

IN THE WAITANGI TRIBUNAL

WAI 1040

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of Te Paparahi o Te Raki Inquiry (WAI 1040)

AND

IN THE MATTER

Te Taiwhenua o Mangakahia

Opening Statement for the Mangakahia Taiwhenua

Dated this 11th day of March 2013

RECEIVED Waitangi Tribunal
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Ministry of Justice WELLINGTON

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1.0 INTRODUCTION

1.1 The Claimants within the Mangakahia Valley have joined together to form the Mangakahia Taiwhenua to lay bare the ways in which the Crown actions and policies have undermined and eroded the way of life of the peoples of Mangakahia.

1.2 Over a long period of time, numerous hapu and iwi have entered the Mangakahia lands, some staying permanently, and others moving on, some fading away, while others have maintained their identity. The Mangakahia River has been essential to these hapu and iwi, not only as the core essence of their identity, but also as a means of connecting and strengthening their relationships. They are firmly grounded within their various rohe, which are outlined below.

1.3 The claimants whose interests converge within the Mangakahia Taiwhenua seek findings specific to the hapu that have suffered loss. In particular, they seek findings for each of their hapu that the breaches of the principles of the Treaty suffered are sufficiently grievous that immediate and substantial reparations are warranted to restore their mana and economic base:

- a return of Crown lands;
- b return of State Enterprise lands;
- c return of Crown State Forest Assets;
- d recognition that the hapu of Mangakahia have traditional rights to their tikanga and intellectual and cultural property rights, and that the Crown prohibit the exploitation of these rights;
- e recognition of the spiritual inheritances of the hapu of Mangakahia and actively insure that, where damage has occurred within the spiritual realms, the Crown will work with the hapu of Mangakahia to rebalance their cosmos.

2.0 HAPU AND ROHE OF MANGAKAHIA

- 2.1 The hapu of the Mangakahia Taiwhenua are as diverse and numerous as the waterways and maunga that define the region. Its geographical location has resulted in a complicated inter-relationship with bordering hapu and iwi; with Ngapuhi to the north and east of the region, and Ngati Whatua to the west and south.
- 2.2 Due to the whakapapa connections to both Ngapuhi and in some instances Ngati Whatua, the hapu of Mangakahia acted as both an ally to Ngapuhi whilst at the same time offering protection to their Ngati Whatua kin.
- 2.3 The rohe of Mangakahia, has been described by its relationship to the awa by Wi Pou:

Our rohe of Mangakahia is truly unique and steeped in Māori lore. The name 'Mangakahia' comes from its awa which has its beginnings in a well of sparkling waters, bubbling up from the ground on the Tutamoe Ranges.

Embracing the well was a beautiful tree of gigantic proportions, its great branches (manga) reaching into the beyond. This tree, the only one of its kind was the 'Kahia' and so from the well was formed the headwaters of our great river 'Mangakahia', which flows through the centre of our rohe. On its way it is joined by other streams.

The areas through which it flows are Waimatenui, Te Awamutu, Parahaki, Mimitu-Ruarei, Pakotai, Te Kiore, Parakao, Hapi-Rua, Titoki and on to Korokota. The river then joins the Wairua River. From here it flows to Tangiteoria to join the river Te Wairoa which in turn flows to the mouth of the Kaipara. From here our rivers then flow into the mighty ocean, Te Moana nui a Kiwa. This is one of the stories about the Mangakahia River.

The Mangakahia River flows through a valley that is embraced by a number of significant maunga, including Te Tarai o Rāhiri, Maunga Kohatu Whatitiri; Hiko o te Rangi, Houtu, Maunga Tipa and Tutamoe. As Wi Pou wrote of these maunga: "These are the ranges of Mangakahia under the hallowed roof of the Whare Tapu o Ngapuhi".

- 2.4 The Mangakahia River is sourced from the Mataraua Forest, located in the Tutamoe Ranges that begins in Kaihu and extends to the mouth of the Hokianga. Flowing down the eastern side of the ranges, the awa descends to Nga Toru Whakatapuranga – named for Kupe, Nukutawhiti and Rāhiri.
- 2.5 Over a long period of time, numerous hapu and iwi have entered the Mangakahia lands, some staying permanently, and others moving on, some fading away,

while others have maintained their identity. The Mangakahia River has been essential to these hapu and iwi, not only as the core essence of their identity, but also as a means of connecting and strengthening their relationships.

- 2.6 The origins of Mangakahia hapu can be traced back to the arrival of many of the founding waka for Te Taitokerau and incorporates the emergence of Ngāi Tāhūhū, Ngāi Tū, Ngāti Pongia and Ngapuhi through Rāhiri.
- 2.7 The journey of Torongare and Hauhaua and all of their progeny within the Mangakahia rohe has resulted in connections with Ngāti Hine, Ngāti Whatua, Ngāti Rehia and the many other neighbouring hapu. Mangakahia has managed to incorporate these associations seamlessly into the fabric of their whakapapa and who they are today, whilst maintaining their distinct identity and local authority.¹
- 2.8 It has been agreed by the claimants within the Mangakahia Taiwhenua that their claims will be presented in accordance with the marae that provide foundation to the numerous hapu within the valley.
- 2.9 Within the Mangakahia opening statement, a Pou Korero from each rohe will present to the Tribunal an overview of:
- (a) the hapu that exist or co-exist within their rohe;
 - (b) geographical location of their rohe;
 - (c) overview of key political relationships; and
 - (d) traditional korero.
- 2.10 The Pou Korero are as follows:
- (a) Parahaki Marae: Perene Taimoana_Wihongi
 - (b) Te Tarai o Rāhiri Marae: Gail Rika
 - (c) Te Aroha Marae: To be confirmed

¹ Tai Tokerau D

- (d) Korokota Marae: Finnisha Tuhiwai-Birchall
- (e) Maungarongo Marae: Taipari Munroe and Lorraine Norris

