouth. There has been no testing in the Oporuru and Kaitoke estuaries where traditional shellfish beds struggle to survive from sediment dumps from the large catchment out to Te Mata. More importantly there has been minimal testing of the flesh of shellfish.

There seems to be reluctance from the local authorities to measure point source pollution from the moana and of the crown agents to adequately remove pest weeds in a timely manner to protect taonga species of Maori as required by Te Tiriti o Waitangi and legislation such as the RMA 1991.

#### **5.1.21 Native Plant Nurseries**

In 1986 Tainui had established a native plant nursery at Te Kopua as part of the focus of restoring the degraded landscape, waterways and marine coastal margins. That nursery was part of the training programs that was operated by the Whāingaroa ki Te Whenua Trust. After several years of operating the programmes, the Trust discontinued its operations due to the demise of Department Youth Affairs.

Tainui remained committed to native plant restoration and operated the nursery on a shoestring budget to educate Maori and the community about the benefits of reforestation. The Whāingaroa community set in place a process to establish a larger nursery after gaining education and knowledge from the Tainui Te Kopua example.

Established in 1995 Whāingaroa Moana Care<sup>247</sup> has since planted approximately 1.1 million native trees along streams and moana edges within the Whāingaroa catchment with the aim to stop sediment runoff from land.

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<sup>247</sup> <http://www.harbourcare.co.nz/about> Accessed 28 June 2012

The Whāingaroa Catchment has a relatively large land area of around 445 square kms. While there have been improvements by the native planting program by Whāingaroa Moana Care, it clear by the Waikato Regional Councils Regional Estuary Monitoring Programme that sediment runoff still impacts negatively on the waterways, coastal margins and moana with impacts to water quality and subsequent adverse effects.

## **Court Cases**

TV3 Network Services was the applicant that sought to install a television translator on the northern shores of Whāingaroa moana on the highest ridge at Horea to receive then transmit the boosted television signals to the township of Raglan in order to increase satisfactory telecasts from the Company. The application to Waikato District Council (WDC) was to erect two poles 15 meters high with supporting antennas that would be connected to the mains supply by an underground trench.

Tainui submitted:

Today we face yet another enemy. This time people want to desecrate the sacred places of my Tūpuna. The place where they lived died and buried their children and believed they were safe, is no longer safe. Now strangers from another foreign place, dare to desecrate my people's sleeping place, the place where one can sit and dream (Rickard T 1996).

And:

From time immemorial, our culture has had laws governing rights, responsibilities and right conduct. As tangata whenua of Horea we ask that Council recognise the rights of the descendant of Maru te hiakina and Punuiatekore to say no to this development on our ancestral land. The location is totally inappropriate (Greensill A 1996).<sup>248</sup>

The Waikato District Council granted consent Tainui appealed that decision to the Planning Tribunal.

### **5.1.22 Planning tribunal**

The applicant amended the proposal by seeking one pole only with supporting infrastructure and the connection to the main grid to be undertaken with an overhead line to the site.

The application was lodged encompassed both the Transitional and Proposed Plan of WDC. The Transitional Plan had a non-complying activity while the Proposed Plan was a Discretionary Activity. Both plans had provisions that related to tangata whenua.

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<sup>248</sup> <sup>248</sup> Greensill A. Inside the Resource Management Act - a Tainui case study 2010 p68  
Ibid p 63

Two conditions offered mitigation of effects. The first was the identified layout of the proposed masts. The second proposed condition was that during construction a qualified archaeologist along with a Tainui representative would be present onsite during the earthworks and if material is found, then the appropriate protocol would be undertaken for any reburial.<sup>249</sup>

Tainui contended that the transmitter would offend the relationship with their ancestral sites and waahi tapu and that:

- 1) Granting consent would compromise hapū rights recognized in the Declaration of Independence 1835 and reaffirmed in the Tiriti o Waitangi;
- 2) The application did not recognize and provide for sections 6(a)(b) and (e);
- 3) The application had no regard to section 7(a) (e) and (f);
- 4) The applicants had not taken into account section 8 of the RMA;
- 5) The application did not fulfil section 5 of the RMA.<sup>250</sup>

That the area located for the site is ancestral Maori land with over thousand years of occupation and a waahi tapu area of considerable spiritual and cultural significance, and that interference with that waahi tapu would be a spiritual affront to tangata whenua. Additionally in the past, human remains have been uncovered all over Horea which is a place of traditional battlegrounds. It was argued that if transmitter is erected, it would be a permanent reminder that tangata whenua values and beliefs are considered unimportant in matters that affect the relationship with their ancestral sites.

Also argued was that it is unreasonable for tangata whenua to give up their spiritual rights and cultural values<sup>251</sup>

Plus, Greensill stated:

Once there were bodies where today there are only bones. The bodies become the land; and when she looks at Horea, she sees her ancestors.<sup>252</sup>

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<sup>249</sup> Tainui Hapu Anors v Waikato District Council AO75/96(1996) Planning Tribunal p 6

<sup>250</sup> Ibid 68

<sup>251</sup> Tainui Hapu Anors v Waikato District Council AO75/96(1996) Planning Tribunal p 7

<sup>252</sup> Ibid 8

In the judgement, the Court commented that while the applicant had attempted to minimise the ground disturbance of physical resources of installing the transmitter, it goes on to state:

However it is also necessary to consider other aspects of the relationship of Maori with the land on which the site has been selected. We find that the relationship extends to an attitude of deep respect for that area because of its historic associations, because the ground once contained the remains of ancestors, and was the scene of important events in their history. Such intangible, and even spiritual, aspects of the relationship with the ancestral land are included in the direction contained in section 6 RMA

And:

---it would fail to enable the people who are tangata whenua of the area to provide for their social and cultural wellbeing, and that granting consent would not respond to the strong direction of section 6 of the RMA to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, and waahi tapu.<sup>253</sup>

The Court also found the applicant had approached the selection of the site purely for economic and a coverage point of view and not considered the opinion of Tainui. Lastly, it found that application was inconsistent with the provisions of the District Plan and did not satisfy the tests in Resource Management Act.

The Court determined that the appeal be allowed on the points above.

### **5.1.23 Paritata**

On the 17 August 1993, KR Witchell applied for resource consent to Waikato Regional Council (WRC) to occupy up to 4 hectares of Coastal Marine area in the Whāingaroa moana to operate an oyster farm close to the Paritata block. The application 930567 was publically notified 24 August 1993.

In 15 February 1994, the applicant also lodged two other applications for consent to WRC, one to take sea water for oyster washing purposes, (940058) the other (940059)

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<sup>253</sup> Ibid 12

to discharge used sea water after the oyster washing process. Both were publically notified 15 February 1994.

Ten submissions were received for the occupation 930567 application. The Tainui groups that opposed were AE Greensil and others, Huakina Development Trust and ME Forbes for the Te Kopua 2B3 Incorporation.

Three submissions were lodged to 940058 and 940059. The Tainui groups that opposed were ME. Forbes for Te Kopua 2B3 Incorporation and Tainui Awhiro Ngunguru Te Po, Ngunguru Te Ao Management Committee.<sup>254</sup> The Hapu that were represented were Tamainupo, Te Huaki and Kotara as witnesses. In brief, their opposition was based on:

- 1) Lack of meaningful consultation
- 2) The need of the applicant to provide for his financial wellbeing must not outweigh the needs of Tainui hapu to be able to provide for their cultural wellbeing
- 3) Provisions of the Resource Management Act 1991
- 4) Location was inappropriate as Paritata is used as a summer camping ground for Tainui hapu
- 5) Adverse effects on Tainui hapu and natural character of the area
- 6) Adverse effects of the pacific oyster on existing native species
- 7) Paritata and Pipirua reefs are traditional food gathering areas
- 8) kaitiakitanga
- 9) waahi tapu
- 10) the area has a Waitangi Tribunal claim that still exists
- 11) rights of use and occupation of the area under article 2 and 3 Te Tiriti o Waitangi

The Hearing was held 5- 6 April 1994 at Whāingaroa. The Decision was released 9 June 1994

The Committee commented that: there appears to be a significant amount of siltation within the moana originating from the upper catchment due to inappropriate land management practices and that the silt may be adversely affecting moana water quality as well as aquatic biota. Plus heavy siltation is likely to affect the operation of the

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<sup>254</sup> Report of the Waikato Regional Council Hearings Committee 9 June 1994 p2

proposed oyster farm and the land management section of WRC should investigate the problem on how it can be reduced. Also the applicant was aware of the issue of siltation but no study was done to determine the likely rate of effects to the growing bags and was still prepared to undertake the development.<sup>255</sup>

In reaching the decision, the committee noted that:

- 1) the matter of the Waitangi Tribunal claim will not be dealt with by the committee
- 2) the applicant intends to manage and utilise an unused resource
- 3) the proposal will result in a change to the natural character of the bay
- 4) while the development will reduce public use of this area and inhibit public access to a minor degree, the number of persons likely to be affected is expected to be small.
- 5) The proposal will result in the placement of a structure in an area where no structure presently exists and the quality of the environment will be changed.
- 6) The development is unlikely to have significant impact on harvesting of traditional food species
- 7) The proposed structure covers approximately 8% of the bay and that areas on both sides of the bay will still be able to be used for traditional uses
- 8) In regard to the waahi tapu, the structures will now be placed 150 meters down from the mean high tide mark.<sup>256</sup>

The permits were granted and the opposition of Tainui and Hapu were dismissed.

Tainui appealed that decision.

#### **5.1.24 Planning Tribunal**

The Hearing was held Hamilton 5, 6, 7 December 1994 and the presiding Judge was W.J Treadwell.<sup>257</sup>

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<sup>255</sup> Ibid p7

<sup>256</sup> Ibid pp 9-10

<sup>257</sup> Greensil Anors v Waikato Regional Council RMA 343/ 94

The Tainui groups that appealed were ME. Forbes for Te Kopua 2B3 Incorporation and A.E. Greensil for Tainui Awhiro Ngunguru Te Po, Ngunguru Te Ao Management Committee. Again, the Hapu that was represented were Tamainupo, Te Huaki and Kotara. The matters raised were similar in nature to the ones in WRC Hearing.

The Court commented that the submissions rounded out to be:

- 1) That they are the direct descendants of the original inhabitants, Tangata Whenua of Whāingaroa Moana and its environs and have occupational, and rights of use, affirmed by s.2 and 3 of the Treaty of Waitangi.
- 2) That Paritata Bay is an estuarine area and an important customary fishing ground of the Tangata Whenua, but more especially of the descendants of Tamainupo, Huaki, and Kotara who exercise mana whenua in this particular area.

Plus:

--Tainui through hapu and iwi exercise great influence in this area and the appellants regard Raglan Moana as very much a part of Maori culture and tradition.

The Court acknowledged that the area of the proposed marine farm was an area where the shellfish has been diminishing.

The Court also acknowledged that Whāingaroa moana was now infested with the Pacific oyster and had reached pest proportions and that:

Mr Forbes when he gave evidence likened the presence of this shellfish in the moana to the presence of gorse upon land. He also gave us the colourful analogy by stating that a Pacific oyster farm in Raglan Moana would be akin to establishing a protected gorse plantation in the middle of land, which people were trying to rid of gorse.<sup>258</sup>

The court dismissed the issue of the Waitangi Tribunal claim as not relevant in terms of the RMA 1991, and that the evaluation of the case will rely on statutory directives

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<sup>258</sup> Ibid p2

regarding Maori issues such as section 6, which are matters of National importance. It also found that:

We would also record in respect of s.6 that the use of the expression "ancestral lands" does not import into that concept the European idea of land. This was raised by the appellants and we agree with them that although physically the site of this marine farm is at low tide "land" and at high tide "water" those semantic differences have little meaning to Maori who tend to regard the elements as one. Thus the concept of mean high water springs is alien to s.6 (e).

In weighing up section 8, the Court noted that the key principle is the possession of customary fishing grounds.<sup>259</sup>

In dealing with section 7 the Court found that the maintenance and enhancement of amenity values in the bay would be best achieved by leaving it unspoiled and that the maintenance and enhancement of the quality of the environment is best left in a status quo situation.

The Court allowed the appeal.

### **Waikato District Plans**

In 1974 the Raglan County Council administered their District Scheme Plan set up under the Town and Country Act 1953.<sup>260</sup> The District Scheme Plan consisted of a Part 1 to Part XI. That plan was devoid of Maori issues and did not cater for Maori in any shape or form. The Plan had identified several<sup>261</sup> blocks of Maori Land as coastal reserves. Motukokako Point (8.10ha), Raglan to Whale Bay (42.12ha) Karioi S Forest Additions (749.25ha) the reserves were to protect the bush and provide for public access plus recreational purposes.<sup>262</sup>

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<sup>259</sup> Ibid p6

<sup>260</sup> Raglan County Scheme Statement Code of Ordinances and Planning Maps –approved District Scheme April 1974

<sup>261</sup> Ibid Raglan County Council Planning Maps no 9- 12

<sup>262</sup> Ibid Appendix 111

### 5.1.25 District Scheme Plan Review

It was not until the Plan was reviewed in 1982 that Maori was considered. The Plan was publically notified 9 August 1982 and approved on 26 September 1983.<sup>263</sup>

Tainui submitted to that review.<sup>264</sup> Concern was raised about European fishermen dragging of the shellfish beds and a reserve being needed as there was a noticeable loss of kaimoana availability despite inspectors checking. Plus the current system was not working there would be a loss of ability to harvest shellfish beds, eel and fish in the future and that the area should be administered through the Maori Committees.

Also sought was the administration of the Maori blocks be handed back to Maori on the Whaanga Coast as Maori had maintained and encouraged native bush regeneration and that the Council seek to limit the Rural Banks policy of encouraging young farmers to remove indigenous forest from their land. Tainui considered that those farmers were encroaching into the Maori blocks and their aerial spraying had the potential to impact the bush growth as many trees on the Maori blocks were dying.

The submission put forward that the Council should compensate Maori landowners on an annual basis for the land it sought to reserve for public purposes along with Maori land becoming non rateable as it is not sold for economic purposes.

Furthermore policy was sought to allow the Maori owners on the Whaanga coast to provide temporary camp sites at Whale Bay along with seeking that environmental impact reports be made mandatory as part of the planning procedures. Equally important, the submission sought recognition of Maori cultural, traditional and historical links with their ancestral lands and waterways to be given effect to.

None of the above submission was enacted and only Marae areas were considered.

Part 3 section 13 of the plan was inserted for Marae purposes and Maori are to be given the maximum opportunity to plan for themselves and retain their cultural values and traditions in relation to Marae only.

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<sup>263</sup> Raglan County Council District Scheme Review No 1 November 1983

<sup>264</sup> Tainui submission- A.E. Greensil Raglan County Council District Scheme Review

While provision was set for Marae complexes it was only a selected few Marae that got recognised being Te Kotahitanga, Te Awa-maarahi and Papaorotu due to those Maori Committees being consulted. All other Marae had to request the Council to change the District Scheme to include new areas. Furthermore, the ordinances allowed for dining halls, recreational facilities and small scale commercial plus industrial use as permitted activities. Up to three houses on the site were also permitted but PapaKāinga development required planning consent.

Coastal zones were also set out in the plan. Parts of the coast from Port Waikato to Aotea were identified inclusive of Raglan Moana, Ocean Beach, Manu Bay, Whale Bay and Karioi or Whaanga Coast.<sup>265</sup>

#### **5.1.26 Variation to District Scheme Plan 1983**

In 1989, a variation of the District Scheme took place under the Town & Country Planning Act 1977 with Proposed Change 15 at the request of Grass Hopper Development that sought a subdivision of a 250 house lot from a small farm block that it had bought from a local farmer. The land was located on the property fronting Wainui Road 3 kilometres west of township and rolling over the hilltop to the coastal reserve on Ngarunui Beach. The subject land would abut an 80ha pastoral farm, Te Pae Akaroa, known as the Pilot Reserve that is owned by the WDC.<sup>266</sup>

The proposal was not provided for in the current District Scheme Plan. A hearing was held at the Raglan Town Hall on the 10 August 1989. The majority of submitters were in opposition due to the significance of the site being of a rural nature with impacts of buildings sited on the ridgeline, stormwater and wastewater into the Wainui awa along with the need to protect or preserve the coastal environment. Tainui submitted to that process.<sup>267</sup> It is this incident that gave rise to the late Haami Kereopa submitting the original claim to the Waitangi Tribunal.

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<sup>265</sup> Ibid pp17,20,21

<sup>266</sup> Planners Report to Hearing Committee para 6

<sup>267</sup> Ibid p A. E. Greensil

At the Hearing, Tainui submitted that the land in question was part of the land that was set aside as a reserve block, that comprised of approximately six hundred acres for Maori owners and was subject to a Waitangi Tribunal Claim. Tainui maintained that approval of the change would lead to abuse with far reaching consequences, including to surrounding Maori lands. Tainui sought written assurance from the Council that it would not set a precedent.

It submitted to RCC that there are already 70 spare sections available in the area and the motive for allowing the variation to take place was to increase the rating base. , gain access to part of coastline and create a larger coastal reserve and that pollution would enter into the Wainui awa that had been used for drinking water, mahinga kai in the recent past by Tainui. The subdivision activities would also impact on the cultural practice of white baiting. Tainui raised the fact that there was an urupa and pa sites in the area. <sup>268</sup>

The RCC Planner's report had given approval to the proposal subject to certain conditions. That proposal had caused a large section of the Whāingaroa community into action and the Whaanga Coast Ratepayers Incorporated prepared an appeal to the Planning Tribunal before the decision was finalised. That appeal was not lodged with the Tribunal, due to RCC becoming aware of the potential appeal. RCC withdrew the plan change and then bought the land off the developer and created a 13 rural lot subdivision on the Wainui Road frontage with the balance left as a Council reserve.

Local Government reforms in 1989 superseded the Counties and Borough systems with the advent of Councils such WDC who inherited the controls and responsibilities of RCC. WDC operated Transitional District Schemes until the RMA was passed in 1991.

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<sup>268</sup> Statement of Evidence A.E. Greensill

### **5.1.27 First Generation Waikato District Council Plan**

The WDC commenced a review of the District Scheme in 1991. Tainui submitted to that review through the Rangatahi Trust o Aotearoa. Loss of coastal lowland areas and erosion as a result of climate change was raised along with seeking protection of waahi tapu, traditional food sources and access for Maori to those resources. Restricting public access to areas of historic and tapu places until Maori have been consulted first was also submitted on.

Restrictions on commercial activities were also sought with replanting programmes for coastal areas including Whāingaroa and Aotea moanas. As well as seeking the ability for Maori to build papaKāinga on the Whaanga Coast, the submission sought greenbelts close to residential development in township.<sup>269</sup>

In March 1992 a meeting was held at Te Kopua in the Kokiri Centre at Riria Kereopa Memorial Drive with Waikato District Council planners where a range of issues were canvassed. Discussion took place on Development of Te Kopua where Marine farming, camping ground, education and seminar facilities were seen as activities that would fit the aspirations of the people of Tainui for Te Kopua. PapaKāinga housing for the Maori owned land on the Whaanga Coast was also raised along with concerns of leaching from the rubbish dump into the valley just up from the sewage plant as well as the need to set in place a recycling scheme for the township. Also advanced was the view that there should be two members of Tainui on the Community Board as of right to represent Maori views and their traditions.

WDC notified its first generation District Plan in 1993 and by 1997, it had become operative.

Tainui o Tainui ki Whāingaroa made a submission to the draft Proposed District Plan (PDP) when it was released and presented more detailed evidence at the hearing. The draft plan was much more expansive than the previous District Schemes due to the enactment of the Resource Management Act 1991. The draft PDP dealt with the Maori issues as a separate Chapter .

The Waikato Tainui Raupatu Treaty claim was close to settlement and although it was not signed off until 1995, Waikato Tainui issues were included in the draft Chapter 6.

