THE KAIPARA INTERIM REPORT

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WAI 674

WAITANGI TRIBUNAL REPORT 2002

The cover design by Cliff Whiting invokes the signing of the
Treaty of Waitangi and the consequent interwoven development of
Māori and Pakeha history in New Zealand as it continuously
unfolds in a pattern not yet completely known

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LIST OF MAPS

LIST OF ABBREVIATIONS

doc	document
ltd	limited
p, pp	page, pages
ROI	record of inquiry

'Wai' is a prefix used with Waitangi Tribunal claim numbers

The Honourable Parekura Horomia
Minister of Māori Affairs

and

The Honourable Margaret Wilson
Minister in Charge of Treaty of Waitangi Negotiations

Parliament Buildings
WELLINGTON

The Waitangi Tribunal
110 Featherston Street
WELLINGTON

12 September 2002

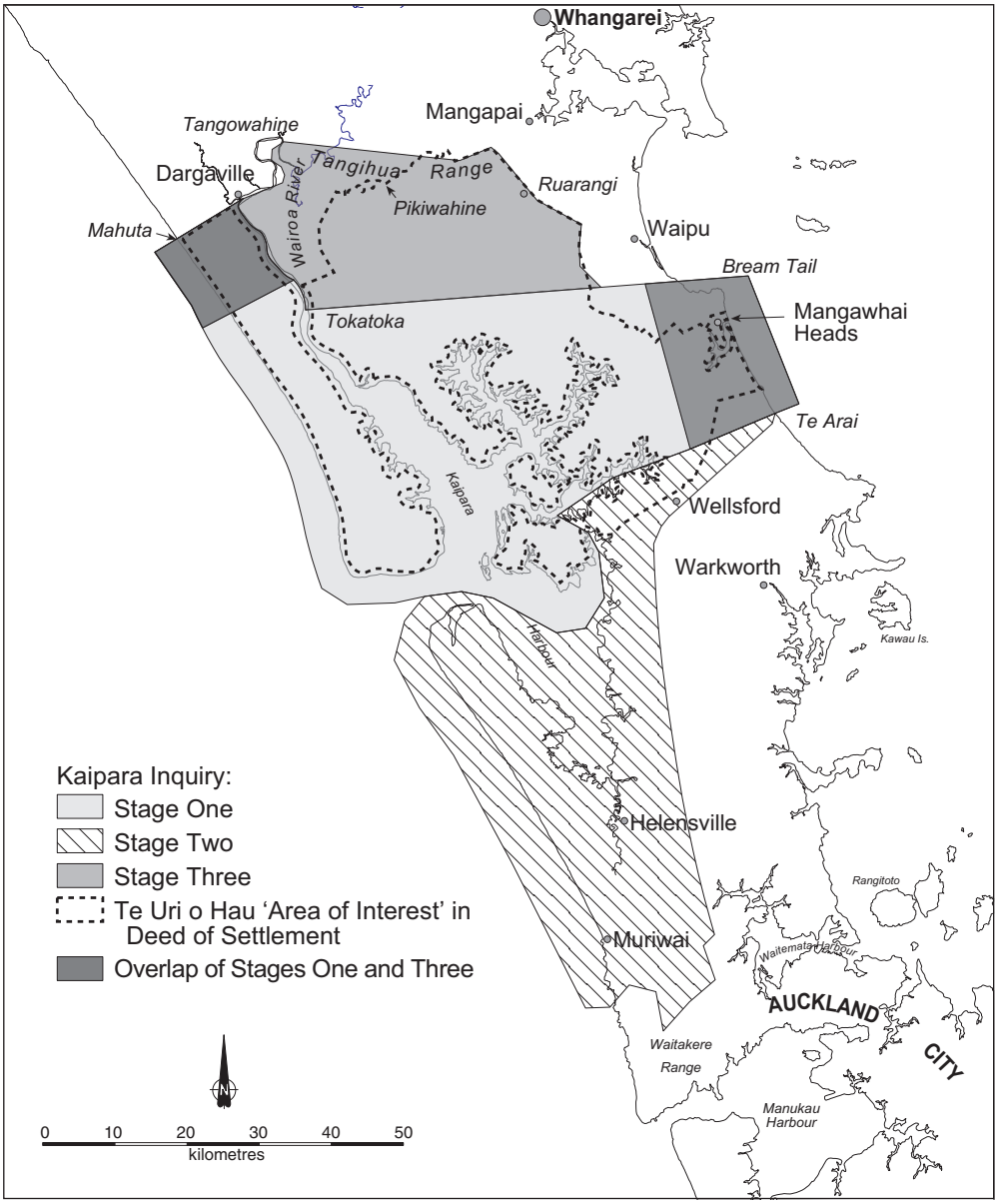
Tēnā kōrua e ngā Minita

E whai ake nei ā mātau kōrero, ripoata i raro i te mana o te Rōpū Whakamana i te Tiriti o Waitangi, i whakatūria mō Kaipara. Ko te tūmanako o tēnei ripoata ā mātau, hei whakamāmā i ngā nawe me ngā kerēme ā ngā kaitono, atu i Te Uri o Hau, kei mua i te Karauna. Ko tā mātau wawata, hiahia hoki, kia tūtaki ngā kaitono me te Karauna kia awe ai te whakatau i tēnei take nui.

The enclosed Kaipara Interim Report is a response by the Tribunal constituted to hear the Kaipara claims, to the negotiation of a settlement of Te Uri o Hau historical claims. The Te Uri o Hau Claims Settlement Bill, currently before Parliament, will, when enacted, settle a number of historical claims which have been heard by this Tribunal. The Bill makes a number of acknowledgements of Treaty breaches in relation to Te Uri o Hau historical claims. Our interim report sets out the Kaipara Tribunal's view of the ways in which these acknowledgements relate to those claims within our inquiry which are not covered by the Bill. We hope that this report will provide a basis for claimants to enter into negotiations with the Crown for the settlement of their claims, and we strongly recommend that the claimants and the Crown should begin such negotiations.

No reira, ka tuku atu mātau i tēnei ripoata, hei āta whakaaro, hei tautoko i ngā whiriwhiringa o te Karauna mō te take nei.

GCPA Wallace (presiding), MER Bassett, BPN Corban, A Koopu, EM Stokes, JJ Turei



Map 1: The Kaipara inquiry area

THE KAIPARA INTERIM REPORT

1 The Reasons for Issuing an Interim Report

The reasons for the Kaipara Tribunal's decision to issue this interim report are set out in the following memorandum, which was originally intended for the relevant Ministers:

> The members of the Tribunal constituted to hear the Kaipara claims met on 1 May and 6 June 2002, and, after lengthy discussion, unanimously reached the following conclusions. One member was absent from the meetings, but has separately signified his agreement to this memorandum.
>
> 1. The Waitangi Tribunal is a permanent commission of inquiry with a statutory responsibility to inquire into Māori claims of breaches of the Treaty of Waitangi.
> 2. Independent of the Tribunal process, the Crown reserves to itself the power to negotiate directly with Māori claimants.
> 3. Before this Tribunal has reported on the Kaipara claims (including Te Uri o Hau claims as defined in the Te Uri o Hau Claims Settlement Bill), the Crown has chosen to negotiate separately with Te Uri o Hau, in isolation from all other Kaipara claims.
> 4. The Te Uri o Hau Claims Settlement Act, when passed, will exclude the Tribunal from jurisdiction in relation to those Te Uri o Hau claims.
> 5. In this Tribunal's view, generic grievances, in relation to which the Crown has admitted culpability in the Te Uri o Hau Settlement, are common to claims throughout the whole Kaipara inquiry region.
> 6. These generic grievances could be the basis for negotiations and settlements of claims throughout the region. While the Tribunal exercises a separate jurisdiction, it believes that it could be in the interests of other Kaipara claimants for the Crown to enter into direct negotiations with them. In making this statement, this Tribunal is mindful of the dictates of natural justice and the need for that to be perceived by all.
> 7. Were the Kaipara Tribunal to report on those generic grievances, it would find itself, in general terms, in sympathy with the acknowledgements of Treaty breaches which the Crown has made in the Te Uri o Hau settlement.
> 8. As soon as possible, the Tribunal intends to publish a brief report of its interim findings in relation to those generic grievances in respect of all Kaipara claims, excepting only Te Uri o Hau claims (as defined above). The Tribunal is aware that this might assist Kaipara claimants and the Crown, should the parties wish to negotiate directly.