Parahaki Marae

Ko Parahaki te Marae

Ko Mangakahia te Awa

Ko Patiki te Maunga

*Ko Te Kumutu ratou ko Ngati Toki, Ngati Horahia, Ngati Moe me Ngati
Whakahotu nga Hapu*

Ko Ngapuhi te Iwi

Ko Nukutawhiti te Kainga

- 2.11 Parahaki Marae is situated at Nukutawhiti towards the northern end of the Mangakahia valley. The hapu associated with this marae are Te Kumutu; Ngati Toki; Ngati Moe; Ngati Whakahotu and Ngati Horahia.
- 2.12 Nukutawhiti is the rohe of the tupuna, whanau, hapu. This rohe is named after rangatira Nukutawhiti, who stopped in the area and rested on one of his many journeys through the valley. Our rohe o Nukutawhiti is situated 60 kilometres up the Mangakahia road, north east of Whangarei CBD, 30 kilometres south of Kaikohe and 20 kilometres east of Dargaville.
- 2.13 Toki is the founding tupuna of Ngati Toki, and he lived in Mangakahia until his death. Mate was a key tupuna of Mangakahia with connections to both Ngāti Ruangaio and Ngāti Hine, however he is identified as being of Ngāti Moe. Mate was regarded for his prowess in battle and his role in protecting Ngāti Whatua from Hongi Hika. While Mate had connections to Ngati Whatua, it is likely that his whakapapa connections to Hongi Hika is what saved the refugees.
- 2.14 The major lands blocks that are located within our rohe include Awarua, Nukutawhiti, and Parahaki. The way in which these lands were removed from hapu rangatiratanga will be further explored in evidence.

- 2.15 Significant sites for our Hapu include Te Atiutiu, Te Awamutu, and Omahu Falls where our tupapaku were washed.
- 2.16 Our whanau, Hapu seek recognition, acknowledgement and acceptance that we are kaitiaki, tangata wnenua, o te rohe o Nukutawhiti. We want restoration of Mana O Nga Hapu o Nukutawhiti through our ability to control our own resources.

Te Tarai o Rāhiri Marae

Ko Te Tarai o Rāhiri te marae

Ko Mangakahia te awa

Te Tarai o Rāhiri te maunga

Ko Ngati Toki ratou ko Ngati Horahia me Ngati Te Rino nga hapu,

Ko Ngapuhi te iwi

Ko Pakotai te kainga

- 2.17 Following the Mangakahia awa south is Pakotai, and the marae is Te Tarai o Rāhiri named after the maunga, an essential element to the identity of not only those who are nestled within its reach, but also those within Ngapuhi who descend the revered ancestor Rāhiri. The associated hapu are Ngati Toki; Ngati Horahia and Ngati Te Rino.
- 2.18 Ngāti Horahia is based at Te Oruru, Pakotai. Tuhukea, Tautepo and Horahia are tūpuna of that hapū. Ngāti Toki, named after the tupuna Toki, is centred around the marae on the Mimitu Block and also extends out to Whangaruru, through their whānaunga Moetanga.
- 2.19 It was at Puaterangi Pa in Pakotai where Mate resided with a contingent of Ngāti Whatua refugees. Mate, Karekare and Te Wha were other owners of this pa, and the hapū residents were Ngāti Horahia and Ngāti Moe.
- 2.20 Further down the valley is the papakainga of Te Kiore. While there is no marae here, the associated whanau are Komene; Paraone and Te Rangī – who are descendants of Ngati Whatua and Ngati Whakamaunga.

- 2.21 The major lands blocks that are located within this rohe include Opouteke No.2; Ruataewao; Taranga Wahanui; Pariotane; Mimitu Ruarei, Toihoro; Pukekairunga (Puhikairunga) Te Karaka; Waerekahakaha; Oue; Hapairua; and Mangakirikiri. The way in which these lands were removed from hapu rangatiratanga will be further explored in evidence.
- 2.22 Māta pa is an ancient pa located on Te Tarai o Rāhiri, and is believed to be the pa of Ahuaiti. It was here that the connections that were forged between Ngāi Tāhūhū and Ngāpuhi in the Mangakāhia when Rāhiri met Ahuaiti. From this union descends Ruangaio, a tupuna whom many hapu of Mangakahia can draw connections to.
- 2.23 Kamariera Te Hau Takiri Wharepapa was the rangatira of Ngati Toki and Ngati Horahia, who was influential in Mangakahia during the period following the signing of Te Tiriti o Waitangi. While neither he, nor his father Te Wharepapa signed Te Tiriti o Waitangi, he was part of a contingent of chiefs that travelled to England to meet with Queen Victoria in 1863. The purpose of this trip as Wharepapa and others saw it, was to seek assurance from the Queen that the Crown honour its promises under Te Tiriti; that the Crown refrain from inflicting war in Aotearoa and to stop the taking of Māori land.
- 2.24 Wharepapa was a man of peace and learning, and recognised the benefits of educating his people. He was a man of transition, and while the beautiful moko upon his body was living symbol of the link with the past; he believed that religion and education would help his people to survive in a new world. In July 1872 a school was opened in the Mangakahia valley, the land being gifted by Wharepapa. The school role was 35 children, with a number of adults, The name of the school was Te Oruru Native School, with Wharepapa becoming chairman of the school committee. At long last education had come to Mangakahia and Kamariera's plea to Wikitoria that '*all our little children and all our youth may be taught*' was answered.
- 2.25 Nga Wahi Tapu / Urupa ko TE HEPARA PAI (The Good Shepherd)-Te ingoa tawhito ko TE ONEPU HUKHEHUKE. Ko TE PUOTERANGI Urupa Ko TE KIORE me ATUAWHIOWHIO nga Urupa

- 2.26 Sites of Significance include the Mangakahia Awa; Te Tarai o Rahiri Maunga; Pakotai School & Village and the Pariotane Block
- 2.27 Two matters of key concern for this rohe relate to the taking of Pakotai School and Village lands under Public Works Act, as well as the lands gifted to the Anglican Church and the Pakotai Pariotane Block.