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<sup>269</sup> Cover letter September 1991 (ref: 6701 06) and attached copy of the Maori response

Tainui submitted to large parts of the draft but more particularly to the issues of Te Tiriti o Waitangi, historic heritage, waahi tapu and the health and wellbeing of the people, the coastal environment and the aspirations Tainui have for the future generations. Policies and rules were sought for the ability of Tainui to manage the coastal areas of Maori land according to tikanga Maori, particularly as Tainui view that there is an erosion of the relationship with their traditions, culture, ancestral lands and water sites due to past planning mechanisms. Tainui stated that the requirements of the Resource Management Act 1991 in Section 5, 6(e), 7, 8 needs to be given weighting in the formulating of policy and rules for Maori.

Provision for papaKāinga housing on the Whaanga coast was also sought. The Tihei Mauriora Development plan for Te Kopua and the Kokiri Centre was also presented at the hearing along with seeking that Pa Zones over Maori land be established. Opposition to the PDP of public access to Maori land was advanced also.

As a result, the 1997 plan established two small Pa Zones only on the Whaanga coast and permitted activities on Te Kopua and the Kokiri Centre on Riria Kereopa Memorial Drive in the Plan. A Schedule of Archaeological sites for the District was appended to the Plan.

Despite the two Pa Zones set in place on the Whaanga coast; the 1997 District Plan saw the establishment of Policy overlays on the balance of the Whaanga coast that in effect locked out Maori from active control on the Maori blocks or ability to create papaKāinga housing for any of the other multiple Maori owned blocks.

Chapter 6 consisted of five pages with sections under:

- 1) Issues
- 2) Objectives
- 3) Policies for Tainui
- 4) Reasons
- 5) Methods of implementation
- 6) Environmental outcomes

The issues identified in the District Plan were:

## 6.0 Issues

6.0.1 A recognition of the obligation in section 8 of the RMA to develop a partnership based on the principles of the Treaty of Waitangi between the District's Maori and the Council to promote sustainable management of the natural and physical resources of the District.

6.0.2 In recognition of the principles of section 5 of the RMA, a commitment to develop policies which enable the tangata whenua to provide for their own social, economic, and cultural well-being and for their health and safety.

6.1.1 Issue 6.0.1:

To take into account Maori perspectives of natural and physical resource management

6.1.2 Issue 6.0.2:

To develop a partnership, based on the obligations Council has under section 8 of the RMA to take into account the principles of the Treaty of Waitangi, to ensure tangata whenua participation and to foster mutual respect and trust between Maori tribes of the District and the District Council for the purpose of promoting the sustainable management of natural and physical resources.

6.1.3 Issue 6.0.2:

To promote policies that will enable the tangata whenua to provide for their social, economic, and cultural well-being and for their health and safety.

### **5.1.28 Policies for Tainui**

Please note the heading above that was inserted into the Plan. Interestingly, the WDC District Plan failed to identify the difference between Waikato Tainui and Tainui on the coast, despite the Raupatu Treaty claim that was focused in the Waikato area. It is clear that the Plan was meant to state Waikato Tainui but is disappointing that the District Council do not know the people that it was supposed to plan for.

Seventeen objectives were set in the plan along with seventeen policies. All the objectives and policies centred the focus on Waikato Tainui and the area of Waikato along with a focus on the Waikato River.

Few objectives and policies could be read as catering for all Maori within the Waikato District. On face value it gave the appearance of satisfying the requirements of the Resource Management Act 1991 and the issues section above, but in essence it failed to satisfy the identified issues or deliver meaningful outcomes for rural or coastal Maori.

Chapter 6 contained no rules in the Plan for Maori for the objectives or policies despite the plan having identified the issues for Maori above.

### **5.1.29 Second Generation Proposed Waikato District Plan**

The second generation Proposed District Plan (PDP) was notified 25 September 2004.

Draft discussion documents were released to the community before the plan was notified and several consultation meetings were held. Prior to the current second generation plan being notified 25 September 2004 Tainui along with the Whaanga Coast residents sought changes to the District Plan to allow for Maori aspirations to resettle on the Maori owned blocks within the Whaanga Coast.

Tainui in conjunction with the Whaanga Coast Ratepayers submitted a Structure plan concept for small papaKāinga development cells on the multiple owned Maori land blocks.

Several meetings with the late Mayor Angus McDonald, the late District Councillor Michael Hope and then Chief Planner Fraser McRae took place with all parties satisfied that the draft would include enabling provisions. Just before the draft came out Fraser McRae left and the opposite intentions for the Whaanga coast were revealed.

The intentions were in fact a Coastal Zone overlay with a Whaanga Coast Policy area, Landscape Policy and Ridgeline Policy area being applied over the Maori blocks and the permitted activities removed from Te Kopua and the Kokiri Centre on Riria Kereopa Memorial Drive. Nowhere else in the plan had such restrictions taken place in one land block area.

Tainui made submissions through Tainui o Tainui ki Whāingaroa committee, produced a map setting out the boundaries of Tainui, and identified the areas of development that needed to be addressed.<sup>270</sup> Also stated was:

The Waikato Raupatu lands (blue) north and east of the Whāingaroa moana prior to confiscation and legislative theft were once highly populated by Tainui and Ngati Tahinga. There are numerous wahi tapu, fishing grounds and other cultural sites within this area which require rules which will promote active protection from development especially subdivisions.

The Karioi Native Reservation (red) was set aside for Tainui in 1855 as part of the Karioi 'purchase' and is a unique and significant area now shared by Tainui with others that have residential homes with the Native Reserve. This area needs its own coastal management plan to deal with the needs of tangata whenua to house and enable them to utilise their own land in a culturally appropriate and environmentally respectful manner. Te Kopua and Rākaunui (yellow) are the remaining Tainui areas in Raglan West, situated within the Living Zone area.

We support the vision for the future of Raglan township but request that the Pa Zones in the Urban areas Te Kopua and Rākaunui have the ability to provide for business, cottage and light industries and residential as was envisaged in 1988

And

The Waikato District Council (WDC) is obliged under the Resource Management Act 1991 (RMA) to sustainably manage the natural and physical resources within the defined Waikato District, by managing the effects of land use activities on the environment. Although the Waikato District Proposed Plan provides the rules and rationale for such management over the whole district, this submission focuses on its implementation and effect on Tainui, to whom it has obligations under sections 6, 7 and 8 of the RMA. A number of

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<sup>270</sup> Tainui Submission to the Waikato Proposed District Plan 2004

policies from the draft Tainui /Iwi Environmental Management Plan are incorporated in this submission.

Tainui also sought the removed permitted activities of Te Kopua and the Tihei Mauriora plan be reinserted into the Plan. Also raised was the issue of planning restrictions placed on Maori land development in general, where in comparison, the district plan allows for private houses to be built on 400 m<sup>2</sup> in Raglan .

And

Structure Plans forecasting infrastructural needs to meet future growth in designated areas should be implemented within the district immediately as the current demand on resources and services is not sustainable. Structure plan need to be developed outlining how Raglan intends to provide sustainable services and where the infrastructure for its projected growth will be located.

One of those policies is consultation, as despite continuous requests for WDC to consult with the Hapu affected locally by proposed land use activities, WDC continues to elevate the Waikato Raupatu Lands Trust (WRLT) as the first point of contact for the 'iwi'. We look forward to being included in discussions earlier rather than later when issues pertain to our local area.

And

We oppose the opening up of our coastal areas for 'public accesses' as stipulated in Appendix G: Esplanade Priority Areas". Wainui Reserve to Whale Bay – esplanade reserve for public access from part 1D1D3B2 Whaanga (ML20686) and part 1D1D Whaanga (ML18230) and Part 1D1D Whaanga (ML 20686) to Lot DPS 45471.

Likewise before walkways and access are designated over our ancestral space along the Te Ākau coast, we recommend that site visits be arranged with Tainui to ensure that such access ways do not impinge on pa and other waahi tapu which are extensive in highlighted areas.

Any people wanting access through our lands are required to ask us, not take for granted that our remaining tribal lands and turangawaewae are public domain which can be confiscated for “the public” good. The demand for walkways to facilitate recreational users is noteworthy but not supported when it encroaches upon the remnants of Tainui land.

Raglan County Council was responsible for the compulsory taking, without compensation, of Maori land for roading at Te Kopua, Raglan West and Te Whaanga. Tainui expects to negotiate with WDC future transport solutions which affect our tribal lands.

As prices for homes escalate, Tainui people are increasingly forced to provide our own housing on what remains of our limited tribal lands. Demands for the protection of amenity values, mineral extraction and recreation opportunities that hinder our rights to use our lands to meet our social needs cannot be justified.

The above was a snapshot of the submission and the balance dealt with sections of the plan that was supported and opposed. More detailed evidence was advanced at the Hearings. WDC chose to separate sections into different Hearing days which made it problematic to respond to for many people who had submitted including Tainui. Tainui voiced their opposition to that process at the Hearing by stating:

I wish to state at the outset that I have found this whole process laborious and difficult in terms of time management and focus and am not surprised that many of the submitters have chosen not to speak to their submissions. Having separate hearings on submissions section by section may be useful to councillors and planning staff but does not facilitate community participation or assist submitters who see the world and the submission as a whole rather than as fragmented parts.

None the less Tainui continued to press for the right to administer and manage their lands according to tikanga Maori based on kaitiakitanga and for papaKāinga development on the Whaanga coast along with the application of Pa Zones on all Maori land as those rules were more permissive. Despite seeking the right to self

manage, Tainui maintained that the District Council had legislative obligations to provide planning policies, objectives and rules for the social, cultural, economic and environmental wellbeing of Maori and to provide protection for the relationship of Maori and their culture and traditions to their ancestral lands, water, sites, waahi tapu, and other taonga.

Tainui was also opposed to the setting aside of esplanade reserves and vehicular access to Waikorea Beach, Gibson's Beach, Carter's Beach and Te Ākau South, as those areas fit into Tainui and Ngati Tahinga landscapes and ancient wahi tapu areas.

Tainui submitted a Landscape Analysis by Bernard Brown Associates Ltd that applied a Structure Plan to allow for resettlement of the Whaanga coast by the Maori landowners. The Whaanga Coast Ratepayers also submitted the same plan and supported the landowner's right to allow for papaKāinga housing to resettle the area.

During the Hearing the then WDC Chief Planner Neal Taylor, stated that it would be addressed in a Raglan Structure Plan that was about to be released. The Raglan Structure Plan will be discussed below.

#### **5.1.30 Decision version**

The PDP reflected an integrated plan. There was no specific Chapter for Maori. All the issues that relate to Maori are scattered throughout the plan.

The Waikato District Council ignored the Tainui submissions and failed to provide adequate policies, objectives and rules for Maori to provide for the social, cultural, economic and environmental wellbeing of Maori and to provide protection for the relationship of Maori and their culture and traditions to their ancestral lands, water, sites, waahi tapu, and other taonga.

Tainui could not rely on WDC to address their concerns in future Raglan Structure plan as suggested by the Chief Planner Neal Taylor, and appealed the Decision when it was released. Of real concern was that WDC had now removed the Schedule of Archaeological sites which Tainui had inadvertently missed until the appeal period had lapsed.

#### **5.1.31 Appeal**

A range of matters were appealed in the WDC Plan such as:

- 1) Various changes to the planning provisions were sought
- 2) the permitted activities of Te Kopua to be reinserted into the Plan
- 3) Pa Zone and planning mechanisms for the Whaanga Coast to allow owners of Maori blocks to resettle the land
- 4) Removal of the Coastal Zone, Whaanga Coast Policy area, Landscape Policy and Ridgeline Policy overlays
- 5) Pa zone and PapaKāinga on the land surrounding the Poihakena Marae, Rākaunui block on Te Hutewai road

Several changes have been settled in mediation and consent order during the period of the appeal including the reinsertion of the permitted activities of Te Kopua and the Kokiri Centre on Riria Kereopa Memorial Drive. The outstanding appeals are for the Whaanga Coast Maori multiple owned blocks plus Pa zone and PapaKāinga on the land surrounding the Poihakena Marae as well as the Rākaunui block on Te Hutewai road.

The Waikato District Plan became part operative on the 28 June 2011.<sup>271</sup> There are no district wide appeals remaining with only topic or location specific appeals outstanding. The Tainui Whaanga coast appeal has still to be settled or heard in the Environment Court

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<sup>271</sup> <http://www.waikatodistrict.govt.nz/Documents/Plans/District-plan/Waikato-District-Plan.aspx>  
Accessed 3 March 2012

### 5.1.32 Other planning mechanisms

WDC set in place several other planning mechanisms that had ramification and continuing impacts to Tainui. The planning mechanisms are:

- 1) The Regional Future Proof document was released for public comment and feedback in October 2008 and Future Proof Strategy and Implementation Plan completed 8 September 2009;
- 2) The Waikato Growth Strategy initiated in 2008 and approved 28 April 2009;
- 3) Raglan Structure Plan November 2008 and close of submissions August 2010;
- 4) Proposed Waikato District Plan Review of Subdivision and Residential Development in Rural and Coastal Zones being released in 2010.

### 5.1.33 Future Proof

The New Zealand Transport Agency would not progress the main trunk line and motorway system from Huntly to Cambridge until the Hamilton City Council, Regional and the District Councils develop substantive evidence of the projected growth before the Agency would commit funds to the project.<sup>272</sup>

A collaboration of Hamilton, Waipa, Matamata-Piako, Waikato District and Waikato Regional Councils along with Tangata Whenua plus the New Zealand Transport Agency initiated a specific Waikato sub-region growth strategy titled “Future Proof”. The aim was to identify and manage the growth patterns for the future out to 2061.<sup>273</sup>

The strategy was underpinned by research and a report from the Waikato University.

The report provided population projections of the Hamilton sub-region including all the Councils areas. Projections prepared for each territorial local authority areas included population, family and household and labour force projections to a projection horizon of 2061.<sup>274</sup>

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<sup>272</sup> Tainui Evidence Regional Policy Statement Hearing 3

<sup>273</sup> <http://www.futureproof.org.nz/file/futureproof-growth-strategy-summary-final.pdf> Accessed 3 March 2012

<sup>274</sup> [http://www.futureproof.org.nz/file/hcc\\_subregion\\_finalreport.pdf](http://www.futureproof.org.nz/file/hcc_subregion_finalreport.pdf) Accessed 3 March 2012

The Future Proof discussion document was released for public comment and feedback in October 2008. A draft Future Proof strategy underwent consultation from March to April 2009 and the Hearing was held May 2009 with Councils finalising the Future Proof strategy on the 30 June 2009. The Future Proof Strategy and Implementation Plan completed and launched by Prime Minister John Key and Kiingi Tuheitia in Hamilton on 8 September 2009.

The Future Proof strategy covers four key areas of development.

- 1) Residential Development/Settlement Patterns
- 2) Rural Land
- 3) Business and Industrial Land
- 4) Retail and Commercial Development

The Future Proof strategy states that residential development is to be focused around existing towns and villages and rural residential development should be directed away from high quality, unfragmented farmland and existing factory farms.

The plan recognised Maori by stating:

Future Proof recognises the unique relationship Tangata Whenua has with their whenua, awa, moana, maunga, taiao katoa and other people. This encompasses a physical, mental, emotional, spiritual, and metaphysical relationship that may be unique to the tikanga (practices) and kawa (guiding principles) of each marae, hapu or iwi.<sup>275</sup>

And

Raglan and the Whāingaroa Coast

- 1) Focuses support and development on growing employment opportunities and self sufficiency
- 2) Maori guardianship, history, values and entrepreneurship further expands local opportunities
- 3) Retains the strong environmental focus on the sensitive coastline and moana for Raglan<sup>276</sup>

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<sup>275</sup> <http://www.futureproof.org.nz/file/futureproof-growth-strategy-summary-final.pdf> Accessed 3 March 2012

<sup>276</sup> Ibid p 12

Future Proof will be implemented through a range of other documents and processes including the:

- 1) Regional Policy Statement
- 2) Regional Land Transport Programme and Strategy
- 3) City and District Growth Strategies
- 4) Long-term Council Community Plans
- 5) Tangata Whenua plans and strategies
- 6) District Plans
- 7) Other plans and strategies

#### **5.1.34 Waikato District Growth Strategy**

The Waikato District Growth Strategy <sup>277</sup>(WDGS) was initiated by Waikato District Council in 2008 and approved 28 April 2009. The process was in conjunction with the LTCCP for the period 2009 - 2019. Future Proof projected a significant increase in the districts population from around 44,000 today to 87,000 in 2061.

WDC states that productive lands on high quality soils are being impacted upon and growth has been driven solely by the market with 80% of the District's growth being rural lifestyle blocks that comprised of large executive housing set in expansive surrounding grounds. That resulted in the District being subject to reverse sensitivity issues of urban values versus rural values that ultimately impact on environmental and economic assets by placing rural industries under pressure to reduce noise, dust, smell and other factors that are an unavoidable aspect of their activity if they are to continue to survive and operate efficiently.

The WDGS determined that future pattern of growth within the district needed to include mechanisms for:

- 1) Protecting high quality farmland for productive purposes,
- 2) Planning for alternatives to reliance on cars,
- 3) Planning for efficient transport systems,
- 4) Optimising use of existing infrastructure and planning for growth impacts,
- 5) Protecting infrastructure and transport corridors,

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<sup>277</sup> <http://www.waic.govt.nz/Documents/Strategies/Growth-Strategies.aspx> Accessed 3 March 2012

- 6) Providing housing choice and access to recreation, health and education services,
- 7) Maintaining town and neighbourhood centres to support local communities, and
- 8) providing a reliable supply of serviced industrial land.

In giving effect to the Future Proof predications the WDGS it needed to:

- 1) provide for the continued productive capacity of the district;
- 2) safeguard the efficiency of key transport corridors;
- 3) provide opportunities for new economic development;
- 4) provide quality environments for new housing development;
- 5) protect critical environmental features;
- 6) provide for the growth of local communities; and
- 7) recognise the strategic significance of the district's energy resources and key industries.

The WDGS strategy sought direct intervention and was promoting four distinct areas as the focus for future investment and growth:

- 1) the Northern State Highway 1 Corridor, (mainly Hampton Downs/Te Kauwhata, Meremere and Huntly);
- 2) the Southern State Highway 1 Corridor, (mainly Taupiri, Ngaruawahia and Horotiu);
- 3) the Hamilton Periphery, (mainly Gordonton, Tamahere, Tauwhare, Eureka, Newstead, Te Kowhai, Whatawhata and Matangi);
- 4) Raglan and the West Coast.

The WDGS outcome was:

- 1) 80% of the growth to 2061 focused in defined towns and villages rather than rural and coastal areas.
- 2) A focus on settlements located along defined transport corridors.
- 3) Protection of land and rural resources for rural production.
- 4) Protection of landscapes, coastlines and cultural and environmental assets.

Of note; the WDGS was to provide for the growth of local communities only but there was no provision for Tangata Whenua. The Waikato District council in their growth strategy; completely ignored the directives from Future Proof to recognise the unique relationship Tangata Whenua has with their whenua, awa, moana, maunga, taiao katoa and other people.

Nor did the strategy attempt to encompass the physical, mental, emotional, spiritual, and metaphysical relationship that is unique to Maori tikanga for each marae, hapu or iwi. It also failed to address how it was going to include the Future Proof desire to respect Maori guardianship, history, values and entrepreneurship further expands local opportunities.

### **5.1.35 Raglan Structure Plan**

The Raglan Structure Plan sought a plan change by way of Variation 15. The discussion document was released 19 November 2008.<sup>278</sup>

The area the Raglan Structure Plan covered was out to Ohautira Road Te Uku, Te Mata and across the back of Karioi to the Whaanga Coast then to the moana edges back to Ohautira Road Te Uku.

WDC stated that the driving force for the Raglan Structure Plan was the consideration of a non statutory Community Plan known as “Raglan Naturally”. Raglan Naturally has the following vision statement:

To generate opportunities for local employment, new business and planned growth while protecting and enhancing Raglan’s unique character and diversity and having special regard for the environment.