9. The Tribunal will consider whether to report finally, in its usual manner, on the Kaipara claims, or any part thereof (other than Te Uri o Hau claims), on application to this Tribunal by the Crown or claimants. Such an application will be notified to all parties to the Kaipara inquiry.
10. The Kaipara Tribunal takes this somewhat unusual course in this inquiry due to the particular circumstances that have arisen following direct Crown negotiations and settlement with Te Uri o Hau, in isolation from the rest of the Kaipara claims, and in advance of the Tribunal reporting. This situation of dual or competing processes occurring in tandem has caused the Tribunal to consider the matter at length. While not vacating its statutory jurisdiction, the Kaipara Tribunal is proposing this course of action in an endeavour to be practical and fair to all parties.

Before this memorandum could be sent to the Ministers, the announcement of a general election on 27 July 2002 was made, and the memorandum was held over for the incoming Government. The Tribunal decided to proceed with its intention of issuing a brief report of its interim findings in respect of generic issues acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill.

2 The History of the Kaipara Inquiry

In March 1997, Dame Augusta Wallace was appointed presiding officer for the Waitangi Tribunal's inquiry into the Kaipara district, and the remaining members of this Tribunal were appointed in June 1997.[1] The records of inquiry of various claims relating to the Kaipara region were combined under the reference number Wai 674 in July 1997.[2] The inquiry district was divided into three areas (stages 1, 2, and 3), to be heard in sequence (see map 1). Hearings for stage 1 claims commenced in August 1997 and continued until June 1998. The main Te Uri o Hau claims (Wai 229 and Wai 271) were heard by the Tribunal in stage 1. While this stage of the inquiry was in progress, counsel for Wai 229 and Wai 271 made a series of submissions asking the Tribunal to issue an interim report at the completion of the stage 1 hearings. The claimants sought an interim report or preliminary indications from the Tribunal, with a view to entering into direct negotiations with the Crown for the settlement of their claims as soon as possible.[3]

1. Direction appointing Dame Augusta Wallace presiding officer for claims in Kaipara area, 10 March 1997 (Wai 674 ROI, paper 2.71); direction constituting Tribunal to hear Kaipara claims, 9 June 1997 (Wai 674 ROI, paper 2.84)
2. Direction concerning consolidation and aggregation of Wai 674 record of inquiry, 21 July 1997 (Wai 674 ROI, paper 2.92)
3. Memorandums and submissions of counsel for Wai 229 and Wai 271, 21 July 1997, 23 July 1997, 26 September 1997, 1 October 1997, 1 April 1998, 7 April 1998, 23 April 1998, 18 June 1998 (Wai 674 ROI, papers 2.86, 2.89, 2.102, 2.104, 2.123, 2.124, 2.129, 2.142)

We issued our decision on the application for an interim report or preliminary indications in August 1998, after the stage 1 hearings had finished. The application was declined. We pointed out that there were claims in stages 2 and 3 which overlapped with those heard in stage 1 and that later claimants might be disadvantaged by any preliminary indications given in relation to the claims of Te Uri o Hau. In addition, we expressed some hesitation as to the accuracy of any indications which we might have given without having heard from the overlapping claimants. We took the view that there was a likelihood of disadvantage to claimants who were yet to be heard. While accepting that the release of an interim report might be of benefit to the Te Uri o Hau claimants in any negotiations that they might enter into with the Crown, we were not satisfied that we should take this into account in our decision. We considered that the critical question was whether, in balancing the interests of all Kaipara claimants, there would be a potential injustice to the stage 1 claimants if they had to wait until the conclusion of the Kaipara hearings for a report on their claims. We considered that no such injustice would exist, and we noted that it was open to the claimants to enter into negotiations with the Crown at any time, without recourse to the Tribunal.[4]

In the event, the Te Uri o Hau claimants did begin negotiations with the Crown. The Crown recognised the mandate of Te Uri o Hau's negotiators in June 1999, and the two parties then entered into negotiations for the settlement of Te Uri o Hau historical claims. A heads of agreement was signed in November 1999, and the proposed settlement was approved by 82.6 per cent of the participating adult members of the claimant community who were eligible to vote. In December 2000, the Crown and Te Uri o Hau signed a deed of settlement, and the Te Uri o Hau Claims Settlement Bill, giving effect to the deed of settlement, was introduced into Parliament in September 2001. However, at the time of writing, the Bill has not been passed.

Meanwhile, between March 1999 and September 2001 this Tribunal heard the claims in stages 2 and 3 (and the Crown's responses to those claims). In October 1999, the boundaries of the inquiry were clarified by a Tribunal direction that the Mahurangi area should be severed from the Kaipara inquiry.[5] The inquiry boundaries shown in map 1 reflect this decision. A subsequent application by the Wai 470 (Te Kawerau a Maki) claimants to extend the inquiry boundaries to include west Auckland was declined by the Tribunal.[6]

4. Memorandum following application for Tribunal to release preliminary indications, 31 August 1998 (Wai 674 ROI, paper 2.154)

5. Direction on severance of Mahurangi area from Kaipara inquiry, 14 October 1999 (Wai 674 ROI, paper 2.204)

6. Minute of Tribunal concerning Wai 470 application, 7 May 2000; record of 12 April 2000 chambers meeting, 7 May 2000 (Wai 674 ROI, papers 2.241, 2.242)

3 The Te Uri o Hau Claims Settlement Bill

The details of the redress provided for in the Te Uri o Hau Claims Settlement Bill, and in the deed of settlement to which the Bill will give effect, do not concern us here. In brief, this redress includes, but is not limited to, the following:

- financial redress of $15.6 million;
- the vesting in the Te Uri o Hau Settlement Trust of Crown forest licensed land at Poutō and Mangawhai north of Te Ārai Point;
- a right of first refusal in favour of the Te Uri o Hau Settlement Trust over certain Crown-owned properties; and
- the vesting in the Te Uri o Hau Settlement Trust of certain properties of cultural and historical significance to Te Uri o Hau.

Of more importance for this report are the historical account, acknowledgements, and apology included in the settlement, which are discussed further below, and the provisions relating to the settlement of claims.

For the purposes of the Bill, 'Te Uri o Hau' is defined as:

> every individual who can trace descent from 1 or more ancestors who exercised customary rights—
>
> (a) arising from descent from 1 or more of the following:
>
> (i) Haumoewaarangi:
>
> (ii) the tribal groups of Te Uri o Hau, Ngai Tahuhu, Ngati Tahinga, Ngati Rangi, Ngati Mauku, Ngati Kauae, Ngati Kaiwhare, and Ngati Kura; and
>
> (b) predominantly within Te Uri o Hau area of interest from 1840.[7]

The 'Te Uri o Hau area of interest' is defined by means of a map included in the deed of settlement. Map 1 shows the area of interest in relation to the Kaipara inquiry area. It will be apparent from this map that the Te Uri o Hau settlement relates not only to the stage 1 area of our inquiry but also to Te Uri o Hau interests in much of stage 3 and a small part of stage 2.

The Bill defines 'Te Uri o Hau historical claims' as those claims made by any Te Uri o Hau claimant relating to acts or omissions by or on behalf of the Crown, or by or under legislation, before 21 September 1992. Certain claims to the Waitangi Tribunal are listed as being included within the definition of Te Uri o Hau historical claims, while certain other claims are said to be included 'so far as they relate to Te Uri o Hau claimants'.[8] The settlement of Te Uri o Hau historical claims is stated to be final. Consequently, the Treaty of Waitangi Act 1975 is to be amended to remove the Waitangi Tribunal's jurisdiction to inquire or further inquire into Te Uri o Hau historical claims, the Te Uri o Hau deed of settlement, the redress to be provided as part of the Te Uri o Hau settlement, and the Te Uri o Hau Claims Settlement Act (when it becomes law). However, the Tribunal is to retain jurisdiction 'in respect of the

7. Clause 13(1) of the Te Uri o Hau Claims Settlement Bill
8. Clause 15 of the Te Uri o Hau Claims Settlement Bill

interpretation or implementation of the deed of settlement or Te Uri o Hau Claims Settlement Act'.[9]

4 Claims in the Kaipara Inquiry

Claims in the Kaipara inquiry fall into three categories:

- those historical claims which will be settled as soon as the Te Uri o Hau Claims Settlement Bill is enacted;
- those claims which are part of the Kaipara inquiry but have not been heard by the Tribunal; and
- those claims which have been heard by the Tribunal but are not included in the Te Uri o Hau settlement.