Te Aroha Marae

Ko Te Aroha te marae

Ko Mangakahia te awa

Ko Maunga Kōhatu te maunga

Ko Ngati Te Rino nga hapu,

Ko Ngapuhi te iwi

Ko Parakao te kainga

- 2.28 The third marae situated in the Mangakahia Valley is Te Aroha Marae at Parakao. The hapu associated with this marae is Ngati Te Rino. Ngati Te Rino were originally based at Te Kawau on the other side of the Mangakahia river, but are now at Parakao.
- 2.29 It is said that Ngati Te Rino are descendant of Te Rino who was adopted by the people of Te Kawau village. Unbeknown to them, he was a puremu, sleeping with a number of their women, and he was caught. So, they cut off his ure and that is how the whenua was named “uretoto”, or blood from the penis. This incident is now reflected in the name of the land block “Uretoto”.
- 2.30 Other major lands blocks that are located within this rohe include Maungapohatu; Tarakiekie No.1 and Mangaroa.
- 2.31 Ngāti Tū and Ngati Pongia are two ancient hapu that formally held mana over the lands surrounding Te Aroha Marae.
- 2.32 Ngāti Tū is an ancient hapu, who are descendants of the tupuna Tuhukea who originated from around Maunga Kohatu. It is believed that he was from around the same generation as Rāhiri and Ahuaiti. Tuu Hukea was found on the top of

Maunga Kohatu, mummified in a cave facing the rising sun. He was held in the possession of William Fraser, and kept in the museum for 40 years. Tuhukea was returned to his descendants, and is now buried in Mangakāhia.

- 2.33 Ngati Pongia is an ancient hapu, who are descendants of the tupuna Pongia. The boundary of Ngati Pongia was laid out by Wharepapa's tupuna, Te Huarahi, who claimed that the boundary commenced at Te Titoki thence to Mangakāhia and up that stream to the Unukiore, Wharekiri, the mouth of Waitomotomo, thence by Government boundary Te Kowhai, Te Ipukai, Hapairua thence west to the boundary of Oputeke thence to the Government road to Houtere, Te Titoki, te motu a Meri, Te Kawehu o tēnā puta noa and to point of commencement. This boundary was given in challenging Kukupa's claim into Mangakahia.

Korokota Marae

Ko Hiko o te rangi te maunga

Ko Omiru te rere

Ko Wairua raua ko Mangakahia nga awa

Ko Titoki te rohe

Ko Ngatoka te Kainga

Ko Te Pou Whakairo Korokota te marae

- 2.34 Korokota Marae is situated in Titoki by confluences of three rivers Te Mangakahia, Te Wairua and Te Wairoa Rivers, and its one of nine maraes associated with Te Parawhau and Te Uriroroi within this Inquiry District.
- 2.35 The northern boundary between Te Parawhau and other hapu within the Mangakahia is at a place called Hapairua – Waiotomotomo where the Hikurangi River meets the Mangakahia. Here a battle took place between Te Parawhau and Ngati Pongia, Ngati Toki and others.
- 2.36 The people of Titoki are descendants of Kukupa, whom was the father of one of the most influential rangatira of his time, Te Tirarau Kukupa. Kukupa was a descendant of Ruangaio, who in turn descended from Rāhiri and Ahuaiti.

- 2.37 Te Rapa Teretere Kukupa was paramount chief of Te Parawhau, after his death in 1829 the mana went to his second son Te Tirarau Tuatoru who signed He Whakaputanga o nga Rangatira in 1835 and also signed Te Tiriti o Waitangi in 1840 on behalf of Te Parawhau and Te Uriroroi Tribes.
- 2.38 It was during this time that an illustrious political alliance was forged between three of the most influential rangatira of the period, In 1840 Te Tirarau Kukupa of Te Parawhau along with Pomare Whatoi of Ngati Manu, and Te Ruki Kawiti of Ngati Hine signed Te Tiriti o Waitangi at Paihia on the 13th of May. They are the top three signatories on the document, and their tohu reflected the vast extent of their rangatiratanga:
- Te Tohu o Te Tirarau Kukupa – Te taki o Te Autahi
 - Te Tohu o Te Pomare Whatoi – Nga Wai Aatarere
 - Te Tohu o Te Ruki Kawiti – Nga Whanaungatanga o te Ao
- 2.39 Te Parawhau's authority was established in the Whangarei, Mangakahia and Kaipara regions during the time of Kukupa and his son's Te Ihi and Tirarau. This rohe existed on the boundary between Ngapuhi and Ngati Whatua, accordingly the Te Parawhau reality was one of conflict. Kukupa and his sisters Whakakahu, Tirohia and their Taua stopped Ngati Whaatua at Tokatoka on Te Wairoa.
- 2.40 After the battle of Te Ika Ranganui, Te Parawhau's dominance over the land south of Whangarei and into the Kaipara was unchallenged. Kukupa's sons Te Ihi and Te Tirarau fought beside Ngāpuhi at the battle of Te Ika Ranganui. At one time Te Parawhau's mana under paramount chief Kukupa spanned from Mount Manaia Whangarei down to Mangawhai on the East Coast across to Maunganui down to Pouto on the West Coast.
- 2.41 As a man of great mana, the rangatiratanga of Te Tirarau has been reflected in the numerous land blocks awarded to him in the Native Land Court, including many surrounding the lands of Korokota Marae. The major Te Parawhau & Te Uriroroi land blocks that are located within this rohe include but are not limited to Mangakahia No.2; Opuhete; Hapairua; Maungaru; Owhatia; Otautahi; Te Kumi;

Pohoatua; Rimurere; Mapuna; Hurukore Tuatahi; Te Whareama; Paerata; Aotahi; Hatoi No.1; Te Haumi; Marumarū; Tuawhitu; Te Iweri; Pukehuia and Whangaimokopuna.