WDC stated also stated that the vision cannot be achieved by the Operative, Proposed Plan nor the provisions of the LTCCP and other provisions and that the Raglan Structure Plan will:

- 1) Provide a greater degree of integrated management of the multiple, sometimes conflicting, environmental matters in and around Raglan, the Whāingaroa Moana and the Whaanga Coast;

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<sup>278</sup> <http://www.waiddc.govt.nz/CMSFiles/a5/a50b674e-24ed-4d77-9da5-f24055bf5a2a.pdf>  
Accessed 3.March 2012

- 2) Coordinated staging and appropriate responses to multiple, distinct environmental requirements;
- 3) Ensure compatible patterns and intensities of development;
- 4) Provide a best practice, integrated approach to transport, environmental and community infrastructure and service provision; and
- 5) Provide a greater level of certainty for developers, council, and the public regarding the layout, character and costs of development in the areas earmarked for growth or redevelopment

The Issues & Options report was released in July 2009 and included the feedback from the Community. The report generated many submissions including by Tangata Whenua. The Community was inspired to make comment by the fact the driving force was based on a Community plan “Raglan Naturally”.

There was the expectation that at last we had an opportunity to define our spaces of catchment based planning by the community for the community. A large number of submitters supported Tangata Whenua aspirations to develop PapaKāinga housing on Tangata Whenua owned land and the several multiple owned Tangata Whenua blocks on the Whaanga Coast. Tainui also had the expectation that WDC would embrace Indigenous catchment management planning methodology to the Maori blocks.

WDC had two meetings at the Poihakena Marae. The first meeting was with the external Consultant Dennis Scott who developed the first stage of maps for Whaanga Coast for WDC along with Planners and Council staff. That meeting was also attended by the Whaanga Coast Ratepayers representative Bernard Brown who informed WDC that the ratepayers supported development on the Whaanga coast by Tainui and resubmitted the Landscape assessment Map that was done for the District Plan.

The second meeting at the marae was to report on the WDC outcomes.

The Proposed Waikato District Plan Variation 15: Raglan Structure Plan was notified 30 June 2010 with submissions closing 27 August 2010. A Hearing date was chosen.

What was now offered for the Plan Change was a narrow focus on the Raglan CBD in the town centre only rather than the integrated approach of the larger area.

Tainui Hapu, Te Whenua Motuhake o Whāingaroa<sup>279</sup> submitted a submission to the variation that requested:

Pa Zones in the urban areas of Te Kopua and Rākaunui be set and to have the ability to provide business, cottage and light industry and residential as was envisaged in 1988. That Rākaunui includes a marae site on Te Hutewai road used as a meeting place for Tainui hapu following the demolition of the Tūpuna whare, Miria Te Kakara at Te Kopua during World War 2. The current Poihakena marae stands on the same block which stretches to the Pokohue awa. Forty years ago it was a living papaKāinga, providing homes for 5 or 6 whanau. The hapu will continue to pursue the Pa Zone matters through the appeal process if it is not addressed within this structure plan.

And

It is our submission that Variation 15 be withdrawn as there are a number of matters that require informed consultation especially regarding the CBD Blue Print and WDC's version of a Structure plan to support the expansion implicit in this Variation.

WDC held a public open day with pin board displays and several Council staff to answer any questions. That resulted in huge public outcry with two community meetings that WDC attended. The meetings were called by Whāingaroa Environmental Defence Incorporated. The community spoke mainly in one voice in rejecting the Variation.

The key concerns were the unacceptable level of intensification proposed for the CBD and placing a connecting road from Wallace to Cliff Street without any consultation with landowners. Cliff Street was also identified as an area with 10 meter high buildings as Business Zone with apartments, again without any consultation with the landowners. The community was outraged with many stating that they would take WDC to court. An overwhelming number submitted in opposition. WDC withdrew the Variation.

#### **5.1.36 Plan Change 2 – Variation 16**

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<sup>279</sup> Greensill AN – Proposed Waikato District Plan Variation 15- copy of Submissions Received 318

The Proposed Waikato District Plan Review of Subdivision and Residential Development in Rural and Coastal Zones discussion document was released in 2010. It is designed to implement the Waikato District Growth Strategy by changing Rural and Coastal zone subdivision rules with the intention of restricting growth to existing towns, villages and already identified Country Living areas. In addition it was to ensure that the Rural and Coastal Zones will primarily be used for productive rural activities.

WDC states the District population is expected to double over the next 50 years to approximately 88,000 people with an additional 45,000 people in an additional 18,000 homes. Also of importance is that the Rural and Coastal Zones make up approximately 98% of the land area within the District and that existing subdivision rules have resulted in a near doubling of the number of certificates of title from 6,500 to nearly 13,000 over the last 10 years.

Furthermore an additional 6,400 lots are still able to be created in the Rural and Coastal Zones in the future and the current land use rules provide for an additional 7,000 dwellings to be constructed in Rural and Coastal Zone areas as a permitted activity. WDC states that the level of growth for development in rural areas exceeds the level anticipated in the Waikato District Growth Strategy, Future Proof and Change No 2 to the Regional Policy Statement.

The proposed changes to the subdivision rules were:

- 1) One additional lot can generally be subdivided off land which has an old (issued before 6 December 1997) Certificate of Title A second additional lot generally cannot be subdivided off land which has an old (issued before 6 December 1997) Certificate of Title.
- 2) To be eligible to subdivide, a lot must be at least 6ha in size
- 3) The minimum lot size of new lots created by subdivision is one hectare
- 4) Delete this rule (the cluster rule – Rule 25.74A)
- 5) Rules would remain generally more strict in environmentally sensitive areas (Policy Areas)
- 6) Rules for the Coastal zone would remain generally more strict than rules for the Rural zone
- 7) Rules would ensure the protected conservation feature is of good quality and remains so permanently. One or two additional lots may be created

- 8) Introduce a new Reserve House Lots rule that enables the Council to offer a landowner an additional subdivision entitlement in exchange for a significant walkway or recreation area being vested in Council
- 9) One dwelling on a site remains generally permitted
- 10) Two or more dwellings on a site require an application for resource consent (a discretionary activity)
- 11) Tighten the rule so that a dependent person's dwelling requires a resource consent application (a discretionary activity)
- 12) Tighten the standards that apply to ensure the rule is used for genuine cases of social need only

Variation 16 sought more restrictive rules for additional subdivision and future development in the rural and coastal zones and an extensive overhaul of objectives and policies to suit the new rules.

Of concern to Tainui was that Future Proof portrayed that it was directing rural subdivision away from high quality, unfragmented farmland and existing factory farms only. Whereas Variation 16 also directed it away from fragmented land that was unproductive for farming purposes. It was clear that the Variation was aimed directly at Tainui's land which is fragmented and unproductive and within the Coastal Zone including policy overlays.

Tainui lodged a submission in opposition to many of the provisions in the plan change through Te Whenua Motuhake o Whāingaroa. Tainui submitted that the Variation should not direct Maori residential growth away from the multiple owned lands in Rural and Coastal zones but should recognise and provide for Maori aspirations to live on these lands to achieve the purpose of the Resource Management Act 1991 and to retain the option of clustering on the multiple owned Maori coastal and rural land.

Also Tainui sought to exclude Maori ancestral land and rural landscapes from several policies and to exclude rural and coastal land around Whāingaroa moana along with opposing the one dwelling on one certificate of title. Tainui opposed the reserve allotments and stated that no Maori ancestral rural or coastal lands shall be identified in Council strategy or policies as being available for public walkways or recreational reserves without negotiation with Maori landowners.

The Plan Change Variation 16 received many submissions in opposition due to existing use rights and a portion had planned for extending those rights in the future. The Hearing commenced on the 24 August 2011 with the final decision a short time later.

### **5.1.37 Hearing**

Tainui presented evidence at the Hearing and started with setting out the matters of importance in regards to rights as accorded to being signatories to the Treaty and:

Our rights and obligations have been recognised many times beginning with the Declaration of Independence of 1835, articles 2 and 3 of Te Tiriti o Waitangi 1840, and articles 23,25,26,30 of the United Nations Declaration of Indigenous Peoples which the New Zealand government signed in April 2010.

The evidence covered a historical overview of how the land was managed and appropriated by the Raglan County Council land using legislation such as the Maori Purposes Act 1950 along with stating:

the Act was used as an instrument to obtain Maori land for a variety of reasons such as unproductive land for farming purposes, weed control and rates.

Section 34 and Section 37 of the 1950 Act gave unfettered powers to obtain Maori land without consultation with Maori landowners. Lands were vested in the Maori Trustee and then leased and in several cases sold outright. The requirement that land be cleared and vested in government agencies meant that Maori land owners were denied control and possession of their lands on the grounds that it could be used in a “better way”.

Most of the leased land was milled for timber and large sections of native cover removed. Many leases did not get renewed at the end of the 21 years, and most of the land handed back to Maori had more weeds than previously because lessees refused to maintain the land in the last years of the lease. Not only did Maori land get alienated and sold but most of the lessees never paid lease monies for the use of the land.

Tainui landowners consistently resisted and argued during those periods against the loss of control of our lands. In 1977 the Raglan District Council attempted to designate Te Whaanga a Scenic Reserve. My late Uncle Haami Kereopa

and mother Eva Rickard with Nga Tamatoa lead the charge against the unjust appropriation of our land at that time.

And

Only one papaKāinga area exists in the whole district as identified in the planning maps and that is Iwi Tahī on the Karioi Native Reserve. Mai Uenuku ki te Whenua, Te Kaharoa, Turangawaewae, and other marae areas have papaKāinga housing but no recognition of policy areas on the planning maps. The only coastal zone with restricted subdivision appears to be in Raglan along the Whaanga coast which, as said previously is mainly Maori land requiring its own structure plan reflective of the majority of Maori owners in that area. While Tainui retain communal rights in multiply owned land, we are restricted from living on it according to our cultural preference. From our perspective this variation is yet another impediment to Tainui use of Tainui land.

It is obvious that our aspirations to live and retain our communal way of life on our rural and coastal lands are being undermined by Variation 16. Our aspirations and rights are being sacrificed in the public interest so tourists can enjoy the biodiversity and landscape values of our natural cultural landscape.

We sense a lack of understanding about the character of coastal and rural Tainui land and of institutional memory amongst planners who may be unaware of a current case regarding Te Whaanga which we have in the Environment Court against provisions in the proposed plan which we now see reflected in this variation. Having one building per Certificate of Title (C/T) makes a mockery of section 5, 6(e) 7(a) and 8 of the RMA as applied to Maori land.<sup>280</sup>

Further evidence<sup>281</sup> was presented outlining the efforts that have been made to attempt to get planning provisions for Maori in previous plans from 1993 till the current plan including submitting a structure plan for the Whaanga coast and how it was to be addressed in the Raglan Structure plan but did not happen. Also that Maori land has

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<sup>280</sup> Greensil A.E. Evidence– Plan Change 2 Hearing

<sup>281</sup> . Hamilton M Evidence – Plan Change 2 Hearing

restrictions of alienation in Te Ture Whenua Act and that Local government add a further layer along with:

Multiple Maori owned land differs greatly from general title that the District Plan makes provisions for general title holders create subdivisions that only cater for the holder but mainly for economic reasons through land sales. Multiple Maori owned land has severe restrictions and in the main cannot be sold.

Variation 16 imposes a layer that restricts the resettlement of Maori to the land. For more than two decades Tainui has been proactive in seeking that WDC provides mechanisms that are enabling of Maori to resettle their traditional whenua.

The deletion of clustering of residential activity has a two pronged effect. First is that Marae are to be disadvantaged by the changes. Secondly, Maori multiple owned lands can support cluster housing.

And yet most of the multiple Maori owned land blocks on the Whaanga coast are of much smaller sizes and some land blocks only being 20- 40 ha and most certainly not capable of productive rural activity.

Tainui raised an issue with the Section 42A report discounting the submission by stating:

Submission 62.20 seeks an amendment so that control over Maaori ancestral lands is reserved for Maaori. The WDP provides a statutory framework governed by the RMA for all properties within the District. V16 seeks to strengthen the subdivision framework of the Coastal and Rural Zones. Having such a framework that specifically excludes Maaori ancestral lands would be inconsistent with the RMA and inequitable for those property owners of non-Maaori ancestral land that would be governed by the WDP as well as being contrary to the objectives and policies of V16.(emphasis added)

In response, Tainui pointed out to the Hearing Committee that existing rules in the plan allowed for Maori control in 11.10.2 that relates to the Maori relationship that states “Tangata Whenua control over Tangata Whenua resources”.

Tainui also opposed the changes that were being made in the section on Maori Ancestral Land, and demanded that references to its value to the wider community be removed.

### 1A.3.2 Maori Ancestral Land

Enabling Maori to establish and maintain their relationship, cultures and traditions with their ancestral lands is a matter of national importance. Providing that such activity is consistent with the environmental capacity of the area **and its value to the wider community, the ability** to sustainably use ancestral land for such purposes will promote the economic, spiritual and social health and well being of the Maori community.

In response to the provision Tainui sought the striking out “~~and its value to the wider community, the ability~~” and stated:

Most Maori land that remains is coveted or highly desired; certainly by the wider community. The Maori land remaining on the Whaanga coast is valued particularly as a greenspace or Conservation Lot for the benefit of the wider community. Maori are not obliged to supply land for conservation Lots or provide the wider community with a greenspace.

Therefore what is being proposed in 1A.3.2 is highly opposed and is inconsistent with the RMA and inequitable for those property owners of Maori ancestral land throughout the District and contrary to the objectives and policies of the plan.

And

The various objectives and policies of the WDP support PapaKāinga within Pa & PapaKāinga Zones only. What is being proposed in V16 is to lock Maori owned land into a regime of proposals that somehow will eventuate through the Future Proof concept.

This V16 proposal adds a further layer of impediment to Maori owned land throughout the District along with the land in Whāingaroa and the coast. Applying the V16 policies to the small uneconomic rural blocks raises the issue

of WDC using District Plan mechanisms to alienate more Maori land in Raglan and elsewhere for the benefit of the wider community.

Tainui argue that creating policies and objectives without rules or provision for meaningful zones amounts to clayton clauses or words that are like hollow bones with no substance. Maori view their relationship to whenua as being on the land and with the land, not just in policies and objectives in a District Plan.

This V 16 proposal will result in cultural genocide for Maori on the coast by divorcing Maori from retaining a relationship with the land that is in keeping with sec 5,6,7 and 8 of the RMA.

Tainui sought relief to seek rules to provide for housing as a permitted activity that meets the social and cultural needs on multiple owned Maori land on the Whaanga coast as identified in a proposed Whaanga coast structure plan. Also Tainui, Ngati Tamainupo and Ngati Mahanga seek pa or papaKāinga zones within their respective areas within Waikato District and appropriate rules as above to give effect to the RMA.

The Hearing Committee majority consisted of Independent Commissioners. Tainui were questioned at length on the issues and as a consequence the WDC planners were instructed to provide a response to the Committee at the close of hearing when delivering the final reply.

#### **5.1.38 WDC Response**

The Planners response identified that:

- 1) The limited number of Pa Zones and PapaKāinga Policy Areas in District. District Plan does not provide general rules for PapaKāinga in the Rural and Coastal Zones. Additional Pa Zones or PapaKāinga Policy Areas would require a Plan Change
- 2) Definitions in WDP – papaKāinga only applies to housing in the PapaKāinga Policy Area. The only PapaKāinga Policy Area within the district is located on the Whaanga Coast.

- 3) V16 removes the ability to have multiple houses on a CT. This directly affects papaKāinga opportunities.
- 4) PapaKāinga in the Rural or Coastal Zones would be a discretionary activity under V16.
- 5) The V16 objective is clear about the outcomes and the policy explicitly states that papaKāinga development should be “enabled”. No method is included in V16 apart from existing Pa Zone and PapaKāinga Policy Area and the amendments to the rules for the number of dwellings makes it more difficult for papaKāinga to be enabled. Officers accept that the lack of method runs counter to the words ‘able’ and ‘enabled’ in the new objective and policy as future plan changes are required to achieve that objective and policy.
- 6) Submitters seek distinction between freehold C/Ts and that Maori title governed by Te Ture Whenua Maori Act 1993 (TTWMA).

In dealing with the policy basis the planners identified several sections of the plan that were needed to be taken into account such as Chapter 3: Natural Features and Landscapes and Chapter 11: Social, Cultural and Economic Wellbeing. The full range of the Maori provisions in those Chapters was outlined in the report.

Also that:

By virtue of the imperatives within the superior documents that include the RMA, the RPS and the NZCPS, papaKāinga is an “appropriate” activity in the District. This “appropriateness” exists irrespective of zones, and provisions are required in both the Rural and Coastal zones in order to give effect to these imperatives. Having accepted that papaKāinga is an “appropriate activity”, such development should be allowed to exist (and historically it has always existed), provided that its effects can be managed appropriately.

The report went on to acknowledge that the Regional Policy Statement and the New Zealand Coastal Policy 2010 in Policy 6 require Council to recognise tangata whenua needs for papaKāinga, marae and associated developments and make appropriate provision for them and that papaKāinga is an activity that is expected on the coast.

### **5.1.39 Recommended Solution**

In concluding, the planners report set out permitted activities for the Rural Zone and controlled for the Coastal Zone. Both provisions had rules that were subject to impediments that would create difficulties for Maori to achieve without significant cost. One the impediments was to undertake a Plan Change for the setting out of papaKāinga or pa Zones that would only be achievable if that was undertaken by WDC. A private plan change could only be accomplished if the Council was prepared to process the plan change. The full cost of public notification, consultation, staff time and hearing costs would be borne by Maori.

The second impediment is the land has to be gazetted for the purpose of papaKāinga or a village site in accordance with section 338 of the Te Ture Whenua Maori Act 1993 and is not located in a Landscape Policy Area or a Ridgeline Policy Area. That could only be achieved through the Maori Land Court process and it created a impediment as nearly all of the Tainui land sits in predominantly bush or landscape areas which will fall to a discretionary activity that in most cases needs to go to a hearing.

The third impediment in the Coastal Zone was the controlled activity status that necessitated cost for technical reports and the default position was to fall to a restricted activity status.

Of concern to Tainui is that recommend solution did not include settlement of the Whaanga Coast appeal.

### **5.1.40 Commissioners Decision**

The Commissioners accepted the Planners report and acknowledged that it is a step in the right direction of making better provision for tangata whenua along with addressing the issue of papaKāinga housing on multiple-owned Maori land.

Tainui has appealed that Decision.

### **5.1.41 Appeal to Environment Court**

Tainui appealed the decision 9 January 2012. The parts of the decision that were appealed were:

- 1) PapaKāinga Housing on Multiple-Owned Maori Land in the Rural Zone (new rule)
- 2) Rule 25.63A.1(i) , 25.63A.2 and,
- 3) PapaKāinga Housing on Multiple-Owned Maori Land in the Coastal Zone (new rule)
- 4) Rule 26.53A.1 (i), 26.53A.2

The reason for the appeal was:

- 1) The decision did not adequately address Part 2 of the RMA 1991. In particular Section 6 (e) that outlines matters of national importance to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga and section 8 that directs the decision maker to take into account the principles of the Treaty of Waitangi
- 2) Rule 25.63A.1 (i) can only be complied with if the land is gazetted through the Maori Land Court. The gazetting process for the beneficial owners to undertake to build a single dwelling or to set aside a PapaKāinga block is onerous.
- 3) Rule 26.53A.1 (i) specifically excludes the Whaanga Coast and the land deemed in the Whaanga Coast Policy Area. A large part of the land available to resettle on for Tainui Awhiro is the Whaanga coast.

The relief sought was:

- 1) Amend the rules to provide for less onerous permitted activities to provide for PapaKāinga Housing on multiple-owned Maori land in both the Rural and Coastal zones plus the Whaanga coast
- 2) Amend the provision in 1A.3.2-Maori Ancestral Land

To date there has not been any mediation or request to do so by the Environment Court.