4.1 Claims included in the Te Uri o Hau settlement

The following claims are part of the Kaipara inquiry, and are listed in the Te Uri o Hau Claims Settlement Bill as being covered by the definition of Te Uri o Hau historical claims:

- Wai 229 (Te Uri o Hau ki Ōtamatea);
- Wai 259 (Tāwhiri Pā);
- Wai 271 (Te Uri o Hau o te Wahapū o Kaipara);
- Wai 294 (Poutō Peninsula);
- Wai 409 (Poutō 2E7B2 block);
- Wai 658 (Wai-riri Whānau Trust);
- Wai 689 (Poutō blocks); and
- Wai 721 (Ngāti Mauku/Ngāti Tāhinga ki Kaipara).

In addition, the claims Wai 121, Wai 303, Wai 468, Wai 688, and Wai 719, which are in our inquiry and further details of which are given below, are said to be Te Uri o Hau historical claims, 'so far as they relate to Te Uri o Hau claimants'. In our view, these five claims relate only in part to Te Uri o Hau. To the extent that they represent interests other than those of Te Uri o Hau, we assume that they are not covered by the Te Uri o Hau settlement.

4.2 Claims not heard by the Kaipara Tribunal

For a variety of reasons, certain claims within the Kaipara inquiry area have not been heard by the Tribunal. The claims in this category are as follows:

- Wai 106 (Te Kāhui-iti Mōrehu on behalf of the Rēweti Marae Trust Board; the Uruamo, Porter, and Mōrehu families; and Te Taoū);

9. Clauses 17–18 of the Te Uri o Hau Claims Settlement Bill

- Wai 303 (Haahi Walker and Thompson Parore on behalf of Te Rūnanga o Ngāti Whātua);
- Wai 468 (the late Morley Powell on behalf of Ngā Puhi whānui);
- Wai 683 (Weretapou Tito on behalf of Te Parawhau hapū of Ngā Puhi);
- Wai 719 (Lionel Brown on behalf of the whānau of Haimona Pirika Ngāi, Pirika Ngāi, and Maraea Pirika Ngāi); and
- Wai 798 (Pamera Tīmoti-Warner on behalf of Ngāti Rango hapū of Ngāti Whātua).

4.3 Claims heard and not included in the Te Uri o Hau settlement

We provide below a summary of those claims which have been heard by the Tribunal in stages 2 and 3 of our inquiry but are not covered by the Te Uri o Hau settlement.

- *Wai 121:* Wai 121 is a claim by Mōhi Manukau on behalf of the Manukau Māori Trust Board and its beneficiaries. The claim focuses on the alleged prejudicial effects of Crown acts or omissions (particularly land loss through the Native Land Court) on the status of the claimants' tūpuna, who were rangatira in the Kaipara region. Other claims relate to the gifting of the 10-acre block at Helensville and the Crown's failure to implement section 71 of the New Zealand Constitution Act 1852 (which, it is claimed, provided for Māori self-government).
- *Wai 244:* Wai 244 is a claim by the late Lucy Palmer and Patuone Hoskins on behalf of the Ngātiwai Trust Board. The claim is concerned with the 1854 Crown purchase of the Mangawhai block. It alleges that, in purchasing the block, the Crown failed to ensure that it was properly surveyed prior to sale, failed to pay a fair price for it, failed to provide reserves, and failed to ensure that Ngāti Wai received the promised 10 per cent of the proceeds of the on-sale by the Crown of land in the block.
- *Wai 279:* Wai 279 is a claim by Eriapa Uruamo on behalf of the descendants of Pāora Kāwharu and Aperahama Uruamo. It concerns the alienation of land at Te Keti and the wider area known as the Hiore Kata lands in southern Kaipara. The claim includes a number of grievances relating to public works takings, and to alleged failure to protect urupā and other wāhi tapu.
- *Wai 312:* Wai 312 is a claim by Takutai Wikiriwhi and others on behalf of the whānau and hapū of Rēweti, Haranui, Araparēra, Puatahi, and Kakanui Marae. This is a comprehensive claim covering the loss of Ngāti Whātua lands in southern Kaipara through old land claims, pre-emption waiver claims, Crown purchases, the operation of the Native Land Court, and public works takings. Other claims relate to the gifting of the 10-acre block at Te Awaroa (Helensville) and land for the Auckland–Te Awaroa railway, and to aspects of the sand dune reclamation works at what became Woodhill State Forest. A distinctive feature of Wai 312 is the claim that Ngāti Whātua had an 'alliance' with the Crown. It is claimed that this alliance placed particular obligations on the Crown,

which were not met. Two overarching themes in the Wai 312 claim are the Crown's alleged failure actively to protect Ngāti Whātua's land base and the allegation that the Crown made promises of economic development and the provision of services to Ngāti Whātua which it failed to fulfil.

- *Wai 470:* Wai 470 is a claim by Hariata Ewe and Te Wārena Taua on behalf of Te Kawerau a Maki. The claimants say that Te Kawerau a Maki had both shared and exclusive interests in the Kaipara region (especially south-western Kaipara), and that the Crown failed to recognise these interests, with the result that Te Kawerau a Maki have been left with only a tiny remnant of their south Kaipara lands. Their claims relate to land loss though old land claims, pre-emption waiver claims, Crown purchases, the Native Land Court process, and the taking of land for sand dune reclamation work.
- *Wai 508:* Wai 508 is a claim by Whititerā Kaihau on behalf of Ngāti Te Ata, and is a very general claim to land within a wide area, which includes the Kaipara region.
- *Wai 619, 620:* Wai 619 is a claim by Waimārie Bruce and others on behalf of Ngāti Kahu o Torongare/Te Parawhau. Wai 620 is a claim by Colin Malcolm and others on behalf of Te Waiariki/Ngāti Kororā. Both claims relate to the Crown's alleged failure to recognise the interests of the claimants' tūpuna when purchasing the Mangawhai block in 1854.
- *Wai 632:* Wai 632 is a claim by Garry Hooker and Alex Nathan on behalf of Ngāti Whiu and Ngāti Kawa hapū of Te Roroa. It concerns the cession to the Crown of land at Te Kōpuru in 1842, allegedly without the consent of Ngāti Whiu and Ngāti Kawa, who are said to have been the owners of the land, and also concerns the Crown purchases of the Tokatoka and Whakahara blocks, including the background to these purchases in the O'Brien old land claim.
- *Wai 688:* Wai 688 is a claim by Te Raa Nehua and others on behalf of Ngā Hapū o Whāngārei (comprising members of Te Parawhau, Te Uri Roroi, Ngāti Kahu o Torongare, Te Uri o Hau, Te Kumutu, Te Kuihi, Ngāti Toki, Ngāti Moe, and Ngāti Horahia hapū). This is a comprehensive claim about land loss in the stage 3 inquiry area and includes the Te Kōpuru cession, old land claims, Crown purchases, the Native Land Court, and the Crown's alleged failure to provide reserves or to protect areas of special significance. It is also alleged that the relationship between the Crown and the claimants' hapū was such as to give rise to a legitimate expectation of continuing benefits and resources, but that the Crown failed either to provide ongoing benefits or to conserve the resources of the area.
- *Wai 697:* Wai 697 is a claim by Rangitāne Marsden on behalf of the Marsden whānau. It concerns Maungarongo (the old Te Kōpuru hospital site), which the claimants allege was improperly acquired and then sold by the Crown in the 1990s.
- *Wai 733:* Wai 733 is a claim by the late Tauhia Hill on behalf of the Ōtakanini Tōpū, a Māori incorporation which owns and manages the largest remaining area of Māori land in southern Kaipara. Key issues in the claim include the alienation of land at

5

Ōtakanini, the compulsory vesting of the Ōtakanini block in the Tokerau Māori Land Board, and the leasing of Ōtakanini Tōpū land for commercial forestry. The claimants also allege that the Crown has failed to provide effective representation for Māori in legislative and administrative bodies.