- 2.42 The way in which these lands were removed from hapu rangatiratanga will be further explore in evidence.
- 2.43 One of our greatest grievances was the way in which the mana of our great rangatira, Te Tiraraum Kukupa was systematically diminished through the actions of the Crown. At the hearings you will find there is so much more told about these rangatira, about their hapu and their (mamae) hurt, and how their mana was striped through greed and deceit.
- 2.44 There will be more evidence given in more depth from our kaumatua/kuia and kaikorero of how Te Tirarau and Te Parawhau lost so much more then Land through those turbulent years, from the 1850s until now.

Maungarongo Marae

Ko Maungarongo te marae

Ko Waipao te Wai Ko Whatitiri te maunga

Ko Te Parawhau ratou ko Te Uri Roroi me Te Mahurehure ki Whatitiri nga hapu,

Ko Ngapuhi te iwi

Ko Poroti te kainga

- 2.45 The marae situated at the southern end of the Mangakahia Valley is .Maungarongo Marae at Poroti. The associated hapu are Te Parawhau, Te Uriroroi and Te Mahurehure ki Whatitiri.
- 2.46 Te Mahurehure are Ngapuhi kinsmen from the Hokianga. Sections of them assisted Te Uriroroi and Te Parawhau in early battles that took place between the western and eastern factions of Ngapuhi. These divisions are referred to as the springs of Hokianga and Taumarere. The result of those incidents were marriage unions and rights to land created as a part of the peace-making. Not all of Te Mahurehure are included here, only those sections who were involved in this history and who as a consequence have themselves become Te Uriroroi and Te

- Parawhau, Poroti will refer to them as Te Mahurehure ki Whatitiri in making their own distinction between these families and the wider Te Mahurehure whose traditional home is in Waima. However these sections of Te Mahurehure are also to be found living unsuspecting upon the Titoki and Tangiteroria lands.
- 2.47 Torongare is one of the founding tupuna of Te Parawhau. Torongare's union with Hauhaua produced many children including Tamangana (the father of Ruangaio) and Hineamaru. This helped establish many hapu within the region, including Ngati Rua (Ruangaio) from whom Te Uriroroi and Te Parawhau descend.
- 2.48 The hapu name Te Uriroroi comes from the hahunga or raising of the bones of the ancestor Taurahaiti, In preparation for hosting this auspicious event Ngati Ruangaio were directed to plant crops for feeding the expected manuhiri. After they harvested and brought their produce to the appointed venue for the inspection of their chiefs and elders, instead of bringing kumara the Poroti section of the hapu arrived with 'roi', the root or rhizome of the bracken fern. This was due to Te Ahitunungangara, the land which they had been given in the division of the Whatitiri lands, was difficult for the planting of kumara being all covered in volcanic rock and stone so they cultivated 'roi' instead. When this was seen by Tataia, daughter of Taurahaiti and wife of Taramainuku, and with her knowledge of the sort of land these people had come from, she exclaimed, "E ! Ano ko nga uri o te roi", meaning 'indeed these are the descendants of the fern root'.
- 2.49 The name Te Parawhau was taken by the descendants of Ruangaio following the death of Te Tirarau Tuatahi, at the hands of Ngati Wai rangatira Rangitukiwaho. The body was collected by his people and wrapped in leaves of the whau tree. It was then carried back to this people at Whatitiri. On arriving there and the whau leaves were being removed from his body it was found to be covered in the slime of decay- or "para", leaving the imprint of the leaves on his body. After this incident, Te Tirarau Tuatahi's people were called "Te Parawhau".
- 2.50 Whatitiri is the birth place of Te Parawhau and hence had significant settlements, cultivations and wahitapu all around it. There were networks of tracks leading from Whatitiri to all other settlements including both coasts and harbours. One

kōrero credit Whatitiri's name to the abundance of kukupa (wood pigeons) on this maunga and the sounds they made. Whatitiri is a word for thunder. All of the children of Kukupa were born at Whatitiri.

- 2.51 Te Uma Pahaha (the parted breast) was the original old name mentioned by our tūpuna for both Maungatapere and Ōmaunu. These two maunga represent the woman's breasts. Maungatapere was named after a village called Tapere which was occupied by Taramainuku the grandfather of Kukupa. Ōmāunu was a settlement which the Pākehā today call Māunu. When the road was put through it was then labelled by the Pākehā Maunu after the village Omaunu. Both of these settlement areas are within Te Parawhau's domain.
- 2.52 The community at Purua is situated on a block of land in which there is a wāhi tapu where Te Ipu Whakatara is said to be interred. Purua marks a boundary between Te Parawhau, Te Kahu o Torongare and Te Orewai / Ngāti Hine.
- 2.53 The major lands blocks that are located within this rohe include Poroti; Puketutu; Te Hihi; Whatitiri, Whatakai; Maunu; Ahimate and Whangaitini. The way in which these lands were removed from hapu rangatiratanga will be further explore in evidence.

3.0 MANGAKAHIA HEARING WEEK

- 3.1 The Mangakahia Hearing Week is scheduled to take place during the sixth week of the Stage 2 hearing schedule. While a date is yet to be confirmed, it is anticipated that hearing week six will take place between 2 to 6 December 2013.
- 3.2 It is proposed that the hearing take place at Korokota Marae at Titoki.
- 3.3 Significant tangata whenua evidence will be presented during this week with regard to matters that are traversed in this opening statement.
- 3.4 It is envisaged that three technical witnesses will present:
- a. P McBurney, 'Northland: Public Works and Other Takings: c. 1871-1993', July 2007 (#A13);

- b. _____ T Walzl, on behalf of the Tai Tokerau District Māori Council Hapu Claims Collective, Mana Whenua Report. (#E34); and
- c. P Moore, on behalf of the Tai Tokerau District Māori Council Hapu Claims Collective, Oral and Traditional Report.