#### **5.1.42 Summary**

Tainui has submitted to the various District Plan provisions and Plan changes over a large number of years. In 1982, concern was raised about the European dragging of the

shellfish beds and a reserve being needed as there is a noticed loss of kaimoana availability and the as current system was not working there will be loss of ability to harvest shellfish beds, eel and fish in the future and that the area should be administered through the Maori Committees.

That did prove to be correct. Nearly all of the shellfish beds have been destroyed by drags/ sediment or overfishing plus a lack of management or monitoring by Crown delegated authorities. Also sought was that the administration of the Maori blocks be handed back to Maori on the Whaanga Coast plus Council should make compensation to Maori landowners land it seeks to reserve for public purposes. Recognition was also sought for Maori cultural, traditional and historical links with their ancestral lands and waterways or be given effect to.

In 1993 Tainui sought that the principles of Te Tiriti o Waitangi be given effect to along with historic heritage, waahi tapu and the health and wellbeing of the people and the coastal environment as accorded in the Resource Management Act 1991. Policies and rules were sought for the ability for Tainui to manage the coastal areas of Maori land according to tikanga Maori.

Tainui raised the view that there is an erosion of the relationship with their traditions, culture, ancestral lands and water sites due to past planning mechanisms. Tainui stated that the requirements of the Resource Management Act 1991 in Section 5, 6(e), 7, 8 be given weighting in the forming of policy and rules for Maori. Provision for papaKāinga housing on the Whaanga coast was sought along with provisions for Te Kopua and the Kokiri Centre and again opposition to the PDP of public access to Maori land was advanced also.

In 2004; Tainui sought that the Pa Zones in the urban areas Te Kopua and Rākaunui have the ability to provide for business, cottage and light industries and residential as was envisaged in 1988. Tainui also sought to manage their lands according to tikanga Maori based on kaitiakitanga and for papaKāinga development on the Whaanga coast along with the application of Pa Zones on all Maori land as those rules were more permissive. Plus, the removal of the Coastal Zone, Whaanga Coast Policy area, Landscape Policy and Ridgeline Policy overlays that are in the Plan.

The Council was reminded that the Karioi Native Reservation was set aside for Tainui in 1855 and is unique and that Raglan County Council was responsible for the compulsory taking without compensation of Maori land for roading at Te Kopua, Raglan West and Te Whaanga.

Tainui also sought the permitted activities that were removed from Te Kopua and the Kokiri Centre on Riria Kereopa Memorial Drive be reinserted into the plan. Tainui also opposed the taking of land for reserves and access ways. Furthermore; sections 5, 6 (e) 7 and 8 of the Resource Management Act to be given effect to in the plan provisions for Maori.

In 2010, Tainui opposed Plan Change 2 – Variation 16 which was the Waikato District Plan Review of Subdivision and Residential Development in Rural and Coastal Zones as it further “locked up” and restricted all rural Maori for papaKāinga development in the District along with the land held by Maori landowners on the Whaanga Coast and Whāingaroa.

The WDC District Plan became operative in part 28 June 2011 with no district wide appeals still outstanding with only a few remaining appeals being either location specific or topic specific.<sup>282</sup> Certainly Tainui has been relegated to the back of queue as it has been 7 years since the plan was submitted on. It has been 50 years since Tainui has sought the ability to have papaKāinga on the Whaanga coast and Maori owned land in Whāingaroa.

And yet in 1983 Grasshopper Development subdivision was approved by the Council planners to undertake a 250 lot on the land owned by a Pakeha farmer. If it was not for Maori and the wide community opposition it would have been given approval by WDC.

Tainui consider that it is clear that the Town & Country Planning Act and Resource Management Act 1991 have failed to stem the tide of opposition to Maori aspirations to live on the ancestral land. Tainui consider that the Crowns delegation to authorities and subsequent legislation has breached Te Tiriti o Waitangi.

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<sup>282</sup> <http://www.waidc.govt.nz/Documents/Plans/District-plan/Waikato-District-Plan.aspx> Accessed 16 June 2012

## Contact Windfarm

Contact Windfarm lodged applications to build a new 180-turbine wind farm to be located four kilometres south of Port Waikato to eight kilometres north of Raglan along 34km of the Te Ākau coastline on the west coast. It went inland approximately 4 kilometres. Contact named the project Hauāuru mā raki (HMR).

The HMR project was called in by the then Minister Hon Trevor Mallard who referred the applications and notices of requirements to an independent Board of Inquiry. (BOI) The BOI had the power to consider the applications, hold the hearings and make the decision to grant or not grant the consents.<sup>283</sup> The application was publically notified on the 20 September 2008 and the submission period ended on 3 November 2008.

The location of the HMR project covered both the Franklin and Waikato District Council areas along with being in the jurisdiction of the Waikato Regional Council area.

The application sought resource consent for land use, earthworks, water takes and streambed works. The activities were for:

- 1) Wind turbine generators
- 2) Turbine construction pads
- 3) Internal roading and access tracks
- 4) Areas of earthworks (including areas of cut, fill, and cut to waste disposal areas)
- 5) Construction lay-down areas
- 6) Roding improvements
- 7) Re-opening of an existing quarry site
- 8) Water sources and storage ponds
- 9) Concrete batching plants
- 10) Public viewing areas

Consents were sought from Franklin and Waikato District Council for land use and Waikato Regional Council for earthworks, water takes and streambed works. Consents

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<sup>283</sup> <http://www.mfe.govt.nz/publications/rma/hmr-project-infosheet-2008-09/hmr-project-infosheet-2008-09.html> Accessed 16 June 201

were also needed for discharges to waterways and process water from concrete batching plants along with stormwater plus a quarry. Notice of Requirements was also required for transmission lines and substations.

Tainui submitted to the project in opposition. The Tainui submission stated that the applications do not satisfy the requirements Section 5,6,7,8 of the Resource Management Act 1991 along with declaring that the applications will impact on the ethics and values of the hapu and Maori plus contravene the rights of tangata whenua as accorded in the Declaration of Independence and reaffirmed in Te Tiriti o Waitangi.

And

----As Tangata Whenua we have exclusive Rangatiratanga (absolute authority) and rights to ensure that our lands, forests, fisheries (both freshwater and marine) and *Taonga* (both indigenous and exotic) remain free from destruction, modification and disturbance.

----Still to date; little research has been carried out on the settlement patterns and archaeological characteristics in the region between Port Waikato and Raglan, despite calls from the hapu and others to Regional and District councils to provide for the active protection of the all the significant cultural landscapes of maori in their plans

---Tainui Awhiro notes that the proposal does not meet the requirements set out in several pieces of legislation in matters pertaining to tangata whenua. In fact it is destroying many archaeological characteristics and wahi tapu sites of major significance to the peoples of the Tainui waka from pre-European Maori settlement of the area. Pa, terrace and pit sites relating to historic Maori settlement are targeted for destruction. The application obliterates and makes invisible tangata whenua from the landscape.

Tainui put forward potential implications of the activities impacting on whakapapa, loss of cultural practices and ethics and values, lack of ability to undertake kaitiakitanga responsibilities, potential loss of taonga species and mahinga mataitai along with potential loss of mauri in awa and moana.

Furthermore it was stated the applicant did not undertake meaningful consultation and it was used in a cursory manner and as an afterthought. An overview of the environmental impacts including visual, baseline noise monitoring and health effects were also submitted, along with various case-law examples including responsibilities to Te Tiriti o Waitangi that in summary were:

- 1) the obligation to act reasonably, in the utmost good faith and in a manner that is consistent to partnership;
- 2) the requirement to make informed decisions;
- 3) the obligation to actively protect Māori interests;
- 4) the obligation on the Crown to not unduly impede or diminish its capacity to provide redress where a valid Treaty grievance is established
- 5) The responsibility of one Treaty partner to act in good faith fairly and reasonably towards the other puts the onus on a partner ... when acting within its sphere to make an informed decision that is a decision where it is sufficiently informed as to the impact of the principles of the Treaty.

Tainui sought the BOI to decline all the applications in entirety.<sup>284</sup>

The application for the proposed HMR project for 180 wind farm towers was the largest applied for in Aotearoa and potentially in the Southern Pacific. It was also one that had morphed into different company structures and had many other changes until the final decision by the BOI. For example the timeline below demonstrates the changes that occurred.

- 1) Al Yates the Managing Director of Wind Farm Group<sup>285</sup> initiated the project in 2003 and discussed and presented a concept to a number of landowners in the Te Ākau area.
- 2) Wind measuring masts was erected in late 2004.

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<sup>284</sup> Tainui submission Contact Windfarm HMR 2008

<sup>285</sup> <http://www.windfarm.co.nz/layout.php?doc=010welcome.php> Accessed 16 June 2012

- 3) Investigation agreement was made with Limestone Downs and Sunset Views in July 2005 and at that stage there were two cluster areas only. Sunset Views was to pull out of the project later in the stages.
- 4) Wind Farm Group Limited entered into a commercial venture arrangement with Contact Energy Limited in December 2006 and the formation of a new company called Contact Wind Limited.
- 5) In 2004 and 2006, baseline environmental reports were commissioned and produced by May 2007.
- 6) In March 2007 agreements were made with property owners including many of the Maori block owners or Trustees for a 250 turbine site.  
Consultation with tangata whenua was undertaken through the establishment of a Hapu Working Group in 2005 with reports up to June 2008.

A pre hearing conference was held at the TuĀkau town hall on 9 March 2009.<sup>286</sup> All parties presented evidence to the Ministry for the Environment who circulated the evidence to all parties along with posting on a dedicated Website. Contact posted their Evidence in Chief to all parties. The hearing was held at the TuĀkau Town Hall during the weeks of 27 April, 4 May and 18 May.

The Contact Evidence in Chief highlighted the magnitude of the HMR project.

- 1) It covers an approximate area of 16,797 hectares or 167.97 km<sup>2</sup>.
- 2) It also has around about 106 kilometres of roads that need to be constructed for the project.
- 3) It has 2.61million cubic metres of soil cut, with 0.425 million metres of fill (Meekan table 5.7earthworks volumes). Table 5.8 has 1.285 million metres square of soil to dispose of while the turbine consent area alone is 1.987 million square meters (Meekan table 5.1 Revised TCA )It has a batter length of over 200 km, with approximately 800 metres of cut batter over 12.5 metres(Meekan evidence para 147)
- 4) On Exhibit G Lister identifies indicative turbine locations within coastal environmental zones with degrees of natural character having 10 in high quality and 99 moderately high in coastal Zone C.
- 5) Within 1kilometere of the coastline there are approximately 67 wind turbines and approximately 89 within the 1.5 kilometres of the coastline.

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<sup>286</sup> <http://www.mfe.govt.nz/rma/call-in-hmr/minutes-pre-hearing-conference.pdf> Accessed 16 June 2012

- 6) The Tonkin & Taylor Coastal Erosion Assessment in Appendix C (Mr. Hamel Fig 1) shows that there is a significant total length of 20 km subject to active coastline erosion by 2060 and that up to 50mtres inland will be affected.

Clough & Associates Ltd between September 2005 and March 2007 carried out the Archaeological assessments.<sup>287</sup> The Evidence in Chief was provided by Rodney Clough who stated that the baseline reports provided assisted Contact to take into account the findings prior to the draft AEE being produced 2007.

In 2008, a further report was undertaken as additional properties added to the project. Sunset Views along with a couple of other farms had exited the relationship and no longer wished to participate therefore additional properties were needed. Because of the reports, 16 archaeological sites were removed from the project.

Clough evidence stated that the reports “are an assessment of archaeological values and do not include an assessment of Maori cultural values and that a cultural values assessment report has been prepared separately by Richard Thompson, kaumatua of Ngati Tahinga and Ngati Karewa’.<sup>288</sup> Further discussion on the cultural values assessment will be advanced below.

The evidence went on to state:

126 archaeological sites were identified in the Wind Farm area. The majority of the archaeological sites relate to pre-European Maori occupation. They include over 60 pit and terrace sites, over 20 pa and 7 urupa, or burial sites. Over 70 of the 126 sites had not previously been recorded but were identified for the first time during the field survey.

Many of the sites are of significant size, complexity, condition and contextual value, as far as can be determined on the basis of the visible archaeological remains, 32 of the sites were assigned an A ranking; 36 sites a B ranking; 37 sites a C ranking; and 12 sites a D ranking. There were 2 additional recorded sites which could not be located in the field but which may be present. Seven urupa/burial sites were not ranked from an archaeological perspective, but were

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<sup>287</sup> Evidence In Chief Of Rodney Edward Clough p5

<sup>288</sup> Ibid p6

assigned an AA classification on the basis of their cultural and spiritual values. The ranking was based on criteria that were set out in a Table.<sup>289</sup>

And

Nine additional sites were identified within the Transmission Network. Four of the sites were assigned an A ranking; 3 a B ranking; and 1 a C or D ranking. The ninth site is an urupa, assigned an AA ranking.

The project involves several activities which have the potential to impact physically on archaeological sites. These include cut and fill earthworks relating to turbines, access roads, a quarry, laydown areas, substations, spoil sites, pylon sites (for transmission corridors) and other infrastructure.

The nature of the terrain (high ridges and spurs dissecting the landscape) places significant constraints on the placement of both turbines and access roads. Both are ideally located on high knolls, spurs and ridgelines. Typically these are locations likely to contain archaeological sites, particularly pa, terrace and pit sites relating to Maori settlement.<sup>290</sup>

The evidence traversed percentages of sites that were to be avoided where possible and used the ranking system to demonstrate that they were lesser in the order of significance to justify their destruction. Also it was put forward that 70 new sites were registered with the Historic Places Trust and that there would be a significant number of sites on the whole landscape but the assessments surveys only considered the areas suitable for wind turbines and access roads.

Also advanced was a tabular format of those sites that would be impacted upon and:

Of the remaining 40 sites, 14 will definitely be adversely affected by the proposed earthworks. 10 sites are likely to be affected as parts of these sites are within 10m of proposed earthworks. The remaining 16 sites will possibly be adversely affected by the development, being within 15m of proposed earthworks, but with greater flexibility for avoidance. At this stage, prior to the completion of the final engineering survey of the roads and the completion of

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<sup>289</sup> Ibid p10

<sup>290</sup> Ibid 11

the final detailed design, it is not possible to make a more precise assessment of adverse effects. However, in most cases the sites definitely or likely to be adversely affected will be partly affected, rather than destroyed

The evidence also contained a response to submitters as Tainui and the Department of Conservation (DoC) and J. Carr submitted, stating adverse effects. In response to Tainui it stated:

As set out earlier in my evidence, the majority of the known sites in the vicinity of the Wind Farm would be avoided and particular emphasis has been laid on avoiding burial grounds and the more significant archaeological sites (generally the largest and most complex sites). Extensive physical evidence of Maori occupation will still be present and clearly visible within the landscape. The fact that little previous archaeological research has been carried out in the area was identified in the report, and I have recommended the archaeological investigation of sites that cannot be avoided as a way of remedying this situation. I consider that the knowledge gained would be a positive outcome of the Wind Farm proposal.

Submission no. 53 by C. and S. Bradley is primarily concerned with visual effects from the submitter's property, but also states that the Wind Farm would seriously affect the historic landscape, destroying any connections with the past. As acknowledged earlier in my evidence, there will be visual effects on the archaeological landscape, but because of the low density of turbine sites it will still be possible to 'read' and appreciate the historic landscape, as the majority of sites will remain unaffected and clearly visible. Connections with the past will not be destroyed except in the minority of cases where sites cannot be avoided.

And to J. Carr

Submission no. 94 by J. Carr refers in a general way to the potential archaeological and historical effects of wind farms, and opposes the placement of turbines in an "irreplaceable natural scenic and historical landscape". My response to the previous two submitters also applies to this submission.

Clough contends that it will be still possible to 'read' the extensive physical evidence of Maori occupation within the landscape and to appreciate the

historic landscape despite the destruction of many archaeological sites. Also Clough places great emphasis on the knowledge gained from further archaeological investigation of sites during the process and by the ranking system of A,B, C, D ranking. Tainui opposed the ranking system along with the further archaeological investigation of sites.

#### **5.1.43 Cultural Values Assessment**

The Cultural Values assessment by Richard Thompson was completed in 2008. It consisted of naming Maori values as Tikanga, Mana, Whakapapa, Wairuatanga, Kaumatuatanga, utu, Kaitiakitanga, Whakawhanaungatanga, manaakitanga, Whakarite Mana that needed to be taken into account.

The key objective of the report was to identify possible effects of the proposed activity on Maori cultural values, formulate methods of remedy or mitigation to avoid adverse effects and initiate methodology processes avoid adverse effects with the environment plus a brief overview of whakapapa of Tahinga and settlement of the coast.

On 10, 13, 17 and the 20 September 2007 Richard Thompson accompanied Archaeologist Barry Baquie from Clough & Associates Limited to assess the sites. The report went on to describe the different sectors from 1 to 5 and recommendations of each site subject to conditions in Appendixes. The standard archaeological protocols were included along with standard NZAA chart data as the Appendixes.

In the summary section of the report it states:

A number of hui have been held with members of Ngati Tahinga on a number of occasions as well as the original owners of the Te Ākau block. Approval has been given by both groups present at the meetings to approve this CVA based on the sites and potential earthworks recorded in the table attached but excluding the sites recorded on Whareana area of land.

While it is expected the Whareana beneficiaries will approve the Whareana section of this CVA relating to Whareana, a final hui for the beneficiaries and trustees is being held in July 2008 to formally approve the Whareana section of this Cultural Values Assessment.

In the meantime, Ngati Tahinga Iwi has approved the remainder of the Hauāuru mā raki Wind Farm.<sup>291</sup>

That report was roundly criticised on a number of grounds by Tainui mainly because there was no methodology to link the Maori values to any assessment and instead consisted of NZAA data and classifications only to indicate which sites will be affected, avoided or impacted upon.

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<sup>291</sup> Thompson R Cultural Values Assessment Field Report 5 June 2008

#### 5.1.44 Tainui Evidence

Three people prepared the Tainui Evidence. One covered the Maori context including the archaeological aspects and statutory obligations. The second covered the various environmental aspects and the last one covered potential alternatives, the failings of wind power; effects of 600MW transmission line and carbon emissions.

The first set out the scope as:

- 1) Summary
- 2) The Application
- 3) Tainui – Tainui Awhiro
- 4) Te Tiriti o Waitangi
- 5) Te Ākau – the Whenua
- 6) Maori worldview
- 7) Part 11 RMA
- 8) Comments on Cultural Values Assessment
- 9) Consultation and Response

The evidence identified the whakapapa layers that connect Tahinga and Tainui to the whenua site of the proposed wind farm at Te Ākau.<sup>292</sup>

In the summary it stated that:

- 1) Tainui opposes all applications as the effects of the activities are contrary to the Act and will negatively affect our Tūpuna and ancestral land. To allow the unwarranted destruction of the land that makes up the historical and cultural landscapes of Tainui and Tahinga is to denigrate our mana and insult our Tūpuna who are the land on which the wind farm if approved will stand.
- 2) Tainui asks that the Board declines this application in its entirety.

In dealing with Te Tiriti o Waitangi the evidence stated:

Tainui are treaty signatories and therefore implementation of the guarantees affirmed in Te Tiriti o Waitangi is a significant matter. In 1840 our Tūpuna

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<sup>292</sup> Greensill A. N. Evidence 2009 p 3-4

Turi te Patete and other rangatira signed in good faith Te Tiriti o Waitangi at Whāingaroa, Manukau and Te Tau Ihu. In article two of te Tiriti, Kuini Wikitoria guaranteed ki nga rangatira, ki nga hapu , ki nga tangata katoa o Nu Tireni, te tino rangatiratanga o ratou whenua o ratou Kāinga, me o ratou taonga katoa.