- *Wai 756:* Wai 756 is a claim by Lou Paul on behalf of Te Taoū. A central part of this claim is the allegation that the Crown wrongly treated Te Taoū as a hapū of Ngāti Whātua, to the detriment of Te Taoū interests. Other issues include the individualisation of land ownership and land loss through the Native Land Court process; public works takings; the breaching of promises allegedly made by the Crown in association with the gifting of land at Te Awaroa (Helensville) and with the gifting of land for railway purposes; the alleged blocking of access to kai moana resources; and the alleged commercial exploitation of urupā sites in the Woodhill State Forest.
- *Wai 763:* Wai 763 is a claim by Margaret Mutu on behalf of the Kapehu Trust and the beneficial owners of the Kapehu G, H, and I blocks. The claimants own land which is subject to substantial rates liabilities, and they say that the Kaipara District Council, in levying and seeking collection of these rates, is interfering with their use of the land. They allege that the Crown is responsible for passing rating legislation which does not take account of Māori social, spiritual, cultural, and economic values in respect of their lands.

5 Crown Acknowledgements in the Te Uri o Hau Claims Settlement Bill

The lengthy preamble to the Te Uri o Hau Claims Settlement Bill traverses a number of historical matters which formed the basis of Te Uri o Hau claims in northern Kaipara. In clause 8 of the Bill, the Crown acknowledgement of Te Uri o Hau historical claims is set out in English (the Māori version is in clause 7):

> The Crown acknowledges the historical claims and the breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles by the Crown in relation to Te Uri o Hau historical claims as follows:
>
> (a) The Crown recognises that Te Uri o Hau endeavoured to preserve and strengthen their relationship with the Crown. In particular, the early land transactions for settlement purposes contributed to development of New Zealand and affirmed the loyalty of Te Uri o Hau to the Crown:
>
> (b) The Crown acknowledges that the benefits that Te Uri o Hau expected to flow from this relationship were not always realised. Early land transactions and twentieth century land development, including the Tai Tokerau Maori District Land Board and the Maori Affairs development schemes initiated in the 1930s, did not provide the economic opportunities and benefits that Te Uri o Hau expected:

(c) The Crown acknowledges that the process used to determine the reparation for the plunder of a store, which led Te Uri o Hau chiefs and others to cede land at Te Kopuru as punishment for the plunder, was prejudicial to Te Uri o Hau. The Crown acknowledges that its actions may have caused Te Uri o Hau to alienate lands that they wished to retain and that this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles:

(d) The Crown acknowledges that a large amount of Te Uri o Hau land has been alienated since 1840 and that it failed to provide adequate reserves for the people of Te Uri o Hau. The Crown also acknowledges that it did not ensure that there was sufficient protection from alienation for the few reserves that were provided. This failure by the Crown to set aside reserves and protect lands for the future use of Te Uri o Hau was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles:

(e) The Crown acknowledges that the operation and impact of the Native land laws (including the laws governing the operation of the Validation Court) had a prejudicial effect on those of Te Uri o Hau who wished to retain their land and that this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown also acknowledges that the awarding of reserves exclusively to individual Te Uri o Hau made those reserves subject to partition, succession and fragmentation, which had a prejudicial effect on Te Uri o Hau; and

(f) The Crown acknowledges that this loss of control over land has prejudiced Te Uri o Hau and hindered the economic, social, and cultural development of Te Uri o Hau. It has also impeded their ability to exercise control over their taonga and wahi tapu and maintain and foster spiritual connections to their ancestral lands.

In clause 10 of the Te Uri o Hau Claims Settlement Bill, the Crown apologises in English (the Māori version is in clause 9) for its breaches of the Treaty of Waitangi, and specifically for 'failing to preserve sufficient lands for Te Uri o Hau'. This failure is said to have 'had pervasive and enduring consequences, resulting in Te Uri o Hau losing control over the majority of their lands'.

6 Overlapping Claims in Northern Kaipara

A substantial area of northern Kaipara is included in the Te Uri o Hau area of interest defined in the Te Uri o Hau deed of settlement (map 2). Although settlement has been reached with Te Uri o Hau, there remain a number of claims relating to the contested border zone around the northern margins of their area of interest. The issues raised in these claims are mostly identical with the generic issues acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill. The Crown acquisition of the Te Kōpuru block is contested by two hapū of Te Roroa and some hapū of Ngā Puhi, who also assert rights in a number of blocks

east of the Wairoa River. In the east, the Crown acquisition of the Mangawhai block is contested by Ngā Puhi and Ngāti Wai claimants.

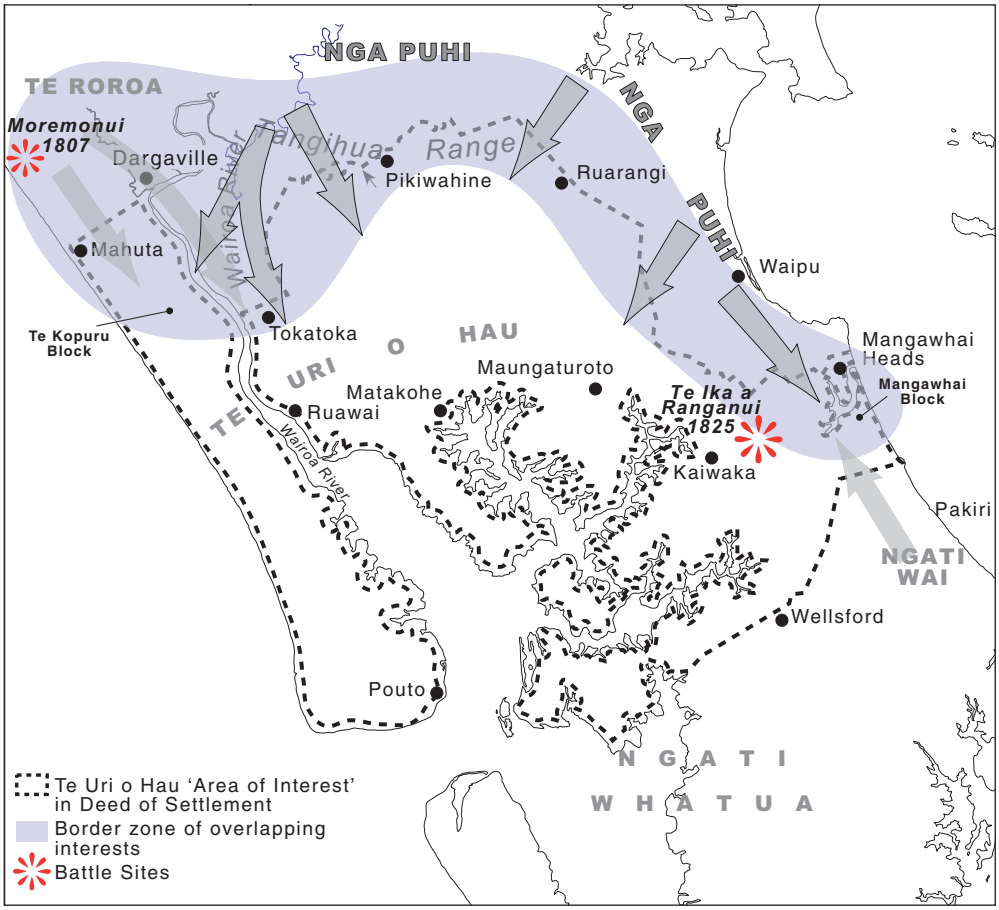
When the Te Uri o Hau Claims Settlement Bill is enacted, the jurisdiction of the Waitangi Tribunal in relation to Te Uri o Hau historical claims (as defined in the Bill) will be removed. In the following paragraphs, the Kaipara Tribunal has briefly reviewed the overlapping claims which impinge on the area determined to be within Te Uri o Hau's area of interest. However, we first provide a brief outline of tribal relations in the Kaipara district before 1840, which is a necessary background to understanding the nature of the overlapping claims within the area of interest.