SUMMARY OF ISSUES FOR WHICH REDRESS IS REQUIRED

4.0 THEMATIC APPROACH

4.1 The Claimants wish to present their issues in a manner that illustrates their perspective on the wrongful actions of the Crown that impacted on them. For this reason, the Claimants prefer for a thematic approach to be taken when presenting their grievances to the Tribunal. The themes are:

- (a) Rangatiratanga;
- (b) Whenua;
- (c) Wai & Taiao; and
- (d) Manaakitanga.

RANGATIRATANGA

5.0 URSURPTION OF TE TINO RANGATIRATANGA

- 5.1 The diminishment of Mangakahia rangatiratanga and mana has seen them marginalised in status.
- 5.2 The failure of the Crown to accord to the principles of the Treaty of Waitangi by subjugating the mana of the hapu of Mangakahia and defeating their exercise of tino rangatiratanga was an attempt to break down the traditional systems of leadership.

5.3 The erosion of rangatiratanga took place through a number of practices and policies by the Crown, designed to prevent the rangatira of Mangakahia from exercising their mana. These practices and policies included:

- (a) failing to recognise their mana;
- (b) denying their right to exercise their mana;
- (c) denying their ability to conduct their own affairs under their mana and according to their tikanga; and
- (d) imposing British Sovereignty and rule which was adverse to the Claimants' interests.

5.4 The extent of the degradation is a significant issues for many hapu within Mangakahia, and evidence will be presented by hapu witnesses as to the way that this degradation has impacted on their existence.

6.0 THE NORTHERN WARS 1844 - 1846

6.1 The Crown's failure to uphold Te Tiriti o Waitangi resulted in the Northern Wars.

6.2 The Crown's completely dishonourable actions were inconsistent with the Treaty tearing at the social, political and economic fabric of Ngāpuhi to such an extent that the impacts continue to be felt today.

6.3 Contrary to its promise to respect the tino rangatiratanga of those hapu who ratified Te Tiriti, during the Northern wars, the Crown:

- (a) treated all Māori as hostile and requiring pacification regardless of whether or not they actively opposed the Crown in battle; and
- (b) disrespected the status of Mangakahia whanau and hapū, who were not opposed to the Crown during the Northern Wars.

6.4 Mangakahia whanau and hapu, like the majority of Ngāpuhi remained neutral during the wars. Rangatira such as Te Tirarau had decided to abstain from the

Northern Wars, and he had written to Governor Hobson to advise of his neutrality.

- 6.5 In spite of the neutrality of Mangakahia whanau and hapu, an economic blockade was placed on the Whangarei Harbour by the colonial government in an effort to force Mangakahia whanau and hapu into fighting against their Ngapuhi whanaunga in the war.

WHENUA

7.0 CROWN PURCHASING OF MĀORI LAND 1840 - 1865

- 7.1 The Crown creation and exploitation of the situation where the economic position of the peoples of Mangakahia and the constituent whanau and hapu had been undermined to such an extent that they and their individual members were in a poverty trap, and so in a difficult position to resist the attempts by, and the aims of, the Crown to purchase as much Māori Land as it could at as low a price as possible.
- 7.2 This was exacerbated by the establishment of laws and practices which pressured land for sale; for example the encouragement of debt-creation and surveying liens, which effected exorbitant fees and Court costs no congruent with land purchase prices. This created a cycle of ever increasing debt and in order to service the prior debt, the peoples of Mangakahia were forced to sell their lands.
- 7.3 The Claimants will present evidence of lands taken by the Crown, including lands on the eastern side of Whatitiri that were taken in lieu of the non-payment of survey fees.
- 7.4 The Claimants also complain of the Crown's conduct during these transactions, in its failure to ensure that the transactions with were carried out with integrity. Instead, the Crown was single minded in its approach to buy up large tracks of land at a nominal fee, as expeditiously as possible.
- 7.5 The Crown breached the principles of the Treaty of Waitangi in failing to actively protect the Mangakahia lands by:

- (a) failing to ensure that purchased lands were properly surveyed and recorded; and
- (b) failing to properly enquire into the nature and extent of Māori ownership over those particular parcels of land; and
- (c) failing to ensure that those who both purported to sell and indeed sold land possessed the right mana or authority to alienate the land.

7.6 Mangakahia land is amongst the most fertile land in Northland. Crown purchasing operations commenced in the Mangakahia district in late 1853, and John Grant Johnson was the Crown agent sent to the region to 'negotiate [the] purchase of as extensive block of land as possible.'

7.7 Johnson dealt exclusively with owners who were willing to sell and intentionally ignored those who were opposed to the sale of Māori Land. This approach exacerbated hapu conflict, and was instrumental to the Mangakahia Conflict of 1862.

7.8 In 1862, the Crown purported to purchase the Mangakahia block from Te Tirarau.

7.9 Tensions were rife between Te Uri o Hau and Ngāpuhi over mana whenua in the larger Te Wairoa area. Te Tirarau claimed mana over much of the Whangarei district. Te Uri o Hau chief, Matiu Te Aranui, claimed dual interest in many Whangarei blocks including Maungakamea, Ruakaka, Waipu, and Mangakahia.

7.10 The Crown failed to fully and properly investigate competing customary rights in the Mangakahia transaction.

7.11 The Crown preferred to rely on Te Tirarau's claims in order to push through the transaction. The Crown purchasing agent candidly admitted that "Tirarau is my right hand and I can run a muck [sic] with him."²

7.12 At least three Māori died in this conflict.

² *Northland Crown Purchases 1840 – 1865* V O'Malley, 299.