The Crown and its delegated authorities Waikato District Council and Waikato Regional Council have statutory obligations under section 8 RMA91 to take into account the principles of Te Tiriti o Waitangi. There have been numerous cases where inadequate planning rules and provisions have allowed activities having significant negative effects on tangata whenua, the environment and on te Tiriti o Waitangi to be approved. This proposal provides an opportunity for this Board to recognise and take into account Te Tiriti o Waitangi.<sup>293</sup>

A section was on the land at Te Ākau and stated:

Te Ākau is the subject site of this application. It is ancestral Maori land embedded with over a thousand years of koiwi, Tūpuna who have become the land. It was occupied for generations before the British came, coveted, confiscated, claimed and colonised the land. In a map by Brees printed in 1847, large cultivation sites are clearly seen north of Whāingaroa moana.

Te Ākau has been identified as a suitable place to install a wind farm. The most suitable sites for turbines are the “high ridgelines and spurs” where there are many archaeological sites (Clough). Te Ākau is comprised of numerous pa, terraces and pits which have been shaped and left by Tūpuna who lived their lives and then became part of the spiritual physical and cultural landscape with Papatuanuku. Remnants of Kāinga lie hidden under sand that blows from the south west, and soil that has been packed down over time.

Te Ākau is a taonga. It has a mauri which must be protected for future generations. Although we haven’t been called to carry out our roles as kaitiaki in recent years, there was a time when we were kept busy reinterring our Tūpuna who had been uncovered by the winds.

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<sup>293</sup> Ibid pp 5-6-8

In terms of the Resource Management Act an overview of Section 6 was put forward and how the application has failed to consider the relationship of Maori and:

The relationship of Tainui with Te Ākau is one embedded in Tainui history and relationships to the land through whakapapa and whanaungatanga. Ancestors are part of the natural and cultural landscape.

Tainui Awhiro reaffirm that this application will destroy many archaeological characteristics and wahi tapu sites of significance to the peoples of the Tainui waka from pre-European Maori settlement of the area. 126 sites were identified within the wind farm area, 40 are destined to be damaged or destroyed. Pa, terrace and pit sites relating to historic Maori settlement are targeted for destruction. The application obliterates and makes invisible tangata whenua from the landscape yet appropriates Maori knowledge and believes that this is a positive outcome for the Wind farm.

While it may be expedient for Contact to focus on potential sites, and in this case choose a significant cultural coastal landscape, the proposal has to be within the legal boundaries of the RMA 1991. Tainui have consistently opposed research being undertaken on any archaeological sites in our area. To see destruction of our sites as positive and the adverse effects as minor or moderate and therefore reasonable is beyond belief.<sup>294</sup>

Section 7a Kaitiakitanga was also canvassed and stated that:

As descendants of people who lie buried in this landscape we have an obligation to take action when required to ensure that their resting places are not desecrated.

Earthworks, roads, underground cabling will modify or destroy the lands, wahi tapu and living places of our ancestors. The rivers that kaitiaki are responsible for will become the repositories of sedimentation for years to come if experiences in other places are to be believed.

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<sup>294</sup> Ibid pp9-13

A section on the Cultural Values Assessment was also included stating:

While the values tikanga, mana, whakapapa, wairuatanga, kaumatuatanga, utu, kaitiakitanga, whakawhanaungatanga, manaakitanga, whakarite mana, identified in this assessment are recognised, there is no methodology to link the values to any assessment. Matrices using NZAA data and classifications are used instead to indicate which sites will be affected, avoided or impacted upon.

The consultation section demonstrated the inadequate manner that took place along with the dates of engagement. Also:

Ngati Tahinga appear to have fully embraced what they perceive to be economic benefits from having an industrial sized wind farm in their area. Tainui is more cautious, concerned about those matters which have not been widely publicised and can only be imagined at this stage.

The evidence concluded by stating:

Contract has designed this windfarm from an economic point of view whereas Tainui has looked at its cultural obligations to the land, to the past and to future generations. Te Ākau is a site of historical and cultural significance to Tainui and Ngati Tahinga and should be protected. The proposal to establish a wind farm at Te Ākau is market driven, ill conceived and should be declined.<sup>295</sup>

The scope of the second Evidence was:<sup>296</sup>

- 1) Contact's Strategic plan – Mr. Geoghegan
- 2) Water abstraction and water take- Mr. Millais
- 3) The impacts of associated earthworks and sedimentation
- 4) Effects on landscape and visual amenity- Mr. Lister
- 5) Ecological effects -Mr. Kessels
- 6) Offset mitigation – Mr. Tonks
- 7) Statutory Provisions
- 8) Other matters
- 9) Summary
- 10) Conclusion

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<sup>295</sup> Ibid pp11- 13

<sup>296</sup> Hamilton M Evidence 2009 p2

The evidence was based on responding to various expert witnesses that presented evidence on behalf of Contact.

#### **5.1.45 Water Abstraction and Water Take**

Water abstraction and water take was an issue that Tainui had with the project as it was proposed to abstract water from the four awa throughout the catchments, create storage dams and take water from a significant puna. The proposal had changed from the application to include water from tankers if needed from Waikato and Waingaro river systems and water is to be used for the concrete batching plants that will be discharged after use plus drinking water.

The available water from the four awa had a combined flow of 373 cubic metres per day and the storage dams would be drawing more off along with surface water take. Water availability was to be monitored on two awa on a fortnightly basis only with a 2 yearly review and parameters for temperature increases at times of low flow were also included along with a time limit to cease water abstraction.

Tainui challenged several parts of the expert evidence, and argued that waiting until a two yearly review to make necessary adjustments of the water take are far too long. Particularly considering the adverse effects of miscalculations and the high potential of elevated water temperature typically decreasing the level of dissolved oxygen causing harm to aquatic animals as a small temperature change of one to two degrees Celsius can cause significant effects.

Tainui raised the issue that the applicant is seeking consent to place the streams and waterways in a vulnerable position and are relying on statics plus calculations that they already have had to adjust with the water take as well as abstraction being poised on a knife edge if calculations are found to be erroneous. Tainui was also opposed to the taking of 100% flow of Whitford Quarry spring for the period of five years duration of construction as tangata whenua have traditionally utilised puna or springs for a variety of cultural purposes including spiritual cleansing and for general use.

Tainui argued that the water take will cause adverse effects and that the rate of use is the tipping point and is not sustainable and did not meet the test in section 5 RMA 91. Moreover, it has the potential to degrade mauri of the streams and waterways plus the prospective loss of traditional mahinga kai and mahinga mataitai customary practices.

The evidence made comment on the issue of chlorine use for disinfection and effects of the concrete batching units spread throughout several catchments. Plus, the effects of water that comes into contact with cement or concrete becoming strongly alkaline that is harmful to aquatic life and that plants, insects and animals can be burnt or killed by high pH water from the slurry or concrete wash water which attack the sensitive membranes of fish and eels, including the gills and the skin.

The evidence stated that:

Decade by decade the area has been modified and changed beyond recognition, decade by decade tangata whenua have mounted active opposition and faced continuous loss of taonga species. The Board has the legislative clout and obligation to actively adjudicate in the interests of tangata whenua and the environment.<sup>297</sup>

#### **5.1.46 Earthworks and sedimentation**

In turning to the earthworks and sediment section, Tainui outlined the activities and the potential impacts in a series of bullet points and commented on the draft erosion controls that did not consider Maori at all and stated:

While indicative draft Erosion and Sediment Control Plans have been put forward for the project, Tainui Awhiro note in the evidence of Mr. James that the ESCPs will be developed further with consultation with Environment Waikato only and implemented for each wind farm turbine Block. Plus each block will have a specific ESCP. Of issue is that there is no mention of or involvement of tangata whenua or hapu; and yet the effects of the earthworks are monumental.

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<sup>297</sup> Ibid pp4-5

### **5.1.47 Landscape and Visual Amenity**

In dealing with the effects on Landscape and Visual Amenity as presented by Mr. Lister, Tainui challenged the evidence that there will be no effects on the Whaanga Coast residents and Whāingaroa community from the clusters of turbines just up the coast and stated:

The visual impact from the Whāingaroa coast will be immense. The southern three groups of turbines labelled H, I and J will have a substantial impact due to the height, size and scale of each of the turbines. Those turbines will be the foreground view with many of the others in the middle ground view and will create adverse effects on the natural character. The whole sweeping embayment and landforms contributes to the Whāingaroa and Whaanga coast resident's intrinsic values and portray isolation, remoteness and an air of peacefulness. Those are the key characteristics that allow the tourist accommodation and surfboard industry outlets to exist.

The views from the Whaanga coast are ones that portray natural character; which those that have been produced by nature, albeit inclusive of pasture, exotic trees and domestic animals. The intrusion of any "man made" structures of this magnitude will detract from the natural character present and do not satisfy the requirements of section 6(a) of the RMA 1991.

When undertaking the review of potential effects Mr. Lister went past the rural subdivision of Whale Bay /Whaanga to further down the coast and presented a photograph of the coast as a distant view, which gave the impression that the area was undeveloped. That was challenged by stating that:

The Whāingaroa coast is internationally recognised through the surfing world, host large numbers of international surfers and tourists to the extent that Whāingaroa has large numbers of tourist accommodation facilities, and is dependent on tourism. There has been no evidence put forward by the applicant on the adverse economic impacts of the tourist accommodation businesses operating in the Whaanga coast or Whāingaroa. To date there has been no consultation, discussion or potential compensation for the essential tourist operators in the Whaanga coast or Whāingaroa. Contact has erred in its approach and Whāingaroa has been treated as an afterthought and yet are severely impacted upon.

#### **5.1.48 Ecological effects**

The Ecological Impacts evidence of Mr. Kessels was also commented on. Kessels had presented evidence on effects to waterways of abstraction, stream values and the fishery along with sediment effects.

Tainui stated that:

- 1) the Piharau (Lamprey) is a taonga species for tangata whenua
- 2) the species is a threatened species and are rare
- 3) the state of their habit is crucial and excessive water abstraction and sediment could potentially threaten the survival of the species within the larger area.
- 4) Equally important is the other taonga species in Exhibit GK15 which also includes the short and long fin tuna (eel).

And

Tainui Awhiro argues that the activities of the wind farm have a high potential to destroy the traditional cultural practices of Maori by destroying the very habitat of the identified species; or the very least by disrupting the ecological processes which could reduce their ecological resilience to the point of potential collapse.

In relation to sediment and migratory shorebirds, Tainui put forward the view that:

There does not appear to be any mechanism for hapu or the community to monitor or contribute to the Earthworks Design and Management and Construction Ecology Effects Management Plans.

The evidence of Mr. Kessels above demonstrate that little knowledge is available on the flight paths of key migratory shorebirds including the nationally threatened Wrybill and that potentially they will fly through the wind farm footprint and are at risk of turbine strike. Also that quantifying the risk requires a lot of data. Even to date; more research is being undertaken to assess the risk.

Tainui Awhiro argues that in the absence of robust science to assess the level of risk; that the application be put on hold until the present scientific studies are complete.

More alarming than not having robust scientific data to demonstrate that bird strike will not happen is the monitoring program set out in para 194 and para 195 of Mr. Kessels evidence. The parameters as set by Mr. Kessels in both those paragraphs are based on a death counts AFTER the bird strikes.

The Kessels evidence made assessments on indigenous forest habitat, nationally threatened lizards and eleven nationally threatened fauna species that prompted Tainui to argue that:

The migratory shorebirds, nationally threatened and threatened species are part of the natural and physical resources of the coasts; plus make up the coastal characteristics that determine an ecosystem's integrity, form, functioning, and resilience. Furthermore, for any species to be noted as threatened or nationally threatened carries a higher regard.

Decade by decade, species have been subjected to development pressures that has seen the destruction of their habit. Coastal margins and wetlands have been subjected to change. The whole thrust of notifying species as threatened or nationally threatened is to highlight the seriousness of the activities that creates an impact and for regulatory statutory bodies to make sound decisions on their behalf.

The species themselves cannot speak; but the Board has an explicit duty to adjudicate according to the RMA 1991 and in particular section 5 (2) (a) (b) sec.6 (a) (e) (g) sec 7 (a) (c) (d) sec 8.

Tainui Awhiro are highly concerned that in the instance of bird strikes and the lack of a robust assessment that an off handed approach has been taken and does not satisfy the requirements of Part 2 of the RMA1991.

#### **5.1.49 Offset Mitigation**

Prior to the lodgement of the application, Contact arranged with the communities on the Te Ākau coast to set aside funds for the school and to provide for a community fund operated by a Trust as part of package labelled offset mitigation. Offset mitigation

is used as a tool for compliance in terms of the RMA 1991 which directs that applicants can avoid, remedy or mitigate. That tool was also used for the environmental effects.

Mr. Tonks presented the evidence and stated that the four impacts that fit the criteria for mitigation was:

- 1) Clearance of Native Vegetation
- 2) Turbine Strike Affecting Native Birds & Bats
- 3) Transmission Line Strike
- 4) Water Abstraction & Laying of Culverts

The terms of the mitigation for clearance of native vegetation, Contact was to facilitate the retirement and restoration of an area of approximately 56.4 hectares of regenerating native bush. For the turbine strike affecting native birds and bats, Contact was committed to an annual contribution of \$17,000 toward one or more native species conservation programmes focused on the protection and population enhancement of resident and/or migratory native birds.

When dealing with issue of transmission line strike, a recommendation was to place a protective covenant, and implement a weed control programme over a minimum of 5 hectares of Pungapunga wetland or other wetland of similar value as habitat for Australasian bittern.

Lastly, for the water abstraction and laying of culverts the recommendation was to undertake riparian fencing and planting of 500 metres of channel on both sides in the lower Kaawa and/or Waikorea Streams.

Tainui argued against the ecological mitigation by stating that:

The offset mitigation for the clearance of native vegetation is inadequate. The area targeted for regeneration is of semi-grazed pastureland and gorse areas without the abundant species within the Te Umukaraka and Te Kotuku Bush areas.

The package of \$17,000 for the period and potential life span of the windfarm and only 5 hectares of Pungapunga wetland is woefully understated considering the potential adverse effects.

The offset mitigation is near meaningless due to the size and scale of the earthworks during the period of construction alone. Even developers of rural subdivisions do more. There is potential to create major adverse effects through badly monitored and placed silt control methods; despite following the guidelines set out by regional councils Erosion & Sediment plan. The water take over the life of the construction could pose significant damage to the aquatic life-forms. The scale of this project is enormous. Geographically it covers a large part of the coastal margin and could result in substantial change to the landscape and the water way systems.

The Tainui evidence also commented on the statutory provisions of the district plans for Franklin and Waikato District plans. Particularly the non complying activities of the application of the ground water take and concrete batching and setback of 1,000m from mean high water springs in the coastal zone. Tainui contended that:

The water take from the Whitford spring is 100% of the flow; that is why the activity is non-complying. It is unreasonable, and in fact the spring stream and its biotic life-forms for 100mtrs will be sacrificed for potable water and for concrete batching. Puna are a taonga of Maori. Maori for centuries valued puna over and above the potentially polluting water from streams and rivers due their purity for spiritual and human use.

There is no way to remedy or mitigate the effects of 100% take or 100mtrs of loss of biodiversity. The only tool then is to avoid.

The operation of the concrete batching plants will all be next to waterways and while it could be argued by Mr Chrisp in para 40 of his evidence that they are temporary activities; it is the effects of the discharge as outlined above in the evidence in para 33 and 34 that has the potential to create adverse impacts on the water ways and aquatic life-forms.

Cement lime is alkaline, so as a result concrete slurry and any water that comes into contact with cement or concrete becomes strongly alkaline (pH11-13) which is deadly to aquatic life.

Moving the turbines as a setback in Zone A and B do not constitute adequate mitigation. The Coastal Zone in the Proposed Waikato District Council has been designed to afford protection from inappropriate development of the

coastal margins and the non-complying status means a higher test or threshold needs to be applied.

Three other matters were seen as important and discussed.

- 1) Tainui Awhiro opposes the land use designations and term of consents and state that it is unreasonable to expect approval in perpetuity. Furthermore, while there is condition on the removal of turbines; there is no bond been volunteered by Contact for decommissioning or the removal of broken or disused turbines.
- 2) In addition, the destruction of wahi tapu and wahi whakahirahira amounts to environmental racism and contributes and assists to obliterate and make invisible the historic heritage of tangata whenua from the landscape severing the whakapapa relationship of the peoples of the Tainui waka.
- 3) The word Maori has only appeared in the consent conditions six times and all six times it is to mention the Maori landowners. The words tangata whenua do not appear in any conditions at all despite the opportunity to recognise and provide for and to take into account provisions with the Act.<sup>298</sup>

The balance of the evidence was to summarise the main points along with a concluding statement. The recommendation was to decline the application in its entirety.

The third round of Evidence<sup>299</sup> submitted to BOI provided a set of headings that covered the topics as:

- 1) Is Wind power with its high environmental impact really necessary
- 2) Alternatives to Wind turbines and pylons
- 3) Effects of 600MW transmission line
- 4) Relative Carbon Emissions, last year March 2008-March 2009

The evidence stated that:

Wind power is a poor choice both for the West Waikato and for NZ in general. This was argued at the Te Uku turbine consent hearing and

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<sup>298</sup> Ibid pp 6 -11 -15--23

<sup>299</sup> S. Cox Evidence 2009

subsequently proved by operational experience in the last year with New Zealand's current industrial scale wind power generators.

One specific disadvantage of wind power that has great bearing on this application is its cyclic nature and dependence on weather patterns. Its placement in an area of relatively light wind means the actual average power output of the Te Ākau wind turbines will be below 120MW. Market effects that were proved over the last four months may even drop the long term average below 100MW.

All the four practical and superior alternative renewable power generation methods have high peak to mean ratios and can provide this level of average power down much smaller and less intrusive lines.

It is worth noting that one of the alternative reliable renewable generators in the Te Ākau-Huntly area would improve the reliability and quality of Auckland's supply, something that the proposed wind project does not do.

The evidence quoted the statutory obligation of RMA 1991 as being:

For this combined application 168A (3) b and c of the RMA 1991 imposes a duty on requiring authority to consider alternative sites, routes, or methods of undertaking the work. As well as whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the consent and designation is sought. The duty under 168A must be applied to the project as a whole.

It also went on to give a range of alternatives and including wood and solar. An example of a wood power project at the time of the Te Uku turbine was discussed as being:

A project to generate electricity from intensively grown wood actually reached detail design and land acquisition stage near Te Uku last year. This project was discontinued last August because of business reasons. (the impossibility of competing with a cartel that has access to hydro power generated at a cost of \$10/ MWH without government guarantees).

Data from this project shows that a combined Gasifier - internal combustion - ORC (Organic Rankine Cycle) power station with similar annual output to the TE Uku wind project can be built for less than 45 Million NZ\$. With running costs including fuel less than those of the Te Uku wind turbines. This station could supply its full output down simple concrete HT lines.

This project scaled well to 50MW per site output so two of these small and inconspicuous plants ( about the size of a large cowshed) would be a superior replacement for the massively intrusive and destructive wind power project.

At less than 200 million NZ\$ for capital 10 year cycle costs this option would generate a more useful type of power at a much lower cost than the wind project.

And

There are more than twenty ideal sites for this type of plant between the wind power site and SH1. To clarify there is potential to generate more than 1000 MW (continuous!) from this area with no impact on agriculture or tourism.

New technology solar generation is available for delivery about 2013 that prices a 20MW unit at around 50 million NZ\$ including control gear. This has a lower annual output than the Te Uku wind project but is much more reliable and is very much 'power for dummies'. This station could supply its full output down smaller lines.

That section concluded by stating that:

Contact's North West wind power and transmission line project is a pointless and unnecessary development. It has been overtaken by newer technologies and is as obsolete as the horse buggy.