6.1 Tribal relations before 1840

The northern Kaipara district in the early nineteenth century was a battleground between two large confederations: Ngā Puhi and Ngāti Whātua. Hostilities began around 1807 with a clash between Ngā Puhi and Te Roroa, who were supported by their Ngāti Whātua allies, including Te Uri o Hau. A battle, known as Te Kai a te Karoro (the seagull's feast), was fought at Moremonui, on the coast north-west of Dargaville. This was a serious defeat for Ngā Puhi, who lost several of their leaders there. The Ngā Puhi confederation, led by Hongi Hika, acquired guns after 1814, and asserted monopoly status in dealings with Pākehā traders and missionaries in the Bay of Islands. In contrast, Kaipara Māori had little contact with Pākehā before the 1830s.

By the 1820s, Hongi Hika was sufficiently well armed to embark on several expeditions southward to settle some old scores, including the defeat at Moremonui, where two of his brothers had died. Among Hongi Hika's early victims were Te Parawhau of the upper Wairoa Valley, but their leader, Te Tirarau Kūkupa, subsequently allied with Hongi Hika. In 1825, Hongi Hika's war party, which included Te Parawhau, attacked a large force (said to have been 1000) of Ngāti Whātua near Kaiwaka. The term 'Ngāti Whātua' used here refers to the confederation, and included Te Uri o Hau, Te Taoū, Ngāti Whātua Tūturu, Ngāti Rongo, Ngāi Tāhuhu, and others. In a series of fights around Kaiwaka, called Te Ika ā Ranganui, Ngāti Whātua were comprehensively defeated with heavy losses. The survivors fled in several directions: some went up the Kaihū Valley to their Te Roroa relatives and some sought protection with Te Parawhau kin in northern Wairoa, while others retreated south to Tāmaki Makaurau (Auckland) and on into Waikato. For the next decade, Tāmaki and most of Kaipara remained largely unoccupied, but by the 1830s Ngāti Whātua began moving back.

Ngā Puhi did not follow the fighting at Te Ika ā Ranganui with the permanent occupation of Kaipara lands. It was not, therefore, a matter of raupatu. In Māori terms, conquest must be followed by settlement if rights to the land are to be recognised. There were, however, some important kin connections which were at times significant, and there were several strategic



Map 2: Tribal relations in northern Kaipara

marriages to cement these relationships. This northern border from the coast west of Dargaville to Mangawhai on the eastern coast remained a contested zone, one of complex overlapping rights and kin connections between people of the two confederations, Ngā Puhi and Ngāti Whātua. By the time Pākehā settlers began moving into northern Kaipara, mainly up the Wairoa River, Te Tirarau of Te Parawhau had come to be seen by many as the dominant rangatira of the area.

In southern Kaipara, Ngāti Whātua had moved back into a few scattered settlements around the harbour. Some had already returned to Tāmaki from Waikato in 1835. In 1840, following the signing of the Treaty of Waitangi, Governor Hobson decided to establish the new colonial capital on the southern shore of Waitematā Harbour, on land provided by Ngāti Whātua. This began a major shift in the balance of relations between Pākehā settlers and officials, and the two confederations, Ngā Puhi and Ngāti Whātua. In the early 1840s, Pāora Tūhaere of Te Taoū in Tāmaki journeyed north to make peace with Te Tirarau and Te Parawhau.

6.2 Ngā Puhi claims (Wai 619, Wai 620, Wai 688)

Along the northern edge of the Te Uri o Hau area of interest, as defined by the deed of settlement, a number of Ngā Puhi hapū have lodged claims in respect of loss of land. Te Roroa (Wai 632) to the north-west and Ngāti Wai (Wai 244) to the east have also lodged claims. These are considered separately below. Ngā Puhi hapū that presented evidence to the Kaipara Tribunal were Ngāti Kahu o Torongare/Te Parawhau (Wai 619), Te Waiariki/Ngāti Kororā (Wai 620), and a composite group called 'Ngā Hapū o Whāngārei' (Wai 688). The hapū involved in this latter group have been listed at section 4.3, and include Te Uri o Hau. The Te Uri o Hau component of this claim has been included in the Te Uri o Hau deed of settlement, but the claims of the remaining Whāngārei-based hapū, which are mainly Ngā Puhi, have not been settled. The Wai 688 claims embrace all the northern borderlands of Te Uri o Hau, from the Te Kōpuru block on the west coast to the eastern coast. The Wai 619 and Wai 620 claims have centred on the 1854 Crown purchase of the Mangawhai block on the east coast.

Because the evidence which the Tribunal heard from all these claimants concerned only lands inside the Kaipara inquiry, it is not possible to assess prejudice in the context of their other lands. On the face of it, these claimants did have undefined interests inside and adjacent to the Te Uri o Hau area of interest. Their claims were almost identical with the generic issues acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill. The Tribunal makes no specific recommendation on Wai 619, Wai 620, and Wai 688 at this stage. The Tribunal does, however, give notice to the Crown that these claimants have indicated their overlapping interests in northern Kaipara, which should be taken into account when the Ngā Puhi claims of the Whāngārei district are settled by the Crown.

6.3 Te Roroa (Wai 632)

The claims of Te Roroa relating to an area from the Kaihū district north of Dargaville to Waimamaku have already been reported on by the Waitangi Tribunal.[10] A further claim has since been lodged on behalf of two hapū of Te Roroa, Ngāti Whiu and Ngāti Kawa, in respect of lands south of Dargaville inside the Kaipara inquiry area. These include the Te Kōpuru block, west of the Wairoa River, and the Tokatoka and Whakahara blocks east of the Wairoa River.

The claimants state, in respect of Te Kōpuru, that the land was transferred to the Crown as compensation for the muru (plunder) of settler Thomas Forsaith's store in 1842, without any proper investigation being carried out by the Crown into the circumstances of the muru. The claimants assert that the rangatira Te Tirarau, who was responsible for both the muru and the transfer of this land, had no rights in Te Kōpuru and Aratapu (part of the Te Kōpuru block). Furthermore, owing to the Crown's failure to ascertain the proper owners of the land,

10. Waitangi Tribunal, *The Te Roroa Report 1992* (Wellington: Brooker and Friend Ltd, 1992)

the interests of the Ngāti Whiu and Ngāti Kawa owners in this land were alienated without their consent. In addition, it is claimed that, when the boundaries of the block were surveyed around 1857, they extended to the western coast, beyond the boundary in the original description. As a result, the Crown acquired a substantially larger area of land than that which was ceded by Te Tirarau. Although the Crown subsequently made some further payments in the late 1860s, Ngāti Whiu and Ngāti Kawa maintain that they have never been adequately compensated for the loss of this land. There was further protest in 1878, a petition to Parliament in 1881, and various attempts in the 1890s to have this matter addressed in the Native Land Court.

The claimants also dispute the Crown acquisition of the Tokatoka and Whakahara blocks, and claim that they were the owners of these blocks. These transactions involve both an old land claim and Crown purchases. The claimants state that the Crown failed to carry out a proper survey before purchase; paid an inadequate price; failed to allow traditional owners to repurchase parts of the blocks; failed to provide reserves for their continuing use and occupation; and failed to protect sites of significance to them on these blocks.

It is not now possible, after this lapse of time, to determine the specific nature of Te Roroa interests in this northwestern corner of the Kaipara inquiry area. We find that it is likely that hapū of Te Roroa had interests in this area, but that it is unlikely that these interests were exclusive. In the *Te Roroa Report 1992*, the Tribunal described Te Roroa as a 'composite group' of several hapū centered on Waimamaku, Waipoua, and Kaihū:

> In the north they have strong links with Ngapuhi, in the south, with Ngati Whatua. Te Roroa is essentially a borderlands community of closely related hapu, each retaining their separate identities.[11]

We have no evidence that would lead us to disagree. The Te Roroa Tribunal also quoted the evidence of the late E D Nathan that 'the rohe potae (territorial umbrella) over which Te Roroa held mana whenua' extended south to Poutō.[12]

In evidence before the Kaipara Tribunal, Te Roroa researcher Garry Hooker stated that Ngāti Whiu and Ngāti Kawa lived at Te Kōpuru in the 1820s at the time of Te Ika ā Ranganui but relocated to Hokianga following that battle.[13] Likewise, hapū of Te Roroa held undefined interests in the Tokatoka and Whakahara blocks, but, given the significance of the Wairoa River as a transport route, and the complex kin connections of Te Roroa with Ngā Puhi and Te Uri o Hau and Ngāti Whātua, these interests were not exclusive.