8.0 THE NATIVE LAND COURT AND ITS AGENTS

8.1 The Native Land Court:

- (a) and its processors were unfair and prejudicial to the peoples of Mangakahia;
- (b) made decisions that were contrary to evidence and law; and
- (c) imposed and gave rise to substantial costs to Mangakahia constituent whanau and hapu resulting in the loss of land whether or not they were willing participants in the Court process.

8.2 The Crown's imposition of the Native Land Court upon the peoples of Mangakahia, with all its trappings and mechanisms, provide further evidence of its desire to erode and usurp the rangatiratanga of Mangakahia constituent whanau and hapu.

8.3 The Crown breached the principles of the Treaty of Waitangi by establishing the Native Land Court for the purpose of:

- (a) applying Pakeha concepts of land tenure;
- (b) applying Pakeha rules of procedure;
- (c) applying Pakeha concepts of succession; and
- (d) preventing the claimants from exercising their self determination on matters affecting their own whenua.

8.4 As has been outlined in the statements of claim, the mechanisms of the Native Land Court facilitated and caused the alienation and individualisation of land over which the hapu of Mangakahia and their constituent whanau held interests.

8.5 The Crown imposed and manipulated the Land Court strategically to:

- (a) undermine traditional authority;
- (b) exacerbate impoverishment; and

(c) manufacture local enmity;

in order to foster sales and secure possession of Mangakahia lands and resources.

8.6 The adversarial approach of the Crown imposed by the Court ruptured the social fabric of Māori society entrenching internecine Māori conflict and divisiveness. The most notable instances including:

(a) Mangakahia – intertribal conflict in 1862 between Matiu Te Aranui and Te Tirarau at Waitomotomo; and

(b) Poroti - intertribal conflict in 1894 known as the “gum war”, reportedly the last inter-tribal conflict fought in Aotearoa

8.7 The operation of the Native Land Court led to the loss of lands in all claimant rohe – and these losses are explored in the various statements of claim. We set out a particular example to give a flavour of the claims which will be made.

8.8 In 1875, the Opouteke Block of 43,622 acres was adjudicated in the Native Land Court. The title of the block was registered under a single claimant, Mare, on behalf of all those with interest in the block. Other interested parties were represented by Heta Te Hara and Haurangi.

8.9 When the land was purchased by the Crown, the Crown purchasing agent refused to deal with Heta and Haurangi. Mare became the sole-grantee and obtained for himself all the proceeds of the sale.

8.10 This further exacerbated internecine conflict and divisions within and between Mangakahia whānau and hapu, further undermining the exercise of rangatiratanga.

9.0 TWENTIETH CENTURY LAND DEVELOPMENT AND ADMINISTRATION

9.1 The Crown passed legislation that was designed to be divisive and to dismantle the political organization and stability of the whanau and hapu of Mangakahia, contrary to Tikanga Māori, and have little regard for the circumstances of the claimants.

- 9.2 In Te Taitokerau, the Minister of Native Affairs could compulsorily vest any Māori land which he deemed surplus in the Board for leasing as it saw fit. The Native Land Act 1909 then enabled the Boards to sell Māori land without restriction.
- 9.3 Under such legislation, administrative bodies such as the Te Taitokerau Native Land Board and the Māori Trustee, were created that usurped the intrinsic and valid rangatiratanga of the claimants' traditional institutions, thereby detrimentally affecting their social structures.
- 9.4 The Crown vested the administration of Mangakahia lands in these administrative bodies without regard for the customary use of the land or for their wishes or welfare.
- 9.5 Through its maladministration of the land, such bodies denied the claimants the use of the land and prevented them from deriving any benefit from the land. This often led to the alienation of the land.

Native Land Development Schemes

- 9.6 The Native Land Amendment and Native Land Claims Adjustment Act 1929 was a product of the then Native Minister, Sir Apirana Ngata's farming development schemes. The Act enabled the Native Minister to unilaterally bring land under the administration of the Taitokerau Land Boards within a farming development scheme.
- 9.7 Once the owners were notified of the Minister's intent to bring the land within a scheme, they were prohibited from interfering with development work. Money spent in the development of the farm was raised as a debt against the land in favour of the Crown.
- 9.8 Mangakahia whanau and hapu have interests in the Awarua Development Scheme.
- 9.9 The operation of the Native Land Development Schemes were highly detrimental to the tangata whenua, as they were often run at considerable expense, and through Crown purchasing of shares, facilitated further alienation of tangata from whenua.

10.0 PUBLIC WORKS AND OTHER TAKINGS

- 10.1 The public works regime is fundamentally inconsistent with Te Tiriti o Waitangi because it is within a system of pacification that:
- (a) breaches the promise to protect Māori property rights;
 - (b) fails to recognise the relationship of Mangakahia whanau and hapu with their ancestral land;
 - (c) fails to adequately compensate Mangakahia whanau and hapu for the loss of their land; and
 - (d) has a disparate effect on Māori than on Pākehā.
- 10.2 The Crown's adoption and pursuance of a policy of compulsory acquisition of the claimants' lands in the absence of genuine prior consultation has greatly impacted upon Mangakahia constituent whanau and hapu in the retention of their taonga, as the Crown disregarded protests to the compulsory acquisition of the land from Māori owners.
- 10.3 The cumulative impact of public works takings on Māori was devastating as they came on top of Crown takings under old lands claims, surplus lands, Crown purchases and the Native Land Court regime.

Roading

- 10.4 For 62 years between 1865 and 1927, the Crown incorporated into public works legislation a mechanism known as the five percent rule. This gave the Crown the power to appropriate up to five percent of the area of a Māori block for roads, railways or defence purposes without the need to pay any compensation to the owners of the block.
- 10.5 The legislation had different rules when applied to Māori owned land, as compared to general land. In the case of general land, the Crown could only take land for up to five years following purchase. In the case of Māori land, the Crown could take for up to 15 years after the parent block was issued.