The following section was about the effects of the transmission lines and how it would be blot on the landscape and the potential drop of value of houses within 750M of the line along with the health risks associated with high tension lines would make people

avoid living near them. Also the line will kill and maim a significant number of birds which would be an obstacle to recovering populations in the future but of course will be insignificant compared to the larger numbers killed by the turbines themselves.

The next section gave a technical breakdown of the carbon emissions based on his expertise of dealing with designing structural and aerodynamic elements of wind turbines for over 35 yrs and being involved with solving power transmission problems for wind turbines for over thirty years.

In concluding, it was stated:

- 1) There are two significant effects that none of the alternative generation methods will produce.
- 2) Large amplitude very low frequency air pressure variations. (including subsonics) An issue of which the only common source is large industrial scale wind turbines.
- 3) The destruction of the natural view of the coast north of Raglan and the subsequent removal of a valuable price support feature of the houses at the base of Karioi. This project taken together with the Te Uku wind power plant will remove much of Raglan's current natural views. This will certainly have a fundamental effect in detriment to Raglan's appeal as an international tourist destination.

The Cox expert opinion proved correct as the Te Uku wind farm did overestimate the wind source as stated above, and consequently built the project with smaller turbines.

#### **5.1.50 Hearing 2009**

The Hearing was held at the TuĀkau Town Hall during the weeks of 27 April, 4 May and 18 May, 8 June, 15 June and 22 June 2009. The planned hearing weeks of 8 June, 15 June and 22 June 2009 were cancelled due to several circumstances as below.

#### **5.1.51 Adjournment**

Contact had started the case with Legal Counsel opening the matter and several expert witnesses presented their evidence. All evidence was pre-read by the Board.

Contact had adopted an envelope approach based on adaptive management. Nearly all of the submitters were in opposition to the project and some had legal counsel represent their case. That resulted in the witnesses being cross examined along with the cross examination of the Board members.

By the second week, Contact decided to seek an adjournment of the proceedings to allow it to undertake more detailed design work. The Board sought submissions on the adjournment from all parties while the hearing continued until the end of the third week. By the 28 May 2009 the Decision for adjournment was finalised.<sup>300</sup>

The Board noted the applicant's reasons for adjournment as:

- 1) Contact said they are aware that there is current uncertainty as to their preliminary designs and criticism by the Board of the adaptive management approach adopted by them. Contact suggested that the Board has a view that this application is unsatisfactory and that it has insufficient confidence in the evidence.

The Board commented that it had reached no final view on the matters. Where these issues were raised with witnesses, it was through the questions of various submitters and questions from the Board. The Board also stated other reasons as:

- 1) The possibility of a consent being granted which is unable to be operated particularly where works would be confined to indicative layout that appears to not be able to achieved.
- 2) Alternatively consents could require approval by councils to a range of management plans, which may or may not be approved.
- 3) Contact abandoned their earthworks consent areas in light of significant criticism of the briefs of evidence and questions from the Board and prior to the hearing and in the evidence of a witness the turbine consent areas were reduced.
- 4) Contact had agreed that their expert witnesses have agreed to further bird monitoring of the migratory shorebirds.

The Board outlined issues to the adjournment and stated:

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<sup>300</sup> Board of Inquiry Decision on Adjournment 28.May 2009

- 1) We want to specifically note that all of the councils and the Board indicated a concern about the detail of the proposal prior to the hearing commencing, particularly relating to the generic nature of the application filed. This is also consistent theme of many of the submitters in opposition and has been pursued vigorously by various parties with witnesses who have been given evidence for Contact to date.

In dealing with internal roading and wind farm design, the Board levelled criticism on a advanced computer software program as being difficult for submitters and the Board to operate as well as being factually incorrect. In addition, as an example the Board noted in a helicopter site visit that landed at a turbine site that the fill site would cover an urupa despite being told it would not. Also there were numerous A. B archaeological sites (high ranking) where cuts, fills or other works are shown. Again despite being told otherwise.

The Board also commented that the level of error is so high that little credence can be given to the computer program as sites have been shown over archaeological features, eroding escarpments, geologically unstable formations, too close to boundaries, fill sites and over significant vegetation.

The Board criticised the Geotechnical engineer and Geologist with having contradicting each other's evidence along with finding a turbine site only 30 meters from an eroding coastal escarpment plus there was no civil engineer to give evidence on whether roads could be built in the places in the indicative plans.

In turning to the landscape matters, the Board noted that Lister was to undertake a cultural overlay but did not. It transpired later in the hearing that he along with other Contact witnesses relied on the well criticised Cultural report of R. Thompson. Lister failed to take into account the coastal setback or the Tasman Coast Management Plan along with failing to consider the ecological matters and placing turbines within special amenity zones in his maps.

In dealing with the Archaeology the Board made the following comments:

The question of avoidance of important archaeological sites was of some moment in questions of witnesses. Dr. McKenzie had earlier stated in answers to questions that *where possible* in terms of the conditions of consent meant *where most cost effective*. Given that almost all avoidance conditions were

*where practicable or where possible* the Board was immediately alerted to ascertain how such a condition was clear and/ or enforceable.

Also noted was:

Dr, Clough had not considered the impact of the earthworks consent area, which included many of the archaeological sites, or fact that the Historic Places Trust (HPT) consent permits the destruction or modification of most of the archaeological sites throughout the area. We note for example, that the HPT consent does not seem to prevent the destruction of the Whareana Pa which Dr. Clough himself recognised as having national significance. An error of that sort is of considerable concern to the Board.

The Board also rounded on the evidence of the transmission lines and ecology and stated that:

There are potentially significant strike rates for birds, including migratory birds, which concern the Board. The parties agree that further work is necessary.

The Board then went on to describe the general matters below:

From the evidence it has heard to date, including from Tainui Awhiro on the application for adjournment and from Mr. Flavel from Ngati Tahinga the Board considers that there are potential cultural impacts which have not been addressed fully.<sup>301</sup>

#### **5.1.52 Approval for adjournment**

The Board traversed the details of the submissions on the adjournment and in closing gave approval to the adjournment and to Contact to undertake further work on design elements and tighten up the evidence according to timetable of reporting and a schedule of task to complete. The Board also commissioned a Cultural Assessment Report(CAR) with a Terms reference appended to the decision.

In short, a full suite of refinements was sought on the whole project along with consultation with Tainui, Tahinga, Whaanga coast residents who submitted and various others who stated they would also participate. Several expert witnesses from Contact

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<sup>301</sup> Ibid pp 8 -14

had to provide their evidence to be peer reviewed along with Lister having to provide photomontages of the Whaanga Coast.<sup>302</sup>

Tainui had already appealed the Historic Places Trust consents to the Environment Court prior to the hearings taken place, stating that it gave a blanket approval to destroy the archaeological sites of Tūpuna. Further discussion will take place below on that point.

### **5.1.53 Contact Consultation**

During the adjournment the Board directed Contact to meet with submitters including Tainui. The first meeting took place on 23 April 2010 at the Novotel Hotel in Hamilton. Contact presented the draft changes to the refined areas using the Tatuk computer program. Contact also discussed their “avoid philosophy” around archaeological sites and significant environmental areas and that there were still 8 archaeological sites affected and another 9 to have works within the 10 m buffer.

A Kaitiakitanga Management plan was discussed for monitors to be present during earthworks and construction around identified archaeological and significant indigenous flora and fauna areas and streams along with accidental discovery protocols associated with koiwi.

Tainui expressed reservation around the Kaitiakitanga plan as it could be construed as supporting the proposal. In response, Contact put forward the view that Tainui could maintain their legal position in the RMA process through its submission as a back stop if their concerns were not met. That position of Contact was to be proved to be false later in the process below.

Tainui also raised the issue of a need for a protocol which triggered design and construction changes if koiwi was discovered.

The second meeting was held on 6 July 2010 at the Kokiri Centre. A member of Ngati Tahinga was also present for two reasons. One was to state that Tahinga had resurrected the organisation Nga Uri o Tahinga to represent the views of those who are opposed the project. The other was to demonstrate to Contact that both Tainui and Tahinga are closely linked in whakapapa.

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<sup>302</sup> Ibid pp 20 -21

Contact stated that they view a relationship as being a key ingredient to move forward and that they would like to advance the Kaitiakitanga plan. It was suggested that a combined plan could be advanced. Tainui stated that they wished to continue to progress their Hapu Environment plan for the Board and were to hold meetings to achieve that aim. Contact stated that they would like to participate.

That resulted in the meeting on the 24 and 25 July 2010 at the Sunset Motel Raglan. Contact did contribute to those meetings and also raised the kaitiakitanga plan again. Tainui raised the issue of the archaeological sites that would be destroyed or avoided and sought that Tainui and Tahinga members undertake a site visit to see for themselves which sites would be affected and the dates of 4 and 5 September were chosen.

Tainui were also informed that it was arranged for Nga Uri o Tahinga trustees to go to Wellington to view a wind farm operation on the 6 and 7 August 2010 with Contact. Tainui had no interest in attending and did not participate in that meeting.

#### **5.1.54 2010 Pre-hearing Conference**

A pre-hearing conference was held in Pukekohe on 7 May 2010 at the Franklin Centre. The intent of the pre-hearing conference was –

- 1) admission of any new evidence sought by any party;
- 2) if those applications are granted, timetables for the filing of evidence, consequent timetables for rebuttal, and a timetable to reconvene the hearing,
- 3) consider any other applications and/or procedural matters,
- 4) set Directions to hearing and establish dates for the reconvened hearing<sup>303</sup>

Tainui attended that pre-hearing and contributed to the discussion. The Board released the Pre- Hearing minute 11 June 2010. The matters covered were the introduction, cross examination of witnesses and scope of evidence for new hearing. In the scope of evidence section, the Board agreed to the application by Tainui to have an extra witness if needed to address the Cultural Assessment Report by Dr. Kahotea. Contact did not oppose that application as they also wanted to provide a witness Mr Love to make comment.

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<sup>303</sup> <http://www.mfe.govt.nz/rma/call-in-hmr/2010-hearing-info/index.html> Accessed 18 June 2012

Further matters in the pre-hearing minute by the Board were the undergrounding and the Reeves application to provide a witness plus Contacts additional witnesses. The Board agreed to the opposition by DoC to not allow one of Contacts witnesses to peer review but allowed all others. Discussion took place on the scope of the hearing, evidence timetabling, general procedures, migratory/ shoreline bird's evidence plus the mapping to be provided in hard copy due to the lack of confidence in the software program by Contact.

The Board made comment that Dr. Kahotea will be available at the hearing for questions on his report immediately after the Contact evidence and before submitters. Contact also declared a cost reimbursement District and Regional council for an expert witness and in conclusion was the setting of dates as:

- 1) Contact evidence to all parties 25 June 2010
- 2) Submitters evidence to all parties 13 August 2010
- 3) Contact rebuttal evidence 3 September 2010
- 4) All evidence to the Board 10 September 2010
- 5) Hearing to start 27 September 2010<sup>304</sup>

### **5.1.55 Amended Project Description**

The items below were posted on the Ministry of the Environments website to alert all parties to Contacts changed application.

Following the adjournment of the 2009 hearing and in accordance with the agreed Adjournment Actions, Contact Energy refined the Hauauru ma raki windfarm proposal as follows;

- 1) deletion of 12 turbines (A017-22, A031, C014, D019, E018, E035 and I011), leaving a total of 168 proposed turbines;
- 2) realignment of turbine access roads;
- 3) relocation of spoil disposal sites to the leeward side of ridges;
- 4) reduction in the size of turbine consent areas;
- 5) reduction of the carriageway width of access roads from 10 metres to 7.5 metres, which for the main access in Block C through Te Umukaraka Bush has been further reduced to 6 metres (on straight sections);

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<sup>304</sup> Board of Inquiry Pre Hearing minute 11 June 2010

- 6) introduction of buffer and cautionary zones around sensitive features;
- 7) introduction of maximum earthworks dimensions;
- 8) removal of planned trimming of native vegetation.

Contact has also reviewed and refined the proposed transmission line corridor in accordance with the Adjournment Actions.<sup>305</sup>

Tainui submitted evidence to the second hearing.<sup>306</sup> The Board had instructed that all evidence would be a clean sweep; therefore, Tainui read and prepared evidence based on the amended application of Contact, which covered all of the previous evidence, albeit in amended but more detailed form. Two briefs of evidence were prepared. The first one stated:

In order to seek further clarity and to progress issues Malibu Hamilton and I, on behalf of Tainui have met:

- 1) Representatives of Contact staff and some expert witnesses
- 2) Historic Places Trust
- 3) Dr Des Kahotea,
- 4) Nga Uri o Tahinga (NUOT) recently appointed Chairperson Mr Sam Karaka. I understand that Mr Karaka may seek to give evidence on behalf of NUOT and if the Board was so inclined to accede to such a request Tainui supports that request given the intermingling of whakapapa between the two.

Tainui supported the NUOT Chair to give evidence, mainly because at that time before the hearing that organisation was opposing. This action was regretted later as that organisation at the hearing supported Contacts project.

The scope of the evidence covered these topics below:

- 1) Ngati Tahinga, Tainui , Tainui Awhiro and Te Ākau
- 2) Application - Hauauru ma Raki Project
- 3) Effects on Tainui Tahinga
- 4) Cultural Values Assessment by Dr Des Kahotea

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<sup>305</sup> <http://www.mfe.govt.nz/rma/call-in-hmr/2010-hearing-info/index.html> Accessed 18 June 2012

<sup>306</sup> Greensill A.N. Evidence 2012

## 5) Tainui Environmental Management Plan and Protocols

### **5.1.56 Ngati Tahinga, Tainui, Tainui Awhiro and Te Ākau**

The section covered the whakapapa between Ngati Tainui and Tahinga including the relationships of the two tribes plus the various hapu that are connected to the whenua. Also put forward was an overview of the Crown alienation of Maori land through confiscation in 1863 and how despite the forced migration, the cultural landscape remains intact and is an historical repository of Tainui and Tahinga deeds and Tūpuna, linking the past with present and future generations. More detail was advanced on the 1863 boundary proclamation and the Native Land court in Raglan 1891 and how the Tahinga – Tainui boundary was imposed following the Royal Commission of 1904 and before the Privy Council decision was released in 1913 and went on to the 1970 period and the special place of Te Ākau.

### **5.1.57 What the case was not about**

Also included in the evidence was a discussion on what the case was not about, as a response to the evidence of Yates on consultation and states:

From paragraph 43 of his evidence, Mr Alistair Roland Yates discusses the process of consultation that was employed with Maori Landowners. He explains a number of hui that he attended and then seeks to justify an approach which has intentionally excluded key hapu who trace their lineage and prestige back to the Te Ākau lands.

This case is not about land ownership or its status as general or Maori title, and challenges to whakapapa and/or ancestral links to prior owners of the land in question in an effort to diminish the status of indefeasible ownership are entirely inappropriate and irrelevant in the current circumstances

It is important for Mr Yates to remember that this is not the Maori Land Court, where matters of ownership ought to be argued and there is no evidence before this Court regarding any application that might have been made to the Maori Land Court.

In addition, the Environment Court has long accepted that ownership of land is not determinative of ancestral connection.

With due respect to Mr Yates, he is neither equipped, nor is he capable to pass judgment on the status and priority of tangata whenua connection as he does in paragraph 47 and 48 of his evidence. It was never up to Mr Yates to act as a Judge and Jury on issues of mana-whenua.

Such comments are not only offensive and ignorant, they illustrate that the consultation processes are fundamentally flawed as they have been constructed in a way, which intentionally excluded significant groups, minimizing its holistic scope.

In these regards, the adequacy of consultation must be called into question. Rather than properly allowing for the inclusion of interested parties, a limited un-mandated body was initially constructed in an attempt to create an illusion of consultation so that actual consultation could be dispensed with and our interests ignored.

I know that some of our relations have tried to cut us off by drawing boundary lines on a map, but I don't want to divert this Boards attention from the key issues at hand. In those regards, I merely assert that our hapu had significant interests in the Te Ākau lands which were severed by Raupatu.

#### **5.1.58 Effects on Tainui Tahinga**

A list of effects was included, similar to the earlier evidence and the bullet points below are indicative only.

- 1) effects on tikanga, taonga, mauri and kaitiakitanga
- 2) effects on the relationships of Tainui people to their ancestral lands, waters and other taonga tuku iho no nga Tūpuna.
- 3) intrusion into archaeological sites and intrusions into buffer zones in Exhibit Daysh4 create a risk for damage or destruction of sites
- 4) formation of roads and turbine towers sites have far greater impact into archaeological sites than what is being stated including the specific design response.
- 5) permanent adverse effects of wind turbines on the spiritual and cultural landscape of Tahinga-Tainui through the planned destruction of heritage sites and irreversible changes to the environment storm water and sediment impacts on archaeological sites

#### **5.1.59 Consultation**

The background to the consultation was thoroughly explained in the chapter including the working party makeup and comment was made to Yates evidence.

Mr Yates ( at para 43) in his evidence states that iwi consultation started with Maori landowners in 2005, 2 years before approaches were made to Tainui. In reading further at para 52 he states that kaumatua in the working group made it clear that Tainui Awhiro should not be involved in any discussions in relation to those parts of the wind farm outside their rohe.

In para 57 Mr Yates states that the Working group recognized there was a lack of 'data' regarding the history of the area surrounding the project and so Contact committed to fund research and preparation of a history timeline for the area.

In response to that comment, Tainui stated that:

Te Ākau is one block that has ample information which is held by whanau members and until this project and the Waitangi Tribunal claims currently underway. The historical timelines exist as this is one of the few blocks in the area that ended up in the Privy Council and the subject of a royal commission in 1904.

In the Tainui evidence was the full explanation of the meetings dates and outcomes and the fact that Yates had given a draft that was far from complete and that information would have to be accessed from a website.

Tainui explained their process was all information is to be provided before meeting any applicant so it could be can read, absorbed, ask questions for clarity and then make informed comments which the applicant might find insightful enough to consider in designing and finalising a project.

Lastly; Tainui commented on the evidence of Daysh implying that that it was through hapu representatives that the draft “Kaitiakitanga Management Plan” concept for both Ngati Tahinga and Tainui Awhiro had been initiated as a starting point for further discussions. That was hotly denied by Tainui and email communication of the how it did happen was presented in the evidence.<sup>307</sup>

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<sup>307</sup> Ibid pp11 -16

### 5.1.60 Cultural Assessment

In dealing with the cultural assessment report; Tainui bulleted key statements for the Board to take into account as the report identified flaws in the Clough assessments, ranking system and the Historic Places Act 1993.

The points raised were:

- 1) No technical reports were commissioned early in the planning process for the wind farm to identify Tangata Whenua RMA issues
- 2) that it was a process to draw support for the wind tower cluster sites rather than a process which can inform Contact as to what is culturally not appropriate or acceptable in terms of wind tower site locations and effects
- 3) NZHPT is not driven nor directed by policy in the framework of the RMA for district plans. Its policy is driven by its statutory role with the HPA. It does not have any clear policy framework for the management of the archaeological heritage, especially where it is important to Maori. It is based on the interpretation of its role as the statutory body for the archaeological provisions of the HPA.
- 4) They are influenced more by their interpretation of the archaeological provisions of the HPA, which is about archaeological research and not assessing the effects against RMA Sections such as 6(e) and 6(f)
- 5) Clough does not examine the wider landscape and incorporate this within his assessment, although he suggests that this should be incorporated within the research aims for mitigation.
- 6) It is uncertain whether Contact will avoid the sites that have they authorities for, or whether the authorities will be withdrawn.
- 7) The mitigation that has been promoted, which is through the archaeological provisions of the HPA, serves only the interests of archaeological consultants
- 8) Bias in archaeological mitigation towards “their potential to provide information to the history of the region”.<sup>308</sup>

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<sup>308</sup> Ibid p17

### 5.1.61 Conclusion

Tainui continued opposition to the project and restated:

We are opposing the impending destruction of our ancestors' pa and associated cultural sites on the Te Ākau block north of Whāingaroa Moana

Tainui asks that the Board declines this application in its entirety. If the Board approves this consent in its current form it will have failed to recognise Māori relationships in a meaningful way, supported the destruction of an extremely important cultural Tahinga-Tainui ancestral landscape. It also undermines the efforts of nga tangata tiaki to care for our past and ignores rangatiratanga.