We find that the hapū Ngāti Whiu and Ngāti Kawa were to some extent prejudiced by Crown transactions in relation to the Te Kōpuru, Tokatoka, and Whakahara blocks, and that

11. Ibid, p 7
12. Ibid, p 16
13. Garry Hooker, 'Maori, the Crown and the Northern Wairoa District – a Te Roroa Perspective', March 2000 (Wai 674 ROI, doc L2), pp 75–80

this should be taken into account in reaching a settlement of the Te Roroa claims, which are still under negotiation.

6.4 Ngāti Wai (Wai 244)

Ngāti Wai lands are principally on the eastern coast around Pakiri and extend northward to Mangawhai Heads and elsewhere. The Wai 244 claim is specifically concerned with the 1854 Crown purchase of the Mangawhai block. The claimants state that the Crown failed to protect Ngāti Wai interests in this block. They say that the Crown failed to ensure that the block was properly surveyed prior to sale, did not pay a fair price and failed to provide reserves for Ngāti Wai within the block, and, when it on-sold the land, failed to ensure that Ngāti Wai received their share of the 10 per cent of the proceeds, as provided for in the Mangawhai deed.

This claim appears well-founded in that the coastal resources and nearby forests of the Mangawhai block had from time to time been occupied and used by Ngāti Wai. Furthermore, as claimant Laly Haddon explained, one of his Ngāti Wai ancestors, Te Kiri, was a signatory to the Mangawhai deed.[14] It is not possible, however, after the lapse of time since 1854, to ascertain the extent of Ngāti Wai interests in Mangawhai. Claims in the Mahurangi purchase area, south of Mangawhai, have yet to be heard by the Waitangi Tribunal. If and when a settlement is negotiated between the Crown and Ngāti Wai, the Ngāti Wai interests in the Mangawhai block should be acknowledged. In particular, Ngāti Wai argued that they, too, were prejudiced by the Crown's failure to provide reserves and by its failure to pay their share under the 10 per cent clause in the Mangawhai deed.

6.5 Other claims in northern Kaipara

There are two other claims not covered by the Te Uri o Hau settlement which relate to specific pieces of land in the northern Kaipara district. For various reasons, including insufficient evidence, the Tribunal is unable to report on these claims at this time.

- *Marsden Whānau (Wai 697):* At present, the Tribunal has insufficient evidence to make any findings in relation to claim Wai 697. We note that the Crown made no submissions on this claim. Furthermore, in addition to their claims against the Crown, the claimants have made allegations about the actions of a third party, and we are in no position to assess the accuracy or fairness of these allegations. We recommend that the claimants and the Crown enter mediated discussions in an effort to address the claimants' concerns over Maungarongo. Should the claimants wish to come back to the Tribunal for findings, all parties are put on notice that additional evidence and submissions,

14. Brief of evidence of Laly Parāone Haddon, undated (Wai 674 ROI, doc L12), p 5

including submissions from the Crown, would be required before findings could be made. Any new evidence or submissions would be heard by a new Tribunal.

- *Kapehu Trust Rating Claim (Wai 763):* Wai 763 is concerned with rates payable on Māori land. At this stage, the Tribunal makes no recommendation on an issue that affects all land, Māori and general. The claimants argue that the rating regime should not treat Māori land the same as general land, and that Māori values in relation to land should be recognised in rating legislation. The Tribunal has insufficient evidence concerning the Kapehu blocks to make any findings on this claim. We note that the Local Government (Rating) Act 2002 has been passed since this claim was heard by the Tribunal. This Act, which makes provision for local authorities to adopt a policy on rates relief for Māori freehold land in certain circumstances, may provide some relief in this and similar claims. We further note that the Local Government Bill 2002 makes provision for acknowledging the relevance of the Treaty of Waitangi and for facilitating Māori participation in decision-making by local authorities. Should the claimants wish to come back to the Tribunal for findings, all parties are put on notice that additional evidence and submissions, including submissions from the Crown, would be required before findings could be made. Any new evidence or submissions would be heard by a new Tribunal.

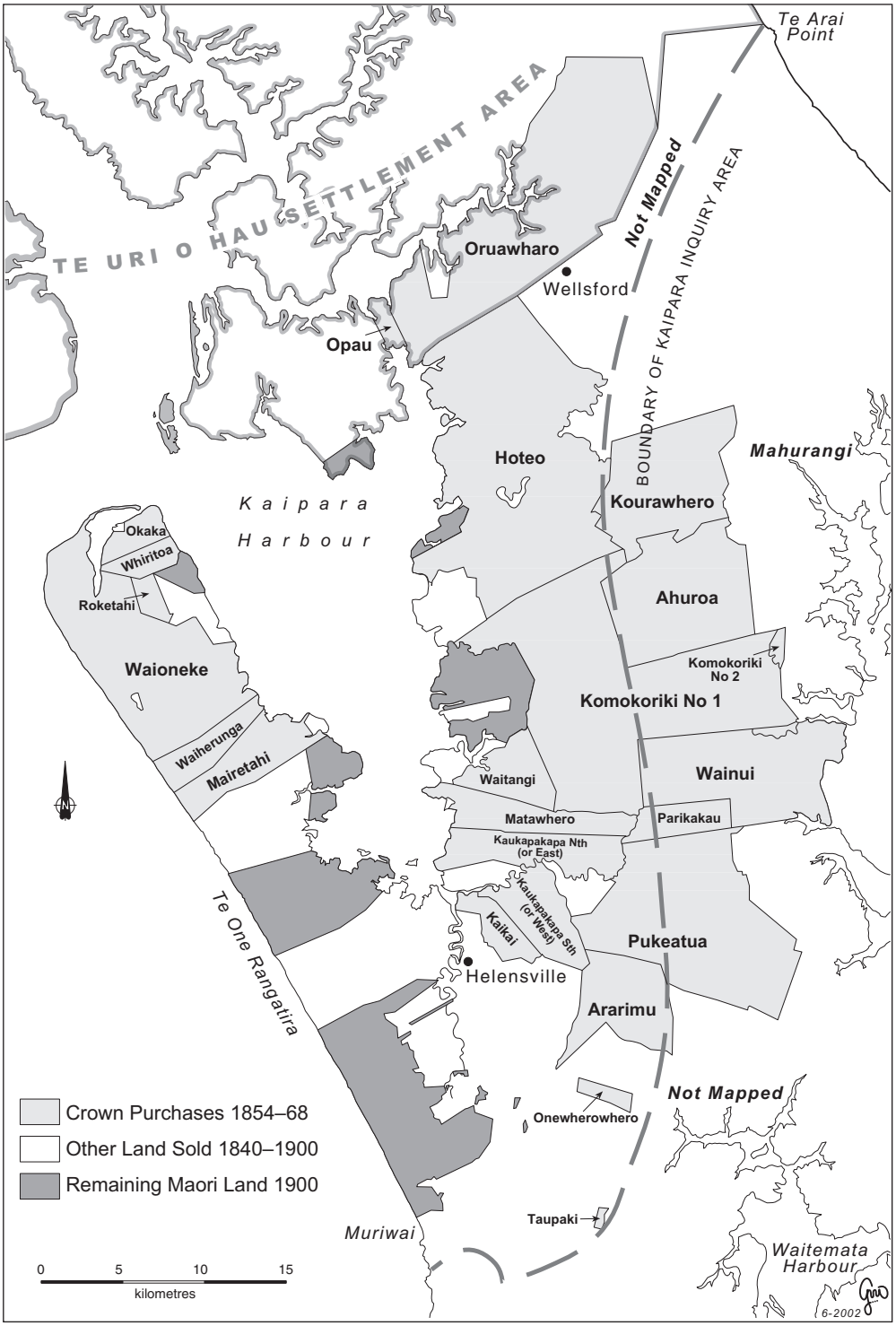
7 Claims in Southern Kaipara

In this section, we review the claims in the southern Kaipara district, relating them to the generic issues acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill.