- 10.6 The enactment of the five percent rule by the Crown was oppressive to Māori who multiply owned large blocks of land.
- 10.7 Crown funded roads were often traditional tracks (ara) used by Māori for generations as travel routes over and between customary Māori land. The Crown appropriated customary ara without consideration of the tapu and tikanga evoked by Māori to regulate the use of those ara.
- 10.8 By the Public Works Act 1876, all roads crossing Māori papatupu land were vested in the Crown without the requirement to pay compensation. This applied regardless of whether the land was a traditional ara or not.
- 10.9 A substantial amount of land was taken for the Mangakahia Road which completely dissects Mangakahia whenua.
- 10.10 The routes chosen for the road desecrated Mangakahia wāhi tapu.

Scenery Preservation

- 10.11 The Crown empowered itself further in its ability to compulsorily acquire land, giving itself power to take scenic land under the Public Works legislation. The Crown then introduced the Scenery Preservation Act 1903, to enable the acquisition of scenic sites against the wishes of the owners
- 10.12 The provisions of the Scenery Preservation Act 1903 were used in a discriminatory fashion to the detriment of Māori Land owners.
- 10.13 The 1928 Act allowed the Crown to exercise its powers of compulsory acquisition without serving prior notice on Māori. This threat that land could be compulsorily acquired was used by the Crown to coerce tangata whenua to part with their lands.
- 10.14 Omiru Falls, incorrectly known as Wairua Falls, was compulsorily acquired under the Scenery Preservation Act. Waters from the Wairua River that feeds into the Omiru Falls were then diverted to enable the generation of electricity, diminishing the scenic value of the Omiru Falls, and defeating the purpose of its taking.

WAI & TAI AO

11.0 LOCAL GOVERNMENT AND RESOURCE MANAGEMENT

- 11.1 The Crown breached the principles of the Treaty of Waitangi by imposing upon the whanau and hapu of Mangakahia a resource management regime that that diminished their mana by:
- (a) appropriating localised control of Mangakahia lands and resources;
 - (b) allocating the land to uses determined by outsiders under the top down imposition of 'local authorities'; and
 - (c) allowing itself to raise rates against the land.
- 11.2 By the nineteenth century, central government legislation dictated the operation of local government bodies. These policies helped to create the first local government structures in Aotearoa. These local government structures were based on general, private, freehold land ownership and rate payer qualifications and as such were dominated by settlers and their interests.
- 11.3 The government generally failed to take account of the obstacles it had created for effective Māori participation in the new forms of authority, effectively excluding them and their concerns. Māori were then blamed for not fitting into the imposed system and their lands were removed from them.
- 11.4 Even when the Crown delegated powers that significantly impacted on Māori, the Crown failed to require the imposed local authorities to have special regard to Māori concerns or Treaty guarantees.
- 11.5 Māori had little to no ability to participate on the local authorities.
- 11.6 The Crown strengthened and extended the local government and local authority system as part of an effort to transform the environment for farming.
- 11.7 Local authorities placed rates burdens and liens over Mangakahia lands.
- 11.8 Settler interests were promoted while Māori and their concerns were excluded. The extensions of settler control in pursuit of settler farming interests and the

- marginalisation of Māori from these forms of management had significant implications for the survival of mahinga kai and the resources they contained.
- 11.9 When this provincial system was abolished in 1876, the various forms of local authority already established were reorganised, regularised and provided with even more extensive new powers. The scale of the transformation threatened the continued existence of many traditional resources.
- 11.10 As councils gained increased powers, they sought to promote developments that served the needs of farm settlement, milling and farming, often encouraging or hastening the decline or destruction of indigenous flora and fauna in the process. They also began to insist that Māori communities were brought under their control, further limiting and undermining traditional Māori authority over natural areas and the resources they retained.
- 11.11 Following the Local government transformations in the late nineteenth century, they then remained in substantially the same form until the 1984-1990 reform period, which was driven by a belief that the pervasive fiscal and budgetary crisis could be remedied only by a wholesale shift toward a more market driven and internationally competitive economy.
- 11.12 Local Government were given increased financial independence and a new environmental management statutory framework based on the Resource Management Act 1991 ('the RMA') emerged.
- 11.13 Functions formerly performed exclusively by the Crown, and the responsibilities for those functions, were transferred to local government.
- 11.14 Māori sought representation on regional councils; an opportunity for tribal authorities to exercise control over Māori land; and statutory recognition of resource management plans developed by iwi.
- 11.15 Only overtures to Māori interests were made in the form of recommendations for regional councils to consult with iwi with respect to resource management issues. Moreover, although there had been petitions for boundaries to show a convergence with traditional Māori tribal territories, no such consideration was given.

- 11.16 Māori consensus had demanded a Treaty driven system of local government throughout the process of reform.
- 11.17 Before the reform, local government had minimal legislative or practical Treaty responsiveness. However, aside from environmental management, reform did not improve Treaty outcomes at a local level. The LGA and its 1988 1989 amendments were not used to bring the Treaty into local government despite attempts by some officials to do so.
- 11.18 Parliament had conferred substantial powers of Kawanatanga on the new local government structure with no obligation to comply with the Treaty. Māori as tangata whenua, were effectively excluded from this structure and treated as another interest group.
- 11.19 While there were several minor references to Māori in the Local Government Act 1974 it did not impose statutory Treaty obligations. Treaty obligations were only recently imported into legislation under section 4 of the Local Government Act 2002.