Tainui has consistently argued the effects of the HMR project, of the desecration and destruction of the archaeological sites along with effects on tikanga, taonga, mauri and kaitiakitanga and on the relationships of Tainui people to their ancestral lands, waters and other taonga tuku iho no nga Tūpuna. They have argued that the consultation was deliberate in divorcing Tainui from participating effectively throughout the project as well as having to demonstrate the links between Tahinga and Tainui plus be firm in stating the land interests in the blocks demonstrated that connection and ability to take a firm stand in opposition.

The Wind Farm group had got approval from the Maori land owners only and Tainui argue that the whole process was designed to demonstrate to the Board they had blanket approval from Maori which Tainui hotly debated. The report on the Cultural Assessment by Kahotea came to similar conclusions as Tainui that the process was unjust, flawed and lacked credibility.

The second evidence provided to Board covered a similar approach to the first part of the hearing.<sup>309</sup> The scope of evidence submitted was:

- 1) Water abstraction and water take
- 2) Landscape and visual amenity
- 3) Earthworks and sedimentation
- 4) Turbine Strike on Migratory and Resident Shorebirds
- 5) Mitigation

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<sup>309</sup> Hamilton M Further Evidence 2010

- 6) Tangata Whenua Matters
- 7) Coastal Zone & Escapement
- 8) Statutory Provisions
- 9) Other matters
- 10) Conclusion

### **5.1.62 Water abstraction and water take**

Then new round of evidence submitted by Mr. Millais was more focused than the first round as Contact had to clearly define all aspects of the wind farm in more certain terms. Millais submitted that the modelling indicates a maximum daily non-potable demand of 964 m<sup>3</sup>, and a maximum 30-day average non-potable demand of 630 m<sup>3</sup>/day and the viable sources of water for construction of the wind farm were from four awa namely the Waikawau, Kaawa, Waikaretu and Waikorea along with the use Whitford Quarry puna with on-site storage ponds.

The combined available flow from the four awa is only 373 m<sup>3</sup>/ day and Mr. Millais stated that water will be pumped continuously from each stream intake either to polyethylene tanks or to a water storage dam. There were 14 indicative storage ponds to be filled either by runoff from their catchments or by pumping from one or more of the nominated stream takes and the dams would have spillways located at existing water courses that just discharged to land plus a number of the storage dams will be constructed with intrusions into classified vegetation zones.

Again; Tainui challenged the use of the water and how it was to be managed with comments such as:

Equally disappointing is the use of Section 6 (c) Classified vegetation zone. While it is indicated that the infringement will only be about 35 square metres, those zones are crucial due to the limited number available as buffer zones. Of concern is that during construction that number of 35 square metres may be radically increased due to operational need and therefore will need careful management or monitoring.

Of importance also are the dam's spillways and the potential adverse effects of sediment pathways if not managed effectively. There does not appear to be any statement as to the actual discharge or amounts of flow onto the receiving environment. While EXHIBIT 7 does show the use of a dissipating device, it

also just shows a grassed receiving environment that could potentially lead to erosion in heavy rain or storm events.

And dealing with the use of the Whitford puna, Tainui stated:

The use of the Whitford puna is mainly for potable water for construction staff and is being recognised as having a higher water quality which is why it is to be used. The puna is now going to be “capped” and the spring cap shall be constructed so that it does not cause the water level at the spring head to vary by more than 100 millimetres.

Mr. Millais discounts the concerns by Dr Keesing, and Mr Dawson from Environment Waikato along with the concerns that was raised in my evidence in paragraph 19 that Tangata Whenua have traditionally utilised puna or springs for a variety of cultural purposes including spiritual cleansing and for general use and there is a potential for the Whitford Quarry spring to never recover.

While his comments in paragraph 112 and 113 may have validity; there is has been no consideration of the effects of how Maori and the disturbance of puna that produces water quality to the point that it is nearly suitable for drinking purposes. It is clear that regardless of the practices of the past and present farming activities, this puna produces a water quality that displays characteristics of being worthy to note and would have been a valued resource for Maori. Of concern is the consent seeks to take up to the full flow of the puna which is evident in the WRC117920 consent by Mr. Daysh which is a non complying activity.

Tainui again argued the water flow figures, particularly the potential to draw down the levels to a stage that taonga species such as tuna, piharau and koara along with the inanga are put at risk. To demonstrate the risks to those species, Tainui submitted a section of the ecological expert witness of Contact as stating:

Mr. Kessels in his evidence (paragraph 162) puts the key effects of water abstractions on the biological condition of the receiving waterways as:

- 1) reduced or irregular flows within the de-watered zone;
- 2) increased in-stream temperature in the de-watered zone;
- 3) reduced suspended sediment concentrations – increased sediment deposition;

- 4) reduced organic matter transport;
- 5) increased periphyton cover;
- 6) reduced diversity and habitat of macro invertebrate communities;
- 7) reduced available habitat for fish and macro invertebrates;
- 8) fish entrainments and possible impediments to upstream migration; and
- 9) increased stress and loss of habitat condition on in-stream biota due to a combination of the above factors.<sup>310</sup>

And

It is most disappointing that the approach undertaken by Wind Farm Group and Contact has not considered the environmental effects on Maori effectively. It appears that emphasis has been on gaining approval of Maori landowners and economic benefits at the expense of the environmental matters.

The ability to undertake a cultural health assessment of the waterways has been neglected and therefore the ability to put forward an assessment of the mauri and mahinga kai plus mahinga mataitai that is meaningful to the Board has been denied.

Tainui also comments further on the effects of concrete batching discharges and truck wash down procedures along with the chemical dosing of magna floc in the holding ponds elevating the PH levels which in turn is toxic to fish if not managed effectively or monitored. Also stated was the concern that Regional Council in the past did not monitor work sites consistently to give confidence to Tainui.

#### **5.1.63 Landscape and visual amenity**

A peer review of the evidence from Lister was undertaken by Ms. Buckland. Mr. Lister also provided photomontages of the Whaanga coast as a result of the adjournment directions and Tainui commented that:

The adjournment has produced photo montages from the Whaanga Coast and a peer review from Ms. Buckland. There has been a substantial change to the evidence of Mr. Lister that does now demonstrate the visual effects of the wind turbine group south of Otehe point are clearly visible and will have effects of a

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<sup>310</sup> Ibid pp2- 5

more than minor nature as seen from the Whaanga coast and is a noticeable effect. My previous evidence and those submitters from the Whaanga Coast have been validated.

Mr. Yates has outlined the meetings that took place with the Whaanga coast submitters. Mr. Yates stated that it was with the advice of Mr. Lister and the 5km zone that created a lack of physical consultation with Raglan and Whaanga coast residents. If affective consultation had taken place there was the potential for larger public opposition to the project because of the effects.

I agree with the evidence of Ms. Buckland (page 9) that Mr. Lister has not dealt with the Tangata Whenua issues adequately and appears to have brushed it aside. It has become accepted best practice to include a cultural aspect to landscape architecture and in fact the last two NZILA's conferences quest speakers put forward the cultural aspect of Tangata Whenua.

In commenting on the cultural aspect, Tainui stated:

It is clear that this development threatens a valued cultural landscape, a sacred place. It is not just the physical landscape that is being affected, but also the history, historic heritage, collective meanings, memories, and identities that the landscape holds for its cultural values to Tangata Whenua and the various hapu.

The wairuatanga and whakapapa are going to be impacted upon by having the area superimposed by a landscape of "energy" that pierces papatuanuku with giant manufactured industrial needles similar to a pin cushion. It moves substantially away from accepted and appropriate pastoral land use.

Tainui Awhiro will continue to argue that the HMR project is inappropriate because it is high effects based and these are more than minor effects. Landscape is subjective to those who are viewing it and changes when dealing with different lenses. Mr. Lister has not considered the cultural or holistic lenses. Certainly, it is acknowledged that the HMR project is going to impact on the whakapapa of Tangata Whenua. Unquestionably Tainui Awhiro and the Whaanga coast submitters maintain that their "sense of place" will be altered.

Also of concern is that Mr. Lister has appeared to ignore that natural character also includes water quality. In some areas he appears to be disconnected from the requirements to consider a holistic approach to landscape, planning, design and management of the eight catchments. From Kessels ecologic assessment it is clear that most of the streams are degraded and surely a response from Mr. Lister regarding landscape management was warranted. The measurement of sustainability for “landscape” is water quality and its life supporting capacities which underlines the natural character of the place.<sup>311</sup>

#### **5.1.64 Earthworks and sedimentation**

The Tainui evidence raised the issue of chemical dosing in sediment ponds and the lack of triggers for emptying and disposal of materials post or pre storm events by commenting that:

One of the concern is the flocculent is PAC (poly aluminium chloride). When used it can create overdosing which can lead to lowered pH, which can result in elevated aluminium levels which can be highly toxic to fish. If the pH in the discharge goes below 5.5 the discharge is stopped by either raising the decant or plugging the outlet. The measurement of pH is a one of the key tests in this respect.

If the ponds are high before the storm event it has the potential to cause issues. The potential to create adverse effects during storm events if bunds or ponds are not stable or maintained could result in poly aluminium chloride being discharged to the receiving environment and there is the potential for the decanting arm pivot to jam or come loose.

The winter months has saturated soil potentially leading to destabilisation. It appears that the use of compost filled filter socks and of vegetated retaining walls to reduce erosion of steep slopes has been ignored as possible measures or tools to avoid sediment movement and transportation. Tainui Awhiro remains concerned that adverse effects may still take place.

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<sup>311</sup> Ibid pp7, 9-10

### **5.1.65 Turbine Strike on Migratory and Resident Shorebirds**

Tainui raised similar concerns as in the previous evidence that Tainui Awhiro view the migratory and resident shorebirds as part of the underlying fabric of whakapapa. And argued that allowing mitigation packages to chip away the species until it is too late was not the way the notified threatened or nationally threatened species should be treated and:

The cumulative effects of Taharoa windfarm, Te Uku and the HMR, place undue pressure on those species. None of the experts made comment on the cumulative effects and those effects have been set aside. Taken singularly or as a whole, those effects are more than minor.

It is not just Maori that have the same relationship with the birds as many others value their presence, their place in the ecological matrix. There are centres like the Miranda area scattered throughout Aotearoa that honour and take pride in undertaking efforts to restore habitats just so those species can survive.<sup>312</sup>

### **5.1.66 Mitigation**

The mitigation package evidence for Contact was presented by. Mr. Tonks. Mr. Tonks in his evidence outlined the actual and potential residual effects on fauna and flora and stated that the proposed wind farm development would have the following potential residual effects:

- 1) Loss of native vegetation, and associated effects:
- 2) Loss of habitat for forest birds
- 3) Loss of habitat for invertebrates
- 4) Loss of habitat for native lizards
- 5) Loss of roosting sites for native bats
- 6) Risks of turbine strike associated with:
- 7) Internally migrant NZ shorebirds
- 8) International migrant shorebirds
- 9) Resident shorebirds
- 10) Native bush birds

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<sup>312</sup> Ibid pp13-14

- 11) Native bats
- 12) Risks of Transmission-line strike affecting Australasian bittern.
- 13) Increased stream water temperatures (due to water abstraction).
- 14) Reduction in flow from the Whitford spring (due to water abstraction).
- 15) Alteration of stream bed morphology in places where culverts are laid

Tainui argued that the mitigation package was not adequate in light of the known and potential effects and that the land set aside for the Bramwell Bush Restoration project will be undertaken on Contact owned land with only minimum seeding and replanting with reliance on natural regeneration. Plus:

- 1) Tainui Awhiro is aware that translocation methods for species such as this are not always successful. The moko skink in Whangamata and the South Island Giant snail had major issues. Of issue is the claim that bats will find more roosting sites.
- 2) It is acknowledged that bat carcasses will be found. The mitigation packages are in close proximity to the windfarm towers and lines; therefore it is not a long bow to draw that any mitigation of bats or birds will be dramatically lessened due to the ongoing death rates.
- 3) Tainui Awhiro remains unconvinced that the mitigation is like for like and certainly it is highly debateable that it enhances the area or that remediation will somehow leave the area in better condition than before.

#### **5.1.67 Coastal Zone & Escapement and Statutory Provisions**

Tainui commented on those provisions and the peer review on the District plan setback:

The Ms. Buckland's peer review deleted four inappropriate wind towers in the coastal escarpment and moved a few around with some extra setbacks. Mr. Chrisp states there are still 42 turbines that are located in the Coastal Zone 29 (of the 42) turbines in the Coastal Zone are non-complying activities due to being located within 1,000m of MHWS. The Coastal Zone in the Waikato District Council Proposed Plan has been inserted to protect the natural character, visual and rural coastal landscape for the benefits of Part 2 matters in the Act.

The WDC plan states it is non-complying, Dr. D. Kahotea states it should be set back to the same line to avoid the cultural landscape and Tainui Awhiro maintains that this kind of development with its wide ranging effects that are more than minor are inappropriate and should be refused. The NZCPS also has policies that the HRM project cannot comply with.

The HMR project has many non-complying activities within the Franklin, Waikato District and Environment Waikato Councils statutory plans provisions that need to pass the gateway hurdles of sec 104D and that taken overall cannot meet the minor limbs test and is contrary to many provisions within those plans including the provisions for Maori.

#### **5.1.68 Conclusion**

In concluding, Tainui sustained their opposition to the project and stated:

Contact has not engaged effectively with Tangata Whenua and has concentrated on economic values and ignored the environmental issues of Maori until being directed by the Board. The acknowledged destruction of the cultural landscape and archaeological sites are not supported.

Therefore, Tainui Awhiro seek that the Board consider the matters Maori to be given the full weighting when deliberating the statutory rights within the Act. Tainui Awhiro continues to seek that the application be declined in its entirety.

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#### **5.1.69 Hearing 27 September to Monday 15 November 2010**

The Hearing was held at the Tuākau Hall. As the hearing progressed the Board directed several experts to caucus on certain subject matters such as birds, ecology, planning and archaeology. Tainui was directed to caucus with Contact, Historic Places Trust and Tahinga in relation to ecological, cultural, and archaeology matters.

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<sup>313</sup> Ibid pp19-21

The Historic Places Trust played a dual role. One was the approval for the archaeological sites to be destroyed and the other to work towards a resolution of the Environmental Court case with Tainui. Both Contact and Tahinga had joined as 274 parties to protect their interests in establishing wind turbines on the land. Dr. Kahotea who undertook the Cultural Assessment report for the Board was also present at the caucus meetings.

Judge Smith was to preside on the environment court case and also to Chair the Board of Inquiry. The environment court case and the HMR wind farm project ran simultaneously although movement in the environment case did not take place until the latter stages of the of HMR project when mediation took place.

#### **5.1.70 Background to Caucus Direction**

Substantial activity had taken place prior to the caucus being set in place by the Board. Contact had made no effort to consult or engage with Tainui after the meetings on the 24-25 July at the Sunset Motel in Raglan except to submit a Chance Find Procedure on the 2.8.2010 as a draft that was co opted from Transit NZ as a discussion point for Tainui and Tahinga. Tainui considered it was not suitable as it was not chance find but deliberate find and destroy instead.

By then Contact and Nga Uri o Tahinga had arrived at an alliance and agreed to several mechanisms such as the Kaitiakitanga, Chance Find protocols and mitigation packages including a relationship agreement as memorandum of understanding as a side agreement.

By the caucusing stage, the Kaitiakitanga plan and Chance Find protocols had become fully blown documents in draft form.

#### **5.1.71 Caucus**

Facilitated meetings were conducted on Monday 4 October, Sunday 17 October and Monday 18 October 2010. The Board had developed a range of questions for the caucusing group to answer for clarification of the various positions from the parties.

The meeting on Monday 4 October consisted mainly on archaeological matters and in particular the blanket approvals given by Historic Places Trust. The approvals gave unfettered powers to archaeologist Clough to oversee all works and undertake further studies. That was hotly disputed by Tainui as Clough had underperformed with his

assessments during his earlier work for Contact as above. Also debated was the issue of changing the authorities in accordance with the new information of refinements and the directions set by the Kuia and Kaumatua that emanated from the site visits on the 4- 5 September 2010 to avoid all the remaining 9 archaeological sites.

The facilitated meetings of the 17 October and 18 October 2010 consisted of amendments to the Kaitiakitanga, Chance Find protocols and directions for the amendments for the approvals to be dealt with in the environment court case mediation. Tainui withdrew from the process on the morning of 18 October due to various reasons and retained the right to respond to the Board individually rather than the joint process.

One of the key reasons that Tainui withdrew from the proceedings was that Tahinga now had a process in the Chance Find protocols that was hotly contested by Tainui. The Chance Find now allowed for early reconnaissance pre construction that allowed for machinery to dig below the surface areas of roadways, turbine sites and cut and fill spaces. During the construction phases large shipping containers were to be used to store archaeological items including koiwi until a process of disposal could take place.

Furthermore the buffer zones that were set were considered far too close for actual avoidance of the archaeological sites. Tainui maintained that it was a breach of tikanga to store koiwi or items of historical significance in containers and that the procedures were for the benefit of Contact to speed up the project with minimal interruption rather for cultural consideration.

#### **5.1.72 Poihakena evidence**

The Board agreed to the Tainui request to hold the Hearing at Poihakena Marae at Whāingaroa as it was more appropriate to hear the matters in a Maori space and to allow for the many Whāingaroa residents that opposed the project to be heard in their area. The Hearing took place on 4 November 2010.

Tainui submitted a range of documents including several appendixes. The legal submission<sup>314</sup> traversed similar matters to the previously submitted evidences such as the connection to the cultural landscape, whakapapa and regulatory obligations. More importantly, Tainui continued to argue that granting consent to the application failed to

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<sup>314</sup> Greensill A. N Legal submission 2010

recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development as required under the RMA. The evidence also contained a quotation from the Historic Places Trust on the Heritage Management guidelines for Resource Management Practitioners that states:

Cultural heritage is irreplaceable. Once it is altered or lost it cannot be returned to its original state or be replaced. Heritage is reflected in the relationship of Maori and their cultural and traditions with ancestral lands, water, sites, wāhi tapu, and other taonga. The conservation of heritage places associated with our ancestors, cultures, or past allows people to experience in a small way a taste of how past generations lived and to develop a greater understanding of our history and identity<sup>315</sup>

Tainui also submitted the reply to the Board on the caucusing outcomes.<sup>316</sup> An explanation of why Tainui had withdrawn from the joint caucus was put forward as being the issue with two sets of minutes being distributed by two parties that were in conflict. One party was Tahinga and the other was the agreed independent facilitators.

Also on Oct 18, Contact was asked to comment on the Chance Find procedure which Tahinga and Tainui had spent the previous day discussing and amending. Contact's opening comments were that they and Ngati Tahinga had already agreed on the Chance Find Procedures and on those grounds Tainui removed any reference to them in that document and withdrew from the process.

Tainui also commented on the Contact Tahinga Chance Find process as being untenable as it sought the use of a containerised storage system for koiwi and taonga along with a process that allowed for 10 metre buffer zones that had high potential to impede into the archaeological sites. Furthermore the pre construction use of machinery to investigate if archaeological remains were present was not acceptable and the process of scraping off the surface of Papatuanuku to "check" to see if the taonga or koiwi are located is inconsistent with the relationship that whakapapa has to the land and the process should be left to the main construction period.<sup>317</sup>

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<sup>315</sup> Ibid p4

<sup>316</sup> Hamilton M Response to Cultural Caucus 2010

<sup>317</sup> Ibid pp1-2

Tainui also made comment on the Kaitiakitanga plans advanced by Contact and why they opposed it. It was made clear that Tainui would have to forego any opposition to the project to be involved in the offset mechanism that was proposed and therefore it was unacceptable and stated:

Tainui in all the 20 years of operating a RMA unit has never signed a MOU as a side agreement without a consent condition that reflects the amount of money that would be assigned to the offset. More importantly is that the process remains transparent and to open public scrutiny.