7.1 Ngāti Whātua claims (Wai 312)

The claim described as Ngāti Whātua o Kaipara ki te Tonga (Wai 312) was lodged by Takutai Wikiriwhi and others on behalf of the whānau and hapū of the several marae in southern Kaipara: Rēweti, Haranui, Araparēra, Puatahi, and Kakanui. This is a comprehensive claim on behalf of the Ngāti Whātua confederation of southern Kaipara concerning the loss of land. Two related themes stated in this claim are the failure of the Crown actively to protect the land base of Ngāti Whātua and its failure to fulfil promises of economic development and provision of services to Ngāti Whātua. The generic historical issues raised in this claim are the same as those breaches of the Treaty of Waitangi and its principles already acknowledged in clause 8 of the Te Uri o Hau Claims Settlement Bill. We consider each of these issues as set out in clause 8 of the Bill with a comment on southern Kaipara Ngāti Whātua claims:

7.1



Map 3: Land alienation in southern Kaipara, 1840–1900

(a) The Crown recognises that Te Uri o Hau endeavoured to preserve and strengthen their relationship with the Crown. In particular, the early land transactions for settlement purposes contributed to development of New Zealand and affirmed the loyalty of Te Uri o Hau to the Crown.

The Ngāti Whātua claimants argued that, by offering land and clearing the way for the establishment of the capital at Auckland in 1840, a form of alliance was established between Ngāti Whātua and the Crown. We make no comment here on the evidence concerning the nature of this 'alliance'. However, a comfortable and peaceful relationship between Ngāti Whātua and the Crown was maintained in southern Kaipara, and at all times Ngāti Whātua have affirmed their loyalty to, and cooperation with, the Crown.

(b) The Crown acknowledges that the benefits that Te Uri o Hau expected to flow from this relationship were not always realised. Early land transactions and twentieth century land development, including the Tai Tokerau Maori District Land Board and the Maori Affairs development schemes initiated in the 1930s, did not provide the economic opportunities and benefits that Te Uri o Hau expected.

The Ngāti Whātua claimants stated that the relationship established with the Crown in 1840 imposed obligations on both sides, but that the Crown breached its obligations by failing to provide political and legal equality for Ngāti Whātua; by failing to preserve the tino rangatiratanga of Ngāti Whātua; and by failing to provide the economic opportunities, infrastructure, and services promised to them. By one means or another, most Ngāti Whātua land in southern Kaipara had been alienated by the early twentieth century (map 3). Before 1865, most alienation occurred through the processes of Crown purchases, and after 1865 through the operation of the Native Land Court, which facilitated private purchases. There were further Crown purchases as well.

The only substantial tract of land remaining in Ngāti Whātua ownership, the Ōtakanini block, was vested in the Tokerau Māori Land Board and was alienated by means of long-term leases, mainly to Pākehā settlers. The loss of benefits from Ōtakanini lands is the subject of a specific claim – Wai 733 – by the Ōtakanini Tōpū, a Māori incorporation. This claim is supportive of, and complementary to, the comprehensive claims of Ngāti Whātua in Wai 312. Because there was little suitable Māori land remaining in southern Kaipara, Ngāti Whātua claim that they were unable to benefit from Department of Māori Affairs development schemes initiated by Sir Āpirana Ngata after 1929.

Clause 8(c) of the Te Uri o Hau Claims Settlement Bill refers to Crown actions relating to the Te Kōpuru block in northern Kaipara and is not relevant to Ngāti Whātua claims in southern Kaipara.

7.1

(d) The Crown acknowledges that a large amount of Te Uri o Hau land has been alienated since 1840 and that it failed to provide adequate reserves for the people of Te Uri o Hau. The Crown also acknowledges that it did not ensure that there was sufficient protection from alienation for the few reserves that were provided. This failure by the Crown to set aside reserves and protect lands for the future use of Te Uri o Hau was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

The paucity of land in southern Kaipara remaining in Ngāti Whātua control at the end of the twentieth century is shown graphically in map 4. The Ōtakanini Tōpū lands have their own particular history and problems, and the beneficial owners of these lands include only a relatively small proportion of Ngāti Whātua people with ancestral rights in southern Kaipara. The remaining lands are isolated in small pockets, and are partitioned into small pieces in multiple ownership. None of the marae in southern Kaipara has a sufficient land base to support today's local communities. In southern Kaipara, as in the Te Uri o Hau lands, similar issues regarding the provision of reserves and the protection of lands for future use have arisen.

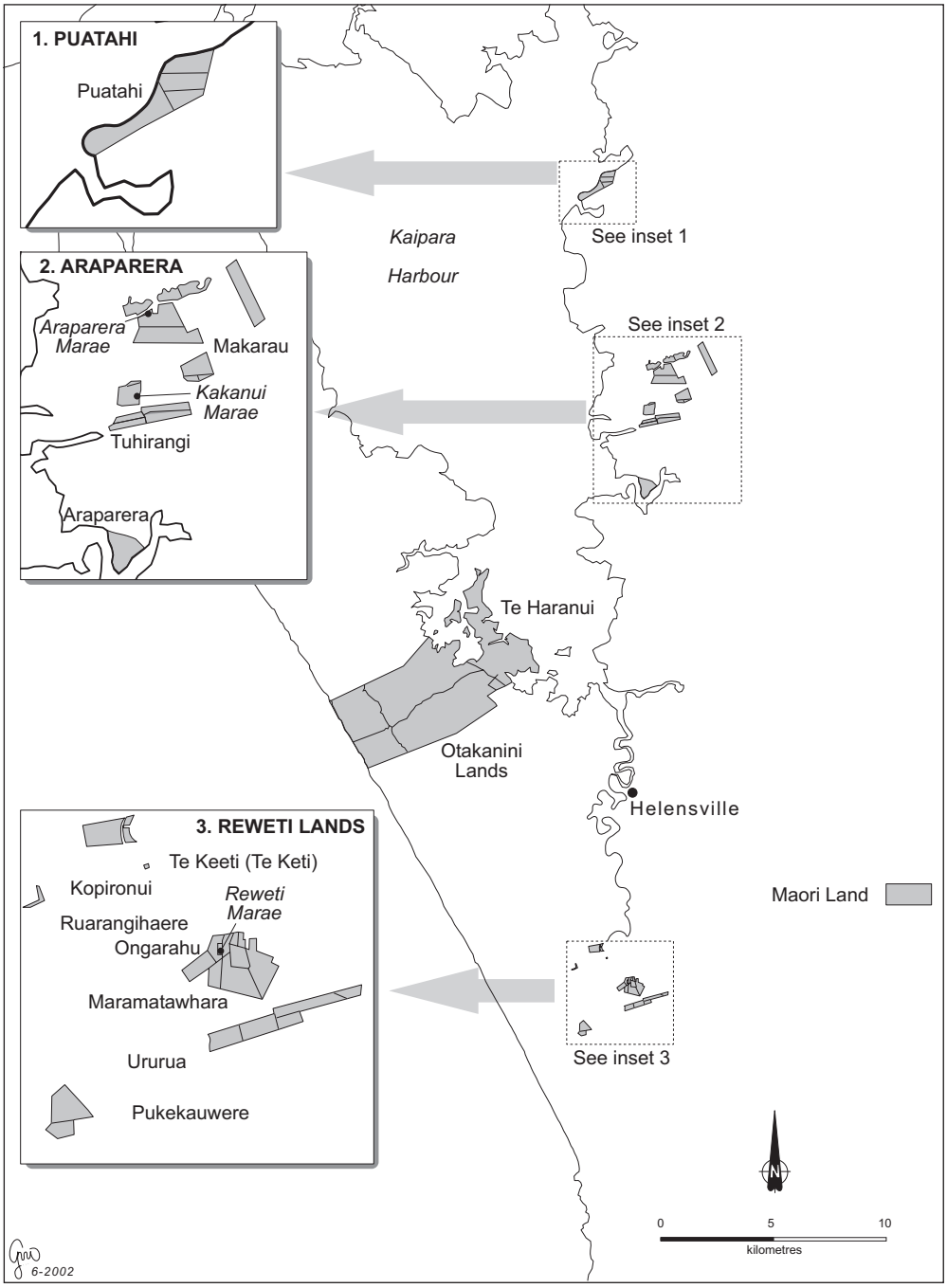
(e) The Crown acknowledges that the operation and impact of the Native land laws (including the laws governing the operation of the Validation Court) had a prejudicial effect on those of Te Uri o Hau who wished to retain their land and that this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown also acknowledges that the awarding of reserves exclusively to individual Te Uri o Hau made those reserves subject to partition, succession and fragmentation, which had a prejudicial effect on Te Uri o Hau.