12.0 OWNERSHIP AND MANAGEMENT OF ENVIRONMENT, WATER, MINERALS AND OTHER NON-LAND RESOURCVES

- 12.1 The Crown developed and imposed upon the whanau and hapu of Mangakahia a resource management regime that:
- (a) transferred ownership of non-land environmental resources to the Crown;
 - (b) allows the Crown to benefit from those resources and exclude Mangakahia whanau and hapu; and
 - (c) degrades the resources of Mangakahia while denying them the ability to exercise kaitiakitanga.
- 12.2 The regime implemented by the Crown has breached the Treaty by failing to protect the natural taonga of Mangakahia from degradation, deforestation and erosion.

- 12.3 Having usurped that ability of Mangakahia whanau and hapu to carry out their obligations of Manaakitanga and Kaitiakitanga, the Crown mismanaged the domain of Mangakahia, its waterways, its flora and fauna, and other resources, failing to protect and preserve them, without regard to the significance of such taonga to the whanau and hapu of Mangakahia, and their particular uses.
- 12.4 Under the Crown's management, the waterways that carry the tears of Ranginui and they cascade over Papatuanuku's form have become depleted, infested with foreign species, and polluted, diminishing the mauri of the wai.
- 12.5 In these respects, the Crown has failed to recognise and protect the claimants' ownership, knowledge and management rights in respect of the Mangakahia environment.
- 12.6 Through its inequitable and illegal invocation and utilisation of legislation and operation of law the Crown has wrongly purported to acquire ownership and management rights of all lakes, rivers, waterways and streams within the claimants' rohe without agreement of the claimants and without compensation.
- 12.7 The Crown and its agents have allowed some to profit financially from the exploitation and the degradation of nga taonga o nga whanau me nga hapu o Mangakahia including the generation of electricity and the supply of water for commercial and domestic use.
- 12.8 Wide spread devastation to areas of special importance occurred, often with the result that the ancestral domiciles of Taniwha, themselves vital to the well being of the whanau and hapu of Mangakahia, were polluted.

MANAAKITANGA

13.0 GIFTING OF LANDS

- 13.1 The Crown failed to act in good faith when it used the Māori desire for education to alienate land by:
- (a) requiring Māori to permanently transfer the title in school sites to the Crown;
 - (b) silencing dissenting owners by individualising title in the lands; and

- (c) failing to adequately compensate Māori for the land.
- 13.2 Mangakahia whanau and hapu have been generous in providing land for education, religious and recreational purposes within the rohe, and is illustrative of the principle of manaakitanga. The expectation of those whanau and hapu who gifted lands was that such lands would be used for the purpose of the gift.
- 13.3 There is a duty on the Crown to ensure that lands no longer for the purpose of the gift are returned to their owners.
- 13.4 Evidence will be presented from tangata whenua witnesses as to the extent of gifted lands within the Mangakahia region, including land that was gifted for educational and religious purposes, that is not longer being used for the purpose of the gift but has not been returned to the rightful owners.

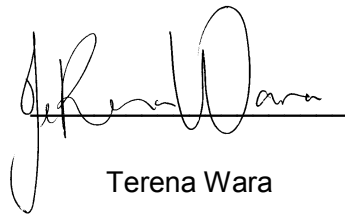
14.0 SOCIO-ECONOMIC IMPACTS

- 14.1 The Crown has imposed a relationship of dominance and subservience as they created the situation where the social and economic position of the whanau and hapu of Mangakahia had been undermined to such an extent that they, and their individual whanau members, were not able to resist the intentions of the Crown as:
 - (a) the Government undertook strategies to erode Māori self sufficiency and to destroy, by stealth, the capacity of Māori to manage their own properties and to determine rights within them;
 - (b) representative institutions were introduced without effective provisions for Māori representation; and
 - (c) Māori custom, law, and institutions were judged by those who did not know them; and the judgments were wrong.
- 14.2 The Crown failed to actively protect Mangakahia whanu and hapu social and economic development by facilitating:
 - (a) Māori political disempowerment at a local and central level;

- (b) social displacement and dislocation;
 - (c) factionisation of whānau, hapū and iwi; and
 - (d) the loss of economic independence and prosperity.
- 14.3 During the 19th century, the Crown's Lands Commissions, Native Land Court, public works, surplus lands, resource management and administrative regimes each facilitated the alienation of Mangakahia whanau and hapu from their social and economic base.
- 14.4 The passage of the Māori Land Settlement Act 1905 and the Native Land Settlement Act 1907 removed land from the control of its owners, dispensing it with the Tai Tokerau Land Board whose administration merely acted as a catalyst for disposal to settlers.
- 14.5 The major source of dependency and poverty lay in the loss of land which had continued well into the 20th century. Dependency was accelerated by:
- (a) a rapidly growing population;
 - (b) the accelerating fragmentation of Māori land ownership;
 - (c) the relative inaccessibility and marginal quality of much of the land Māori did retain;
 - (d) difficulties in raising investment capital and turning land into sources of production;
 - (e) low levels of income received from leased lands; and
 - (f) protracted constraints on the freedom of Māori to deal with their lands and interests as they deemed appropriate.
- 14.6 Systematic dependency was therefore created by the Crown through the imposition of superiority that fractured the cornerstones of the identity of Mangakahia whanau and hapu.

- 14.7 The Crown's failure to protect the land base of Mangakahia whanau and hapu by essentially eroding the identity of the peoples has diminished their ability to manaaki tangata, which was essential to being part of a collective tribal consciousness.
- 14.8 The Crown's deliberate intervention was aimed at, and indeed caused the destruction of traditional leadership and dislocation of social relationships between hapu and whanau who lost their rights and the ability to exercise rangatiratanga over their traditional lands, wahi tapu and resources.
- 14.9 The Crown having cause or contributed to this damage failed to take action to ameliorate or remedy this state of affairs.

Dated at Rotorua this 11th day of March 2013

A handwritten signature in black ink, appearing to read 'Terena Wara', written over a horizontal line. The signature is fluid and cursive.

Terena Wara

Coordinating Counsel for Mangakahia