Contact also had entered into a Relationship Agreement with Tahinga that sits outside of the Resource Management Act. Tainui made comment on a section in the Agreement that sought veto rights over other Iwi or Hapu in preference to Nga Uri o Tahinga Trust and stated that it would annex the rights of others for up to approximately 40 years and opposed that section.

Again Tainui argued that the mitigation packages were inadequate with minimal provision for Tainui participation except being on a large community liaison group in the updated conditions.

Lastly Tainui gave the Board more insight on the non complying 1000m setback requirement in the Coastal Zone Rule 26.10. 2 of the Waikato District plan stating that it was a consequence of a series of meetings that took place in 2001 that produced the Raglan Naturally document and again in 2003 at the Kokiri Centre that was organised by Tainui with WDC chief planner Fraser McCrae, the late District Councillor Michael Hope and the Whaanga Coast Ratepayers. The 1000-metre setback was to recognise the cultural significance of that part of the Te Ākau coast and to avoid “inappropriate activities” in the sensitive landscape. More importantly the chief planner Fraser McCrae left WDC before the draft plan was notified and the cultural context was not carried into the plan and nor was there any link to other objectives in the plan. Tainui provided the original submission to the Proposed District Plan as an appendix to the evidence above to the Board for consideration.<sup>318</sup>

As the hearing progressed, Contact submitted a list of issues 8 November 2010 to the Board for consideration including a whole new suite of conditions. The Board sought comment from all the parties on those issues.

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<sup>318</sup> Ibid pp4- 7

In response, Tainui again raised the issue of the Contact Tahinga Chance Find process as being unacceptable and questioned why the Tainui name was still on the document. Tainui also restated the rationale of the coastal cultural setback and sought that it be given effect to.

Comment was also made on the Contact revised conditions that now included Tainui in a Kaitiaki Liaison group and a recipient of a scholarship grant despite never raising that issue and stated:

Contact has made no provision for Tainui in the monitoring of the awa, earthworks, seep areas or wetland areas that has been raised in all the evidence. And yet; Contact has made provision for and agreements with Nga Uri o Tahinga who has no standing as above.<sup>319</sup>

In closing Tainui again requested that the Board of Inquiry decline the application in its entirety.

The Hearing closed on the 15 November 2010 with the draft decision on the February 2011. The Board sought comment from all submitters.

### **5.1.73 Draft Decision**

The Board gave a round discussion on both Tahinga and Tainui perspectives and made specific mention on the manner that Contact had dealt with Tainui including in their closing submissions where Contact explicitly acknowledged the Tahinga relationship, but remained silent on the Tainui relationship. The Board considered that Contact had failed to adequately consult and would have been on safer ground if it had and not continued to appear to favour Tahinga. The Board also noted the differences in the Contact Tahinga Chance Find protocols and the Tainui Whenua Tapu policy as:

- 1) the method and extent of pre-works investigation;
- 2) observers during construction; and,
- 3) whether any discoveries should be reinterred as soon as possible, or
- 4) whether any discovery may be temporarily stored in a climate-controlled box.

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<sup>319</sup> Ibid p12

The Board agreed with Tainui ,and set in place the method for pre-works investigation to be undertaken without machinery and agreed to both having observers during construction.

The Board agreed that kaumatua would make the decision to reinter if possible and allowed for any discovery to be temporally held in a climate controlled container despite Tainui opposition.

Also discussed was the Tahinga protocol which allowed for 50 metre protection zone for taonga and 100 metres for koiwi and Tainui 100 meters for both. The Board decided that either would apply subject to the area for Tahinga being from the northern sector to just north of Tauterei stream and Tainui from there south.

The Board also decided to not apply the non complying activity in the WDC plan for the cultural setback as it would have removed a large numbers of turbines on the coast including several on the Maori blocks.

The Board made specific comment on the Relationship side agreement that Contact had enacted with Tahinga as being able to provide input into:

- 1) design protocols to manage sedimentation and erosion;
- 2) design refinement of the earthworks layout;
- 3) Chance Find and Significant Find protocols;
- 4) a training package intended to support kaitiakitanga;
- 5) advance reconnaissance and monitoring of earthworks;
- 6) BRES mitigation regarding flora and fauna;
- 7) a Streams Accord that provides for stream fencing and monitoring of streams, vegetation and archaeology;
- 8) ongoing access to lands, sea and streams;
- 9) covenanting of four pa sites; and
- 10) Partnership Approach.

The Board noted that no relationship agreement has been entered into with Tainui and would have preferred that such an agreement could have been reached.

### **5.1.74 Tainui response**

Tainui made comment<sup>320</sup> on a couple of conditions particularly the one that sets up a Kaitiaki Trust for Tahinga and sought that the Board include Tainui as part of the trustees along with making comment on the process to elect those trustees being weighted in Contacts favour. Tainui stated:

While it is accepted that a hui of both Hapu will take place to elect members onto the Kaitiaki Trust, it does not alleviate the Hapu concerns primarily because it appears that Contact still has to move on from its stance throughout the Hearings as set out in the Memorandum in para 31 and during the discussions at the recent meeting in Hamilton.<sup>321</sup>

Tainui also sought a position on the ecology peer review panel and stated that the Contact conditions still appear to include the use of machinery for pre construction in the Contact Tahinga Chance find procedures.

### **5.1.75 Final Decision Tuesday 31 May 2011**

The Board approved the HMR wind farm project for 168 turbines subject to a raft of conditions. The final decision traversed the whole gambit of the application over a three volume set and in dealing with Maori issues came to similar conclusions as the draft but maintained that pre construction procedures will exclude the use of machinery. The Board agreed that Tainui would have trustees on the Kaitiaki trust as a condition and also set conditions in place that allowed for the monitoring of the awa, earthworks, seep areas and wetland areas from Tauterei stream and the southern areas of the turbine sites only.

Through Tainui involvement and consistent submission, substantial changes were made to the project. In summary that included avoidance of all archaeological sites except eight which supposedly were called lower ranking. Contact removed the Whitford puna from the water take by the second hearing due to pressure and tighter conditions were placed on the balance of the water takes along with changes to chemical dosing procedures in sediment ponds and concrete discharges to ponds and

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<sup>320</sup> Tainui Response to Contact List Of Issues 11 November 2010

<sup>321</sup> Ibid p12

awa. The construction earthworks ponds also had tighter conditions to avoid sedimentation into the awa. Additional mitigation to fenced areas of the stream margins was also included in the decision.

Approximate Timeline of the Contact Windfarm process.

Windfarm/ Contact group investigation period	2003 to 2007
Wind measuring mast erected	2004.
Investigation landowners agreements	2005
Landowners+ Maori agreements	2007
Tangata whenua working group/ report	2005- 2008
Baseline environmental reports were commissioned	2004 and 2006, produced 2007
Peer reviewed due to BOI adjournment actions	2010
Public notification closed	3 November 2008
Per- Hearing	March 2009
1st Hearing	28 April to 18 May 2009
Adjournment	28 May 2009
Pre Hearing	7 May 2010
2nd Hearing/ closed	27 September 2010/ 15 November 2010
Caucus	4 October- 17- 18
Poihakena evidence	4 October
Contact list of issues	8 November 2010
Draft Decision	February 2011
Final Decision	31 May 2011

### 5.1.76 Summary

The processes of this application for Tainui were fraught with challenges. Not only was the amount of information of a large and technical nature, but also one where the information from the start was not forthcoming due to the Wind Farm Group/ Contact ignoring the fact that Tainui did have legislative rights to participate in the process for the application.

Contact maintained that stance all the way through the process to the point that the Board noted that it was a flawed strategy to have continued for so long. The comments by the Board over the latter stages of the hearings and in the final decision demonstrated that it was behaviour that was not supported and not tolerated. The Board set conditions in place to ensure some of the concerns by Tainui were catered for.

The Wind Farm Group and Contact thought they had the Maori cultural, archaeological issues covered as they had Maori landowner approval. They failed to understand that the environmental impacts were even a consideration for Maori or the depth of opposition, even from Tahinga members who were not part of the landowner's agreements. Worst still, even the Contact expert witnesses were deliberately targeted for maintaining the same kind of thinking in the final decision by the Board. The Board rounded that out by stating that those witnesses failed in their duty as experts to consider the Maori cultural and social implications.

The Board also found that if it was not for the evidence of Tainui in the first instance that highlighted the failings of the Thompson report, a lack of cultural information would have transpired and the application would have been devoid of Maori examination. Because of that evidence, the Board engaged Dr. Kahotea to undertake the CAR report and as a further consequence saw the involvement of others within Tahinga.

Tainui did support the re-establishment of Nga Uri o Tahinga as a vehicle to cater for Tahinga members and the various Marae, but was disappointed that the sweeteners and side agreements that Contact had placed in front of those members to ensure that no opposition was forthcoming was accepted. None the less; Tainui continued to assist Tahinga when needed to move through the various arrangements to ensure that the environment, cultural and archaeological matters were being addressed.

Right through the process Tainui would not sign away their opposition to the project. Tainui opposed the chequebook diplomacy that was adopted by Contact. Tainui raised several larger issues that Contact sought to address by assigning those to side agreements with Nga Uri o Tahinga as above. Certainly it created a rift with those members of Tahinga who accepted the side agreements but as the process continued, any rift with Tahinga was set aside as the environment, cultural and social issues were being dealt with to a degree.

It was clear that the adaptive management approach by Contact was flawed, but despite early warnings, they continued until Contact could see the weight of evidence moving against their proposals. While the adjournment did work in their favour as they tightened the application it also created many more obstacles to Tainui and submitters through having to produce more evidence over a longer time period.

Four key issues arose because of the stance that Contact had adopted. The first was the arrogance that the application on a broad sense and adaptive management techniques were acceptable. Second, that Tainui could be and would be ignored despite the Resource Management Act. Thirdly, that environmental offsetting was used in the manner of chequebook diplomacy to buy off any opposition; and the pitting of one hapu against the other.

The fourth issue was based around the destruction of the archaeological sites. Early in the first hearing, the Board raised the issue of the impending desecration of one of the largest pa sites Whareana that it had seen on a site visit. The Contact archaeologist Clough, highlighted that pa site was hugely significant and to be avoided but did not even know that the roading would be destroying the site. Worse still was that the 11 authorities approved by the Historic Places allowed for it to take place.

Right through the process Tainui remained opposed to the process and impending loss of wahi tapu and nga taonga tuku iho nga Tūpuna. Additionally, Tainui objected to the A, B, C and D ranking by the archaeologist as they related to a set of archaeological and heritage values that ignored Tainui cultural values who do not assign rankings of that nature.

#### **5.1.77 Environment court**

##### **Tainui Awhiro v Historic Places Trust**

The New Zealand Historic Places Trust ( NZHPT) had granted to Contact 11 general authorities under Section 14 of the Historic Places Act to destroy or modify archaeological sites, a decision that was under appeal by Tainui during the course of the hearing.<sup>322</sup>

The reason for the appeal were that NZHPT breached Section 4 of the Historic Places Act 1993 by according a higher weighting to Section 14 of the Act than the purposes and principles and failed to meet the tests of Section 11(2)(b) to provide a description of each archaeological site within each cluster. In addition, NZHPT breached all the articles of Te Tiriti of Waitangi and failed to provide Tainui an assessment of any archaeological site, Maori or other relevant values and the effect of the proposal on those values.

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<sup>322</sup> Tainui Awhiro v Historic Places Trust ENV-2009- 00183

The relief sought from the Court was decline all separate authorities granted to modify, damage or destroy archaeological sites within Cluster A, Cluster B, Cluster C; Cluster D; Cluster E; Cluster F; Cluster G, Cluster H, Cluster J.

Contact Energy, Contact Wind and Ngati Tahinga become 274 parties to the appeal.

Judge Smith chaired the Board of Inquiry and was also the Judge in the Environment case. As the BOI hearing progressed, it was pertinent for the Board to have an understanding of all the archaeological issues. The Board had sought caucusing of the all the affected parties and teased out the issues of contention to the point that advances were made. The balance was the subject of the mediation after the hearing closed.

Matters that were of contention were the amendments needed to all the 11 authorities, the appointment of the Section 17 archaeologist to oversee the site works to ensure that the authorities from NZHPT and the consent conditions were adhered to. Also the research strategy that would be enacted once earthworks takes place.

Tainui objected to the research strategy and R. Clough being that archaeologist along with members of Tahinga. Contact and HPT agreed that the Section 17 would now be chosen from a list that would be approved by Tainui, Tahinga and Contact. The research strategy would be amended along with the 11 new authorities from HPT which contained more detail of the exceptions and buffer zones. All parties settled in mediation and sought a consent order from the Court.

The court made its decision on the 10 May 2012. The Court also decided to cement in place the conditions of the Resource Consent that relates to the preliminary investigation to be undertaken by hand tools only. Also the Court accepted that the Section 17 archaeologist would now be chosen from a list that would be approved by Tainui, Tahinga and Contact along with the research strategy to be amended and the removal of R. Clough and Associates from that strategy.

## **Resource Management Act 1991**

The Resource Management Amendment Act 2005 introduced new requirements for the accreditation of panel members at local hearings. It directed that all chairs of hearing panels and a majority of the members of any hearings panel must be accredited.<sup>323</sup> The Ministry for the Environment set out training programmes to comply with the Act in conjunction with Local Government, Planning Institute and Professionals Bodies.

An independent survey was commissioned to examine the impact of participation in the Making Good Decisions Programme one year after the training programme release. Approximately forty resource management practitioners were surveyed.<sup>324</sup>

The Executive Summary outlines the key findings of the training as positive for procedural matters and questioning techniques as well as key competency areas for individual hearings committee members and hearings committees as a whole. The training has assisted a number of councillors; particularly the inexperienced councillors and overall has allowed Chairpersons more confidence in management of the hearings with the improved knowledge of the hearings procedure.

The areas that have had least impact are matters relating to impartiality and the writing of the decision making process with reliance on reporting officers to undertake the task. The survey found that there was confusion on the roles and responsibilities of the reporting officers and officers exert too much influence over the process as well, a number of councillors rely to a great extent on planning staff including junior planners for guidance.

It is intended that future training programs will endeavour to include reporting officers, senior Council staff and focus on the differences found in the less experienced councillors.

The early training modules were devoid of Maori provisions. It was not until 2010 that Maori provisions were inserted to assist councillors and Independent Commissioners to understand their responsibilities more clearly to the provisions set out in Part 11 matters of the Resource Management Act 1991.

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<sup>323</sup> <http://www.mfe.govt.nz/rma/practitioners/good-decisions/more-about-making-good-decisions.html>  
Accessed 15 June 2012

<sup>324</sup> <http://www.mfe.govt.nz/publications/rma/making-good-decisions-survey-aug06/html/page6.html>  
Accessed 15 June 2012

The survey could be read as damning for council and hearing committees, particularly the lack of impartiality, writing of decisions and reliance on council staff including juniors or inexperienced planners.

Certainly, Tainui are not surprised by the findings of the survey. For many decades the decision making by Councillors have been woefully inadequate and lacked meaningful or robust decision making for Maori and Tainui. Without doubt, that was the main reason for having to take those decisions above to the Planning Tribunals and Environment Court. Tainui has had to accept the decisions from Court that were not satisfactory such as the last Environment court case on wastewater discharge to the harbour mouth. The cost to take those decisions to the High Court is prohibitive.

### **Political**

The average Waikato District councillor is 62 years old shown as an approximation of age on the electoral role. The makeup of the Waikato District Councillors is 93.3% pakeha and 73.3% male and was elected with the support of only 10.7% of the electorate.

#### **5.1.78 Māori Wards**

The Waikato District Council (WDC) had decided by May 2012 to undertake a poll district wide for Maori Wards as part of their representation arrangements every six years. The Maori ward poll consultation opened Thursday 31 May and closed Monday 2 July 2012. It was clear decision by WDC to hold the poll.

Results of the 2012 poll on Maori representation were that the council would not introduce Maori wards. The final results of the Maori representation poll were 2,520 **for** the establishment of Maori wards and 10,113 against Maori wards. The outcome of the poll is binding on the council for the next two triennial elections (2013 and 2016). The council has determined that the electoral system will remain First Past the Post (FPP)<sup>325</sup>

That is in stark contrast to the Waikato Regional Council who decided to introduce Maori representation and wards 27 October 2011. The voters were given the

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<sup>325</sup> <http://www.waikatodc.govt.nz/Your-Council/Elections.aspx> Accessed 2 July 2012

opportunity to provide 5% of the eligible population to vote against the decision but that did not happen.

WDC is required to consider the purposes and principles of local government as set out in sections 3, 10 and 14 of the Local Government Act 2002 (LGA). The LGA places significant prominence for local authorities to reflect community diversity in their decision making.

The Local Electoral Act 2001 Part 1A sets out the processes for local authorities to follow when undertaking representation arrangement reviews. There are three key principles that councils must consider when undertaking a review. They are:

- 1) communities of interest
- 2) effective representation
- 3) fair representation (+/- 10%)

Huntly and Ngaruawahia are the largest towns in the Waikato District. Both townships are predominately Maori and yet due to the decision to hold a poll for Maori wards they will be denied fair representation. It was clear that Maori do not represent a “community of interest” and nor does it seem to make any difference to WDC that 1 in 4 of Waikato's population should be represented by a sole councillor among 15 as it was a Council decision to hold the poll instead of introducing the Maori wards like Waikato Regional Council did.

Tainui consider that WDC reflect a bygone era from its Councillors that is predominately 93.3% pakeha and 73.3% male. In cases of hearings, elections or the decision for Maori wards for fair and effective representation, Tainui suffer at the hands of the tyranny of the majority continuously.

Tainui cannot be flagged for not trying to rectify that position as Tainui members have stood for the District Council position previously including the last two elections and have had members on the local community for a large number of years. Tainui has had a member try to be elected for several years to Parliament to assist to the turn tide of events in local and central government but to no avail.

## 6 CHAPTER SIX: HE WHAKAKAPINGA 2012

The report encompassed themes from the Project brief, and extended the information identified in the Mana Whenua and Mana Moana Scoping Report.

Whakapapa and the relationships to people and place were identified above as paramount to the Tainui world view. However that view was compromised by the establishment of the Native Land Court whose adversarial and divisive processes helped sever rather than connect whanau to their responsibilities to their lands.

The report discussed taonga inherited from tūpuna, and considered traditional Tainui cultural practices used in an attempt to maintain the mauri of remaining taonga.

Also identified was the influence of missionaries, judeo-Christian ideas, settlers, and imposed Crown legislation on Tainui. These elements created a changed demographic profile in the Tainui rohe which led to a hierarchy of government structures including local government being imposed on hapu and iwi in breach of te Tiriti o Waitangi.

Since te Tiriti o Waitangi was signed, Tainui rangatiratanga within the rohe of Te Akau and Whāingaroa, rather than being recognised has been undermined, and ignored as a result of Crown actions and omissions.

Tainui has a history of engaging with and resisting Crown actions since the mid-1850's to the current period. Policies and practices imposed at all levels of government have threatened Tainui hapu and their environment, resulting in responses such as supporting the kingitanga, participating in land wars, taking legal cases, and protesting against injustice caused by breaches of te tiriti o Waitangi, by the Crown and its delegated authorities such as Local Government.

This report has introduced the Tainui hapu of Whāingaroa and provided a brief overview of some of the issues that have impacted upon them. Further evidence will be provided at the Waitangi Tribunal hearing.

While Te Tiriti o Waitangi, signed in 1840 by some Tainui Tūpuna affirmed “te tino rangatiratanga o nga taonga katoa to nga rangatira o nga hapu, the Tainui experience clearly shows that the guarantees made were never honoured.

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