The same land laws that prejudicially affected Te Uri o Hau had a similar prejudicial effect on Ngāti Whātua, with the exception of the laws governing the Validation Court, which was not a particular issue in southern Kaipara. This acknowledgement of breaches could be said to apply equally to the lands of Ngāti Whātua, and reinforces our comments above.

(f) The Crown acknowledges that this loss of control over land has prejudiced Te Uri o Hau and hindered the economic, social, and cultural development of Te Uri o Hau. It has also impeded their ability to exercise control over their taonga and wahi tapu and maintain and foster spiritual connections to their ancestral lands.

This acknowledgement also applies equally to the Ngāti Whātua people of southern Kaipara. The current state of landlessness, poverty, and economic and social deprivation in southern Kaipara is of great concern to us.

We conclude that, in respect of the Ngāti Whātua comprehensive claims, the generic issues acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill also applied to



Map 4: Māori land in southern Kaipara, circa 2000

southern Kaipara lands and people. We consider that Ngāti Whātua should also be invited to begin negotiations toward a settlement of their grievances with the Crown, on the basis that it is only fair that they should be treated in the same manner as Te Uri o Hau.

7.2 Other claims in southern Kaipara

A number of claims concerning specific issues or specific blocks of land in the southern Kaipara district have also been considered by the Kaipara Tribunal in relation to the generic issues acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill. These claims are set out in numerical order below with our comments.

- *Manukau Whānau (Wai 121):* The generic issues in relation to land loss in Wai 121 are similar to those set out above for the Ngāti Whātua claims. The claimants state that their tūpuna were rangatira of the Kaipara region, but they have not established grounds for their claims to be considered separately from the Te Uri o Hau and Ngāti Whātua comprehensive claims in respect of land.

  A second issue raised in this claim concerns questions of Māori self-government, and in particular the failure of the Crown to implement section 71 of the Constitution Act 1852, which provided for 'native districts' to be established. We make no comment on this aspect of the claim in this report.
- *Te Keti and Hiore Kata lands (Wai 279):* Wai 279 relates to the alienation of specific blocks of land at Te Keti and surrounding areas, including a number of public works takings by the Crown, and the Crown's alleged failure to protect urupā and other wāhi tapu. This claim is a specific illustration of the generic issues identified in the Ngāti Whātua comprehensive claims, and it should be included with Wai 312 in settlement negotiations.
- *Te Kawerau a Maki (Wai 470):* The Tribunal heard a great deal of evidence about Te Kawerau a Maki. The interests of these claimants were established in only a small part of the south-western corner of the Kaipara inquiry area. These interests were not exclusive, and for much of the nineteenth century and into the twentieth century Te Kawerau a Maki operated as a small hapū within the Ngāti Whātua confederation. Te Kawerau a Maki's experience of land loss is similar to that of Ngāti Whātua of southern Kaipara. In any case, most Te Kawerau a Maki interests lie to the south of the Kaipara inquiry area.

  We make no recommendation in respect of this claim within the Kaipara inquiry area. If any separate settlement is to be negotiated with the Crown, then this should follow an inquiry by a separate Tribunal for the Auckland district, where most Te Kawerau a Maki interests are located.
- *Ngāti Te Ata (Wai 508):* Wai 508 was lodged by Whititerā Kaihau on behalf of Ngāti Te Ata, whose primary base is in south Auckland. No additional specific issues were identified, and a specific relationship with lands in southern Kaipara was not established. We make no recommendation in relation to this claim.
- *Ōtakanini Tōpū (Wai 733):* Wai 733, already noted above, concerns the Ōtakanini lands which were vested in the Tokerau Māori Land Board early in the twentieth century. The Ngāti Whātua owners lost control of their lands because these lands were mostly leased

long-term to Pākehā settlers. These issues are a significant component of the history of land alienation in southern Kaipara and should be included in the negotiation of a settlement of the Ngāti Whātua comprehensive claims.

- *Te Taoū (Wai 756):* Wai 756 was lodged by Lou Paul, ostensibly on behalf of Te Taoū. The generic issues raised are identical with those set out in the Ngāti Whātua comprehensive claims, which also include claims on behalf of Te Taoū. The claimant in Wai 756 denies that Te Taoū are a hapū of Ngāti Whātua, and says that it was to the detriment of Te Taoū interests that the Crown treated them as such. There appears to be a difference of opinion among Te Taoū on this issue, and this is not a matter on which the Tribunal can comment. The Tribunal urges this claimant to talk constructively with other Ngāti Whātua claimants and to cooperate in negotiations toward settlement of the Ngāti Whātua comprehensive claims.

8 Specific Issues not Included in this Report

Since this is an interim report on the Kaipara claims, a number of specific issues have not been addressed by the Tribunal at this stage. These are additional to, but not necessarily independent of, the generic issues already cited and acknowledged by the Crown in the Te Uri o Hau Claims Settlement Bill. Most of these specific issues are part of the claims relating to southern Kaipara lands, and include:

- *Te Awaroa block:* The 10-acre Te Awaroa block in the town of Helensville was gifted by Ngāti Whātua for public purposes in the town. It is claimed that the Crown failed to use the land for the purposes for which it was gifted, and that land no longer used for public purposes has not been returned to Ngāti Whātua.
- *Railway land:* The land on which the railway from Riverhead to Helensville was constructed was gifted to the Crown by Ngāti Whātua. It is claimed that this gift was subject to certain conditions which were not met by the Crown. Subsequently, the Crown took further land for the railway, allegedly without consulting, or paying compensation to, Ngāti Whātua.
- *Sand reclamation works:* The western coast of southern Kaipara comprises a large area of sand dunes, which in the 1920s were threatening adjacent farm areas with drifting sand. A series of public works takings and compulsory purchases for the purpose of reclamation work included a significant area of Māori land. Subsequently, a tree-planting programme was established, to form what has become known as Woodhill State Forest. Ngāti Whātua claimants stated that this was a further erosion of their dwindling land resources, and also cut off their access to food resources on the western coast, and to urupā and other wāhi tapu. It is also claimed that the Crown excluded Ngāti Whātua from the economic development of the sand dune area.

- *Other public works takings:* A number of pieces of land have been acquired by the Crown for road and railway construction and other public works purposes at various times.
- *Ōtakanini lands and the Tokerau Māori Land Board:* Although referred to in general terms above, the specific grievances relating to the loss of control of this land, its administration by the Tokerau Māori Land Board and the Department of Māori Affairs, and more recent issues arising out of forestry leases have not been reviewed.
- *Section 71 of the Constitution Act 1852:* Section 71 of the New Zealand Constitution Act 1852 provides for the establishment of 'Native districts', if considered 'expedient' by the Crown. This provision was never implemented.
- *Māori representation on legislative and administrative bodies.*

9 Conclusion

This Tribunal is proceeding to report on issues not covered in this interim report.

This Tribunal has issued this interim report to provide the claimants with the basis for entering into negotiations with the Office of Treaty Settlements.

This Tribunal strongly recommends that the Crown and the claimants enter into negotiations forthwith.

Dated at Wellington this 12th day of September 2002

G C P A Wallace, presiding officer

M E R Bassett, member

B P N Corban, member

A Koopu, member

E M Stokes, member

J J Turei, member

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